

## FTC #192 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Joint Stage 2 decisions

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

Date submitted:	9 March 2023	MfE#: BRF-2174	DOC#: 22-B-0088
Security level	In-Confidence	MfE priority: Urgent	DOC priority: Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decisions on recommendations	To be advised
To Hon Poto Williams, Minister of Conservation	Decisions on recommendations	To be advised

Actions for Ministers' Office staff	Return the signed briefing to MfE and DOC <b>(Environment only)</b> Send attached notice of decisions letter (if signed).
Number of appendices: 7	<p>Appendices:</p> <ol style="list-style-type: none"> <li>1. Te Araroa Barge Facility Project application and further information received (Databox link)</li> <li>2. Stage 1 Briefing Note and decisions (Databox link)</li> <li>3. Statutory framework for making decisions (Databox link)</li> <li>4. Draft Notice of Decisions letter to Te Rimu Trust</li> <li>5. Section 17 Report (Databox link)</li> <li>6. Comments received from Ministers, Gisborne District Council and Potikirua ki Whangaokena Takutai Kaitiaki Trust (Databox link)</li> <li>7. Further information received post-consultation (Databox link).</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)	✓
Acting Director	Sarah Stevenson	s 9(2)(a)	
<b>Department of Conservation</b>			
Principal Author	Geoff Deavoll		
Responsible Manager	Trevor Ellis	s 9(2)(a)	✓
Director	Steve Taylor	s 9(2)(a)	

## **FTC#192: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Joint Stage 2 decisions**

### **Key messages**

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1. This briefing seeks your final joint decisions on the application received under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) from Te Rimu Trust to refer the Te Araroa Barge Facility Project (project) to an expert consenting panel (panel). A copy of the application is in Appendix 1.
2. This is the second briefing on this application. The first (Stage 1) briefing (BRF-2174 and 22-B-0678) with the initial joint decision annotated is in Appendix 2.
3. The project is to construct and operate a barge facility at Te Araroa Road, Te Araroa, Gisborne near the mouth of the Karakatuwhero River 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, parking and hardstand areas and ecological enhancement and restoration of wetlands.
4. Parts of the project will occur in the coastal marine area (CMA).
5. The project will involve activities such as:
  - a. earthworks including in a natural wetland
  - b. vegetation clearance including in a natural wetland
  - c. construction of breakwaters
  - d. reclamation of and dredging in the CMA
  - e. construction of access roads
  - f. construction and operation of a public carpark and public amenity and ancillary buildings
  - g. construction and operation of a boat ramp
  - h. occupation of the CMA with structures
  - i. discharge of stormwater and contaminants to the CMA
  - j. carrying out planting and wetland restoration
  - k. carrying out any other activities that are:
    - i. associated with the activities described in paragraphs (a) to (j); and
    - ii. within the scope of the project as described in paragraph 3.
6. The project will require land use consents and water, discharge and coastal permits under the Tairāwhiti Resource Management Plan (TRMP) and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).
7. The land-based components of the project will occur in the Rural General zone under the TRMP. The proposed activities would have overall non-complying activity status under the TRMP due to modification of a natural wetland, constructing breakwaters, dredging and reclamation of the CMA. Accordingly, a panel would be required to consider whether any

resource consent application for the project meets at least one of the 'gateway tests' in section 104D of the Resource Management Act 1991 (RMA). The applicant considers the project can pass both these 'gateway tests'.

8. You must make decisions on the referral application jointly as the project is partly within the CMA.
9. We note that comments on this referral application were received prior to the events associated with Cyclone Hale and Cyclone Gabrielle. We are aware of the Tairāwhiti Review into forestry practices in the region, but do not consider that it is a relevant factor in considering this project against the purpose of the FTCA.
10. We consider there is likely to be a high level of public interest in the project given previous public opposition to a similar proposal<sup>1</sup> in the same location. The project has the potential for adverse effects on ecological values, on landscape values, and loss and disturbance of natural wetlands and may be inconsistent with the New Zealand Coastal Policy Statement 2010 (NZCPS).
11. We note comments received from Potikirua ki Whangākena Takutai Kaitiaki Trust (PWTKT) indicate that referring the project may not give effect to the Deed of Agreement between Ngā hapū o Ngāti Porou and the Crown.
12. We consider the project will generate employment, result in public benefit by contributing to the continuing viability of the forestry industry and have positive effects on social well-being by enabling public recreation and connection. However it is not clear whether the project meets the section 18 referral criteria, and we consider it would be more appropriately considered through standard processes under the RMA.
13. We recommend you decline the referral application under section 23(1), 23(2) and 23(5)(b) of the FTCA. We seek your joint decision on this recommendation.

## Assessment against statutory framework

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14. The statutory framework for your decision-making is set out in Appendix 3. You must apply this framework when you are deciding whether or not to accept the application.
15. You must decline the referral application if you are satisfied the project does not meet the section 18 referral criteria. You may also decline the application for any other reason, including those listed in section 23(5), whether or not the project meets the referral criteria.
16. However, before you make that decision you must consider the application and any further information provided by the applicant (in Appendix 1), the Section 17 Report (in Appendix 5), and comments from Ministers, Gisborne District Council (GDC) and PWTKT (in Appendix 6). We discuss these matters and provide our advice below.

## Further information provided by applicant

17. In response to your request under section 22 of the FTCA the applicant provided further information on:
  - a. how the project will contribute to social and cultural wellbeing
  - b. the land included within the project site

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<sup>1</sup> A proposal for a barge facility was socialised with the community in 2021 and did not progress to lodging a resource consent application.

- c. any action required under the Te Ture Whenua Maori Act 1993
- d. how the project is consistent with the NZCPS
- e. potential job losses arising from the project

18. We have taken this information into account in our analysis and advice.

## Section 17 Report

- 19. The Section 17 Report indicates that Te Rūnanganui o Ngāti Porou Trust is the sole iwi authority and Treaty settlement entity relevant to the project area.
- 20. The Section 17 report outlines Treaty settlement cultural/commercial redress provided under the Ngāti Porou Treaty settlement relevant to the project area, including acknowledgements and apologies relating to recognition of rangatiratanga which have implications for engagement and participation of Ngāti Porou in resource management decision-making in their rohe, which are discussed further below.
- 21. The Ngāti Porou Treaty settlement does not create any co-governance or co-management processes that would affect decision-making under the RMA for this project.

## Comments received

- 22. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i), GDC, and PWTKT. The key points of relevance to your decision are summarised in Table A.

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

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- 27. GDC supported project referral and considered the project will contribute to economic and employment outcomes and improve transport resilience. GDC noted the project is complex and is likely to be publicly notified and subject to a hearing process, the project would be likely to have adverse environmental effects and there is widespread community opposition to the project (including a protest/hikoi opposing a similar proposal in August 2021, for which a consent applicant was not lodged).
- 28. PWTKT represents the hapū seeking customary marine title and/or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA) within the project area. PWTKT opposed project referral because the ability of hapū to be meaningfully involved in a consenting process under the FTCA is limited compared to the RMA and the provisions of the Amended Deed of Agreement 2017 between the Crown and Ngā hapū o Ngāti Porou and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019<sup>2</sup>. MACAA directs that Ngā hapū o Ngāti Porou are treated as affected parties and prescribed persons for the purposes of public notification for resource consent applications under the RMA, which would not be the case under the FTCA. PWTKT also considered referring the project may impact

<sup>2</sup> <https://www.legislation.govt.nz/act/public/2019/0019/latest/LMS16784.html>

on ongoing negotiations between the Crown and Ngāti Porou relating to applications for customary marine title.

29. s 9(2)(f)(ii), s 9(2)(g)(i) and GDC made recommendations for information you should require the applicant to provide with a resource consent application to a panel if the project is referred. This information is identified in Table A.

### Section 18 referral criteria

30. Although the project does not include activities listed in section 18(3) that would make it ineligible for referral, it is not clear whether the project will help to achieve the purpose of the FTCA. You must be satisfied the project will help to achieve the purpose of the FTCA under section 18(2) in order to refer the project.
31. Earthworks within a natural wetland are prohibited under the NES-F) where they result or are likely to result in the complete or partial drainage of all or part of a natural wetland. A project is not eligible for referral if it includes a prohibited activity under section 18(3)(a) of the FTCA. However, earthworks within a natural wetland for the purpose of constructing specified infrastructure are a discretionary activity.
32. The project involves earthworks within natural wetlands and the applicant has provided an assessment that the barge facility meets the definition of specified infrastructure under the NES-F and the National Policy Statement for Freshwater Management 2020 (NPS-FM) because it is regionally significant infrastructure. This is on the basis that the project meets the definition of infrastructure under the Tairāwhiti Regional Policy Statement (TRPS) and will provide regionally significant economic and employment benefits. None of the parties invited to comment disagreed with the applicant's assessment.
33. For making your decision on this referral application, we consider the project does not include an activity that has prohibited status under the NES-F and the eligibility criteria of section 18(3)(a) of the FTCA are met.
34. We consider the project can help to achieve the employment and investment certainty objectives of the FTCA's purpose and meets section 18(2) in this regard. This is because the project has the potential to:
- a. generate employment by creating approximately 120 direct full-time equivalent (FTE) jobs over a 3-year design and construction period and 8 ongoing FTE jobs once the barge facility is operational
  - b. contribute to the continuing viability of the forestry industry in the region
  - c. provide infrastructure to improve economic and employment outcomes, strengthen economic and social resilience to the risks of natural hazards and the effects of climate change
  - d. have positive effects on the social well-being of current and future generations by enabling community recreation and connection.
35. However, the FTCA purpose requires that these objectives are achieved while promoting sustainable management of natural and physical resources<sup>3</sup>. Section 19 provides a range of matters that you may have regard to when considering, for the purpose of section 18(2),

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<sup>3</sup> **Sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while— (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

whether a project will help to achieve the purpose of the FTCA, including by considering whether there is the potential for the project to have significant adverse environmental effects (section 19(e)) and any other matter that you consider relevant (section 19(f)).

36. The project may not promote sustainable management of natural and physical resources as it involves the use and development of land and the CMA in a way that may not enable people and communities to provide for their social, economic, and cultural well-being, while avoiding, remedying, or mitigating any adverse effects of activities on the environment, as explained in Table A. This is because the project has potential for significant adverse effects on threatened and at-risk species, on the Hicks Bay Unit 2 Outstanding Natural Landscape (ONL) identified in the TRMP, and on coastal wetland environments. It is not clear whether these adverse effects can be avoided as required by Policies 11 and 15 of the NZCPS and therefore whether the project is consistent with the NZCPS.
37. We do not consider that you can be satisfied that the project will promote sustainable management of natural and physical resources and thereby help to achieve the FTCA purpose under section 18(2).
38. If you agree, you must decline the referral application under section 23(1) of the FTCA.

#### **Other reasons to decline**

39. Even if you are satisfied the project meets the referral criteria in section 18 of the FTCA, section 23(2) of the FTCA permits you to decline to refer the project for any other reason.

##### *Section 23(5) FTCA matters*

40. Section 23(5) of the FTCA provides further guidance on reasons to decline an application, and our analysis of these matters is summarised in Table A.
41. You may decline a referral application if it is inconsistent with a national policy statement under section 23(5)(c) of the FTCA. Policy 11 of the NZCPS requires that adverse effects of activities on threatened and at-risk species, and significant adverse effects on indigenous ecosystems that are only found in the coastal environment and are particularly vulnerable to modification (including coastal wetlands) are avoided. The application states the project site includes habitat for shore skinks (at-risk), possible habitat for Australasian bittern (threatened), and contains a coastal wetland which is identified as a Regionally Significant Wetland in the TRMP. The applicant proposes mitigation and biodiversity offsetting to manage effects on skinks and bitterns but acknowledges that adverse effects cannot be avoided. The applicant also proposes to offset adverse effects on coastal wetland ecosystems, but it is not clear whether these effects will be significant. The applicant considers the project is inconsistent with parts of Policy 11 in that it fails to completely avoid adverse effects on threatened and at-risk species.
42. Policy 15(a) of the NZCPS requires that adverse effects on outstanding natural features and landscapes in the coastal environment are avoided. The project site is located within the Hicks Bay Unit 2 ONL as identified in the TRMP. The ONL is extensive and encompasses all of the Hicks Bay coastal area, including the project site. The applicant's landscape expert considers the effects of the project on the outstanding landscape values will be limited and not significant and the applicant proposes to mitigate and offset adverse effects on the ONL by planting and enhancing remaining natural areas within the wider ONL. However, we consider there is a risk that this approach does not align with the directive under Policy 15 to avoid adverse effects on the ONL.
43. We consider that further detailed consideration is necessary to ascertain consistency of the project with the policies of the NZCPS and at this stage we cannot provide definitive advice on whether the project is inconsistent with the NZCPS. Therefore, we do not consider that you should decline the referral application under section 23(5)(c) of the FTCA (inconsistency



with a relevant national policy statement).

44. We have considered whether it would be more appropriate for the project to be considered under standard RMA consenting process. Given the potential adverse effects on the ONL, there may be a high level of public interest in the project and an expectation from the public that they should be given the opportunity to be involved in any consenting process. The protection of outstanding natural features and landscapes from inappropriate use and development is a matter of national importance under section 6(b) of the RMA.
45. GDC also provided comment relating to public interest, including reference to protests and hikoi in opposition to a previous barge facility proposal at the project site which also indicate there may be a high level of public interest in the project.
46. Given the matters raised above, we consider that the project would be more appropriately considered under standard RMA consenting process to enable broader public consultation. We consider that you should decline the project under section 23(5)(b) of the FTCA because it would be more appropriate for the project to go through the standard consenting process under the RMA.

#### *Other matters*

47. We have identified two issues further to the matters identified above and our analysis of these is in Table A.
48. The project area is included in a number of applications for customary marine title under MACAA. PWTKT, who represents the MACAA applicants, opposed project referral as they consider that referral of the project could interfere with these ongoing processes.
49. PWTKT also consider that the opportunity to provide comment on a resource consent application for the project to a panel under the FTCA is an abridged process compared to what is available under the RMA and may not give local hapū the opportunity to be meaningfully involved. PWTKT consider this may not be consistent with the Deed of Agreement between the Crown and Ngā hapū o Ngāti Porou, that identifies the primacy of hapū in decision-making within Ngāti Porou iwi territory and requires that these hapū are deemed affected parties for RMA applications in areas covered by the agreement.
50. You must exercise your powers and functions under the FTCA in a manner that is consistent with the principles of the Treaty of Waitangi and Treaty settlements under section 6 of the FTCA. We note that you could require a panel to invite the individual hapū to comment on a resource consent application, but the rights of a person who is invited to comment on a consent application under the FTCA are more limited than a person who is notified of a resource consent application under the RMA. We have not undertaken a full legal analysis of the implications of the Deed of Agreement on referring this project, including consistency of referring the project with the requirement in the Deed of Agreement to deem hapū are affected parties for RMA applications in areas covered by the agreement. However, we consider the concerns raised by PWTKT indicate that consideration of the project may benefit from the wider consultation and longer timeframes than the FTCA allows for.
51. The applicant has stated the funding for the project will be provided by Crown Infrastructure Partners and is conditional upon consents being applied for under the FTCA process rather than the RMA. Therefore, declining this referral application may have implications for the intended project funding arrangements. However, we do not consider this to be relevant to your referral decision.

## **Conclusions**

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52. The overarching purpose of the FTCA (under section 4) is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and

to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources. Although the project meets part of the referral criteria in section 18, including some aspects of the FTCA's purpose because it will help to urgently generate employment, it is not clear whether you can be satisfied the project will promote sustainable management of natural and physical resources. On balance, we do not consider the project will help to achieve the purpose of the FTCA. If you agree, you must decline the referral application under section 23(1) of the FTCA.

53. Further, we consider that it is more appropriate for the project to go through standard processes under the RMA due to the location within an ONL and the potentially high level of public interest. We consider that on balance, due to the issues and risks associated with the project summarised above, it is appropriate to decline to refer the application under sections 23(1), 23(2) and 23(5)(b) of the FTCA.

## Next steps

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54. If you decide to decline project referral, you must give notice of your decisions, and the reasons for them, to the applicant and anyone invited to comment under section 21.
55. We have attached a notice of decisions letter to the applicant based on our recommendations (refer Appendix 4). Once you have signed the letter, we will assist your office to copy it to all relevant parties.
56. As required by section 25(3) of the FTCA, you must ensure that your decisions on the referral application, the reasons and the Section 17 report are published on the Ministry for the Environment's website. We will undertake this task on your behalf in accordance with your direction.
57. Our recommendations for your decisions follow.



## Recommendations

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1. We recommend that you:

- a. **Note** that section 23(1) of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) requires you to decline the referral application from Te Rimu Trust unless you are satisfied that the Te Araroa Barge Facility Project (project) meets all the referral criteria in section 18 of the FTCA, including that it would help to achieve the FTCA's purpose.
- b. **Note** that that section 23(2) of the FTCA also allows you to decline an application for any other reason, whether or not the project meets the referral criteria.
- c. **Note** that before deciding to decline the application for project referral under section 23 of the FTCA you must consider:
  - i. the application
  - ii. the report obtained under section 17 of the FTCA
  - iii. any comments and further information sought and provided within the required timeframe.
- d. **Note** that Potikirua ki Whangaokena Takutai Kaitiaki Trust opposed project referral and considered the use of the FTCA process may fail to give effect to the Deed of Agreement between Ngā hapū o Ngāti Porou and the Crown.
- e. **Decline** to refer the project to a panel under section 23(1), 23(2) and 23(5)(b) of the FTCA for the following reasons:
  - i. although the project meets part of the referral criteria in section 18, including some aspects of the FTCA's purpose because it will help to urgently promote employment, it may not promote sustainable management of natural and physical resources and therefore help to achieve the purpose of the FTCA
  - ii. it would be more appropriate for the project to go through standard consenting processes under the Resource Management Act 1991.

Yes/No
- f. **Sign** the notice of decisions letter to the applicant (attached in Appendix 4).


Yes/No
- g. **Note** that should you disagree with our recommendation to decline the referral application, we will need to give further consideration to directions to a panel and/or the applicants that would be advisable under section 24 of the FTCA.

- h. **Require** the Ministry for the Environment to publish your decisions, reasons and the Section 17 report on the Ministry for the Environment's website.

Yes/No

## Signatures

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



Trevor Ellis  
**RM Regulatory Delivery Manager**  
**Department of Conservation**

Hon David Parker  
**Minister for the Environment**

**Date:**

Hon Willow-Jean Prime  
**Minister of Conservation**

**Date:**

**Table A: Stage 2 - Project summary and section 24 assessment for projects where the Minister for the Environment and Minister of Conservation are joint decision makers**

Project details	Project description	Does all or part of the project meet the referral criteria in section 18?		Summary of comments received (Note: for analysis and/or recommended responses to these comments refer to column 7)	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility for referral (section 18(3)(a)–(d))	Section 18(2) - does the project help achieve the purpose of the FTCA (as per section 19)?			
<b>Name</b> Te Araroa Barge Facility Project  <b>Applicant</b> Te Rimu Trust c/- Tonkin and Taylor  <b>Location</b> Te Araroa Road, Te Araroa, Gisborne  The project site includes:  Whetumatarau C11 Block ML 396856 (Record of Title GSPR5D/912)  Whetumatarau C14 Block ML 396856 (Record of Title GSPR5D/915)  Tokata C13 Block ML 397411 (Record of Title GSPR5D/911)	The project is to construct and operate a barge facility at Te Araroa Road, Te Araroa, Gisborne near the mouth of the Karakatuwhero River 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, parking and hardstand areas and ecological enhancement and restoration of wetlands.  Parts of the project will occur in the coastal marine area (CMA).  The project will involve activities such as: a. earthworks including in a natural wetland b. vegetation clearance including in a natural wetland c. construction of breakwaters	The project is eligible for referral under section 18(3)(a)–(d) as: <ul style="list-style-type: none"> <li>it does not include any prohibited activities</li> <li>it does not include activities on land returned under a Treaty settlement</li> <li>it does not include activities in a customary marine title area or a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA)</li> </ul> We note that while the project would not occur in a customary marine title area, it would occur in an area for which there are currently applications for customary marine title under MACAA.	<b>Economic benefits for people or industries affected by COVID-19 (19(a))</b>  Based on the applicant's information it is likely that the project will result in the following economic benefits: <ul style="list-style-type: none"> <li>generating employment by creating approximately 120 direct full-time equivalent (FTE) jobs over a 3-year design and construction period and 8 ongoing FTE jobs once the facility is operational</li> <li>contributing to the continuing viability of the forestry industry in the region</li> <li>contributing \$165 million to the regional GDP.</li> </ul> <b>Economic costs for people or industries affected by COVID-19 (19(a))</b> <ul style="list-style-type: none"> <li>N/A</li> </ul> <b>Effect on the social and cultural well-being of current and future generations (19(b))</b>  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.  We consider that the project may also result in positive effects through: <ul style="list-style-type: none"> <li>contributing to the continuing viability of the forestry industry</li> <li>providing opportunities for recreation and community interconnectedness.</li> </ul> <b>Is the project likely to progress faster by using this Act? (19(c))</b>	<b>Ministers</b>  s 9(2)(f)(ii), s 9(2)(g)(i)  s 9(2)(f)(ii), s 9(2)(g)(i)  <ul style="list-style-type: none"> <li>s 9(2)(f)(ii), s 9(2)(g)(i)</li> </ul> s 9(2)(f)(ii), s 9(2)(g)(i)  s 9(2)(f)(ii), s 9(2)(g)(i)  <b>Local authorities</b>  Gisborne District Council (GDC) supported project referral and considered: <ul style="list-style-type: none"> <li>the barge facility will remove the tyranny of distance, one of the reasons why the East Cape region is one of New Zealand's most economically deprived areas</li> <li>Te Araroa is an isolated community on the East Coast with limited employment pathways and the project would create employment opportunities in the area</li> </ul>	<b>Section 23(5) matters:</b>  <b>Insufficient information (23(5)(a))</b>  We are satisfied that there is sufficient information to determine whether the project meets the purpose of the FTCA.  <b>More appropriate to go through standard RMA process (23(5)(b))</b>  Given the potential adverse effects on the ONL, there may be a high level of public interest in the project and an expectation from the public that they should be given the opportunity to be involved in any consenting process.  GDC also provided comment relating to public interest, including reference to protests and hikoi in opposition to a previous barge facility proposal at the project site, which also indicate there may be a high level of public interest in the project.  Given the matters raised above, we consider that the project would be more appropriately considered under standard RMA consenting process to enable broader public consultation and fulsome and robust consideration of the effects of the development and proposed mitigation and offsetting of these effects through expert evidence.  <b>Inconsistency with a national policy statement (23(5)(c))</b>  Policy 11 of the NZCPS requires that adverse effects of activities on threatened and at-risk species, and significant adverse effects on indigenous ecosystems that are only found in the coastal environment and are particularly vulnerable to modification (including coastal wetlands) are avoided. The application states the project site includes habitat for shore skinks (at-risk), possible habitat for Australasian bittern (threatened, nationally critical), and contains a	<b>Decline Project Referral</b>  The project does not contain any ineligible activities under section 18(3). It meets section 18(2) in part as it will urgently promote employment and investment certainty. However, we do not consider you can be satisfied that the project will promote sustainable management of natural and physical resources and therefore will not help achieve the purpose of the FTCA in full.  We consider that it is more appropriate for the project to go through standard processes under the RMA due to the project's location in an ONL, and likely public interest.  We consider that it is appropriate to decline to refer the application under sections 23(1), 23(2), and 23(5)(b) of the FTCA.  We recommend that you decline to refer the project for the following reasons: <ul style="list-style-type: none"> <li>although the project meets part of the referral criteria in section 18 including some aspects of the FTCA's purpose because it will help to urgently promote employment, it may not promote sustainable management of natural and physical resources and therefore help to achieve the purpose of the FTCA</li> <li>it would be more appropriate for the project to go through standard consenting processes under the Resource Management Act 1991.</li> </ul>



	<p>d. reclamation of and dredging in the CMA</p> <p>e. construction of access roads</p> <p>f. construction and operation of a public carpark and public amenity and ancillary buildings</p> <p>g. construction and operation of a boat ramp</p> <p>h. occupation of the CMA with structures</p> <p>i. discharge of stormwater and contaminants to the CMA</p> <p>j. carrying out planting and wetland restoration</p> <p>k. carrying out any other activities that are:</p> <p>i. associated with the activities described in paragraphs (a) to (j); and</p> <p>ii. within the scope of the project as described above.</p> <p>The project will require land use consents and water, discharge and coastal permits under the Tairāwhiti Resource Management Plan (TRMP) and resource consents under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F).</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. We consider this to be a reasonable position.</p> <p><b>Will the project result in a public benefit? (19(d))</b></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><b>Potential to have significant adverse environmental effects, including greenhouse gas emissions (19(e))</b></p> <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. A request for further information response</p>	<ul style="list-style-type: none"> <li>• the barge facility will take most logging truck trips off the road, put tax money back into the local community and open up new economic opportunities in tourism and coastal shipping</li> <li>• the barge would manage pressure on the state highway network, reducing road safety risks from fewer truck trips and reducing negative environmental impacts, and potentially road maintenance costs</li> <li>• if the proposal includes measures to protect and enhance the adjacent wetland there are potential positive environmental outcomes.</li> </ul> <p>GDC noted that potential adverse environmental effects from the barging operation, which seeks to dredge the foreshore and cut into an unmodified beach, has led to widespread opposition and protests from the Te Aroha community. In August 2021, a similar barge proposal resulted in a 200 whānau protest/hikoi. The hikoi was primarily a stance against a proposal to build a barge facility at the mouth of Karakatuwhero River.</p> <p>GDC also noted that the applicant has been subject to an abatement notice in January 2022 for earthworks in a regionally significant wetland and urupa, and a formal warning in late 2018/early 2019 for constructing an unconsented airstrip in the same area.</p> <p>GDC consider that due to the complexity of the project it is highly likely that it would be publicly notified if processed under standard RMA processes.</p> <p>GDC identified that the project is partly subject to the Unit 2 – Hicks Bay Outstanding Landscape, Te Whare Wetland Protection Management Area and Significant values management area overlays and recommended that if the project is referred you require the applicant to provide the following reports with an application to a panel:</p> <ul style="list-style-type: none"> <li>• groundwater assessment</li> <li>• ecological assessment</li> <li>• engineering reports</li> <li>• coastal and flood hazard reports</li> <li>• traffic reports</li> <li>• navigational safety assessment</li> <li>• landscape and visual assessment</li> <li>• cultural and heritage assessment</li> </ul> <p><b>Other parties</b></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 sought comments from Potikirua ki Whangaokena Takutai Kaitiaki Trust (PWTKT) as a representative of MACAA applicants for customary marine title in this location.</p>	<p>coastal wetland which is identified as a Regionally Significant Wetland in the TRMP. The applicant proposes mitigation and biodiversity offsetting to manage effects on skinks and bitterns, but acknowledges that adverse effects cannot be avoided. The applicant also proposes to offset adverse effects on coastal wetland ecosystems, but it is not clear whether these effects will be significant. The applicant considers the project is inconsistent with parts of Policy 11 in that it fails to completely avoid adverse effects on threatened and at-risk species.</p> <p>Policy 15(a) of the NZCPS requires that adverse effects on outstanding natural features and landscapes in the coastal environment are avoided. The project site is located within the Hicks Bay Unit 2 ONL as identified in the TRMP. The ONL is extensive and encompasses all of the Hicks Bay coastal area, including the project site. The applicant's landscape expert considers the effects of the project on the outstanding landscape values will be limited and not significant and the applicant proposes to mitigate and offset adverse effects on the ONL by planting and enhancing within the wider ONL. However, we consider this approach does not align with the directive under Policy 15 to avoid adverse effects on the ONL.</p> <p>We consider that further detailed consideration is necessary to ascertain consistency of the project with the policies of the NZCPS and at this stage we cannot provide definitive advice on whether the project is inconsistent with the NZCPS. Therefore, we do not consider that you should decline the referral application under section 23(5)(c) of the FTCA (inconsistency with a relevant national policy statement).</p> <p><b>Inconsistent with a Treaty settlement (23(5)(d))</b></p> <ul style="list-style-type: none"> <li>• N/A</li> </ul> <p><b>Involves land needed for Treaty settlements (23(5)(e))</b></p> <ul style="list-style-type: none"> <li>• N/A</li> </ul> <p><b>Applicant has poor regulatory compliance (23(5)(f))</b></p>	
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