

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

Rangitane Maritime Development by Far North Holdings Limited and Far North District Council

M-5 Minute of the Rangitane Maritime Development Expert Consenting Panel – 23 February 2022

1. Far North Holdings Limited and Far North District Council (the applicant) lodged the application for the Rangitane Maritime Development under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the Act) on 21 September 2021.
2. At the time the application was lodged with the Environmental Protection Authority (EPA), a Declaration of the Environment Court¹ (the Declaration) had declared that the Resource Management (National Environmental Standards for Freshwater) Regulation 2020 (NES-F) “*apply to the coastal marine area (CMA) only to the extent that they cover the area of CMA upstream of the "river mouth" as defined in the Resource Management Act 1991. In particular, they do not apply to the general CMA, open oceans, estuaries, bays and other areas not falling within the definition of " river or connected area."*”
3. The application includes proposed reclamation works and the removal of several mature mangrove trees. Based on the Declaration, the application stated that the area of mangroves did not constitute a “natural wetland” for the purposes of the NES-F.
4. The Declaration was appealed to the High Court², which quashed the declaration of the Environment Court. The High Court found that the NES-F does apply to natural wetlands within the CMA (High Court decision). The High Court decision was subsequent to the application being lodged with the EPA.
5. In light of the High Court decision, on 17 February 2022, the applicant, helpfully, provided a Memorandum on coastal wetland considerations from 4Sight Consulting Limited³ (4Sight memo), dated 20 December 2021. That Memorandum addresses, from an evidentiary perspective, whether the mangroves which are proposed to be removed form part of a natural wetland for the purposes of the NES-F.
6. The 4Sight memo concluded that “*the scattered mangroves do not constitute a wetland ...*”.

Appointment of Special Advisor

7. The Rangitane Maritime Development Expert Consenting Panel (the Panel) has to consider the application in light of the High Court decision.
8. In accordance with clause 10(3) of Schedule 5 of the Act, the Panel has appointed Clair Webb of Beca Group Limited as a Special Advisor to the Panel, to provide independent ecological advice.
9. The Panel has briefed Ms Webb and asked her to:

¹ Bay of Islands Maritime Park Inc v Northland Regional Council [2021] NZEnvC 006 [10 February 2021]

² Minister of Conservation v Mangawhai Harbour Restoration Society Incorporated [2021] NZHC 3113 [18 November 2021]

³ Rangitane Loop Road Boat Ramp – coastal wetland considerations, 4Sight Consulting Limited (20 December 2021) ([10-Ecology-Wetland-Response.pdf \(epa.govt.nz\)](#))

- a) Provide a peer review of the 4Sight memo; and
 - b) Provide her opinion as to whether the seven mangroves sought to be removed as part of the proposal, or any area within the project site, constitutes a “*natural wetland*” for the purposes of the NES-F.
10. In providing her advice to the Panel, Ms Webb has been asked to comment on the reasoning expressed in the 4Sight memo, as appropriate.
11. The advice sought by the Panel is relevant as to whether the activity may constitute a prohibited activity under the NES-F, in particular regulation 53. Once it has obtained the expert ecological assessment the Panel will need to consider whether this alters the activity status of the proposal or any part of it. The Panel reserves its right to take separate planning and/or legal advice on the matter.



Mary Hill

On behalf of the Rangitane Maritime Development Expert Consenting Panel.