

FTC#113: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Joint Stage 2 decisions:

Application 2021 071 Ariki Tahi Sugarloaf Wharf Upgrade

Date Submitted:	16 February 2022	MfE#: BRF-1047	DOC#: 21-B-1042
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 Kiri 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	Appendices: 1. Ariki Tahi Sugarloaf Wharf Upgrade 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 Ariki Tahi Sugarloaf Wharf Limited 5. Section 17 Report 6. Comments received from Ministers, local authorities and Coromandel Marine Farmers Association

Ministry for the Environment contacts

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

Department of Conservation contacts

Position	Name	Cell phone	1st contact
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Director	Natasha Hayward	s 9(2)(a)	

FTC#113: 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 Ariki Tahī Sugarloaf Wharf Limited for referral of the Ariki Tahī Sugarloaf Wharf Upgrade project (the Project) to an expert consenting panel (a panel). A copy of the application is in Appendix 1.
2. This is the second briefing relating to this application. The first (Stage 1) briefing (BRF-917 and 21-B-0945) with your initial decisions annotated is in Appendix 2.
3. The Project is to upgrade the existing wharf facilities at Ariki Tahī (Sugarloaf Wharf) including:
 - a. disturbing the coastal marine area, including by excavating and dredging approximately 29,000 cubic metres of the seabed to construct a new access channel
 - b. draining and reclaiming approximately 6000 square metres from the marine and coastal area
 - c. depositing fill in the coastal marine area
 - d. constructing a seawall in the coastal marine area
 - e. establishing a wharf facility for commercial users, providing up to five vessel berths, storage areas for vehicles and equipment, a boat ramp and parking areas for vehicles and boat trailers
 - f. establishing a separate wharf facility for recreational users that includes a 25-metre-long rock groyne and dual boat ramp, and parking for vehicles and boat trailers
 - g. relocating the existing boat maintenance grid facility to the eastern side of the new recreational wharf area, and provision of a single lane boat ramp for access to this facility
 - h. upgrading vehicle access to the site from Te Kouma Road
 - i. constructing and installing ancillary infrastructure including for three-waters services, security, lighting, signage, and facilities such as a kiosk and toilets.
4. The Project site includes parts of the coastal marine area (CMA) in Waipapa Bay, Coromandel Harbour and reclaimed land vested in the Crown under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) at 260 Te Kouma Road, Coromandel.
5. The Project will involve activities such as:
 - a. reclaiming and/or draining parts of the marine and coastal area
 - b. disturbing the coastal marine area, including by excavating and dredging the seabed for the purpose of constructing an access channel
 - c. removing dredged material from the coastal marine area, including on an on-going periodic basis
 - d. depositing dredged material in the coastal marine area
 - e. erecting and placing structures on or in, or above the water of, the coastal marine area, including the following:
 - i. a seawall
 - ii. a rock revetment

- iii. a piled rock groyne structure
 - iv. access ramps
 - v. structures for boat maintenance
 - f. carrying out earthworks on land
 - g. constructing infrastructure for berthing of vessels, storage of vehicles and equipment, three-waters services, site security, and amenity services including signage, a kiosk and toilets
 - h. constructing vehicle access and parking areas
 - i. discharging stormwater and contaminants to the CMA
 - j. occupying the coastal marine area any other activities that are:
 - i. associated with the activities described in paragraphs a to i
 - ii. within the scope of the Project as described in paragraph 3.
6. The Project will require land use consents under the Proposed Thames-Coromandel District Plan, land use consents under the Waikato Regional Plan and coastal permits under the Waikato Regional Coastal Plan. The Project has overall non-complying activity status as it involves incidental discharge of stormwater and contaminants to the CMA during construction.
 7. You must make a joint decision on the referral application as the Project is partly within the CMA.
 8. We recommend you accept the referral application under section 24 of the FTCA and refer the Project to a panel for fast-track consenting. We seek your joint decision on this recommendation and our recommendations on directions to the applicant and a panel, and notification of your decisions.

Assessment against Statutory Framework

9. 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.
10. 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 local authorities, Ministers and Coromandel Marine Farmers Association (CMFA) (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.
11. 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

12. In response to your request under section 22 of the FTCA the applicant provided further information on job numbers, consents required, how the project will pass the section 104D Resource Management Act 1991 (RMA) "gateway tests" and funding. We have taken this information into account in our analysis and advice.

