

**Before the Commissioner / Hearing Panel  
appointed by Canterbury Regional Council**

<b>IN THE MATTER OF</b>	The Resource Management Act 1991
<b>AND</b>	
<b>IN THE MATTER OF</b>	Applications CRC172455, CRC172522, CRC172456 and CRC172523 by Lyttelton Port Company Limited to undertake various activities within Lyttelton Harbour and offshore surrounds associated with the Channel Deepening Project

**Addendum to Section 42A Officers Report  
Response to matters raised in the Hearing  
9 May 2017**

**INTRODUCTION**

1. The intention of this addendum is to provide the Hearing Panel with additional information and guidance on the following matters raised during the hearing:
  - a. Adaptive management approach
  - b. Section 15A RMA
  - c. Existing maintenance dredging consent
  - d. Process for changing the location of the disposal grounds
  - e. Restriction on duration of dredging
  - f. Net gain in mahinga kai
  - g. Additional planning provisions
2. The following Environment Canterbury experts have provided advice on the following topics:
  - a. Setting of statistical triggers and the trigger condition – Mr Dougal Greer
  - b. Ecological effects and monitoring – Dr Lesley Bolton Richie
  - c. Coastal processes, sediment budget and surfing – Mr Justin Cope
3. Any matter relating to turbidity modelling will be addressed by Environment Canterbury expert Mr Cannon Andrews on Friday 12 May 2017.
4. We also engaged Dr Simon Childerhouse, Senior Marine Scientist, to provide advice on the effects of the proposal on marine mammals, and Dr David Thompson, Seabird Ecologist, to assess the effects on marine avifauna.

5. Dr Childerhouse has reviewed the evidence of Ms Deanna Clement dated 28 March 2017, the EMMP and the proposed consent conditions provided in the Pre-circulated Evidence. The recommendations of Dr Childerhouse regarding vessel noise characterisation have been provided to LPC.
6. Dr Thompson has reviewed the evidence of Ms Leigh Bull dated 28 March 2017, the EMMP and the proposed consent conditions provided in the Pre-circulated Evidence, and does not recommend any additional mitigation measures.
7. Although Dr Childerhouse and Dr Thompson are not here today, we are able to take any of the Hearing Panels questions on their specialise topics and provide a written response.
8. We provided LPC with a list of recommendations and amendments to proposed consent conditions, as provided in Mr Purves's Pre-circulated Evidence, on Monday 8 May 2017. The draft conditions are not finalised and did not include specific recommendations from Dr Lesley Bolton-Richie and Mr Dougal Greer. These will be discussed today. We have attached the draft recommendations to this addendum. If there are any consent condition recommendations that are not taken up by LPC after the workshop on Wednesday, we will provide a written summary of these on Friday 12 May 2017.

#### **ADAPTIVE MANAGEMENT APPROACH**

9. We make the following recommendations regarding the adaptive management approach:
  - a. If there is a period of five or more years between dredging stages, the current consent conditions only require further baseline monitoring if the consent holder deems it necessary (after consultation with TAG and ALG). We consider that the PRG needs to provide a recommendation report and the decision lie with the Consent Authority acting in a technical capacity. This is because the nature and sensitivity of the affected environment may change over an extended period. If turbidity is found to be higher in the second baseline period, this could be attributable to increased sedimentation due to the dredging activities and accordingly we recommend that the turbidity triggers should be based on the most environmentally conservative data.
  - b. We agree that the EMMP should include a 'stop and reassess' management response, consistent with the precautionary approach (with reference to para 23 of Ms Lynch's Evidence).
  - c. We consider that the conditions require management response measures if the tier 2 and 3 turbidity triggers are being exceeded on a regular basis. These management responses would be in addition to the management responses proposed in the EMMP and are in recognition of the adverse ecological effects of repeated turbidity exceedances over a longer period of time. The timeframes need to be discussed, but we suggest that if two tier 2 management responses are required (as defined in the conditions) in a rolling 90 day period, then additional management response measures are

required, which could include sediment transport modelling which considers the meteorological and oceanographic conditions at the times of exceedance.

- d. Some examples of other instances where adaptive management frameworks have been used include:

i. Pegasus Bay Marine Farm – a 3,000 ha mussel farm in Pegasus Bay. The consent holder is required to undertake intensive baseline water column monitoring and coastal processes monitoring prior to installation of any structures associated with the marine farm. Conditions of the consent indicate a trigger value for Phytoplankton levels. The consent holder is also required to develop and implement an investigation and monitoring programme that gathers adequate data to enable the quantification of natural conditions and farm-induced effects on the coastal processes.

ii. Consents related to Hurunui Water Project Limited – Waitohi Irrigation and hydro Scheme. Ecological mitigation is based on the adaptive management approach.

iii. Consents to discharge dewatering from contaminated sites – Consent conditions require samples of the dewatering discharge to be taken at the outset and then continuous sampling to assess if the water quality limits are being met. If water quality limits are being exceeded, the treatment methodology is required to be improved to ensure compliance.

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## **S15A OF RESOURCE MANAGEMENT ACT 1991**

10. Our s42A report states that Section 15B applies to the discharge of contaminants (dredge spoil and water) from the capital and maintenance dredging vessels into coastal water during overflows and at the disposal sites.
11. However we now consider that s15A RMA applies to the dumping of dredge spoil at the disposal sites. This is based on Section 4(2)(a) of the Resource Management (Marine Pollution) Regulations 1998 which refers to 'dumping' of dredge material, and is in agreement with the evidence of Mr Purves (LPC) and Ms Lynch (Ngai Tahu).
12. This clarification will not affect the assessment of effects. The relevant sections of the RMA will be listed in the scope of the consents.

### ***Channel Deepening Dredging***

**CRC172455** – A Coastal Permit under section 12 of the Resource Management Act 1991:

- i. *To dredge (disturb) seabed material for the purposes of deepening, extending and widening a shipping (navigation) channel that includes a ship-turning basin and berth pockets; and*

- ii. *ii. To dredge seabed material in preparation for reclaiming land for a new container facility in Te Awaparahi Bay; and*
- iii. *iii. To deposit seabed material on the seabed associated with (i) and (ii) above.*

**CRC172522** – A Coastal Discharge Permit under sections 15, 15A and 15B of the Resource Management Act 1991:

- iv. *To discharge contaminants (seabed material and water) into water associated with channel deepening dredging as described in CRC172455; and*
- v. *To discharge (dump) dredge material from a ship into water at the disposal ground as described in CRC172455; and*
- vi. *To discharge contaminants (seabed material and water) from a ship into water associated with channel deepening dredging as described in CRC172455.*

### **Maintenance Dredging**

**CRC172456** – A Coastal Permit under section 12 of the Resource Management Act 1991

- i. *To dredge (disturb) seabed material for the purpose of maintaining the depth of a shipping (navigation) channel that includes a ship-turning basin and berth pockets to the extent authorised by CRC172455; and*
- ii. *To deposit seabed material on the seabed associated with (i) above;*

**CRC172523** – A Coastal Discharge Permit under sections 15, 15A and 15B of the Resource Management Act 1991:

- i. *To discharge contaminants (seabed material and water) into water associated with maintenance dredging as described in CRC172456; and*
- ii. *To discharge (dump) dredge material from a ship into water at the maintenance disposal grounds associated with maintenance dredging as described in CRC172456; and*
- iii. *To discharge contaminants (seabed material and water) from a ship into water associated with maintenance dredging as described in CRC172456.*

### **EXISTING MAINTENANCE DREDGING CONSENT CRC135318**

- 13. The proposed maintenance consent conditions (condition 2.4) state that the maximum in situ volume of dredge spoil disposed of at the Godley Head maintenance disposal ground shall not exceed an as yet undefined quantity, measured in cubic metres per annum. A figure needs to be provided for certainty.
- 14. The applicant holds coastal permit CRC135318 to disturb the seabed by dredging of the harbour channels, turning basins and berthage areas of Lyttelton Port in relation to the maintenance of the existing channel. This consent was granted for a duration of 35 years, and expires on 3 April 2049. It includes authorisation to dredge within the inner harbour which is not included

in the proposed CDP applications. Dredge material is authorised to be deposited at one of six spoil grounds on the north side of Whakaraupō/Lyttelton Harbour, including Godley Head.

