

FTC#267 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2023-165 Alabaster Residential Development Project

Date submitted:	22 June 2023	Tracking #: BRF-3154	
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. Alabaster Residential Development Project (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 Craig and Nicole Alabaster 5. Section 17 Report (Databox link) 6. Comments received from Ministers and local authorities (Databox link) 7. Further information received post-consultation (Databox link)

Ministry for the Environment contacts

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FTC#267: 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 Craig and Nicole Alabaster to refer the Alabaster Residential Development 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-3062) with your initial decisions annotated is in Appendix 2.
3. The project is to subdivide land at Cedar Drive and Camellia Avenue, Aramoho, Whanganui to enable residential development. The project will create approximately 176 allotments for residential purposes and 17 allotments for access, public open space and other uses, and will include new roads, footpaths and three-waters infrastructure.
4. The project will involve activities such as:
 - a. subdividing land
 - b. clearing vegetation
 - c. carrying out earthworks
 - d. discharging stormwater and contaminants to land
 - e. constructing residential units
 - f. constructing infrastructure including roads, vehicle and pedestrian access and three waters services
 - g. landscaping and planting
 - h. any other activities that are:
 - i. associated with the activities described in paragraphs a to g
 - ii. within the project scope as described in paragraph 3.
5. The project site lies in the General Residential and General Rural Lifestyle zones under the Whanganui District Plan (WDP). The project will require subdivision and land use consents under the WDP, land use consents and discharge permits under the Horizons One Plan, and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).
6. The proposed activities have overall non-complying activity status under the WDP due to inclusion of residential activities requiring connection to reticulated three-waters services in the General Rural Lifestyle zone. The applicant considers the project can pass the gateway tests in section 104D of the Resource Management Act 1991 (RMA) that are required for non-complying activities.
7. Under section 18(2) of the FTCA you must be satisfied that a project will help to achieve the purpose of the FTCA before you accept an application for referral. Whanganui District Council (WDC) opposed the project because the project site is not currently identified as an urban growth area, and they considered that consenting a housing density not contemplated by the underlying zone would significantly undermine the integrity of the WDP.
8. The purpose of the FTCA is to urgently promote employment to support New Zealand's recovery from Covid-19, while continuing to promote the sustainable management of

resources. We consider the project will generate employment and enable the future construction of housing, however we consider the project may not promote sustainable management of natural and physical resources 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 WDP. Therefore, the project may not help to achieve the purpose of the FTCA, and thus meet section 18 of the FTCA referral criteria.

9. Additionally, as there has been no previous opportunity for the public to have input into any proposal for future urban development or to change the zoning and land use on the project site (or surrounding area) it would be appropriate for the public to have direct input to the consideration of resource consents for the project, as is provided for under standard RMA consenting processes.
10. The FTCA will be repealed on 8 July 2023, meaning that a referral order must exist for the project by this date if the project's resource consent applications are to be considered by a panel under FTCA process. Referral orders are made by the Governor-General by Order in Council upon your recommendation (and the Minister of Conservation's for projects in the CMA). The timeframe for completing a referral order following a decision to refer the project is dependent on certain statutory obligations, process steps, and the capacity and resourcing of officials. Timeframes are becoming increasingly time-pressured as the 8 July deadline approaches. At this stage we consider there is not sufficient time for an Amendment Order to be considered by Cabinet and referred to Executive Council, should you decide to refer the project.
11. We therefore recommend you decline the referral application under section 23(1), sections 23(2), 23(5)(b) and 23(5)(g) of the FTCA, on the basis that you are not satisfied that the project will achieve the purpose of the FTCA or even if it does, it would be more appropriate for the project to go through standard resource management process and there is insufficient time for the application to be referred and considered before the FTCA is repealed.
12. We seek your decision on this recommendation.

Assessment against statutory framework

13. 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.
14. 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.
15. 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 local authorities and Ministers (in Appendix 6). We discuss these matters and provide our advice below.

Further information provided by applicant

16. In response to your request under section 22 of the FTCA the applicant provided further information on how they anticipated the project will meet the exemption criteria of clause 3.10 of the National Policy Statement on Highly Productive Land (NPS-HPL). We have taken this information into account in our analysis and advice.

Section 17 report

17. The Section 17 Report indicates that there are two iwi authorities, one Treaty settlement and two Treaty settlement entities¹ relevant to the project area.
18. No specific cultural or commercial redress provided under the settlements would be affected by the project.
19. The relevant Treaty settlements do not create any new co-governance or co-management processes that would affect decision-making under the RMA for the project.

Comments received

20. Comments were received from WDC, Manawatū-Whanganui Regional Council (Horizons) s 9(2)(f)(ii), s 9(2)(g)(i) The key points of relevance to your decision are summarised in Table A.
21. s 9(2)(f)(ii), s 9(2)(g)(i)
22. s 9(2)(f)(ii), s 9(2)(g)(i)
23. s 9(2)(f)(ii), s 9(2)(g)(i)
24. WDC opposed project referral, noting that the project site is not currently identified as an urban growth area, and that consenting a housing density not contemplated by the underlying zone would significantly undermine the integrity of the WDP.
25. Horizons neither opposed nor supported project referral but noted that the project has potential to impact on the values set out within Te Awa Tupua (Whanganui River Claims Settlement Act 2017).

Section 18 referral criteria

26. Although the project does not include activities listed in section 18(3) that would make it ineligible for referral, we are not confident that 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.
27. The purpose of the FTCA is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support certainty of ongoing investment, while continuing to promote sustainable management of physical and natural resources. 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 165 direct full-time equivalent (FTE) jobs and enable approximately 450 indirect FTE jobs (including in the construction industry which was affected by COVID-19) over a 4-year design and construction period. It also has the potential to enable the future construction of approximately 176 residential units.

¹ The role of Te Pou Tupua, required to act in the interests of Te Awa Tupua, was established by the [Te Awa Tupua \(Whanganui River Claims Settlement\) Act 2017](#) (the Act) and is identified as a relevant treaty settlement entity in relation to the proposed project. Section 12 of the Act states "Te Awa Tupua is an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements".

28. However, the FTCA purpose requires that these objectives are achieved while promoting sustainable management of natural and physical resources. Section 19 provides a range of matters that you may have regard to when considering, for the purpose of section 18(2), 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)). The proposed activities have overall non-complying activity status under the WDP due to inclusion of residential activities requiring connection to reticulated three-waters services in the General Rural Lifestyle zone. Therefore, (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 the gateway test in section 104D of the RMA that is required for non-complying activities. WDC did not comment on whether the project could pass the gateway tests.
29. 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 Whanganui district. Specifically, the project will not consolidate growth in the manner envisaged by the WDP 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 and not promote sustainable management. If you are not satisfied that the Project will help to achieve the purpose of the FTCA, then you must decline the referral under section 23(1).

Other reasons to decline

30. 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

31. Section 23(5) of the FTCA provides further guidance on what these "other reasons" to decline an application may be, and our analysis of these matters is summarised in Table A.
32. One of those reasons is that it would be more appropriate for the project, or part of the project, to go through the standard consenting process under the RMA. Note that you may refer an application to the panel even if one or more of those reasons apply.
33. We have identified the following matters that suggest it may be more appropriate for the project to go through the standard consenting process under the RMA (our more detailed analysis is set out in Table A):
- a. first, as noted above, the project does not align with existing district plan policy, infrastructure planning and strategic planning for future urban development within the Whanganui district. 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 note the strong objection to referral expressed by WDC who were concerned that referral could undermine the integrity of the WDP.
 - b. second, there is a potential for considerable public interest in the project. In our view, the wider community may expect the project to be preceded by a plan change, which allows for full public consultation. The project site includes land that is currently zoned

rural lifestyle, and the project proposes development at a density not anticipated in the WDP. Therefore, urban development on the site is unlikely to be readily anticipated by the public. There is a risk that referring the project could be viewed negatively by the wider community and this risk cannot be completely avoided.

34. Comments from WDC also raised concerns relating to the potential effects on the development of surrounding land, arising from progressing the project ahead of a structure plan or plan change to ensure integration of land use and infrastructure. We consider it would be more appropriate for the project to be considered under standard RMA consenting process to enable broader public consultation arising from the lack of strategic planning context for alternative land use on the project site. We therefore consider you should decline to refer the application under section 23(5)(b) of the FTCA. Standard RMA processes would allow the council to consider appropriate notification status, receipt and consideration of submissions and a hearings process. This seems appropriate for a project of this nature given the likely community interest and misalignment with the existing planning framework and availability of supporting infrastructure.
35. Section 23(5)(c) of the FTCA enables you to decline to refer a project on the basis that the project is inconsistent with a relevant national policy statement. The National Policy Statement on Urban Development 2020 (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, however WDC opposed project referral in part because it did not consider the project would contribute to a well-functioning urban environment as required by the NPS-UD.
36. 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).
37. Under section 23(5)(g) you can decline a referral application on the basis that there is insufficient time for the application to be referred and considered before the FTCA is repealed.
38. The FTCA will be repealed on 8 July 2023, meaning that a referral order must exist for the project by this date if the project's resource consent applications are to be considered by a panel under FTCA process. The timeframe for completing a referral order following a decision to refer the project is dependent on certain statutory obligations, process steps, and the capacity and resourcing of officials. This is becoming increasingly time-pressured as the 8 July deadline approaches. At this stage we consider there is not sufficient time for an Order in Council to be considered by Cabinet and authorised by the Executive Council, should you decide to refer the project.
39. We therefore consider that you must decline the referral application under section 23(5)(g).

Conclusions

40. 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.

41. 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.
42. These matters notwithstanding, and irrespective of the merits of the project, we consider there is not sufficient time available before the repeal of the FTCA for you to refer the project and for an Order in Council to be prepared, considered and approved by the Executive Council and gazetted. We therefore recommend you decline the project under section 23(5)(g) of the FTCA.

Next steps

43. 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.
44. 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.
45. 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.
46. Our recommendations for your decisions follow.

Recommendations

1. 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 Craig and Nicole Alabaster unless you are satisfied that the Alabaster Residential Development 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 Whanganui District Plan. 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
 - iii. there is insufficient time for the application to be referred and considered before the FTCA is repealed.

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

Yes/No

- f. **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



Rebecca Perrett
Acting Manager – Fast-track Consenting

Hon David Parker
Minister for the Environment

Date:

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 Alabaster Residential Development Project Applicant Craig and Nicole Alabaster c/- Land Matters Limited Location Cedar Drive and Camellia Drive, Aramoho, Whanganui Block 1: Part Aramoho 3 BlockWN43A/932 Block 2: Aramoho 8C1 Block held on WN810/91 Block 3: Aramoho 8B Block held on WN380/46 Block 4: Aramoho 8C2 Block held WN965/96	<p>The project is to subdivide land at Cedar Drive and Camellia Avenue, Aramoho, Whanganui to enable residential development. The project will create approximately 176 allotments for residential purposes and 17 allotments for access, public open space and other uses, and will include new roads, footpaths and three-waters infrastructure.</p> <p>The project will involve activities such as:</p> <p>a. subdividing land</p> <p>b. clearing vegetation</p> <p>c. carrying out earthworks</p> <p>d. discharging stormwater and contaminants to land</p> <p>e. constructing residential units</p> <p>f. constructing infrastructure including roads, vehicle and pedestrian access and three waters services</p> <p>g. landscaping and planting</p> <p>h. any other activities that are:</p> <p>i. associated with the activities described in paragraphs a to g</p> <p>ii. within the project scope as described in paragraph 3.</p>	<p>The project is eligible for referral under section 18(3)(a)–(d) as:</p> <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 	<p>Economic benefits for people or industries affected by COVID-19 (19(a))</p> <p>The applicant considers the project will result in the following economic benefit to the people and industries affected by COVID-19:</p> <ul style="list-style-type: none"> generating employment by creating approximately 165 direct full-time equivalent (FTE) jobs and enabling approximately 450 indirect FTE jobs (including in the construction industry which was affected by COVID-19) over a 4-year design and construction period. <p>The application states the development may facilitate development on adjoining Māori land.</p> <p>Economic costs for people or industries affected by COVID-19 (19(a))</p> <ul style="list-style-type: none"> N/A <p>Effect on the social and cultural well-being of current and future generations (19(b))</p> <p>The applicant considers the project will contribute to the social wellbeing of current and future generations as it will:</p> <ul style="list-style-type: none"> contribute to job creation and flow-on economic benefits contributing to housing supply. <p>Potential effects on cultural wellbeing are unknown.</p> <p>The applicant acknowledges that if the project is referred, any consent application must be accompanied by a cultural impact assessment from relevant iwi authorities.</p> <p>Is the project likely to progress faster by using this Act? (19(c))</p> <p>The applicant considers the project is likely to progress 18– 24 months faster under the FTCA process than would be the case if</p>	<p>Ministers</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>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>Section 23(5) matters:</p> <p>Insufficient information (23(5)(a))</p> <p>The applicant has provided sufficient information for you to determine whether the project meets the criteria in section 18 of the FTCA.</p> <p>More appropriate to go through standard RMA process (23(5)(b))</p> <p>We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting processes, particularly given the wider community may expect the project to be preceded by a plan change, which allows for full public consultation. The project site includes land that is currently zoned rural lifestyle, and the project proposes development at a density not anticipated in the WDP. Therefore, urban development on the site is unlikely to be readily anticipated by the public. There is a risk that referring the project could be viewed negatively by the wider community and this risk cannot be completely avoided.</p> <p>Comments from WDC also raised concerns relating to the potential effects on the development of surrounding land, arising from progressing the project ahead of a structure plan or plan change to ensure integration of land use and infrastructure. We consider it would be more appropriate for the project to be considered under standard RMA consenting process to enable broader public consultation arising from the lack of strategic planning context for alternative land use on the project site. We therefore consider you should decline to refer the application under sections 23(5)(b) of the FTCA.</p> <p>The proposed activities have overall non-complying activity status under the WDP due to inclusion of residential activities requiring connection to reticulated three-waters services in the General Rural Lifestyle zone. Therefore, (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 the gateway test in section 104D of the RMA that is required for non-complying activities. WDC did not comment on whether the project could pass the gateway tests.</p> <p>Inconsistency with a national policy statement (23(5)(c))</p> <p>Section 23(5)(c) of the FTCA enables you to decline to refer a project on the basis that the project is inconsistent with a relevant national policy statement. The National Policy Statement on Urban Development 2020 (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, however WDC opposed project referral in part because it did not consider the project would contribute to a well-functioning urban environment as required by the NPS-UD.</p>	<p>In response to key comments:</p> <ul style="list-style-type: none"> s 9(2)(f)(ii), s 9(2)(g)(i) <p>a</p> <p>number of reports and assessments which would normally be required for a project of this type. We consider the provision of this information is appropriately provided for by the requirements of clauses 9–11 of Schedule 6 of the FTCA.</p> <p>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 165 direct full-time equivalent (FTE) jobs and enabling approximately 450 indirect FTE jobs (including in the construction industry which was affected by COVID-19) over a 4-year design and construction period. It will also establish approximately 176 allotments for residential purposes.</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</p>

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>the project were considered under a standard Resource Management Act 1991 (RMA) process due to the likelihood of notification and appeals under the latter. We do not disagree with this assessment.</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 is likely to result in the following public benefits:</p> <ul style="list-style-type: none"> generating employment contributing to increasing housing supply. <p>Potential to have significant adverse environmental effects, including greenhouse-gas emissions (19(e))</p> <p>While the project has the potential to result in some adverse environmental effects, including relating to construction activities and proposed development density, the applicant does not expect these effects to be significant. We note that you do not require a full Assessment of Environment Effects and supporting evidence to make a referral decision, and that a panel will consider the significance of effects and appropriate mitigation should the project be referred.</p> <p>Other relevant matters (19(f))</p> <ul style="list-style-type: none"> N/A 	<p>Whanganui District Council (WDC) opposed project referral, noting that the project site is not currently identified as an urban growth area, and that consenting a housing density not contemplated by the underlying zone would significantly undermine the integrity of the WDP.</p> <p>Manawatu-Whanganui Regional Council (Horizons) neither opposed nor supported project referral however they noted that the project has potential to impact on the values set out within Te Awa Tupua (Whanganui River Claims Settlement Act 2017).</p> <p>All responses received by parties invited to comment are attached in Appendix 6.</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>We note the NPS-HPL came into force on 17 October 2022. The project site is not zoned general rural or rural production, 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. WDC noted that the project is not inconsistent with the NPS-HPL as while parts of the site proposed for residential development are LUC 2, the land is not zoned General Rural or Rural Production.</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> <p>WDC and Horizons 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>The FTCA will be repealed on 8 July 2023, meaning that a referral order must exist for the project by this date if the project's resource consent applications are to be considered by a panel under FTCA process. The timeframe for completing a referral order following a decision to refer the project is dependent on certain statutory obligations, process steps and the capacity and resourcing of officials. This is becoming increasingly time-pressured as the 8 July deadline approaches. At this stage we consider there is not sufficient time for an Order in Council to be considered by Cabinet and authorised by the Executive Council, should you decide to refer the project. We therefore recommend you decline the referral application under section 23(5)(g).</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 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</p>	<p>future generations. The project does not align with existing district plan policy, infrastructure planning and strategic planning for future urban development within the Whanganui district. Specifically, the project will not consolidate growth in the manner envisaged by the WDP 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 Whanganui 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> <p>These matters notwithstanding, we consider you should decline the project as there is not sufficient time for the project to be referred and an Order in Council gazetted before the repeal of the FTCA.</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)?			
					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 following a plan change process.	