

FTC#93: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2021-065 Summerset Retirement Village – Half Moon Bay

Date Submitted:	11 November 2021	Tracking #: BRF-830
Security Level	In-Confidence	MfE Priority: Urgent

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

Actions for Minister's Office Staff	Return the signed briefing to MfE.
Number of appendices: 6	<p>Appendices:</p> <ol style="list-style-type: none"> 1. Application by Summerset Villages (Halfmoon Bay) Limited for Summerset Retirement Village – Half Moon Bay to be referred to an expert consenting panel 2. Stage 1 Briefing Note and decisions 3. Statutory framework for making decisions 4. Draft Notice of Decisions letter to Summerset Villages (Halfmoon Bay) Limited 5. Section 17 Report 6. Comments received from Ministers and local authorities

Ministry for the Environment contacts

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FTC#93: 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 Summerset Villages (Halfmoon Bay) Limited (SVHBL) for referral of the Summerset Retirement Village – Half Moon Bay 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 (2021-BRF 659) with your initial decisions annotated is in Appendix 2.
3. The Project is located at 25 Thurston Place, Bucklands Beach, Auckland. It is to establish and operate a comprehensive care retirement village comprising:
 - a. a number of buildings up to approximately 24 metres high, containing:
 - i. approximately 211 independent apartment living units, and 118 assisted living suites, including 20 memory care suites, 48 care suites and 50 serviced apartments
 - ii. ancillary facilities including lounges, theatre, bar, cafe, therapy, salon, shop, pool, health/wellness centre, library, outdoor amenity areas and space for associated staff and administrative functions
 - b. parking for approximately 309 vehicles
 - c. transport infrastructure and three waters services
 - d. landscaping
 - e. installation and use of temporary buildings, structures and infrastructure during the construction and early operational stages of the project, including: a recreation centre and associated car parking spaces, a show suite, advertising hoardings, and operations and sales offices.
4. The Project will involve activities such as:
 - a. earthworks
 - b. take, diversion and discharge of groundwater to land
 - c. discharges of stormwater and contaminants to land and water
 - d. construction of transport infrastructure and three waters services
 - e. construction of buildings
 - f. landscaping and planting
 - g. any other activities that are:
 - i. associated with the activities described in paragraphs a to f; and
 - ii. within the scope of the project as described in paragraph 3.
5. The Project will require land use consents, water and discharge permits under the Auckland Unitary Plan (AUP) and resource consents under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).

6. The Project site is zoned Residential-Mixed Housing Suburban in the AUP. The Project requires consents for restricted discretionary activities including building height greater than eight metres.
7. 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

8. The statutory framework for your decision-making is set out in Appendix 3. You must apply this framework when you are deciding whether to accept the application and when deciding on any further requirements or directions associated with Project referral.
9. 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.
10. 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.
11. However, before you make that decision you must consider the application (in Appendix 1), the Section 17 Report (in Appendix 5), and comments from local authorities and Ministers (in Appendix 6). We discuss these matters and provide our advice below.

Further information provided by applicant

12. You did not request any further information from the applicant under section 22 of the FTCA.

Section 17 Report

13. The Section 17 Report indicates that there are 12 iwi authorities, five Treaty settlements and 11 Treaty settlement entities relevant to the Project area.
14. No specific cultural or commercial redress provided under the settlements would be directly affected by the proposed Project.
15. 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

16. Comments were received from six Ministers and Auckland Council. The key points of relevance to your decision are summarised in Table A.

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

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

Section 18 referral criteria

21. 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)).
22. We confirm that the Project does not include ineligible activities, and therefore meets the requirements of section 18(3) of the FTCA, as explained in Table A.
23. 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 confirm that the Project will help to 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 up to 320 full-time equivalent (FTE) jobs per year over a five to seven-year construction period
 - b. increase housing supply through the construction of approximately 211 independent apartment living units and 118 assisted living suites
 - c. provide positive effects on social wellbeing by providing aged-care facilities with accessibility to amenities and services
 - d. progress faster than would otherwise be the case under standard RMA process, provided that the applicant lodges their applications for resource consent in a timely manner following Project referral.
24. 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

25. 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

26. 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.
27. The key issue relates to whether the Project would be more appropriately considered through standard RMA consenting process. None of the comments received opposed Project referral or recommended standard RMA process was more appropriate. Concerns were raised regarding how the Project contributes to a well-functioning urban environment, especially for elderly people, whether water infrastructure upgrades are required to service the development and whether the Project would have significant adverse effects on amenity and character. In relation to the first issue, it is not a matter that precludes project referral (even if valid), while the other matters could be addressed further through the merits assessment by a panel.

Conclusions

28. We do not consider there are any significant reasons for you to decline 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.
29. 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. an integrated transport assessment as detailed in Table A
 - b. an urban design assessment as detailed in Table A.
30. The information above is recommended in response to comments requesting directions to the applicant.
31. 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 groups. This is for the for the following reasons:
 - a. Ngāti Koheriki Claims Committee, Te Rūnanga o Ngāti Whātua, Ngāti Whātua o Ōrākei Trust Board and Te Kawerau iwi Settlement Trust as requested by the Minister for Treaty of Waitangi Negotiations and the Minister for Māori Crown Relations: Te Arawhiti
 - b. Counties Manukau District Health Board, to understand how the Project aligns with the specific health needs of the community
 - c. Watercare Services Limited, to understand the exact impact of the development on the water supply network and the extent of upgrades required.
32. 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 32.
33. Our recommendations for your decisions follow.

Next Steps

34. 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.
35. 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.
36. To refer the Project, you must recommend that a referral order be made by way of an Order in Council (OIC).
37. 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

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].

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. generate employment by providing up to 320 full-time equivalent (FTE) jobs per year over a five to seven year construction period
 - ii. increase housing supply through the construction of approximately 211 independent apartment living units and 118 assisted living suites
 - iii. provide positive effects on social wellbeing, by providing aged-care facilities with accessibility to amenities and services
 - iv. 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.

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. an integrated transport assessment including modelling and analysis that covers:

1. vehicle generation and its effects on the local road networks
2. details of the pedestrian connections to the existing street network, and to the existing pathway network in Kaniere Park, including gradient and a crime prevention through environmental design (CPTED) perspective
3. mitigation measures to be taken in relation to these matters

- ii. an urban design assessment of the project, including shading diagrams, visualisations and 3D simulations covering the effects of the proposed height exceedance and visual dominance.

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. Ngāti Koheriki Claims Committee
- ii. Te Rūnanga o Ngāti Whātua
- iii. Ngāti Whātua Ōrākei Trust Board
- iv. Te Kawerau Iwi Settlement Trust
- v. Counties Manukau District Health Board
- vi. Watercare Services Limited.

Yes/No

- k. **Agree** to copy the application and notice of decisions to Ngāti Koheriki Claims Committee, Te Rūnanga o Ngāti Whātua, Ngāti Whātua Ōrākei Trust Board, Te Kawerau Iwi Settlement Trust, Counties Manukau District Health Board and Watercare Services Limited.

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 Summerset Retirement Village – Half Moon Bay project to a panel in accordance with your decisions recorded herein.

Yes/No

- m. **Sign the attached (Appendix 4)** notice of decisions to Summerset Villages (Halfmoon Bay) Limited

Yes/No

- n. **Note** that to ensure compliance with section 25(3) of the FTCA, you must ensure that the decisions, the reasons, and the Section 17 Report are published on the Ministry for the Environment's website. We will work with your office to complete this task.

Signatures



Manager – Fast-track Consenting

Date

Hon David Parker
Minister for the Environment

Date

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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)?			
Project name Summerset Retirement Village – Half Moon Bay Applicant Summerset Villages (Halfmoon Bay) Limited c/- Russell McVeagh Location 25 Thurston Place, Bucklands Beach, Auckland	The Project is to establish a comprehensive care retirement village, comprising: a. a number of buildings up to approximately 24 metres high containing: - approximately 211 independent apartment living units and 118 assisted living suites, including 20 memory care suites, 48 care suites, 50 serviced apartments - ancillary facilities, including lounges, theatre, bar, cafe, therapy, salon, shop, pool, health /wellness centre, library, outdoor amenity areas, and space for associated administrative functions b. parking for approximately 309 vehicles c. transport infrastructure and three waters services d. landscaping e. installation and use of temporary buildings, structures and infrastructure during the construction and early operational stages of the project, including: a recreation centre and associated car parking spaces, a show suite, advertising hoardings, and operations and sales offices. The Project will involve activities such as: a. earthworks (including disturbance of contaminated land) for building platforms, and to accommodate the required in ground infrastructure b. dewatering and diversion of groundwater c. discharges of stormwater and contaminants to land and water	The Project is eligible under section 18(3)(a-d) as: <ul style="list-style-type: none"> it does not include any prohibited activities it does not include activities on land returned under a Treaty settlement it does not include activities in a customary marine title area or a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	Economic benefits for people or industries affected by COVID-19 (19(a)) <ul style="list-style-type: none"> The Project is expected to provide up to 320 full-time equivalent (FTE) jobs per year over a five-to seven-year construction period The Project will provide economic benefits to the construction industry, which has been affected by COVID-19. Economic costs for people or industries affected by COVID-19 (19(a)) <ul style="list-style-type: none"> N/A Effect on the social and cultural well-being of current and future generations (19(b)) <ul style="list-style-type: none"> The Project will increase housing supply through the construction of approximately 211 independent apartment living units and 118 assisted living suites provide positive effects on social wellbeing, by providing aged-care facilities for residents, with accessibility to amenities and services. Is the Project likely to progress faster by using this Act? (19(c)) <ul style="list-style-type: none"> The FTCA will allow the Project to progress approximately 18 months faster than under standard RMA processes, due to the likelihood of delays caused by notification and appeals under standard process. Will the Project result in a public benefit? (19(d)) The Project will result in a public benefit for the following reasons: <ul style="list-style-type: none"> it will generate approximately 320 FTE jobs per year over a five-to seven-year construction period it will increase housing supply through the construction of approximately 211 independent apartment living units and 118 assisted living suites 	s 9(2)(f)(ii), s 9(2)(g)(i)	Section 23(5) matters: Insufficient information (23(5)(a)) 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)) 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. Inconsistency with a national policy statement (23(5)(c)) We do not consider that the Project is inconsistent with any relevant national policy statements. Inconsistent with a Treaty settlement (23(5)(d)) The Section 17 report does not identify any specific issues. Involves land needed for Treaty settlements (23(5)(e)) The Project is located on privately owned land which is not available for Treaty settlement purposes. Applicant has poor regulatory compliance (23(5)(f)) Auckland Council has not raised concern regarding the applicant's regulatory compliance. Insufficient time for the Project to be referred and considered before FTCA repealed (23(5)(g)) There is sufficient time for the application to be referred and considered before the FTCA is repealed. Other issues & risks: Concerns were raised regarding how the Project contributes to a	In response to the requests from s 9(2)(f)(ii), s 9(2)(g)(i) and Auckland Council for notification and/or panel direction, we advise: <ul style="list-style-type: none"> we support the request for Ngāti Koheriki Claims Committee, Te Rūnanga o Ngāti Whātua, Ngāti Whātua Ōrākei Trust Board and Te Kawerau Iwi Settlement Trust to receive a copy of your notice of decisions on the referral and for direction to the panel to invite comments from them. Your specific direction relating to Te Ara Rangatu o Te Iwi o Ngāti Te Ata Waiohū is not necessary as they are a relevant iwi authority identified in the Section 17 report, and as such are automatically included in notification and panel invitation provisions. we support Auckland Council's request for the applicant to be directed to submit additional information with any resource consent application to a panel, on traffic, pedestrian access and character and amenity. Recommendations There are no reasons to decline to refer the Project. We recommend that you accept the application under section 24 of the FTCA and refer all of the Project to a panel. <ul style="list-style-type: none"> the Project is not ineligible for referral under any of the criteria in section 18 of the FTCA the Project will generate employment by providing up to 320 FTE jobs per year over a five-to seven-year construction period the Project will increase housing supply through the construction of approximately 211 independent apartment living units and 118 assisted living suites the Project will provide positive effects on social wellbeing, by providing aged-care facilities for residents, with accessibility to amenities and services the Project is likely to progress faster by using the processes provided by the FTCA than would otherwise be the case, provided that the applicant lodges their applications for resource consent in a timely manner following Project referral. We recommend that you do not place any restrictions on the Project, nor impose any specific timeframes for panel consideration. We recommend you require the applicant to submit the following information with any consent application lodged with the Environmental Protection Authority:

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>d. construction of transport infrastructure and three waters services</p> <p>e. construction of buildings</p> <p>f. any other activities that are:</p> <p>i. associated with the activities described in paragraphs a to e; and</p> <p>ii. within the scope of the project as described in paragraph 8.</p> <p>The Project will require land use consents, water and discharge permits under the Auckland Unitary Plan (AUP) and resource consents under the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).</p>		<ul style="list-style-type: none"> it will provide positive effects on social wellbeing, by providing aged-care facilities for residents, with accessibility to amenities and services. <p>Potential to have significant adverse environmental effects, including greenhouse gas emissions (19(e))</p> <ul style="list-style-type: none"> The Project has the potential for adverse environmental effects related to water quality, increased traffic generation, transport emissions, demand on water supply services, character and amenity, and temporary construction. <p>We note that you do not require a full Assessment of Environmental Effects and supporting evidence to make a referral decision, and that a panel will consider the significance of effects should the Project be referred.</p> <p>Other relevant matters (19(f))</p> <ul style="list-style-type: none"> N/A 	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>Local authorities</p> <p>Key comments from Auckland Council are:</p> <ul style="list-style-type: none"> the Project could be processed through the Fast-track process, however, specific care is required to assess the effects of the proposed development, particularly as it relates to height and infrastructure. the Project's scale (height) has the potential to adversely affect the existing and planned suburban character of the neighbourhood service demands arising from the Project are likely to exceed the capacity of the existing public water supply network, and more detailed information is required to assess the exact impact of the development on the network and the extent of upgrades required. <p>Auckland Council also requested that the applicant be directed to submit additional information with any resource consent application to a panel, including a traffic impact assessment and shading diagram.</p> <p>All responses received by parties invited to comment are attached at Appendix 6.</p>	<p>well-functioning urban environment, especially for elderly people.</p> <p>We consider that a panel could address this issue in more detail with the benefit of input from the relevant District Health Board; accordingly, we recommend that you direct a panel to invite comments from Counties Manukau District Health Board, and that the applicant provides details of the pedestrian connections to the street network and Kaniere Park.</p> <p>Auckland Council has concerns whether water infrastructure upgrades are required to service the development. We consider a panel would be able to address this issue with appropriate advice from Watercare Services Limited and accordingly recommend that a panel is directed to invite comments from them.</p> <p>Concerns were also raised whether the Project would have significant adverse effects on amenity and character. We note that a panel will consider the significance of effects should the Project be referred.</p>	<ul style="list-style-type: none"> an integrated transport assessment including modelling and analysis that covers: <ul style="list-style-type: none"> vehicle generation and its effects on the local road networks details of the pedestrian connections to the existing street network, and to the existing pathway network in Kaniere Park, including gradient and a crime prevention through environmental design (CPTED) perspective mitigation measures to be taken in relation to these matters an urban design assessment of the project, including shading diagrams, visualisations, and 3D simulations covering the effects of the proposed height exceedance and visual dominance. <p>We recommend that you provide the application and your notice of decisions to Ngāti Koheriki Claims Committee, Te Rūnanga o Ngāti Whātua, Ngāti Whātua Ōrākei Trust Board, Te Kawerau Iwi Settlement Trust, Counties Manukau District Health Board and Watercare Services Limited.</p> <p>We also recommend that you make a direction to a panel to invite comments from:</p> <ul style="list-style-type: none"> Ngāti Koheriki Claims Committee Te Rūnanga o Ngāti Whātua Ngāti Whātua Ōrākei Trust Board Te Kawerau Iwi Settlement Trust Counties Manukau District Health Board Watercare Services Limited

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Schedule of Appendices and Attachments

Appendix 1 – Summerset Retirement Village – Half Moon Bay – Application form

Appendix 2 – 2021-BRF 659 FTC#89 – Application for referred project under the COVID-Recovery FTCA - Stage 1 decisions on Summerset Retirement Village – Half Moon Bay project

Appendix 3 – Statutory framework for making decisions

Appendix 4 – Draft Notice of Decisions letter to Summerset Villages (Halfmoon Bay) Limited

Appendix 5 – Section 17 Report

Appendix 6 – Comments received from Ministers and Auckland Council

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the Official Information Act 1982