

FTC#245 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2023-137 Plimmerton Farm Stage One Project

Date submitted:	29 May 2023	Tracking #: BRF-3078	
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. Plimmerton Farm Stage One 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 KM and MG Holdings Limited 5. Section 17 Report (Databox link) 6. Comments received from Ministers, Porirua City Council, Greater Wellington Regional Council, Wellington Water Limited 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#245: 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 KM and MG Holdings Limited to refer the Plimmerton Farm Stage One 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-2895) with your initial decisions annotated is in Appendix 2.
3. The project is to subdivide approximately 383 hectares of land located at 18 State Highway 59, Plimmerton, Porirua City, and construct a residential development comprising of approximately 1044 residential units in a range of typologies, including approximately 305 residential units in approximately 35 apartment buildings up to 4 storeys high, and terraced, duplex and detached houses. Approximately 209 of the residential units are intended to be constructed by third parties. The project will also create six super lots¹ and a balance lot, and includes developing land for open space, reclamation of streams and natural inland wetlands, and ecological restoration.
4. The project includes works within the James Street road reserve to upgrade site access and within the State Highway 59 road reserve to form a new pedestrian/cycle crossing, and the construction of supporting infrastructure, including roads and reserves intended to vest with Porirua City Council (PCC), accessways and for three-waters services.
5. The project will involve activities such as:
 - a. subdividing land
 - b. carrying out earthworks (including earthworks within, and within 10 metres of, a natural inland wetland that results in and is likely to result in the partial drainage of all or part of the wetland)
 - c. removing vegetation (including within a Significant Natural Area as defined in the Porirua City Operative District Plan, and within, and within 10 metres of, a natural inland wetland)
 - d. diverting and discharging stormwater (which may contain contaminants) onto land or into water (including within 100 metres of a natural inland wetland)
 - e. reclaiming natural stream beds
 - f. constructing residential units
 - g. constructing or installing infrastructure or structures, including roads and accessways, and infrastructure for three waters services, including culverts in the beds of streams
 - h. developing land for private open space and public reserves, including by landscaping and planting, and restoring natural inland wetlands
 - i. carrying out other activities that are:
 - i. associated with the activities described in paragraphs (a) to (h); and

¹ Large scale lots for future subdivision and development.

ii. within the scope of the project as described in paragraphs 3 and 4.

6. The project will require subdivision and land use consents under the Porirua City District Plan (PCDP), land use consent and discharge permits under the Proposed Natural Resources Plan for the Wellington Region (PNRP), and land use consent under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F). The applicant considers the proposed activities have discretionary activity status under the PCDP and NES-F, however will be non-complying overall under the PNRP due to works within a natural inland wetland. PCC considered the project may have non-complying activity status under the PDCP, but acknowledged this does not change the overall activity status identified by the applicant.
7. The project site is located within the Plimmerton Farm Zone (PFZ) in the PCDP. The PFZ became operative in May 2021 following your decision to approve Plan Change 18 using a Streamlined Planning Process (SPP) under the Resource Management Act 1991 (RMA). The PFZ seeks to balance demand for residential development, environmental protection and infrastructure provision through implementation of the Plimmerton Farm Precinct Plan (PFPP) which is included in the PCDP. The residential development under this project will occur within Precinct A of the PFPP that is intended as medium density residential and the applicant considers the project generally aligns with the precinct outcomes. PCC commented that the overall development may be consistent with the planned urban built environment provided for through the PFZ.
8. PCC notified Plan Change 19 – Plimmerton Farm Intensification (PC19) in August 2022 to amend the PFZ provisions to incorporate the Medium Density Residential Standards (MDRS), allow for greater residential density close to the Plimmerton train station, and give effect to the National Policy Statement on Urban Development 2020 (NPS-UD). PC19 proposes to increase the residential density within Precinct A of the PFPP, enabling a higher density of development than proposed for this project. Hearings for PC19 have concluded and a decision is expected no later than August 2023.
9. PCC supported project referral and noted the project could have significant benefits for Porirua. PCC considered the project may be consistent with the planned urban built development in the PFZ but noted a range of matters that will need careful consideration including infrastructure provision, infrastructure and land vesting, alignment with the district plan and environmental protection. PCC noted a number of parties, including plan change submitters, that they considered to be interested in the project and recommended they be invited to comment on any application.
10. GWRC opposed project referral and considered the project should be considered under standard processes under the RMA to allow for public notification and additional time to ensure all potential adverse effects, particularly on wetlands and streams, are fully considered, and a strategic lens is applied. GWRC raised concerns regarding significant public interest in development of the site and proximity to the Tāupo Swamp which is identified as an outstanding water body with outstanding indigenous biodiversity values under the PNRP. We consider the project meets the purpose of the FTCA and the concerns raised by GWRC are not reasons you should decline the referral application. These matters are 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, PCC, GWRC, Wellington Water Limited (WWL) 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 updated economic assessment. We have taken this information into account in our analysis and advice.


