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2 December 2020

Hon David Parker
Minister for the Environment
Private Bag 18041
Parliament Buildings
Wellington 6160

Dear Sir,

Covid-19 Recovery (Fast Track Consenting) Act 2020 – Whakatāne Commercial Boat Harbour Project

Thank you for your letter dated 18 November 2020 seeking comments from the Whakatāne District Council on the proposed commercial boat harbour being considered under the COVID-19 Recovery (Fast Track Consenting) Act 2020.

The boat harbour is a collaborative project with a Heads of Agreement signed by Te Rāhui Lands Trust, Te Rūnanga o Ngāti Awa, Ngāti Awa Group Holdings Ltd, Whakatāne District Council and the Crown to oversee the successful delivery of this project. For that reason, I have sought independent planning advice to ensure the assessment of the project has integrity and that our comments are appropriate given the RMA framework that exists for the site.

Please find attached the completed template that has been considered and prepared by Craig Batchelar from Boffa, Miskell Ltd in Tauranga. This reply recognises that the Bay of Plenty Regional Council has also been asked for its comments, and that it will consider matters covered under regional consents and the regional planning framework.

We look forward to receiving a decision on whether this exciting project for Whakatāne and the wider Eastern Bay can be progressed under the COVID-19 (Fast Tracking Consent) Act 2020. The assessment concludes it is appropriate, and we have turned our minds to who we may nominate as a local authority representative as part of a panel determining the application.

Yours sincerely

David Bewley
ACTING CHIEF EXECUTIVE

Comments on application for referral under the COVID-19 Recovery (Fast-track Consenting) Act 2020

Local authority providing comment	Whakatāne District Council
Contact person (if follow-up is required)	Craig Batchelar
	Planner, Partner, Boffa Miskell Ltd
	s 9(2)(a)

Comment form

Please use the table below to comment on the application.

Project name	Whakatāne Commercial Boat Harbour Project
General comment – potential benefits	<p>The Project will create significant new economic opportunities through investment and employment in the marine and tourism sectors. The boat harbour is predicted to contribute an additional 800 jobs by 2050, with 232 direct jobs by 2030, as well as 55 indirect jobs in the Eastern Bay of Plenty. Training will also be delivered in boat building and servicing. This is an important benefit given the high socio-economic deprivation status of the Eastern Bay of Plenty.</p> <p>There is an established marine industry cluster in Whakatāne, including two high specification boat builders, Surtees and Extreme Boats serving both local and export markets. The boat harbour will enhance agglomeration benefits for these and other business activities and will contribute to increased productivity and economic growth.</p> <p>In addition to commercial and recreational marine industry facilities, there will be an upgraded recreational boat ramp and parking facilities and a continuation to the open space and walking areas alongside the Whakatāne River.</p> <p>The need for development of additional facilities to meet growing demand for commercial and recreational boating in the Whakatāne Port was identified in the Port Operational Plan over 10 years ago. Several options have been explored, but with no tangible progress being made due to significant cultural and environmental constraints at other sites and locations.</p> <p>The boat harbour will provide a resilient vessel berthing and maintenance facility in Whakatāne, outside the main Whakatāne River. The facility will be provided with sewage disposal, stormwater treatment and other environmental measures, and will be well protected from flooding.</p> <p>The boat harbour will provide an alternative place for many of the commercial berths to go, removing less desirable marine activity from the town centre, and freeing up riverfront space for tourism and public space. At present, boats are required to double park when the river is in flood, and with the removal of the finger wharf (opposite Te Whare o Toroa Marae) that will reduce capacity along this stretch of the river.</p> <p>There will be less need for vessels to voyage or be transported to distant ports for service and maintenance, with safety and efficiency benefits, and reduced commercial vehicle movements through the Whakatāne town centre.</p>

	<p>The Boat Harbour will enable the return of part of the riverfront to its natural state and the recovery of cultural sight lines from Te Whare o Toroa Marae through removal of the existing Eastern Finger Jetty.</p> <p>The site development will result in the removal of contaminated wood waste from the Whakatāne Board Mill.</p> <p>The partnership between the Council, Te Rāhui Land Trust, Ngāti Awa and PGF will be a significant outcome of the project. The project will also make more efficient use of underused Maori owned land with direct benefits to owners.</p>
General comment – significant issues	<p>In overview, the “Rural Plains” zoning of the boat harbour site broadly contemplates development of facilities of the type proposed as “Marine Precinct Activities”. The policy framework recognises a fundamental need for some activities to be located where there is access to water. The activity status is a “discretionary activity”.</p> <p>The channel to the Whakatāne River passes through land zoned “Coastal Protection”. This zoning applies to a strip of land adjacent to the Coastal Marine Area along the coastline and part of the Whakatāne River. Although not generally intended for development, the zoning also recognises the fundamental need for some activities to be located where there is access to water and therefore makes specific provision for structures accessory to recreational and commercial activities on the surface of water. The activity status is a “discretionary activity”.</p> <p>The application identifies several relevant environmental issues that will need to be addressed.</p> <p>The most significant of these is likely to be the impact of the development on ecological values alongside the Whakatāne River. Some impact is unavoidable. The Councils policy is that restoration and rehabilitation of ecosystems and habitats, both on and off site, should be required where avoidance is not possible, and that this should achieve a net ecological gain.</p> <p>The development will change the character of the site from rural to a semi industrial urban environment. Mitigation of visual effects from adjacent areas will need to be addressed in the proposal, including views from the public walkway along the opposite bank of the river.</p> <p>The proposal shows five access points along Keepa Road. Keepa Road is a collector road and it is likely to have significant growth in the foreseeable future. While traffic safety and efficiency will be addressed in any traffic assessment, the initial impression is that the number of crossing points could be reduced to minimise conflicts, particularly for the future development of the adjacent vacant industrial zoned land.</p> <p>The vacant industrial zoned land on the opposite side of Keepa Road (about 7 ha) can be used for complimentary uses supporting a boat harbour and marine related activities.</p> <p>Part of this industrial land (about 4 ha) is currently subject to a request for a private plan change for the land to be zoned residential. This request is on hold. While the requested residential zoning has no legal weight, a change to a residential receiving environment is a foreseeable environmental outcome that should also be addressed. However, there appears to be no reason why the boat harbour could not co-exist alongside residential activities with appropriate amenity protection in place. Indeed, the boat harbour could catalyse a form of residential development that takes advantage of its proximity to a significant recreational and commercial activity.</p> <p>Urban services (water, wastewater, roading and utilities) run past the property to service development within the nearby coastal urban growth areas and have sufficient capacity to support the activity. The development will be subject to the payment of financial contributions towards any necessary upgrading of Council-provided assets.</p> <p>Any potential adverse effects arising from the application and mitigation measures can be tested through the expert consenting panel.</p>

Is Fast-track appropriate?	<p>The proposed fast track is appropriate as it will urgently promote employment and investment to support local recovery from COVID-19, while continuing to promote the sustainable management of natural and physical resources.</p> <p>The development of a boat harbour of this type has been an objective for the Whakatāne Port for more than a decade, identified in several Council strategy documents. The proposed site has emerged from a comprehensive consideration of options and is identified as a site where critical ecological and cultural effects can be appropriately managed.</p> <p>The range of effects are well understood, and the applicant will engage appropriate specialist expertise to support the proposal. Public notification of an application under a standard RMA notification process is unlikely to bring forward any relevant issues that are not already known of and understood.</p>
Environmental compliance history	<p>As Whakatāne Port Authority, the District Council has taken an active approach to environmental compliance. The Port Operational Plan has a policy to “Ensure full compliance with all regulatory requirements” with implementation methods for consenting and compliance and collaborating with the BOPRC as planning and consent authority. There are no known compliance history concerns.</p> <p>The partnership with TRONA will bring kaitiakitanga benefits to the project. TRONA have an Environmental Plan with objectives that seek to restore and enhance the health and diversity of ecosystems and habitats within their rohe for taonga flora and fauna species.</p>
Iwi and iwi authorities	Te Rūnanga o Ngāti Awa (TRONA)
Relationship agreements under the RMA	<p>There are no relationship agreements under the RMA.</p> <p>In this instance, the relationship between Council, landowners and Ngāti Awa is formalised through the Boat Harbour Development Heads of Agreement.</p>
Insert responses to other specific requests in the Minister’s letter (if applicable)	<p>Are there any reasons that you consider it more appropriate for the project, or part of the project, to proceed through standard Resource Management Act 1991 (RMA) consenting processes rather than the processes in the Act?</p> <ul style="list-style-type: none"> No. The fast track process will not lead to any diminishing of the process of assessment and decision making and will bring about significant economic, employment and other benefits in a timelier way. <p>Comment on parties that Council may consider have an interest in the project.</p> <p>The boat harbour project has had a significant profile through Council strategic planning processes and local news media, and direct engagement with key stakeholders. The community response has been mostly very positive, with minor adverse comments relating primarily to prioritisation of the boat harbour project over other activities.</p> <p>The following parties are considered to have an interest in the project:</p> <ul style="list-style-type: none"> Department of Conservation (as adjoining landowner); Bay of Plenty Regional Council (as adjoining landowner); Waka Kotahi – NZTA; TRONA*(as an entity having statutory acknowledgement of the Whakatāne River); Eastern Bay of Plenty Royal Forest and Bird Protection Society New Zealand Incorporated (Linda Conning) Whakatāne Harbour Care Group (Gaye Payze); Lysaght Developments (Ian and Adrienne Lysaght) (as adjacent landowners). <p>*TRONA should be asked for comment on hapu and other Mana Whenua who may have an interest in the project.</p>