Section 17 Report

13. The Section 17 Report indicates that there are eleven iwi authorities, five Treaty settlements and ten Treaty settlement entities considered to be relevant to the Project area.
14. The report notes that the Project site lies within Coromandel Harbour, which is part of the Hauraki Gulf / Tīkapa Moana. The deeds of settlement with Ngāti Pūkenga, Ngāi Tai ki Tāmaki and Te Patukirikiri, and the Pare Hauraki Collective Redress Deed each include statements of the cultural, historical and spiritual importance of the Hauraki Gulf / Tīkapa Moana and its harbours to the respective iwi or group, and their aspirations for co-governance of the resource (as envisaged under Te Tiriti o Waitangi/the Treaty of Waitangi). None of these parties will consider their Treaty settlements complete until the Crown negotiates and delivers redress in relation to Tīkapa Moana and the harbours within it.
15. In 2016, the Crown, Te Whakakitenga o Waikato, the Hauraki Māori Trust Board (as trustee of Pare Hauraki Fishing Trust) and Te Ohu Kaimoana signed a new space aquaculture Regional Agreement (pursuant to the Maori Commercial Aquaculture Claims Settlement Act 2004) for the Waikato-East region. An Addendum to this Regional Agreement was signed in 2021. Under this agreement, Hauraki iwi have been allocated settlement assets including rights to apply for RMA consents in significant areas of commercial aquaculture space. The Ariki Tahī upgrade has the potential to be a catalyst for Hauraki iwi to progress development and use of these aquaculture settlement assets.
16. The relevant Treaty settlements do not create any new co-governance or co-management processes that would affect decision-making under the Resource Management Act 1991 (RMA) for the Project.

Comments received

17. Comments were received from Ministers, Thames Coromandel District Council (TCDC), Waikato Regional Council (WRC) and the Coromandel Marine Farmers Association (CMFA). The response from CMFA included comments from Harry Mikaere in his capacity as Trustee of the Pare Hauraki Fishing Trust and Chair of Pare Hauraki Assets Holdings Limited, which are two parties sitting under the umbrella of Pare Hauraki Kaimoana (a party you invited to comment). The key points of relevance to your decision are summarised in Table A.
18. s 9(2)(f)(ii), s 9(2)(g)(i) [redacted], TCDC, WRC and CMFA supported Project referral. s 9(2)(f)(ii), s 9(2)(g)(i) [redacted]
[redacted]
[redacted]
19. s 9(2)(f)(ii), s 9(2)(g)(i) [redacted]
[redacted]
[redacted]
20. s 9(2)(f)(ii), s 9(2)(g)(i) [redacted]
[redacted]
[redacted]
[redacted]
[redacted]
21. s 9(2)(f)(ii), s 9(2)(g)(i) [redacted]
[redacted]

Section 18 referral criteria

22. You may accept the application for Project referral if you are satisfied that the Project does not include ineligible activities (section 18(3)) and will help to achieve the purpose of the FTCA (section 18(2)).
23. We confirm that the Project does not include ineligible activities, and therefore meets the requirements of section 18(3) of the FTCA, as explained in Table A.
24. The matters that you may consider when deciding if a project will help achieve the purpose of the FTCA are in Section 19 of the FTCA. Our assessment of these matters is summarised in Table A. We consider the Project will help to achieve the purpose of the FTCA, and meet the requirements of section 18(2) as it has the potential to:
 - a. generate approximately 95 direct full-time equivalent (FTE) jobs over the 18-month construction period and enable approximately 367 indirect FTE jobs once complete
 - b. provide infrastructure to improve employment and economic outcomes in the aquaculture industry, and support on-going investment in, and development of, commercial aquaculture in the Waikato-East Region
 - c. enhance social well-being by improving access to the coastal marine area for recreational use and providing infrastructure that is safer to use, better caters to the needs of users, and is more resilient to natural hazards and the effects of climate change
 - d. progress faster than would otherwise be the case under standard Resource Management Act 1991 process, provided that the applicant lodges their applications for resource consent in a timely manner following Project referral.
25. We consider that any adverse effects arising from the Project, together with any proposed mitigation, offsetting or compensation, could be appropriately tested by a panel against Part 2 of the RMA and the purpose of the FTCA.

Issues and Risks

26. 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
27. 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.
28. The Project site includes reclaimed land which is vested in the Crown under the administrative jurisdiction of the Minister for Land Information. The Project will create more land by reclamation that will vest in the Crown under section 30 of the MACAA provided the requirements of section 30(2) of that Act are met (namely, that the applicant has a survey plan prepared and WRC approves it under section 245(5) of the RMA). Although the Minister for Treaty of Waitangi Negotiations made no comment in relation to this matter, we sought additional information from the Office for Māori Crown Relations – Te Arawhiti as Treaty settlement negotiations with several iwi or groups are still underway in this area. At this stage, we have no reason to believe that the reclaimed land vested in the Crown or the additional land proposed to be reclaimed as part of the Project, is required for Treaty settlement purposes.

29. Both TCDC and WRC advised that the Project may affect nearby residents more than the public at large due to the operational noise of the commercial wharf, although neither council responded to your request to identify any specifically affected parties. We received unsolicited comments from the Waipapa Bay Protection Society expressing concern about effects of the Project on nearby residents. If the Project were to go through the standard RMA consent process it is likely it would be subject to either limited or full public notification giving these parties the opportunity to participate in the process, and they may not be provided this opportunity under FTCA process. We recommend that you require a panel to seek comments on a resource consent application from the Waipapa Bay Protection Society. We consider this would enable a panel to consider adverse effects arising from noise on nearby residents, and for this reason we do not consider that you should decline to refer the Project on the basis of section 23(5)(b) (it would be more appropriate for the Project to go through the standard consenting process under the RMA).
30. We consider that if you decide to refer the Project, you require the applicant to provide with their consent applications to a panel an acoustic assessment that addresses effects on nearby residents. This information will assist a panel in its consideration of any adverse effects.

Other matters

31. We have identified a potential issue concerning the applicant's right to access and use the existing reclamation at the Ariki Tahī wharf for the Project, and our full analysis of this is in Table A. The reclaimed land is vested in the Crown and the applicant currently has no legally established rights to access and use this land for the Project. For the purposes of Project referral, an applicant is not required to have a legal interest in the land on which the Project will occur, but they will need to establish this interest prior to implementation of a resource consent. We recommend that you require the applicant to provide evidence of their legal right to access and use the land in the Project area with their resource consent application to a panel.

Conclusions

32. 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.
33. 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 a consent application submitted to a panel:
- a. an ecological assessment including analysis of the effects of the Project on benthic values, coastal birds and biosecurity
 - b. a water quality assessment including analysis of the effects of the Project on water quality due to sedimentation and discharge of heavy metals from seabed disturbance, ongoing stormwater discharges and discharges from the maintenance grid
 - c. a coastal processes assessment
 - d. an assessment of the Project against the Waikato Regional Council Climate Change Guideline: Integrated Catchment Management
 - e. information regarding their legal right to access and use the existing reclaimed land at Ariki Tahī and any procedural or legal matters under the RMA and the MACAA that are outstanding or may need to be addressed pursuant to this

- f. an acoustic assessment, including of the noise from operation of the commercial wharf and its effects on nearby residents

- 34. The above information is required to assist a panel in their assessment of the application.
- 35. If you decide to refer the Project we consider you should specify under section 24(2)(e) of the FTCA that a panel must invite comments from the Waikato Regional Harbourmaster on a consent application.
- 36. We also consider that if you decide to refer the Project, the Waikato Regional Harbourmaster should receive the application and notice of decisions.
- 37. Our recommendations for your decisions follow.

Next Steps

- 38. 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.
- 39. We have attached a 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.
- 40. To refer the Project, you must recommend that a referral order be made by way of an Order in Council (OIC).
- 41. 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 or improving environmental outcomes) and also whether it could have significant adverse effects.
- c. **Note** that before deciding to accept the application for Project referral under section 24(1) of the FTCA you must consider:
 - i. the application
 - ii. the report obtained under section 17 of the FTCA
 - iii. any comments and further information sought and provided within the required timeframe.
- d. **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 the initial stages of the Project to the panel while deferring decisions about the Project's remaining stages
 - iii. still decline the referral application for any reason under section 23(2) of the FTCA.
- e. **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.
- f. **Agree** that the 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. generate approximately 95 direct full-time equivalent (FTE) jobs over the 18-month construction period and enable approximately 367 indirect FTE jobs once complete
 - ii. provide infrastructure to improve employment and economic outcomes in the aquaculture industry, and support on-going investment in, and development of, commercial aquaculture in the Waikato-East Region
 - iii. enhance social well-being by improving access to the coastal marine area for recreational use and providing infrastructure that is safer to use, better caters to the needs of the users, and is more resilient to natural hazards and the effects

of climate change

- iv. progress faster than would otherwise be the case under standard Resource Management Act 1991 process, 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. an ecological assessment including analysis of the effects of the Project on benthic values, coastal birds and biosecurity
- ii. a water quality assessment including analysis of the effects of the Project on water quality due to sedimentation and discharge of heavy metals from seabed disturbance, ongoing stormwater discharges and discharges from the maintenance grid
- iii. a coastal processes assessment
- iv. an assessment of the Project against the Waikato Regional Council Climate Change Guideline: Integrated Catchment Management
- v. information regarding their legal right to access and use the existing reclaimed land at Ariki Tahi and any procedural or legal matters under the RMA and the MACAA that are outstanding or may need to be addressed pursuant to this
- vi. an acoustic assessment of the Project, including the ongoing operation of the commercial wharf, which includes assessment of the effects of noise on nearby residential

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. Waikato Regional Harbourmaster
- ii. Waipapa Bay Protection Society.

Yes/No

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

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 Ariki Tahi Sugarloaf Wharf Upgrade to a panel in accordance with your decisions recorded herein.

Yes/No

- m. **Sign the attached (Appendix 4)** notice of decisions to Ariki Tahi Sugarloaf Wharf Limited.

Yes/No

- n. **Note** that to ensure compliance with section 25(3) of the FTCA, you must ensure that the decisions, the reasons, and the Section 17 Report are published on the Ministry for the Environment's website. We will work with your office to complete this task.

Signatures



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

Date 16 February 2022



Trevor Ellis
RMA Manager
Department of Conservation

Date 15/02/22

Hon David Parker
Minister for the Environment

Date

Hon Kiritapu Allan
Minister of Conservation

Date

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</p> <p>Ariki Tahī Sugarloaf Wharf Upgrade</p> <p>Applicant</p> <p>Ariki Tahī Sugarloaf Wharf Limited</p> <p>c/- Mitchell Daysh</p> <p>Ariki Tahī Sugarloaf Wharf Limited is an entity owned (equally) by the Thames Coromandel District Council (TCDC), the Coromandel Marine Farmers Association and MBIE (via the Provincial Growth Fund Ltd). TCDC will manage day-to-day operational activities.</p> <p>Location</p> <p>In the coastal marine area (CMA) of Waipapa Bay, Coromandel Harbour and on reclaimed land vested</p>	<p>The Project is to upgrade the existing wharf facilities at Ariki Tahī (Sugarloaf Wharf) including:</p> <ol style="list-style-type: none"> disturbing the coastal marine area, including by excavating and dredging approximately 29,000 cubic metres of the seabed to construct a new access channel draining and reclaiming approximately 6000 square metres from the marine and coastal area depositing fill in the coastal marine area constructing a seawall establishment of a wharf facility for commercial users, providing up to five vessel berths, storage areas for vehicles and equipment, a boat ramp and parking areas for vehicles and boat trailers establishment of a separate wharf facility for recreational users that includes a 25-metre-long rock groyne and dual boat ramp, and parking for vehicles and boat trailers relocation of the existing boat maintenance grid facility to the eastern side of the new recreational wharf area, and provision of a single lane boat ramp for access to this facility upgrade of vehicle access to the site from Te Kouma Road ancillary infrastructure including for three-waters services, security, lighting, signage, and facilities such as a kiosk and toilets. <p>The Project will involve activities such as:</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 under the Marine and Coastal Area (Takutai Moana) Act 2011 it does not include activities in protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	<p>Economic benefits for people or industries affected by COVID-19 (19(a))</p> <p>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 95 full-time equivalent (FTE) jobs over the 18 months of Project construction and enable 367 indirect FTE jobs once construction is complete.</p> <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 will provide for the social and cultural wellbeing of future generations as it will:</p> <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 <p>Is the Project likely to progress faster by using this Act? (19(c))</p> <p>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.</p> <p>Will the Project result in a public benefit? (19(d))</p> <p>Based on the information provided by the applicant we consider that the Project will result in public benefit by:</p> <ul style="list-style-type: none"> generating approximately 95 direct full-time equivalent (FTE) jobs over the 18-month construction period and enable approximately 367 indirect FTE jobs once complete provide infrastructure to improve employment and economic outcomes in the aquaculture industry, and support on-going investment in, and development of, commercial aquaculture in the Waikato-East Region 	<p>Ministers</p> <p>s 9(2)(f)(ii), s 9(2)(g)(i)</p>	<p>Section 23(5) matters</p> <p>Insufficient information (23(5)(a))</p> <p>The applicants have provided sufficient information for you to determine whether the amended 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>There is no reason why the Project should be considered under the RMA in preference to the FTCA.</p> <p>While we acknowledge there is a risk of a negative response from the community due to concerns about the operational noise from the commercial wharf, the relevant local authorities did not identify any specific community groups or individuals who should be invited to comment on the application due to having a greater interest than the public at large. We consider that a panel can consider the acoustic effects of the wharf operation as part of a merits assessment, with input and comments from local councils and with the benefit of the applicant's record of consultation undertaken.</p> <p>Inconsistency with a national policy statement (23(5)(c))</p> <p>Ministers and local authorities have not raised any concerns regarding consistency with any national policy statement and we do not consider that you should decline the referral application on the basis of section 23(5)(c) of the FTCA.</p> <p>Inconsistent with a Treaty settlement (23(5)(d))</p> <p>Project referral would not be inconsistent with the relevant Treaty settlements provided the associated iwi have opportunity to participate meaningfully in assessment of consent applications for the Project. The Project is likely to assist Hauraki iwi to use and develop their aquaculture settlement assets.</p> <p>Involves land needed for Treaty settlements (23(5)(e))</p> <p>The Project site includes reclaimed land which was vested in the Crown under the authority of the Minister for Land Information in 2011. Although a survey plan for the land has been approved by WRC it has not yet been deposited under the Land Transfer Act 2017 or with the Registrar-General of Land as required under section 246 of the RMA, meaning its status is not identified on</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>In response to Council comments:</p> <ul style="list-style-type: none"> In response to comments from WRC we recommend that the applicant be required to provide various technical reports and provide evidence that they have satisfied the conditions of WRC's funding arrangement. <p>There are no reasons to decline to refer the Project. We recommend that you accept the application under section 24 of the FTCA and refer all of the Project to a panel</p> <p>We recommend that you require the applicant to provide the following further information with their consent applications:</p> <ul style="list-style-type: none"> an ecological assessment including analysis of the effects of the Project on benthic values, coastal birds and biosecurity a water quality assessment including analysis of the effects of the Project on water quality due to sedimentation and discharge of heavy metals

<p>in the Crown under the Marine and Coastal Area (Takutai Moana) Act 2011 at 260 Te Kouma Road, Te Kouma</p>	<p>a. reclaiming and/or draining parts of the marine and coastal area</p> <p>b. disturbing the coastal marine area, including by excavating and dredging the seabed for the purpose of constructing an access channel</p> <p>c. removing dredged material from the coastal marine area, including on an on-going periodic basis</p> <p>d. depositing dredged material in the coastal marine area</p> <p>e. erecting and placing structures on or in, or above the water of, the coastal marine area, including the following:</p> <p>i. a seawall</p> <p>ii. a rock revetment</p> <p>iii. a piled rock groyne structure</p> <p>iv. access ramps</p> <p>v. structures for boat maintenance</p> <p>f. carrying out earthworks on land</p> <p>g. constructing infrastructure for berthing of vessels, three-waters services, site security, storage of vehicles and equipment, and amenity services including signage, a kiosk and toilets</p> <p>h. constructing vehicle access and parking areas</p> <p>i. discharging stormwater and contaminants to the CMA</p> <p>j. occupying the coastal marine area</p> <p>k. any other activities that are:</p> <p>i. associated with the activities described in paragraphs a to j</p> <p>ii. within the scope of the Project as described above.</p> <p>The Project will require land use consents under the Proposed Thames-Coromandel District Plan, land use consents under the Waikato Regional Plan and coastal permits under</p>		<ul style="list-style-type: none"> enhance social well-being by improving access to the coastal marine area for recreational use and providing infrastructure that is safer to use, better caters to the needs of the users of the facility, and is more resilient to natural hazards and the effects of climate change <p>progress faster than would otherwise be the case under standard Resource Management Act 1991 process, provided that the applicant lodges their applications for resource consent in a timely manner following Project referral</p> <p>Potential to have significant adverse environmental effects, including greenhouse gas emissions (19(e))</p> <p>The application indicates that the Project may result in the following adverse effects:</p> <ul style="list-style-type: none"> visual amenity, landscape and natural character effects traffic effects noise effects ecological effects coastal process effects <p>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.</p> <p>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 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>Other relevant matters (19(f))</p> <p>The applicant applied to have an upgrade to Ariki Tahī Sugarloaf Wharf referred under the FTCA in September 2020. You declined the referral application at Stage 1. The reasons for declining were the potential public interest in an application in the CMA and the consenting history of the Project.</p> <p>The consenting history which informed your decision to decline the previous application at</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p> <p>Local authorities</p> <p>Thames Coromandel District Council (TCDC) provided late comments supporting Project referral and noting that the Project is essential to enable the expansion of the aquaculture industry and to address current health and safety issues on site.</p> <p>TCDC noted that there are concerns from some Waipapa Bay residents about the potential for noise impacts arising from industry activity in the mornings and traffic congestion, as historically Te Kouma Rd, where the wharf is sited, has been a traffic bottleneck as vehicles turn onto SH27. TCDC is upgrading the Te Kouma Rd, which will alleviate some of the pressure and is also in discussions with Waka Kotahi/NZTA about the importance of ongoing investment in the SH network.</p> <p>Waikato Regional Council (WRC) neither supported nor opposed Project referral but they consider that there are multiple and wide-reaching benefits, including economic benefits, should the project proceed.</p> <p>WRC noted that the following matters should be mitigated/addressed:</p> <ul style="list-style-type: none"> amenity effects, particularly on nearby residents landscape and natural character effects cultural effects ecological effects including benthic, coastal birds and biosecurity water quality including sediment and heavy metals, ongoing stormwater discharges and discharges from the maintenance grid coastal process effects including structural integrity and climate change resilience navigational safety <p>WRC noted residual concern that the Project may affect nearby residents more than the public at large</p>	<p>the official land database. The Project will create more land by reclamation that will vest in the Crown under section 30 of the MACAA provided the requirements of section 30(2) are met (namely, that the applicant has a survey plan prepared and WRC approves it under section 245(5) of the RMA. Although the Minister for Treaty of Waitangi Negotiations made no comment in relation to this matter, we sought additional information from the Office for Māori Crown Relations – Te Arawhiti as Treaty settlement negotiations with several iwi or groups are still underway in this area, and we wanted to ensure that the existence of the Crown land at the project site had been fully considered. Te Arawhiti advised that they are unsure if the land will be required for settlement purposes. On this basis we do not consider that you would have sufficient reason to decline the referral application because the Project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes (section 23(5)(e)).</p> <p>Applicant has poor regulatory compliance (23(5)(f))</p> <p>TCDC and WRC advised that the applicant has no issues with regulatory compliance.</p> <p>Insufficient time for the Project to be referred and considered before FTCA repealed (23(5)(g))</p> <p>There is sufficient time for the Project to be considered before the FTCA is repealed.</p> <p>Other issues & risks:</p> <p>According to advice provided by LINZ, TCDC established the existing Ariki Tahī reclamation between 1993-94, and it was authorised by a coastal permit (920214) and approved pursuant to section 245 of the RMA by the Minister of Conservation in February 1999.</p> <p>The survey plan for the reclamation notes the area was 'Crown Land' by virtue of the Foreshore and Seabed Revesting Act 1991. Subsequently, Section 18 of the Foreshore and Seabed Act 2004 vested land reclaimed prior to that Act in the Crown, and later, Section 31 of the MACAA vested the full legal and beneficial ownership of all existing reclaimed land in the Crown absolutely. This is confirmed in a certificate issued by LINZ pursuant to section 33(2) of the MACAA and to a delegation from the Minister for Land Information dated 12 December 2012.</p> <p>It appears that requirements under section 246 of the RMA (concerning deposit of the survey plan for the reclamation under the Land Transfer Act 2017 or with the Registrar-General of Land) have never been completed. Additionally, although TCDC made an application for vesting of the land, LINZ advise that TCDC withdrew their application to seek title in October 2018.</p> <p>TCDC therefore do not own the site of the existing reclamation and have no formal/legal interest in it.</p>	<p>from seabed disturbance, ongoing stormwater discharges and discharges from the maintenance grid</p> <ul style="list-style-type: none"> a coastal processes assessment an assessment of the Project against the Waikato Regional Council Climate Change Guideline: Integrated Catchment Management information regarding their legal right to access and use the existing reclaimed land at Ariki Tahī and any procedural or legal matters under the RMA and the MACAA that are outstanding or may need to be addressed pursuant to this an acoustic assessment of the Project, including the ongoing operation of the commercial wharf, which includes assessment of the effects of noise on nearby residential <p>We recommend you direct a panel to invite comments on any resource consent applications for the Project from: Waikato Regional Harbourmaster and that you provide a copy of the application and Notice of Decisions to the Waikato Regional Harbourmaster if you decide to refer the Project.</p>
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	<p>the Waikato Regional Coastal Plan. The Project has overall non-complying activity status as it involves incidental discharge of stormwater and contaminants to the CMA during construction.</p>		<p>Stage 1 referred to is a Report and Recommendation of the Waikato Regional Council Hearings Committee and the Waikato Regional Council Restricted Coastal Activity Committee (Committee Report) dated 28 October 1992 which noted “this location as not being highly suitable for a commercial wharf servicing the aquaculture industry and being a short-term solution”. We consider that given the age of this report, and the fact that no alternative locations have been found in the intervening 30 years it should not be determinative of the outcome of this process and can be considered by a panel as part of its merits assessment.</p> <p>The applicant has submitted a new application with some material changes including a publicly accessible groyne, boat ramp and recreational parking area. This is a new application and no issues of ‘functus officio’ arise. The applicant is entitled to lodge a new application and you are not precluded from considering it and making a decision on it. We provided you with advice on this matter in our Stage 1 briefing (Appendix 2).</p>	<p>and the participation of these people in the fast-track process may be limited.</p> <p>WRC noted several conditions of their funding for the Project, including:</p> <ul style="list-style-type: none"> drawdown of funding is dependent on a range of matters including WRC being satisfied that ATSWL has considered the current WRC integrated climate change response document during the design process of the project plan ATSWL is to actively consider blue highway and/or low carbon options for transportation of product, with an update of this activity in the six-monthly reports to WRC. <p>Other Parties</p> <p>Coromandel Marine Farmers Association (CMFA) strongly supported Project referral. CMFA notes that marine farming in the Hauraki Gulf is expected to expand significantly over the next two decades and there is currently no feasible alternative to ATSW which can handle the increased volume. They also note that the current wharf will need to expand to cope with the expected expansion in production, and to address health and safety and climate change issues.</p> <p>You sought comment on the referral application from Pare Hauraki Kaimoana (an entity responsible for all the fishing and aquaculture assets of the Hauraki Māori Trust Board, Pare Hauraki Fishing Trust together with its commercial company Pare Hauraki Asset Holdings Limited).</p> <p>The response from CMFA included a letter from Harry Mikaere in his capacity as Trustee of the Pare Hauraki Fishing Trust, Chair of Pare Hauraki Assets Holdings Limited & Trustee of the Hauraki Fishing Group (among other things), supporting Project referral.</p> <p>Unsolicited comments were received from Waipapa Bay Protection Society. These comments raised concerns about the effects of the Project on nearby residents, particularly related to operational noise of the wharf and queuing effects on Te Kouma Road. These are matters that a panel can consider as part of a merits assessment. You are not required under the FTCA to turn your mind to these comments, but may do so if you choose, and we recommend that you invite comments from the Waipapa Bay Protection Society so it can consider these issues first hand.</p> <p>All responses received by parties invited to comment are attached at Appendix 6.</p>	<p>Information provided by LINZ confirms the land is under the administrative jurisdiction of the Minister for Land Information. The ability of the applicant company (in which TCDC has a 33% interest) to legally access and use the existing reclamation is a matter for them to establish and does not prevent grant of a resource consent over the land. It might prevent the applicant from exercising that consent, however.</p> <p>On that basis, we do not consider the issue of legal access to the site is a barrier to Project referral, however in the interests of ensuring certainty the Project can be delivered, and in the timeframes indicated, we consider you should direct the applicant to provide to a panel full information concerning the legal status of the existing land at Ariki Tahī and their plan and timeframe for securing legal access to enable them to implement any consents granted by a panel. We note the Minister for Land Information will have opportunity to provide a panel with further information or comment on the matter if he considers it relevant, and the information requirement suggested above may assist the Minister in his deliberations.</p>	
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