

## **BEFORE THE CANTERBURY REGIONAL COUNCIL**

In the matter of:       Applications by Lyttelton Port Company Limited to the Canterbury Regional Council to channel deepen dredging at Lyttelton Port

CRC172455 – coastal permit to dredge (disturb the seabed) and deposit material on the seabed

CRC172456 – coastal permit to discharge contaminants and deposit material on the seabed

CRC172522- discharge contaminants into water associated with channel deepening dredging

CRC172523 – discharge permit to discharge contaminants into water associated with maintenance dredging

### **4th Minute of the Commissioners**

#### Lyttelton Port Company witnesses

1. In response to Ms Appleyard's memorandum of 7 April 2017 the Panel indicates that it does not require the persons listed below to be present for questioning at the hearing commencing on 1<sup>st</sup> May 2017. That said there may be a reason unknown to the Panel for someone on the list to be called in which case the witness should give evidence regardless of our indication.
2. We do not require the attendance of:
  - Peter Davie
  - Simon Munt
  - Mike Copeland
  - Jared Pettersson (with regard to Consultation and Engagement)
  - James Bentley
  - Robert Greenaway
  - Dr. Michael Page
  - Deanna Clement
  - Leigh Bull
  - Nevil Hegley

Should it be decided that Dr Page needs to provide evidence in person, he may do so by video link.

#### Whiteboard and Harbour Map

3. A whiteboard will be available for use throughout the course of the hearing. The Panel would also appreciate the supply of a large map of the Harbour and the ocean, to depict the location of the spoil grounds. Suitable marking of the relevant locations on the map would be appreciated.

### Audio Record of the Hearing

4. An audio recording of the hearing will be maintained. This will enable the Panel to check, or obtain a transcript of, any pertinent passage of the evidence. Likewise, should any counsel or submitter need a transcript of some part of the evidence an application to that end may be made.

### A Hearing Plan

5. For the assistance of the Panel and participants alike, Alison Cooper, the Hearings Officer will prepare and circulate a hearing plan in advance of the hearing.
6. In general terms witnesses and submitters will be heard in this order: Lyttelton Port Company first, Ngai Tahu interests next, followed by corporate and lay persons and finally the Environment Canterbury reporting officers. However, if required, participants will be slotted in out of order where this is required. Anyone who has a commitment that makes this necessary should contact Alison Cooper as soon as possible (email: [Hearings@ecan.govt.nz](mailto:Hearings@ecan.govt.nz) or DDI 027 549 7661).  
The Panel requires that Lyttelton Port Company and the Ngai Tahu interests confirm in advance of the hearing the order in which their witnesses will be called.

### Questions from the Panel

7. There are four questions that the Panel poses at this point for the attention of Lyttelton Port Company (questions a, b & c) and the Ngai Tahu interests (question d).
  - a. The application provides no or little detail concerning the quantitative distribution of spoil over the total length of the project, nor evidence of attempts made to limit the 18 million m<sup>3</sup> spoil volume by adoption of alternative design methods. For example, the depth of the wave affected zone of the entrance channel could have been lessened at the expense of channel operability (e.g., dynamic underkeel clearance). Were either of these issues considered and if so, with what result?
  - b. The modelling of overboard discharges adopts time intervals of 10, 20, and 30 minutes at a release rate of 1600 kg/sec. Please indicate:
    - i. Are these values typical of those that contractors might offer Lyttelton Port Company and is the release rate chosen likely to be exceeded?
    - ii. What are the dredge and dredging related influences that give rise to these times and what distribution of these times over the total project might be expected?
    - iii. What are the best practice technologies or methodologies that could be employed to ensure that overboard discharges are minimised?
    - iv. What contract clause(s) might be used to require contractors to minimise overboard discharges?
    - v. What tendering methods might be employed to ensure that the dredging contracts deliver the best environmental outcomes?
  - c. Is it accepted that the applications are to be considered by reference to the adaptive management principles outlined in the Supreme Court decision in *Sustain Our Sounds Inc. v NZ King Salmon Co Ltd*, in particular at [124 - 129.]
  - d. Is there a resource management relevant provision, or legal precedent, that empowers the Panel to decline the Lyttelton Port Company applications on

the ground that it is not “conclusively demonstrated that a net gain in mahinga kai values can be assured” (December 2016 submission, p 12.)

8. Counsel are invited to provide opening remarks before witnesses are called and this may be a suitable time to respond to these questions, or indicate how they will be otherwise responded to.

Issued by the Hearing Panel

Sir Graham Panckhurst – Chair, Peter Atkinson and Raewyn Solomon

Dated: 21 April 2017