Other considerations	The land is owned by Te Rāhui Lands Trust, and is Māori freehold land, but it was not returned as part of the Ngāti Awa Treaty Settlement in 2005, and the owners are agreeable to the development occurring on the land. The boat harbour will occupy land and is not part of a customary marine title or will not occur in a protected customary rights area.
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Note: All comments, including your name and contact details, will be made available to the public and the applicant either in response to an Official Information Act request or as part of the Ministry's proactive release of information. Please advise if you object to the release of any information contained in your comments, including your name and contact details. You have the right to request access to or to correct any personal information you supply to the Ministry.

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Comments on applications for referral under the COVID-19 Recovery (Fast-track Consenting) Act 2020

This form is for local authorities to provide comments to the Minister for the Environment on an application to refer a project to an expert consenting panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

Local authority providing comment	Bay of Plenty Regional Council
Contact person (if follow-up is required)	Ella Tennent
	Principal Advisor Consents
	s 9(2)(a)

Comment form

Please use the table below to comment on the application.

Project name	Whakatāne Commercial Boat Harbour Project
General comment – potential benefits	The project is likely to provide economic and social benefits to the community through the construction project and the long term provision of moorings and port facilities.
General comment – significant issues	<p>I have not identified any significant issues that would make the application inappropriate for a fast track consent process.</p> <p>Potential issues for the consent application are noted below.</p> <p>River Flooding Management</p> <p>The Whakatāne River has established stopbanks to protect property from flood events. The applicant has been in consultation with the Rivers and Drainage team of Bay of Plenty Regional Council and this team are satisfied that the proposal can be designed and implemented to avoid direct adverse effects on the Whakatāne River stopbanks. Associated dredging has the potential to alter river hydrology and potentially result in erosion and scour of the stopbanks and flood protection structures. The applicant's consultants have been working with BOPRC Rivers and Drainage to address this potential issue.</p> <p>Natural Wetlands and the National Environmental Standards for Freshwater (NESF)</p> <p>There are potentially natural wetlands located within the proposed harbour development site. If confirmed to be natural wetlands, this will need to be considered under the NESF and the National Policy Statement for Freshwater Management. Works within and adjacent a natural wetland for the purpose of constructing specified infrastructure is a discretionary activity. Specified infrastructure includes regionally</p>

significant infrastructure as identified in the Regional Policy Statement (RPS). The RPS definition of regionally significant infrastructure includes commercial ports. Assuming that the proposal is for a commercial port, then the application can be considered under the NESF. If the proposal does not meet the definition of specified infrastructure then disturbance to a natural wetland will be a non-complying or prohibited activity under the NESF.

Ecological Values

A proposed entrance to the harbour passes over a biodiversity site (Indigenous Biological Diversity Area A – A44 Whakatāne Estuary) which is also identified as a natural wetland and a significant natural area. The Whakatāne River is identified in Schedule 1 of the Regional Natural Resources Plan as a habitat and migratory pathway for koaro. Specifically at the Whakatāne River Estuary, where a proposed channel is to be constructed, the area is identified as a habitat of Caspian Tern, Royal Spoonbill, Banded Dotterel, Australasian Bittern, Banded Rail, North Island Fernbird and a range of other threatened waterbirds. The Whakatāne River is a whitebait spawning site and identified for regionally significant trout habitat and fishery values (Schedule 1). The application alludes to a southern channel to avoid this area however the map provided with the application shows only the northern entrance.

Aside from the construction effects, marinas can result in adverse water quality effects and biosecurity risks.

Regional Natural Resources Plan and Regional Coastal Environment Plan

The site is partially within the Coastal Environment and the Coastal Marine Area (CMA). Where the proposed works are within the CMA they will be subject to the Regional Coastal Environment Plan (RCEP) rules. The site is not within a harbour development zone of the RCEP. New regionally significant infrastructure and associated disturbance in an Indigenous Biological Diversity Area A is a non-complying activity under Rule SO 14 and discretionary activity under Rule DD 15 – if located within the CMA with the northern channel location. Policy SO 6 advises that new marinas should not be located within Indigenous Biological Diversity Area A (IBDA). Accordingly, the southern entrance channel option that avoids the IBDA is preferable in regards to policy direction and adverse effects on ecological values. I concur with the applicant's assessment of which rules are likely to be infringed under the Regional Natural Resources Plan (RNRP).

Summary

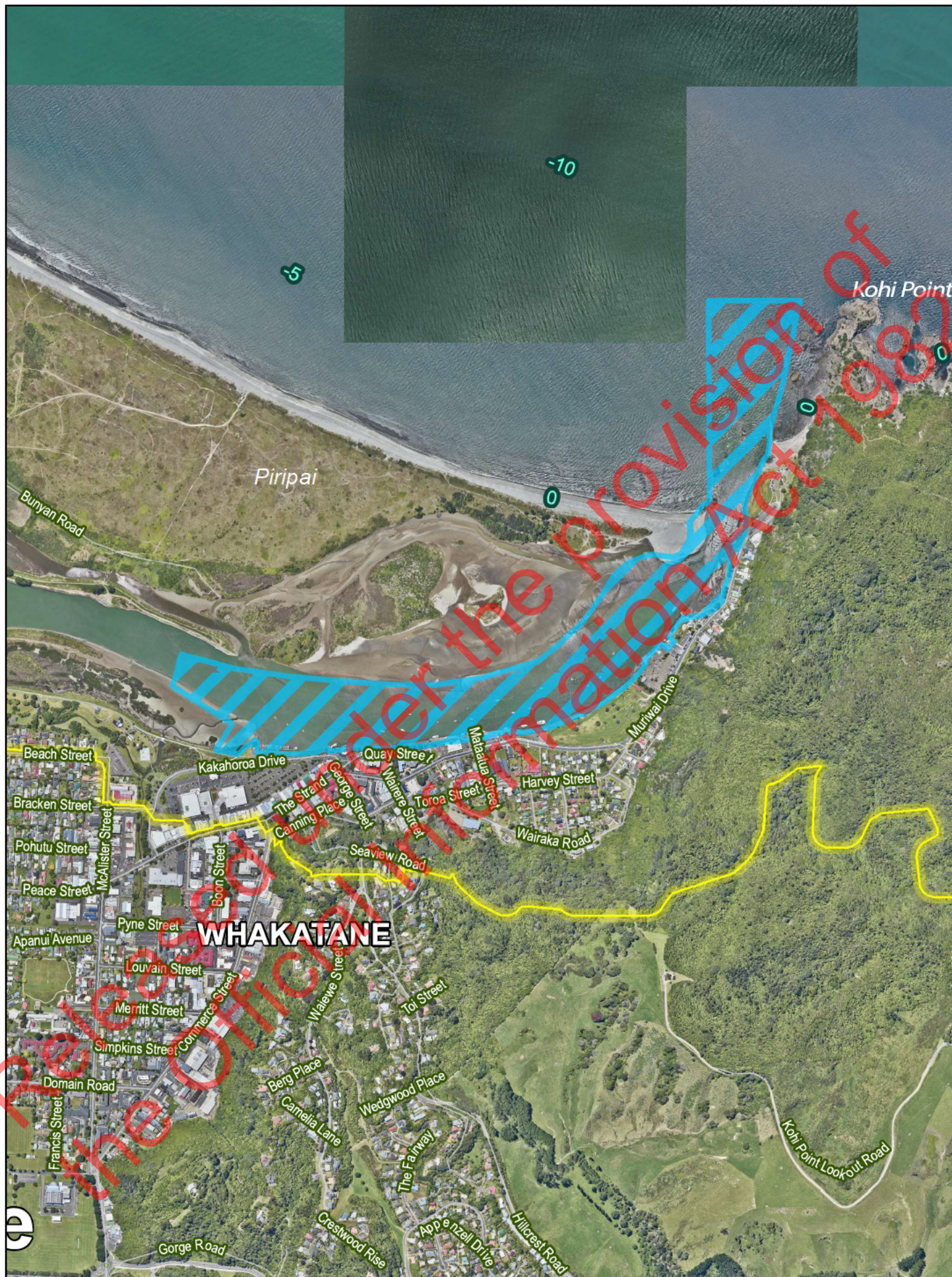
Overall, assuming that the Ministry is satisfied that the proposal is regionally significant infrastructure in regards to the wetland rules of the NESF, I do not foresee any significant issues that would deem the proposal inappropriate for processing through the fast track consenting process.

Is Fast-track appropriate?

Yes

Environmental compliance history	Within recent years, the Whakatāne District Council has had an exemplary compliance record on relevant consents. Such examples include the Whakatāne River wharf maintenance, Whakatāne River dredging, earthworks at the Whakatāne skate park which is a contaminated site, maintenance of the Whakatāne River boatramp and upgrade works at the Ōhope wharf.
Iwi and iwi authorities	Ngāti Awa. Within the Coastal Marine Area in proximity of the site there are the following applicants for customary marine title or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011: <ul style="list-style-type: none"> - Te Uri a Te Hapu - Ngāi Taiwhakaea Hapū - Ngai Tamahaua Hapu (Herewini) CMT - Te Rūnanga o Ngāti Awa - Ngati Awa and its constituent whanau and hapu
Relationship agreements under the RMA	Ngāti Awa is a Treaty partner and has an Environmental Management Plan. There is no formal relationship agreement between BOPRC and Ngāti Awa.
Insert responses to other specific requests in the Minister's letter (if applicable)	Parties that may have an interest in the project: <ul style="list-style-type: none"> -Department of Conservation -Iwi, as named above -Eastern Bay of Plenty Royal Forest and Bird Protection Society NZ Inc. -Whakatāne Harbour Care Group -Whakatāne Coastguard
Other considerations	Click or tap here to insert any other responses you consider relevant for the Minister to be aware of.

Note: All comments, including your name and contact details, will be made available to the public and the applicant either in response to an Official Information Act request or as part of the Ministry's proactive release of information. Please advise if you object to the release of any information contained in your comments, including your name and contact details. You have the right to request access to or to correct any personal information you supply to the Ministry.



Map Legend

 Coastal Environment

Landscape

 Outstanding Natural Features and Landscapes

Ecology and Heritage

 Shipwreck

 Surf Breaks

 Historic Heritage Inventory

 Indigenous Biological Diversity Area A

 Indigenous Biological Diversity Area B

 Areas of Significant Cultural Value


Use

 Area Occupied by Port of Tauranga

 Harbour Development Zone

 Tauranga Harbour Port Zone

 Mooring Area

 River Mouth and CMA boundary

 Airport Height Restrictions (metres)

 Port Noise - 55dBA Noise Control Boundary

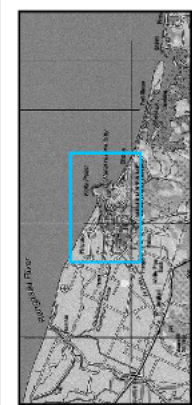
 Port Noise - 65dBA Noise Control Boundary





24b_Whakatane/Ohope **Operative Regional Coastal Environment Plan - Ecological_2019**

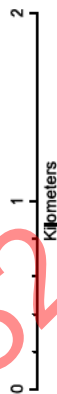
GCEP data as of published date (see: 17/10/2019)
 Projection Information
 This map is based on the New Zealand map and uses NZMAPS 2014 - 2019 aerial photography.
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24c_Whakatāne/Ōhope
Operative Regional Coastal Environment Plan - Use_2019

GIS_459085
Printed: 17/10/2019



RCEP data as of
published date: 17/10/2019







CMA & River Mouth Locations Whakatane River

2008 Coastal Marine Area & River Mouth

- CMA Boundary
- River Mouth
- New coordinates

1993 Coastal Marine Area & River Mouth

- CMA Boundary
- River Mouth
- Agreed Coordinates

General

- Roads
- Rivers and streams
- Property Boundaries

