



FTAA–2503-1034: Application received for referral of the project under the Fast-track Approvals Act 2024 – Stage 2 decisions

Project Name: Waipiro Marina Project

Date submitted:	17 July 2025	Tracking #: BRF–6253	
Security level:	In-Confidence	MfE priority:	Urgent

	Action sought:	Response by:
To Hon Chris Bishop, Minister for Infrastructure	Decision on recommendations	23 July 2025

Actions for Minister's Office staff	Return the signed briefing to MfE FTAreferrals@mfe.govt.nz . Approved the attached notice of decisions letter (if signed).
Number of appendices: 6	Appendices (see File Exchange for appendices 1 – 5) 1. Statutory framework for making decisions 2. Application documents for Waipiro Marina Project 3. Stage 1 Briefing Note and decisions 4. Section 18 Report on Treaty settlements and other obligations 5. Comments received from invited parties 6. Draft Notice of Decisions (with letter attached)

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author(s)	Ben Bunting and Stephen Church		
Manager	Stephanie Frame	s 9(2)(a)	✓
General Manager	Ilana Miller	s 9(2)(a)	

Key messages

1. This briefing seeks your decisions on the application from Azuma Property Limited and Hopper Developments Limited Partnership to refer the Waipiro Marina project (the project) under the Fast-track Approvals Act 2024 (the Act) to the fast-track approvals process as a referred project eligible to lodge a substantive application.
2. A copy of the project application is in Appendix 2. This is the second briefing on this application. The first (Stage 1) briefing (BRF-6073) with your initial decisions annotated is in Appendix 3.
3. The project is to construct a commercial marina and associated facilities at Waipiro Bay, Bay of Islands, in the Northland region. It comprises:
 - a commercial marina development with berthage for 250 craft
 - a public boat launching ramp, and parking for marina users and boat trailers
 - associated marina infrastructure including fueling services, hospitality and retail outlets, and facilities for emergency services
 - upgrading road access, limited vegetation clearance, dredging, reclamation for parking and services, pile and pier installation, building construction, and landscaping.
4. The project will require the proposed approvals:
 - Resource consents under the Resource Management Act 1991.
 - Permits under the Wildlife Act 1953.
 - Archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014.
5. We recommend you accept the referral application for the reasons set out in this briefing, including that the project meets the criteria set out in section 22, and does not appear to involve an ineligible activity.

Assessment against statutory framework

6. The statutory framework for your decision-making is set out in Appendix 1. You must apply this framework when you are deciding whether to accept or decline the referral application and when deciding on any further requirements or directions associated with referral of the project.
7. Before accepting the project, you must consider the following:
 - a. the application (in Appendix 2)
 - b. the section 18 Treaty settlements report (in Appendix 4)
 - c. any comments received from invited parties (in Appendix 5)
 - d. any further information requested from the relevant local authorities (included in the comments received in Appendix 5)
 - e. any document that requires your consideration under section 16 and compliance with any procedural requirements under section 16.
8. Following that, you may accept the application if you are satisfied that it meets the criteria in section 22 of the Act and if there are no reasons meaning you must decline the application. We provide our advice on these matters below.

Section 18 Treaty settlements and other obligations report

9. We have prepared a Treaty settlements and other obligations report (s18 report), and this is attached in Appendix 4.
10. Section 18(2) of the Act requires that the report provide a list of relevant Māori groups, including relevant iwi authorities and Treaty settlement entities. While historical Treaty of Waitangi claims in this area have yet to be settled, there are a significant number of relevant Māori groups, particularly applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA). There are also two Mana Whakahono ā Rohe agreed between Northland Regional Council (NRC) and Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia respectively. The rohe of both of these groups, as outlined in the Mana Whakahono ā Rohe, includes the project area. We discuss the obligations arising from the two Mana Whakahono ā Rohe below.
11. All 16 groups who provided comments on the referral application were opposed to it proceeding under the Act. In summary, they considered the project would have a significant impact on their customary rights, will not bring significant national or regional economic benefits, will cause environmental damage, and that consultation with relevant hapū and MACA applicants in particular has been inadequate. Commenters requested that this application be declined and instead be considered under the RMA, where these matters could be addressed more comprehensively.
12. Under section 18(m) of the Act, we consider the matters raised in comments received from invited Māori groups, and particularly the loss of public access to the common marine and coastal area at Waipiro Bay (including the ability for Māori to continue to exercise their customary food-gathering practices), may make it more appropriate for the proposed approvals to be considered under another Act or Acts, to enable more comprehensive consultation on the proposed use of public space.
13. The Minister for Māori Development/Minister for Māori Crown Relations: Te Arawhiti suggested that this application be considered under appropriate other Acts, including on the basis of the strong concerns expressed by Māori groups affected by this application, and the advice in the section 18 report.

Section 16 Effects of Treaty settlements and other obligations on decision-making

14. Pursuant to section 16 of the Act, we consider you have complied with some of the relevant procedural requirements in the Mana Whakahono ā Rohe, as they relate to providing copies of consent applications to, and inviting comments from, Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia. However, there is also a need to ensure that these, and other, procedural requirements in the Mana Whakahono ā Rohe are complied with throughout the process. Accordingly, should you decide to accept this referral application, we propose you direct any panel considering a substantive application for the project to comply with the applicable requirements identified in the section 18 report (as provided for at section 16(2)(c) of the Act), including:
 - a. providing Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia with copies of the substantive application
 - b. engagement with Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia on matters raised in their comments
 - c. provisions relating to the nomination of hearing commissioners; and

- d. recording the Iwi/Hapū Environmental Management Plans (IHEMPs) lodged with Northland Regional Council by Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia, and how they were considered, in any decision documents.

Written comments received

15. Comments were received from Northland Regional Council and Far North District Council, Ministers for Environment, Regional Development, Economic Growth and Treaty of Waitangi Negotiations, the Department of Conservation and Heritage New Zealand Taonga Pouhere Taonga, 16 Māori groups and Biosecurity New Zealand.
16. The key points from the comments from the local authorities are:
 - a. Northland Regional Council (NRC) advised that, in terms of overall economic and employment benefits associated with the project, it could be considered regionally significant, although it is unknown what proportion of those benefits would occur in Northland.
 - b. Far North District Council (FNDC) advised that it cannot determine whether this proposal will deliver regionally significant benefits as it has no specific strategies, plans or studies to inform such a decision.
 - c. Specific to requirements to provide comment under sections 17(3)(a) and (b) of the Act, both councils confirmed that there are no competing applications (as per s.17(3)(a)) and no existing resource consents applicable to the project area (as per s.17(3)(b)).
17. The key points from the comments from Ministers are:
 - a. The Minister for Economic Growth commented that the project could provide both short term and ongoing regional economic benefits.
 - b. The Minister for Regional Development commented that, while the project could have important economic benefits, the scale of those benefits makes it difficult to classify the proposed infrastructure as regionally or nationally significant.
 - c. The Minister for the Environment commented that, should the project be successfully referred, the substantive application should include a detailed assessment of adverse effects and mitigation methods. We note this is already a requirement for a substantive application.
 - d. The Minister for Treaty of Waitangi Negotiations was invited to comment because Te Tari Whakatau advised us that the project potentially encroaches on the marginal strip of coast (lot 24. DP 391213 shown on Record of Title) that may be required for future Treaty settlement purposes. While comments from the Minister for Treaty of Waitangi Negotiations indicated that the marginal strip may be required for future Treaty settlement purposes, it has since been confirmed that the Crown was divested of this title because, under MACA, the marine and coastal area is incapable of being owned by the Crown or any other person.
18. The key points from the comments from relevant administering agencies are:
 - a. The Department of Conservation advised that because the project area is within the Bay of Islands Marine Mammal Sanctuary, a permit under the Marine Mammals Protection Act 1978 or authority under the Conservation Act 1987 may be required (outside of the Fast-track Approvals process).
 - b. Heritage New Zealand Taonga Pouhere advise that, if the project is successfully referred, the applicant must undertake an archaeological assessment of the area affected by the development proposal.

19. Forty Māori groups were identified under s.18(2) and subsequently formally invited to comment on the referral application. Views expressed by all 16 Māori groups that responded are:
 - a. opposing the project being referred under the Act (and often the project itself)
 - b. a preference for the project to be considered under RMA processes which provide for more comprehensive consultation with, and input from, Māori groups compared the those under fast-track.
 - c. the benefits of the project not being regionally or nationally significant
 - d. concerns over potential adverse environmental effects associated with the project, including exacerbating marine biosecurity threats.
 - e. concerns over privatisation of public space and reduced access to the coast for customary purposes.
20. Comments received from Ngāti Kuta Hapū have attachments including views on the potential environmental effects (terrestrial and marine), an economic analysis, letters in support of the commenting group and a petition of more than 12,000 signatures.
21. Comments received from Patukeha Hapū have attachments including their hapū environmental management plan, letters in support of the commenting group and a duplicate of the petition attached to the comments from Ngāti Kuta Hapū.
22. Information received from Biosecurity New Zealand advised that, because the project site is within a current Controlled Area Notice (CAN) for exotic *Caulerpa* (an invasive pest seaweed), the applicant must apply for a permit from Biosecurity New Zealand (outside of the Fast-track Approvals process) to demonstrate actions to limit the spread of exotic *Caulerpa* species. The applicant is already aware of this requirement.

Further information provided by applicant, relevant local authorities, relevant administering agencies

23. In response to your request for further information under section 20 of the Act the applicant provided advice on the strip of on the marginal strip of coast (lot 24. DP 391213 shown on Record of Title) that the Crown was divested of title because, under MACA, the marine and coastal area is incapable of being owned by the Crown or any other person. We provided the applicant's advice to Te Tari Whakataua and they agree.
24. Far North District Council advised that, in relation to the marginal strip of coast (lot 24. DP 391213) shown as 'reserve' on their GIS, Council is unsure who has responsibility for this Crown land and advised that there are no relevant Council management arrangements or any other agreements over that land.
25. You must consider all information received within the specified timeframe. We have taken this information into account in our advice, and it is presented in Table A.

Reasons to decline

26. You must decline the application for referral under section 21(3) if:
 - a. you are not satisfied the project meets the criteria in section 22; or
 - b. you are satisfied that the project involves an ineligible activity; or
 - c. you consider you do not have adequate information to inform your referral decision.

27. We do not consider you must decline this application. We consider that you have sufficient information to make an informed decision on the referral, and we do not consider that the project involves any ineligible activities.
28. You may also decline the application for any other reason under section 21(4). The Act sets out the following matters you may consider when deciding whether to decline an application:
- a. The project would be inconsistent with any of the following:
 - A Treaty settlement
 - The Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019
 - The Marine and Coastal Area (Takutai Moana) Act 2011
 - A Mana Whakahono ā Rohe
 - A joint management agreement
 - b. It would be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts
 - c. The project may have significant adverse effects on the environment
 - d. The applicant has a poor compliance history under a specified Act that relates to any of the proposed approvals
 - e. The project area includes land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes
 - f. The project includes an activity that is a prohibited activity under the Resource Management Act 1991
 - g. A substantive application for the project would have 1 or competing applications
 - h. In relation to any proposed approval of the kind described in section 42(4)(a) (resource consent), there are 1 or more existing resource consents of the kind referred to in section 30(3)(a).
29. We have considered the matters above and this is discussed in Table A. We do not consider you should decline the project for any of these reasons.

Reasons to accept

30. Under section 21(1)(c) of the Act, you may accept a referral application if you are satisfied that the whole project meets the criteria in section 22.
31. The section 22 criteria you must be satisfied of is:
- a. The project is an infrastructure or development project that would have significant regional or national benefits (section 22(1)(1)); and
 - b. Referring the project to the fast-track approvals process:
 - i. would facilitate the project, including by enabling it to be processed in a more timely and cost-effective way that under normal processes (section 22(1)(b)(i)); and
 - ii. is unlikely to materially affect the efficient operation of the fast-track approvals process (section 22(1)(b)(ii)).
32. We consider the project meets the requirements of section 22, because:
- a. It is an infrastructure or development project because it is marine infrastructure

- b. It would have significant regional or national benefits by delivering \$177- 218 million in value-added GDP, providing 137-148 FTE jobs over a 30-year period, providing economic benefits for recreational users and local small-scale fishing operations and contributing to increased regional tourism spending from domestic and international tourism markets.
- c. Referring the project to the fast-track approvals process would facilitate the project, including enabling it to be processed in a more timely and cost-effective way than under normal processes because:
 - i. The timeframes under the Act are significantly shorter than under the RMA
 - ii. The Act precludes public and limited notification
 - iii. Appeals under the Act are only to the High Court rather than the Environment Court and are limited to points of law.
- d. Referring the project unlikely to materially affect the efficient operation of the fast-track approvals process because the project is not novel in the New Zealand context and is similar to the type of applications that expert panel members are experienced in dealing with under the RMA.

Other matters

33. We have identified three further matters below that warrant discussion.

Matter 1 – Economic analysis

- 34. One of the Māori groups that provided comment included their own economic analysis that refutes aspects of the economic analysis provided by the applicant and questions whether the economic and employment impacts proposed by the applicant could reasonably be considered regionally significant when compared against overall regional GDP and employment figures. Each economic analysis has used different methodologies to inform their respective findings.
- 35. On balance, we consider the economic information presented by the applicant is adequate to inform your decision on referral noting that the comments received on the application from the Minister for Economic Growth, the Minister for Regional Development and the Northland Regional Council concur that the project could deliver regionally significant economic benefits. We also note that the project also seeks to deliver new jobs (137 – 148 FTEs) which, in a region of high unemployment, could be considered a significant benefit.

Matter 2 – Consideration of proposed approvals under another Act

- 36. Advice contained in the section 18 report is that it may be more appropriate to deal with the proposed approvals under another Act or Acts. Section 21(5)(b) list this as one of the reasons the Minister may decline a referral application. This advice in the section 18 report is based on comments from Māori groups that expressed a preference for the project to be considered under RMA processes to provide for greater opportunity for engagement and input into the decision-making process, and because the project would result in a reduced access to the common marine and coastal area.
- 37. We note that the design of the Act intentionally streamlines approval processes and, in doing so, limits the scope of participation beyond specified groups. We further note that should the project be successfully referred and a substantive application lodged, an expert panel must invite comments from groups set out in section 53(2) which includes a wider remit of affected parties compared to the those invited to comment on the referral application (such as the owners and occupiers of land adjacent to the project area).

38. Section 53(2) of the Act provides for the panel to invite all of the Māori groups identified in the section 18 report to comment on the substantive application, except 'any other Māori groups with relevant interests' (section 18(2)(k)). You invited six groups in this category to comment on the referral application, including hapū and a collective currently seeking a mandate to negotiate a Treaty settlement. While an expert panel can also invite comments from any other persons it considers appropriate, should you decide to accept this referral application we recommend you specify under section 27(3)(b)(iii) that the panel also invite comments from these six groups. This would be consistent with the breadth of groups invited to comment through the referral application process and takes into account the potential impact of this project on access to the marine and coastal area for customary purposes.
39. Specific to concerns expressed by invited Māori groups that the project would result in the privatisation of public space and reduce access to the coast, we note that the occupation of coastal space in New Zealand is regulated by the Resource Management Act 1991 (RMA) and MACA. The Northland Regional Coastal Plan also includes provisions for new marina developments. If a substantive application is lodged, these matters would be considered by an expert panel.
40. Invited Māori groups expressed concerns over the potential adverse effects on the environment and the limited information included in the referral application on adverse effects. We note that the information requirements for a referral application require only a description of the anticipated and known adverse effects on the environment. We note that should the project be successfully referred and a substantive application lodged, the substantive application must include a comprehensive assessment of environmental effects, mitigations, identification of affected persons and the views of those persons, including the views of iwi and hapū that have been consulted.
41. We do not consider these 'other matters' as conclusive reasons to decline the referral application.

Matter 3 – Public interest and petition

42. There is some wider public interest in this project with a local campaign and social media mobilised when comments were invited on the referral application. Subsequently, a petition of more than 12,000 signatures was delivered to the House on 22 May 2025 urging the Government to decline the Fast-track application to build a 200-250 berth marina at Waipiro Bay. The petition will be dealt with through Petition Committee processes.

Conclusions

43. We do not consider there are any reasons you must decline the project under section 21(3) and do not consider the matters noted above provide necessary reason for declining to refer the project under section 21(4). We consider the project meets the section 22 criteria and you could accept the application under section 21 of the FTAA and refer the project to the fast-track approvals process for consideration by an expert panel with the specifications outlined below.
44. If you decide to refer the project you must specify the person or persons who lodged the referral application as the person who is, or the persons who are, authorised to lodge a substantive application for the project.
45. We recommend that if you decide to refer the project, you should specify:

- a. Under section 27(3)(b)(ii) that the following information must be submitted with the substantive application:
 - i. Evidence that applicant has consulted with Biosecurity New Zealand and initiated the application process for a Controlled Area Notice (CAN) permit. This is because the project site is within a current Controlled Area Notice (CAN) for exotic *Caulerpa* (an invasive pest seaweed) and the applicant must therefore apply for a CAN permit to demonstrate proposed biosecurity protocols to limit the spread of exotic *Caulerpa* species.
- b. Under section 27(3)(b)(iii) that, in addition to those specified in section 53(2), the expert panel must also invite comments on a substantive application from:
 - i. Biosecurity New Zealand; and
 - ii. Other Māori groups with relevant interests, as identified under section 18(2)(k) of the Act.

Next steps

46. MfE must give notice of your decisions on the referral application, and the reasons for them, to the applicant(s) and anyone invited to comment under section 17 and publish the notice on the Fast Track website.
47. If you decide to refer the project, MfE must also give notice of your decision to:
 - i. The panel convener
 - ii. Any additional iwi authorities or Treaty settlement entities that you consider have an interest in the matter other than those invited to comment under section 17
 - iii. The Environmental Protection Authority (EPA)
 - iv. The relevant administering agencies
48. You must also provide all of the information you received that relates to this application to the EPA and the panel convener, including:
 - i. The referral application
 - ii. Any comments received under section 17
 - iii. The report obtained under section 18
49. We will undertake this action on your behalf.
50. We have attached a notice of decisions letter to the applicant(s) based on our recommendations (refer Appendix 6). If you agree and sign the letter, we will provide it to all relevant parties. We will provide you with an amended letter if required.
51. Our recommendations for your decisions follow.

Recommendations

52. We recommend that you:

- a. **Note** section 21(3) of the Act requires you to decline the referral application from Azuma Property Limited and Hopper Developments Limited Partnership if you are satisfied that the project involves an ineligible activity, or you consider that you do not have adequate information to inform the decision under this section or if you are not satisfied that the Waipiro Marina Project (the project) meets the referral criteria in section 22 of the Act.

Noted

- b. **Note** before deciding to making a decision on the application for project referral under section 21(1) of the Act you must consider:

- i. the application
- ii. the report obtained under section 18 of the FTAA
- iii. any comments and further information sought under sections 17 and 20 and provided within the required timeframe. It is noted that all comments and further information were received within the required timeframes.

Noted

- c. **Note** the application of a Mana Whakahono ā Rohe with Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia and that this provides for a number of procedural requirements, including:

- i. providing Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia with copies of the substantive application
- ii. engagement with Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia on matters raised in their comments
- iii. provisions relating to the nomination of hearing commissioners; and
- iv. recording the Iwi/Hapū Environmental Management Plans (IHEMPs) lodged with Northland Regional Council by Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia, and how they were considered, in any decision documents.

Noted

- d. **Agree** you are satisfied the project will meet the referral criteria in section 22 of the FTAA as it has the potential to:

- i. it would have significant regional or national benefits by:
 - delivering \$177- 218 million in value-added GDP
 - providing 137-148 FTE jobs over a 30-year period
 - providing economic benefits for recreational users and local small-scale fishing operations; and
 - contributing to increased regional tourism spending from domestic and international tourism markets.
- ii. referring the project to the fast-track approvals process would facilitate the project, including by enabling it to be processed in a more timely and cost-effective way than under normal processes because:
 - the timeframes under the Act are significantly shorter than under the RMA

- the Act precludes public and limited notification
 - appeals under the Act are only to the High Court rather than the Environment Court and are limited to points of law
- iii. Referring the project unlikely to materially affect the efficient operation of the fast-track approvals process because the project is not novel in the New Zealand context and is similar to the type of applications that expert panel members are experienced in dealing with under the RMA.
- Yes/No
- e. **Agree** there is no reason the project must be declined under section 21(3) because:
- the project meets the criteria in section 22 as explained in recommendation d. above
 - the project does not include an ineligible activity as explained in Table A
 - the application includes sufficient information to inform your decision
- Noted
- f. **Agree** to accept the referral application under section 21(1) and refer all of the project to the next stage of the fast-track process as eligible to lodge a substantive application.
- Yes/No
- g. **Agree** to specify Azuma Property Limited and Hopper Developments Limited Partnership as the person who is authorised to lodge a substantive application for the project
- Yes/No
- h. **Agree** to direct a panel to comply with the section 16 procedural requirements identified in the section 18 report with regard to the Mana Whakahono ā Rohe with Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rēhia, as set out at recommendation c above.
- Yes/No
- i. **Agree** to specify under section 27(3)(b)(ii) of the Act that, as part of a substantive application, the applicant submit evidence of consulting with Biosecurity New Zealand and initiating the application process for a Controlled Area Notice (CAN) permit.
- Yes/No
- j. **Agree** to specify under section 27(3)(b)(iii) of the Act that the expert panel must invite comments on a substantive application from:
- i. Biosecurity New Zealand
 - ii. Other Māori groups with relevant interests identified under section 18(2)(k) of the Act.
- Yes/No
- k. **Sign** the notice of decisions letter to the applicant(s) (attached in Appendix 6).
- Yes/No
- l. **Agree** that MfE must give your notice of decisions to:
- i. Anyone invited to comment on the application
 - ii. The panel convener
 - iii. The Environmental Protection Authority

iv. The relevant administering agencies: Ministry for the Environment, Department of Conservation, and Heritage New Zealand Pouhere Taonga

Yes/No

m. **Sign** the notice of decisions letter to the applicant (attached in Appendix 6).

Yes/No

Signatures



Ilana Miller
General Manager, Delivery and Operations

Hon Chris Bishop
Minister for Infrastructure

Date:

Table A: Stage 2 analysis

	Project Name	Applicant	Project Location
Project details	Waipiro Marina	Kallam Brown is the applicant. The project will be delivered in partnership between Azuma Properties and Hopper Developments Ltd.	The project is predominantly situated within the coastal marine area at Waipiro Bay, Bay of Islands, in the Northland region. Land access will be via 285 Manawaora Road, Waipiro Bay.
Project description	<p>To construct a commercial marina and associated facilities at Waipiro Bay, Bay of Islands, in the Northland Region. The project comprises:</p> <ul style="list-style-type: none"> • a commercial marina development with berthage for 250 craft • a public boat launching ramp, and parking for marina users and boat trailers. • associated marina infrastructure including fuelling services, hospitality and retail outlets, and facilities for emergency services. • upgrading road access, limited vegetation clearance, dredging, reclamation for parking and services, pile and pier installation, building construction, and landscaping. <p>The project seeks the following approvals:</p> <ul style="list-style-type: none"> • Resource consents under the Resource Management Act 1991. • Permits under the Wildlife Act 1953. • Archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014. 		
Minister invites comments / requests information	<p>Comments from invited parties</p> <p><i>Local authorities</i></p> <p>NRC advised that, in terms of overall economic and employment benefits associated with the project, it could be considered regionally significant, although it is unknown what proportion of those benefits would occur in Northland.</p> <p>NRC advised that its 'Moorings and Marinas Strategy (2014)' shows the Waipiro Bay area as a potential mooring/marina area in the long term, subject to investigating potential demand for marina berths in the Bay. That investigation will likely occur as part of a future coastal plan review in the 2030s.</p> <p>FNDC advised that it cannot determine whether this proposal will deliver regionally significant benefits as it has no specific strategies, plans or studies to inform such a decision.</p> <p>Specific to requirements to comment on sections 17(3)(a) and (b) of the Act, Northland Regional Council (NRC) and Far North District Council (FNDC) confirmed that there are no competing applications (as per s.17(3)(a)) and no existing resource consents (as per s.17(3)(b)).</p> <p><i>Ministers</i></p> <p>The Minister for the Environment commented that, should the project be successfully referred, the substantive application should include a detailed assessment of adverse effects and mitigation methods. We note this is already a requirement for a substantive application.</p> <p>The Minister for Economic Growth commented that the project could provide both short term and ongoing regional economic benefits.</p> <p>The Minister for Regional Development commented that, while the project could have important economic benefits, the scale of those benefits makes it difficult to classify the proposed infrastructure as regionally or nationally significant. That Minister also noted that, if the project is successfully referred, an expert panel should consider the effects on the kaimoana resource, marine biosecurity and relationships with local iwi.</p> <p>The Minister for Treaty Negotiations was invited to comment because Te Tari Whakatau advised the Ministry that the project encroaches on the marginal strip of coast (lot 24. DP 391213 shown on Record of Title) that may be required for future Treaty settlement purposes. While comments from the Minister for Treaty of Waitangi Negotiations indicated that the marginal strip may be required for future Treaty settlement purposes, it has since been confirmed that the Crown was divested of this title because, under MACA, the marine and coastal area is incapable of being owned by the Crown or any other person.</p> <p>The Ministers for Conservation and for Arts, Culture and Heritage responded with 'no comment' on</p>		<p>Further information from applicant, relevant local authorities, relevant administering agencies</p> <p>The applicant's response to your request for further information under section 20 of the Act the applicant provided advice on the strip of on the marginal strip of coast (lot 24. DP 391213 shown on Record of Title) that the Crown was divested of title because, under the Marine and Coastal Area (Takutai Moana) Act 2011, the marine and coastal area is incapable of being owned by the Crown or any other person. We provided the applicants advice to Te Tari Whakatau and they agree with the applicant's advice.</p> <p>In relation to a question about the same parcel of land (Lot 24 DP 391213), FNDC responded that they are unsure as to who has responsibility for this Crown land strip and that there are no relevant Council management arrangements or any other agreements over the identified land strip.</p>

	<p>the basis that their respective agencies would comment as relevant administrating agencies.</p> <p><i>Māori Groups</i></p> <p>Forty Māori groups were identified under s.18(2) and subsequently formally invited to comment on the referral application. Views expressed by all 16 Māori groups that responded are:</p> <ul style="list-style-type: none"> • Opposing the project being referred under the Act (and often the project itself) • A preference for the project be considered under RMA processes which provide for more comprehensive consultation with, and input from, Māori groups compared the those under fast-track. • The benefits of the project not being regionally or nationally significant • Concerns over potential adverse environmental effects associated with the project, including exacerbating marine biosecurity threats. • Concerns over privatisation of public space and reduced access to the coast for cultural purposes. <p>Comments received from one Māori group (Ngāti Kuta Hapū) had attachments including views of potential environmental impacts (terrestrial and marine), an economic analysis, letters in support of the commenting group and a petition of 12,000+ signatures.</p> <p>Comments received from another Māori group (Patukeha Hapū) had attachments including their hapū environmental management plan, letters in support of the commenting group and a duplicate of the petition attached to the comments from Ngāti Kuta Hapū.</p> <p><i>Administering agencies</i></p> <p>The Department of Conservation advised that because the project area is within the Bay of Islands Marine Mammal Sanctuary, a permit under the Marine Mammals Protection Act 1978 or authority under the Conservation Act 1987 may be required (outside of the Fast-track Approvals process). DOC also advised that, if the project is successfully referred, the substantive application should demonstrate how adverse effects of the project can be minimised and/or offset. We note that this is already a requirement for a substantive application.</p> <p>Heritage New Zealand Taonga Pouhere advise that, if the project is successfully referred, the applicant must undertake an archaeological assessment of the area affected by the development proposal.</p> <p><i>Owners of Māori land in the project area</i></p> <p>N/A</p> <p><i>Other persons or groups invited to comment</i></p> <p>Biosecurity New Zealand (BNZ) advised that because the project site is within a current Controlled Area Notice (CAN) for exotic caulerpa (an invasive pest seaweed), the applicant would need to apply for a permit from Biosecurity New Zealand to demonstrate actions to limit the spread of exotic Caulerpa species. We note that the applicant is already aware of this requirement. Such a permit is outside of approvals covered by the Act. We are recommending that the Minister's Notice of Decision include a direction that, as part of a substantive application, the applicant engage with Biosecurity New Zealand and demonstrate that the application process for a CAN permit has been initiated.</p>	
<p>The Minister must decline an application if the Minister is satisfied that the project involves an ineligible activity [section 21(3)(b)]</p>	<p>Based on the information in the application, we consider the project is eligible for referral because:</p> <ul style="list-style-type: none"> • it would not occur on identified Māori land, Māori customary land or a Māori reservation as confirmed by the relevant records of title and consultation with relevant iwi authorities. • it would not occur in a customary marine title area or protected customary rights area (although it is in the marine coastal area, no applications for customary marine title or protected customary rights have been recognised at this time) • it is not an aquaculture activity or activity that is incompatible with aquaculture activities that would occur in an aquaculture settlement area and for which the applicant is not authorised to apply for a coastal permit because it will not occur in an aquaculture settlement area • would not require an access arrangement which cannot be granted under the Crown Minerals Act (including s61(1A)) because it does not require an access arrangement under the Crown Minerals Act and would not occur on Schedule 4 land. 	

	<ul style="list-style-type: none"> would not be prevented by section 165J, M, Q, ZC or ZDB of the RMA would not occur on Schedule 4 land as confirmed by the records of title checked against Schedule 4 land types. would not occur on a national reserve as confirmed by the records of title. would not occur on a reserve held under the Reserves Act 1977 that is managed by or vested in someone other than the Crown or a local authority and that person has not consented in writing as it will not occur on a reserve. is not a prohibited activity or decommissioning activity under the EEZA, 15B or 15C of the RMA as it would not occur in the coastal marine area or New Zealand's exclusive economic zone. is not for the purpose of an offshore renewable energy project, because it will not involve renewable energy production. <p>No comments raised by parties invited to comment have indicated that the project would be ineligible for referral</p>
<p>The Minister must decline an application if the Minister considers they do not have adequate information to inform the decision [section 21(3)(c)]</p>	<p>We consider there is adequate information to inform the decision.</p>
<p>Relevant considerations and procedural requirements in Treaty settlement, Mana Whakahono ā Rohe, joint management agreement, or the Marine and Coast Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 [section 16]</p>	<p>There are two Mana Whakahono ā Rohe with NRC which encompass the project area – one with Te Rūnanga o Ngāti Hine and the other with Te Rūnanga o Ngāti Rehia. Under section 16 of the Act, you must comply with any applicable procedural requirements provided for by a Mana Whakahono ā Rohe. We consider you have complied with some of the relevant procedural requirements in the Te Rūnanga o Ngāti Hine/Te Rūnanga o Ngāti Rehia Mana Whakahono ā Rohe, as they relate to providing copies of the applications and inviting comments, as appropriate to your role. Our advice is that the other procedural requirements outlined in the section 18 report are more relevant to consideration of a substantive application by a panel, should you decide to accept this application for referral, including:</p> <ul style="list-style-type: none"> providing Te Rūnanga o Ngāti Hine and Te Rūnanga o Ngāti Rehia with copies of the substantive application engagement with Te Rūnanga o Ngāti Hine/Te Rūnanga o Ngāti Rehia on their comments the provisions relating to the appointment of hearing commissioners; and recording the IHEMPs and how they were considered in any decision documents.
<p>Section 22 assessment criteria</p>	
<p>The project is an infrastructure or development project that would have significant regional or national benefits [section 22(1)(a)]</p>	<p>The Minister may consider any of the following matters, or any other matters the Minister considers relevant.</p> <p><i>Will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure [s22(2)(a)(ii)]</i></p> <p>The applicant states that the project will assist in delivering much-needed infrastructure for recreational boating in the Bay of Islands and will assist in protecting and enhancing the region's image as the premier boating and tourism destination in New Zealand. The applicant considers the project will assist in addressing the current shortfall in the availability of berthage for recreational vessels in the area.</p> <p>Māori Groups' feedback included the comment that the project does not have significant regional or national economic benefits.</p> <p><i>Will deliver significant economic benefits [s22(2)(a)(iv)]</i></p> <p>The application includes an economic analysis that this project will have regionally significant economic benefits including:</p> <ul style="list-style-type: none"> delivering \$177- - 218 million in value-added GDP providing 137-148 FTE jobs over a 30-year period providing economic benefits for recreational users and local small-scale fishing operations. contributing to increased regional tourism spending from domestic and international tourism markets. <p>Minister for Economic Growth commented that there could be ongoing regional economic benefits from increased supply and marine berths supporting ongoing growth in regional tourism, and retail and commercial activities. The project will have short term economic benefits during the construction phase and ongoing benefits from the operation of the marina.</p> <p>Minister for Regional Development considers that the asset could have more important economic benefits to the Bay of Island area, including increased tourism opportunities, however, the scale of those benefits makes it difficult to classify the proposed infrastructure as regionally or nationally significant.</p> <p>NRC commented that in terms of ongoing economic benefits associated with the Waipiro Marina, the proposed economic and employment impacts could be considered significant in the regional context.</p> <p>Māori Groups commented that the project does not have significant regional or national benefits. One group provided their own economic analysis that refutes aspects of the economic analysis provided by the applicant and questions whether the economic benefits proposed could reasonably be considered regionally significant. On balance, each economic analysis has used different methodologies to support their positions. While you could request further information from the applicant to further support assertions on the economic benefits, we note that the comments from the Minister for Economic Growth, Minister for Regional Development and the Northland Regional Council concur that the project could deliver regionally significant economic benefits.</p> <p><i>Will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards [s22(2)(a)(viii)]</i></p>

	<p>The applicant asserts that the project will support climate change mitigation by reducing fossil fuel consumption greenhouse gas emissions from boats, primarily due to its strategic location which will reduce vessel travel distances. The applicant indicates that the project will serve as a secure refuge for vessels during natural hazard events and will facilitate aid in the coordination of emergency responses, by the incorporation of dedicated facilities for emergency services (rescue helicopter helipad) and the coastguard within the project.</p> <p><i>Will address significant environmental issues [s22(2)(a)(ix)]</i> The applicant asserts that this project will have environmental benefits by reducing the demand for swing moorings and ad-hoc anchorage in the wider Bay of Islands and improve ability to monitor and manage international and domestic boats that could be carrying foreign invasive species.</p> <p>Māori groups collectively expressed concern that the project will have significant adverse effects on the coastal and marine environments, including exacerbating current marine biosecurity threats.</p> <p>Biosecurity NZ did not confirm whether the Exotic Caulerpa Controlled Area Notice 2024 overlaying the project area would impact on the applicant's ability to undertake the works, but did advise that the applicant consult with Biosecurity New Zealand on any permitting requirements under the Controlled Area Notice (CAN). We are recommending that the Minister's Notice of Decision include a direction that, as part of a substantive application, the applicant engage with Biosecurity New Zealand and demonstrate that the application process for a CAN permit has been initiated. The reasons for this are because the project site is within a current Controlled Area Notice (CAN) for exotic Caulerpa (an invasive pest seaweed) and must therefore apply for a CAN permit to demonstrate proposed biosecurity protocols to limit the spread of exotic Caulerpa species.</p> <p>That Minister for Regional Development commented that, if the project is successfully referred, an expert panel should consider the effects on the kaimoana resource and marine biosecurity.</p> <p>The Minister for the Environment commented that, should the project be successfully referred, the substantive application should include a detailed assessment of adverse effects and mitigation methods. We note that this is already a requirement for a substantive application.</p> <p>DOC advised that because the project area is within the Bay of Islands Marine Mammal Sanctuary, a permit under the Marine Mammals Protection Act 1978 or authority under the Conservation Act 1987 may be required (outside of the Fast-track Approvals process). DOC also commented that, should the project be successfully referred, the substantive application includes an assessment of environmental effects and mitigations. We note that this is already a requirement for a substantive application.</p> <p><i>Is consistent with local or regional planning documents, including spatial strategies [s22(2)(a)(x)]</i> The applicant stated that the Northland Regional Council 'Moorings and Marinas Strategy' (2014) indicates Waipiro Bay as a 'potential mooring/marina area in the long term, subject to investigating potential demand for marina berths in the Bay. NRC commented that while the applicant noted the alignment with the 'Moorings and Marinas Strategy' (2014) strategy, that strategy only identifies the need to investigate potential demand. Such as investigation may occur as part of a future review of the Regional Coastal Plan in the late 2030s.</p> <p>NRC commented on the relevant policies and objectives of their Regional Policy Statement (RPS) and related New Zealand Coastal Policy Statement noting these would seek to consider the project such policies and objectives. We note that that Northland Regional Coastal Plan includes provisions to consider new marina developments. If successfully referred, such matters would be addressed in the substantive application.</p> <p>NRC also advised that the project is not captured in its definition of 'Regionally Significant Infrastructure' under the RPS and that the project is more aligned with recreational or local maritime activities under the RPS.</p> <p>FNDC advised that it cannot determine whether this proposal will deliver regionally significant benefits as it has no specific strategies, plans or studies to inform such a decision.</p>
<p>Referring the project to the fast-track approvals process [section 22(1)(b)]</p>	<p><i>Would facilitate the project, including by enabling it to be processed in a more timely and cost-effective way than under normal processes [s22(1)(b)(i)]</i> The applicant considers that the fast-track approvals process would likely facilitate the project, by enabling it to be processed in a more timely and cost-effective way than under normal processes.</p> <p><i>Is unlikely to materially affect the efficient operation of the fast-track approvals process [s22(1)(b)(ii)]</i> The referral of this project is unlikely to materially affect the efficient operation of the fast-track approvals process because the project is not novel in the New Zealand context and is similar to the type of applications that expert panel members are experienced in dealing with under the RMA. The applicant has stated that they are committed to undertaking additional assessment and detailed design for the substantive application phase.</p>
<p>Reasons to decline</p>	
<p>Minister <u>must</u> decline [section 21(3)]</p>	<p>Minister may decline [section 21(4) and 21(5)(a-h)]</p>
<p><i>The Minister <u>must</u> decline a referral application if:</i></p> <p><i>The application may not be accepted under subsection 1 (meets referral criteria)</i></p> <p>We are satisfied the application meets the referral criteria.</p>	<p><i>The Minister <u>may</u> decline a referral application for any other reason, whether or not it meets the criteria in section 22.</i></p> <p><i>Reasons to decline a referral application under subsection 4 include, without limitation:</i></p> <p><i>The project would be inconsistent with a Treaty settlement, Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement</i></p> <p>We consider the project is not inconsistent with these Treaty settlements and other obligations.</p> <p><i>It would be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts</i></p> <p>Under section 18(2)(m), we must provide our advice on whether, due to any of the matters identified in section 18, it may be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts. Our view is that it may be more appropriate to consider this application under other Acts. We note the matters encompassed by section 18(2)(m) also include subsection 18(2)(l), the summary of</p>

<p><i>The Minister is satisfied the project involves an ineligible activity</i></p> <p>We are satisfied the project does not involve an ineligible activity.</p> <p><i>The Minister considers that they do not have adequate information to inform the decision under this section</i></p> <p>We are satisfied the Minister has adequate information to inform the decision on referral.</p> <p>We do not consider that you must decline the application under this section.</p>	<p>comments received by you after inviting comments from Māori groups under section 17(1)(d). As set out in the section 18 report, these comments were universally opposed to the application being considered under the Act and cited a range of reasons for that position.</p> <p>Noting the level of opposition to the project, and the concerns raised by a number of groups regarding the loss of public space in the common marine and coastal area, we consider it may be more appropriate for the project to be considered under another Act. We note that the project will have significant implications on the ability of the public to easily access and use the common marine and coastal area at Waipiro Bay. In particular, the Māori groups that commented on the application consider this project is likely to have an impact of on their ability to continue to exercise their customary food-gathering and other cultural practices in the project area. This is not necessarily a reason why the project should be declined <i>in toto</i>, but it may be a reason why it is more appropriate to consider the proposed approvals under other statutes, to enable more comprehensive consultation on the proposed use of public space.</p> <p>We do not consider this as a conclusive reason to decline the referral application under this section. As discussed in the 'other matters' section above, the occupation of coastal space in New Zealand is regulated by the Resource Management Act 1991 (RMA) and MACA. The Northland Regional Coastal Plan also includes provisions for new marina developments. If a substantive application is lodged, these matters would be considered by an expert panel. Noting comments received from invited Māori groups regarding more comprehensive consultation, we are recommending that the Minister's Notice of Decision include a direction to the expert panel that, in inviting comments on a substantive application under section 53 of the Act, it invites comments from the Māori groups with relevant interests identified under section 18(2)(k) of the Act.</p> <p><i>The project may have significant adverse effects on the environment</i></p> <p>We do not consider this as reason to decline the referral application under this section. We consider that the application has met the information requirements for a referral application under section 14 of the Act. This includes a description of the anticipated and known adverse effects of the project on the environment. Detailed technical reports are not a requirement for a referral application. Schedule 5 of the Act sets out the information requirements for a substantive application including matters specific to an assessment of environmental effects.</p> <p>Given the project is within a current Controlled Area Notice (CAN) for exotic <i>Caulerpa</i> (an invasive pest seaweed), we are recommending that the Minister's Notice of Decision include a direction that, as part of a substantive application, the applicant engage with Biosecurity New Zealand and demonstrate that the application process for a CAN permit has been initiated.</p> <p><i>The applicant(s) has a poor compliance history under a specified Act that relates to any of the proposed approvals</i></p> <p>The applicant states there have been no compliance or enforcement actions.</p> <p><i>The project area includes land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes</i></p> <p>Not applicable. Te Tari Whakataua has confirmed the project area does not include land considered necessary for Treaty settlement purposes.</p> <p><i>The project includes an activity that is a prohibited activity under the Resource Management Act 1991</i></p> <p>Not identified as a prohibited activity.</p> <p><i>A substantive application for the project would have one or more competing applications.</i></p> <p>None identified.</p> <p><i>In relation to any proposed approval of the kind described in section 42(4)(a) (resource consents), there are one or more existing resource consents of the kind referred to in section 30(3)(a)</i></p> <p>None identified.</p> <p><i>Any other matter</i></p> <p>None identified.</p> <p>We do not recommend you decline the application under this section.</p>
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