

FTC#247 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2022-134 Ngongotahā Housing Development Project

Date submitted:	29 May 2023	Tracking #: BRF-3072	
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. Ngongotahā Housing Development Project application and further information received (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 Watchman Residential Limited 5. Section 17 Report (Databox link) 6. Comments received from Ministers, Rotorua Lakes Council, Bay of Plenty Regional Council and Waka Kotahi New Zealand Transport Agency (Databox link) 7. Further information received post-consultation (Databox link).

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
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FTC#247: 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 Watchman Residential Limited to refer the Ngongotahā Housing Development 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-2760) with your initial decisions annotated is in Appendix 2.
3. The project is to subdivide an approximately 15.9-hectare site located at 31 Ngongotaha Road (State Highway 36), Ngongotahā, Rotorua and construct approximately 196 residential units and supporting infrastructure including roads and reserves intended to vest with Rotorua Lakes Council, accessways, car parking areas and three-waters services. The project will include construction of a new intersection with State Highway 36, landscaping and planting of open spaces and the creation of a series of artificial wetlands for flood mitigation on a large balance lot.
4. The project will involve activities such as:
 - a. subdividing land
 - b. carrying out earthworks (including disturbing potentially contaminated soil and earthworks on land susceptible to inundation)
 - c. removing vegetation
 - d. discharging stormwater (which may contain contaminants) onto land or into water
 - e. constructing residential units
 - f. developing land for private open space and public reserves, including by landscaping and planting
 - g. constructing artificial wetlands for the purpose of flood mitigation
 - h. constructing or installing infrastructure or structures, including
 - i. roads to be vested and other accessways for vehicles
 - ii. car parking areas
 - iii. infrastructure for three-waters services
 - i. any other activities that are:
 - i. associated with the activities in a to h
 - ii. within the scope of the project described in paragraph 3.
5. The project requires subdivision and land use consents under the Rotorua District Plan (RDP), land use consent and a discharge permit under the Bay of Plenty Regional Natural Resources Plan (BOPRP), and resource consent under the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).
6. The project site is located in the Rural 2 zone (Rural Lifestyle) under the RDP. The RDP notes the Rural 2 zone is typically characterised by rural-residential development and small-scale farming activities. The proposed activities would have overall non-complying activity

status under the RDP due to the density of residential subdivision and development and that some development will be located on land susceptible to inundation (earthworks are proposed to provide the necessary freeboard to all residential units).

7. The project site is owned by the Crown and the applicant has a Memorandum of Understanding in place with Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development (MHUD) to progress consenting and design works for the project. The applicant has provided a letter in support of the referral application from MHUD. We understand that MHUD acquired the land in December 2022 for the Land for Housing Programme and this project is stage one of a development intended to deliver approximately 350 residential units across the entire site.
8. The Rotorua Lakes Council (RLC) recommended to the Minister of Housing the establishment of a Special Housing Area (SHA) on the project site (under the Housing Accords and Special Housing Areas Act 2013) in 2019. The Minister acknowledged the potential benefits of the SHA to the Rotorua region but declined the recommendation and highlighted several issues, including difficulty quantifying the risk of flooding on the site, complexity of the site and potential downstream flooding effects. At that time, the Minister considered development on the site would be best progressed through a plan change under the Resource Management Act 1991 (RMA). This referral application details that flood modelling has now been undertaken and the applicant's experts consider there is an engineering solution to ensure there are no downstream flooding effects and any flooding hazards can be addressed through the FTCA process.
9. The Minister of Housing supported project referral subject to the applicant's plans being sufficiently robust to mitigate identified flooding hazards on the site to ensure houses are resilient to flooding. BOPRC opposed project referral and considered development of the site should be considered through a structure plan and plan change process under the RMA to allow cumulative stormwater and flooding issues for this project, and future stages of development on the site, to be addressed. Whilst there are known flooding issues on parts of the project site, we consider that stormwater management and flooding risks are technical matters which can be addressed through detailed design, and a panel can consider these key issues for the project in their merits-based assessment.
10. We consider there may be heightened public awareness of potential development on the site due to the previous SHA proposal and public engagement that has recently occurred. There is therefore a risk that referring the project could be viewed negatively by the wider community and this risk cannot be completely avoided. This is discussed further in the issues and risks section of this briefing.
11. 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

12. 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.
13. 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, RLC, BOPRC and Waka Kotahi New Zealand Transport Agency (Waka Kotahi) (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.

14. 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

15. In response to your request under section 22 of the FTCA the applicant provided an assessment of the project against section 104D of the Resource Management Act 1991 (RMA). We have taken this information into account in our analysis and advice.

Section 17 report

16. The Section 17 report identifies 5 iwi authorities, 4 Treaty settlements and 5 Treaty settlement entities relevant to the project area. The report also identifies additional parties which may have an interest in the project area.
17. No specific cultural or commercial redress provided under the settlements would be affected by the project.
18. The relevant Treaty settlements do not create any new co-governance or co-management processes that would affect decision-making under the RMA for the project.

Comments received

19. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i), RLC, BOPRC and Waka Kotahi. The key points of relevance to your decision are summarised in Table A.

20. [Redacted]

21. [Redacted]

22. [Redacted]

23. [Redacted]

24. [Redacted]

25. RLC supported project referral and noted stormwater needs to be carefully considered, and the project aligns with RLC strategic documents and has scored well across multiple criteria as part of RLC's draft Future Development Strategy.
26. BOPRC opposed project referral and considered development of the site should be considered through a structure plan and plan change process under the RMA to allow cumulative stormwater and flooding issues for this project, and future stages of development on the site, to be addressed. BOPRC noted there are known flooding issues on the project site and raised concerns with some proposed residential units being located within areas subject to flooding and the appropriateness of proposed flood mitigation to maintain long-term storage capacity.
27. RLC and BOPRC identified a number of reports and assessments which would normally be required for a project of this type.
28. Waka Kotahi did not oppose project referral provided appropriate mitigations are implemented. Waka Kotahi noted it is a key affected party and requested if the project is referred it is given an opportunity to provide input.

Section 18 referral criteria

29. 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)).
30. The project does not include any ineligible activities, as explained in Table A.
31. 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 providing approximately 479 direct full-time equivalent (FTE) jobs over a 5-year construction period
 - b. increase housing supply through the construction of approximately 196 residential units
 - c. progress faster than would otherwise be the case under standard Resource Management Act 1991 process
32. 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

33. 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

34. 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.
35. Section 23(5)(b) of the FTCA enables you to decline a project if it is more appropriate for the project to go through standard RMA consenting processes. We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process, particularly given the wider community may expect the project to be preceded by a

plan change, which allows for full public consultation, potential adverse flooding effects and public interest in the development of the site.

36. The site is identified as a short term priority for 'new residential' development in the RLC Spatial Plan 2018 (spatial plan). The spatial plan sets out the direction for growth and change in the district over a timeframe of 30 years and recognises the opportunity for growth in Ngongotahā where infrastructure capacity is available.
37. We consider there should be a degree of public awareness that future urban development on the site is a possibility as RLC consulted with the public and sought feedback on the spatial plan in April to October 2017. However the growth strategy is a non-statutory document that has not been through a full Schedule 1 RMA process.
38. The project has non-complying activity status under the RDP, meaning that (under clause 32 Schedule 6 of the FTCA) a panel would be required to consider whether any resource consent application for the project meets at least one of the two 'gateway tests' in section 104D of the RMA. The applicant considers the effects of the project are no more than minor and the project can therefore pass one of the limbs of the gateway test. We consider a panel will be best placed to assess the project's effects, including those relating to stormwater and flooding, with the benefit of a complete resource consent application.
39. An internet search of 31 Ngongotahā Road identified a number of media articles relating to development of the land. We understand that MHUD and the applicant have attended at least two public meetings in 2023 to discuss the development. Public reaction at the meetings was reported to be mixed and there was a focus on flooding potential. We consider there may be heightened public awareness of potential development on the site due to the previous SHA proposal and the public engagement that has recently occurred. There is therefore a risk that referring the project could be viewed negatively by the wider community and this risk cannot be completely avoided. 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), so may consult as widely as they consider appropriate, including with any parties deemed potentially affected by off-site changes to flooding as a result of the development.
40. For the reasons outlined above, we do not consider you should decline the project because it is more appropriate to go through the standard consenting process under the RMA (section 23(5)(a) of the FTCA).
41. Section 23(5)(g) enables you to decline a project if there is insufficient time for the application to be referred and considered before the FTCA is repealed. At this stage we consider there is sufficient time before 8 July 2023 for you to progress an Order in Council through Cabinet and for it to be authorised by the Executive Council, should you decide to refer the project. Therefore, we consider you should not decline to refer the project on the basis that there is insufficient time for the project to be referred and considered before the FTCA is repealed (23(5)(g)).

