

FTC#78 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Joint Stage 2 decisions:

Application 2021-39 – Oruku Landing

Date Submitted:	17 August 2021	MfE#: BRF-427	DOC#: 21-B-0647
Security Level	In-Confidence	MfE Priority: Urgent	DOC Priority: Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decisions on recommendations	TBA
To Hon Kiritapu Allan, Minister of Conservation	Decisions on recommendations	TBA

Actions for Ministers' Office Staff	Return the signed briefing to MfE and DOC Send the Notice of Decisions letter (if signed)
Number of appendices: 6	Titles of appendices: 1. Oruku Landing 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 Northland Development Corporation Limited 5. Section 17 Report 6. Comments received from Ministers, Whangarei District Council and Northland Regional Council

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Max Gander-Cooper		
Manager	Stephanie Frame	§ 9(2)(a)	✓
Director	Sara Clarke	§ 9(2)(a)	

Department of Conservation contacts

Position	Name	Cell phone	1 st contact
Principal Author	Nardia Yozin		
Responsible Manager	Amy Robinson	§ 9(2)(a)	✓
Director	Natasha Hayward	§ 9(2)(a)	

FTC#78: Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act – Joint Stage 2 decisions

Key Messages

1. This briefing relates to the application received under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) from Northland Development Corporation Limited for the Oruku Landing 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 (MfE:2021-B-07853 and DOC:21-B-0311) with your initial decisions annotated is in Appendix 2.
3. The Project is located at 44 Riverside Drive, Whangārei and will occur partly within the adjacent coastal marine area (CMA) of the Hātea River and on adjoining Whangarei District Council-owned land.
4. The Project is to construct and operate a hotel and entertainment precinct in central Whangārei. The Project will consist of two stages which may progress concurrently:

Stage One

- a. a hotel approximately 22 metres high containing approximately 132 rooms, a restaurant, bar and a swimming pool. At its southern end the building will be cantilevered over the CMA
- b. a mixed-use building approximately 18.5 metres high, incorporating approximately 17 residential units, retail/commercial tenancies and a car park for approximately 190 cars
- c. a marina in the CMA which will provide for approximately 29 berths and a ferry terminal
- d. widening a section of the existing Hātea Loop walkway boardwalk, to be formed by partially cantilevering it over the CMA
- e. associated upgrades to roading and three waters services.

Stage Two

- a. a multi-purpose conference and events centre approximately 16.5 metres high incorporating a hall/theatre, back-of-house facilities, café, meeting rooms and other associated facilities
 - b. a public plaza area between the convention centre and the hotel.
5. The Project will involve activities such as:
 - a. demolition of buildings and structures
 - b. vegetation clearance, including removal of mangroves
 - c. earthworks including disturbance of contaminated land
 - d. disturbance of the marine and coastal area
 - e. removal of dredged material from the CMA
 - f. disposal of dredged material on land
 - g. disturbance of the marine and coastal area associated with the establishment of a marina

- h. construction of buildings and structures on land and in and over the marine and coastal area
 - i. occupation of the CMA with a marina and parts of a boardwalk
 - j. discharge of stormwater and contaminants to the CMA
 - k. construction of roading and three waters infrastructure, walkway upgrades, parking facilities and signage
 - l. any other activities that are –
 - i. associated with the activities described in 'a' to 'k'
 - ii. within the Project scope.
6. The Project will require land use consents under the Whangarei District Plan and Proposed Whangarei District Plan, discharge and coastal permits under the Northland Regional Coastal Plan, Northland Regional Soil and Water Plan and Proposed Northland Regional Plan, and land use consent under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).
7. Key issues identified for the Project were in relation to the non-complying activity status, potential inconsistency with the New Zealand Coastal Policy Statement 2010 (NZCPS) with respect to structures within the CMA, and uncertainty of funding affecting certainty of Project timing and delivery. We consider that these issues can be resolved through provision of appropriate reports and assessments with an application to a panel, and through referring the Project in stages, if you consider that necessary.
8. You must make a joint decision on the referral application as the Project is partly within the CMA.
9. We recommend you accept the application for referral under section 24 of the FTCA and refer the Project to a panel for fast-tracking. We seek your joint decision on this recommendation and our recommendations on requirements of the applicant, directions to a panel and notification of your decisions.

Assessment against Statutory Framework

10. 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.
11. 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 Ministers, Whangarei District Council (WDC) and Northland Regional Council (NRC) (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.
12. 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

- 13. In response to your request under section 22 of the FTCA the applicant provided further information on how the Project aligns with the National Policy Statement for Urban Development 2020 (NPS-UD), details of funding options and numbers of full-time equivalent (FTE) positions. We have taken this information into account in our analysis and advice.
- 14. The applicant has provided information to demonstrate that sufficient private funding is available to deliver Stage One of the Project, but additional funding is required from WDC to deliver Stage Two (the conference and events centre). The funding from WDC is contingent on an amendment to the Whangarei Long Term Plan (LTP) and we understand that in order to approve the amendment WDC require a high degree of confidence that a resource consent will be granted. We consider that the entire Project can be referred with funding only confirmed for Stage One, even with uncertainty over the investment for Stage Two. We note that if you disagree, you could refer Stage One of the Project to a panel and defer decisions about Stage Two under section 24(2)(b) of the FTCA.

Section 17 Report

- 15. The Section 17 Report indicates that there are two iwi authorities relevant to the Project area, and no relevant Treaty settlements or Treaty settlement entities.

Comments received

- 16. Comments were received from § 9(2)(f)(ii), § 9(2)(g)(i), WDC and NRC. The key points of relevance to your decision are summarised in Table A.

- 17. § 9(2)(f)(ii), § 9(2)(g)(i)
[Redacted]
[Redacted]
[Redacted]
[Redacted]

- 18. WDC noted that the Provincial Growth Fund (PGF) funding is only for part of the Project and is dependent on funding from WDC and NRC. WDC also identified that part of the site along the coastal fringe is owned by the Council and no agreement is currently in place allowing the applicant to utilise this area. NRC noted that it has recently updated its coastal flood hazard maps and the Project site is within a mapped 1-in-100 year flood zone and coastal flood hazard zone. NRC requested that any proposed flood mitigation measures include consideration of these maps.

- 19. § 9(2)(f)(ii), § 9(2)(g)(i)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

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

Section 18 referral criteria

21. You may accept the application for referral of the Project 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)).
22. We confirm that the Project does not include ineligible activities, and therefore satisfies the requirements of section 18(3) of the FTCA, as explained in Table A.
23. The applicant originally advised that the hotel component of the Project would be funded by private capital and the event centre component would be funded by s 9(2)(b)(ii) of PGF funding and approximately s 9(2)(b)(ii) from WDC, allocated in its Long Term Plan (LTP), along with funds from various other sources. A condition of the PGF funding is that there is also significant funding from the local authorities. NRC has agreed to contribute funding towards the Project through its Annual Plan. At the time the referral application was lodged, WDC was undertaking public consultation on its LTP, but in June 2021 WDC adopted the LTP without provision for Project funding. WDC has since passed resolutions to allocate \$1 million for further investigations and design work to better understand potential costs, and to make a decision before the end of August 2021 on whether to amend the LTP to include the Project funding. If WDC decides to amend the LTP, it would need to undertake further public consultation before any amendment could be confirmed, which means that any final decision on the funding is unlikely before November 2021.
24. While there is risk that referral of a Project with unconfirmed funding may not meet the purpose of the FTCA, we consider that risk to be relatively low. In any event, funding is secure for Stage One (the hotel, mixed-use building and marina component). We consider that the social, economic and housing benefits from Stage One (which the applicant advises has secured funding and is independent of Stage Two) are sufficient to meet the purpose of the FTCA. Referring the entire Project inclusive of the Stage Two conference centre would provide an opportunity for resource consent applications for this part of the Project to be considered whilst funding for this stage was being finalised. A favourable decision on resource consents for Stage Two would be likely to increase (and therefore support) certainty of investment in Stage Two.
25. We therefore do not consider that you should decline Stage Two of the Project due to uncertainty regarding funding or incompatibility with the purpose of the FTCA. Our understanding from the various stakeholders is that Stage Two funding is likely following the progress of Stage One. We note that if you are not satisfied that referral of Stage Two meets the purpose of the FTCA, you could refer Stage One of the Project to a panel and decline to refer Stage Two under section 23(1) and (2) of the FTCA, or you could defer your decision on Stage Two under section 24(2)(b) pending the outcome of the LTP process in approximately November 2021.
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 confirm that the Project will help to achieve the purpose of the FTCA, and thus satisfy the requirements of section 18(2) as it has the potential to:
 - a. have positive effects on social wellbeing by providing a range of employment opportunities and flow-on economic benefits, and by maintaining and enhancing public access to and enjoyment of the CMA
 - b. generate employment by providing:

- i. up to 220 direct full-time equivalent (FTE) jobs per year and 145 part-time equivalent (PTE) jobs per year for Stage One across the three years of construction
 - ii. up to 175 FTE and 78 PTE jobs per year for Stage Two across the three years of construction
 - iii. up to 65 direct FTE ongoing operational jobs per year for Stage One
 - iv. up to 58 direct FTE ongoing operational jobs per year for Stage Two
- c. increase housing supply through the construction of approximately 17 residential units
 - d. have positive effects on the local economy by bringing approximately s 9(2)(b)(ii) into the local construction, tourism and hospitality industries which have been affected by COVID-19
 - e. progress faster by using the processes provided by the FTCA than would otherwise be the case under standard RMA processes provided that the applicant lodges their applications for resource consent in a timely manner following Project referral.
27. We consider that any actual and potential adverse effects arising from the Project, together with any measures to avoid, remedy, mitigate, offset or compensate for adverse effects, can be considered and determined by a panel having regard to 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(5) FTCA matters

29. Section 23(5) of the FTCA provides further guidance on reasons to decline an application, and a summary of our analysis of these matters is in Table A. Note that you may accept an application even if one or more of those reasons apply.

30. Policy 6 of the NZCPS states that activities which do not have a functional need to be in the CMA should generally not be located there. While the Project includes occupation of the CMA with such a structure, this is a cantilevered section of the proposed hotel, which will be occupying the airspace above the CMA and will not restrict public access to the CMA. We consider that the merits assessment of the Project and its alignment within the planning framework, including the NZCPS, are matters for a panel to consider. If necessary, a panel could impose design changes and consent conditions to ensure the Project meets the purpose of the RMA. We do not consider you should decline the application under section 23(5)(c) of the FTCA on the basis of inconsistency with the NZCPS.

Other matters

31. We note that there are two parcels of land within the Project site (some parts of Part Lot 3 DP 50078 and Area BD SO 67457) which are located below mean high water springs (MHWS) and which the applicant does not own. Any transfer of ownership of this land will require administrative action by both the Whangārei District Council and the Minister of Conservation under the MACAA, which may take some time to complete. The applicant does not foresee any issue with this that would affect project delivery.

32. While the applicant is proposing to carry out an activity on land which they do not currently have the legal right to use, we note that the process to return these parcels of land to the common marine and coastal area is an administrative task to be carried out by the Minister of Conservation. We consider that this issue can be addressed by appropriate consultation

with the Department of Conservation to ensure that the titles are amended or cancelled as appropriate.

33. The Project is for a non-complying activity under the Proposed Regional Plan for Northland. If you decide to refer the Project under the FTCA, a panel is required under clause 32 of Schedule 6 of the FTCA to consider whether the Project meets the 'gateway tests' in section 104D of the RMA. The applicant has provided an assessment which indicates that the Project is not contrary to the objectives and policies of any relevant plan or national policy statement. We note that if this assessment is not accurate the application may be declined by a panel.
34. We have identified a number of issues further to the matters identified above and our analysis of these is in Table A.

Conclusions

35. We do not consider there are any significant reasons for you to decline to refer the Project. We consider that you could accept the application under section 24 of the FTCA and that all of the Project could be referred to a panel.
36. If you decide to refer the Project, we consider that you should specify under section 24(2)(d) of the FTCA 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 planning assessment including consideration of the New Zealand Coastal Policy Statement 2010
 - b. a coastal hazard assessment
 - c. a GHG emissions assessment
 - d. an integrated transport assessment
 - e. a three waters infrastructure capacity assessment
 - f. evidence of access arrangements and/or easements relating to Part Lot 3 DP50078 confirming Northland Development Corporation Limited's right to access this land.
37. The above information is required to inform a panel of the actual and potential effects of the Project.
38. 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. representatives of Terenga Parāoa Marae, Ngāraratunua Marae, Takahiwai Marae, Pehiāweri Marae and Toetoe Marae as requested by the Minister for Treaty of Waitangi Negotiations
 - b. Te Rūnanga o Ngāti Whātua, as requested by the Minister for Treaty of Waitangi Negotiations
 - c. the Ngāti Kahu o Torongare Hapū and Hapū Cultural Designer representatives from the Project's governance committee
 - d. the Minister for Economic and Regional Development
 - e. the Minister of Tourism.
39. We consider that if you decide to refer the Project, the notice of decisions should also be copied to:
 - a. the parties listed in clause 40 above

- b. the relevant applicants for customary marine title and/or protected customary rights in the Project area, under the MACAA, identified in the Section 17 Report.

40. Our recommendations for your decisions follow.

Next Steps

41. 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.
42. 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 offices to give copies to all relevant parties.
43. To refer the Project, you must recommend that a referral order be made by way of an Order in Council (OIC).
44. Cabinet has agreed that you can issue drafting instructions to PCO without the need for a policy decision to be taken by Cabinet in the first instance.¹

¹ 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 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** that 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 including that it would help to achieve the FTCA's purpose.
- b. **Note** that 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) and also whether it could have significant adverse effects.
- c. **Note** that 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 Stage One of the Project to a panel while deferring decisions about Stage Two pending the outcome of the funding decisions on Stage Two
 - iii. still decline the referral application for any reason under section 23(2) of the FTCA.
- d. **Note** that 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.
- e. **Note** that before deciding to accept an application for 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 received
 - iv. any further information requested and provided within the required timeframe.
- f. **Agree** that the Oruku Landing project meets the referral criteria in section 18 (3) of the FTCA.

Yes/No
- g. **Agree** that 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 effects on social wellbeing by providing a range of employment opportunities and flow-on economic benefits, and by maintaining and enhancing public access to, and enjoyment of, the CMA
 - ii. generate employment by providing:
 1. up to 220 direct full-time equivalent (FTE) jobs per year and 145 part-time equivalent (PTE) jobs per year for Stage One across the three years of construction

2. up to 175 FTE and 78 PTE jobs per year for Stage Two across the three years of construction
 3. up to 65 direct FTE ongoing operational jobs per year for Stage One
 4. up to 58 direct FTE ongoing operational jobs per year for Stage Two
- iii. increase housing supply through the construction of approximately 17 residential units
 - iv. have positive effects on the local economy by bringing approximately § 9(2)(b)(ii) into the local construction, tourism and hospitality industries which has been affected by COVID-19
 - v. progress faster by using the processes provided by the FTCA than would otherwise be the case under standard Resource Management Act 1991 (RMA) processes provided that the applicant lodges their applications for resource consent in a timely manner following Project referral.

Yes/No

h. **Agree** to refer all of the Project to a panel.

Yes/No

i. **Agree** to specify under section 24(2)(d) of the FTCA the following additional information that the applicant/s must submit with any resource consent application lodged with the Environmental Protection Authority:

- i. a planning assessment including, but not limited to, specific consideration (with supporting information) of the New Zealand Coastal Policy Statement 2010 (including Policies 6, 24 and 26)
- ii. a coastal hazard assessment which must include:
 1. information on how the climate change scenario (RCP4.5) used for determining appropriate finished floor levels aligns with the Ministry for the Environment's *Coastal Hazards and Climate Change* guidance, as it relates to proposals involving intensification of existing development or a change in land use
 2. information on the effects of the Project on natural hazards
 3. consideration of the Northland Regional Council's Coastal Flood Hazard Zone 3 scenario (representing a 100-year rapid sea level rise projection)
- iii. a GHG emissions assessment that must include:
 1. information on the GHG emissions created as part of construction and operation of the proposed development
 2. options to reduce, mitigate and avoid GHG emissions (in addition to the solar panels already included in the design)
 3. information on GHG emissions from travel as a result of the development and how these emissions could be mitigated, reduced or avoided
- iv. an integrated transport assessment which includes, but is not limited to:
 1. assessment of how the Project will support public and active transport
 2. details of end-of-trip facilities for staff and customers
 3. modelling to determine delay and queuing effects downstream of the proposed signalised intersection

- v. an assessment of the capacity of existing three waters infrastructure that must include consideration of the demand for land-based water and wastewater services associated with the proposed marina
- vi. evidence of access arrangements and/or easements relating to Part Lot 3 DP50078 confirming Northland Development Corporation Limited's right to access this land.

Yes/No

- j. **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. representatives of Terenga Parāoa Marae, Ngāraratunua Marae, Takahiwai Marae, Pehiāweri Marae
 - ii. Te Rūnanga o Ngāti Whātua
 - iii. the Ngāti Kahu o Torongare Hapū and Hapu Cultural Designer representatives from the Project's governance committee
 - iv. the Minister for Economic and Regional Development
 - v. the Minister of Tourism.

Yes/No

- k. **Agree** to copy the notice of decisions to the parties listed in Recommendation 1(j) and to relevant applicants for customary marine title and/or protected customary rights in the Project area, under the MACAA, identified in the Section 17 Report.

Yes/No

- l. **Agree** to the Ministry for the Environment and Department of Conservation issuing drafting instructions to the Parliamentary Counsel Office for an Order in Council to refer the Oruku Landing project to a panel in accordance with your decisions recorded herein.

Yes/No

- m. **Sign the attached (Appendix 4)** notice of decisions to Northland Development Corporation Limited.

Yes/No

Released under the provisions of the Official Information Act 1982

- n. **Note** that to ensure your compliance with section 25(3) of the FTCA, the Ministry for the Environment will publish the decisions, the reasons, and the Section 17 Report on the Ministry for the Environment's website.

Signatures



Stephanie Frame
Manager – Fast Track Consenting
Ministry for the Environment

Date



Amy Robinson
RMA Manager
Department of Conservation

Date 18 August 2021

Hon David Parker
Minister for the Environment

Date

Hon Kiritapu Allan
Minister of Conservation

Date

Released under the provision of
the Official Information Act 1982

Table A: Stage 2 - Project Summary and Section 24 Analysis for projects where the Minister for the Environment and Minister of Conservation are joint decision makers

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 referral (section 18(3a - d))	Does the Project help achieve the purpose of the FTCA (section 19)?			
<p>Application name Oruku Landing</p> <p>Applicant Northland Development Corporation Limited</p> <p>Location 44 Riverside Drive, Riverside, Whangārei, Coastal Marine Area (CMA) adjacent to 44 Riverside Drive, Riverside, Whangārei and other council-owned land affected by the Project (Part Lot 3 DP50078)</p>	<p>The Project is to construct and operate a hotel and entertainment precinct in central Whangārei. The Project will consist of two stages which may progress concurrently:</p> <p><i>Stage One</i></p> <p>a. a hotel approximately 22 metres high containing approximately 132 rooms, a restaurant, bar and a swimming pool. At its southern end the building will be cantilevered over the CMA</p> <p>b. a mixed-use building approximately 18.5 metres high, incorporating approximately 17 residential units, retail/commercial tenancies and a car park for approximately 190 cars</p> <p>c. a marina in the Hātea River which will provide for approximately 29 berths and a ferry terminal</p> <p>d. widening a section of the existing Hātea Loop walkway boardwalk, to be formed by partially cantilevering it over the CMA</p> <p>e. associated upgrades to roading and three waters services.</p> <p><i>Stage Two</i></p> <p>a. a multi-purpose conference and events centre approximately 16.5 metres high incorporating a hall/theatre, back-of-house facilities, café, meeting rooms and other associated facilities</p> <p>b. a public plaza area between the convention</p>	<p>The project is eligible under section 18(3)(a-d) as:</p> <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 or a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 	<p>Economic benefits for people or industries affected by COVID-19 (19(a)):</p> <p>The applicant estimates that the Project will provide:</p> <ul style="list-style-type: none"> up to 220 direct full-time equivalent (FTE) per year and 145 part-time equivalent (PTE) jobs per for Stage One and 175 FTE and 78 PTE jobs per year for Stage Two over a three year planning and construction period and up to 65 direct ongoing FTE for Stage One and 58 direct FTE ongoing operational jobs for Stage Two provide approximately 17 residential units in an area with housing demand add s 9(2)(b)(ii) million into the local construction and tourism and hospitality industries which have been affected by COVID-19. <p>Economic costs for people or industries affected by COVID-19 (19(a)):</p> <p>N/A</p> <p>Effect on the social and cultural well-being of current and future generations (19(b)):</p> <p>The Project has the potential for positive effects on social wellbeing by:</p> <ul style="list-style-type: none"> providing a range of employment opportunities and flow-on economic benefits maintaining and enhancing public access to, and enjoyment of, the CMA <p>With respect to cultural wellbeing, the applicant has advised that Ngāpuhi hapū Ngāti Kahu o Torongare have been involved as part of the Project Governance Group and this has included contributing to the cultural elements of the development design.</p> <p>Is the Project likely to progress faster by using this Act (19(c))?</p> <p>The applicant considers that the fast-track process will allow the Project to</p>	<p>Ministers</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>[Redacted]</p>	<p>Section 23(5) matters</p> <p>Insufficient information (23(5)(a))</p> <p>The applicant has provided sufficient information for you to determine whether the Project meets the criteria in section 18 of the FTCA.</p> <p>More appropriate to go through standard RMA process (23(5)(b))</p> <p>We do not consider it would be more appropriate for all or part of the Project to proceed through the standard consenting process under the RMA.</p> <p>Inconsistency with a national policy statement (23(5)(c))</p> <p>Policy 6 of the NZCPS states that activities which do not have a functional need to be in the CMA should generally not be located there. While the Project includes occupation of the CMA with such a structure, this is a cantilevered section of the proposed hotel, which will be occupying the airspace above the CMA and will not restrict public access to the CMA. We consider that, if necessary, this is a matter which could be resolved through appropriate changes to design or through consent conditions imposed by a panel, and that you should not decline the application under section 23(5)(c) of the FTCA (the Project is inconsistent with a relevant national policy statement).</p> <p>Inconsistent with a Treaty settlement (23(5)(d))</p> <p>The Project does not directly affect any Treaty settlement redress.</p> <p>Involves land needed for Treaty settlements (23(5)(e))</p> <p>The Project site does not include land needed for Treaty settlement purposes.</p> <p>Applicant has poor regulatory compliance (23(5)(f))</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>[Redacted], we support his request that you provide the application and your notice of decisions to Ngāti Whātua representatives of nearby marae and MACAA applicants. We also support the request to direct a panel to invite comment from representatives of nearby marae, but in respect of the relevant MACAA applicants note that a direction is not required, as under clause 17(6)(f) of schedule 6 of the FTCA a panel must invite comment from any MACAA applicant identified in the Section 17 report, and the relevant Section 17 report does identify these applicants.</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>[Redacted] we support his request that you require the applicant to provide reports on the effects of the Project on flood hazards and greenhouse gas emissions.</p> <p>In response to the comments from WDC and NRC we do not consider it necessary for you to require the applicant to provide a panel with most of the technical reports requested, as the applicant will be required to submit to a panel supporting information and technical assessments relating to actual and potential effects (under clause 9(4) Schedule 6 of the FTCA). However, we do recommend that you require the applicant to provide a panel with specific information relating to transport, roading and three waters infrastructure and flood hazard effects as this information will assist a panel with timely consideration of the application.</p> <p>In response to WDC's comments that the applicant does not currently have any arrangement in place with the Council to use the parcel of council-owned land on the coastal fringe, we note that the applicant has indicated that they are in negotiations with the Council regarding easements over this parcel, and this matter can be addressed by provision of evidence of right of access with an application to a panel.</p> <p>Recommendations</p> <p>Note that section 23(1) of the 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.</p> <p>There are no reasons to decline to refer the Project. We recommend that you accept the</p>

<p>centre and the hotel.</p> <p>The Project will involve activities such as:</p> <ol style="list-style-type: none"> demolition of buildings and structures vegetation clearance, including removal of mangroves earthworks including disturbance of contaminated land disturbance of the marine and coastal area removal of dredged material from the CMA disposal of dredged material on land disturbance of the marine and coastal area associated with the establishment of a marina construction of buildings and structures on land and in and over the marine and coastal area occupation of the CMA with a marina and parts of a boardwalk discharge of stormwater and contaminants to the CMA construction of roading and three waters infrastructure, walkway upgrades, parking facilities and signage any other activities that are – <ol style="list-style-type: none"> associated with the activities described in 'a' to 'k' within the Project scope. <p>The Project will require land use consents under the Whangarei District Plan and Proposed Whangarei District Plan, discharge and coastal permits under the Northland Regional Coastal Plan, Northland Regional Soil and Water Plan and Proposed Northland Regional Plan, and land use consent under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS).</p>	<p>progress at least 6 months faster than under standard Resource Management Act 1991 (RMA) processes, and potentially longer if the application were notified or appealed.</p> <p>Will the Project result in a public benefit (19(d))?</p> <p>We consider that the Project may result in the following public benefits:</p> <ul style="list-style-type: none"> generating employment through the construction period and during operation increasing housing supply providing opportunities to support community connection and recreational opportunities <p>Potential to have significant adverse environmental effects, including greenhouse gas emissions (19(e)):</p> <p>The Project has the potential for adverse environmental effects including:</p> <ul style="list-style-type: none"> dust, traffic and other temporary construction effects ecological effects effects on capacity of three waters services noise and lighting effects landscape and visual effects effects related to natural hazards effects on hydrology and coastal processes effects on greenhouse gas emissions <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 the Project will not result in significant adverse environmental effects.</p> <p>We note that you do not require a full Assessment of Environmental Effects and supporting evidence to make a referral decision, and that a panel will consider the significance of effects should the Project be referred.</p> <p>Other relevant matters (19(f)):</p> <p>N/A</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>Neither WDC nor NRC raised identified a poor history of regulatory for the applicant.</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 application to be referred and considered before the FTCA is repealed.</p> <p>Other issues & risks:</p> <p>We consider that there is risk associated with referring a Project which has uncertainty regarding funding. However, we consider that the social, economic and housing benefits from Stage One are sufficient to meet the purpose of the FTCA, and referring the entire Project inclusive of the conference centre as Stage Two provides an opportunity for resource consents for this part of the Project to be considered whilst funding is being finalised. While the stages of the Project are not dependent on each other, we consider that referring the entire Project for referral may help to increase Project certainty for Stage Two. We therefore do not consider that you should decline the Project due to uncertainty regarding funding (as another reason under section 23(2) of the FTCA). We note that if you are not satisfied that Stage Two has sufficient Project certainty to meet the purpose of the FTCA, you could refer Stage one of the Project to a panel and defer decisions about, or decline, Stage two under section 24 (2)(b) or 23(2) of the FTCA.</p> <p>We note that there are two parcels of land within the Project site (some parts of Part lot 3 DP 50078 and Area BD SO 67457) which are located below mean high water springs (MHWS) and which the applicant does not own. The parts of the title of Part lot 3 DP 50078 below MHWS became part of the common marine & coastal area under section 11(3) of the MACAA, however the ownership recorded on the title doesn't change until the Minister of Conservation or Whangarei District Council take action under section 23 of the MACCA to effect this. Area BD SO 67457 was vested in the Crown under the Foreshore and Seabed Endowment Revesting Act 1991 but as no action was taken to cancel the title, ownership remained with Marsden Maritime Holdings. Subsequently the</p>	<p>application under section 24 of the FTCA and refer all of the Project to a panel</p> <p>We recommend that you do not place any restrictions on the Project, nor impose any specific timeframes for panel consideration.</p> <p>We recommend you require a panel to invite comment from the following parties:</p> <ul style="list-style-type: none"> representatives of Terenga Parāoa marae representatives of Ngāraratunua marae representatives of Takahiwai marae representatives of Pehiāweri marae representatives of Toetoe marae Te Rūnanga o Ngāti Whātua the Ngāti Kahu o Torongare Hapū and Hapu Cultural Designer representatives from the Project's governance committee the Minister for Regional and Economic Development the Minister of Tourism <p>We recommend that you require the applicant to submit the following information with any consent application lodged with the Environmental Protection Authority:</p> <ul style="list-style-type: none"> a planning assessment including, but not limited to, specific consideration (with supporting information) of the New Zealand Coastal Policy Statement 2010 (including Policies 24 and 26) a coastal hazard assessment which must include: <ol style="list-style-type: none"> information on how the climate change scenario (RCP4.5) used for determining appropriate finished floor levels aligns with the Ministry for the Environment's Coastal Hazards and Climate Change guidance, as it relates to proposals involving intensification of existing development or a change in land use information on the effects of the Project on natural hazards consideration of the Northland Regional Council's Coastal Flood Hazard Zone 3 scenario (representing a 100-year 'rapid sea level rise' projection) a greenhouse gas emissions assessment that must include: <ol style="list-style-type: none"> information on the greenhouse gas emissions created as part of construction and operation of the proposed development options to reduce, mitigate and avoid greenhouse gas emissions (in addition to the solar panels already included in the
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				<p>Northland Regional Council (NRC) had no comment on whether use of the FTCA process is appropriate, but noted a potential conflict of interest as it had a proposal in its Annual Plan to partially fund the development.</p> <p>NRC noted that the Project is likely to result in economic benefit from visitors to Whangārei attending events and conferences, and beneficial use of land that is adjacent to the city centre, river and is part of the Hātea loop. NRC identified that the site is within a mapped 1 in 100 year flood zone and mapped coastal flood hazard zone, and NRC has recently updates its coastal flood hazard maps which will need to be taken into account for this application and any mitigation measures proposed.</p> <p>All responses received by parties invited to comment are attached at Appendix 6.</p>	<p>land became part of the common marine & coastal area under section 11(3) of the MACAA but the ownership does not change until the Minister of Conservation takes action under s 22 MACCA to cancel the title. Any transfer of ownership of this land will require administrative action by both the Whangārei District Council and the Minister of Conservation under the MACAA, which may take some time to complete. The applicant does not foresee any issue with this that would affect project delivery.</p> <p>While the applicant is proposing to carry out an activity on land which they do not currently have the legal right to use, we note that the process to return these parcels of land to the common marine and coastal area is an administrative task to be carried out by the Minister of Conservation. We consider that this issue can be addressed by appropriate consultation with the Department of Conservation to ensure that the titles are amended or cancelled as appropriate.</p>	<p>design)</p> <p>c. information on greenhouse gas emissions from travel as a result of the development and how these emissions could be mitigated, reduced or avoided</p> <ul style="list-style-type: none"> • an integrated transport assessment which includes, but is not limited to: <ul style="list-style-type: none"> a. assessment of how the Project will support public and active transport b. details of end-of-trip facilities for staff and customers c. modelling to determine delay and queuing effects downstream of the proposed signalised intersection • an assessment of the capacity of existing three waters infrastructure that must include consideration of the demand for land-based water and wastewater services associated with the proposed marina • evidence of access arrangements and/or easements relating to Part Lot 3 DP50078 confirming Northland Development Corporation Limited's right to access this site.
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Schedule of Appendices and Attachments

Appendix 1 – Oruku Landing – Application form and additional information received

Appendix 2 – 2021-B-07853 FTC52 and 21-B- 0311– Application for referred project under the COVID-Recovery Act - Stage 1 decisions on Oruku Landing Application

Appendix 3 – Statutory framework for making decisions

Appendix 4 – Draft Notice of Decisions letter to Northland Development Corporation Limited

Appendix 5 – Section 17 Report

Appendix 6 – Comments received from Ministers, Whangarei District Council and Northland Regional Council

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