

FTC#158 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2022-096 Fleet Street Apartments Project

Date submitted:	15 September 2022	Tracking #: BRF-1907	
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. Fleet Street Apartments Project application form (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 11 Fleet Limited 5. Section 17 Report (Databox link) 6. Comments received from Ministers, Auckland Council and Auckland Transport (Databox link) 7. Further information received post-consultation (Databox link).

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Max Gander-Cooper		
Manager	Stephanie Frame	s 9(2)(a)	✓
Acting Director	Matthew Barbati-Ross	s 9(2)(a)	

FTC#158 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 11 Fleet Limited to refer the Fleet Street Apartments 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-1861) with your initial decisions annotated is in Appendix 2.
3. The project is to redevelop a 671 square metre site at 11 and 13 Fleet Street, Eden Terrace, Auckland, and construct an eight-storey apartment building (approximately 30.5 metres high) with one basement level for parking and storage. The apartment building will provide approximately 57 apartments, an on-site manager's office area, residents' shared workspace; and associated infrastructure, pedestrian accessways in the road reserve, and landscaping.
4. The project will involve activities such as:
 - a. demolishing buildings and infrastructure
 - b. carrying out earthworks
 - c. trimming and removing vegetation, including trees on roads
 - d. taking and diverting groundwater
 - e. diverting and discharging stormwater (which may contain contaminants) to land
 - f. constructing residential units
 - g. constructing infrastructure including for vehicle access and three-waters services
 - h. any other activities that are:
 - i. associated with the activities described in a to h
 - ii. within the project scope as described in paragraph 3.
5. The project will require land use and subdivision consents and water and discharge permits under the AUP. The project has restricted discretionary activity status due to exceedances of permitted standards, including exceeding the building height standards for the Business – Mixed Use Zone in the AUP by up to 12.5 metres.
6. The key issue for the project is whether it would be more appropriate to go through standard Resource Management Act 1991 (RMA) consenting processes due to the potential adverse effects of the proposed building height, which may warrant wider public consultation and consideration than would occur under the FTCA. We consider the effects of the building height can be considered by a panel as part of its merit-based assessment with the benefit of a full resource consent application, and a panel can invite comments from any parties it considers necessary as part of its assessment.
7. We recommend you accept the referral application under section 24 of the FTCA and refer the project to a panel for fast-track consenting. We seek your decision on this recommendation and on recommendations for directions to the applicant and a panel, and notification of your decisions.

Assessment against statutory framework

8. 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 and when deciding on any further requirements or directions associated with project referral.
9. Before accepting the application, 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 Ministers, Auckland Council and Auckland Transport (in Appendix 6). Following that, you may accept the application if you are satisfied that it meets the referral criteria in section 18 of the FTCA. We provide our advice on these matters below.
10. We have also considered if there are any reasons for declining the project, including the criteria in section 23(5) of the FTCA, and provide our advice on these matters to assist your decision-making.

Further information provided by applicant

11. In response to your request under section 22 of the FTCA the applicant provided further information on project funding, the owner of the project site, upgrades required to infrastructure and approvals required from Auckland Transport. We have taken this information into account in our analysis and advice.

Section 17 report

12. The Section 17 Report indicates that there are 14 iwi authorities, 8 Treaty settlements and 10 Treaty settlement entities relevant to the project area. A further three iwi authorities which may have an interest in the project area are also identified.
13. No specific cultural or commercial redress provided under the settlements would be affected by the project, and the relevant Treaty settlements do not create any new co-governance or co-management processes that would affect decision-making under the Resource Management Act 1991 (RMA) for the project.

Comments received

14. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i) Auckland Council, and Auckland Transport. The key points of relevance to your decision are summarised in Table A.

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

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

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

18. s 9(2)(f)(ii), s 9(2)(g)(i)
19. Auckland Council opposed project referral primarily due to concerns about adverse effects relating to building height and the potential for damage to neighbouring buildings and public services as a result of groundwater dewatering or diversion. Council also noted some approvals are likely to be required from Auckland Transport (discussed below) and potential wastewater constraints. The Council identified several reports it would normally require for a project of this type in this area. We consider these reports are generally covered by the requirements of clause 9 Schedule 6 of the FTCA but recommend you require the applicant to submit to a panel certain specific information requested by Auckland Council, as detailed in Table A, to assist with consideration of the application.
20. Auckland Transport was neutral on whether the project should be referred and requested that the if the project is referred the applicant be required to provide an integrated transport assessment with their resource consent application to a panel and a panel be required to invite comments from Auckland Transport. Auckland Transport noted the project may involve works within the road reserve and will likely require approval from it as road controlling authority.

Section 18 referral criteria

21. You may accept the application for project referral if you are satisfied that the project does not include ineligible activities (section 18(3)) and will help to achieve the purpose of the FTCA (section 18(2)).
22. The project does not include any ineligible activities, as explained in Table A.
23. The matters that you may consider when deciding if a project will help achieve the purpose of the FTCA are in Section 19 of the FTCA. Our assessment of these matters is summarised in Table A. We consider the project will help achieve the purpose of the FTCA, and thus meet the requirements of section 18(2), as it has the potential to:
- a. generate employment by creating approximately 100 direct full-time equivalent jobs over a 3-year construction period
 - b. increase housing supply by constructing an apartment building that will provide approximately 57 residential units
 - c. contribute to a well-functioning urban environment by providing housing in a location that has good access to community services and public transport
 - d. progress faster than would otherwise be the case under standard RMA process, provided that the applicant lodges their applications for resource consent in a timely manner following project referral.
24. We consider any actual and potential effects arising from the project, together with any measures to avoid, remedy, mitigate, offset or compensate for adverse effects, could be tested by a panel against Part 2 of the RMA and the purpose of the FTCA.

Issues and risks

25. Even if 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*
26. Section 23(5) of the FTCA provides further guidance on reasons to decline an application, and our analysis of these matters is summarised in Table A. Note that you may accept an application even if one or more of those reasons apply.

27. The key issue for the project is whether it would be more appropriate to go through standard RMA consenting processes which might enable more public input than under the FTCA process, because of the potential adverse effects of the proposed building height.
28. The proposed buildings will be up to 30.5 metres high. This is approximately 12.5 metres higher than is permitted under the AUP and there is potential for adverse effects relating to building height, including visual dominance effects. The applicant's urban design assessment notes that while the building will have a presence in the landscape and be seen both as part of the adjoining streetscape and in wider views, the scale is not such that it will particularly stand out or be incongruous within the existing or future anticipated built form, character and amenity of the locality. We consider the potential adverse effects of building height can be considered by a panel as part of a merit assessment. If you decide to refer the project, we consider that you should require the applicant to provide the panel with a landscape and visual assessment, which specifically includes consideration of effects relating to building height.
29. There is a risk that referring the project could be viewed negatively by the wider community who may expect to be involved in a standard consenting process under the RMA due to the proposed height of the development and its potential effects. If you decide to refer the project, a panel must invite comments from adjacent landowners and occupiers under clauses 17(6)(g) and 17(6)(h), Schedule 6 of the FTCA. A panel also can invite comments from any person they consider appropriate (clause 17(8), Schedule 6 of the FTCA). We consider a panel will be best placed to assess the project's effects, with the benefit of a complete resource application. Therefore, we do not consider that you should decline the referral application on the basis that it would be more appropriate for the project to go through the standard consenting process under the RMA (section 23(5)(b)).

Other matters

30. We have identified issues further to the matters identified above and our analysis of these is in Table A.
31. Auckland Council noted that there are potential constraints in the wastewater infrastructure, which may need to be upgraded to service the project, however the applicant has confirmed there are temporary mitigation measures available to address effects on wastewater infrastructure, and Watercare have indicated that it has scheduled upgrades to the local network. We consider a panel is able to consider and address this issue (with the benefit of specific information provided by the applicant), and that this does not preclude project referral.
32. Auckland Transport commented that the project includes retaining structures and other alterations to Auckland Transport assets in the road reserve. Such works would require Auckland Transport approval as the road controlling authority, and may require an encroachment licence, and Auckland Transport requested that evidence of these approvals should be provided with a consent application to a panel. The applicant subsequently confirmed that an encroachment licence should not be required and the remaining works can be approved by way of an Engineering Plan Approval, which is standard for a project of this type. We therefore do not anticipate this will present a barrier to project delivery and we have recommended that if the project is referred, the applicant provide confirmation of whether an encroachment licence and/or other approvals from Auckland Transport are required for the project to proceed.

Conclusions

33. We do not consider there are any significant reasons for you to decline to refer the project. You could accept the application under section 24 of the FTCA and refer all of the project to

a panel.

34. If you decide to refer the project, we consider you should specify under section 24(2)(d) of the FTCA (as requested in comments) that the applicant must submit the following information to a panel with their consent applications, in addition to the requirements of clause 9 of Schedule 6 of the FTCA:
- a. a three waters infrastructure assessment
 - b. an integrated transport assessment
 - c. a draft construction traffic management plan
 - d. a road safety audit
 - e. a landscape and visual assessment
 - f. a flood risk assessment
 - g. an archaeological assessment
 - h. a groundwater assessment
35. If you decide to refer the project, we consider you should specify under section 24(2)(e) of the FTCA that a panel must invite comments on consent applications for the project from the following parties:
- a. Auckland Transport
 - b. Watercare Services Limited
 - c. Ngāti Koheriki Claims Committee
 - d. Hauraki Māori Trust Board
 - e. Ngā Maunga Whakahii o Kaipara Development Trust
 - f. Makaurau Marae Māori Trust.

Next steps

36. If you decide to refer the project, you must give notice of your decisions on the referral application, and the reasons for them, to the applicant, anyone invited to comment under section 21, and the persons, entities and groups listed in section 25(2) of the FTCA. We consider you should also give the notice of decisions together with a copy of the application to the parties listed in paragraph 35(c)–(f).
37. 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.
38. We have attached a notice of decisions letter to the applicant based on our recommendations (refer Appendix 4). We will provide you with an amended letter if required. Once you have signed the letter we will assist your office to copy it to all relevant parties.
39. To refer the project, you must recommend that a referral order be made by way of an Order in Council (OIC). Cabinet has agreed that you can issue drafting instructions to the Parliamentary Counsel Office without the need for a policy decision to be taken by Cabinet in the first instance.¹

¹ Following the first OIC, the Minister for the Environment (and Minister of Conservation for projects in the Coastal Marine Area) can issue drafting instructions directly to the Parliamentary Counsel Office. Cabinet has also agreed that a Regulatory Impact Assessment is not required for an OIC relating to projects to be referred to a panel [ENV-20-MIN-0033 and CAB-20-MIN-0353 refer].

40. 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.
41. 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 11 Fleet Limited unless you are satisfied that the Fleet Street Apartments Project (project) meets the referral criteria in section 18 of the FTCA including that it would help to achieve the FTCA's purpose.
 - b. **Note** when assessing whether the project would achieve the FTCA's purpose, you may consider a number of matters under section 19, including the project's economic benefits and costs, and effects on social or cultural well-being; whether it may result in a public benefit (such as generating employment or increasing housing supply); and whether it could have significant adverse effects.
 - c. **Note** before deciding to accept the application for project referral under section 24(1) 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. **Note** if you are satisfied that all or part of the project meets the referral criteria in section 18 of the FTCA you may:
 - i. refer all or part of the project to an expert consenting panel (panel)
 - ii. refer the initial stages of the project to a panel while deferring decisions about the project's remaining stages
 - iii. still decline the referral application for any reason under section 23(2) of the FTCA.
 - e. **Note** if you do refer all or part of the project you may:
 - i. specify restrictions that apply to the project
 - ii. specify the information that must be submitted to a panel
 - iii. specify the persons or groups from whom a panel must invite comments
 - iv. set specific timeframes for a panel to complete their process.
 - f. **Agree** the project meets the referral criteria in section 18(3) of the FTCA.
- Yes/No
- g. **Agree** the project will help achieve the purpose of the FTCA (and therefore meets the referral criteria in section 18(2) of the FTCA) as it has the potential to:
 - i. generate employment by creating approximately 100 direct full-time equivalent jobs over a 3-year construction period
 - ii. increase housing supply by constructing an apartment building that will provide approximately 57 residential units
 - iii. contribute to a well-functioning urban environment by providing housing in a location that has good access to community services and public transport
 - iv. progress faster than would otherwise be the case under standard Resource

Management Act 1991 process, provided that the applicant lodges their applications for resource consent in a timely manner following project referral.

Yes/No

- h. **Agree to refer** all of the project to a panel.

Yes/No

- i. **Agree** to specify under section 24(2)(d) of the FTCA the following additional information that the applicant must submit with any resource consent application lodged with the Environmental Protection Authority:

- i. an assessment of the relevant infrastructure for three-waters services that –
 - 1. identifies the existing condition and capacity of that infrastructure
 - 2. identifies any upgrades to that infrastructure that are required in connection with the project
 - 3. identifies any funding required to carry out those upgrades (including who will provide that funding)
 - 4. contains information on discussions held, and agreements made, between the applicant and Auckland Council or Watercare Services Limited (or both)
- ii. an integrated transport assessment, including –
 - 1. an assessment of the effects of the project on the local road network
 - 2. an assessment of how the project will support people to use public transport and active modes of transport (such as walking and cycling)
 - 3. information on discussions held, and agreements made, between the applicant and Auckland Transport
- iii. confirmation from Auckland Transport of whether an encroachment licence and/or other approvals from Auckland Transport are required for the project to proceed
- iv. a draft construction traffic management plan
- v. a road safety audit
- vi. a landscape and visual assessment of the development, including an assessment of the effects of building height
- vii. a flood risk assessment
- viii. an archaeological assessment
- ix. a groundwater assessment, including assessment of the risk of damage to neighbouring buildings, structures and public services as a result of any groundwater take and/or diversion.

Yes/No

- j. **Agree** to specify under section 24(2)(e) of the FTCA that a panel must invite comments from the following persons or groups in addition to those specified in clause 17 of Schedule 6 of the FTCA:

- i. Auckland Transport
- ii. Watercare Services Limited
- iii. Ngāti Koheriki Claims Committee

- iv. Hauraki Māori Trust Board
- v. Ngā Maunga Whakahii o Kaipara Development Trust
- vi. Makaurau Marae Māori Trust.

Yes/No

- k. **Agree** to copy the application and notice of decisions to those parties identified in paragraph j(iii)–(vi) in addition to those specified in section 25 of the FTCA.

Yes/No

- l. **Agree** to the Ministry for the Environment issuing drafting instructions to the Parliamentary Counsel Office for an Order in Council to refer the project to a panel in accordance with your decisions recorded herein.

Yes/No

- m. **Sign** the notice of decisions letter to the applicant (attached in Appendix 4).

Yes/No

- n. **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



Stephanie Frame
Manager – Fast-track Consenting

Hon David Parker
Minister for the Environment

Date:

Table A: Stage 2 - Project summary and section 24 FTCA assessment for projects where the Minister for the Environment is the sole decision maker

