

FTC#111: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions:

Application 2021 069 Whenuapai Business Park

Date Submitted:	27 January 2021	Tracking #: BRF-919
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. Whenuapai Business Park application documents and further information received 2. Stage 1 Briefing Note and decisions 3. Statutory framework for making decisions 4. Draft Notice of Decisions letter to Neil Construction Limited 5. Section 17 Report 6. Comments received from Ministers, Auckland Council, Auckland Transport, Watercare Services Limited and Spark NZ Trading Limited

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
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FTC#111: Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act – Stage 2 decisions

Key Messages

1. This briefing seeks your decisions on the application received under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) from Neil Construction Limited for referral of the Whenuapai Business Park 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 (BRF-772) with your initial decisions annotated is in Appendix 2.
3. The Project is located at 69–71 Trig Road and 151, 155–157 Brigham Creek Road, Whenuapai, Auckland. It is to subdivide a 22.9-hectare site to create 21 lots for light industrial development, four balance lots, and to construct public roads and pedestrian accessways and three-waters services (intended to vest in Auckland Council). A stream crossing will be constructed to accommodate the main public road, and riparian margins will be planted and enhanced.
4. The Project will involve activities such as:
 - a. demolition of existing buildings
 - b. subdivision of land
 - c. earthworks (including disturbance of contaminated land)
 - d. removing vegetation within 10 metres of a natural wetland
 - e. taking, diverting and discharging stormwater to land and water
 - f. diverting overland flow paths
 - g. installing structures within stream beds
 - h. constructing roads, pedestrian accessways and three-waters infrastructure
 - i. planting riparian margins
 - j. any other activities that are:
 - i. associated with the activities described in paragraphs a to i
 - ii. within the Project scope.
5. The Project will require land use and subdivision consents and discharge permits under the Auckland Unitary Plan (AUP), land use consents under the Resource Management (National Environmental Standards for Assessing and Managing Contaminant in Soils 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 zoned Future Urban under the AUP, is within the Whenuapai Structure Plan (WSP) area and is subject to the Council-led Plan Change 5 to the AUP (PC5), to rezone part of the WSP area, including the Project site, to a combination of Light Industrial Zone and Residential – Single House Zone. A hearing on PC5 was convened then adjourned to allow time for Auckland Council to prepare a variation (V1)¹, and a decision on PC5/V1 is expected

¹ The two outstanding matters on PC5 are the funding and financing of infrastructure and the management of the effects of aircraft engine testing noise at RNZAF Whenuapai Airbase

in mid-to-late 2022. The Project is consistent with the WSP and the provisions of the proposed zones for the Project site, as the lots proposed for light industrial development are in the proposed Business - Light Industry Zone and the balance lots are in the proposed Residential Single House Zone (noting that the Structure Plan does not include residential zoning, but PC5/V1 does).

7. While the Project is a non-complying activity in the Future Urban Zone, the applicant has provided an assessment which states that the project is expected to pass the 'gateway tests' in section 104D of the RMA.
8. The Project will generate economic and employment benefits by enabling light industrial development to progress on land the Auckland Council considers suitable for this purpose, at a faster pace than has been occurring under standard process.
9. We consider that concerns raised by both Auckland Council and Auckland Transport about the Project progressing ahead of the outcome of PC5, and the potential for adverse effects on the local road network given a current funding shortfall for future infrastructure upgrades can be appropriately addressed by a panel under FTCA process. The applicant has provided assessments by technical experts that no Council-funded upgrades to transport infrastructure are required to enable the Project, and the upgrades which will be funded by the applicant are sufficient to manage any effects on the roading network.
10. 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

11. 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.
12. 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, Ministers, Auckland Transport, Watercare Services Limited (Watercare) and Spark New Zealand Trading Limited (Spark) (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.
13. 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

14. In response to your request under section 22 of the FTCA for further information, the applicant provided further information on a number of matters, including the expected time savings using the FTCA process and funding of necessary roading infrastructure upgrades. We have taken this information into account in our analysis and advice.

Section 17 Report

15. The Section 17 Report indicates that there are 14 iwi authorities, six Treaty settlements and nine Treaty settlement entities relevant to the Project area.
16. The Project site is drained by waterways that flow a short distance to the Waitematā Harbour, which is covered by statutory acknowledgements in the Treaty settlements with Te Kawerau ā Maki and Ngāi Tai ki Tāmaki. No other cultural or commercial redress provided under the relevant Treaty settlements would be affected by the Project, and the 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

17. Comments were received from Auckland Council, s 9(2)(f)(ii), s Auckland Transport, Watercare and Spark. The key points of relevance to your decision are summarised in Table A.
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) Auckland Council and Auckland Transport opposed Project referral.
s 9(2)(f)(ii), s 9(2)(g)(i)
Auckland Council and Auckland Transport raised concerns about the Project progressing ahead of PC5, and the potential for adverse effects on the local road network given that Auckland Transport has not allocated funding for infrastructure upgrades in the next 10 years.
23. s 9(2)(f)(ii), s 9(2)(g)(i)

Section 18 referral criteria

24. 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)).
25. The Project does not include any ineligible activities under section 18(3), as explained in Table A.
26. 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 to achieve the purpose of the FTCA, and thus meets the requirements of section 18(2) as it has the potential to:
 - a. generate positive economic benefits for businesses and people affected by Covid-19 and promoting certainty of investment in light industry by progressing development of land for light industrial activity within an area identified by Auckland Council as suitable and ready for such development
 - b. have positive effects on social wellbeing by providing both short and long-term employment opportunities in the Whenuapai area
 - c. generate employment through the provision of approximately 88 direct full-time equivalent (FTE) jobs and 97 indirect FTE jobs per year over the two years of Project construction
 - d. progress faster than would otherwise be the case under standard Resource Management Act 1991 process.
27. 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

28. 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

29. 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.
30. Auckland Council considers that it would be more appropriate for the Project to continue to progress through standard RMA process, via applications for resource consents to be made following final decisions on PC5, as this will better enable integrated roading infrastructure planning and funding decisions. Auckland Transport also supported this position, noting that they do not have funding allocated to deliver the necessary roading infrastructure for the Project. We note that PC5 is a Council-led plan change which was notified in September 2017, and Auckland Transport's Future Urban Land Supply Strategy identifies the area covered by PC5 to be development-ready in 2018–2022. Given this context, it is reasonable to conclude that the Project is not contrary to Auckland Council's intended strategy or timeframe for development of the area. We also note that the two outstanding matters on PC5 are infrastructure funding and financing and the management of effects on NZDF Base

Auckland. The applicant has confirmed that they are not reliant on any Council-funded infrastructure upgrades for Project delivery, and we consider that the effects on NZDF Base Auckland can be managed through appropriate building design and conditions of consent (discussed in para 33).

31. The applicant has provided a statement that they will fund the necessary transport upgrades to service the Project (which they have assessed as sufficient to manage the effects of the Project on the existing road network) and will contribute to funding transport upgrades for the wider PC5 area. On this basis, lack of funding for roading infrastructure does not appear to present a barrier to progressing the Project.
32. We also note that progressing the Project ahead of PC5 may be negatively perceived by some members of the public who have previously had the opportunity to submit on the plan change. We consider that this concern can be addressed by inviting the 51 submitters on PC5 to comment on relevant consent applications to a panel. We therefore do not consider that you should decline to refer the Project on the grounds it would be more appropriate for the Project to go through the standard consenting process under the RMA (section 23(5)(b)).

Other matters

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



Conclusions

34. We do not consider there are any significant reasons for you to decline to refer the Project. You could accept the application under section 24 of the FTCA and all of the Project could be referred to a panel.
35. If you decide to refer the Project, we consider that you should specify under section 24(2)(d) of the FTCA (as requested in comments) 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. a report which addresses potential adverse effects on NZDF Base Auckland
 - b. a three-waters infrastructure capacity and funding assessment
 - c. a transport infrastructure capacity and funding assessment
 - d. an integrated transport assessment
36. The above information is required to assist a panel in assessing the adverse effects of the Project.
37. 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 the following groups:
 - a. the submitters on Plan Change 5 to the Auckland Unitary Plan

- b. Ngāti Koheriki Claims Committee
- c. Ngaati Whanaunga Incorporated Society
- d. Auckland Transport
- e. Watercare Services Limited
- f. Spark New Zealand Trading Limited
- g. New Zealand Defence Force
- h. Associate Minister for the Environment (Urban Policy)

38. 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 37.

39. Our recommendations for your decisions follow.

Next Steps

- 40. 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.
- 41. 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.
- 42. To refer the Project, you must recommend that a referral order be made by way of an Order in Council (OiC).
- 43. 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.²

² 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** 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** 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** that progressing this application ahead of the outcome of Plan Change 5 to the Auckland Unitary Plan (AUP) may be negatively perceived by some members of the public who have previously been given the opportunity to submit on the plan change.
- d. **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.
- e. **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 (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.
- f. **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.
- g. **Agree** the Project meets the referral criteria in section 18 (3) of the FTCA.
- h. **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. have positive economic benefits for businesses and people affected by Covid-19 and promoting certainty of investment in light industry by progressing development of land for light industrial activity within an area identified by Auckland Council as suitable and ready for such development
 - ii. have positive effects on social wellbeing by providing both short- and long-term employment opportunities in the Whenuapai area

Yes/No

- iii. generate employment through the provision of approximately 88 direct full-time equivalent (FTE) jobs and 97 indirect FTE jobs per year over the two years of Project construction
- iv. progress faster than would otherwise be the case under standard Resource Management Act 1991 process.

Yes/No

- i. **Agree** to **refer** all of the Project to a panel.

Yes/No

- j. **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. a detailed assessment of –

- 1. the capacity of the local road network to service the construction of the Project and the completed Project
- 2. what upgrading is required to the local road network to service the completed Project
- 3. how any upgrading is to be funded

- ii. a detailed assessment of –

- 1. the capacity of the existing infrastructure for three-waters services to service the completed Project
- 2. any upgrades that are likely to be required

- iii. an integrated transport assessment, including information about discussions held, and agreements made with Auckland Transport

- iv. a report which addresses potential adverse effects on NZDF Base Auckland, and which addresses:

- 1. whether no-complaints covenants should be imposed on any new records of titles for the Project site
- 2. confirmation that no buildings or structures will breach the Obstacle Limitation Surface in AUP designation 4311 without the prior approval of the New Zealand Defence Force
- 3. measures to avoid risk to flight safety and operations including bird strike, and lighting and glare.

Yes/No

- k. **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. the submitters on Plan Change 5 to the Auckland Unitary Plan
- ii. Ngāti Koheriki Claims Committee
- iii. Ngaati Whanaunga Incorporated Society
- iv. Auckland Transport
- v. Watercare Services Limited
- vi. Spark NZ Trading Limited
- vii. New Zealand Defence Force

viii. Associate Minister for the Environment (Urban Policy).

Yes/No

- l. **Agree** to copy the application and notice of decisions to the parties listed in paragraph k.

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 Whenuapai Business Park project to a panel in accordance with your decisions recorded herein.

Yes/No

- n. **Sign the attached (Appendix 4)** notice of decisions to Neil Construction Limited.

Yes/No

- o. **Note** 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



Stephanie Frame
Manager – Fast-track Consenting

Date: 27 January 2022

Hon David Parker
Minister for the Environment

Date

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 Whenuapai Business Park Applicant Neil Construction Limited c/- Campbell Brown Planning Limited Location 69–71 Trig Road, 151 and 155–157 Brigham Creek Road, Whenuapai Auckland	The Project to subdivide a 22.9-hectare site to create 21 lots for light industrial development, four balance lots intended for future residential development, and to construct public roads and pedestrian accessways (intended to vest in Auckland Council) and three-waters services. A stream crossing will be constructed to accommodate the main public road, and riparian margins will be planted and enhanced. The Project will involve activities such as: a. subdivision of land b. earthworks (including disturbance of contaminated land) c. removing vegetation within 10 metres of a natural wetland d. taking, diverting and discharging stormwater to land and water e. diverting overland flow paths f. installing structures within stream beds g. constructing roads, pedestrian accessways and three-waters infrastructure h. planting riparian margins i. any other activities that are: i. associated with the activities described	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 under the Marine and Coastal Area (Takutai Moana) Act 2011 it does not include activities in protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 that would have a more than minor adverse effect on the exercise of the protected customary right 	Economic benefits for people or industries affected by COVID-19 (19(a)) The applicant estimates that the Project will provide: <ul style="list-style-type: none"> approximately 88 direct (FTE) jobs and 97 indirect FTE jobs per year over the two years of Project construction approximately \$30 million to the local economy over the two years of Project construction. 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 applicant considers that the Project will result in positive effects on social wellbeing by providing both short- and long-term employment opportunities in the Whenuapai area Is the Project likely to progress faster by using this Act? (19(c)) The applicant expects the FTCA process would enable the Project to progress 17 months faster than it would under standard RMA processes due to the need for Plan Change 5 (PC5) to be complete prior to the applicant lodging consents with Auckland Council. Will the Project result in a public benefit? (19(d)) Based on the information provided we consider that the Project may result in the following public benefits: <ul style="list-style-type: none"> have positive economic benefits for businesses and people affected by Covid-19 and promoting certainty of investment in light industry by progressing development of land for light industrial activity within an area identified by Auckland Council as 	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) 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)	Section 23(5) matters: Insufficient information (23(5)(a)) The applicants have provided sufficient information for you to determine whether the amended Project meets the criteria in section 18 of the FTCA. More appropriate to go through standard RMA process (23(5)(b)) While the Project site is currently zoned Future Urban Zone and could progress through standard RMA processes once PC5 is complete, we consider that the Project is consistent with PC5 and since the applicant has confirmed that they are able to fund the necessary roading infrastructure upgrades any issues can be addressed by the provision of appropriate information to a panel and inviting submitters on PPC5 to comment on an application to a panel. Inconsistency with a national policy statement (23(5)(c)) We do not consider that the Project is inconsistent with the National Policy Statement for Urban Development 2020 (NPS-UD), because it aligns with PC5 which gives effect to the NPS-UD, particularly Policy 1 which require that urban environments have or enable a variety of sites which are suitable for different business sectors. We do not consider that the Project is inconsistent with any other national policy statements. Inconsistent with a Treaty settlement (23(5)(d)) We do not consider that the Project would be inconsistent with any Treaty settlements. Involves land needed for Treaty settlements (23(5)(e)) The Project will occur on privately-owned land which is not available for Treaty settlement purposes.	In response to comments from Ministers: <ul style="list-style-type: none"> s 9(2)(f)(ii), s 9(2)(g)(i) s 9(2)(f)(ii), s 9(2)(g)(i) Response to Auckland Council <ul style="list-style-type: none"> we acknowledge Auckland Council's concerns about the Project progressing ahead of decisions on PC5, but note that PC5 is a Council-led plan change which was notified in September 2017, and the outstanding matters on the hearing were infrastructure funding and effects on NZDF Base Auckland, which the applicant has addressed. Given this context, it is reasonable to conclude that the Project is not contrary to Auckland Council's intended strategy or timeframe for development of the area. We consider that Auckland Council's concerns can be addressed through provision of appropriate information to a panel, and a requirement for a panel to seek comment from submitters on PC5 we acknowledge Auckland Transport's concern that there may

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>in paragraphs a to h</p> <p>i. within the Project scope.</p> <p>The Project will require land use and subdivision consents and discharge permits under the Auckland Unitary Plan (AUP), land use consents under the Resource Management (National Environmental Standards for Assessing and Managing Contaminant in Soils to Protect Human Health) Regulations 2011 (NES-CS) and the Resource Management (National Environmental Standard for Freshwater) Regulations 2020 (NES-F).</p>		<p>suitable and ready for such development</p> <p>generate employment through the provision of approximately 88 direct full-time equivalent (FTE) jobs and 97 indirect FTE jobs per year over the two years of Project construction Potential to have significant adverse environmental effects, including greenhouse gas emissions (19(e))</p> <p>The Project has the potential for the following adverse environmental effects:</p> <ul style="list-style-type: none"> • effects on water quality from stormwater and sediment discharge and disturbance/removal of contaminated soil • reverse sensitivity effects from noise generated by operational activity at NZDF Base Auckland • temporary noise, traffic, dust effects arising from construction activities • land stability effects from land disturbance. <p>The applicant has provided details of mitigation measures to address potential adverse effects and has confirmed that technical experts have been engaged to complete a range of assessments. The applicant considers that with appropriate management and mitigation the Project will not result in more than minor adverse environmental effects.</p> <p>While the Project is a non-complying activity in the Future Urban Zone, the applicant has provided an assessment which states that the project is expected to pass the 'gateway tests' in section 104D of the RMA.</p> <p>Other relevant matters (19(f))</p> <p>The project site is currently zoned Future Urban, but Variation 1 (V1) to PC5 seeks to introduce a new precinct in the AUP and rezone approximately 360 hectares of mostly Future Urban zoned land to a mix of business and residential zones. The applicant considers that the project is entirely</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>Local authorities</p> <p>Auckland Council opposed Project referral because:</p> <ul style="list-style-type: none"> • there are significant issues associated with the roading infrastructure needed to service this development which have not been resolved • the proposal (in effect) establishes a plan change via a resource consent process while the PC5/V1 has not been completed • the Project creates new titles under a new planning regime but does not contain any actual land use/construction activities apart from infrastructure to service the lots. Actual development of these lots and any consents that they require would not take place until some unspecified time in the future • there are numerous persons potentially affected including submitters opposing, supporting or wanting changes to original PPC5 and their position and/or rights may be affected. <p>Other Parties</p>	<p>Applicant has poor regulatory compliance (23(5)(f))</p> <p>Auckland Council noted that there are 6 abatement notices issued in 2019 and 2020 to Neil Construction Limited. All of these notices are associated with inadequate sediment and erosion controls on dwelling construction sites. They have confirmed that there are no outstanding or on-going compliance concerns with Neil Construction Limited.</p> <p>While not ideal, we do not consider the abatement notices give sufficient reason to decline Project referral on the grounds of the applicant's poor regulatory compliance.</p> <p>Insufficient time for the Project to be referred and considered before FTCA repealed (23(5)(g))</p> <p>There is sufficient time for the Project to be referred and considered before the repeal of the FTCA.</p> <p>Other issues & risks:</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p>	<p>not be capacity in the surrounding road network to service the development and the lack of allocated funding to upgrade the network, but note that the applicant has provided technical reports which confirm that they are not reliant on any Council-funded infrastructure upgrades and the upgrades funded by the applicant are sufficient to manage adverse effects on the road network.</p> <p>There are no significant 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</p> <p>We also recommend that you require the applicant to provide the following information with an application for resource consent to a panel:</p> <ul style="list-style-type: none"> • a detailed assessment of: <ul style="list-style-type: none"> ○ the capacity of the local road network to service the construction of the Project and the completed Project ○ what upgrading is required to the local road network to service the completed Project ○ how any upgrading is to be funded • a detailed assessment of <ul style="list-style-type: none"> ○ the capacity of the existing infrastructure for three waters services to service the completed Project ○ any upgrades that are likely to be required • an integrated transport assessment, including information about discussions held, and agreements made with Auckland Transport • a report which addresses potential adverse effects on RNZAF Base Auckland, and which addresses: <ul style="list-style-type: none"> ○ whether no-complaints covenants should be imposed on any new

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>consistent with the provisions of PC5/V1.</p>	<p>Auckland Transport opposed Project referral as the existing transport infrastructure in the area may not be sufficient to service the Project. Auckland Council stated that the Future Urban Land Supply Strategy identifies this area as intended to be development ready in 2018-2022, however, the funding and financing of infrastructure needed to enable growth has not been addressed and so there is no confirmation of timing for the provision of such.</p> <p>Watercare did not oppose Project referral but noted some capacity constraints have been identified in both the water and wastewater networks. The developer will need to address the constraints through public network extensions or upgrades, depending on the agreed solution with Watercare. The proposed pipe bridge below the 100-year flood level does not comply with the standard requirements. The developer will need to investigate other alternatives unless otherwise is agreed with Watercare. [We note that the applicant has revised the Project design to remove the pipe-bridge below the 100-year flood level.]</p> <p>All responses received by parties invited to comment are attached at Appendix 6.</p>		<p>records of title for land in the Project site</p> <ul style="list-style-type: none"> assessment against the requirements of AUP designation 4311 measures to avoid bird strike measures to avoid risk to flight safety and operations including lighting and glare. <p>We recommend you direct a panel to invite comments on any resource consent applications for the Project from:</p> <ul style="list-style-type: none"> the submitters on Plan Change 5 to the Auckland Unitary Plan Ngāti Koheriki Claims Committee Ngaati Whanaunga Incorporated Society Auckland Transport New Zealand Defence Force Watercare Services Limited Spark NZ Trading Limited Associate Minister for the Environment (Urban Policy).

Released under the Official Information Act 1982