

FTC #96: Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

Application 2021-070 Whenuapai Green

Application 2021-072 The Hill – Ellerslie

Date Submitted:	25 November 2021	Tracking #: BRF-886	
Security Level	In-Confidence	MfE Priority:	Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decision on recommendations in Table A	TBA

Actions for Minister's Office Staff	Return the signed briefing to MfE
Number of attachments: 4	Titles of attachments: 1. Letters from the Minister for the Environment to relevant Ministers of the Crown 2. Letter to Minister for Racing 3. Whenuapai Green application and supporting information 4. The Hill – Ellerslie application and supporting information

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Jess Hollis		
Manager	Stephanie Frame	s 9(2)(a)	
Director	Sara Clarke (Acting)	s 9(2)(a)	

FTC #96: Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Stage 1 decisions

Key Messages

1. We seek your initial decisions on two applications for referral to an expert consenting panel (a panel) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA) for the following projects (both located in Auckland):
 - a. Whenuapai Green, from Neil Construction Limited and Maraetai Land Development Limited
 - b. The Hill – Ellerslie, from Auckland Thoroughbred Racing Incorporated (ATRI) and Fletcher Residential Limited (trading as Fletcher Living).

Whenuapai Green

2. The Whenuapai Green project is to subdivide a greenfield site covering approximately 16 hectares and construct a housing development at the western edge of the NZ Defence Force Whenuapai Airbase. The project includes two development options, providing either approximately 459 residential lots and residential units, or approximately 353 residential lots and residential units and a balance lot for future development of a primary school. Both options also provide private access lots, and public roads and reserves intended to vest in Auckland Council.
3. The project is located at 98-100 and 102 Totara Road, Whenuapai, Auckland.
4. The project will involve activities such as:
 - a. subdivision
 - b. vegetation trimming and clearance, including of trees in roads and near streams
 - c. earthworks (including disturbance of contaminated soils)
 - d. diverting overland flow paths
 - e. discharging stormwater and contaminants to land and water
 - f. placing structures in an overland flow path and flood plain
 - g. construction of residential units
 - h. construction of roads and vehicle access, and three waters services
 - i. landscaping and planting of open spaces
 - j. any other activities that are –
 - i. associated with the activities described in a to i
 - ii. within the project scope as described in paragraph 2.
5. The project will require subdivision and land use consents, and discharge permits under the Auckland Unitary Plan (AUP), and land use consent under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).
6. We have undertaken an initial (Stage 1) analysis of the application and this is presented along with our recommendations in Table A.
7. The project site is in the AUP's Future Urban Zone, which applies to greenfield land identified

as suitable for urbanisation. Future Urban Zone land can be used for a range of general rural activities, but under Objective H18.2(4) for the zone, urbanisation is to be avoided until sites have been rezoned for urban purposes.

8. The AUP promotes structure planning as a precursor to rezoning and urban development in the Future Urban Zone. In September 2016, Auckland Council adopted the “Whenuapai Structure Plan” which sets out the framework for transforming Whenuapai from a semi-rural environment to an urbanised community over a 10 to 20-year period. The structure plan does not anticipate development of the project land until approximately 2027 due to further investment required in infrastructure.
9. If the project is referred it will be assessed against the AUP framework as a non-complying activity. The applicant identifies that the project may not be entirely consistent with the AUP but is consistent with the intended land use under the Whenuapai Structure Plan and the national policy framework.
10. The project meets the eligibility criteria in section 18(3) of the FTCA. More analysis is needed before we can advise if it meets the purpose of the FTCA (thus satisfying section 18(2) of the FTCA) and advise you on matters in section 23(5) which may influence your referral decision.
11. We recommend you progress consideration of the application to the next stage of analysis (Stage 2) and invite comments from:
 - a. Ministers listed in section 21(6) of the FTCA
 - b. Auckland Council.
12. We recommend that you invite comments from the Associate Minister for the Environment (Urban Policy) as an additional Minister under section 21(6)(n) of the FTCA, and Auckland Transport and Watercare Services Limited as additional parties under section 21(3) of the FTCA.
13. We also recommend seeking specific feedback from Auckland Council on any plan changes in preparation for the site, and further information from the applicants as detailed in Table A.

The Hill – Ellerslie

14. The Hill – Ellerslie project is to subdivide part of the Ellerslie Racecourse property and construct a housing development consisting of approximately 370 residential units in a mix of detached, duplex and terrace houses from 1–3 storeys high and five apartment buildings 6–7 storeys high. One of the apartment buildings will be designed for the active retired market. The project will also create open space areas, private access lots, pedestrian and cycle accessways, together with public roads intended to vest in Auckland Council.
15. The project is located on part of the land at 100 Ascot Avenue, Greenlane, Auckland.
16. The project will involve activities such as:
 - a. demolishing existing buildings and structures
 - b. subdivision
 - c. vegetation trimming and clearance
 - d. earthworks (including disturbance of contaminated soils)
 - e. diverting groundwater and overland flow paths
 - f. discharging stormwater and contaminants to land
 - g. placing structures in an overland flow path and flood plain
 - h. construction of residential units

- i. construction of three waters services
 - j. construction of roads, vehicle access, parking areas and pedestrian and cycle accessways
 - k. landscaping and planting of open spaces
 - l. any other activities that are –
 - iii. associated with the activities described in a to k; and
 - iv. within the project scope as described in paragraph 14.
17. The project will require subdivision and land use consents, and water and discharge permits under the AUP and land use consent under the NES-CS.
 18. We have undertaken an initial (Stage 1) analysis of the application and this is presented along with our recommendations in Table A.
 19. The project site is in the Special Purpose – Major Recreation Facility Zone and the Ellerslie Racecourse Precinct under the AUP. The purpose of the Major Recreation Facility Zone is to manage facilities within the Auckland Region capable of hosting large-scale sports, leisure, entertainment, art, recreation, or cultural activities. The Ellerslie Racecourse Precinct provisions enable a range of primary activities including horse racing, functions, conferences, concerts and recreation activities, together with a range of compatible and accessory activities.
 20. The project site is privately owned and managed by ATRI and is not part of Auckland Council's publicly accessible open space network. ATRI advises that the part of the site proposed for development is no longer an integral part of the Ellerslie Racecourse and is therefore surplus to requirements.
 21. If the project is referred it will be assessed against the AUP framework as a discretionary activity. The applicants consider that the AUP policy framework enables the project subject to ensuring that the Ellerslie Racecourse can safely operate and will be protected from reverse sensitivity effects.
 22. The project meets all the eligibility criteria in section 18(3) of the FTCA. More analysis is needed before we can advise if it meets the purpose of the FTCA (thus satisfying section 18(2) of the FTCA), and advise you on matters in section 23(5) which may influence your referral decision.
 23. We recommend you progress consideration of the application to the next stage of analysis (Stage 2) and invite comments from:
 - a. Ministers listed in section 21(6) of the FTCA
 - b. Auckland Council.
 24. We recommend that you invite comments from the Minister for Racing and the Associate Minister for the Environment (Urban Policy) as additional Ministers under section 21(6)(n) of the FTCA, and Auckland Transport and Watercare Services Limited as additional parties under section 21(3) of the FTCA.
 25. We also recommend you request further information from the applicants as detailed in Table A.

Statutory Framework Summary

26. You are the sole decision maker for referral of the projects as they will not occur in the coastal marine area.

27. You may decline the referral applications before seeking comments from the relevant local authorities and any relevant Ministers:
- a. if you are satisfied the projects do not meet the referral criteria in section 18 of the FTCA, (which include you being satisfied they meet the purpose of the FTCA) (see sections 18(2) and 23(1) of the FTCA
 - b. for any other reason (see section 23(2) of the FTCA).
28. If you do not decline the referral applications at this stage:
- a. you must provide the applications to, and invite comments from, the relevant local authorities and the relevant Ministers prescribed by section 21(6) of the FTCA
 - b. you may provide the applications to and invite comments from any other person.
29. You are also able to request further information from the applicant or any relevant local authority at any time before you decide to decline or accept the referral applications (see section 22 of the FTCA).

Action Sought

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

Signature



Stephanie Frame
Manager – Fast-track Consenting

Projects to progress

Project details	Project description	Project funding	Is Project eligible for referral? [section 18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood the Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
	<p>j. any other activities that are –</p> <p>i. associated with the activities described in a to i; and</p> <p>ii. within the project scope.</p> <p>The project will require subdivision consent and land use consents, and discharge permits under the Auckland Unitary Plan (AUP), and land use consent under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).</p>				<p>project. Te Kawerau ā Maki has prepared a Cultural Impact Assessment and the applicants intend to work collaboratively with them to ensure that appropriate mitigation is incorporated into the development.</p>			<p>that a panel will consider the significance of effects and appropriate mitigation should the project be referred.</p>	<p>the viability of the project. We note that the Minister of Defence will be invited to comment should you decide to progress the referral application. We consider you should ask the applicants to clarify whether the requirement to obtain NZDF approval will prevent, limit or delay project delivery.</p> <p>The applicants have been involved in discussions with the Ministry of Education regarding the option to retain a balance lot for future development of a primary school. We note that the Minister of Education will be invited to comment should you decide to progress the referral application.</p> <p>NCL's ultimate holding company is registered overseas. We consider you should ask the applicant for more information on the need for any Overseas Investment Office approval/s for the project to proceed.</p> <p>As the project involves the installation of new transport and three waters infrastructure, we recommend that you invite comments on the referral application from Auckland Transport and Watercare Services Limited as they administer transport, potable water and wastewater</p>	<p>• Watercare Services Limited</p> <p>g. Agree to seek further information from the applicants on:</p> <ul style="list-style-type: none"> • how much time will be saved by using the FTCA process • whether the requirement to obtain NZDF approval will prevent, limit or delay project delivery • whether any Overseas Investment Office approval/s are required for the Project to proceed, and if so, the current status of the approval/s. <p>h. Agree to seek written comments from Auckland Council on:</p> <ul style="list-style-type: none"> • the appropriateness of using the fast-track process for the project given the AUP policy framework applying to the site • any plan changes in preparation for the site. <p>i. Sign the attached letters to Ministers listed in section 21(6) of the FTCA and the Associate Minister for the Environment (Urban Policy).</p> <p>j. Note that while awaiting these comments, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations – Te Arawhiti, prepare a report for the purpose of section 17 of the FTCA.</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Is Project eligible for referral? [section 18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood the Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
	<p>i. associated with the activities described in a to k; and</p> <p>ii. within the project scope.</p> <p>The project will require subdivision consent and land use consents, and water and discharge permits under the AUP, and land use consent under the NES-CS.</p>							<p>Pouhere Taonga for an archaeological authority for the development. The archaeological assessment concludes that there are no major constraints on the development on archaeological grounds. We note that the Minister for Arts, Culture and Heritage will be invited to comment should you decide to progress the referral application.</p> <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 and appropriate mitigation should the project be referred.</p>	<p>wastewater infrastructure in Auckland.</p>	<p>Limited.</p> <p>g. Agree to seek further information from the applicants on:</p> <ul style="list-style-type: none">• whether any Overseas Investment Office approval/s are required for the Project to proceed, and if so, the current status of the approval/s• details of interests recorded on record of title 800302, and whether any of these will prevent, limit or delay project delivery. <p>h. Sign the attached letters to Ministers listed in section 21(6) of the FTCA, the Minister for Racing and the Associate Minister for the Environment (Urban Policy).</p> <p>i. Note that while awaiting these comments, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations – Te Arawhiti, prepare a report for the purpose of section 17 of the FTCA.</p>	<p>Yes/No</p> <p>Yes/No</p>

Signed:

Hon David Parker
Minister for the Environment

Date