



## FTC#99: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

### Application 2021 067 Rotokauri North – Stage 1

Date Submitted:	2 December 2022	Tracking #: BRF-831	
Security Level	In-Confidence	MfE Priority:	Urgent

	<b>Action sought:</b>	<b>Response by:</b>
To Hon David Parker, Minister for the Environment	Decisions on recommendations	TBA

Actions for Minister's Office Staff	<b>Return</b> the signed briefing to MfE.
Number of appendices: 6	<p>Appendices:</p> <ol style="list-style-type: none"> <li>1. Rotokauri North – Stage 1 application documents and further information received</li> <li>2. Stage 1 Briefing Note and decisions</li> <li>3. Statutory framework for making decisions</li> <li>4. Draft Notice of Decisions letter to Rotokauri North Holdings Limited</li> <li>5. Section 17 Report</li> <li>6. Comments received from Ministers, Hamilton City Council, Waikato District Council and Waikato Regional Council.</li> </ol>

### Ministry for the Environment contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author	Max Gander-Cooper		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Sara Clarke	s 9(2)(a)	

## FTC#99: Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions

### Key Messages

1. This briefing relates to the application received under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) from Rotokauri North Holdings Limited for referral of the Rotokauri North – Stage 1 project (the Project) to an expert consenting panel (a panel). A copy of the application is in Appendix 1.
2. This is the second briefing relating to this application. The first (Stage 1) briefing (BRF-659) with your initial decisions annotated is in Appendix 2.
3. The Project is located at 289, 317, 329, 335 and 341 Te Kowhai Road, Te Kowhai and 350 and 372 Exelby Road, Burbush, Hamilton. It is to establish the first part of a residential development planned for a greenfield site on the north-western outskirts of Hamilton.
4. The Project comprises subdivision of an approximately 62-hectare site to create up to 400 residential lots, balance lots for future development (including a primary school) and roads intended to be vested in Hamilton City Council; to install three-waters infrastructure; and to construct 20 buildings containing 40 residential units on 20 lots.
5. The Project will involve activities such as:
  - a. demolition of buildings
  - b. subdivision of land
  - c. earthworks (including disturbance of contaminated land)
  - d. earthworks and vegetation clearance within 100 metres of a natural wetland
  - e. reclamation of natural stream beds
  - f. diversions and takes of surface water and groundwater
  - g. discharges of surface water, groundwater, and stormwater and contaminants to land and water
  - h. installation of structures in riverbeds
  - i. construction of buildings
  - j. construction of roading and transport infrastructure and three-waters services
  - k. any other activities that are:
    - i. associated with the activities described in paragraphs a to j; and
    - ii. within the scope of the project as described in paragraph 4.
6. The Project site is in the Hamilton City District on the boundary with Waikato District and will require subdivision and land use consents under the Hamilton City District Plan (HCDP), land use consent under the Waikato District Plan (WDP), water and discharge permits under the Waikato Regional Plan (WRP), and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) and the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).
7. The Project site is currently zoned Future Urban in the HCDP. A hearing on Plan Change 7 to the HCDP (PC7), to rezone an area of approximately 140 hectares, including the Project site, to a combination of Medium Density Residential Zone, Business 6 Zone and Open

Space Zone, commenced on 22 October 2021. The Project is generally consistent with the provisions of these proposed zones.

8. 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 our recommendations on directions to the applicant and a panel, and notification of your decisions.

## Assessment against Statutory Framework

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9. 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.
10. 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 local authorities, and Ministers (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.
11. 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

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12. In response to your request under section 22 of the FTCA the applicant provided further information on job creation, re-training pathways and apprenticeships, consent notices on the titles, activities for which consent is being sought and the applicant company structure. We have taken this information into account in our analysis and advice.

## Section 17 Report

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13. The Section 17 Report indicates that there are two iwi authorities, three Treaty settlements and four Treaty settlement entities relevant to the Project area.
14. The Project site is subject to the co-governance and co-management arrangements applying to waterways, lakes and wetlands in the Waikato River catchment under the Waikato River Treaty settlement. These requirements have the potential to influence the composition of a hearings panel for certain resource consent applications under standard Resource Management Act 1991 (RMA) process. This means that should you decide to refer the Project, the EPA will need to carefully assess any applications for water or discharge permits in the context of these arrangements before a panel is appointed and advise the Panel Convener accordingly.

