



## FTC #211: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

### Application 2022-135 Rotokauri Greenway and Minor Arterial Project

Date submitted:	5 April 2023	Tracking #: BRF-2936	
Security level:	In-Confidence	MfE priority:	Urgent

	<b>Action sought:</b>	<b>Response by:</b>
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"> <li><b>Return</b> the signed briefing to MfE.</li> <li><b>Send</b> attached letters (if signed) with accompanying template and links to application documents.</li> </ol>
Number of attachments: 3	<p>Attachments:</p> <ol style="list-style-type: none"> <li>Application documents for Rotokauri Greenway and Minor Arterial Project (pdf/Databox link)</li> <li>Letter to Ministers – inviting comments on Rotokauri Greenway and Minor Arterial Project referral</li> <li>Map of project location</li> </ol>

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author	Max Gander-Cooper		
Acting Manager	Rebecca Perrett	s 9(2)(a)	✓
Acting Director	Lorena Stephen	s 9(2)(a)	

## **FTC#211: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions**

### **Key messages**

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1. This briefing seeks your initial decisions on an application from Hounsell Holdings Limited and Hamilton City Council to refer the Rotokauri Greenway and Minor Arterial 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 construct certain aspects of a 4.7-kilometre stormwater management corridor ('Rotokauri Greenway') between Lake Waiwhakareke and Lake Rotokauri, and a 3.8-kilometre transport corridor ('Minor Arterial') between Te Wetini Drive and 153 Te Kowhai Road, Rotokauri, Hamilton. The project includes constructing artificial wetlands, landscaping and planting, upgrading the Rotokauri Drain and culvert below Exelby Road, and constructing three-waters infrastructure including a watermain, wastewater pipeline and pump station.
3. The proposed Rotokauri Greenway is already designated for the purpose of stormwater management (Designation A114 in the Hamilton City District Plan, administered by Hamilton City Council (HCC) as the Requiring Authority). Some activities associated with establishment of the stormwater management corridor and construction of shared pedestrian and cycle paths alongside the corridor that are enabled by the designation will be undertaken concurrently with the project.
4. Land use consents are required under the Hamilton City District Plan for a pump station associated with the Rotokauri Greenway and for construction of the Minor Arterial, and water and discharge permits are needed under the Waikato Regional Plan for both the Rotokauri Greenway and Minor Arterial. The project will also require resource consents under the Resource Management (National Environmental Standard for Freshwater) Regulations 2020 (NES-F) and the Resource Management (National Environmental Standards for Assessing and Managing Contaminants to Soil to Protect Human Health) Regulations 2011 (NES-CS). The proposed activities have overall non-complying activity status due to a proposed temporary take of surface water at a rate or volume which exceeds limits in the Waikato Regional Plan.
5. HCC intends to progress a notice of requirement for a designation over a transport corridor that includes the Minor Arterial component of the project under standard Resource Management Act 1991 (RMA) process in 2023. We consider that if HCC notifies the notice of requirement before you make a decision on this referral application it may be inappropriate to run these processes concurrently. We note that you are able to refer a project in part or in whole, so you could exclude the Minor Arterial component of the project from a referral order if you decide to refer the project. We consider we can best advise you on this after receiving comments from HCC on their anticipated timing to lodge their notice of requirement.
6. We have undertaken an initial (Stage 1) analysis of the referral application and this is presented along with our recommendations in Table A.
7. The project meets all the eligibility criteria in section 18(3) of the FTCA, and we consider that it will help to achieve the FTCA's purpose, thus satisfying section 18(2) of the FTCA. More analysis is needed before we can advise you on any matters in section 23(5) which may influence your referral decision.
8. Although there is a risk that processing of a referral order may not be completed in the remaining available time, we recommend you progress consideration of the application to the next stage of analysis (Stage 2) and invite comments from HCC and Waikato Regional

Council and specific Ministers listed in section 21(6) of the FTCA.

9. We recommend that you invite comments from the Minister for Primary Industries as an additional Minister under section 21(6)(n) of the FTCA, and Waikato District Council, Waka Kotahi New Zealand Transport Agency as additional parties under section 21(3) of the FTCA.
10. We also recommend you request further information from the applicants as detailed in Table A.

## Statutory framework summary

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11. You are the sole decision maker for applications to refer projects that do not occur in the coastal marine area.
12. You may decline a referral application before seeking comments from the relevant local authorities and any relevant Ministers:
  - a. if you are satisfied the project to which it relates 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), including that there is insufficient time for referral of the application before the FTCA is repealed.
13. If you do not decline a 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.
14. You are also able to request further information from an applicant or any relevant local authority at any time before you decide to decline or accept a referral application (see section 22 of the FTCA).

## Timeframe for referral

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15. The FTCA will be repealed on 8 July 2023, meaning that a referral order must be in force for the project by this date if the project's resource consent applications are to be considered by a panel under FTCA process.
16. The timeframe for completing our consideration and advice on the referral application is dependent on certain statutory obligations and the capacity and resourcing of officials. The ability for an Order in Council to be prepared, even if you make a decision to refer the project, is becoming increasingly time-pressured as the 8 July deadline approaches.

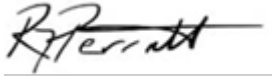
## Action sought

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

## Signature

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A handwritten signature in black ink, appearing to read 'R Perrett', enclosed in a thin black rectangular border.

