

FTC #183 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Joint Stage 1 decisions

Application 2022-121 Whenuapai Development Project

Date submitted:	16 February 2023	MFE#: BRF-2758	DOC#: 22-B-0039
Security level	In-Confidence	MfE priority: Urgent	DOC priority: Urgent
		Action sought:	Response by:
To Hon David Parker, Minister for the Environment		Decision on recommendations in Table A	To be advised
To Willow-Jean Prime, Minister of Conservation		Decision on recommendations in Table A	To be advised

Actions for Ministers' Office staff	<p>Return the signed briefing to MfE and DOC.</p> <p>(Environment only) Send attached letters (if signed) with accompanying templates and links to application documents.</p>
Number of attachments: 10	<p>Attachments:</p> <ol style="list-style-type: none"> 1. Letter to Ministers – inviting comments on Whenuapai Development Project referral 2. Letters to Auckland Council – inviting comments on Whenuapai Development Project referral 3. Letters to Auckland Transport – inviting comments on Whenuapai Development Project referral 4. Letter to Waka Kotahi NZTA - inviting comments on Whenuapai Development Project referral 5. Letter to Watercare Services Limited - inviting comments on Whenuapai Development Project referral 6. Letter to New Zealand Defence Force inviting comments on Whenuapai Development Project referral 7. Letter to Cabra Developments Limited requesting further information 8. Application documents Databox link – to send with letters to Ministers 9. Application documents Databox link – to send with letters to Auckland Council and other parties 10. Templates for comment x3



Contacts



Position	Name	Cell phone	1 st contact
Ministry for the Environment			
Principal Author	Zen Gerente		
Acting Manager	Madeleine Berry	s 9(2)(a)	✓
Director	Caroline Hart	s 9(2)(a)	
Department of Conservation			
Principal Author	Geoff Deavoll		
Responsible Manager	Trevor Ellis	s 9(2)(a)	✓
Director	Steve Taylor	s 9(2)(a)	

FTC #183: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Joint Stage 1 decisions

Key messages

1. This briefing seeks your joint initial decisions on an application from Cabra Developments Limited to refer the Whenuapai Development Project (project) to an expert consenting panel (panel) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA).
2. The project is to subdivide land on four separate sites in Whenuapai, Auckland covering a total of approximately 13.7 hectares, and construct a residential development on three of the sites and a light industrial development on the fourth. The three sites for residential development are located at 15 Clarks Lane (Site A), 10 Sinton Road (Site B) and 16 Sinton Road (Site C), and the light industrial site is located at 90 Trig Road (Site D). The project will include works within the Clarks Lane and Sinton Road road reserves and will involve new wastewater infrastructure extending onto the adjacent properties at 12 and 14 Sinton Road, Whenuapai.
3. The project includes the construction of approximately 227 residential units (84 on Site A, 62 on Site B and 81 on Site C), and the creation of 9 lots intended for industrial use and construction of 2 industrial warehouse buildings on Site D. The project also includes the construction of supporting infrastructure including roads and reserves intended to vest with Auckland Council, accessways and three-waters services. The applicant intends to apply for separate resource consents for each site.
4. Part of the project, the discharge of stormwater for Sites A, B and C, will occur in the coastal marine area (CMA)¹.
5. The project will require subdivision and land use consents, and water and discharge permits under the Auckland Unitary Plan (AUP), and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) and 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 referral application, and this is presented along with our recommendations in Table A.
7. The project sites are 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 urbanisation is to be avoided until sites have been rezoned for urban purposes (under Objective H18.2(4)).
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 (WSP) 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 WSP does not anticipate development of the project sites 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 project may not be entirely consistent with the AUP but the applicant considers

¹ The Coastal Marine Area is defined in the Resource Management Act 1991 and includes the foreshore, seabed, and coastal water, and the air space above the water -

(a) of which the seaward boundary is the outer limits of the territorial sea

(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of -

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5.

it is consistent with the intended land use under the WSP and the National Policy Statement on Urban Development 2020.

