

FTC 94 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Joint Stage 1 decisions

Application 2021 071 Ariki Tahi (Sugarloaf Wharf) Upgrade

Date Submitted:	25 November 2021	MFE#: BRF-917	DOC#: 21-B-0945
Security Level	In-Confidence	MfE Priority: Urgent	DOC Priority: Urgent

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

Actions for Ministers' Office Staff	Return the signed briefing to MfE and DOC. Send out attached letters (if agreed and signed).
Number of attachments: 5	Titles of attachments: 1. Letters from the Minister for the Environment and Minister of Conservation to relevant Ministers of the Crown 2. Letters from the Minister for the Environment and Minister of Conservation to Thames Coromandel District Council and Waikato Regional Council 3. Letter from the Minister for the Environment and Minister of Conservation to the Ariki Tahi Sugarloaf Wharf Limited 4. Copy of application and supporting information – to send with letters to Ministers 5. Copy of application and supporting information – to send with letters to councils 6. Letter from the Minister for the Environment and Minister of Conservation to Pare Hauraki Kaimoana 7. Letter from the Minister for the Environment and Minister of Conservation to the Coromandel Marine Farmers Association

Ministry for the Environment contacts

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

Department of Conservation contacts

Position	Name	Cell phone	1st contact
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Responsible Manager	Linda Kirk	s 9(2)(a)	✓
Director	Natasha Ryburn	s 9(2)(a)	

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FTC 94: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Joint Stage 1 decisions

Key Messages

1. We seek your joint initial decisions on an application for referral of the Ariki Tahī (Sugarloaf Wharf) Upgrade project (the Project) to an expert consenting panel (a panel) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA), from Ariki Tahī Sugarloaf Wharf Limited.
2. The Project is to upgrade the existing wharf facilities at Ariki Tahī (Sugarloaf Wharf) to separate commercial and recreational uses, cater for the projected increase in aquaculture production in the Firth of Thames, and improve resilience to extreme weather and tidal events. The project scope includes:
 - a. a new access channel to allow larger vessels all-tide access to the wharf
 - b. a reclaimed area of approximately 6,900 square metres, formed by placing the material dredged from the access channel behind a new seawall and rock revetment constructed on the seabed
 - c. berthing, loading and storage infrastructure providing for up to five commercial vessel berths
 - d. two separate boat ramps for recreational users, protected by a 25-metre long groyne
 - e. upgrade of access from Te Kouma Road
 - f. parking areas and associated infrastructure for recreational and commercial vehicles and boat trailers
 - g. a kiosk and toilet facilities.
3. It is partially located on reclaimed land vested in the Crown under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) at 260 Te Kouma Road, Coromandel. Parts of the Project will occur in the coastal marine area (CMA).
4. The Project will involve activities such as:
 - a. reclaiming and/or draining the foreshore and seabed
 - b. disturbing the foreshore and seabed, including dredging
 - c. removing material from the foreshore and seabed
 - d. depositing material on the foreshore/seabed
 - e. constructing a seawall, rock revetment, groyne and access ramps on the seabed
 - f. earthworks on land
 - g. constructing berthing, loading and storage infrastructure for approximately 5 commercial vessels
 - h. constructing vehicle access and parking areas
 - i. constructing infrastructure for three waters services
 - j. discharging stormwater and contaminants to the CMA
 - k. occupying the coastal marine area with boat ramps, a groyne, seawall and navigational infrastructure
 - l. undertaking dredging of the access channel from time to time, on an on-going basis

- m. any other activities that are:
 - i. associated with the activities described in paragraphs a to l
 - ii. within the scope of the Project as described in paragraph 2.
- 5. The Project will require land use consents under the Proposed Thames-Coromandel District Plan and coastal permits under the Waikato Regional Coastal Plan.
- 6. Ariki Tahi Sugarloaf Wharf Limited applied under the FTCA to upgrade Ariki Tahi (Sugarloaf Wharf) in September 2020. Comments were not invited on the referral application and it was declined under Section 23(5)(b) of the FTCA (it would be more appropriate for the Project to go through the standard consenting process under the RMA) due to the consent history of the wharf and potential public interest in the Project.
- 7. We do not consider you are *functus officio* and are therefore able to make a decision on the current application, because it is a new application that differs in scope and content from the original application lodged in 2020. In particular, the Project scope now includes a dual lane boat ramp and parking area for recreational users, and a publicly accessible rock groyne. The applicant has also provided a more comprehensive effects assessment which concludes that the Project will not result in significant adverse environmental effects. Evidence has also been provided of public consultation undertaken to date, which could assist a panel in determining who might be appropriate to invite to comment (under clause 17(8) of Schedule 6 of the FTCA) if the Project were referred.
- 8. We have undertaken an initial (Stage 1) analysis of the application and this is presented along with our recommendations in Table A.
- 9. We consider that the Project meets the eligibility criteria in section 18(3) of the FTCA, and the new Project scope and additional effects analysis and public consultation undertaken by the applicant potentially mitigates some of the concerns you had with the 2020 application. We need to undertake further analysis before advising you if we consider the project meets the purpose of the FTCA, as required by section 18(2) of the FTCA.
- 10. We recommend you progress the application to the next stage of analysis (Stage 2) and invite comments from Thames Coromandel District Council and Waikato Regional Council, and specific Ministers listed in section 21(6) of the FTCA, as well as the following parties:
- 11. Pare Hauraki Kaimoana (as they have a particular interest in activities which affect aquaculture in the Firth of Thames)
- 12. Coromandel Marine Farmers Association (as they have a particular interest in activities which affect aquaculture in the Firth of Thames)
- 13. the Minister of Oceans and Fisheries.
- 14. We also recommend that you request further information from the Applicant and Thames Coromandel District Council as detailed in Table A.

Statutory Framework Summary

- 15. You must make decisions on this referral application jointly as parts of the Project will occur in the CMA.
- 16. You may decline the referral application before seeking comments from the relevant local authorities and any relevant Ministers:
 - a. if you are satisfied the Project does not meet the referral criteria in section 18 of the FTCA, (which include you being satisfied it meets the purpose of the FTCA) (see sections 18(2) and 23(1) of the FTCA)

- b. for any other reason (see section 23(2) of the FTCA).
17. If you do not decline the referral application at this stage:
- a. you must provide the application to, and invite comments from, the relevant local authorities and the relevant Ministers prescribed by section 21(6) of the FTCA
 - b. you may provide the application to and invite comments from any other person.
18. You are also able to request further information from the applicant or any relevant local authority at any time before you decide to decline or accept the referral application (see section 22 of the FTCA).

Action Sought

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

Signatures



Stephanie Frame
Manager – Fast-track Consenting
Ministry for the Environment



Linda Kirk
RMA Manager
Department of Conservation

Project to progress

Project details	Project description	Project funding	Project eligible for referral? [section 18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Minister's decision
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
Project name Ariki Tahī (Sugarloaf Wharf) Upgrade Applicant Ariki Tahī Sugarloaf Wharf Limited c/- Mitchell Daysh Location On reclaimed land vested in the Crown under the Marine and Coastal Area (Takutai Moana) Act 2011 at 260 Te Kouma Road, Te Kouma Some of the land in the Project area may not yet have been allocated a title following vesting. We recommend seeking additional information from the applicant on the titles in the Project site, including an	The Project is to upgrade the existing wharf facilities at Ariki Tahī (Sugarloaf Wharf) to separate commercial and recreational uses, cater for the projected increase in aquaculture production in the Firth of Thames, and improve resilience to extreme weather and tidal events. The project scope includes: a. a new access channel to allow larger vessels all-tide access to the wharf b. a reclaimed area of approximately 6,900 square metres, formed by placing the material dredged from the access channel behind a new seawall and rock revetment constructed on the seabed c. berthing, loading and storage infrastructure providing for up to five commercial vessel berths d. two separate boat ramps for recreational users, protected by a 25-metre long groyne e. upgrade of access from Te Kouma Road f. parking areas and associated infrastructure for recreational and commercial vehicles and boat trailers g. a kiosk and toilet facilities. The Project will involve activities such as: a. reclaiming and/or draining the foreshore and seabed b. disturbing the foreshore and seabed, including dredging c. removing material from the foreshore and seabed d. depositing material on the foreshore/seabed e. constructing a seawall,	The applicant states that the Project will be funded by a combination of s 9(2)(b)(ii) from the Provincial Growth Fund and s 9(2)(b)(iii) from Waikato Regional Council's Regional Development Fund. The applicant states that the availability of Provincial Growth Funding may be at risk if the consenting timeframe extends significantly beyond 2021. We recommend that you seek additional information from the applicant about the details of Provincial Growth Funding including whether it is subject to any conditions.	Based on available information at this stage, we consider the Project is eligible for referral because: <ul style="list-style-type: none"> it does not include any prohibited activities it does not include land returned under a Treaty settlement it does not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	The applicant estimates that the Project will directly contribute \$42 million per year to local economies through the facilitation and expansion of the aquaculture industry in the Firth of Thames and will provide 880 jobs over the 2 years of the Project construction. This information includes all jobs both direct and indirect which are likely to be related to the Project. We recommend that you seek additional information from the applicant on the number of jobs which will directly result from the Project.	The Project will provide for the social and cultural wellbeing of future generations as it will: <ul style="list-style-type: none"> provide employment opportunities enable public access to, and enjoyment of, the CMA enable the expansion of aquaculture activities in the Firth of Thames, which are 40% owned by iwi groups 	The applicant considers that the FTCA will allow the Project to progress approximately 6-24 months faster than under standard RMA processes due to the likelihood of notification and appeals under standard process. We recommend seeking feedback from Thames Coromandel District Council and Waikato Regional Council on the appropriateness of using the FTCA process.	Based on the information provided by the applicant we consider that the Project will result in public benefit by: <ul style="list-style-type: none"> generating employment providing infrastructure in order to improve economic, employment and environmental outcomes and increase productivity strengthening economic and social resilience in terms of managing the risks from natural hazards and effects of climate change. 	The application indicates that the Project may result in the following adverse effects: <ul style="list-style-type: none"> visual amenity, landscape and natural character effects traffic effects noise effects ecological effects coastal process effects The applicant notes that technical experts have been engaged and completed a number of technical assessments and considers that any adverse effects can be avoided, remedied or mitigated by employing industry best practice, standard techniques or appropriate conditions of resource consent. Based on the information provided, the Project does not raise particular concerns regarding benthic ecology or landscape and natural character effects given the existing modified	An application for an upgrade to Ariki Tahī Sugarloaf Wharf was received in September 2020 and was declined for referral at stage one. The reasons for decline were the potential public interest in an application in the CMA and the consenting history of the Project. We consider that the changes to the application such as the inclusion of a publicly accessible groyne, boat ramp and recreational parking area enable the Project to be considered as a new Project under the FTCA. We consider there is public interest in the application. However, we consider that the FTCA process allows key stakeholders some opportunity have their input by providing written comment to an expert panel. We will advise you further on which parties should be invited to comment if the Project is referred once we receive	a. Note that section 23(3) of the FTCA permits you to decline the referral application without inviting comments from the relevant local authorities and any relevant Ministers. b. Note that you have not yet provided the application to, nor sought any comments on it from, relevant local authorities or relevant Ministers but that you are required to do so if you do not decline the application under section 23(3) of the FTCA. c. Note that section 21(3) of the FTCA permits you to forward an application to, and invite written comments from, any other person. d. Note that section 22 of the FTCA permits you to request further information from the applicant or relevant local authorities at any time before you decide whether to accept or decline an application. e. Agree to progress the Ariki Tahī (Sugarloaf Wharf) Upgrade Project to our Stage 2 analysis. The Project warrants further analysis because it has potential to achieve the purpose of the FTCA but we need to consider some matters further before providing you with a complete briefing. f. Agree to provide the application to, and invite comments from: <ul style="list-style-type: none"> the Ministers listed in section 21(6) of the FTCA the Minister of Oceans and Fisheries Thames Coromandel District Council Waikato Regional Council Pare Hauraki Kaimoana Coromandel Marine Farmers Association 	Yes/No

Project details	Project description	Project funding	Project eligible for referral? [section 18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Ministers' decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
updated scheme plan.	<p>rock revetment, groyne and access ramps on the seabed</p> <p>f. earthworks on land</p> <p>g. constructing berthing, loading and storage infrastructure for approximately 5 commercial vessels</p> <p>h. constructing vehicle access and parking areas</p> <p>i. constructing infrastructure for three waters services</p> <p>j. discharging stormwater and contaminants to the CMA</p> <p>k. occupying the coastal marine area with boat ramps, a groyne, seawall and navigational infrastructure</p> <p>l. undertaking dredging of the access channel from time to time, on an on-going basis</p> <p>m. any other activities that are:</p> <p>i. associated with the activities described in paragraphs a to n</p> <p>ii. within the scope of the Project as described above</p>							<p>nature of the environment at the development site.</p> <p>Adverse effects of construction on ecological values including marine mammals will likely be avoided or mitigated by appropriate conditions of consent.</p> <p>We note that you do not require a full Assessment of Environmental Effects and supporting evidence to make a referral decision, and that a panel will consider the significance of effects and appropriate mitigation should the project be referred.</p>	<p>comments from the relevant local authorities and Ministers.</p> <p>The Project has a non-complying activity status under the Proposed Thames Coromandel District Plan and the Waikato Regional Coastal Plan. We recommend that you seek additional information from the applicant on how they expect the Project to pass the non-complying tests in s104D of the RMA.</p> <p>We consider that the Project is not likely to be inconsistent with the directive policies of the New Zealand Coastal Policy Statement 2010.</p>	<p>g. Agree to seek further information from the applicant on the following matters:</p> <ul style="list-style-type: none"> • job numbers • consent triggers under the Operative Thames Coromandel District Plan and Waikato Regional Plan • how the Project will pass the non-complying (s104(d)) tests in the RMA • details of the Provincial Growth Funding • a more comprehensive plan of the project footprint detailing the land status within it, the status of any pending titles and whether there are any issues related to this that might delay the ability to lodge resource consent applications in the event the project is referred. <p>h. Agree to seek further information from the Council on whether there are any parties with a greater interest in the Project site than the general public.</p> <p>i. Sign the attached letters to Ministers listed in section 21(6) of the FTCA and the Minister of Oceans and Fisheries.</p> <p>j. Note that while awaiting these comments and further information, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations – Te Arawhiti, prepare a report for the purpose of section 17 of the FTCA.</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

Signed:

Hon David Parker
Minister for the Environment

Date

Signed:

Hon Kiritapu Allan
Minister of Conservation

Date