

Comments on applications for referral under the COVID-19 Recovery (Fast-track Consenting) Act 2020

This form is for local authorities to provide comments to the Minister for the Environment on an application to refer a project to an expert consenting panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

Local authority providing comment	Bay of Plenty Regional Council
Contact person (if follow-up is required)	Ella Tennent
	s 9(2)(a)
	Ph 0800 884 880

Comment form

Please use the table below to comment on the application.

Project name	Milbrow Estate, Hamurana Rotorua
General comment – potential benefits	We accept there are economic and social benefits for residential developments within Rotorua. However, we assume that there will be no affordable homes within this proposed development.
General comment – significant issues	<p>Lake Rotorua consistently fails to meet its water quality targets and blue-green algal blooms are prevalent. The Rotorua Te Arawa Lakes Restoration Programme (“the Programme”) is a partnership between the Bay of Plenty Regional Council (BOPRC), the Rotorua Lakes Council (RLC) and the Te Arawa Lakes Trust and is 50% funded by BOPRC and 50% by the Ministry for the Environment under a deed funding arrangement.</p> <p>The Programme is tasked with the removal of 320 tonnes of nitrogen per year (tN/yr) from Lake Rotorua in order to meet the sustainable lake load of 435 tN/yr. A Stakeholder Advisory Group developed the “Integrated Framework” which is a combination of regulatory and voluntary strategies to achieve the sustainable 435 tN/yr target. Under the Integrated Framework, the pastoral sector is required to contribute 240 tN/yr to the target, with 140 tN/yr to be removed through the Lake Rotorua Nutrient Rules and 100 tN/yr is to be removed through landowner sale of nitrogen to the Lake Rotorua Incentives Scheme.</p> <p>The achievement of these reductions will require substantial land use change and a sustained effort by rural landowners. To encourage land use change, the Rotorua District Plan contains provisions to incentivise definitive land use changes that result in significant reductions in nutrient losses to Lake Rotorua (Policy SUB-P1).</p> <p>The property that is the subject of this application was benchmarked as a dairy farm and therefore, compared to most farms in the Lake Rotorua Catchment, has a high Nitrogen Discharge Allocation. As not all of this allocation will be required to support the proposed subdivision, a significant amount of nitrogen will become available to either sell to the Lake Rotorua Incentives Scheme or, alternatively, trade or sell on the open market.</p>

	<p>If the nitrogen is sold to the Lake Rotorua Incentives Scheme, it will be permanently retired from the catchment and will constitute a significant nutrient reduction and a contribution to improving lake water quality. On the other hand, if the excess nitrogen is traded or sold on the open market, there will be no net benefit to Lake Rotorua water quality and will potentially jeopardise the achievement of the 100 tN/yr Incentives target.</p> <p>Therefore, the BOPRC can only support this application through the Fast Track Consenting process if the applicant is prepared to sell any nitrogen not required for the subdivision to the Lake Rotorua Incentives Scheme. Otherwise, it is recommended that the application be declined and resource consent applications be processed under the standard Resource Management Act process. The applicant has previously verbally advised BOPRC that they do not wish to sell nitrogen to the incentives scheme and intend to sell it on the open market.</p>
Is Fast-track appropriate?	Refer to above comments about Lake water quality and nitrogen allocation
Environmental compliance history	<p>The Bay of Plenty Regional Council Regulatory Compliance team has researched compliance activity against Milsom, Caland Holdings Ltd and Dohnt. There was no consent or compliance history discovered relating to Dohnt, or his associated companies.</p> <p>Stuart Milsom holds resource consent RM18-0698, which authorises the discharge of dairy effluent to land and also authorises farming the land within the Lake Rotorua groundwater catchment. There has only been relatively minor non-compliance recorded over the 5 years since the consent was granted, mainly related to record keeping. No enforcement action has been taken. Staff do not deem the non-compliance to be relevant to the activity for which this application is seeking.</p> <p>The earthworks compliance staff have highlighted the need to have tight erosion and sediment controls in place for any land disturbing activity. The soils in the area can be mobile and prone to erosion. There is an extremely sensitive downstream environment (the Taniwha Springs catchment), which is also the source of a municipal water take. Taniwha Springs are very significant culturally.</p>
Reports and assessments normally required	<p>Engineering for Earthworks and Stormwater</p> <p>Earthworks Plans</p> <p>Erosion and Sediment Control Plans in accordance with the BOPRC Erosion and Sediment Control Guidelines for Land Disturbing Activities, that includes:</p> <ul style="list-style-type: none"> ○ Indicative location of treatment controls, ○ Calculations, and ○ Staging, and ○ Catchments areas etc <p>Dust management plan</p> <p>If chemical dust suppressants and flocculants are to be used then the proposed chemicals need to be identified and draft management plans provided.</p> <p>Freeboard and mitigation measures for any overland flow path obstruction.</p> <p>Maximum 1% AEP water surface elevation (m RL) in overland flow path.</p> <p>Confirmation that the overland flow path 1% AEP flood level (climate change adjusted) does not affect adjacent properties or proposed buildings.</p> <p>Stormwater design, assessment report and modelling</p> <p>A Geotechnical Investigation Report, overseen by a chartered Geotechnical Engineer</p>

	<p>Water Take</p> <p>The application is unclear about whether a water take consent is required and appears to suggest that there is a groundwater take for the property. We do not hold any record of a bore on the site. If a new bore is to be drilled then a controlled activity consent will be required for the drilling. If the water take exceeds the permitted standards then a discretionary activity consent will be required. Information requirements will include:</p> <ul style="list-style-type: none"> -a constant drawdown test and analysis by an experienced hydrogeologist -assessment of potential effects on surface water and neighbouring bore owners, specifically considering the Taniwha Springs -assessment of cultural effects, informed through consultation with the relevant iwi and hapū -assessment of aquifer use sustainability -assessment of water efficiency <p>Cultural</p> <p>The consent application should include an assessment of adverse effects on the cultural values of the relevant iwi and hapū of the area. We anticipate that this will be informed through relevant Iwi Management Plans and consultation and engagement with iwi and hapū.</p> <p>Assessment of Effects on the Environment and Policy Assessment</p> <p>An application should include an assessment of the effects on the environment (AEE) and policy assessment. For discharge consents sections 104G, 105 and 107 of the RMA should be directly addressed. Relevant policy documents may include the National Policy Statement for Urban Development, National Policy Statement for Freshwater Management, Regional Policy Statement and Regional Natural Resources Plan (RNRP). The site is within the Lake Rotorua Catchment and so the relevant policies of objectives of the RNRP regarding nutrient management within the catchment should be directly addressed.</p>
Iwi and iwi authorities	The site is within the Te Arawa Lakes Strategy Group Area and within the rohe of Ngāti Rangiwewehi and Ngāti Raukawa.
Relationship agreements under the RMA	No current Mana whakahono agreements
Insert responses to other specific requests in the Minister’s letter (if applicable)	N/A
Other considerations	N/A

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Local authority providing comment	Rotorua Lakes Council
Contact person (if follow-up is required)	Jean-Paul Gaston (DCE - District Development, Chief Executive's Group) s 9(2)(a)

Comment form

Please use the table below to comment on the application.

Project name	- Milbrow Estate
General comment – potential benefits	<ul style="list-style-type: none"> - Economic effects – Job Creation 213 FTE - \$28.3M increase to construction sector - Significant increase in housing to meet Rotorua' s general housing needs - Protection of significant inland wetlands - Reduction in Nitrogen Discharge to Lake Rotorua through retirement of farming practices
General comment – significant issues	<ul style="list-style-type: none"> - Potential adverse effects on surrounding rural community - Traffic effects on surrounding rural character (i.e. proposed increase of over 900 vehicle movements per day along McFetridge and Jackson Roads) - Applicant will need to consider the requirements of Plan Change 10 (BOPRC) for land use change within the Rotorua Catchment
Is Fast-track appropriate?	- Rotorua Lakes Council initially anticipated a private plan change process for this site. The land owner has now completed a significant amount of preliminary assessment work and Council are of the view that the application is comprehensive. Council are therefore supportive in principle of the Fast Track Planning process provided that there is meaningful public/ neighbour participation in the process.

	<ul style="list-style-type: none"> - Aligns with the Ngongotaha Growth Node as identified by the draft Rotorua Future Development Strategy.
Environmental compliance history	<ul style="list-style-type: none"> - No prior history in the Rotorua District
Reports and assessments normally required	<ul style="list-style-type: none"> - Traffic Impact Assessment - Cultural Impact Assessment - Landscape and Visual Assessment - Land Contamination Assessment - Highly Productive Land Assessment - All standards Engineering Reports including Geotech
Iwi and iwi authorities	<ul style="list-style-type: none"> - Ngati Rangiwewehi
Relationship agreements under the RMA	N/A
Insert responses to other specific requests in the Minister's letter (if applicable)	<p>1. Are there any reasons that you consider it more appropriate for the project, or part of the project, to proceed through existing Resource Management Act 1991 (RMA) consenting processes rather than the processes in the FTCA? <i>Rotorua Lakes Council are supportive of the FTCA process however we would recommend that effects on the surrounding community are carefully considered.</i></p> <p>2. Does the applicant, or a company owned by the applicant, have any environmental regulatory compliance history in your district? <i>No</i></p> <p>3. The project site is in Rural 1 zone under Rotorua District Plan. Part of the project site has Land Use Class III soil and thus meets the definition of highly productive land under the National Policy Statement for Highly Productive Land 2022 (NPS-HPL). The applicant provided an assessment that the project meets all the exemption criteria under Clause 10 of the NPS-HPL. Please advise whether the assessment is appropriate and acceptable, and whether there are any reasons that you consider the project is inconsistent with the NPS-HPL. <i>Rotorua is unique in terms of rural land use control within the Rotorua Caldera. All Rural Land (including NPS-HPL land) located in the Rotorua Caldera is subject to strict land use controls through Plan Change 10 of the Bay of Plenty Regional Land Plan. The purpose of Plan change 10 is to reduce nitrogen entering Lake Rotorua for water quality reasons. Plan change 10 places significant restrictions on all types of farming practices within the catchment. The Rotorua District Plan supports Plan Change 10 by incentivising land use change away from traditional rural land uses within the Rotorua Caldera. Perrin Ag have considered this broader local context when assessing the NPS-HPL and based on the conclusions in the Perrin Ag report we are of the opinion that the proposal meets the exemption criteria under clause 10 of the NPS-HPL.</i></p> <p>4. A consent notice restricts 89 Tauranga Direct Road, which is part of the project site, to one dwelling and the project will enable construction</p>

	<p>of 8-10 dwellings on this land. We understand that cancellation of a consent notice is a discretionary activity which can be subject to notification depending on its background history. In the case of this consent notice, please advise on the purpose of the consent notice restriction, the likely timeframe for processing an application to cancel the consent notice and whether this may impact the applicant's anticipated timeframe for project delivery. <i>At the time the consent notice was imposed the Rotorua District Plan required that a record of lifestyle lot entitlements be maintained for future owners. A consent notice was considered to be the most practical way to record lifestyle lot entitlements at this time. This method was also applied to land that had no remaining lifestyle lot entitlements. Since this consent notice was imposed the rules in the Rotorua District Plan have changed and therefore the consent notice in question does not reference an operative rule.</i></p> <p><i>If this project is approved, then Council does not see the process to remove the consent notice as an impediment to development. Council see no reason why this process cannot be carried out within the standard 20 working days.</i></p>
Other considerations	No

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Comments on applications for referral under the COVID-19 Recovery (Fast-track Consenting) Act 2020

This form is for persons requested by the Minister for the Environment to provide comments on an application to refer a project to an expert consenting panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

Organisation providing comment	Transpower New Zealand Limited
Contact person (if follow-up is required)	Jo Mooar
	Senior Corporate Counsel
	s 9(2)(a)

Comment form

Please use the table below to comment on the application.

Project name	Milbrow Estate Project
General comment	<p>Transpower has been identified as an “other person” for the purpose of section 21(3) of the COVID-19 Recovery (Fast-Track Consenting) Act 2020 (Act). Thank you for the opportunity to provide comments about the Project, and its potential impact on National Grid assets.</p> <p>Transpower’s Arapuni – Edgcumbe B (ARI-EDG-B) 110 kV National Grid transmission line traverses the northern portion of the application site, in proximity to McFetridge Drive. The line appears to extend through Proposed Lot 2 and Proposed Lot 91. The line is supported by single circuit Pi-poles, with poles ARI-EDG B0259 and B0260 located within Proposed Lot 91.</p> <p>The line is not designated, and Transpower relies on policies 2, 10 and 11 of the National Policy Statement on Electricity Transmission 2008 (NPSET) to protect the line.</p> <p>There is very little information in the application to determine whether there will be significant adverse effects on the Grid. However, there is the potential for significant adverse effects (section 19(e) of the Act) if development around the line is not appropriately designed, constructed, and the ultimate land use appropriately undertaken.</p> <p>The application correctly identifies (at page 12) that the NPSET is relevant to the application. It states that “<i>the proposed subdivision has been designed to set the only affected building platform back from the transmission line and provide the required buffer.</i>” It then states that the proposal is in accordance with the NPSET.</p> <p>Despite this very general statement, there is insufficient information in the referral application that allows us to determine whether the application is inconsistent with the NPSET (section 23(5)(c) of the Act, and whether operation, maintenance, upgrading and development of the Grid would be compromised. We are concerned that:</p>

	<ul style="list-style-type: none"> • The existence of the line is not shown on plans attached to the application; • The lot layout indicates that buildings could be built directly under the line (notwithstanding the intended setback); • Construction activities could also occur under the line, putting the line, people and property at risk; • Access to the Grid could be prevented, when access for emergency works is required at all times, and access for maintenance at all reasonable times. We have been unable to ascertain the location of Walkway 1 (within Proposed Lot 91) in relation to the National Grid support structures, and whether any planting would also impede access. <p>The potential significant adverse effects, and potential to be inconsistent with the NPSET, could be resolved through the imposition of conditions on any consent granted – once further information is available about what is intended. These conditions could be imposed by way of consent notice, to ensure future owners of the lots were aware of the need for appropriate setbacks from the line.</p>
Other considerations	<p>Should the application be accepted for referral, Transpower seeks to be invited to comment on any consent applications that are lodged with the expert consenting panel, to ensure that the line is not compromised, and significant adverse effects do not result. The Act provides for Transpower’s continued involvement as an occupier of the land on which the Project is to be undertaken (Schedule 6, clause 17(4)(g)).</p>
	<p>Click or tap here to insert responses to any specific matters the Minister is seeking your views on.</p>

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Organisation providing comment	Waka Kotahi New Zealand Transport Agency
Contact person (if follow-up is required)	Sonya McCall, Team Lead Poutiaki Taiao / Environmental Planning environmentalplanning@nzta.govt.nz

Comment form

Please use the table below to comment on the application.

Project name	Milbrow Estate
General comment	<p>Waka Kotahi NZ Transport Agency does not support referral of this application to the fast-track process for the following reasons:</p> <ul style="list-style-type: none"> • The proposed development is likely to be very car-centric and increase vehicle kilometres travelled (VKT), with limited provision for active modes and public transport. On balance, the proposal is not considered to be consistent with key aspects of the National Policy Statement on Urban Development and the Emissions Reduction Plan. • Subdivision at the density proposed is unanticipated by the District Plan, as well as current growth policies, including the Rotorua Spatial Plan. Given that the proposal constitutes a deviation from what the community and key stakeholders would anticipate, the consent process would likely benefit from wider public engagement through notification. Given that there are some fundamental policy concerns, a hearing would be beneficial for the sake of natural justice and so that matters of contention can be discussed in detail. • The Future Development Strategy (FDS) process currently underway for Rotorua considered increased amounts of residential and rural-residential growth at Hamurana (though not on this specific site) and found that scenarios with additional growth in this area performed poorly on a range of measures (including transport measures such as VKT/emissions). • If referred, appeal rights would be limited to questions of law only. Given that there are some fundamental policy concerns, this may not be appropriate.
Other considerations	N/A
[Insert specific requests for comment]	N/A

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