## Comments received

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15. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i) Hamilton City Council (HCC), Waikato District Council (WDC), and Waikato Regional Council (WRC). The key points of relevance to your decision are summarised in Table A.

16. s 9(2)(f)(ii), s 9(2)(g)(i)  
[Redacted]
17. s 9(2)(f)(ii), s 9(2)(g)(i)  
[Redacted]
18. s 9(2)(f)(ii), s 9(2)(g)(i)  
[Redacted]
19. s 9(2)(f)(ii), s 9(2)(g)(i)  
[Redacted]

### Section 18 referral criteria

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20. You may accept the application for Project referral if you are satisfied that the Project does not include ineligible activities (section 18(3)) and will help to achieve the purpose of the FTCA (section 18(2)).
21. We confirm that the Project does not include ineligible activities, and therefore satisfies the requirements of section 18(3) of the FTCA, as explained in Table A.
22. Some of the titles for the Project site are subject to a consent notice requiring that “in regard to future development, the erection of any dwelling or permanent building is not to conflict with the proposed Collector Roads and the Drainage Corridor as shown in the Overall Concept Plan 13/066 Drawing 2 of 3 Blue Wallace Surveyors Ltd (File Reference 13/066)”. This restricts any development on the site that does not align with the concept plan.
23. The owner of the Project site would need to apply to Hamilton City Council to cancel or amend the consent notice under section 221 of the RMA. We cannot be sure whether Hamilton City Council would be prepared to act on any such request, and if so, how long the process might take. The uncertainty this creates for Project timing may be grounds to decline to refer the Project under section 23(1) of the FTCA, as the Project may not meet the purpose of the Act of urgently promoting employment. We consider that the underlying intention of the consent notices is to not restrict urban development, but to avoid future urban land uses prejudicing good quality urban outcomes via future resource consents. Thus, while the land is still zoned Future Urban, there is a degree of risk that inappropriate development may occur, if the existing consent notices are removed before PC7 is operative. As HCC has indicated conditional support for the Project, and the Project is generally consistent with PC7, we do not consider that the Project would be considered inappropriate development by HCC for the purposes of amending the consent notices. We consider that the consent notices could be amended to enable the residential development proposed by the Project while not compromising the outcomes anticipated by PC7. We also note that if HCC did not cancel the consent notice the applicant could redesign the Project to ensure that it could comply with the consent notice.
24. We note that the applicant would also need to cancel or amend the consent notice if they were to progress the application under standard RMA processes, so referring the Project would still enable the delivery of public benefits faster than would be the case if the Project were not referred. We do not consider that the consent notice on the title is sufficient reason to decline to refer the Project under section 23(1).

25. 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 to achieve the purpose of the FTCA, and thus satisfy the requirements of section 18(2) as it has the potential to:
- a. have positive effects on social wellbeing by generating employment, increasing housing supply and contributing to a well-functioning urban environment
  - b. generate employment by providing approximately 100 full-time equivalent jobs over a five-year planning and construction period
  - c. increase housing supply through the construction of 20 buildings containing 40 residential units on 20 lots, and enable the future construction of an additional 380 residential units on the remainder of the lots
  - d. progress faster than would otherwise be the case under standard Resource Management Act 1991 process, provided that the applicant lodges their applications for resource consent in a timely manner following Project referral.
26. We consider that 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

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27. 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*

28. Section 23(5) of the FTCA provides further guidance on reasons to decline an application, and a summary of our analysis of these matters is in Table A. Note that you may accept an application even if one or more of those reasons apply.

### *Other matters*

29. HCC advised that it only supported Project referral on the basis that a panel consider resource applications for the Project against the decision on PC7 (which is expected to be released in January 2022) and on the applicant funding any necessary upgrades to infrastructure required to service the development. A Private Developer Arrangement is currently in place between MADE Group (the parent company of the applicant) which requires them to deliver any necessary infrastructure to enable residential development in this area. We consider that this addresses the second of the council's concerns. In order to address HCC's other concern we recommend that you require the applicant to include an assessment against the relevant decisions of HCC on PC7 (or the relevant provisions, if a decision has not been released at the time of lodgement) with their resource consent applications to a panel.

## Conclusions

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30. We do not consider the matters noted above provide sufficient reason for declining to refer the Project. We consider that you could accept the application under section 24 of the FTCA and that all of the Project could be referred to a panel.
31. If you decide to refer the Project, we consider that you should specify under section 24(2)(d) of the FTCA that the applicant must provide the following information, additional to the requirements of clause 9) of Schedule 6 of the FTCA, in an application submitted to a panel:

- a. a planning assessment
  - b. an integrated transport assessment
  - c. an ecological assessment
  - d. an infrastructure assessment
  - e. a stormwater and hydrology assessment
  - f. water quality assessment
32. The above information is recommended in response to comments requesting directions to the applicant.
33. If you decide to refer the Project we consider that you should specify under section 24(2)(e) of the FTCA that a panel must invite comments on a consent application from the following groups:
- a. Waka Kotahi NZ Transport Agency as requested by the Minister for Transport
  - b. the Associate Minister for the Environment (Urban Policy) as the Project is to undertake residential development ahead of an approved plan change
  - c. the Rotokauri North Tangata Whenua Working Group.
34. We consider that if you decide to refer the Project, the application and notice of decisions should be copied to the parties listed in paragraph 35.
35. Our recommendations for your decisions follow.

### Next Steps

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36. You must give notice of your decisions on the referral application, and the reasons for them, to the applicant and the persons, entities and groups listed in section 25 of the FTCA.
37. We have attached a notice of decisions letter to the applicant based on these requirements and our recommendations (refer Appendix 4). We will assist your office to give copies to all relevant parties.
38. To refer the Project, you must recommend that a referral order be made by way of an Order in Council (OIC).
39. 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.<sup>1</sup>

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<sup>1</sup> 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** that section 23(1) of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) requires you to decline this application for referral unless you are satisfied that the Project meets the referral criteria in section 18 of the FTCA including that it would help to achieve the FTCA's purpose.
- b. **Note** that 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 also whether it could have significant adverse effects.
- c. **Note** that 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** that 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 (a 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** that 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** that the Project meets the referral criteria in section 18 (3) of the FTCA.

Yes/No
- g. **Agree** that 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. have positive effects on social wellbeing by generating employment, increasing housing supply and contributing to a well-functioning urban environment
  - ii. generate employment by providing approximately 100 full-time equivalent jobs over a five-year planning and construction period
  - iii. increase housing supply through the construction of 20 buildings containing 40 residential units on 20 lots, and enable the future construction of an additional 380 residential units on the remainder of the lots.

Yes/No

h. **Agree to refer** all of the Project to a panel.

Yes/No

i. **Agree to specify** under section 24(2)(d) of the FTCA the following additional information that the **applicant** must submit with any resource consent application lodged with the Environmental Protection Authority:

i. a planning assessment which includes analysis of the Project against:

1. the Decisions version of Plan Change 7 to the Hamilton City District Plan (if this is available at the time of lodgement) or the Proposed Version if a decision has not been released at the time of lodgement
2. the Proposed Waikato District Plan

ii. an integrated transport assessment including information about discussions held, and agreements made with Waka Kotahi NZ Transport Agency

iii. an ecological assessment which includes:

1. analysis of the effects of the Project on freshwater values, birds, bats and lizards
2. analysis of the effects of the Project on the nearby Significant Natural Area
3. results of surveys to confirm the presence/absence of Black Mudfish and Giant Kokopu within the Project site
4. fish salvage procedures
5. measures to ensure fish passage during construction
6. assessment of any biosecurity risks associated with the Project
7. measures to avoid, remedy or mitigate ecological effects identified

iv. a detailed assessment of:

1. the capacity of existing roading and three waters infrastructure
2. upgrades to the infrastructure required to service the development
3. how the upgrades will be funded

v. a stormwater, hydrology and water quality assessment which includes:

1. a stormwater management plan
2. analysis of the effects of the Project on Lake Rotokauri, having regard to climate change
3. analysis of the capacity of the Ngāruawāhia rural drainage scheme to service the development and any upgrades required to the scheme.

Yes/No

j. **Agree to specify** under section 24(2)(e) of the FTCA that a panel must invite comments from the following additional persons or groups:

- i. Waka Kotahi NZ Transport Agency
- ii. the Associate Minister for the Environment (Urban Policy)
- iii. the Rotokauri North Tangata Whenua Working Group.



Yes/No

k. **Agree** to copy the application and notice of decisions to the parties listed in paragraph j.

Yes/No

l. **Agree** to the Ministry for the Environment issuing drafting instructions to the Parliamentary Counsel Office for an Order in Council to refer the Rotokauri North – Stage 1 project to a panel in accordance with your decisions recorded herein.

Yes/No

m. **Sign the attached (Appendix 4)** notice of decisions to Rotokauri North Holdings Limited.

Yes/No

### Signatures



Stephanie Frame  
**Manager – Fast-track Consenting**

**Date**

Hon David Parker  
**Minister for the Environment**

**Date**

Released under the provision of the Official Information Act 1982

**Table A: Stage 2 - Project Summary and Section 24 Assessment**

Project details	Project description	Does all or part of the Project meet the referral criteria in section 18?		Summary of comments received	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3a - d))	Section 18(2) - Does the Project help achieve the purpose of the FTCA (as per section 19)?			
<p><b>Project name</b> Rotokauri North – Stage 1</p> <p><b>Applicant</b> Rotokauri North Holdings Limited</p> <p><b>Location</b> c/- Berry Simons 289, 317, 329, 335 and 341 Te Kowhai Road, Te Kowhai and 350 and 373 Exelby Road, Burbush</p>	<p>The Project is to establish the first part of a residential development planned for a greenfield site on the north-western outskirts of Hamilton. The project comprises subdivision of an approximately 62-hectare site to create approximately 400 residential lots, balance lots for future development and stormwater treatment, and roads intended to be vested in Hamilton City Council (HCC). It also includes construction of 40 residential units on approximately 20 of the residential lots and installation of three-waters infrastructure. One of the superlots will be for a primary school and the applicant is currently negotiating with the Ministry of Education regarding the purchase of that site.</p> <p>The Project will involve activities such as:</p> <ol style="list-style-type: none"> <li>demolition of buildings</li> <li>subdivision of land</li> <li>earthworks and vegetation clearance within 100m of a natural wetland</li> <li>earthworks (including disturbance of contaminated land)</li> <li>reclamation of natural stream beds</li> <li>diversions and takes of surface</li> </ol>	<p>The Project is eligible under section 18(3)(a-d) as:</p> <ul style="list-style-type: none"> <li>it does not include any prohibited activities</li> <li>it does not include activities on land returned under a Treaty settlement</li> <li>it does not include activities in a customary marine title area under the Marine and Coastal Area (Takutai Moana) Act 2011</li> </ul>	<p><b>Economic benefits for people or industries affected by COVID-19 (19(a))</b></p> <p>The applicant estimates that the project will provide approximately:</p> <ul style="list-style-type: none"> <li>100 direct full-time equivalent (FTE) jobs over a five-year planning and construction period</li> <li>a contribution of \$188 million to the local economy over the five years of project construction</li> </ul> <p><b>Economic costs for people or industries affected by COVID-19 (19(a))</b></p> <p>N/A</p> <p><b>Effect on the social and cultural well-being of current and future generations (19(b))</b></p> <p>The project has the potential for positive effects on the social and cultural wellbeing of current and future generations as it will:</p> <ul style="list-style-type: none"> <li>generate employment through the provision of 100 FTE jobs, including apprenticeships and retraining opportunities</li> <li>increase housing supply through the construction of 40 residential units and enable the future construction of an additional 380 residential units on the remainder of the lots</li> </ul> <p>The Rotokauri North Tangata Whenua Working Group is a consultative group representing local tangata whenua on issues relating to management of Hamilton's natural and physical resources) to enable local tangata whenua engagement specifically in relation to Private Plan Change 7. They are well placed to advise on cultural issues related to the</p>	<p><b>Ministers</b></p> <p>s 9(2)(g)(ii), s 9(2)(f)(i)</p> <p>s 9(2)(g)(ii), s 9(2)(f)(i)</p> <p>s 9(2)(g)(ii), s 9(2)(f)(i)</p> <p>s 9(2)(g)(ii), s 9(2)(f)(i)</p> <p>s 9(2)(g)(ii), s 9(2)(f)(i)</p> <p>s 9(2)(g)(ii), s 9(2)(f)(i)</p> <p>s 9(2)(g)(ii), s 9(2)(f)(i)</p>	<p><b>Section 23(5) matters:</b></p> <p><b>Insufficient information (23(5)(a))</b></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><b>More appropriate to go through standard RMA process (23(5)(b))</b></p> <p>None of the comments received opposed Project referral or recommended it would be more appropriate for the Project to be considered through standard RMA consent processes. While the Project is proposed to progress ahead of PC7, we consider that concerns about this can be addressed by the provision of appropriate information to a panel.</p> <p><b>Inconsistency with a national policy statement (23(5)(c))</b></p> <p>We do not consider that the Project is inconsistent with any relevant national policy statements.</p> <p><b>Inconsistent with a Treaty settlement (23(5)(d))</b></p> <p>The Section 17 identifies the need for careful assessment of any future resource consent applications against the co-governance and co-management requirements of the Waikato River Treaty settlement, particularly in respect of appointment of a panel. This requirement applies under both RMA and FTCA processes, and does not present a barrier to Project referral under the FTCA.</p> <p><b>Involves land needed for Treaty settlements (23(5)(e))</b></p>	<p><b>In response to comments from Ministers:</b></p> <ul style="list-style-type: none"> <li>s 9(2)(f)(ii), s 9(2)(g)(i)</li> </ul> <p><b>In response to councils:</b></p> <ul style="list-style-type: none"> <li>We agree with HCC's request that the Project be considered against the provisions of PC7, and that the applicant be required to provide details of how any infrastructure upgrades will be funded</li> <li>We agree with WDC's request that the applicant be required to provide stormwater and water quality assessments, and an assessment against the relevant provisions of the Proposed Waikato District Plan with an application to the EPA</li> <li>We agree with WRC's request that the applicant be required to provide an hydrological assessment including potential effects on the Ngāruawāhia drainage scheme with an application to the EPA.</li> </ul> <p>There are no significant reasons to decline to refer the Project. We recommend that you accept the</p>

Project details	Project description	Does all or part of the Project meet the referral criteria in section 18?		Summary of comments received	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3a - d))	Section 18(2) - Does the Project help achieve the purpose of the FTCA (as per section 19)?			
	<p>water and groundwater discharges of surface water, groundwater, and stormwater and contaminants to land and water</p> <p>g. installation of culverts in riverbeds</p> <p>h. construction of dwellings</p> <p>i. construction of roading and transport infrastructure and three waters services</p> <p>k. any other activities that are:</p> <p>i. associated with the activities described in paragraphs a to j; and</p> <p>ii. within the scope of the project as described above.</p> <p>The Project site spans the Hamilton City and Waikato District Boundary and will require subdivision and land use consents under the Hamilton City District Plan (HCDP), land use consent under the Waikato District Plan (WDP), water and discharge permits under the Waikato Regional Plan (WRP), and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) and the Resource Management (National Environmental Standards for Assessing and</p>		<p>development and we consider that they should be asked to provide comment to a panel if you decide to refer the Project.</p> <p><b>Is the Project likely to progress faster by using this Act? (19(c))</b> The applicant considers that the fast-track process will allow the project to progress approximately 18-24 months faster than under standard Resource Management Act (RMA) processes due to the likelihood of appeals to the ongoing Plan Change 7 to the HCDP (PC7) process and likely delays created if consents from three councils were to be sought under standard process.</p> <p><b>Will the Project result in a public benefit? (19(d))</b> Based on the information provided by the applicant we consider that the project may result in the following public benefits:</p> <ul style="list-style-type: none"> <li>generating employment</li> <li>increasing housing supply</li> <li>contributing to well-functioning urban environments</li> </ul> <p><b>Potential to have significant adverse environmental effects, including greenhouse gas emissions (19(e))</b> The project has the potential for adverse environmental effects including:</p> <ul style="list-style-type: none"> <li>earthworks effects</li> <li>construction-related effects</li> <li>traffic effects</li> <li>land stability effects</li> <li>contamination effects</li> </ul> <p>The applicant has stated that overall adverse effects will not be significant.</p> <p>We note that a panel can consider this and any appropriate mitigation, offset or compensation</p>	<p>s 9(2)(g)(ii), s 9(2)(f)(i)</p> <p><b>Local authorities</b></p> <p>HCC supported Project referral as it presents an efficient process to consider the multiple consents required and will provide benefit to Hamilton through the provision of housing in the low-medium cost range. Council's support is contingent on a panel considering the application against the impending decision on PC7, and on the applicant being required to deliver the strategic and local infrastructure required to service the Project. HCC also noted the following:</p> <ul style="list-style-type: none"> <li>there is no funding in the 10 Year-plan for delivering strategic infrastructure necessary to enable the development of this area.</li> <li>Council has a Private Development Arrangement (PDA) with MADE Group Ltd (the parent company of the applicant) requiring them to deliver all the necessary strategic infrastructure, including sizing to address the wider, future fully developed catchment. The PDA also covers interim infrastructure sufficient to support an initial 150 dwellings. HCC advised, as the Project is located in an unfunded growth area, it is critical that funding and the delivery of infrastructure remains aligned with land use planning and consenting.</li> <li>the Rotokauri North development will result in significant additional traffic on the existing local road network. The traffic changes and consequential adverse effects that result from the development are sensitive to the timing and provision of the minor arterial network and staging of development.</li> </ul> <p>Waikato District Council (WDC) did not oppose Project referral, and identified the following key concerns relating to the Project:</p> <ul style="list-style-type: none"> <li>portions of the Project catchment and discharge points are within the WDC territorial boundaries. Works may be required to upgrade culverts under Te Kowhai Road</li> <li>erosion, sedimentation and destabilisation of stream banks may adversely affect Lake Rotokauri</li> <li>the Project is likely to increase traffic volumes along WDC roads and may require eventual upgrades to Burbush and Exelby Roads.</li> <li>the application doesn't appear to include assessment against the relevant provisions of the Proposed Waikato District Plan, and has only been assessed against the Operative Waikato District Plan.</li> </ul> <p>Waikato Regional Council (WRC) did not oppose Project referral and noted that Project aligns with the Waikato Regional Policy Statement and the Future Proof sub-regional growth strategy and has potential to generate positive social and economic benefits through provision of housing and jobs in a Tier 1 urban environment during a period of high demand and growth and provides for a more compact urban form and encourages multi-modal transport options to reduce the reliance on private vehicles.</p> <p>WRC raised the following key points:</p> <ul style="list-style-type: none"> <li>is important that the Project achieves hydraulic neutrality to protect the existing aquatic values and to ensure less than minor impacts on downstream properties and WRC drainage schemes. This will require maintenance of the shallow groundwater table and stream flow of the drainage network.</li> </ul>	<p>The Project is located on privately owned land which is not available for Treaty settlement purposes.</p> <p><b>Applicant has poor regulatory compliance (23(5)(f))</b></p> <p>None of the councils raised concerns about the applicant's regulatory compliance history.</p> <p><b>Insufficient time for the Project to be referred and considered before FTCA repealed (23(5)(g))</b></p> <p>There is sufficient time for the application to be referred and considered before the FTCA is repealed.</p> <p><b>Other issues &amp; risks:</b></p> <p>In response to your request for further information the applicant provided details of consent notices which apply to the Project sites. One of these (Instrument 10031739.1) has the potential to restrict future urban development on the site if it is not cancelled or amended, which is done via an application to HCC under section 221 of the RMA. This may be grounds to decline to refer the Project under section 23(1) of the FTCA as the Project may not be able to meet the purpose of the FTCA of urgently promoting employment. As HCC has indicated conditional support for the Project, and the Project is generally consistent with PC7, we do not consider that the Project would be considered inappropriate development by HCC for the purposes of amending the consent notices, and the consent notices could be amended to enable the residential development proposed by the Project while not compromising the outcomes</p>	<p>application under section 24 of the FTCA and refer all of the Project to a panel.</p> <p>We also recommend that you require the applicant to provide the following information with an application to the EPA:</p> <ul style="list-style-type: none"> <li>a planning assessment which includes analysis of the Project against: <ul style="list-style-type: none"> <li>the Decisions version of Plan Change 7 to the Hamilton City District Plan (if this is available at the time of lodgement) or the Proposed Version if a decision has not been released at the time of lodgement</li> <li>the Proposed Waikato District Plan</li> </ul> </li> <li>an integrated transport assessment, including information about discussions held, and any agreements made, with Waka Kotahi NZ Transport Agency</li> <li>an ecological assessment which includes: <ul style="list-style-type: none"> <li>analysis of the effects of the Project on freshwater values, birds, bats and lizards</li> <li>analysis of the effects of the Project on the nearby Significant Natural Area</li> <li>results of surveys to confirm the presence/absence of Black Mudfish and Giant Kokopu within the Project site</li> <li>fish salvage procedures</li> <li>measures to ensure fish passage during construction</li> <li>assessment of any biosecurity risks associated with the Project</li> <li>measures to avoid, remedy or mitigate ecological effects identified</li> </ul> </li> </ul> <p>• a detailed assessment of:</p>

Project details	Project description	Does all or part of the Project meet the referral criteria in section 18?		Summary of comments received	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3a - d))	Section 18(2) - Does the Project help achieve the purpose of the FTCA (as per section 19)?			
	Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).		<p>to manage adverse effects of the development.</p> <p>While aspects of the project have non-complying activity status in the Future Urban Zone, the applicant has provided an assessment that the project is expected to pass the 'gateway tests' in section 104D of the RMA.</p> <p><b>Other relevant matters (19(f))</b> N/A</p>	<ul style="list-style-type: none"> <li>there may be potential impacts downstream should hydraulic neutrality not be achieved, including possible backflow impacts on adjacent WRC land drainage assets. The development area is not part of a WRC drainage scheme but the stormwater plan indicates possible discharge through the Ngāruawāhia rural drainage scheme. Consideration of the capacity of this system and its ability to carry increased water flows is important to ensure adverse effects on properties downstream are no more than minor. This system is currently only used for rural drainage and may not be suitable for use by a large urban subdivision.</li> <li>the Rotokauri North area is known to support indigenous species such as Giant Kokopu (classified declining) and black mudfish (classified at risk declining). Giant Kokopu are known to rear in Lake Rotokauri and developed larvae use reversing lake flows to exit the system and populate the wider Ohote and Waipā systems. Any impacts on fish movement through this area could impact the Giant Kokopu populations across the entire lower Waikato region. Black mudfish tend to reside in damp and ephemeral channels and remnant wetland pockets and burrow into the mud during dry periods. Maintaining the water table level and open waterways is important for the survival of this species.</li> <li>the Rotokauri North area is part of a broader system with low topographical relief. After periods of high rainfall, flows can (every five years or so) reverse up the Ohote stream and flow into, rather than out of Lake Rotokauri. Runoff from the northern development would enter the Ohote stream whereas the southern Rotokauri development area will drain directly to Lake Rotokauri via the Exelby Road culvert. During such times Lake Rotokauri may be a sink for these flows which will likely raise lake levels and prevent this reverse flow.</li> <li>WRC considers it important that the proposal is assessed for biosecurity risks. This would involve demonstration of good biosecurity hygiene practices to prevent spread of any invasive pests or harmful organisms.</li> <li>the fast-track process may limit the opportunity to consult on drainage with landowners downstream.</li> </ul> <p>All responses received by parties invited to comment are attached at Appendix 6.</p>	<p>anticipated by PC7. We also note that if HCC did not cancel the consent notice the applicant could redesign the Project to ensure that it could comply with the consent notice.</p> <p>We note that the applicant would need to cancel or amend the consent notices if they were to progress the application under standard RMA processes as well, so referring the Project with this restriction would still enable the delivery of public benefits faster than would be the case if the Project were not referred.</p>	<ol style="list-style-type: none"> <li>the capacity of existing roading and three waters infrastructure</li> <li>upgrades to the infrastructure required to service the development</li> <li>how the upgrades will be funded</li> </ol> <ul style="list-style-type: none"> <li>a stormwater, hydrology and water quality assessment which includes: <ol style="list-style-type: none"> <li>a stormwater management plan</li> <li>analysis of the effects of the Project on Lake Rotokauri, having regard to climate change</li> <li>analysis of the capacity of the Ngāruawāhia rural drainage scheme to service the development and any upgrades required to the scheme.</li> </ol> </li> </ul> <p>We recommend that you make a direction to a panel to invite comments from:</p> <ul style="list-style-type: none"> <li>Waka Kotahi NZ Transport Agency</li> <li>the Associate Minister for the Environment (Urban Policy)</li> <li>the Rotokauri North Tangata Whenua Working Group</li> </ul>

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## Schedule of Appendices

Appendix 1 – Rotokauri North – Stage 1 – Application form and additional information received

Appendix 2 – 2021-BRF-659 – Application for referred project under the COVID-Recovery FTCA - Stage 1 decisions on Rotokauri North – Stage 1 project

Appendix 3 – Statutory framework for making decisions

Appendix 4 – Draft Notice of Decisions letter to Rotokauri North Holdings Limited

Appendix 5 – Section 17 Report

Appendix 6 – Comments received from Ministers, Hamilton City Council, Waikato District Council and Waikato Regional Council

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