

CANTERBURY REGIONAL COUNCIL
Kaunihera Taiao ki Waitaha

AGENDA|2018

Regulation Hearing Committee

Thursday, 29 November 2018

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Time: 8.00am

Venue: Council Chamber,
200 Tuam Street, Christchurch



Regulation Hearing Committee

Membership

Chair

Peter Skelton

Members:

Cr Claire McKay
Cr Elizabeth Cunningham
Cr Lan Pham
Cr Peter Scott
Cr Tom Lambie

ENVIRONMENT CANTERBURY
REGULATION HEARING COMMITTEE

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1. Apologies

2. Conflict of Interest

3. Minutes

3.1. Minutes from 15 November 2018

Refer to attachment on following page.

REGULATION HEARING COMMITTEE

Minutes of the meeting held in the
Council Chamber, 200 Tuam Street, Christchurch, on
Thursday, 15 November 2018 at 8.30am

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- 7.0 Extraordinary and Urgent Business
- 8.0 Next Meeting
- 9.0 Closure

PRESENT

Councillors Peter Skelton (Chairperson), Elizabeth Cunningham, Claire McKay and Tom Lambie

IN ATTENDANCE

Catherine Schache (General Counsel), Tania Harris (Senior Manager Operational Support), and Louise McDonald (Senior Committee Advisor)

1. APOLOGIES

Councillors Peter Scott and Lan Pham

2. CONFLICT OF INTEREST

Item 6.3 Appointment of Independent Commissioner – Cloud Ocean Water Limited
Cr Skelton referring to the recommendation to appoint Richard Fowler QC as Hearings Commissioner, declared that he knew Mr Fowler professionally. He also advised that Mr Fowler was in the same legal chambers as his (Cr Skelton's) son.

Cr Skelton confirmed that the recommendation to appoint Mr Fowler was from staff and that he had no involvement in that recommendation. This situation has arisen before and the advice received was this did not constitute a conflict of interest.

3. MINUTES OF MEETING – 1 NOVEMBER 2018

Resolved:

The Regulation Hearing Committee:

Confirms the amended minutes of the meeting held on 1 November 2018 as a true and correct record.

Cr Lambie / Cr Cunningham
CARRIED

4. MATTERS ARISING

Staff will check that the clarification requested by Cr Scott regarding condition 9(b) CRC182795 (25 Spencerville Road) regarding the substances to be included in the signage, had been provided.

5. DEPUTATIONS AND PETITIONS

There were no deputations or petitions.

6. ITEMS FOR DISCUSSION

6.1 Appointment of Hearing Commissioner – Objection to Decision

Resolved:

That the Regulation Hearing Committee in regard to an objection to decision of resource consent CRC185518 made by Mr B L & Mrs N M Burrows:

- 1. Appoint Cindy Robinson as a Hearings Commissioner, under s34A of the Resource Management Act 1991; and**
- 2. Delegate to Cindy Robinson, pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; hear; and decide the objection to decision.**

Cr Cunningham / Cr McKay
CARRIED

6.2 Appointment of Pre-Hearing Chairperson – Pigeon Bay Aquaculture Limited

Resolved:

That the Regulation Hearing Committee in regard to resource consent application CRC185518 to be held by Pigeon Bay Aquaculture Limited:

- 1. Appoints Kenneth Lawn as a Pre-Hearing Chairperson under s99 of the Resource Management Act 1991; and**

2. Delegates to Kenneth Lawn pursuant to s99 Resource Management Act 1991, the function, powers and duties required to: chair a pre-hearing meeting.

Cr McKay / Cr Lambie
CARRIED

6.3 Appointment of Independent Commissioner – Cloud Ocean Water Limited

Catherine Schache introduced this report and explained as the original consent was currently the subject of a judicial review, it was recommended that an independent hearing commissioner be appointed to consider and decide whether the application CRC192153 should be notified.

Resolved:

That the Regulation Hearing Committee in regard to resource consent application CRC192153 to be held by Ocean Water Limited:

(a) Appoints Richard Fowler QC as a Hearings Commissioner under s34A of the Resource Management Act 1991:

- i. to consider and decide the non-notification, limited notification or public notification of that consent application;
- ii. following the decision referred to a (i), if that decision is not to notify that consent application, to consider and decide that consent application; and
- iii. following the decision referred to at (i), if that decision is to limited notify or to publicly notify that consent application, to be the Chair of a hearing panel to consider and decide that consent application, in conjunction with other Hearing Commissioners, to be appointed at a later date;

(b) Delegates to Richard Fowler QC pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; consider, and, subject to the appointment of additional Hearing Commissioners provided at resolution set out 1(a)(iii) above, to decide the application.

Cr Lambie / Cr McKay
CARRIED

6. EXTRAORDINARY AND URGENT BUSINESS

There was no extraordinary or urgent business.

7. NEXT MEETING - To be confirmed.

8. CLOSURE - The Chairperson declared the meeting closed at 8.44 am

CONFIRMED

Date: _____

Chairperson: _____

4. Matters Arising

5. Deputations and Petitions

6. Items for discussion

6.1. Appointment of Hearing Commissioners - Tullyhue Farm Limited

Regulation Hearing Committee paper

Date of meeting	29 November 2018
Agenda item	6.1
Consents Manager	Virginia Loughnan
Author	Alison Cooper

Purpose

1. To appoint Hearing Commissioners to hear and decide resource consent applications CRC181789, CRC181790 and CRC191588 to be held by Tullyhue Farm Limited.

Recommendations

That the Regulation Hearing Committee in regard to resource consent application(s) CRC181789, CRC181790 and CRC191588 to be held by Tullyhue Farm Limited:

1. **Appoints Kenneth Lawn as a Hearings Commissioner, and Chairperson and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
2. **Appoints Yvette Couch-Lewis as a Hearings Commissioner, and member of the Hearing Panel under s34A of the Resource Management Act 1991; and**
3. **Delegates to Kenneth Lawn and Yvette Couch-Lewis pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; hear; and decide the resource consent applications and in the event of an equality of votes provides Kenneth Lawn with a casting vote.**

Background

2. Tullyhue Farm Limited has applied to Environment Canterbury and Ashburton District Council for resource consent to realign a section of Wakanui Creek that intermittently flows through their property. The purpose of the activity is to allow a lateral pivot irrigator to efficiently travel over the farm block containing the creek.
3. The consents required include earthworks and vegetation removal; reclaim the bed and reduce a wetland area as a result of the realignment; and to permanently divert water.

4. A consent duration of five years is sought.
5. The resource consent applications were jointly limited notified to three parties.
6. Two submissions opposing the applications were received. Both submitters wish to be heard.

Proposed Commissioners

7. Kenneth Lawn and Yvette Couch-Lewis have satisfied Council staff they have the necessary criteria, including technical ability, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required as Hearing Panel members.

Legal compliance

8. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.
9. The Regulation Hearing Committee appoints Hearing Commissioners in relation to consent authority matters under the Resource Management Act 1991.

Peer reviewers	Virginia Loughnan
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6.2. Appointment of Hearing Commissioner - Hurunui District Council

Regulation Hearing Committee paper

Date of meeting	29 November 2018
Agenda item	6.2
Consents Manager	Virginia Loughnan
Author	Alison Cooper

Purpose

1. To appoint a Hearing Commissioner to consider and decide resource consent application CRC192329 to be held by Hurunui District Council

Recommendations

That the Regulation Hearing Committee in regard to resource consent application CRC192329 to be held by Hurunui District Council:

- 1. Appoints Kenneth Lawn as a Hearings Commissioner under s34A of the Resource Management Act 1991; and**
- 2. Delegates to Kenneth Lawn pursuant to s34A(1) Resource Management Act 1991, the function, powers and duties required to: deal with any preliminary matters; consider; and decide the resource consent applications**

Background

2. Hurunui District Council has applied for a water permit to divert surface water within the Hurunui River, approximately 150 metres upstream from the State Highway 7 bridge, to create a freshwater bathing site (swimming hole). The application is to establish and maintain the 'Balmoral' swimming hole adjacent the Balmoral campground.
3. The application is part of the "Hurunui Splash" project, which is a collaborative effort by the Hurunui-Waiau Zone Committee, Environment Canterbury, and Hurunui District Council, and aims to improve four priority bathing sites within the Hurunui Waiau Zone by December 2020.
4. Environment Canterbury has supplied internal expertise in the preparation of the application and provided funding as part of the overall "Hurunui Splash". In addition, the Regional Engineer will be undertaking river bed disturbance works to construct the swimming hole as a permitted activity.

5. As Environment Canterbury has had significant input into this non-notified application it is considered an independent decision-maker be appointed to decide the application.

Proposed Commissioner

6. Kenneth Lawn has satisfied Council staff he has the necessary criteria, including technical ability, RMA Accreditation certification, availability and timeframe commitments to carry out the duties required as a Hearing Commissioner.

Legal compliance

7. S34A of the Resource Management Act 1991 allows Council to delegate functions to Hearing Commissioners appointed by the Canterbury Regional Council.
8. The Regulation Hearing Committee appoints Hearing Commissioners in relation to consent authority matters under the Resource Management Act 1991.

Peer reviewers	Virginian Loughnan
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6.3. Resource Consent Application for Consideration by the Committee

Regulation Hearing Committee paper

Date of meeting	29 November 2018
Agenda item	6.3
Consents Manager	Virginia Loughnan
Author	Alison Cooper

Purpose

1. For the Regulation Hearing Committee to consider and decide resource consent applications CRC185815 and CRC185831 to be held by Lyttelton Port Company Limited

Recommendations

That the Regulation Hearing Committee acting pursuant to a delegation of the Council dated 25 August 2016:

1. **having considered all relevant provisions of the Resource Management Act 1991; and**
2. **for the reasons (required under s133(4) of the Resource Management Act 1991), set out in the s42A report which is adopted;**

Grants consent to resource consent applications CRC185815 to deposit dredge material on the seabed, and CRC185831 to discharge contaminants (seabed material and water) into water located at Gollans Bay, Lyttelton Harbour, to be held by Lyttelton Port Company Limited for a period of four years.

Subject To the conditions attached as Appendix 1.

Background

2. Lyttelton Port Company Limited have applied for resource consent to deposit dredge material, and discharge seabed material and water into water into the Gollans Bay disposal ground.
3. The material relates only to material extracted by a back-hoe dredge and/or associated barge from the proposed cruise berth pocket and construction of the revetment.

4. The back-hoe dredge is to be used round areas where a trailer suction hopper dredge cannot be used in dredging the cruise berth site.
5. The dredging material is to be placed on a barge which will be towed to the spoil disposal ground at Gollans Bay as it is considered the exposed sea conditions preclude towing the barge to the offshore disposal site.
6. The dredge material taken by a trailer suction hopper dredge and disposed to an offshore disposal site is authorised under current resource consents.
7. The application was limited notified to two parties. No submissions were received.
8. There is no reason for a hearing to be held.
9. A report on the application has been prepared by the Consent Planner in accordance with section 42A of the Resource Management Act 1991.

Legal compliance

10. Canterbury Regional Council has delegated the authority to the Regulation Hearing Committee to decide resource consent applications to which no submissions have been received and where the applicant has not requested to be heard.

Attachments

S42A Report prepared by Rhett Klopper, Consents Planner

Peer reviewers	Virginia Loughnan
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**Before the Commissioner / Hearing Panel
appointed by Canterbury Regional Council**

IN THE MATTER OF	The Resource Management Act 1991
AND	
IN THE MATTER OF	Applications CRC185815 & CRC185831 by Lyttelton Port Company for coastal permits to deposit and discharge dredge spoil material to Gollans Bay, from the dredging of a cruise ship berth pocket and revetment.

Section 42A Officer's Report

Date of Hearing: 29 November 2018

Report of Rhett Klopper

1. My name is Rhett Klopper and I have been employed as a consents planner by the Canterbury Regional Council (CRC) since June 2017. I hold a Bachelor of Science in Geography from the University of Otago, Dunedin, New Zealand. I have processed several resource consents for coastal activities within Canterbury ranging from structures, disturbance, deposition, reclamation and coastal hazards.
2. This report is prepared under the provisions of Section 42A of the Resource Management Act 1991 (RMA). This section allows a Council officer to provide a report to the decision-maker on a resource consent made to the Council and allows the decision-maker to consider the report at the hearing. Section 41(4) of the RMA allows the decision-maker to request and receive from any person who makes a report under Section 42A "*any information or advice that is relevant and reasonably necessary to determine the application*".
3. This report will provide the decision-maker with information and advice related to:
 - a. The background to the application;
 - b. Details of the notification of the application and submissions received;
 - c. An outline of the relevant legal and planning provisions;
 - d. Comments on the assessment of environmental effects provided;
 - e. Details of Council policy relevant to the applications;
 - f. Comments in relation to the matters specified in Part II of the RMA; and
 - g. Comments on the decision to be made by the decision-maker including comments on whether the application can be granted or should be declined; if the application is to be granted what measures are required to avoid, remedy or mitigate any adverse effects; what monitoring could be undertaken and the duration of the consent.

4. It should be emphasised that any conclusions reached or recommendations made in this report are not binding on the decision-maker. It should not be assumed that the decision-maker will reach the same conclusion or decision having considered all the evidence to be brought before it by the applicant and submitters.

INTRODUCTION

5. Lyttleton Port Company (The Applicant) has applied for coastal permits to deposit and discharge 50,000 cubic metres (m³) of dredge spoil to Gollans bay, from the dredging of a cruise ship berth pocket and revetment.
6. The following resource consents are required:
 - a. CRC185815 – Coastal permit to deposit dredge spoil material at the Spoil Dumping Grounds; and
 - b. CRC185831 – Coastal permit to discharge dredge spoil to Spoil Dumping Grounds
7. This application only relates to the material to be extracted using a back-hoe dredge. The dredge spoil from the back-hoe dredge and/or associated barge is proposed to be disposed of at Gollans Bay instead of the offshore disposal ground (as described below) due to the potential challenge to tow a barge and release spoil at the offshore disposal ground, given the exposed sea state conditions.
8. A site visit was not undertaken during the processing of this application.

BACKGROUND

9. In order to dredge material within the area identified for this cruise ship berth and construction of the revetment, the applicant will be using a trailer suction hopper dredge and a back-hoe dredge.
10. The trailer suction hopper dredge cannot be used near the shoreline or around wharf piles, nor to create the slope required for the revetment.
11. The applicant will therefore require the use of a back-hoe dredge using a hydraulic excavator with a 'grab bucket' or a 'clamshell' to remove dredge material, placing dredge material onto an adjoining barge which is then towed to the spoil disposal ground.
12. The dredge spoil material taken from the trailer suction hopper dredge is to be disposed of at the offshore ground which has already been authorised under resource consents CRC172455 and CRC172422.
13. In addition, existing resource consent CRC183176 authorises the discharge and deposition of dredge spoil from a back-hoe dredge associated with the main channel to Gollans bay.
14. The applicant holds several certificates of compliance in relation to the other activities associated with the construction of the new cruise ship berth. These are CRC184552 to CRC184557 and CRC184699 to CRC184703. In addition, a resource consent for the occupation of larger cruise ships docked at the cruise berth is currently in process under CRC185825.

NOTIFICATION

15. These applications were limited notified in accordance with Section 95B of the RMA due to the potential adverse effects on cultural values. The proposal was assessed as having the potential to impact on the local rūnanga Te Hapū o Ngāti Wheke (Rāpaki Rūnanga) and Te Rūnanga O Ngai Tahu given the values of Whakaraupō to these groups, and the activity occurring within a statutory acknowledgement area.
16. A decision to limited notify was made on 2 October 2018.
17. The application was limited notified on 3 October 2018 with the following wording:

Resource consent application:

Applicant:

Lyttelton Port Company Limited

Address for service:

C/ - Jared Pettersson, Lyttelton Port Company Limited,
Waterfront House, 37-39 Gladstone Quay, Lyttelton 8082 or
email: Jared.Pettersson@lpc.co.nz

Canterbury Regional Council has received an application from Lyttelton Port Company (LPC) for resource consents to dispose up to 50,000 cubic meters of seabed material at Gollans Bay as indicated on **Figure 1**.

The seabed material is to be dredged during the construction of a new Cruise Berth at Lyttelton Port of Christchurch. Dredging is required for the construction of the Cruise Berth, and is to be disposed of at Gollans Bay using a dredger.

The dredging is a permitted activity under the Regional Coastal Environment Plan but the disposal requires resource consents and therefore the applicant has applied for the following:

1. CRC185815 – Coastal permit to deposit seabed material onto or into the seabed in the Coastal Marine Area.
2. CRC185831 – Discharge permit to discharge contaminants (seabed material and water) into water in the Coastal Marine Area

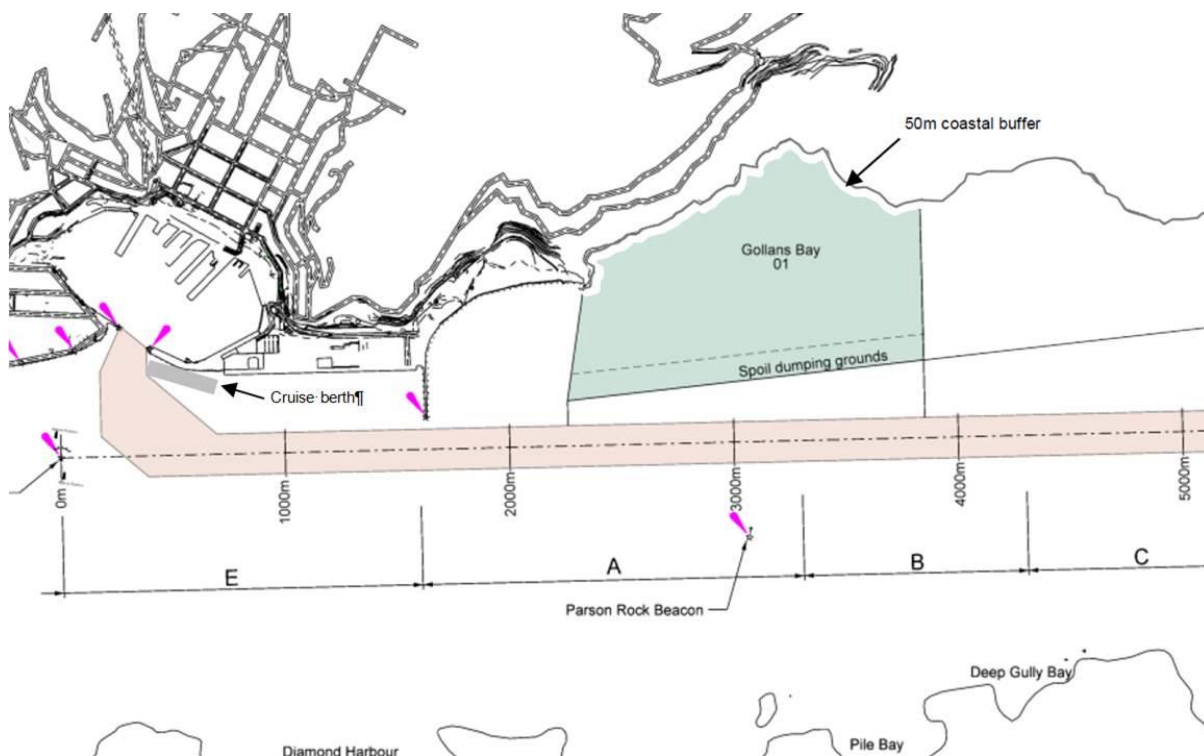


Figure 1: Location of the disposal ground

The application includes an assessment of effects.

A consent duration of 4 years is sought for both consents

18. The following parties were served a copy of the notification:
- a. Te Hapū o Ngāti Wheke; and
 - b. Te Rūnanga O Ngai Tahu.

Submissions

19. The submission period began on 3 October and ended on 31 October, no submissions were received for these applications.

DESCRIPTION OF THE PROPOSED ACTIVITY

20. The applicant has provided a description of the proposed activity in Section 1 (Page 3) of the Assessment of Environmental Effects (AEE).
21. As discussed above, the applicant proposes to dredge the harbour using both a trailer suction hopper dredge and a back-hoe dredge. However as noted, the discharge and deposition of dredge material is only related to the material extracted using the back-hoe dredge, however an overview of the project as a whole is provided below.
22. The dredging and disposal is proposed to be carried out in three phases:
- a. As much as possible of the berth pocket will be dredged using the trailer suction hopper dredge, approximately 60,000m³ is expected to be dredged and disposed offshore using the trailer suction hopper dredge;
 - b. Second, the near shore dredging will be undertaken to reconstruct the revetment using the back -hoe dredge, it is estimated up to 50,000m³ of material will be dredged and disposed of at Gollans bay using the back-hoe dredge; and
 - c. Any residual dredging around piles will be undertaken using the back-hoe dredge.
23. Therefore, only paragraphs (22)(b) and (c) are related to this proposal.
24. Given the length of time required to undertake the back-hoe dredging, it is expected to take up to 9 months (although this won't be continuous within 9 month period) due to the need to manage the stability of the revetment during dredging and to stage dredging to enable progressive armouring of the slope.
25. In comparison, dredging using the trailer suction hopper will take approximately three to four days of continuous operation.
26. The expected sequence of back-hoe dredging and disposal will be as follows:
- a. The spuds on the back-hoe dredge would be lowered into position to stabilise the dredge, dredging will then commence;
 - b. One of two hopper barges would be positioned alongside the dredge ready to receive material, with a second barge available once the first becomes full;
 - c. Barges containing dredge spoil will be motored or towed over to Gollans bay;
 - d. The vessels will be in direct communication with harbour control to be informed of other vessel usage and movements within the port and bay;
 - e. The dredge spoil will be released at pre-defined coordinates at Gollans Bay and then returned for another load.

27. The applicant is also proposing that disposal of dredge for the cruise berth project will not occur in the same calendar year as the disposal maintenance dredge spoil at Gollans Bay as a means to ensure disposal at any one time falls within the expected future envelope of disposal at this location.
28. The applicant has requested a consent duration of 4 years.

LEGAL AND PLANNING MATTERS

The Resource Management Act 1991 (RMA)

29. Section 12 of the RMA states that:

“(1) No person may, in the coastal marine area,—
(a) reclaim ... any foreshore or seabed; or
(b) erect, reconstruct, place, alter, extend, remove, or demolish any structure or any part of a structure that is fixed in, on, under, or over any foreshore or seabed; or
(c) disturb any foreshore or seabed (including by excavating, drilling, or tunnelling) in a manner that has or is likely to have an adverse effect on the foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal); or
(d) deposit in, on, or under any foreshore or seabed any substance in a manner that has or is likely to have an adverse effect on the foreshore or seabed; or
(e) destroy, damage, or disturb any foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on plants or animals or their habitat; or
(f) introduce or plant any exotic or introduced plant in, on, or under the foreshore or seabed; or
(g) destroy, damage, or disturb any foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on historic heritage—

unless expressly allowed by a national environmental standard, a rule in a regional coastal plan as well as a rule in a proposed regional coastal plan for the same region (if there is one), or a resource consent.

(2) No person may, unless expressly allowed by a national environmental standard, a rule in a regional coastal plan or in any proposed regional coastal plan for the same region, or a resource consent,—
(a) occupy any part of the common marine and coastal area; or
(b) remove any sand, shingle, shell, or other natural material from that area...

30. Section 15(1) of the Act states that no person may, in the Coastal Marine Area (CMA), discharge any contaminant or water into water, unless the discharge is expressly allowed by a rule in a regional plan and in any relevant proposed regional plan, resource consent or regulations.
31. The proposal involves the deposition and discharge of dredge spoil material. These activities are not expressly allowed by a national environmental standard or a rule in a regional plan. Therefore, resource consent may be required.

Lyttelton Port Recovery Plan (LPRP)

32. The LPRP is a statutory document prepared under the Canterbury Earthquake Recovery Act, and was notified in the Gazette on 19 November 2015, taking effect from that date. It provides for the repair, building and reconfiguration of Lyttelton Port and the redevelopment of Te Ana/Dampier Bay.
33. The LPRP directs changes to RMA documents to give effect to the key considerations for Lyttelton Port (section 3 of the LPRP). Of relevance to this proposal, the LPRP directs the following statutory amendments:
- a. A new chapter (Chapter 10 – Lyttelton Port of Christchurch) is inserted in to the RCEP. The provisions make it a discretionary activity to discharge and deposit sediment onto the seabed.

The Regional Coastal Environment Plan for the Canterbury Region (RCEP)

34. The CMA includes the foreshore, seabed and the coastal water and airspace above the water between the outer limit of the territorial waters (12 nautical miles) and the line of mean high-water spring tide (MHWS).
35. The applicant has assessed the activity status of the proposed activities in Section 7 (page 10) of their AEE.
36. I agree with the applicant's assessment and note that the overall activity to be classified as a discretionary activity, as outlined below.

Activity	Rule	Status
Deposition of seabed material at the Spoil Dumping Grounds generated from construction activities and dredging	Rule 10.17	Controlled
Discharge at the Spoil Dumping Grounds of dredge spoil from the main navigational channel or within the Operational Area of Lyttelton Port	Rule 10.33	Discretionary

37. The discharge and deposition of dredge spoil material are directly associated activities, and therefore the most conservative status is taken.
38. Therefore, the overall proposal has been classified as a **discretionary activity**.

Permitted Activities

39. As noted below, the dredging and disturbance of the seabed associated with the deepening and creation of the cruise ship berth pockets are to be undertaken as a permitted activity.

Activity	Rule	Status
Disturbance of the seabed associated with the deepening of the cruise	Rule 10.9	Permitted

berth pockets at Cashin Quay (Area B of Planning Map 10.7)		
Discharge of sediment already present on the seabed which is the result of disturbance that is directly associated with dredging of the main navigation channel or within the operational area of Lyttleton Port	Rule 10.29	Permitted

40. I consider that no other consents are required for this application.

CONSULTATION

41. The applicant discussed their proposal with number of parties, refer to section 4.6, page 9 of the AEE.
42. In addition, the Canterbury Regional Council contacted the following parties on 12 June 2018:
- a. Christchurch City Council;
 - b. Christchurch and North Canterbury District Health Board;
 - c. Forest and Bird;
 - d. Fish and Game North;
 - e. Harbourmaster;
 - f. NZ Beekeeping Inc;
 - g. Avon Heathcote Ihutai Estuary Trust;
 - h. Te Hapū o Ngāti Wheke (Rāpaki Rūnanga);
 - i. Te Rūnanga O Ngai Tahu; and
 - j. Department of Conservation (DOC)
43. The Harbourmaster had responded and stated that any concerns have been resolved, and that the harbourmaster has had frequent contact with the applicant during the planning of the cruise berth. The harbourmaster has no further input at this point.
44. DOC had raised concerns in regard to the proposal. These concerns were related to potential adverse effects on Hector's Dolphins, biosecurity management and water turbidity. Mr Herb Familton (RMA Planner) of DOC noted that it is DOC's preference that as much material to be dredged is disposed of offshore to mitigate effects on benthic fauna, marine mammals and avoid compromising navigability by the movement and resuspension of dredged material into the dredged shipping channel.
45. The applicant discussed the above concerns with Mr Familton as to why the disposal was required, that the proposal seeks to use the existing Gollans bay site and that the proposed disposal would not occur in the same year as maintenance disposal, resulting in a net balance or reduction in spoil disposed

of at Gollans Bay (annual maintenance varied from 30,000m³ to 260,000m³, compared with 30,000 – 50,000m³ for the cruise ship berth dredging).

46. The applicant has further explained that the quality of the sediment in the proposed dredging area has been tested and has lower contaminant concentration than the inner harbour sediments which typically get disposed of to Gollans Bay under the maintenance consent.
47. Given the above explanation by the applicant, Mr Familton was of the view that the effects on DOC's interests is low and would not consider DOC to be an affected party in this matter.
48. No responses were received from any of the other above parties.

DESCRIPTION OF THE AFFECTED ENVIRONMENT

49. The applicant has provided a description of the environment in section 2 (page 4) of the AEE which accompanied the application.
50. In summary the applicant states:
 - a. Lyttleton Harbour is a 15km long, rock walled inlet with an average width of approximately 2km and is oriented in an ENE-WSW direction;
 - b. Tidal currents are the dominant force;
 - c. The harbour has been naturally in-filled by metres of sediment, as a result the seabed is generally flat in profile;
 - d. Ocean swells and winds penetrate the harbour, the surge climate at Gollans Bay is high, meaning sediment does not settle and accumulate along the rocky shoreline;
 - e. The overriding feature of the Harbour is a benthic community that comprises species that have adapted to period of very high suspended sediments resulting from the persistent wave re-suspension of fine sediments;
 - f. Sediment dwelling macro-invertebrate communities are relatively sparse with low species richness;
 - g. Polychaetes are the most abundant taxa, other common taxa include ostrocods, mud crabs and cumaceans;
 - h. Gollans bay intertidal zone is characterised by tubeworms, barnacles, periwinkles, limpets, chitons, and cat's eye snails;
 - i. The mid-shore zone contains mussels, oysters, and algae;
 - j. The low shore areas are characterised by mid shore taxa and sponges, tunicates and algal communities;
 - k. Gollans bay contains demersal and pelagic fish species, widespread in occurrence and distributed widely, it is also frequented by Hector's Dolphin, other dolphin species may also be present including cosmopolitan common dolphins, bottlenose dolphins, dusky dolphins and orca;
 - l. A subset of 17 avifauna species have been identified associated with the waters of Lyttelton Harbour, and breeding within the harbour or wider banks peninsula;

- m. Gollans bay has been subject to dredging spoil since the 1950's, and receives between 18,000 and 261,000 cubic metres a year;
 - n. Gollans bay now only receives dredge spoil from back hoe-dredged material
51. In addition to the above, I note the following:
- a. The application is within the rohe of Te Hapū o Ngāti Wheke (Rāpaki Rūnanga)
 - b. The site is located within a coastal statutory acknowledgement area, however is not within a silent file, rūnanga sensitive area or Mātaitai – Taiāpure
 - c. There are no Protected Recreational, Cultural or Historic Sites in the area
 - d. Gollans Bay has a water quality class or CR – coastal waters to be managed for contact recreation

ASSESSMENT OF ACTUAL AND POTENTIAL EFFECTS

52. Under s95D of the RMA a consent authority must decide whether an activity will have, or is likely to have, an adverse effect on the environment that is more than minor.
53. I have considered the following potential adverse effects as a result of the proposal:
- a. Potential adverse effects on coastal water quality and ecology, including:
 - i. Potential adverse effects on water quality (turbidity) due to sediment deposition
 - ii. Potential adverse effects on marine mammals
 - iii. Potential adverse effects on biosecurity
 - b. Potential adverse effects on Tangata Whenua Values
54. Prior to considering the above mentioned potential adverse effects, I note that the applicant currently holds resource consent CRC183176 (originally CRC135318) for the disposal of maintenance dredge material to the Gollans Bay.
55. These previous consents have taken into account an extensive assessment of effects of the discharge of dredge spoil at Gollans bay. CRC135318 has comprehensively assessed the potential adverse effects of discharges to Gollans Bay to a much larger extent than proposed within this consent. In addition, CRC183176 assessed the potential adverse effects of the addition of inner harbour and other operational port areas (including Te Awaparahi Bay, and the proposed Cruise Ship Berth) deposition of material at Gollans Bay.
56. Therefore, the applicant considers that the maintenance dredge disposal activities permitted under CRC183176 forms part of the permitted baseline.
57. The applicant provided several reports, including Cawthron reports monitoring the impacts of maintenance dredging disposal, Acoustic assessments that assessed the effects of noise on marine mammals, sediment trend analysis for outer Lyttelton, a report on the impact on the physical environment as a result of capital and maintenance dredging and several other monitoring reports.

58. These assessments and reports were reviewed by Canterbury Regional Council Senior Scientist, Dr Lesley Bolton-Ritchie, Canterbury Regional Council Principal Science Advisor Justin Cope, and Brett Mongilo of Sephira Environmental. In general the potential adverse effects were assessed as being no more than minor.

Potential adverse effects on coastal water quality and ecology

59. The discharge of dredge material has the potential to impact on coastal water quality and ecology due to increased sediment loads and resulting water turbidity.

Potential adverse effects on water quality (turbidity and contamination)

60. The applicant has provided a report from Cawthron (Annexure C of the AEE) that details the result of the last whole-of-Harbour monitoring effort completed for maintenance dredging and disposal activities.
61. That report confirms earlier monitoring surveys, which have found that the differences in the benthic community between areas within and outside the disposal grounds is relatively subtle even within months following deposition.
62. The dredge spoil to be discharged and deposited at Gollans bay authorised under CRC183176 is in the order of 30,000 – 50,000 m³ for each dredging campaign. The applicant states that the discharge of material to Gollans Bay for this proposal will therefore not be disposed of at Gollans Bay within the same Calendar year as any of the maintenance dredge spoil, to ensure that any deposited material falls into the expected disposal envelope (being the above 50,000m³).
63. The applicant undertook sampling of four stations as part of the cruise berth project to confirm the absence of any significant contamination of sediment on the seabed. The applicant's assessment found all samples concentrations for trace metals were below the Australia and New Zealand Environment and Conservation Council¹ (ANZECC) interim sediment quality guideline (ISQG) – low trigger value, organotin below analytical detection limits, and polycyclic aromatic hydrocarbons were well below ISQG-Low.
64. Overall the applicant considers that the result of the whole-of-harbour monitoring, including Gollans Bay, suggest the potential adverse effects of the disposal would be negligible, and the proposed volume would be no greater than expected as a result of the maintenance dredging.
65. I have also reviewed the previous resource consents CRC135318 and CRC183176 and agree with the applicant that the quantity of discharge will be significantly less. I concur with the inclusion of a condition that limits the quantity of the discharge and that the disposal shall not occur within the same year as any maintenance dredge disposal and recommend that the consent shall not be exercised concurrently, or within the same year as CRC183176, to ensure that the discharge is not greater than currently authorised.
66. In addition, the applicant notes the effects on fish and birds were examined as part of the capital dredge and maintenance dredge applications. Overall, the

¹ ANZECC 2000. Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000 Volume 1.

potential effects were assessed as being minor, and should be negligible for the project.

67. In auditing this application, I have sought the advice of Dr Lesley Bolton-Ritchie (Canterbury Regional Council Senior Scientist, Surface Water Science).
68. Dr Bolton-Ritchie has stated that she does not have any concerns with this proposal and that she agrees with the applicant's assessment of effects. Dr Bolton-Ritchie is satisfied with the assessments undertaken by the applicant in relation to all dredging activities and mitigation measures.
69. I consider provided the deposition and discharge of dredge material is no greater than authorised under CRC183176, and that the applicant follow similar management practices, that the potential adverse effects on water quality are likely to be no more than minor.

Marine Mammals

70. The applicant has stated that the effects on marine mammals were examined as part of the capital dredge and maintenance dredge applications. Those assessment concluded the potential adverse effects on these taxa as being minor, and therefore negligible for this project.
71. I have reviewed the officers report for previous discharges of dredging spoil to Gollans bay, specifically CRC135318 and CRC183176 which authorised the discharge of significantly larger quantities of dredge spoil to Gollans bay. These assessments concluded that any effects of exposure to contaminants were low, as dolphins do not prey on the benthic invertebrate taxa that are exposed to the dredgate.
72. Dr Bolton-Richie did not raise any concerns on the effects on marine mammals due to this proposal.
73. Based on the advice received for the above applications and the comments from Dr Bolton-Ritchie, I consider the potential adverse effects of the discharge on marine mammals are likely to be no more than minor, and that no persons are affected.
74. I note that the Department of Conservation who take particular interest in the protection of Hector's Dolphins, have provided their approval and do not consider their interests to be affected by the proposal.

Biosecurity

75. The applicant has recommended the inclusion of a Biosecurity Management Plan (BMP) to reduce the risk of any biosecurity effects to an acceptable level. The applicant considers given the small volumes of material involved that there is little chance that a dredger would be deployed from overseas that could pose a biosecurity threat.
76. However, should a dredger from overseas be required, the BMP conditions will adequately manage any biosecurity threats.
77. As Above, Dr Bolton-Ritchie does not have any initial or further concerns on biosecurity and that she agrees with the applicant's assessment of effects.

Summary

78. I conclude that based on the applicant's assessment of effects, and the expert advice received, that the potential adverse effects on coastal water quality and ecology due to the proposed discharges are likely to be no more than minor.

Potential adverse effects on Cultural Values

79. The applicant has not provided an assessment of potential adverse effects on Tangata Whenua Values, however has identified that Te Hapū o Ngāti Wheke as an affected party for this proposal.
80. Te Hapū o Ngāti Wheke has an interest in activities carried out in Whakaraupō as the area is a coastal statutory acknowledgement area, particular attention is paid to managing Whakaraupō for mahinga kai first and foremost.
81. The applicant has continued to discuss their proposal with Te Hapū o Ngāti Wheke, however after extensive discussions the applicant has not been able to obtain the approval of the rūnanga.
82. Following the applicant's consultation with the above parties, no approvals were able to be obtained. Given the potential adverse effects on the interests of the above parties, the application was limited notified on 3 October to Te Hapū o Ngāti Wheke and Te Rūnanga O Ngai Tahu.
83. I note that none of the above parties made a submission on this proposal.
84. I have undertaken assessment against the Mahaanui Iwi Management Plan below.
85. The Mahaanui Iwi Management plan (MIMP) has clear issues outlined in Part 6.6 regarding Lyttelton Port Company (LPC) activities within Whakaraupō.
86. Policy WH1.2 is an overarching policy that addresses the issue of the health of Whakaraupō and priorities for Tangata Whenua.

"To require that Whakaraupō is managed for mahinga kai first and foremost. This means:

- (a) All proposed activities for the lands and waters of Whakaraupō are assessed for consistency with the objective of managing the harbour for mahinga kai. We should be asking, "How does this activity affect the harbour?" and adjust accordingly; and'*
 - (b) Water quality in Whakaraupō is consistent with the protecting mahinga kai habitat and enabling customary use (whole of harbour not just designated areas).*
87. Policy WH1.3 recognises Whakaraupō as a working port and harbour, and states:
"To recognise Whakaraupō as a working port and harbour, and to build relationships and develop clear strategies that enable these activities to occur alongside managing the Harbour for mahinga kai."
 88. LPC activities are identified in section WH2 of the MIMP, in particular is the identification of the need to manage effects of port activities on the cultural health of the harbour and relationships to tangata whenua in particular relation to disposal of dredge spoil.
 89. Policy WH2.4 states:
"To require that LPC recognise and provide for the relationship of Ngai Tahu to Whakaraupō, and aspirations to manage the harbour as mahinga kai, by:

- (a) Ensuring that port activities avoid contributing to pollution in the outer harbour;*
- (b) Ensuring that port activities at all times seek to avoid or minimise pollution in the inner harbour; and*

(c) *Providing appropriate mitigation and/or compensation where cultural and environmental effects cannot be avoided, including but not limited to:*

(i) *Funds for restoration projects.”*

90. Issue WH2.5 of the MIMP identifies the Rūnanga's need for an alternative location for the disposal of dredging spoil. Identifying that disposal of dredging spoil along the northern edge of the harbour is contrary to cultural interests and objectives for improving the Whakaraupō marine environment. In addition, the policy outlines the need to address dredging, reclamation, sedimentation and structure in the harbour and how they are affecting mahinga kai.
91. The application itself is not consistent with (b) of Policy WH2.5 as it seeks to deposit dredge spoil at the Gollans Bay spoil grounds. The policy explanation does not outline the reasoning for alternative spoil dumping locations, although spoil potentially impacting on mahinga kai values and increasing sedimentation within the harbour are reasonably assumed effects.
92. As discussed above in the assessment of effects, the disposal of dredge material is unlikely to significantly impact on the water quality and ecology within Gollans Bay, and the applicant has proposed to ensure that dredge material is not deposited within the same year as maintenance dredging campaigns to ensure that the total deposition remains the same or less than the dredge campaigns.
93. As noted above, Dr Bolton-Ritchie has confirmed above that she is in agreement with the applicant's assessment of adverse effects, which have determined the potential adverse effects of the deposition and discharge to be no more than minor.
94. It is not known why no submission was received from either Te Rūnanga o Ngāti Wheke or Te Rūnanga O Ngai Tahu, although both parties were provided the opportunity. Taking the above assessments on the receiving environment, and on cultural values, as well as no submissions received from Te Rūnanga O Ngāti Wheke or Te Rūnanga O Ngai Tahu, these factors indicate that these parties have no residual concerns regarding the application.
95. Between the above assessment and through the limited notification process, I consider that these matters have been addressed.

CONSIDERATION OF ALTERNATIVES

96. The applicant has described the following alternative options and their reasoning as to why they believe they are not appropriate for this proposal:
 - a. Releasing of dredge spoil to the offshore dumping grounds would result in the towing of a barge at least six kilometres out beyond the harbour. In exposed sea conditions this option would be challenging and impose considerable delays waiting for weather windows.
 - b. The maintenance disposal grounds although closer is still comparatively exposed and will not align with the timing of the project due to consent conditions requiring baseline monitoring before use.
 - c. Any new disposal grounds would delay the project as detailed investigations would be required to determine site suitability and is not favoured as it would result in introducing spoil to another location.

97. The applicant considers Gollans Bay to be the most appropriate location to dispose dredge spoil because the activity has been carried out for many decades and the effects of the disposal are well understood.

COMPLIANCE HISTORY

98. The applicant holds several resource consents for various activities within the CMA. Of most relevance would be the compliance history for CRC135318. Compliance monitoring records indicated that the applicant has demonstrated overall compliance with the monitored resource consent conditions (as of November 2016).

OBJECTIVES AND POLICIES

New Zealand Coastal Policy Statement (NZCPS)

99. Section 104(1)(b)(iii) of the RMA states that the consent authority shall have regard to the relevant provisions of a National Policy Statement.
100. The applicant has provided a detailed assessment of the NZCPS. I agree with the applicant's assessment and note the following objectives and policies apply.
- a. **Objective 1:** Safeguard the integrity, form, functioning and resilience of the coastal environment.
 - b. **Objective 2:** Preserve the natural character of the coastal environment.
 - c. **Objective 3:** Take account of the principles of the Treaty of Waitangi.
 - d. **Objective 6:** Enable people and communities to provide for wellbeing, health and safety through the subdivision, use and development of the coastal environment.
 - e. **Policy 2:** Treaty of Waitangi.
 - f. **Policy 3:** Precautionary approach to activities in the coastal environment
 - g. **Policy 6:** Managing and recognising the need for activities in the coastal environment.
 - h. **Policy 9:** Recognising the need for ports.
 - i. **Policy 11:** Protect indigenous biodiversity.
 - j. **Policy 13:** Preserve natural character.
 - k. **Policy 15:** Natural features and landscapes.
 - l. **Policy 22:** Manage sedimentation.
 - m. **Policy 23:** Manage discharges.
101. Te Hapū o Ngāti Wheke and Tu Rūnanga O Ngai Tahu were provided the opportunity to submit on the applicant's proposal, no submissions have been received. Adequate opportunity has been provided to allow for their views to be taken into account.

102. Significant historical testing has shown the effects of disposal to Gollans bay to be no more than minor, testing of sediment within the area to be dredged has shown to meet ANZECC guidelines.
103. Further, Sedimentation will be managed through a DMP and the inclusion of a condition to ensure that deposition of dredge material does not coincide with routine disposal of maintenance spoil at Gollans bay. The above assessment has indicated that the effects on water quality and ecology are likely to be no more than minor.
104. In addition, I note that the dredging will allow for the expansion of the port, and improvement capacity and connections to other ports
105. Given the applicant's assessment of effects, and the agreed recommended resource conditions, I consider that the application is consistent with these objectives and policies.

Regional Policy Statement (RPS)

106. Under Section 104(1)(b)(v) of the RMA, the consent authority shall have regard to the relevant provisions of a regional policy statement. The Canterbury Regional Policy Statement became operative on 15 January 2013.
107. The following objectives and policies are considered relevant to this proposal:
108. Chapter 8: The Coastal Environment
 - a. **Objective 8.2.2:** Provision for appropriate activities in the CMA
 - b. **Objective 8.2.4:** Preservation, protection and enhancement of the coastal environment
 - c. **Objective 8.2.5:** Provision of access
 - d. **Objective 8.2.6:** Protection and improvement of coastal water
 - e. **Policy 8.3.2:** Integration of natural and physical resources and activities in the CMA
 - f. **Policy 8.3.3:** Management of activities in the coastal environment
 - g. **Policy 8.3.4:** Preservation of the natural character of the coastal environment
 - h. **Policy 8.3.5:** Maintenance and enhancement of public and Ngai Tahu access
109. The applicant's monitoring has shown sediment samples to be below ISQG - Low trigger values and has proposed that any sediment deposited shall not occur within the same calendar year as the maintenance dredge disposal. The deposition will therefore be no greater than currently occurs under each maintenance dredging campaign.
110. Te Hapū o Ngāti Wheke and Te Rūnanga O Ngai Tahu were provided the opportunity to submit on the applicant's proposal, no submissions have been received. Adequate opportunity has been provided to allow for their views to be considered.
111. Given the above assessed effects, mitigation measures proposed, and the regional significance of the port and the proposed cruise ship berth, I consider that the application is consistent with the objectives and policies of the Regional Policy Statement.

Regional Coastal Environment Plan (RCEP)

112. The Lyttelton Port Recovery Plan (LPRP) was prepared in response to the extensive damage the port received in the Canterbury Earthquakes of 2010 and 2011, and was gazetted in 2015.
113. The LPRP directs amendments to the RMA documents and was prepared as it was considered the existing RMA planning documents, in particular the RCEP, could not deal effectively with a port rebuild of the scale proposed. The LPRP inserts a new chapter, Chapter 10, into the RCEP that is concerned with the recovery of the Lyttelton Port.
114. In considering an application for a resource consent in accordance with the rules in this chapter, the consent authority is also obliged to have regard to relevant objectives and policies in other chapters of the RCEP. However, where the provisions are on the same subject matter, Chapter 10 will prevail. If there are any inconsistencies between earlier policies and objectives, the LPRP amended provisions carry more weight.
115. Given this, the planning assessment in this report has only assessed the activity under the LPRP amended provisions (i.e. Chapter 10 of the RCEP).
116. Chapter 10: Lyttelton Port of Christchurch
 - a. **Objective 10.1:** Recovery of Lyttelton Port
 - b. **Policy 10.1.1:** Elements of Recovery
 - c. **Policy 10.1.2:** Role of Lyttelton Port
 - d. **Policy 10.1.4:** Lyttelton Harbour relationships
 - e. **Policy 10.1.8:** Dredging
 - f. **Policy 10.1.9:** Disposal of dredge spoil
 - g. **Policy 10.1.15:** Cruise ship berth at Naval Point
117. Many of the above objectives and policies take into account the Recovery of the Lyttelton Port and the inclusion of a new cruise ship berth to service cruise vessels. Particularly Policies 10.1.1, and 10.1.15 which state that the port is essential to the regional economy and that the proposed cruise ship berth is part of port recovery. The rationale for the project is to assist in the recovery of Greater Christchurch.
118. Policy 10.1.9 allows for the disposal of dredge spoil during the creation of berth pockets and construction related activities, ensuring that monitoring occurs so that any adverse effects on the environment including mahinga kai can be managed.
119. The applicant has not proposed any monitoring under this resource consent, given the temporary and once off nature of the proposal, however significant monitoring is required under the existing maintenance dredge resource consents that have and will continue to monitor the deposition effects on the environment.
120. The applicant has undertaken significant consultation with Te Rūnanga O Ngāti Wheke. In addition this application was notified to Te Rūnanga O Ngāti Wheke and Te Rūnanga O Ngai Tahu, no submissions were received. I consider adequate opportunity for consultation has been provided through the notification of this proposal to recognise the relationships of Lyttelton Port.

121. The policy direction of the RCEP allows for legitimate port uses including the dumping of dredge material, while still focussing on environmental outcomes. Chapter 10 of the RCEP further provides for the recovery of the port, of which the cruise ship berth is a key recovery activity. Provided the recommended conditions are adhered to, I consider that the proposed disposal of dredge material is not inconsistent with the objectives and policies of the RCEP.

Mahaanui Iwi Management Plan (MIMP)

122. The Mahaanui Iwi Management Plan 2013 (MIMP) is a manawhenua planning document of six Papatipu Rūnanga that represent the hapū who hold manawhenua rights over lands and waters within the takiwā from the Hurunui River to the Hakatere River and inland to Ka Tiritiri O Moana. This includes the takiwā of Te Hapū o Ngāti Wheke (Rāpaki)
123. The MIMP provides a statement of Ngai Tahu objectives, issues and policies for natural resource and environmental management in the takiwā, and section 6.6 of the plan titled 'Whakaraupō' addresses issues of particular significance in the Lyttelton Harbour / Whakaraupō catchment. The above assessment of effects takes into account the objectives and Policies of the MIMP. I therefore consider the proposal is not contrary to the objectives and policies of the MIMP.

