

In Confidence

Office of the Minister for the Environment

Chair, Cabinet

COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 18) 2021

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 18) 2021 (the Amendment Order).
- 2 The Amendment Order amends the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 to include as a project referred to an expert consenting panel (panel) Summerset Villages (Halfmoon Bay) Limited's Summerset Retirement Village – Half Moon Bay project (Schedule 39)

Executive Summary

- 3 The COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) is one of the Government's actions to support New Zealand's economic recovery from COVID-19. The FTCA enables any person to apply to me, in my role as the Minister for the Environment, to fast-track certain approvals required under the Resource Management Act 1991 (RMA) for their project.
- 4 Projects that I accept are referred to a panel by an amendment to the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020, subject to Cabinet's agreement. This allows an applicant to lodge applications for resource consents and/or notices of requirement for a designation with the Environmental Protection Authority (EPA) for consideration by a panel. Before granting any RMA approvals a panel must conduct a thorough merit-based assessment of the project's effects, which includes testing the actual and potential effects of the project against the requirements of both Part 2 of the RMA and additional specifications in the FTCA.
- 5 I received an application from Summerset Villages (Halfmoon Bay) Limited to fast-track the Summerset Retirement Village – Half Moon Bay project, for a comprehensive care retirement village in Bucklands Beach, Auckland.
- 6 I have considered whether the project helps achieve the purpose of the FTCA and I am satisfied as to the project's eligibility for referral. I sought written comments from Auckland Council and relevant Ministers prescribed by the FTCA including the Minister for Seniors. I considered all comments received and the report prepared under section 17 of the FTCA.
- 7 I have accepted the Summerset Retirement Village – Half Moon Bay project for referral. I consider the project will help to achieve the purpose of the FTCA, and any actual and potential effects on the environment, together with any measures to mitigate, offset or

compensate for adverse effects, can be considered and determined by a panel subject to Part 2 of the Resource Management Act 1991 (RMA) and the purpose of the FTCA.

- 8 I now seek authorisation for submission of the Amendment Order to the Executive Council. The Amendment Order enables Summerset Villages (Halfmoon Bay) Limited to apply via the EPA to a panel for the relevant approvals needed under the RMA for the project, in accordance with the process in the FTCA.

Background

- 9 The FTCA is one of the Government's temporary actions to support New Zealand's economic recovery from COVID-19, by promoting employment and supporting on-going investment. The provisions remain in place until repeal of the FTCA in July 2023. The FTCA enables any person to apply to me, in my role as the Minister for the Environment, to access the fast-track consenting process for their project. If I accept an application, it is referred by Order in Council – specifically, via an amendment that adds the project as a new schedule to the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 – subject to Cabinet's agreement. This allows an applicant to lodge a resource consent application or notice of requirement for a designation with the EPA for consideration and decision by a panel.
- 10 Panels are appointed by Panel Convener Judge Laurie Newhook and are constituted according to the specific representation, skills and knowledge required for the particular project. Before a panel grants any RMA approvals it must conduct a thorough assessment of the project's actual and potential effects, and test these against the requirements of Part 2 of the RMA and a number of additional specifications in the FTCA. As part of this process the panel must also consult with the range of parties specified in the FTCA and may seek further information if necessary.
- 11 I receive weekly updates on the projects accessing the fast-track provisions and their progress. To ensure robust oversight of the wider performance of the process, the Ministry for the Environment has commissioned an independent survey and review of FTCA implementation in the context of the FTCA's overall purpose. I expect to receive their report early in 2022, and this will feed into a Ministry report to Treasury on FTCA implementation in March 2022.
- 12 As of 2 December 2021, 75 applications have been made under the FTCA to refer projects to a panel, of which:
 - 12.1 37 projects have been referred and Orders in Council gazetted. Details are in Appendix one. In summary, for these projects:
 - 12.1.1 Ten have been granted their RMA approvals by a panel
 - 12.1.2 One has had their applications for RMA approvals declined by a panel
 - 12.1.3 13 are under active panel consideration
 - 12.1.4 11 have yet to lodge their RMA applications
 - 12.1.5 Two have subsequently decided not to seek their RMA consents through the panel process.
 - 12.2 four projects that I have accepted for referral are awaiting Orders in Council. This includes the project that is the subject of this cabinet paper

- 12.3 15 referral applications are being processed and are yet to receive referral decisions
- 12.4 13 referral applications have been declined for a range of reasons including not meeting the purpose of the FTCA and it being more appropriate for them to go through the standard RMA consenting process
- 12.5 Six referral applications have been withdrawn by the applicants.
- 13 Projects listed in Schedule 2 of the FTCA are able to lodge their applications for RMA approvals with the EPA without first going through a referral assessment. An update on these projects is in Appendix two.

Project for referral: Summerset Villages (Halfmoon Bay) Limited's Summerset Retirement Village – Half Moon Bay project

- 14 Summerset Villages (Halfmoon Bay) Limited has applied to use the fast-track consenting process for the Summerset Retirement Village – Half Moon Bay project. The project site is a 2.9 hectare undeveloped area, located at 25 Thurston Place, Bucklands Beach, Auckland.
- 15 The project is to build and operate a comprehensive care retirement village, including ancillary facilities such as a theatre, bar, café, salon, shop, pool, library, health and wellness centre and outdoor amenity areas. The project will comprise buildings approximately 24 metres high containing approximately 211 independent apartment living units and 118 assisted living suites.
- 16 The project requires land use consents, water and discharge permits under the Auckland Unitary Plan 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).
- 17 I sought written comments on the application from Auckland Council as the relevant local authority and from the relevant Ministers as determined by section 21(6) of the FTCA including the Minister for Seniors.

Overview of comments

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

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

- 23 Auckland Council did not oppose the project being referred but advised specific care is required when assessing effects, particularly in relation to building height and capacity of the existing public infrastructure networks. Auckland Council requested that the applicant be directed to submit additional information with any resource consent application to a panel, including an urban design and shading diagram, an assessment of impacts on the public water supply network and any necessary upgrades, and a traffic impact assessment.

Decision

- 24 In making my decision, and in accordance with section 24 of the FTCA, I considered the application and further information received, all comments provided in response to my invitation, and the eligibility criteria in section 18 of the FTCA. I also considered the report prepared under section 17 of the FTCA.
- 25 I have decided to accept Summerset Villages (Halfmoon Bay) Limited's application for referral of the Summerset Retirement Village – Half Moon Bay project to a panel. I consider the project meets the eligibility criteria in section 18(3) of the FTCA and may help to achieve the purpose of the FTCA by having the potential to:
- 25.1 have positive effects on social well-being by providing aged-care facilities with accessibility to amenities and services
 - 25.2 generate employment by providing approximately 320 full-time equivalent jobs per year over a 5 to 7-year construction period
 - 25.3 increase housing supply through the construction of approximately 211 independent apartment living units and 118 assisted living suites
 - 25.4 progress faster using the FTCA processes than if consents were sought through standard RMA processes, provided that the applicant lodges their applications for resource consents with the EPA in a timely manner following referral.
- 26 To address matters raised by Auckland Council, I have decided to specify the following information that the applicant must provide with their applications for resource consents submitted to a panel¹: an urban design and shading assessment, network capacity assessment and an integrated transport assessment. The full details of this information requirement are in Appendix three.
- 27 The FTCA requires a panel to invite comments from the relevant local authorities, relevant iwi authorities and Treaty settlement entities, specific Ministers, owners and occupiers of adjacent land, specific non-governmental organisations and other groups

¹ Section 24(2)(d) of the FTCA.

listed in the FTCA². In addition to these requirements and to address site-specific matters raised, I have decided to specify the following parties, listed in Appendix three, from whom a panel must seek comment in relation to any consent application before it:

- 27.1 Ngāti Koheriki Claims Committee
 - 27.2 Te Rūnanga o Ngāti Whātua
 - 27.3 Ngāti Whātua o Ōrākei Trust Board
 - 27.4 Te Kawerau Iwi Settlement Trust
 - 27.5 Counties Manukau District Health Board
 - 27.6 Watercare Services Limited.
- 28 I consider any actual and potential effects on the environment, together with any measures to mitigate, offset or compensate for adverse effects, can be appropriately tested by a panel against Part 2 of the RMA and the purpose of the FTCA. I consider the requirements for additional material listed in Appendix three that must be submitted to a panel will assist with this.
- 29 I consider there are no reasons to decide under section 24(2) of the FTCA to:
- 29.1 limit the scope of the project by referring it only in part
 - 29.2 refer the project in stages
 - 29.3 place any restrictions on the project
 - 29.4 impose specific timeframes for panel consideration.

Timing and 28-day rule

- 30 Cabinet has agreed to waive the 28-day rule for Orders in Council relating to projects to be referred to a panel³. Therefore, the Amendment Order will come into force the day after publication in the New Zealand Gazette. Summerset Villages (Halfmoon Bay) Limited may then lodge resource consent applications with the EPA.

Compliance

- 31 The Amendment Order complies with:
- 31.1 the principles of the Treaty of Waitangi
 - 31.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
 - 31.3 the principles and guidelines set out in the Privacy Act 2020
 - 31.4 relevant international standards and obligations

² Clause 17(6) of Schedule 6, FTCA.

³ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer

- 31.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 32 I do not consider that there are grounds for the Regulations Review Committee to draw this Order in Council to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel Office

- 33 The Amendment Order has been certified by the Parliamentary Counsel Office as being in order for submission.

Impact Analysis

Regulatory Impact Assessment

- 34 The Regulatory Impact Assessment (RIA) requirements for this proposal have been waived. Cabinet has agreed that a RIA is not required for Orders in Council relating to projects to be referred to a panel⁴.

Climate Implications of Policy Assessment

- 35 The Climate Implications of Policy Assessment (CIPA) team at the Ministry for the Environment has been consulted and confirms that the CIPA requirements⁵ do not apply to the project.

Publicity

- 36 The Amendment Order will be available on the New Zealand Legislation website following its notification in the New Zealand Gazette.
- 37 As required under section 25 of the FTCA, my decision to refer the project to a panel for consideration, the reasons for this decision, and the report obtained under section 17 will be made available to the public on the Ministry for the Environment's website.

Proactive release

- 38 I intend to proactively release this paper on the Ministry for the Environment's website subject to redaction as appropriate under the Official Information Act 1982.

Consultation

- 39 The Ministry for the Environment sought comment on this paper from the Ministry of Housing and Urban Development, Ministry for Culture and Heritage, Te Puni Kōkiri, Ministry of Education, Department of Corrections, Land Information New Zealand, Treasury, Ministry of Transport, Ministry of Business, Innovation and Employment, Ministry for Primary Industries, Department of Prime Minister and Cabinet, Ministry of Health, Ministry of Defence, Department of Internal Affairs, Department of Conservation and The Office for Māori Crown Relations – Te Arawhiti.

⁴ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer

⁵ CO (20) 3 refers

Recommendations

I recommend that Cabinet:

- 1 **note** that I have decided under section 24 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 to accept the application for referral by Summerset Villages (Halfmoon Bay) Limited for Summerset Retirement Village – Half Moon Bay project to a panel
- 2 **note** that Summerset Villages (Halfmoon Bay) Limited's Summerset Retirement Village – Half Moon Bay project meets the eligibility criteria in section 18(3) of the COVID-19 Recovery (Fast-track Consenting) Act 2020, and may help achieve the Act's purpose by having the potential to:
 - 2.1 have positive effects on social well-being by providing aged-care facilities with accessibility to amenities and services
 - 2.2 generate employment by providing approximately 320 full-time equivalent jobs per year over a 5 to 7-year construction period
 - 2.3 increase housing supply through the construction of approximately 211 independent apartment living units and 118 assisted living suites
 - 2.4 progress faster using the Act's processes than would otherwise be the case under standard Resource Management Act 1991 processes, provided that the applicant lodges their applications for resource consents with the Environmental Protection Agency in a timely manner following project referral
- 3 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 18) 2021 requires Summerset Villages (Halfmoon Bay) Limited to provide to an expert consenting panel an urban design and shading assessment, network capacity assessment and an integrated transport assessment, as detailed in Appendix three
- 4 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 18) 2021 requires an expert consenting panel appointed to consider Summerset Villages (Halfmoon Bay) Limited's Summerset Retirement Village – Half Moon Bay project to seek comments from Ngāti Koheriki Claims Committee, Te Rūnanga o Ngāti Whātua, Ngāti Whātua o Ōrākei Trust Board, Te Kawerau Iwi Settlement Trust, Counties Manukau District Health Board and Watercare Services Limited, as listed in Appendix three
- 5 **authorise** submission of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 18) 2021 to the Executive Council
- 6 **note** that on 27 July 2020, Cabinet agreed to waive the standard 28-day rule relating to Orders in Council made under the COVID-19 Recovery (Fast-track Consenting) Act 2020 [CAB-20-MIN-0353 refers]. Consequently, the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 18) 2021 will come into force the day after publication in the New Zealand Gazette.

Authorised for lodgement

Hon David Parker
Minister for the Environment

Appendix one – Referred projects under the COVID-19 Recovery (Fast-track Consenting) Act 2020

Referred projects with Orders in Council gazetted		
Project - Location	Applicant	EPA Status
Clutha Upper Waitaki Lines Project - Works and Workers' Village - Clutha Upper Waitaki	Transpower New Zealand Limited	Not progressing through FTC
Northbrook Wanaka Retirement Village - Wanaka	Winton Property Limited	Consented by Panel (4 August 2021)
Kohimarama Comprehensive Care Retirement Village - Kohimarama, Auckland	Ryman Healthcare Limited	Consented by Panel (12 May 2021)
Molesworth Street Office Development - Thorndon, Wellington	Prime Property Group Limited	Consented by Panel (12 November 2021)
The Vines Affordable Subdivision - Richmond, Tasman	Jason and Angela Mudgway	Declined by Panel (17 September 2021)
Dominion Road Mixed-use Development - Mount Eden, Auckland	Pudong Housing Development Company Limited, Foodstuffs North Island Limited, and Silk Road Management Limited	Consented by Panel (29 September 2021)
Ohinewai Foam Factory - Ohinewai, Waikato	Ambury Properties Limited	Consented by Panel (24 August 2021)
Eastern Porirua Regeneration Project - Infrastructure Works - Porirua	Kāinga Ora-Homes and Communities' and Porirua City Council	Lodgement expected early 2022
Silverlight Studios - Wanaka	Silverlight Studios Limited	Under consideration by Panel
Brennan winery, restaurant, education, and event complex - Gibbston Valley, Otago	Otago Viticulture and Oenology Limited's (trading as Brennan Wines)	Not progressing through FTC
Nola Estate - Glen Eden, Auckland	CPM 2019 Limited	Consented by Panel (1 October 2021)
Wooring Tree Estate – Cromwell	Wooring Tree Property Development LP	Consented by Panel (29 September 2021)
Kapuni Green Hydrogen - Kapuni, Taranaki	Hiringa Energy Limited's and Ballance Agri-Nutrients Limited	Consented by Panel (1 December 2021)
New Dunedin Hospital – Whakatuputupu - Dunedin	The Minister of Health's and the Ministry of Health	Under consideration by Panel
Faringdon South West and South East Development - Rolleston	Hughes Developments Limited's	Consented by Panel (27 August 2021)

Summerset Retirement Village - Waikanae - Waikanae	Summerset Villages (Waikanae) Limited	Consented by Panel (23 September 2021)
Beachlands Housing Development - Beachlands, Auckland	Neil Construction Limited and Fletcher Residential Limited	Under consideration by Panel
Kōpū Marine Precinct - Kōpū, Thames	Thames-Coromandel District Council	Under consideration by Panel
Whakatāne Commercial Boat Harbour project - Whakatāne	Whakatāne District Council, Te Rāhui Lands Trust, Te Rūnanga o Ngāti Awa, Ngāti Awa Group Holdings Limited, Te Rāhui Lands General Partner Limited, Te Rāhui Herenga Waka Whakatane Limited, and Provincial Growth Fund Limited	Lodgement expected late 2021
Karaka North Village - Karaka, Auckland	Urban Resort Limited, Icon Co Pty (NZ) Limited	Lodgement expected late 2021
Ōmāhu Residential Development - Remuera, Auckland	Newmarket Holdings Development Limited Partnership	Under consideration by Panel
George St Mixed Use Development - Newmarket, Auckland	Te Tai Tokerau Water Trust	Lodgement expected early/mid 2022
Otawere Water Storage Reservoir - Northland	KiwiRail Holdings Limited	Under consideration by Panel
Drury Central & Paerata Stations - Auckland	Far North District Council & Far North Holdings Limited	Under consideration by Panel
Rangitane Maritime Development - Kerikeri	Aedifice Development Limited	Under consideration by Panel
Brickfields, Scott Road Development - Hobsonville, Auckland	Melia Development Limited	Under consideration by Panel
Melia Place - Whangaparāoa, Auckland	The Minister of Justice and the Ministry of Justice	Under consideration by Panel
Tauranga Innovative Courthouse - Tauranga	Urban Resort Limited, Icon Co Pty (NZ) Limited	Lodgement expected late 2021
Oruku Landing - Whangārei, Northland	Northland Development Corporation Limited	Lodgement expected late 2021
Riverbend Residential Development - Napier	Tawanui Developments Limited, K3 Properties Limited & Mana Ahuriri Holdings Limited	Lodgement expected mid 2022
Silverlight Studios Accommodation - Wanaka, Otago	Silverlight Studios Limited	Under consideration by Panel
Drury Centre Precinct - Auckland	Kiwi Property Holdings No 2	Under consideration by Panel

Drury East Stage 1 Precinct – Auckland	Fulton Hogan Land Development	Lodgement expected late 2021
Waihoehoe Precinct - Auckland	Oyster Capital Limited	Under consideration by Panel
Flints Park, Laries Mile – Te Pūtahi, Queenstown	Glenpanel Development Limited	Lodgement expected late 2021/early 2022
Bellgrove Development, Rangiora	Bellgrove Rangiora Limited	Lodgement expected late 2021
Federal Street Residences, Auckland	P0012 Auckland NZ Pty Limited	Lodgement expected late 2021

Released under the provisions of the Official Information Act 1982

Appendix two – Status of projects listed under the COVID-19 Recovery (Fast-track Consenting) Act 2020

Listed Project	Status
Matawii Water Storage Reservoir Kaikohe	Consents have been approved.
Papakāinga Development – Rāpaki, Christchurch	Consents have been approved.
Te Ara Tupua – Ngā Ūranga to Pito-one shared path	Consents have been approved.
Waitohi Picton Ferry Precinct Redevelopment	Consents have been approved.
Queenstown Arterials Project	Consents have been approved.
Papakāinga Development - Kaitaia	Consents have been approved.
Papakura to Pukekōhe rail electrification	Package 1 - consents have been approved. Package 2 – minor consents - unlikely to proceed under fast-track at this stage.
Papakura to Drury South State Highway 1 improvements	Package 1 - consents have been approved. Package 2 – lodgement anticipated in 2021.
Papakāinga Development – Waitara, Taranaki	Lodgement anticipated in 2021.
Northern Pathway – Westhaven to Akoranga shared path	Unlikely to proceed under fast-track at this stage.
Te Pā Tāhuna Residential Development	Unlikely to proceed under fast-track at this stage.
Unitec Residential Development	Unlikely to proceed under fast-track at this stage.
Papakāinga Development - Point Chevalier, Auckland	Unlikely to proceed under fast-track at this stage.
Papakāinga development – Whaingaroa, Raglan	Unlikely to proceed under fast-track at this stage.
Papakāinga Development - Chatham Islands	Unlikely to proceed under fast-track at this stage.
Wellington Metro Upgrade Programme	Unlikely to proceed under fast-track at this stage.
Britomart Station eastern end upgrade	Unlikely to proceed under fast-track at this stage.

Appendix three – Additional requirements: Summerset Villages (Halfmoon Bay) Limited's Summerset Retirement Village – Half Moon Bay project

Summerset Villages (Halfmoon Bay) Limited is required to provide with their applications for resource consents to an expert consenting panel:

1. an urban design assessment of the project that includes shading diagrams, visualisations and 3D simulations assessing the effects of shading and visual dominance from the proposed buildings
2. an integrated transport assessment that covers:
 - i. vehicle generation and its effects on the local road network
 - ii. details of the pedestrian connections to the existing road network and pathway network in Kaniere Park, including an appropriate gradient for the pathway network and taking into account crime prevention through environmental design
 - iii. mitigation measures to reduce adverse impacts on the people using the development.

An expert consenting panel appointed to consider Summerset Villages (Halfmoon Bay) Limited's applications for resource consents the Summerset Retirement Village – Half Moon Bay project must seek comments from the following additional persons/organisations:

1. Ngāti Koheriki Claims Committee
2. Te Rūnanga o Ngāti Whātua
3. Ngāti Whātua o Ōrākei Trust Board
4. Te Kawerau Iwi Settlement Trust
5. Counties Manukau District Health Board
6. Watercare Services Limited.