Rebecca Perrett  
**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? [sections 18(3) and 18(2)]	Will project help to achieve the purpose of the FTCA? [section 19 assessment criteria]						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><b>Name</b> Rotokauri Greenway and Minor Arterial Project</p> <p><b>Applicants</b> Hounsell Holdings Limited &amp; Hamilton City Council (HCC) c/- Barker and Associates</p> <p><b>Location</b> Between Te Wetini Drive and 153 Te Kowhai Road, Rotokauri, Hamilton</p> <p>Encompassing the following titles:</p> <ul style="list-style-type: none"> <li>• Part Lot 1 DP 30552</li> <li>• Lot 3 DP 468484</li> <li>• Lot 53 DP 471831</li> <li>• Lot 2000 DP 519305</li> <li>• Lot 2 DP 540282</li> <li>• Lot 3 DP 62700</li> <li>• Lot 6 DP 359488</li> </ul>	<p>The project is to construct certain aspects of a 4.7-kilometre stormwater management corridor (Rotokauri Greenway) between Lake Waiwhakareke and Lake Rotokauri and a 3.8-kilometre transport corridor (Minor Arterial) between Te Wetini Drive and 153 Te Kowhai Road, Rotokauri, Hamilton. The project will include construction of artificial wetlands, landscaping and planting, upgrading the Rotokauri Drain and culvert below Exelby Road, and constructing three-waters infrastructure including a watermain, wastewater pipeline and pump station.</p> <p>The project will include activities such as vegetation clearance, carrying out earthworks including disturbing contaminated soils, constructing artificial wetlands, constructing and</p>	<p>The applicant states that Hamilton City Council (HCC) and Hounsell Holdings Limited (HHL) have a private agreement which commits more than [redacted] to project development, and they also advise Crown Investment Partners have expressed an interest in funding the project. The project is also identified in HCC's long-term plan, so funding through council rates is an option.</p> <p>Based on the information available at this stage about funds available and potential additional funding sources, we do not have any concerns about the applicants' ability to financially 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"> <li>• it does not include any prohibited activities</li> <li>• it does not include land returned under a Treaty settlement</li> <li>• 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.</li> </ul> <p>The FTCA's purpose is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of</p>	<p>Based on the information provided by the applicants we consider the project may result in the following public benefits:</p> <ul style="list-style-type: none"> <li>• generating approximately 470 direct full-time equivalent (FTE) jobs over a 5-year design and construction period</li> <li>• s 9(2)(b)(ii) [redacted]</li> </ul>	<p>The applicants consider the project will have positive effects on the social wellbeing of current and future generations by:</p> <ul style="list-style-type: none"> <li>• contributing to job creation and flow-on economic benefits</li> <li>• providing opportunities for recreation and social connection through construction of shared paths.</li> </ul> <p>Potential effects on cultural wellbeing are unknown. The applicants acknowledge that if the project is referred, any consent application must be accompanied by a cultural impact assessment from relevant iwi authorities.</p>	<p>The applicants consider the project is likely to progress approximately 21 months faster under the FTCA process than would be the case if the project were considered under a standard Resource Management Act 1991 (RMA) resource consent or notice of requirement process, due to the likelihood of notification and appeals under the latter.</p> <p>Should you agree to progressing this application, we will seek feedback on your behalf from HCC and Waikato Regional Council on the use of the FTCA or standard RMA processes.</p>	<p>Based on the information provided by the applicants we consider the project is likely to result in the following public benefits:</p> <ul style="list-style-type: none"> <li>• generating employment</li> <li>• providing infrastructure to improve economic, environmental and employment outcomes</li> <li>• improving environmental outcomes for freshwater quality</li> <li>• strengthening environmental resilience and managing the risks from natural hazards.</li> </ul>	<p>While the project has the potential to result in some adverse environmental effects, including relating to earthworks effects and traffic, the applicants do not expect these effects to be significant.</p> <p>The applicants have confirmed that specialists have prepared technical assessments on the above matters. The applicants consider 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>The proposed Minor Arterial component of the project only relates to land owned by HHL (the applicant) and Rotokauri Developments Limited. The applicant advises that HCC intends to progress a notice of requirement for a designation over a wider transport corridor, including the Minor Arterial component of the project, under standard RMA process.</p> <p>We consider that if HCC notifies the notice of requirement before you make a decision on this referral application it may be inappropriate to run these processes concurrently. We note that you are able to refer a project in part or in whole, so you could exclude the Minor Arterial component of the project from a final referral order if you decide to refer the project.</p> <p>The applicant has provided an assessment stating that if the Minor Arterial component were left out of the scope, the project would still result in public benefits through job creation and improving environmental outcomes. We recommend you seek comments from the applicant on how many FTE jobs will be created if the Minor Arterial is removed from the project scope.</p>	<p>a. <b>Note</b> 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. <b>Note</b> 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. <b>Note</b> 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. <b>Note</b> that section 22 of the FTCA permits you to request further information from the applicants or relevant local authorities at any time before you decide whether to accept or decline an application.</p> <p>e. <b>Agree</b> to progress the Rotokauri Greenway and Minor Arterial Project to our Stage 2 analysis. The project warrants further analysis because we need to consider some matters further before providing you with our final advice on the referral application.</p> <p>f. <b>Agree</b> to provide the application to, and invite comments from:</p> <ul style="list-style-type: none"> <li>• the Ministers listed in section 21(6)(a)–(m) of the FTCA</li> <li>• the relevant local authorities – Hamilton City Council and Waikato Regional Council</li> <li>• the following additional entities/persons under section 21(3) of the FTCA: <ul style="list-style-type: none"> <li>○ Waka Kotahi New Zealand Transport Agency</li> <li>○ Waikato District Council</li> </ul> </li> </ul> <p>g. <b>Agree</b> to seek further information</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Is project eligible for referral? [sections 18(3) and 18(2)]	Will project help to achieve the purpose of the FTCA? [section 19 assessment criteria]					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)]		
<ul style="list-style-type: none"> <li>• Part Lot 7 DP 15255</li> <li>• Section 12 Survey Office Plan 464504</li> <li>• Lot 1 DP 540282</li> <li>• Lot 2 DP 567367</li> <li>• Lot 190 DP 541928</li> <li>• Section 7 Survey Office Plan 464504</li> <li>• Section 8 Survey Office Plan 478480</li> <li>• Section 2 Survey Office Plan 511350</li> <li>• Section 6-7 Survey Office Plan 478480</li> <li>• Lot 1 DP 73878</li> <li>• Lots 1, 2 and 3 DP 535335</li> <li>• Lot 2 DP 12201</li> <li>• Lot 1 DP 75261</li> <li>• Lot 2 DPS 62537</li> <li>• Lot 5 DP 359488</li> </ul>	<p>upgrading roads constructing three waters infrastructure, taking, damming, diverting and discharging surface and groundwater, and installing culverts in a watercourse.</p> <p>The proposed Rotokauri Greenway is already designated for the purpose of stormwater management (Designation A114 in the Hamilton City District Plan), administered by Hamilton City Council (HCC) as the Requiring Authority. The designation allows for some activities associated with establishment of the stormwater management corridor and construction of shared pedestrian and cycle paths, and these will be undertaken concurrently with the project.</p> <p>The project will require land use consents under the Hamilton City District Plan and water and discharge permits under the Waikato Regional Plan. The project will also require resource consents under the Resource Management</p>		<p>COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources.</p> <p>The economic and social impacts of the COVID-19 global pandemic are on-going, evolving and will be long lasting.</p> <p>Enabling progression of shovel-ready projects that promote employment and investment that can deliver economic and other social and public benefits is one way that the government can continue to support the recovery and response to these effects.</p> <p>The specific</p>					<p>We recommend you seek comment from HCC on when they intend to notify the notice of requirement for the Minor Arterial.</p> <p>The Rotokauri Greenway component of the project includes several sites, not all of which are owned by the applicants. The application includes letters of support from most of the relevant landowners, indicating that they will sell their land if HCC seeks to acquire it under the Public Works Act 1981 (PWA), and allow access until sales are confirmed. We recommend you seek comment from the applicants on when they expect to have rights to access the land in the project site, and whether they expect this to impact their timely delivery of the project.</p> <p>Part of the project site is located within Designation 99 (Waikato Expressway) and the applicants will require approval under section 176 of the RMA from Waka Kotahi New Zealand Transport Agency (Waka Kotahi) as a requiring authority for works within the extent of Waikato Expressway Designation 99. We recommend you seek comment from Waka Kotahi on whether they anticipate that obtaining this approval will impact the applicants' ability to deliver the project.</p> <p>Part of the Rotokauri Greenway component of the project is located within the Waikato</p>	<p>from the applicant on the effect on job creation of removing the Minor Arterial component, timing of their gaining access to the land in the project site, and from Hamilton City Council on when it expects to notify a notice of requirement for the Minor Arterial designation.</p> <p>h. <b>Sign</b> the attached letters to Ministers.</p> <p>i. <b>Note</b> 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>	

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				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)]		
	(National Environmental Standard for Freshwater) Regulations 2020 (NES-F) and the Resource Management (National Environmental Standards for Assessing and Managing Contaminants to Soil to Protect Human Health) Regulations 2011 (NES-CS). The proposed activities have overall non-complying activity status due to a proposed temporary take of surface water at a rate or volume which exceeds limits in the Waikato Regional Plan.		ways in which the project meets the FTCA's purpose are noted in the six columns to the right.						<p>District and is subject to an easement in favour of Waikato District Council (WDC). The applicant does not consider that the approvals required from WDC to undertake works over the easement are likely to impact their ability to deliver the project, but we recommend you seek comments from WDC on project referral.</p> <p>The records of title in the project site are subject to various covenants and requirements including Part 4A of the Conservation Act 1987 (relating to marginal strips). The applicant does not anticipate any of these instruments will require action to address or impact their ability to deliver the project.</p>	

Signed:

Hon David Parker  
Minister for the Environment

Date: