

Your Comment on the Bledisloe North Wharf and Fergusson North Berth Extension project

Please include all the contact details listed below with your comments and indicate whether you can receive further communications from us by email to substantive@fastrack.govt.nz.

1. Contact Details			
Please ensure that you have authority to comment on the application on behalf of those named on this form.			
Organisation name (if relevant)	Ngāti Pāoa Iwi Trust		
First name	Tipa		
Last name	Compain		
Postal address			
Home phone / Mobile phone		Work phone	
Email (<i>a valid email address enables us to communicate efficiently with you</i>)			

2. We will email you draft conditions of consent for your comment			
<input checked="" type="checkbox"/>	I can receive emails and my email address is correct	<input type="checkbox"/>	I cannot receive emails and my postal address is correct

Ngāti Paoa comments on FTAA-2503-1028

1. Thank you for the opportunity to provide comments on the application by Port of Auckland Limited on the Bledisloe North Wharf and Fergusson North Berth Extension Fast-track Approvals Act (FTAA) application
2. We have only had capacity to briefly review the application and our comments are therefore brief as well.
3. At this time, Ngāti Pāoa Iwi Trust neither expressly supports nor opposes this project.
4. However, there are three key areas of interest for us that we consider the Panel should take into account when assessing the application and, if the Panel is of a mind to grant the approvals, when formulating conditions for those approves.
5. We have focussed our comments on these three areas, which are:
 - a. Maintaining space and not irreversibly foreclosing options in relation to the yet to happen Treaty settlement for the Waitematā wahapū (harbour),
 - b. Positive connections between this application and the Central Wharves Project that Ngāti Pāoa is engaging in, and
 - c. Ensuring that environmental effects associated with the project are properly mitigated.

Maintaining space for the Waitematā Treaty settlement

6. Whilst we note that it is for the Crown to negotiate the Treaty settlement regarding the Waitematā wahapū with Ngāti Pāoa and other relevant iwi, we consider that there are factors the Panel could usefully consider when formulating any conditions to ensure that the potential avenues for Treaty settlement redress are not unnecessarily foreclosed.
7. By way of background, the negotiations in relation to the Treaty settlement for the Waitematā are currently on pause whilst other Treaty settlements are being progressed, including for Ngāti Pāoa:
 - a. the Ngāti Paoa Deed of Settlement (and Ngāti Pāoa Claims Settlement Bill);
 - b. the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed and 2014 Act; and

c. the Pare Hauraki Collective Redress Deed.

8. Each of the Deeds above includes a reference that redress in relation to the Waitematā (and Manukau) harbour will be progressed in separate negotiations between the Crown and Ngā Mana Whenua Tāmaki Makaurau. This is at para 8.2 for the Ngāti Paoa Deed of Settlement¹, at para 10.1.2 for the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed², and para 21.2 for the Pare Hauraki Collective Redress Deed³. Note the Ngāti Paoa deed and the Pare Hauraki deed refer to Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine, which includes but is broader than the Waitematā wahapū.
9. Further, the deeds include acknowledgements of the spiritual, cultural, customary, ancestral and historical significance and importance of the Waitematā (and broader Tīkapa moana) to Ngāti Paoa (and other iwi). The Ngāti Paoa deed (para 8.9) and the Pare Hauraki deed (para 21.9) also expressly note that the Crown owes iwi a duty consistent with the principles of Te Tiriti o Waitangi / the Treaty of Waitangi to negotiate redress for Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine in good faith.
10. We consider that these matters recorded in these deeds are relevant to the FTAA section 7 obligation in relation to Treaty settlements and recognised customary rights. We note under the FTAA, 'Treaty settlements' is defined to include both Treaty settlement Acts and deeds.
11. We request that an acknowledgement of the significance of Te Waitematā to Ngāti Paoa be recorded as part of the application and in some way recognised through the project via a mechanism to be agreed between us and the applicant.
12. In addition, as the Waitematā (alternatively, Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine) Treaty settlement redress is yet to be negotiated, aside from being located in the area, it is yet unknown the extent to which the Bledisloe North Wharf and Fergusson North Berth Extension project may be relevant to the potential matters to be included in the settlement.
13. Hence, our primary concern is that potential settlement redress options may be unintentionally foreclosed by the project. We consider this can be mitigated to an

¹ pg, 75. https://whakatau.govt.nz/assets/Treaty-Settlements/FIND_Treaty_Settlements/Ngati-Paoa/DOS_documents/2021-03-20-N-Paoa-Deed-of-Settlement-Historical-Claims.pdf

² pg, 27. https://whakatau.govt.nz/assets/Treaty-Settlements/FIND_Treaty_Settlements/Tamaki-Makaurau/DOS_documents/Tamaki-Makaurau-Deed-of-Settlement-5-Dec-2012.pdf

³ pg, 143. https://whakatau.govt.nz/assets/Treaty-Settlements/FIND_Treaty_Settlements/Pare-Hauraki-/DOS_documents/Pare-Hauraki-Collective-Redress-Deed-v2.pdf

extent by the Panel turning their minds to this matter when drafting any conditions and considering whether the conditions could have an impact on foreclosing future settlement opportunities.

14. For example, could there be opportunities for some conditions relating to the timeframes of approvals to be drafted in a way that provides for a shorter duration, or for a transfer of approvals to another entity, in the event that negotiations between the Crown and Ngāti Paoa (and other iwi) result in that being a part of the Treaty settlement?
15. Whilst we acknowledge such caveats on conditions would provide some short-term uncertainty for the Port, they would help alleviate our concerns and uphold the Crown's commitments that the Waitematā settlement negotiations will be conducted in good faith. Ultimately, the Treaty settlement will help provide long-term certainty for all involved, including the Port, so it could be considered to be a temporal trade-off.
16. We have not undertaken a full assessment of where these potential opportunities for condition drafting lie, but it is an area that we could follow up on when the Panel provides the draft conditions for comment under section 70 of the FTAA.

Positive connections with the Central Wharves Project

17. Ngāti Pāoa has been engaging with Eke Panuku (Auckland Council) on the Central Wharves Project which is looking at a redesign and repurposing of the Queens, Captain Cook and Marsden wharves, the Hobson Wharf Extension and the breastworks along the water's edge.
18. As we understand it, the Central Wharves Project relies on this Fast-track application for the Bledisloe North Wharf and Fergusson North extension to be approved in order for the Central Wharves Project to proceed in the way envisaged. This is because the extensions to the Bledisloe and Fergusson wharves give the ability to move some of the activity that is currently happening on the Central Wharves to Bledisloe/Fergusson and this then provides opportunities to repurpose the Central Wharves.
19. Through the Central Wharves Project we consider there are potential positive opportunities for Ngāti Pāoa, other iwi, the community and the environment. In this respect we hope the Panel will give consideration to these broader positive opportunities that could flow as a result of the application.

Ensuring environmental effects are mitigated

20. The health of Te Waitematā is of vital importance to the health of Ngāti Paoa. As noted earlier the harbour is of great spiritual, cultural, customary, ancestral and historical significance to Ngāti Paoa.
21. We are pleased that the Port of Auckland has stated they have sought to avoid adverse effects as far as practicable and that where effects cannot be avoided that measures have been proposed to remedy or mitigate these effects⁴. The health, wellbeing and mauri of Te Waitematā are of front most importance for us in relation to any project to do with Te Waitematā.
22. We have not yet had capacity to assess the proposed mitigations in detail as to whether in our view the environmental effects are properly mitigated.
23. Hence our request to the Panel is simply that consideration is given to any potential negative environmental effects of the project and how they can best be avoided, or if not, mitigated to the maximum extent possible. We also ask that offset mitigations be considered, where if there are effects that can't be mitigated at the place they are occurring that restoration is provided in other areas of Te Waitematā of an ideally greater, but an at least equivalent, magnitude so that the overall health of the harbour isn't worsened as a result of the project.

⁴ Para 10.1 : https://www.fasttrack.govt.nz/_data/assets/pdf_file/0018/1854/Fast-Track-Application-March-2025_Redacted.pdf