15. The coastal permit CRC135318 does not specify a maximum annual volume that may be deposited at the spoil grounds. Therefore there is a risk that LPC could exercise the existing maintenance consent and the proposed maintenance dredging consent (if granted) concurrently and deposit a substantial quantity of maintenance spoil at Godley Head. The cumulative effects of this scenario have not been assessed.
16. The options to consider are for LPC to apply for a change of conditions to the existing coastal permit CRC135318 to add a maximum annual volume, or for LPC to assess the cumulative adverse effects of both consents being exercised with regards to deposition volumes at Godley Head. We do not consider that the existing consent needs to be surrendered given that it also covers the Inner Harbour area.

#### **PROCESS FOR CHANGING THE LOCATION OF THE DISPOSAL GROUNDS**

17. Some submitters have requested that both the capital and maintenance disposal grounds be moved further offshore, that the maintenance spoil is deposited at the capital disposal site, and Godley Head is not used at all.
18. If the Hearing Panel considers that the Godley Head maintenance dredging spoil site is not acceptable and only the offshore maintenance spoil site is to be used, we consider that this would be within the scope of the notified application as the potential and actual adverse effects would reduce. Re-notification of the application would not be required.
19. Conversely, if the Hearing Panel considers that the maintenance spoil should be deposited at the capital disposal grounds, we would advise that this would be outside of the scope of the notified application and that it should be re-notified.

#### **RESTRICTION ON DURATION OF DREDGING**

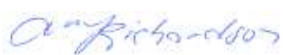
20. Further to our comments in the s42A report on consent duration, we consider that a consent condition limiting the maximum timeframe to complete all capital dredging may be appropriate. For example, the consent conditions could restrict the capital dredging works to a maximum of 20 years from first commencement of dredging. This would increase the certainty of the maximum period for dredging activities and is not significantly more restrictive on LPC given the 10 year lapse period sought to exercise the consent.
21. Mr O'Dea's commentary regarding procurement and commissioning of the dredge, and the comments regarding urgency to commence dredging to 'catch up' indicated that LPC intend to exercise the consent within 3 years of consent being granted (if the Panel are of mind to grant). This would result in a much longer period available to complete all dredging stages.
22. We note that Recommendation 27 of the Cultural Impact Assessment 2016 states that manawhenua seek increased certainty as to when the project will be complete, and this could provide some increased certainty.


## NET GAIN IN MAHINGA KAI

23. The Hearing Panel asked if there is a resource management relevant provision, or legal precedent, that empowers the Panel to decline the LPC applications on the ground that it is not conclusively demonstrated that a net gain in mahinga kai values can be assured.
24. Ms Appleyard's Legal Submission stated that there is not a relevant resource management relevant provision. We agree that that RCEP Policy 10.4.1 requires effort towards a net gain and not a demonstrable net gain. It will be for the Hearing Panel to determine if the proposed mitigation is considered sufficient to comply with this policy considering the scale and effects of this proposal.

## ADDITIONAL PLANNING PROVISIONS

25. Ms Lynch's evidence outlined the other matters to be considered under s104(1)(c):
- The Whakaraupō Catchment Management Plan
  - Te Tai o Mahaanui (Selwyn to Banks Peninsula Coastal Marine Area) Statutory Acknowledgement
  - Fisheries (South Island Customary Fishing) Regulations 1999
  - The Mahaanui IMP
  - The Replacement Christchurch District Plan
26. We also consider that the Lyttelton Port Recovery Plan should be considered, as discussed in our s42A report. We note that the LPRP contains goals (discussed in para. 525 of the s42A report) as well as directing changes to the Regional Coastal Environment Plan and the Canterbury Regional Policy Statement.
27. Ms Bianca Sullivan, Environment Canterbury Principal Consents Advisor, has been involved with the Whakaraupō/Lyttelton Harbour Catchment Management Plan, and is able to answer questions from the Hearing Panel on its development and progress to date.

Signed:  Date: 9.05.17  
Name: Andrea Richardson  
Consents Planner

Signed:  Date: 9.05.17  
Name: Deepani Seneviratna  
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