10. The project meets all the eligibility criteria in section 18(3) of the FTCA, but more analysis is needed before we can advise you if it meets the purpose of the FTCA (thus satisfying section 18(2) of the FTCA) and advise you on the 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 Auckland Council and specific Ministers listed in section 21(6) of the FTCA.
12. We recommend that you invite comments from the New Zealand Defence Force, Watercare Services Limited, Auckland Transport and Waka Kotahi New Zealand Transport Agency as additional parties under section 21(3) of the FTCA.
13. We also recommend that you request further information from the applicant and Auckland Council as detailed in Table A.

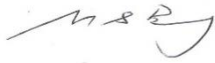
Statutory framework summary

14. You must make decisions on the referral application jointly as part of the project will occur in the CMA.
15. You may decline the referral application before seeking comments from the relevant local authorities and any relevant Ministers:
 - a. if you are satisfied the project does not meet the referral criteria in section 18 of the FTCA, (which include helping to achieve 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).
16. If you do not decline the referral application at this stage:
 - a. you must provide the application 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 application to and invite comments from any other person.
17. 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 application (see section 22 of the FTCA).

Action sought

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

Signatures



Madeleine Berry
Acting Manager – Fast-track Consenting
Ministry for the Environment



Trevor Ellis
RMA Manager
Department of Conservation

Table A: Stage 1 initial assessment of project eligibility – projects where the Minister for the Environment and Minister of Conservation are joint decision makers

Project to progress

Project details	Project description	Project funding	Is project eligible for referral? [section 18(3)]	Will project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Ministers' 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 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>Name Whenuapai Development Project</p> <p>Applicant Cabra Developments Limited</p> <p>c/- Duncan Unsworth</p> <p>Location 15 Clarks Lane, 10 Sinton Road, 12 Sinton Road, 14 Sinton Road, 16 Sinton Road and 90 Trig Road, Whenuapai, Auckland</p>	<p>The project is to subdivide land on four separate sites in Whenuapai, Auckland covering a total of approximately 13.7 hectares, and construct a residential development on three of the sites and a light industrial development on the fourth. The three sites for residential development are located at 15 Clarks Lane (Site A), 10 Sinton Road (Site B) and 16 Sinton Road (Site C), and the light industrial site is located at 90 Trig Road (Site D). The project will include works within the Clarks Lane and Sinton Road road reserves and will involve new wastewater infrastructure extending onto the adjacent properties at 12 and 14 Sinton Road, Whenuapai.</p> <p>The project includes the construction of approximately 227 residential units (84 on Site A, 62 on Site B and 81 on Site C), and the creation of 9 lots intended for industrial use and</p>	<p>The applicant owns two of the sites and Cabra Investments Limited, a separate company owned by the same directors, owns the other two sites involved in the project.</p> <p>The applicant advises it has a successful history of land development in the Auckland region and it has sufficient funding available for the entire project.</p> <p>We do not have concerns about the applicant's ability to deliver the project based on the information provided.</p>	<p>Based on available information at this stage, we consider the project is eligible for referral because:</p> <ul style="list-style-type: none"> it does not include any prohibited activities it does not include land returned under a Treaty settlement it does not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	<p>Based on the information provided by the applicant we consider the project may result in the following economic benefits:</p> <ul style="list-style-type: none"> generate employment by creating approximately 154 direct full-time equivalent (FTE) jobs over a 4-year design and construction period s 9(2)(b)(ii) 	<p>The project has the potential for positive effects on the social wellbeing of current and future generations as it will:</p> <ul style="list-style-type: none"> contribute to job creation and flow-on economic benefits increase housing supply through the construction of 227 residential units in a range of typologies including standalone and terrace houses contribute to opportunities for recreation and public amenity. <p>The applicant has initiated consultation with iwi, however no details on potential effects on cultural wellbeing have been provided.</p>	<p>The applicant considers that the fast-track process will allow the project to progress at least 12 months faster than under standard Resource Management Act 1991 (RMA) process due to the likelihood of notification.</p> <p>We recommend seeking comment from Auckland Council on the appropriateness of using the FTCA process.</p>	<p>Based on the information provided, the project may result in the following public benefits:</p> <ul style="list-style-type: none"> generating employment increasing housing supply. 	<p>The applicant considers the project has the potential for adverse environmental effects, including:</p> <ul style="list-style-type: none"> earthworks and construction effects freshwater effects, including streams, wetlands and its ecology traffic and transport effects reverse sensitivity effects related to noise soil contamination effects effects relating to overland flow path diversion. <p>The applicant has provided preliminary technical assessments in support of their view that the project will not have any significant adverse effects.</p> <p>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</p>	<p>The project sites are subject to an airspace restriction designation. Given the use and intensity of the project is not anticipated under the AUP, we recommend you invite comment on the referral application from the New Zealand Defence Force and we note that the Minister of Defence is one of the relevant Ministers to be invited to comment should you decide to progress the referral application.</p> <p>As the project involves road upgrades and installation of three waters infrastructure, we recommend you invite comments on the referral application from Auckland Transport and Watercare Services Limited as they administer transport, potable water and wastewater infrastructure in Auckland.</p> <p>The three sites for residential development are approximately 1 kilometre from the intersection of SH18 and Brigham Creek Road and the proposed industrial</p>	<p>a. Note that section 23(3) of the FTCA permits you to decline the referral application without inviting comments from the relevant local authorities and any relevant Ministers.</p> <p>b. Note that you have not yet provided the application to, nor sought any comments on it from, relevant local authorities or relevant Ministers but that you are required to do so if you do not decline the application under section 23(3) of the FTCA.</p> <p>c. Note that section 21(3) of the FTCA permits you to forward an application to, and invite written comments from, any other person.</p> <p>d. Note that section 22 of the FTCA permits you to request further information from the applicant or relevant local authorities at any time before you decide whether to accept or decline an application.</p> <p>e. Agree to progress the Whenuapai Development Project to our Stage 2 analysis. The project warrants further analysis because it has potential to achieve the purpose of the FTCA but we need to consider some matters further before providing you with a complete briefing.</p> <p>f. Agree to provide the application to, and invite comments from:</p> <ul style="list-style-type: none"> the Ministers listed in section 21(6)(a)–(m) of the FTCA the relevant local authority – Auckland Council the following additional entities/persons under section 21(3) of the FTCA: New Zealand Defence Force, Watercare Services Limited, Auckland Transport, and Waka 	<p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Is project eligible for referral? [section 18(3)]	Will project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Ministers' 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 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>construction of 2 industrial warehouse buildings on Site D. The project also includes the construction of supporting infrastructure including roads and reserves intended to vest with Auckland Council, accessways and three-waters services. The applicant intends to apply for separate resource consents for each site.</p> <p>The project will involve activities such as subdividing land, carrying out earthworks (including disturbing contaminated soils), diverting and discharging stormwater (which may contain contaminants) onto land and into the coastal marine area (CMA), diverting overland flow paths, placing structures in an overland flow path, constructing residential units and industrial buildings, constructing or installing infrastructure including roads, vehicle and pedestrian accessways, and infrastructure for three waters services, restoring</p>							<p>effects of the development.</p>	<p>site is approximately 500 metres from the intersection of SH18 and Trig Road. We therefore recommend you invite comment from Waka Kotahi New Zealand Transport Agency.</p> <p>The project will involve new wastewater infrastructure extending onto the adjacent properties at 12 and 14 Sinton Road, Whenuapai. The applicants have provided preliminary approvals from the owners of these adjacent properties which enable the applicants to undertake the project.</p>	<p>Kotahi New Zealand Transport Agency.</p> <p>g. Agree to seek further information from the applicant on the alternative design for Site C, including any change to the number of lots/residential units, in the event approval from Auckland Transport is not obtained for the proposed Sinton Road extension, and the number of potential ongoing jobs on the industrial sites.</p> <p>h. Sign the attached letters to Ministers.</p> <p>i. Note that while awaiting comments from invited parties and further information, 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>

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				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 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>and planting adjacent to and within a natural wetland.</p> <p>Part of the project, the discharge of stormwater for Sites A, B and C, will occur in the CMA.</p> <p>The project will require subdivision and land use consents, and water and discharge permits under the Auckland Unitary Plan (AUP), and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) and Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).</p>										

Signed:

Hon David Parker
Minister for the Environment

Date:

Signed:

Willow-Jean Prime
Minister of Conservation

Date: