

Version
as at 8 July 2023



**COVID-19 Recovery (Fast-track Consenting) Referred
Projects (Aquaculture Trials and Whenuapai
Development) Amendment Order 2023**
(SL 2023/152)

COVID-19 Recovery (Fast-track Consenting) Referred Projects (Aquaculture Trials and Whenuapai Development) Amendment Order 2023: revoked, on 8 July 2023, by Schedule 1 clause 1(1) of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (2020 No 35).

Cindy Kiro, Governor-General

Order in Council

At Wellington this 26th day of June 2023

Present:

The Hon Carmel Sepuloni presiding in Council

This order is made under section 27 of the COVID-19 Recovery (Fast-track Consenting) Act 2020—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the joint recommendation of the Minister for the Environment and the Minister of Conservation.

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This order is administered by the Ministry for the Environment.

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Order

1 Title

This order is the COVID-19 Recovery (Fast-track Consenting) Referred Projects (Aquaculture Trials and Whenuapai Development) Amendment Order 2023.

2 Commencement

This order comes into force on 5 July 2023.

3 Principal order

This order amends the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020.

4 New schedules inserted

After the last schedule,—

- (a) insert the schedules set out in the Schedule of this order; and
- (b) make all necessary consequential amendments.

Schedule

New Schedules 102 and 103 inserted

cl 4

Schedule 102

Aquaculture Trials

cl 5

Project referred to expert consenting panel

1 Name of project

The name of the project is the Aquaculture Trials (the **project**).

2 Authorised person

The authorised person for the project is The New Zealand Institute for Plant and Food Research Limited.

3 Description of project

(1) The scope of the project is to do the following within the boundaries of an existing open ocean marine farm that occupies an area of approximately 450 hectares of the coastal marine area of Tasman Bay:

- (a) install fish enclosures and related structures and equipment for conducting, over a period of approximately 7 years, open ocean finfish aquaculture trials in various locations;
- (b) conduct the trials, including by introducing exotic and other fish into the waters within each fish enclosure;
- (c) at the end of each trial, remove the fish enclosure within which each trial is conducted.

(2) It is proposed that—

- (a) each fish enclosure and related structures and equipment will be able to swing across an area of approximately 3.6 hectares; and
- (b) only 1 fish enclosure will be in place for the purposes of the trials at any time.

(3) In this clause, **related structures and equipment** includes—

- (a) moorings and mooring lines; and
- (b) anchors; and
- (c) feeding buoys; and
- (d) navigational aids and lights.

4 Description of activities involved in project

The project may involve the following activities:

- (a) placing structures in the coastal marine area:
- (b) removing structures that are fixed in or on the seabed of the coastal marine area:
- (c) disturbing the seabed of the coastal marine area, including by—
 - (i) excavating or drilling the seabed; and
 - (ii) fixing structures in or on the seabed:
- (d) conducting aquaculture activities in the coastal marine area for the purposes of trials, including by introducing exotic fish:
- (e) depositing a substance or substances into or on the seabed of the coastal marine area:
- (f) occupying the common marine and coastal area:
- (g) discharging contaminants or water into water:
- (h) carrying out any other activities that are—
 - (i) associated with the activities described in paragraphs (a) to (g); and
 - (ii) within the scope of the project as described in clause 3 of this schedule.

5 Approximate geographical location

- (1) The project will occur within the boundaries of an open ocean marine farm that—
 - (a) is located in Tasman Bay, approximately 6 kilometres to the west of Sauvage Point, D’Urville Island; and
 - (b) is operated by Wakatū Incorporation.
- (2) In this schedule, **Wakatū Incorporation** means the Proprietors of Wakatū, which was constituted a Maori incorporation by clause 3(1) of the Wakatu Incorporation Order 1977.

6 Persons who must be invited to comment on project

- (1) The panel must invite comments on any consent application relating to the project from the following persons (in addition to the persons listed in clause 17(6) of Schedule 6 of the Act):
 - (a) the Minister for Oceans and Fisheries:
 - (b) the person who is appointed as the harbour master for the waters in which the project site is located (known as the Marlborough Harbour-master):

- (c) the Ministry for Primary Industries (in respect of matters relating to fisheries and to biosecurity);
 - (d) Wakatū Incorporation (*see* clause 5(2));
 - (e) the members of the group known as Te Tau Ihu Fisheries Forum;
 - (f) the Ngāti Toarangatira ki Wairau Trust.
- (2) To avoid doubt, a person or persons referred to in subclause (1) includes anyone who is appointed to represent the person or persons in any material respect (for example, anyone appointed as the appropriate contact for matters relating to the Resource Management Act 1991).

7 No further provision required

No further provision is necessary to give effect to decisions made by the Minister for the Environment and the Minister of Conservation under section 24 of the Act in respect of the project.

Statement of reasons

This statement of reasons is published for the purposes of clause 4 of Schedule 3 of the Act

The Minister for the Environment and the Minister of Conservation (the **Ministers**) have accepted this application for referral. The Ministers considered the application against the criteria in the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the **Act**) and the Act's purpose, and sought and considered written comments from the following:

- the relevant Ministers listed in section 21(6) of the Act;
- the Minister for Oceans and Fisheries;
- Marlborough District Council;
- the Marlborough Harbourmaster.

The Ministers have accepted this application for the following reasons:

- the project will help to achieve the purpose of the Act because—
 - it has the potential to generate approximately 42 direct full-time equivalent jobs (**FTE jobs**) over a 5-year period and to provide support for 60 existing FTE jobs to be retained; and
 - it has the potential to contribute to aquaculture that is resilient to the effects of climate change; and
 - it is likely to progress faster than would otherwise be the case under the Resource Management Act 1991 standard processes:
- any actual and potential effects on the environment, and proposed measures to avoid, remedy, mitigate, offset, or compensate for any adverse effects, can be appropriately tested by an expert consenting panel against Part 2 of the Resource Management Act 1991 and the purpose of the Act.

Schedule 103

Whenuapai Development

cl 5

Project referred to expert consenting panel

1 Name of project

The name of the project is Whenuapai Development (the **project**).

2 Authorised person

The authorised person for the project is Cabra Developments Limited.

3 Description of project

The scope of the project is to do the following in relation to land in Whenuapai, Auckland:

- (a) subdivide 3 allotments (1 at Clarks Lane and 2 at Sinton Road) and—
 - (i) construct a housing development (consisting of 227 residential units) on 227 of the resulting allotments; and
 - (ii) develop other resulting allotments for esplanade reserves to be vested in Auckland Council:
- (b) subdivide an allotment at Trig Road to create approximately 9 allotments for light industrial uses and develop 2 of those allotments by constructing and operating 2 industrial warehouses:
- (c) restore a natural inland wetland:
- (d) upgrade and extend Sinton Road:
- (e) construct or install infrastructure or structures associated with the subdivision and the development referred to in paragraphs (a) and (b), including—
 - (i) roads and vehicle accessways; and
 - (ii) pedestrian accessways; and
 - (iii) infrastructure for three waters services.

4 Description of activities involved in project

The project may involve the following activities:

- (a) subdividing land:
- (b) carrying out earthworks (including earthworks that disturb potentially contaminated soil):
- (c) trimming and removing vegetation:
- (d) constructing residential units:
- (e) constructing and operating industrial buildings:

- (f) discharging stormwater (which may contain contaminants) onto land or into water, including the land or water of the coastal marine area:
- (g) diverting an overland flow path:
- (h) developing land for an esplanade reserve:
- (i) restoring a natural inland wetland, including by planting in and adjacent to the wetland:
- (j) upgrading a road:
- (k) constructing or installing infrastructure or structures, including—
 - (i) roads (which are intended to be vested in Auckland Council) and other accessways for vehicles; and
 - (ii) pedestrian accessways; and
 - (iii) infrastructure for three waters services:
- (l) carrying out any other activities that are—
 - (i) associated with the activities described in paragraphs (a) to (k); and
 - (ii) within the scope of the project as described in clause 3 of this schedule.

5 Approximate geographical location

The project will occur on the following land at Whenuapai, Auckland:

- (a) 15 Clarks Lane, 10, 12, 14, and 16 Sinton Road, and 90 Trig Road:
- (b) the road reserves of Clarks Lane, Sinton Road, Spedding Road, and Trig Road:
- (c) the natural inland wetland that is adjacent to Sinton Road.

6 Persons who must be invited to comment on project

- (1) The panel must invite comments on any consent application relating to the project from the following persons (in addition to the persons listed in clause 17(6) of Schedule 6 of the Act):
 - (a) Auckland Transport:
 - (b) Watercare Services Limited:
 - (c) the New Zealand Transport Agency:
 - (d) the New Zealand Defence Force:
 - (e) the Ngāti Koheriki Claims Committee:
 - (f) Whenua Haumi Roroa o Tāmaki Makaurau Limited Partnership:
 - (g) Tūpuna Taonga o Tāmaki Makaurau Trust Limited:
 - (h) Marutūāhu Rōpū General Partner Limited:

- (i) the trustees, acting in their capacity as trustees, of the Hako Tūpuna Trust:
 - (j) the trustees, acting in their capacity as trustees, of the Ngāti Pāoa Iwi Trust:
 - (k) the Ngāti Pāoa Trust Board:
 - (l) Ngāti Whanaunga Incorporated:
 - (m) the trustees, acting in their capacity as trustees, of the Ngaati Whanaunga Ruunanga Trust:
 - (n) the trustees, acting in their capacity as trustees, of the Ngāti Manuhiri Settlement Trust.
- (2) To avoid doubt, a person or persons referred to in subclause (1) includes anyone who is appointed to represent the person or persons in any material respect (for example, anyone appointed as the appropriate contact for matters relating to the Resource Management Act 1991).

7 **No further provision required**

No further provision is necessary to give effect to decisions made by the Minister for the Environment and the Minister of Conservation under section 24 of the Act in respect of the project.

Statement of reasons

This statement of reasons is published for the purposes of clause 4 of Schedule 3 of the Act

The Minister for the Environment and the Minister of Conservation (the **Ministers**) have accepted this application for referral. The Ministers considered the application against the criteria in the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the **Act**) and the Act's purpose, and sought and considered written comments from the following:

- the relevant Ministers listed in section 21(6) of the Act:
- Auckland Council:
- Auckland Transport:
- Watercare Services Limited:
- the New Zealand Transport Agency:
- the New Zealand Defence Force.

The Ministers have accepted this application for the following reasons:

- the project will help to achieve the purpose of the Act because—
 - it has the potential to generate approximately 154 full-time equivalent jobs (**FTE jobs**) over a 4-year design and construction period and approximately 126 FTE jobs through ongoing industrial activities; and

- it has the potential to increase housing supply through the construction of approximately 227 residential units; and
- it has the potential to have positive effects on social well-being by contributing to public amenity and opportunities for recreation; and
- it is likely to progress faster than would otherwise be the case under the Resource Management Act 1991 standard processes:
- any actual and potential effects on the environment, and proposed measures to avoid, remedy, mitigate, offset, or compensate for any adverse effects, can be appropriately tested by an expert consenting panel against Part 2 of the Resource Management Act 1991 and the purpose of the Act.

Diana Hawker,
Acting Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 5 July 2023, amends the COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020. The effect of the amendment is to refer 2 projects to expert consenting panels for the purpose of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the **Act**). The referred projects are the projects named and described in *new Schedules 102 and 103*.

The effect of the referral is—

- to authorise The New Zealand Institute for Plant and Food Research Limited to apply under the Act, instead of under the Resource Management Act 1991, for resource consents relating to the project described in *new Schedule 102*; and
- to authorise Cabra Developments Limited to apply under the Act, instead of under the Resource Management Act 1991, for resource consents relating to the project described in *new Schedule 103*.

The expert consenting panels will be appointed under Schedule 5 of the Act and make decisions in accordance with Schedule 6 of the Act.

Notes

1 *General*

This is a consolidation of the COVID-19 Recovery (Fast-track Consenting) Referred Projects (Aquaculture Trials and Whenuapai Development) Amendment Order 2023 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

COVID-19 Recovery (Fast-track Consenting) Act 2020 (2020 No 35): Schedule 1 clause 1(1)