

FTC#170: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2022-104 Brackens Ridge Project

Date submitted:	17 November 2022	Tracking #: BRF-2389	
Security level	In-Confidence	MfE priority:	Urgent

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

Actions for Minister's Office staff	Return the signed briefing to MfE. Send the attached notice of decisions letter (if signed).
Number of appendices: 7	Appendices: 1. Brackens Ridge Project application and further information received (Databox link) 2. Stage 1 Briefing Note and decisions (Databox link) 3. Statutory framework for making decisions (Databox link) 4. Draft Notice of Decisions letter to Mount Soho Trust 5. Section 17 Report (Databox link) 6. Comments received from Ministers, Otago Regional Council and Queenstown Lakes District Council (Databox link) 7. Further information received post-consultation (Databox link)

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
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FTC#170: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions

Key messages

1. This briefing seeks your final decisions on the application received under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) from Mount Soho Trust to refer the Brackens Ridge Project (project) to an expert consenting panel (panel). A copy of the application is in Appendix 1.
2. This is the second briefing on this application. The first (Stage 1) briefing (BRF-2131) with your initial decisions annotated is in Appendix 2.
3. The project is to subdivide a 17.9-hectare site located at 175 McDonnell Road, Arrowtown, Otago, to create approximately 104 lots for residential use, and construct between 104 to 208 residential units (allowing for the option of one primary and one secondary unit per lot). Construction of the residential units will be undertaken by third parties. The project includes construction of supporting infrastructure, including roads, accessways, parking areas and three-waters services. The project also includes the creation of public and private open space areas and restoration and planting of natural wetlands.
4. The project will involve activities such as:
 - a. subdividing land
 - b. removing vegetation
 - c. carrying out earthworks (including within 10 metres of a natural wetland)
 - d. diverting and discharging stormwater (which may contain contaminants) onto land within 100 metres of a natural wetland
 - e. developing land for the purposes of public and private open space, including by landscaping and planting
 - f. restoring and planting of natural wetlands
 - g. constructing residential units
 - h. constructing or installing infrastructure or structures associated with the development, including –
 - i. roads intended to be vested in Queenstown Lakes District Council
 - ii. vehicle and pedestrian accessways
 - iii. parking areas
 - iv. infrastructure for three-waters services
 - i. any other activities that are –
 - i. associated with the activities described in a to h; and
 - ii. within the project scope as described in paragraph 3.
5. The project will require land use and subdivision consents under the Operative Queenstown Lakes District Plan (OQLDP), land use and discharge consents under the Regional Plan: Water for Otago, and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).

6. The proposed activities have non-complying activity status under the OQLDP and NES-F due to the density of residential subdivision and development, and earthworks within a 10-metre setback of, and discharge of water within a 100-metre setback of, natural wetlands. Accordingly, a panel would be required to consider whether any resource consent application for the project meets at least one of the 'gateway tests' in section 104D of the Resource Management Act 1991 (RMA). The applicant considers the project can pass both these 'gateway tests'.
7. The project site is zoned Arrowtown South Special Zone (ASSZ) under the OQLDP¹. Queenstown Lakes District Council (QLDC) commenced a staged district plan review in 2015. The initial stages of the review that have progressed to date (stages 1 to 4) excluded the ASSZ (therefore the project site).
8. The purpose of the ASSZ is to enable a comprehensively planned residential living environment that clearly defines the southern edge of the township, provides roading connection and protects the escarpment and watercourses, while creating walking trails and maintaining a predominately low residential character. This is achieved through the Arrowtown South Structure Plan (Structure Plan) that is part of the OQLDP. The project site is located within the Rural Living and Private Open Space Activity Areas identified in the Structure Plan.
9. The ASSZ seeks to maintain and enhance rural amenity within the Rural Living Activity Areas and ensure the pattern of subdivision does not result in development at residential densities². The residential density of the project exceeds that anticipated under both the ASSZ and Structure Plan. The project seeks the ability to construct between 104 to 208 residential units compared to 17 residential units that are provided for under the ASSZ standards³.
10. The project site is located outside of an 'Urban Growth Boundary' (UGB) identified under the OQLDP and Proposed Queenstown Lakes District Plan (PQLDP) and is not identified for future urban growth in the Queenstown Lakes Spatial Plan (QLSP) (adopted by QLDC in July 2021).
11. The QLSP was developed by QLDC in partnership with central government, Aukaka and Te Ao Marama Incorporated⁴ and sets a vision and framework out to 2050 for how and where the district will grow in co-ordination with three-waters, transport, social and community infrastructure. The QLSP was drafted to be consistent with the direction of the National Policy Statement on Urban Development 2020 (NPS-UD) to provide sufficient development capacity and achieve well-functioning urban environments. The QLSP promotes a consolidated and mixed-use approach to accommodating future growth in the district with most of the growth intended to occur within and around the existing urban areas of Queenstown and Wānaka. The QLSP notes that the smaller towns and settlements, including Arrowtown, will accommodate a limited amount of future growth within those areas already zoned for urban development.
- 12 s 9(2)(f)(ii), s 9(2)(g)(i)

¹ The ASSZ was determined in 2014 via an Environment Court decision on a private plan change (PC39).

² The minimum lot area within the Rural Living Activity Area is 1,500 square metres, provided there is an average across the lots to be built on of no less than 4,000 square metres.

³ The Structure Plan provides for identified building platforms within the Rural Living Activity Area where location, density and clustering of those platforms seeks to achieve a special rural character that provides an attractive edge to Arrowtown.

⁴ Aukaka and Te Ao Marama Incorporated are advisory companies that represent Ngāi Tahu Pāpiti Rūnanga with shared interests in the Queenstown Lakes District.

13. QLDC considered the Arrowtown community should be given an opportunity to express their views on the project. QLDC noted specific concerns relating to the density of the development within the ASSZ, urban development occurring outside of a UGB, potential effects on historic heritage, the safe and efficient operation of the surrounding road network and landscape and visual amenity. QLDC also noted the project would place additional demand on three-waters infrastructure and services and it has no intention to upgrade this infrastructure in the Arrowtown scheme boundaries. ORC considered the project could be assessed under a standard consenting process under the RMA. ORC noted specific concerns relating to impacts on productive land, limited walking/cycling connections with existing urban areas and stormwater management, including discharge in close proximity to natural wetlands.
14. We consider the project will generate employment and enable the future construction of housing, however it is not clear whether the project meets the section 18 referral criteria and we consider it would be more appropriately considered through standard processes under the RMA. This is due to the potentially high level of public interest, and misalignment with existing district plan policy, infrastructure planning and strategic planning for future urban development in the Queenstown Lakes district. These matters are discussed in the section 18 and other reasons to decline sections below.
15. We have recently provided you with advice to approve referral of 'The Yards Project'⁵ (BRF-2257 refers), in the Queenstown Lakes district. That project had some similar issues to this project, however the risk that referring The Yards Project removed the opportunity for wider community participation in the consenting process was able to be reduced. This is discussed in the other reasons to decline section below.
16. We recommend you decline the referral application under section 23(1), 23(2) and 23(5)(b) of the FTCA. We seek your decision on this recommendation.

Assessment against statutory framework

17. 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.
18. You must decline the referral application if you are satisfied the project does not meet the section 18 referral criteria. You may also decline the application for any other reason, including those listed in section 23(5), whether or not the project meets the referral criteria.
19. However, before you make that decision 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, QLDC and ORC (in Appendix 6). We discuss these matters and provide our advice below.

Further information provided by applicant

20. In response to your request under section 22 of the FTCA the applicant provided further information on job creation and how they consider the project meets the non-complying

⁵ BRF-2257 - FTC#169 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions: Application 2022-092 The Yards Project


'gateway tests' in section 104D of the RMA. We have taken this information into account in our analysis and advice.

Section 17 report

21. The Section 17 report indicates that Te Rūnanga o Ngāi Tahu is the sole iwi authority and Treaty settlement entity relevant to the project area.
22. The Section 17 report outlines redress provided under the Ngāi Tahu Treaty settlement including acknowledgements and apologies relating to recognition of rangatiratanga which have implications for engagement and participation of Ngāi Tahu in resource management decision-making.
23. The Ngāi Tahu settlement does not create any co-governance or co-management processes that would affect decision-making under the RMA for the project.

Comments received

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



29.

30. QLDC considered the Arrowtown community should be given an opportunity to express their preferences on the project but did not expressly support or oppose project referral. QLDC considered the project would have benefits, including economic benefits, increasing housing supply, enabling more efficient use of land and providing improved transport connections, but also raised several concerns.
31. Primary concerns raised by QLDC were regarding the lack of public participation under the FTCA, that the density of development is not anticipated under the ASSZ or the higher order directions of the OQLDP, the project site is located outside of a UGB, and that Arrowtown has not been identified as a location for future growth under the QLSP. QLDC also raised concerns relating to potential effects on historic heritage, the safe and efficient operation of the surrounding road network and landscape and visual amenity. QLDC noted the project would place additional demand on three-waters infrastructure and services and it has no intention to upgrade this infrastructure in the Arrowtown scheme boundaries.
32. ORC did not support project referral and considered the project could be assessed under a standard consenting process under the RMA. ORC commented that the ASSZ supports potential for productive use of the project site and the project therefore may not meet Policy 5.3.1(e) of the partially operative Otago Regional Policy Statement 2019 that seeks to minimise the subdivision of productive rural land into smaller lots. ORC also raised concerns relating to walking/cycling connections with existing urban areas, and stormwater management, including discharge in close proximity to natural wetlands.

Section 18 referral criteria

33. Although the project does not include activities listed in section 18(3) that would make it ineligible for referral, it is not clear whether the project will help to achieve the purpose of the FTCA. You must be satisfied that the project will help to achieve the purpose of the FTCA under section 18(2) in order to refer the project.
34. We consider the project can help to achieve the employment and investment certainty objectives of the FTCA's purpose and meets section 18(2) in this regard. This is because the project has the potential to generate approximately 50 direct full-time equivalent (FTE) jobs over a 1-year period during land development and enable the future construction of up to 208 residential units (allowing for the option of one primary and one secondary unit per lot). The future construction of residential units will also enable up to 200 direct FTE jobs over a 4-year period.
35. However, the FTCA purpose requires that these objectives are achieved while promoting sustainable management of natural and physical resources⁶. Section 19 provides a range of matters that you may have regard to when considering, for the purpose of section 18(2),

⁶ **Sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while— (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

whether a project will help to achieve the purpose of the FTCA, including by considering any other matter that you consider relevant (section 19(f)).

36. The project may not promote sustainable management of natural and physical resources as it involves the use and development of land in a way and rate that may not enable people and communities to provide for their social, economic, and cultural well-being, while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, as explained in Table A. The project does not align with existing district plan policy, infrastructure planning and strategic planning for future urban development within the Queenstown Lakes district. Specifically, the project will not consolidate growth in the manner envisaged by the QLSP nor co-ordinate growth with planned three-waters, transport, social and community infrastructure. We consider that this may result in an inefficient use of the land.
37. We do not consider that you can be satisfied that the project will promote sustainable management of natural and physical resources and thereby help to achieve the FTCA purpose under section 18(2).
38. If you agree, you must decline the referral application under section 23(1) of the FTCA.


Other reasons to decline

39. Even if you are satisfied 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

40. Section 23(5) of the FTCA provides further guidance on potential reasons to decline an application, and our analysis of these matters is summarised in Table A.
41. We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process, particularly given the wider community may expect the project to be preceded by a plan change, which allows for full public consultation. The site is located outside of a UGB identified in the OQLDP and PQLDP, and the project site (or any other part of Arrowtown) has not been identified as a location for urban growth under the QLSP. Therefore, urban development on the site is unlikely to be readily anticipated by the public.
42. Comments received from QLDC s 9(2)(f)(ii), s 9(2)(g)(i) also raised concerns relating to the lack of opportunity for public participation should the project be referred.
43. There is a risk that referring the project could be viewed negatively by the wider community and this risk cannot be completely avoided. QLDC noted that referring the project would exclude the Arrowtown community and given there is a level of interest in the location and type of urban development, it would prefer that the Arrowtown community is given an opportunity to express their views on the project. We have undertaken an internet search and found that a number of proposals to re-zone or consent land for urban development beyond the UGB in Arrowtown, particularly on the opposite side of McDonnell Road to the project site, have attracted public interest and advanced to the Environment Court. Our view is that there may be a high level of public interest in the project.
44. QLDC considered the project will have considerably different outcomes than anticipated under the ASSZ. We note the ASSZ is not proposed to be amended as part of the current district plan review (future stages of the review may amend the zoning of the project site and the UGB but this is not currently forecast in the QLSP). As the site is not currently zoned for urban development in the OQLDP or PQLDP and is not identified in any strategy documents, including the QLSP, for future urban growth, we consider it would be more appropriate for the project to be considered under standard RMA consenting process to enable broader

public consultation.

45. We have recently provided you with advice to approve referral of 'The Yards Project' (BRF-2257 refers), in the Queenstown Lakes district. That project was potentially inconsistent with the purpose of the relevant zone and lacked strategic support, had potential for wider community interest and expectations that the project would be preceded by a plan change. A key component, the storage facility component, of The Yards Project was already subject to a QLDC publicly notified resource consent, RM220327, that had attracted five submissions. The risk that referring The Yards Project removed the opportunity for wider community participation in the consenting process was reduced by our recommendation to require a panel to invite comments from the submitters on RM220327. For the Brackens Ridge Project, we consider that the risk cannot be reduced or avoided in the same manner because it is unclear which parties may be interested in the project.
46. The project has non-complying activity status under the OQLDP and NES-F, meaning that (under clause 32 Schedule 6 of the FTCA) a panel would be required to consider whether any resource consent application for the project meets at least one of the two 'gateway tests' in section 104D of the RMA. The applicant considers the project can pass both gateway tests. We consider this can be appropriately determined by a panel and therefore we do not consider that you should decline the referral application on this basis.
47. The NPS-UD is relevant to the project and if you decide to refer the project a panel must have regard to any relevant provisions of the NPS-UD when considering a consent application. The applicant considers the project meets the objectives and policies of the NPS-UD, s 9(2)(f)(ii), s 9(2)(g)(i)

48. At this stage we cannot provide definitive advice on whether the project is consistent with the NPS-UD as that would require further detailed analysis. However, we consider this matter can be appropriately determined by a panel and therefore we do not consider that you should decline the referral application on the basis of section 23(5)(c) of the FTCA (inconsistency with a relevant national policy statement).
49. ORC commented that the current zoning would support some potential for productive use of land, however the proposed project would not. We note the National Policy Statement for Highly Productive Land 2022 (NPS-HPL) came into force on 17 October 2022. The project site is not zoned general rural or rural production and is not identified as Land Use Capability Class 1, 2 or 3, therefore it is unlikely to meet the definition of 'highly productive land'⁷ under the NPS-HPL. We therefore do not consider the project will be inconsistent with the NPS-HPL.

Other matters

50. A key issue is whether the project would be more appropriately considered as part of a broader strategic planning process that assesses appropriate locations for future urban development, followed by a site-specific RMA consenting process.

⁷ Until a regional policy statement contains maps of highly productive land, each territorial authority and consent authority must apply the NPS-HPL as if references to 'highly productive land' were references to land that, at the commencement date: (a) is (i) zoned general rural or rural production; and (ii) LUC 1, 2, or 3 land; but (b) is not: (i) identified for future urban development; or (ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

Under the NPS-HPL, 'identified for future urban development' means: (a) identified in a published Future Urban Development Strategy as land suitable for commencing urban development over the next 10 years; or (b) identified: (i) in a strategic planning document as an area suitable for commencing urban development in the next 10 years; and (ii) at a level of detail that makes the boundaries of the area identifiable in practice.

51. We consider there are risks in referring the project before a comprehensive policy framework is developed for the area. This could result in misalignment between the project, infrastructure planning, future outcomes for the use of the area and integration with the wider community.
52. We consider that proceeding via a resource consent process in advance of strategic planning and re-zoning is generally not regarded as good planning practice because it raises risks of fragmented or poorly integrated development. We have provided advice on several referral applications confirming that the FTCA does not preclude referral of the project for this reason. However, for this project we consider the misalignment with existing district plan policy, infrastructure planning and strategic planning for future urban development, require cumulative consideration alongside the potential for public interest in the project. Therefore, we are of the view that referral of the project should be declined as it would be more appropriately considered under the RMA.
53. With respect to infrastructure servicing, QLDC noted the project site is located outside the Arrowtown scheme boundaries for three-waters services, that the additional demand placed on existing infrastructure services needs to be considered and that the council has no intention to upgrade the existing infrastructure. The applicant provided an engineering report that concluded the project can be serviced via existing reticulated water and wastewater networks, and on-site stormwater disposal, with limited upgrades required to the wider network. The applicant advises that any new and upgraded infrastructure required to service the project will be completed at their cost as part of project delivery. We note these matters can be considered by a panel under the FTCA process and via the provision of appropriate reports and plans relating to infrastructure design and funding with an application to a panel.

Conclusions

54. The overarching purpose of the FTCA (under section 4) is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources. Although the project meets part of the referral criteria in section 18, including some aspects of the FTCA's purpose because it will help to urgently generate employment and enable the future construction of housing, it is not clear whether you can be satisfied the project will promote sustainable management of natural and physical resources. On balance, we do not consider the project will help to achieve the purpose of the FTCA. If you agree, you must decline the referral application under section 23(1) of the FTCA.
55. Further, we consider that it is more appropriate for the project to go through standard processes under the RMA due to the potentially high level of public interest, and misalignment with existing and proposed district plan policy, infrastructure planning and strategic planning for future urban development. We consider that on balance, due to the issues and risks associated with the project summarised above, it is appropriate to decline to refer the application under sections 23(1), 23(2) and 23(5)(b) of the FTCA.

Next steps

56. If you decide to decline project referral, you must give the notice of your decisions, and the reasons for them, to the applicant and anyone invited to comment under section 21.
57. We have attached a notice of decisions letter to the applicant based on our recommendations (refer Appendix 4). Once you have signed the letter we will assist your office to copy it to all relevant parties.
58. As required by section 25(3) of the FTCA, you must ensure that your decisions on the referral

application, the reasons and the Section 17 report are published on the Ministry for the Environment's website. We will undertake this task on your behalf in accordance with your direction.

59. Our recommendations for your decisions follow.

Recommendations

60. We recommend that you:

- a. **Note** section 23(1) of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) requires you to decline the referral application from Mount Soho Trust unless you are satisfied that the Brackens Ridge Project (project) meets all the referral criteria in section 18 of the FTCA, including that it would help to achieve the FTCA's purpose.
- b. **Note** that section 23(2) of the FTCA also allows you to decline an application for any other reason, whether or not the project meets the referral criteria.
- c. **Note** before deciding to decline the application for project referral under section 23 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. **Decline** to refer the project to a panel under section 23(1) and 23(2) of the FTCA because:
 - i. the project may not promote sustainable management of natural and physical resources as it does not align with existing district plan policy, infrastructure planning and strategic planning for future urban development within the Queenstown Lakes district. On balance, the project does not help to achieve the purpose of the FTCA.
 - ii. it would be more appropriate for the project to go through standard consenting processes under the Resource Management Act 1991.


Yes/No
- e. **Sign** the notice of decisions letter to the applicant (attached in Appendix 4).

Yes/No
- f. **Note** that should you disagree with our recommendation to decline the referral application, we will need to give further consideration to directions to a panel and/or the applicants that would be advisable under section 24 of the FTCA.

- g. **Require** the Ministry for the Environment to publish your decisions, reasons and the Section 17 report on the Ministry for the Environment's website.

Yes/No

Signatures



Madeleine Berry
Acting Manager – Fast-track Consenting

Hon David Parker
Minister for the Environment

Date:

Table A: Stage 2 - Project summary and section 24 FTCA assessment for projects where the Minister for the Environment is the sole decision maker

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received (Note: for analysis and/or recommended responses to these comments refer to column 7)	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
Name Brackens Ridge Project Applicant Mount Soho Trust c/- J Carter Planning Location 175 McDonnell Road, Arrowtown, Otago	The project is to subdivide a 17.9-hectare site to create approximately 104 lots for residential use and construct between 104 to 208 residential units (allowing for the option of one primary and one secondary unit per lot). Construction of the residential units will be undertaken by third parties. The project includes construction of supporting infrastructure, including roads, accessways, parking areas and three-waters services. The project also includes the creation of public and private open space areas and restoration and planting of natural wetlands. The project will involve activities such as: a. subdividing land b. removing vegetation c. carrying out earthworks (including within 10 metres of a natural wetland) d. diverting and discharging stormwater (which may contain contaminants) onto land within 100 metres of a natural wetland	The project is eligible for referral under section 18(3)(a)–(d) as: <ul style="list-style-type: none"> it does not include any prohibited activities it does not include activities on land returned under a Treaty settlement 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. 	Economic benefits for people or industries affected by COVID-19 (19(a)) Based on the information provided by the applicant we consider the project may result in the following economic benefits: <ul style="list-style-type: none"> generating approximately 50 direct (FTE) jobs over a 1-year period during land development and enabling up to 200 direct FTE jobs over a 4-year period during construction of residential units. contributing approximately \$37 million to national GDP Effect on the social and cultural well-being of current and future generations (19(b)) The project has the potential for positive effects on social wellbeing of current and future generations as it will: <ul style="list-style-type: none"> generating approximately 50 direct (FTE) jobs over a 1-year period during land development and enabling up to 200 direct FTE jobs over a 4-year period during construction of residential units. enabling the future construction of approximately 104 primary residential units and up to 104 secondary residential units. Is the project likely to progress faster by using this Act? (19(c)) The applicant estimates that under standard Resource Management Act 1991(RMA) process it may take up to three years longer to gain consent for the project due to the likelihood of notification and possible appeals, and current delays in processing consents by	Ministers s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i)	Section 23(5) matters: Insufficient information (23(5)(a)) The applicant has provided sufficient information for you to determine whether the project meets the criteria in section 18 of the FTCA. More appropriate to go through standard RMA process (23(5)(b)) We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process, particularly given the wider community may expect the project to be preceded by a plan change, which allows for full public consultation. The site is located outside of a UGB identified in the OQLDP and PQLDP, and the project site (or any other part of Arrowtown) has not been identified as a location for urban growth under the QLSP. Therefore, urban development on the site is unlikely to be readily anticipated by the public. Comments received from QLDC s 9(2)(f)(ii), s 9(2)(g)(i) also raised concerns relating to the lack of opportunity for public participation should the project be referred. There is a risk that referring the project could be viewed negatively by the wider community and this risk cannot be completely avoided. QLDC noted that referring the project would exclude the Arrowtown community and given there is a level of interest in the location and type of urban development, it would prefer that the Arrowtown community is given an opportunity to express their views on the project. We have undertaken an internet search and found that a number of proposals to re-zone or consent land for urban development beyond the UGB in Arrowtown, particularly on the opposite side of McDonnell Road to the project site, have attracted public interest and advanced to the Environment Court. Our	In response to key comments: <ul style="list-style-type: none"> s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) we agree with QLDC and s 9(2)(f)(ii), s 9(2)(g)(i) that the project should go through standard RMA processes that allow for notification s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) We consider the project can help to achieve the employment and investment certainty objectives of the FTCA's purpose and meets section 18(2) in this regard. This is because the project has the potential to create approximately 50 direct FTE jobs over a 1-year period during land development and enable the future construction of up to 208 residential units (allowing for the option of one primary and one secondary unit per lot). The future construction of residential units will also enable up to 200 direct FTE jobs over a 4-year period.

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received (Note: for analysis and/or recommended responses to these comments refer to column 7)	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
	<p>e. developing land for the purposes of public and private open space, including by landscaping and planting</p> <p>f. restoring and planting of natural wetlands</p> <p>g. constructing residential units</p> <p>h. constructing or installing infrastructure or structures associated with the development, including –</p> <p>i. roads intended to be vested in Queenstown Lakes District Council</p> <p>ii. vehicle and pedestrian accessways</p> <p>iii. parking areas</p> <p>iv. infrastructure for three-waters services</p> <p>i. any other activities that are –</p> <p>i. associated with the activities described in a to h; and</p> <p>ii. within the project scope.</p> <p>The project will require land use and subdivision consents under the Operative Queenstown Lakes District Plan (OQLDP).</p>		<p>Queenstown Lakes District Council (QLDC).</p> <p>Will the project result in a public benefit? (19(d))</p> <p>Based on the information provided by the applicant we consider the project may result in the following public benefits:</p> <ul style="list-style-type: none"> • generating employment. • increasing housing supply. <p>Potential to have significant adverse environmental effects, including greenhouse-gas emissions (19(e))</p> <p>The project has the potential for adverse environmental effects arising from:</p> <ul style="list-style-type: none"> • earthworks • construction activities • increased loading on infrastructure • traffic • works and discharge in proximity to natural wetlands • the proposed density potentially affecting landscape, character and amenity values <p>The applicant has stated that the project will not have significant adverse effects on the environment.</p> <p>We note that you do not require a full Assessment of Environment Effects and supporting evidence to make a referral decision, and a panel can consider this and any appropriate mitigation, offsetting or compensation to manage adverse effects of the development.</p> <p>Other relevant matters (19(f))</p> <p>N/A</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>Local authorities</p> <p>Queenstown Lakes District Council (QLDC) noted the application may be a suitable candidate for consideration under the fast-track consenting process, however considered the Arrowtown community should be given an opportunity to express their preferences on the project. QLDC stated that while the application wouldn't provide 'additional' land for residential development, it would enable the more efficient use of land that is already zoned for development under the ASSZ. QLDC also considered that the proposed road connection between McDonnell Road and Centennial Avenue would provide for a more efficient road layout and improved transport connections.</p> <p>QLDC commented that the proposal would lead to considerably different development outcomes from those anticipated under the current zoning, however acknowledged the current zoning was developed, considered and approved in the period leading up to May 2015, before new national direction was issued to address pressures on the social, economic, cultural and environmental wellbeing of New Zealand communities. QLDC noted that Arrowtown has not been identified as a location anticipated to absorb further urban growth under the QLSP and the considerably different development outcomes from the project, when considered in isolation, would challenge what is anticipated by the higher order directions of the Queenstown Lakes District Operative District Plan and the underlying zoning.</p> <p>QLDC commented that the project site is currently located outside of an Urban Growth Boundary (UGB) and</p>	<p>view is that there may be a high level of public interest in the project.</p> <p>QLDC considered the project will have considerably different outcomes than anticipated under the ASSZ. We note the ASSZ is not proposed to be amended as part of the current district plan review (future stages of the review may amend the zoning of the project site and the UGB but this is not currently forecast in the QLSP). As the site is not currently zoned for urban development in the OQLDP or PQLDP and is not identified in any strategy documents, including the QLSP, for future urban growth, we consider it would be more appropriate for the project to be considered under standard RMA consenting process to enable broader public consultation.</p> <p>We have recently provided you with advice to approve referral of 'The Yards Project' (BRF-2257 refers), in the Queenstown Lakes district. That project was potentially inconsistent with the purpose of the relevant zone and lacked strategic support, had potential for wider community interest and expectations that the project would be preceded by a plan change. A key component, the storage facility component, of The Yards Project was already subject to a QLDC publicly notified resource consent, RM220327, that had attracted five submissions. The risk that referring The Yards Project removed the opportunity for wider community participation in the consenting process was reduced by our recommendation to require a panel to invite comments from the submitters on RM220327. For the Brackens Ridge Project, we consider that the risk cannot be reduced or avoided in the same manner because it is unclear which parties may be interested in the project.</p> <p>Inconsistency with a national policy statement (23(5)(c))</p> <p>The NPS-UD is relevant to the project and if you decide to refer the project a panel must have regard to any relevant</p>	<p>However, the FTCA purpose requires that these objectives are achieved while promoting sustainable management of natural and physical resources.</p> <p>We consider the project may not promote sustainable management of natural and physical resources as it involves the use and development of land in a way and rate that may not enable people and communities to provide for their social, economic, and cultural well-being, while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations. The project does not align with existing district plan policy, infrastructure planning and strategic planning for future urban development within the Queenstown Lakes district. Specifically, the project will not consolidate growth in the manner envisaged by the QLSP nor co-ordinate growth with planned three-waters, transport, social and community infrastructure. This may result in an inefficient use of the land.</p> <p>We consider that you should decline the referral application on the basis that the project may not promote sustainable management of natural and physical resources as it does not align with existing district plan policy, infrastructure planning and strategic planning for future urban development within the Queenstown Lakes district, and on balance the project does not help to achieve the purpose of the Act, and that it is more appropriate for the project to proceed through a standard consenting process under the RMA.</p>

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received <i>(Note: for analysis and/or recommended responses to these comments refer to column 7)</i>	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
	land use and discharge consents under the Regional Plan: Water for Otago, and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).			<p>that these are an important tool for managing urban growth, achieving distinct and defensible urban edges, avoiding sporadic and/or ad hoc urban development in the rural area, and in protecting the District's highly valued landscape. QLDC noted that the local community consider the special characteristics and contained urban form of Arrowtown to be highly important, and if the project is referred, there should be consideration of how the proposed development impacts the intended outcomes of the ASSZ and the special character of this part of Arrowtown.</p> <p>QLDC commented there should be consideration of the effects of the additional traffic movements on the safe and efficient operation of the immediate and surrounding road network on transport and infrastructure. QLDC stated that they do not have any intention to upgrade water, wastewater or stormwater infrastructure in the Arrowtown scheme boundaries to support growth of the kind proposed and that the additional demand placed on existing infrastructure and services needs to be considered. QLDC also noted that the subject land is located outside of the Arrowtown scheme boundaries for water, wastewater and stormwater services, and that developments outside of existing scheme boundaries require detailed investigations in terms of their potential effects on the network.</p> <p>QLDC identified that the application site contains listed heritage features and that some parts of the project encroach into 'private open space' areas of the ASSZ structure plan, which have been identified to enhance and maintain areas of particular ecological and landscape value. QLDC also identified a number of reports and assessments which would normally be required for a project of this type. \</p> <p>Otago Regional Council (ORC) did not support project referral and considered the project could be assessed under a standard consenting process under the RMA. ORC commented that the current zoning would support some potential for productive use of land, however the proposed project would not.</p> <p>ORC considered there was a disconnect between the Transport Report and the structure plan overlay as the overlay plan shows some indicative walking/cycling provision which is not reflected in the transport report. ORC stated that it will likely be difficult to connect walking/cycling access to the existing neighbouring urban areas, as this is an unplanned urban development.</p>	<p>provisions of the NPS-UD when considering a consent application. The applicant considers the project meets the objectives and policies of the NPS-UD, s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>At this stage we cannot provide definitive advice on whether the project is consistent with the NPS-UD as that would require further detailed analysis. However, we consider this matter can be appropriately determined by a panel and therefore we do not consider that you should decline the referral application on the basis of section 23(5)(c) of the FTCA (inconsistency with a relevant national policy statement).</p> <p>ORC commented that the current zoning would support some potential for productive use of land, however the proposed project would not. We note the National Policy Statement for Highly Productive Land 2022 (NPS-HPL) came into force on 17 October 2022. The project site is not zoned general rural or rural production and is not identified as Land Use Capability Class 1, 2 or 3, therefore it is unlikely to meet the definition of 'highly productive land' under the NPS-HPL. We therefore do not consider the project will be inconsistent with the NPS-HPL.</p> <p>Inconsistent with a Treaty settlement (23(5)(d))</p> <p>The project does not directly affect any Treaty settlement redress.</p> <p>Involves land needed for Treaty settlements (23(5)(e))</p> <p>The project site does not include any land needed for Treaty Settlement purposes.</p> <p>Applicant has poor regulatory compliance (23(5)(f))</p>	

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				<p>ORC identified that the application indicates controls on solid fuel burning appliances, and that it was unclear whether it means that these appliances will be prohibited or that restrictions will be imposed to meet emissions performance standards. ORC requested that any prohibition of fuel burning appliances are enforceable by QLDC to ensure that they are not installed at a late date.</p> <p>ORC considered there is minimal detail available to be able to assess the management of stormwater on the site and requests that the applicant provides information stating how stormwater will be managed, and how effects on the unnamed tributary of the Arrow River, run-off onto land and ecological health of waterbodies will be avoided/mitigated. ORC recommended that a condition of consent should be to include a stormwater discharge management plan.</p> <p>ORC noted that natural wetlands have been identified in the project site and that alongside the proposed residential developmental activities, the applicant has stated that they will undertake natural wetlands management, restoration measures, which if implemented and maintained will enhance the natural wetland values. ORC also notes that proposed clearing of exotic terrestrial vegetation and planting of native trees will enhance regional biodiversity values.</p> <p>All responses received by parties invited to comment are attached in Appendix 6.</p>	<p>QLDC and ORC have confirmed that they do not have any records of enforcement action being taken against the applicant.</p> <p>Insufficient time for the project to be referred and considered before FTCA repealed (23(5)(g))</p> <p>There is sufficient time for the application to be referred and considered before the FTCA is repealed.</p> <p>Other issues and risks:</p> <p>A key issue is whether the project would be more appropriately considered as part of a broader strategic planning process that assesses appropriate locations for future urban development, followed by a site-specific RMA consenting process.</p> <p>We consider there are risks in referring the project before a comprehensive policy framework is developed for the area. This could result in misalignment between the project, infrastructure planning, future outcomes for the use of the area and integration with the wider community.</p> <p>We consider that proceeding via a resource consent process in advance of strategic planning and re-zoning is generally not regarded as good planning practice because it raises risks of fragmented or poorly integrated development. We have provided advice on several referral applications confirming that the FTCA does not preclude referral of the project for this reason. However, for this project we consider the misalignment with existing district plan policy, infrastructure planning and strategic planning for future urban development, require cumulative consideration alongside the potential for public interest in the project. Therefore, we are of the view that referral of the project should be declined as it would be more appropriately considered under the RMA.</p> <p>With respect to infrastructure servicing, QLDC noted the project site is located outside the Arrowtown scheme boundaries for three-waters services, that</p>	

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					the additional demand placed on existing infrastructure services needs to be considered and that the council has no intention to upgrade the existing infrastructure. The applicant provided an engineering report that concluded the project can be serviced via existing reticulated water and wastewater networks, and on-site stormwater disposal, with limited upgrades required to the wider network. The applicant advises that any new and upgraded infrastructure required to service the project will be completed at their cost as part of project delivery. We note these matters can be considered by a panel under the FTCA process and via the provision of appropriate reports and plans relating to infrastructure design and funding with an application to a panel.	