

FTC#253: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2023-149 Stevensons Crescent Project

Date submitted:	1 June 2023	Tracking #: BRF-3086	
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: 6	Appendices: 1. Stevensons Crescent Project (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 Mansion Rear Limited 5. Section 17 Report (Databox link) 6. Comments received from Ministers and Auckland Council (Databox link)

Ministry for the Environment contacts

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FTC# 253: 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 Mansion Rear Limited to refer the Stevensons Crescent 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-2898) with your initial decisions annotated is in Appendix 2.
3. The project is to subdivide land and construct a mixed-use development on an approximately 2.5-hectare site at 8 Stevensons Crescent, Albany, Auckland, comprising:
 - a. approximately 138 residential units, of which approximately 112 will be configured in three-storey terraced houses with the remainder accommodated in three-storey apartment buildings
 - b. a commercial component which may take the form of retail or office spaces on the ground or lower floors of the apartment buildings
 - c. supporting infrastructure including roads, vehicle and pedestrian and cycle accessways, car-parking areas and three-waters services.
4. The project will include activities such as:
 - a. removing vegetation
 - b. earthworks (including earthworks that disturb potentially contaminated soils)
 - c. taking, damming, diverting and discharging water, including within a 100-metre setback from a natural inland wetland
 - d. placement of structures in, on or over a river bed
 - e. diverting, detaining and discharging stormwater
 - f. taking, using and diverting groundwater
 - g. constructing buildings
 - h. landscaping and planting of open space
 - i. constructing or installing infrastructure or structures including roads and accessways, infrastructure for three-waters services, and structures associated with the enhancement and restoration of lakes, rivers, streams or wetlands
 - j. any other activities that are:
 - i. associated with the activities described in paragraphs a to i
 - ii. within the project scope as described in paragraph 3.
5. The project will require subdivision and land use consents, and water and discharge permits under the Auckland Unitary Plan (AUP) and consents under the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) and the Resource Management (National Environmental Standard for Freshwater) Regulations 2020 (NES-F).

6. The project site is in the AUP's Future Urban Zone, which applies to greenfield land identified as suitable for urbanisation. The AUP provides for Future Urban Zone land to be used for a range of general rural activities but aims to avoid urbanisation until sites have been rezoned for urban purposes. The AUP promotes structure planning as a precursor to rezoning and urban development in the Future Urban Zone.
7. Considering the project via a resource consenting process in advance of a plan change is generally not considered to be good planning practice because it may result in fragmented urban development or misalignment with provision of infrastructure. Auckland Council and Auckland Transport oppose project referral because they consider it would be more appropriate for the project to be considered through a Schedule 1 RMA plan change process.
8. We note that the FTCA does not preclude project referral on such grounds. We consider the matters associated with out-of-sequence development and alignment with relevant planning documents can be tested and determined by a panel with the benefit of a full resource consent application. We consider it would be helpful to a panel for you to specify further information related to the interaction of the project with, and effects on, the transport network and to specify Auckland Transport is included in parties from whom a panel will invite comments.
9. Auckland Council has noted there is a possibility that one activity included in the project scope – placement of a culvert within an area identified as 'stream A' in Appendix E of the application documents – may be a prohibited activity, which would mean that you would be unable to refer the project unless the activity were excluded. Further assessment is needed to identify whether or not the relevant activity is prohibited. The council suggested the issue could be avoided by placement of a bridge rather than a culvert but we note that this would only be necessary if the affected waterway were determined to meet the definition of a natural inland wetland.
10. We consider that if you refer the project, you should specify a restriction under section 24(2)(c) that the scope of the project must not include placement of a culvert within a 'stream A' unless information is provided to the panel demonstrating that stream A is not a natural inland wetland (and therefore placement of a structure in stream A is not a prohibited activity under the NES-F).
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 Auckland Council 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.
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. You did not request any further information from the applicant under section 22 of the FTCA.

Section 17 report

16. The Section 17 Report indicates that there are 13 iwi authorities, seven Treaty settlements and 10 Treaty settlement entities relevant to the project area. The report also identifies two additional parties which may have an interest in the project area.
17. No specific cultural or commercial redress provided under the settlements would be affected by the project, and the relevant Treaty settlements do 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

18. Comments were received from Auckland Council s 9(2)(f)(ii), s 9(2)(g)(i) The key points of relevance to your decision are summarised in Table A.

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

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

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

22. Auckland Council did not support project referral as it considers the project effectively establishes a private plan change on future urban land that is premature and does not fully address the potential consenting, servicing and environmental issues as covered under the Schedule 1 RMA process. Auckland Council considers the project should be progressed through a Schedule 1 RMA plan change process.

23. Auckland Council provided comments from Auckland Transport, who also opposed project referral, considering it more appropriate for the project to proceed through a private plan change, as it has the potential to contribute to and exacerbate misalignment between timing of transport infrastructure and services and the urbanisation of greenfield areas. The project precedes the formation of the arterial road network required to support urban development and does not currently provide any transport network upgrades. Auckland Transport advised that the project site has road frontage to Dairy Flat Highway and the project may compromise a Supporting Growth Alliance project (involving upgrade of Dairy Flat Highway and a pending NoR) currently under development.

24. Auckland Transport advised it does not have sufficient funding in the Regional Land Transport Plan (10-year plan for Auckland's transport network for 2021-2031) to meet the

shortfall in the strategic network infrastructure needed to support identified urban growth, nor is there any agreed infrastructure and implementation plan with the project's developers.

25. Auckland Transport requested that if the project is referred, you require the applicant to provide an integrated transport assessment with their application for consents (including assessment of cumulative effects, assessment in the context of the existing and proposed Supporting Growth Alliance transport network, and consideration of several specific roading design elements). Auckland Transport also requested that you direct a panel to invite comments from Auckland Transport.

Section 18 referral criteria

26. 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)).
27. Auckland Council raised the possibility that the project may include a prohibited activity under the NES-F (placement of a culvert in a natural inland wetland) if parts of an onsite waterbody identified by the applicant as 'stream A' is a natural inland wetland rather than a stream. Auckland Council also advised that the issue could be avoided by placement of a bridge rather than a culvert.
28. The applicant identified the culvert placement as a discretionary activity. At this stage, we cannot confirm whether the project includes a prohibited activity as further ecological assessment is required to resolve the issue.
29. You cannot refer a project if it includes activities that are prohibited under the NES-F (section 18(3)(a)). Section 24(2)(c) states that if you decide to refer a project, you may specify restrictions that apply to the project (for example, on its geographical location, duration, or the activities that comprise the project). We consider you could refer the project provided you specify a restriction under section 24(2)(c) of the FTCA on the activities that comprise the project, specifically that:
 - a. the scope of the project must not include placement of a culvert within a 'stream A' unless information is provided to the panel demonstrating that stream A is not a natural inland wetland (and therefore placement of a structure in stream A is not a prohibited activity under the NES-F).
30. 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 81 direct FTE jobs and 219 indirect FTE jobs over a 4-year development period
 - b. increase housing supply through the construction of approximately 138 residential units
 - c. progress faster than would otherwise be the case under standard Resource Management Act 1991 process.
31. 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

32. 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.

33. The project site is in the AUP's FUZ, meaning that it has been identified as suitable for future urbanisation once it has been rezoned for such purposes. The standard approach under the RMA involves undertaking structure planning prior to rezoning through a plan change process, to identify constraints and opportunities for development and to align land use provisions with three-waters and transport infrastructure planning so that a well-functioning urban environment is created.
34. Auckland Council and Auckland Transport consider that progressing resource consents for a project that is out of sequence with usual planning processes is premature and may exacerbate misalignment between timing of transport infrastructure and services provision with urban growth in the wider area.
35. Auckland Council also advises the project is not aligned with current planning and regional strategic documents and is contrary to the objectives and policies of the FUZ. The project has non-complying activity status under the AUP due to a number of infringements of the zone's current provisions and standards, meaning that under clause 32 of schedule 6 of the FTCA a panel is 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 (namely, consistency with objectives and policies of the relevant plan or adverse effects that are no more than minor). The applicant has provided information to demonstrate the project can pass both 'gateway tests' in section 104D of the Resource Management Act 1991 (RMA) relating to non-complying activities.
36. We have provided you advice in briefings for several other projects in the AUP FUZ confirming that the FTCA does not preclude consideration of projects that are out of sequence with the standard RMA planning process under FTCA process. We consider the matters associated with out-of-sequence development and alignment with relevant planning documents (included transport related effects) can be tested and determined by a panel with the benefit of a full resource consent application. Therefore we do not consider that you should decline the referral application on this basis.