Other matters

42. Consent Notice 6238089.1 is registered on the record of title for the project site stating that "the owners and subsequent owners of Lot 2 DP 337743 are advised that in accordance with Rule 16.4.3.1(b) of the District Plan that no further lifestyle lots may be excised from Lot 2 DP 337743". The referral application initially identified that a variation or cancellation of the consent notice would be required for the project to proceed. The applicant also provided a letter from RLC noting the Council would undertake the appropriate assessment for removal of the consent notice in accordance with the RMA should the application be fast-tracked. The applicant subsequently provided legal commentary that, if the project is referred, it is open to a panel to grant resource consents for the project with the consent notice remaining in place,

and that the consent notice does not raise issues that would delay project delivery. RLC agreed the consent notice would not prevent project delivery.

43. BOPRC opposed project referral and considered development of the site should be considered through a structure plan and plan change process under the RMA to allow cumulative stormwater and flooding issues for this project, and future stages of development on the site, to be addressed. We consider that proceeding via a resource consent process in advance of structure planning or re-zoning is generally not regarded as good planning practice because it raises risks of fragmented or poorly integrated development, and in this case of the ability to consider flooding hazards on a catchment-wide basis. However, the FTCA does not preclude consideration of the project for this reason and we consider a panel will be best placed to assess the project's effects, including those relating to stormwater and flooding, with the benefit of a complete resource consent application. We therefore do not consider that you should decline the referral application on the basis that it does not have a structure plan or plan change in place or in progress.

Conclusions

44. We do not consider that you should decline to refer the project in whole or in part on the basis of the risks and issues identified above, provided that you also specify the applicant provides the information we recommend must be submitted with consent applications to a panel. You could accept the application under section 24 of the FTCA and refer all of the project to a panel.
45. If you decide to refer the project, we consider you should specify under section 24(2)(d) of the FTCA that the applicant must submit the following information to a panel with their consent application, in addition to the requirements of clause 9 and clause 13 of Schedule 6 of the FTCA:
 - a. a flood hazard assessment, including modelling that accounts for the effects of climate change
46. 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. Waka Kotahi New Zealand Transport Agency
 - b. Ngati Tura Ngati Te Ngākau Hapu Trust
 - c. representatives of Ngāti Tuteaiti, Ngāti Ngararanui and Ngāti Rautao hapū.

Next steps

47. 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:
 - a. Ngati Tura Ngati Te Ngākau Hapu Trust
 - b. representatives of Ngāti Tuteaiti, Ngāti Ngararanui and Ngāti Rautao hapū.
48. 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.
49. 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.

50. 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
51. 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.
52. Our recommendations for your decisions follow.

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].

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 Watchman Residential Limited unless you are satisfied that the Ngongotahā Housing Development 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.
- 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 providing approximately 479 direct full-time equivalent (FTE) jobs over a 5-year construction period
 - ii. increase housing supply through the construction of approximately 196 residential units
 - iii. progress faster than would otherwise be the case under standard Resource Management Act 1991 process

Yes/No

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 that the applicant must submit a flood hazard assessment, including modelling that accounts for the effects of climate change, as additional information with any resource consent application for the project lodged with the Environmental Protection Authority.

