

FTA#171: Application for listed project under the Fast-track Approvals Bill – Shipyard and Drydock Facility Project for Schedule 2A

Date submitted to secretariat:	27 June 2024
Security level:	In-Confidence
To:	David TAPSELL, Chair – Fast-track Projects Advisory Group

Number of attachments: #	Attachments: 1. Application documents for Shipyard and Drydock Facility Project 2. Agency feedback (MPI)
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Applicant	Sector	Region	Identified in a priority/strategy?
Ministry for Business, Innovation and Employment	Marine infrastructure	Northland	Yes

Ministry for the Environment contacts

Position	Name	Mobile	1 st contact
Principal Authors	Ben Bunting, Anna Galvin		
Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Ilana Miller	s 9(2)(a)	

Project location



Key messages

1. The Shipyard and Dry Dock Facility project is to develop and operate a marine maintenance operations facility capable of servicing New Zealand's largest current and planned vessels including service of international vessels and navy vessels at Northport, Marsden Point, Whangārei in the Northland Region.
2. The project will enable enhanced coastal shipping and will contribute to increased naval efficacy, biosecurity and strategic resilience and ensure the sustainability and resilience of New Zealand's supply chain.
3. The project will comprise:
 - a. Dredging and reclamation
 - b. A 250m length floating drydock.
 - c. A maritime maintenance operations facility which is a permanent structure within which the drydock will be located.
4. The applicant has not provided details as to the indicative footprint of the project.
5. The project will require resource consents under the Resource Management Act 1991 (RMA) including land use consents and discharge consents, and coastal permits for works and occupation of coastal space.
6. A portion of the project land is owned by Northport Ltd (the port owner and operator) and a portion owned by Marsden Maritime Holdings. Northport Ltd also hold a lease over reclaimed land vested in the Crown.
7. The Ministry of Business, Innovation and Employment (MBIE) have applied to have this project listed in the FTA Bill. MBIE have included letters from the Chair of Northport Limited and Marsden Maritime Holdings Limited confirming their support for the drydock project. Note that Northport Ltd has applied separately under the FTA Bill to have its container

expansion terminal project listed under Schedule 2A (refer FTA#119).

8. Advice from the Department of the Conservation (DoC) is that, while the site location map is not sufficiently detailed to show the footprint of the project, it is likely the project will require approvals under the Wildlife Act 1953 and Conservation Act 1987 as the project may overlay a Wildlife Refuge (under the Wildlife Act 1953) and be in proximity to a marine reserve and several terrestrial reserves.
9. The marine based component is in the coastal marine area. Under the s.11 of the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA), the common marine and coastal area cannot be owned. The project area is subject to several MACA claims.
10. The applicant advises the project has been subject to a feasibility study and business case. However, the applicant has not provided this information.
11. We have undertaken an initial (Stage 1) analysis of the application, and this is provided in Table A.
12. We consider the applicant **has not** provided sufficient information to consider the project for inclusion on Schedule 2A because of insufficient information about the project footprint, the adverse effects and consultation specific to the project. We note it could still be included on Schedule 2B based on the information provided.
13. The project does not trigger the ineligibility criteria in clause 18 of the Fast-track Approvals Bill (the Bill).
14. Advice on PSGE development priorities and Māori development is provided in Table A. Table A also includes the relevant PSGEs or Māori groups and the settlement mechanisms, that will/may be impacted by the project and whether the project is low, medium or high impact on Treaty settlement/s and other relevant arrangements. Appendix 1 provides further detail on how this advice should be considered and our approach to analysis.

Signature



Ray Salter
Principal Analyst – Listed Projects

Table A: Stage 1 initial assessment of project eligibility and Treaty settlement assessment and advice¹

Project details	Project description	Approvals sought	Consultation undertaken	Does the project trigger the ineligibility criteria [clause 18]?				Discretionary ground to decline [clause 21(2)]	Eligibility [clause 17]	
				Treaty settlement land, Māori customary land, customary marine title, customary rights, aquaculture settlement area, or prevented by RMA clauses [clauses 18(a-e, g)]	Access arrangement under CMA where a permit can't be granted, or is listed in items 1-11, 14 [clauses 18(f,h)]	Activity on a national reserve under Reserves Act which requires approval under that Act [clause 18(i)]	Prohibited activity under EEZA or regulations under that Act, decommissioning-related activities, offshore renewable energy progressing ahead of permitting legislation [clause 18(j-l)]		Is the project eligible [clause 17(2)]	Would the project have significant regional or national benefits [clause 17(3)]
High level summary			N	N	N	N	N			
<p>Schedule requested 2A</p> <p>Project Name Shipyard and Dry Dock Facility</p> <p>Applicant Ministry of Business, Innovation and Employment (MBIE)</p> <p>Company director/s NA</p> <p>Location Northport, Marsden Point, Whangarei</p> <p>Land Status The project land (under several titles) is freehold with multiple owners. A portion is owned by Northport Ltd (the port owner and operator) and a portion owned by Marsden Maritime Holdings.</p> <p>Northport Ltd also hold a lease over reclaimed land vested in the Crown.</p> <p>The marine based component is in the coastal marine area. Under the s.11 of the Marine and Coastal Area (Takutai Moana) Act 2011, the common marine and</p>	<p>The Shipyard and Dry Dock Facility project is to develop and operate a marine maintenance operations facility capable of servicing New Zealand's largest current and planned vessels including service of international vessels and navy vessels at Northport, Marsden Point, Whangarei in the Northland Region.</p> <p>The project will enable enhanced coastal shipping and will contribute to increased naval efficacy, biosecurity and strategic resilience and ensure the sustainability and resilience of New Zealand's supply chain.</p> <p>The project will comprise: Dredging and reclamation, a 250m length floating drydock, and a maritime maintenance operations facility which is a permanent structure</p>	<p>The applicant seeks approval under the:</p> <ul style="list-style-type: none"> Resource Management Act 1991. <p>Advice from DoC is that approvals may also be required under the Wildlife Act 1953 and Conservation Act 1987.</p>	<p>The applicant has listed all affected parties including local government, iwi/hapu (including MACA applicants), key stakeholders and central government agencies.</p> <p>The applicant advises that engagement has occurred with affected parties between 2017 – 2023 but no details of engagement outcomes are provided or whether such engagements were specific to the project or another project at the port.</p> <p>The applicant advises that further consultation will occur during project design.</p>	<p>No – there are no customary rights granted that apply to the project location although there are active claims.</p>	<p>No</p>	<p>No</p>	<p>No</p>	<p>The project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement.</p> <p>No - although the project appears to fall into an area subject to the operation of the Mana Whakahono ā Rohe between the Northland Regional Council and the hapū of Te Taitokerau.</p> <p>It is more appropriate to deal with the application under another Act.</p> <p>No – the FTA legislation can enable delivery of the project more quickly, efficiently and cost effectively than under the RMA.</p> <p>The project may have significant adverse effects on the environment.</p> <p>Yes – the applicant lists some adverse effects and a range of technical reports commissioned between 2018 and 2023 which cover the AEE components including: coastal processes, landscape and natural character, noise and vibration, indigenous biodiversity, navigation and safety and oil spill risk, biosecurity, archeology, air quality and transport.</p>	<p>Whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes.</p> <p>Yes– the FTA legislation can enable delivery of the project more quickly, efficiently and cost effectively than under the RMA. The applicant advises that FTA listing could see the project occur in 4 years rather than 8 years under normal processes.</p> <p>The impact referring this project will have on the efficient operation of the fast-track process.</p> <p>Moderate impact – while the project is already well informed and ready for consideration, there are a range of interests present in the project area including the operation of the Mana Whakahono ā Rohe, the groups yet to settle their historical Treaty</p>	<p>The project has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list.</p> <p>Yes – improved shipping infrastructure is identified in the central government-commissioned Te Tai Tokerau Resilience Action Plan.</p> <p>The applicant advises that the project has been identified as a 'regional priority project' for the 'Regional Infrastructure Fund'.</p> <p>The project will deliver regionally or nationally significant infrastructure.</p> <p>Yes – both nationally and regionally significant marine infrastructure.</p> <p>The project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment.</p> <p>No</p> <p>The project will deliver significant economic benefits.</p> <p>Yes – the applicant advises the project will deliver an additional \$290m GDP per annum by 2060 and create 1,135 new jobs. It will also support aquaculture and marine sector growth</p> <p>The project will support primary industries, including aquaculture.</p>

¹ **Disclaimer:** Given time and scope constraints, the initial assessment is solely based on information provided by applicants. There may be additional relevant information which has not been provided to MfE.

coastal area cannot be owned.	within which the drydock will be located.						<p>Note it is not clear if these technical reports are specific to the project but instead relate to another Northport expansion project currently progressing through the resource consenting process (also seeking FTA listing under FTA 119).</p> <p>The applicant advises that all potential adverse effects can be managed within appropriate planning and management frameworks.</p> <p>The applicant has a poor compliance history under the relevant legislation.</p> <p>Yes – between 2004 and 2023 Northport (port operator) was issued 4 abatement notices for incidents or breach of consent conditions.</p> <p>s 9(2)(f)(iv)</p> <p>No</p> <p>The project includes an activity that is a prohibited activity under the RMA.</p> <p>No</p>	<p>claims and the potential impact on iwi, hapū and whānau applicants under the Marine and Coastal Area (Takutai Moana) Act 2011.</p> <p>Whether the application contains sufficient information to inform the referral decision.</p> <p>Yes – the application has sufficient information to inform the referral decision. However, we consider the applicant has not provided sufficient information to consider the project for inclusion on Schedule 2A because of insufficient information about the project footprint, the adverse effects and consultation specific to the project. We note it could still be included on Schedule 2B based on the information provided.</p>	<p>Yes – regional primary industries, including aquaculture, will benefit from the project.</p> <p>The project will support development of natural resources, including minerals and petroleum.</p> <p>No</p> <p>The project will support climate change mitigation, including the reduction or removal of greenhouse gas emissions.</p> <p>Yes – the ability to carry out maintenance on large vessels in New Zealand will mean vessels do not have to travel to overseas port for maintenance. This will reduce emissions.</p> <p>The project will support adaptation, resilience, and recovery from natural hazards.</p> <p>Yes – major ports play a critical role in civil defence in regional and national emergencies.</p> <p>The project will address significant environmental issues.</p> <p>Yes – the applicant advises that all potential adverse effects (identified in the AEE) can be managed within appropriate planning and management frameworks.</p> <p>The project is consistent with local or regional planning documents, including spatial strategies.</p> <p>Yes – consistent with the Whangarei District Plan and Northland Regional Coastal Plan.</p>
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PSGE Settlement Priorities and Māori Development assessment –

This table provides an overview. In the time available, it has not been possible to undertake a detailed review of all Treaty settlement and related matters, or to engage with the relevant PSGE, iwi or Māori groups in relation to the potential impacts of the project. If the project does progress through the fast-track process, it will be important this more detailed and comprehensive analysis and engagement is undertaken (there are some mechanisms in the proposed legislation, such as the clause 13 report (which will apply to Schedule 2 Part B (but not Part A) applications) and the requirements to invite comment from these groups, which are intended to address these matters).

Advice on Māori development and PSGE settlement priorities includes information relating to:

- where projects align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents.
- where projects contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or are being led by or in partnership with a Māori entity or business;
- to relevant provisions in Treaty settlements, Joint Management Agreements outside of settlement; Mana Whakahono ā Rohe; Iwi Environment Management plans; implications for groups yet to settle their historical Treaty of Waitangi claims; and implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

Ineligible projects - based on the considerations at cl18(a-e) of the Fast Track Approvals Bill (version as at introduction)

The project does not appear to be ineligible according to the information provided in the application.
We note that the applicant has stated that the project engages Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019. That is incorrect - the project relates to the NorthPort site in Whangarei.

<p>Affected Māori group/s</p>	<p>The applicant has identified the following groups with interests in the project area:</p> <ul style="list-style-type: none"> • Patuharakeke • Te Parawhau • Ngātiwai <p><u>Patuharakeke Hapū</u></p> <p>Patuharakeke Hapū are yet to settle their historical Treaty of Waitangi claims and so the area of interest of Patuharakeke Hapū is not confirmed through a Treaty settlement as yet. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Patuharakeke Hapū. Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Ngātiwai</u></p> <p>Ngātiwai are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Ngāti Wai is not confirmed through a Treaty settlement as yet. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngāti Wai.¹ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Te Parawhau</u></p> <p>Te Parawhau are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Te Parawhau is not confirmed through a Treaty settlement as yet. There is no information on Te Kāhui Māngai and in the time available, it has not been possible to confirm whether the proposed project location is within the area of interest for Te Parawhau.</p> <p>In addition to the groups identified by the applicant, we have also identified the following additional groups as potentially having interests in the proposed project location:</p> <ul style="list-style-type: none"> • Ngāpuhi • Ngāti Whātua • Ngāti Hine <p><u>Ngāpuhi</u></p> <p>Ngāpuhi are yet to settle their historical Treaty of Waitangi claims and so the area of interest of the Ngāpuhi is not confirmed through a Treaty settlement as yet. Information from Te Kāhui Māngai confirms the proposed project location as being closely adjacent to the area of interest for Ngāpuhi.² Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Ngāti Whātua</u></p> <p>Ngāti Whātua are yet to settle their historical Treaty of Waitangi claims and so the area of interest of Ngāti Whātua is not confirmed. Information from Te Kāhui Māngai confirms the proposed project location as being within the area of interest for Ngāti Whātua.³ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Ngāti Hine</u></p> <p>Ngāti Hine are yet to settle their historical Treaty of Waitangi claims and so the area of interest of Ngāti Hine is not confirmed. Information from Te Kāhui Māngai confirms the proposed project location as being closely adjacent to the area of interest for Ngāti Hine.⁴ Note this area of interest may be refined and confirmed throughout the course of Treaty settlement negotiations.</p> <p><u>Marine and Coastal Area (Takutai Moana) Act 2011 applicants</u></p> <p>The proposed project site is partially within the coastal marine area. The applicant has included a generic reference to applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 but has not provided a comprehensive list. Officials understand that the Whangarei Harbour hearing recently concluded, and participating in that hearing were approximately 16 applicant groups.</p>
<p>Has the applicant consulted with those Māori groups?</p>	<p>The applicant provides general information on consultation that has occurred from 2017 – 2023; however, does not specify the type or outcome of engagement with the relevant affected groups. The applicant states that an appropriate engagement approach for the project is expected, including to confirm all affected persons.</p>
<p>Impact/s of the project on Māori development and PSGE settlement priorities and related matters</p>	<p>Please note: For impacts on Māori Commercial Aquaculture Claims Settlement Act 2004, Fisheries Act 1996, Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and other matters such as customary fishing, taiāpure or mātaītai (legislation and functions that the Ministry for Primary Industries (MPI) administers) please refer to attached MPI advice.</p> <p><u>Impacts on PSGE settlement priorities and Māori development</u></p> <p>There is no information in the application to suggest that this application is made by or on behalf of a Māori organisation, or that the project will have a direct benefit in terms of Māori development.</p> <p>In the time available, we have identified the following relevant plans and documents:</p> <ul style="list-style-type: none"> • Te Iwi o Ngātiwai Iwi Environmental Policy Documents 2007 • Ngātiwai Aquaculture Plan 2005 • Patuharakeke Hapū Environmental Management Plan 2014 <p>It is not possible to confirm from those documents that the project does or does not align with the strategic priorities of those iwi or Māori groups.</p> <p>A full analysis of the plan would need to be undertaken in conjunction with the relevant iwi before any firm conclusions can be reached. That is a matter to be considered in more detail in subsequent stages if this progresses through the fast-track processes.</p> <p><u>Mana Whakahono ā Rohe</u></p> <p>There is a Mana Whakahono ā Rohe between the Northland Regional Council and the hapū of Te Taitokerau, which includes Te Patuharakeke and Te Parawhau. The location of the project appears to fall within the area covered by the Mana whakahono ā Rohe. The Mana whakahono ā Rohe provides for an on-going role for Te Patuharakeke in decision-making and resource management. Listing this project may impact the application of the</p>