Section 23(5) FTCA matters

37. 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.
38. Section 23(5)(b) provides for you to decline the referral application on the basis that it would be more appropriate for the project to go through the standard consenting process under the RMA. Auckland Council advised the application would likely be publicly notified under standard RMA consenting process as it is significantly out of character to the current existing and planned character. There is a risk that referring the project could be viewed negatively by the wider community who may expect to be involved in a standard RMA consenting process.
39. 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) and so may consult as widely as they consider necessary, and any adverse effects of the project can be considered by a panel with the benefit of a full resource consent application. Therefore, we do not consider that you should decline the referral application on the basis that it would be more appropriate for the project to go through the standard consenting process under the RMA.
40. 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, and the Order made, before the FTCA is repealed (23(5)(g)).

Conclusions

41. 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.
42. If you decide to refer the project, we consider you should specify under section 24(2)(c) that the scope of the project must not include placement of a culvert within a 'stream A' unless information is provided to the panel demonstrating that stream A is not a natural inland wetland (and therefore placement of a structure in stream A is not a prohibited activity under the NES-F).
43. If you decide to refer the project, we consider that you should specify that the applicants must submit the following additional information to a panel under s 24(2)(d) of the FTCA:
 - a. an integrated transport assessment that includes assessment of cumulative effects of the project on the transport network, and assessment of transport effects in the context of the existing and proposed Supporting Growth Alliance transport network
 - b. details of any discussions held, and agreements made with Auckland Transport.
44. 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 Auckland Transport, Te Patukirikiri Iwi Trust and Ngāti Koheriki Claims Committee.

Next steps

45. 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 Te Patukirikiri Iwi Trust and Ngāti Koheriki Claims Committee.
46. 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.
47. We have attached a notice of decisions letter to the applicant based on our recommendations (refer Appendix 4). We will provide you with an amended letter if required. Once you have signed the letter we will assist your office to copy it to all relevant parties.
48. To refer the project, you must recommend that a referral order be made by way of an Order in Council (OIC). Cabinet has agreed that you can issue drafting instructions to the Parliamentary Counsel Office without the need for a policy decision to be taken by Cabinet in the first instance.¹
49. 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

¹ Following the first OIC, the Minister for the Environment (and Minister of Conservation for projects in the Coastal Marine Area) can issue drafting instructions directly to the Parliamentary Counsel Office. Cabinet has also agreed that a Regulatory Impact Assessment is not required for an OIC relating to projects to be referred to a panel [ENV-20-MIN-0033 and CAB-20-MIN-0353 refer].

direction.

50. Our recommendations for your decisions follow.

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 Mansion Rear Limited unless you are satisfied that the Stevensons Crescent Project (project) meets the referral criteria in section 18 of the FTCA including that it would help to achieve the FTCA's purpose.
- b. **Note** when assessing whether the project would achieve the FTCA's purpose, you may consider a number of matters under section 19, including the project's economic benefits and costs, and effects on social or cultural well-being; whether it may result in a public benefit (such as generating employment or increasing housing supply); and whether it could have significant adverse effects.
- c. **Note** before deciding to accept the application for project referral under section 24(1) of the FTCA you must consider:
 - i. the application
 - ii. the report obtained under section 17 of the FTCA
 - iii. any comments and further information sought and provided within the required timeframe.
- d. **Note** if you are satisfied that all or part of the project meets the referral criteria in section 18 of the FTCA you may:
 - i. refer all or part of the project to an expert consenting panel (panel)
 - ii. refer the initial stages of the project to a panel while deferring decisions about the project's remaining stages
 - iii. still decline the referral application for any reason under section 23(2) of the FTCA.
- e. **Note** if you do refer all or part of the project you may:
 - i. specify restrictions that apply to the project
 - ii. specify the information that must be submitted to a panel
 - iii. specify the persons or groups from whom a panel must invite comments
 - iv. set specific timeframes for a panel to complete their process.
- f. **Agree** the project meets the referral criteria in section 18(3) of the FTCA.
- g. **Agree** the project will help achieve the purpose of the FTCA (and therefore meets the referral criteria in section 18(2) of the FTCA) as it has the potential to:
 - i. generate employment by providing approximately 81 direct FTE jobs and 219 indirect FTE jobs over a 4-year development period
 - ii. increase housing supply through the construction of approximately 138 residential units
 - iii. progress faster than would otherwise be the case under standard Resource Management Act 1991 process

Yes/No

Yes/No

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

Yes/No

- i. **Agree** to specify under section 24(2)(c) of the FTCA that:

- i. the scope of the project must not include placement of a culvert within a 'stream A' identified in Appendix E of the referral application unless information is provided to the panel demonstrating that stream A is not a natural inland wetland (and therefore placement of a structure in stream A is not a prohibited activity under the NES-F).

Yes/No

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

- i. an integrated transport assessment that includes assessment of cumulative effects of the project on the transport network, and assessment of transport effects in the context of the existing and proposed Supporting Growth Alliance transport network
- ii. details of any discussions held, and agreements made with Auckland Transport.

Yes/No

- k. **Agree** to specify under section 24(2)(e) of the FTCA that a panel must invite comments from the following persons or groups in addition to those specified in clause 17 of Schedule 6 of the FTCA:

- i. Auckland Transport
- ii. Te Patukirikiri Iwi Trust
- iii. Ngāti Koheriki Claims Committee.

Yes/No

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

- i. Te Patukirikiri Iwi Trust
- ii. Ngāti Koheriki Claims Committee.

Yes/No

- m. **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

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

Yes/No

- o. **Require** the Ministry for the Environment to publish your decisions, reasons and the Section 17 report on the Ministry for the Environment's website.

Yes/No

Signatures



Rebecca Perrett
Acting Manager – Fast-track Consenting

Hon David Parker
Minister for the Environment

Date:

Table A: Stage 2 - Project summary and section 24 FTCA assessment for projects where the Minister for the Environment is the sole decision maker

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received <i>(Note: for analysis and/or recommended responses to these comments refer to column 7)</i>	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
Name Stevensons Crescent Project Applicant Mansion Rear Limited c/- Berry Simons Environmental Law Location 8 Stevensons Crescent, Albany, Auckland	The project is to subdivide land and construct a mixed-use development on an approximately 2.5-hectare site at 8 Stevensons Crescent, Albany, Auckland, comprising: a. approximately 138 residential units, of which approximately 112 will be configured in three-storey terraced houses with the remainder accommodated in three-storey apartment buildings b. a commercial component which may take the form of retail or office spaces on the ground or lower floors of the apartment buildings c. supporting infrastructure including roads, vehicle and pedestrian and cycle accessways, car-parking areas and three-waters services. The project will include activities such as: a. removing vegetation b. earthworks (including earthworks that disturb potentially contaminated soils) c. taking, damming, diverting and discharging water, including within a 100-metre setback from a natural inland wetland	The project is eligible for referral under section 18(3)(a)–(d) as: - it does not include any prohibited activities - it does not include activities on land returned under a Treaty settlement - it does not include activities in a customary marine title area or a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011.	Economic benefits for people or industries affected by COVID-19 (19(a)) Based on the information provided by the applicant we consider the project may result in the following economic benefits: - provide approximately 81 direct FTE jobs and 219 indirect FTE jobs over a 4-year development period - s 9(2)(f)(ii), s 9(2)(g)(i) Economic costs for people or industries affected by COVID-19 (19(a)) - N/A Effect on the social and cultural well-being of current and future generations (19(b)) The project has the potential for positive effects on the social wellbeing of current and future generations as it will: - generate employment by providing approximately 81 direct FTEs and 219 indirect FTEs over a 4-year development period - increase housing supply through the construction of approximately 138 residential units. 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. Is the project likely to progress faster by using this Act? (19(c)) The applicant considers the fast-track process will allow the project to progress approximately 2-4 years faster than under standard Resource Management Act 1991 (RMA) processes due to the potential that Auckland Council	Ministers 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) s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) Local authorities Auckland Council does not support project referral as it considers the project effectively establishes a private plan change on future urban zone land that is premature and does not fully address the potential consenting, servicing and environmental issues as covered under a Schedule 1 RMA process. The council advises the project is contrary to the objectives and policies of the FUZ, and not aligned with current planning and regional strategic documents. Auckland Council considers that the project should be progressed through a Schedule 1 RMA plan change process. Other issues raised by Auckland Council included: a proposed culvert could be a prohibited activity if the affected stream (stream A) meets the definition of a	Section 23(5) matters: Insufficient information (23(5)(a)) We consider the applicant has provided sufficient information for you to determine whether the project meets the criteria in section 18 of the FTCA. More appropriate to go through standard RMA process (23(5)(b)) The project site is in the AUP's FUZ, meaning that it has been identified as suitable for future urbanisation once it has been rezoned for such purposes. The standard approach under the RMA involves undertaking structure planning prior to rezoning through a plan change process, to identify constraints and opportunities for development and to align land use provisions with three-waters and transport infrastructure planning so that a well-functioning urban environment is created. Auckland Council and Auckland Transport consider that progressing resource consents for a project that is out of sequence with usual planning processes is premature and may exacerbate misalignment between timing of transport infrastructure and services provision with urban growth in the wider area. Auckland Council also advises the project is not aligned with current planning and regional strategic documents and is contrary to the objectives and policies of the FUZ. The project has non-complying activity status under the AUP due to a number of infringements of the zone's current provisions and standards, meaning that under clause 32 of schedule 6 of the FTCA a panel is 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 (namely, consistency with objectives and policies of the relevant plan or adverse effects that are no more than minor). The applicant has provided information to demonstrate the project can pass both 'gateway tests' in section 104D of the Resource Management Act 1991 (RMA) relating to non-complying activities. We have provided you advice in briefings for several other projects in the AUP FUZ confirming that the FTCA does not preclude consideration of such projects under FTCA process, and the matters associated with out-of-sequence development and alignment with relevant planning documents can be tested and determined by a panel with the benefit of a full resource consent application. Section 23(5)(b) provides for you to decline the referral application on the basis that it would be more appropriate for the project to go through the standard consenting process under the RMA. Auckland Council advised the application would likely be publicly notified under standard RMA consenting process as it is significantly out of character to the current existing and planned character. There is a risk that	In response to key comments: - s 9(2)(f)(ii), s 9(2)(g)(i) - in response to Auckland Council's advice that there is potential for prohibited activities, we consider you should include a restriction that the scope of the project must not include placement of a culvert within a 'stream A' unless information is provided to the panel demonstrating that stream A is not a natural inland wetland (and therefore placement of a structure in stream A is not a prohibited activity under the NES-F). - in response to Auckland Transport's concerns, including the issue of the frontage with Dairy Flat Highway, we consider you should specify that the applicant provide an integrated transport assessment that