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. Waka Kotahi New Zealand Transport Agency
- ii. Ngati Tura Ngati Te Ngākau Hapu Trust
- iii. representatives of Ngāti Tuteaiti, Ngāti Ngararanui and Ngāti Rautao hapū

Yes/No

- k. **Agree** to copy the application and notice of decisions to the following parties additional to those specified in section 25 of the FTCA:

- i. Ngati Tura Ngati Te Ngākau Hapu Trust
- ii. representatives of Ngāti Tuteaiti, Ngāti Ngararanui and Ngāti Rautao hapū

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

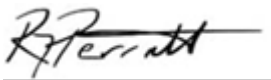
- m. **Sign** the notice of decisions letter to the applicant (attached in Appendix 4).

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



Rebecca Perrett
Acting 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 <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)?			
Name Ngongotahā Housing Development Project Applicant Watchman Residential Limited c/- Campbell Brown Planning Limited Location 31 Ngongotahā Road (State Highway 36), Ngongotahā, Rotorua	The project is to subdivide an approximately 15.9-hectare site located at 31 Ngongotahā Road (State Highway 36), Ngongotahā, Rotorua and construct approximately 196 residential units and supporting infrastructure including roads and reserves intended to vest with Rotorua Lakes Council, accessways, car parking areas and three-waters services. The project will include construction of a new intersection with State Highway 36, landscaping and planting of open spaces and the creation of a series of artificial wetlands for flood mitigation on a large balance lot. The project will involve activities such as: a. subdividing land b. carrying out earthworks (including disturbing potentially contaminated soil and earthworks on land susceptible to inundation) c. removing vegetation d. discharging stormwater (which may contain contaminants) onto land or into water e. constructing residential units f. developing land for private open space	The project is eligible for referral under section 18(3)(a)–(d) as: <ul style="list-style-type: none"> 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 the project may result in the following economic benefits: <ul style="list-style-type: none"> provide approximately 479 direct full-time equivalent (FTE) jobs over a 5-year construction period contribute approximately \$86.2 million directly to the economy Economic costs for people or industries affected by COVID-19 (19(a)) <ul style="list-style-type: none"> 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 the social wellbeing of current and future generations as it will: <ul style="list-style-type: none"> generate employment by providing approximately 479 direct FTE jobs over a 5-year construction period increase housing supply through the construction of approximately 196 residential units Potential effects on cultural wellbeing are unknown. The applicant acknowledges that if the project is referred, any consent application must be accompanied by a cultural impact assessment from relevant iwi authorities. The applicant has begun consultation with iwi authorities whose area of interest includes the area in which the project is located. Is the project likely to progress faster by using this Act? (19(c)) The applicant considers the fast-track process will allow the project to progress approximately 25 months faster than under standard Resource Management Act 1991	Ministers s 9(2)(f)(ii), s 9(2)(g)(i)	Section 23(5) matters: Insufficient information (23(5)(a)) We consider 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)) Section 23(5)(b) of the FTCA enables you to decline a project if it is more appropriate for the project to go through standard RMA consenting processes. We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process, particularly given the wider community may expect the project to be preceded by a plan change, which allows for full public consultation, potential adverse flooding effects and public interest in the development of the site. The site is identified as a short term priority for 'new residential' development in the RLC Spatial Plan 2018 (spatial plan). The spatial plan sets out the direction for growth and change in the district over a timeframe of 30 years and recognises the opportunity for growth in Ngongotahā where infrastructure capacity is available. We consider there should be a degree of public awareness that future urban development on the site is a possibility as RLC consulted with the public and sought feedback on the spatial plan in April to October 2017. However the growth strategy is a non-statutory document that has not been through a full Schedule 1 RMA process. The project has non-complying activity status under the RDP, meaning that (under clause 32 Schedule 6 of the FTCA) a panel would be required to consider whether any resource consent application for the project meets at least one of the two 'gateway tests' in section 104D of the RMA. The applicant considers the effects of the project are no more than minor and the project can therefore pass one of the limbs of the gateway tests. We consider a panel will be best placed to assess the project's effects, including those relating to stormwater and flooding, with the benefit of a complete resource consent application. An internet search of 31 Ngongotahā Road identified a number of media articles relating to development of the land. We understand that MHUD and the applicant have attended at least two public meetings in 2023 to discuss the development. Public reaction at the meetings was reported to be mixed and there was a focus on flooding potential. We consider there may be heightened public awareness of potential development on the site due to the previous SHA proposal and the public engagement that has recently occurred. There is therefore a risk that referring the project could be viewed negatively by the wider community and this risk cannot be completely avoided. If you decide to refer the	In response to key comments: <ul style="list-style-type: none"> 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) we agree with the request from Waka Kotahi that it should be given an opportunity to provide input and recommend you require a panel to invite comment from Waka Kotahi. RLC and BOPRC identified a number of reports and assessments which would normally be required for a project of this type. We consider the provision of this information is appropriately provided for by the requirements of clauses 9–11 of Schedule 6 of the FTCA, and no further direction to a panel is required.

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)?			
	<p>and public reserves, including by landscaping and planting</p> <p>g. constructing artificial wetlands for the purpose of flood mitigation</p> <p>h. constructing or installing infrastructure or structures, including:</p> <p>i. roads to be vested and other accessways for vehicles</p> <p>ii. car parking areas</p> <p>iii. infrastructure for three-waters services</p> <p>i. any other activities that are:</p> <p>i. associated with the activities in a to h</p> <p>ii. within the scope of the project described above.</p>		<p>(RMA) processes due to the potential for notification and appeals.</p> <p>Will the project result in a public benefit? (19(d))</p> <p>Based on the information provided, the project may result in the following public benefits:</p> <ul style="list-style-type: none"> • generating employment • increasing housing supply. <p>Potential to have significant adverse environmental effects, including greenhouse-gas emissions (19(e))</p> <p>The applicant considers the project has the potential for adverse environmental effects:</p> <ul style="list-style-type: none"> • during earthworks • during construction activities (including traffic, noise, vibration, sedimentation) • on access and traffic • on infrastructure provision • relating to reverse sensitivity • on landscape and visual amenity values <p>The applicant has provided some preliminary technical assessments in support of their view that the project will not have any significant adverse effects. 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.</p> <p>Other relevant matters (19(f))</p> <ul style="list-style-type: none"> • N/A 	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>Local authorities</p> <p>RLC supported project referral and noted stormwater needs to be carefully considered by the applicant and the applicant is currently directing significant resource to this area of the project. RLC also noted the project aligns with RLC strategic documents and has scored well across multiple criteria as part of RLC's draft Future Development Strategy.</p> <p>BOPRC opposed project referral and considered development of the site should be considered through a structure plan and plan change process under the RMA to allow cumulative stormwater and flooding issues for this project, and future stages of development on the site, to be addressed. BOPRC noted there are known flooding issues on the project site and raised concerns with some proposed residential units being located within areas subject to flooding and the appropriateness of proposed flood mitigation to maintain long-term storage capacity.</p> <p>RLC and BOPRC identified a number of reports and assessments which would normally be required for a project of this type.</p> <p>Other parties</p> <p>Waka Kotahi did not oppose project referral provided appropriate mitigations are implemented. Waka Kotahi noted it is a key affected party and requested if the project is referred it is given an opportunity to provide input.</p> <p>All responses received by parties invited to comment are attached in Appendix 6.</p>	<p>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), so may consult as widely as they consider appropriate, including with any parties deemed potentially affected by off-site changes to flooding as a result of the development.</p> <p>For the reasons outlined above, we do not consider you should decline the project because it is more appropriate to go through the standard consenting process under the RMA (section 23(5)(a) of the FTCA).</p> <p>Inconsistency with a national policy statement (23(5)(c))</p> <p>We do not consider the project is inconsistent with any relevant national policy statements.</p> <p>Inconsistent with a Treaty settlement (23(5)(d))</p> <p>The project is not inconsistent with Treaty Settlement redress.</p> <p>Involves land needed for Treaty settlements (23(5)(e))</p> <p>The project is located on private land which is not available for Treaty settlement purposes.</p> <p>Applicant has poor regulatory compliance (23(5)(f))</p> <p>RLDC and BOPRC have not raised concerns to indicate the applicant has a poor history of environmental regulatory compliance.