

Jacob Paget

From: Reuben Hansen s 9(2)(a)
Sent: Wednesday, 19 June 2024 3:41 pm
To: Hayley Janes; Listed Projects; Max Gander-Cooper
Cc: Richard | Te Rimu Trust
Subject: RE: Kahui Kupenga Marine Facility Fast-track listed projects application
Attachments: Letter to Richard Clarke and Tiwana Tibble-7.12.22(63345724.1).pdf; Appendix A.pdf

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Kia ora ano

Max – please find attached more detailed advice from Buddle Finlay related to your query regarding the applicability of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 to the project site. In essence, the Act does not apply to the project site because the project site was deliberately excluded from the CMT Area by way of an Order in Council dated 21 September 2020

Also, we have been informed that the Takutai Trust has withdrawn their High Court application referred to in the attached Buddle Finlay advice

Thanks for your help

Nga mihi nui

From: Hayley Janes s 9(2)(a)
Sent: Wednesday, June 19, 2024 2:57 PM
To: Listed Projects <listedprojects@mfe.govt.nz>; Max Gander-Cooper s 9(2)(a)
Cc: Reuben Hansen s 9(2)(a) Richard Te Rimu Trust s 9(2)(a)
Subject: RE: Kahui Kupenga Marine Facility Fast-track listed projects application

Kia ora koutou,

Richard has asked Tonkin & Taylor to respond to the queries on behalf of Te Rimu Trust.

The attachments will be provided via file transfer. The link to the file transfer will follow this email.

Responses below;

- a map or similar to clarify the location of the project
[Attached in file transfer.](#)
- a copy of the relevant record of title
[Attached in file transfer.](#)
- the regulatory regime(s) under which approval is being sought (please see Clause 10 of the Bill [Fast-track Approvals Bill 31-1 \(2024\), Government Bill 10 Application of this Part to specified approval processes – New Zealand Legislation](#))
[Resource Consent – Resource Management Act, Wildlife Authority – Wildlife Act.](#)
- in section 3 you refer to “all environmental, cultural, archaeological reports” being published on a website. Could you please provide a link to that website?

Attached in file transfer. Please note that the terrestrial ecology and landscape reports are preliminary assessments. We have also attached a document summarising the findings of the terrestrial ecological investigations and surveys undertaken following the initial preliminary assessment confirming the presence or absence of various species. The final terrestrial ecological and landscapes assessments have been drafted, however have not yet been finalised and include a substantial mitigation and offset package to address the effects of the project.

- In section 4 you state there are no Treaty settlements which apply to the project site and no principles or provisions of Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 which apply to the project, but it appears that the project location would be within the area identified in Schedule 3 of that Act. Could you please provide clarification on how the Act does or does not apply to the project site?

Tamaki Legal response:

The Pōtikirua ki Whangaōkena Takutai Kaitiaki Trust (“the Takutai Trust”) was established by trust deed on 26 July 2017 to represent hapū with interests in the marine and coastal area from Pōtikirua to Whangaōkena, they being Te Whānau a Tapaeururangi, Ngāi Tuere, Te Whānau a Tuwhakairiora, Te Whānau a Te Aotaki, Ngāi Tamakoro, Te Whānau a Hunaara, Te Whānau a Tarahauti, Te Whānau a Te Aotaihi, Te Whānau a Kahu, Te Whānau a Hinerupe and Te Whānau a Te Aopare.

By order in council dated 21 September 2020, customary marine title was recognised in parts of the area from Matakāoa to Whangaōkena. The marine and coastal area from Matakāoa Point to the Awatere River was not included. A map of the marine and coastal area that is subject of the order in council is attached to this email.

Pursuant to Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (“the 2019 Act”), the Takutai Trust applied on 28 May 2021 to the High Court on behalf of Ngā Hapū for recognition orders for customary marine title, wāhi tapu or wāhi tapu areas, and protected customary activities. The Takutai Trust has now included the area from Matakāoa Point to the Awatere River in its application and the seaward boundary applied for is now out to 12 nautical miles. The Working Group filed a Notice of Appearance in response on 6 August 2021.

The Notice of Appearance allows the Working Group to contest the Takutai Trust’s application so as to prevent the marine and coastal area that lies adjacent to Te Rimu Trust lands from being included in any court order awarded to the Takutai Trust. Although the Te Rimu Trust can defend its interests in the marine and coastal area, the trust cannot claim customary marine title because an application for title was not filed in the High Court by April 2017.

If the Takutai Trust’s application for recognition of their interests in the marine and coastal area from Matakāoa Point to the Awatere River is granted by the High Court, the Takutai Trust will have the power to, inter alia, veto certain resource consent applications that affect any part of a customary marine title award.

Many of the interests awarded by the court are legal rights that the barge facility cannot inhibit. It will not prevent the Takutai Trust from exercising its resource consent veto right or the right to withhold permission for the establishment of a marine reserve. The Takutai Trust’s involvement with local and central government marine-related planning will not be affected.

In the event that court orders are awarded in favour of the Takutai Trust, it will bear administrative responsibilities for the marine and coastal area interests referred to above. As discussed, the barge facility will not affect the marine and coastal area interests and/or it is yet to be determined as to whether or not the barge facility will affect the marine and coastal area interests. It is

recommended that the author/s of the CIA analyse any effect, potential or kinetic, that the barge facility may have on the marine and coastal interests.

- In section 5 you state there will be no adverse effects. Do you have a summary of the effects associated with the project?
The effects assessments have been attached. A substantial mitigation and offset package has been developed and is proposed to address the effects of the Project, this includes enhancement of the existing suitable natural landforms, waterways, wetland and vegetation. There are suitable areas on the Te Rimu Trust land for enhancement of these features.
- In section 6 you refer to “the attached project report” but it does not appear to have been included with the application. Please provide the report
Reports attached in file transfer.

Kind regards,

Hayley Janes | Environmental Consultant

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From: Listed Projects <ListedProjects@mfe.govt.nz>

Sent: Monday, June 17, 2024 2:58 PM

To: Richard | Te Rimu Trust s 9(2)(a)

Cc: Max Gander-Cooper s 9(2)(a)

Subject: Kahui Kupenga Marine Facility Fast-track listed projects application

Kia ora Richard,

Thank you for application to have the Kahui Kupenga Marine Facility project listed in Part B of Schedule 2 of the Fast-track Approvals Bill.

I have reviewed the application. Could you please provide information or documents to clarify the below matters?

- a map or similar to clarify the location of the project
- a copy of the relevant record of title
- the regulatory regime(s) under which approval is being sought (please see Clause 10 of the Bill [Fast-track Approvals Bill 31-1 \(2024\), Government Bill 10 Application of this Part to specified approval processes – New Zealand Legislation](#))
- in section 3 you refer to “all environmental, cultural, archaeological reports” being published on a website. Could you please provide a link to that website?
- In section 4 you state there are no Treaty settlements which apply to the project site and no principles or provisions of Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 which apply to the project, but it appears that the project location would be within the area identified in Schedule 3 of that Act. Could you please provide clarification on how the Act does or does not apply to the project site?
- In section 5 you state there will be no adverse effects. Do you have a summary of the effects associated with the project?
- In section 6 you refer to “the attached project report” but it does not appear to have been included with the application. Please provide the report

Could you please provide the above information by close of business Wednesday **19 June 2024**?

Ngā mihi

Max Gander-Cooper (he/him)

Senior Policy Analyst / Kaitātari Kaupapa Here Matua

Ministry for the Environment | Manatū Mō Te Taiao

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