

In Confidence

**Office of the Minister for the Environment
Office of the Minister of Conservation**

Chair, Cabinet

COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2021

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2021 (the Amendment Order).
- 2 The Amendment Order amends the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 to include as a project referred to an expert consenting panel (panel):
 - 2.1 Far North District Council and Far North Holdings Limited's Rangitane Maritime Development (Schedule 26).

Executive Summary

- 3 The COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) is one of the Government's actions to support New Zealand's economic recovery from COVID-19. The FTCA enables any person to apply to the Minister for the Environment to fast-track certain approvals required under the Resource Management Act 1991 (RMA) for their project. Where projects are located either fully or partly within the Coastal Marine Area (CMA), the Minister of Conservation is a joint decision-maker on the referral application.
- 4 Projects that we accept in our respective roles as Minister for the Environment and Minister of Conservation are referred to a panel by an amendment to the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020 (Order in Council), subject to Cabinet's agreement. This allows an applicant to lodge applications for resource consents and/or notices of requirement for a designation with the Environmental Protection Authority (EPA) for consideration by a panel.
- 5 We received an application to fast-track the Rangitane Maritime Development project from Far North District Council and Far North Holdings Limited. The project site is located within the Rangitane Loop Road legal road reserve, Kerikeri, Northland and in the adjacent CMA.
- 6 We are satisfied as to the project's eligibility for referral and have considered whether it helps achieve the purpose of the FTCA. We sought written comments from relevant Ministers, the Minister for Economic and Regional Development, relevant local authorities, Te Runanga-Ā-Iwi-Ō-Ngāpuhi and Taiāmai ki te Takutai Moana, and we have considered the replies received. We considered the report prepared under

section 17 of the FTCA and we also requested and considered further information from the applicants.

- 7 We have accepted Far North District Council and Far North Holdings Limited's Rangitane Maritime Development project for referral as it has the potential to:
 - 7.1 have positive effects on social wellbeing by providing employment, maintaining and enhancing public access to the coastal marine area, and providing facilities to support community connection and recreational opportunities
 - 7.2 generate employment by providing approximately 30 full-time equivalent (FTE) jobs over a 9-month construction period, and additional jobs during the design and consenting phase
 - 7.3 progress faster using the processes provided by the FTCA than if consents were sought through standard RMA processes, provided that the applicants lodge their applications for resource consents with the EPA in a timely manner following referral.
- 8 We consider that the project will help to achieve the purpose of the FTCA, and any actual and potential effects on the environment, together with any measures to mitigate, offset or compensate adverse effects, can be considered and determined by a panel subject to Part 2 of the Resource Management Act 1991 (RMA) and the purpose of the FTCA.
- 9 We now seek authorisation for submission of the Amendment Order to the Executive Council. The Amendment Order enables Far North District Council and Far North Holdings Limited to apply via the EPA to a panel for the relevant approvals needed under the RMA for the project, in accordance with the process in the FTCA.

Background


- 10 The FTCA is one of the Government's actions to support New Zealand's economic recovery from COVID-19, by promoting employment and supporting on-going investment. The FTCA enables any person to apply to the Minister for the Environment to access the fast-track process for their project. Where projects are located either fully or partly within the CMA, the Minister of Conservation is a joint decision-maker on the referral application. If the Ministers accept an application, it is referred by Order in Council allowing an applicant to lodge, via the Environmental Protection Authority (EPA), a resource consent application or notice of requirement for a designation with a panel for consideration.
- 11 As of 25 August 2021, 59 applications have been received for projects to be considered for referral to a panel through an Order in Council, of which:
 - 11.1 16 applications are being processed and are awaiting a referral decision
 - 11.2 six projects have been approved for referral and are awaiting Orders in Council. This includes the Rangitane Maritime Development project that is the subject of this cabinet paper and the Otawere Water Storage Reservoir and Drury Central and Paerata Stations projects also currently before Cabinet. The Brickfields - Scott Road Development, the Tauranga Innovative Courthouse and the Melia Place projects are the subject of a subsequent cabinet paper.
 - 11.3 22 projects have been referred and Orders in Council gazetted, and three of these have been granted RMA approvals by a panel. A list of the referred projects is in Appendix one


- 11.4 10 referral applications have been declined for a range of reasons including that they do not meet the purpose of the FTCA and it would be more appropriate for them to go through the standard consenting process under the RMA
- 11.5 five referral applications have been withdrawn by the applicants.
- 12 An update on the status of projects that are listed in Schedule 2 of the FTCA is in Appendix two.

Project for referral: Far North District Council and Far North Holdings Limited's Rangitane Maritime Development project


- 13 Far North District Council and Far North Holdings Limited have applied to use the fast-track consenting process for the Rangitane Maritime Development project.
- 14 This project is to construct a new public boat ramp and associated facilities via the reclamation and development of approximately 7,400 square metres of land within the CMA and works within the road reserve. The new facility will comprise a double width boat ramp and central floating pontoon, sealed parking area, dinghy storage area, a public walkway, and picnic facilities. This will upgrade existing access and capacity at the site for (primarily) recreational users.
- 15 The project site is located within the Rangitane Loop Road legal road reserve, Kerikeri, Northland and in the adjacent CMA.
- 16 The project requires land use consents and coastal permits under the Operative Far North District Plan, Operative Regional Coastal Plan for Northland and Proposed Regional Plan for Northland.
- 17 To better understand the potential for significant adverse environmental effects and whether the project would be consistent with the New Zealand Coastal Policy Statement 2010, we sought further information from the applicants and the relevant local authorities under section 22 of the FTCA.
- 18 We also sought written comments on this application from relevant Ministers, the Minister for Economic and Regional Development, the relevant local authorities – Northland Regional Council (NRC) and Far North District Council (FNDC), Te Runanga-A-Iwi-O-Ngāpuhi and Taiāmai ki te Takutai Moana (the Trust representing the RMA interests of the hapū from the Taiāmai ki te Marangai takiwā of Ngāpuhi).

Overview of comments


- 19 s 9(2)(f)(ii), s 9(2)(g)(i)
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- 20 s 9(2)(f)(ii), s 9(2)(g)(i)
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s 9(2)(f)(ii), s 9(2)(g)(i)




21 s 9(2)(f)(ii), s 9(2)(g)(i)




22 s 9(2)(f)(ii), s 9(2)(g)(i)




23 s 9(2)(f)(ii), s 9(2)(g)(i)




24 s 9(2)(f)(ii), s 9(2)(g)(i)



25 s 9(2)(f)(ii), s 9(2)(g)(i)



26 s 9(2)(f)(ii), s 9(2)(g)(i)



- 27 FNDC, in its regulatory capacity, considered that processing the project through standard RMA processes would involve significant time delays, potentially resulting in loss of funding. FNDC noted the potential benefits of the project and highlighted potential issues such as traffic effects, visual impacts and effects on the nearby residential properties. FNDC also noted that the technical reports identified in the referral application cover the aspects that they would expect with an application of this nature.
- 28 NRC did not provide comment on whether use of the fast-track process was appropriate and advised that they are aware of some opposition to the project from within the local community. They noted the potential benefits of the project and also that similar facilities experience high demand year-round and that there are limited public facilities available within the Bay of Islands generally. NRC identified a range of information and technical reports that should accompany any resource consent applications to a panel. NRC also advised that the Regional Harbourmaster for Northland does not have any navigational safety concerns with the project.
- 29 Taiāmai ki te Takutai Moana supported the project being referred, although their comments included earlier correspondence from members of three of the hapū whom they represent (Ngāti Rangi, Ngāti Mau and Te Whiu) that raised concerns over the lack of the applicants' engagement with them. Taiāmai ki te Takutai Moana commented that they are now engaging collectively with the applicants. They also recommended that a cultural impact assessment already prepared by Ngāti Rēhia be accepted, and they considered that the applicants should financially support the development of a collective Hapū Coastal Management Plan, in conjunction with them, for the purposes of any future applications in the CMA.
- 30 Te Runanga-Ā-Iwi-Ō-Ngāpuhi did not respond to our invitation to comment.

Decision

- 31 In making our decision we considered the application and further information received; comments received from relevant Ministers, the Minister for Economic and Regional Development, FNDC, NRC, and Taiāmai ki te Takutai Moana; and the eligibility criteria in section 18 of the FTCA¹. We also considered the report prepared under section 17 of the FTCA, that indicates Te Rūnanga-Ā-Iwi-O-Ngāpuhi is the sole relevant iwi authority for the project area and there are no relevant Treaty settlements or Treaty settlement entities.
- 32 We have decided to accept Far North District Council and Far North Holdings Limited's application for referral of the Rangitane Maritime Development project to a panel. We consider the project meets the eligibility criteria in section 18 of the FTCA and achieves the purpose of the FTCA by having the potential to:
- 32.1 have positive effects on social wellbeing by providing employment, maintaining and enhancing public access to the coastal marine area, and providing facilities to support community connection and recreational opportunities
 - 32.2 generate employment by providing approximately 30 full-time equivalent (FTE) jobs over a 9-month construction period, and additional jobs during the design and consenting phase

¹ In accordance with section 24 of the FTCA - Decision to accept application for referral

- 32.3 progress faster by using the processes provided by the FTCA than would otherwise be the case, provided that the applicants lodge their applications for resource consents with the EPA in a timely manner following referral.
- 33 To address site-specific matters raised by s 9(2)(f)(ii), s 9(2)(g)(i) the relevant local authorities, we have decided to specify the following information that the applicants must provide with their applications for resource consents submitted to a panel²: assessments of effects relating to traffic, acoustic issues, landscape and visual issues, coastal processes and coastal hazards, ecology, archaeology, water quality, GHG emissions and relevant planning considerations. The full details of this information requirement are in Appendix three.
- 34 The FTCA requires that a panel invite comments from the relevant local authorities, relevant iwi authorities and Treaty settlement entities, specific Ministers, owners and occupiers of adjacent land, specific non-governmental organisations and other groups listed in the FTCA³. In addition to these requirements and to address site specific matters raised, we have decided to specify the following parties, listed in Appendix three, from whom a panel must seek comment in relation to any consent application before it: the Taiāmai ki te Takutai Moana Trust; Ngā Hapū o Takutai Moana; 14 marae of the Taiāmai ki te Marangai takiwā; the Rangitane Residents Association Incorporated; the Rangitane Recreation Association Incorporated; and the Minister for Economic and Regional Development.
- 35 We consider that any actual and potential effects on the environment, together with any measures to mitigate, offset or compensate for adverse effects, can be appropriately tested by a panel against Part 2 of the RMA and the purpose of the FTCA. We consider that the requirements for additional material listed in Appendix three that must be submitted to a panel will assist with this.
- 36 We consider there are no reasons to decide under section 24(2) of the FTCA to:
- 36.1 limit the scope of the project by referring it only in part
 - 36.2 refer the project in stages
 - 36.3 place any restrictions on the project
 - 36.4 impose specific timeframes for panel consideration.

Timing and 28-day rule

- 37 Cabinet has agreed to waive the 28-day rule for Orders in Council relating to projects to be referred to a panel⁴. Therefore, the Amendment Order will come into force the day after publication in the New Zealand Gazette. This will enable applications for resource consents for Far North District Council and Far North Holdings Limited's Rangitane Maritime Development project to be lodged with the EPA, for consideration by a panel, the day after the Amendment Order is gazetted.

Compliance

- 38 The Amendment Order complies with:

² Section 24(2)(d) of the FTCA.

³ Clause 17(6) of Schedule 6, FTCA.

⁴ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer

- 38.1 the principles of the Treaty of Waitangi
- 38.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993
- 38.3 the principles and guidelines set out in the Privacy Act 1993
- 38.4 relevant international standards and obligations
- 38.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 39 We do not consider that there are grounds for the Regulations Review Committee to draw this Order in Council to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel Office

- 40 The Amendment Order has been certified by the Parliamentary Counsel Office as being in order for submission.

Impact Analysis

Regulatory Impact Assessment

- 41 The Regulatory Impact Assessment (RIA) requirements for this proposal have been waived. Cabinet has agreed that a RIA is not required for Orders in Council relating to projects to be referred to a panel⁵.

Climate Implications of Policy Assessment

- 42 The Climate Implications of Policy Assessment (CIPA) team at the Ministry for the Environment has been consulted and confirms that the CIPA requirements⁶ do not apply to the project.
- 43 Likely emissions implications and intended emissions reductions of the project have been considered at a high-level during the formal application process and are also expected to be considered by a panel in its assessment of any adverse effects arising from the project.
- 44 The decision to refer the Far North District Council and Far North Holdings Limited's Rangitane Maritime Development project includes direction for the applicants to provide to a panel an assessment of options for reducing and mitigating GHG emissions related to construction and earthworks activities.

Publicity

- 45 The Amendment Order will be available on the New Zealand Legislation website following its notification in the New Zealand Gazette.

⁵ ENV-20-MIN-0033 and CAB-20-MIN-0353 refer

⁶ CO (20) 3 refers

- 46 As required under section 25 of the FTCA, our decision to refer the project to a panel for consideration, the reasons for these decisions, and the report obtained under section 17 will be made available to the public on the Ministry for the Environment's website.

Proactive release

- 47 We intend to proactively release this paper on the Ministry for the Environment's website subject to redaction as appropriate under the Official Information Act 1982.

Consultation

- 48 The Ministry for the Environment and Department of Conservation sought comment on this paper from the Ministry of Housing and Urban Development, Ministry for Culture and Heritage, Te Puni Kōkiri, Ministry of Education, Department of Corrections, Land Information New Zealand, Treasury, Ministry of Transport, Ministry of Business, Innovation and Employment, Ministry for Primary Industries, Department of Prime Minister and Cabinet, Ministry of Health, Ministry of Defence, Department of Internal Affairs and The Office for Māori Crown Relations – Te Arawhiti.

Recommendations

We recommend that Cabinet:

- 1 **note** that we have decided under section 24 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 to accept the application for referral of Far North District Council and Far North Holdings Limited's Rangitane Maritime Development project to an expert consenting panel
- 2 **note** that Far North District Council and Far North Holdings Limited's Rangitane Maritime Development project meets the eligibility criteria in section 18 of the COVID-19 Recovery (Fast-track Consenting) Act 2020, and is considered to help achieve the Act's purpose by having the potential to:
 - 2.1 have positive effects on social wellbeing by providing employment, maintaining and enhancing public access to the coastal marine area and providing facilities to support community connection and recreational opportunities
 - 2.2 generate employment by providing approximately 30 full-time equivalent (FTE) jobs over a 9-month construction period, and additional jobs during the design and consenting phase
 - 2.3 progress faster using the Act's processes than would otherwise be the case under standard Resource Management Act 1991 processes, provided that the applicants lodge their applications for resource consents with the Environmental Protection Agency in a timely manner following project referral
- 3 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2021 requires Far North District Council and Far North Holdings Limited to provide to a panel: assessments of effects relating to traffic, acoustic issues, landscape and visual issues, coastal processes and coastal hazards, ecology, archaeology, water quality, greenhouse gas emissions and relevant planning considerations, as detailed in Appendix three
- 4 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2021 requires a panel appointed to consider Far North District Council and Far North Holdings Limited's Rangitane Maritime Development project to seek comments from representatives of: the Taiāmai ki te Takutai Moana Trust; Ngā Hapū o Takutai Moana; 14 marae of the Taiāmai ki te Marangai takiwā; the Rangitane Residents Association Incorporated; the Rangitane Recreation Association Incorporated; and the Minister for Economic and Regional Development, as listed in Appendix three
- 5 **authorise** submission of the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2021 to the Executive Council
- 6 **note** that on 27 July 2020, Cabinet agreed to waive the 28-day rule so that Orders in Council made under the COVID-19 Recovery (Fast-track Consenting) Act 2020 can come into force as soon as they are notified in the New Zealand Gazette [CAB-20-MIN-0353 refers]

- 7 **note** that the COVID-19 Recovery (Fast-track Consenting) Referred Projects Amendment Order (No 10) 2021 will come into force the day after publication in the New Zealand Gazette.

Authorised for lodgement

Hon David Parker
Minister for the Environment

Hon Kiritapu Allan
Minister of Conservation

Released under the provision of
the Official Information Act 1982

Appendix one – Referred projects under the COVID-19 Recovery (Fast-track Consenting) Act 2020

Referred projects granted RMA approvals by a panel		
Project	Location	Applicant
Kohimarama Comprehensive Care Retirement Village	Kohimarama, Auckland	Ryman Healthcare Limited
Northbrook Wanaka Retirement Village	Wanaka	Winton Property Limited
Ohinewai Foam Factory	Ohinewai, Waikato	Ambury Properties Limited
Referred projects with Orders in Council gazetted		
Clutha Upper Waitaki Lines Project - Works and Workers' Village	Clutha Upper Waitaki	Transpower New Zealand Limited
Northbrook Wanaka Retirement Village	Wanaka	Winton Property Limited
Kohimarama Comprehensive Care Retirement Village	Kohimarama, Auckland	Ryman Healthcare Limited
Molesworth Street Office Development	Thorndon, Wellington	Prime Property Group Limited
The Vines Affordable Subdivision	Richmond, Tasman	Jason and Angela Mudgway
Dominion Road Mixed-use Development	Mount Eden, Auckland	Pudong Housing Development Company Limited, Foodstuffs North Island Limited, and Silk Road Management Limited
Ohinewai Foam Factory	Ohinewai, Waikato	Ambury Properties Limited
Eastern Porirua Regeneration Project - Infrastructure Works	Porirua	Kāinga Ora-Homes and Communities' and Porirua City Council
Silverlight Studios	Wanaka	Silverlight Studios Limited
Brennan winery, restaurant, education, and event complex	Gibbston Valley, Otago	Otago Viticulture and Oenology Limited's (trading as Brennan Wines)
Nola Estate	Glen Eden, Auckland	CPM 2019 Limited
Wooing Tree Estate	Cromwell	Wooing Tree Property Development LP
Kapuni Green Hydrogen	Kapuni, Taranaki	Hiringa Energy Limited's and Ballance Agri-Nutrients Limited
New Dunedin Hospital - Whakaturuputupu	Dunedin	The Minister of Health's and the Ministry of Health
Faringdon South West and South East Development	Rolleston	Hughes Developments Limited's
Summerset Retirement Village -Waikanae	Waikanae	Summerset Villages (Waikanae) Limited

Beachlands Housing Development	Beachlands, Auckland	Neil Construction Limited and Fletcher Residential Limited
Kōpū Marine Precinct	Kōpū, Thames	Thames-Coromandel District Council
Whakatāne Commercial Boat Harbour project	Whakatāne	Whakatāne District Council, Te Rāhui Lands Trust, Te Rūnanga o Ngāti Awa, Ngāti Awa Group Holdings Limited, Te Rāhui Lands General Partner Limited, Te Rāhui Herenga Waka Whakatane Limited, and Provincial Growth Fund Limited
Karaka North Village	Karaka, Auckland	Cappella Group Limited and Karaka North Village Limited
George St Mixed Use Development	Newmarket, Auckland	Newmarket Holdings Development Limited Partnership
Ōmāhu Residential Development	Remuera, Auckland	Urban Resort Limited, Icon Co Pty (NZ) Limited

Released under the provisions of the Official Information Act 1982

Appendix two – Status of projects listed under the COVID-19 Recovery (Fast-track Consenting) Act 2020

Listed Project	Status (provided by the EPA, 25 August 2021)
Matawii Water Storage Reservoir Kaikohe	Consents have been approved.
Papakāinga Development – Rāpaki, Christchurch	Consents have been approved.
Te Ara Tupua – Ngā Ūranga to Pito-one shared path	Consents have been approved.
Waitohi Picton Ferry Precinct Redevelopment	Consents have been approved.
Queenstown Arterials Project	Consents have been approved.
Papakāinga Development - Kaitaia	Consents have been approved.
Papakura to Pukekōhe rail electrification	Package 1 - consents have been approved. Package 2 – KiwiRail advise unlikely to proceed under fast-track (awaiting confirmation).
Papakura to Drury South State Highway 1 improvements	Package 1 - application lodged 24 June; panel has been appointed; invitations to comment to be sent shortly
Northern Pathway – Westhaven to Akoranga shared path	Lodgement anticipated in late 2021.
Papakāinga Development – Waitara, Taranaki	Lodgement anticipated in 2021.
Te Pā Tāhuna Residential Development	Unlikely to proceed under fast-track at this stage.
Unitec Residential Development	Unlikely to proceed under fast-track at this stage.
Papakāinga Development - Point Chevalier, Auckland	Unlikely to proceed under fast-track at this stage.
Papakāinga development – Whaingaroa, Raglan	Unlikely to proceed under fast-track at this stage.
Papakāinga Development - Chatham Islands	Unlikely to proceed under fast-track at this stage.
Wellington Metro Upgrade Programme	Unlikely to proceed under fast-track at this stage.
Britomart Station eastern end upgrade	Unlikely to proceed under fast-track at this stage.

Appendix three – Additional requirements: Far North District Council and Far North Holdings Limited's Rangitane Maritime Development project

Far North District Council and Far North Holdings Limited are directed to provide with their application to an expert consenting panel for resource consents:

1. a traffic impact assessment that addresses the effects of the project on the surrounding transport network and local road users
2. an acoustic assessment, including consideration of both construction and operational noise and vibration, underwater noise effects on fauna, and details of any appropriate mitigation measures
3. an assessment of the effects of the project on the landscape, natural character, visual and amenity values in the project area
4. a coastal processes and coastal hazard assessment, including but not limited to:
 - a. consideration of the Northland Regional Council's Coastal Flood Hazard Zone 3 scenario (representing a 100-year 'rapid sea level rise' projection)
 - b. an assessment of how hydrodynamic changes arising from the project may impact storm surges and the extent to which the proposed structure will be resilient in the future
5. an assessment of effects on water quality
6. an ecological assessment
7. an archaeological assessment
8. an assessment of options for reducing and mitigating greenhouse gas emissions related to construction and earthworks activities
9. a planning assessment including, but not limited to, specific consideration (with supporting information) of the New Zealand Coastal Policy Statement 2010 (including Policy 10) and the Proposed Regional Plan for Northland (including Policy D.5.20).

An expert consenting panel appointed to consider Far North District Council and Far North Holdings Limited's application for resource consents for the Rangitane Maritime Development project must seek comments from the following additional persons/organisations:

1. Representatives of the Taiāmai ki te Takutai Moana Trust
2. Representatives of Ngā Hapū o Takutai Moana
3. Representatives of 14 marae of the Taiāmai ki te Marangai takiwā: Tauwhara, Oromāhoe, Parawhenua, Rāwhitiroa, Te Tii Waitangi, Waitangi National, Ngāwhā, Mātauri, Wharengaere, Hiruhārama Hou, Mātoa, Tākou, Whitiara, Kororareka
4. Representatives of the Rangitane Residents Association Incorporated
5. Representatives of the Rangitane Recreation Association Incorporated
6. Minister for Economic and Regional Development.