

Submitted to Fast-track approval applications
Submitted on 2024-05-03 20:14:35

Submitter details

Is this application for section 2a or 2b?

2B

1 Submitter name

Individual or organisation name:
Te Rāhui Herenga Waka Limited Partnership

2 Contact person

Contact person name:
Philip Wardale

3 What is your job title

Job title:
Project Director

4 What is your contact email address?

Email:
s 9(2)(a)

5 What is your phone number?

Phone number:
s 9(2)(a)

6 What is your postal address?

Postal address:
s 9(2)(a)

7 Is your address for service different from your postal address?

No

Organisation:
Te Rahui

Contact person:

Phone number:

Email address:

Job title:

Please enter your service address:

Section 1: Project location

Site address or location

Add the address or describe the location:

Note: Due to ongoing commercial negotiations over the detailed use the sites below, the information should remain redacted from any OIA request as disclosure will compromise commercially sensitive information.

s 9(2)(b)(ii)

s 9(2)(b)(ii)

s 9(2)(b)(ii)

s 9(2)(b)(ii)

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Te Rāhui LandFill Locations Imagery (3 May 24).pdf was uploaded

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Do you have a current copy of the relevant Record(s) of Title?

Yes

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s 9(2)(b)(ii)

Who are the registered legal land owner(s)?

Please write your answer here:

Note: Due to ongoing commercial negotiations with the respective owners over the detailed use the sites below, the information should remain redacted from any OIA request as disclosure will compromise commercially sensitive information.

s 9(2)(b)(ii)

s 9(2)(b)(ii)

s 9(2)(b)(ii)

Detail the nature of the applicant's legal interest (if any) in the land on which the project will occur

Please write your answer here:

The Applicant has an agreement with the landowners to use each of the sites, subject to the sites being required, and authorised, for use.

Section 2: Project details

What is the project name?

Please write your answer here:

Te Rāhui Land Fill Project

What is the project summary?

Please write your answer here:

To enable the development of the Te Rāhui Herenga Waka Whakatāne project (consented under the COVID-19 Recovery (Fast-track Consenting) Act 2020), the Applicant seeks to authorise the disposal of excavated material from the Te Rāhui site to one or more of the potential disposal sites identified above.

What are the project details?

Please write your answer here:

Te Rāhui Herenga Waka Whakatāne - Whakatāne Boat Harbour project is a regionally significant infrastructure project (as demonstrated by its referral to the COVID-19 Recovery (Fast-track Consenting) Act 2020 fast-track (RM22-0531). In order to support the works required to develop the Te Rāhui Lands Trust site for the consented project, the Applicant is seeking authorisation to dispose excavated material from the Te Rāhui site to multiple sites within Whakatāne. The excavated material includes top soil, silts and sediments, top soil and wood waste some of which may have low level contamination therefore making it unsuitable for sustainable re-use or disposal as clean fill.

While the Te Rāhui project provided for sustainable re-use of excavated material from the Te Rāhui site, further investigations have found that some material have low levels of contamination present primarily in the form of dioxins and / or Per- and Polyfluorinated Substances (PFAs). The Applicant had provided management options for this material through the development of a Site and Soil Contamination Management Plan (SSCMP), which was subject to certification by the BOPRC under the Covid Fast-track consent conditions. However, despite providing multiple rewrites of the plan, BOPRC has refused

to certify the plan on the basis that there are no authorised disposal sites for materials contaminated with dioxin or PFAs available for use within the region. Therefore, the Applicant cannot commence works at the Te Rāhui site until it can demonstrate there are authorised disposal options available. This proposal seeks to authorise the use of one or more of the sites to dispose of excavated material from the Te Rāhui site, some of which may be cleanfill and some which may contain low level contaminants primarily dioxin (to Site 1) and PFAs (to Sites 2 and 3).

Site 1 – BOPRC Containment sites

Approximately 20 % of the Te Rāhui site has been found to contain wood waste with higher levels of dioxin than anticipated during the consenting process. It is proposed that this material is be excavated, moved off-site and suitably disposed of in the two containment sites, being CS1 and CS3, which were purpose built as remediation sites for dioxin-contaminated material from the BOPRC's Kopeopeo Canal Remediation project. These sites, both of which have remaining capacity of approximately 5000 m3 each, are formed, contained and bunded to control run off and discharges, and will only require minimal additional works to receive further dioxin materials.

The use of these sites will comprise the following main components:

- Transportation of excavated material to CS1 and CS3;
- Placement of dioxin contaminated material within CS1 and CS3;
- Capping of the dioxin contaminated material within CS1 and CS3;
- Discharge of contaminated material to water from CS1 and CS3; and
- Site restoration in the form of top soiling and regrassing.

Site 2 – Te Teko Fill Site

s 9(2)(b)(ii) where a larger amount of fill can be placed. This site would be utilised to cater for the Te Rāhui material, and also be available to third parties to place materials from other projects thus providing a resource for the region that is not currently provided for.

The proposal is to utilise half of the site for the fill site, equating to an approximate capacity of 22 ha,

Site 3 – Warneford Fill Site

The Applicant has also become aware of another site which is able to be utilised for low-level contaminants. **s 9(2)(b)(ii)**

s 9(2)(b)(ii) This site will be utilised for deposition of low-level contaminants from the Te Rāhui Project site. The proposal will utilise approximately 11 ha of land within the parcel for the proposed fill site over two areas (one approximately 7 ha and one 4 ha in size). The use of sites 2 and 3 site will comprise the following main components:

- Earthworks and site preparation activities at the fill site to prepare the site to receive the excavated material the Te Rahui Boat Harbour site. This would include the construction of stormwater / run off controls and bunding, lined cells and containment areas, and other measures to ensure that the site is appropriate to receive the range of materials from the Te Rāhui site;
- Transportation to the site of material from the Te Rahui Boat site, some of which may include low level contaminated materials;
- Disposal of the excavated material to designated areas within the fill site areas; and
- Site restoration in the form of top soiling and grassing or planting following the completion of filling activities.

Describe the staging of the project, including the nature and timing of the staging

Please write your answer here:

The applicant is ready to proceed with excavation of material as part of Stage 1 at the Te Rāhui site immediately. Excavation of this material will be carried out over 16 months.

Once the Te Rāhui project moves into Stage 2, which is expected to take up to 2 years and may occur concurrently with Stage 1 works, further excavations of material will occur, some of which may require disposal of material to the one of the sites previously identified.

All material excavated at the Te Rāhui site will be subject to onsite testing, as a requirement of the SSCMP, to determine if the material can be sustainably reused or how and where the material can be disposed of offsite. All disposal will be in accordance with resource consent requirements or permitted activity standards where applicable.

What are the details of the regime under which approval is being sought?

Please write your answer here:

Resource consent under the Resource Management Act 1991 for Land Use Consents and Discharge Permits

If you seeking approval under the Resource Management Act, who are the relevant local authorities?

Please write your answer here:

Whakatāne District Council and Bay of Plenty Regional Council.

What applications have you already made for approvals on the same or a similar project?

Please write your answer here:

The works associated with the construction, operation and maintenance of the Te Rāhui Herenga Waka Whakatāne Boat Harbour at the Te Rāhui site are authorised under RM22-0531.

Site 1 currently holds resource consent from BOPRC under RC#67173.

No previous applications have been made for approvals to deposit material from the Te Rāhui site at another site.

Is approval required for the project by someone other than the applicant?

No

Please explain your answer here:

No other permits, resource consents or concessions are needed for the project

If the approval(s) are granted, when do you anticipate construction activities will begin, and be completed?

Please write your answer here:

Stage 1 filling activities: Immediately following the grant of consent.

Stage 2 filling activities: Within approximately 6-10 months following the grant of consent.

Filling activities will occur across all sites as required.

Section 3: Consultation

Who are the persons affected by the project?

Please write your answer here:

As Site 1 is subject to active consents, and the proposal is for activities generally consistent with the authorised filling activities, it is not considered that there are any affected parties to the application, including the landowners at each site as they have provided their approval.

The landowners at Sites 2 and 3 have also provided approval and are not considered affected persons.

Detail all consultation undertaken with the persons referred to above. Include a statement explaining how engagement has informed the project.

Please write your answer here:

While no affected parties have been identified, in the interests of best RMA practice, the applicant has consulted with the Bay of Plenty Regional Council more broadly as having an interest in the proposal, but not considered to be affected.

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Describe any processes already undertaken under the Public Works Act 1981 in relation to the land or any part of the land on which the project will occur:

Please write your answer here:

n/a

Section 4: Iwi authorities and Treaty settlements

What treaty settlements apply to the geographical location of the project?

Please write your answer here:

Sites 1, 2 and 3

Ngāti Awa Claims Settlement Act 2005

The Ngāti Awa Deed of Settlement with the Crown was passed into law with the enactment of the Ngāti Awa Claims Settlement Act 2005. This is applicable to the whole Whakatāne area.

The following Statutory Acknowledgement Areas for which both statutory acknowledgement and deed of recognition provided which are broadly relevant to this project and/or its surrounds are:

- Whakatāne River
- Rangitaiki River

Site 1, the CS1 and CS3 sites, is located within the wider Whakatāne River catchment, which has a statutory acknowledgement but the site itself is not located within the Statutory Acknowledgement Area nor are there any direct discharges proposed to it.

Site 2, the Te Teko site, is located within the wider Rangitaiki River catchment, which also has a statutory acknowledgement but the site itself is not located within the Statutory Acknowledgement Area nor are there any direct discharges proposed to it.

There are no Statutory Acknowledgement Areas within the vicinity of Site 3.

Te Rāhui acknowledges that while the project sites are not located within any statutory areas, the Deed of Settlement provides some guidance / introduction to the values held by the Ngāti Awa in the greater Whakatāne area.

In terms of the relevant principles and provisions, the Settlement Act gave effect to provisions of the deed of settlement that settled the historical claims of Ngāti Awa.

The Ngāti Awa Deed of Settlement is a package that includes:

- An agreed historical account, Crown acknowledgements and a Crown Apology to Ngāti Awa

- Cultural redress
- Financial and commercial redress.

No private land is included as redress, only Crown assets.

The settlements provided redress in the form of land, cash, the right of first refusal of certain Crown lands, and matters including the returning special sites of significance and management input to those sites, provision of place name changes, recognition of wahi tapu sites, statutory acknowledgements placed over sites with which Ngāti Awa have a special association, and provision for nohoanga licences.

Acknowledging the above, and the sites being located outside of any recognised areas, greater clarification and understanding of any project impacts on these matters is anticipated to occur as a result of ongoing consultation and engagement with Ngāti Awa during the course of the project.

Are there any Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 principles or provisions that are relevant to the project?

No

If yes, what are they?:

n/a

Are there any identified parcels of Māori land within the project area, marae, and identified wāhi tapu?

No

If yes, what are they?:

n/a

Is the project proposed on any land returned under a Treaty settlement or any identified Māori land described in the ineligibility criteria?

No

Has the applicant has secured the relevant landowners' consent?

Yes

Is the project proposed in any customary marine title area, protected customary rights area, or aquaculture settlement area declared under s 12 of the Māori Commercial Aquaculture Claims Settlement Act 2004 or identified within an individual iwi settlement?

No

If yes, what are they?:

Has there been an assessment of any effects of the activity on the exercise of a protected customary right?

No

If yes, please explain:

There are no relevant customary rights applicable to the site or the proposed remediation of the contaminated material.

Upload your assessment if necessary:

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Section 5: Adverse effects

What are the anticipated and known adverse effects of the project on the environment?

Please describe:

The potential adverse effects of the proposal on the environment are limited to the activities associated with the disposal of excavated material from the Te Rāhui site at each of the proposed fill locations. These include:

- Temporary discharges (stormwater and dust) associated with the filling at each site – the filling activities and the associated discharges will be managed in accordance with industry best practice and the BOPRC Erosion and Sediment Control Guidelines.

o For Site 1 – any discharges will be limited to stormwater entering the cells during the filling prior to the cells being capped and regrassed. Any discharges beyond the site will be treated and discharged once it meets the necessary discharge limits which the system will be designed for and as appropriate for the receiving environment.

o For Site 2 – any discharges from the site will be contained and managed through clean water diversion system and also run off from the fill sites will be captured, treated and discharged once it meets the necessary discharge limits which the system will be designed for and as appropriate for the receiving environment.

o For Site 3 – any discharges from the site will be contained and managed through clean water diversion system and also run off from the fill sites will be captured, treated and discharged once it meets the necessary discharge limits which the system will be designed for and as appropriate for the receiving environment.

o Across each site, dust and any airborne discharges will be managed in accordance with industry best practice and the BOPRC Erosion and Sediment

Control Guidelines.

- Effects on neighbouring properties and the public during the length of the project would be limited to increased traffic, and noise and visual impacts from the deposition of material and machinery used at each of the fill sites.
 - o For Site 1- As these two sites are already consented and constructed, as such, any further earthworks required to reconfigure the sites will be limited in nature. Once operational, the filling activities will also be limited in nature so any effects associated with traffic, noise and vibration, and visual amenity will be minimal and transitory in nature and will occur only during typical working hours.
- For Site 2 and 3 – Construction of the fill sites would be required prior to any disposal of materials. Once operational, the filling activities are location in a rural location such that traffic, noise, vibration and visual amenity effects will be limited in nature and occur only during standard working hours. Additionally, the landowner at Site 3 owns the immediately adjoining land parcels, excluding the large parcels to the north of the site. These parcels are remote with no dwellings. As such, the effects on neighbouring properties would be limited in nature.
- Ongoing effects – each of the fill sites will be designed to ensure they comply with the relevant WasteMINZ Guidelines which provides technical guidance on the design, construction, operation, and monitoring for disposal to land activities. This will ensure that any ongoing management requirements are appropriately provided for relevant to the specific nature of each fill site.

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Section 6: National policy statements and national environmental standards

What is the general assessment of the project in relation to any relevant national policy statement (including the New Zealand Coastal Policy Statement) and national environmental standard?

Please write your answer here:

The relevant National Policy Statements and the National Environmental Standards to the proposal include:

- National Policy Statement for Freshwater Management

Any discharges associated with the filling sites and temporary activities will be appropriately managed to ensure that the fundamental concept of Te Mana o Te Wai is given effect to and to ensure that the proposal is consistent with the overarching objective of managing natural and physical resources in a way that prioritises the health and wellbeing of waterbodies and ecosystems, the health needs of people and the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future. In the event that any wetlands are encountered as a part of this Project, effects will be managed in accordance with the effects management hierarchy.

- Resource Management (National Environmental Standard for Freshwater) Regulations 2020, clause 45B provides for a range of activities which impact natural wetlands associated with landfill and cleanfills as discretionary activities.

- National Policy Statement for Highly Productive Land

The sites are classified as follows:

- o Site 1 – CS1 is LUC 2 and CS3 is LUC 4;
- o Site 2 – LUC 6; and
- o Site 3 – LUC 3 and 6.

Thus, the NPS HPL potentially applies to Site 1 - CS1, and Site 3. Acknowledging that :

- o The proposed filling activities are required to support, and thus “associated with” ‘specified infrastructure’ (being the Te Rāhui Herenga Waka Whakatāne – Whakatāne Boat Harbour) and there is a functional or operational need for the development to be in the containment/managed fill sites already on this land, thus the proposal is not an “inappropriate” use of highly productive land;
- o There has been a range of earthworks and activities already completed to prepare the sites across Site 1 where the proposed filling will occur sites;
- o The fill sites are discrete parcels within the wider LUC area on each site therefore, it does not detract from the overall productive capacity of the land of the wider LUC;
- o The filling activities are temporary and the sites will be stabilised and regressed upon completion therefore, the filling activity is a small-scale or temporary land-use activity that has no impact on the productive capacity of the land in the long-term, it is considered that filling activities will retain the overall productive capacity of the subject land over the long term. Thus, the proposal is consistent with the overarching objective of the NPS HPL. Overall, the proposal is well aligned with the relevant National Policy Statements.

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Section 7: Eligibility

Will access to the fast-track process enable the project to be processed in a more timely and cost-efficient way than under normal processes?

Yes

Please explain your answer here:

The processing the application under the fast-track process will likely result in a more timely and cost-efficient way for the following key reasons:

- The fast-track process could reduce the time to secure resource consents by 12-18 months and avoid around \$500,000 of associated processing cost, hearings, etc.
- BOPRC are refusing to certify the SSCMP for the Te Rāhui site due to there currently being no other fill sites located within the Whakatāne Region that can accept the excavated material of the nature of which may be present at the Te Rāhui site. Approval of the use of the fill sites for disposal will enable to the regionally significant Te Rāhui project, which has been subject to nearly 2 years of delay by BOPRC process, to commence.

What is the impact referring this project will have on the efficient operation of the fast-track process?

Please write your answer here:

The proposal will not adversely affect the efficient operation of the fast-track process as:

- It is anticipated that preparing application will take approximately 3 months to complete.
- The proposal does not raise novel effects nor are the components of the project individually complex. On that basis the application is likely to be relatively straightforward to process.

Has the project been identified as a priority project in a:

Local government plan or strategy

Please explain your answer here:

The development of the Boat Harbour was identified as a pivotal driver for more growth in the marine and tourism sectors, aiding in the delivery of the economic development and local employment strategy, and as a significant contributor to the Whakatāne Regeneration Programme by the Whakatāne District Council. Additionally, the provision of funding from the Provincial Growth Fund in September 2019 supports the boat harbour as a key sector supporting growth in the Bay of Plenty Region.

Will the project deliver regionally or nationally significant infrastructure?

Regional significant infrastructure

Please explain your answer here:

Authorising use of sites for disposal will enable the commencement of works and development of the regionally significant Te Rāhui Herenga Waka Whakatāne - Whakatane Boat Harbour project.

The Te Rāhui project has been subject to delay as since the granting of the consent for the site under the Covid Fast-track Act, it has since been found that not all of the material to be excavated at the site can be sustainably re-used as was intended. BOPRC direction means we therefore need to look at other options for disposal and that is the driver for this application.

Additionally, sites 2 and 3 would be utilised to cater for the Te Rāhui material, but also potentially be available to third parties to place materials from other projects thus providing a regional resource that is not currently provided for.

Will the project:

Please explain your answer here:

The Project does not relate to the supply of housing, housing need, or a well-functioning urban environment (as defined by the NPS-UD).

Will the project deliver significant economic benefits?

Yes

Please explain your answer here:

Through enabling the development of the Te Rāhui site, the proposal will provide the following economic benefits:

- Increased commercial vessel visitation and mooring to the city;
- Increased regional and local economic surpluses arising from activity supporting offshore aquacultural activities;
- Economic surpluses to the Applicant, which in turn enables expansion of cultural, social and health initiatives to support beneficiaries, wider whanau, marae and social improvement programs in the region; and
- Increased availability to mooring services for vessels, both commercial and recreational, through the enablement of the Whakatāne Harbour Development, will service the existing boat building industry in Whakatāne.

Will the project support primary industries, including aquaculture?

Yes

Please explain your answer here:

Through enabling the development of the Te Rāhui site, the proposal will support primary industry by:

- Creating up to 60 berths for commercial vessels involved in fishing, aquaculture and commercial charter boats.

Will the project support development of natural resources, including minerals and petroleum?

No

Please explain your answer here:

n/a

Will the project support climate change mitigation, including the reduction or removal of greenhouse gas emissions?

No

Please explain your answer here:

n/a

Will the project support adaptation, resilience, and recovery from natural hazards?

No

Please explain your answer here:

n/a

Will the project address significant environmental issues?

Yes

Please explain your answer here:

The proposal provides for disposal locations for materials which do not currently have consented disposal sites within the Bay of Plenty region.

The project will enable the creation of the purpose-built Whakatāne Boat Harbour, which will address significant biosecurity, environmental and cultural issues associated with use of the Whakatāne River mouth for vessel mooring. These moorings are expected to be removed once the Boat Harbour is operational.

Is the project consistent with local or regional planning documents, including spatial strategies?

Yes

Please explain your answer here:

When considered in its overall context, the proposal is generally consistent with the Bay of Plenty Regional Policy Statement, the Bay of Plenty Regional Plan and the Whakatāne District Plan and the relevant objectives and policies contained within these planning documents.

Anything else?

Please write your answer here:

The project advances a project previously assessed as regional significant and has been stalled for some time due to consenting issues.

Does the project includes an activity which would make it ineligible?

No

If yes, please explain:

n/a

Section 8: Climate change and natural hazards

Will the project be affected by climate change and natural hazards?

No

If yes, please explain:

While the project sites are located within the catchments of watercourses, they are sufficiently separated, through distance and / or bunding and containment, that they will not be affected the effects of climate change.

Section 9: Track record

Please add a summary of all compliance and/or enforcement actions taken against the applicant by any entity with enforcement powers under the Acts referred to in the Bill, and the outcome of those actions.

Please write your answer here:

The applicant, for the Te Rāhui project, has a good RMA compliance record with no action taken against it under any of the Acts referred to in the Bill.

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Declaration

Do you acknowledge your submission will be published on environment.govt.nz if required

Yes

By typing your name in the field below you are electronically signing this application form and certifying the information given in this application is true and correct.

Please write your name here:

Philip Wardale

Important notes