</p> <p>Insufficient time for the project to be referred and considered before FTCA is repealed (23(5)(g))</p> <p>The FTCA will be repealed on 8 July 2023, meaning that a referral order must exist for the project by this date if the project's resource consent applications are to be considered by a panel under FTCA process. The timeframe for completing a referral order following a decision to refer the project is dependent on certain statutory obligations, process steps and the capacity and resourcing of officials. This is becoming increasingly time-pressured as the 8 July deadline approaches.</p> <p>At this stage we consider there is still sufficient time for an Order in Council to be considered by Cabinet and (if approved) authorised by the Executive Council, should you decide to refer the project.</p> <p>Other issues and risks:</p> <p>Consent Notice 6238089.1 is registered on the record of title for the project site stating that "the owners and subsequent owners of Lot 2 DP 337743 are advised that in accordance with Rule 16.4.3.1(b) of the District Plan that no further lifestyle lots may be excised from Lot 2 DP 337743". The referral application initially identified that a variation or cancellation of the consent notice would be required for the project to proceed. The applicant also provided a letter from RLC noting the Council would undertake the appropriate assessment for removal of the consent notice in accordance</p>	<p>There are no significant reasons to decline to refer the project. We recommend that you accept the application under section 24 of the FTCA and refer all the project to a panel.</p> <p>As there are known flooding issues on the project site, we recommend you require the applicant to provide with their consent applications to a panel:</p> <ul style="list-style-type: none"> • a flood hazard assessment, including modelling that accounts for the effects of climate change <p>We recommend you require a panel to invite comments from:</p> <ul style="list-style-type: none"> • Waka Kotahi NZ Transport Agency • Ngati Tura Ngati Te Ngākau Hapu Trust • representatives of Ngāti Tuteaiti, Ngāti Ngararanui and Ngāti Rautao hapū. <p>We recommend you provide a copy of the application and the notice of decision to the following parties in addition to those specified in section 25 of the FTCA :</p> <ul style="list-style-type: none"> • Waka Kotahi NZ Transport Agency • Ngati Tura Ngati Te Ngākau Hapu Trust • representatives of Ngāti Tuteaiti, Ngāti Ngararanui and Ngāti Rautao hapū.

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)?			
					<p>with the RMA should the application be fast-tracked. The applicant subsequently provided legal commentary that, if the project is referred, it is open to a panel to grant resource consents for the project with the consent notice remaining in place, and that the consent notice does not raise issues that would delay project delivery. RLC agreed the consent notice would not prevent project delivery.</p> <p>BOPRC opposed project referral and considered development of the site should be considered through a structure plan and plan change process under the RMA to allow cumulative stormwater and flooding issues for this project, and future stages of development on the site, to be addressed. We consider that proceeding via a resource consent process in advance of structure planning or re-zoning is generally not regarded as good planning practice because it raises risks of fragmented or poorly integrated development, and in this case of the ability to consider flooding hazards on a catchment-wide basis. However, the FTCA does not preclude consideration of the project for this reason and we consider a panel will be best placed to assess the project's effects, including those relating to stormwater and flooding, with the benefit of a complete resource consent application. We therefore do not consider that you should decline the referral application on this basis that it does not have a structure plan or plan change in place or in progress.</p>	