

COVID-19 Recovery (Fast-track Consenting) Act 2020

Kōpū Marine Precinct by Thames-Coromandel District Council

M-1 Minute of the Kōpū Marine Precinct Expert Consenting Panel – 10 January 2022

1. On 12 November 2021, Thames-Coromandel District Council (**the applicant**) lodged an application for resource consents with the Environmental Protection Authority (**EPA**), for the Kōpū Marine Precinct (the project), under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (**the Act**).
2. The Kōpū Marine Precinct Expert Consenting Panel (**the Panel**) was appointed on 16 December 2021 to determine the application for resource consents. The Panel is comprised of myself (as chairperson), Cathy Katene and Paul Cooney.

Addendum to Application

3. On 22 December 2021, the applicant submitted an addendum to the application with the EPA for consideration by the Panel.
4. It is the Panel's understanding that the applicant had lodged an application with the EPA on 12 September 2021 (**the initial application**), however this was withdrawn prior to a decision being made on that application's compliance with clause 3(1) of Schedule 6 of the Act.
5. There was a question as to the activity status of the initial application, namely whether the application should be considered as a discretionary activity or prohibited activity largely due to whether or not the proposal was "*Specified infrastructure*" under the provisions of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NESFW**), specifically Regulation 45.¹
6. Subsequent to withdrawing the initial application, the applicant redesigned the proposal, avoiding the "*trigger*" for either Regulation 45 or Regulation 53 of the NESFW and then lodged an application for the re-designed proposal on 12 November 2021. The EPA determined this application complied with clause 3(1) of Schedule 6 of the Act and referred it to the Panel for our consideration.
7. The applicant maintains that the initial application (and the design of the proposal under that application) can be considered as "*Specified Infrastructure*" under the NESFW and as such, submitted that design to the Panel as an addendum to its application lodged on 12 November 2021 to be considered by the Panel.
8. This effectively means that there are currently two separate proposals for consideration before the Panel. These are on the EPA website [here](#) as "*Option 1*", being the application as lodged on 12 November 2021, and "*Option 2*" being the addendum to the application submitted on 22 December 2021.
9. As this addendum was provided to the Panel just prior to Christmas and during the period of 20 December to 10 January (inclusive) (**the "statutory blackout period"**), which are not considered

¹ <https://www.legislation.govt.nz/regulation/public/2020/0174/latest/LMS364099.html>

“working days” as defined in the Act, the Panel have not at this point in time formed a view on the activity status of “Option 2” or whether “Option 2” can be considered by the Panel.

Invitations to Comment

10. The Panel must invite written comments from the persons or groups listed in clauses 17(6) and 17(7) of Schedule 6 of the Act.
11. In addition to the requirements of clauses 17(6) and 17(7), the Panel may invite written comments from any other persons that the Panel considers appropriate in accordance with clause 17(8) of Schedule 6 of the Act.
12. The panel notes that clause 17(1) of Schedule 6 of the Act expressly prohibits them from giving limited or public notification of the application.
13. The parties that must be invited for comment in accordance with clause 17(7) of Schedule 6 of the Act are identified in clause 7 of Schedule 19 of the [COVID-19 Recovery \(Fast-track Consenting\) Referred Projects Order 2020](#).
14. The Panel would like to highlight that those invited to comment can comment on “Option 1” and “Option 2” as both options form part of the application for resource consents currently before the Panel for consideration.

Determination of owners and occupiers of land who must be invited for comment under clauses 17(6)(g) and 17(6)(h) of Schedule 6 of the Act.

15. The Panel has considered the application and the extent of land on which the project is undertaken and the land adjacent to that land.
16. In identifying the extent of land parcels that are considered “*adjacent to the land on which the project is undertaken*”, the Panel considered that land parcels that share a common boundary with the land on which the project is to be undertaken is the land adjacent to the land on which the project is to be undertaken.
17. The Panel considers that the owners and occupiers of the land on which the project is to be undertaken and the land adjacent to that land, being the land described in paragraph 16, must be invited to comment on the application in accordance with clauses 17(6)(g) and 17(6)(h) of Schedule 6 of the Act.
18. A list identifying these properties can be found on the EPA website here: <https://www.epa.govt.nz/fast-track-consenting/referred-projects/kopu-marine-precinct/comments-from-invited-parties/>
19. Further, a map identifying these properties is appended to this Minute.

Appropriate Parties

20. In addition to the person(s) that must be invited to comment under clauses 17(6) and 17(7) of Schedule 6 of the Act, in accordance with clause 17(8) of Schedule 6 of the Act, the Panel may invite written comments from any other person the Panel considers it appropriate.
21. The Panel considered that it is appropriate to invite written comment from the following persons:

Person(s)	Reason(s) for Inviting Comment
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Ngāti Paoa Iwi Trust	Due to the extent of their rohe boundary being slightly adjacent to Kōpū and their interest in the coastal marine area, of which the project sits within.
Maritime New Zealand	As the activity is within the coastal marine area and may result in navigation matters/hazards and the Act does not contain a similar requirement as to that of the Section 89A of the Resource Management Act 1991.
Thames Coastguard	As the activity is within the coastal marine area and may result in navigation matters/hazards.
Thames Sailing Club	The activity is within the coastal marine area and may include recreational facilities.
Hauraki Rail Trail Charitable Trust	the Hauraki Rail Trail passes through the project site and the application includes proposals for access to the Trail.
Coromandel Marine Farmers Association	There are a number of marine farms downstream of the project site and the project will be of use to marine farmers in the area.
New Zealand Walking Access Commission Ara Hīkoi Aotearoa	As they are responsible for dealing with and addressing access issues to walking tracks. The Hauraki Rail Trail is adjacent to the project site with the application having an effect on access.
Thames Business Association	As its purpose is to develop a cohesive business community to drive positive social and economic outcomes.

Date determined for closing of comments

22. The decision on the person(s) who must be invited to comment and those that the Panel considered appropriate to invite comment from was made on 22 December 2021.
23. As this was in the lead up to the Christmas and New Year Period, where those being invited to comment would likely be on holiday and was during the statutory blackout period the Panel did not consider it appropriate to invite comment on the application over that period.
24. The EPA is therefore to issue invitations to comment on behalf of the Panel on **11 January 2022**.
25. Clause 18(1) of Schedule 6 of the Act specifies written comments must be received by the EPA on behalf of the Panel on a specified date (which must be 10 working days after the date on which the invitation is given under clause 17(2)).
26. For the Kōpū Marine Precinct there are a number of person(s) or groups the Panel must invite comment from that can only be contacted via postal addresses. To avoid any prejudice for postal (or non-electronic recipients) the Panel considers it appropriate to allow time for the invitation to comment to be received, before the 10 working days by which a written comment received by the EPA begins.

27. The Panel also notes there is a considerable amount of information, particularly due to the addendum, that make up the application for invitees to consider.
28. The Panel has therefore resolved to allow 5 working days for delivery of the invitation to comment and has determined the date by which written comments must be received by the EPA to be no later than **1 February 2022**.
29. It is important to note that the Panel is not required to consider comments received by the EPA after 1 February 2022, but may do so, in its discretion, as long as the Panel has not issued its decision.
30. As public and limited notification is prohibited, only those persons or groups that have been invited to comment by the Panel can provide written comment on the application.
31. There is no right for any person to seek a waiver of the time limit.
32. As a hearing is not required under the Act and may not occur, if comments are to include expert consultant advice or legal submissions, these must be received with written comments supplied to the EPA no later than **1 February 2022**.
33. Written comments can be emailed to the EPA at kopu.fasttrack@epa.govt.nz.



Vanessa Hamm

On behalf of the Kōpū Marine Precinct Expert Consenting Panel.

MAP 1 - KŌPŪ MARINE PRECINCT

