

In Confidence

Office of the Minister for the Environment

Chair, Cabinet

COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No. 2) 2020

Proposal

1. This paper seeks authorisation for submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No. 2) 2020 (the No. 2 Amendment Order).
2. The No.2 Amendment Order amends the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 to include as projects referred to an expert consenting panel:
 - 2.1. Primeproperty Group Limited's, Molesworth Street Office Development (Schedule 5)
 - 2.2. Ryman Healthcare Limited's, Kohimarama Comprehensive Care Retirement Village (Schedule 4).

Executive Summary

3. The COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) is one of the Government's actions to support New Zealand's economic recovery from COVID-19. The FTCA enables any person to apply to the Minister for the Environment to access the fast-track process for their project. If the Minister accepts an application, it is referred by Order in Council allowing an applicant to lodge a resource consent or notice of requirement for a designation with an expert consenting panel (Panel) for consideration.
4. This paper seeks agreement to fast-track projects from Primeproperty Group Limited and Ryman Healthcare Limited and refer them to a Panel. I have considered whether these projects help achieve the purpose of the FTCA, relevant Treaty of Waitangi considerations, and sought written comments from relevant Ministers, local authorities, and other persons. I have also requested and considered further information from the applicants.
5. I have accepted Primeproperty Group Limited's Molesworth Street Office Development for referral as it will:
 - 5.1. provide specialist and local employment opportunities
 - 5.2. promote a vibrant and well-functioning urban environment that is well-connected by public transport by redeveloping a vacant site in the Wellington CBD
6. I have accepted Ryman Healthcare Limited's Kohimarama Comprehensive Care Retirement Village for referral as it will:

- 6.1. provide specialist and local employment opportunities
- 6.2. benefit the public by providing additional housing supply and aged care facilities, while supporting integrated urban development
7. For both applications any adverse effects arising from the application and proposed mitigation measures can be tested through an expert consenting panel having regard to Part 2 of the RMA and the purpose of the FTCA.
8. I now seek authorisation for submission to the Executive Council of the No. 2 Amendment Order.

Background

8. The FTCA enables any person to apply to the Minister for the Environment (the Minister) to fast-track a resource consent or designation for their project. If the Minister accepts an application, it is referred by Order in Council allowing an applicant to lodge a resource consent or notice of requirement for a designation with a Panel for consideration.
9. As of 4 November 2020, I have received 27 applications for projects to be considered for referral to a Panel through an Order in Council, of which:
 - 9.1. two applications have been referred and Order in Councils gazetted. The first project I accepted, Transpower New Zealand Limited's Clutha Upper Waitaki Lines Project – Works and Workers' Village, was referred to a Panel by an Order in Council on 21 September 2020¹. The Northbrook Wanaka Retirement Village was the second to be referred. The consents for these projects are expected to be lodged with the EPA before the end of the year.
 - 9.2. I have approved a further five applications for referral including the Molesworth Street Office Development, Kohimarama Comprehensive Care Retirement Village, Dominion Road Mixed Use Development, Ohinewai Foam Factory and The Vines Affordable Subdivision. This Cabinet Paper covers the first two projects. Drafting instructions for Orders in Council for the other three projects are currently being prepared.
 - 9.3. eight applications have been declined for a range of reasons including on the basis that they do not meet the purpose of the FTCA and it would be more appropriate for them to go through the standard consenting process under the Resource Management Act (RMA).
 - 9.4. two applications have been withdrawn.
 - 9.5. I am still considering 10 applications.

Project for referral: Primeproperty Group Limited, Molesworth Street Office Development

10. Primeproperty Group Limited has applied to use the fast-track consenting process for the Molesworth Street Office Development. This application includes the construction of a 12-storey office building including retail/café space, lobby space, loading bays and a basement carpark at 55-61 Molesworth Street, Thorndon, Wellington.

¹ As authorised by Cabinet, CAB-20-MIN-0445 refers.

11. Under standard RMA processes this project would require land use consents from Wellington City Council. To better understand the expected timeframes and stages of the project, and to clarify relevant iwi authorities and Treaty settlement entities, I sought further information from Primeproperty Group Limited under section 22 of the FTCA.

Comments received

12. In accordance with section 21 of the FTCA, I sought written comments on this application from relevant Ministers and local authorities.

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

14. Wellington City Council (WCC) saw no reason why the application should not be fast-tracked, but suggested that the applicant should provide specific information to assist the Panel to make its decision. This includes information relating to heritage, contaminated land, design excellence, earthworks, discharge of stormwater and dewatering, and the outcome of any consultation with iwi and Heritage New Zealand Pouhere Taonga.

15. 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.

Decision

16. In making my decision² I considered the application and further information received, comments received from relevant Ministers and local authorities, and the eligibility criteria in section 18 of the FTCA. I also considered the report prepared under section 17 of the FTCA, which did not identify any Treaty of Waitangi considerations that would preclude this application being referred to a Panel.

17. I have decided to accept Primeproperty Group Limited's Molesworth Street Office Development for referral to a Panel. The project meets the eligibility criteria in section 18 of the FTCA and achieves the purpose of the Act by:

17.1. providing 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)

17.2. promoting a vibrant and well-functioning urban environment that is well-connected by public transport by redeveloping a vacant site in the Wellington CBD

17.3. allowing adverse effects arising from the application and proposed mitigation measures to be tested through an expert consenting panel having regard to Part 2 of the RMA and the purpose of the FTCA.

18. To address site specific matters raised by Wellington City Council, I have decided to request the applicant to provide to the Panel³:

18.1. a heritage report as the site is adjacent to the heritage listed Cathedral of Saint Pauls

18.2. a summary of any consultation with iwi or Heritage New Zealand Pouhere Taonga

² In accordance with section 24, Decision to accept application for referral, of the FTCA.

³ Section 24(2)(d) of the FTCA.

- 18.3. relevant site investigations relating to contaminated land
- 18.4. an earthworks management plan
- 18.5. written approval from Wellington Water Limited if the proposal involves dewatering and/or the discharge of stormwater during works
- 18.6. a design statement stating how the proposal achieves design excellence
- 18.7. 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. This will require consideration of the information requirements specified in the relevant district and regional plans.
- 19. Under the FTCA, the Panel is required to invite comments on consent applications from the relevant local authorities and owners and occupiers of adjacent land⁴. Inviting these comments provides the opportunity for Wellington City Council to raise its concerns directly with the Panel.
- 20. I consider there are no other reasons under section 24(2) of the FTCA to:
 - 20.1. limit the scope of the project by referring it only in part
 - 20.2. refer the application in stages
 - 20.3. place any restrictions on the project
 - 20.4. impose specific timeframes for panel consideration.

Project for referral: Ryman Healthcare Limited, Kohimarama Comprehensive Care Retirement Village

- 21. Ryman Healthcare Limited have applied to refer the Kohimarama Comprehensive Care Retirement Village, located at 223 Kohimarama Road and 7 John Rymer Place, Auckland, to a Panel. The application is to construct and operate a retirement village and associated activities, providing for 123 independent apartments, 173 hospital care beds and specialist facilities.
- 22. Under standard RMA processes this project would require land use and discharge consents from Auckland Council. To better understand the environmental effects and job creation potential of this project, I sought further information from Ryman Healthcare Limited under section 22 of the FTCA.
- 23. In 2006, Ngāti Whātua Ōrākei acquired the land which forms the majority of the project area from the Crown and subsequently leased it to Ryman Healthcare for 150 years. It is not Treaty settlement land.

Comments received

- 24. In accordance with section 21 of the FTCA, I sought written comments on this application from relevant Ministers, Auckland Council and the Ngāti Whātua Ōrākei Trust Board.
- 25. s 9(2)(f)(ii), s 9(2)(g)(i)

⁴ Clause 17(6)(a)(g) and (h) of Schedule 6, FTCA.

26. Auckland Council recently issued a decision to allow limited notification and service of notice to approximately one hundred persons. They question the benefit of the process in light of that decision but also note the project may advance faster under the FTCA. Auckland Council also identified amenity and wastewater capacity issues. Overall, they did not have any significant concerns with the project.
27. Comments were also sought and received from Whai Māia, the entity responsible for the social and cultural development of Ngāti Whātua Ōrākei. They confirmed their approval of the proposed project and made a number of suggestions for consent conditions. In addition, the applicant provided in their further information, a copy of an affected party approval from Ngāti Whātua Ōrākei Trust Board.

Decision

28. In making my decision I considered the application and further information received, comments received from relevant Ministers, Auckland Council, and the eligibility criteria in section 18 of the FTCA. I also considered the report prepared under section 17 of the FTCA, which did not identify any Treaty of Waitangi considerations that would preclude this application being referred to a Panel.
29. I have decided to accept Ryman Healthcare Limited's Kohimarama Comprehensive Care Retirement Village for referral to a Panel. I consider the project meets the eligibility criteria in section 18 of the FTCA and achieves the purpose of the Act by:
- 29.1. providing specialist and local employment opportunities (up to 400 jobs over a duration of 36-48 months for the construction period, followed by 170 operational jobs once constructed)
 - 29.2. benefit the public by providing additional housing supply and aged care facilities, while supporting integrated urban development
 - 29.3. allowing adverse effects arising from the application and proposed mitigation measures to be tested through an expert consenting panel having regard to Part 2 of the RMA and the purpose of the FTCA.
30. The FTCA requires that the Panel seek comments from adjoining landowners and occupiers⁵. In addition to the requirements of the Act, I have decided to request the Panel to seek comment from the owners or occupiers of the approximately 100 properties identified in Auckland Council's limited notification decision and the Auckland District Health Board.
31. s 9(2)(f)(ii), s 9(2)(g)(i)
32. In relation to the concerns raised by Auckland Council, I consider it appropriate for the Panel to assess any adverse effects arising from the application, and whether conditions could

⁵ Clause 17(6)(a)(g) and (h) of Schedule 6, FTCA.

provide sufficient mitigation of these effects. Ministers will have the opportunity to also provide comments directly to the Panel.

33. There are no other reasons under section 24(2) of the FTCA to:
 - 33.1. limit the scope of the project by referring it only in part
 - 33.2. refer the application in stages
 - 33.3. place any restrictions on the project
 - 33.4. require the applicant to provide any specific information to the Panel
 - 33.5. impose specific timeframes for panel consideration.
34. I now seek authorisation for submission to the Executive Council of the No.2 Amendment Order. The No.2 Amendment Order enables Primeproperty Group Limited and Ryman Healthcare Limited to apply via the Environmental Protection Authority to a Panel for the relevant resource consents.

Timing and 28-day rule

35. Cabinet has agreed to waive the 28-day rule for Orders in Council relating to projects to be referred to a Panel⁶. Therefore, the No. 2 Amendment Order will come into force as soon as it is notified in the New Zealand Gazette. This will enable applications for resource consents to be lodged with the Environmental Protection Authority, for consideration by a Panel, once the Order has been gazetted, for:
 - 35.1. Primeproperty Group Limited's, Molesworth Street Office Development
 - 35.2. Ryman Healthcare Limited's, Kohimarama Comprehensive Care Retirement Village.

Compliance

36. The proposed Amendment Order complies with:
 - 36.1. the principles of the Treaty of Waitangi
 - 36.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
 - 36.3. the principles and guidelines set out in the Privacy Act 1993
 - 36.4. relevant international standards and obligations
 - 36.5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

37. 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.

⁶ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer.

Certification by Parliamentary Counsel

38. The No. 2 Amendment Order has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission.

Impact Analysis

Regulatory Impact Assessment

39. 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 an Expert Consenting Panel⁷.

Climate Implications of Policy Assessment

40. The Climate Implications of Policy Assessment (CIPA) team at the Ministry for the Environment has been consulted and confirms that the CIPA requirements do not apply to these proposals.
41. The decision to refer the Molesworth Street Office Development and the Kohimarama Comprehensive Care Retirement Village projects to a Panel will not have direct emissions impacts. Likely emissions implications of the projects have been considered at a high-level during the formal application process and are also expected to be considered by the Panel in their assessment of any adverse effects arising from the applications.

