

FTC #143: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

Application 2022-97 East Coast Heights Stage 5–Silverdale Project

Date submitted:	28 July 2022	Tracking #: BRF-1922	
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	To be advised

Actions for Minister's Office staff	<ol style="list-style-type: none"> Return the signed briefing to MfE. Send attached letter (if signed) with accompanying template and links to application documents.
Number of attachments: 3	<p>Attachments:</p> <ol style="list-style-type: none"> Application documents for East Coast Heights Stage 5–Silverdale Project (Databox link) Letter to Ministers – inviting comments on referral application for the East Coast Heights Stage 5–Silverdale Project Template for ministerial comment

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Stephanie McNicholl		
Acting Manager	Madeleine Berry	s 9(2)(a)	✓
Acting Director	Stephanie Frame	s 9(2)(a)	

FTC#143: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

Key messages

1. This briefing seeks your initial decisions on an application from Build Rich Limited to refer the East Coast Heights Stage 5–Silverdale Project (project) to an expert consenting panel (panel) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA).
2. The project is to subdivide a 1.55-hectare site located in Silverdale, Auckland and construct approximately 62 residential units and supporting infrastructure including a road, accessways and three-waters services. The project site is contained within Lot 2 of an approved subdivision consent at 2 Goldwater Drive, Silverdale, new titles are yet to be issued.
3. The project comprises the fifth stage of a residential and commercial development being undertaken by the applicant between East Coast Road and State Highway 1 at Silverdale. Stages one and two, immediately to the south of the project site were consented under standard Resource Management Act 1991 (RMA) processes by Auckland Council and are currently under construction. Stages three and four located further to the south are the subject of a separate referral application¹.
4. The project will require subdivision and land use consents under the Auckland Unitary Plan (AUP). The project site is in the Business - General Business Zone and in Sub-precincts A and C of the Silverdale 3 Precinct, under the AUP. The purpose of Sub-precinct A is to enable a range of business activities and the purpose of Sub-precinct C is to enable residential opportunities within the business area that are secondary to business activity.
5. The proposed activities have overall non-complying activity status due to the residential units being located within the Business - General Business Zone, and public notification would be mandatory under Rule H14.5 of the AUP under standard RMA consenting processes. The applicant has provided a legal opinion that any specific rule requiring notification of an application made under the RMA is not applicable to an application under the FTCA.
6. The applicant considers that the project will not be contrary to the relevant AUP objectives and policies, and that adverse effects will be no more than minor, which will allow the project to pass both the 'gateway tests' in section 104D of the RMA.
7. We have undertaken an initial (Stage 1) analysis of the referral application, and this is presented along with our recommendations in Table A.
8. The project meets all the eligibility criteria in section 18(3) of the FTCA, but more analysis is needed before we can advise you if it meets the purpose of the FTCA (thus satisfying section 18(2) of the FTCA) and advise you on matters in section 23(5) which may influence your referral decision.
9. We recommend you progress consideration of the application to the next stage of analysis (Stage 2) and invite comments from Auckland Council and specific Ministers listed in section 21(6) of the FTCA.
10. We recommend you invite comments from the Associate Minister for the Environment (urban policy) as an additional Minister under section 21(6)(n) of the FTCA, and Watercare Services Limited, Auckland Transport and Waka Kotahi NZ Transport Agency as additional parties under section 21(3) of the FTCA.

¹ You decided to invite comments on the separate referral application (2022-088 East Coast Heights–Silverdale Project) on 14 July 2022 with the 10-working day period for comments closing on 28 July 2022.

11. We also recommend you request further information from the applicant and Waka Kotahi NZ Transport Agency as detailed in Table A.

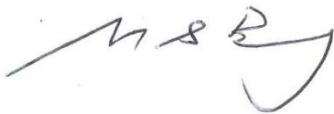
Statutory framework summary

12. You are the sole decision maker for the referral application as the project will not occur in the coastal marine area.
13. You may decline the referral application before seeking comments from the relevant local authorities and any relevant Ministers:
- a. if you are satisfied the project does not meet the referral criteria in section 18 of the FTCA, (which include helping to achieve 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).
14. If you do not decline the referral application at this stage:
- a. you must provide the application to, and invite comments from, the relevant local authorities and the relevant Ministers prescribed by section 21(6) of the FTCA
 - b. you may provide the application to and invite comments from any other person.
15. 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 application (see section 22 of the FTCA).

Action sought

16. Please indicate your decisions on the recommendations in Table A.

Signature



Madeleine Berry
Acting Manager – Fast-track Consenting

Table A: Stage 1 initial assessment of project eligibility – projects where the Minister for the Environment is the only decision maker