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received <i>(Note: for analysis and/or recommended responses to these comments refer to column 7)</i>	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
	d. placement of structures in, on or over a river bed e. diverting, detaining and discharging stormwater f. taking, using and diverting groundwater g. constructing buildings h. landscaping and planting of open space i. constructing or installing infrastructure or structures including roads and accessways, infrastructure for three-waters services, and structures associated with the enhancement and restoration of lakes, rivers, streams or wetlands j. any other activities that are: i. associated with the activities described in paragraphs a to i ii. within the project scope as described in paragraph 3.		would require a plan change prior to granting of consents under standard RMA process. Will the project result in a public benefit? (19(d)) Based on the information provided, the project may result in the following public benefits: - generating employment - increasing housing supply. Potential to have significant adverse environmental effects, including greenhouse-gas emissions (19(e)) The applicant considers the project has the potential for adverse environmental effects: - during earthworks - during construction activities (including traffic, noise, vibration, sedimentation) - on existing access and traffic volumes - on existing water, stormwater and wastewater services - on landscape and visual amenity values. The applicant has provided some preliminary technical assessments in support of their view that the project will not have any significant adverse effects. We note that you do not require a full Assessment of Environment Effects and supporting evidence to make a referral decision and a panel can consider this and any appropriate mitigation, offsetting or compensation to manage adverse effects of the development. Other relevant matters (19(f)) - N/A	natural inland wetland. However, no disturbance of the stream A area would be required if a bridge were included in the final project design, but further detail is needed to confirm - limited information has been provided in respect of the management and authorisation of stormwater runoff from the project. Proposed methods of stormwater treatment do not comply with Auckland Council's code of practice and intended ownership or operation and maintenance responsibility of future stormwater quality management devices is not clear. Auckland Council's response included a response from Auckland Transport, who also did not support project referral. Auckland Transport considered it more appropriate for the project to proceed through a private plan change, noting that: - the project has the potential to contribute to and exacerbate misalignment between timing of transport infrastructure and services and the urbanisation of greenfield areas. Without this alignment there is no certainty about delivery of the strategic transport network and development network demands to mitigate adverse effects and achieve a well-functioning urban environment - the project precedes the formation of the arterial road network required to support urban development and does not currently provide any transport network upgrades - the project site has road frontage to Dairy Flat Highway and Stevensons Crescent and the project may compromise a Supporting Growth Alliance project (involving upgrade of Dairy Flat Highway and a pending NoR) currently under development - Auckland Transport does not have sufficient funding identified in the Regional Land Transport Plan (10 year plan for Auckland's transport network for 2021-2031 RLTP) to meet the shortfall in the strategic network infrastructure needed to support such growth identified, nor is there any agreed infrastructure and implementation plan with developers Auckland Transport requested that if the project is referred, you require the applicant to provide an integrated transport assessment with their application for consents (including assessment of cumulative effects, assessment in the context of the existing and proposed Supporting Growth Alliance transport network, and consideration of several specific roading design elements). Auckland Transport also requested that you direct a panel to invite comments from Auckland Transport. All responses received by parties invited to comment are attached in Appendix 6.	referring the project could be viewed negatively by the wider community who may expect to be involved in a standard RMA consenting process. 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) and so may consult as widely as they consider necessary. Therefore, we do not consider that you should decline the referral application on the basis that it would be more appropriate for the project to go through the standard consenting process under the RMA. Inconsistency with a national policy statement (23(5)(c)) We do not consider the project is inconsistent with any relevant national policy statements. Inconsistent with a Treaty settlement (23(5)(d)) The project is not inconsistent with Treaty Settlement redress. Involves land needed for Treaty settlements (23(5)(e)) The project is located on private land which is not available for Treaty settlement purposes. Applicant has poor regulatory compliance (23(5)(f)) Auckland Council advised that an abatement notice relating to installing and maintaining erosion and sediment controls on site was issued to Mansion Rear Limited in December 2022 for one of its sites in Ranui, and the notice is active for the site until the works are complete. While not ideal, we do not consider this matter is of a sufficient scale for you to decline to refer the project. Insufficient time for the project to be referred and considered before FTCA is repealed (23(5)(g)) 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. 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. Other issues and risks: N/A	includes assessment of cumulative effects of the project on the transport network, assessment of transport effects in the context of the existing and proposed Supporting Growth Alliance transport network, and details of any discussions held, and agreements made with Auckland Transport. We do not consider that you should decline to refer the project on the basis of the risks and issues identified above. We recommend that you accept the application under section 24 of the FTCA and refer all of the project to a panel. We recommend you require a panel to invite comments from: - Auckland Transport - Te Patukirikiri Iwi Trust - Ngāti Koheriki Claims Committee. 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: - Te Patukirikiri Iwi Trust - Ngāti Koheriki Claims Committee.