

## FTC#14 Applications for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decision on:

### Application 2020-011 – Molesworth Street Office Development, Wellington

Date Submitted:	24 September 2020	Tracking #: 2020-B-07161	
Security Level	In-Confidence	MfE Priority:	Urgent
		<b>Action sought:</b>	<b>Response by:</b>
To Hon David Parker, Minister for the Environment		Decision	28 September 2020
Actions for Minister's Office Staff	<b>Return</b> the signed report to MfE.		
Number of appendices and attachments	Titles of appendices and attachments (ie separate attached documents): 1. Molesworth Street Office Development- Application and additional information received 2. Stage 1 Briefing Note and Decision 3. Notice of Decision Letter to Primeproperty Group Limited 4. Section 17 Treaty of Waitangi Report 5. Comments received from Ministers and Local Authorities		

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author	Sara Clarke	s 9(2)(a)	
Responsible Manager	Sara Clarke	s 9(2)(a)	✓
Director	Liz Moncrieff	s 9(2)(a)	

## FTC#14: Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decision

### Key Messages

1. This briefing relates to the application received from Primeproperty Group Limited (Prime Property or applicant) for the Molesworth Street Office Development.
2. Officials recommend accepting this application and referring it to an expert consenting panel for fast-tracking.
3. This is the second briefing relating to this application. A copy of the first briefing (2020-B-07099) regarding this application is included in Appendix 2.
4. The application is to construct a 12-storey office building including retail/café space and a basement carpark.
5. The site is located at 55-61 Molesworth Street, Thorndon, Wellington.
6. Section 24(1) of the Act sets out the matters you must consider at this stage of the process. In accordance with section 24, you may now decide whether to accept all or part of the project for referral to an expert consenting panel or decline the application under section 23.
7. If you decide to accept an application for referral, you must consider:
  - a. the application; and
  - b. the Treaty of Waitangi report (prepared under section 17); and
  - c. any comments received (under section 21); and
  - d. any further information requested<sup>1</sup> and provided on an application.
8. A summary of our analysis and advice for this application is provided in Table 1. To meet your obligations under section 24 of the Act, full details of the application, along with the Treaty of Waitangi report (Appendix 3), local authority and Ministers' comments and the further information provided by Primeproperty Group Limited is provided in the appendices.

### Legal issues/risks

s 9(2)(g)(i)

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<sup>1</sup> Section 22

<sup>2</sup> Under Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

### **Next steps**

15. Once you make your decision on an application, you must give notice of this decision, and the reasons for it, to the applicant and the persons, entities and groups listed in section 25 of the Act. We have attached a letter to the applicant based on our recommendations (refer Appendix 4). The Ministry will work with your office to give notice to the persons listed in section 25 of the Act.
16. To refer a project, you must recommend that a referral order be made by way of an Order in Council. Cabinet agreement was sought for the first Order in Council (OiC) approval process before drafting instructions were issued to the Parliamentary Counsel Office (PCO). Cabinet has agreed for all subsequent OiC, that you can issue drafting instructions to PCO without the need for a policy decision to be taken by Cabinet in the first instance. Final decisions on an OiC will still be taken to the Cabinet Legislation Committee, followed by Cabinet confirmation<sup>3</sup>.
17. If you agree to refer this project, the next available Cabinet for authorising submission to the Executive Council of the referral order is on 27 October 2020.

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<sup>3</sup> Cabinet has also agreed that a Regulatory Impact Assessment is not required for OIC relating to projects to be referred to a Panel [ENV-20-MIN-0033 and CAB-20-MIN-0353 refer].

## Recommendations

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1. We recommend that you:

a. **Note** that section 23 of the Act requires you to decline an application for referral unless you are satisfied that the project meets the referral criteria in section 18 of the COVID-19 Recovery (Fast-track Consenting) Act 2020.

b. **Agree** that the Molesworth Street Office Development project meets the referral criteria in section 18 and the purpose of the Act in section 19.

Yes/No

c. **Note** that before deciding to accept an application for referral you must consider:

- i. the application; and
- ii. the Treaty of Waitangi report obtained under section 17; and
- iii. any comments received; and
- iv. any further information requested and provided.

s 9(2)(g)(i)

e. **Agree** to refer all of the Molesworth Street Office Development project to an expert consenting panel.

Yes/No

f. **Agree** that in addition to the information requirements set out in Schedule 6 of the Act, the applicant must also submit the following additional information with their application:

- i. A heritage report prepared by a heritage expert as the site is adjacent to the heritage listed Cathedral of Saint Pauls and one of the matters in Part 2 of the RMA is the protection of historic heritage from inappropriate subdivision, use, and development.
- ii. A preliminary site investigation (PSI) or detailed on-site investigation (DSI) report and compliance with any requirements of the Resource Management

(National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

- iii. A Design Statement, including a statement as to how the proposal achieves design excellence given that the building height exceeds the permitted height of the Wellington City District Plan, but is within the 15% design excellence allowance.
- iv. A written approval of Wellington Water Limited if the proposal involves a discharge of dewatered water and/or stormwater to the stormwater network during works.
- v. An earthworks management plan.
- vi. A summary of any consultation undertaken with iwi or Heritage New Zealand Pouhere Taonga.
- vii. Any additional information required to be submitted by the district council and the regional council if the application went through standard Resource Management Act processes. The expert consenting panel may request additional documents including the documents that would need to be lodged as part of a standard RMA process.

Yes/No

- g. **Agree** to the Ministry for the Environment issuing drafting instructions to the Parliamentary Counsel Office.

