

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

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

M-8 Minute of the Rangitane Maritime Development Expert Consenting Panel – 25 March 2022

1. On 7 March 2022, the Rangitane Maritime Development Expert Consenting Panel (the Panel) issued [Minute 7](#).
2. The Minute issued a number of directions to the applicant as well as noting the appointment of Sarah Shaw to provide legal advice to the Panel.
3. The Panel has now received the further information required by the directions in Minute 7. This information can be viewed on the Environmental Protection Authority (EPA) website here: [Reports and advice | EPA](#).

Issue relating to “*Natural Wetland*”

4. The Panel had received a report from its Special Advisor, Beca Limited (the Beca report¹). The applicant has now provided a response to the Beca report, prepared by 4Sight Consulting Limited (the 4Sight response²).
5. The Panel notes that a key area of difference between the Beca report and the 4Sight response relates to the appropriate ecological contextual scale. The 4Sight response suggests that the Beca report “lacks a site-specific assessment” (p2).
6. The Panel understands that Claire Webb for Beca Limited (Beca) undertook a site visit during the preparation of the Beca report and observes that the Beca report does contain some photographs taken from that visit and some specific observations about the attributes of the site (on p5) which contribute to the conclusion that “*the individual mangroves proposed to be removed form part of the coastal wetland mosaic at this location.*”
7. However, because the Beca report was commissioned by the Panel as a peer review of the initial 4Sight report,³ rather than as a primary assessment, the Beca report lacks the degree of site-specific detail that would ordinarily be provided as part of a primary assessment (as opposed to a peer review).
8. To properly inform its decision making, the Panel will seek a supplementary report from Beca providing any further information of a site-specific nature observed during the site visit that is considered relevant to the conclusion that “*the individual mangroves proposed to be removed form part of the coastal wetland mosaic at this location.*”
9. The Panel notes that this is intended as a supplementary report to provide further information, rather than a further substantive assessment, and therefore it is not anticipated that further comment will be required from the applicant. However, a limited opportunity will be provided to the

¹ [Ecological Tech Review of Rangitane Maritime Development \(epa.govt.nz\)](#)

² [220321-4Sight-Response-to-Wetland-Matter.pdf \(epa.govt.nz\)](#)

³ [10-Ecology-Wetland-Response.pdf \(epa.govt.nz\)](#)

applicant to provide any comments if this supplementary report reaches new or different conclusions that require a response.

Legal Advice

10. The applicant's response to Minute 7 provided several reports including the 4Sight report, planning evidence⁴ (Ms Roger's evidence), and legal submissions relating to the wetland issue and relevant regulations and activity status under the NES-F.
11. The Panel has asked Ms Shaw to provide legal advice on the following issues:
 - (a) Whether the future state of the estuarine environment is relevant to the issue of whether the subject site is part of a "natural wetland" (the definition issue), or whether it is only relevant to the assessment of the effects of the proposal on the environment once defined (with reference to Mr Brabant's submissions at paras 39-46, and the 4Sight report at p2);
 - (b) Assuming the Panel finds that the proposal would be undertaken within a "natural wetland" (noting that no decision has yet been made on this issue), what is the activity status of the proposal (both the reclamation and mangrove removal aspects) under the NES-F and what are the implications (if any) of that activity status on the Panel's ability to determine the application.
 - (c) The above issue should consider the application of any relevant exemptions under the NES-F including whether the proposal meets (in whole or part) the definition of "wetland utility structure" and / or "specified infrastructure" and if so what this means in terms of activity status and the Panel's ability to determine the application.
12. Apart from the issue of whether the site forms part of a natural wetland (which the Panel has not yet made a finding on), where the legal issue depends on a particular factual finding(s), the legal advice should rely on the facts as asserted in the application and supporting evidence, including Ms Rogers' acknowledgement (accepted by Mr Brabant) that the reclamation earthworks activity would drain an area of seabed to become dry land.⁵

Directions of the Panel

13. The Panel has asked Ms Webb to prepare an addendum to her earlier report, to be received by the EPA no later than **Tuesday 29 March 2022**.
14. The EPA on behalf of the Panel will provide the applicant with the addendum from Beca and should the applicant wish to provide a response from their ecologist (on the basis envisaged at para 7 of this Minute) it should be received by the EPA no later than **Friday 1 April 2022**.
15. The Panel has asked Ms Shaw to provide her legal advice by **Friday 1 April 2022**.

⁴ Refer to Deanne Rogers' evidence

⁵ Refer Rogers at para 53 and Brabant subs at 58.

16. If, upon receipt of the above information, the Panel considers it would be useful to obtain independent planning (or any other) advice, it reserves the right to do so.

A handwritten signature in blue ink, appearing to be 'M Hill', written in a cursive style.

Mary Hill

On behalf of the Rangitane Maritime Development Expert Consenting Panel.