

FTC #51 Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

Application 2021-036 – Drury Centre
Application 2021-037 – Drury East Stage 1
Application 2021-038 – Waihoehoe Precinct

Date Submitted:	22 April 2021	Tracking #: 2021-B-07723
Security Level	In-Confidence	MfE Priority: Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decision on recommendations in Table A	TBA

Actions for Minister's Office Staff	Return the signed briefing to MfE Send attached letters and accompanying information (if agreed and signed)
Number of attachments: 2	Titles of attachments: 1. Letters from the Minister for the Environment to relevant Ministers of the Crown 2. Copy of application and supporting information – to send with letters to Ministers

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Authors	Rebecca Perrett Arron Cox		
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Director	Sara Clarke	s 9(2)(a)	✓

FTC #51 Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

Key Messages

1. We seek your initial decisions on three applications for referral to an expert consenting panel (a panel) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) for the following projects:
 - a. Drury Centre, from Kiwi Property Holdings No 2 Limited
 - b. Drury East Stage 1, from Fulton Hogan Land Development Limited
 - c. Waihoehoe Precinct, from Oyster Capital Limited.
2. Barker and Associates Limited is the agent for all three applicants.
3. The projects are for subdivision and development of land located to the east and south of the township of Drury, in south Auckland, as follows:
 - a. Drury Centre: subdivision of a 26 hectare site to create two commercial lots with a combined areas of 42,500 m², construction of large format buildings for retail activities on the commercial lots, subdivision to create 13 balance lots and an open space park; revegetation on Hinaga Stream, the construction of supporting infrastructure and use of signage.
 - b. Drury East Stage 1: subdivision of a 36.5 hectare site create up to 248 residential lots and to construct up to 248 residential units, 28 balance lots, neighbourhood parks and esplanade reserves to be vested in Auckland Council, and the construction of supporting infrastructure and signage.
 - c. Waihoehoe Precinct: subdivision of a 34.7 hectare site to construct up to 376 residential units, nine balance lots, and open space park; and the construction of supporting infrastructure and use of signage.
4. The projects will involve the following activities:
 - a. subdivision of land
 - b. earthworks (including on areas of contaminated land)
 - c. earthworks and vegetation clearance within 10 metres of a natural wetland
 - d. water takes
 - e. discharge of stormwater and contaminants
 - f. construction of three water services, roading and walkways, and signage
 - g. construction of residential buildings and large format retail buildings.
5. The applicants advise that the balance lots to be created in each project are intended for future residential development. No development on these lots is proposed as part of the referral applications for the projects under the FTCA.
6. The applicants also advise that they will fund all necessary upgrades to existing roads and transport infrastructure for the projects (on an individual or joint basis with the other applicants).
7. The applicants have advised that the projects require non-complying resource consents for land use, subdivision, discharging contaminants to land and water, and water takes under the Auckland Unitary Plan (AUP), consents under the Resource Management (National

Environmental Standards for Freshwater) Regulations 2020 (NES-FW) and the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).

Key issues for consideration

8. We have undertaken an initial (Stage 1) analysis of the applications and this is presented along with our recommendations in Table A.
9. The project sites are zoned Future Urban in the AUP and are located within the Auckland Council Drury-Opaheke Structure Plan 2019 (DOSP). The DOSP sets out planned land use and the supporting infrastructure network for the future urban growth of Drury-Opaheke, including the planned Drury Central train station (which is to be funded under the New Zealand Upgrade Programme - Transport).
10. The Future Urban zone applies to greenfield land that has been identified as suitable for urban land use. The AUP states that Future Urban zone land can be used for a range of general rural activities but cannot be used for urban activities until it is rezoned for urban purposes. If these projects are referred, they will likely be assessed against this framework as non-complying activities. If you decide to progress this application, we recommend you seek further information on how the applicant sees these projects passing the 'gateway' tests for non-complying activities under section 104(d) of the Resource Management Act 1991 (RMA), and how the projects align with the National Policy Statement for Urban Development (NPS-UD).
11. The applicants recently lodged separate private plan changes (PPC48, PPC49 and PPC50) to the AUP, to amend the zoning on larger areas (including the proposed sites), as follows:
 - a. PPC48 seeks to rezone 95 hectares of land (including the 26 hectares of Drury Centre) from Future Urban to: Open Drury Centre: Open Space: Informal Recreation, Residential: Terrace Housing and Apartment Buildings, Residential: Mixed Housing Urban and Residential: Mixed Housing Suburban zoned land
 - b. PPC 49 seeks to rezone 184 hectares of land (including the 36.5 hectares of Drury East Stage 1) from Future Urban to: Business: Metropolitan Centre, Business: Mixed Use, Metropolitan Centre and Open Space: Informal Recreation
 - c. PPC 50 seeks to rezone 48.9 hectares of land (including the 34.7 hectares of Waihoehoe) from Future Urban to: Residential: Terrace Housing and Apartment Buildings.
12. The project sites are located wholly within the respective boundaries of the private plan changes, being the first stages of development of larger site areas proposed in the PPCs.
13. The three private plan changes were publicly notified in August 2020; further submissions closed late January 2021. Hearings are planned for mid-June 2021. The applicants state that the three private plan changes have been developed in cognisance of the DOSP and they are generally consistent with it's land use, transport and walking and cycling networks provisions.
14. Auckland Council, Auckland Transport and Watercare expressed concerns about the delivery of infrastructure in south Auckland and the costs Auckland Council would incur providing infrastructure to service the developments in submissions to the private plan changes. Auckland Council also expressed concern that the developments are not consistent with the NPS-UD.
15. The applicants state that the projects are consistent with the land use and roading pattern as submitted in the respective PPCs, and further conclude that the projects are generally consistent with the relevant provisions and overall policy framework of the Regional Policy

Statement within the AUP.¹

Recommendations

16. The projects meet all the eligibility criteria in section 18 of the FTCA, but more analysis is needed to advise you on matters in section 23(5) which may influence your referral decision. A key issue is the appropriateness of referring these projects under the FTCA given that the proposed development does not align with existing AUP policy, and proposed zone changes are currently being considered and have yet to be decided by Auckland Council.
17. We therefore recommend you progress the applications to the next stage of analysis (Stage 2) as the projects have the potential to meet the purpose of the FTCA despite the noted planning issues. We recommend that you invite comments on all of the projects from:
 - a. Ministers listed in section 21(6) of the FTCA
 - b. Auckland Council
 - c. the Associate Minister for the Environment – Urban policy, to better understand how the projects align with the NPS-UD
 - d. Auckland Transport, given the potential impacts of the projects on the transport network
 - e. Watercare, given the potential impacts of the projects on the three waters network
 - f. Waka Kotahi NZ Transport Agency, given the projects' proximity to State Highway 1 and potential effects of the projects on the existing transport network and planned projects.
18. We recommend inviting comment from Transpower NZ Limited for Drury Centre and First Gas for Drury East Stage 1, as they have utilities in the respective project sites.
19. We recommend seeking specific feedback from Auckland Council on the appropriateness of using the FTCA for these projects, given the existing unitary planning policy for these sites does not provide for residential and commercial development beyond single units.
20. We also recommend you request further information from the applicant on what iwi authorities they have engaged with to date, how the applicant sees these projects passing the 'gateway' tests in section 104(d) of the RMA, and how the projects align with the NPS-UD.

Statutory Framework Summary

21. You are the sole decision maker for referral of the projects as they will not occur in the coastal marine area.
22. You may decline the referral applications before seeking comments from the relevant local authorities and any relevant Ministers:
 - a. if you are satisfied the projects do not meet referral criteria in section 18 of the FTCA, (which include you being satisfied the projects meet the purpose of the FTCA) (see sections 18(2) and 23(1) of the FTCA)
 - b. for any other reason (see section 23(2) of the FTCA).
23. If you do not decline the referral applications at this stage, section 21 of the FTCA:
 - a. requires you to provide the applications to, and invite comments from, the relevant local authorities and the relevant Ministers


¹ Application document titled 'Auckland Unitary Plan (Operative in Part) – High Level Objectives and Policies Assessment' by Barker & Associates Ltd

- b. permits you to provide the applications to and invite comments from any other person.
24. You are also able to request further information from the applicant or any relevant local authority at any time before you decide to decline or accept the referral applications (see section 22 of the FTCA).

Action Sought

25. Please indicate your decisions on the recommendations listed in Table A.

Signature



Madeleine Berry
Responsible Manager – Fast Track Consenting

Released under the provision of
the Official Information Act 1982

Projects to progress

Project details	Project description	Project funding	Is Project eligible for referral? [s18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood the Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
Project name Drury Central Applicant Kiwi Property Holding No 2 Limited Project location Fitzgerald Road, Brookfield Road, Flanagan Road, Drury	The Drury Centre project involves: <ul style="list-style-type: none"> subdivision of a 26 hectare site to create two commercial lots of 42,500 m², construction of large format buildings for retail activities on the commercial lots. subdivision to create 13 balance lots and an open space revegetation along Hingaia Stream construction of servicing infrastructure for a reticulated stormwater network, reticulated wastewater network and reticulated water supply network construction of roads and laneways within the project site, and roading upgrades in the wider network signage to promote the development 	The applicant has advised that they have the funding to complete this project if the application is referred.	Based on available information at this stage, we consider the project is eligible for referral because: <ul style="list-style-type: none"> it does not include any prohibited activities it does not include land returned under a Treaty settlement it does not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	<p>The project is expected to provide up to 440 FTE jobs and support 60 existing jobs in the professional services sector during the four year design and construction phase.</p> <p>Once constructed the applicant anticipates that the retail centre will provide up to 810 jobs.</p>	<p>The project will provide economic benefits and contribute to increasing housing supply.</p> <p>Beyond this we do not anticipate that the project will provide significant social and cultural benefits.</p>	<p>The applicant anticipates that fast-tracking the project will enable construction to occur two years earlier than under standard RMA process.</p> <p>These measures will mitigate the adverse effects of the development and may enhance environmental outcomes overall.</p>	<p>The project will provide an open space reserve (4.1 hectares) and involve the revegetation of riparian areas along Hingaia Stream.</p> <p>These measures will mitigate the adverse effects of the development and may enhance environmental outcomes overall.</p>	<p>The project has the potential for adverse environmental effects including:</p> <ul style="list-style-type: none"> increasing the number of vehicles on the transportation network including State Highway 1 increasing the demand on existing three waters services increased impacts on existing flood control infrastructure impacts on freshwater bodies and aquatic and terrestrial ecology, as a result of increasing impervious areas and discharges of sediment during construction those typically associated with construction activities including sedimentation, generation of noise, generation of dust and an increase in construction traffic. <p>Given the potential adverse effects we recommend seeking comments from Auckland Council, Auckland Transport and Watercare.</p>	<p>This project (located on Fitzgerald and Flanagan Road), the Drury East project (located on Fitzgerald Road, Waihoehoe Road, and Fielding Road), and the Waihoehoe project (located on Waihoehoe Road) are part of three larger developments that are currently subject to a private plan change process.</p> <p>Auckland Council, Auckland Transport and Watercare have raised concerns about these developments in their submissions on the plan changes. They are particularly concerned about the funding of the required infrastructure and how it will be phased. They have also expressed concern about how all three Drury projects align with the NPS-UD. We will seek further information on this if you decide to progress this application to our Stage 2 analysis.</p> <p>We recommend you seek comment from Waka Kotahi NZ Transport Agency as this project is close to State Highway 1 and may affect its operation.</p> <p>We also recommend you seek comment from Transpower as their assets</p>	<p>a. Note that section 23(3) of the FTCA permits you to decline an application for referral without inviting comments on an application from the relevant local authorities and any relevant Ministers.</p> <p>b. Note that the application has not been provided to or had any comments sought from relevant local authorities or relevant Ministers and that you are required to do so if you do not decline an application under section 23(3) of the FTCA.</p> <p>c. Note that section 21(3) of the FTCA permits you to forward an application to, and invite written comments from, any other person.</p> <p>d. Note that section 22 of the FTCA permits you to request further information from the applicant at any time before you decide whether to accept or decline an application.</p> <p>e. Agree to progress the Drury Centre project to our Stage 2 analysis. The project warrants further analysis because it has potential to achieve the purpose of the FTCA.</p> <p>f. Agree to provide the application to, and invite comments from:</p> <ul style="list-style-type: none"> the Ministers listed in section 21(6) of the FTCA the Associate Minister for the Environment – Urban policy Auckland Council Auckland Transport and Waka Kotahi NZ Transport Agency, given the project's potential effects on the transport network Watercare, given the project's potential impacts on existing three waters services Transpower, as the national grid passes through the project site <p>g. Agree that further information be sought from the applicant on:</p> <ul style="list-style-type: none"> what iwi authorities they have engaged with on the project, how the applicant sees the project passing the 'gateway' tests in section 104(d) of the RMA how the project aligns with the NPS-UD. 	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Is Project eligible for referral? [s18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood the Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
									(the national grid) pass through the project site.	<p>h. Sign the attached (Appendix 2) letter to Ministers listed in section 21(6) of the FTCA and the Associate Minister for the Environment – Urban policy</p> <p>i. Note that while awaiting these comments and further information, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations, prepare a report for the purpose of section 17 of the FTCA.</p>	
<p>Project name Drury East Stage 1</p> <p>Applicant Fulton Hogan Land Development Limited</p> <p>Project location 86 and 94 Fitzgerald Road, 251 and 383 Waihoehoe Road, 65, 76 and 108 Fielding Road, Drury, Auckland</p>	<p>The Drury East – Stage 1 project involves:</p> <ul style="list-style-type: none"> subdivision of a 36.5 hectare site create up to 248 residential lots construction of up to 248 residential units subdivision of 28 balance lots, neighbourhood parks and esplanade reserves to be vested in Auckland Council construction of supporting infrastructure construction of servicing infrastructure for a reticulated stormwater network, reticulated wastewater network and reticulated water supply network construction of roads and laneways within the project site, and roading 	<p>The applicant has advised that they have the funding to complete this project if the application is referred.</p> <p>The applicant is one of New Zealand's largest residential land development companies and has delivered similar greenfield residential developments such as Pokono, Millwater and Milldale.</p>	<p>Based on available information at this stage, we consider the project is eligible for referral because:</p> <ul style="list-style-type: none"> it does not include any prohibited activities it does not include land returned under a Treaty settlement it does not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	<p>The project is expected to provide up to 590 FTE jobs and support 20 existing FTE jobs in the professional services sector during design and construction (with civil works expected to be completed early 2025 prior to building construction beginning mid-late 2025).</p>	<p>This project will provide economic benefits and contribute to increasing housing supply.</p> <p>Beyond this we do not consider the project will provide significant social and cultural benefits.</p>	<p>The applicant anticipates that fast-tracking this project will enable construction to occur two years earlier than under standard RMA process.</p>	<p>The project has potential public benefit by generating employment and increasing housing supply.</p>	<p>The project has the potential for adverse environmental effects including:</p> <ul style="list-style-type: none"> increasing the number of vehicles on the transportation network including State Highway 1 increasing the demand on three waters services impacts on flood control measures impacts on freshwater bodies as a result of changing hydrology and discharges of sediment during construction impacts on aquatic and terrestrial ecology those typically associated with construction activities including sedimentation, generation of noise, generation of dust and an increase in construction traffic <p>Given the potential adverse effects we recommend seeking comments from Auckland Council,</p>	<p>The individual land parcels within the project sites are currently registered in the legal ownership of other parties. The applicant advises that they have unconditional sale and purchase agreements for all the land forming part of this project, that provides the applicant full development rights.</p> <p>The eastern project boundary has been designed to ensure that it does not encroach into the Mill Road corridor alignment under investigation by Waka Kotahi NZ Transport Agency. We recommend comments are sought from Waka Kotahi if you agree to progress the application to Stage 2.</p> <p>Auckland Council, Auckland Transport and Watercare have raised concerns about these developments in their submissions on the plan changes. They are particularly concerned about the funding of the required infrastructure and how it will be phased. They have also expressed concern about how all</p>	<p>a. Note that section 23(3) of the FTCA permits you to decline an application for referral without inviting comments on an application from the relevant local authorities and any relevant Ministers.</p> <p>b. Note that the application has not been provided to or had any comments sought from relevant local authorities or relevant Ministers and that you are required to do so if you do not decline an application under section 23(3) of the FTCA.</p> <p>c. Note that section 21(3) of the FTCA permits you to forward an application to, and invite written comments from, any other person.</p> <p>d. Note that section 22 of the FTCA permits you to request further information from the applicant at any time before you decide whether to accept or decline an application.</p> <p>e. Agree to progress Drury East Stage 1 to Stage 2 of our analysis. The project warrants further analysis because it has potential to achieve the purpose of the FTCA.</p> <p>f. Agree to provide the application to, and invite comments from:</p> <ul style="list-style-type: none"> the Ministers listed in section 21(6) of the FTCA the Associate Minister for the Environment – Urban policy Auckland Council Auckland Transport and Waka Kotahi NZ Transport Agency, given the project's potential effects on the transport network and planned project for Mill Road. Watercare, given the project's potential impacts on the three waters network First Gas, given the project includes land within their pipeline designation <p>g. Agree that further information be sought from the applicant on:</p> <ul style="list-style-type: none"> what iwi authorities they have engaged with on the project 	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

[illegible]

Project details	Project description	Project funding	Is Project eligible for referral? [s18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood the Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
	water supply network <ul style="list-style-type: none">roads and laneways within the Project site, and roading upgrades in the wider networksignage to promote the development			\$354 million to Auckland's economy over the whole construction period.				generation of noise, generation of dust and an increase in construction traffic <ul style="list-style-type: none">impacts on a heritage site to the western corner of the site. <p>Given the potential adverse effects we recommend seeking comments from Auckland Council, Auckland Transport and Watercare.</p>	you choose to progress this application. We recommend you seek comment from Waka Kotahi NZ Transport Agency as this project is close to State Highway 1 and may affects its operation.	<ul style="list-style-type: none">Watercare, given the project's potential impacts on the three waters network. <p>j. Agree that further information be sought from the applicant on:</p> <ul style="list-style-type: none">what iwi authorities they have engaged with on the project,how the applicant sees the project passing the 'gateway' tests in section 104(d) of the RMAhow the project aligns with the NPS-UD. <p>g. Sign the attached (Appendix 2) letter to Ministers listed in section 21(6) of the FTCA and the Associate Minister for the Environment – Urban policy</p> <p>h. Note that while awaiting these comments and further information, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations, prepare a report for the purpose of section 17 of the FTCA.</p>	Yes/No

Signed:

Hon David Parker
Minister for the Environment

Date