

## **In Confidence**

### **Office of the Minister for the Environment**

#### **Chair, Cabinet**

### **COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 5) 2021**

#### **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 5) 2021 (the Amendment Order).
2. The Amendment Order amends the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 to include as a project referred to an expert consenting panel (panel) Neil Construction Limited and Fletcher Residential Limited's, Beachlands project (Schedule 16).

#### **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 (the Minister) 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, via the Environmental Protection Authority (EPA), a resource consent application or notice of requirement for a designation with a panel for consideration.
4. This paper seeks authorisation to fast-track a project by referring it to a panel. The project is from Neil Construction Limited and Fletcher Residential Limited.
5. I have considered the report prepared under section 17 of the FTCA, whether this project helps achieve the purpose of the FTCA, and I sought written comments from relevant Ministers, local authority, and Auckland Transport. I have also requested and considered further information from the applicants.
6. I have accepted Neil Construction Limited and Fletcher Residential Limited, Beachlands project (the Project) for referral as it has the potential to:
  - 6.1 generate employment by providing up to 45 direct and 169 indirect full-time equivalent (FTE) jobs during years 1-2 of design, consenting and subdivision construction, and up to 98 direct and 349 indirect FTE jobs/year during years 3-7 whilst both subdivision and dwelling construction are being completed
  - 6.2 increase housing supply via the construction of 235 new dwellings and provision of 24 vacant lots for future development

- 6.3 have positive effects on social wellbeing via the provision of additional housing in a range of typologies, including terrace housing which can provide a more affordable option at a time when house prices are rapidly escalating in the Auckland region.
7. I consider the Project will help to achieve the purpose of the FTCA and any adverse effects and mitigation measures can be considered and determined by a panel having regard to Part 2 of the Resource Management Act 1991 (RMA) and the purpose of the FTCA. The Project will be able to progress faster using the processes provided by the FTCA than if consent was sought through standard RMA processes.
8. I now seek authorisation for submission of the Amendment Order to the Executive Council. The Amendment Order enables Neil Construction Limited and Fletcher Residential Limited, to apply via the EPA to a panel for the relevant approvals in accordance with the process in the FTCA.

## **Background**

9. The FTCA enables any person to apply to the Minister to fast-track a resource consent application or notice of requirement for their project. If the Minister accepts a referral application, the associated project is referred by Order in Council allowing an applicant to lodge a resource consent application or notice of requirement for a designation with a panel for consideration. A diagram of the fast-track process is provided in Appendix one.
10. As of 5 May 2021, I have received 47 applications for projects to be considered for referral to a panel through an Order in Council, of which:
  - 10.1 16 applications have been referred and Orders in Council gazetted. A list of the applications is provided in Appendix two
  - 10.2 two applications have been approved for referral. The Neil Construction Limited and Fletcher Residential Limited, Beachlands application is the subject of this cabinet paper. Kōpū Marine Precinct is the subject of a subsequent cabinet paper
  - 10.3 ten applications have been declined for a range of reasons including 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 RMA
  - 10.4 three applications have been withdrawn
  - 10.5 16 applications are still being processed.
11. Five referred projects are lodged with the EPA and are either under consideration by a panel or soon to be. The Projects are Kohimarama Comprehensive Care Retirement Village, The Vines Affordable Subdivision, Northbrook Wanaka Retirement Village, Nola Estate and Dominion Road Mixed Use Development. Consents for four listed projects have been approved by panels and one is currently under consideration by a panel. An update on the specific projects that are listed under the FTCA is provided in a table in Appendix three.

## **Project for referral: Neil Construction Limited and Fletcher Residential Limited, Beachlands project**

12. Neil Construction Limited and Fletcher Residential Limited have applied to use the fast-track consenting process for the Beachlands project. This Project is to construct up to 259 residential lots and a number of jointly owned private access lots, and roads, pedestrian

accessways, and recreation and drainage reserves intended to be vested with Auckland Council. The Project includes construction of up to 235 residential dwellings on the lots.

13. The Project is located at 109 Beachlands Road, Beachlands, Auckland.
14. Under standard RMA processes this Project would require subdivision and land use consents, and water and discharge permits, from Auckland Council.
15. To better understand the environmental effects, job creation potential and investment certainty of this Project, I sought further information from Neil Construction Limited and Fletcher Residential Limited under section 22 of the FTCA.

*Comments received*

16. In accordance with section 21 of the FTCA, I sought written comments on this application from relevant Ministers and the local authority, along with Auckland Transport. A summary of responses received is noted below.

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


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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

27. Auckland Council considered that the Project would benefit from being processed through standard RMA processes to enable the applicants to work with Auckland Council infrastructure and asset owners to manage constraints on the networks, to ensure vested

assets meet Auckland Council engineering plan approval standards, and to enable determination of whether wider public input would be required.

28. Auckland Council also raised a number of concerns that it considered are significant including inconsistency with national and local policy direction, sufficiency of water supply and reticulation, capacity and constraints of the existing road network, and that proposed built form and density is a significant departure from the planned built character for the site in the context of the Beachlands coastal village community. Auckland Council also raised concern regarding the adequacy of the assessment of potential wetland/s on the site and indicated that it was possible that the application may include an activity that would be a prohibited activity under Regulation 53 of the NES-F.
29. The applicants provided additional assessment of the potential wetland/s on the site, including an independent peer review of their ecological assessment. For the purpose of making my referral decision, I am satisfied that the applicants have provided sufficient evidence that the Project does not include an activity that would be a prohibited activity under the NES-F (and therefore does not include an ineligible activity under section 18(3) of the FTCA).
30. Auckland Council identified a range of information and technical reports that should accompany consent applications to a panel and provided details of regulatory compliance history of the applicants that includes a number of abatement notices issued. Information the council has provided on iwi groups and authorities whom they consider relevant for the Project has been taken into account in preparation of the Section 17 Report.
31. Auckland Council referred the application onto Auckland Transport, Healthy Waters, Watercare, the Franklin Local Board, the Franklin Ward Councillor and the Planning Committee, and included their comments in the local authority response.
32. Auckland Transport advised it did not currently have enough information to determine whether the Project would result in significant adverse transport effects, whether the Project would be inconsistent with the AUP, or whether any potential mitigation measures would be suitable to manage effects generated by the development. Auckland Transport noted in particular:
  - 32.1 the estimated transport demand resulting from the proposed development yield may not be able to be accommodated within the surrounding transport network
  - 32.2 it may be prudent for the cumulative effects of the precinct to be assessed on the basis of applying similar levels of development intensity across the entire precinct
  - 32.3 one of the overarching concerns is the limited capacity of Whitford-Maraetai Road and future urban expansion may require significant investment and major upgrade/improvement projects to the Whitford-Maraetai Road corridor
  - 32.4 any private infrastructure should be located inside private property boundaries and not within the road reserve
  - 32.5 safe walking and cycling connections will be required between the proposed development area and the Pine Harbour Ferry Terminal, and further traffic modelling is required to demonstrate the surrounding transport network has capacity to accommodate the traffic movements from this development.

## *Decision*

33. In making my decision I considered the application and further information received, comments received from relevant Ministers, Auckland Council and Auckland Transport and the eligibility criteria in section 18 of the FTCA<sup>1</sup>, which did not identify any considerations that would preclude this application being referred to a panel.
34. The applicants provided additional assessment of the potential wetland/s on the site, including an independent peer review of their ecological assessment. For the purpose of making my referral decision, I am satisfied that the applicants have provided sufficient evidence that the Project does not include an activity that would be a prohibited activity under the NES-F (and therefore does not include an ineligible activity under section 18(3) of the FTCA).
35. I have decided to accept Neil Construction Limited and Fletcher Residential Limited's application for referral of the Beachlands project to a panel. I consider the Project meets the eligibility criteria in section 18 of the FTCA and will help to achieve the purpose of the FTCA by:
  - 35.1 having positive effects on the social well-being via the provision of additional housing in a range of typologies
  - 35.2 generating employment by providing up to 45 direct and 169 indirect FTE jobs during years 1-2 of design, consenting and subdivision construction, and up to 98 direct and 349 indirect FTE jobs/year during years 3-7 whilst both subdivision and dwelling construction are being completed
  - 35.3 increasing housing supply via the construction of 235 new dwellings and provision of 24 vacant lots for future development
  - 35.4 being likely to progress faster than would otherwise be the case under the standard processes of the RMA.
36. I have decided to direct the applicant to provide assessments for transportation, infrastructure, stormwater, ecological, urban design, landscape and visual, social impacts, soil contamination and transport related greenhouse gas emissions to a panel to address matters raised by s 9(2)(f)(ii), s 9(2)(g)(i) [redacted] Auckland Council and Auckland Transport. The full list of information I have decided to direct the applicant to provide to a panel is provided in Appendix five.
37. The FTCA requires that a panel invite comments from the relevant local authority, relevant iwi authorities, Treaty settlement entities, specific Ministers, owners and occupiers of adjacent land, specific non-governmental organisations and other groups listed in the FTCA. In addition to these requirements, I have directed a panel to seek comment from:
  - 37.1 Ngāti Te Ata Claims Support Whānau Trust to address matters raised by s 9(2)(f)(ii), s 9(2)(g)(i) [redacted]
  - 37.2 Auckland Transport and Pine Harbour Living Limited (trading as Pine Harbour Water) to address matters raised by Auckland Council and Auckland Transport.
38. I consider there are no other reasons under section 24(2) of the FTCA to:

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<sup>1</sup> In accordance with section 24, Decision to accept application for referral, of the FTCA.

- 38.1 limit the scope of the Project by referring it only in part
- 38.2 refer the Project in stages
- 38.3 place any restrictions on the Project
- 38.4 impose specific timeframes for panel consideration.

### **Timing and 28-day rule**

- 39. Cabinet has agreed to waive the 28-day rule for Orders in Council relating to projects to be referred to a panel<sup>2</sup>. Therefore, Amendment Order (No 5) will come into force the day after publication in the New Zealand Gazette. This will enable applications for resource consents and notices of requirement for a designation to be lodged with the EPA, for consideration by a panel, the day after the Amendment Order is gazetted, for Neil Construction Limited and Fletcher Residential Limited's, Beachlands project.

### **Compliance**

- 40. The Amendment Order complies with:
  - 40.1 the principles of the Treaty of Waitangi
  - 40.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
  - 40.3 the principles and guidelines set out in the Privacy Act 1993
  - 40.4 relevant international standards and obligations
  - 40.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

### **Regulations Review Committee**

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

### **Certification by Parliamentary Counsel Office**

- 42. The Amendment Order has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission.

### **Impact Analysis**

#### *Regulatory Impact Assessment*

- 43. The Regulatory Impact Assessment (RIA) requirements for this proposal have been waived. Cabinet has agreed that a RIA is not required for Orders in Council relating to projects to be referred to a panel<sup>3</sup>.

#### *Climate Implications of Policy Assessment*

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<sup>2</sup> ENV-20-MIN-0033 and CAB-20-MIN-0353 refer.

<sup>3</sup> ENV-20-MIN-0033 and CAB-20-MIN-0353 refer.

44. 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 this Project.
45. Likely emissions implications and intended emissions reductions of the Project have been considered at a high-level during the formal application process and are also expected to be considered by a panel in their assessment of any adverse effects arising from the Project. The decision to refer the Neil Construction Limited and Fletcher Residential Limited's, Beachlands project includes direction for the applicant to provide to a panel an assessment of the potential transport-related greenhouse gas emissions resulting from the density of proposed development.

### **Publicity**

46. The Amendment Order will be available on the New Zealand Legislation website following its notification in the New Zealand Gazette.
47. As required under section 25 of the FTCA, my decision to refer the Project to a panel for consideration, the reasons for these decisions, and the report obtained under section 17 will be made available to the public on the Ministry for the Environment's website.

### **Proactive Release**

48. 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**

49. I have considered the matters raised by the relevant Ministers, local authority, and Auckland Transport (other person 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 their substantive decision-making role.
50. The Ministry for the Environment sought comment on this paper from the Department of Conservation, Ministry of Housing and Urban Development, Ministry for Culture and Heritage, Te Puni Kōkiri, Ministry of Education, Department of Corrections, Land Information New Zealand, Treasury, Ministry of Transport, Ministry of Business, Innovation and Employment, Ministry for Primary Industries, Department of Prime Minister and Cabinet, Ministry of Health, Ministry of Defence, Department of Internal Affairs and The Ministry for Māori Crown Relations - Te Arawhiti.

### **Recommendations**

I recommend that Cabinet:

1. **note** that I have decided under section 24 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 to accept the applications for referral of Neil Construction Limited and Fletcher Residential Limited's, Beachlands project to a panel
2. **note** that Neil Construction Limited and Fletcher Residential Limited's, Beachlands project 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 FTCA by:
  - 2.1 generating employment by providing up to 45 direct and 169 indirect full-time equivalent (FTE) jobs during years 1-2 of design, consenting and subdivision



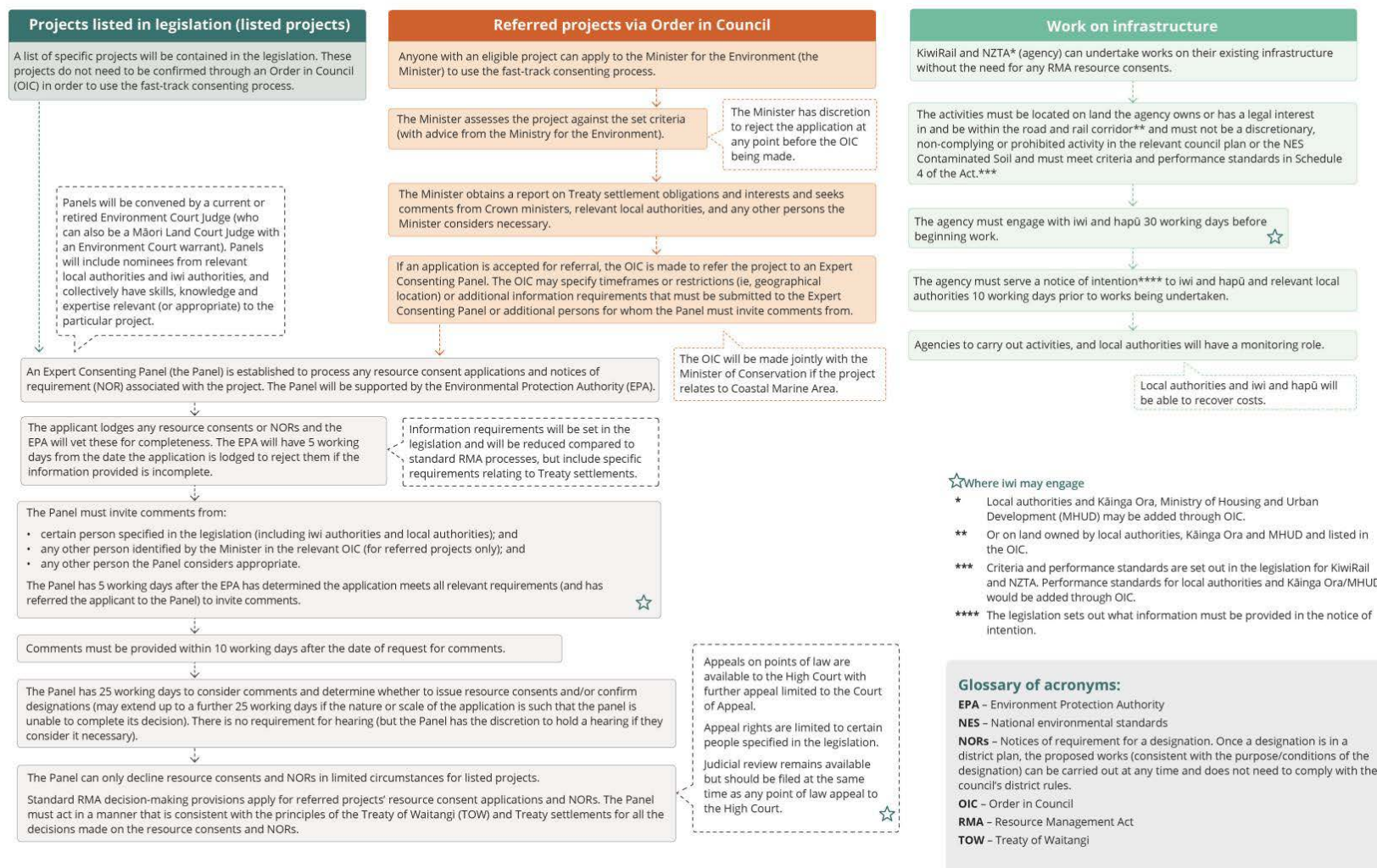
construction, and up to 98 direct and 349 indirect FTE jobs/year during years 3-7 whilst both subdivision and dwelling construction are being completed

- 2.2 providing housing supply via the construction of 235 new dwellings and provision of 24 vacant lots for future development
  - 2.3 assisting to have positive effects on social wellbeing via the provision of additional housing in a range of typologies, including terrace housing which can provide a more affordable option at a time when house prices are rapidly escalating in the Auckland region
  - 2.4 being likely to progress faster than would otherwise be the case under the standard processes of the RMA
3. **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 5) 2021 directs Neil Construction Limited and Fletcher Residential Limited to provide to an expert consenting panel transportation, infrastructure, stormwater, ecological, urban design, landscape and visual, social impacts, soil contamination and transport related greenhouse gas emissions assessments as detailed in Appendix four
  4. **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 5) 2021 directs an expert consenting panel appointed to consider Neil Construction Limited and Fletcher Residential Limited's, Beachlands project to seek comments from Ngāti Te Ata Claims Support Whānau Trust, Auckland Transport and Pine Harbour Living Limited (trading as Pine Harbour Water) on any consent application for the Beachlands project under consideration by that panel (see Appendix four)
  5. **authorise** the submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 5) 2021
  6. **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
  7. **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 5) 2021 will come into force the day after publication in the New Zealand Gazette.

Authorised for lodgement

Hon David Parker  
**Minister for the Environment**

## Appendix one – Diagram of how the Fast-track consenting process works



**Appendix two – List of referred projects under the COVID-19 Recovery (Fast-track Consenting) Act 2020 and Orders in Council gazetted**

- Transpower New Zealand Limited's Clutha Upper Waitaki Lines Project (CUWLP) - Works and Workers' Village
- Winton Property Limited's Northbrook Wanaka Retirement Village
- Ryman Healthcare Limited's Kohimarama Comprehensive Care Retirement Village
- Primeproperty Group Limited's Molesworth Street Office Development
- Jason and Angela Mudgway's The Vines Affordable Subdivision
- Pudong Housing Development Company Limited's, Foodstuffs North Island Limited's, and Silk Road Management Limited's Dominion Road Mixed-use Development
- Ambury Properties Limited's Ohinewai Foam Factory
- Kāinga Ora-Homes and Communities' and Porirua City Council's Eastern Porirua Regeneration Project - Infrastructure Works
- Silverlight Studios Limited's Silverlight Studios
- Otago Viticulture and Oenology Limited's (trading as Brennan Wines) Brennan winery, restaurant, education, and event complex
- CPM 2019 Limited's Nola Estate
- Wooing Tree Property Development LP's Wooing Tree Estate
- Hiringa Energy Limited and Ballance Agri-Nutrients Limited's Kapuni Green Hydrogen
- The Minister of Health and the Ministry of Health's New Dunedin Hospital – Whakatuputupu
- Hughes Developments Limited's Faringdon South West and South East Development
- Summerset Villages (Waikanae) Limited's Summerset Retirement Village – Waikanae

### Appendix three – Table of the status of listed projects

Status of projects listed under the COVID-19 Recovery (Fast-track Consenting) Act 2020

Listed Project	Status (provided by the EPA, 5 May 2021)
Matawii Water Storage Reservoir Kaikohe	Consents have been approved.
Papakāinga Development – Rāpaki, Christchurch	Consents have been approved.
Te Ara Tupua – Ngā Ūranga to Pito-one shared path	Consents have been approved.
Waitohi Picton Ferry Precinct Redevelopment	Consents lodged on 22 December 2020. Decision due on or before 7 May 2021.
Queenstown Arterials Project	Consents have been approved.
Papakura to Drury South State Highway 1 improvements	Lodgement anticipated in June 2021.
Northern Pathway – Westhaven to Akoranga shared path	Lodgement anticipated in late 2021.
Papakura to Pukekōhe rail electrification	First consents lodged on 10 March 2021. Panel appointment expected shortly.
Papakāinga Development - Kaitiaia	Consents lodged on 13 April 2021. Panel appointment expected shortly.
Papakāinga Development – Waitara, Taranaki	Lodgement anticipated in 2021.
Te Pā Tāhuna Residential Development	Developer considering consenting routes which includes fast track consenting.
Unitec Residential Development	Developer considering consenting routes which includes fast track consenting.
Papakāinga Development - Point Chevalier, Auckland	Project was consented through the RMA with the option of fast tracking providing certainty if the project's consents weren't granted.
Papakāinga development – Whaingaroa, Raglan	Project was consented through the RMA with the option of fast tracking providing certainty if the project's consents weren't granted.
Papakāinga Development - Chatham Islands	Project was consented through the RMA with the option of fast tracking providing certainty if the project's consents weren't granted.
Wellington Metro Upgrade Programme	Not proceeding under fast-track at this stage.
Britomart Station eastern end upgrade	Not proceeding under fast-track at this stage.

#### **Appendix four – Additional requirements: Neil Construction Limited and Fletcher Residential Limited's, Beachlands project**

Neil Construction Limited and Fletcher Residential Limited are directed to provide with any applications for resource consent lodged with an expert consenting panel:

1. an integrated transport assessment, including, but not limited to, modelling and analysis that covers:
  - a. a comparative assessment of the density of development under the application versus the density of development provided for under the Single House Zone and Beachlands 1 Precinct of the Auckland Unitary Plan
  - b. the effects on the surrounding road network and intersections
  - c. the adequacy of the existing public transport system to service additional demand
  - d. a movement network plan to identify and assess the availability and feasibility of safe active modes of transport
2. an infrastructure assessment and engineering plans including wastewater capacity checks and water supply details
3. a stormwater assessment and stormwater management plan, including predictions on sediment and nutrient losses from the land to Hauraki Gulf both during construction and in the long term, and in comparison to the status quo
4. an ecological assessment, including options to protect all streams
5. an urban design assessment
6. a landscape and visual assessment
7. an assessment of social impacts focusing on the capacity of local schools servicing the area and availability of local employment opportunities
8. landscape and planting plans addressing all proposed assets in the road, drainage and recreation reserves to vest and private accessways
9. a preliminary site investigation report in accordance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011
10. an assessment of the potential transport-related greenhouse gas emissions resulting from the density of development proposed, compared with those resulting from the density of development provided for under the Single House Zone and Beachlands 1 Precinct of the Auckland Unitary Plan

An expert consenting panel appointed to consider Neil Construction Limited and Fletcher Residential Limited's Beachlands Project must seek comments from the following additional persons/organisations:

1. Ngāti Te Ata Claims Support Whānau Trust
2. Auckland Transport
3. Pine Harbour Living Limited (trading as Pine Harbour Water)