Publicity

42. The No.2 Amendment Order will be available on the New Zealand Legislation website following its notification in the New Zealand Gazette.
43. As required under section 25 of the FTCA, my decision to refer the applications to a Panel for consideration, the reasons for this decision, and the Treaty of Waitangi report obtained under section 17 will be made available to the public on the Ministry for the Environment's website.

Proactive Release

44. 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.

Consultation

45. I have considered the matters raised by the relevant Ministers, local authorities and other persons invited to comment and am satisfied that the project meets the purpose of the FTCA. Any specific issues raised can be addressed by the Panel in its substantive decision-making role.
46. The Ministry for the Environment sought comment on this paper from the Department of Conservation, Ministry for 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

⁷ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer.

Employment, Ministry for Primary Industries, Department of Prime Minister and Cabinet, Ministry of Health, Ministry of Defence, Department of Internal Affairs and Te Arawhiti.

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

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

Recommendations

I recommend that Cabinet:

1. **note** that the Minister for the Environment has decided under section 24 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 to accept the following applications for referral to an expert consenting panel:
 - 1.1. Primeproperty Limited's Molesworth Street Office Development
 - 1.2. Ryman Healthcare Limited's Kohimarama Comprehensive Care Retirement Village
2. **note** that Primeproperty Group Limited's Molesworth Street Office Development meets the eligibility criteria in section 18 of the COVID-19 Recovery (Fast-track Consenting) Act 2020, and is considered to help achieve the purpose of the Act by:
 - 2.1. providing 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)
 - 2.2. promoting a vibrant and well-functioning urban environment that is well-connected by public transport by redeveloping a vacant site in the Wellington CBD
 - 2.3. allowing adverse effects arising from the application and proposed mitigation measures to be tested through an expert consenting panel having regard to Part 2 of the RMA and the purpose of the FTCA.
3. **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects No. 2 Amendment Order 2020 directs Primeproperty Group Limited to provide to the expert consenting panel:
 - 3.1. a heritage report prepared by a heritage expert as the site is adjacent to the heritage listed Cathedral of Saint Pauls
 - 3.2. a preliminary site investigation (PSI) or detailed on-site investigation (DSI) report as the site is classified as contaminated land
 - 3.3. a design statement as to how the proposal achieves design excellence
 - 3.4. a summary of any consultation undertaken with iwi or Heritage New Zealand Pouhere Taonga

- 3.5. an earthworks management plan
- 3.6. a written approval from Wellington Water Limited if the proposal involves dewatering and/or the discharge of stormwater during works
- 3.7. any additional information required to be submitted by the district council and the regional council if the application went through standard Resource Management Act 1991 processes
4. **note** that Ryman Healthcare Limited's, Kohimarama Comprehensive Care Retirement Village meets the eligibility criteria in section 18 of the COVID-19 Recovery (Fast-track Consenting) Act 2020, and is considered to help achieve the purpose of the Act by:
 - 4.1. providing specialist and local employment opportunities (up to 400 jobs over a duration of 36-48 months for the construction period, followed by 170 operational jobs once constructed)
 - 4.2. benefit the public by providing additional housing supply and aged care facilities, while supporting integrated urban development
 - 4.3. allowing adverse effects arising from the application and proposed mitigation measures to be tested through an expert consenting panel having regard to Part 2 of the RMA and the purpose of the FTCA.
5. **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No. 2) 2020 directs the expert consenting panel appointed to consider Ryman Healthcare Limited's, Kohimarama Comprehensive Care Retirement Village to seek comment from all those identified in Auckland Council's limited notification decision report as being affected parties and the Auckland District Health Board
6. **authorise** the submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No. 2) 2020
7. **note** that on 27 July 2020, Cabinet agreed [CAB-20-MIN-0353 refers] to waive the 28-day rule so that Orders in Council made under the COVID-19 Recovery (Fast-track Consenting) Act 2020 can come into force as soon as they are notified in the New Zealand Gazette
8. **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No. 2) 2020 will come into force when notified in the New Zealand Gazette.

Authorised for lodgement

Hon David Parker
Minister for the Environment