Section 17 report

16. The Section 17 report identifies one iwi authority, one Treaty settlement and one Treaty settlement entity relevant to the project area. The relevant Treaty settlement does not create any new co-governance or co-management processes that would affect decision-making under the Resource Management Act 1991 (RMA) for the project.

Comments received

17. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i) PCC, GWRC, WWL and Waka Kotahi. The key points of relevance to your decision are summarised in Table A.
18. s 9(2)(f)(ii), s 9(2)(g)(i)
[Redacted]
19. s 9(2)(f)(ii), s 9(2)(g)(i)
[Redacted]
20. s 9(2)(f)(ii), s 9(2)(g)(i)
[Redacted]
21. s 9(2)(f)(ii), s 9(2)(g)(i)
[Redacted]

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



23. PCC noted that in August 2022 Kāinga Ora announced that the NGA, inclusive of the project site, was selected for assessment as a SDP and PCC is working with Kāinga Ora to progress the assessment process. PCC noted the SDP process may result in new processes⁴ for considering proposals for development of the project site in the future, however PCC understand these would run parallel to the consenting process under the FTCA.
24. PCC supported project referral and noted the project could have significant benefits for Porirua. PCC considered the project may be consistent with the planned urban built development in the PFZ but noted a range of matters that will need careful consideration including infrastructure provision, infrastructure and land vesting, alignment with the district plan and environmental protection. PCC noted the SPP for the PFZ attracted a number of submissions from interested parties and PCC considered if the project is referred, it may be appropriate to direct a panel to invite comments from the submitters. PCC also considered that PowerCo Limited should be invited to comment due to the existing high-pressure gas main within the project site and noted the project may have non-complying activity status under the PCDP, but acknowledged this does not change the overall activity status identified by the applicant.
25. PCC also confirmed that 24 original submissions were received for PC19 and that hearings have concluded, and a decision is anticipated prior to August 2023.
26. GWRC opposed project referral and considered the project should be considered under standard processes under the RMA to allow for public notification and additional time to ensure all potential adverse effects, particularly on wetlands and streams, are fully considered, and a strategic lens is applied. GWRC noted there is significant public, community group and stakeholder interest in the development of the site, the Tāupo Swamp is located downstream and is identified as an outstanding water body with outstanding indigenous biodiversity values under the PNRP, and the PNRP provides strong direction on the protection of wetlands and streams.
27. PCC and GWRC noted several reports and assessments that would normally be required for a project of this type.
28. WWL neither supported nor opposed project referral and noted the location and form of three-waters infrastructure will need to be developed in liaison with PCC and WWL, and where possible integrated with infrastructure to service other developments, rather than this project only.
29. Waka Kotahi did not oppose project referral and noted it is a key affected party and requested if the project is referred it is given an opportunity to provide input.

² The Urban Development Act 2020 establishes the Specified Development Project (SDP) process, which enables Kāinga Ora to initiate, facilitate and undertake transformational, complex urban development that contributes to sustainable, inclusive, and thriving communities. SDPs must be established in consultation with councils, iwi/Māori, and private developers.

³ The Northern Growth Area (NGA) is 1,036 hectares of greenfield land identified by Kāinga Ora as a future urban growth area in the north of Porirua City. The NGA is made up of seven major land holdings, including the project site, serviced by the Kapiti rapid transit rail service to Wellington City via Porirua City.

⁴ Kāinga Ora would become the consent authority for resource consent applications for the project area as defined in an operative development plan.

Section 18 referral criteria

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 585 direct, and 585 indirect, full-time equivalent jobs over an approximately 7-year design and construction period
 - b. increase housing supply through the construction of approximately 835 residential units and enable the future construction of approximately 209 residential units
 - c. progress faster than would otherwise be the case under standard RMA 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 processes, particularly given the high public interest and potential adverse effects on wetlands and streams identified by GWRC, submitter involvement on the SPP for the PFZ highlighted by PCC, and PC19 being in progress.
36. The project has non-complying activity status under the PNRP, 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's ecology expert notes the project will avoid the highest value ecological features on the site and considers there are a range of accepted management tools, and opportunities on the site to address, and where necessary mitigate and offset, the potential adverse ecological effects associated with the development. The applicant considers the project will pass both gateway tests. We consider a panel will be best placed to assess the project's effects with the benefit of a complete resource consent application.
37. GWRC noted there is significant public, community group and stakeholder interest in the development of the site and PCC noted the SPP for the PFZ attracted a number of submissions from interested parties. PCC considered if the project is referred, it may be appropriate to direct a panel to invite comments from the submitters. We consider there are risks that referring the project could be viewed negatively by the wider community, particularly the 138 submitters on the SPP, who may expect to be involved in a standard consenting process under the RMA. However, we note the PFZ became operative in May 2021 and the applicant considers the land use and residential density under this project generally aligns with the PFZ outcomes. PCC also considered the project may be consistent with the planned urban built development in the PFZ. We therefore do not consider it necessary for a panel to

be directed to invite comments from submitters on the SPP.

38. We note that PC19 is relevant to the project site and PCC noted 24 original submissions have been received, and a decision is anticipated prior to August 2023. PC19 proposes to increase the residential density within Precinct A of the PFPP, enabling a higher density of development than proposed for this project. PCC noted the project would likely assist in achieving the objectives of PC19 and the NPS-UD to achieve a well-functioning urban environment and provide housing choice. We consider there are risks that referring the project could be viewed negatively by the 24 submitters on PC19 and we have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process following decisions on PC19. However, whilst PC19 seeks to enable urban intensification it does not require it. We note the project proposes a lesser density of development than anticipated by PC19 but will generally align with the PFZ and with PC19 outcomes. We therefore do not consider it necessary for a panel to be directed to invite comments from submitters on PC19.
39. We note that 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.
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) and we also do not consider it necessary for a panel to be directed to invite comments from submitters on the SPP for PFZ or PC19.
41. The NPS-UD and National Policy Statement for Freshwater Management 2020 (NPS-FM) are both relevant to the project and if you decide to refer the project a panel must have regard to any relevant provisions of these policy statements when considering a consent application. The applicant considers the project is consistent with the objectives and policies of the NPS-UD and has provided a high-level assessment against the NPS-FM and NES-F concluding that the 2022 amendments to the NPS-FM and NES-F have provided a pathway for the project (deemed urban development) as a restricted discretionary activity. We do not consider that you should decline the referral application on the basis that it would be inconsistent with a relevant national policy statement (section 23(5)(c)).
42. Section 23(5)(f) enables you to decline a referral application if the applicant has a poor history of environmental regulatory compliance. GWRC did not identify any environmental regulatory compliance history for the applicant (KM and MG Holdings Limited) but noted that both company directors, Malcom Gilles and Kevin Melville, have an enforcement history under the RMA. In 2014 Malcolm Gillies was prosecuted for unauthorised burning, unauthorised stream works and associated discharges of sediment, the director pleaded guilty and was fined \$15,000.00 and no further action was taken. Abatement notices have been issued to Kevin Melville at the time of historical works requiring activities to cease. We note GWRC has not identified any current or outstanding compliance concerns and the applicant notes the application will be supported by technical reports and proposed conditions of consent to mitigate effects. We do not consider that you should decline the referral application on the basis of section 23(5)(f) of the FTCA (poor history of environmental regulatory compliance).
43. 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

44. WWL noted the current three-waters networks are at capacity and are unable to support further growth in this area without on-site mitigation and/or wider network upgrades. WWL noted the applicant proposes to provide on-site mitigation to manage the impact of the development on the downstream three-waters networks and WWL generally supported this noting the location and form of infrastructure will need to be developed in liaison with PCC and WWL, and where possible integrated with infrastructure servicing other developments. The applicant advised that any new and upgraded infrastructure required to service the project will be completed at their cost as part of project delivery. We consider a panel is able to consider and address this issue (with the benefit of a resource consent application provided by the applicant), and that this does not preclude project referral.
45. An existing gas line and an easement to supply gas, in favour of The Hutt Valley Electric Power and Gas Board, extends across the project site. The applicant notes the project has been designed to generally avoid the gas line and easement but it will be affected by the proposed roading alignment. The applicant advised the gas line is now owned by Powerco Limited and initial consultation with them has been undertaken. No comments on the referral application were received from Powerco Limited. We consider a panel is able to consider and address this issue and that this does not preclude project referral. We recommend that you direct a panel to invite Powerco Limited to comment on any resource consent applications for the project.
46. s 9(2)(f)(ii), s 9(2)(g)(i)

Conclusions

47. 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. You could accept the application under section 24 of the FTCA and refer all of the project to a panel.
48. If you decide to refer the project, we do not consider that you need to specify any additional information that the applicant must submit to a panel under s 24(2)(d) of the FTCA.
49. 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. Kāinga Ora – Homes and Communities
 - c. PowerCo Limited
 - d. Wellington Water Limited

Next steps

50. 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 Kāinga Ora – Homes and Communities.
51. 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.
52. We have attached a notice of decisions letter to the applicant based on our recommendations (refer Appendix 4). Once you have signed the letter we will assist your office to copy it to all relevant parties.
53. 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.⁵
54. 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.
55. Our recommendations for your decisions follow.

⁵ 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 KM and MG Holdings Limited unless you are satisfied that the Plimmerton Farm Stage One Project (project) meets the referral criteria in section 18 of the FTCA including that it would help to achieve the FTCA's purpose.
 - b. **Note** when assessing whether the project would achieve the FTCA's purpose, you may consider a number of matters under section 19, including the project's economic benefits and costs, and effects on social or cultural well-being; whether it may result in a public benefit (such as generating employment or increasing housing supply); and whether it could have significant adverse effects.
 - c. **Note** before deciding to accept the application for project referral under section 24(1) of the FTCA you must consider:
 - i. the application
 - ii. the report obtained under section 17 of the FTCA
 - iii. any comments and further information sought and provided within the required timeframe.
 - d. **Note** if you are satisfied that all or part of the project meets the referral criteria in section 18 of the FTCA you may:
 - i. refer all or part of the project to an expert consenting panel (panel)
 - ii. refer the initial stages of the project to a panel while deferring decisions about the project's remaining stages
 - iii. still decline the referral application for any reason under section 23(2) of the FTCA.
 - e. **Note** if you do refer all or part of the project you may:
 - i. specify restrictions that apply to the project
 - ii. specify the information that must be submitted to a panel
 - iii. specify the persons or groups from whom a panel must invite comments
 - iv. set specific timeframes for a panel to complete their process.
 - f. **Agree** the project meets the referral criteria in section 18(3) of the FTCA.
- Yes/No
- g. **Agree** the project will help achieve the purpose of the FTCA (and therefore meets the referral criteria in section 18(2) of the FTCA) as it has the potential to:
 - i. generate employment by providing approximately 585 direct, and 585 indirect, full-time equivalent jobs over an approximately 7-year design and construction period
 - ii. increase housing supply through the construction of approximately 835 residential units and enable the future construction of approximately 209 residential units
 - iii. progress faster than would otherwise be the case under standard Resource Management Act 1991 process.

Yes/No

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

Yes/No

- i. **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 the parties listed in clause 17 of Schedule 6 of the FTCA:

- i. Waka Kotahi New Zealand Transport Agency
- ii. Kāinga Ora – Homes and Communities
- iii. Powerco Limited
- iv. Wellington Water Limited

Yes/No

- j. **Agree** to copy the application and notice of decisions to Kāinga Ora – Homes and Communities in addition to those parties specified in section 25 of the FTCA.

Yes/No

- k. **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

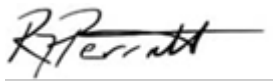
- l. **Sign** the notice of decisions letter to the applicant (attached in Appendix 4).

Yes/No

- m. **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 - does the project help achieve the purpose of the FTCA (as per section 19)?			
Name Plimmerton Farm Stage One Project Applicant KM and MG Holdings Limited c/- Stephanie Blick Location 18 State Highway 59, Plimmerton, Porirua (Lot 2 DP 489799)	<p>The project is to subdivide approximately 383 hectares of land located at 18 State Highway 59, Plimmerton, Porirua City, and construct a residential development comprising of approximately 1044 residential units in a range of typologies, including approximately 305 residential units in approximately 35 apartment buildings up to 4 storeys high, and terraced, duplex and detached houses. Approximately 209 of the residential units are intended to be constructed by third parties. The project will also create six super lots and a balance lot, and includes developing land for open space, reclamation of streams and natural inland wetlands, and ecological restoration.</p> <p>The project includes works within the James Street road reserve to upgrade site access and within the State Highway 59 road reserve to form a new pedestrian/cycle crossing, and the construction of supporting infrastructure, including roads and reserves intended to vest with Porirua City Council (PCC), accessways and three-waters services.</p> <p>The project will involve activities such as:</p> <ol style="list-style-type: none"> subdividing land carrying out earthworks (including earthworks within, and within 10 metres of, a natural inland wetland) removing vegetation (including within a Significant Natural Area as defined in the Porirua City Operative District Plan, and within, and within 10 metres of, a natural inland wetland that result in the partial drainage of all or part of the wetland) diverting and discharging stormwater (which may contain contaminants) onto land or into water (including within 100 	<p>The project is eligible for referral under section 18(3)(a)–(d) as:</p> <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. <p>The applicant notes the project has had significant delays getting to this point due to the previous wetland reclamation provisions in the National Policy Statement for Freshwater Management (NPS-FM) and NES-F. The applicant considers the 2022 amendments to the NPS-FM and NES-F have provided a pathway for the project (deemed urban development) as a restricted discretionary activity. The NES-F provides that some activities in a natural inland wetland are prohibited, but we are satisfied that the project will not include prohibited activities.</p>	<p>Economic benefits for people or industries affected by COVID-19 (19(a))</p> <p>The applicant estimates the project will:</p> <ul style="list-style-type: none"> provide approximately 585 direct, and 585 indirect, full-time equivalent jobs over an approximately 7-year design and construction period s 9(2)(b)(ii) <p>Effect on the social and cultural well-being of current and future generations (19(b))</p> <p>The applicant considers the project will provide for social wellbeing by providing approximately 835 residential units and enabling the future construction of approximately 209 residential units in an area the applicant considers has a housing shortfall, creating economic benefits and generating employment and providing opportunities for recreation and public amenity.</p> <p>Is the project likely to progress faster by using this Act? (19(c))</p> <p>The applicant estimates the FTCA process will allow the project to progress 18 months faster than under standard RMA processes due to the likelihood of notification and a hearing and potential for appeals under standard process. We consider the applicant's estimate to be reasonable.</p> <p>Will the project result in a public benefit? (19(d))</p> <p>Based on the applicant's information we consider the project may result in the following public benefits:</p> <ul style="list-style-type: none"> generating employment increasing housing supply 	<p>Ministers</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p>	<p>Section 23(5) matters:</p> <p>Insufficient information (23(5)(a))</p> <p>The applicant has provided sufficient information for you to determine whether the project meets the criteria in section 18 of the FTCA.</p> <p>More appropriate to go through standard RMA process (23(5)(b))</p> <p>We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting processes, particularly given the high public interest and potential adverse effects on wetlands and streams identified by GWRC, submitter involvement on the SPP for the PFZ highlighted by PCC, and PC19 being in progress.</p> <p>The project has non-complying activity status under the PNRP, 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's ecology expert notes the project will avoid the highest value ecological features on the site and considers there are a range of accepted management tools, and opportunities on the site to address, and where necessary mitigate and offset, the potential adverse ecological effects associated with the development. The applicant considers the project will pass both gateway tests. We consider a panel will be best placed to assess the project's effects with the benefit of a complete resource consent application.</p> <p>GWRC noted there is significant public, community group and stakeholder interest in the development of the site and PCC noted the SPP for the PFZ attracted a number of submissions from interested parties. PCC considered if the project is referred, it may be appropriate to direct a panel to invite comments from the submitters. We consider there are risks that referring the project could be viewed negatively by the wider community, particularly the 138 submitters on the SPP, who may expect to be involved in a</p>	<p>In response to key comments:</p> <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 note that PCC and GWRC identified a number of reports and assessments which would normally be required for a project of this type. We consider these reports are generally covered by the requirements of clause 9 Schedule 6 of the FTCA and PCC and GWRC will have the opportunity to comment on a resource consent application to a panel. We therefore do not consider you need to require the applicant to provide all the information specified

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		Project eligibility for referral (section 18(3)(a)–(d))	Section 18 - does the project help achieve the purpose of the FTCA (as per section 19)?			
	<p>metres of a natural inland wetland)</p> <p>e. reclaiming natural stream beds</p> <p>f. constructing residential units</p> <p>g. constructing or installing infrastructure or structures, including roads and accessways, and infrastructure for three waters services, including culverts in the beds of streams</p> <p>h. developing land for private open space and public reserves, including by landscaping and planting, and restoring natural inland wetlands</p> <p>i. carrying out other activities that are:</p> <p>i. associated with the activities described in paragraphs (a) to (h); and</p> <p>ii. within the scope of the project as described in paragraphs above.</p> <p>The project will require subdivision and land use consents under the Porirua City District Plan (PCDP), land use consent and discharge permits under the Proposed Natural Resources Plan for the Wellington Region (PNRP), and land use consent under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F). The applicant considers the proposed activities have discretionary activity status under the PCDP and NES-F, however will be non-complying overall under the PNRP due to works within a natural inland wetland. PCC considered the project may have non-complying activity status under the PDCP, but acknowledged this does not change the overall activity status identified by the applicant.</p>		<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 including:</p> <ul style="list-style-type: none"> • effects on landscape and visual amenity values • access and traffic effects • ecological effects, including on wetlands • temporary construction effects, including noise and vibration • effects relating to urban design and residential character • geotechnical effects • cultural and archeological effects. <p>The applicant has confirmed that specialists have prepared technical assessments on the above matters. The applicant considers the project will not result in significant adverse environmental effects.</p> <p>We note that you do not require a full Assessment of Environment Effects and supporting evidence to make a referral decision, and that a panel will consider the significance of effects and appropriate mitigation should the project be referred.</p>	<p>Local authorities</p> <p>PCC supported project referral and noted the project could have significant benefits for Porirua. PCC considered the project may be consistent with the planned urban built development in the PFZ but noted a range of matters that will need careful consideration including infrastructure provision and vesting, alignment with the district plan, vesting of land for reserves and infrastructure and infrastructure and environmental protection. PCC noted the SPP for the PFZ attracted a number of submissions from interested parties and PCC considered if the project is referred, it may be appropriate to direct a panel to invite comments from the submitters. PCC also considered that PowerCo Limited should be invited to comment due to the existing high pressure gas main within the project site and noted the project may have non-complying activity status under the PCDP, but acknowledged this does not change the overall activity status identified by the applicant.</p> <p>PCC noted that in August 2022 Kāinga Ora announced that the Northern Growth Area, inclusive of the project site, was selected for assessment as a SDP and PCC is working with Kāinga Ora to progress the assessment process. PCC noted the SDP process may result in new processes for considering proposals for development of the project site in the future, however PCC understand these would run parallel to the consenting process under the FTCA.</p> <p>PCC also confirmed that 24 original submissions were received for PC19 and that hearings have concluded, and a decision is anticipated prior to August 2023.</p> <p>GWRC opposed project referral and considered the project should be considered under standard processes under the RMA to allow for public notification and additional time to ensure all potential adverse effects, particularly on wetlands and streams, are fully considered, and a strategic lens is applied. GWRC noted there is significant public, community group and stakeholder interest in the development of the site, the Tāupo Swamp is located downstream and is identified as an outstanding water body with outstanding indigenous biodiversity values under the PNRP, and the PNRP provides strong direction on the protection of wetlands and streams.</p> <p>PCC and GWRC noted several reports and assessments that would normally be required for a project of this type.</p> <p>Other parties</p> <p>WWL neither supported nor opposed project referral and noted the location and form of three-waters infrastructure will need to be developed in liaison with PCC and WWL, and where possible integrated with infrastructure to service other developments, rather than this project only. Waka Kotahi did not oppose project referral and noted it is a key affected party and requested if the project is referred it is given an opportunity to provide input.</p>	<p>standard consenting process under the RMA. However, we note the PFZ became operative in May 2021 and the applicant considers the land use and residential density under this project generally aligns with the PFZ outcomes. PCC also considered the project may be consistent with the planned urban built development in the PFZ.</p> <p>We note that PC19 is relevant to the project site and PCC noted 24 original submissions have been received, and a decision is anticipated prior to August 2023. PC19 proposes to increase the residential density within Precinct A of the PFPP, enabling a higher density of development than proposed for this project. PCC noted the project would likely assist in achieving the objectives of PC19 and the NPS-UD to achieve a well-functioning urban environment and provide housing choice. We consider there are risks that referring the project could be viewed negatively by the 24 submitters on PC19 and we have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process following decisions on PC19. However, whilst PC19 seeks to enable urban intensification it does not require it. We note the project proposes a lesser density of development than anticipated by PC19 but will generally align with the PFZ, and with PC19 outcomes. We therefore do not consider it necessary for a panel to be directed to invite comments from submitters on PC19. We note that 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.</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) and we also do not consider it necessary for a panel to be directed to invite comments from submitters on the SPP for PFZ or PC19.</p>	<p>by PCC and GWRC in their resource consent applications to a panel.</p> <p>We do not consider you should decline to refer the project in whole or in part on the basis of the issues and risks identified. We recommend that you accept the application under section 24 of the FTCA and refer all of the project to a panel.</p> <p>We recommend you direct a panel to invite comment on any resource consent applications for the project from:</p> <ul style="list-style-type: none"> • Waka Kotahi New Zealand Transport Agency • Kāinga Ora – Homes and Communities • Powerco Limited • Wellington Water Limited. <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"> • Kāinga Ora – Homes and Communities.

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				<p>All responses received by parties invited to comment are attached in Appendix 6.</p>	<p>Inconsistency with a national policy statement (23(5)(c))</p> <p>The National Policy Statement on Urban Development 2020 (NPS-UD) and National Policy Statement for Freshwater Management 2020 (NPS-FM) are both relevant to the project and if you decide to refer the project a panel must have regard to any relevant provisions of these policy statements when considering a consent application. The applicant considers the project is consistent with the objectives and policies of the NPS-UD and has provided a high- level assessment against the NPS-FM and NES-F concluding that the 2022 amendments to the NPS-FM and NES-F have provided a pathway for the project (deemed urban development) as a restricted discretionary activity. We do not consider that you should decline the referral application on the basis that it would be inconsistent with a relevant national policy statement (section 23(5)(c)).</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>PCC did not identify a poor history of environmental regulatory compliance for the applicant.</p> <p>GWRC did not identify any environmental regulatory compliance history for the applicant (KM and MG Holdings Limited) but noted that both company directors Malcolm Gillies and Kevin Melville, have an enforcement history. In 2014 Malcolm Gillies was prosecuted for unauthorised burning, unauthorised stream works and associated discharges of sediment, the director pleaded guilty and was fined \$15,000.00 no further action was taken. Abatement notices have been issued to Kevin Melville at time of historical works requiring activities to cease. We note GWRC has not identified any current or outstanding compliance concerns and the</p>	

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					<p>applicant notes the application will be supported by technical reports and proposed conditions of consent to mitigate effects. We do not consider that you should decline the referral application on the basis of section 23(5)(f) of the FTCA (poor history of environmental regulatory compliance).</p> <p>Insufficient time for the project to be referred and considered before FTCA 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>WWL noted the current three-waters networks are at capacity and are unable to support further growth in this area without on-site mitigation and/or wider network upgrades. WWL noted the applicant proposes to provide on-site mitigation to manage the impact of the development on the downstream three-waters networks and WWL generally supported this noting the location and form of infrastructure will need to be developed in liaison with PCC and WWL, and where possible integrated with infrastructure servicing other developments. The applicant advised that any new and upgraded infrastructure required to service the project will be completed at their cost as part of project delivery. We consider a panel is able to consider and address this issue (with the benefit of a resource consent application provided by the applicant), and that this does not preclude project referral.</p>	

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					<p>An existing gas line and an easement to supply gas, in favor of The Hutt Valley Electric Power and Gas Board, extends across the project site. The applicant notes the project has been designed to generally avoid the gas line and easement but it will be affected by the proposed roading alignment. The applicant advised the gas line is now owned by Powerco Limited and initial consultation with them has been undertaken. No comments on the referral application were received from Powerco Limited. We consider a panel is able to consider and address this issue and that this does not preclude project referral, and we recommend that you direct a panel to invite Powerco Limited to comment on any resource consent applications for the project.</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p>	