Yes/No

- h. **Sign the attached (Appendix 3)** notice of decision to Primeproperty Group Limited.

Yes/No

- i. **Note** that the Ministry for the Environment is required to publish your decision, the reasons, and the section 17 Treaty of Waitangi report on the Ministry's website as required by section 25(3) of the Act.

**Signature**



Sara Clarke  
**Manager – Fast Track Consenting**

**Date:** 24 September 2020

Hon David Parker  
**Minister for the Environment**

**Date**



Table A: Stage 2 - Project Summary Analysis

Project name, applicant and location	Project description	Does the project meet the eligibility criteria (s18)?	Treaty of Waitangi s17 report	Summary of comments received	Does the project help achieve the purpose of the Act (s19)?	Section 24 Assessment
<p>Molesworth Street Office Development</p> <p>Primeproperty Group Limited</p> <p>55-61 Molesworth Street, Thorndon, Wellington</p>	<p>Construct a 12-storey office building including retail/café space, and a basement carpark.</p>	<p>The project meets the eligibility criteria in section 18 (3) (a-d) as:</p> <ol style="list-style-type: none"> <li>1. Based on the information available, it does not include any prohibited activities.</li> <li>2. It does not include land returned under a Treaty settlement.</li> <li>3. The works do not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011.</li> </ol>	<p>Taranaki Whānui ki te Upoko o te Ika represented by the Port Nicholson Settlement Block Trust, and Ngāti Toa Rangatira, represented by Te Runanga o Toa Rangatira Inc are the two iwi authorities with interests under the RMA for the area that includes this project.</p> <ul style="list-style-type: none"> <li>• The Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 and Ngati Toa Rangatira Claims Settlement Act 2014 are the relevant Treaty settlements.</li> <li>• There are no current mandates or settlement negotiations.</li> <li>• There are no customary marine title (CMT) or protected customary rights (PCR) under the Marine &amp; Coastal Area (Takutai Moana) Act 2011.</li> </ul> <p>No specific settlement redress would be affected by the proposed project.</p> <p>The Section 17 report is attached at Appendix 4.</p>	<p><b>Ministers</b></p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>[Redacted]</p> <p><b>Local authorities</b></p> <p>Wellington City Council (WCC) supports the application and sees no reason why the application should not be fast-tracked. However, the council raises issues associated heritage, contaminated land, wind speeds, and earthworks noting that effects could be managed through conditions and design considerations. The council also noted previous compliance issues with the applicant.</p> <p>Greater Wellington Regional Council noted that this is an appropriate project to be fast-tracked and did not see this project having any significant environmental effects.</p> <p>A full summary of comments received is provided in Appendix 5</p>	<p>The project helps to achieve the purpose of the Act by promoting employment, contributing to a well-functioning urban environment, and supporting investment certainty across New Zealand as part of the COVID-19 response, while continuing to promote the sustainable management of natural and physical resources for the following reasons:</p> <ul style="list-style-type: none"> <li>• It will provide specialist and local employment opportunities (up to 14 immediate full-time jobs in the first 18 months and another 200 full-time jobs in the following 30 months).</li> <li>• It will develop an underutilised site for high quality office spaces and contribute to a well-functioning urban environment.</li> </ul> <p>s 9(2)(g)(i)</p> <p>[Redacted]</p>	<p>We recommend that you refer the project to an expert consenting panel.</p> <p>With respect to the considerations under section 24(2) of the Act, no reasons have been identified in the consultation/assessment process to:</p> <ul style="list-style-type: none"> <li>• Limit the scope of the project by referring it only in part.</li> <li>• Refer the application in stages.</li> <li>• Place any restrictions on the project.</li> <li>• Impose specific timeframes for panel consideration.</li> </ul> <p>However, we recommend the applicant is required to provide specific information identified by local authorities to the panel:</p> <ul style="list-style-type: none"> <li>• A heritage report prepared by a heritage expert because the site is adjacent to the heritage listed Cathedral of Saint Pauls and protection of historic heritage is an important consideration in both the RMA and the Act (section 19(d)(viii))</li> <li>• A preliminary site investigation (PSI) or detailed on-site investigation (DSI) report and compliance with any requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 because the site classified as contaminated land.</li> <li>• A Design Statement, including a statement as to how the proposal achieves design excellence given that the building height exceeds the permitted height, but is within the 15% design excellence allowance</li> <li>• A written approval of Wellington Water Limited if the proposal involves a discharge of dewatered water and/or stormwater to the stormwater network during works.</li> <li>• An earthworks management plan.</li> <li>• A summary of any consultation undertaken with iwi or Heritage New Zealand Pouhere Taonga.</li> </ul>

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						<ul style="list-style-type: none"> <li>Any additional information required to be submitted by the district council and the regional council if the application went through standard Resource Management Act processes. The expert consenting panel may request additional documents including the documents that would need to be lodged as part of a standard RMA process.</li> </ul>

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the Official Information Act 1982

## **Schedule of Appendices and Attachments**

Appendix 1 – Molesworth Street Office Development – Application form and Additional Information Received

Appendix 2 – 2020-B-07099 FTC#5 – Application for referred project under the COVID-Recovery Act - Stage 1 decision on Application Molesworth Street Office Development

Appendix 3 – Section 17 Treaty of Waitangi Report

Appendix 4 – Notice of Decision letter to Primeproperty Group Limited

Appendix 5 – Comments received from Ministers and Local Authorities

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