PART 2 MATTERS

124. Under section 104(1) of the RMA, the consent authority must consider applications "subject to Part 2" of the Resource Management Act 1991 (RMA), specifically sections 5, 6, 7 and 8.

Purpose of the RMA (section 5)

125. The purpose of this Act is to "*promote the sustainable management of natural and physical resources*".
126. The purpose is achieved by the guidance provided by the Principles of the RMA (i.e. s.6, s.7, and s.8).
127. Section 5(2) of the RMA states that:
- "In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*
- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment."*
128. I have considered Part 2 of the RMA and consider that this activity will achieve the purpose of the RMA. The applicant's proposal will provide for the recovery of greater Christchurch and the recovery of the Port through the introduction of a new cruise ship berth. Mitigation will ensure that disposal to the spoil grounds will be no greater than is currently disposed during maintenance dredging. Assessment has determined that the effects are likely to be no more than minor.

Matters of National Importance (section 6)

129. The matters of national importance are set out in Section 6 of the RMA as follows and all persons exercising functions and powers under the RMA shall recognise and provide for:
- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
 - (g) *the protection of recognised customary activities.”*
130. The above matters of national importance have been recognised through the ongoing consultation between LPC and the rūnanga, as well as through the notification process.

Other Matters (section 7)

131. In achieving the purpose of the RMA, all persons exercising functions and powers under the RMA are directed to have particular regard to –
- “(a) *kaitiakitanga:*
 - (aa) *the ethic of stewardship:*
 - (b) *the efficient use and development of natural and physical resources:*
 - (f) *maintenance and enhancement of the quality of the environment:*
132. These matters have been considered and discussed earlier within this report under the assessment of effects and objectives and policies assessment. I therefore consider the above other matters to have been had regard to.

Principles of the Treaty of Waitangi (section 8)

133. Section 8 of the RMA requires the consent authority to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
134. Canterbury Regional Council informed the Te Rūnanga O Ngāti Wheke and Te Rūnanga O Ngai Tahu of the activity on 19 June 2018. The applicant also engaged in a number of consultations with the Rūnanga. Subsequently, limited notification was made to these parties, and no submissions were received. I consider the above assessment of effects and assessment of the MIMP have taken into account the principles of the Treaty of Waitangi.

OTHER RELEVANT MATTERS

Decisions of the Environment Court

135. I am unaware of any decision of the Environment Court that would preclude the granting of this consent.

Previous Council Decisions

136. Previous council decisions include CRC135318 for the disposal of maintenance dredge spoil at Gollans bay, and CRC183176 change of conditions to CRC135318. CRC135318 was limited notified to rūnanga, submissions were received but subsequently withdrawn. CRC183176 was processed on non-notified basis.

Section 105(1) – Matters relevant to certain applications

137. Section 105 contains matters the consent authority must have regard to in addition to the matters in section 104(1) when an application is for a discharge permit to do something that would contravene section 15.
- a. *the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and*
 - b. *the applicant's reasons for the proposed choice; and*
 - c. *any possible alternative methods of discharge including discharge into any other environment.*
138. I consider the above assessment of effects has had regard to the above matters.

Section 107(1) – Restrictions on grant of certain discharge permits

139. Under Section 107(1) of the RMA a consent authority may not grant a consent for the discharge of a contaminant into water, or onto or into land, if after reasonable mixing the discharge is likely to give rise in the receiving waters, to:
- "(c) The production of conspicuous oil or grease films, scums, foams, floatable or suspended material;*
 - (d) Any conspicuous change in the colour or visual clarity;*
 - (e) Any emission of objectionable odour;*
 - (f) The rendering of fresh water unsuitable for consumption by farm animals;*
 - (g) Any significant adverse effects on aquatic life."*
140. The application is mostly consistent with Section 107(1); however, some short-term conspicuous changes in colour or clarity may occur during the movement of the dredge and dumping at the spoil grounds. Given the duration and localised nature around the dredge, these impacts are considered to be minor. A review of the proposal by Dr Bolton-Ritchie has shown no significant concern and an agreement to the applicant's effects assessment.

RECOMMENDATION

Duration

141. The applicant has sought a duration of 4 years.
142. In considering an adequate consent duration, I have had regard to the following factors developed through case law that are relevant to the determination of the duration of a resource consent:²
- a. The duration of a resource consent should be decided in a manner which meets the RMA's purpose of sustainable management;
 - b. Whether adverse effects would be likely to increase or vary during the term of the consent;
 - c. Whether there is an expectation that new information regarding mitigation would become available during the term of the consent;

² *Ngati Rangi Trust v Genesis Power Ltd* [2009] NZRMA 312 (CA); *Genesis Power Ltd v Manawatu-Wanganui Regional Council* (2006) 12 ELRNZ 241, [2006] NZRMA 536 (HC); *Royal Forest and Bird Protection Society of New Zealand Inc v Waikato Regional Council* [2007] NZRMA 439 (EnvC); *Curador Trust v Northland Regional Council* EnvC A069/06.

- d. Whether the impact of the duration could hinder implementation of an integrated management plan (including a new plan);
 - e. That conditions may be imposed requiring adoption of the best practicable option, requiring supply of information relating to the exercise of the consent, and requiring observance of minimum standards of quality in the receiving environment;
 - f. Whether review conditions are able to control adverse effects (the extent of the review conditions proposed is also relevant bearing in mind that the power to impose them is not unlimited);
 - g. Whether the relevant plan addresses the question of the duration of a consent;
 - h. The life expectancy of the asset for which consents are sought;
 - i. Whether there was/is significant capital investment in the activity/asset; and
 - j. Whether a particular period of duration would better achieve administrative efficiency.
143. The above assessment of effects determined that the potential adverse effects would be no more than minor and would not increase the potential adverse effects.
144. Given the temporary nature of the proposal, and the required timeframe for works to be undertaken, I consider that a duration of 4 years provides the applicant with adequate time to undertake the proposal, with additional time should any unforeseen delays occur during the exercising of these resource consents.
145. If the commissioners decide to grant this consent, I consider that based on the applicant's proposal, this duration is appropriate.

Grant or decline


146. The assessment of adverse effects undertaken for the purpose of notification determination concluded that adverse effects were no more than minor. I consider that this assessment is also relevant to the assessment required under s104(1)(a).
147. There were no positive effects identified by the applicant, however I note that the proposal will likely have the following positive effects:
- a. Facilitate the development of a cruise ship berth;
 - b. Recovery of greater Christchurch; and
 - c. Recovery of Lyttelton Port
148. In accordance with section 104(1)(b) of the RMA, I have had regard to the all relevant objectives and policies for this application. The relevant objectives and policies are identified above. I consider these applications are consistent with the objectives and policies of the relevant planning provisions.
149. I have considered Part 2 of the RMA and consider that this activity will achieve the purpose of the RMA as the adverse effects of the proposal will be appropriately mitigated.
150. In considering the application, the above assessment of effects, and the advice received by Dr Bolton-Ritchie, I consider the proposed mitigation will sufficiently

mitigate the effects of disposal of dredge spoil to Gollans bay. The recommended conditions will ensure the effects are no more than minor and will provide adequate mitigation.


151. Given the assessment undertaken above, the consultation undertaken, that no submissions were received during the notification of the proposal, and that the assessment of objectives and policies has determined that the effects are to be no more than minor. I recommend that the proposal should be granted, subject to the recommended conditions.

RECOMMENDED CONDITIONS

152. If the Commissioner/Committee is of a mind to grant this application, I have recommended conditions for the Commissioner's/Committee's consideration. Given that I have recommended grant, these draft conditions are simply to provide direction for conditions and are a starting point but not a complete set of conditions. These conditions are not an indication of the consent being granted or declined by the Commissioners. The applicant has reviewed the draft conditions and has adopted these as mitigation measures for their proposal. These are attached in Appendix 1.

Signed:  Date: 20/11/2018
Name: Rhett Klopper
Consents Planner

Reviewer's comments:

Signed by  Date: 20/11/2018
Reviewer: _____
Name: Deepani Seneviratna
Team Leader Consents
Planning

REFERENCES

ANZECC 2000. Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000 Volume 1. National Water Quality Management Strategy Paper No. 4. Australian and New Zealand Environment and Conservation Council and Agriculture and Resource Management Council of Australia and New Zealand, Canberra.

Canterbury Regional Council, 2013. Canterbury Regional Policy Statement, including all amendments: Chapter: 8 – The coastal environment.

Canterbury Regional Council, 2015. Regional Coastal Environment Plan for the Canterbury Region, including all amendments.

Department of Conservation. 2010. New Zealand Coastal Policy Statement 2010.

Mahaanui Kurataiao Ltd. Mahaanui Iwi Management Plan 2013.

The Resource Management Act 1991. Consolidated version incorporating all the amendments to that Act including the Resource Management Amendment Act 2017.

APPENDIX 1: RECOMMENDED CONDITIONS

Resource consent CRC185815 - To deposit dredge material on the seabed

Consent Holder: Lyttelton Port Company Limited

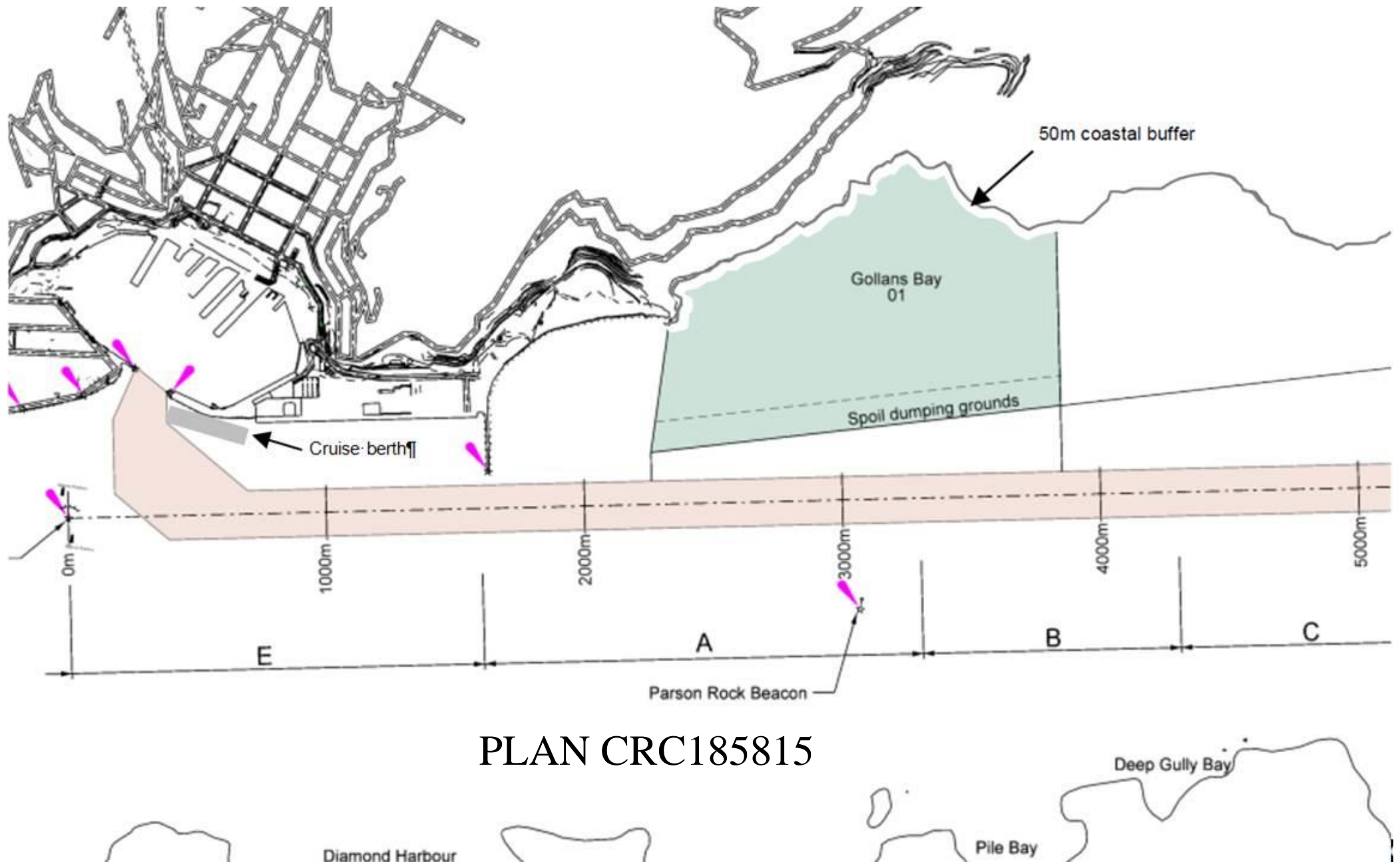
Recommended Duration: 4 Years

	DEFINITIONS
0	<p>“Back-Hoe Dredge” means a hydraulic excavator mounted on a vessel, barge or pontoon (whether motorised or not) which removes seabed material with a bucket or clamshell.</p> <p>“Consent Authority Manager” means the Canterbury Regional Council, Attention: Regional Leader, Monitoring and Compliance.</p> <p>“Dredge Spoil” means seabed material that has been removed by a dredge and is to be disposed of at the designated spoil dumping ground.</p> <p>“Tangata Whenua” means Te Rūnanga O Ngāti Wheke (Rāpaki) and Te Rūnanga O Ngai Tahu (TRONT)</p>
	LIMITS
1	The deposition (dumping) of Dredge Spoil taken from the dredging of the cruise ship berth pocket and revetment shall only occur at the Gollans Bay disposal ground marked in green on Plan CRC185815, attached to and forming part of this resource consent.
2	The maximum volume of seabed material deposited (dumped) by the dredge vessel at the Gollans Bay disposal grounds identified in condition (1) shall not exceed a total of 50,000 cubic metres of in situ sediment.
3	The seabed material deposited (dumped) at Gollans Bay in accordance with condition (2) shall be deposited from a Back-Hoe Dredge or a barge that has been filled with dredge spoil from a Back-Hoe Dredge. For avoidance of doubt, a trailer suction hopper dredge cannot be used to deposit seabed material at Gollans Bay.
4	The disposal of dredge spoil at the Gollans Bay disposal ground under conditions (1) and (2) shall not occur in the same calendar year as disposal of maintenance dredge spoil at Gollans Bay authorised under CRC183176.
	NOTIFICATION AND RECORDS

5	Prior to the commencement of the spoil disposal activities authorised under condition (1) above, the consent holder shall provide a programme of intended dredging and spoil disposal activities, including details of the dredge to be used at the disposal ground. The programme shall be submitted to the Consent Authority Manager and Tangata Whenua not less than two weeks prior to the commencement of the spoil disposal activities.
6	The consent holder shall keep records detailing the timing, quantities and location of seabed material dredged, and the dredge spoil disposed of at the disposal grounds. These records shall be submitted to the Consent Authority Manager and Tangata Whenua within one month of completion of disposal or at any time upon request from the Consent Authority.
	DREDGE MANAGEMENT PLAN (DMP)
7	<p>At least two weeks prior to the commencement of the spoil disposal activities the consent holder shall provide to the Consent Authority Manager a Dredge Management Plan (DMP) for each dredge vessel used. A copy of the DMP shall be provided at the same time to the Tangata Whenua as it is provided to the Consent Authority.</p> <p>ADVICE NOTE: <i>The DMP may be combined with a Construction and Environmental Management Plan prepared by the consent holder for the cruise berth project. If this is the case, then the CEMP shall be provided to the Consent Authority Manager and to Tangata Whenua.</i></p>
8	The purpose of the DMP shall be to specify how practices and procedures will ensure that any actual or potential adverse effects on the marine receiving environment are avoided or otherwise mitigated to the greatest extent practicable.
9	<p>The DMP shall include a description of:</p> <ul style="list-style-type: none"> a. The dredge to be used; b. The dredging methodology to be used; c. How the location and quantities of dredge spoil are recorded; d. The maintenance of equipment and systems; e. The storage and handling of hazardous substances; and f. Any other necessary measures to avoid or mitigate any actual or potential adverse effects on the receiving environment associated with disposal activities.
10	The consent holder shall, on request from the Consent Authority Manager, provide evidence of the processes that are used to ensure that the dredging contractor and all staff are familiar with the conditions contained in this resource consent and the DMP, and all responsibilities to ensure compliance.

	BIOSECURITY MANAGEMENT PLAN (BMP)
11	If the consent holder deploys the dredge vessel directly from overseas to operate under this consent, then a Biosecurity Management Plan (BMP) shall be prepared and implemented in accordance with conditions (12) and (13).
12	At least two weeks prior to the arrival of the dredge vessel in New Zealand, the consent holder shall provide a BMP to the Consent Authority Manager. A copy of the BMP shall be provided at the same time to Tangata Whenua as is provided to the Consent Authority.
13	<p>The purpose of the BMP shall be to reduce the risk of a biosecurity incursion to the greatest extent practicable. The BMP shall include the following:</p> <ul style="list-style-type: none"> a. A description of the dredge vessel and its attributes that affect risk, including key operational attributes (voyage speed, periods of idle time), maintenance history (including prior inspection and cleaning undertaken), and voyage history since last dry-docking and antifouling (countries visited and duration of stay); b. A description of the key sources of potential marine biosecurity risk from ballast water, sediments and biofouling. This shall cover the hull, niche areas, and associated equipment, and consider both submerged and above water surfaces; c. Findings from any previous inspections; d. A description of the risk mitigation taken prior to arrival in New Zealand, including: <ul style="list-style-type: none"> a. Routine preventative treatment measures and their efficacy, including the age and condition of the antifouling coating, and marine growth prevention systems for sea chests and internal sea water systems; b. Specific treatments for submerged and above-water surfaces that will be undertaken to address HIS and CRMS requirements prior to departure for New Zealand. These shall include in water removal of biofouling, or above water cleaning to remove sediment; c. Additional risk mitigation planned during transit to New Zealand, including expected procedures for ballast water management; d. Expected desiccation period of above-water surfaces on arrival to New Zealand; e. The nature and extent of pre-border inspection that will be undertaken to verify compliance with HIS and CRMS requirements; and f. Record keeping and documentation of all mitigation undertaken (prior to and during transit to New Zealand) to enable border verification if requested by Ministry for Primary Industries or its successor, and to facilitate final clearance.

14	The BMP shall be prepared by a person who is suitably qualified and experienced in managing the risk of biosecurity incursions.
15	The BMP Shall be approved in writing by the Consent Authority Manager acting in a technical Certification capacity prior to the commencement of the first disposal authorised by this consent and the consent holder shall undertake all activities authorised by this resource consent in accordance with the approved BMP.
16	Any amendment of the BMP shall be approved in writing by the Consent Authority Manager acting in a technical certification capacity and the consent holder shall undertake all activities authorised by this resource consent in accordance with the approved BMP. A copy of the BMP shall be provided to Tangata Whenua, following certification.
	ADMINISTRATION
17	The Canterbury Regional Council may, once per year, on any of the last five working days of May or November, serve notice of its intention to review the conditions of this consent for the purposes of dealing with any adverse effect on the environment which may arise from the exercise of the consent.



PLAN CRC185815

Resource consent CRC185831 To discharge contaminants (seabed material and water) into water

Consent Holder: Lyttelton Port Company Limited

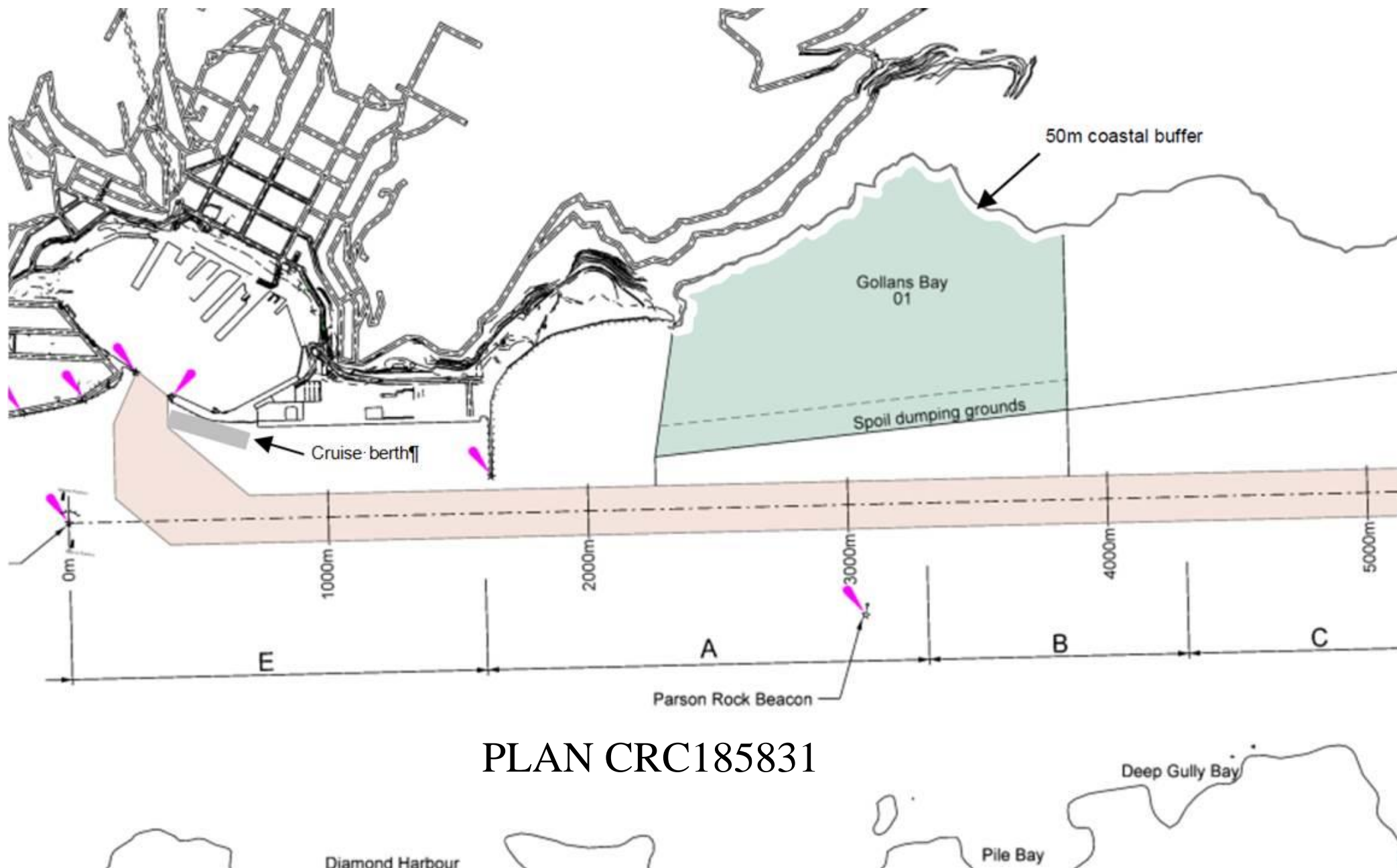
Recommended Duration: 4 Years

	DEFINITIONS
0	<p>“Back-Hoe Dredge” means a hydraulic excavator mounted on a vessel, barge or pontoon (whether motorised or not) which removes seabed material with a bucket or clamshell.</p> <p>“Consent Authority Manager” means the Canterbury Regional Council, Attention: Regional Leader, Monitoring and Compliance.</p> <p>“Dredge Spoil” means seabed material that has been removed by a dredge and is to be disposed of at the designated spoil dumping ground.</p> <p>“Tangata Whenua” means Te Rūnanga O Ngāti Wheke (Rāpaki) and Te Rūnanga O Ngai Tahu (TRONT)</p>
	LIMITS
1	The discharge of seabed material to coastal waters associated with the disposal of dredge spoil taken from the dredging of the cruise ship berth pocket and revetment shall only occur at the Gollans Bay disposal ground marked in green on Plan CRC185831, attached to and forming part of this resource consent.
2	The maximum volume of seabed material discharged by the dredge vessel at the Gollans Bay disposal grounds identified in condition (1) shall not exceed a total of 50,000 cubic metres of in situ sediment.
3	The seabed material discharged at Gollans Bay in accordance with condition (2) shall be discharged from a Back- Hoe Dredge or a barge that has been filled with dredge spoil from a Back- Hoe Dredge. For avoidance of doubt, a trailer suction hopper dredge cannot be used to discharge seabed material at Gollans Bay.
4	The discharge of seabed material associated with disposal of dredge spoil at the Gollans Bay disposal ground under conditions (1) and (2) shall not occur in the same calendar year as disposal of maintenance dredge spoil at Gollans Bay authorised under CRC183176.
	NOTIFICATION AND RECORDS
5	Prior to the commencement of the spoil disposal activities authorised under condition (1) above, the consent holder shall provide a programme

	of intended dredging and spoil disposal activities, including details of the dredge to be used at the disposal ground. The programme shall be submitted to the Consent Authority Manager and Tangata Whenua not less than two weeks prior to the commencement of the spoil disposal activities.
6	The consent holder shall keep records detailing the timing, quantities and location of seabed material dredged, and the dredge spoil disposed of at the disposal grounds. These records shall be submitted to the Consent Authority Manager and Tangata Whenua within one month of completion of disposal or at any time upon request from the Consent Authority.
	DREDGE MANAGEMENT PLAN (DMP)
7	<p>At least two weeks prior to the commencement of the spoil disposal activities the consent holder shall provide to the Consent Authority Manager a Dredge Management Plan (DMP) for each dredge vessel used. A copy of the DMP shall be provided at the same time to the Tangata Whenua as it is provided to the Consent Authority.</p> <p>ADVICE NOTE: <i>The DMP may be combined with a Construction and Environmental Management Plan prepared by the consent holder for the cruise berth project. If this is the case, then the CEMP shall be provided to the Consent Authority Manager and to Tangata Whenua.</i></p>
8	The purpose of the DMP shall be to specify how practices and procedures will ensure that any actual or potential adverse effects on the marine receiving environment are avoided or otherwise mitigated to the greatest extent practicable.
9	<p>The DMP shall include a description of:</p> <ul style="list-style-type: none"> a. The dredge to be used; b. The dredging methodology to be used; c. How the location and quantities of dredge spoil are recorded; d. The maintenance of equipment and systems; e. The storage and handling of hazardous substances; f. Any other necessary measures to avoid or mitigate any actual or potential adverse effects on the receiving environment associated with disposal activities
10	The consent holder shall, on request from the Consent Authority Manager, provide evidence of the processes that are used to ensure that the dredging contractor and all staff are familiar with the conditions contained in this resource consent and the DMP, and all responsibilities to ensure compliance.
	BIOSECURITY MANAGEMENT PLAN (BMP)

11	If the consent holder deploys the dredge vessel directly from overseas to operate under this consent then a Biosecurity Management Plan (BMP) shall be prepared and implemented in accordance with conditions (12) and (13).
12	At least two weeks prior to the arrival of the dredge vessel in New Zealand, the consent holder shall provide a BMP to the Consent Authority Manager. A copy of the BMP shall be provided at the same time to Tangata Whenua as is provided to the Consent Authority.
13	<p>The purpose of the BMP shall be to reduce the risk of a biosecurity incursion to the greatest extent practicable. The BMP shall include the following:</p> <ul style="list-style-type: none"> a. A description of the dredge vessel and its attributes that affect risk, including key operational attributes (voyage speed, periods of idle time), maintenance history (including prior inspection and cleaning undertaken), and voyage history since last dry-docking and antifouling (countries visited and duration of stay); b. A description of the key sources of potential marine biosecurity risk from ballast water, sediments and biofouling. This shall cover the hull, niche areas, and associated equipment, and consider both submerged and above water surfaces; c. Findings from any previous inspections; d. A description of the risk mitigation taken prior to arrival in New Zealand, including: <ul style="list-style-type: none"> a. Routine preventative treatment measures and their efficacy, including the age and condition of the antifouling coating, and marine growth prevention systems for sea chests and internal sea water systems; b. Specific treatments for submerged and above-water surfaces that will be undertaken to address HIS and CRMS requirements prior to departure for New Zealand. These shall include inwater removal of biofouling, or above water cleaning to remove sediment; c. Additional risk mitigation planned during transit to New Zealand, including expected procedures for ballast water management; d. Expected desiccation period of above-water surfaces on arrival to New Zealand; e. The nature and extent of pre-border inspection that will be undertaken to verify compliance with HIS and CRMS requirements; and f. Record keeping and documentation of all mitigation undertaken (prior to and during transit to New Zealand) to enable border verification if requested by Ministry for Primary Industries or its successor, and to facilitate final clearance.
14	The BMP shall be prepared by a person who is suitably qualified and experienced in managing the risk of biosecurity incursions.

15	The BMP Shall be approved in writing by the Consent Authority Manager acting in a technical Certification capacity prior to the commencement of the first disposal authorised by this consent and the consent holder shall undertake all activities authorised by this resource consent in accordance with the approved BMP.
16	Any amendment of the BMP shall be approved in writing by the Consent Authority Manager acting in a technical certification capacity and the consent holder shall undertake all activities authorised by this resource consent in accordance with the approved BMP. A copy of the BMP shall be provided to Tangata Whenua, following certification.
	ADMINISTRATION
17	The Canterbury Regional Council may, once per year, on any of the last five working days of May or November, serve notice of its intention to review the conditions of this consent for the purposes of dealing with any adverse effect on the environment which may arise from the exercise of the consent.



PLAN CRC185831

7. Extraordinary and Urgent Business

8. Next Meeting - to be confirmed

9. Closure