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 Fleet Street Apartments Project Applicant 11 Fleet Limited c/- Campbell Brown Planning Limited Location 11 and 13 Fleet Street, Eden Terrace, Auckland	The project is to redevelop a 671 square metre site at 11 and 13 Fleet Street, Eden Terrace, Auckland, and construct an eight-storey apartment building (approximately 30.5 metres high) with one basement level for parking and storage. The apartment building will provide approximately 57 apartments, an on-site manager's office area, residents' shared workspace; and associated infrastructure, pedestrian accessways in the road reserve, and landscaping. The project will involve activities such as: a. demolishing buildings and infrastructure b. carrying out earthworks c. trimming and removing vegetation, including trees on roads d. taking and diverting groundwater e. diverting and discharging stormwater (which may contain	The project is eligible for referral under section 18(3)(a)–(d) as: - 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	Economic benefits for people or industries affected by COVID-19 (19(a)) Based on the information provided by the applicant we consider that the project may result in the following economic benefits: - creating approximately 100 direct full-time equivalent (FTE) jobs over a 3-year period - contributing approximately \$13.3 million to Auckland GDP. Economic costs for people or industries affected by COVID-19 (19(a)) N/A Effect on the social and cultural well-being of current and future generations (19(b)) The project has the potential for positive effects on social wellbeing of current and future generations as it will: - generate employment by providing 100 direct FTE jobs over a 3-year period - increase housing supply by constructing approximately 57 residential units. Is the project likely to progress faster by using this Act? (19(c)) The applicant estimates that the FTCA will allow the project to progress 6 to 24 months faster than under standard Resource Management Act 1991 (RMA) processes due to the likelihood of notification and appeals under standard process. We consider that the applicant's assessment is reasonable. Will the project result in a public benefit? (19(d))	Ministers s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) Local authorities Auckland Council opposed project referral primarily based on the proposed building height and the risk of potential effects on adjoining properties associated with groundwater diversion. Auckland Council noted:	Section 23(5) matters: Insufficient information (23(5)(a)) The applicant has provided sufficient information for you to determine whether the project meets the criteria in section 18 of the FTCA. More appropriate to go through standard RMA process (23(5)(b)) The proposed buildings will be up to 30.5 metres high. This is approximately 12.5 metres higher than is permitted under the AUP and there is potential for adverse effects relating to building height, including visual dominance effects. The applicant's urban design assessment notes that while the building will have a presence in the landscape and be seen both as part of the adjoining streetscape and in wider views, the scale is not such that it will particularly stand out or be incongruous within the existing or future anticipated built form, character and amenity of the locality. We consider the potential adverse effects of building height can be considered by a panel as part of a merit assessment. If you decide to refer the project, we consider that you should require the applicant to provide the panel with a landscape and visual assessment, which specifically includes consideration of effects relating to building height. There is a risk that referring the project could be viewed negatively by the wider community who may expect to be involved in a standard consenting process under the RMA due to the proposed height of the development and its potential effects. If you decide to refer the project, a panel must invite comments from adjacent landowners and occupiers under clauses 17(6)(g) and 17(6)(h), Schedule 6 of the FTCA. A panel also can invite comments from any person they consider appropriate (clause 17(8), Schedule 6 of the FTCA). We consider a panel will be best placed to assess the	In response to key comments: - s 9(2)(f)(ii), s 9(2)(g)(i) we recommend you provide a copy of the application and your decisions to, and direct a panel to invite comments from, Ngāti Koheriki Claims Committee (the mandated entity for Ngāti Koheriki Treaty settlement negotiations) s 9(2)(f)(ii), s 9(2)(g)(i) This is because the project site lies in the Ngāti Koheriki area of interest and the iwi is not currently represented by either an iwi authority or a Treaty settlement entity recognised under the FTCA – meaning it is not covered by notification requirements prescribed by the FTCA - we recommend that you agree to Auckland Transport's request that the applicant provide an integrated transport assessment and a road safety audit, and we recommend that you agree with Auckland Council's request that you direct the applicant to provide a groundwater assessment including an assessment of the risk of damage to neighbouring buildings, structures and public services as a result of any groundwater take and/or diversion. There are no significant reasons to decline to refer the project. We recommend that you accept the

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)?			
	contaminants) to land f. constructing residential buildings g. constructing infrastructure including for vehicle access and three-waters services h. any other activities that are: i. associated with the activities described in a to h; and ii. within the project scope as described above. The project will require land use and subdivision consents and water and discharge permits under the Auckland Unitary Plan (AUP). The project has restricted discretionary activity status due to exceedances of permitted standards, including exceeding the building height standards for the Business – Mixed Use Zone in the AUP by up to 12.5 metres.		Based on the information provided by the application we consider that the project may result in the following public benefits: - generating employment - increasing housing supply - contributing to a well-functioning urban environment Potential to have significant adverse environmental effects, including greenhouse-gas emissions (19(e)) The project has the potential for adverse environmental effects arising from: - earthworks and disturbance of contaminated land - construction activities - traffic - vegetation clearance/trimming - the proposed building potentially dominating, shading, causing loss of privacy for neighbouring properties and affecting the existing amenity and character of the area. The applicant has stated that overall adverse effects will not be significant. 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 manage adverse effects of the development. Other relevant matters (19(f)) N/A	- the project results in a notable infringement of maximum height; being 12.5m over the required 18m. Such an infringement may result in adverse shading, visual dominance and visual privacy effects on adjoining properties - given the proximity of the buildings on the adjoining sites, there may be a risk of damage to neighbouring buildings, structures and public services - Watercare have identified wastewater capacity constraints in the existing network. Watercare have planned upgrades to the network in the area, however, until such time that these upgrades can be constructed, the proposed development will need to incorporate mitigation measures to reduce peak wastewater flow - the proposed retaining wall within the road reserve and amendments to the design of the staircase will require separate asset owner approval from Auckland Transport. Given the lack of certainty that asset owner approval can be obtained, it is recommended that the applicant seek approval from Auckland Transport's Chief Engineer prior to lodgement of any consent under the FTCA. Other parties Auckland Transport was neutral on the appropriateness of project referral but requested that if the project is referred, you direct the applicant to provide an integrated transport assessment and require a panel to invite comment from Auckland Transport. Auckland Transport noted the project includes retaining structures and other amendments to Auckland Transport assets in the road reserve. This requires Auckland Transport approval as road controlling authority and could require an encroachment licence from Auckland Transport. The proposal would appear to not be viable without this approval(s). Auckland Transport, therefore, requests that the applicant obtain written approval from the Chief Engineer at Auckland Transport for all proposed structures in the road reserve to ensure project feasibility. Auckland Transport requests that evidence of this is provided with the consent application to the EPA indicating that the design of the structures are approved by the Chief Engineer and are in-principle suitable for vesting. Auckland Transport also raised concerns with the applicant's proposed refuse collection solution and requested that you require the applicant to provide a road safety audit with a resource consent application to a panel.	project's effects, with the benefit of a complete resource application. Therefore, we do not consider that you should decline the referral application on the basis that it would be more appropriate for the project to go through the standard consenting process under the RMA (section 23(5)(b)). Inconsistency with a national policy statement (23(5)(c)) We do not consider the project is inconsistent with any relevant national policy statements. No comments received indicated that the project is inconsistent with any national policy statement. Inconsistent with a Treaty settlement (23(5)(d)) The project does not directly affect any Treaty settlement redress. Involves land needed for Treaty settlements (23(5)(e)) The project site does not include any land needed for Treaty Settlement purposes. Applicant has poor regulatory compliance (23(5)(f)) Auckland Council has not identified any environmental regulatory compliance history for the applicant. Insufficient time for the project to be referred and considered before FTCA repealed (23(5)(g)) There is sufficient time for the application to be referred and considered before the FTCA is repealed. Other issues and risks: Auckland Council noted that there are potential constraints in the wastewater infrastructure, which may need to be upgraded to service the project, however the applicant has confirmed there are temporary mitigation measures available to address effect on wastewater infrastructure, and Watercare have	application under section 24 of the FTCA and refer all of the project to a panel. We recommend you require the applicant to provide the following information with their resource consent applications to a panel: a. an assessment of the relevant infrastructure for three-waters services that – - identifies the existing condition and capacity of that infrastructure - identifies any upgrades to that infrastructure that are required in connection with the project - identifies any funding required to carry out those upgrades (including who will provide that funding) - contains information on discussions held, and agreements made, between the applicant and Auckland Council or Watercare Services Limited (or both) b. an integrated transport assessment, including – - an assessment of the effects of the project on the local road network - an assessment of how the project will support people to use public transport and active modes of transport (such as walking and cycling) - information on discussions held, and agreements made, between the applicant and Auckland Transport c. confirmation from Auckland Transport of whether an encroachment licence and/or other approvals from Auckland Transport are required for the project to proceed

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)?			
				All responses received by parties invited to comment are attached in Appendix 6.	indicated that they have scheduled upgrades to the local network. We consider a panel is able to consider and address this issue (with the benefit of specific information provided by the applicant), and that this does not preclude project referral. Auckland Transport commented that the project includes retaining structures and other alterations to Auckland Transport assets in the road reserve. Such works would require Auckland Transport approval as the road controlling authority, and may require an encroachment licence, and Auckland Transport requested that evidence of these approvals should be provided with a consent application to a panel. The applicant subsequently confirmed that an encroachment licence should not be required and the remaining works can be approved by way of an engineering plan approval, which is standard for a project of this type. We therefore do not anticipate this will present a barrier to project delivery.	d. a draft construction traffic management plan e. a road safety audit f. a landscape and visual assessment of the development, including an assessment of the effects of building height g. a flood risk assessment h. an archaeological assessment i. a groundwater assessment, including assessment of the risk of damage to neighbouring buildings, structures and public services as a result of any groundwater take and/or diversion. We recommend you direct a panel to invite comments on any resource consent applications for the project from: • Auckland Transport • Watercare Services Limited • Ngāti Koheriki Claims Committee • Hauraki Māori Trust Board • Ngā Maunga Whakahii o Kaipara Development Trust • Makaurau Marae Māori Trust. We also recommend that you provide your notice of decisions to those parties listed above.