	<p>Mana whakahono ā Rohe, which provides for substantive input from Te Patuharakeke, into processes related to this project that would occur through the standard consenting regime, noting in particular, that this is an application for a Schedule 2A listing.</p> <p><u>Iwi Environment Management plans</u></p> <p>Note the comments above in relation to iwi management plans.</p> <p><u>Implications for groups yet to settle their historical Treaty of Waitangi claims</u></p> <p>There are groups still working through their Treaty settlement processes. [For example, [provide details of any obvious groups if there are any.]] It will be important that these interests are considered in more detail if the project progresses through the fast-track process, but in the time available there are no further impacts noted.</p> <p><u>Implications arising under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019</u></p> <p>The project area is in the common marine and coastal area. Within this area there are no customary marine title or protected customary rights holders under the Marine and Coastal Area (Takutai Moana) Act 2011 recorded on the register – Marine and Coastal Area Register Toitū Te Whenua - Land Information New Zealand (linz.govt.nz). There are however approximately 30 applications by whānau, hapū and iwi groups who have applied to have their customary interests recognised under the Act.</p> <p>Under the Act, takutai moana applicant groups have certain rights in relation to consenting processes under the Resource Management Act 1991, including the right to be consulted on resource consent applications in their takutai moana application area. The Fast-track Approvals Bill currently provides for consultation with takutai moana applicant groups on Schedule 2B projects at the Ministerial referral stage, and the clause 13 report must include information about the relevant takutai moana applicant groups in the project area. For schedule 2A projects these steps would not apply. For listed projects (both Schedule 2A and 2B), the Fast-track Approvals Bill as currently drafted, does not provide for consultation with takutai moana applicant groups at the expert panel stage.</p> <p>This means that an implication of listing a project under Schedule 2A is that takutai moana applicants would not have the ability to input into the process at all, and for Schedule 2B listing the only opportunity for any input is at the Ministerial referral stage.</p> <p>As the project area is outside of ngā rohe moana o ngā hapū o Ngāti Porou there are no implications for the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 arising from this application.</p> <p><u>Other matters</u></p> <p>In the time available, officials have not identified any other impacts for Treaty settlements, Joint Management Agreements outside of settlement or Mana Whakahono ā Rohe.</p>
<p>Is the project considered low, medium or high impact (based on assessment criteria above)</p>	<p>From the information available we consider this project is likely to be of medium impact. This is due to the nature and range of interests present in the project area including the operation of the Mana Whakahono ā Rohe, the groups yet to settle their historical Treaty claims and the potential impact on iwi, hapū and whānau applicants under the Marine and Coastal Area (Takutai Moana) Act 2011.</p> <p>An impact of listing this project under Schedule 2 Part A is that the Ministers will not have to exercise their 'referral discretion' including considering the Treaty settlement impacts through that process, nor will they have the benefit of the clause 13 report. For Part A projects, there is a requirement on the expert panel to invite comment from the PSGE on the application.</p>
<p>Has the Ministry for the Environment undertaken engagement?</p>	<p>Officials consider engagement would be beneficial given the nature and range of interests present in the project area but were unable to undertake this in the time available.</p>
<p>Additional comments/context</p>	<p>See the attached advice from MPI on potential impacts on aquaculture and fisheries settlement considerations.</p>

Appendix One: Approach and considerations for Treaty settlement advice on listed project applications advice in Table A

1. Ministers have advised the Advisory Group should receive advice from officials on “Māori development and PSGE settlement priorities” relevant to each application. Note this differs from section 13 requirements of the current Fast Track Consenting Bill that ‘Ministers must consider Treaty settlements and other obligations report’ as these reports will not be in existence at the time, although matters identified in section 13 (2)(a)-(j) will be considered as part of official's analysis.
2. We have interpreted “Māori development” and “PSGE priorities” to mean primarily projects that:
 - a. align explicitly with PSGE or iwi strategic objectives/vision/other strategic documents; and/or
 - b. contribute towards addressing historical or systemic inequities faced by Māori. This would be undertaken through an equity assessment; and/or
 - c. the project is being led by or in partnership with a Māori entity or business.
3. Given the time constraints and limited engagement this advice cannot be considered as comprehensive and does not intend to reflect their views and should not be read as such.
4. Engagement with PSGEs and other relevant groups has been considered based on potential high-risk factors including, but not limited to, if:
 - a. a project will take place on or effect any taonga or areas of significance that are protected by Treaty settlement arrangements.
 - b. a project will have a substantive and/or ongoing environment impact on any taonga or areas of significance.
 - c. a project will include a consenting arrangement that will require a significant take, or be ongoing for an extended period, in relation to a taonga or area of significance, or in regions where PSGEs have specific planning mechanisms in place.
 - d. PSGEs or other Māori entities have previously strongly contested the project or a similar type of project, particularly where court action has been taken.
 - e. The project is clearly in conflict with or undermines PSGE priorities.
 - f. Engagement would be required to maintain and uphold the Te Tiriti Crown relationship.
5. In limited circumstances where engagement occurs, it has been brief. Where engagement has been undertaken it is reflected in our analysis but should not be taken to mean that our Treaty Partners endorse our advice.