

In Confidence

Office of the Minister for the Environment

Chair, Cabinet

COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 9) 2022

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 9) 2022 (the Amendment Order).
- 2 The Amendment Order amends the COVID-19 Recovery (Fast track Consenting) Referred Projects Order 2020 to include as projects referred to an expert consenting panel (panel):
 - 2.1 Matvin Group Limited's The Botanic Riverhead project (Schedule 51)
 - 2.2 Neil Construction Limited's Whenuapai Business Park project (Schedule 52)
 - 2.3 Neil Construction Limited and Maraetai Land Development Limited's Whenuapai Green project (Schedule 53)

Executive Summary

- 3 The COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) is one of the Government's temporary actions to support New Zealand's economic recovery from COVID-19. The FTCA enables any person to apply to me, as 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 resource consent applications and/or notices of requirement for a designation with the Environmental Protection Authority (EPA) for consideration by a panel.
- 5 Before granting RMA approvals a panel must conduct a merit-based assessment of the project's actual and potential effects and test these against the requirements of both Part 2 of the RMA and the purpose of the FTCA.
- 6 I received applications from:
 - 6.1 Matvin Group Limited to fast-track The Botanic Riverhead project
 - 6.2 Neil Construction Limited to fast-track the Whenuapai Business Park project
 - 6.3 Neil Construction Limited and Maraetai Land Development Limited to fast-track the Whenuapai Green project.

- 7 The Botanic Riverhead project is a mixed-use development including a residential retirement village and childcare centre, in Riverhead, Auckland. The Whenuapai Business Park project is a light industrial subdivision in Whenuapai, Auckland that also makes provision for future residential development, and the Whenuapai Green project is a medium density residential development in Whenuapai, Auckland that includes an option for a future primary school.
- 8 I sought written comments on the applications from Auckland Council, relevant Ministers prescribed by the FTCA including the associate Minister for the Environment (Urban Policy), and from Auckland Transport and Watercare Services Limited (Watercare).
- 9 I also sought comments from the Minister for Seniors for The Botanic Riverhead project, and from Spark New Zealand Trading Limited for the Whenuapai Business Park project.
- 10 For each project, I considered all comments received and the report prepared under section 17 of the FTCA. I also requested and considered further information from each of the applicants.
- 11 I have accepted all three projects for referral as I am satisfied that they meet the eligibility criteria specified in section 18 of the FTCA.
- 12 All projects will help achieve the FTCA's purpose by having positive effects on social wellbeing and generating employment. Additionally, the Botanic Riverhead and Whenuapai Green projects will increase housing supply, and the Whenuapai Business Park project will promote certainty of investment in light industry.
- 13 I consider all projects will likely progress faster using the FTCA processes than if consents were sought through standard RMA processes, 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 RMA and the purpose of the FTCA.
- 14 I now seek authorisation for submission of the Amendment Order to the Executive Council. The Amendment Order enables Matvin Group Limited, Neil Construction Limited, and Neil Construction Limited and Maraetai Land Development Limited to apply via the EPA to a panel for the relevant approvals needed under the RMA for their respective projects in accordance with the process in the FTCA.

Background

- 15 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 ongoing investment. Access to the FTCA provisions remains in place until the FTCA is repealed in July 2023.
- 16 The FTCA enables any person to apply to me, in my role as Minister for the Environment, to access the fast-track consenting process for their project. If I accept an application, the project 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.

- 17 Panels are appointed by Panel Convener Judge Laurie Newhook and are constituted according to the specific representation, skills and knowledge required for the project. Before a panel grants any RMA approvals it must, among other things, consider the comments received from invited parties, assess the project's actual and potential effects, and test these against the requirements of Part 2 of the RMA and the purpose of the FTCA. As part of this process the panel may seek further information from a range of parties, including those invited to comment on the application.
- 18 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. This will feed into a Ministry report to Treasury on FTCA implementation in 2022.
- 19 As of 26 April 2022, 85 applications have been made under the FTCA to refer projects to a panel, of which:
- 19.1 50 projects have been referred and Orders in Council gazetted. Details are in Appendix one. In summary, for these projects:
 - 19.1.1 17 have been granted their RMA approvals by a panel
 - 19.1.2 one has had their application for RMA approvals declined by a panel
 - 19.1.3 ten are under active panel consideration
 - 19.1.4 19 have yet to lodge their RMA applications
 - 19.1.5 three are not continuing through the panel process.
 - 19.2 three projects have been accepted for referral and are awaiting Orders in Council. These projects are the subject of this paper
 - 19.3 eight referral applications are being processed and are yet to receive referral decisions
 - 19.4 16 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
 - 19.5 eight referral applications have been withdrawn by the applicants.
- 20 I am not required to make referral decisions on projects listed in Schedule 2 of the FTCA. Authorised persons or entities for these projects may lodge their applications for RMA approvals with the EPA at any time while the FTCA provisions are in force. An update on the listed projects is in Appendix two.

Project for referral: Matvin Group Limited's The Botanic Riverhead project

- 21 Matvin Group Limited applied to use the fast-track consenting process for The Botanic Riverhead project. The project site is located at 1092 Coatesville-Riverhead Highway and 30 Cambridge Road, Riverhead, Auckland.
- 22 The project is to subdivide land and construct and operate a retirement village and associated facilities, along with a separate childcare centre and café. The project will

also include works to extend and upgrade Cambridge and Riverhead Roads, and potentially to upgrade the Coatesville-Riverhead Highway – Riverhead Road intersection.


- 23 The retirement village will provide approximately 422 residential units (in a mix of standalone buildings and apartment blocks) as well as care facilities, a pool, a health and wellbeing centre, a medical centre and retail services.
- 24 The project requires subdivision and land use consents, and water and discharge permits, under the Auckland Unitary Plan (AUP) and a 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).
- 25 To better understand stormwater management, water supply and roading for the project, including any infrastructure upgrades required, I sought further information from Matvin Group Limited under section 22 of the FTCA.
- 26 I also sought written comments on the application from Auckland Council as the relevant local authority, Auckland Transport, Watercare and from relevant Ministers as determined by section 21(6) of the FTCA including the Associate Minister for the Environment (Urban Policy) and the Minister for Seniors.

Overview of comments

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

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

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

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

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

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

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

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

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

35 Auckland Council opposed project referral, advising that while provision of a retirement village is positive for the region, it had concerns with project development in the absence of a structure plan, or plan change to facilitate a co-ordinated approach to development of the wider area. The council also had concerns regarding the lack of infrastructure and implications for infrastructure funding, the need for an integrated approach to stormwater management and flood mitigation within the wider catchment, and the project's potential transport and landscape effects. I note that the FTCA does not preclude referral of a project because of a lack of structure planning, and that a panel has the ability to consider such concerns, along with infrastructure issues, as part of its assessment of consent applications for a project. I also note that I can require an applicant to provide specific additional information with any consent applications where I consider it necessary, and I have taken this into account in response to Auckland Council's concerns.

36 Auckland Transport opposed project referral on the basis it would be more appropriate for the project to proceed through a private plan change process in order to achieve a well-functioning urban environment, and because the Regional Land Transport Plan, which sets the 10-year plan for the Auckland transport network, does not currently set aside funding for the infrastructure upgrades necessary for the project. Auckland Transport requested that if the project is referred, the applicant be required to provide an integrated transport assessment which includes assessment of additional traffic volumes generated by the project on the surrounding roading network. As noted in

paragraph 34, a panel has the ability to consider infrastructure issues as part of its assessment of consent applications for a project, and I can require an applicant to provide specific additional information with any consent applications where necessary. I have taken this into account in response to Auckland Transport's concerns.

- 37 Watercare neither supported nor opposed project referral and noted that the project will require significant local network extension for water supply. Watercare also noted that upgrades to water supply for firefighting requirements may be required, and more detailed information is required to assess the impact of the development on the wastewater network.

Decision

- 38 In making my decision, and in accordance with section 24 of the FTCA, I considered the application and further information received, all comments and requests for directions to the applicant and a panel 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.

- 39 I have decided to accept Matvin Group Limited's application for referral of The Botanic Riverhead project to a panel. I am satisfied the project meets the eligibility criteria in sections 18(2) and 18(3) of the FTCA. I consider it will help achieve the purpose of the FTCA by:

39.1 having positive effects on social well-being by generating employment and providing aged-care facilities with on-site amenities and services, and commercial and educational (childcare) activities

39.2 generating employment by providing approximately 140 direct full-time equivalent (FTE) jobs per year over a 6-year construction period, approximately 45 permanent FTE jobs once the retirement village is operational and approximately 19 additional permanent FTE jobs once the commercial activities and childcare centre are operational

39.3 increasing housing supply for aged persons through the construction of approximately 422 residential units, comprising approximately 158 standalone residential units and 264 apartments

39.4 progressing faster than would otherwise be the case under standard RMA processes.

- 40 s 9(2)(f)(ii), s 9(2)(g)(i)
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- 41 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

listed in the FTCA¹. In addition to these requirements and to address matters raised, I have decided to specify a panel must seek comment on Matvin Group Limited's resource consent applications from the Associate Minister for the Environment (Urban Policy), the Minister for Seniors, Auckland Transport, Watercare and Waka Kotahi NZ Transport Agency (Waka Kotahi), as listed in Appendix three.

- 42 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. The additional material listed in Appendix three that must be submitted to a panel will assist with this.
- 43 I consider there are no reasons to decide under section 24(2) of the FTCA to:
- 43.1 limit the scope of the project by referring it only in part
 - 43.2 refer the project in stages
 - 43.3 place any restrictions on the project
 - 43.4 impose specific timeframes for panel consideration.

Project for referral: Neil Construction Limited's Whenuapai Business Park project

- 44 Neil Construction Limited applied to use the fast-track consenting process for the Whenuapai Business Park project. The project site is located at 69–71 Trig Road and 151, 155–157 Brigham Creek Road, Whenuapai, Auckland.
- 45 The project is to subdivide a 22.9-hectare site to create 21 lots for light industrial development, balance lots intended for future residential development, and public roads and pedestrian accessways 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.
- 46 The project requires land use and subdivision consents, and discharge permits, under the AUP and land use consents under the NES-CS and the Resource Management (National Environmental Standard for Freshwater) Regulations 2020 (NES-F). The project site is zoned Future Urban under the AUP, is within the Whenuapai Structure Plan area and is subject to the council-led Plan Change 5 to the AUP (PC5) that proposes to rezone part of the Whenuapai Structure Plan area, including the project site, to a Light Industrial Zone.
- 47 A hearing into submissions that were received on PC5 was convened then adjourned in 2020 to allow Auckland Council to prepare a variation on the plan change (PC5/V1), that would include zoning for residential development. A decision on PC5/V1 is expected in mid-to-late 2022. The project is consistent with the provisions of the proposed zones for the project site.
- 48 To better understand time savings under FTCA process, the effect of encumbrances on the titles for the project site, infrastructure funding for the project and how riparian margins on the site will be protected, I sought further information from Neil Construction Limited under section 22 of the FTCA.

¹ Clause 17(6) of Schedule 6, FTCA.


49 I also sought written comments on the application from Auckland Council as the relevant local authority, relevant Ministers as determined by section 21(6) of the FTCA including the Associate Minister for the Environment (Urban Policy), Auckland Transport and Watercare as local infrastructure providers, and from Spark New Zealand Trading Limited as there are easements on records of title for the project site in their favour.

Overview of comments


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

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

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

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

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

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

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- 56 Auckland Council opposed project referral and noted that there are issues associated with the roading infrastructure needed to service the development which have not been resolved, the project (in effect) would establish a plan change via a resource consent process, and there are numerous persons potentially affected including submitters opposing, supporting or wanting changes to the original plan change (PC5) and their position and/or rights may be affected.
- 57 Auckland Transport opposed project referral as it considers the existing transport infrastructure in the area may not be sufficient to service the project. Auckland Transport advised that while (Auckland Council's) Future Urban Land Supply Strategy identifies this area as intended to be development ready between 2018 and 2022, funding for the infrastructure needed to enable this has not yet been allocated.
- 58 Watercare did not oppose project referral but identified some capacity constraints in both the water and wastewater networks which the developer will need to address through public network extensions or upgrades, depending on the agreed solution with Watercare.

Decision

- 59 In making my decision, and in accordance with section 24 of the FTCA, I considered the application and further information received, all comments and requests for directions to the applicant and a panel 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.
- 60 I have decided to accept Neil Construction Limited's application for referral of the Whenuapai Business Park project to a panel. I am satisfied the project meets the eligibility criteria in sections 18(2) and 18(3) of the FTCA. I consider it will help achieve the purpose of the FTCA by:
- 60.1 having 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
 - 60.2 having positive effects on social well-being by providing both short- and long-term employment opportunities in the Whenuapai area
 - 60.3 generating employment through the provision of approximately 88 direct FTE jobs and 97 indirect FTE jobs per year over the 2 years of project construction
 - 60.4 progressing faster than would otherwise be the case under standard RMA processes.
- 61 To address matters raised by the Minister of Defence, Auckland Council, Watercare and Auckland Transport, I have decided to specify the applicant must provide a three-waters infrastructure assessment, a transport infrastructure assessment, an integrated transport assessment and an assessment of effects (including reverse

sensitivity effects) on RNZAF Base Auckland, with their resource consent applications to a panel. The full details of this information requirement are in Appendix four.

- 62 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 listed in the FTCA². In addition to these requirements and to address matters raised, have decided to specify a panel must seek comment on Neil Construction Limited's resource consent applications from the Associate Minister for the Environment (Urban Policy), the submitters on PC5 to the AUP, Ngāti Koheriki Claims Committee, Ngaati Whanaunga Incorporated Society, Auckland Transport, Watercare, Spark, New Zealand Trading Limited, Waka Kotahi, and the New Zealand Defence Force as listed in Appendix four.
- 63 I included the submitters on PC5 to the AUP as Auckland Council has commenced, but not concluded, a hearing into their submissions and they therefore have an existing interest in the activities occurring in the area, including on the project site.
- 64 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. The additional material listed in Appendix three that must be submitted to a panel will assist with this.
- 65 I consider there are no reasons to decide under section 24(2) of the FTCA to:
- 65.1 limit the scope of the project by referring it only in part
 - 65.2 refer the project in stages
 - 65.3 place any restrictions on the project
 - 65.4 impose specific timeframes for panel consideration.

Project for referral: Neil Construction Limited and Maraetai Land Development Limited's Whenuapai Green project

- 66 Neil Construction Limited and Maraetai Land Development Limited applied to use the fast track consenting process for the Whenuapai Green project. The project site is located at 98–100 and 102 Totara Road, Whenuapai, Auckland.
- 67 The project is to subdivide land and construct a residential housing development providing either approximately 459 residential lots and residential units, or approximately 354 residential lots and residential units, and a balance lot for future development of a primary school. Both options provide private access lots, and public roads and reserves intended to vest in Auckland Council.
- 68 The project requires subdivision and land use consents, and discharge permits, under the AUP and land use consent under the NES-CS.
- 69 To better understand time savings under the FTCA process, whether Overseas Investment Office approval is required, the applicants' engagement with the New Zealand Defence Force, and any required infrastructure upgrades and funding

² Clause 17(6) of Schedule 6, FTCA.

arrangements, I sought further information from the applicants and Auckland Council under section 22 of the FTCA.

- 70 I also sought written comments on the application from Auckland Council as the relevant local authority, relevant Ministers as determined by section 21(6) of the FTCA including the Associate Minister for the Environment (Urban Policy), and from Auckland Transport and Watercare.

Overview of comments

- 71 s 9(2)(f)(ii), s 9(2)(g)(i)
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- 72 s 9(2)(f)(ii), s 9(2)(g)(i)
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- 73 s 9(2)(f)(ii), s 9(2)(g)(i)
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- 74 s 9(2)(f)(ii), s 9(2)(g)(i)
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- 75 s 9(2)(f)(ii), s 9(2)(g)(i)
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- 76 s 9(2)(f)(ii), s 9(2)(g)(i)
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³ Te Tupu Ngātahi Supporting Growth is a collaboration between Auckland Transport, Waka Kotahi NZ Transport Agency, AECOM, Beca, Bell Gully and Buddle Findlay to investigate and plan transport projects to support urban growth in Auckland over the next 30 years.

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

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

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

79 Auckland Council opposed project referral advising that while the project will add residential capacity and provide an opportunity for additional open space, it had concerns including progressing a development that is out of sequence with the existing planning framework, the presence of capacity constraints in the stormwater, wastewater and transport networks that service the area, and the current lack of public transport options.

80 Auckland Transport opposed project referral for the same reason it opposed the Whenuapai Business Park project namely it considered the existing transport infrastructure in the area may not be sufficient to service the project, and provision of methods of funding for infrastructure needed to enable growth in the area has not yet been addressed. Auckland Transport requested that if the project is referred, I require the applicants to provide an integrated transport assessment with their consent applications to a panel and that options for stormwater management should also be addressed.

81 Watercare did not oppose project referral but noted the project will require a local network extension for water supply and that wastewater servicing will be reliant on a new pump station that is expected to be completed at the end of 2024 (but cannot be confirmed until associated consents and landowner approvals are in place).

Decision

82 In making my decision, and in accordance with section 24 of the FTCA, I considered the application and further information received, all comments and requests for directions to the applicant and a panel 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.

83 I have decided to accept Neil Construction Limited and Maraetai Land Development Limited's application for referral of the Whenuapai Green project to a panel. I am

satisfied the project meets the eligibility criteria in sections 18(2) and 18(3) of the FTCA. I consider it will help achieve the purpose of the FTCA by:

- 83.1 having positive effects on social well-being by generating employment and providing a diverse range of housing types, including terraced housing (which has the potential to be a lower-priced housing option)
 - 83.2 generating employment by providing approximately 164 direct FTE jobs per year over a 5-year design and civil construction period, approximately 22 direct FTE jobs in sales and marketing over a 5-year period, and approximately 342 direct FTE jobs over a 6-year residential unit construction period
 - 83.3 increasing housing supply through the provision of approximately 459 residential units (or approximately 354 residential units if a primary school is developed)
 - 83.4 progressing faster than would otherwise be the case under standard RMA processes.
- 84 To address matters raised by the s 9(2)(f)(ii), s 9(2)(g)(i) Auckland Council, Auckland Transport and Watercare I have decided to specify the applicant must provide a three-waters infrastructure assessment, a transport infrastructure assessment, a stormwater assessment, a draft stormwater management plan, an integrated transport assessment, an assessment of effects (including reverse sensitivity effects) on s 9(2)(f)(ii), s 9(2)(g)(i), a heritage assessment, and in relation to potential soil contamination, a preliminary site investigation report and, if required, a detailed site investigation report, with their resource consent applications to a panel. The full details of this information requirement are in Appendix five.
- 85 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 listed in the FTCA⁴. In addition to these requirements and to address matters raised, I have decided to specify a panel must seek comment on Neil Construction Limited and Maraetai Land Development Limited's resource consent applications from the Associate Minister for the Environment (Urban Policy), Ngāti Koheriki Claims Committee Te Kupenga o Ngāti Hako, Ngaati Whanaunga Incorporated Society, Auckland Transport, Watercare, the New Zealand Defence Force, and Waka Kotahi, as listed in Appendix five
- 86 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. The additional material listed in Appendix three that must be submitted to a panel will assist with this.
- 87 I consider there are no reasons to decide under section 24(2) of the FTCA to:
- 87.1 limit the scope of the project by referring it only in part
 - 87.2 refer the project in stages

⁴ Clause 17(6) of Schedule 6, FTCA.

87.3 place any restrictions on the project

87.4 impose specific timeframes for panel consideration.

Timing and 28-day rule

88 Cabinet has agreed to waive the 28-day rule for Orders in Council relating to projects to be referred to a panel⁵. Therefore, the Amendment Order will come into force the day after publication in the New Zealand Gazette. Matvin Group Limited, Neil Construction Limited, and Neil Construction Limited and Maraetai Land Development Limited may then lodge resource consent applications with the EPA.

Compliance

89 The Amendment Order complies with:

89.1 the principles of the Treaty of Waitangi

89.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993

89.3 the principles and guidelines set out in the Privacy Act 2020

89.4 relevant international standards and obligations

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

Regulations Review Committee

90 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

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

Impact Analysis

Regulatory Impact Assessment

92 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 panel⁶.

⁵ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer

⁶ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer

Climate Implications of Policy Assessment

- 93 The Climate Implications of Policy Assessment (CIPA) team at the Ministry for the Environment has been consulted and confirms that the CIPA requirements⁷ do not apply to the projects.

Publicity

- 94 The Amendment Order will be available on the New Zealand Legislation website following its notification in the New Zealand Gazette.
- 95 To meet my obligations under section 25 of the FTCA, I have directed the Ministry for the Environment to make my decision to refer the projects to a panel for consideration, the reasons for these decisions, and the reports obtained under section 17 available to the public on the Ministry for the Environment's website.

Proactive release

- 96 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

- 97 The Ministry for the Environment sought comment on this paper from Te Tūāpapa Kura Kāinga 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, Department of Internal Affairs, Department of Conservation and The Office for Māori Crown Relations – Te Arawhiti.

⁷ 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 applications for referral of the following projects to a panel:
 - 1.1 Matvin Group Limited's The Botanic Riverhead project
 - 1.2 Neil Construction Limited's Whenuapai Business Park project
 - 1.3 Neil Construction Limited and Maraetai Land Development Limited's Whenuapai Green project
- 2 **note** that The Botanic Riverhead project meets the eligibility criteria in section 18(3) of the COVID-19 Recovery (Fast-track Consenting) Act 2020, and will help achieve the Act's purpose, as required by section 18(2) of the Act, by:
 - 2.1 having positive effects on social well-being by generating employment and providing aged-care facilities with on-site amenities and services, and commercial and educational (childcare) activities
 - 2.2 generating employment by providing approximately 140 direct full-time equivalent (FTE) jobs per year over a 6-year construction period, approximately 45 permanent FTE jobs once the retirement village is operational and approximately 19 permanent FTE jobs once the commercial activities and childcare centre are operational
 - 2.3 increasing housing supply for aged persons through the construction of approximately 422 residential units, comprising approximately 158 standalone residential units and 264 apartments
 - 2.4 progressing faster using the Act's processes than would otherwise be the case under standard Resource Management Act 1991 processes
- 3 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 9) 2022 requires Matvin Group Limited to provide to an expert consenting panel a three waters infrastructure assessment, a transport infrastructure assessment, a stormwater and flood risk assessment, a draft stormwater management plan, an integrated transport assessment, a landscape and visual assessment, a social impact assessment, and in relation to potential soil contamination, a preliminary site investigation report and, if required, a detailed site investigation report, as detailed in Appendix three
- 4 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 9) 2022 requires an expert consenting panel appointed to consider Matvin Group Limited's The Botanic Riverhead project to seek comments from the Associate Minister for the Environment (Urban Policy), the Minister for Seniors, Auckland Transport, Watercare Services Limited and Waka Kotahi NZ Transport Agency, as listed in Appendix three
- 5 **note** that the Whenuapai Business Park project meets the eligibility criteria in section 18(3) of the COVID-19 Recovery (Fast-track Consenting) Act 2020, and will help achieve the Act's purpose, as required by section 18(2) of the Act, by:

- 5.1 having 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
- 5.2 having positive effects on social well-being by providing both short- and long-term employment opportunities in the Whenuapai area
- 5.3 generating employment through the provision of approximately 88 direct full time equivalent (FTE) jobs and 97 indirect FTE jobs per year over the 2 years of project construction
- 5.4 progressing faster using the Act's processes than would otherwise be the case under standard Resource Management Act 1991 processes
- 6 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 9) 2022 requires Neil Construction Limited to provide to an expert consenting panel a three-waters infrastructure assessment, a transport infrastructure assessment, an integrated transport assessment and an assessment of effects (including reverse sensitivity effects) on RNZAF Base Auckland, as detailed in Appendix four
- 7 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 9) 2022 requires an expert consenting panel appointed to consider Neil Construction Limited's Whenuapai Business Park project to seek comments from the Associate Minister for the Environment (Urban Policy), the submitters on PC 5 to the AUP, Ngāti Koheriki Claims Committee, Ngaati Whanaunga Incorporated Society, Auckland Transport, Watercare, Spark New Zealand Trading Limited, Waka Kotahi, and the New Zealand Defence Force, as listed in Appendix four
- 8 **note** that the Whenuapai Green project meets the eligibility criteria in section 18(3) of the COVID-19 Recovery (Fast-track Consenting) Act 2020, and will help achieve the Act's purpose, as required by section 18(2) of the Act, by:
- 8.1 having positive effects on social well-being by generating employment and providing a diverse range of housing types, including terraced housing (which has the potential to be a lower-priced housing option)
- 8.2 generating employment by providing approximately 164 direct full-time equivalent (FTE) jobs per year over a 5-year design and civil construction period, approximately 22 direct FTE jobs in sales and marketing over a 5-year period, and approximately 342 direct FTE jobs over a 6-year residential unit construction period
- 8.3 increasing housing supply through the provision of approximately 459 residential units (or approximately 354 residential units if a primary school is developed)
- 8.4 progress faster using the Act's processes than would otherwise be the case under standard Resource Management Act 1991 processes
- 9 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 9) 2022 requires Neil Construction Limited and Maraetai Land Development Limited to provide to an expert consenting panel a three-waters infrastructure assessment, a transport infrastructure assessment, a stormwater

assessment, a draft stormwater management plan, an integrated transport assessment, an assessment of effects (including reverse sensitivity effects) on RNZAF Base Auckland, a heritage assessment, and, in relation to potential soil contamination, a preliminary site investigation report and, if required, a detailed site investigation report, as detailed in Appendix five

- 10 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 9) 2022 requires an expert consenting panel appointed to consider Neil Construction Limited and Maraetai Land Development Limited's Whenuapai Green project to seek comments from the Associate Minister for the Environment (Urban Policy), Ngāti Koheriki Claims Committee, Te Kupenga o Ngāti Hako, Ngaati Whanaunga Incorporated Society, Auckland Transport, Watercare, the New Zealand Defence Force, and Waka Kotahi, as listed in Appendix five
- 11 **authorise** submission of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 9) 2022 to the Executive Council
- 12 **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 9) 2022 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 mid 2022
Silverlight Studios - Wanaka	Silverlight Studios Limited	Consented by Panel (8 December 2021)
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 Package 1 – enabling works	The Minister of Health's and the Ministry of Health	Consented by Panel (23 December 2021)
New Dunedin Hospital – Whakatuputupu – Dunedin	The Minister of Health's and the Ministry of Health	Under consideration by Panel

Package 2 - buildings		
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	Consented by Panel (9 March 2022)
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	Under consideration by Panel
Karaka North Village - Karaka, Auckland	Capella Group Limited and Karaka North Village Limited	Under consideration by Panel
Ōmāhu Residential Development - Remuera, Auckland	Urban Resort Limited and Icon Co Pty (NZ) Limited	Consented by Panel (14 February 2022)
George St Mixed Use Development - Newmarket, Auckland	Newmarket Holdings Development Limited Partnership	Lodgement expected mid 2022
Otawere Water Storage Reservoir - Northland	Te Tai Tokerau Water Trust	Under consideration by Panel
Drury Central & Paerata Stations - Auckland	Kiw Rail Holdings Limited	Consented by Panel (3 February 2022)
Rangitane Maritime Development - Kerikeri	Far North District Council & Far North Holdings Limited	Not progressing through FTC
Brickfields, Scott Road Development - Hobsonville, Auckland	Aedifice Development Limited	Consented by Panel (24 March 2022)
Melia Place - Whangaparāoa, Auckland	Melia Development Limited	Under consideration by Panel
Tauranga Innovative Courthouse - Tauranga	The Minister of Justice and the Ministry of Justice	Lodgement expected mid 2022
Oruku Landing - Whangārei, Northland	Northland Development Corporation Limited	Lodgement expected mid 2022
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	Consented by Panel (18 February 2022)
Drury Centre Precinct - Auckland	Kiwi Property Holdings No 2	Under consideration by Panel
Waihoehoe Precinct - Auckland	Oyster Capital Limited	Under consideration by Panel
Drury East Stage 1 Precinct – Auckland	Fulton Hogan Land Development	Under consideration by Panel
Flints Park, Ladies Mile – Te Pūtahi, Queenstown	Glenpanel Development Limited	Lodgement expected mid 2022
Federal Street Residences, Auckland	P0012 Auckland NZ Pty Limited	Under consideration by Panel
Bellgrove Development, Rangiora	Bellgrove Rangiora Limited	Under consideration by Panel
Lakeview-Taumata	QT Lakeview Developments Limited	Lodgement expected mid 2022
Summerset Retirement Village, Half Moon Bay, Auckland	Summerset Villages (Halfmoon Bay) Limited	Lodgement expected late 2022
Browns Bay Road Apartments, Auckland	Matvin Group Limited	Lodgement expected mid 2022
Te Tauoma Stage 1B, St Johns, Auckland	Shundi Tamaki Village Limited	Lodgement expected mid 2022
Kaiwharawhara Wellington Ferry Terminal Redevelopment	KiwiRail Holdings Limited	Lodgement expected mid 2022
The Rotokauri North project, Hamilton	Rotokauri North Holdings Limited	Lodgement expected mid 2022
Tauhei Farm Solar Project, Te aroha	Harmony Energy New Zealand Limited	Lodgement expected mid 2022
The Hill, Ellerslie, Auckland	Auckland Thoroughbred Racing Incorporated & Fletcher Residential Limited	Lodgement expected late 2022
Ariki Tahi Sugarloaf Wharf Upgrade, Waikato	Ariki Tahi Sugarloaf Wharf Limited	Lodgement expected mid 2022
Hananui Aquaculture Project, Foveaux Straight	Ngāi Tahu Seafood Resources Limited	Lodgement expected mid 2022
Flints Park West, Ladies Mile – Te Pūtahi, Queenstown	Glenpanel Development Limited	Lodgement expected mid 2022
Waimarie Street, St Heliers, Auckland	Sanctum Projects Limited	Lodgement expected late 2022
Te Rere Hau Wind Farm Repowering, Manawatu	NZ Windfarms Limited	Lodgement expected late 2022

Appendix two – Status of projects listed in Schedule 2 of 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 2022.
Unitec Residential Development	Lodgement timeframe unknown.
Papakāinga Development – Waitara, Taranaki	Lodgement timeframe unknown.
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.
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 specified by the Minister for the Environment under section 24(2) of the FTCA for Matvin Group Limited's The Botanic Riverhead project

Matvin Group Limited is required to provide with their resource consent applications to an expert consenting panel:

1. a detailed infrastructure assessment that covers:
 - a. the existing condition and capacity of the relevant infrastructure for three-waters services
 - b. any upgrades to that infrastructure that are required to service the development
 - c. any funding required to carry out those upgrades (including how they will be funded)
2. a detailed transport infrastructure assessment that identifies:
 - a. the existing capacity of the local road and state highway networks to service project construction and the completed project, including the Coatesville-Riverhead Highway - Riverhead Road intersection
 - b. any upgrades to the road network in the vicinity of the project that are required to service the completed project
 - c. how any upgrading is to be funded
3. an integrated transport assessment, including:
 - a. an assessment of how the project will support the use of public transport and active modes of transport such as cycling and walking
 - b. information about discussions held, and any agreements made, with Auckland Transport
 - c. an assessment of project effects on the local road and state highway networks
4. the following information relating to stormwater management:
 - a. a stormwater and flood risk assessment
 - b. a draft stormwater management plan
 - c. information on discussions held, and any agreements made, with Auckland Council Healthy Waters department
5. a landscape and visual assessment of the development, including:
 - a. photomontages to show the scale of the proposed buildings in relation to surrounding buildings and land
 - b. an assessment of the visual effects of the development on the biophysical landscape, and the character of the existing rural and low-density suburban landscape, taken from both private and public vantage points
6. an assessment of the social impacts of the development, covering the capacity of community, social and health services to meet the demands of future residents of the development
7. a report on a preliminary site investigation and, if required, on a detailed site investigation, referred to in any of the following provisions of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 that apply, showing how the requirements of those regulations will be met:
 - a. clause 5(9) (land excluded from the NESCS Regulations)

- b. clause 9(1) or (3) (controlled activities)
- c. clause 10(2) (restricted discretionary activities).

An expert consenting panel appointed to consider Matvin Group Limited's resource consent applications for The Botanic Riverhead project must seek comments from the following additional persons/organisations:

1. Associate Minister for the Environment with responsibility for the National Policy Statement on Urban Development 2020 and urban policy matters
2. Minister for Seniors
3. Auckland Transport
4. Watercare Services Limited
5. Waka Kotahi NZ Transport Agency.

Released under the provision of
the Official Information Act 1982

Appendix four – Additional requirements specified by the Minister for the Environment under section 24(2) of the FTCA for Neil Construction Limited's Whenuapai Business Park project

Neil Construction Limited is required to provide with their resource consent applications to an expert consenting panel:

1. a detailed assessment of three-waters services that identifies:
 - a. the existing condition and capacity of the infrastructure
 - b. any upgrades to that infrastructure that are likely to be required in connection with the project
 - c. any funding required to carry out those upgrades
2. a detailed transport infrastructure assessment that identifies:
 - a. the capacity of the existing local road and state highway networks to service project construction and the completed project
 - b. any upgrades to the local road and state highway networks in the vicinity of the project likely to be required to service the completed project
 - c. how any upgrading is to be funded
3. an integrated transport assessment, including:
 - a. an assessment of effects on the local and state highway roading networks
 - b. information about discussions held, and agreements made, with Auckland Transport
4. a report which assesses any potential adverse effects, including reverse sensitivity effects, of the project on RNZAF Base Auckland, and that:
 - a. sets out whether no complaints covenants should be imposed on the new titles
 - b. confirms 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
 - c. describes measures to avoid risk to flight safety and operations, including the risks of bird strike, lighting and glare.

An expert consenting panel appointed to consider Neil Construction Limited's resource consent applications for the Whenuapai Business Park project must seek comments from the following additional persons/organisations:

1. Associate Minister for the Environment with responsibility for the National Policy Statement on Urban Development 2020 and urban policy matters
2. the submitters on Plan Change 5 to the Auckland Unitary Plan
3. Ngāti Koheriki Claims Committee
4. Ngaati Whanaunga Incorporated Society
5. Auckland Transport
6. Watercare Services Limited
7. Waka Kotahi NZ Transport Agency
8. Spark NZ Trading Limited
9. New Zealand Defence Force.

Appendix five – Additional requirements specified by the Minister for the Environment under section 24(2) of the FTCA for Neil Construction Limited and Maraetai Land Development Limited's Whenuapai Green project

Neil Construction Limited and Maraetai Land Development Limited are required to provide with their resource consent applications to an expert consenting panel:

1. a detailed infrastructure assessment covering:
 - a. the condition and capacity of the existing infrastructure for three-waters services to service the completed project
 - b. any upgrades to that infrastructure likely to be required in connection with the development
 - c. any funding required to carry out those upgrades
2. a detailed transport infrastructure assessment that identifies:
 - a. the capacity of the existing local road and state highway networks to service the construction of the project and the completed project
 - b. any upgrades to the local road network in the vicinity of the project required to service the completed project
 - c. how any upgrading is to be funded
3. an integrated transport assessment, including:
 - a. an assessment of how the project will support the use of public transport and active modes of transport such as cycling and walking
 - b. information about discussions held, and any agreements made, with Auckland Transport
 - c. an assessment of project effects on the local road and state highway networks
4. the following information relating to stormwater management:
 - a. a stormwater assessment
 - b. a draft stormwater management plan
 - c. information on discussions held, and any agreements made, with Auckland Council Healthy Waters department
5. a report that assesses any potential adverse effects on the Royal New Zealand Air Force Base Auckland, including:
 - a. measures to deal with reverse sensitivity
 - b. whether no-complaints covenants should be imposed on any new records of title for the project site
 - c. 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
 - d. measures to avoid risk to flight safety and operations, including bird strike, lighting and glare
6. a heritage assessment, with details of how adverse impacts on historic heritage values will be avoided, remedied or mitigated
7. a report on a preliminary site investigation and, if required, on a detailed site investigation referred to in any of the following provisions of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 that apply, showing how the requirements of those regulations will be met:

- a. clause 5(9) (land excepted from the NESCS Regulations)
- b. clause 9(1) or (3) (controlled activities)
- c. clause 10(2) (restricted discretionary activities).

An expert consenting panel appointed to consider Neil Construction Limited and Maraetai Land Development Limited's resource consent applications for the Whenuapai Green project must seek comments from the following additional persons/organisations:

1. Associate Minister for the Environment with responsibility for the National Policy Statement on Urban Development 2020 and urban policy matter
2. Ngāti Koheriki Claims Committee
3. Te Kupenga o Ngāti Hako
4. Ngaati Whanaunga Incorporated Society
5. Auckland Transport
6. Watercare Services Limited
7. New Zealand Defence Force
8. Waka Kotahi NZ Transport Agency.

Released under the provision of
the Official Information Act 1982