Project to progress

Project details	Project description	Project funding	Is project eligible for referral? [section 18(3)]	Will 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 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)]		
<p>Project</p> <p>East Coast Heights Stage 5–Silverdale Project</p> <p>Applicant</p> <p>Build Rich Limited</p> <p>c/- Forme Planning</p> <p>Location</p> <p>2 Goldwater Drive, Silverdale, Auckland.</p>	<p>The project is to subdivide a 1.55-hectare site located in Silverdale, Auckland and construct approximately 62 residential units and supporting infrastructure including a road, accessways and three-waters services. The project site is contained within Lot 2 of an approved subdivision consent at 2 Goldwater Drive, Silverdale, new titles are yet to be issued.</p> <p>The project comprises the fifth stage of a residential and commercial development being undertaken by the applicant between East Coast Road and State Highway 1 at Silverdale. Stages one and two immediately to the south of the project site are currently under construction, and stages three and four located further to the south are the subject of a separate referral application (2022-088) that you</p>	<p>The applicant advises that it owns the land and has financial capability to fund and deliver the project.</p> <p>At this stage we do not have any concerns about the applicant's ability to finance the project.</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>Based on the information provided by the applicant we consider the project may result in the following economic benefits:</p> <ul style="list-style-type: none"> provide approximately 125 direct full time equivalent (FTE) jobs over a 5-year design and construction period contribute approximately \$24.4 million to regional GDP. Once completed, \$1 million to Auckland GDP, 12 jobs to Auckland economy and ongoing residents spend. 	<p>The project has the potential for positive effects on the social wellbeing of current and future generations as it will:</p> <ul style="list-style-type: none"> generate employment by providing approximately 125 direct FTE jobs over a 5-year period increase housing supply through the construction of approximately 62 residential units in a range of typologies. 	<p>The applicant considers that the fast-track process will allow the project to progress approximately 12-18 months faster than under standard Resource Management Act 1991 (RMA) processes, by avoiding the delays associated with Auckland Council's consenting processes, including a hearing and appeals.</p> <p>We recommend seeking comment from Auckland Council on the appropriateness of using the FTCA process.</p>	<p>Based on the information provided by the applicant we consider that the project may result in the following public benefits:</p> <ul style="list-style-type: none"> generating employment increasing housing supply 	<p>The applicant has advised that the project has the potential for adverse environmental effects arising from:</p> <ul style="list-style-type: none"> construction activities (including traffic, noise, vibration, sediment control) transport (interfaces and intersections) reverse sensitivity (residential activities within the General Business Zone) stormwater runoff <p>and may include adverse effects on:</p> <ul style="list-style-type: none"> visual amenity (interface with business activities), urban design and neighbourhood character existing infrastructure, including the road network. <p>The applicants have provided some preliminary technical assessments in support of their view that the project will not have any significant adverse effects.</p> <p>We note that you do not require a full Assessment of Environment Effects and supporting evidence to make a referral decision and a panel can consider this and any appropriate mitigation, offsetting or compensation to</p>	<p>The project site is subject to several easement instruments and land interests recorded on record of title Lot 18 DP 545161 (925518). We recommend you seek confirmation from the applicant that none of the instruments identified on the record of title will affect timely project delivery.</p> <p>The project site is contained within Lot 2 of the subdivision consent approval (SUB60336990) for 2 Goldwater Drive, Silverdale, however new titles are yet to be issued. We recommend you request a copy of the granted subdivision and land use consent for the site (BUN60337961 LUC60337692 and SUB60336990), to clarify whether any future restrictions will be imposed on Lot 2 when title is issued. We also recommend you ask the applicant for the timing of issue of the new title.</p> <p>The project site is located near to Penlink, the new proposed toll road, which will be managed by Waka Kotahi NZ Transport Agency.</p> <p>The applicant has advised that physical works for Penlink are anticipated to be underway in early 2023</p>	<p>a. Note that section 23(3) of the FTCA permits you to decline the referral application without inviting comments from the relevant local authorities and any relevant Ministers.</p> <p>b. Note that you have not yet provided the application to, nor sought any comments on it from, relevant local authorities or relevant Ministers but that you are required to do so if you do not decline the 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 or relevant local authorities at any time before you decide whether to accept or decline an application.</p> <p>e. Agree to progress the East Coast Heights Stage 5–Silverdale Project to our Stage 2 analysis. The project warrants further analysis because it has potential to achieve the purpose of the FTCA but we need to consider some matters further before providing you with our final advice on the referral application.</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)(a)–(m) of the FTCA the Associate Minister for the Environment (urban policy) as an additional relevant Minister under section 21(6)(n) of the FTCA the relevant local authority – Auckland Council the following additional entities/persons under section 21(3) of the FTCA: Watercare 	<p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Is project eligible for referral? [section 18(3)]	Will 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 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)]		
	<p>decided to invite comments on 14 July 2022 with the 10-working day period for comments closing on 28 July 2022</p> <p>The project will require subdivision and land use consents under the Auckland Unitary Plan (AUP).</p>							manage adverse effects of the development.	<p>and therefore all transport rule triggers in the AUP will be complied with prior to dwellings being occupied on the site. We recommend you seek comment from Waka Kotahi NZ Transport Agency on the timing for commencement and construction of Penlink.</p> <p>The applicant's ultimate holding company is registered overseas. We consider you should ask the applicant to provide more information on the need for any Overseas Investment Office approval/s for the project to proceed.</p> <p>As the project involves the installation of new transport and three waters infrastructure, we recommend that you invite comments from Auckland Transport and Watercare Services Limited as they administer transport, potable water and wastewater infrastructure in Auckland.</p>	<p>Services Limited, Auckland Transport and Waka Kotahi NZ Transport Agency</p> <p>g. Agree to seek further information from the applicant on: whether any overseas investments approval/s are required for the project to proceed; timing for issue of a new record of title and whether any restrictions are anticipated that will affect project delivery; and whether any related resource consents could delay the project delivery.</p> <p>h. Agree to seek further information from Waka Kotahi NZ Transport Agency on timing for commencement of construction of Penlink.</p> <p>i. Sign the attached letters to Ministers.</p> <p>j. Note that while awaiting comments from invited parties and further information, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations – Te Arawhiti, prepare a report for the purpose of section 17 of the FTCA.</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

Signed:

Hon David Parker
Minister for the Environment

Date: