

In Confidence

Office of the Minister for the Environment

Chair, Cabinet

COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 7) 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 7) 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) Cappella Group Limited and Karaka North Village Limited's Karaka North Village project (Schedule 21)

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 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 applications for resource consents and/or notices 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 Cappella Group Limited and Karaka North Village Limited (the Project). The Project is to subdivide and develop land to provide approximately 650 residential lots, approximately 14 super lots for comprehensive (multi-unit) residential development, approximately 850 residential units, a commercial centre super lot and additional lots for utilities and open space purposes.
5. I am satisfied as to the Project's eligibility for referral and have considered whether this project helps achieve the purpose of the FTCA. I have also considered the report prepared under section 17 of the FTCA and I have sought and considered written comments from relevant Ministers, the local authority, and Auckland Transport. I have also requested and considered further information from the applicants.
6. I have accepted Cappella Group Limited and Karaka North Village Limited's Karaka North Village project for referral as it has the potential to:
 - 6.1 have positive effects on social wellbeing by creating a new community within the Karaka North Precinct that will include residential, commercial and community activities, public open space and walking connections; and by promoting housing

affordability by allowing for comprehensive development (multiple units) on residential lots

- 6.2 generate employment by providing an average of approximately 260 full-time equivalent (FTE) jobs per year during years 1-6 of infrastructure construction works, and enable employment of approximately 850 FTE jobs per year during years 2-8 of vertical building works (including 850 residential units)
- 6.3 increase housing supply by enabling the development of approximately 850 residential units.
7. I consider that the Project will help to achieve the purpose of the FTCA, and any actual and potential effects on the environment, together with any measures to offset or compensate for adverse effects, can be considered and determined by a panel subject to Part 2 of the Resource Management Act 1991 (RMA) and the purpose of the FTCA.
8. The Project will be able to progress faster using the processes provided by the FTCA than if consents were sought through standard RMA processes, provided that the applicants lodge their application for resource consent with the Environmental Protection Authority (EPA) in a timely manner following referral.
9. I now seek authorisation for submission of the Amendment Order to the Executive Council. The Amendment Order enables Cappella Group Limited and Karaka North Village Limited to apply via the EPA to a panel for the relevant approvals needed under the RMA for the Project, in accordance with the process in the FTCA.

Background

10. The FTCA is one of the Government's actions to support New Zealand's economic recovery from COVID-19, by promoting employment and supporting on-going investment. The FTCA enables any person to apply to the Minister for the Environment 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.
11. As of 1 July 2021, 55 applications have been received for projects to be considered for referral to a panel through an Order in Council, of which:
 - 11.1 19 applications are being processed and are awaiting a referral decision
 - 11.2 three projects have been approved for referral and are awaiting an Order in Council, being two applications have been approved for referral. Cappella Group Limited and Karaka North Village Limited's Karaka North Village project that is the subject of this cabinet paper. George Street Mixed Use Development project and Ōmāhu Residential Development project are the subject of a subsequent cabinet paper
 - 11.3 19 projects have been referred and Orders in Council gazetted, one of which has been granted RMA approvals by a panel. A list of the projects is in Appendix one
 - 11.4 10 referral 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
 - 11.5 four referral applications have been withdrawn.


12. An update on the specific projects that are listed under the FTCA is in Appendix two.

Project for referral: Cappella Group Limited and Karaka North Village Limited's, Karaka North Village project


13. Cappella Group Limited and Karaka North Village Limited has applied to use the fast-track consenting process for the Karaka North Village project. The Project is to subdivide and develop land to provide approximately 650 residential lots, approximately 14 super lots for comprehensive (multi-unit) residential development, a commercial centre super lot and additional lots for utilities and open space purposes. The Project includes construction of commercial buildings, a community venue building, approximately 850 residential units, and three waters and roading infrastructure.
14. The Project works will occur within and on 348 Linwood Road and 69A Dyke Road, Karaka, Auckland.
15. The Project requires subdivision and land use consents, and water and discharge permits under the Auckland Unitary Plan.
16. To better understand the environmental effects and investment certainty of this Project, I sought further information from the applicant and the relevant local authority under section 22 of the FTCA.

Comments received

17. In accordance with section 21 of the FTCA, I sought written comments on this application from relevant Ministers, the local authority, and Auckland Transport.

18. s 9(2)(f)(ii), s 9(2)(g)(i)
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19. s 9(2)(f)(ii), s 9(2)(g)(i)
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20. s 9(2)(f)(ii), s 9(2)(g)(i)
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s 9(2)(f)(ii), s 9(2)(g)(i)

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

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

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

24. Auckland Council noted that there were no reasons why the Project should proceed through standard RMA processes rather than the FTCA process. Auckland Council noted that different divisions and agencies within Auckland Council, such as Watercare and Parks, raised significant concerns but that such concerns could be addressed by information from the applicants, appropriate engagement with Council agencies and appropriate consent conditions.

25. Auckland Transport did not respond directly to my invitation to comment. However, comments from Auckland Transport were included with comments received from Auckland Council.

Decision

26. In making my decision I considered the application and further information received; comments received from relevant Ministers and Auckland Council; and the eligibility criteria in section 18 of the FTCA¹. I also considered the report prepared under section 17 of the FTCA, that indicated that in addition to the seven iwi authorities, three Treaty settlements and six Treaty settlement entities relevant to the Project area, three further entities (Ngāti Koheriki Claims Committee, Ngāti Tamaterā Treaty Settlement Trust and Ngaati Whanaunga Incorporated Society) may also have an interest in the Project, along with 13 applicants under MACAA.

27. I have decided to accept Cappella Group Limited and Karaka North Village Limited's application for referral of the Karaka North Village project to a panel. I consider the Project meets the eligibility criteria in section 18 of the FTCA and achieves the purpose of the FTCA by:

27.1 having positive effects on social wellbeing by creating a new community within the Karaka North Precinct that will include residential, commercial and community activities, public open space and walking connections; and by promoting housing affordability by allowing for comprehensive development (multiple units) on residential lots

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

- 27.2 generating employment by providing an average of approximately 260 full-time equivalent (FTE) jobs per year during years 1-6 of infrastructure construction works, and enable employment of approximately 850 FTE jobs per year during years 2-8 of vertical building works (including 850 residential units)
- 27.3 increasing housing supply by enabling the development of approximately 850 residential units
- 27.4 being likely to progress faster than would otherwise be the case under the standard processes of the RMA.
28. To address site-specific matters raised by s 9(2)(f)(ii), s 9(2)(g)(i) [redacted] Auckland Council, I have decided to direct the applicants to provide the following information with their application for resource consent submitted to a panel²: a report identifying any areas that are inconsistent with the Masterplan, Infrastructure Management Plan and Landscape Management Plan approved by Auckland Council for the site, assessments for transportation, infrastructure, stormwater, social impacts, landscape and planting, esplanade reserve requirements and potential greenhouse gas emissions. The full list of information I have decided to direct the applicants to provide to a panel is in Appendix three.
29. The FTCA requires that a panel invite comments from the relevant local authorities, relevant iwi authorities and Treaty settlement entities, specific Ministers, owners and occupiers of adjacent land, and specific non-governmental organisations, any identified applicant group under the Marine and Coastal Area (Takutai Moana) Act 2011, and other groups listed in the FTCA³. In addition to these requirements and to address site specific matters raised, I have decided to direct a panel to seek comment on any consent application before it from Auckland Transport, Ngāti Koheriki Claims Committee, Ngāti Tamaterā Treaty Settlement Trust and Ngaati Whanaunga Incorporated Society, as listed in Appendix three.
30. I consider that any adverse effects arising from the Project, together with any measures to offset or compensate for adverse effects, can be appropriately tested by a panel against Part 2 of the RMA and the purpose of the FTCA. I consider that the requirements for additional material noted in paragraph [28] that must be submitted to a panel will assist with this.
31. I consider there are no reasons to decide under section 24(2) of the FTCA to:
- 31.1 limit the scope of the Project by referring it only in part
 - 31.2 refer the Project in stages
 - 31.3 place any restrictions on the Project
 - 31.4 impose specific timeframes for panel consideration.

Timing and 28-day rule

32. Cabinet has agreed to waive the 28-day rule for Orders in Council relating to projects to be referred to a panel⁴. Therefore, the Amendment Order will come into force the day after publication in the New Zealand Gazette. This will enable application for resource consent to be lodged with the EPA, for consideration by a panel, the day after the Amendment Order is

² Section 24(2)(d) of the FTCA.

³ Clause 17(6) of Schedule 6, FTCA.

⁴ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer.

gazetted, for Cappella Group Limited and Karaka North Village Limited's Karaka North Village project.

Compliance

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

Regulations Review Committee

34. 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

35. The Amendment Order has been certified by the Parliamentary Counsel Office as being in order for submission.

Impact Analysis

Regulatory Impact Assessment

36. 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 panel⁵.

Climate Implications of Policy Assessment

37. 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 these projects.
38. 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 the panel in their assessment of any adverse effects arising from the Project.
39. The decision to refer the Cappella Group Limited and Karaka North Village Limited's Karaka North Village project includes direction for the applicant to provide to a panel an assessment of the potential construction and operational related greenhouse gas emissions resulting from the design, location and density of proposed development.

⁵ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer.

Publicity

40. The Amendment Order will be available on the New Zealand Legislation website following its notification in the New Zealand Gazette.
41. 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

42. 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

43. I have considered the matters raised by the relevant Ministers and local authorities 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.
44. The Ministry for the Environment sought comment on this paper from the 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, Department of Conservation and the Office 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 Cappella Group Limited and Karaka North Village Limited's Karaka North Village project to a panel
2. **note** that Cappella Group Limited and Karaka North Village Limited's Karaka North Village 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 having positive effects on social wellbeing by creating a new community within the Karaka North Precinct that will include residential, commercial and community activities, public open space and walking connections; and by promoting housing affordability by allowing for comprehensive development (multiple units) on residential lots
 - 2.2 generating employment by providing an average of approximately 260 full-time equivalent (FTE) jobs per year during years 1-6 of infrastructure construction works, and enable employment of approximately 850 FTE jobs per year during years 2-8 of vertical building works (including 850 residential units)
 - 2.3 increase housing supply by enabling the development of approximately 850 residential units
 - 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 7) 2021 directs Cappella Group Limited and Karaka North Village Limited to provide to an expert consenting panel: a report identifying any areas that are inconsistent with the Masterplan, Infrastructure Management Plan and Landscape Management Plan approved by Auckland Council for resource consent at the Project? site, assessments for transportation, infrastructure, stormwater, social impacts, landscape and planting, esplanade reserve requirements and potential greenhouse gas emissions, as detailed in Appendix three
4. **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 7) 2021 directs an expert consenting panel appointed to consider Cappella Group Limited and Karaka North Village Limited's Karaka North Village project to seek comments from Auckland Transport, Ngāti Koheriki Claims Committee, Ngāti Tamaterā Treaty Settlement Trust and Ngaati Whanaunga Incorporated Society, as listed in Appendix three
5. **authorise** the submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 7) 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 7) 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 – Referred projects under the COVID-19 Recovery (Fast-track Consenting) Act 2020

| Referred projects granted RMA approvals by a panel | | |
|---|------------------------|---|
| Project | Location | Applicant |
| Kohimarama Comprehensive Care Retirement Village | Kohimarama, Auckland | Ryman Healthcare Limited |
| Referred projects with Orders in Council gazetted | | |
| Clutha Upper Waitaki Lines Project - Works and Workers' Village | Clutha Upper Waitaki | Transpower New Zealand Limited |
| Northbrook Wanaka Retirement Village | Wanaka | Winton Property Limited |
| Kohimarama Comprehensive Care Retirement Village | Kohimarama, Auckland | Ryman Healthcare Limited |
| Molesworth Street Office Development | Thorndon, Wellington | Primeproperty Group Limited |
| The Vines Affordable Subdivision | Richmond, Tasman | Jason and Angela Mudgway |
| Dominion Road Mixed-use Development | Mount Eden, Auckland | Pudong Housing Development Company Limited, Foodstuffs North Island Limited, and Silk Road Management Limited |
| Ohinewai Foam Factory | Ohinewai, Waikato | Ambury Properties Limited |
| Eastern Porirua Regeneration Project - Infrastructure Works | Porirua | Kāinga Ora-Homes and Communities' and Porirua City Council |
| Silverlight Studios | Wanaka | Silverlight Studios Limited |
| Brennan winery, restaurant, education, and event complex | Gibbston Valley, Otago | Otago Viticulture and Oenology Limited's (trading as Brennan Wines) |
| Nola Estate | Glen Eden, Auckland | CPM 2019 Limited |
| Wooring Tree Estate | Cromwell | Wooring Tree Property Development LP |
| Kapuni Green Hydrogen | Kapuni, Taranaki | Hiringa Energy Limited's and Ballance Agri-Nutrients Limited |
| New Dunedin Hospital - Whakatuputupu | Dunedin | The Minister of Health's and the Ministry of Health |
| Faringdon South West and South East Development | Rolleston | Hughes Developments Limited's |
| Summerset Retirement Village -Waikanae | Waikanae | Summerset Villages (Waikanae) Limited |
| Beachlands Housing Development | Beachlands, Auckland | Neil Construction Limited and Fletcher Residential Limited |

Referred projects granted RMA approvals by a panel

| Project | Location | Applicant |
|---|--------------|---|
| Kōpū Marine Precinct | Kōpū, Thames | Thames-Coromandel District Council |
| Whakatāne Commercial Boat Harbour project | Whakatāne | Whakatāne District Council, Te Rāhui Lands Trust, Te Rūnanga o Ngāti Awa, Ngāti Awa Group Holdings Limited, Te Rāhui Lands General Partner Limited, Te Rāhui Herenga Waka Whakatane Limited, and Provincial Growth Fund Limited |

Released under the provisions of the Official Information Act 1982

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

| Listed Project | Status (provided by the EPA, 1 July 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 have been approved |
| Queenstown Arterials Project | Consents have been approved |
| Papakura to Drury South State Highway 1 improvements | First consent lodged 24 June 2021 and confirmed as meeting lodgement requirements of Act. Will proceed to panel appointment in next week or so. |
| Northern Pathway – Westhaven to Akoranga shared path | Lodgement anticipated by the applicant in late 2021 |
| Papakura to Pukekōhe rail electrification | First consents lodged on 10 March 2021 and currently under consideration by Panel |
| Papakāinga Development - Kaitia | Consents lodged on 13 April 2021 and currently under consideration by Panel |
| 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 three – Additional requirements: Cappella Group Limited and Karaka North Village Limited's Karaka North Village project

Cappella Group Limited and Karaka North Village Limited is directed to provide with their applications to an expert consenting panel for resource consents:

1. a report identifying any areas of the development that are inconsistent with the Masterplan, Infrastructure Management Plan and Landscape Management Plan approved by Auckland Council under resource consent BUN60362652
2. an integrated transport assessment including, but not limited to, modelling and analysis that covers:
 - a. the adequacy of the existing public transport system to service additional demand
 - b. the effects on the surrounding road network and intersections
 - c. a movement network plan to identify and assess the availability and feasibility of safe active modes of transport
3. an infrastructure assessment and engineering plans including, but not limited to:
 - a. details of the design, capacity and maintenance requirements of all infrastructure
 - b. details of the ownership and ongoing responsibility for maintenance of any private infrastructure (including open space), including consideration of a body corporate or other management structure
4. a stormwater assessment and stormwater management plan including consideration of the requirements to meet Auckland Council's Healthy Waters approved regionwide Stormwater Network Discharge Consent (DIS60069613)
5. an assessment of social impacts focusing on the availability of local employment opportunities
6. landscape and planting plans addressing all proposed assets in the road, drainage and recreation reserves, private accessways and boundary treatment adjoining shared open space
7. information to demonstrate that the esplanade reserve is adequately protected for conservation purposes including fencing to the esplanade reserve boundary, and an assessment of any additional esplanade reserve requirements under section 236 of the Resource Management Act 1991
8. an assessment of the potential greenhouse gas emissions resulting from the development, including:
 - a. quantification of greenhouse gas emissions in both the construction phase (horizontal and vertical) and operational/as-built phase including transport emissions induced by the design and the expected energy use of each type of dwelling
 - b. consideration of options to avoid, remedy and mitigate identified greenhouse gas emissions

- c. if a new wastewater treatment facility is proposed, consideration of the types of wastewater treatment that can effectively mitigate most/all of the greenhouse gases from the treatment process
- d. identification of any adaptation related risks and plans to mitigate those risks.

An expert consenting panel appointed to consider Cappella Group Limited and Karaka North Village Limited's applications for resource consents for the Karaka North Village project must seek comments from the following additional persons/organisations:

1. Auckland Transport
2. Ngāti Koheriki Claims Committee
3. Ngāti Tamaterā Treaty Settlement Trust
4. Ngaati Whanaunga Incorporated Society

Released under the provision of
the Official Information Act 1982