

## FTC #168 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Joint Stage 1 decisions

### Application 2022-103 Te Araroa Barge Facility Project

Date submitted:	27 October 2022	MfE#: BRF-2174	DOC#: 22-B-0678
Security level	In-Confidence	MfE priority: Urgent	DOC priority: Urgent
		<b>Action sought:</b>	<b>Response by:</b>
To Hon David Parker, Minister for the Environment		Decision on recommendations in Table A	To be advised
To Hon Poto Williams, Minister of Conservation		Decision on recommendations in Table A	To be advised

Actions for Ministers' Office staff	<p><b>Return</b> the signed briefing to MfE and DOC.</p> <p><b>(Environment only)</b> Send attached letters (if signed) with accompanying templates and links to application documents.</p>
Number of attachments: 7	<p>Attachments:</p> <ol style="list-style-type: none"> <li>1. Letter to Ministers – inviting comments on Te Araroa Barge Facility Project referral</li> <li>2. Letter to Gisborne District Council – inviting comments on Te Araroa Barge Facility Project referral</li> <li>3. Letter to Waka Kotahi New Zealand Transport Agency – inviting comments on Te Araroa Barge Facility Project referral</li> <li>4. Letter to Te Rimu Trust requesting further information</li> <li>5. Application documents (pdf/Databox link) – to send with letters to Ministers</li> <li>6. Application documents (pdf/Databox link) – to send with letters to Gisborne District Council and other parties</li> <li>7. Templates for comment (3)</li> </ol>

### Contacts

Position	Name	Cell phone	1 <sup>st</sup> contact
<b>Ministry for the Environment</b>			
Principal Author	Max Gander-Cooper		
Acting Manager	Madeleine Berry	s 9(2)(a)	✓
Director	Caroline Hart	s 9(2)(a)	
<b>Department of Conservation</b>			

Position	Name	Cell phone	1 <sup>st</sup> contact
Principal Author	Geoff Deavoll		
Responsible Manager	Trevor Ellis	s 9(2)(a)	✓
Director	Steve Taylor	s 9(2)(a)	

## **FTC #168: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Joint Stage 1 decisions**

### **Key messages**

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1. This briefing seeks your joint initial decisions on an application from Te Rimu Trust to refer the Te Araroa Barge Facility Project (project) to an expert consenting panel (panel) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA).
2. The project is to construct and operate a barge facility at Te Araroa Road, Te Araroa, Gisborne for the primary purpose of facilitating transport of logs from the local forestry industry. The facility will include an excavated mooring basin, facilities for public recreation including water sports, a dredged access channel, two breakwaters (sea walls), boat ramp, boat moorings, rescue centre building, harbour control building, public toilet, and parking and hardstand areas.
3. Parts of the project will occur in the coastal marine area (CMA).
4. The project involves activities such as construction and operation of breakwaters, reclamation of and dredging in the CMA, construction of access roads, construction and operation of a public carpark and public amenity and ancillary buildings, construction and operation of a boat ramp, discharge of stormwater and contaminants to the CMA, earthworks and vegetation clearance in a natural wetland.
5. The project will require land use consents and water, discharge and coastal permits under the Tairāwhiti Resource Management Plan. The proposed activities would have overall non-complying activity status due to modification of a natural wetland, constructing breakwaters, dredging and reclamation of the CMA. The project will also require discretionary resource consents under the Resource Management (National Environmental Standards for Freshwater) 2020 (NES-F).
6. We have undertaken an initial (Stage 1) analysis of the referral application, and this is presented along with our recommendations in Table A.
7. The project meets some of the eligibility criteria in section 18(3) of the FTCA, but more analysis is needed before we can advise you if it meets the purpose of the FTCA (thus satisfying section 18(2) of the FTCA) and advise you on the matters in section 23(5) which may influence your referral decision.
8. We recommend you progress consideration of the application to the next stage of analysis (Stage 2) and invite comments from Gisborne District Council, specific Ministers listed in section 21(6) of the FTCA.
9. We recommend that you invite comments from Waka Kotahi New Zealand Transport Agency and the groups seeking customary marine title and/or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) who may be affected by the project as additional parties under section 21(3) of the FTCA, and the Ministers for Economic and Regional Development and for Māori Development as additional Ministers under section 21(6)(n) of the FTCA.
10. We also recommend that you request further information from the applicant as detailed in Table A.

### **Statutory framework summary**

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11. You must make decisions on the referral application jointly as parts of the project will occur in the CMA.

12. You may decline the referral application before seeking comments from the relevant local authorities and any relevant Ministers:
- a. if you are satisfied the project does not meet the referral criteria in section 18 of the FTCA, (which include helping to achieve the purpose of the FTCA) (see sections 18(2) and 23(1) of the FTCA)
  - b. for any other reason (see section 23(2) of the FTCA).
13. If you do not decline the referral application at this stage:
- a. you must provide the application to, and invite comments from, the relevant local authorities and the relevant Ministers prescribed by section 21(6) of the FTCA
  - b. you may provide the application to and invite comments from any other person.
14. You are also able to request further information from the applicant or any relevant local authority at any time before you decide to decline or accept the referral application (see section 22 of the FTCA).

### Action sought

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15. Please indicate your decisions on the recommendations in Table A.

### Signatures

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Madeleine Berry  
**Acting Manager – Fast-track Consenting**  
**Ministry for the Environment**



Trevor Ellis  
**RMA Manager**  
**Department of Conservation**

### Project to progress

Project details	Project description	Project funding	Is project eligible for referral? [section 18(3)]	Will project help to achieve the purpose of the FTCA? [section 19(d)]						Recommendations	Ministers' decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
<b>Name</b> Te Araroa Barge Facility Project  <b>Applicant</b> Te Rimu Trust  c/- Tonkin and Taylor Limited  <b>Location</b> Te Araroa Road, Te Araroa, Gisborne  The project site comprises: Whetumat arau C11 Block ML 396856 (Record of Title GSPR5D/9 12) Whetumat arau C14 Block ML 396856 (Record of Title GSPR5D/9 15) Tokata C13 Block ML 397411 (Record of Title GSPR5D/9 11)	<p>The project is to construct and operate a barge facility at Te Araroa Road, Te Araroa, Gisborne for the purpose of facilitating transport of logs from the local forestry industry. The facility will include an excavated mooring basin, facilities for public recreation including water sports, a dredged access channel, two breakwaters (sea walls), boat ramp, boat moorings, rescue centre building, harbour control building, public toilet, and parking and hardstand areas.</p> <p>Parts of the project will occur in the coastal marine area (CMA).</p> <p>The project involves activities such as construction and operation of breakwaters, reclamation of and dredging in the CMA, construction of access roads, construction and operation of a</p>	<p>The applicant states that Crown Infrastructure Partners have provided funding for the design and consenting phases of the project only. We recommend that you seek additional information from the applicant on the funding source for the construction and delivery phases of the project.</p> <p>The applicant states that the funding agreement prescribes that the necessary resource consents must be submitted through the fast-tracking RMA consenting process noting that any potential benefits that may be realised from the project are only available if the project progresses through the FTCA process.</p> <p>In order to better</p>	<p>Based on available information at this stage, we consider the Project is eligible for referral because:</p> <ul style="list-style-type: none"> <li>it does not include any prohibited activities</li> <li>it does not include land returned under a Treaty settlement</li> <li>it does not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011.</li> </ul>	<p>Based on the applicant's information it is likely that the project will result in the following economic benefits:</p> <ul style="list-style-type: none"> <li>generating employment by creating approximately 120 direct 370 indirect full-time equivalent (FTE) jobs over a 3-year design and construction period</li> <li>contributing to the continuing viability of the forestry industry in the region</li> <li>contribute \$165 million to the regional GDP.</li> </ul>	<p>The applicant states that the primary positive effects on social wellbeing are job creation with the associated flow-on benefits and the potential for less truck movements on roads, with the associated reduction in risk of vehicle-related incidents and road degradation.</p> <p>We consider that the project may also result in positive effects through:</p> <ul style="list-style-type: none"> <li>increased viability of the forestry industry</li> <li>opportunities for recreation and community interconnectedness</li> </ul> <p>The applicant has not provided comments on how the project will contribute to cultural wellbeing. We recommend you seek further information from the applicant on how the project will affect cultural wellbeing of current and future generations.</p>	<p>The applicant states that as the funding for the project is conditional upon the necessary resource consent applications being submitted through the FTCA process, there is no viable alternative consenting pathway available.</p> <p>Notwithstanding this, the applicant considers that the project is likely to progress faster through the FTCA process than under the Resource Management Act 1991 (RMA) due to the potential for notification and possible appeals.</p> <p>We recommend you seek comments from Gisborne District Council on the appropriateness of the project progressing under the FTCA.</p>	<p>Based on the information provided by the applicant we consider that the project has the potential to result in the following public benefits:</p> <ul style="list-style-type: none"> <li>generating employment</li> <li>providing infrastructure to improve economic and employment outcomes</li> <li>strengthening economic and social resilience to the risks of natural hazards and the effects of climate change.</li> </ul>	<p>We consider that the project has the potential for significant adverse effects on ecological and landscape values in the coastal environment.</p> <p>The project site is located within an Outstanding Natural Landscape (ONL), a Significant Values Coastal Management Area (SVCMA) and Regionally Significant Wetland identified in the Tairāwhiti Resource Management Plan. The application does not state whether the adverse effects of the project on ecological and landscape values will be minor, more than minor or significant, and instead states that any adverse effects can be successfully offset or compensated for. We sought additional information from the applicant on this and other matters, but the response did not adequately address our request. The response instead identified that the wetland on the project site is groundwater-fed, and earthworks may</p>	<p>Policy 11 of the New Zealand Coastal Policy Statement 2010 (NZCPS) requires the 'avoidance' of adverse effects on a range of significant values, a number of which will be present within and adjacent to the project site. Policy 11(b) also requires the 'avoidance' of significant adverse effects on a range of values and features including coastal wetlands and duneland habitats. The applicant has provided a high-level assessment which states that effects on wetland fauna will be managed and mitigated appropriately. It is not clear how this addresses the avoidance specifications of Policy 11.</p> <p>Policy 15 of the NZCPS requires that adverse effects on Outstanding Natural Landscapes in the coastal environment are avoided. The applicant states that adverse effects on landscape values arising from the project will be limited, and can be mitigated and offset. It is not clear that this satisfies Policy 15 of the NZCPS.</p>	<p>a. <b>Note</b> that section 23(3) of the FTCA permits you to decline the referral application without inviting comments from the relevant local authorities and any relevant Ministers.</p> <p>b. <b>Note</b> that you have not yet provided the application to, nor sought any comments on it from, relevant local authorities or relevant Ministers but that you are required to do so if you do not decline the application under section 23(3) of the FTCA.</p> <p>c. <b>Note</b> that section 21(3) of the FTCA permits you to forward an application to, and invite written comments from, any other person.</p> <p>d. <b>Note</b> that section 22 of the FTCA permits you to request further information from the applicant or relevant local authorities at any time before you decide whether to accept or decline an application.</p> <p>e. <b>Agree</b> to progress the Te Araroa Barge Facility Project to our Stage 2 analysis. The project warrants further analysis because it has potential to achieve the purpose of the FTCA but we need to consider matters further before providing you with a complete briefing.</p> <p>f. <b>Agree</b> to provide the application to, and invite comments from:</p> <ol style="list-style-type: none"> <li>the Ministers listed in section 21(6)(a)–(m) of the FTCA</li> <li>the Minister for Economic and Regional Development and the Minister for Māori Development as additional relevant Minister under section 21(6)(n) of the FTCA</li> <li>the relevant local authority – Gisborne District Council</li> <li>Waka Kotahi New Zealand Transport Agency as an</li> </ol>	<p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Is project eligible for referral? [section 18(3)]	Will project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Ministers' decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
	<p>public carpark and public amenity and ancillary buildings, construction and operation of a boat ramp, discharge of stormwater and contaminants to the CMA, earthworks and vegetation clearance in a natural wetland.</p> <p>The project will require land use consents and water, discharge and coastal permits under the Tairāwhiti Resource Management Plan and resource consents under the Resource Management (National Environmental Standards for Freshwater) 2020 (NES-F). The proposed activities would have overall non-complying activity status due to modification of a natural wetland, constructing breakwaters, dredging and reclamation of the CMA</p>	understand the funding arrangement for this project, we recommend that you request a copy of the funding agreement from the applicant.						<p>result in the significant alteration or loss of an extent of the wetland. The response did note that an engineered solution may be available to prevent these effects, but that its design is currently in concept stage only.</p> <p>We do not consider that the information provided by the applicant is sufficient for us to advise you on whether the project meets the purpose of the FTCA of promoting sustainable management of natural and physical resources. However, we do not consider that you should decline the application at this stage. We consider you could make a decision on whether the project achieves the purpose of the FTCA at Stage 2 with the benefit of comments received from the council, Ministers identified in section 21(6) of the FTCA, two additional Ministers, Waka Kotahi and applicants for customary marine title under the Takutai Moana (Marine and Coastal Area) Act 2011 (MACAA).</p>	<p>The project may be inconsistent with the objectives and policies of the NZCPS.</p> <p>We recommend that you seek further information from the applicant on how the project gives effect to the NZCPS, particularly policies 11 and 15.</p> <p>It is not clear what project works will occur on Tokata C13 Block, and whether the site includes any Crown land. We recommend that you seek additional information from the applicant on what works will be undertaken at Tokata C13 Block of Māori Freehold Land and whether the project site will include any Crown land and whether any additional approvals are required for those works.</p> <p>Section 62(3) of the MACAA requires that before an applicant applies for a resource consent in relation to a part of the common marine and coastal area for which a group has applied for customary marine title, the applicant must notify the applicant group and seek their views on the application. We recommend you seek comments on the application from any MACAA applicants who may be affected by the project.</p>	<p>additional person under section 21(3) of the FTCA:</p> <p>v. the groups seeking customary marine title and/or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 who may be affected by the project</p> <p>g. <b>Agree</b> to seek further information from the applicant on project funding and delivery, social and cultural wellbeing, whether there is Crown Land in the project site, whether any works will take place on Tokata C13 Block, implications of the Te Ture Whenua Māori Act 1993 and consistency with the New Zealand Coastal Policy Statement 2010 from the applicant.</p> <p>h. <b>Sign</b> the attached letters to Ministers.</p> <p>i. <b>Note</b> that while awaiting comments from invited parties and further information, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations – Te Arawhiti, prepare a report for the purpose of section 17 of the FTCA.</p>	<p>Yes/No</p> <p>Yes/No</p>

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				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
									Some of the land within the project site is subject to conditions of partition orders under the Te Ture Whenua Maori Act 1993. We recommend that you seek further information from the applicant on whether this will impact project delivery.		

Signed:

Hon David Parker  
Minister for the Environment

Date:

Signed:

Hon Poto Williams  
Minister of Conservation

Date: