

FTC #166: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

Application 2022-109 Oderings Brookvale Road MDR Project

Date submitted:	20 October 2022	Tracking #: BRF-2319	
Security level:	In-Confidence	MfE priority:	Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decision on recommendations in Table A	To be advised

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

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Alison Grayston		
Acting Manager	Madeleine Berry	s 9(2)(a)	✓
Acting Director	Matthew Barbati-Ross	s 9(2)(a)	

FTC#166: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

Key messages

1. This briefing seeks your initial decisions on an application from Oderings Nurseries CHCH Limited to refer the Oderings Brookvale Road MDR Project (project) to an expert consenting panel (panel) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA).
2. The project is to subdivide an approximately 2-hectare site and construct a housing development at 55 and 57 Brookvale Road, Havelock North, Hawke's Bay. The project will create 35 residential lots and additional lots for access (including new public access points to Guthrie Park), and includes the construction of 35 residential units, private roads, a parking area for the existing Oderings Garden Centre operation, connections to and construction of three waters services. The Oderings Garden Centre is intended to continue operating, and has recently gained resource consent to establish and operate a café.
3. The project will require land use and subdivision consents under the Hastings District Plan (HDP); land use consents and discharge and water permits under the Hawke's Bay Regional Resource Management Plan (HBRRMP), and resource consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS).
4. The proposed activities would have overall non-complying activity status due to exceedances of permitted standards, including subdivision that creates lots smaller than 12 hectares within the Plains Production Zone, proposing more than one residential building on the site, breaching rural setback standards and exceeding maximum net site coverage. The activity status is subject to confirmation by Hastings District Council (HDC), and we recommend that you seek comments from HDC on the activity status of the under the Hastings District Plan.
5. Agreement from HDC Parks and Reserves will be required for the preferred option of placing stormwater infrastructure through Guthrie Park to service the project. If this cannot be obtained, on-site solutions are available.
6. Although the project site is located on LUC3 soil and will discharge stormwater into the Karitūwhenua Stream, the applicant has not provided assessments against the National Policy Statement for Freshwater Management 2020 (NPS-FM), the National Policy Statement for Highly Productive Land 2022 (NPS-HPL) and the National Environmental Standards for Freshwater 2020 (NES-F). We recommend seeking further information from the applicant, Hastings District Council and Hawke's Bay Regional Council on how the project meets the requirements of the NPS-FM, NPS-HPL and NES-F.
7. We have undertaken an initial (Stage 1) analysis of the referral application, and this is presented along with our recommendations in Table A.
8. The project meets all the eligibility criteria in section 18(3) of the FTCA, but more analysis is needed before we can advise you if it meets the purpose of the FTCA (thus satisfying section 18(2) of the FTCA and advise you on matters in section 23(5) which may influence your referral decision.
9. We recommend you progress consideration of the application to the next stage of analysis (Stage 2) and invite comments from Hastings District Council and Hawke's Bay Regional Council and specific Ministers listed in section 21(6) of the FTCA.
10. We recommend that you invite comments from the Associate Minister for the Environment (urban policy) as an additional Minister under section 21(6)(n).
11. We also recommend you request further information from the applicant, Hastings District

Council and Hawke's Bay Regional Council as detailed in Table A.


Statutory framework summary

12. You are the sole decision maker for the referral application as the project will not occur in the coastal marine area.
13. You may decline the referral application before seeking comments from the relevant local authorities and any relevant Ministers:
 - a. if you are satisfied the project does not meet the referral criteria in section 18 of the FTCA, (which include helping to achieve the purpose of the FTCA) (see sections 18(2) and 23(1) of the FTCA)
 - b. for any other reason (see section 23(2) of the FTCA).
14. If you do not decline the referral application at this stage:
 - a. you must provide the application to, and invite comments from, the relevant local authorities and the relevant Ministers prescribed by section 21(6) of the FTCA
 - b. you may provide the application to and invite comments from any other person.
15. You are also able to request further information from the applicant or any relevant local authority at any time before you decide to decline or accept the referral application (see section 22 of the FTCA).

Action sought

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

Signature



Madeleine Berry
Acting Manager – Fast-track Consenting

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

Project to progress

Project details	Project description	Project funding	Is project eligible for referral? [section 18(3)]	Will project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
<p>Name Oderings Brookvale Road MDR Project</p> <p>Applicant Oderings Nurseries CHCH Limited c/- JGH Advisory</p> <p>Location 55 & 57 Brookvale Road, Havelock North, Hawke's Bay</p>	<p>The project is to subdivide an approximately 2-hectare site and construct a housing development at 55 and 57 Brookvale Road, Havelock North, Hawke's Bay. The project will create 35 residential lots and additional lots for access (including new public access points to Guthrie Park), and includes the construction of 35 residential units, private roads, a parking area for the existing Oderings Garden Centre operation, and connections to and construction of three waters services. The Oderings Garden Centre is intended to continue operating, and has recently gained resource consent to establish and operate a café.</p> <p>The project will require land use and subdivision consents under the partially operative Hastings District Plan; land use consents, and discharge and</p>	<p>The applicant has not provided any details of funding for the project.</p> <p>The applicant also states that they have partnered with David Reid Homes, however, has not provided any track record of delivering projects.</p> <p>We recommend that you seek further information from the applicant on their ability to finance and deliver the project.</p>	<p>Based on available information at this stage, we consider the project is eligible for referral because:</p> <ul style="list-style-type: none"> it does not include any prohibited activities it does not include land returned under a Treaty settlement it does not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	<p>Based on the information provided by the applicant we consider that the project may result in the following economic benefits:</p> <ul style="list-style-type: none"> creating approximately 127 direct full-time equivalent (FTE) jobs and 123 indirect FTE jobs over a 4-year period contributing approximately s 9(2)(b)(ii) through the construction phases to GDP. 	<p>The project has the potential for positive effects on social wellbeing of current and future generations as it will:</p> <ul style="list-style-type: none"> generate employment by providing 127 direct full-time equivalent (FTE) jobs and 123 indirect FTE jobs over a 4-year period increase housing supply by enabling 35 residential units. 	<p>The applicant estimates that under a standard Resource Management Act 1991(RMA) consenting process it may take over 2 years to gain consent for the project due to the likelihood of notification and possible appeals. The applicant has not quantified the time that could be saved through the FTCA process.</p> <p>We recommend seeking further information from the applicant on expected time savings if the FTCA process is used, and comment from HDC and Hawkes Bay Regional Council (HBRC) on the appropriateness of using the FTCA process.</p>	<p>Based on the information provided by the application we consider that the project may result in the following public benefits:</p> <ul style="list-style-type: none"> generating employment increasing housing supply. contributing to a well-functioning urban environment. 	<p>The project has the potential for adverse environmental effects arising from:</p> <ul style="list-style-type: none"> earthworks construction activities increased loading on three waters infrastructure traffic loss of potentially productive rural land (LUC3) disturbance of contaminated land noise and reverse sensitivity effects from the continued operation of the garden centre. <p>The applicant has stated that the project will not have significant adverse effects and has provided some preliminary assessments in support of their view.</p> <p>We note that you do not require a full Assessment of Environment Effects and supporting evidence to make a referral decision, and a panel can consider this and any appropriate mitigation, offsetting or compensation to manage adverse effects of the development.</p> <p>We recommend seeking further comment at this stage from HDC on the potential for adverse effects on existing infrastructure (in</p>	<p>The proposed activities have overall non-complying activity status due to exceedances of permitted standards, including subdivision that creates lots smaller than 12 hectares within the Plains Production Zone, proposing more than one residential building for the site, breaching rural setback standards and exceeding maximum net site coverage. The activity status is subject to confirmation by Hastings District Council and we recommend that you seek comments from Hastings District Council on the activity status of the under the Hastings District Plan.</p> <p>The site adjacent to the project site is subject to the Brookvale Structure Plan. The project site was not included in the structure plan, however we are uncertain as to why. We recommend that you seek comments from Hastings District Council on reasons why the project was not included, given it's proximity to the area covered by the Brookvale Structure Plan. The applicant has provided a high level</p>	<p>a. Note that section 23(3) of the FTCA permits you to decline the referral application without inviting comments from the relevant local authorities and any relevant Ministers.</p> <p>b. Note that you have not yet provided the application to, nor sought any comments on it from, relevant local authorities or relevant Ministers but that you are required to do so if you do not decline the application under section 23(3) of the FTCA.</p> <p>c. Note that section 21(3) of the FTCA permits you to forward an application to, and invite written comments from, any other person.</p> <p>d. Note that section 22 of the FTCA permits you to request further information from the applicant or relevant local authorities at any time before you decide whether to accept or decline an application.</p> <p>e. Agree to progress the Oderings Brookvale Road MDR Project to our Stage 2 analysis. The project warrants further analysis because it has potential to achieve the purpose of the FTCA but we need to consider some matters further before providing you with our final advice on the referral application.</p> <p>f. Agree to provide the application to, and invite comments from:</p> <ul style="list-style-type: none"> the Ministers listed in section 21(6)(a)–(m) of the FTCA the Associate Minister for the Environment (urban policy) as an additional relevant Minister under section 21(6)(n) of the FTCA the relevant local authorities – Hastings District Council, Hawke's Bay Regional Council 	<p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Is project eligible for referral? [section 18(3)]	Will project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
	<p>water permits under the Regional Resource Management Plan for Hawkes Bay, and resource consent under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.</p> <p>Agreement from HDC Parks and Reserves will be required for the preferred option of placing stormwater infrastructure through Guthrie Park to service the project. If this cannot be obtained, on-site solutions are available.</p> <p>Although the project site is located on LUC3 soil and will discharge stormwater into the Karituwhenua Stream, the applicant has not provided assessments against the National Policy Statement for Freshwater Management 2020 (NPS-FM), the National Policy Statement for Highly Productive Land</p>							<p>particular, the stormwater infrastructure through Guthrie Park).</p>	<p>s104D RMA assessment to address the non-complying nature of the activity. The assessment states that the project will not generate more than minor adverse effects on the environment and is not contrary to any plan so therefore meets both 'gateway tests'.</p> <p>The applicant has stated that along with the continued operation of the garden centre, a resource consent has recently been granted for a café (as part of the garden centre). We recommend asking the applicant to provide a copy of the café consent, as well as provide commentary on if the project will impact/affect compliance with their existing operational consent.</p> <p>We have noted discrepancies between the landscape master plan and the plan shown in the detailed site investigation report. We recommend seeking clarification from the applicant as to which plan is correct.</p> <p>Although the project site is located on LUC3 soil and will discharge stormwater into the Karituwhenua Stream, the applicant has not provided assessments against</p>	<p>g. Agree to seek further information from the applicant on, funding arrangements, ability to deliver the project, time saved by using the FTCA process, assessments of the project against the NPS-FM, NPS-HPL and NES-F, a copy of and commentary on the café resource consent and how the consent interacts with the project, and clarification of discrepancies between plans submitted as part of the project.</p> <p>h. Agree to seek further information from Hastings District Council on the appropriateness of using the FTCA process, potential effects on infrastructure, confirmation of the activity status of the project, assessments of the project against the NPS-FM, NPS-HPL and NES-F and the reasons why the project site was not included in the Brookvale Structure Plan.</p> <p>i. Agree to seek further information from Hawke's Bay Regional Council on the appropriateness of using the FTCA process and assessments of the project against the NPS-FM, NPS-HPL and NES-F.</p> <p>j. Sign the attached letters to Ministers.</p> <p>k. Note that while awaiting comments from invited parties and further information, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations – Te Arawhiti, prepare a report for the purpose of section 17 of the FTCA.</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Is project eligible for referral? [section 18(3)]	Will project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
	2022 (NPS-HPL) and the National Environmental Standards for Freshwater 2020 (NES-F).								the National Policy Statement for Freshwater Management 2020 (NPS-FM), the National Policy Statement for Highly Productive Land 2022 (NPS-HPL) and the National Environmental Standards for Freshwater 2020 (NES-F). We recommend seeking further information from the applicant, HDC and HBRC on how the project meets the requirements of the NPS-FM, NPS-HPL and NES-F.		

Signed:

Hon David Parker
Minister for the Environment

Date: