

[IN-CONFIDENCE] Feedback on FTA310 - Marsden Point Rail Link Project

FTA310 - Marsden Point Rail Link Project
Date: 18-06-24
Notes: Insufficient time has been provided for DOC technical (ecological, marine and coastal processes, legal, SLM, planning) advisors should be involved in order for DOC to be able to provide the best guidance. There is a concern that this process is a breach of section 4 of the Conservation Act. The 'confidential' nature of this request forces DOC not to engage with Manawhenua – this is a potential breach of section 4 of the Conservation Act 1987 and puts DOC at risk, both legally and in its relationships with Manawhenua - https://www.legislation.govt.nz/act/public/1987/0065/latest/whole.html it also potentially goes against Te Tiriti o Waitangi
The information below is a brief and very basic review noting that the information provided by the applicant are not sufficient to assess their project proposal.

1. Hapū / iwi – Treaty Settlements

- Hapū and Iwi need to be engaged. The engagement Kiwirail had led so far has not had any fruitful outcome.
- Hapū / Iwi to consult: Te Parawhau; Patuharakeke; Ngātiwai; Ngāti Whātua; Ngāpuhi; Takahiwai marae; Kopuawhaiwaha

Te Parawhau – Takahiwai – (Māori Landblocks) Kopuawhaiwaha 2B2 chair's report 2022 -2023 states:

“From 2006 to 2020, the Trustees of the times depleted their energy struggling with the Crown partner. In other words, the industrial transport business, namely Kiwi Rail Holding Ltd (KiwiRail) a state-owned enterprise responsible for rail and inter-island ferries operations in Aotearoa. In 2021, the Trustees met frequently with KiwiRail; however, we failed to achieve formalising any arrangements to address the threat to the K2B2 land block, education, and justice. In 2022, there were no meetings between the Trust and KiwiRail. On 8 October 2022, Eric Hennephof | Programme Director – Northland Capital Projects & Asset Development advised via email that:

... There is no confirmation of the Marsden Point Link as this is still under review and I have include the KiwiRail comments below: The Government has established processes for considering the Northland Package, which includes the Marsden Point Rail Link Project alongside other road projects led by Waka Kotahi. The business case has been considered by the KiwiRail Board and is progressing through the next process with Government stakeholders. We will not be in a position to provide further detail until that process is completed and the business case is finalised. We recognise the benefits of a direct rail connection to Northport for supporting the freight supply chain and enabling mode shift from road to rail freight. We look forward to sharing aspects of the business case when it is finalised.

In 2023, the Trust should keep communicating with KiwiRail to deal with the threat of losing the ancient K2B2 land block, the Trust's income, and to demonstrate urgency for a sophisticated and just settlement to the development of the Marsden Point Rail Link through Kopuawhaiwaha. The beneficiaries should not be happy with the negotiation and exchange of Kopuawhaiwaha 2B2 land block to date. Let's move the core of the discussion with KiwiRail to land, education, and the protection of Indigenous

human rights. Through this dialogue the Trust hopes that KiwiRail will honour the promise of partnership, participation, and protection made by the Crown in 1840.” (Mere Kepa)

- Direct Impact on Māori Land Court Māori Freehold Land – Title Order Ref: 293701
- Project in proximity and could impact: Maori Land Court Maori Freehold Land : Part Allotment 16 Mata Parish – Title Order Ref: NA1058/244
- Project in proximity and could impact: Maori Land Court Maori Freehold Land: Kopuawaiwaha 4A4 West B3B2 - Title Order Ref: 461782
- Project in proximity and could impact: Maori Land Court Maori Freehold Land: Motutere
- Project in proximity and could impact Ngā Whenua Rahui Kawenata Takahiwai – site Ref: PO9301
- Project in proximity and could impact Ngā Whenua Rahui Kawenata Patuharakeke – site Ref: C17250



2. Land administered by DOC the project is impacting on (either because it is located on the land or in close proximity)

- Mata Farm Settlement Scenic Reserve – Project is located partly on or near the Reserve (Reserves Act 1977 – S.19(1)(a))
- Poupouwhenua Scenic Reserve is located near the project area (Reserves Act 1977 – S.19(1)(b))
- Ruakākā River Marginal Strip No 1 – project is located on or near this land administered by DOC (unclear due to lack of precision of the map provided by the applicant) (Conservation Act 1987 s.24(3) Fixed Marginal Strip)
- Whangārei Harbour Wildlife Refuge – project is located in close proximity to the wildlife refuge (Wildlife Act 1953 – S.14 Wildlife Refuge)
- Marsden Spit Government Purpose Wildlife Management Reserve – project located near the reserve (Reserves act 1977 – s.22 – Government Purpose Reserve)

- Whangārei Harbour Marine Reserve – project located near the marine reserve (Marine Reserves Act 1971 - s.3 - Marine Reserve)
- Mata Creek Marginal Strip – project located near this marginal strip (Conservation Act 1987 – s.24(3) – Fixed Marginal Strip)



3. Impact on biodiversity:

- Native Lizards and geckos have been identified around the project area
 - Shore skinks (*Oligosoma smithi*) (At Risk – Declining) - *Oligosoma smithi* | NZHS (reptiles.org.nz)
 - forest geckos (*Mokopirirakau granulatus*) (At Risk – Declining) - *Mokopirirakau granulatus* | NZHS (reptiles.org.nz)
 - copper skink (*Oligosoma aeneum*) At Risk – Declining - *Oligosoma aeneum* | NZHS (reptiles.org.nz)
 - Naturalised frogs have been identified around the project area
 - Green and Golden Bell frog (*Ranoidea aurea*) (Introduced and Naturalised (IUCN - Vulnerable)) - *Ranoidea aurea* | NZHS (reptiles.org.nz)
 - Impact on waterways and harbour through sedimentation and runoffs including on the Whangārei Harbour Wildlife Refuge and the species it harbours as well as Whangārei Marine Reserves
 - Combined effect to be considered for an area that is already severely impacted by all sorts of development, including housing, quarry and industrial and will further be impacted by this project and other fast track projects that MfE is currently looking to fast-track. In particular projects: FTA119; FTA082
 - Fairy Terns / Tara Iti (Nationally Critical) are present in Mangawhai and surrounds, Tara Iti hunt by sight and development such as these increase sedimentation which in turn increases water turbidity.
 - Matuku-hūrepo / Australasian Bittern Australasian bittern (*Botaurus poiciloptilus*) (Nationally Critical) have also been sighted in the area – Takahiwai area - Australasian bittern | Matuku-hūrepo | New Zealand Birds Online (nzbirdsonline.org.nz)
 - “ Bitterns are extremely sensitive to disturbance...Bittern numbers in New Zealand declined greatly following destruction of 90% of their wetland habitat to create farmland and towns. Ongoing habitat loss is still considered one of their greatest threats, although predators, poor water quality, and reduced food availability may have contributed to population declines. Recent radio-tracking studies have suggested that winter starvation may be contributing to population declines. Nest success, and chick/female survival is also suspected to be

particularly low". Australasian bittern | Matuku-hūrepo | New Zealand Birds Online (nzbirdsonline.org.nz)

4. Cultural Heritage

multiple pā sites, middens, pit / terrace, wahi tapu and other culturally significant sites impacted by this project – HNZ



5. Others – located near QEII covenanted areas:

- QEII covenant numbers: 5-02-1204
- QEII covenant number: 5-02-527
- QEII covenant number: 5-02-1354



