

From: Graham Williams
Sent: Friday, 13 November 2015 11:50 a.m.
To: 'georgina.smith@hobec.co.nz'
Subject: Sulphur Point-Section 1 SO 59443-Tauranga Harbour-Area 8000m2
Attachments: Scan-to-Me from prnrh100774.ad.linz.govt.nz 2015-11-13 104440.pdf

Hello Georgina

I refer to our telephone discussion yesterday and note that you are acting for the Port of Tauranga Limited in respect of considering the possibility of acquiring ownership of the above reclaimed land under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACAA).

As promised, I have attached for your reference a scanned copy of the following publications:

- A summary of information concerning reclaimed land under the MACAA;
- LINZ guide for developers on Reclaimed land issued in February 2014;
- Reclamation Valuations issued in March 2013 which covers the LINZ valuation methodology for reclaimed land for advice to applicants and registered valuers engaged by LINZ;
- Details of the fees payable as highlighted, for consideration of an application for a freehold interest in reclaimed land.

I trust that these publications assist you in understanding the process for applying for an interest in reclaimed land and the information required to be provided in an application to LINZ.

Regards

Graham Williams
Senior Portfolio Manager
rown Property

E gwilliams@linz.govt.nz | **DDI** 04 460 0187 |
Wellington Office, Level 7, Radio New Zealand House, 155 The Terrace
PO Box 5501, Wellington 6145, New Zealand | T 04 460 0110
W www.linz.govt.nz | data.linz.govt.nz



From: gwilliams@linz.govt.nz [<mailto:gwilliams@linz.govt.nz>]
Sent: Friday, 13 November 2015 10:45 a.m.
To: Graham Williams
Subject: Scan-to-Me from prnrh100774.ad.linz.govt.nz 2015-11-13 104440



**Land Information
New Zealand**
Toi tū te whenua

Wellington Office
Radio New Zealand House
155 The Terrace
PO Box 5501
Wellington 6145
New Zealand
T 04 460 0110
E info@linz.govt.nz
www.linz.govt.nz

Our Ref: PRY-a30-19276-DIS-Z/01

Your Ref: J D Patterson

3 April 2013

Mr John Patterson
Holland Beckett Lawyers
525 Cameron Road
Private Bag 12011
TAURANGA 3143

Dear John

Sulphur Point-Port of Tauranga Ltd-Section 1 SO 59443 Tauranga Harbour

I am writing further to our telephone conversation on 20 March 2013. I note that you are acting for the Port of Tauranga Limited in respect of an application for freehold vesting of the above reclaimed land, which has been transferred to the Minister for Land Information for consideration and determination.

The current status of the reclamation is land of the Crown under Section 31 of the Marine and Coastal Area (Takutai Moana) Act 2011 (MACCA) and has been added to the Land Information New Zealand (LINZ) property database.

To be able to process this new application, there is a need for a fresh submission, on behalf of the Port of Tauranga, to be submitted to LINZ in accordance with the criteria set out in Section 36(2) of MACCA. While some of the general information concerning the application can be obtained from the Department of Conservation file, information under the following headings is also required.

- Occupier and current use of land;
- Aerial photo of the reclamation and surrounding land;
- Structures and Improvements on the land;
- Current zoning;
- Details of any contamination/contingent liabilities associated with the land;
- Legal status, address and contact details of the applicant;

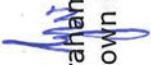
- Eligibility status of applicant;
- Interest sought and purpose of the interest.

I am attaching for your information a letter we are sending to applicants accompanied by the Schedule of Fees set out in the Marine & Coastal Area (Tukatai Moana) Reclamation Fees Regulations 2012. As you will note, the application fee for an interest in reclaimed land is \$3,100.00. Closer to when you are proposing to submit the written submission can you please let me know in order that I can arrange to raise an invoice for the application fee so that you can send the payment at the same time.

As well, I advise that a valuation will be required to be completed in terms of the Crown's Valuation Methodology to establish the financial value of the Crown's interest in the seabed. We are required to obtain a quotation for the valuation work and send a copy to you to confirm that your client still wishes to proceed with the application. It will also give you certainty about the fee payable.

If you wish to discuss any matter relating to the application please contact me on (04) 4600187 or by e-mail gwilliams@linz.govt.nz.

Yours sincerely


Graham Williams
Crown Property Management

Encl:

Sent to MDC 12/01/12 OK 9/12/12



Department of Conservation
Te Papa Atawhai

Ministerial No. 12 - C - 0001
(ASTU use only)

Departmental Submission

Date:	11 January 2012	File reference:	LCA-86-01
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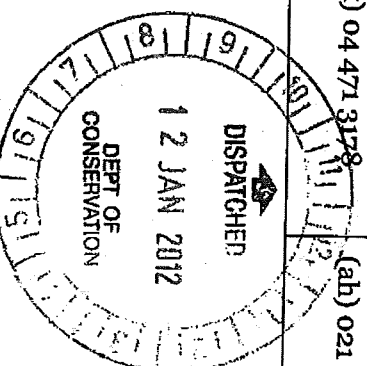
Minister of Conservation

Subject:	MARINE AND COASTAL AREA (TAKUTAI MOANA) ACT 2011 – SECTION 41 REFERRAL – SULPHUR POINT RECLAMATION – FEE SIMPLE VESTING APPLICATION – PORT OF TAURANGA		
Action Sought:	Refer a reclamation vesting application to the Minister for Land Information for his consideration and determination		
Deadline:	No statutory timeframe		

Paper Type: (Cabinet, Statutory or Other)	Statutory	Dept's Priority: (Very High, High, Normal or Low)	Normal
Risk Assessment: (e.g. consequences)	You are exercising a statutory power under s.41 of the Marine and Coastal Area Act	Level of Risk: (High, Medium or Low)	Low

Contacts for telephone discussion (if required)

	Name	Position	Telephone	
1	Mike Jacobson	Senior Planner	(wk) 04 235 7648	(ah) 027 240 7519
2	Guy Kerison	Manager – Planning Unit	(wk) 04 494 1470	(ah) 027 447 8662
3	Alice Carnaivuna	Solicitor	(wk) 04 471 3128	(ah) 021 239 1164



Executive Summary

Under the Marine and Coastal Area (Takutai Moana) Act 2011 (MCAA), new applications for the vesting of rights in reclaimed coastal land will be considered and determined by the Minister for Land Information. Existing vesting applications that were made under the Resource Management Act 1991 (RMA) will, as the default, continue to be dealt with by the Minister of Conservation under the RMA.

However, the MCAA also provides that a person who made an application for vesting under the RMA may, subject to specified conditions being met, now request that the application be referred to the Minister for Land Information for his consideration and determination as if it was an application made under the MCAA.

On 22 August 2011, Port of Tauranga Limited made a request under s41(4) of the MCAA that its RMA application for vesting of fee simple title for a reclamation at Port of Tauranga be referred by you to the Minister for Land Information.

The Department considers that the conditions for a valid request set out in s41 of the MCAA are met. Therefore, the request can be made and you must refer the application and all related documents to the Minister for Land Information.

Attached are the vesting application, related documents, and a covering letter to the Minister for Land Information for your signature.

Recommended Action

It is recommended that you –

	Minister's decision
(1) Note that Port of Tauranga Limited has made a request under the Marine and Coastal Area (Takutai Moana) Act 2011 (MCAA) for a vesting application made under the RMA to be referred to the Minister for Land Information for his consideration and determination	(yes / no)
(2) Note that the Department is satisfied that the conditions set out in the MCAA for such a request to be made are met	(yes / no)
(3) Sign the attached letter to the Minister for Land Information	(yes / no)
(4) Refer the attached vesting application and related documents to the Minister for Land Information	(yes / no)



.....
Doris Johnston
Deputy Director-General Policy
for Director-General

..... / /
Kate Wilkinson
Minister of Conservation

Executive Summary

Under the Marine and Coastal Area (Takutai Moana) Act 2011 (MCAA), new applications for the vesting of rights in reclaimed coastal land will be considered and determined by the Minister for Land Information. Existing vesting applications that were made under the Resource Management Act 1991 (RMA) will, as the default, continue to be dealt with by the Minister of Conservation under the RMA.

However, the MCAA also provides that a person who made an application for vesting under the RMA may, subject to specified conditions being met, now request that the application be referred to the Minister for Land Information for his consideration and determination as if it was an application made under the MCAA.

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The Department considers that the conditions for a valid request set out in s41 of the MCAA are met. Therefore, the request can be made and you must refer the application and all related documents to the Minister for Land Information.

Attached are the vesting application, related documents, and a covering letter to the Minister for Land Information for your signature.

Recommended Action

It is recommended that you –

**Minister's
decision**

- (1) Note that Port of Tauranga Limited has made a request under the Marine and Coastal Area (Takutai Moana) Act 2011 (MCAA) for a vesting application made under the RMA to be referred to the Minister for Land Information for his consideration and determination
- (2) Note that the Department is satisfied that the conditions set out in the MCAA for such a request to be made are met
- (3) Sign the attached letter to the Minister for Land Information
- (4) Refer the attached vesting application and related documents to the Minister for Land Information

(yes) no)

(yes) no)

(yes) no)

(yes) no)

Doris Johnston

Doris Johnston
Deputy Director-General Policy
for Director-General

Kate Wilkinson 8/2/12

Kate Wilkinson
Minister of Conservation

1. Background

Under the Marine and Coastal Area (Takutai Moana) Act 2011 (MCAA), new applications for the vesting of rights in reclaimed coastal land will be considered and determined by the Minister for Land Information.

Sections 41(1) and 41(3) of the MCAA provide that existing applications for the vesting of reclaimed land that were made under the Resource Management Act 1991 (RMA) before the commencement of the MCAA shall, as the default, continue to be considered and determined as if the old RMA reclamation vesting regime remained in place. (The whole of s41 of the MCAA is cited in **Attachment One**)

However, the MCAA also provides that a person who made an application for vesting under the RMA may, subject to meeting two conditions specified in s41(5) and the 180 day deadline in s41(6), request that the application be referred to the Minister for Land Information for consideration and determination under s35 of the MCAA.

On 22 August 2011, Port of Tauranga Limited ('Port of Tauranga') made a request under s41(4) of the MCAA that its pending RMA application for vesting of fee simple title for a reclamation at Sulphur Point within the commercial port area be referred by you to the Minister for Land Information.

2. The RMA vesting application

The Sulphur Point reclamation in Tauranga Harbour by Port of Tauranga that is the subject of referral request was authorised by Order in Council under the Harbours Act 1950 early in 1991 before the RMA came into force.

The reclamation construction was completed, and the reclamation surveyed, after the RMA came into force. However, the survey plan was mistakenly approved in November 1992 under section 175B(4) of the Harbours Act which had been repealed on 1 October 1991.

The Port of Tauranga application for freehold vesting was first received by the Department in October 1997, and the error with the survey plan approval was discovered during the Department's processing of the vesting application. After protracted correspondence with the Department, the problem was resolved by a new application in April 2007 for plan approval under the RMA. The RMA s245 Certificate approving the plan was issued by the Department in the same month. (The RMA vesting application and other documents referred to here and below are in **Attachment Two**)

A letter pursuing the vesting application and attaching the RMA s245 Certificate was then received by the Department in September 2007. While purporting to be "an application pursuant to s35(1) Resource Management Act", this letter effectively renewed the application following the applicant obtaining a valid survey plan approval. Under the Foreshore and Seabed Act 2004, Port of Tauranga remained entitled to apply for freehold vesting.

Consultation with local iwi, the New Zealand Historic Places Trust, the Office of Treaty Settlements and Land Information New Zealand (LINZ) then commenced. The land was declared exempt from the Protection Mechanism and Sites of Significance processes by the Office of Treaty Settlements in 2009. A valuation was then commissioned by the Department, and this was completed in June 2010.

Further iwi consultation took place, and the vesting application was still pending when the MCAA came into force.

3. The referral request under s41 of the MCAA

On 22 August 2011, Port of Tauranga made its request to you under s41(4) of the MCAA that its pending RMA vesting application be referred by you to the Minister for Land Information (see **Attachment Three**). An analysis of that request and the vesting application, and whether they meet the requirements in s41 for a valid referral request, is set out below:

Analysis of the referral request and vesting application:

Section 41 requires that, if a valid request is made in relation to a pending application (ie. an application that is to be, but has not yet been, substantively determined by the Minister of Conservation), the application must be referred to the Minister for Land Information for his consideration and determination under the MCAA.

Section 41(5) requires that, for a valid request to be made, the Port of Tauranga application cannot be in competition with any other application, and Port of Tauranga would (but for having made the 22 August 2011 application under s355 of the RMA) be eligible to apply under s35 of the MCAA.

There is also a time condition in s41(6), namely that the request must be made not later than 180 days after the commencement of the MCAA.

The s41(1) pending application requirement:

S41(1) requires that the application be an application that was made under s355(1) of the RMA and that is to be, but has not yet been, substantively determined by the Minister of Conservation.

The application for freehold vesting of the specified Bayswater Marina reclamation was initially made under s355(1) on 6 October 1997. The processing of the application could not initially be completed because of the error with the survey plan approval. The application effectively remained on hold until that survey plan error was rectified by the new survey plan approval under section 245 of the RMA on 24 April 2007.

The processing of the application was able to be continued once the section 245 certificate was issued (and this was requested by the applicant in their letter of 19 September 2007), but the application has not yet been substantively determined by you.

It is noted that, despite the error with the survey plan, the reclamation was lawfully constructed under an Order in Council (dated 10 December 1990) and hence was an application that was to be determined by the Minister of Conservation.

(See **Attachment Two** for copies of all these documents)

The s41(5)(a) condition:

The first condition, in s41(5)(a), is that “as at the commencement of this Act, the application is not in competition with any other application to which this section applies;”

The Department agrees with the requester that there was no competing vesting application for this Sulphur Point, Port of Tauranga reclamation as at the 1 April 2011 commencement date of the MCAA. (See the Port of Tauranga transfer request and the Department’s email of 17 November 2011 in **Attachment Three**)

The s41(5)(b) and s41(2) condition:

The second condition, in s41(5)(b), is that “the applicant would (but for having made the application to which this section applies) be eligible to apply under s35” of the MCAA.

Port of Tauranga, being the developer of the reclamation for which it is seeking freehold vesting, is an eligible applicant under s35(1).

Port of Tauranga is also eligible in terms of s41(2) to apply under s35 because the prohibition related to the existence of any earlier competing application (at the time any previous application was discontinued) does not apply. The Department does not consider that there has been a previous application. The current pending vesting application was originally made in 1997 and was never withdrawn or discontinued. It remained on hold during consultation with the Department and until the error with the approval of the survey plan was rectified with a valid RMA survey plan approval in 2007.

It is noted that, even if the 19 September 2007 letter (which does state that it is a s355 vesting application) was considered to be a new or replacement application, it is also the case that there has never been a competing application. Therefore, the criteria under s41(2) would not be satisfied and there would be no prohibition on the applicant applying for vesting under s35. This means that the conditions for a valid referral request (in 41(4) and 41(5)) would be met even if the original October 1997 application was considered to have been discontinued by the September 2007 letter.

The s41(6) condition:

The third condition for a valid request is that it “must be made in writing to the Minister of Conservation not later than 180 days after the commencement of this Act” (s41(6)). The cut-off date for making a request was therefore 27 September 2011.

The written request by Port of Tauranga was dated 22 August 2011 and received by the Department on that same date.

Analysis conclusion:

The Department considers that the requirements set out in s41 of the MCAA are met by the application and the request. Therefore a valid request has been made and you should refer the application and related documents to the Minister for Land Information.

3. The application and related documents

Referring the application itself is straightforward should you agree that the request is a valid request.

You are also required to refer “all the documents relating to the application” (s41(7)).

Attached to this briefing are the request, the vesting application, and other important related documents (see **Attachment Two** and **Attachment Three**). This includes the valuation for the reclamation commissioned by the Department, and correspondence with the Office of Treaty Settlements. A copy of all these documents is also attached for referral by you to the Minister for Land Information.

There are other documents held by the Department that meet the s41(7) test of being “documents relating to the application”. As was done with the earlier Bayswater Marina referral, the

Department will separately deliver to LINZ the files containing any other documents that are related to the Sulphur Point vesting application.

The Department is working closely with LINZ over the implementation of all the changes to the management of reclaimed land under the MCAA, and any other information or records that LINZ may in future determine are relevant to the consideration of this vesting application will be provided promptly directly to LINZ.

4. Timeframes and related matters

There are no timeframes set out in the MCAA for referring applications pursuant to s41, but the Department has sought to achieve referral without any undue delay.

5. Statutory considerations

There is no decision making or discretion as part of this statutory function. If the request is a valid request, then the application and all related documents must be referred to the Minister for Land Information.

6. Attachments

Attachment One: S41 of the Marine and Coastal Area (Takutai Moana) Act 2011

Attachment Two: The vesting application and related documents

Attachment Three: The request for referral to the Minister of Land Information
& DoC email confirming no competing application

If you consider you require any further information for clarification purposes, please feel free to contact any of the persons named as contacts on page one of this briefing.

ENDS

RECEIVED

- 8 FEB 2012

DEPT OF
CONSERVATION

File No: LCA-86-01

Drafted By: Policy

Mike Jacobson

File Number: 12-C-0001

Date Left: 12/01/12

ONE Number: 818984

- 8 FEB 2012

Hon Maurice Williamson
Minister for Land Information

Dear Minister

In accordance with s41 of the Marine and Coastal Area (Takutai Moana) Act 2011, I am referring to you for your consideration and determination an application for the freehold vesting of a coastal reclamation constructed at Sulphur Point in Tauranga Harbour by Port of Tauranga Limited.

The referral request and the vesting application are attached along with other important related documents. Those documents include a valuation of the reclamation that was commissioned by the Department of Conservation. I note that files containing other documents related to the vesting application will be directly transferred by the department to Land Information New Zealand (LINZ).

For your information, I attach a copy of the department's briefing to me on this referral request.

Yours sincerely

Signed Hon Kate Wilkinson

Hon Kate Wilkinson
Minister of Conservation

Ends (2)

Graham Williams

From: Craig Harris
Sent: Friday, 15 March 2013 12:13 PM
To: Graham Williams
Subject: Sulphur Point

Graham,
Here is the guy that asked me about Sulphur Point - John Patterson
[John.Patterson@hobec.co.nz]

*Ring John to discuss
this application.
Apr 2013.*

Craig Harris
Manager Crown Property Regulatory and
Deputy Commissioner of Crown Lands
Crown Property Management

E charris@linz.govt.nz | DDI 04 460 0170 | M 027 499 1164

Wellington Office, Level 7, Radio New Zealand House, 155 The Terrace
PO Box 5501, Wellington 6145, New Zealand | T 04 460 0110
W www.linz.govt.nz | www.landonline.govt.nz | data.linz.govt.nz



Land Information
New Zealand
Te ōhio te wāhanga



Released under the Official Information Act 1982

L1175 19276

Graham Williams

From: Craig Harris

Sent: Wednesday, 15 February 2012 1:51 PM

To: Graham Williams

Subject: FW: Sulphur Point - letter advising referral to MfLI

Attachments: DME907648.doc

FYI - new case coming over for application - Sulphur Point, Ports of Tauranga

From: Mike Jacobson [mailto:mjacobson@doc.govt.nz]

Sent: Monday, 13 February 2012 2:17 p.m.

To: Craig Harris; Brendan Mulholland

Cc: Chris Staite

Subject: Sulphur Point - letter advising referral to MfLI

Hello Craig and Brendan,

For your records, but also with a request for you to advise me if the last paragraph concerning LINZ should need updating at any stage.

More referrals are being processed ...

Regards,

Mike Jacobson

Attention:

This e-mail (and attachments) is confidential and may be legally privileged.

Released under the Official Information Act 1982

L145 19276



**Land Information
New Zealand**
Toitū te whenua

Internal Memo

To: **Bill Naik**
Manager Crown Property Management

From: **Jan Webster**
Portfolio Manager

Date: **22/03/2013**

File Ref: **A1413071**

Wellington Office
Radio New Zealand House
155 The Terrace
PO Box 5501
Wellington 6145
New Zealand
Tel 64-4-460 0110
Fax 64-4-472 2244
Email info@linz.govt.nz
www.newzealand.govt.nz

Subject: **Status of reclaimed land at Sulphur
Point, Tauranga – Section 1 SO 59443
(8000m²)**

Purpose

To seek your agreement as to the status of the land and your execution of a certificate under section 33(2) of the Marine and Coastal Area Act 2011 (MACAA).

Reference

Please find attached:

1. NZ Gazette 1991 p.126;
2. SO 58485;
3. SO 59443;
4. Certificate 245(5)(a);
5. Certificate for signing.

Background

The reclamation at Sulphur Point was carried out under authority of an Order in Council made pursuant to s175(3) of the Harbours Act 1950, published in the NZ Gazette 1991 at p.126 (attached). The plan referred to in the Gazette notice is SO 58485 (attached) and is the plan of the proposed reclamation. SO 59443 is the "as built" plan (attached).

The land was reclaimed by Port of Tauranga Limited (The Port) and has been used, along with all adjoining land held by The Port, for port purposes.

The land was initially administered by the Department of Conservation under the Foreshore and Seabed Endowment Revesting Act 1991 and then the Foreshore and Seabed Act 2004 (FSA).

A certificate pursuant to s245(5)(a) Resource Management Act 1991 was signed on behalf of the Minister of Conservation on the 24th of April 2007 (attached).

The Port originally made a freehold vesting application to the Minister of Conservation in 1997, this was renewed in 2007 once the s245(5)(a) certificate was obtained.

In August 2011 The Port requested that the vesting application be referred to the Minister for Land Information pursuant to s41(4) of the Marine and Coastal Area Act 2011 (MACAA). The referral took place on 9 February 2012.

The reclaimed land was, immediately prior to the commencement of MACAA, part of the public foreshore and seabed under FSA. On the commencement of MACAA, the full and beneficial ownership of the land vested in the Crown absolutely pursuant to section 31 of that Act and ceased to be subject to FSA.

The current status is therefore land of the Crown under the Marine and Coastal Area Act 2011.

The information provided meets the requirements of the LINZ interim standard, LINZ S15004, for dealing with coastal reclaimed land.

Delegation

The land is subject to subpart 3 of part 2 of MACAA and you hold a delegation from the Minister for Land Information to certify that status under s33(2) of MACAA.

Action Required


I recommend that you:

1. agree the status of the land as set out above, and
2. sign the attached certificate under your delegated authority.

Recommended


Jan Webster
Portfolio Manager


Recommended


Bart van Stratum
Technical Leader

Endorsed by


Phil Royle
Team Manager

Agree/Disagree


Bill Naik
Manager Crown Property Management

**Certificate under Section 33(2) of the
Marine and Coastal Area (Takutai Moana) Act 2011**

Pursuant to Section 33(2) of the Marine and Coastal Area (Takutai Moana) Act 2011, and to a delegation from the Minister for Land Information, I William Malcolm Naik, Land Information New Zealand certify that the land described in the schedule below and shown on the attached plan is reclaimed land subject to subpart 3 of Part 2 of the Marine and Coastal Area (Takutai Moana) Act 2011.

SCHEDULE

South Auckland Land District

Area (m ²)	Description
8000	Section 1 SO 59443

Dated at Wellington this 28th day of March 2013


.....
Manager Crown Property Management

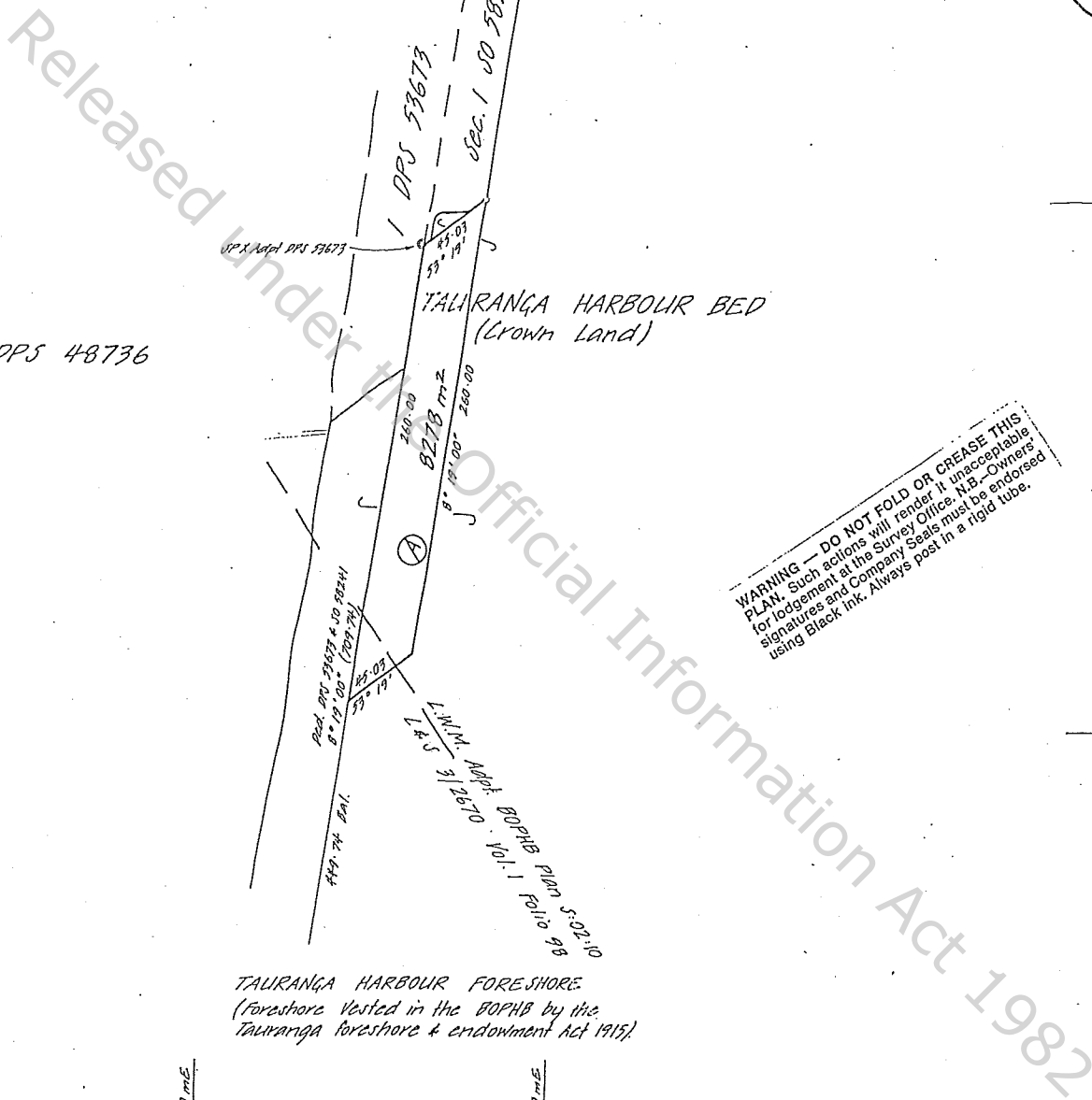
Released under the Official Information Act 1982

At Wellington this 10th day of December 1900

His Excellency the Administrator of the Government
in Council

Sc.
ule

30452



Schedule of Areas

Date:
 Bearings: Geodetic 1949
 Coordinates: Geodetic 1949
 Bay of Plenty Circuit Coordinates
 Origin: Maketu 700000 mN 300000 mE

Total Area 8278 m²

1. WALLACE GRAHAM HOLMES
Registered Surveyor and holder of an annual practising certificate for
who may act as a registered surveyor pursuant to section 25 of
the Survey Act 1988 hereby certify that this plan has been made from
surveys executed by me or under my directions, that both plan and
surveys are correct and have been made in accordance with the Survey
Regulations 1972 or any regulations made in substitution thereof.
Dated at WALLACE this 11 day
of April, 19 90 Signature W. Holmes

Approved Pursuant to Sec. 175, B(3)
Harbours Act 1950 11.6.01

Deposited this day of 19

District Land Registrar

SO 58485

Plan of Proposed Reclamation of Part of Bed
of Tauranga Harbour & Part of Tauranga
Harbour Foreshore.

TERRITORIAL AUTHORITY *TALIRANGA DISTRICT*
 Surveyed by *JHRIMPTON & LIPINSKI LTD F. 776*
 Scale *1:2000* Date *April 1990*

430763
File CO011
Received 19-4-90
Instructions

CERTIFICATE
(Pursuant to Section 245(5)(a) Resource Management Act 1991)

THE MINISTER OF CONSERVATION hereby certifies that:

The area of reclamation of part of Tauranga Harbour Bed, that is more particularly described in the Schedule, conforms with the requirements at the time the reclamation was completed.


SCHEDULE
(South Auckland Land District)

All that parcel of land containing 8000 m² shown and described as Section 1 on Survey Plan SO59443.

Dated at Rotorua this 24th day of April 2007.



SIGNED on behalf of the Minister of Conservation,
by KEITH LESLIE OWEN acting under delegated authority
in the presence of:

Witness signature: 

Witness Name: Clint Canero

Occupation: Community Relations Officer

Address:

Department of Conservation

PO Box 1146

Rotorua.

Approval of Survey
Not a Vestibule

Mike Jacobson

From: Mike Jacobson
Sent: Friday, 6 September 2013 12:05 p.m.
To: 'charris@linz.govt.nz'
Subject: Sulphur Point vesting files

Hello Craig

Have you received the Doc files on Sulphur Point vesting yet (I am not sure whether they came down from the Cy or not)?

Did you find the referral from our Minister? I have come across the physical copy of the referred document during our office move (I think waiting for a physical address) and could send them to the physical address on Jan Webster's email if the referral never did emerge...

Mike

Released under the Official Information Act 1832

Mike Jacobson

From: Mike Jacobson
Sent: Tuesday, 5 March 2013 1:13 p.m.
To: 'Craig Harris'
Subject: RE: Reclamation vesting transfer - Sulphur Point
Craig

I have now copied everything in my vesting referral file, and it is ready to send to you.

Perhaps it would be safest for you to confirm the best postal address for sending it to you, so that this copy of the referral and attached documents does not go astray ...

You will have seen the cc. of my email to the conservancy following up my much earlier request for files to be sent to NO for transfer to LINZ. I will try to keep on top of it this time – but feel free to email to check on progress and remind me if you have not heard from me soon.

Cheers, Mike

From: Craig Harris [mailto:charis@linz.govt.nz]
Sent: Tuesday, 5 March 2013 12:24 p.m.
To: Mike Jacobson
Subject: RE: Reclamation vesting transfer - Sulphur Point
that'd be good.

Cheers
Craig

From: Mike Jacobson [mailto:mjacobson@doc.govt.nz]
Sent: Tuesday, 5 March 2013 12:23 p.m.
To: Craig Harris
Subject: RE: Reclamation vesting transfer - Sulphur Point

Craig

How about I just send you a hard copy of everything in my file, including the letter? I haven't checked on the files yet, but will do so.

Mike

From: Craig Harris [mailto:charis@linz.govt.nz]
Sent: Tuesday, 5 March 2013 11:51 a.m.
To: Mike Jacobson
Subject: RE: Reclamation vesting transfer - Sulphur Point

Thanks Mike - I've spoken with our Minister's office and they don't have any record of receiving this one. Will continue to look around at this end. Can you forward me a scanned copy of the letter and attached papers so we can get moving on this one.

Craig

From: Mike Jacobson [mailto:mjacobson@doc.govt.nz]
Sent: Tuesday, 5 March 2013 11:01 a.m.
To: Craig Harris
Subject: Reclamation vesting transfer - Sulphur Point

5/03/2013

Hello Craig

I have only just returned from almost a month in Fiordland. Have you found the transfer papers for Sulphur Point yet?

Here is my electronic copy of the referral letter from our Minister. I have the physical file here on my desk with that letter (dated 8 Feb 2012) and all the papers, should you need new copies.

I will also check to see whether files were transferred or not – will action transfer if it has not already happened.

An update from you would be appreciated.

Cheers, Mike

This message contains information, which is confidential and may be subject to legal privilege. If you are not the intended recipient, you must not peruse, use, disseminate, distribute or copy this message. If you have received this message in error, please notify us immediately (Phone 0800 665 463 or info@linz.govt.nz) and destroy the original message. LINZ accepts no responsibility for changes to this email, or for any attachments, after its transmission from LINZ. Thank You.

L1P5 19276

LCA-86-01

13 February 2012

John Patterson
Holland Beckett Lawyers
525 Cameron Road
Private Bag 12011
Tauranga 3143

Dear Mr Patterson

Sulphur Point – Port of Tauranga Ltd – Request for Referral of Reclamation Vesting Application

On 22 August 2011 you requested on behalf of Port of Tauranga Limited that the Sulphur Point vesting application originally made in 1997 (and renewed in 2007 once a valid RMA s245 certificate was obtained) be referred to the Minister for Land Information pursuant to s41(4) of the Marine and Coastal Area (Takutai Moana) Act 2011.

I can advise that on 9 February 2011 the reclamation vesting application was referred to the Minister for Land Information for his consideration and determination under the Marine and Coastal Area (Takutai Moana) Act 2011.

Accompanying the vesting application were the related documents found during this referral process, and the Department has also undertaken to transfer to Land Information New Zealand (LINZ) the relevant Sulphur Point reclamation vesting files that it holds.

LINZ is currently implementing the processes for dealing with applications under the new Act. If you wish to seek more details on how your referred application will be dealt with under the new Act, please contact Craig Harris (charris@linz.govt.nz) or Brendan Mulholland (bmulholland@linz.govt.nz) for more information.

Yours sincerely

Guy Kerrison
Manager, Planning Unit
National Office, Policy & Regulatory Services Group



Office of Hon Kate Wilkinson

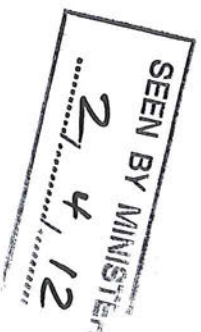
L105 19276

Minister of Conservation

Associate Minister of Immigration

Minister of Labour

Minister for Food Safety



- 8 FEB 2012

Hon Maurice Williamson
Minister for Land Information

*First seen by Bond
Jan 24/12.
[Signature]*

Dear Minister

In accordance with s41 of the Marine and Coastal Area (Takutai Moana) Act 2011, I am referring to you for your consideration and determination an application for the freehold vesting of a coastal reclamation constructed at Sulphur Point in Tauranga Harbour by Port of Tauranga Limited.

The referral request and the vesting application are attached along with other important related documents. Those documents include a valuation of the reclamation that was commissioned by the Department of Conservation. I note that files containing other documents related to the vesting application will be directly transferred by the department to Land Information New Zealand (LINZ).

For your information, I attach a copy of the department's briefing to me on this referral request.

Yours sincerely

Kate Wilkins

Hon Kate Wilkinson
Minister of Conservation

Encls (2)

COPY

List of the documents provided with the MCAA s41 referral of the Sulphur Point vesting application by Port of Tauranga Limited:

(Included in these documents are all the documents contained in the three attachments to the briefing to the Minister of Conservation. Other file material that is related to the vesting application is to be forwarded directly by the Department to LINZ.)

Referral request – Hobeck Lawyers Holland Beckett, 22 August 2011

Letter to DoC applying for freehold vesting under s355 – Holland Beckett Maitby, 6 October 1997

Confirmation that there were no competing applications – DoC conservancy, 17 November 2011

Letter pursuing the RMA s355(1) vesting application (with RMA s245 certificate, SO plan, and Order in Council gazette notice attached) – Hobeck Lawyers Holland Beckett, 19 September 2007

Valuation Report on Crown foreshore/seabed – Property Solutions for DoC, 3 June 2010

Letter to DoC re anticipated MCAA – Hobeck Lawyers Holland Beckett, 4 October 2010

Consultation letter to CEO Ngati Ranginui Iwi – DoC conservancy, 28 June 2010

Letter advising exemption from the Protection Mechanism and Sites of Significance processes – Office of Treaty Settlements, 16 October 2009

Letter to OTS seeking exemption from the Protection Mechanism and Sites of Significance processes (with attached plans and adjoining title) – DoC conservancy, 28 April 2009

Notification to NZ Historic Places Trust of the intention to dispose of land – DoC conservancy, undated

Letter to DoC re payment of application fees/costs – Hobeck Lawyers Holland Beckett, 22 July 2009

Letter to Holland Beckett re process for vesting application – DoC conservancy, 3 July 2009

Letter to Holland Beckett with RMA s245 certificate – DoC conservancy, 24 April 2007

Letter applying for s245 certificate (with attached plans) – Hobeck Lawyers Holland Beckett, 16 April 2007

Letter to Holland Beckett acknowledging the 1997 vesting application – DoC Auckland conservancy, 13 April 1999

22 August 2011

Our Reference J D Patterson
Direct Dial 07 571 3851
Email john.patterson@hobec.co.nz

Department of Conservation
PO Box 1146
ROTORUA 3040

Attention Helen Neale

PAL-18-04-05 Port of Tauranga Limited
Titles Sulphur Point Section 1 SO59443

**DEPARTMENT OF
CONSERVATION**
22 AUG 2011
ROTORUA

1. This is to confirm that our client, upon reflection, request that their application for vesting of freeholding title in the above section of land, be referred to the Minister for Land Information for finalisation.
2. We understand that you have all the documentation on file that is required, but please let us know if anything is missing.
3. We also confirm that the vesting application is not in competition with any other pending vesting application as at 1 April 2011.
4. Please contact us if you require any further information.

Yours faithfully
HOLLAND BECKETT

JOHN PATTERSON
Consultant

Shared commitment. Shared energy. Shared success.

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JDP-228826-889-67-V1.jk

Others
ra Charlotte Ruth Burkhardt BBS LL.B. (Hons)
non Paul Collett B.A LL.B.
nessa Jane Hamm B.A LL.B.
lliam Beau Holland LL.B. (Notary Public)

John David Mackay LL.B.
Michael Joseph Sharp B.Com LL.M.
Dean Andrew Thompson LL.B.
Mark Eaton Tingey B.Com LL.B.

Consultants
Allen Conway Hunter LL.B.
John Douglas Patterson LL.B.
Michael John Smith LL.B.

Associate
Luke Andrew Stewart LL.B.

CONSERVATION
RECEIVED
19 MAR 1999
RECORDS
AUCKLAND

Department of Conservation
Private Bag 68908
AUCKLAND

Attention: Marilyn Fullum

Dear Ms Fullum

POSITION	COPY	READ	ACTION	SIGN DATE	FILE
CONSERVATOR					
HRA					
TSM					
CRM					
KAM					
BSM					
SOLICITOR					
AUCKLAND AM					
WARKWORTH AM					
GRI AM					

Mrs K M Barry-Piceno
6 October 1997

Request for Vesting of Reclaimed Land under Section 355 of the Resource Management Act 1991 on Behalf of Port of Tauranga Limited

Further to our telephone conversations with yourself and Warren Sisarich, we are forwarding this matter to you, with an outline of the relevant issues:

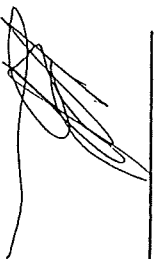
1. Port of Tauranga wishes to obtain a certificate of title for a piece of land SO59443 area of 8000m² approved for reclamation under the Harbours Act 1950, section 175 by Order in Council by the Ministry of Transport in 1991 (NZ Gazette Notice 1991, p126) by vesting from the Minister of Conservation under section 355 of the RMA.
2. This piece of land (SO59443) is rather unusual, as we have been advised by the Ministry of Transport it cannot be vested under the transitional procedure of section 393(4) of the Resource Management Act 1991 by the Governor General, although it complies with section 393(4)(a) in that the Governor General had authorised the reclamation of land by Order in Council under section 175(b)(3) and Section 178(B) of the Harbours Act 1950. The Chief Surveyor approved the survey plans under section 175(b)(4) of the Harbours Act 1950 in November 1992, which was subsequent to the commencement of the Resource Management Act 1991 so the final approval did not comply with sub-section 393(4)(b).
3. The Order in Council would be deemed to be a transitional resource consent under section 384(1)(b) of the Resource Management Act. The reclamation was undertaken by the Port of Tauranga during the transitional years of the Resource Management Act coming into force, under a deemed coastal permit given under section 384(1)(b) of the Act.
4. This land has now been reclaimed and developed, and is at a stage where it is appropriate to apply for vesting of the reclaimed land to the Ministry of Conservation in accordance with section 355 of the Resource Management Act 1991. In regards to the discretionary exercise of the Minister's authority in accordance with section 355(3) we would make the following submissions:-

- (a) In regard to 355(3)(a) there should not be a determination of appropriate price to be paid by the applicant, Port of Tauranga Limited, as at the time of the contemplation of the vesting of the reclaimed land by the Ministry of Transport to the Port of Tauranga pursuant to the Harbours Act 1950 section 175, no consideration was determined as payable.
- (b) The final survey plans were completed and approved on 20 November 1992 in accordance with the reclamation authorised by the New Zealand Gazette 1991, page 126, by Order in Council under the Harbours Act 1950, section 175B(4).
- (c) The reclamation conforms with the coastal permit and relevant provisions of the regional plan, in so far as the proposal was approved by the relevant authorities under a deemed coastal permit by section 384(1)(b) of the Resource Management Act 1991.
- (d) It would seem to us a practical solution to this matter if, for the purposes of section 245(4), the consent authority approved the survey plan as conforming with its resource consent and regional plan, originally given by virtue of section 175 of the Harbours Act 1950, and then by section 384(1)(B) of the RMA, section 245(2) has also been complied with, as this relates to the equivalent requirement in section 175(B)(4) of the Harbours Act 1950 final survey approval.
- (e) The final survey plans were approved by the Chief Surveyor and Tauranga District Council in accordance with section 175B(4) of the Harbours Act 1950. Should this have been done under section 245(4) of the Resource Management Act, based on the date of approval being October 1992? Could this be deemed the appropriate consent authority approval for the purposes of section 245(5)(a), to allow the Minister's approval for vesting of the completed reclamation title to the Port of Tauranga?
- (f) As the reclamation would be considered a restricted coastal activity under the RMA, the Minister of Conservation would be deemed to now be the relevant consent authority for the purposes of section 245(5)(a)(i) and (ii).

We would therefore request the Minister of Conservation to exercise his powers under Section 355 of the RMA to vest reclaimed land title S059443 in the Port of Tauranga Limited. If you need any further documentation or information to resolve this matter please contact us.

Yours faithfully

HOLLAND BECKETT MALTBY



K M BARRY-PICENO
(Solicitor)

Mike Jacobson

From: Helen Neale
Sent: Thursday, 17 November 2011 12:13 p.m.
To: Mike Jacobson
Cc: Alice Camaivuna
Subject: RE: Sulphur Point vesting transfer

Hi Mike

I am happy to confirm that there are no competing applications for vesting that I am aware of.

Helen Neale
Community Relations Officer - Planning
Department of Conservation - *Te Papa Atawhai*
DDI: 07 3497434

East Coast Bay of Plenty Conservancy
99 Sala St, Rotorua 3010
P O Box 1146, Rotorua 3040

Conservation for Prosperity *Tiakina te taiao, kia puawai*

www.doc.govt.nz

From: Mike Jacobson
Sent: Thursday, 17 November 2011 12:03 p.m.
To: Helen Neale
Cc: Alice Camaivuna
Subject: Sulphur Point vesting transfer

Hello Helen,

You will be happy to know that I am about to launch into the MoC briefing for transferring the Sulphur Point vesting application to the Minister of Land Information.

Having looked at the papers, it all seems straightforward at this stage....

Just one thing: The applicant asserts that there is no competing application, and the iwi consultation papers do not hint at any competing iwi application, but I **do need confirmation in writing from your conservancy that you agree with the requestor that there is no competing application.**

An email to that effect would be quite sufficient.

Thanks, and I will keep you informed of progress.

Regards, Mike Jacobson

11/01/2012



HOBECLAWYERS

Holland Beckett

96 Cameron Road Private Bag 12011
Tauranga 3143 New Zealand DX HP40014
Telephone 07 578 2199
Facsimile 07 578 8055
Email lawyers@hobec.co.nz
Website www.hobec.co.nz

19 September 2007

Bay of Plenty Conservancy Officer
Department of Conservation
PO Box 1146
ROTORUA 3040

Our Reference J D Patterson
Direct Dial 07 571 3851
Email john.patterson@hobec.co.nz



Port of Tauranga - Title Sulphur Point - Section 1 SO59443

FILE REFERENCE

1. We act for Port of Tauranga Limited ("the Port") which is seeking to obtain title to 8000m² it reclaimed from the seabed in 1991, and which now forms part of the Sulphur Point Wharves. The land is 8000m² being Section 1 SO59443. An A4 copy of that plan is attached (A) together with a locality map (B).

2. This letter is an application pursuant to s355(1) Resource Management Act 1991 ("the RMA") for title in the land to vest in the Port of Tauranga Limited. We have already written to you on 16 April 2007 to obtain a certificate under s245(5)(a)(ii) of the RMA and you responded forwarding a certificate on 24 April 2007. While this letter repeats a lot of the information in our earlier letter, the background is also relevant for the application in this letter.

Background

3. The reclamation was carried out under authority of an Order in Council made pursuant to s175(3) of the Harbours Act 1950 ("the Harbours Act"), published in the NZ Gazette 1991 at p.126. A copy is enclosed (C). The plan referred to in the Gazette notice is SO58485 (copy enclosed) (D) and is the plan of the proposed reclamation. SO59443 is the "as built" plan which is the final plan required at that time to get title.

4. Before the passing of the RMA the procedure for reclamation and vesting of title was set out in s175A of the Harbours Act and briefly was:

(a) A scheme plan was prepared and approved by the Chief Surveyor (this was SO58485) and forwarded to the Ministry. At the same time an Environmental Impact Assessment was included. A copy of the EIA for this proposal was forwarded with our letter of 16 April 2007 as attachment (E);

(b) Notice of the proposed reclamation was published twice in newspapers circulating in the district and notifying adjoining owners who had access to the documentation and a two month objection period, during that objection period consultation occurred between interested relevant parties;

(c) At the end of that period or satisfaction of objections the Minister of Transport and the Minister of Lands (in the case of Crown land) then made a recommendation to the Governor-General for the making of the Order in Council;

Partners
Simon Paul Collett B.A.L.B.
Vanessa Jane Hamm B.A.L.B.
William Beau Holland LL.B.

John David Mackay LL.B.
John Douglas Patterson LL.B.
Michael Joseph Sharp B.Com LL.M.

Dean Andrew Thompson LL.B.
Mark Eaton Tingey B.Com LL.B.

Consultants
Allen Conway Hunter LL.B.
Michael John Smith LL.B.
Nanette Marie Stone LL.B.

JDP-228826-889-L8-V2.DOC;jk

- (d) The Order in Council was made;
 - (e) Finally, pursuant to s175B(4), there is a statutory imposed condition that upon completion of the reclamation the applicant take all steps to have a survey plan approved and in this case that is plan SO59443.
5. As you will be aware, the RMA came into force in October 1991 and this occurred after the approval by Order in Council, but before the final survey plan pursuant to s175B(3) was prepared. If that plan had been prepared earlier the Port could have relied on s393 of the RMA and the matter would now be finished. Unfortunately because of the requirement for the physical reclamation to be totally completed and surveyed prior to plan preparation that is not the case and from that time on the completion procedure for title was pursuant to other provisions of the RMA.
6. The relevant provisions and procedure under the RMA appear as follows:
 - (a) Obtain a coastal permit for the reclamation. In this case, instead of obtaining a coastal permit, the Governor-General's consent referred to in the order in Council above, is a coastal permit pursuant to s384 of the RMA;
 - (b) Under s355(1), the Port may apply for title to the reclamation;
 - (c) Under s355(3), the Minister may, by notice in the Gazette, vest title after:
 - (i) determining an appropriate price (if any); and
 - (ii) ensuring the consent authority has issued a certificate under s245(5)(a)(ii) in respect of a Restricted Coastal Activity (RCA) or (5)(b)(ii) (non-RCA).
7. In this case, the reclamation was an RCA because it extends more than 100m in one direction so the consent was under s245(5)(a)(ii). As mentioned, that certificate has been obtained and a copy is **attached**. The original is available if you require it.
8. As the certificate under s245 is now available, there are only the two major matters to be dealt with:
 - (a) That we apply for title, which this letter is doing; and
 - (b) That the Minister determines an appropriate price (if any) to be paid by the Port.
9. This letter is therefore directed primarily at the question of an appropriate price to be paid. It is our contention that there should be no price payable for this land for the following reasons:
 - (a) Quite clearly, because of the insertion of the words "(if any)" in s355(3)(a) of the RMA it is contemplated that there will be occasions when no price is payable for the sea bed. We believe those words were intended to apply to an application such as this;
 - (b) The procedure was commenced at the beginning of 1990, approximately 18 months prior to commencement of the RMA. The Port's expectation when this reclamation was commenced was that there would be no money payable in respect of the land. The reason for this is that the reclamation was commenced under the regime set out in the Harbours Act 1950 which clearly had no express provision for payment for

the seabed. The practice of the Ministry of Transport in vesting land under the Harbours Act procedure was invariably that no charge would be made for the land. Those charges, or the absence of them, would have been taken into account when assessing the economics of the reclamation.

- (c) If the application had been made a short time sooner, the matter would have been dealt with under the Harbours Act provisions and title would automatically have vested without charge under s393 of the RMA. It seems unreasonable to impose a charge which would not have been payable had survey plans been completed just a short time earlier. It may be different if the reclamation application had commenced after commencement of the RMA.

- (d) At the time of port privatisation, port companies acquired and paid at valuation for the port related commercial undertakings such as wharves and occupancy rights. The price dictated by the Ministry of Transport requirements was that they were to be valued on the assumption "that existing (i.e. port) usage would continue". This meant that the valuations were not on a bare asset basis but as a going concern and including all the harbour rights necessary to operate as a port. It was not expected therefore that the ports would later pay again for the same rights as they had already paid for those rights under the port company plan. We believe this was one of the reasons behind the retrospective granting of s384A permits which recognised the pre-RMA rights of port companies that were taken away by the RMA/port company reform legislation. Similar reasoning applies to pre-RMA rights such as this.

- (e) There also has been no significant loss of value to the public domain. The land was previously one metre below low tide and adjoined an already modified area of industrial use and zoning. It had insignificant conservation value.

10. In conclusion, our submission is that no price should be payable for the reclaimed land because:

- (a) That was the expectation of the parties at the time the reclamation commenced;
- (b) That is the fair result; and
- (c) There is no significant removal of any conservation value from the public arena.

11. As mentioned earlier in this letter, this case appears to be an example of a case where the Minister would be expected to exercise his discretion to not make any charge in respect of the seabed being vested.

12. If you require any further information or have any queries, please do not hesitate to contact us.

Yours faithfully
HOLLAND BECKETT


JOHN PATTERSON
Partner

encl.

CERTIFICATE
(Pursuant to Section 245(5)(a) Resource Management Act 1991)

THE MINISTER OF CONSERVATION hereby certifies that:

The area of reclamation of part of Tauranga Harbour Bed, that is more particularly described in the Schedule, conforms with the requirements at the time the reclamation was completed.


SCHEDULE
(South Auckland Land District)

All that parcel of land containing 8000 m² shown and described as Section 1 on Survey Plan SO59443.

Dated at Rotorua this 24th day of April 2007.



SIGNED on behalf of the Minister of Conservation,
by KEITH LESLIE OWEN acting under delegated authority
in the presence of:

Witness signature: 

Witness Name: Clint Cameron

Occupation: Community Relations Officer

Address: Department of Conservation
PO Box 1146
Rotorua.

*Approved by Surveyor
No. 1 a Verifier BN*

ATTACHMENT A

Plan SO59443

Released under the Official Information Act 1982

Note: Section 1 heretofore has no frontage to a Public Road.

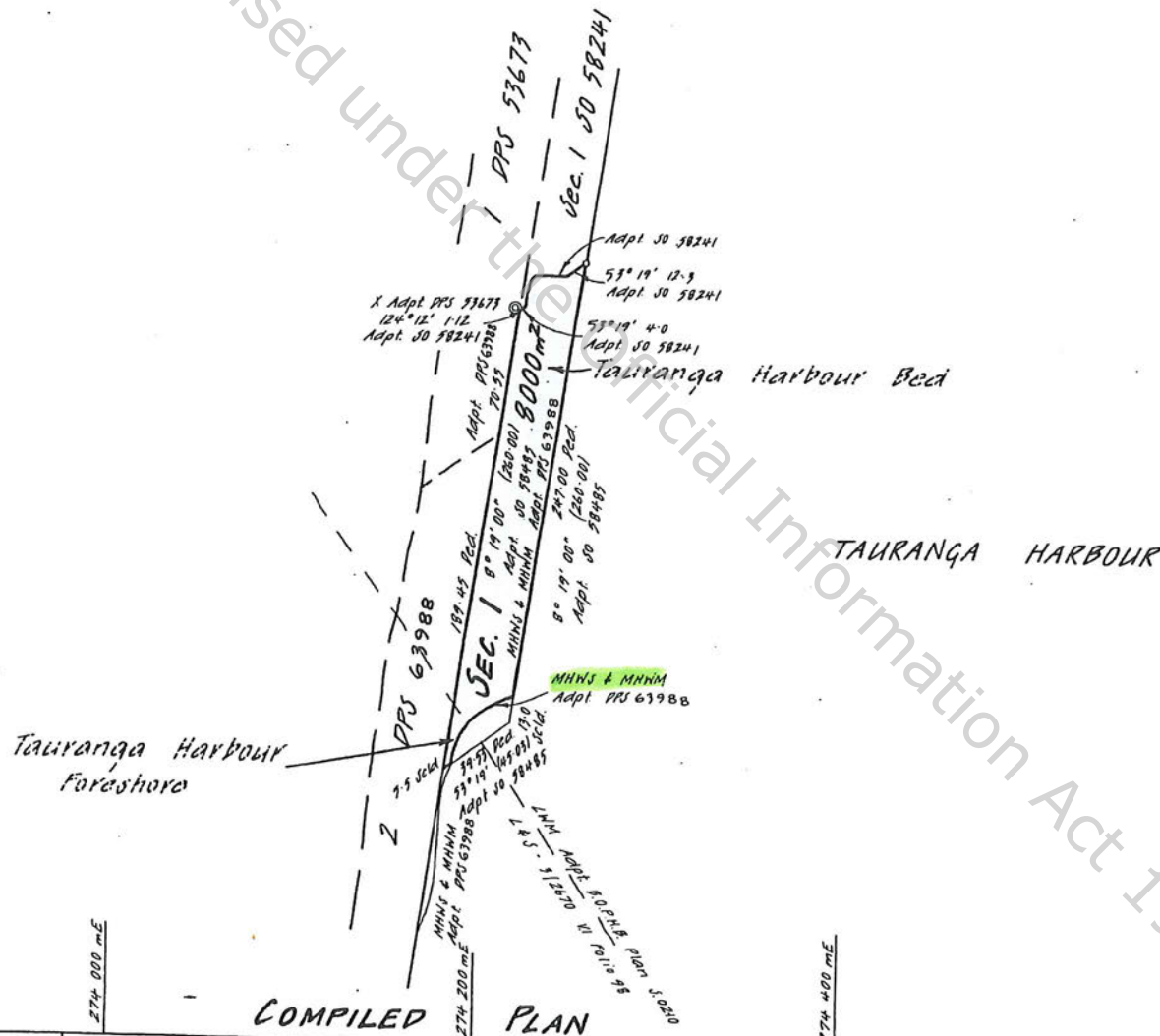


Approvals

710 800 mN

710 600 mN

710 400 mN



Reclamation authorised by
NZ Gazette 1991 p 126

Datum: Geodetic 1949
Bay of Plenty Circuit Coordinates
Origin: Maketu 700 000 mN 300 000 mE

Origin: JPX Adpt. PPS 53673
710 674.36 mN 274 218.01 mE

Total Area 8000 m²

Comprised in Bed of Tauranga Harbour
& Tauranga Harbour Foreshore

I, HALLAGE GRAHAM HOLMES
Registered Surveyor and holder of an annual practising certificate (or
who may act as a registered surveyor pursuant to section 25 of the
Survey Act 1986) hereby certify that this plan has been made from
surveys executed by me or under my directions, that both plan and
survey are correct and have been made in accordance with the Survey
Regulations 1972 or any regulations made in substitution thereof.
Dated at Tauranga, this 21st day of September, 1992. Signature [Signature]

Field Book p. Traverse Book p.
Reference Plans 20 27222, 28241, 28485
..... PPS 53673, OPS 63988
Examined Jim Kwaak Correct [Signature]

Approved as to Survey [Signature]
20/11/92 Dep. Chief Surveyor

Deposited this day of 19

430763 District Land Registrar
File COOII
Received 13-10-92
Instructions

LAND DISTRICT SOUTH AUCKLAND
SURVEY BLK. & DIST. VI TAURANGA
NZMS 261 SHT 114 RECORD MAP No 5-2, 20-08

SECTION 1

TERRITORIAL AUTHORITY TAURANGA DISTRICT

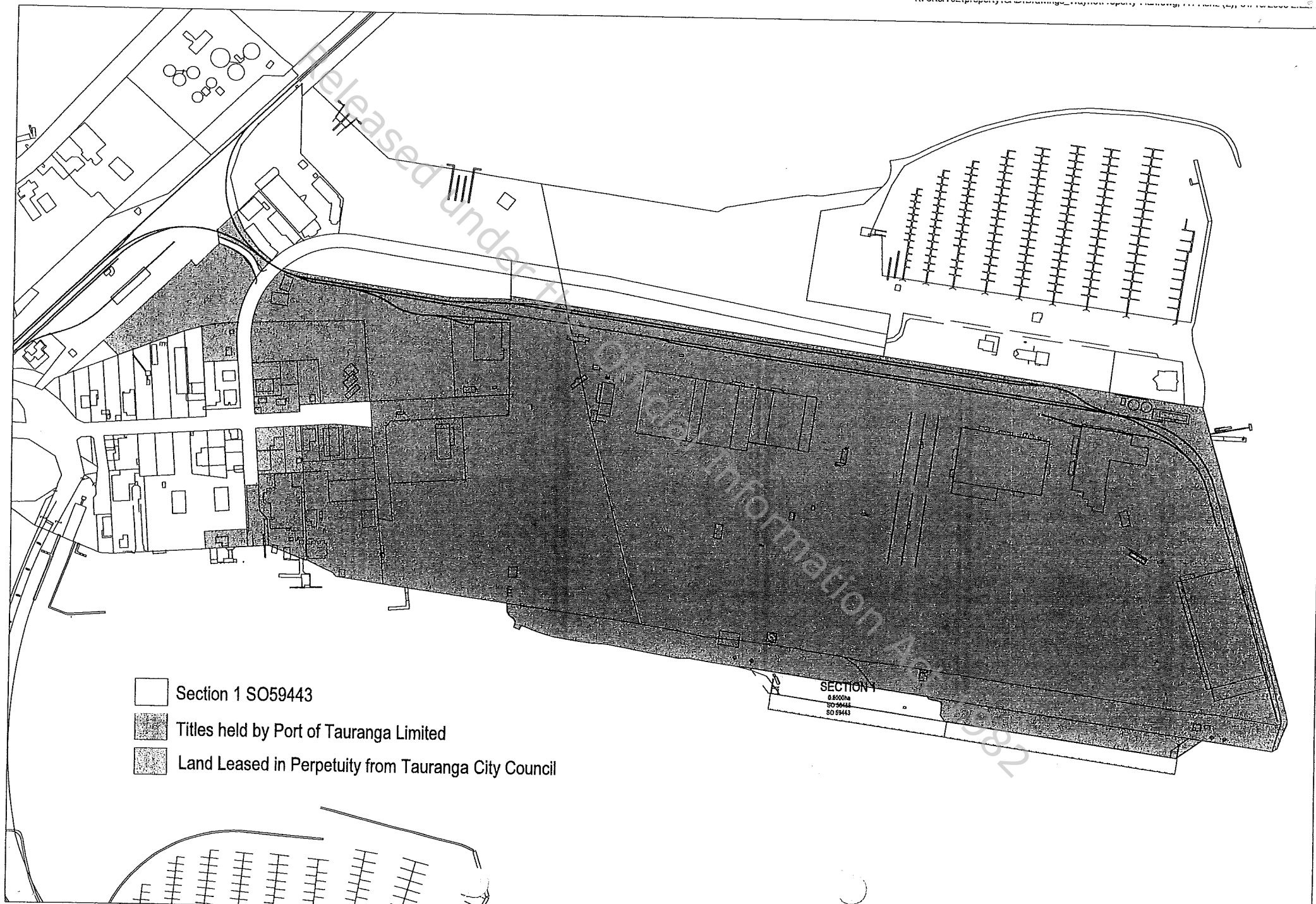
Surveyed by SHRIMPTON & LIPINSKI LTRF 10977

Scale 1:2000 Date September 1992

ATTACHMENT B

Locality Map

Released under the Official Information Act 1982



- Section 1 SO59443
- Titles held by Port of Tauranga Limited
- Land Leased in Perpetuity from Tauranga City Council

SECTION 1
0.8200ha
SO 59443
SO 59443

ATTACHMENT C

Copy Gazette Notice dated 17 January 1991

Released under the Official Information Act 1982

Extract from N.Z. Gazette, 17 January 1991, No. 5, p. 126

**Authorising Port of Tauranga Limited to Reclaim
Land from the Bed of Tauranga Harbour**
**THOMAS EICHELBAUM, Administrator of the Government
ORDER IN COUNCIL**

At Wellington this 10th day of December 1990

Present:

**HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT
IN COUNCIL**

Pursuant to section 175 (3) and subject to sections 176 to 182 of the Harbours Act 1950, I, the Right Honourable Sir Johann Thomas Eichelbaum, the Administrator of the Government, and by and with the advice of the Minister of Transport and the Executive Council, hereby

do hereby order that the Port of Tauranga Limited to reclaim an area of 8278 square metres of the bed of Tauranga Harbour, as shown on plan M.D. 16534 (S.O. 58485) deposited in the office of the General Manager, Maritime Transport Division at Wellington and as more particularly described in the Schedule below.

Schedule

All that parcel of land containing 8278 square metres, more or less, situated in Block VI, Tauranga Survey District of the South Auckland Land District, and being part of the bed of Tauranga Harbour and more particularly shown marked "A" on plan M.D. 16534 (S.O. 58485) deposited in the office of the General Manager, Maritime Transport at Wellington.

MARIE SHROFF, Clerk of the Executive Council.
(MOT, MTD 43/13/6/25)

30452

Released under the Official Information Act 1982



**Holland
Beckett
LAWYERS**

525 Cameron Road • DX HP40014

Private Bag 12011 • Tauranga 3143 • New Zealand

Telephone 07 578 2199 • Facsimile 07 578 8055

Email lawyers@hobec.co.nz • Website www.hobec.co.nz

FILE REFERENCE

4 October 2010

John Patterson
Direct Dial 07 571 3851
Email john.patterson@hobec.co.nz

Department of Conservation

PO Box 1146

ROTORUA 3040

Attention Helen Neale

Dear Helen

Port of Tauranga - Titles Sulphur Point Section 1 SO59443

Thank you for your advice concerning the changes under the new Foreshore & Seabed Act.

This letter is to confirm that our client's desire is for the current application to continue under the existing legislation, rather than wait for the new Act.

Yours faithfully
HOLLAND BECKETT


JOHN PATTERSON
Consultant

Released under the Official Information Act 1982

Others

non Paul Collett B.A.L.L.B.
nessa Jane Hamm B.A.L.L.B.
William Beau Holland LL.B. (Notary Public)
hn David Mackay LL.B.

Michael Joseph Sharp B.Com.L.L.M.
Dean Andrew Thompson LL.B.
Mark Eaton Tingey B.Com.LL.B.

Consultants

Allen Conway Hunter LL.B.
John Douglas Patterson LL.B.
Michael John Smith LL.B.

Associates

Lara Charlotte Ruth Burkhardt BBS LL.B. (Hons)
Luke Andrew Stewart LL.B.

JDP-228826-889-47-V1.j



Department of Conservation
Te Papa Atawhai

28 June 2010

Kimiora Rawiri
Chief Executive Officer
Ngati Ranginui Iwi
PO Box 2526
TAURANGA

Tēnā Koe Kimiora

Sulphur Point Reclamation Vesting

As discussed by phone, Port of Tauranga Limited have applied to the Minister of Conservation under section 355 (1) of the Resource Management Act 1991 to obtain title for an area of reclaimed land which now forms part of the Sulphur Point Wharves. This land is 8000 m² being Section 1 SO 59443 (see attached plan) and was reclaimed in 1991.

The reclamation was carried out under authority of an Order in Council made under the Harbours Act 1950 and published in the NZ Gazette 1991. As part of this process the following actions have been completed:

- a scheme plan was prepared and approved by the Chief Surveyor and forwarded to the Ministry.
- Notice of the proposed reclamation was published twice in local newspapers and adjoining owners were notified with a two month submission period.
- At the end of that period a recommendation was made to the Governor General for the making of the Order in Council and this was made.
- A certificate under Section 245 of the RMA was issued.

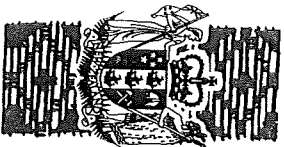
An application for title from the Port of Tauranga has now been received by the Department and is being processed. As part of this process the Department has consulted with Ngai Tamarawaho and now seeks confirmation from the Board as to any other iwi/hapu interests in this area.

If you have any queries with regard to the above please contact me.

Yours faithfully

Helen Neale
Conservation Support Officer – Planning
For Conservator

Plans attached



OFFICE OF TREATY SETTLEMENTS

The Vogel Centre • Kate Sheppard Place • PO Box 919 Wellington
Phone (04) 494 9800 • Fax (04) 494 9801 • www.ot.s.govt.nz

Pouaka Mōhiohio 919 • Te Whanganui-a-Tara
Waea (04) 494 9800 • Waea Whakāhua (04) 494 9801

Te Tari Whakatau Take e pa ana ki te Tiriti o Waitangi

16 October 2009

Neville Hunter
Community Relations Officer
Statutory Land Management
Bay of Plenty Conservancy
Department of Conservation
PO Box 1146
Rotorua 3040



Protection Mechanism: Crown Owned Reclamation – Tauranga Harbour
Section 1 SO 59443 (Sulphur Point)

Tēnā koe Neville

Thank you for your letter of 28 April 2009 requesting an exemption from the Protection Mechanism concerning the proposed transfer of land for amalgamation with adjoining land.

The vendor agency is the Department of Conservation.

The area comprises of one parcel:
00.8000 ha Section 1 SO 59443 being former Seabed and Foreshore of the
Tauranga Harbour

You advised:

- A) The reclaimed land shown as Section 1 SO 59443 is land locked and has no legal access to a public road.
- B) The reclaimed land does not conform to the requirement of the Tauranga District Plan and a separate title to the land could not be issued.

The above described land is confirmed as having no frontage to a legal road and therefore the land parcel is "landlocked".

On the basis that the parcel is landlocked the parcel can only be disposed of to the adjoining owner, the property would not meet the requirements of clause 10b of the Office of Treaty Settlements Property Checklist, and could not therefore be advertised through the protection mechanism process.

Also noted that the parcel does not comply with the Tauranga City Council's District Plan requirements, and a separate title could not issue and consequently would not meet requirements of the above Office of Treaty Settlements Checklist.

The above described land is therefore exempt from the Protection Mechanism and Sites of Significance processes.

Nāku noa, nā

Denis McCord

Property Analyst- Protection Mechanism

Attached: 1 map

Released under the Official Information Act 1982

Lot 1
DPS 45312
0.6450
SA48D/886

Lot 2
DPS 45312
7.0160
SA48D/887

Lot 1
DPS 48736
41.9300
SA44B/46

Lot 1
DPS 53673
2.3700
SA45B/765
Section 1
SO 58241
1.1660
SA69A/122

Section 1
SO 59443
0.8000

Lot 2
DPS 63988
2.0300
SA67D/625

Allen Dr

Lot 4
DPS 34861
1.3209
173890

Lot 2
DP 306541
12.8310
25516

Lot 4
DPS 33938
0.9090
SA54D/747

Locator Coordinates (NZMG)
E 279 0208
N 638 8196

Tauranga

OFFICE OF
TREATY SETTLEMENTS
P.O. Box 919
WELLINGTON
15.10.09 91M

QuickMap
Custom Software Ltd

0 50 100 150 200 250 300 350 400 450 500 550 600m

Any person wishing to rely on the information shown on this map must independently verify the information
Scale 1:5000



Department of Conservation
Te Papa Atua

PAL 18 04 05

28 April 2009

Mr Denis McCord
Office of Treaty Settlements
PO Box 919
Wellington 6140

Dear Denis

**Disposal of Crown Owned Reclamation Area – Tauranga Harbour
Application for Exemption from the Crown Protection Mechanism**

This is the second application forwarded to you recently seeking an exemption from the CPM to the disposal of a reclamation area in Tauranga Harbour.

The Port of Tauranga has legally reclaimed 8000 square metres of foreshore and seabed from the Tauranga Harbour adjacent to their wharves at Sulphur Point. The reclaimed foreshore and seabed is owned by the Crown and the land is administered by the Minister of Conservation. It is intended to transfer the reclaimed land to the Port of Tauranga for amalgamation with the land in their adjoining title. The reclaimed area has no access to a legal road.

The Minister of Conservation now seeks an exemption to the requirements to the Crown Protection Mechanism in order to transfer this land to the Port of Tauranga.

Background

The Port of Tauranga owns all of the land coloured green on the attached map which makes up their Sulphur Point wharf complex in Tauranga. The land being reclaimed will be added to the existing wharf and will provide space for two container ships to berth where previously there was space for only one. This additional capacity for the wharf is required to meet the increased traffic in container shipping expected over the next 10 year period. The Minister gave his consent to the reclamation in April 2007 and the reclamation work has been completed. The area has been surveyed and is shown as Section 1 SO 59443.

Land Status

The reclaimed land is shown as:

Section 1 SO 59443	.8000 hectares being Seabed and Foreshore of the Tauranga Harbour
--------------------	---

The Vendor Agency is the Department of Conservation.

The status of the land is reclaimed foreshore and seabed owned by the Crown and administered by the Minister of Conservation.

Grounds for Exemption from the Crown Protection Mechanism

The Minister of Conservation requests an exemption to the requirements of the Crown Protection Mechanism on the basis that;

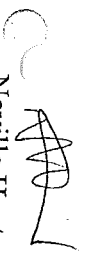
- (a) the reclaimed land shown as Section 1, SO 59443 is land locked and has no legal access to a public road.
- (b) the reclaimed land does not conform to the requirements of the Tauranga District Plan and a separate title to the land could not be issued.

(c) The land will be transferred to the Port of Tauranga for amalgamation with the land in their existing title SA69A/122.

Can you please consider this request for an exemption to the Protection Mechanism and advise me of your decision.

Copies of the relevant plans are attached.

Yours faithfully

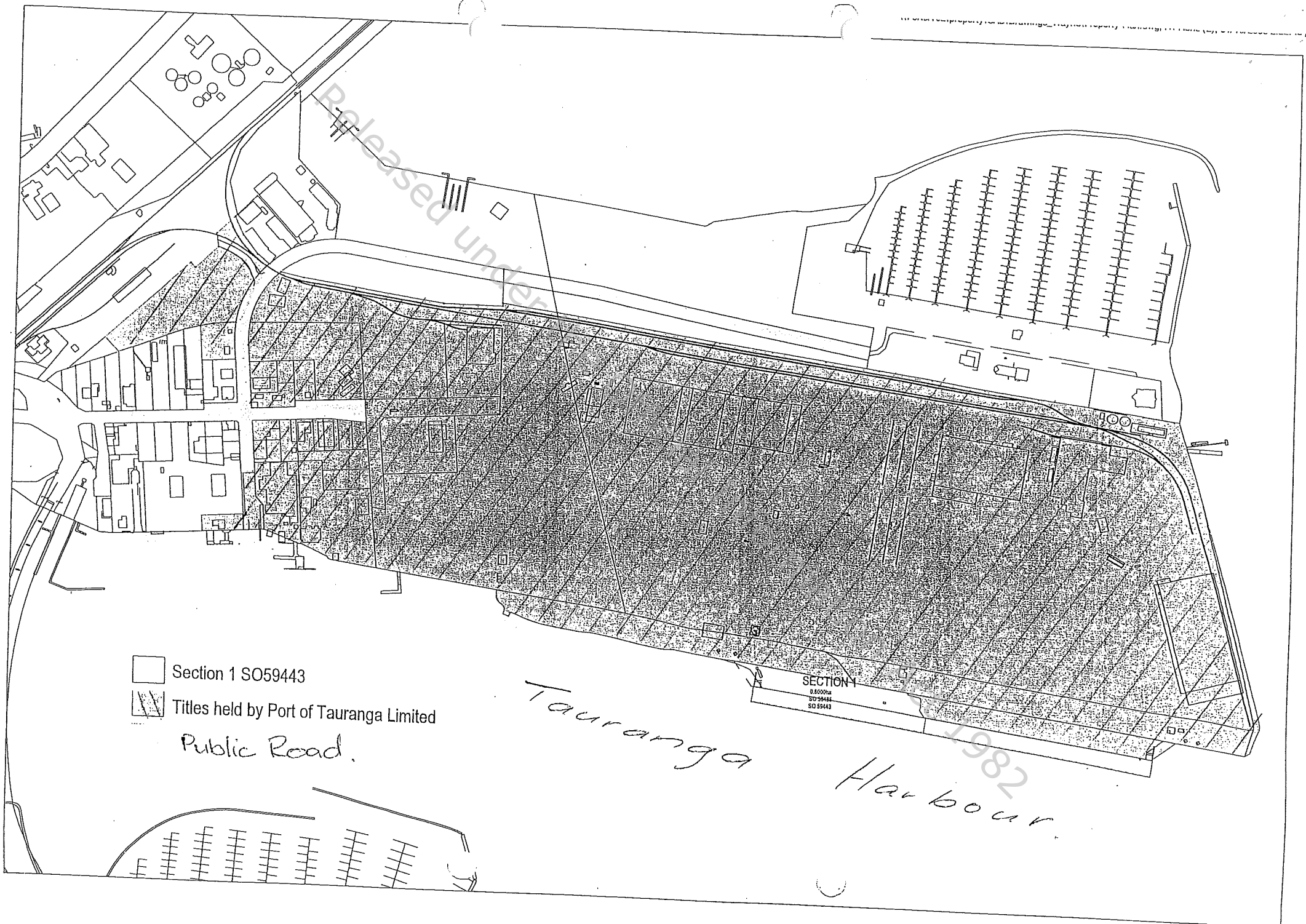

Neville Hunter
Community Relations Officer
Statutory Land Management
for Conservator Bay of Plenty.



Section 1 SO59443
Titles held by Port of Tauranga Limited
Public Road.

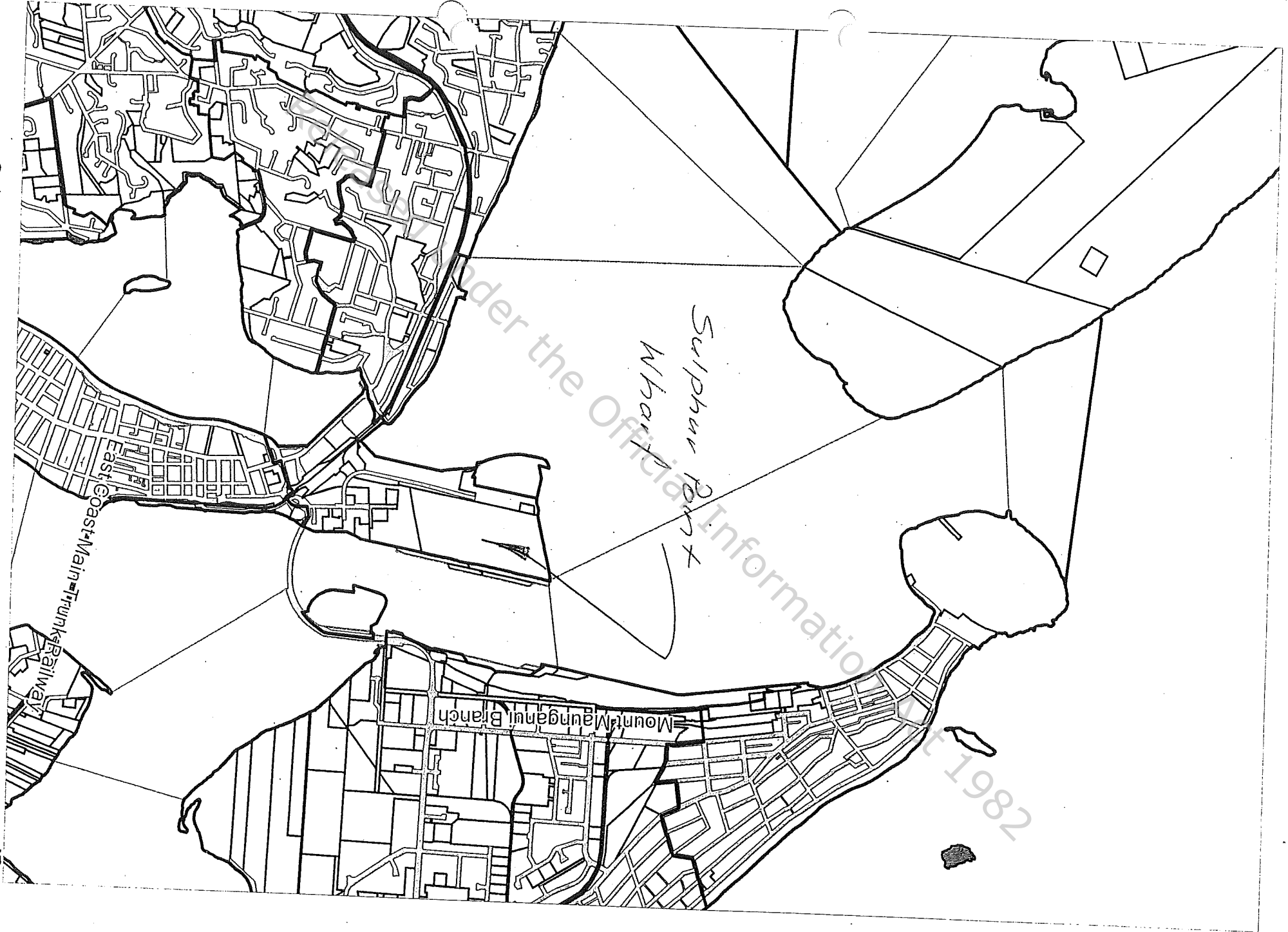
Tauranga Harbour

SECTION 1
0.8000ha
SO 59443
SO 59443



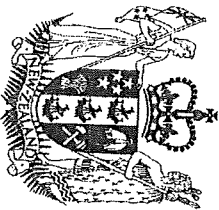


Scale: 1:34875
2500 metres



adjoining Title

COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952



Search Copy



R. W. Muir
Registrar-General
of Land

Identifier SA69A/122
Land Registration District South Auckland
Date Issued 01 November 1999

Prior References
GN B57/5393.1

State	Fee Simple
Area	1.1680 hectares more or less
Legal Description	Section 1 Survey Office Plan 58241
Proprietors	
Port of Tauranga Limited	

Interests

The within land has no frontage to a legal road
Land Covenant in Easement Instrument 6779408.1 - 8.3.2006 at 9:00 am
Land Covenant in Transfer 7544900.1 - 18.9.2007 at 9:00 am

Released under the Official Information Act 1982

W.A. ROBERTSON, SURVEYOR GENERAL, DEPARTMENT OF SURVEY AND LAND INFORMATION, NEW ZEALAND

[illegible]



New Zealand
Historic Places Trust *where Taonga*

Notification of the Intention to Dispose of Land

This notice is to fulfil the Cabinet requirement of 27 August 2007 (CAB min (07) 31/1a) which requires departments to notify the New Zealand Historic Places Trust of the proposed disposal of land in order that historic heritage values can be assessed.

**Please forward this document, along with maps and plans, to
landdisposal@historic.org.nz**

To be completed by disposing agency	
Name and Address of land proposed for disposal	Sulphur Point Wharves, Tauranga Harbour
Legal Description of land proposed for disposal	Section 1 SO 59443
Area (hectares) of land proposed for disposal	0.8 ha
Physical description of land proposed for disposal	Reclamation
Current administering agency of land proposed for disposal	Minister of Conservation
Territorial local authority district within which the land lies	Tauranga City Council
Any relevant listing district plan listing, sites registered by NZ Historic Places Trust, sites recorded in the NZ Archaeological Association site recording scheme etc	N/A
Brief details of any known historic heritage values of the land proposed for disposal	In its former state as foreshore/seabed the area may have had pre-European and post European use for shellfish and kaimoana gathering
Any other information	No public access to site
Staff member in department to contact about this proposed disposal	Helen Neale Department of Conservation Rotorua Ph 07 3497418
Staff member in accredited agency to contact about this proposed disposal (if applicable)	

To be completed by the New Zealand Historic Places Trust	
NZHPT reference	NP 2009/130
Statement of what heritage exists	Desk-top study by the New Zealand Historic Places Trust identified that there are no recorded archaeological sites or registered historic places, historic areas, wahi tapu or wahi tapu areas or applications to do so on or near the subject property. There are no heritage paces scheduled or listed in the Tauranga City Council District Plan on this land.
Heritage assessment and a statement of significance	<p>The NZ Archaeological Association site records and the New Zealand Historic Places Trust Register have both been searched for archaeological sites. No recorded or registered archaeological sites were found on or near the subject property.</p> <p>The New Zealand Historic Places Trust Register and the Western Bay of Plenty District Council District Plan have been searched for built heritage at Section 1 SO 59443, located at the Sulphur Point Wharves, Tauranga. No registered or scheduled or listed places have been found.</p> <p>The land lies within Te Awanui, Tauranga Harbour, a place regarded as one of the significant areas of traditional history and identity for Tauranga Moana iwi and hapu. The well known Tauparapara 'Tu Mokemoke' refers to a number of points around Tauranga Harbour with links to tupuna and cultural sites.</p>
Suggestions for heritage protection measures (if any)	<p>Based on available information, the NZHPT does not have any concerns with the proposed disposal of land.</p> <p>It cannot be discounted that Maori values may be associated with the property however unless iwi/hapu are engaged to identify those values, protection/management measures cannot be suggested.</p>
Statement of work completed by assessor(s)	This is a desk-based assessment only. Sources checked were the New Zealand Historic Places Trust Register, New Zealand Archaeological Association Site Recording Scheme and the Tauranga City Council District Plan.
Assessment completed by	Frank van der Heijden
Staff member to contact at NZHPT about issues raised in this report	<p>Name: Frank van der Heijden</p> <p>Job Title: Heritage Advisor – Research</p> <p>Agency: New Zealand Historic Places Trust/Pouhere Taonga</p> <p>Email: HAResearchLN@historic.org.nz</p> <p>Phone: 07 578 1283</p>

If suggestions for heritage protection measures have been made by the NZHPT in the table above, departments are requested to make a formal response to the named staff member of NZHPT within 20 days, to discuss any further action they will take.

**Holland
Beckett
Lawyers**

525 Cameron Road • DX HP40014
Private Bag 12011 • Tauranga 3143 • New Zealand
Telephone 07 578 2199 • Facsimile 07 578 8055
Email lawyers@hobec.co.nz • Website www.hobec.co.nz

22 July 2009

Department of Conservation
P O Box 1146
Rotorua 3040

Attention Helen Neale

DEPARTMENT OF
CONSERVATION

24 JUL 2009

ROTORUA

Our Reference J D Patterson
Direct Dial 07 571 3851
Email john.patterson@hobec.co.nz

FILE REFERENCE

.....

Dear Helen

Thank you for your letter of 3 July 2009. We passed on your request to our clients who are not disagreeable to the principle of paying for the costs, but suggest that they be bundled in as part of the package when the titles are finally delivered.

Yours faithfully
HOLLAND BECKETT



JOHN PATTERSON
Consultant

encl.

Released under the Official Information Act 1982

ers
n Paul Collett B.A.L.B.
ssa Jane Hamm B.A.L.B.
m Beau Holland LL.B. (Notary Public)
David Mackay LL.B.

Michael Joseph Sharp B.Com,LL.M.
Dean Andrew Thompson LL.B.
Mark Eaton Tingey B.Com,LL.B.

Consultants
Allen Conway Hunter LL.B.
John Douglas Patterson LL.B.
Michael John Smith LL.B.

Associates
Lara Charlotte Ruth Burkhardt BBS LL.B. (Hons)
Luke Andrew Stewart LL.B.

JDP-228826-889-36-V1:td



Department of Conservation
Te Papa Ataturangi

3 July 2009

John Patterson
Holland Beckett
Private Bag 12011
TAURANGA 3143

Dear John

Port of Tauranga - Titles Sulphur Point Section 1 SO59443

Thank you for your letters of 19 September 2007, 23 May & 17 June 2008 regarding the above reclamation and including a request for title for this area to be vested in Port of Tauranga Ltd. I would like to sincerely apologise that your letters have not been responded to earlier.

I have now initiated the process for this request and there are a number of steps required prior to the preparation of a submission and recommendation to the Minister of Conservation.

These include notification of the proposed vesting to local iwi, the New Zealand Historic Places Trust, the Office of Treaty Settlements and Land Information New Zealand, seeking their comment.

I anticipate that the costs involved in processing this request will be in the vicinity of between \$ 1500 and \$ 2000. Could you please confirm that your client is agreeable to pay the Departmental costs associated with this process.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Helen Neale'.

Helen Neale

Conservation Support Officer - Planning

for Conservator



Department of Conservation
Te Papa Atawhai

PAL-18-04-01

FILE COPY

24 April 2007

J D Patterson
Holland Beckett
Private Bag 12011
Tauranga

Dear John

Re: Port of Tauranga – Sulphur Point – Section 1 SO59443 – s245(5)(a) Certificate

Thank you for your comprehensive letter of 16 April 2007 outlining the details of the legal situation surrounding authority for and vesting of title in the above mentioned reclamation.

Please find attached a certificate pursuant to section 245(5)(a) of the Resource Management Act 1991, signed by the Minister of Conservation authorised delegate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Staite', written over a faint watermark that says 'Released under the Official Information Act 1982'.

Chris Staite
Coastal Planner

for Conservator Bay of Plenty

Bay of Plenty Conservancy
P.O. Box 1146, 99 Sala St, Rotorua, New Zealand
Telephone 07-349 7400, Fax 07-349 7401

CERTIFICATE
(Pursuant to Section 245(5)(a) Resource Management Act 1991)

THE MINISTER OF CONSERVATION hereby certifies that:

The area of reclamation of part of Tauranga Harbour Bed, that is more particularly described in the Schedule, conforms with the requirements at the time the reclamation was completed.


SCHEDULE
(South Auckland Land District)

All that parcel of land containing 8000 m² shown and described as Section 1 on Survey Plan SO59443.

Dated at Rotorua this 24th day of April 2007.



SIGNED on behalf of the Minister of Conservation,
by KEITH LESLIE OWEN acting under delegated authority
in the presence of:

Witness signature: 

Witness Name: Clint Cameron

Occupation: Community Relations Officer

Address: Department of Conservation

PO Box 1146

Rotorua.



HOBEC
LAWYERS
Holland Beckett

96 Cameron Road Private Bag 12011
Tauranga New Zealand DX HP40014
Telephone 07 578 2199
Facsimile 07 578 8055
Email lawyers@hobec.co.nz
Website www.hobec.co.nz

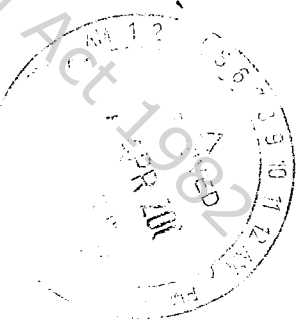
CHRY

16 April 2007

Our Reference J D Patterson
Direct Dial 07 571 3851
Email john.patterson@hobec.co.nz

Bay of Plenty Conservancy Officer
Department of Conservation
PO Box 1146
ROTORUA 3040

Applied for 2245 certificate



Port of Tauranga - Title Sulphur Point - Section 1 SO59443

1. We act for Port of Tauranga Limited which is seeking to obtain title to 8000m² it reclaimed from the seabed in 1991, and which now forms part of the Sulphur Point Wharves. The land is 8000m² being Section 1 SO59443. An A4 copy of that plan is **attached** (A) together with a locality map (B).

2. ☒ The reclamation was carried out under authority of an order in Council made pursuant to s175(3) of the Harbours Act 1950, published in the NZ Gazette 1991 at p.126. A copy is **enclosed** (C). The plan referred to in the Gazette notice is SO58485 (copy **attached**) (D) and is the plan of the proposed reclamation. SO59443 is the "as built" plan which is the final plan required at that time to get title.

3. Before the passing of the Resource Management Act (RMA) the procedure for reclamation and vesting of title was set out in s175A and briefly was:

- (a) a scheme plan was prepared and approved by the Chief Surveyor (this was SO58485) and forwarded to the Ministry. At the same time an Environmental Impact Assessment was included. We **enclose** a copy of the EIA for this proposal (E);
- (b) notice of the proposed reclamation was published twice in newspapers circulating in the district and notifying adjoining owners who had access to the documentation and a two month objection period, during that objection period consultation occurred between interested relevant parties;
- (c) at the end of that period or satisfaction of objections the Minister of Transport and the Minister of Lands (in the case of Crown land) then made a recommendation to the Governor-General for the making of the Order in Council;
- (d) the Order in Council was made
- (e) finally, pursuant to s175B(4), there is a statutory imposed condition that upon completion of the reclamation the applicant take all steps to have a survey plan approved and in this case that is plan SO59443.

Partners

Simon Paul Collett B.A.L.B.
Vanessa Jane Hamm B.A.L.B.
William Beau Holland LL.B.

John David Mackay LL.B.
John Douglas Patterson LL.B.
Michael Joseph Sharp B.Com.LLM.

Dean Andrew Thompson LL.B.
Mark Eaton Tingeys B.Com.LL.B.

Consultants

Allen Conway Hunter LL.B.
Michael John Smith LL.B.
Nanette Marie Stone LL.B.

JDP-228826-889-L8-V1:m

4. As you will be aware, the Resource Management Act came into force in October 1991 and this occurred after the approval by order in Council, but before the final survey plan pursuant to s175B(3) was prepared. If that plan had been prepared in time the Port could have relied on s393 of the RMA and the matter would now be finished. Unfortunately that is not the case and from that time on the completion procedure for title was pursuant to other provisions of the Resource Management Act (RMA).

5. The relevant provisions and procedure under the RMA appear as follows:

- ✓
- (a) the Governor-General's consent referred to in the order in Council, is a coastal permit pursuant to s384 of the RMA;
 - (b) s355(1) entitles the Port to apply for title to the reclamation;
 - (c) under s335(3), the Minister may, by notice in the Gazette, vest after:
 - (i) determining the price; and
 - (ii) ensuring the consent authority has issued a certificate under s245(5)(a)(ii) in respect of a Restricted Coastal Activity (RCA) or (5)(b)(ii) (non-RCA).
- ★

6. In our case, the reclamation is an RCA because it extends more than 100m in one direction so the consent is under s245(5)(a)(ii). The consent authority is the Minister. The procedure under s.245 is as follows:

- (a)
 - under subsection (2), a plan must be submitted which must be in accordance with the Survey Act, show area boundaries (a) and any esplanade strip;
- (b) under subsection (4), the consent authority must (and can only) sign if
 - (i) the reclamation conforms with:
LMC : dock abeplan
 - (A) the resource consent; and
 - (B) any relevant provisions of any regional plan;
- (ii) the plan of survey complies with subsection (2) above; *✓ geom?*
- (iii) any conditions of the consent are covered with bonds or covenants.

7. Under subsection (5), the consent authority then:

- (i) signs the plan or a copy;
- (ii) signs and dates a certificate that:
 - (A) the reclamation conforms with the coastal permit and the relevant provisions of the Regional Coastal Plan; and
 - (B) any bonds or covenants, etc have been executed.

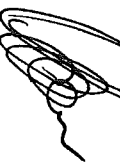
8. We are therefore, at this stage, only carrying out the procedure under s245(5)(a)(ii) (paragraph 6 above) which is the starting point. Accordingly we **enclose** a copy of SO59443 for the consent to be endorsed upon it. We address the matters set out in s245(4) as follows:

- (a) Reclamation conforms with the consent. The consent in this case of course is the order in council which merely requires that the reclamation be approved in accordance with plan SO58485. It does comply with that plan except that it is slightly smaller but no doubt approval of the greater includes the lesser.
- ✓ (b) Reclamation conforms with any regional plan. At the time there was no Regional Coastal Plan. This provision can only be meant to comply with post-RMA applications and consents.
- ✓ (c) The plan of survey complies with s245(2). This plan has been approved by the Chief Surveyor, it shows the area boundaries and there is no esplanade strip. It therefore complies with subsection 2.

We would be pleased if you could arrange for the Minister to carry out the matters set out in s245(5).

If you require any further information or have any queries, please do not hesitate to contact us.

Yours faithfully
HOLLAND BECKETT



JOHN PATTERSON
Partner

Released under the Official Information Act 1982

Attachment A

Released under the Official Information Act 1982

Note: Section 1 hereon has
no frontage to a Public Road.

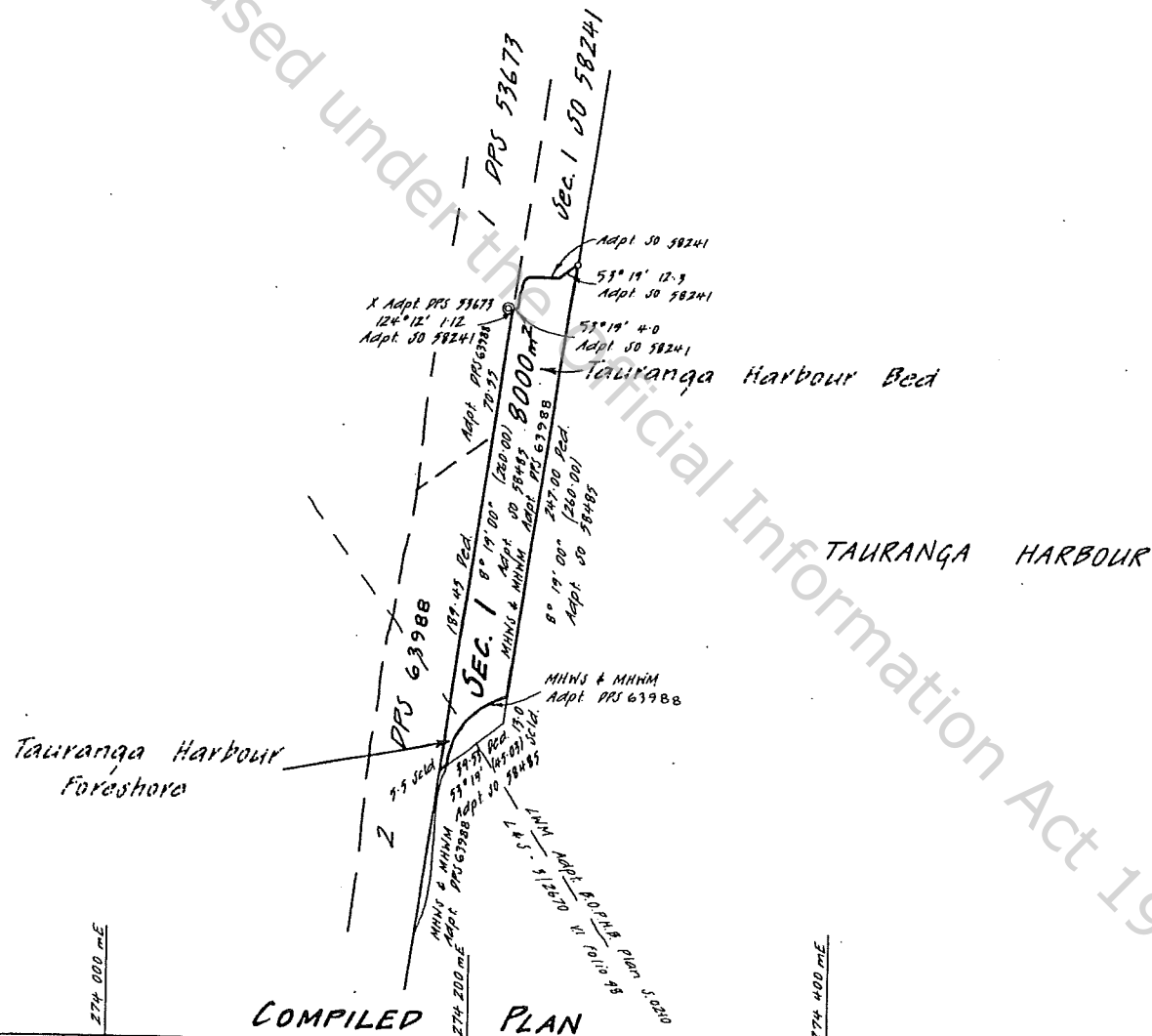


Approvals

710 800 mN

710 600 mN

710 400 mN



Reclamation authorised by
NZ Gazette 1991 p 126

Datum: Geodetic 1949
Bay of Plenty Circuit Coordinates
Origin: Maktū 700 000 mN 300 000 mE

Origin: OPX Adpt DPS 53673
710 674.36 mN 274 218.01 mE

Total Area..... 8000 m²

Comprised in Bed of Tauranga Harbour
& Tauranga Harbour Foreshore

I, NALLACE GRAHAM HOLMES
Registered Surveyor and holder of an annual practising certificate (or
who may act as a registered surveyor pursuant to section 25 of the
Survey Act 1966) hereby certify that this plan has been made from
surveys executed by me or under my directions, that both plan and
surveys are correct and have been made in accordance with the Survey
Regulations 1972 or any regulations made in substitution thereof.
Dated at Tauranga, this 23 day of September, 1992. Signature [Signature]

Field Book..... p..... Traverse Book..... p.....
Reference Plans 20 87222, 58241, 58485
DPS 53673, OPS 63988
Examined Jim Kitchin Correct [Signature]

Approved as to Survey [Signature]

20/11/92 [Signature] Chief Surveyor

Deposited this..... day of..... 19.....

430763 District Land Registrar

File COO11
Received 13-10-92
Instructions

SO 59443

LAND DISTRICT SOUTH AUCKLAND
SURVEY BLK. & DIST. VI TAURANGA
NZMS 261 SHT L114 RECORD MAP No 5-2-20-08

COMPILED PLAN

SECTION 1

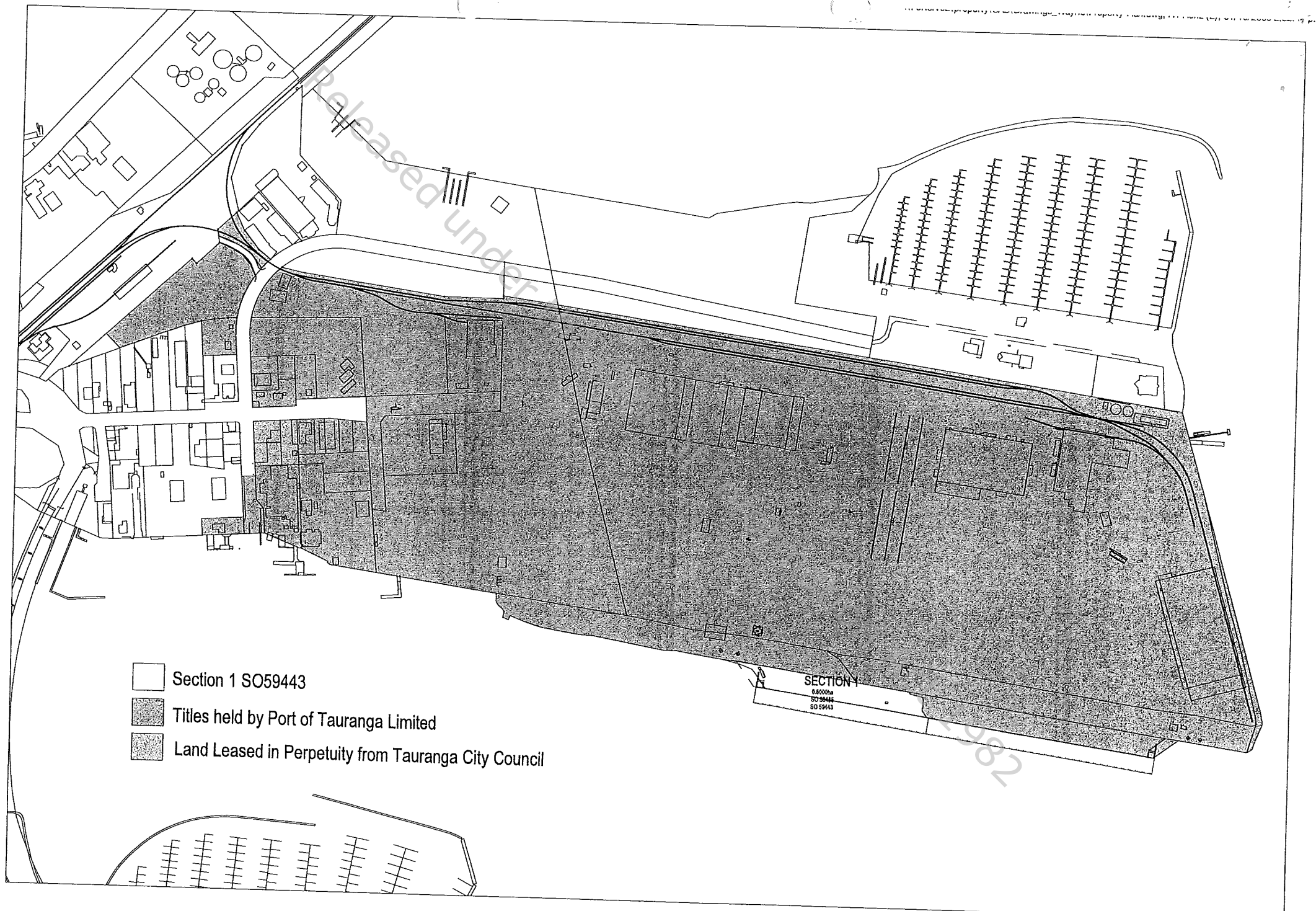
TERRITORIAL AUTHORITY TAURANGA DISTRICT

Surveyed by SHRIMPTON & LIPINSKI LTR F 10977

Scale 1:2000 Date September 1992

Attachment B

Released under the Official Information Act 1982



- Section 1 SO59443
- Titles held by Port of Tauranga Limited
- Land Leased in Perpetuity from Tauranga City Council

SECTION 1

040004
SO59443
SO59443

Department of Conservation
Papa Ataubai

ARM 059

13 April 1999

Holland Beckett Maltby
Barristers, Solicitors & Notaries
Private Bag 12011
Tauranga

Attention: K M Barry-Piceno

Re: Vesting Application Ports of Tauranga

Your letter of 18 March 1999 refers.

Please accept my apologies for the Department's lack of response to your letter of October 1997. It was my understanding that the Bay of Plenty Conservancy would reply to your letter (a copy was forwarded on) as the reclamation in question lies within that Conservancy.

With respect to your latest correspondence, please note that your letter has been forwarded to the Regional Conservator Bay of Plenty Conservancy at PO Box 1146 Rotorua. This is because it is not appropriate for me to deal with any matter (such as your client's vesting application), which is the responsibility of another Conservancy.

Whilst I am more than happy to answer any general questions you may have about vesting procedures, the more specific questions raised in your 6 October letter need to be addressed by the Bay Of Plenty Conservancy.

Yours faithfully



Marilyn Fullam
Community Relations Officer
Planning
for Auckland Conservator

Auckland Conservancy

Private Bag 68908, Cnr Karangahape Road & Liverpool Street, Newton, Auckland, New Zealand
Telephone 09-307 9279, Fax 09-377 2919

Approvals



Schedule of Areas

Shown	Description	Area
A	Pt. Tauranga Harbour Bed (Crown Land)	8278 m ²

710 700 mN

Batum:

Bearings: Geodetic 1949
 Coordinates: Geodetic 1949
 Bay of Plenty Circuit Coordinates
 Origin: Matakia 700000 mN 300000 mE

Origin:

SPX PAS 53673 710 674.36 mN
 274 218.01 mE

710 400 mN

Total Area 8278 m²

Comprised in Part Bed of Tauranga Harbour (Crown Land)

I, WALLACE GRAHAM HOLMES

Registered Surveyor and holder of an annual practising certificate for who may act as a registered surveyor pursuant to section 25 of the Survey Act 1986) hereby certify that this plan has been made from surveys executed by me or under my directions, that both plan and survey are correct and have been made in accordance with the Survey Regulations 1972 or any regulations made in substitution thereof.

Dated at Tauranga this 11th day of April 19 90 Signature [Signature]

Field Book P. Transverse Book
 Reference Plans NO 48736, PAS 53673, NO 51719, NO 52500, NO 57222, NO 58241

Examined [Signature] Correct [Signature]

Approved Pursuant to Sec. 175 B (3) of the Harbours Act 1950
[Signature]

15.5.90
 Chief Surveyor

Deposited this day of 19

LAND DISTRICT SOUTH AUCKLAND STRICT
 SURVEY BLK. & DIST. W TAUHARANGA 7 F 9760
 NZMS 261 SHI CH RECORD MAP No 5.2 1990

AS 30163
 File CO 011
 Received 19.4.90
 Instructions
 District Land Registrar
 SO 58485

property Solutions



For managed property growth

Registered Valuers, Managers
and Property Advisors

Prepared for:

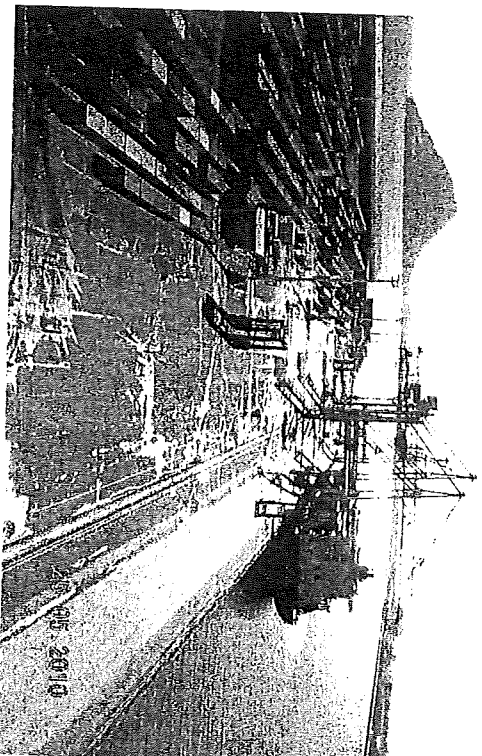
DEPARTMENT OF CONSERVATION

Valuation Report on:

CROWN FORESHORE / SEABED

Address:

**SULPHUR POINT RECLAMATION
TAURANGA**





For managed property growth

Registered Valuers, Managers
and Property Advisors

**Property Solutions
(BOP) Limited**

www.4propertyolutions.co.nz

3 June 2010

Community Relations Officer – Planning
Department of Conservation
East Coast Bay of Plenty Conservancy
PO Box 1146
ROTORUA 3040

Attention: Helen Neale

Dear Madam

VALUATION OF CROWN FORESHORE / SEABED

0.8 HECTARE SULPHUR POINT RECLAMATION, TAURANGA

In accordance with your instructions to assess a current market value we inspected the above property on 25 May 2010 in your company and established as accurately as possible the location of the proposed boundaries for valuation purposes.

The effective date of our valuation is 25 May 2010.

We report as follows:

Contents:

1. Reason for Report
 2. Property Summary
 3. Valuation Summary
 4. Property Detail
 5. Market Comment
 6. Valuation Methods
 7. Rental Assessment
- Appendices

TAURANGA

Unit 1/30 Willow Street
P.O.Box 14014, Tauranga 3143
Tel: 07 578 3749
Fax: 07 571 8342

MOUNT MAUNGANUI

43 Maranui Street, Mt. Maunganui
P.O.Box 10317, Mt. Maunganui 3152
Tel: 07 572 3950
Fax: 07 572 3951

ROTORUA

173 Old Taupo Road, Rotorua
P.O. Box 285, Rotorua 3040
Tel: 07 343 9261
Fax: 07 343 9264

DIRECTORS: Simon Harris (FPINZ, B.Ag.Com.), Phil Pennyquick (FPINZ, B.Com., VPM) Harley Baisom (SPINZ, BBS, VPM)

ASSOCIATES: Garth Laing (SPINZ, B.Com., VPM) Paul Smith (SPINZ, BBS, VPM) Mark Grinlinton (SPINZ, B.Com., VPM) Todd Davidson (SPINZ, BBS, VPM)

1. **REASON FOR REPORT**

To assess the Current Market Value of the seabed as owned by the Crown and administered by the Department of Conservation, to assist with the vesting of a Fee Simple Title in the Port of Tauranga who we understand reclaimed the land under authority of Order in Council made under the Harbours Act 1950 and published in the New Zealand Gazette 1991.

Please note that the valuation is based on freehold, unencumbered title being offered, and is of the seabed itself rather than the current finished land. The valuation has been completed in accordance with the Guideline (Version 3) for setting the price for a reclamation vesting as provided by you.

We have also been asked to assess a current market rental based on some assumed lease terms and conditions.

2. **PROPERTY SUMMARY**

The property comprises a strip of land approximately 290 metres long and situated between the currently operating container wharf and other Port of Tauranga owned land within the container terminal at Sulphur Point, Tauranga. We estimate the land to be approximately 31.5 metres wide to the majority of its length.

The location of the land, its shape and boundaries are shown on the various plans attached.

We are advised that prior to reclamation, the seabed was approximately 0.5 to 1.0 metres below sea level, and that the finished ground level today is approximately 6 metres above sea level, with the under surface of the adjoining wharf being approximately 5.5 metres above sea level.

The land is currently sealed and is split by a separately constructed support structure and tracks for the container cranes, which we understand are not directly dependent on the reclaimed land itself for support, but rather are independently piled into the seabed. We have included for the entire 8000 m².

3. **VALUATION SUMMARY**

Basis: Comparable sales.

The valuation is undertaken in terms of the Guidelines (Version 3) for setting the price for a reclamation vesting document provided by the Department of Conservation. This sets out a valuation guideline, together with appendices providing more details about the valuation methodology.

Assume: Plus GST (if any).

That the land will be transferred to the Port of Tauranga on the basis of freehold and unencumbered, Fee Simple Estate, either with separate title or by amalgamation to an adjoining title.

Land Value: (8000 m² - Seabed only)

Valuation of Improvements:

TOTAL MARKET VALUATION

[s 9(2)(b)(iii)]

[s 9(2)(b)(iii)]

4. PROPERTY DETAIL

4.1 REGISTERED PROPRIETORS

The land as seabed is owned by the Crown, and we understand is administered by the Department of Conservation.

4.2 LEGAL DESCRIPTION

The land is currently described as Section 1 on SO59443, containing 8000 m².

The land does not currently have its own Certificate of Title.

The reclamation was undertaken in terms of the Harbours Act 1950. We have attached a copy of the Gazette Notice authorising Port of Tauranga Limited to reclaim land from the bed of Tauranga Harbour (NZ Gazette 1991, page 126). The schedule to the gazette notice identified 8278 m² more or less, as shown marked A on Plan MD16534 (SO58485).

4.3 LOCAL AUTHORITY

The property is apparently within the boundaries of Tauranga City Council.

4.4 ZONING

The land is shown in the Tauranga City Councils Operative District Plan to be zoned Port Business, which is the industrial based zone that covers the operational areas of Port of Tauranga.

While this is a specific zone providing for a particular owner, in terms of determining the value we have regarded it as having similar utility value to the industrial business zone. This zone covers a wide range of industrial land where the outputs from use are controlled more than the actual use. In the context of Tauranga it ranges from warehousing through to medium and heavy industrial type premises.

The Tauranga City Council has recently notified its proposed City Plan, which shows the land to have Port Industry zoning.

4.5 RATEABLE VALUE

(Previously Government Valuation)

The land is not separately assessed and no rating valuation is available.

4.6 PROPERTY TYPE AND LOCATION

The land is situated on the foreshore along the eastern side of the Port of Tauranga's container terminal. The location is highlighted on the various plans attached to this report.

The land has immediately adjoining to its east, the wharf structure itself. As noted above, the seabed also supports part of the structure supporting the container cranes, with the rear track being within the area reclaimed.

Sulphur Point includes significant amounts of reclaimed land, and other than the container terminal, also provides for other marine related uses including the Tauranga Marina, various sport, boating and fishing clubs, boat ramp and other private industry/business, often, but not exclusively, associated with the marine industry.

The container terminal has road access restricted by a manned gatehouse and we note rail access is also available with a siding running along the western and apparently northern side of the overall terminal land.

Road access is excellent and recent upgrades to Tauranga's roading infrastructure have seen four laneing of the State Highway from Tauriko to the south, right through to Te Maunga to the northeast, including replication of the harbour bridge to provide two lanes in each direction. As such, road transport between the Tauranga and Mount Maunganui sides of the Port is significantly improved.

This is a location where land values are high in the local and even national context for industrial land, reflecting the very fixed supply of industrial service land, and also the changing uses to what would be regarded as high valued activities that go as far as retailing.

In the context of this location, Port and associated land is also a very valuable asset reflecting the limited supply of additional land available for expansion.

The subject land itself may be regarded as amongst the most valuable within the Port complex as it immediately adjoins the Wharf and waterfront, and as such, is actively used in the loading and unloading of vessels.

4.8 PROPERTY DEVELOPMENT

4.81. IMPROVEMENTS

The land is currently sealed in asphalt or similar, however for the purposes of this valuation, all of the improvements above the seabed level have been regarded as being owned by the purchaser. This is based on the assumption that the reclamation is relatively recent, and these improvements have not transferred to the Crown.

5. MARKET COMMENT

The commercial and industrial property market in Tauranga and Mount Maunganui continues to experience reasonable demand however rates of return have recently shown increased levels subsequent to a period of historically low returns.

We believe it is likely that returns will now stabilise, though investors will be more discerning between investments than they have in the recent past, with a larger range of returns applying. Those investors with available funds are inevitably going to compete for the better properties when they become available and this generally means well located and/or soundly leased properties.

Property investors will be paying considerably more attention to the financial prospects of tenants in buildings they are considering purchasing and consequently the range of capitalisation rates we are now experiencing is likely to continue.

The market for vacant commercial and industrial land experienced strong growth and rapid value level increases over a period of some five to seven years. Land suitable for development was in short supply, and competition amongst investors, developers and potential owner/occupiers resulted in these rapid increases.

In the last two years or so, in the wake of reduced consumer, investor, and business confidence due to the global economic crisis and general economic downturn, land values appear to have initially stabilised and then begun to reduce, with demand for development land diminishing quite severely. Land values appear to have decreased firstly, and to a greater extent, in the outer lying areas such as the new industrial subdivisions of Papamoa and Tauriko, with value level reductions in the more established and central locations being less substantial although there are very few sales with which to establish current levels. For this reason, reliance on analysis of improved sales has become more important when establishing land values in the established locations.

Sales considered important to the valuation are included within a sales schedule in the appendix to this report.

In addition to these sales, we are aware that in 2004 the Tauranga City Council purchased approximately 3.8 hectares from the Port in connection with the construction of the new harbour bridge, with the analysed purchase price being some \$251 per square metre.

At 65 Cross Road, some 1.3560 hectares of land transferred from Environment Bay of Plenty to the Tauranga City Council with some land use restrictions, at \$309 per square metre in 2006.

6. VALUATION METHODS

In terms of determining the land value, we have placed strict adherence to the principles outlined in the guideline provided to us for setting the price for a reclamation vesting.

We have determined the value of the dry land from the sales of industrial land within the broader Tauranga and Mount Maunganui industrial precinct.

As the land is effectively landlocked (other than water access) it is appropriate to consider its value in terms of its added value to the land it adjoins. In this case, it adjoins similar parcels of likewise effectively landlocked lots which in turn adjoin the larger main parcel of Port owned land. This is some 42 hectares in area, which is significantly larger than the land sales available to us. In any event, existing boundaries could be varied on titles subdivided at relatively little cost if required, so we have given consideration to the likely reasonable overall level of underlying land value for a reasonably large sized title in this location when assessing our dry land value.

We have little regard to the likely cost of reclamation, and it is noted that cost is not equal to value. We have had regard to the relationship between the seabed and the dry land value, noting that the seabed adjoining this land is effectively part of the operating port. In this type of situation, it is clear that seabed values can be a higher proportion of the total land value than situations where the adjoining water is not utilised as a function of the operation of the land. We have also given consideration to the depth of the sea over the natural seabed level and depth of the reclamation undertaken, and the total exclusivity of use of the land by the applicant.

Considering all these factors, we believe that the seabed value is appropriately assessed at 50% of the dry land value.

6.1 VALUATION CALCULATION

Based on the points noted above, the calculation of the value of the seabed is as follows:

Base dry land value	8000 m ²	@	\$ 200/m ²	
Plus Waterfront Premium				25%
Subject Dry Land Value			(\$250/m ² overall)	
Indicated Value of Seabed			(50% of Dry Land Value)	

[s 9(2)(b)(iii)]

6.2 CURRENT MARKET VALUE

Having considered all the details of the property under the prevailing market conditions it is our opinion the property has a current market value of [s 9(2)(b)(iii)] plus GST (if any).

[s 9(2)(b)(iii)]

7.0 CURRENT MARKET RENTAL

In addition to the above valuation, we have also been asked to consider the likely current market rental for the property, based on assumed lease terms and conditions. We have been provided with a standard draft lease document which the Department of Conservation is currently utilising in this type of situation. No specific document has been prepared to our knowledge. A copy of the draft standard document is retained on our file.

The draft document sets out numerous definitions, an operative clause and clauses in relation to rent, rent review, lessee's outgoings, repairs and maintenance, cleaning, use of land, access by the public to the land, construction of structures, alterations and other lessee's work, signs and advertising, reclamation acknowledgement, risk and insurance, indemnity, bank bond, environment indemnity, assignment and subletting, quiet enjoyment, cancellation, destruction or damage to improvements, general, dispute resolution and arbitration, severability, entire understanding, incentive and rental payments, execution and a reference schedule.

We have assumed that any lease prepared for the specific property would enable its current use to continue. The lessee's outgoings include Local Authority rates, service and utility charges, GST, and maintenance and repair requirements.

It is our understanding that it is most likely that Department of Conservation would offer a fixed term lease of approximately fifty years, with rent reviews to be completed three yearly.

Where there is little or no direct leasing evidence for seabed, it is appropriate to assess the rental by applying an appropriate rental factor, normally expressed as a percentage, to the underlying market value of the seabed.

The percentage rate may vary according to the terms and conditions of the lease, in particular the rent review period, and any specific items noted in the lease which vary from the market norm. Where there is little or no market evidence for similar foreshore / seabed or similar interests, it is necessary to consider rental rates applicable to nearby industrial or similar use land.

The rate of return for ground rents is reasonably well established within the Tauranga industrial locations as the Tauranga City Council, Port of Tauranga and private owners lease land on this basis.

Ground rent returns are reasonably stable, with more stability where there are longer rent review periods which typically override short term market cycles and are therefore less influenced by the immediacy of the current situation in the investment market. Shorter term rent review periods are more closely related to the current market for normal investment property in that location.

Taking into account the above considerations, we believe it is appropriate to assess the rental at a rate of 5.5% of the underlying value as outlined below.

Current market value of seabed (8000 m²)
Rental Value @ 5.5% of market value

[s 9(2)(b)(iii)]

plus GST (if any)

[s 9(2)(b)(iii)]

This valuation is our estimate of the likely market rental for the property based on the assumed lease terms and conditions described in this report. In the event that the terms were to vary significantly, particularly in terms of the rent review period or overall lease term, we would need to review this assessment.

8.0 NOTES

This valuation:

1. Has been undertaken for the purpose of ascertaining the current market value of the property on a willing buyer/willing seller basis, as at the effective date stated in the valuation.
2. Is our opinion of the current market value. The value may change in the future due to market conditions and changes to the state of this property. Any decision to lend should take these factors into account and allow a reasonable and prudent margin between the amount advanced and the value given in this valuation. In addition, the costs of, and any potential discount in price due to, a forced sale situation, should be taken into account. In the current market this may be substantial.

3. Does not purport to be a boundary, engineering, structural or environmental survey. Unless otherwise stated no testing of services has been completed. Any discrepancies in any one of these matters may affect the value of the property and accordingly should any become apparent later we reserve the right to revise the assessment.

4. Has been prepared for the person to whom it is addressed and no other persons should rely on this report for any purposes without permission from the writer. We do not accept any responsibility for any loss suffered by a third party who acts on this report without prior referral to the writer.

5. The Valuer has not performed a structural survey. As a result:

(1) This report is prepared on the assumption that except where noted in this report:

(a) The building has been competently designed and built, is structurally sound and watertight.

(b) The building does not contain any latent or patent defects, which could result in:

(i) The building ceasing to be watertight
(ii) Gradual decay of the building including its structure

(2) If you intend to purchase the property or lend money secured on it we recommend that you instruct a suitably qualified professional to survey the property for defects before you proceed further.

6. We can confirm we are Registered Valuers holding Annual Practicing Certificates, ANZIV qualified and can confirm we hold Indemnity Insurance appropriate to the level of our business.

7. This Valuation has been performed in accordance with the International Valuation Standards as found in the New Zealand and Australia Valuation and Property Standards 2009. These include that:

- the statements of fact presented in the report are correct to the best of the Valuers knowledge;
- the analyses and conclusions are limited only by the reported assumptions and conditions;
- the valuation was performed in accordance with an ethical code (PINZ Code of Ethics) and performance standards IVS 3 (Valuation Reporting), IVG 1 (Real Property Valuation) and IVA 2 (Valuation for lending Purposes) (where the report is prepared for lending purposes);
- the Valuer has satisfied professional education standards;
- the Valuer has experience in the location and category of the property being valued;
- the Valuer has made a personal inspection of the property;

- and no one, except those specified in the report, has provided professional assistance in preparing the report;
- The Valuer's fee is not contingent on any aspect of the report.

8. This valuation should be read together with our 'Statement of General Valuation Policies' attached.

Thank you for your instructions.

Yours faithfully
Property Solutions (BOP) Limited



Phil Pennyquick
Registered Valuer, FNZIV, FPINZ

Mt/Valuations/2010/Sulphur Point Reclamation

Released under the Official Information Act 1982

STATEMENT OF GENERAL VALUATION POLICIES

1. **Publication**
Neither the whole nor any part of this valuation report or any reference to it may be included in any published document, circular or statement without the written approval of Property Solutions (BOP) Limited as to the form and context in which it may appear.
2. **Information**
Information has generally been obtained from a search of records and examination of documents or by inquiry to Government Departments or Statutory Authorities. Where it is stated in the valuation report that information has been supplied to us by another party, this information is believed to be reliable but we can accept no responsibility if this should prove to be not so.
3. **Limitations**
Our valuation report is assessed only for the legal description provided. It does not take into account any additional land or property that may be held in the same ownership.
4. **Confidentiality**
Our responsibility in connection with this valuation report is limited to the person to whom the report is addressed and we disclaim all responsibility to any other party without reference to us.
5. **Purpose of Valuation**
The valuation report has been prepared for the specific purpose stated. It may not be used by any other party or for any other purpose without the express written consent of Property Solutions (BOP) Limited.
6. **Title Boundaries**
We have made no survey of the property and no actual boundary pegs were sighted. Unless otherwise stated, it is assumed that all improvements lie within the legal perimeters of the title. No guarantee is given that the land is not subject to statutory rights not recorded on the relevant Certificate of Title and not apparent from normal inspection of the property. This valuation is not a boundary survey and we accept no responsibility in connection with such foregoing matters.
7. **Structural Survey**
This report is not a structural survey and should not be relied upon as such. No structural survey has been made and no undertaking is given about the absence of rot, termite or pest infestation, deleterious substances such as asbestos or calcium chloride or other hidden defects. No warranty is given that the subject building is free from requisitions of any nature made by any competent authority.
8. **Rating Assessment**
The Rating Assessment if included in this report has been obtained from either the Quotable Value New Zealand website or relevant Local Authority. It is included for general information only and we have not audited its accuracy for any information contained in that report.
9. **Ownership**
Legal and beneficial ownership of this report shall remain with Property Solutions (BOP) Limited until full payment has been made for it. Property Solutions (BOP) Limited reserves the right to withhold permission to use this report or request its return to Property Solutions (BOP) Limited until full payment is made.
10. **Statutory Requirements**
We have not obtained a Land Information Memorandum and have consequently presumed that all buildings conform with By-Laws and there are no outstanding requirements over this property. It is recommended that a Land Information Memorandum be obtained and we could do so at your request.
11. **Services**
In preparing the valuation no warranty is given that hot and cold water systems, drainage systems, electrical systems, air conditioning or ventilating systems and other installations, devices, fittings and conveniences as are in the building are in proper working order and functioning for the purpose for which they were designed.
12. **Site or Environmental Contamination**
A visual site inspection has not revealed any obvious pollution or contaminant. However, no environmental Audit has been obtained and no warranty is given that the site is free of environmental contamination. If such a report is carried out, the valuation may need to be amended to account for the results of such an Audit.
13. **Registrations**
Unless stated otherwise, our report is subject to there being no detrimental or beneficial registrations affecting the value of the property other than those appearing on the title(s) so valued in this report. Such registrations may include Wahi Tapu registrations and Historic Places Trust registrations.
14. **Building Act 2004**
No warranty is given that the property complies with the Building Act 2004 or conforms to the requirements of the NZ Building Code contained in the Building Regulations 1992 (or any amendment or substitution thereof).

15. Engineering and Technical Matters

No responsibility is assumed for soil or subsoil conditions, engineering, retaining structures, or any other technical matters which might render the property more or less valuable than as stated in the report.

16. Leases

Where the property is leased, this report records the nature of the information supplied. That information has been accepted and relied upon at face value. It has been assumed that the information supplied is complete and accurate and that the Lease is fully enforceable. We do not give any warranty as to the legal validity of any Leases, including without limitation the length of the current term, the existence of any rights of renewal, or the financial strength or suitability of any tenant.

17. Swimming Pools

No warranty is given with respect to any swimming pools within the property being compliant with the requirements of the Fencing of Swimming Pools Act 1987 and any requirements under the Building Code enforced under the Building Act 2004 with respect to swimming pools.

18. Terms of Engagement take Precedence

These policies shall be read in conjunction with any signed letter of engagement between the Client and subject valuation entity. Where there is any conflict between the provisions of the letter of engagement and these policies, then the provisions of the letter of engagement shall prevail.

19. Forecasts

Every effort has been made to ensure the soundness and accuracy of the opinions, information and forecasts expressed in this report. While we believe statements in the report are correct, no liability is accepted for any incorrect they should be regarded solely as a general guide. No liability is accepted for any incorrect statement, information or forecast.

Property Solutions (BOP) Limited disclaim any liability, which may arise from any person acting on the material within. Readers should take advice from a professional staff member of Property Solutions (BOP) Limited prior to acting on any matter contained in this report.

20. Consumer Guarantees Act 1993

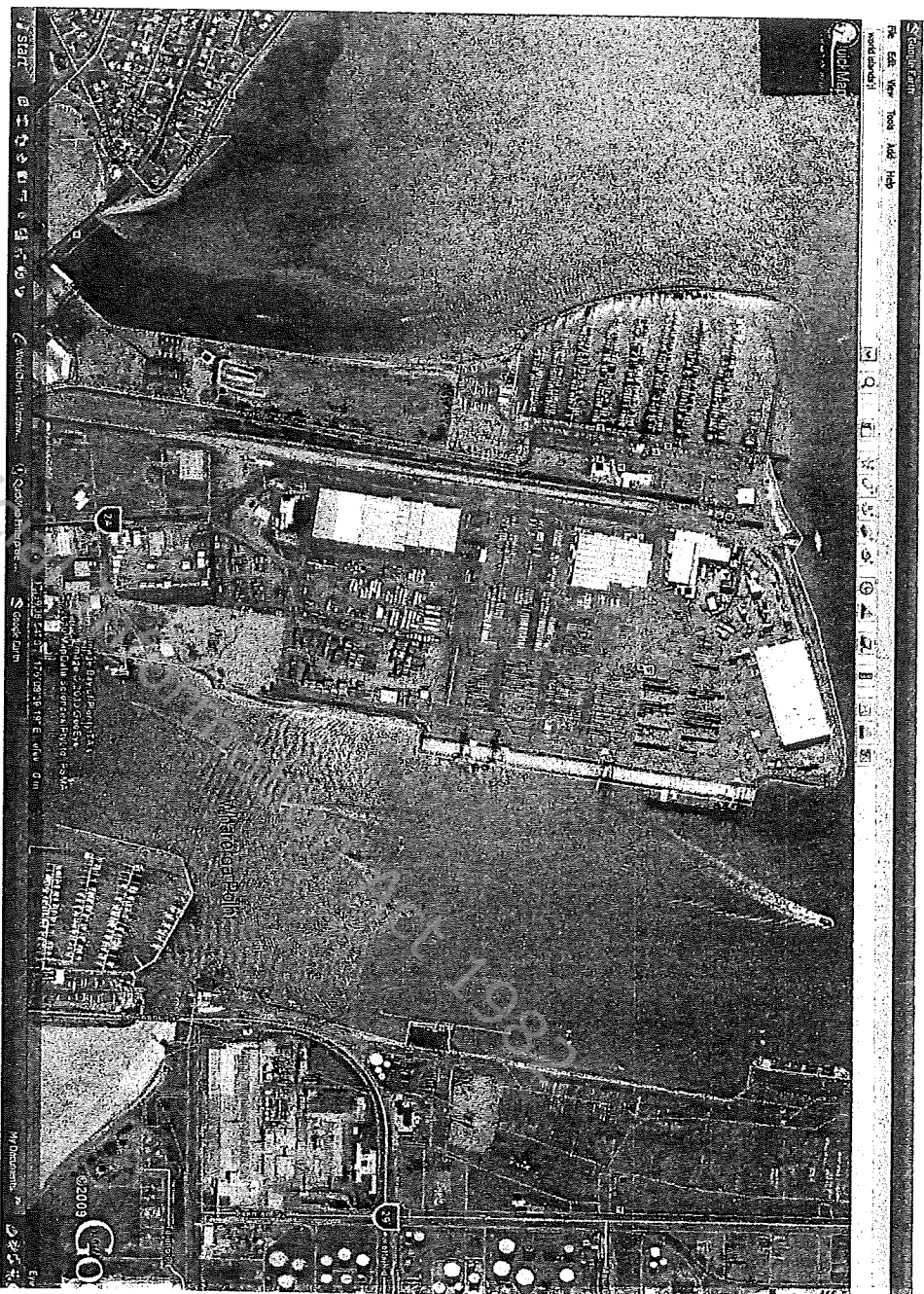
Property Solutions (BOP) Limited has a policy of not contracting out of the provisions of the Consumer Guarantees Act. Where there is any conflict between any statement in the report and the Consumer Guarantees Act, the latter shall apply.

APPENDICES

Contents:

- SO59443
- Gazette Notice 1991, page 126
- Zoning/Location Map and Key
- Proposed City Plan Map and Key
- Sales Schedule
- Photographs

Released under the Office of



Note: Section 1 hereon has no frontage to a Public Road.



Approvals

710 800 mN

710 600 mN

710 400 mN

Tauranga Harbour
Foreshore

Tauranga Harbour Bed

TAURANGA HARBOUR

COMPILED PLAN

SECTION 1

TERRITORIAL AUTHORITY TAURANGA DISTRICT

Surveyed by SHRIMPTON & LIPINSKI LTR F 10977

Scale 1:2000 Date September 1992

Reclamation authorised by
NZ Gazette 1991 p 126

Datum: Geodetic 1949
Day of Plenty Circuit Coordinates
Origin: Matak 700 000 mN 300 000 mE

Origin: SPK Adpt. PPS 53673
710 674.36 mN 274 218.01 mE

Total Area 8000 m²

Comptrol in Bed of Tauranga Harbour
Tauranga Harbour Foreshore

I. HALLAGE GRAHAM HOLMES
Registered Surveyor and holder of an annual practising certificate for
who may act as a registered surveyor pursuant to section 25 of the
Survey Act 1986 hereby certify that this plan has been made from
surveys executed by me or under my directions, that both plan and
survey are correct and have been made in accordance with the Survey
Regulations 1972 or any regulations made in substitution thereof.
Dated at Tauranga this 21st day of September 1992
Signature

Field Book p. Traverse Book p.
Reference Plans, PPS 53673, 58241, 58485
PPS 53673, OPS 63988
Examined ... Correct

Approved as to Survey
20.11.92
Dep Chief Surveyor
Deposited this day of 19

430763 District Land Registrar
File COOH
Received 13.10.92
150 591.12

LAND DISTRICT SOUTH AUCKLAND
SURVEY BLK. & DIST. VI TAURANGA
NZMS 261 SHT 114 RECORD MAP No F-2, 20-08

Justice

Criminal Justice Act 1985

Confiscation of Motor Vehicle

Pursuant to section 84 (2) of the Criminal Justice Act 1985, an order was made in the Wanganui District Court on 19 December 1990 against Danny Kevin Bridger for the confiscation of the following motor vehicle:

Morris 1300 registration number FE 129S.

B. M. WALKER, Deputy Registrar.

90431

Oaths and Declarations Act 1957

Revocation of Authorisation to Take Statutory Declarations

Pursuant to section 9 of the Oaths and Declarations Act 1957, I hereby revoke the authorisation held by the officers in the service of the local authority named in the Schedule below to take statutory declarations.

Schedule

Western Bay of Plenty District Council

Manager, Te Puke

Manager, Katikati

Dated at Wellington this 17th day of December 1990.

D. GRAHAM, Minister of Justice.

(Adm. 3/28/3/3)

90455

Officers in the Western Bay of Plenty District Council Authorised to Take Statutory Declarations

Pursuant to section 9 of the Oaths and Declarations Act 1957, I hereby authorise the holders for the time being of the offices in the service of the local authority specified in the Schedule below to take statutory declarations under the said Act.

Schedule

Western Bay of Plenty District Council

Supervisor, Te Puke

Supervisor, Katikati

Dated at Wellington this 17th day of December 1990.

D. GRAHAM, Minister of Justice.

(Adm. 3/28/3/3)

90455

Transport

Harbours Act 1950

Authorising Port of Tauranga Limited to Reclaim Land from the Bed of Tauranga Harbour

THOMAS EICHELEBAUM, Administrator of the Government

ORDER IN COUNCIL

At Wellington this 10th day of December 1990

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT
IN COUNCIL

Pursuant to section 175 (3) and subject to sections 176 to 182 of the Harbours Act 1950, I, the Right Honourable Sir Johann Thomas Eichelbaum, the Administrator of the Government,

acting on the recommendation of the Minister of Transport and by and with the advice of the Executive Council, hereby authorises Port of Tauranga Limited to reclaim an area of 8278 square metres of the bed of Tauranga Harbour, as shown on plan M.D. 16534 (S.O. 58485) deposited in the office of the General Manager, Maritime Transport Division at Wellington and as more particularly described in the Schedule below.

Schedule

All that parcel of land containing 8278 square metres, more or less, situated in Block VI, Tauranga Survey District, of the South Auckland Land District, and being part of the bed of Tauranga Harbour and more particularly shown marked "A" on plan M.D. 16534 (S.O. 58485) deposited in the office of the General Manager, Maritime Transport at Wellington.

MARIE SHROFF, Clerk of the Executive Council.

(MOT. MTD 43/13/6/25)

90452

Validation of Reclamation: Port Nelson Limited: Near Vickerman Street, Port Nelson

THOMAS EICHELEBAUM, Administrator of the Government

ORDER IN COUNCIL

At Wellington this 10th day of December 1990

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT
IN COUNCIL

Pursuant to section 265 of the Harbours Act 1950, I, the Right Honourable Sir Johann Thomas Eichelbaum, the Administrator of the Government, acting on the recommendation of the Minister of Transport and by and with the advice and consent of the Executive Council, hereby validates in the name of Port Nelson Limited the reclamation which land is described in the Schedule hereto.

Schedule

All that land reclaimed from Nelson Harbour comprising 537 square metres, more or less, situated in the City of Nelson, Nelson Land District and more particularly shown as area "A" on plan M.D. 16536 (S.O. 14605) deposited in the Wellington office of the Maritime Transport Division, Ministry of Transport.

MARIE SHROFF, Clerk of the Executive Council.

(MOT. MTD 43/7/6)

90453

Vesting of Reclaimed Land: Port Nelson Limited: Nelson Harbour

THOMAS EICHELEBAUM, Administrator of the Government

ORDER IN COUNCIL

At Wellington this 10th day of December 1990

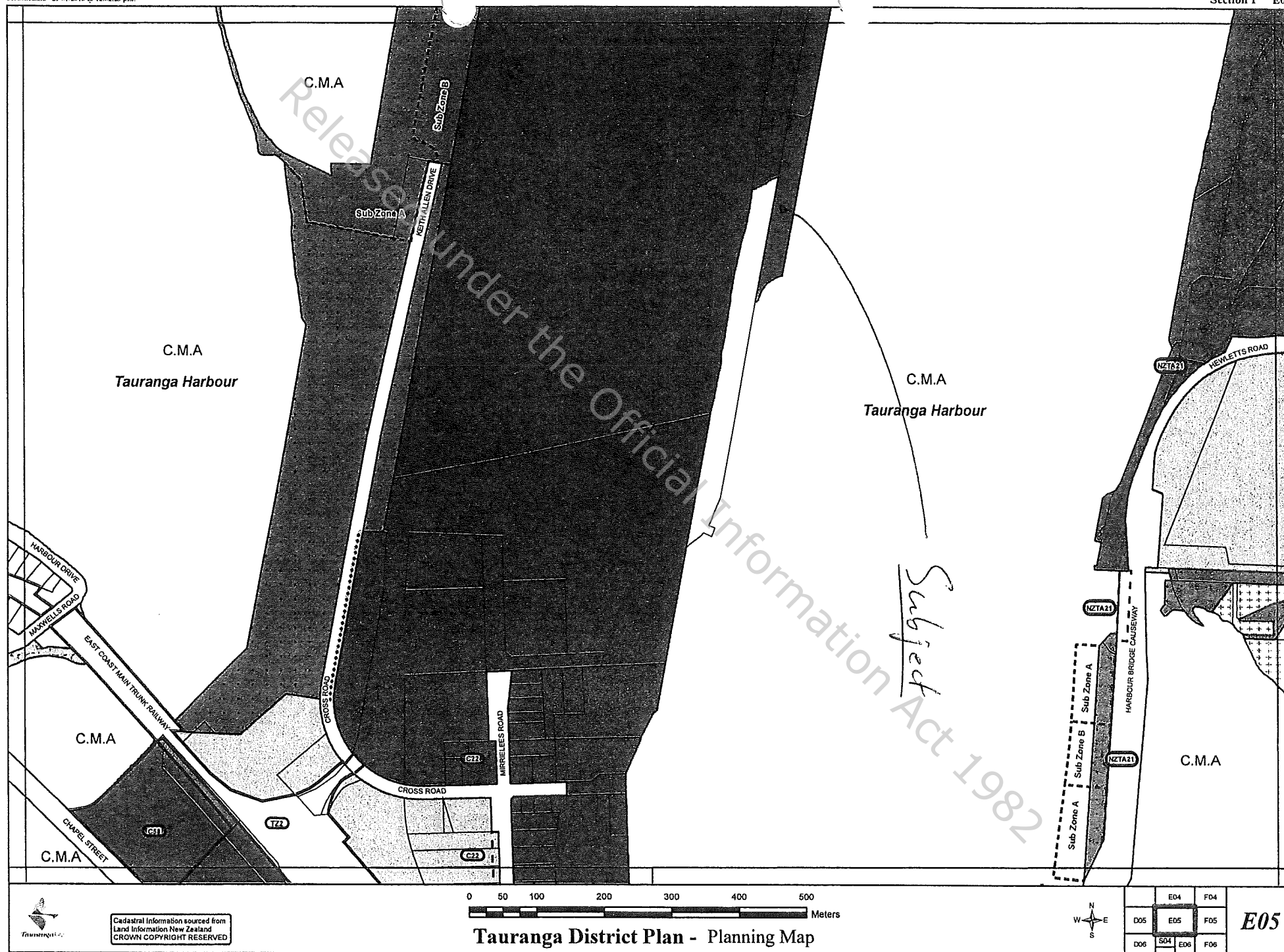
Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT
IN COUNCIL

Pursuant to section 175D of the Harbours Act 1950, I, the Right Honourable Sir Johann Thomas Eichelbaum, the Administrator of the Government, acting on the recommendation of the Minister of Transport and by and with the advice and consent of the Executive Council, hereby vests in the name of Port Nelson Limited the reclaimed land described in the Schedule hereto.

Schedule

All that land reclaimed from Nelson Harbour comprising 537 square metres, more or less, situated in the City of Nelson, Nelson Land District and more particularly shown as area "A"



Zone Shadings

	Commercial Business
	Commercial Business 1
	Conservation (And Ngati Kahu Papakāinga) (Sub Zone B Conservation)
	Education Centre 1
	Education Centre 2
	Future Urban
	Green Belt
	Industrial Business
	Marae (Rural)
	Marae (Urban)
	Ngati Kahu Papakāinga (NKP) (Sub Zone A, Sub Zone B, Wae Wae)
	Port Business
	Rail 1. The rail designation has the underlying zoning of the adjoining zone measured from the centreline of the designation. 2. Where the rail designation crosses a public road, the underlying zoning is not cross all public roads
	Recreation A
	Recreation B

Policy Areas

	Medium Rise Policy Area
	High Rise Policy Area
	Flood Hazard Policy Area
	Commercial Expansion Policy Area
	Coastal Landscape Policy Area (Matapahi)
	Coastal Hazard Erosion Policy Area Landward Boundary (for more detail see Planning Maps Section 4)

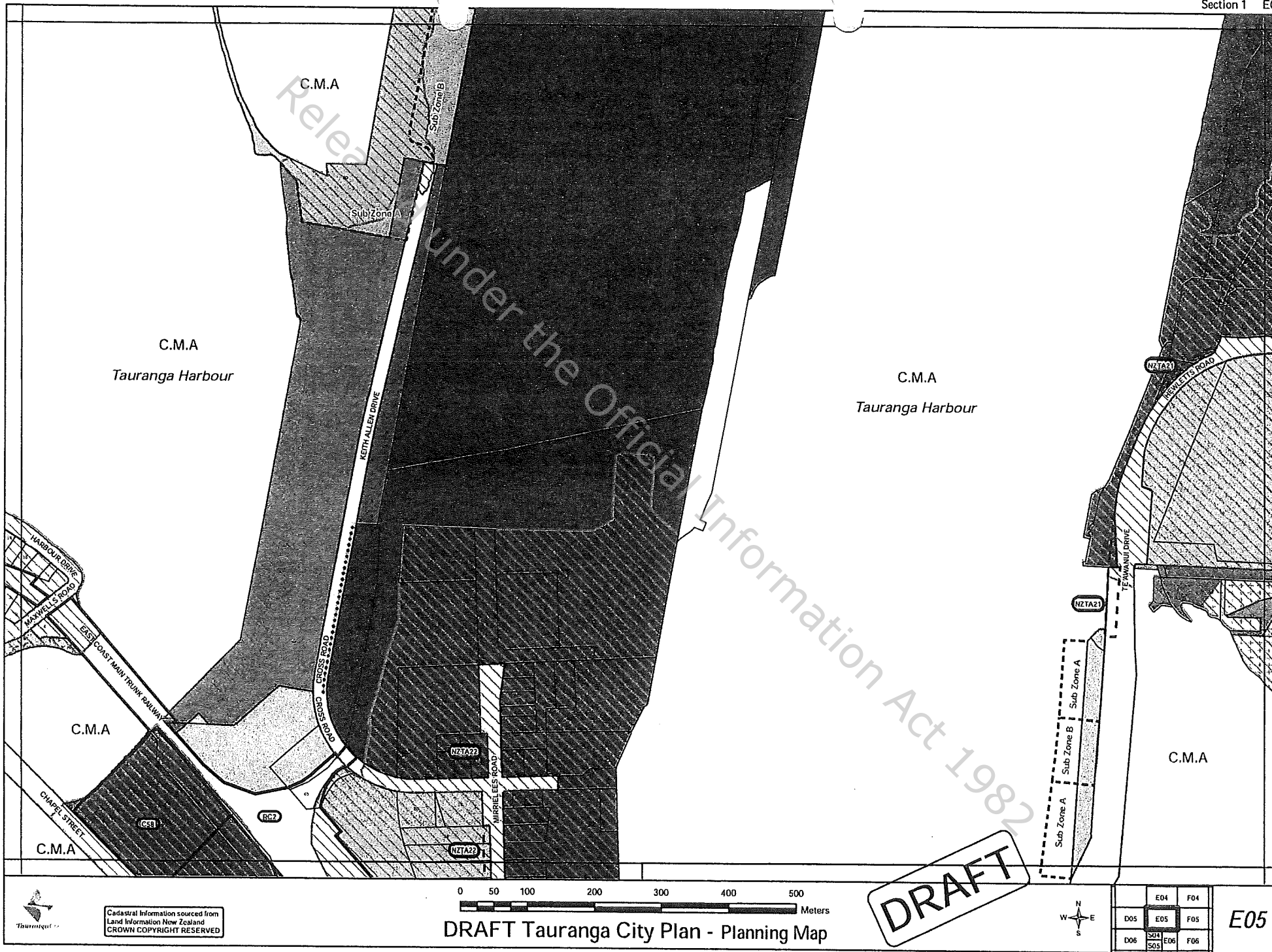
Line Features

	Legal Parcel Boundary as at Date Printed on Map
	Zone Boundary
	Commercial (Wae Wae) Subzone Ngati Kahu Papakāinga
	Sub Zone Boundary
	Pedestrian Environment Street Frontage
	Street Scene Rule Applies
	Designated Site Boundary (other than Road Designation)
	Designated Road or Road Widening
	Limited Access Road
	Coastal Protection Area 74m from the Toe of the Dune
	Building Setback Line (See Chapter 19 and Chapter 21)
	Special Noise Rule Applies (Countryside Road and Bethlehem Road)

Symbols

	Heritage Site Number (See Heritage Register, Part B, Chapter 16) NOTE: indicates site on this legal parcel, but not necessarily at the marked location within the parcel
	Notable or Landscape Tree Number (See Tree Register, Part B, Appendix 16B) NOTE: tree canopy and number within it indicates tree(s) on this legal parcel, but not necessarily at the marked location within the parcel
	Designated Site Number (See Designation Schedule, Part B, Chapter 25) Requiring Authority Abbreviations
	C Tauranga District Council
	DC Department of Courts
	DR Department of Corrections
	MD Ministry of Defence
	ME Ministry of Education
	MS Meteorological Service of New Zealand
	NP New Zealand Police
	PC PowerCo Limited
	TC Telecom New Zealand Limited
	TM Telecom Mobile Communications Ltd
	TP TrustPower Limited
	TR Transit New Zealand
	TW Transpower New Zealand Limited
	TZ Transrail
	WB Western Bay of Plenty District Council
	AW Accessway - Zoned Recreation A
	SL Service Lane
	C.M.A Coastal Marine Area covered by Regional Coastal Environment Plan
	1. The rules of this District Plan only apply landward of Mean High Water Springs.
	2. Environment BOP (the Bay of Plenty Regional Council) is the consent authority for most activities seaward of Mean High Water Springs.
	3. The line of the coast shown on this map represents the position of Mean High Water at the last survey. It does not necessarily represent the current position of Mean High Water Springs.
	Environment BOP should be consulted before undertaking any activity in the vicinity of Mean High Water to establish the actual line of Mean High Water Springs.

Other Abbreviations



Tauranga City Plan Planning Maps Key

1. The rules of this City Plan only apply landward of Mean High Water Springs.
2. The Bay of Plenty Regional Council is the consent authority for activities seaward of Mean High Water Springs and for activities on the surface of waterbodies.
3. The line of the coast shown on this map represents the position of Mean High Water of the last survey. It does not necessarily represent the current position of Mean High Water Springs.

The Bay of Plenty Regional Council should be consulted before undertaking any activity in the vicinity of Mean High Water to establish the actual line of Mean High Water Springs.

Planning Zones

	City Centre Business Zone
	City Centre Waterfront Subzones
	Commercial Business
	City Living - Mixed Use (CLMU)
	City Living - Mixed Use (CLMR) 19 meter max. height
	City Living - Residential (CLR)
	Suburban Residential
	Residential Large Lot
	High Density Residential
	Port Industry
	Tauriko Industry
	Tauriko Commercial Business
	Industry

Planning Zones

	Rural Residential
	Rural
	Education Centre
	Passive Open Space
	Active Open Space
	Active Open Space (Major)
	Conservation
	Greenbelt
	Future Urban 1
	Future Urban 2
	Rural Marae Community
	Urban Marae Community
	Ngati Kahu Papakainga
	Special Use Baypark
	Rail
	Road

1. The rail designation has the underlying zoning of the adjoining zone measured from the centreline of the designation
2. Where the rail designation crosses a public road, the underlying zoning is Road. The rail designation does not cross all public roads.

All Public Roads and Service Lanes are Road Zone

Plan Areas

	Current Erosion Risk Zone (CERZ)
	50 year (2060) Erosion Risk Zone (50 year ERZ)
	100 year (2100) Erosion Risk Zone (100 year ERZ)
	Scheduled Site
	Commercial Plan Area
	High Rise Plan Area
	Medium Rise Plan Area
	Flood Hazard Plan Area
	Special Ecological Area (Category 1)
	Special Ecological Area (Category 2)
	Outstanding Natural Features and Landscapes Plan Area
	Important Amenity Landscapes Plan Area

Other Symbols

	Legal Parcel Boundary as at Date Printed on Map
	Mean High Water Springs
	Sub Zone Boundary
	Pedestrian Environment Street Frontage
	Streetscape Rule Applies
	Pedestrian Link Requirement
	Coastal Protection Area
	Special Noise Rule Applies (Courtney Road, Bethlehem Town Centre)
	Territorial Authority Boundary

Heritage

	Built Heritage Site Number (Refer Heritage Register, Chapter 7) NOTE: Indicates site on this legal parcel, but not necessarily at the marked location within the parcel
	Notable Tree
	Notable and Heritage Tree (Refer relevant Tree Register) NOTE: tree canopy and number within it indicates tree(s) on this legal parcel, but not necessarily at the marked location within the parcel.
	Significant Archaeological Sites
	Significant Maori Areas

Utilities

	High Voltage Transmission Plan Area-Support Structure
	High Voltage Transmission Plan Area-Electric Line
	High Voltage Transmission Plan Area
	Powerco Structure
	Powerco Overhead Electric Line
	Powerco Underground Cable
	Trustpower Structure
	Trustpower Electric Line
	Vector Gas Main

Designations

	Designated Site Boundary (other than Road Designation)
	Designated Road or Road Widening
	Limited Access Road
	Designated Site Number (Refer Designation Register, Chapter 10)

Requiring Authority Abbreviations

C	Tauranga City Council
MJ	Ministry of Justice
DR	Department of Corrections
MD	Ministry of Defence
ME	Ministry of Education
MS	Meteorological Service of New Zealand
NP	New Zealand Police
NZTA	New Zealand Transport Agency
PC	PowerCo Limited
RC	New Zealand Railways Corporation
INZ	Telecom New Zealand Ltd and Telecom Mobile Communications Ltd
TW	Transpower New Zealand Limited
WB	Western Bay of Plenty District Council

Other Abbreviations

AW	Accessway - Zoned Passive Open Space
SL	Service Lane
C.M.A.	Coastal Marine Area covered by Regional Coastal Environment Plan

COMPARABLE SALES SCHEDULE

Cross Road, Tauranga,	08/09	\$ 392,000
This is the sale of some 1853 m ² currently formed as road and providing access between Mirieles Road and the Harbour at Sulphur Point. Approximately 887 m ² of the land was subject to easements. The overall price is equivalent to \$211.55 per square metre. We understand the land has transferred from the Port of Tauranga to the Tauranga City Council. We are not aware of the full details of the transaction but understand the land will continue to provide road access to adjoining properties.		
1 Reynolds Place, Papamoa	8/09	\$ 400,000
A corner 2192 m ² site at the intersection of Te Okuroa Drive and Reynolds Place. An irregularly shaped but flat site with potential profiling opportunity. The price represents some \$182.48 per square metre. Commercial Business zoning.		
1 Whakakake Street, Tauriko	08/09	\$ 560,000
A flat, 2492 m ² , Industrial zoned site at the corner of Whakakake Street and Taurikura Drive. Offers good profile to likely eventual passing traffic although the area is currently undeveloped. Price represents \$225 per square metre.		
86 Aerodrome Road, Mount Maunganui	09/09	\$ 588,000
A front 1568 m ² site, subject to survey and title, which has apparently sold unconditionally other than the title requirement at \$375 per square metre. We note part is subject to right of way which would increase the analysed rate per square metre, potentially to closer to \$430 per square metre. Industrial Business zoning.		
86 Aerodrome Road, Mount Maunganui	09/09	\$ 519,750
This is a sale in the same circumstances as the sale above, with the price also representing \$375 per square metre for a site of 1386 m ² subject to survey and title. Also subject to right of way to part, which if adjustments are made, would potentially indicate a land value closer to \$450 per square metre. Industrial Business Zoning.		
19 Poturi Street, Tauriko	09/09	\$ 600,000
A flat, road front but lower profile, 3122 m ² site within the Tauriko industrial subdivision. The price represents \$192 per square metre. Cheaper than the other sales in the subdivision and we note this is the most recent sale available here to our knowledge.		
6 Portside Drive, Mount Maunganui	07/09	\$ 750,000
A flat rectangular 1864 m ² industrial site, which previously supported a building which we understand was removed by the vendor prior to settlement. The price represents some \$402.36 per square metre.		
74 Taurikura Drive, Tauriko	08/09	\$ 779,625
A 2772 m ² , Industrial site within the Tauriko industrial subdivision. The price appears to include GST which, if deducted, indicates a land purchase price of \$250 per square metre.		
193 Jellicoe Street, Te Puke	04/09	\$ 1,077,777
This is a high profile 2525 m ² industrial zoned lot, with the purchasers intending to redevelop for a fast food restaurant. The price represents some \$427 per square metre.		

2 Triton Avenue, Mount Maunganui

11/09

\$ 1,740,000

This is the sale of a corner site of some 5435 m² to Orica, who occupy land on the opposite side of Totara Street and who may have been prepared to pay a premium for the land accordingly. The site has since been redeveloped as a truck service and parking area. The price represents some \$320.15 per square metre. Land affected by easements.

26 – 58 Taurikura Drive, Tauriko

early 2010

\$ 3,000,000

This is the sale of five adjoining industrial business zoned lots at the corner of Taurikura Drive and Whakakake Street at Tauriko in southern Tauranga, including a total of 1.8807 hectares with an effective area after covenanted areas are deducted of some 1.6106 hectares. The price represents some \$186.26 per square metre of effective area. An as yet unconfirmed sale, condition on the purchasers on sale of the property including proposed buildings with a new lease in place. This sale has been achieved so we presume the land sale will become unconditional.

20 Hocking Street, Mount Maunganui

08/09

\$ 3,583,800

This is an area of rear Industrial Business Zoned land behind the Farmer Motor Group which has been filled and prepared for development and recently sold with the price representing some \$220 per square metre. The site is some 1.6290 hectares in area. The price appears cheap in relation to the other market evidence, although access to and from Hewletts Road is restricted by the median barrier which prevents right hand turns.

198 Totara Street, Mount Maunganui

11/09

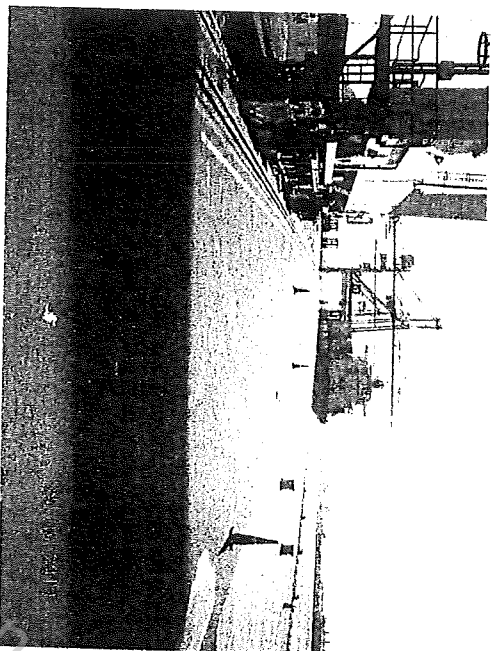
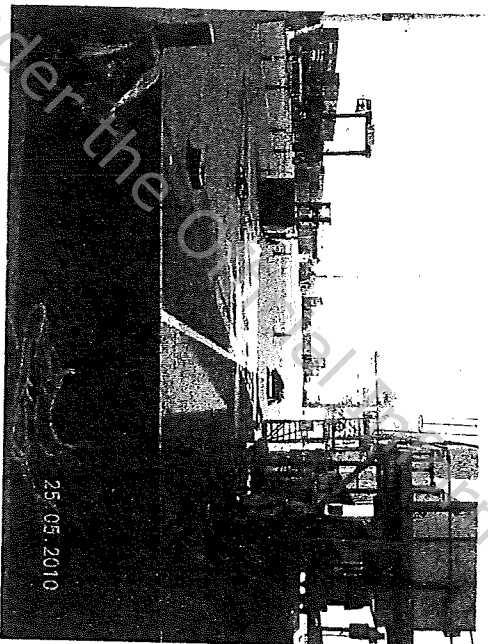
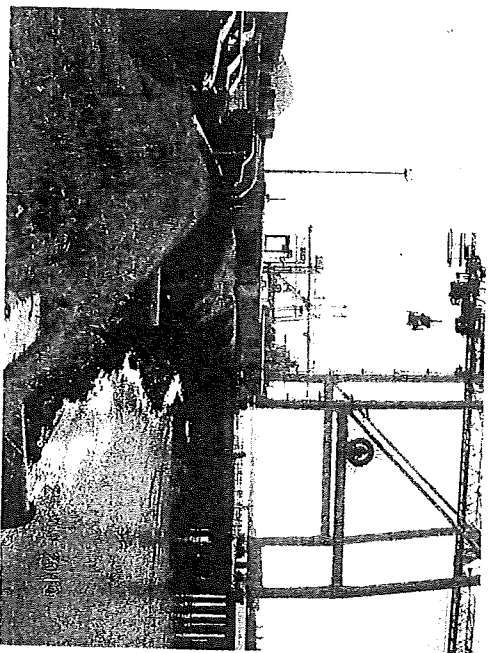
\$ 3,815,000

This is the sale of a 7396 m² road front site occupied by Downer EDI Works, who hold a long term lease subject to CPI rent reviews. The tenant owns the majority of improvements on the site, although we understand the landlord owns the fencing and some site improvements. The price represents some \$515.82 per square metre of land overall, inclusive of any improvements owned by the landlord. The lease in place was generating an above market rental which has impacted on the land purchase price. Our analysis indicates an underlying land value for comparative purposes of closer to \$375 per square metre.

Aerodrome Road & Hewletts Road, Mount Maunganui12/09

\$ 8,400,000

This transaction involved seven lots totalling some 2.1632 hectares. The total price was some \$8,400,000 and we understand this included over 2500 m² of industrial and office buildings and site improvements. There was a lease in place generating a total annual rental of \$700,000, which appears high in relation to other known rentals.



Released under the Open Information Act 1982

**Holland
Beckett
LAWYERS**

525 Cameron Road - DX HP40014
Private Bag 12011 - Tauranga 3143 - New Zealand
Telephone 07 578 2199 - Facsimile 07 578 8055
Email lawyers@hobec.co.nz - Website www.hobec.co.nz

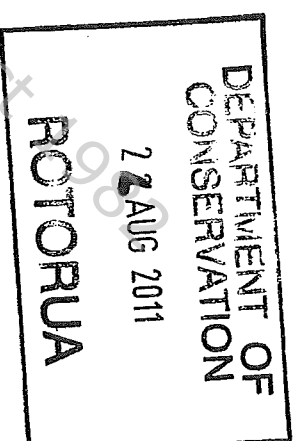
22 August 2011

Our Reference J D Patterson
Direct Dial 07 571 3851
Email john.patterson@hobec.co.nz

Department of Conservation
PO Box 1146
ROTORUA 3040

Attention Helen Neale

**PAL-18-04-05 Port of Tauranga Limited
Titles Sulphur Point Section 1 SO59443**



1. This is to confirm that our client, upon reflection, request that their application for vesting of freeholding title in the above section of land, be referred to the Minister for Land Information for finalisation.
2. We understand that you have all the documentation on file that is required, but please let us know if anything is missing.
3. We also confirm that the vesting application is not in competition with any other pending vesting application as at 1 April 2011.
4. Please contact us if you require any further information.

Yours faithfully
HOLLAND BECKETT

JOHN PATTERSON
Consultant

Shared commitment. Shared energy. Shared success.

Retail and Service Excellence

2010 Winner



Others
ra Charlotte Ruth Burkhardt BBS LL.B. (Hons)
non Paul Collett B.A.LL.B.
nessa Jane Hamm B.A.LL.B.
William Beau Holland LL.B. (Notary Public)

John David Mackay LL.B.
Michael Joseph Sharp B.Com.LL.M.
Dean Andrew Thompson LL.B.
Mark Eaton Tingey B.Com.LL.B.

Consultants
Allen Conway Hunter LL.B.
John Douglas Patterson LL.B.
Michael John Smith LL.B.

Associate
Luke Andrew Stewart LL.B.

JDP-228826-889-57-V1:jk

Mike Jacobson

From: Helen Neale
Sent: Thursday, 17 November 2011 12:13 p.m.
To: Mike Jacobson
Cc: Alice Camaivuna
Subject: RE: Sulphur Point vesting transfer

Hi Mike

I am happy to confirm that there are no competing applications for vesting that I am aware of.

Helen Neale
Community Relations Officer - Planning
Department of Conservation - *Te Papa Atawhai*
DDI: 07 3497434

East Coast Bay of Plenty Conservancy
99 Sala St, Rotorua 3010
P O Box 1146, Rotorua 3040

Conservation for Prosperity *Tiakina te taiao, kia puawai*

www.doc.govt.nz

From: Mike Jacobson
Sent: Thursday, 17 November 2011 12:03 p.m.
To: Helen Neale
Cc: Alice Camaivuna
Subject: Sulphur Point vesting transfer

Hello Helen,

You will be happy to know that I am about to launch into the MoC briefing for transferring the Sulphur Point vesting application to the Minister of Land Information.

Having looked at the papers, it all seems straightforward at this stage....

Just one thing: The applicant asserts that there is no competing application, and the iwi consultation papers do not hint at any competing iwi application, but I **do need confirmation in writing from your conservancy that you agree with the requestor that there is no competing application.**

An email to that effect would be quite sufficient.

Thanks, and I will keep you informed of progress.

Regards, Mike Jacobson

23/11/2011



New Zealand
Historic Places Trust *ouhere Taonga*

Notification of the Intention to Dispose of Land

This notice is to fulfil the Cabinet requirement of 27 August 2007 (CAB min (07) 31/1a) which requires departments to notify the New Zealand Historic Places Trust of the proposed disposal of land in order that historic heritage values can be assessed.

**Please forward this document, along with maps and plans, to
landdisposal@historic.org.nz**

To be completed by disposing agency	
Name and Address of land proposed for disposal	Sulphur Point Wharves, Tauranga Harbour
Legal Description of land proposed for disposal	Section 1 SO 59443
Area (hectares) of land proposed for disposal	0.8 ha
Physical description of land proposed for disposal	Reclamation
Current administering agency of land proposed for disposal	Minister of Conservation
Territorial local authority district within which the land lies	Tauranga City Council
Any relevant listing district plan listing, sites registered by NZ Historic Places Trust, sites recorded in the NZ Archaeological Association site recording scheme etc	N/A
Brief details of any known historic heritage values of the land proposed for disposal	In its former state as foreshore/seabed the area may have had pre-European and post European use for shellfish and kaimoana gathering
Any other information	No public access to site
Staff member in department to contact about this proposed disposal	Helen Neale Department of Conservation Rotorua Ph 07 3497418
Staff member in accredited agency to contact about this proposed disposal (if applicable)	

To be completed by the New Zealand Historic Places Trust

NZHPT reference	NP 2009/130
Statement of what heritage exists	Desk-top study by the New Zealand Historic Places Trust identified that there are no recorded archaeological sites or registered historic places, historic areas, wahi tapu or wahi tapu areas or applications to do so on or near the subject property. There are no heritage paces scheduled or listed in the Tauranga City Council District Plan on this land.
Heritage assessment and a statement of significance	<p>The NZ Archaeological Association site records and the New Zealand Historic Places Trust Register have both been searched for archaeological sites. No recorded or registered archaeological sites were found on or near the subject property.</p> <p>The New Zealand Historic Places Trust Register and the Western Bay of Plenty District Council District Plan have been searched for built heritage at Section 1 SO 59443, located at the Sulphur Point Wharves, Tauranga. No registered or scheduled or listed places have been found.</p> <p>The land lies within Te Awanui, Tauranga Harbour, a place regarded as one of the significant areas of traditional history and identity for Tauranga Moana iwi and hapu. The well known Tauparapara 'Tu Mokenoke' refers to a number of points around Tauranga Harbour with links to tupuna and cultural sites.</p>
Suggestions for heritage protection measures (if any)	<p>Based on available information, the NZHPT does not have any concerns with the proposed disposal of land.</p> <p>It cannot be discounted that Maori values may be associated with the property however unless iwi/hapu are engaged to identify those values, protection/management measures cannot be suggested.</p>
Statement of work completed by assessor(s)	This is a desk-based assessment only. Sources checked were the New Zealand Historic Places Trust Register, New Zealand Archaeological Association Site Recording Scheme and the Tauranga City Council District Plan.
Assessment completed by	Frank van der Heijden
Staff member to contact at NZHPT about issues raised in this report	<p>Name: Frank van der Heijden</p> <p>Job Title: Heritage Advisor – Research</p> <p>Agency: New Zealand Historic Places Trust/Pouhere Taonga</p> <p>Email: HAResearch@nzhipt.org.nz</p> <p>Phone: 07 578 1283</p>

If suggestions for heritage protection measures have been made by the NZHPT in the table above, departments are requested to make a formal response to the named staff member of NZHPT **within 20 days**, to discuss any further action they will take.



Department of Conservation
Te Papa Ataurua

PAL 18 04 05

28 April 2009

Mr Denis McCord
Office of Treaty Settlements
PO Box 919
Wellington 6140

Dear Denis

**Disposal of Crown Owned Reclamation Area – Tauranga Harbour
Application for Exemption from the Crown Protection Mechanism**

This is the second application forwarded to you recently seeking an exemption from the CPM to the disposal of a reclamation area in Tauranga Harbour.

The Port of Tauranga has legally reclaimed 8000 square metres of foreshore and seabed from the Tauranga Harbour adjacent to their wharves at Sulphur Point. The reclaimed foreshore and seabed is owned by the Crown and the land is administered by the Minister of Conservation. It is intended to transfer the reclaimed land to the Port of Tauranga for amalgamation with the land in their adjoining title. The reclaimed area has no access to a legal road.

The Minister of Conservation now seeks an exemption to the requirements to the Crown Protection Mechanism in order to transfer this land to the Port of Tauranga.

Background

The Port of Tauranga owns all of the land coloured green on the attached map which makes up their Sulphur Point wharf complex in Tauranga. The land being reclaimed will be added to the existing wharf and will provide space for two container ships to berth where previously there was space for only one. This additional capacity for the wharf is required to meet the increased traffic in container shipping expected over the next 10 year period. The Minister gave his consent to the reclamation in April 2007 and the reclamation work has been completed. The area has been surveyed and is shown as Section 1 SO 59443.

Land Status

The reclaimed land is shown as:

Section 1 SO 59443
.8000 hectares being Seabed and Foreshore of the
Tauranga Harbour

The Vendor Agency is the Department of Conservation.

The status of the land is reclaimed foreshore and seabed owned by the Crown and administered by the Minister of Conservation.

Grounds for Exemption from the Crown Protection Mechanism

The Minister of Conservation requests an exemption to the requirements of the Crown Protection Mechanism on the basis that;

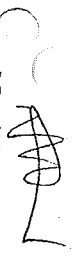
- (a) the reclaimed land shown as Section 1, SO 59443 is land locked and has no legal access to a public road.
- (b) the reclaimed land does not conform to the requirements of the Tauranga District Plan and a separate title to the land could not be issued.

The land will be transferred to the Port of Tauranga for amalgamation with the land in their existing title SA69A/122.

Can you please consider this request for an exemption to the Protection Mechanism and advise me of your decision.

Copies of the relevant plans are attached.

Yours faithfully


Neville Hunter

Community Relations Officer
Statutory Land Management
for Conservator Bay of Plenty.



Section 1 SO59443

Titles held by Port of Tauranga Limited

Public Road.

SECTION 1

0.8000ha
SO 59443
SO 59443

Tauranga

Harbour.

1982

no frontage to a Public Road.

710 800 mN

710 600 mN

710 400 mN

Tauranga Harbour
Foreshore

COMPILED PLAN

SECTION 1

TERRITORIAL AUTHORITY TAURANGA DISTRICT

Surveyed by SHRIMPTON & LIPINSKI LTR 10977

Scale 1:2000 Date September 1992



Approvals

Reclamation authorised by
NZ Gazette 1991 p 126

Datum: Geodetic 1949
Bay of Plenty Circuit Coordinates
Origin: Maketu 700 000 mN 300 000 mE

Origin: SPX Adpt DPS 53673
710 674.36 mN 274 218.01 mE

Total Area 8000 m²

Comprised in Bed of Tauranga Harbour
& Tauranga Harbour Foreshore

I, HALLAGE GRAHAM HOLMES
Registered Surveyor and holder of an annual practising certificate for
who may act as a registered surveyor pursuant to section 25 of the
Survey Act 1986) hereby certify that this plan has been made from
surveys executed by me or under my directions, that both plan and
survey are correct and have been made in accordance with the Survey
Regulations 1972 or any regulations made in substitution thereof.
Dated at Tauranga this 21st day of September 1992.
Signature [Signature]

Field Book Traverse Book
Reference Plans SO 57272, 58241, 58487
DPS 53673, DPS 63988
Examined Ben [Signature] Correct

Approved as to Survey [Signature]

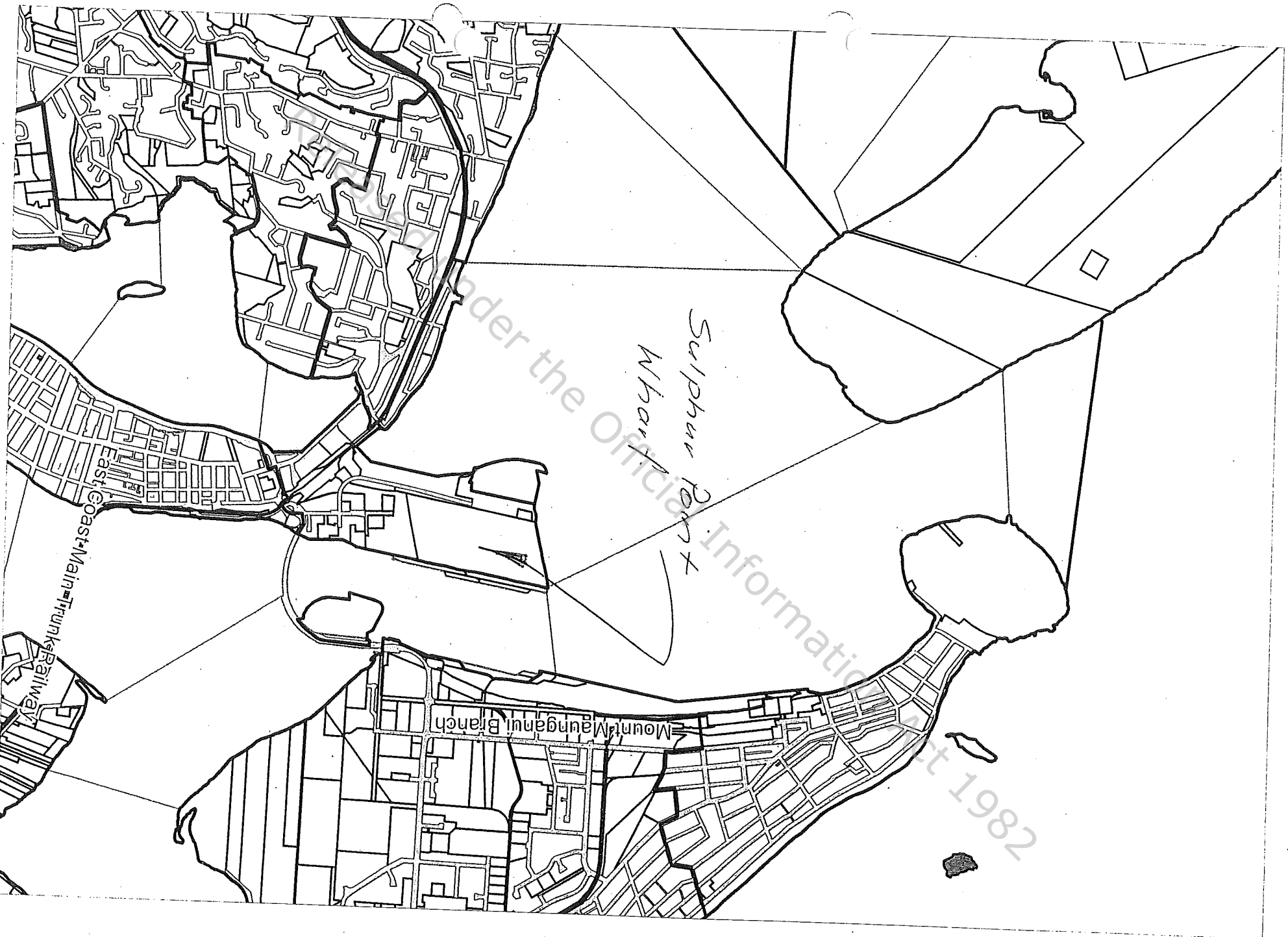
20/11/92 Dep Chief Surveyor

Deposited this day of 19

430763 District Land Registrar
File COOI
Received 13-10-92
Instructions SO 59443

AND DISTRICT SOUTH AUCKLAND
SURVEY BLK. & DIST. VI TAURANGA
ZMS 261 SHT 114 RECORD MAP No 5-2, 20-08

Jillejohns



Sulphur Port
Wharf

Mount Maunganui Branch

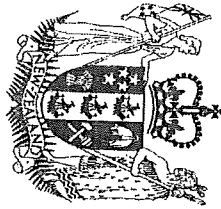
East Coast Main Trunk Railway

Scale: 1:34875

2500 metres



Adjoining Title



COMPUTER FREEHOLD REGISTER
UNDER LAND TRANSFER ACT 1952

Search Copy



R. W. Muir
Registrar-General
of Land

Identifier SA69A/122
Land Registration District South Auckland
Date Issued 01 November 1999

Prior References
GN B575393.1

State Fee Simple
Area 1.1680 hectares more or less
Legal Description Section 1 Survey Office Plan 58241
Proprietors
Port of Tauranga Limited

Interests

The within land has no frontage to a legal road
Land Covenant in Easement Instrument 6779408.1 - 8.3.2006 at 9:00 am
Land Covenant in Transfer 7544900.1 - 18.9.2007 at 9:00 am

Released under the Official Information Act 1982



OFFICE OF TREATY SETTLEMENTS

The Vogel Centre • Kate Sheppard Place • PO Box 919 Wellington
Phone (04) 494 9800 • Fax (04) 494 9801 • www.ois.govt.nz

Pouaka Mōrihake 919 • Te Whanganui a Tara
Waea (04) 494 9800 • Waea Whakahua (04) 494 9801

Te Tari Whakatau Take e pa ana ki te Tiriti o Waitangi

16 October 2009

Neville Hunter
Community Relations Officer
Statutory Land Management
Bay of Plenty Conservancy
Department of Conservation
PO Box 1146
Rotorua 3040



Protection Mechanism: Crown Owned Reclamation – Tauranga Harbour
Section 1 SO 59443 (Sulphur Point)

Tēnā koe Neville

Thank you for your letter of 28 April 2009 requesting an exemption from the Protection Mechanism concerning the proposed transfer of land for amalgamation with adjoining land.

The vendor agency is the Department of Conservation.

The area comprises of one parcel:

00.8000 ha Section 1 SO 59443 being former Seabed and Foreshore of the
Tauranga Harbour

You advised:

- A) The reclaimed land shown as Section 1 SO 59443 is land locked and has no legal access to a public road.
- B) The reclaimed land does not conform to the requirement of the Tauranga District Plan and a separate title to the land could not be issued.

The above described land is confirmed as having no frontage to a legal road and therefore the land parcel is "landlocked".

On the basis that the parcel is landlocked the parcel can only be disposed of to the adjoining owner, the property would not meet the requirements of clause 10b of the Office of Treaty Settlements Property Checklist, and could not therefore be advertised through the protection mechanism process.

Also noted that the parcel does not comply with the Tauranga City Council's District Plan requirements, and a separate title could not issue and consequently would not meet requirements of the above Office of Treaty Settlements Checklist.

The above described land is therefore exempt from the Protection Mechanism and Sites of Significance processes.

Nāku noa, nā

Denis McCord
Property Analyst- Protection Mechanism

Attached: 1 map

Released under the Official Information Act 1982

Lot 1
DPS 45312
0.6450
SA48D/896

Lot 2
DPS 45312
7.0160
SA48D/887

Lot 1
DPS 48736
4.19300
SA44B/46

Lot 1
DPS 53673
2.3700
SA45B/265
Section 1
SO 58241
1.1660
SA69A/122

Section 1
SO 59443
0.8000

Allen Dr

Lot 4
DPS 34961
1.3209
173890

Lot 2
DPS 63988
2.0300
SA67D/525

Lot 2
DP 306541
12.8310
25516

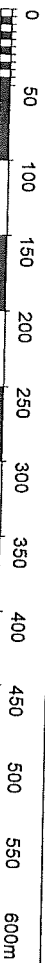
Lot 4
DPS 33938
0.9090
SA54D/747

Locator Coordinates (NZMG)
E 279 0208
N 638 8196

Lot 1
DPS 17226

Tauranga

OFFICE OF
TREATY SETTLEMENTS
P.O. Box 919
WELLINGTON
16.10.09 PJM



QuickMap
Custom Software Ltd

Any person wishing to rely on the information shown on this map must independently verify the information
Scale 1:5000



Department of Conservation
Te Pūpa Aiaurahi

28 June 2010

Kimiora Rawiri
Chief Executive Officer
Ngati Ranginui Iwi
PO Box 2526
TAURANGA

Tēnā Koe Kimiora

Sulphur Point Reclamation Vesting

As discussed by phone, Port of Tauranga Limited have applied to the Minister of Conservation under section 355 (1) of the Resource Management Act 1991 to obtain title for an area of reclaimed land which now forms part of the Sulphur Point Wharves. This land is 8000 m² being Section 1 SO 59443 (see attached plan) and was reclaimed in 1991.

The reclamation was carried out under authority of an Order in Council made under the Harbours Act 1950 and published in the NZ Gazette 1991. As part of this process the following actions have been completed:

- a scheme plan was prepared and approved by the Chief Surveyor and forwarded to the Ministry.
- Notice of the proposed reclamation was published twice in local newspapers and adjoining owners were notified with a two month submission period.
- At the end of that period a recommendation was made to the Governor General for the making of the Order in Council and this was made.
- A certificate under Section 245 of the RMA was issued.

An application for title from the Port of Tauranga has now been received by the Department and is being processed. As part of this process the Department has consulted with Ngai Tamarawaho and now seeks confirmation from the Board as to any other iwi/hapu interests in this area.

If you have any queries with regard to the above please contact me.

Yours faithfully

Helen Neale
Conservation Support Officer – Planning
Plans attached
For Conservator



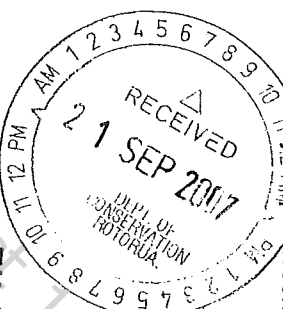
HOPEC
LAWYERS

Holland Beckett

96 Cameron Road Private Bag 12011
Tauranga 3143 New Zealand DX HP40014
Telephone 07 578 2199
Facsimile 07 578 8055
Email lawyers@hobec.co.nz
Website www.hobec.co.nz

19 September 2007

Bay of Plenty Conservancy Officer
Department of Conservation
PO Box 1146
ROTORUA 3040



FILE REFERENCE

Port of Tauranga - Title Sulphur Point - Section 1 SO59443

1. We act for Port of Tauranga Limited ("the Port") which is seeking to obtain title to 8000m² it reclaimed from the seabed in 1991, and which now forms part of the Sulphur Point Wharves. The land is 8000m² being Section 1 SO59443. An A4 copy of that plan is **attached** (A) together with a locality map (B).

2. This letter is an application pursuant to s35(1) Resource Management Act 1991 ("the RMA") for title in the land to vest in the Port of Tauranga Limited. We have already written to you on 16 April 2007 to obtain a certificate under s245(5)(a)(ii) of the RMA and you responded forwarding a certificate on 24 April 2007. While this letter repeats a lot of the information in our earlier letter, the background is also relevant for the application in this letter.

Background

3. The reclamation was carried out under authority of an Order in Council made pursuant to s175(3) of the Harbours Act 1950 ("the Harbours Act"), published in the NZ Gazette 1991 at p.126. A copy is **enclosed** (C). The plan referred to in the Gazette notice is SO58485 (copy **enclosed**) (D) and is the plan of the proposed reclamation. SO59443 is the "as built" plan which is the final plan required at that time to get title.

4. Before the passing of the RMA the procedure for reclamation and vesting of title was set out in s175A of the Harbours Act and briefly was:

(a) A scheme plan was prepared and approved by the Chief Surveyor (this was SO58485) and forwarded to the Ministry. At the same time an Environmental Impact Assessment was included. A copy of the EIA for this proposal was forwarded with our letter of 16 April 2007 as attachment (E);

(b) Notice of the proposed reclamation was published twice in newspapers circulating in the district and notifying adjoining owners who had access to the documentation and a two month objection period, during that objection period consultation occurred between interested relevant parties;

(c) At the end of that period or satisfaction of objections the Minister of Transport and the Minister of Lands (in the case of Crown land) then made a recommendation to the Governor-General for the making of the Order in Council;

Partners
Simon Paul Collett B.A.L.B.
Vanessa Jane Hamm B.A.L.B.
William Beau Holland LL.B.

John David Mackay LL.B.
John Douglas Patterson LL.B.
Michael Joseph Sharp B.Com LL.M.

Dean Andrew Thompson LL.B.
Mark Eaton Tingey B.Com LL.B.

Consultants
Allen Conway Hunter LL.B.
Michael John Smith LL.B.
Nanette Marie Stone LL.B.

JDP-228826-889-L8-V2.DOC:jfk

- (d) The Order in Council was made;
 - (e) Finally, pursuant to s175B(4), there is a statutory imposed condition that upon completion of the reclamation the applicant take all steps to have a survey plan approved and in this case that is plan SO59443.
- 5. As you will be aware, the RMA came into force in October 1991 and this occurred after the approval by Order in Council, but before the final survey plan pursuant to s175B(3) was prepared. If that plan had been prepared earlier the Port could have relied on s393 of the RMA and the matter would now be finished. Unfortunately because of the requirement for the physical reclamation to be totally completed and surveyed prior to plan preparation that is not the case and from that time on the completion procedure for title was pursuant to other provisions of the RMA.
- 6. The relevant provisions and procedure under the RMA appear as follows:
 - (a) Obtain a coastal permit for the reclamation. In this case, instead of obtaining a coastal permit, the Governor-General's consent referred to in the order in Council above, is a coastal permit pursuant to s384 of the RMA;
 - (b) Under s355(1), the Port may apply for title to the reclamation;
 - (c) Under s355(3), the Minister may, by notice in the Gazette, vest title after:
 - (i) determining an appropriate price (if any); and
 - (ii) ensuring the consent authority has issued a certificate under s245(5)(a)(ii) in respect of a Restricted Coastal Activity (RCA) or (5)(b)(ii) (non-RCA).
- 7. In this case, the reclamation was an RCA because it extends more than 100m in one direction so the consent was under s245(5)(a)(ii). As mentioned, that certificate has been obtained and a copy is **attached**. The original is available if you require it.
- 8. As the certificate under s245 is now available, there are only the two major matters to be dealt with:
 - (a) That we apply for title, which this letter is doing; and
 - (b) That the Minister determines an appropriate price (if any) to be paid by the Port.
- 9. This letter is therefore directed primarily at the question of an appropriate price to be paid. It is our contention that there should be no price payable for this land for the following reasons:
 - (a) Quite clearly, because of the insertion of the words "(if any)" in s355(3)(a) of the RMA it is contemplated that there will be occasions when no price is payable for the sea bed. We believe those words were intended to apply to an application such as this;
 - (b) The procedure was commenced at the beginning of 1990, approximately 18 months prior to commencement of the RMA. The Port's expectation when this reclamation was commenced was that there would be no money payable in respect of the land. The reason for this is that the reclamation was commenced under the regime set out in the Harbours Act 1950 which clearly had no express provision for payment for

the seabed. The practice of the Ministry of Transport in vesting land under the Harbours Act procedure was invariably that no charge would be made for the land. Those charges, or the absence of them, would have been taken into account when assessing the economics of the reclamation.

- (c) If the application had been made a short time sooner, the matter would have been dealt with under the Harbours Act provisions and title would automatically have vested without charge under s393 of the RMA. It seems unreasonable to impose a charge which would not have been payable had survey plans been completed just a short time earlier. It may be different if the reclamation application had commenced after commencement of the RMA.

- (d) At the time of port privatisation, port companies acquired and paid at valuation for the port related commercial undertakings such as wharves and occupancy rights. The price dictated by the Ministry of Transport requirements was that they were to be valued on the assumption "that existing (i.e. port) usage would continue". This meant that the valuations were not on a bare asset basis but as a going concern and including all the harbour rights necessary to operate as a port. It was not expected therefore that the ports would later pay again for the same rights as they had already paid for those rights under the port company plan. We believe this was one of the reasons behind the retrospective granting of s384A permits which recognised the pre-RMA rights of port companies that were taken away by the RMA/port company reform legislation. Similar reasoning applies to pre-RMA rights such as this.

- (e) There also has been no significant loss of value to the public domain. The land was previously one metre below low tide and adjoined an already modified area of industrial use and zoning. It had insignificant conservation value.

- 10. In conclusion, our submission is that no price should be payable for the reclaimed land because:

- (a) That was the expectation of the parties at the time the reclamation commenced;
- (b) That is the fair result; and
- (c) There is no significant removal of any conservation value from the public arena.

- 11. As mentioned earlier in this letter, this case appears to be an example of a case where the Minister would be expected to exercise his discretion to not make any charge in respect of the seabed being vested.

- 12. If you require any further information or have any queries, please do not hesitate to contact us.

Yours faithfully
HOLLAND BECKETT


JOHN PATTERSON
Partner

encl.

CERTIFICATE

(Pursuant to Section 245(5)(a) Resource Management Act 1991)

THE MINISTER OF CONSERVATION hereby certifies that:

The area of reclamation of part of Tauranga Harbour Bed, that is more particularly described in the Schedule, conforms with the requirements at the time the reclamation was completed.


SCHEDULE
(South Auckland Land District)

All that parcel of land containing 8000 m² shown and described as Section 1 on Survey Plan SO59443.

Dated at Rotorua this 24th day of April 2007.



SIGNED on behalf of the Minister of Conservation,
by KEITH LESLIE OWEN acting under delegated authority
in the presence of:

Witness signature: 

Witness Name: Clive Cameron

Occupation: Community Relations Officer

Address: Department of Conservation

PO Box 1146

Rotorua.

*Approved by J. S. 2007
Not a Verbal Consent*

ATTACHMENT A

Plan SO59443

Released under the Official Information Act 1982

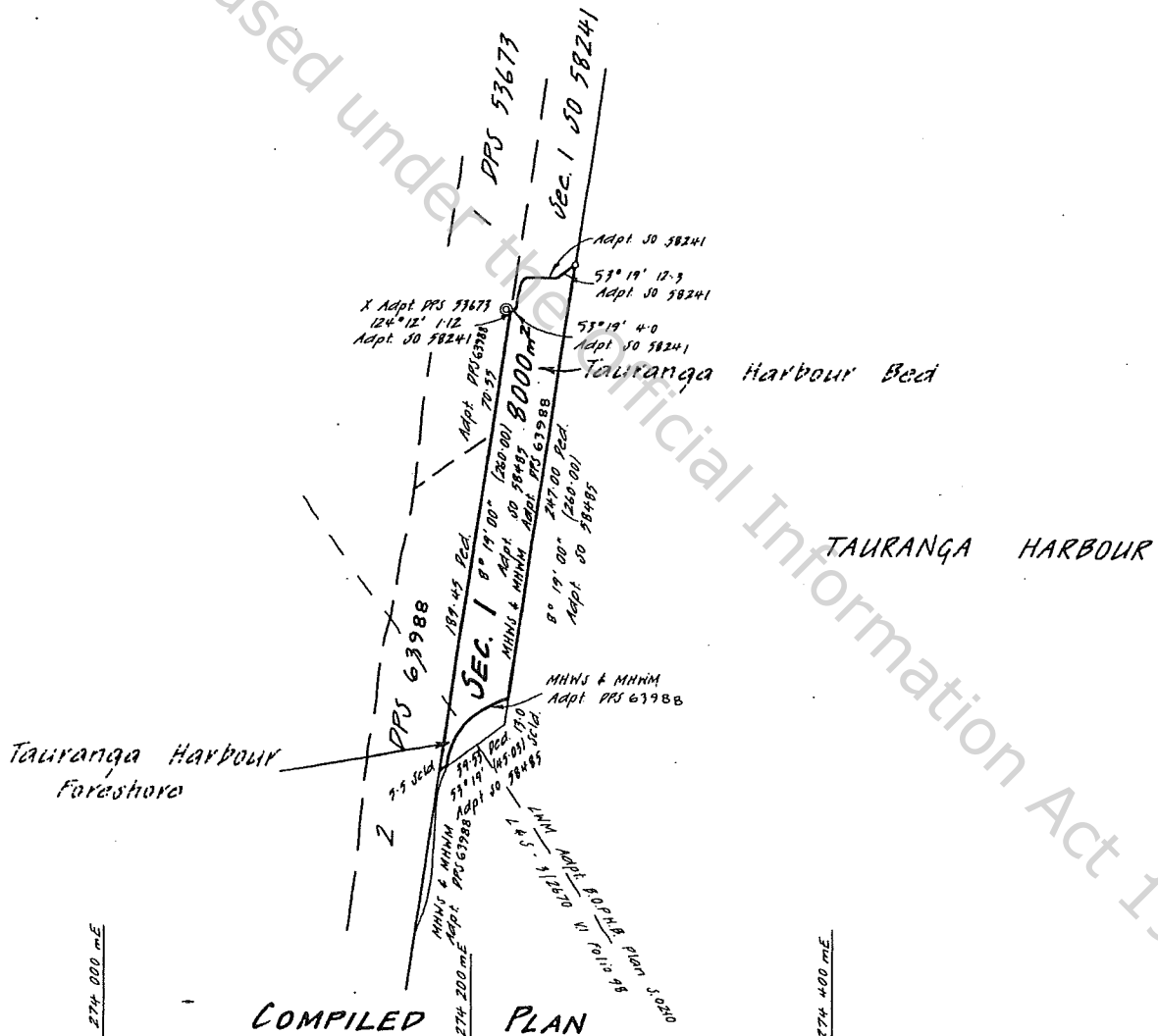
Note: Section 1 hereon has no frontage to a Public Road.



710 800 mN

710 600 mN

710 400 mN



Approvals	
Reclamation authorised by NZ Gazette 1991 p 126	
Datum: Geodetic 1949 Ray of Plenty Circuit Coordinates Origin: Maketu 700000 mN 300000 mE	
Origin: SPX Adpt DPS 53673 710 674 36 mN 274 218 01 mE	
Total Area 8000 m ²	
Comprised in Bed of Tauranga Harbour & Tauranga Harbour Foreshore	
I, <u>NALLACE GRAHAM HOLMES</u> Registered Surveyor and holder of an annual practising certificate for who may act as a registered surveyor pursuant to section 25 of the Survey Act 1988) hereby certify that this plan has been made from surveys executed by me or under my directions, that both plan and survey are correct and have been made in accordance with the Survey Regulations 1972 or any regulations made in substitution thereof. Dated at <u>Tauranga</u> this <u>20</u> day of <u>September</u> 1992. Signature <u>[Signature]</u>	
Field Book p. <u>81222</u> Traverse Book p. <u>81222</u>	Reference Plans <u>JO 53673</u> <u>JO 58241</u> <u>JO 58485</u>
Examined <u>Am. Kitch</u> Correct <u>Yes</u>	
Approved as to Survey <u>[Signature]</u> 20/11/92 Dep Chief Surveyor	
Deposited this day of 19	
430763 File COO11 Received 13-10-92 Instructions	District Land Registrar SO 59443

LAND DISTRICT SOUTH AUCKLAND
SURVEY BLK. & DIST. VI TAURANGA
NZMS 261 SHT 1114 RECORD MAP No 5-2, 20-08

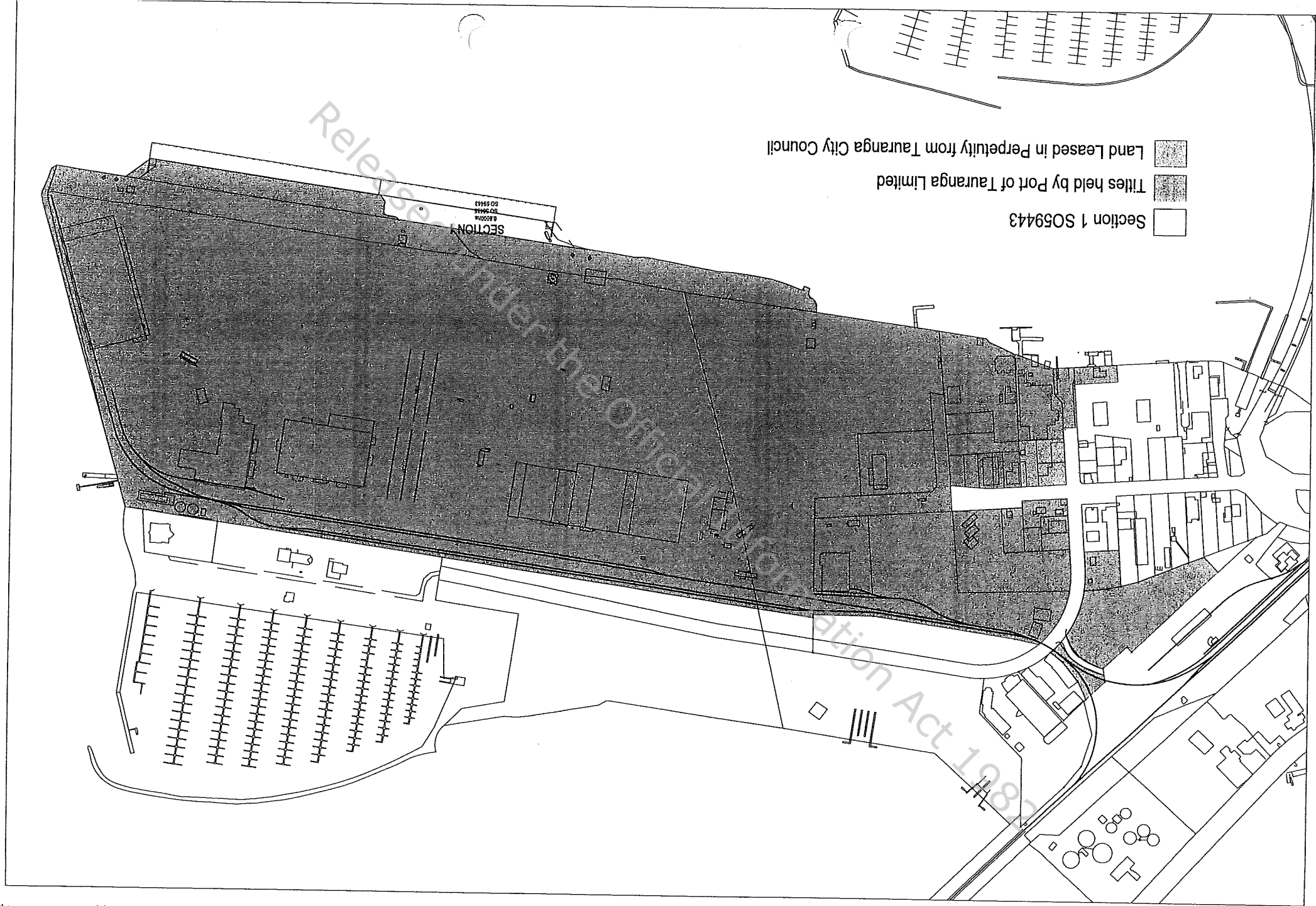
SECTION 1

TERRITORIAL AUTHORITY TAURANGA DISTRICT
Surveyed by SHRIMPTON & LIPINSKI LTRF 10977
Scale 1:2000 Date September 1992

ATTACHMENT B

Locality Map

Released under the Official Information Act 1982



ATTACHMENT C

Copy Gazette Notice dated 17 January 1991

Released under the Official Information Act 1982

Extract from N.Z. Gazette, 17 January 1991, No. 5, p. 126

**Authorising Port of Tauranga Limited to Reclaim
Land from the Bed of Tauranga Harbour
THOMAS EICHELBAUM, Administrator of the Government
ORDER IN COUNCIL**

At Wellington this 10th day of December 1990

Present:

**HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT
IN COUNCIL**

Pursuant to section 175 (3) and subject to sections 176 to 182 of the Harbours Act 1950, I, the Right Honourable Sir Johann Thomas Eichelbaum, the Administrator of the Government, acting on the recommendation of the Minister of Transport, and by and with the advice of the Executive Council, hereby authorises Port of Tauranga Limited to reclaim an area of 82, square metres of the bed of Tauranga Harbour, as shown on plan M.D. 16534 (S.O. 58485) deposited in the office of the General Manager, Maritime Transport Division at Wellington and as more particularly described in the Schedule below.

Schedule

All that parcel of land containing 8278 square metres, more or less, situated in Block VI, Tauranga Survey District of the South Auckland Land District, and being part of the bed of Tauranga Harbour and more particularly shown marked "A" on plan M.D. 16534 (S.O. 58485) deposited in the office of the General Manager, Maritime Transport at Wellington.

MARIE SHROFF, Clerk of the Executive Council.
(MOT, MTD 43/13/6/25)

30452

Released under the Official Information Act 1982

DATE :

27 July 1999

TO :

Ruth Lee, Solicitor, Bay of Plenty

FROM :

Warren Sisarich, Head Office

STATUTORY PROVISIONS : Resource Management Act, sections 355, 384, 393; Harbours Act, section 175

KEY WORDS :

Vesting of reclamations; transitional provisions, price

SUBJECT :

VESTING OF RECLAMATION - PORT OF TAURANGA

I refer to your memo of 3 June 1999 and apologise for the delay in replying.

This particular reclamation straddles both the Harbours Act and the Resource Management Act 1991 (RM Act) and the transitional provisions of the Act apply. You have noted this in your memo. You have also referred to another vesting application in Dive Crescent which is in a similar situation. In that case the land was originally reclaimed in 1925. As you note in your memo there is a need for consistency in handling reclamations which occurred prior to the introduction of the RM Act.

Part of the difficulty in dealing with these transitional cases is that they give rise to their own particular set of circumstances which do not always fit neatly into the transitional provisions in the legislation. The guidelines on vesting of reclamations and the Crown Law advice likewise do not throw any particular light on how these transitional cases should be dealt with, as both the guidelines and the Crown Law advice deal mainly with the vesting of land that has been reclaimed under the RM Act.

In light of those preliminary comments I would make the following comments on the questions you have raised.

Question 1: "Please confirm if the Minister should proceed to consult with iwi in terms of his obligations under section 355".

Comment : In my view you have summarised the legal position concerning iwi consultation under section 355 succinctly when you comment in paragraph 3 of your letter of 3 June 1999, “that consultation with iwi is required by the Minister unless he is able to make an informed decision without such consultation”.

Crown Counsel, Briar Gordon, in her opinion dated 26 May 1997 at paragraph 15 (Crown Law opinion attached) stated :

“It will often be the case (and I understand that this is the case in the circumstances we are concerned with here) that the views of iwi were fully canvassed in the resource context process ...”

In the present case it is not clear what consultation, if any, was carried out with iwi. In any event I suspect that in 1991 any consultation with iwi may have left a lot to be desired in terms of proper consultation. Holland Beckett Malby in their letter of 31 May 1999 state:

“This land was originally approved for reclamation under the Harbours Act 1950 by the Ministry of Transport by Order in Council in 1991. Consultation requirements at that time were in accordance with the Harbours Act 1950 and were undertaken prior to the commencement of reclamation works. Even with reference to the RMA, a deemed resource consent has been given for works by the Regional Council and therefore any necessary consultation would be deemed to have taken place prior to granting of the consent.

Approval, construction and vesting were all part of a seamless process set out in the Harbours Act 1950. To suggest, as you do, that consultation should be carried out in stages firstly for approval to reclamation and secondly for approval to vesting denies the procedure in fact laid out, and also denies logic. It would be inconceivable that consultation take place for approval, consent granted, millions of dollars spent on the reclamation, and the applicant then required to submit to a further consultation and consent process for ownership.”

There is nothing on the face of those comments which indicates that there was any consultation with iwi. The original recommendation to the Governor-General to make an

Order in Council authorising the reclamation was made by the Minister of Transport. While it can be assumed that the public notification procedures outlined in section 175A were complied with, there is nothing in that section which required any particular consultation with local iwi. In the absence of any real evidence to the contrary it could be reasonably assumed that there was none. The fact that consultation with iwi was not a specific requirement of the authorisation process under section 175A would indicate that for the purposes of section 355 it is reasonable to assume in the absence of any evidence to the contrary that the views of iwi were not canvassed.

While it is true that in terms of the transitional provisions of the RM Act the Order in Council made under section 175A “shall be deemed to be a coastal permit”, the transitional provisions in relation to vesting as set out in section 393(4) of the RM Act do not apply. That being the case the provisions of the RM Act and section 355 govern the question of vesting this particular land. Even in a situation where the transitional provisions of section 393(4) applied, while consultation with iwi may not have been an express requirement under section 175D of the Harbours Act, that would not preclude consultation from being necessary before vesting land pursuant to the transitional provision under section 175D in 1999. However, leaving that question aside, it is clear on the basis of Crown Law advice that under the provisions of the RM Act consultation with iwi is necessary at least at some stage of the process, before the Minister exercises his discretion under section 355.

Holland Beckett Maltby put forward the argument that “approval, construction and vesting were all part of a seamless process”, and that it is therefore illogical to require consultation at various stages of the process. They also argue that the same logic applies to vesting under the RMA. That argument, however, is not supported by either the separate provisions in the Acts (i.e. separate vesting provisions) or by the guidelines or by Crown Law advice. It is acknowledged that the process can give rise to difficulty in that large sums of money may be involved in the development of a reclamation for which there can be no guarantee of an ultimate vesting. For that reason developers are encouraged to address the question of vesting at the resource consent stage; to consult early and to become familiar with the requirements and guidelines relating to vesting. If a developer following consultation with iwi, is able to secure some assurances or undertakings in regard to the ultimate vesting, without fettering the Minister’s discretion, then in that situation the developer may be entitled to say that he had some legitimate expectation in respect of an ultimate vesting. Beyond that,

however, the developer is involved in a commercial risk situation in which he must weigh up the risks and advantages for himself.

Question 2 : "This question relates to the validity of the survey plan that was approved by the Chief Surveyor under section 175(b)(4) of the Harbours Act 1950 in November 1992.

Comment: Section 393(4) of the RM Act 1991 provides that:

"Where, before the date of commencement of this Act, -

- (a) The Governor-General had authorised the reclamation of land by Order in Council under section 175(2) or (3) of the Harbours Act 1850; and
- (b) The Chief Surveyor had approved the survey plan as referred to in section 175B(4) of the Harbours Act 1950 (where such approval was a condition of the authority to reclaim) -".

*Not on National Office
files 8/12/11*

Holland Beckett Maltby acknowledge in their letter of 6 October 1997 that the final approval of the survey plan which was purported to have been approved under section 175B(4) of the Harbours Act 1950 was ineffective because it was done in November 1992 by which time that particular section of the Harbours Act 1950 had been repealed (section 362 RM Act 1991 – which came into force on 1 October 1991).

While it is true that the Order in Council itself is deemed to be a transitional resource consent under section 384(1)(b) of the transitional provisions, section 393(4)(b), relating to survey plans approved under the Harbours Act 1950 clearly does not apply.

The purported survey approval under a provision that had been repealed at the time is a nullity. That being so, a new approval will be necessary in accordance with the provisions of section 245 of the RM Act. It is at that point that the question of whether the reclamation falls within the RCA criteria becomes relevant. In terms of section 245(5)(a) if the reclamation is an RCA it is the Minister of Conservation, as consent authority, who approves the plan of survey.

Question 3: This question relates to the price (if any) that should be paid.

Comment: While I agree with the assertion that in terms of section 355 of the Resource Management Act there is legislative intent that the Minister has a discretion to determine no price be payable for vesting of reclaimed land (the words in brackets in the provision “(if any)”, support that assertion), I do not agree with the assertion in paragraph 6 of the Solicitor’s letter that under section 175D of the Harbours Act 1950 “there was no provision for a price to be paid”. While that may have been the expectation of some parties at that time and, subject to evidence supporting that expectation, would be a relevant matter for the Minister to consider exercising his discretion under section 355, it is clear that in terms of section 175D(c) of the Harbours Act 1950 he, could as a “term or condition” of the vesting, determine that a price be paid.

The fact that in 1991 the Port of Tauranga could have obtained a vesting of the land without payment has now become largely hypothetical. The fact of the matter is that the vesting is now being considered in terms of the RM Act in 1999.

It can be accepted that the Port of Tauranga’s reclamation was “undertaken and approved for the purpose of adding a significant economic benefit to the community, and as an important regional and national resource”. That is a matter that is a relevant consideration for the Minister in exercising his discretion under section 355.

While it is not true that under section 175D “there was no provision for a price to be paid”, it is probably true that most vestings under the Harbours Act where the applicant was a Harbour Board or a Local Body, did not involve any price being paid, and that the expectation of most developers seeking a vesting under the Harbours Act was that the land would vest free of charge. In the period leading up to the passage of the RM Act in 1991 the values of the seabed and foreshore being developed by way of reclamation were not appreciated and reclaimers were often regarded as carrying out a public service in reclaiming unsightly foreshore (eg mangroves).

In 1999 foreshore and seabed is more highly valued and its intrinsic worth has been recognised with the vesting

Nevertheless, the expectation held by the developer at the time the approval was sought is not irrelevant in my view but is a further matter the Minister should have regard to in the exercise of his discretion under section 355.

I am making further inquiries about what is happening with Dive Crescent and will advise you about that separately.

Warren Sisarich
for Chief Legal Adviser

Released under the Official Information Act 1982

CONSERVATION
RECEIVED
19 MAR 1999
RECORDS
AUCKLAND

Department of Conservation
Private Bag 68908
AUCKLAND

Attention: Marilyn Fullum

Dear Ms Fullum

POSITION	COPY	READ	ACTION	SIGN DATE	FILE
CONSERVATOR					
HRA					
TSM					
CRM					
KAM					
BSM					
SOLICITOR					
AUCKLAND AM					
WARKWORTH AM					
GRI AM					

Mrs K M Barry-Piceno
6 October 1997

Request for Vesting of Reclaimed Land under Section 355 of the Resource Management Act 1991 on Behalf of Port of Tauranga Limited

Further to our telephone conversations with yourself and Warren Sisarich, we are forwarding this matter to you, with an outline of the relevant issues:

- Port of Tauranga wishes to obtain a certificate of title for a piece of land S059443 area of 8000m² approved for reclamation under the Harbours Act 1950, section 175 by Order in Council by the Ministry of Transport in 1991 (NZ Gazette Notice 1991, p126) by vesting from the Minister of Conservation under section 355 of the RMA.
- This piece of land (S059443) is rather unusual, as we have been advised by the Ministry of Transport it cannot be vested under the transitional procedure of section 393(4) of the Resource Management Act 1991 by the Governor General, although it complies with section 393(4)(a) in that the Governor General had authorised the reclamation of land by Order in Council under section 175(b)(3) and Section 178(B) of the Harbours Act 1950. The Chief Surveyor approved the survey plans under section 175(b)(4) of the Harbours Act 1950 in November 1992, which was subsequent to the commencement of the Resource Management Act 1991 so the final approval did not comply with sub-section 393(4)(b).
- The Order in Council would be deemed to be a transitional resource consent under section 384(1)(b) of the Resource Management Act. The reclamation was undertaken by the Port of Tauranga during the transitional years of the Resource Management Act coming into force, under a deemed coastal permit given under section 384(1)(b) of the Act.
- This land has now been reclaimed and developed, and is at a stage where it is appropriate to apply for vesting of the reclaimed land to the Ministry of Conservation in accordance with section 355 of the Resource Management Act 1991. In regards to the discretionary exercise of the Minister's authority in accordance with section 355(3) we would make the following submissions:-

- (a) In regard to 355(3)(a) there should not be a determination of appropriate price to be paid by the applicant, Port of Tauranga Limited, as at the time of the contemplation of the vesting of the reclaimed land by the Ministry of Transport to the Port of Tauranga pursuant to the Harbours Act 1950 section 175, no consideration was determined as payable.
- (b) The final survey plans were completed and approved on 20 November 1992 in accordance with the reclamation authorised by the New Zealand Gazette 1991, page 126, by Order in Council under the Harbours Act 1950, section 175B(4).
- (c) The reclamation conforms with the coastal permit and relevant provisions of the regional plan, in so far as the proposal was approved by the relevant authorities under a deemed coastal permit by section 384(1)(b) of the Resource Management Act 1991.
- (d) It would seem to us a practical solution to this matter if, for the purposes of section 245(4), the consent authority approved the survey plan as conforming with its resource consent and regional plan, originally given by virtue of section 175 of the Harbours Act 1950, and then by section 384(1)(B) of the RMA, section 245(2) has also been complied with, as this relates to the equivalent requirement in section 175(B)(4) of the Harbours Act 1950 final survey approval.
- (e) The final survey plans were approved by the Chief Surveyor and Tauranga District Council in accordance with section 175B(4) of the Harbours Act 1950. Should this have been done under section 245(4) of the Resource Management Act, based on the date of approval being October 1992? Could this be deemed the appropriate consent authority approval for the purposes of section 245(5)(a), to allow the Minister's approval for vesting of the completed reclamation title to the Port of Tauranga?
- (f) As the reclamation would be considered a restricted coastal activity under the RMA, the Minister of Conservation would be deemed to now be the relevant consent authority for the purposes of section 245(5)(a)(i) and (ii).
- We would therefore request the Minister of Conservation to exercise his powers under Section 355 of the RMA to vest reclaimed land title S059443 in the Port of Tauranga Limited. If you need any further documentation or information to resolve this matter please contact us.

Yours faithfully

HOLLAND BECKETT MALTBY



K M BARRY-PICENO

(Solicitor)

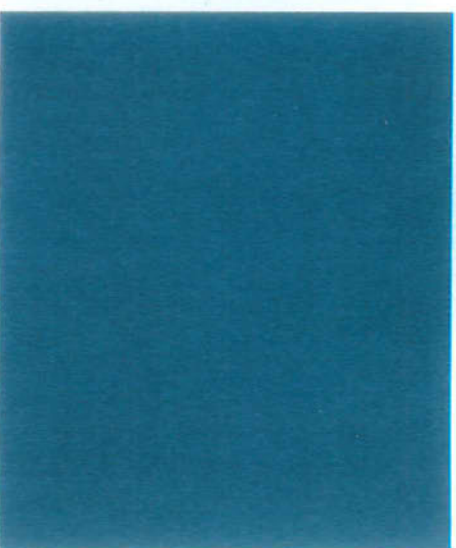
Report

Harbour Central Coastal Permit

Prepared for Priority One

By Beca Carter Hollings & Ferner Ltd

27 September 2010



Report

Harbour Central Coastal Permit

Prepared for Priority One

By Beca Carter Hollings & Ferner Ltd

27 September 2010



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This report has been prepared by Beca on the specific instructions of our Client. It is solely for our Client's use for the purpose for which it is intended in accordance with the agreed scope of work. Any use or reliance by any person contrary to the above, to which Beca has not given its prior written consent, is at that person's own risk.

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1 Introduction

This coastal permit application and associated assessment of environmental effects relates to the proposal for stage one of the Harbour Central ('Harbour Central') Marine Precinct at Sulphur Point. As it is not possible to foresee all possible future uses of the area, this application provides for those considered most likely.

The proposed site land area is approximately 2.5 hectares in area and is currently occupied by Tauranga City under an agreement with the Port of Tauranga. The occupation of 5 hectares of CMA is proposed, approximately 9500m² of which will be exclusive. Almost all of this area is presently occupied by the Port of Tauranga and there is no significant change to existing occupation arrangements. Tauranga District Council operates the existing wharves in the area.

It is intended that these facilities will continue to remain in Council ownership and that improvements will be made to the area, including installation of approximately 180m of seawall and construction of a ship haul-out area. Ongoing maintenance and upkeep of the existing facilities, and dredging to allow the ship haulout facility to operate are also proposed.

Long-term, it is expected that the Harbour Central area will make a significant contribution to the local marine industry and will fill a gap that exists for ship maintenance and repair. The viability of nearby businesses to cater for a range of vessels depends on the works proposed under this application.

In parallel with this consent and because retail is not accommodated in the Port Business Zone, a detailed submission to the Proposed Tauranga City Plan has been made requesting a more specific zoning to allow retail activities in the Harbour Central area. The proposed changes to the District plan are due to be heard in November and will enable Council to properly integrate use of this area across the line of MHWS. This consent application, and the ability to provide for a retail component in the landward environment, will complete the package of works necessary to enable the Harbour Central Marine Precinct.

Released under the Official Information Act 1982

2 Application Forms

Released under the Official Information Act 1982



Environment Bay of Plenty
PO Box 364
Whakatane

Free Phone: 0800 ENV BOP
(0800 368 267)

Free Fax: 0800 ENV FAX
(0800 368 329)

Website: www.envbop.govt.nz

File ref.			
	SEEN		SEEN

Office Use Only

Application for a Resource Consent – (Base Form) Resource Management Act 1991 (s.88)

**See notes to applicant (last pages of form) before
proceeding with application form**

Under section 88 of the Resource Management Act 1991, the undersigned hereby makes application for resource consent(s).

1 Full name of applicant(s):
(the name that will be on the consent)

Surname: TAURANGA CITY COUNCIL

First Names: C/- ANTHONY AVERILL

or

Trust Name:

Trustees Names:

or

Company Name:

Contact Person:

Postal Address: Private Bag 12022, Tauranga 3143

Residential phone: 57777000

Business phone:

Facsimile number:

Cell phone: 027 279 1750

Email: Anthony.Averill@tauranga.govt.nz

2 **Details of consultant**

(or other person authorised to make application on behalf of applicant)

Company Name: BECA
Contact person: JAMES LOW
Postal address: PO BOX 903
TAURANGA

Business phone: 577 1140
Facsimile number: 578 2968
Cell phone: 027 266 7480
Email: JAMES.LOW@BECA.COM

All correspondence *(including invoices for charges)* relating to this application(s) should be sent to:

☐ Applicant:
☒ Consultant:

3 **Name and address of owner/occupier of the site relating to application**

(only include this information if different to the applicant)

Owner: CROWN

Postal Address:

Residential Phone:

Business Phone:

Occupier:

Postal Address:

Residential Phone:

Business Phone:

Continue on additional sheet at end of document if needed

4 Consent(s) being applied for from Environment Bay of Plenty:

(You will need to fill in a separate form for each of the activities. If you have any queries, contact a consents administration officer at Environment Bay of Plenty on 0800 ENV BOP (368 267).)

Land use

- ☐ Form 1 Beds of lakes and rivers (use, place, alter or remove structure in river, stream or lake; disturb bed of river, stream or lake (excluding shingle extraction); deposit substance in on or under bed of river, stream or lake).
- ☐ Form 2 Land disturbing activities (earthworks, quarrying, vegetation clearance / harvesting / burning)
- ☐ Form 3 Shingle extraction

Water (including coastal)

- ☐ Form 4A Take surface water (includes intake structure)
- ☐ Form 4B Take groundwater
- ☐ Form 5 Dam/divert/use water
- ☐ Form 6 Geothermal - take and discharge

Discharge (including coastal)

- ☐ Form 7 Discharge contaminant to air
- ☐ Form 8 Discharge contaminant or water to water
- ☐ Form 9 Discharge contaminant to land
- ☐ Form 10 Onsite effluent discharge
- ☐ Form 11 Discharge farm dairy effluent

Coastal (see point 4 of information sheet for explanation of the coastal marine area).

- ☒ Form 12 General (occupancy; disturb foreshore or seabed; plant foreshore or seabed; deposit substance, remove natural material, reclaim or drain; place, remove or alter structure).

5 Location description of activity:

Site Address: N/A - CMA

Legal description: *(Legal description can be obtained from your certificate of title, valuation notice, or rate demand)*

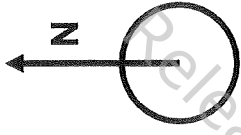
Map reference NZMS 260 U14 900 871 - (LAT/LONG: -37.673818,176.172316)

Continue on additional sheet at end of document if needed

Site plan

Please provide a site plan showing any works relating to the proposal, area surrounding the site including the names of current owners and occupiers of adjoining property. A lot map from the district council will assist in identifying potentially affected parties.

SEE APPENDICES TO ATTACHED AEE



Released under the Official Information Act 1982

6 **In which district is the activity located:**

- ☐ Whakatane District
☐ Opotiki District
☐ Rotorua District
☐ Kawerau District
☐ Western BOP District
☒ Tauranga District
☐ Taupo District

Do you also require resource consent(s) from a district council? ☐ Yes ☒ No

Type of consent required:

Have these been applied for? ☐ Yes ☐ No

7 **Refer to relevant activity form.**
(From Question 4)

8 **Is this application to replace an existing or expired consent?**

☒ Yes ☐ No

If so, please state the number of that consent: 61926

9 **Duration of consent**

Please specify the duration sought for your consent(s):

35 years - months

Start Date: 01 / 01 / 2011

Completion Date (if applicable): / /

10 **Draft Conditions**

I wish to see draft conditions for my comment before consent is granted and I agree to an extension of timeframes under section 37 of the Resource Management Act to allow this to occur.

☒ Yes ☐ No

11 **DEPOSIT FEE**

A deposit fee of \$774.00 (including GST) is payable with this application. A GST invoice marked 'PAID' will be issued on receipt of payment. Processing of the application will not begin until the deposit fee has been paid. Additional charges are usually incurred for the majority of consents that are not minor. Staff can give an indicated range of expected costs.

Checklist

- ☒ Complete all details applicable in this application form.
- ☒ Include an assessment of effects of the activity, as set out in this application form.
- ☒ Include a site plan.
- ☒ Supply written approval from all affected parties.
- ☒ Sign and date the application form.
- ☒ Pay the required deposit.
- ☒ Any information required by regional plan(s) or regulation(s).
- ☒ Include any other information you think relevant.

Important Note Information Privacy Issues

The information you provide in this application is regarded as official information. It is required under the provisions of the Resource Management Act 1991 to process this application and to assist in the management of the regions natural and physical resources.

The information will be held by Environment Bay of Plenty, Quay Street, Whakatane. This information is subject to the provisions of the Local Government Official Information and Meetings Act 1987 and the Privacy Act 1993.

Failure to provide this information will mean that Environment Bay of Plenty will be unable to process your application.

I have read and understand all of the information contained on this application form including the requirement to pay additional costs that will be itemised.

Signature _____

Date

27/9/2010

Form 12

Application for a coastal permit

Question 7 Assessment of effects on the environment (AEE)

Section 88 of the Resource Management Act 1991 requires all applications for resource consents to include an assessment of the actual or potential effects that the proposed activity may have on the environment and the ways in which any adverse effects can be mitigated. The Fourth Schedule of the Act lists the matters that should be included in such assessments and a summary is printed on the back of the application form.

You must fully complete this section or your application cannot be processed.

The information you supply should be detailed according to the scale, scope and effects of the proposed activity.

Applicants for small scale proposals having minor effects should be able to supply sufficient information by filling in the spaces provided. More complex proposals with more significant effects will need to address the following matters (in accordance with the Fourth Schedule) as a separate document.

If the AEE is presented in the format of a report, it must address the following matters, if appropriate.

If you are unsure how to complete this section please contact an environmental consents officer at Environment Bay of Plenty

1 Description of activity Coastal permit (Section 12—Resource Management Act)

Type of permit(s) sought (mark appropriate box(es))

- ☐ Reclaim/drain any foreshore or sea bed
- ☒ Erect/reconstruct/place/alter/extend/remove or demolish any structure or part of a structure fixed in/on/under or over foreshore or sea bed
- ☒ Disturb foreshore/sea bed including excavating/drilling/tunnelling
- ☐ Deposit any substance in/on or under any foreshore or sea bed
- ☐ Introduce or plant any exotic/introduced plant in/on or under the foreshore or sea bed
- ☒ Occupy part of the coastal marine area where the land is owned by the Crown or is vested in the regional council
- ☒ Remove sand/shingle/natural material from land owned by the Crown or land vested in the regional council within the coastal marine area
- ☐ Other

Please describe the proposed activity in detail (*dimensions, purpose, materials to be used, reasons why it is needed*)

SEE ATTACHED AEE

Area occupied - Approx. 50,000 m²

Persons likely to be directly affected:

For your application to be considered for non-notification, you must gain the written approval of all persons who may be affected by the proposal. Please specify below those parties who may be affected (or interested by your proposal).

Persons who may be interested or affected and consultation undertaken

State any contact made with neighbouring land owners and occupiers and organisations such as the Department of Conservation, Eastern Region Fish and Game Council, local iwi and community groups. Where possible, record any comments made by these parties and outline your response to them. A list of people and organisations who you consider may be interested or affected should also be supplied wherever possible.

Note: Environment Bay of Plenty can provide a form for the written approval of affected persons.

Name: Dee Samuels

Address: Ngaiterangi Iwi Incorporated Society, P.O Box 4369, Mount Maunganui

Name: Kimiora Rawiri

Address: Ngati Ranginui Iwi Society, P.O. Box 2526, Tauranga

Name: Dave Cowdry

Address: Sanford Limited, P.O. Box 391, Tauranga

Name: Tony Reynish

Address: Port of Tauranga Limited, Post Bag 1 Mount Maunganui, Tauranga

Name: Moana Pacific Fisheries Limited,

Address: P. O. Box 855, Tauranga

Name:

Address:

Name:

Address:

3 Nature of Proposal

Tauranga City Council seeks to enable works in the Coastal Marine Area necessary for the operation of the "Harbour Central" Marine Precinct. The Marine Precinct (Coastal Marine) operation will include:

- ☐ Operation of a 200 tonne travel-lift. Ultimately, replacement of the travel-lift and installation of a 1000 tonne (approximately) syncrolift.
- ☐ Dredging to a depth of approximately 5.5m below chart datum, to allow large ships (up to 55m) to approach the travel-lift facility. Ultimately, dredging the syncrolift area to 8.0m below chart datum.
- ☐ The construction of finger piers associated with the travel/syncrolift
- ☐ Strengthening/ replacement of existing jetty structures associated with the old 600 tonne slipway.
- ☐ Removal of existing rock wall marginal embankment along the land/water margin.
- ☐ Establishment of 180m a sea-wall and wharf.
- ☐ Possible realignment of the end-most 600 Tonne wharf finger pier

Not all structures will be developed at once. Initially, a travel lift and piers will be built. In stage two, the capacity of the travel lift will be increased and a smaller 80 tonne facility will be constructed adjacent to the main lift.

Consent under the Bay of Plenty Regional Coastal Environment Plan is required for a number of activities detailed below. Engineering drawings, describing the above stages, are provided in Appendix B.

3.1 Occupation of Space

The Harbour Central facility will occupy approximately 5 Ha of CMA though exclusive occupation is required for approximately 9500m² of wharf and berthing area, almost all (apart from the proposed slipway) being exclusively occupied now..

The extent of the total occupation is shown in Appendix B. Exclusive occupation comprises all shown berthing and wharf areas.

Currently, the Port of Tauranga lawfully occupies almost all of this space¹. However, Tauranga City Council has an agreement for use of a majority of the space and currently operates existing wharves and berthing under this lease agreement. The Port of Tauranga has agreed to the surrender of this part of its permit to occupy this space. A small triangular area (shaded light green in Figure 1) of space not occupied by the Port of Tauranga is sought to be occupied by Tauranga City Council.

¹ Pursuant to section 384A of the Resource Management Act

Generally, berthage will be provided such that boats less than 30m in length are accommodated by way of navigational aisles 2 times the length of any boat. Larger vessels may require tug assistance when berthing at mid-tide or during strong winds. When berthed at the proposed facility, no vessels will be permitted to overhang the end of the jetty or any mooring piles on the northern side, in order to maintain a minimum clearance width of 50m.

These activities will occur under rule 13.2.4(b) of the Regional Coastal Environment Plan, which states: *Erection or placement of the following structures [list includes wharfs] ... is a discretionary activity.*

3.3 Disturbance, deposition and extraction of/from the sea-bed

The driving of piles, removal of marginal embankment and construction of a sea-wall will disturb the seabed. In addition, it will also be necessary to dredge approximately 30,000m³ of material from the site. Maintenance dredging of approximately 1000 m³ per annum is proposed also. It is likely that a cutter suction dredge will be used. The quantity of dredging to obtain the depth of 5.5m below chart datum is approximately 30,000 m³ in stage 1. This work is expected to take approximately 4 weeks to complete, depending on the dredging method used, and any staged construction methodologies.

The quantity of dredging to obtain the extra depth of 8.0m below Chart Datum for the syncrolift in stage 2 is approximately 10,000 m³, and is expected to take about 2 weeks to complete

The Bay of Plenty Coastal Environment Plan states:

14.2.4(b) Any disturbance of, deposition on, dredging of, or removal of sand, shingle and shell from the foreshore or seabed, not expressly provided for or prohibited by the other rules of this plan, is a discretionary activity.

The disposal of dredge materials may occur to sites used by the Port of Tauranga under a separate consent held by the Port. Written approval for use of the Port of Tauranga Disposal site is attached in Appendix C, as are drawings showing proposed dredging areas.

3.4 Noise

Noise will be generated during the driving of piles and other construction activities.

Rule 20.2.4(b) (i) of the Regional Coastal Environment Plan states: *Emission of noise from within the Port Zone is a permitted activity provided ... [noise standards].*

The engineering assessment included with the application confirms that noise standards are not likely to be met during construction for commercial uses within 50m of the site, but otherwise will be satisfied. Noise will comply with New Zealand Standard 6803: 1999 – Acoustics Construction Noise. Noise is not a matter addressed in the New Zealand Coastal Policy Statement.

4 Existing Environment

4.1 Landward Environment

Land adjacent the proposed works is zoned Port Business under the Proposed Tauranga City Plan and is similarly zoned under the Operative Tauranga City Plan. The area has been previously zoned Industrial.

The Port Business Zone permits Commercial or Industrial activities that need a location near the harbour (commercial fishing, repair and maintenance) and provides for all land-based use required by the Harbour Central Marine precinct except retail. Noise from within the zone is controlled by noise contours and these create a baseline level of noise consistent with Port operations.

Current uses of the area include boat-building (Hutcheson and Southern Pacific across Mirrielees Road) and fishing (Moana Pacific, and Sanford Seafoods (just outside the affected area)).

Access to the site is via Mirrielees Road, which serves the Port Container Terminal as well and Cross Road.



Figure 2: Boat Building (Hutcheson)

The land bounded by Den Place, Mirrielees Road and Cross Road is owned by Tauranga City Council and has been largely cleared in preparation for development of the Harbour Central Marine Precinct. All current leaseholders have been consulted and advised of the project.

Covenants on the land protect the Port against reverse sensitivity complaints and confirm that the proposed use is likely to be less noxious than that of the adjacent Port itself.

The Tauranga District Plan Airport Height Control Contours restrict haul-out operations to powered craft, small yachts or larger yachts undertaking a major refit sufficient to justify un-stepping the mast.

4.2 Seaward Environment

The area proposed for development falls within the Port Zone under the Bay of Plenty Regional Coastal Environment Plan (see Appendix A). The area is immediately North of the Tauranga Harbour Bridge and South of the Port of Tauranga Container terminal. Tauranga Marina is across the Stella channel from the site.

Section 3.3.2(b) of the Bay of Plenty Regional Coastal Environment Plan provides a detailed history of this zone and explains that the area is intended to provide for Port and related activities.

At present, the subject area contains a small (80 tonne) slipway (shown in Figure 2), and wharfs to the south and north ends. These are shown in Figure 4 and are discussed in more detail in the assessment that follows.

Use of the area includes berthage for a number of boats and small ships, loading and unloading of fishing boats associated with Moana Pacific and barge access (to and from the adjacent boat ramp). Sanford Seafoods also use water in the area to navigate their boats into their inner berths immediately north of the subject area.



Figure 3: Barge approaching the "Sanford's" slipway. Sanford fleet in background.

4.3 Existing Use Environment

On 12 August 2003 Environment Bay of Plenty issued Refit New Zealand Limited consent 61926 to:

- a) Erect structures in, on, under, or over the Foreshore and Seabed of the Tauranga Harbour; and
- b) Deposit in, on, or under the Foreshore and Seabed of Tauranga Harbour; and
- c) Destroy, Damage, or Disturb the Foreshore and Seabed of Tauranga Harbour

at or about NZMS 260 U14 9000 8726 (immediately south of Moana Pacific).

This consent was intended to provide for the construction of a shiplift platform, associated piers and jetties, a floating platform for drystack facilities, a 190m sheetpile retaining wall and necessary capital and maintenance dredging works. It was very similar to the current proposal.

Key features of this earlier consent were:

- ☐ Structures were to be located generally as shown in Appendix D.
- ☐ Clean sand as a result of capital dredging works was to be disposed of to land (and not sold for profit)
- ☐ Silt dominated material was to be disposed of in accordance with the Port of Tauranga permits (60079 and/or 04 0157)
- ☐ Capital dredging was to be limited to 15,000m³ (total) and Maintenance dredging 1,000m³ (per annum).
- ☐ A registered engineer was to supervise the works and their contact details and the nature of proposed works was to be advised to EBOP at least five working days prior to commencement.
- ☐ Construction was to proceed in accordance with a schedule submitted by Refit.
- ☐ Construction machinery was to be kept out of the Coastal Marine Area and any vehicle movements were to be above MHWS – so far as practicable.
- ☐ Refuelling was to be away from the CMA.
- ☐ Non – corrodible materials were to be used in construction.

In 2005 Tauranga City Council sought to transfer this consent from Refit New Zealand into its own name. For a variety of reasons this transfer never occurred and Refit New Zealand has since been liquidated and its residual assets, including this prior consent, are now owned by the Crown. The consent (61926) lapses in August 2010. This current application is intended to replace and update this earlier application and is similar in many respects to the earlier consent.

4.4 Comparisons of Proposal with the Lapsed Consent

The following table provides a comparison of what was previously sought and granted under the Refit consent and that currently proposed:

Table 1: Comparison of Refit and Current Consents

Activity	Refit Consent	Now Sought
Sheet Piling	Slightly less than 200m (190m)	Approximately 100m of Sheet piling (or other retaining) (up to Travel lift), Approximately 80m from Travel lift to Moana fisheries. (180m, approximately in total).

		i.e the same/similar.
Shiplift platform	Shiplift floating platform of approximately 70m x 20m	Travel lift system atop pier structure 70m x 20m (approximately). 200 Tonne capacity. Eventually Syncrolift – 1000- 2000 Tonne with 80 Tonne alongside. i.e the same/similar (note: lift capacity substantially more, but atop similar sized structure). Small lift alongside is a change to the previous consent.
Dredging	15,000m3 (capital) + 1000m3 (maintenance) Note: We understand that Refit may not have provided for approach dredging in their application.	44,000m3 (capital) +~1000m3 (annual maintenance) i.e. significantly more.
Structures	See Appendix D	See Appendix D i.e. the same or similar.

4.4.1 Existing Structures & their use

The eastern side of Sulpher Point Spit has been used for slipping boats, as a landing for timber yards or for fishing activities for over a century. However, the foreshore itself was historically west of its current location and was moved eastward by reclamation in 1965. The site, therefore, is considered modified and consists of a rock marginal embankment containing the reclamation and existing wharves in moderately poor repair. An example of rock embankment is shown in Figure 5.

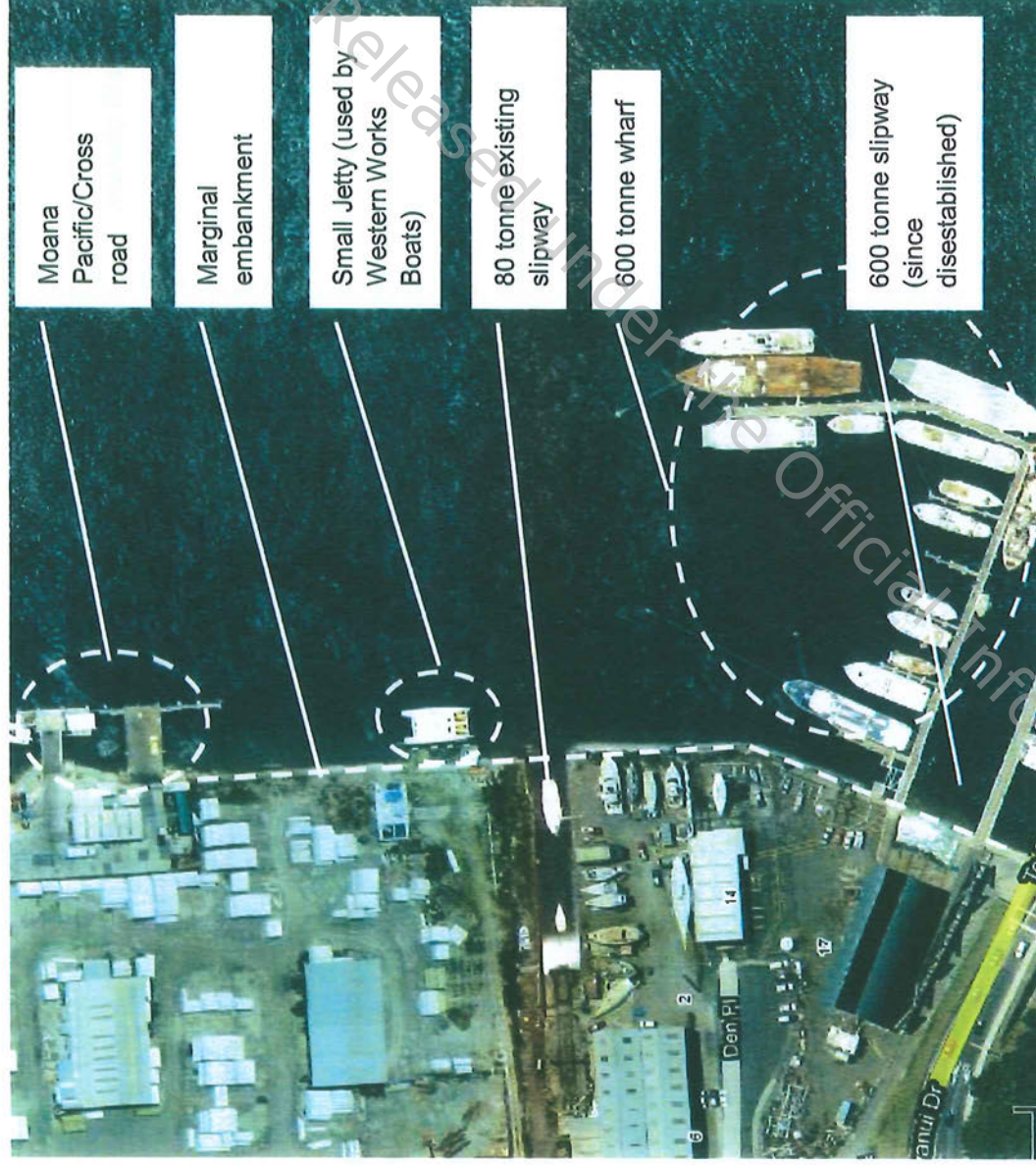


Figure 4: Location of the main coastal structures

The 80 tonne slipway is the only haul-out facility of this size in Tauranga Harbour. Two smaller travel-lifts operate from the two marinas but can only accommodate smaller 30-35 tonne vessels only. The 80 tonne facility is operated by Hutcheson Boatbuilders and was originally built in 1969. Currently, all ship survey and repair involving larger boats, such as those of the Sanfords fleet, must occur in Auckland or Whangarei.

To the north of the site the two "Moana Pacific" jetties serve the Moana Pacific commercial fishing fleet. The northern most jetty is constructed of concrete and is designed to take heavy (vehicle) loads. The southern jetty is wooden, though has been upgraded since construction in the 1960's. Approximately 4-6 vessels use this facility on a regular basis. The "Forest Lady" barge for Matakana Island forestry operators also operates from the adjacent slipway (see Figure 6). Just outside the site, immediately north of the slipway, Sanford Seafoods operate a commercial fleet. The Sanford inner berths require use of water near Moana Seafoods for safe navigation of their vessels.

In the mid-section of the site a small timber jetty is used for berthing and boat maintenance. It is suited for pedestrian loads only due to its relatively poor state of repair.

The large (600 tonne) jetty to the south of the site was built in 1972 and has been progressively added to over the years. This jetty has capacity to take approximately 18 vessels, though in practise, fewer than this is recommended to avoid excessively loading the wharf with vessels tied

up across-current. Navigation for boats berthed on the southern side is difficult and therefore extensions in this direction are not proposed.

There is approximately 180m of concrete and rock embankment (See Figure 5).

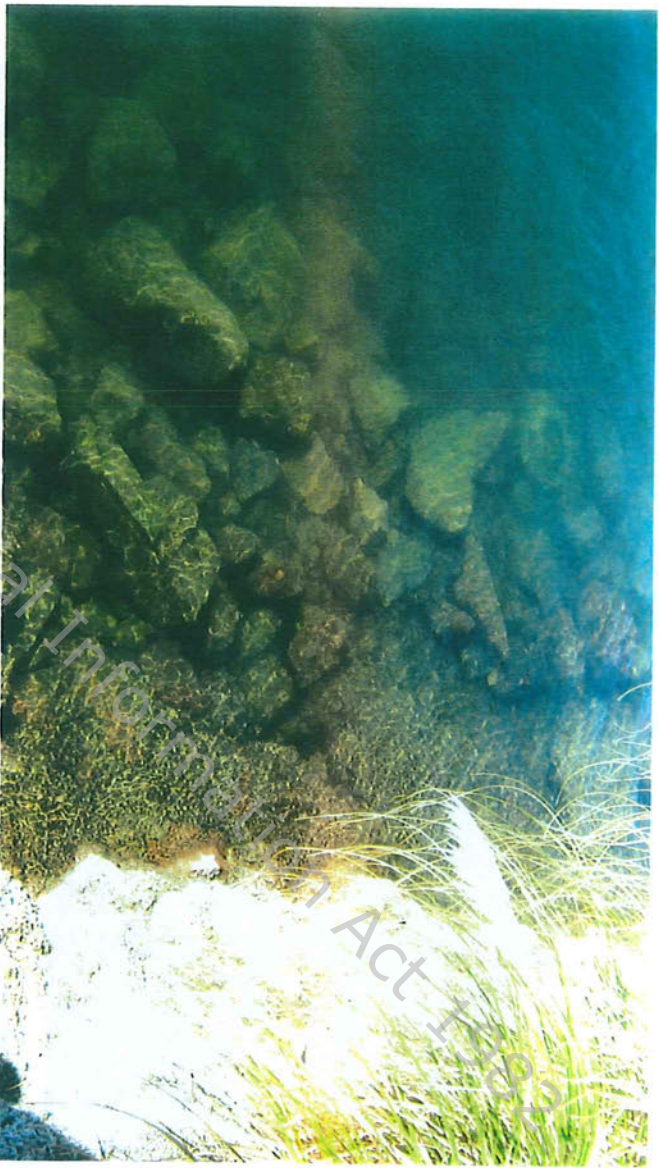


Figure 5: Marginal embankment typical of the area

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Figure 6: Northern end of site. Forest Lady barge and Sanfords fleet. Dotted line shows indicative occupation sought.

4.5 Hydrodynamic Environment

The main Town Reach channel drains the Waipapu Estuary, Welcome Bay, Rangataua Bay and Waipu Bay through the Harbour Central area (called the Stella passage). Construction of the Tauranga Harbour Bridge changed the geomorphology of the local estuarine embayments and the Town Reach channel. Studies at that time and recent investigations suggest that most of the morphological changes associated with the bridge have now taken place. Consequently, the Harbour Central area hydrodynamic environment is considered to be relatively static.

Ebb tidal currents through the bridge structure on an extreme spring tide have been measured at 0.8m/s and for a flood tide 0.6m/s (Gibb, 1994). These correlate reasonably well with the modelled results presented by Bell in 1994 that estimated that the ebb tidal current is about 0.75m/s and the flood tide current is about 0.6m/s second. Measured currents 100m offshore of the slipway are 0.76m/s on the surface and 0.64 m/s on the bed of the harbour but have also been assessed at just under 1m/s by direct observation. These are relatively swift currents.

For a mean tide the maximum flow is about $1500\text{m}^3/\text{s}$ and this gives a tidal prism of approximately $20,000,000\text{m}^3$ draining from the local embayments.

Scour for the harbour bridge has been assessed to be in order of 4.0m to 3m while local scour around the piers measured by the Port of Tauranga suggests a lesser amount in the order of 2.5m on the navigation piers and 1.5m on the non-navigation piers. In environments such as this, scour is relatively predictable and is accommodated in detailed design.

4.6 Ecology

a. Fauna

Tauranga Harbour is recognised by Environment Bay of Plenty in the Operative Bay of Plenty Regional Coastal Environment Plan (Environment Bay of Plenty, 2003) as an outstanding natural feature. The Harbour (*Tauranga Moana*) is also an Area of Significant Cultural Value, particularly as a source of *kaimoana*.

Ecological surveys have been undertaken in the Stella Passage on a number of occasions including A & B Graham – 1990 & 1991, Dr R Grace - 1988, Ross Butler - 1999 (MSc Thesis). These have shown the area to be occupied by flora and fauna that is typical of upper east coast estuaries – with no significantly important species of flora or fauna present.

As part of the “Harbour Link” bridge duplication project in 2003 three replicate dredge samples were collected from five sampling locations within the Stella Passage along the alignment of the bridge. These sites showed high levels of biological diversity with the most diverse group being polychaete worms. The greatest biological diversity was found at Station Bridge 4 (51 taxa or species) toward the western side of the Stella Passage – though all areas showed a good diversity of taxa. These findings are consistent with those from earlier surveys.

Data collected by Environment Bay of Plenty from Tauranga Harbour benthic macrofauna sites confirms the general good health of the area with a common level of species richness of 10 to 14 species or taxa (EBOP, 2000).

On the whole, proximity of the Harbour Central to the previous studies and the relatively homogenous nature of substrates suggest that, despite historic disturbance of the area, the Harbour Central area is likely to be colonised by relatively typical benthic invertebrates likely to be found throughout Tauranga Harbour.

b. Marine Sediments

i. Sediment Grain Size

At each of the benthic biota sampling locations for the Harbour Link project sediment samples were taken. A majority of the sediments within the Stella Passage along the proposed bridge alignment were found to be predominantly gravely sands with the bulk of the sediment particles falling in the coarse, medium and fine sand categories. Some of the sediments on the eastern side of the channel were found to be more gravely than this. The seabed within the study area is generally sand, fine aggregates with some silt deposits. Accordingly, most is likely to be useable for land-fill in the adjacent development site, should that be necessary or desirable.

ii. Chemical Quality

The Harbour Link project also assessed sediments for their chemical composition. This research concluded that water quality is high and sediment is not contaminated. Moderate to low levels of both total ammonia and sulphide were present with concentrations of these two constituents being higher in sediments on the eastern side of the Stella Passage (i.e. near the old 600 tonne slipway).

iii. Elutriate Analysis

Surface samples of ambient seawater were also collected and the sediments were subjected to elutriate analysis to determine the degree of contaminant release following disturbance in seawater. This analysis suggested that the ambient water quality in Tauranga Harbour is relatively high. All concentrations of constituents detected in the surface seawater samples were low, most below the limits of detection for the analytical methods used in the analyses.

These studies confirm the high likelihood that materials within the Harbour Central area will not release unacceptable levels of contaminant when disturbed.

4.7 Other Matters

Ngaiterangi Iwi

Ngaiterangi Iwi has interests within the study area on the Mount Maunganui side of the Harbour Bridge, Otamataha Pa - Mission Cemetery, and the Harbour itself. Ngaiterangi have been written to twice and called with a view to meeting to discuss the project. There have been no comments received.

Ngati Ranginui Iwi

Ngati Ranginui Iwi is understood to have interests within the study area predominantly on the western side of the Harbour Bridge and Waikareao Estuary. Ngati Ranginui have been called and written to seeking comments about the proposal. It is understood the trust has discussed the proposal.

Public Access

Access to the area is currently restricted with a number of businesses holding exclusive leases over Council land and the existing Bridge Wharf being for the use of commercial operators only.

Commercial Use of the Area

A number of boats are moored in and use facilities in the Harbour Central area. All are lessees and will have their leases renegotiated in line with their current agreements.

The 'Forest lady', which operates just outside the subject area, and Sanford Seafoods have expressed concerns for future navigation and, in particular, want to ensure that northern berthage does not extend much beyond the line of the current Moana facility. The current designs have been amended to meet their requirements and navigation is therefore not considered to be an issue for these parties.

Public navigation

The proposed works do not affect an area that is used for navigation due to existing structures preventing boat passage. The proposal involves no structures protruding further into navigable waters (see Figure 7).



Figure 7: Current and Proposed Navigation (main navigation channel shown). Yellow outline shows proposed area of occupation, yellow shading is existing structures, purple is the extent of new structures.

4.8 Noise

Noise in the Harbour Central (land) area is currently limited to small grinders and other hand-tools used in the maintenance and repair of boats. On occasion diesel or petrol motors are used when removing boats from the water. The nearby roads and the Port Container Terminal to the North are more significant noise generators.

5 Effects on the Environment

5.1 Effects on the Landward Environment

5.1.1 Noise

a. Construction effects

Noise will be generated during construction and thereafter will be considerably less than the background environment.

Within the commercial zone and within 50m of the proposed works the 75dBA Leq, in particular, may be difficult to meet. In accordance with Tauranga City Council policy, NZ Standards 6803:1999 Acoustics Construction Noise shall be applied to the site and mitigation will occur by way of a Construction Noise Management Plan.

The Noise Management Plan will detail communication with adjacent businesses and is likely to specify the location of plant and other equipment to reduce noise exposure in adjacent premises.

b. Operational effects

The only other source of additional Noise in the CMA will be from additional moored boats and the travel-lift/ syncrolift device. These noises are unlikely to significant beyond background noise which includes the busy Harbour Bridge, Port Operation and nearby Mirrieless Road.

5.1.2 Economic Effects

a. Construction and Operational effects

Harbour Central is intended to replace the old Tauranga Slipway. Research has shown that there is a market for the service being proposed and industry personnel spoken to during preparation of this AEE expressed support for the project. Investigations have shown that land-based activities depend on haul out and berthing facilities for their viability and the marine sector, at large, will benefit from a local, price-competitive, haul-out and service operation, such as that proposed.

All existing operators have been consulted and are aware of the project. Most have voiced support for it.

On this basis, it is considered likely that the proposal will enable positive economic benefits and the Tauranga marine industry to operate more efficiently.

5.2 Existing Structures

5.2.1 600 Tonne Wharf

The proposal provides for minor reconfiguration of the existing 600 tonne wharf and will entail eventual strengthening and upgrade of the entire structure.

a. Construction effects

The main activity associated with improvement of the existing wharf will be the driving of piles and repair of above-water surfaces. These activities will entail locating a barge in the area to undertake pile removal and replacement operations. The engineering assessment that accompanies this application details that activity in greater detail.

Effects likely to arise from the activity include:

- a) Disturbance of material on the bed of the harbour and displacement of some organisms located there.
- b) The generation of noise at levels considered appropriate for the zone. Elevated noise during construction will be a temporary effect.

b. Operational effects

Following construction the following effects will arise:

- a) Positive effects on the existing physical resource as it will be able to be more fully and safely utilised. These effects may be of wider economic benefit to the Tauranga community.
- b) Localised scour – which is able to be accommodated in design. Scour around piles is expected to be no more than 100-200mm within 1m.
- c) Improved levels of amenity and service for berth owners (amenity).

5.2.2 80 Tonne Slipway

The 80 tonne slipway will be decommissioned by land-based machinery. It is possible a barge-mounted crane and underwater saw may also be required to remove parts of the ramp.

a. Construction effects

Effects of removal of the slipway include:

- a) Disturbance of the bed of the harbour and the release of sediment.
- b) Noise (at levels considered appropriate for the zone).

Decommissioning is likely to take approximately 1 month.

The effects of removal will be confined to an area that is already heavily modified and are likely to be contained within this area by first sheet piling the slipway entrance. Effects outside the immediate area will relate to the release of silt which, due to dilution and the abovementioned containment, are likely to be minor.

b. Operational effects

The decommissioning of this facility will enable more efficient use of the Harbour Central Marine precinct.

5.2.3 180 Meters of Marginal Embankment

Sheet piling and removal of the existing marginal embankment are likely to occur concurrently, and over a 3-4 month period. Embankment is likely to be removed by shore-based digger immediately prior to the sheet piling being driven into place.

a. Construction effects

Effects of disturbance of this area of embankment include:

- a) Disturbance of the bed of the harbour and the release of sediment.

- b) Noise (possibly beyond levels considered appropriate for the landward zone), particularly related to the driving of sheet piling.
- c) The removal of a source of marginal protection and potential for increased marginal erosion. This is will be mitigated by immediate replacement with sheet piling.

The release of sediment is unavoidable but will have minor adverse effects due to immediate dilution in the surrounding environment.

b. Operational effects

Sheet piling (see below) will enable more effective utilisation of the Coastal Marine Area; enabling better use of the finite "developable" marine area.

5.3 Dredging

a. Construction and Operational effects

The engineering report included with this assessment predicts that the tops and bottoms of the dredge batters will be slightly affected by currents and that dredged areas will gradually infill. Therefore, maintenance dredging will be an ongoing activity.

A small cutter-section dredge is likely to be used for the dredging but, as an alternative, land-based long arm excavators may be used with spoils being deposited to land. The effects of either method are similar and relate, principally, to the release of silt. The release of silt will be a transient effect and minor due to dilution. Dredging may occur in conjunction with Port of Tauranga capital and maintenance dredging programs.

Clean dredge materials that are not used on site will be disposed of to Site D, Consent 040157 (Port of Tauranga). Materials with large amounts of silt it will be disposed of to site G under consent 60079 (Port of Tauranga). See Appendix C for details.

The effects of dredging are otherwise unable to be mitigated and are appropriate to the Port Zoning of the area.

5.4 Sheet Piling

a. Construction effects

Sheet piling will be installed from land using an impact or vibrating hammer and will be backfilled with clean sand. It is likely that the piling will be concrete capped. The capping may be formed on or off site.

The effects of piling relate mostly to noise and may exceed standards set in the Tauranga City Plan for the surrounding environment. A noise management plan is proposed to mitigate this effect which will be transient and localised. The release of silt and other material will be insignificant having regard of the prior removal of marginal protection.

Water or air jetting will be used to reduce the amount of driving required.

b. Operational effects

Sheet piling will enable more effective utilisation of the Coastal Marine Area; enabling better use of the finite "developable" marine area.

5.5 Travel-lift and Syncrolift facilities

These structures may be constructed off or on-site from concrete or timber.

If constructed on site, concrete structures will be cast using wooden and steel framing. Air or water jetting is likely to be required to achieve the required depth of piles.

Each jetty structure is expected to take 3-6 months to build.

a. Construction effects

Effects of these activities include:

- a) Localised scour – which is able to be accommodated in detailed design.
- b) Disturbance of material on the bed of the ocean and displacement of some organisms. These effects are unable to be mitigated but are considered appropriate having regard of the historic operation use of the area. There will be further disturbance to this area when the facility is upgraded.
- c) Noise- particularly related to the driving of piles.

b. Operational effects

The main operational effect is positive in respect of effects on the adjacent land resource by enabling a wider range of local boat servicing businesses to operate. This will have flow-on effects to the marine industry.

5.6 Effects on Ecology

a. Construction effects

As outlined above, the main effect of the proposal will be construction related – including the disturbance of sediments and risk of contaminants such as oil and fuel entering the marine environment.

During pile placement there will be a short-term, localised decrease in water quality caused by the increase in suspended solids, turbidity and the elevation of some previously sediment bound contaminants. Analysis for the Harbour Link project has shown that contaminants exist in very low concentrations and very minimal dilution is needed to reduce their concentrations to within appropriate levels. The works associated with the Harbour central project are therefore unlikely to cause any more than extremely localised effect consistent with historic use of the area.

Piles will displace organisms living within the area of the works. These organisms are unlikely to be able to relocate elsewhere as habitat elsewhere will be occupied and will, in effect, be lost permanently. If wooden piles are used they may have a very local adverse effect on benthic organisms which may accumulate small amounts of heavy metal that leaches from the treated timbers³.

The effects of dredging will be loss of organisms previously occupying substrates in the 2.4 – 5m depth range and the release of relatively (in comparison to driving piles, for example) large

³ Weiss & Weiss - Effects Of CCA Wood on Non-Target Aquatic Biota, <http://www.ccaresearch.org/Pre-Conference/pdf/Weiss.pdf> (visited 9/6/2010).

quantities of silt. These effects are both positive (as nutrients and organisms released may become food for other species) and negative (as the loss of some organisms is inevitable). The effects are minor and appropriate in this location and enable development that will reduce pressure for facilities elsewhere in locations that may not be as well suited.

As there are no unique or special organisms known to inhabit the area, effects on ecology are considered minor and appropriate having regard of the zoning of the area.

5.7 Occupation of Space

a. Operational effects

Approximately 9500 M² of CMA will be occupied exclusively. However, a majority of this space is currently unable to be used by the public as it is currently leased for exclusive use. The area of proposed exclusive occupation is shown in Figure 7 and comprises existing berthage, the proposed haul-out facilities and berths alongside the new sheet pile embankments.

5.8 Recreation Use and Access

a. Operational effects

The area proposed to be occupied is presently used for similar activities. The Harbour Central Marine precinct project will improve channel depth allowing use of the facility by larger vessels. Navigation, in particular by the Sanfords seafood fleet, and also by the Island lady, is provided for by ensuring that development does not extend the Moana fisheries wharf without first consulting with these parties.

There is no known recreational use of the area with the main navigational channel being mid-channel, approximately 150 meters beyond the most seaward structure. Existing structures prevent use of the area by rowers.

6 Statutory Matters

6.1 Resource Management Act, 1991

Consent for the Harbour Central project is required under Section 12(1)(b) and (c) of the Resource Management Act 1991 (RMA) as the proposal involves the erection of new structures within the coastal marine area and disturbance of the seabed, and under Section 12(2)(a) of the RMA as the proposal involves the occupation of the coastal marine area.

"12. Restrictions on use of coastal marine area

- (1) No person may, in the coastal marine area, -
 - (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;
 - (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...
- (2) No person may, in relation to land of the Crown in the coastal marine area, or land in the coastal marine area vested in the regional council, -
 - (a) Occupy any part of the coastal marine area;

Unless expressly allowed to do so by a rule in a regional coastal plan."

Consent for the Harbour Central Project is also required under Section 15(1)(a) of the RMA as the proposal involves the discharge of dredged materials back into the ocean. The bulk of this discharge will be accommodated under the existing Port of Tauranga Consents.

"15. Discharge of contaminants into the environment

- (1) No person may discharge any -
 - (a) 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, a resource consent, or regulations".

6.1.1 Section 104 – Matters to be Considered

Section 104, Subject to Part II outlines the matters to be considered in an application for resource consents, including the actual and potential effects on the environment (see section 6) and any relevant regulations and policy statements.

- "(1) Subject to Part II, when considering an application for a resource consent and any submissions received, the consent authority shall have regard to
 - (a) Any actual and potential effects on the environment of allowing the activity; and
 - (b) Any relevant regulations; and
 - (c) Any relevant national policy statement, New Zealand coastal policy statement, regional policy statement, and proposed regional policy statement; and

- (d) Any relevant objectives, policies, rules or other provisions of a plan or proposed plan; and
 - (e) Any relevant district plan or proposed district plan, where the application is made in accordance with a regional plan; and
 - (f) Any relevant regional plan or proposed plan, where the application is made in accordance with a district plan; and
 - (g) Any relevant water conservation order or draft water conservation order; and
 - (h) Any relevant designations or heritage orders or relevant requirements for designations or heritage orders; and
 - (i) Any other matters the consent authority considers relevant and reasonably necessary to determine the application.
- (4) Without limiting subsections (1) and (3), when considering an application for a coastal permit, a consent authority shall have regard to –
- (a) Any relevant policy stated in a New Zealand coastal policy statement in respect of the crown's interests in land of the Crown in the coastal marine area; and
 - (b) Any relevant provision included in the appropriate regional coastal plan to implement that policy".

These matters are detailed below.

6.2 New Zealand Coastal Policy Statement (NZCPS) 1994

The New Zealand Coastal Policy Statement guides local authorities in the day-to-day management of the coastal environment. The Policy statement identifies national priorities for the preservation of the natural character of the coastal environment. The NZCPS is currently under review.

A number of provisions are relevant to the harbour central project including:

"Policy 1.1.1

It is a national priority to preserve the natural character of the coastal environment by:

- (a) encouraging appropriate subdivision, use or development in areas where the natural character has already been compromised and avoiding sprawling or sporadic subdivision, use or development in the coastal environment;
- (b) taking into account the potential effects of subdivision, use or development on the values relating to the natural character of the coastal environment, both within and outside the immediate location; and
- (a) avoiding cumulative adverse effects of subdivision, use and development in the coastal environment.

Policy 1.1.4

It is a national priority for the preservation of natural character of the coastal environment to protect the integrity, functioning, and resilience of the coastal environment in terms of:

- (a) the dynamic processes and features arising from the natural movement of sediments, water and air;
- (b) natural movement of biota;
- (c) natural substrate composition;
- (d) natural water and air quality;
- (e) natural bio diversity, productivity and biotic patterns; and
- (f) intrinsic values of ecosystems.

Policy 2.1.2

Protection of the characteristics of the coastal environment of special value to the tangata whenua should be carried out in accordance with tikanga Maori. Provision should be made to determine, in accordance with tikanga Maori, the means whereby the characteristics are to be protected".

"Policy 3.1.1

Use of the coast by the public should not be allowed to have significant adverse effects on the coastal environment, amenity values, nor on the safety of the public nor on the enjoyment of the coast by the public.

Policy 3.2.2

Adverse effects of subdivision, use or development in the coastal environment should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects, to the extent practicable.

Policy 3.2.5

Subdivision, use and development in the coastal environment should be conditional on the provision of adequate services (particularly the disposal of wastes), and the adverse effects of providing those services should be taken into account ... when considering applications for resource consents."

Comment:

The proposed works will occur within the Port zone, an area specifically set aside in the RCEP for such intensive maritime activities. The Port zone enables the development of appropriate activities so as to avoid development in other coastal areas with higher environmental values.

The proposal encourages development in an area where natural character has already been compromised, is adjacent to existing structures and avoids the cumulative effects of use of the coastal environment, which is consistent with NZCPS Policy 1.1.1.

The dynamic process of the natural environment, including water quality and movement of biota will be temporarily affected by the construction activities. However, these effects will be transient and rapidly diminished by dilution. The residual effects will be minor, and consistent with NZCPS Policy 1.1.4. Further, the operation of the Harbour Central facility is not likely to impact on the dynamic processes arising from the natural movement of sediments and water (see section 6.3) beyond that which currently occurs.

Although written approval from Tangata Whenua has not been received for this application, it was previously obtained for the Refit application. Tangata whenua have been consulted and had not raised any concerns by the time this application was lodged. The proposed work will not result in

any significant effects upon kaimoana or other natural and physical resources valued by Maori people as it occurs wholly within an area that is substantially modified.

The proposal will neither improve nor hinder access to the Coastal Marine Area. The safety of public in this operational area is paramount and for this reason additional access will not be provided to wharf structures and facilities.

There are no identified adverse effects on the coastal environment. The effects that have been identified are considered temporary or minor and provision has been made for mitigating these effects.

The application is therefore considered to be consistent with the relevant policies of the NZCPS.

The proposed NZCPS contains a similar set of priorities and will treat the current proposal in a similar fashion.

6.3 Regional Policy Statement (RPS) 1 December 1999

The Regional Policy Statement (RPS) contains policies on the region's environment. Most relevant are those in the "Resource Management Practise", "Land", "Coastal Environment" and "Physical Resources / Built Environment" sections relating to the coastal environment and transport.

The RPS is consistent with the NZCPS. There are a number of policies within the RPS relating to natural character, use and development and access. These policies are listed below.

Resource Management Practise

"Objective 5.3.2(a)

Recognition of and provision for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Policy 5.3.2(a)(ii)

To recognise and provide for the role of tangata whenua as kaitiaki of their resources, where appropriate.

Objective 5.3.6(a)

Adverse effects of activities on social, economic and cultural well-being are avoided, remedied or mitigated".

Comment:

Tangata whenua are not considered to be adversely affected.

Coastal Environment

"Objective 9.3.1(a)

Recognition of and provision for:

- (i) The preservation of the natural character of the coastal environment.*
- (ii) The protection of outstanding natural features and landscapes in the coastal environment;*

Objective 9.3.2(a)

The water quality of the coastal marine area is maintained and, in some cases, enhanced.

Policy 9.3.2(b)(i)

To ensure that, after reasonable mixing has occurred, discharges do not have significant adverse effects on habitats, feeding grounds or ecosystems.

Objective 9.3.3(a)

The coastal marine area is generally accessible to members of the public."

Comment:

Other policies of less relevance include 9.3.1(b)(i), 9.3.1(b)(ii), 9.3.1(b)(iii) and 9.3.1(b)(iv) in relation to adverse effects on significant fauna, flora and their habitats and outstanding natural features and landscapes, preservation of natural character of the coastal environment, and development locating in areas where natural character is already substantially compromised by existing development. Policies 9.3.3(b)(i), 9.3.3(b)(ii) and 9.3.3(b)(iii) are also relevant in relation to access and use of the coastal environment.

The proposal is to construct an operational wharf and marine facility in a location that has previously (and continues to) contained such activities. As such, while unlikely to improve water quality or the natural character of the environment, the proposal is appropriately located and will not worsen the situation. Modernisation and complimenting sea-side activities with land-based facilities will ensure the area is efficiently used.

Built Environment

"Objective 13.3.1(a)

A built environment that enables efficient use, development and protection of natural and physical resources while avoiding, remedying and mitigating adverse effects on the environment"

Associated Policies 13.3.1(b)(i), 13.3.1(b)(ii), 13.3.1(b)(v), 13.3.1(b)(vi) and 13.3.1(b)(viii) relate to the provision of appropriate and efficient transport infrastructure while avoiding effects on the environment.

Feedback from nearby businesses and a project feasibility report suggest the proposal will make efficient use of the Coastal Marine Area and, accordingly, will be consistent with RPS Objective 13.3.1(a). In particular, it is noted that the proposal makes use of a range of facilities that are currently used for similar purposes, but may not be providing the full range of services able to be provided locally and likely to be of benefit to the marine sector.

6.4 Regional Coastal Environment Plan (RCEP) 1 July 2003

This plan was made operative on 1 July 2003 and is consistent with both the NZCPS and the RPS.

A range of activities to be undertaken as part of this proposal require consent under the Regional Coastal Environment Plan. These activities are described in sections 3.1 to 3.4 of this report.

Matters of National Importance

Part II of the RCEP contains objectives and policies of relevance to matters of national importance as listed in Section 6 of the Act. Those of particular relevance to the proposal are:

“Objective 4.2.2

The preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development”.

Comment:

Associated RCEP Policies 4.2.3(b) and 4.2.3(f) seek the location of development within already modified environments. As discussed previously, the area is already modified and is currently being used for the purpose proposed, albeit in a more limited way.

“Objective 7.2.2

The maintenance and enhancement of appropriate public access to and along the coastal marine area”.

Comment:

Associated Policy 7.2.3(a) and 7.2.3(d) seeks public access along the coastal marine area, but restricting this where necessary for public health and safety and security reasons.

Because of its operational nature, public access to structures within the Harbour Central precinct will be restricted. The proposal does not enhance public access, but provides facilities in an area that has low recreational and public value that will reduce pressure on more valued resources elsewhere.

“Objective 8.2.2(a)

The involvement of tangata whenua in management of the coastal environment.

Objective 8.2.2(b)

The protection of the characteristics of the coastal environment of special spiritual, cultural and historical significance to tangata whenua”.

Comment:

Associated Policy 8.2.3(a)(c) seeks to recognise the role of Tangata Whenua in coastal management and to manage any effects on significant sites to Tangata Whenua in an appropriate manner. The proposal does not affect any known significant sites and is very similar to a proposal Tangata whenua have previously provided written approval for.

Activities and their Effects

The RCEP contains several objectives and policies of relevance to each proposed activity and its effects. Most relevant are those in the “Coastal Discharges”, “Occupation of Space”, “Structures”, “Disturbance, Deposition & Extraction” and “Noise” sections, including:

Coastal Discharges

“Objective 9.2.2

Maintenance and enhancement of the water quality and mauri of the Bay of Plenty coastal marine area.

Policy 9.2.3(b)

Discharges must not have significant adverse effects on aquatic life, habitats, feeding grounds, ecosystems or amenity values in the coastal marine area.

Policy 9.2.3(c)

Discharges must not cause water quality to be unsuitable for the purposes of contact recreation, and shellfish gathering for human consumption, throughout harbours and estuaries

Comment:

The proposal requires the discharge of dredge materials and it is proposed that this will occur under the existing Port of Tauranga consents. Those consents, and the nature of the sediment involved, mean that discharges will be consistent with these policies. As noted previously, all effects will be relatively transient, though maintenance dredging will be ongoing (though of short duration, annually).

Structures

"Objective 13.2.2

Any structure in the coastal marine areas is to be appropriate.

Policy 13.2.3(e)

To allow an activity in the Coastal Management Zone where it is appropriate having considered the actual or potential effects on the environment, including the values of the site.

Policy 13.2.3(g)

To discourage the proliferation of structures in the coastal marine area and promote the efficient use of existing structures, facilities and network utility corridors.

Where practicable, new services and structures are to be located in or adjacent to existing infrastructure, provided that:

- *They are not incompatible with the existing services or utilities; and*
- *The environmental effects of locating at an existing facility will be less than the effects of alternatives.*

Policy 13.2.3(h)

To avoid, remedy or mitigate any adverse effects of activities associated with structures in the Coastal Management Zone.

Policy 13.2.3(i)

The effects of structures on coastal hydrological and geomorphic processes will be specifically taken into account.

Policy 13.2.3(j)

To recognise that structures that would adversely affect navigation and mooring within navigation channels and mooring areas are inappropriate.

Policy 13.2.3(m)

Structures must not exceed the airport height restrictions identified in planning map 11d."

Comment:

The proposed works are compatible with the surrounding environment which has previously been used for similar purposes. Thus, these policies and the objective are satisfied.

Disturbance, Deposition and Extraction

"Objective 14.2.2(a)

Provisions for disturbance and deposition within the coastal marine area only as appropriate and while avoiding, remedying or mitigating any associated adverse environmental effects.

Policy 14.2.3(f)

To avoid, remedy or mitigate any adverse environmental effects associated with disturbance, deposition or mineral extraction."

Comment:

As a result of erecting the structures required for Harbour Central there will be some temporary disturbance of the foreshore and seabed which has the potential to affect the environment. There will be localised destruction of shellfish and other benthic invertebrates and increased mixing of sediment in the water column.

There are a limited number of mitigation measures possible to minimise any temporary impacts on the environment from the construction and operation of the proposal. Silt fences are not possible given the strength of currents in the vicinity. The effects are considered less than minor due to the dilution effect of the strong currents and the absence of significant contamination.

Noise

"Objective 20.2.2

Adverse effects of noise generated in the coastal marine area are avoided, remedied or mitigated.

Policy 20.2.3(b)

The natural character and amenity values of the Tauranga Harbour and Ohiwa Harbour coastal environment should be protected from the adverse effects of noise....section 16 of the Act is to be applied where necessary."

Comment:

Construction noise will be managed in accordance with NZS 6803. In particular, it is proposed to develop a noise management plan to address the effects of noise on neighbouring properties.

7 Mitigation

The following measures are proposed to minimise environmental effects arising from the proposal:

7.1 During Construction

7.1.1 Sedimentation Effects

- Where practicable, demolition work will be carried out from land.
- Work will be carried out in a manner that minimizes discharge of sediment or contaminants to the harbour. In particular, demolition of the 80 tonne lift area will occur after the area is enclosed by sheet piling.
- Operations will be monitored to ensure that, after reasonable mixing, turbidity levels do not exceed background levels by more than 15 NTU . If necessary, work will cease until tidal flows are such that this limit is complied with.
- All residual or superfluous construction materials will be removed from the marine areas at the completion of works.

7.1.2 Spillages

- Machinery will be kept out of the marine area wherever practicable.
- Where vehicle movements in the marine area are necessary, they will be undertaken in the dry (above sea level at the time of vehicle movement), where practicable.
- No refueling activities or fuel storage will occur within 20m of mean high water spring. Where this is not practical, the constructor will employ methods to avoid or minimize any fuel spillage, including the provision of appropriate security and containment measures such as bunding where necessary. These will be detailed in the site management plan.
- All reports of oils spills/pollution will be directed to the Harbourmaster (or the pollution Hotline) who is responsible for coordinating with the Port of Tauranga Ltd and local harbour contractors for the deployment of oil spill equipment whenever necessary.
- All plant, machinery and equipment will be removed from the marine area at the completion of works.

7.1.3 Dust

Appropriate measures will be taken to minimize the emission of dust and other air-borne contaminants which could be a nuisance or health hazard to nearby businesses, harbour users or the general public. These will be detailed in the site management plan.

7.1.4 Noise

Noise generation will comply with NZS 6803 and to this end a noise management plan will be prepared and approved at least two weeks prior to pile driving activities occurring.

7.1.5 Navigational Aspects

- All mooring lines, anchor ropes etc. will be clearly marked to avoid any danger or hindrance to other boats using the harbour.
- The work will not interfere unnecessarily with the adjacent water space, and will allow free and safe passage to and from that space.
- All work will be undertaken in a manner that will ensure the safety of adjacent property and watercraft, and any persons occupying them.

7.1.6 Construction Management Plan

A construction management plan will be prepared and will detail:

- Containment, and removal of demolition debris (particles, dust, slurry etc)
- Measures taken to avoid unnecessary disturbance of the seabed.

- Site management, including hours of operation, details of refueling and risk management (i.e. pollution control and emergency provisions)
- The disposal of site waste materials.
- Noise management (to comply with NZS 6803).
- Contact details of a suitably qualified engineer who will oversee construction and demolition works.

It is proposed that the construction management plan will be submitted to the Bay of Plenty Regional Council at least two weeks prior to work commencing.

7.2 Post Construction

7.2.1 Berthing Requirements

- For boats less than 30m in length, navigational aisles of 2 times the length of any boat which will use the facility without the assistance of a tug boat will be provided. For larger vessels tug assistance will be available when berthing at mid-tide or during strong winds.
- Lights will be installed to provide guidance for vessels entering or leaving the facility at night.

7.2.2 Durability of Structures

All materials used in the marine area will be appropriate for, and adequately protected against the harsh marine environment, and designed for a life of 50 years.

7.2.3 Allowance for Sedimentation

To achieve a design depth of dredging (5.5m and eventually 8m below Chart Datum), an allowance of 300mm will be included to future-proof the facility against the possibility of sedimentation and reduce the on-going maintenance requirements.

7.2.4 Lighting

Appropriate lighting and signage will be provided on all jetties to ensure navigational safety for members of the public using the harbour, for night time manoeuvring by the operators and users of the facilities, and for the safety of the forestry barge using the adjacent boat ramp.

8 Conclusion

The Harbour Central project is supported by people in the marine industry. It will provide a facility and ancillary activities lost when the Tauranga Slipway was decommissioned to make way for the Harbour Link (second Harbour Bridge) project.

The proposal will enable more efficient use of facilities that are becoming run down and it is anticipated to have a flow on effects in the Marine sector. Providing a local base for fit outs and repair of larger ships may, potentially, be more sustainable than these vessels travelling to Auckland or elsewhere for such work.

Adverse effects on the environment are considered minor. In particular, effects on marine ecology, though potentially adverse, are not considered significant as affected fauna is representative and has no significant values, and the effect of silt will be diminished by dilution. Consistency with a range of plan objectives and policies is demonstrated.

Released under the Official Information Act 1982

Released under the Official Information Act 1982

Appendix A

Regional Coastal Environment Plan – Zoning

- REGIONAL COASTAL ENVIRONMENT PLAN
MAP 11A
- REGIONAL COASTAL ENVIRONMENT PLAN
MAP 11D

Released under the Official Information Act 1982





Regional Coastal Environment Plan

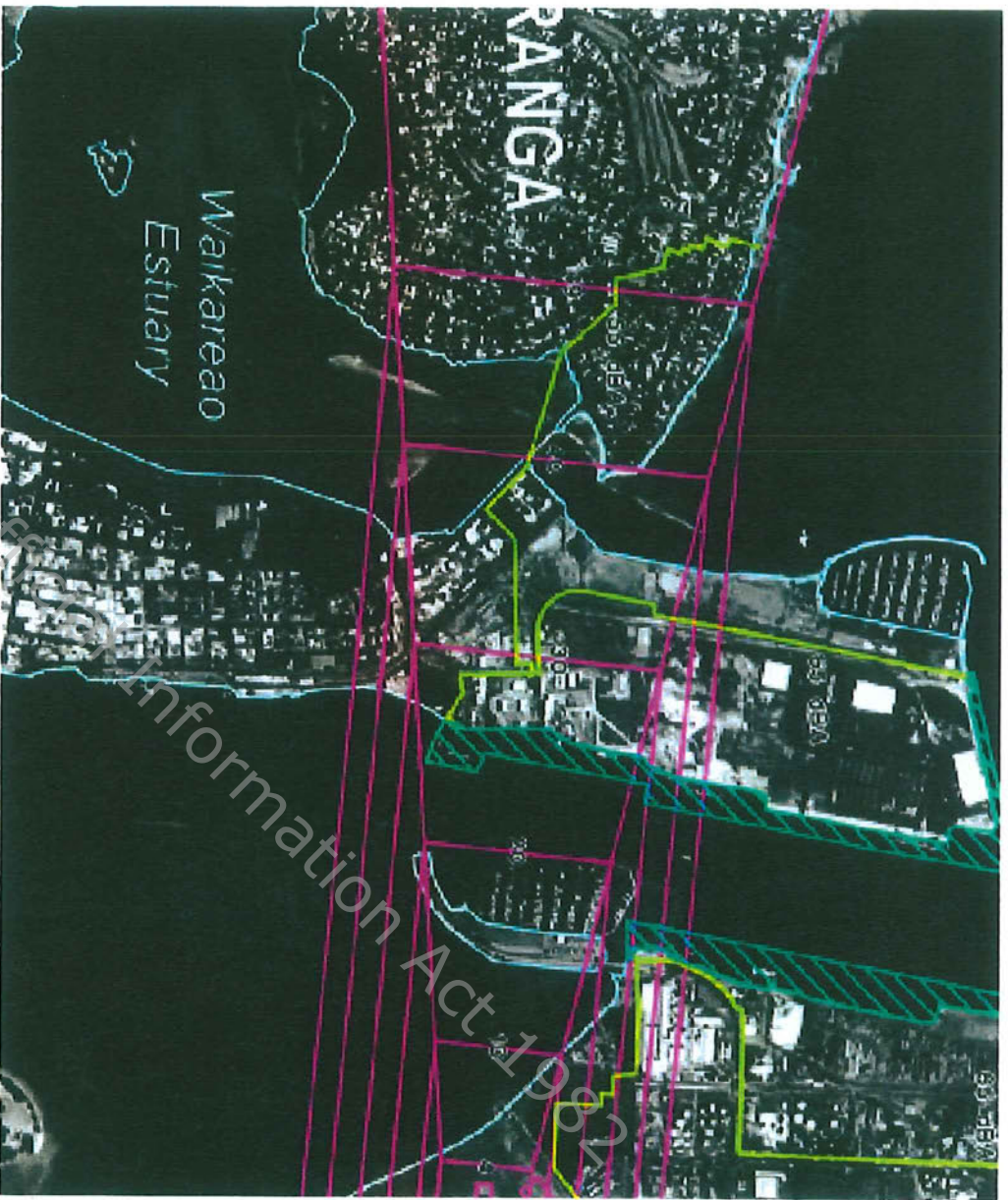
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Tauranga / Mount Maunganui

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Aerial Photograph Numbers and Dates	
1110-1112-11	1110-1112-11
1113-1115-11	1113-1115-11
1116-1118-11	1116-1118-11
1119-1121-11	1119-1121-11
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1134-1136-11	1134-1136-11
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S384A AREA (GREEN HATCH) PORT OF TAURANGA CURRENTLY "OCCUPIES" (COASTAL ENVIRONMENT PLAN MAP 11D)

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Appendix B

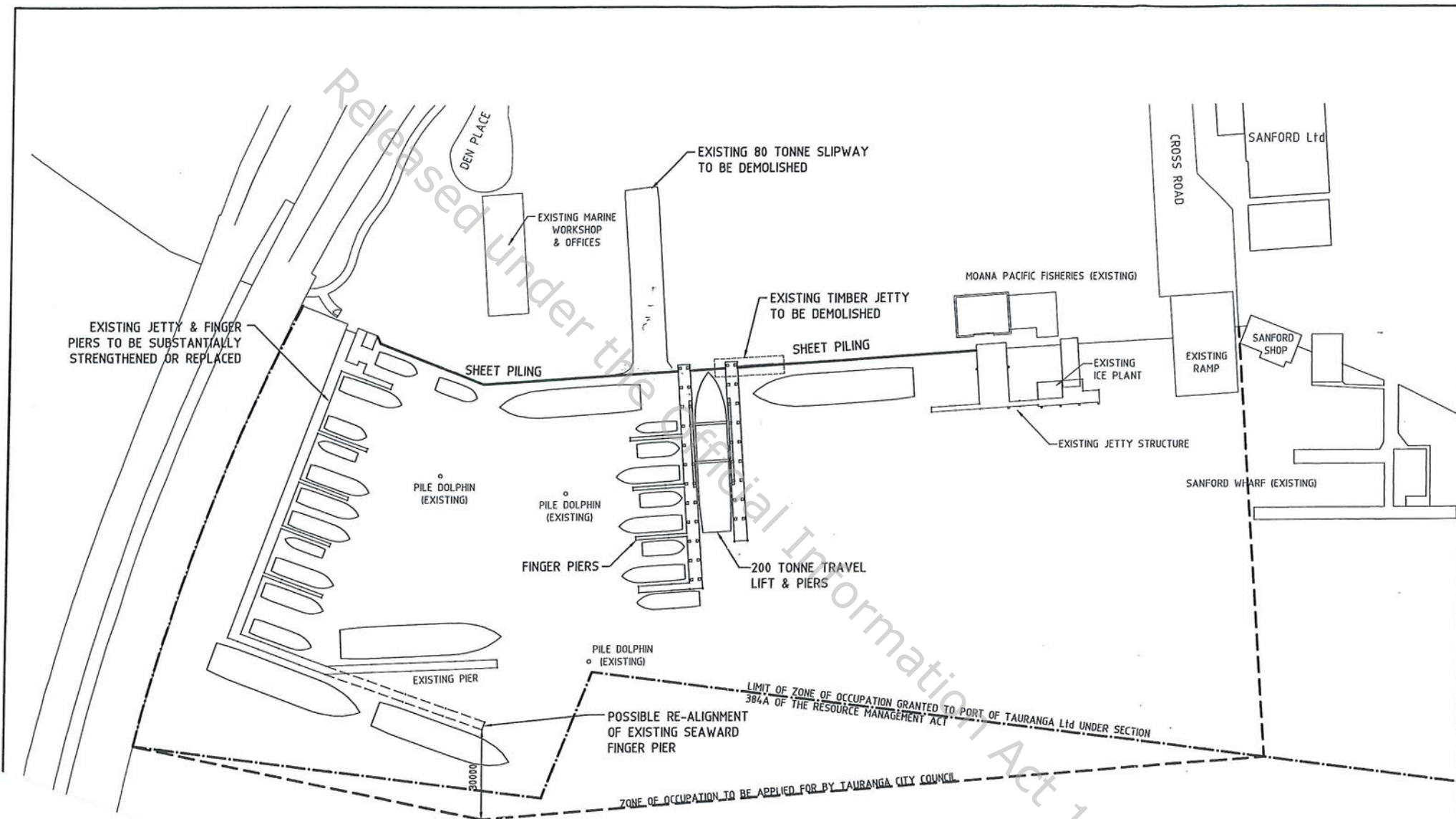
Engineering Documents:

- ❑ ARNOLD & JOHNSTONE LTD DRAWINGS RC1-RC5 SHOWING PROPOSED DEVELOPMENT
- ❑ ARNOLD & JOHNSTONE LTD DRAWINGS RC6-RC7 SHOWING PROPOSED DREDGING
- ❑ PORT OF TAURANGA LTD DRAWING NO. 324-75 SHOWING OFFSHORE DREDGE DISPOSAL SITE G
- ❑ PORT OF TAURANGA LTD DRAWING NO. DML U7 06-10 SHOWING SEABED DEPTHS
- ❑ PORT OF TAURANGA LTD DRAWING NO. 270.19 SHOWING PORT OCCUPATION LIMIT UNDER SECTION 384A OF RMA
- ❑ PORT OF TAURANGA LTD DRAWING NO. 270.30 SHOWING PORT FUTURE CAPITAL DREDGING AREAS
- ❑ ARNOLD & JOHNSTONE ENGINEERING ASSESSMENT

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ARNOLD & JOHNSTONE LTD
DRAWINGS RC1-RC4
SHOWING
PROPOSED DEVELOPMENT

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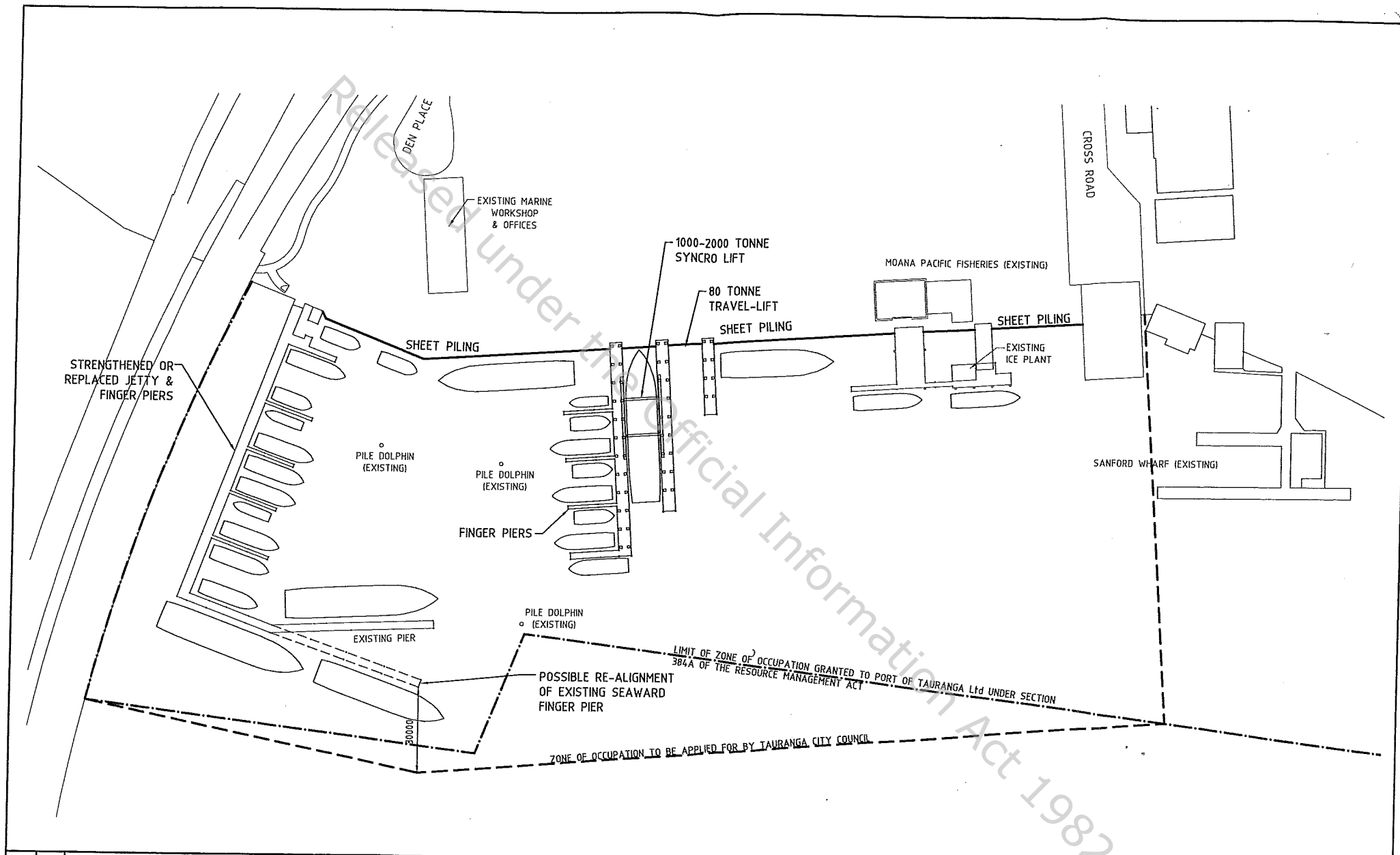
AMENDMENT	20/08/10
DESCRIPTION	DATE


ARNOLD & JOHNSTONE LTD
 CONSULTING CIVIL & STRUCTURAL ENGINEERS
 P O BOX 933, TAURANGA
 Phone (07) 578 0921
 Fax (07) 578 0924
 Email: gaur@ajltd.co.nz

JOB TITLE :

TAURANGA HARBOUR CENTRAL MARINE PRECINCT STAGE 1 MARINE DEVELOPMENT

DESIGNED BY :	P. JOHNSTONE
DRAWN BY :	G. EDWARD
DATE :	28/07/10
CAD FILENAME :	Q312
LAST PLOT DATE :	20/08/10
SCALE :	1:1250 @ A3
DRAWING NUMBER :	11094-RC1
REVISION	A



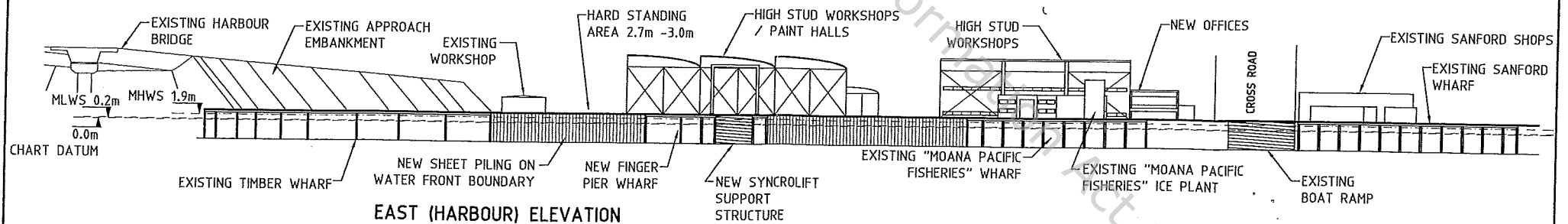
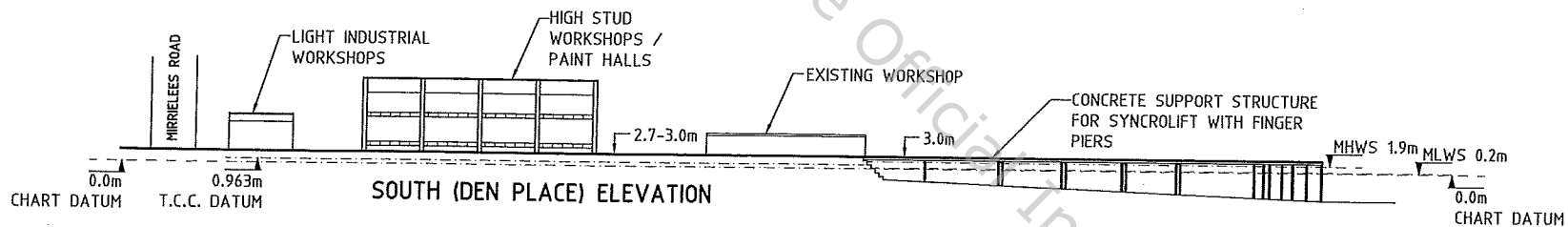
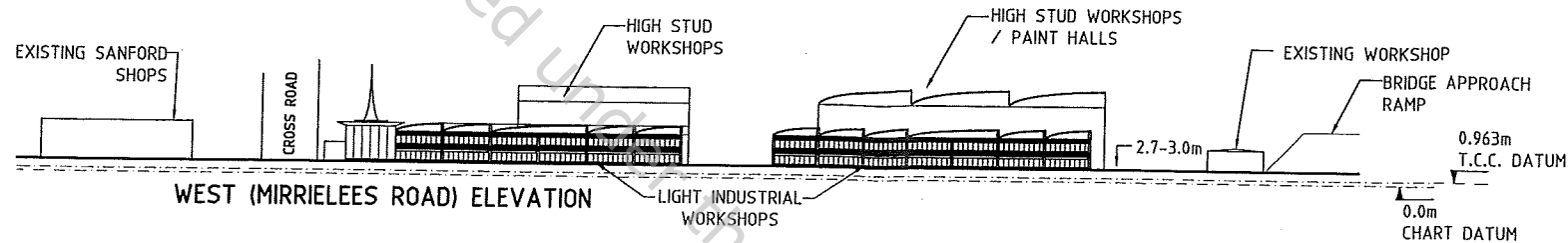
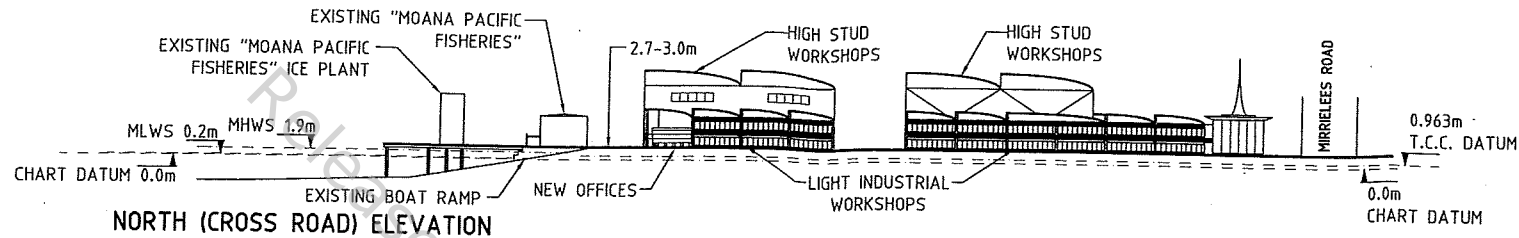
No.	BY	REVISION DESCRIPTION	DATE
B	GE	PROPOSED MOANA PACIFIC JETTY REMOVED	03/09/10
A	GE	ZONE OF OCCUPATION LINE AMENDMENT	20/08/10


ARNOLD & JOHNSTONE LTD
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 Email: paul@aleng.co.nz

JOB TITLE :

**TAURANGA HARBOUR CENTRAL MARINE PRECINCT
TOTAL MARINE DEVELOPMENT**

DESIGNED BY :	P. JOHNSTONE
DRAWN BY :	G. EDWARD
DATE :	28/07/10
CAD FILENAME :	Q312
LAST PLOT DATE :	03/09/10
SCALE :	1:1250 @ A3
DRAWING NUMBER :	11094-RC2
REVISION	B



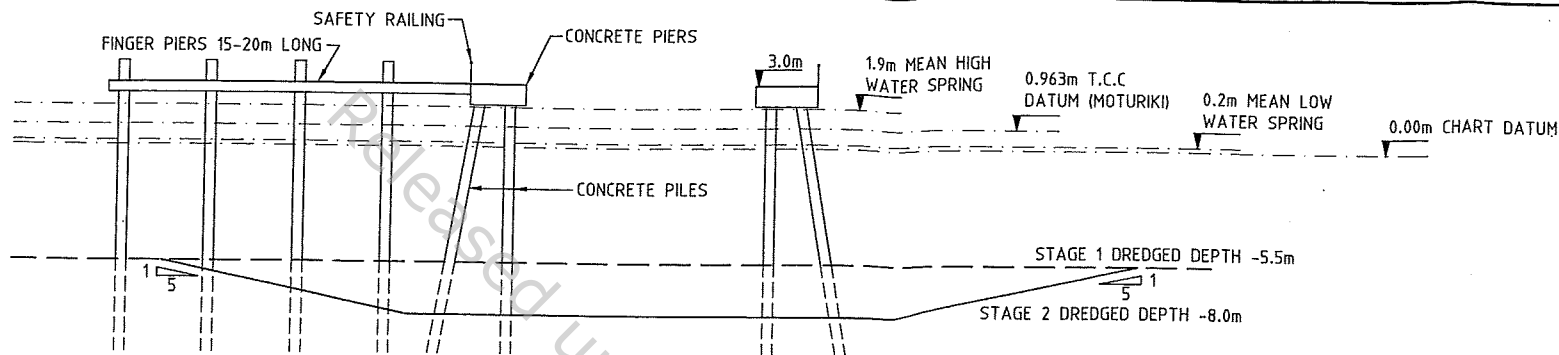
ARNOLD & JOHNSTONE LTD
CONSULTING CIVIL & STRUCTURAL ENGINEERS
P.O. BOX 933, TAURANGA
Phone (07) 578 0921
Fax (07) 578 0924
Email: paul@ajnz.co.nz

JOB TITLE :

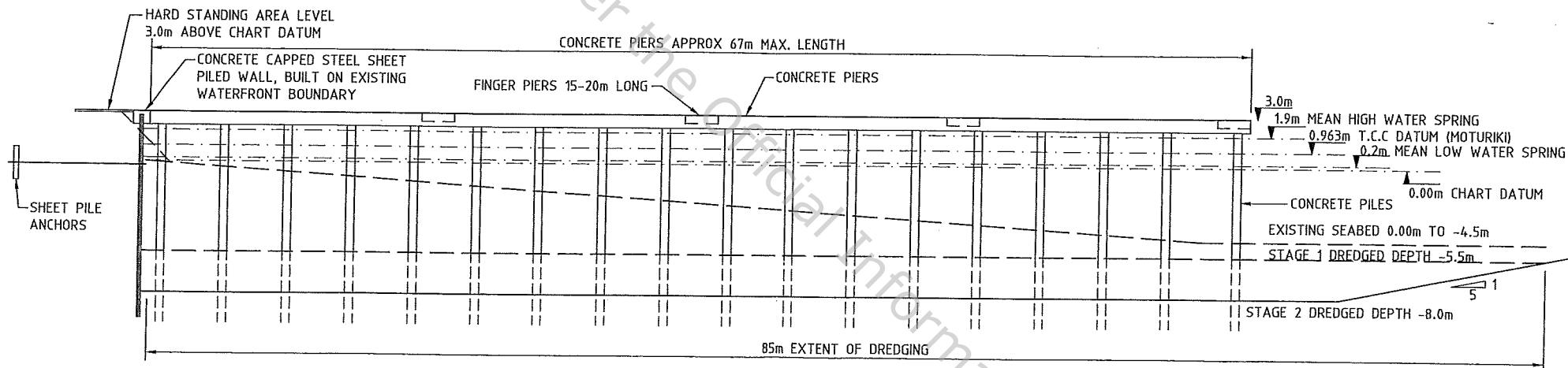
**TAURANGA HARBOUR CENTRAL MARINE PRECINCT
ELEVATIONS**

DESIGNED BY :	P. JOHNSTONE
DRAWN BY :	G. EDWARD
DATE :	28/07/10
CAD FILENAME :	Q312
DRAWING NUMBER :	11094-RC3
LAST PLOT DATE :	03/09/10
SCALE :	1:1250 @ A3
REVISION	A

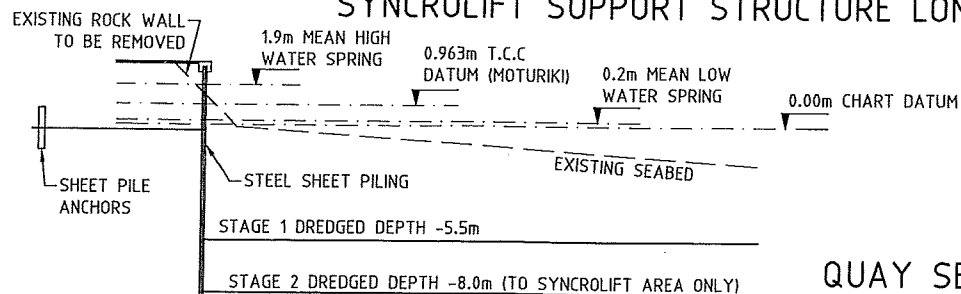
No.	BY	REVISION DESCRIPTION	DATE
A	GE	PROPOSED MOANA PACIFIC JETTY REMOVED	03/09/10



SYNCROLIFT SUPPORT STRUCTURE CROSS SECTION



SYNCROLIFT SUPPORT STRUCTURE LONG SECTION



QUAY SECTION

NOTE:

1. LEVELS IN TERMS OF CHART DATUM (0.963m BELOW T.C.C. DATUM)
2. THIS PLAN IS INDICATIVE ONLY PENDING SPECIFIC DESIGN & IS NOT TO BE USED FOR CONSTRUCTION

No.	BY	REVISION DESCRIPTION	DATE


ARNOLD & JOHNSTONE LTD
 CONSULTING CIVIL & STRUCTURAL ENGINEERS
 P O BOX 933, TAURANGA
 Phone (07) 578 0921
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 Email: paul@acenz.co.nz

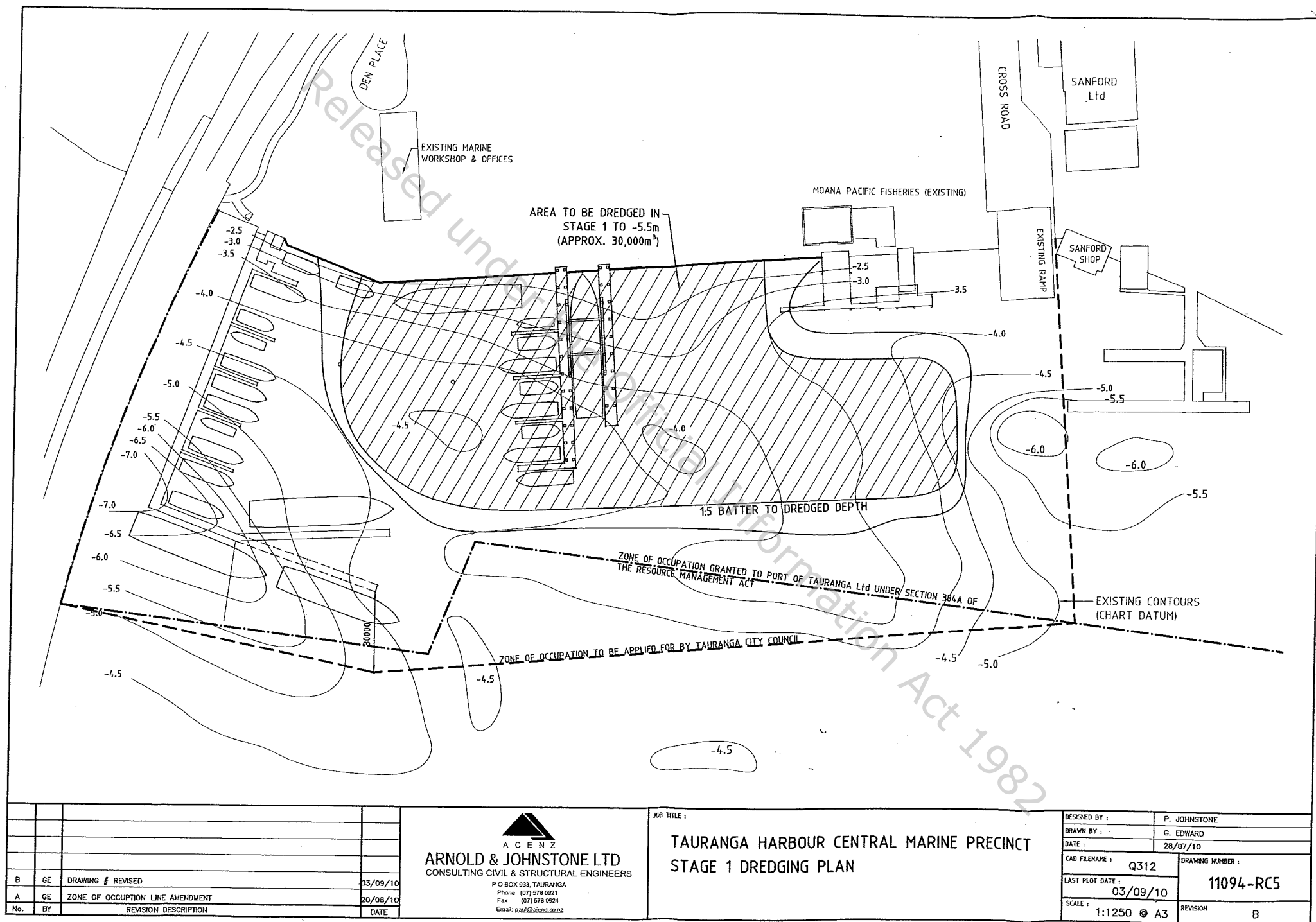
JOB TITLE :

TAURANGA HARBOUR CENTRAL MARINE PRECINCT
CROSS SECTION & LONG SECTION

DESIGNED BY :	P. JOHNSTONE
DRAWN BY :	G. EDWARD
DATE :	28/07/10
CAD FILENAME :	Q312
LAST PLOT DATE :	10/08/10
SCALE :	1:250 @ A3
DRAWING NUMBER :	11094-RC4
REVISION	

ARNOLD & JOHNSTONE LTD
DRAWINGS RC5-RC6
SHOWING
PROPOSED DREDGING

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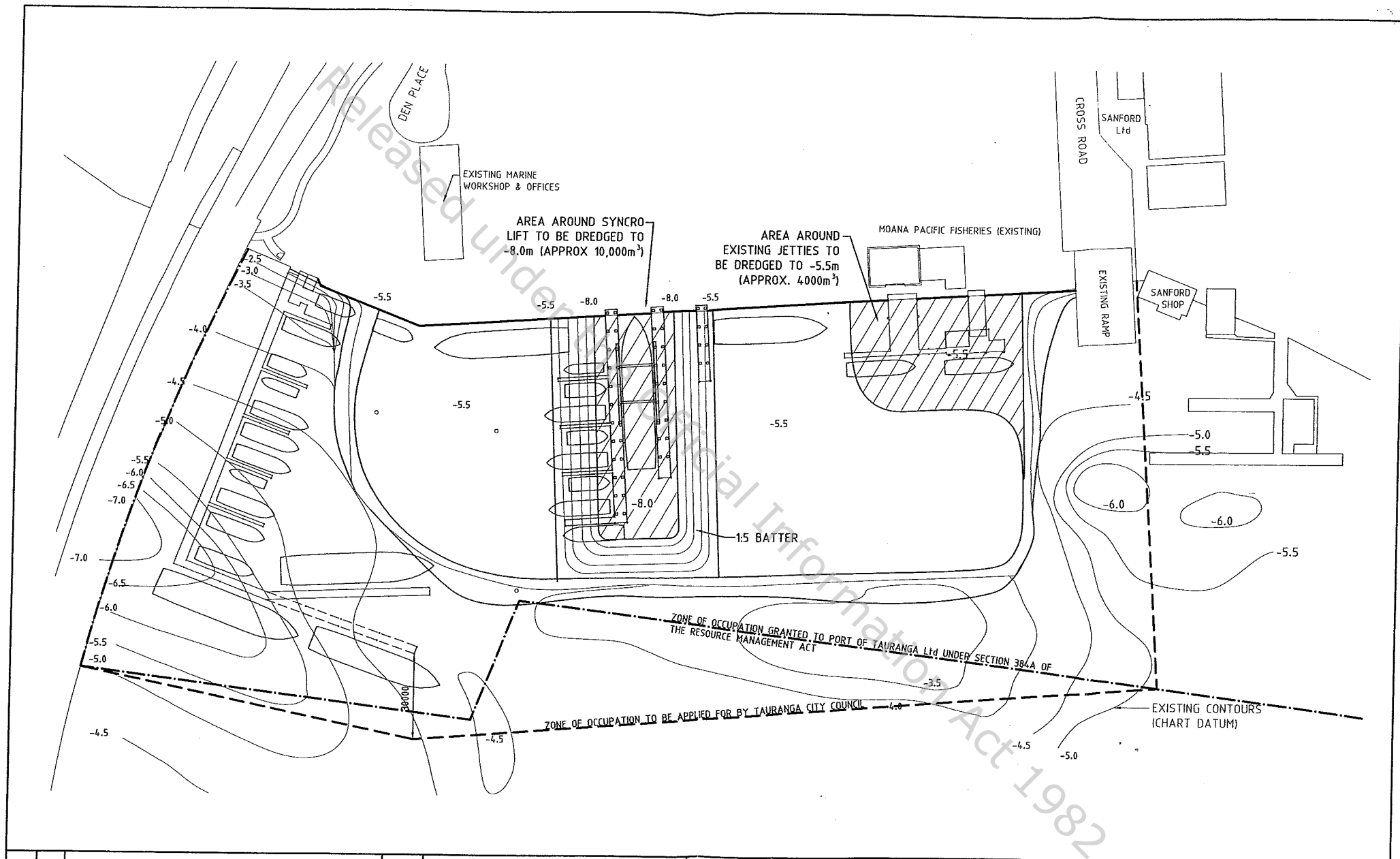



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 Phone (07) 578 0921
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JOB TITLE :

TAURANGA HARBOUR CENTRAL MARINE PRECINCT
 STAGE 1 DREDGING PLAN

DESIGNED BY :	P. JOHNSTONE
DRAWN BY :	G. EDWARD
DATE :	28/07/10
CAD FILENAME :	Q312
LAST PLOT DATE :	03/09/10
SCALE :	1:1250 @ A3
DRAWING NUMBER :	11094-RC5
REVISION	B



No.	BY	REVISION DESCRIPTION	DATE
C	GE	DRAWING # REVISED	03/09/10
B	GE	PROPOSED MOANA PACIFIC JETTY REMOVED	03/09/10
A	GE	ZONE OF OCCUPATION LINE AMENDMENT	20/08/10


ARNOLD & JOHNSTONE LTD
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JOB TITLE :

TAURANGA HARBOUR CENTRAL MARINE PRECINCT STAGE 2 DREDGING PLAN

DESIGNED BY :	P. JOHNSTONE
DRAWN BY :	G. EDWARD
DATE :	28/07/10
CAD FILENAME :	Q312
LAST PLOT DATE :	03/09/10
SCALE :	1:1250 @ A3
DRAWING NUMBER :	11094-RC6
REVISION	C

SECTION 1A

DESCRIPTION OF PROPOSED ACTIVITY

The proposal is to create an industrial/commercial development between Den Place and Cross Road, Sulphur Point, Tauranga in order to service both recreational and commercial boats, together with adjacent boat haulage and berthage facilities in the harbour. Priority One (the economic development organization of the Tauranga and Western Bay of Plenty Region) is currently seeking expressions of interest from developers who may wish to develop the site in accordance with the facilities described in this Resource Consent Application.

The Developer will be obliged to comply with the terms of this Application and the conditions of the Resource Consent.

The development is similar to that for which Environment BOP previously granted Resource Consent No. 61926 to Refit NZ Ltd, which involved a synchrolift haul-out facility, piers and jetties, a floating pontoon, sheet piled retaining wall and seabed dredging.

The construction will be carried out in stages as the demand for the facilities grows, and to ensure a favorable commercial return for each stage of the development.

The initial stages are expected to involve the following works:

- Strengthening/replacement of existing jetty structures at southern end of site (old 600 tonne slipway jetties).
- Demolition of existing 80 tonne slipway in centre of site.
- New wharf structure/finger piers for boat berthage in centre of site.
- Installation of travel-lift facility capable of handling vessels in the order of 200 tonne, in centre of site.
- Removing existing rock wall marginal embankment along land/harbour boundary.
- New sheetpiled retaining wall structure to replace rock wall.
- Dredging to a depth of 5.5m below Chart Datum.

Once the improved facility generates a demand for increased numbers and larger vessels to use the site, the following works are envisaged as subsequent stages of development:

- Removal of the 200 tonne travel-lift installed in the initial stage of the development, and replacement with a smaller 80 tonne travel-lift.

- Installation of a syncrolift haul-out facility capable of lifting vessels in the order of 1000 tonne, possibly up to 2000 tonne.
- Further localised dredging to approximately 8.0m below Chart Datum to accommodate the new syncrolift.
- Further removal of rock wall and replacement with sheetpiling, and dredging to a depth of 5.5m below Chart Datum, at northern end of site (around existing jetties occupied by Moana Pacific Fisheries).
- Strengthening/replacement of existing timber jetty structures at northern end of site (Moana Pacific Fisheries' jetties).

The attached Arnold & Johnstone Ltd Drawings numbered 11094, RC1 – RC6 generally show the intentions for the above stages of development. However the exact details and locations of the individual marine structures may change, depending on the specific requirements for the commercially viable model proposed by the developer chosen by Priority One.

REASON FOR ACTIVITY

The principal reason for this proposal is the requirement to provide a facility which will enable larger boats (in excess of the existing 80 tonne and potentially up to 2000 tonne) to be lifted from the water for maintenance purposes, and to encourage the development of a marine service industry on the adjacent land.

At present, the site contains a smaller slipway which is capable of slipping vessels up to approx. 80 tonne only. The only other haul-out facilities in the region are the 2 travel-lifts operating at the marinas in the Tauranga harbour, each capable of lifting 30 tonne and 35 tonne only.

The proposed facility will therefore be the only heavy duty (approx 80-2000 tonne) boat lifting facility in the region, between Auckland and Napier. It will replace (and increase the capacity of) the 600 tonne slipway which was previously built by the Bay of Plenty Harbour Board in 1970, but which was demolished to make way for the recent (2009) construction of the second Tauranga harbour bridge. That slipway had the capability of slipping the Harbour Board's tug boats, but was also available for other privately owned fishing or recreational boats which required maintenance below their water lines. In 2004 the facility was sold to the Tauranga City Council and continued to operate on a commercial basis for several years.

In 2003, with the imminent construction of the 2nd harbour bridge, the slipway operator at that time (Refit NZ Ltd) applied for, and was granted Resource Consent (No. 61926 dated 23 September 2003) for re-development of the area. Their proposal included a modern heavy duty syncrolift which could lift vessels vertically out of the water, as opposed to the previously employed method of hauling vessels up a sloping slipway. The drawings forming part of that Consent indicated a syncrolift capable of lifting vessels in excess of 1000 tonne, and required dredging the seabed to a depth of 8.2m below Chart Datum, which represented an average depth of approximately 4.5m below the existing seabed. However Refit NZ Ltd no longer occupy the site, their development never went ahead, and the lapse date of their Resource Consent is 23 September 2010.

This new Application will therefore effectively replace Consent No. 61926 previously issued to Refit NZ Ltd.

Other reasons for the development are:

- The need for increased berthage space for commercial vessels in the Tauranga harbour. Vessels are increasingly becoming larger and require more robust structures than those built in the past for smaller vessels.
- Much of the existing berthage structures at the site, as well as having been designed for smaller vessels of yesteryear, are in a deteriorated state and are approaching the end of their life. Replacement of these structures with new stronger structures is the preferred long term solution.
- The existing 80 tonne slipway is an old facility (exceeding 40 years), and is in need of major and costly maintenance or replacement.
- The stimulation of economic growth in the region.
- The increased capability and capacity of the boat construction/refit business within the Tauranga marine industry.

MATERIALS TO BE USED

The design and construction of all structures will incorporate measures to combat the severe marine environment, particularly corrosion by chloride ion attack of reinforced concrete and steelwork structures, and marine worm (Toredo) attack of timber structures. The following materials will be used:

Travel-lift Support Structure

Concrete beams and piles will be used, with the concrete containing supplementary cementitious materials to provide durability and combat chloride attack for a design service life of 50 years.

Alternatively for the piles, steel tubes could be used with additional sacrificial thickness to allow for corrosion in the severe inter-tidal marine environment for the 50 year design life. Alternatively a heavy duty coating would be applied, specifically designed for abrasion and marine conditions.

Wharves/Jetties

Structures in deep water and designed for berthing large vessels (exceeding approx. 25m long) would be constructed in similar materials to the travel-lift support structure, i.e. specifically designed durable concrete, or possibly with steel piles with sacrificial thickness, or coated for the marine environment.

In shallow water, for vessels less than 25m long, timber structures could be used. Either hardwood piles with durability class 1 and with sapwood H6 treated, or pine piles H6 treated to NZS 3602 for the marine environment would be appropriate, with stainless steel and/or hot dip galvanized steel connection details.

Sheetpile Retaining Wall

Due to the dredged depth of 5.5m to 8.0m below Chart Datum, steel sheetpiling would be the appropriate material, with increased sacrificial thickness to allow for a 50 year service life.

Syncrolift Haul-Out Facility

The platform cradle and lifting apparatus associated with the mechanical haul-out facility would principally be in steelwork coated for the marine environment.

The support structure would be constructed in similar materials to those used for the travel-lift support structure, i.e. specially designed durable concrete, or possibly with steel piles with sacrificial thickness, or coated specifically for the marine environment.

SECTION 1B

METHOD OF CONSTRUCTION

As stated in Section 1A, the construction will be carried out in stages across the site, as the demand for the facility grows. The finite staging and programming of the construction will be dependent on the rate of growth, and the resources available to the developer. However the methodology of construction will generally be as follows:

New Wharf Structures, Including Travel-Lift and Syncrolift Facilities

New structures, both concrete and timber will be constructed by personnel employed on floating plant such as flat-deck barges, pontoons, and barge mounted cranes.

Piles will be constructed or prepared off site, and brought onto site on a barge. They will then be hoisted and driven into place using an impact hammer slung from a barge mounted crane. Air or water jetting equipment will be employed in order to achieve the specified minimum design embedment depth of the piles.

Concrete superstructures will be constructed by casting on site using temporary staging made from steel and timber, or by using precast concrete units constructed off site. The method chosen will depend on the constructor's preferences and resources. The travel-lift and syncrolift apparatus will be prefabricated steelwork assembled on site.

Each jetty structure is expected to take approximately 3-6 months to build.

Strengthening/Replacement of Existing Wharf Structures

Any strengthening or replacement of existing timber structures which may also involve demolition work, will similarly be undertaken by personnel located on water-based plant such as flat-deck barges, pontoons and barge mounted cranes. Any demolition work involving removal of existing timber piles may require air or water jetting equipment in order to extract the piles in whole, and minimize the risk of snapping them off close to seabed level, leaving dangerous pile stumps in the seabed.

Similarly new piles, driven from a barge mounted crane, may require jetting to achieve the minimum design embedment depth.

All materials resulting from any demolition shall be removed from the site and disposed of at an approved dump site.

This work could be undertaken as a single operation, or in stages, the timing of each stage being determined by the rate deterioration of different sections of the

existing structures, or the demand for stronger structures to accommodate larger vessels.

Dredging

The extent of dredging in each stage of construction is shown on the attached Arnold & Johnstone Ltd Drawings numbered 11094, RC5 & RC6.

The quantity of dredging to obtain the depth of 5.5m below Chart Datum is approximately 30,000 m³ in stage 1, and 4,000 m³ in stage 2 (in vicinity of Moana Pacific Fisheries at northern end of site). These works are expected to take approximately 4 weeks and 1 week respectively to complete, depending on the dredging method used, and any staged construction methodologies.

The quantity of dredging to obtain the extra depth of 8.0m below Chart Datum for the syncrolift in stage 2 is approx. 10,000 m³, and is expected to take about 2 weeks to complete.

If the dredged spoil consists of clean sand, it can be excavated either by using a cutter suction dredge (the preferred method), or by using a combination of barge mounted and land based long-armed excavators, as follows:

(a) Cutter Suction Dredge

If a cutter suction dredge is used, there are 3 methods of disposing of the spoil, as follows:

- If the spoil is required for further site development, it would be pumped into a barge, then barged ashore and transferred to the land using a land based excavator.
- Alternatively it could be pumped directly to shore at Sulphur Point, Lot 1, DPS 48736 (map reference NZMS 260 U14 8980 8870), as approved to the Port of Tauranga Ltd under Resource Consent No. 61154.
- If not required for site development, it would be barged out to sea and deposited on the Port of Tauranga Ltd offshore Deposition Site G (shown on the attached Port of Tauranga Ltd Drawing No. 324-75), approved under Resource Consent No. 040157.

Consideration has also been given to pumping the spoil directly onto the adjacent land within the Harbour Central site. However this would require almost a hectare of settlement pond surrounded by a sand bund, and would take up almost half of the total site. Furthermore, any breaching of the bund could result in substantial environmental damage such as deposition of sand onto Mirrielees Road (the only access route to the port wharves at Sulphur Point), blockage of water courses and stormwater drainage pipes, and sedimentation or turbidity problems in the harbour. Because of these environmental risks, this method has been rejected in favour of pumping into the previously approved site under Consent No. 61154, as described above.

(b) Combination of barge mounted and land based excavators

- The land based digger would extract the spoil in close proximity to the land, including any loose rock at the base of the existing retaining wall, and deposit it directly onto the land.
- Spoil remote from the shore would be dredged by a barge mounted digger and deposited into a hopper barge stationed alongside, then brought ashore, re-excavated from the barge and deposited on the land by a land based digger.

If the spoil contains significant amounts of silt, it will be barged off shore and deposited on the Port of Tauranga Ltd Deposition site G, approved under Resource Consent No. 60079.

The Port of Tauranga Ltd has given approval (copy of letter attached) for this development to use the above Resource Consents, i.e.

- No. 61154 for discharging clean sand into the existing settlement pond at Sulphur Point.
- No. 040157 for depositing clean sand offshore into Site D.
- No. 60079 for depositing silty sand offshore into Site G.

The method of dredging chosen will depend on plant availability and associated costs at the time of the operation.

Retaining Wall Structure

The sheet-piled retaining wall will be constructed using a land-based crane with an impact or vibrating hammer to achieve the required embedment depth of the piling.

A concrete cap to the sheet piling will be either cast on site using steel and timber falsework, or precast off site and craned into position, depending on the final design details and constructor's resources.

Backfilling on the landward side of the retaining wall would be done with clean sand, compacted with a mechanical roller.

This work is expected to take 3-4 months to complete.

Demolition of Existing 80 Tonne Slipway

This work would be undertaken with land based machinery such as a back-actor excavator, crane, loader and trucks. The re-entrant area would be backfilled with clean sand compacted with a mechanical roller. If necessary, a barge mounted crane and underwater saw would also be employed to remove the part of the ramp which protrudes into the harbour.

This work is expected to take approx. 3 weeks to complete.

SECTION 1C

CONSTRUCTION AND SUPERVISION

Priority One, the Western Bay of Plenty sub-region's economic development agency have recently requested expressions of interest from potential developers to re-develop the site as described in this Consent Application.

Once a developer is agreed upon, it will be the developer's responsibility to prepare the final detailed design and appoint contractors and consultants to undertake and supervise the work.

All work, i.e. design, construction and supervision, will be certified by Chartered Professional Engineers. The names of the supervising Engineers will be disclosed to Environment BOP prior to any work commencing.

SECTION 1D

MAINTENANCE

Structures

Throughout the life of the facility, the condition of all physical structures will be monitored, and maintenance works undertaken as and when required, as is standard practice for any structure, whether located over land or water. However as the marine environment is very harsh, all structures will incorporate design features to combat the environment and minimize maintenance.

Also, damage to fendering systems (piles, fenders, rubbing strakes, chains etc) on wharf type structures is quite common due to impact and abrasion from vessels berthing. However such damage is usually obvious and repairs or replacement options are urgently undertaken in order to restore the structure to a safe and functional facility.

Minor maintenance of water based facilities would be undertaken by contractors stationed either on the structures themselves, or on floating pontoons beneath the structures, both methods utilizing standard construction methods and machinery.

Major maintenance items may require cranes mounted on the structures or on a barge positioned alongside.

Dredging

Some minor maintenance dredging of the area may be required, based on previous experience of clearing away siltation of the underwater ways of the old 600 tonne slipway, or the existing small 80 tonne slipway operated by Hutcheson Boat Builders. Whilst it is expected that maintenance dredging may not be necessary for intervals of up to 5 years, it is possible that annual maintenance dredging could be required. This is expected to be less than 1000m³ per year, and take less than 1 week to complete. However this quantity will vary, depending on weather, storm frequency and availability of dredging plant.

SECTION 2

SITE DESCRIPTION

Facilities

The eastern side of the Sulphur Point spit, where this development is located, has been used for the slipping of boats, as a landing for timber sawmilling yards, as a sand unloading jetty, and for the berthing and maintenance of fishing boats for more than 50 years, with some activities dating back more than a century.

The site has been substantially modified in the past. In circa 1965 the area was reclaimed with sand pumped in behind a rock marginal embankment constructed along the existing eastern boundary.

The marine site occupies approximately 20,000m² and presently contains 3 jetties, all owned by the Tauranga City Council.

The jetty at the southern end of the site, adjacent to the harbour bridge, was constructed by the Bay of Plenty Harbour Board in 1972. It originally consisted of a single row of piles supporting a narrow planked walkway running in the east-west direction only, built to service the 600 tonne slipway which has since been demolished. In the 1980's a second row of piles was added, complete with headstocks and stringers to support a 2.0m wide deck. The finger piers running in the north-south direction were also added in the 1980's. In more recent times, various members (decking, stringers, headstocks and piles) have been replaced as they suffered deterioration from decay and Toredó worm attack.

The jetty at the northern end of the site, adjacent to the Cross Road boat ramp, essentially consists of 2 jetties, each of which has discretely different forms of construction. The northern-most section, termed the 'ice/fuel jetty' was built in the 1980's by the then Bay of Plenty Harbour Board. It is a concrete structure designed for full highway loadings (TNZ HN-HO). No major structural maintenance has been done on this jetty since it was built. The southern section was constructed in timber in the mid 1960's by Bunn Brothers for unloading logs for the adjacent timber mill, with assistance provided by the then Tauranga Harbour Board. In the 1970's and 1980's, strengthening was undertaken to arrest settlement problems being experienced at the time. A stronger nail-laminated deck was also added and the jetty was extended out into deeper water. An overlay of timber planking, plus replacements of stringers, head stocks and piles have been done as necessary since the 1980's.

Another small timber jetty is situated in the central area of the site, immediately north of the existing 80 tonne slipway operated by Hutcheson Boat Builders. This jetty was originally built circa 1969 for Harbour Transport. It was used for unloading sand from barges, to be used in the construction industry. Since that time, it has had various owners, but is now owned by the Tauranga City Council. It is principally used by Western Work Boats for berthing and maintenance of their vessels. A recent report (April 2010) on its condition by Arnold & Johnstone

Ltd concluded that due to the substantial decay in the structure, it should be used for pedestrian loads only.

The existing 'Edwards' slipway, also situated in the central zone of this site, was originally built circa 1968 by AA Edwards, a company who were involved in maintenance of vessels up to about 100 tonne. Due to its age and consequent state of deterioration from the marine environment, it is now used for vessels up to approximately 80 tonne only. It is also limited by the draught of vessels able to be shipped, due to a gradual silting-up of the lower end of the slipway canal. The concrete retaining walls running along both sides of the canal have also started to lean out-of-plumb. It is unknown whether they were originally built in that state, or whether they have subsequently moved.

In summary, the area contains 3 jetties, constructed in both timber and concrete, plus an existing slipway. The adjacent land contains industrial developments including workshop facilities for maintenance and construction of fishing and recreational vessels, and office facilities servicing the fish unloading, fuelling and ice loading of fishing boats.

Seabed

The depth of water at the site and the approach channel to the site (termed 'Town Reach') is shown on the attached Port of Tauranga Ltd Survey Drawing No. DML U7 06/10.

The seabed strata consists of sands, fine aggregates and some deposits of silt. The range of materials are shown on the attached Connell Wagner Drawings, Job No. 7960-01, Drawing No. G01, Boreholes 6, 7 & 8.

Shallow sand samples taken by Bioresarches on this side of the harbour for the 2nd harbour bridge study showed the majority of the sediment particle size is between 0.3 and 1.2mm, i.e. medium to coarse sand. However there is also approximately 15% more than 3mm and so the sediment is classified as gravelly sand.

Ecology

Ecological surveys have been undertaken in the Stella Passage/Town Reach area on a number of occasions, e.g. Marine Habitat Survey, Tauranga Wharf Extension No 1, A & B Graeme, 1990; EA Programme for Tauranga Harbour Dredging, Dr R Grace, 1988; Environmental Report on Proposed Dredging of Northern Sulphur Point shipping Berth, A & B Graeme 1991; Benthic Communities in the Stella Passage Region, MSc Thesis, Ross Butler, 1999; AEE Sulphur Point Wharf Extension No 2, Ecology, Dr R Cole, 1994; Reports prepared by Bioresarches Ltd in 1994 and 2004, for both harbour bridges.

The most recent investigations by Bioresarches found the areas with the most potential to be adversely effected (principally due to the presence of shellfish)

were the intertidal flats on the eastern (Mount Maunganui) side of the harbour. However that area is remote from this Harbour Central site on the western side of the harbour. Sites along the route of the harbour bridge were also investigated and showed a large range of biological diversity. However none of the organisms found were rare, threatened, or at risk on a local, regional or national level.

The chemical quality of the seabed sediment was also tested with respect to concentrations of chemicals. On the western side of the harbour where this development is proposed, the chemical quality of the sediment was found to be relatively high.

Seawater quality was also tested and similarly found to be relatively high.

Coastal Plan - Structures

The area is included in the Eight Schedule of the Bay of Plenty Regional Coastal Environment Plan (BOPRCEP). This Schedule was prepared by the Port of Tauranga Ltd to scope their anticipated future port developments.

Section 8.7, covering secondary and minor structures includes the area of this development, shown on Port of Tauranga Ltd Drawing No. 270.33 included in that Plan (attached hereto).

Clause S 8.7.2.1 describes the activity of the area as “the servicing of commercial and recreational small craft with a draught of less than 5.5m. The industries are generally the fishing industry and marine servicing and maintenance. The new structures will generally be jetties and wharfs, slipways or lifts, and mooring and beacon piles”.

Clause S 8.7.3.1 states “structures will generally be open piled supporting decks at a height of 3-5m above low water spring tides – similar to the type of structure already in the area. Planned dimensions of these structures is usually up to 100m in length perpendicular or parallel to the shoreline. Larger structures up to 150m in length parallel to the shoreline could be constructed to service larger fishing or coastal vessels”.

The proposed development described herein is therefore totally within the scope of the above two clauses, and the activities in this Application therefore comply with the intentions of the BOPRCEP, as a non-notified discretionary activity.

The area is also within the Port Zone for which the Port of Tauranga Ltd has been granted a Section 384A Occupational Limit, as shown on BOPRCEP planning map 11d and the attached Port of Tauranga Ltd Drawing No. 270-19. In 2004, the Port of Tauranga Ltd sold the jetty structures and rights in respect of the water space within this area (excluding the northern end occupied by Moana Pacific Fisheries), to the Tauranga City Council. Section 13.2.4(0)(i) states that “the erection, reconstruction, placement, alteration, extension, removal or demolition of any structure (excluding cranes) within the area that the Port of Tauranga Ltd

has been granted a Section 384A occupation permit as shown on Planning Map 11d, is a non-notified limited discretionary activity”.

Coastal Plan – Dredging

Section 8.3 covers future capital works dredging for the Port and shows the limits of dredging on Port of Tauranga Ltd Drawing No. 270.30 of the Plan (attached hereto). As shown on the Drawing, the area designated “Sulphur Point Slipway North”, with a planned dredging volume of 200,000m³, includes the area proposed to be dredged as part of this Consent Application.

Section 14.2.4(u) for the Port Zone states the “disturbance of ... the foreshore or seabed for the purpose of erection, reconstruction, placement, alteration or extension of any structure expressly controlled by rule 13.2.4(o), is a non-notified limited discretionary activity.

Both rules 13.2.4(o) and 14.2.4(u) apply to this proposed dredging, which is therefore a non-notified limited discretionary activity.

Released under the Official Information Act 1982

SECTION 3A

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

Effects on the environment will be generated both during construction of the facilities, and during post-construction activities, as described below.

DURING CONSTRUCTION

Ecology

During construction, the principal activities having an impact on the quality of the seawater, which affects aquatic life, are those which disturb the seabed such as:

- Impact driving of piles, using a combination of air and water jetting.
- Impact or vibration driving of sheet piling.
- Dredging of seabed.

As part of the AEE for the recently constructed 2nd harbour bridge, Bioresarches undertook an ecology study of the affected area of the harbour, which included the southern end of the proposed Harbour Central site. From diving experience at both ends of the Harbour Central site, there is little change in ecological aspects from one end to the other. The tests undertaken by Bioresarches are therefore appropriate for this site.

In their study they noted that throughout their investigation there were no rare, threatened, or at-risk organisms which would be affected by the harbour disturbance. The only edible shell fish found in the vicinity were on the eastern side of the harbour, remote from the Harbour Central site. This shellfish will not be affected by this development.

Tests were also carried out to simulate the effects of disturbing the seabed. It was discovered that the acidity of the seawater in the vicinity of the disturbance may change by approx 2.5%, but this was not considered ecologically significant. Releases of contaminants into the surrounding seawater, which could also affect aquatic life, were also found to be minor.

Furthermore, it was shown that the effects of any disturbance would only occur in the immediate vicinity of the area of seabed being disturbed. Dilution of the surrounding area quickly reduced the effects to insignificant levels.

Effects were therefore minor and short-term.

Discolouration/Turbidity

In a similar manner to the harbour ecology, discolouration and turbidity of the harbour are also affected by the pile driving and sheetpiling placement, but to a greater degree by dredging of the seabed.

Both methods of dredging as described in section 1B above, i.e. either by cutter suction dredge or long-armed excavator, will cause disturbance which will result in a plume of water down-current of the operation, with elevated levels of suspended solids and turbidity. The extent of turbidity will be dependent on the state of tide at the time of disturbance. At mid-tide, particularly on an ebb tide, the tidal velocity is faster, which will result in a longer plume of turbidity extending down-current from the site of works.

However many water tests carried out by the Port of Tauranga Ltd have shown that for this activity the SS concentration remains below 150 ppm at a down-current distance of 200m from the dredge. This has been accepted in Resource Consent No. 60083. Changes in turbidity levels will be limited to a maximum of 15 NTU, as described in Section 5 – Monitoring.

Silt control/turbidity curtains are a recognized means of controlling the dispersion of turbid water in water-based construction activities. However, the effectiveness of such curtains is highly variable and they cannot be used around every conceivable dredging, disposal or construction operation. In particular, they are not recommended for operations in currents exceeding 0.5m/s. At the Harbour Central Site, currents measured by the Port Company with a Braystoke meter 100m off-shore were:

- Surface velocity 0.8m/s
- Mid-depth velocity 0.7m/s
- Bottom velocity 0.6m/s

A more recent check on the surface velocity has been undertaken by Arnold & Johnstone Ltd by measuring the time taken for a small float to travel a measured distance at the site. The velocity thus measured ranged from 0.9m/s to 1.0m/s, i.e. slightly more, but in a similar order to the Port Company's measurement of 0.8m/s.

As these velocities exceed the maximum limit recommended for the effectiveness of a turbidity curtain, (0.5m/s) there would be no advantage in deploying one.

Construction Noise

The Tauranga District Plan enforced by the Tauranga City Council specifies that construction noise meets the limit recommended in NZS 6803:1999 "Acoustics – Construction Noise".

The principal cause of noise during construction will be from pile driving. Other noise generated will be similar to that from normal land-based construction involving carpentry, concrete work and steel fabrication.

The level of noise produced by piling is of a similar order to that produced by heavy earthmoving machinery, as shown in table 3.1.

Table 3.1

<i>Item</i>	<i>Sound Power Level (dBA re 1pW)</i>
Compactors	105-120
Scrapers, graders	112-120
Bulldozers	117-121
Piling	110-130

Estimates of average noise from typical construction activity, which give a reasonable indication of the noise exposure at various distances from the source of sound are shown in Table 3.2.

Table 3.2

<i>Distance from Centre of Activity</i>	<i>Noise Level (Leq)</i>
50 m	70-75 dBA
100 m	60-65 dBA
250 m	55-60 dBA

The noise limits for residential and industrial/commercial areas, in normal working hours are shown in Tables 3.3 and 3.4 respectively.

Table 3.3

<i>RESIDENTIAL AREAS</i>				
<i>Time Period</i>	<i>Weekdays (dBA)</i>		<i>Saturdays (dBA)</i>	
	<i>Leq</i>	<i>LMax</i>	<i>Leq</i>	<i>Lmax</i>
0730-1800	70	85	70	85

Table 3.4

<i>COMMERCIAL/INDUSTRIAL AREAS (ALL DAYS)</i>	
<i>Time Period</i>	<i>Noise Limit (Leq)</i>
0730-1800	70dBA
1800-0730	75 dBA

As the closest residential area (north end of Cliff Road, Tauranga) is in excess of 300m from the site, from Table 3.2 the Leq noise level is likely to be less than 60 dBA, significantly less than the limits for residential areas shown in Table 3.3.

Similarly for the neighbouring industrial areas, the noise levels for businesses which are more than 50m from the site should meet the sound limits of 70-75 dBA shown in Table 3.4.

For those businesses less than 50m away, the required limits may be difficult to meet. However driving concrete piles is likely to be the only source of such noise which does not meet the limits, and this activity is very short lived in comparison to the overall programme of works. The time for driving concrete piles varies from 1-2 piles per day, depending on driving conditions encountered on site. Also, the piles would initially be jetted down to a position close to their required level, and the 'noisy' pile driving part of the operation would only occur for a short duration of time when 'setting' the piles into their final positions.

For the size of concrete structures envisaged, each jetty could involve approximately 20 piles. Consequently the pile driving time for each jetty would only last for 10-20 days, and then for only a short duration, in the order of 1 hour per day.

POST CONSTRUCTION ACTIVITIES

NAVIGATION

Navigation and manoeuvrability at the site is affected by several influences such as the amount of traffic, berth sizes, depth of water, current speeds, wind and waves. These aspects are considered separately as follows:

On-site Water Based Traffic

Investigations into the likely number of boats to use the facility have been undertaken by Priority One, based on a report by G J Green Ltd, discussions with locals involved in the marine industry, and projections of the currently known market.

Based on that information, the following table shows the anticipated approximate frequency of haulages for both the initial construction stage involving a 200 tonne travel-lift only, and future stages involving a syncriolift and a smaller 80 tonne travel-lift.

<i>Vessel Types</i>	<i>Stage 1</i>	<i>Stage 2</i>	
	<i>200 Tonne Travel-lift</i>	<i>80 Tonne Travel-lift</i>	<i>600 Tonne Syncriolift</i>
Black Boats	33	25	23
Grey Boats	12	10	2
White Boats	5	3	7
Total/Year	50	38	32

From the table it can be seen that the facility is expected to grow from an initial frequency of 50 boats/year in stage 1, to a final combined frequency of 70 boats/year with the addition of the syncrolift in stage 2. Additional berths are therefore allowed for in stage 2 to accommodate this increased traffic.

In order to ensure safe manoeuvrability in the channels and fairways, dimensions and spacings of finger piers will take account of the environmental issues described in the following sections.

In addition to the vessels using the haul-out facilities, boats will continue to use the fish unloading and ice-up facilities used by Moana Pacific Fisheries Ltd. On average they have 4-6 vessels berthing there each day. Before berthing, each boat radios ahead to arrange a time and berthage space.

Moana Pacific Fisheries, as an affected party have no objection to the proposal, provided they can continue to operate from the site.

Neighbouring Water Based Traffic

Sanford Ltd

Sanford's wharf and fish processing facility is located to the north of the Harbour Central site, immediately north of Cross Road.

Similar to Moana Pacific Fisheries, they average about 4-6 vessels entering and leaving their facility each day. They also have similar procedures for vessels berthing, i.e. giving advance notice by radio.

Preliminary plans for the proposed development showed the Moana Pacific Fisheries existing wharf complex being extended in a seaward (easterly) direction. This extension would have encroached somewhat into the manoeuvring space required for vessels berthing at the inner finger piers of Sanford's wharf complex.

However the development now proposed only includes strengthening and/or replacement of the existing Moana Pacific Fisheries wharf, without any extension in a seaward direction. Sanford's manoeuvring requirements will therefore not be affected.

Cross Road Boat Ramp

This ramp is available for public use, but has also recently been upgraded by the Tauranga City Council to allow it to be used by the barge/ferry 'Forest Lady' which travels between the ramp and Matakana Island.

As stated above, preliminary plans for the proposed development showed the Moana Pacific Fisheries existing jetty complex being extended in a seaward

direction. This would have also reduced the width of approach channel to the ramp, which is between the jetty and Sanford's wharf.

For small trailer mounted boats which use the ramp, this restriction of water space would not have been a significant problem.

However, concern was expressed by the operator of the 'Forest Lady', which makes 5-10 trips per day, and is capable of carrying 2 loaded trucks (principally logging) plus 4-5 cars, or up to 17 cars alone on each trip.

The vessel is 10m wide, and notwithstanding the fact that it has twin Schottel propulsion units which provide good manoeuvrability, the barge needs to operate at all states of the tide and occasionally in relatively adverse weather conditions, the effects of the tidal current and wind can be significant and make manoeuvring difficult. The operator was therefore concerned about the ramp access channel being confined by the earlier proposal to extend the Moana Pacific Fisheries wharf.

However as described above, the development now proposed does not include any extension of that wharf, and the approach to the ramp will therefore not be affected.

Berth Sizes

The layout of the jetties and berths will comply with accepted standards of marina design such as the Australian Standard AS 3962, which specifies minimum dimensional criteria such as widths of channel and fairways, water depths and berth widths.

The preferred width of navigation aisles in that standard is 1.75 times the design boat length.

However, as described in section 3B describing mitigation measures, aisle widths will be increased to a minimum of 2.0 times the design boat length to take account of the prevailing environment conditions.

Water Depth

In order to accommodate larger vessels up to approx. 50m long, the area will require dredging. Whilst power boats of that length normally have a maximum draught of approximately 3.0m, 95% of large yachts have a draught less than approximately 4.2m (some large yachts have deeper draughts, but have retractable keels). To that depth, allowances must be made for waves, under-keel clearance, and potential siltation in order to minimize future maintenance dredging.

Combining these factors, a dredged depth of 5.5m below low tide has been chosen. Whilst the depth of the approach channel to the site is as low as approx. 4.2m (as shown on the attached sounding drawing No. DML U7 06-10, titled 'Town Reach 2010 Survey' prepared for the Port of Tauranga Ltd), for an average

tidal range of 1.5m, yachts with a 4.2m draught will still be able to access the site at most states of the tide.

For the future stages of the development, when the syncrolift is installed, extra depth around the syncrolift will be dredged to accommodate the cradle and platform which have to be positioned under the vessel being hauled. This will necessitate the immediate vicinity of the syncrolift being dredged to approx. 8m below low tide level, the actual depth depending on the actual syncrolift chosen.

This depth would enable 4.2m draught vessels to be hauled at either low or high water, and longer vessels up to approx. 5.5m draught to be hauled at high water only.

The 8m depth is similar to the 8.2m depth approved under Resource Consent No. 61926 to Refit New Zealand Ltd.

Tidal Current

As stated above, tidal currents at the site reach velocities of up to 1.0m/s and the site is therefore considered to have medium to strong current characteristics. Such currents obviously impose some degree of hardship and risk for boats manoeuvring within the site. However the previous 600 tonne slipway and the existing 80 tonne slipway have been operating successfully at the site for approximately 40 years, and risks have been overcome by taking care in the planning and implementation of each slipping operation.

Travel-lift or syncrolift operations will be performed at slack water only which occurs for approximately 30-45 minutes each tide. For complex or difficult operations, divers would be employed to assist with sling placement or positioning of boats on the cradle. In the event that delays do occur, and it becomes evident that the tide will become too strong before the vessel is safely positioned for haulage, the operation would be aborted and postponed until the next period of slack water. This is an accepted practice within the industry.

Wind

Data on extreme winds in Tauranga determined by Reid (1984), gave the 3 second gust speeds with a 50 year return period (i.e. a 1 in 50 year chance of occurring in any 1 year) varying from 25 to 32 m/s.

Data from the NIWA wind gauge at the Tauranga airport gave maximum gust speeds of 31m/s in the 30 year period from 1959 to 1989, and 29m/s from 1990 to 2008. These are relatively consistent with the above wind speeds determined by Reid.

The following table show the percentages of the time that wind came from different directions for the period 1995 to 2005 at Tauranga Airport. Wind speeds

were recorded twice daily at mid-day and mid-night, and were not the maximum gust velocities recorded each day.

<i>Direction</i>	<i>Wind Speed</i>		
	<i>0-6m/s</i>	<i>6-23 m/s</i>	<i>0-23 m/s</i>
N	9	3	12
N-E	8	2	10
E	7	3	10
S-E	6	2	8
S	7	0	7
S-W	17	6	23
W	11	10	21
N-W	7	2	9
% Total	72	28	100

Fortunately, the site of this development is on the western side of the harbour, where the land and mixture of industrial buildings shelter the site from the prevailing westerly and south-westerly winds shown in the Table.

From the Table it can also be determined that wind from the northerly through easterly to south-easterly directions, to which the site is exposed, occurs approximately 40% of the time, and approx 70% of those winds have velocities less than 5m/s (10 knots). Discussions with local business around the site have also identified that a 10 knot breeze from the north, north-west or north-east is common.

Waves

As the site is exposed to waves from the east and north, wind from those 2 directions have the potential to produce the highest waves. However the height of waves is proportional to the fetch length, i.e. the length of water surface upwind of the site. Since the fetch length exceeds 3 km to the north (towards the Harbour entrance) but only about 0.5km to the east, northerly storms from the harbour entrance are likely to cause the largest waves at the site.

From work undertaken for the nearby Bridge Marina which has a similar fetch length to the harbour entrance, the estimated significant wave height (mean of the top 33% of wave heights) from that direction is estimated to be approximately 0.65m. However the maximum wave height in a lengthy storm can be in the order of double the significant wave height, i.e. approx 1.3m.

In addition to these short period waves produced by local winds within the harbour, off-shore storms from the north or north-west can also generate longer period waves which enter the harbour entrance and travel towards the site. However such waves entering the harbour disperse and their height decreases rapidly with distance from the entrance. At the Harbour Central site, which is more than 25 wave lengths from the entrance, incoming storm waves will be

reduced to less than 10% of their height and be in the order of 0.3m only by the time they reach the site.

The resultant wave height from these two effects can reach the sum of the individual wave height. Therefore the combined significant wave height can be expected to be approximately 1.0m, and the maximum wave height in a set of waves, being close to double the significant wave height, reaching a height of approx. 2.0m.

Whilst from local knowledge it appears rare for wave heights in this area to exceed about 750mm, structures in the development will have to be designed for maximum wave heights in the order of 2m, as explained above.

Night-Time Navigation

To assist with manoeuvrability within the facility and for the safety of public users of the surrounding harbour at night-time, street lamps shall be installed on the end of each finger pier.

ECOLOGY

From experience with existing structures in the vicinity of Harbour Central, including concrete, steel and timber piles at Sanfords and the old 600 tonne slipway, plus the existing marginal rock embankment, the piles in this development will become an attractive habitat and be colonized by a diversity of marine fauna and flora. The organisms will likely include barnacles, limpets, gastropods, hydroids, ascidians, algae, sea sponges and bryozoans.

The proposal will have no adverse effects on fish population. The pile habitats will provide an increased variety of food organisms and attract a number of harbour fishes such as parore, snapper, trevalli and mullet.

SCOUR/SEDIMENTATION

Tidal currents at the site of the development reach velocities of approximately 1m/s (2 knots), with ebb tides flowing faster than flood tides.

Piling in the area will have an insignificant effect on the velocities, apart from localized changes and vortices in the immediate vicinity (approx 1-2m) of each pile. Any scour of the seabed resulting from increased velocities due to the constriction of the harbour waterway area will therefore be negligible.

Localised scour, based on the scour which presently occurs at the piled jetties at the site will also be relatively minor, being in the order of only 100-200mm, and extending approx. 1m from each pile. The volume of sediment associated with such scour will therefore be very small and redistributed in the close vicinity of the piles only.

The dredged area will affect the current velocities by increasing the waterway area, resulting in reduced velocities. This will result in some scour and sedimentation, particularly in the vicinity of the tops and bottoms of the dredged batters at the northern and southern ends of the site. However, such scouring can be allowed for in the design of the piles in each structure, and maintenance dredging will be undertaken whenever necessary to clear away any sedimentation.

VISUAL ASPECTS

Marine based structures and their associated boating activities are generally known to be visual source of interest and appeal to the public.

The proposed development is in a marine area which is already substantially modified with respect to jetty and marine structures. The new structures will be visually somewhat similar to those existing, and therefore will not change the visual character of the area. The travel-lift and synchrolift, which will replace both the existing 80 tonne slipway and recently demolished 600 tonne slipway, will create added visual appeal.

HEIGHT RESTRICTION

The Harbour Central site is situated directly under the flight approach plane for the Tauranga Airport, as shown on the attached drawing titled 'Tauranga District Plan - Airport Height Areas And Approach Surfaces'. The eastern side of the site, being closer to the Airport, is critical with a height limit of approx. 24m above Motiriki datum, or 25m above Chart Datum. Preliminary discussions with the Airport have confirmed that a dispensation to allow higher vessels would not be possible.

It is therefore a strict requirement that all vessels in the Harbour Central marine area will have a height limit of approx. 25m above Chart Datum.

Large sailing yachts whose mast heights exceed that limit would therefore have to have their masts removed before using the facility.

SECTION 3B

MITIGATION MEASURES

DURING CONSTRUCTION

In order to mitigate against potentially harmful or dangerous consequences during construction, the following requirements will be incorporated into contract documents prepared for any works carried out in the marine area:

Sedimentation Effects

- Where practicable, demolition work shall be carried out from land.
- Work shall be carried out in a manner that minimizes discharge of sediment or contaminants to the harbour.
- Where necessary, a system which enables containment and removal of demolition debris (particles, dust, slurry etc) shall be installed.
- Work shall be carried out in a manner that minimizes disturbance to the seabed.
- Operations shall be monitored to ensure that NTU turbidity levels do not exceed background levels by more than 15. If necessary, work shall cease until tidal flows are such that this limit is complied with.
- Material removed from the site will be disposed of at an appropriate facility.
- All residual or superfluous construction materials shall be removed from the marine areas at the completion of works.

Spillages

- Machinery shall be kept out of the marine area wherever practicable.
- Where vehicle movements in the marine area are necessary, they shall be undertaken in the dry (above sea level at the time of vehicle movement), where practicable.
- No refueling activities or fuel storage shall occur within 20m of mean high water spring. Where this is not practical, the constructor shall employ methods to avoid or minimize any fuel spillage, including the provision of appropriate security and containment measures such as bunding where necessary.
- All reports of oils spills/pollution shall be directed to the Harbourmaster (or the pollution Hotline) who is responsible for coordinating with the Port of Tauranga Ltd and local harbour contractors for the deployment of oil spill equipment whenever necessary.
- All plant, machinery and equipment shall be removed from the marine area at the completion of works.

Contamination

In order to prevent the spread of harmful marine organisms within the Tauranga harbour, all vessels used in the works shall be clean and cleared of any foreign organisms prior to entering the harbour.

Dust

Appropriate measures shall be taken to minimize the emission of dust and other air-borne contaminants which could be a nuisance or health hazard to nearby businesses, harbour users or the general public.

Noise

Noise generation shall comply with NZS 6803 and any applicable Territorial Authority bylaws. All reasonable measures shall be taken to minimize the noise nuisance to nearby businesses, harbour users and the general public. Work shall only be carried out during normal daylight working hours, with no work undertaken on Sundays or Public Holidays.

Construction Safety

All work shall comply with the Health and Safety in Employment Act. In order to maintain public safety and prevent members of the public from entering the site of works, both from land and from water, appropriate safety barriers, fences, danger notices and lighting etc. shall be erected.

Navigational Aspects

- All floating plant and vessels employed for the construction works shall comply with the Safety Ship Management (SSM) system administered by Maritime New Zealand, and shall comply with the Environment Bay of Plenty navigation and safety bylaws.
- All mooring lines, anchor ropes etc. shall be clearly marked to avoid any danger or hindrance to other boats using the harbour.
- The work shall not interfere unnecessarily with the adjacent water space, and shall allow free and safe passage to and from that space.
- All work shall be undertaken in a manner that will ensure the safety of adjacent property and watercraft, and any persons occupying them.

POST CONSTRUCTION

Berthing Requirements

Some vessels may be berthed 'beam-on' to the tide and northerly winds and waves. In order to mitigate the effects of these environmental forces, it would be advisable to provide wider navigational aisles and fairways than the widths specified in AS 3962. The preferred width in that Standard of 1.75 times boat length should therefore be increased to a minimum of 2.0 times the length of any boat which will use the facility without the assistance of a tug boat. It would not be practical to apply this formula to the larger vessels (exceeding approx. 30m long) and these vessels will need to be tug assisted when berthing at mid-tide or during strong winds. Also for night manoeuvring, as described below, lights will be installed to provide guidance for vessels entering or leaving the facility.

Proximity to Boat Ramp and Sanford's Wharf

As stated under Section 3A, preliminary plans for the development showed the Moana Pacific Fisheries existing wharf complex being extended in a seaward (easterly) direction. However this proposal had 2 significant effects on adjacent marine facilities:

- 1) A restriction in the width of the approach channel to the Cross Road boat ramp, particularly affecting the barge 'Forest Lady' which regularly uses the ramp, and
- 2) A restriction in the manoeuvring space for vessels using Sanford's wharf complex,

In order to mitigate these effects, the development now proposed does not include any extension of the Moana Pacific Fisheries wharf, and the above effects have therefore been eliminated.

Durability of Structures

All materials used in the marine area shall be appropriate for, and adequately protected against the harsh marine environment, and designed for a life of 50 years. Similarly, structures shall be specifically designed for the marine forces pertaining to the area, allowing for berthing forces, current, wind and wave forces.

Sedimentation

In the design depth of dredging (5.5m – 8.0m below Chart Datum), an allowance of 300mm depth has been included to future-proof the facility against the possibility of sedimentation and reduce the on-going maintenance requirements.

Lighting

Appropriate lighting and signage shall be provided on all jetties to ensure navigational safety for members of the public using the adjacent harbour, for safe manoeuvring by the operators and users of the facilities, and for the safety of the forestry barge using the adjacent boat ramp.

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SECTION 4

ALTERNATIVE SITES

The types of activities proposed are included in the 8th Schedule of the Bay of Plenty Regional Coastal Plan. In particular, section S 8.3 refers to the attached Port of Tauranga Ltd Drawing No. 270-30 which shows this site as part of an 11.4 hectare area designated "Sulphur Point Slipway North" with a planned 200,000m³ of dredging. Also, Section S 8.7 refers to the attached Port of Tauranga Ltd Drawing No. 270-33, which includes this site for secondary and minor structures such as proposed in this development.

Furthermore this particular site, as described in Section 2 above, has been used for similar activities (in particular the old 600 tonne slipway, the existing 80 tonne slipway, and the berthing facilities), for more than 50 years.

The choice of alternative suitable sites in the region for this type of activity is very limited, due to the requirement to have deep water access, with adjacent land available for marine maintenance and construction.

The site chosen is therefore considered appropriate for the proposed development.

SECTION 5

MONITORING

During construction, once every 5 days while dredging excavations occur in the harbour, and at least once during each dredging campaign, the following water samples shall be taken and tested for NTU turbidity units:

- From a position 50m up-current of the disturbed site, and
- From a position 200m down-current of the disturbed site, in the direction of any sediment plume emanating from the site.

At each position, 1 surface water sample shall be taken in a minimum water depth of 600mm, and analysed for turbidity as soon as practicable.

All sampling and analyses shall be carried out in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater APHA, AWWA, WEF" or such other method as may be agreed in writing with the Chief Executive of the Regional Council or delegate.

The background turbidity level shall be the natural turbidity level in the harbour, taken at a position no closer than 50m up-current of the disturbed site. Based on the above sampling, seabed disturbance operations shall not result in a change in turbidity in the water greater than 15 NTU. Should turbidity exceed this level, the operation shall cease until the tidal current reduces to a level whereby the above turbidity limits can be complied with.

In addition, for each dredging activity, a sample of soil shall be taken from the dredge hopper or disposal vessel, and analysed for proportion of silt content by weight. The analysis results shall be forwarded to the Regional Council within 20 working days.

Appendix C

Written Approvals

- LETTER OF APPROVAL FROM PORT OF TAURANGA LTD FOR OCCUPATION OF SPACE
- LETTER OF APPROVAL FROM PORT OF TAURANGA LTD TO USE DREDGING DEPOSITION SITES

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12 October 2010

Our Reference J D Patterson
Direct Dial 07 571 3851
Email john.patterson@hobec.co.nz

Beca Carter
P O Box 903
TAURANGA 3140

Attention James Low

By Email
james.low@beca.com

Port of Tauranga - Consent to Harbour Precinct

We act for Port of Tauranga which has instructed us that it is supportive of the Harbour Precinct proposal and will facilitate the planning process.

Seaward side

1. Regarding your request for a surrender of Port of Tauranga's s384A occupation right in respect of the land adjoining Harbour Central.
2. In practical terms, our client has no interest in retaining control over that area and so agrees in principle to ceding the occupation rights to the Council.
3. We understand you are aware that there already exists a water space management deed in respect of the area whereby the Port Company has appointed the Council to manage the area and effectively to have all the rights the Port Company had in respect of that area. The reason for this deed was that only a port company could hold a s384A permit and this preserved the occupation right but gave Council control over it.
4. A preliminary matter is that under the management deed, Port of Tauranga has an obligation not to surrender the deed without the consent of the Tauranga City Council. The deed also clearly contemplates that in the event of the Council obtaining its own occupation right, the Port would then surrender its s384A certificate in respect of that area. We will just need from Council such documentation as it deems necessary to consent to the Port partially surrendering its s384A permit.
5. If you are successful in obtaining your new occupation right in favour of the Council, this will remove the need for the s384A permit, but you may prefer to leave it in position until you have your substitutionary occupation permit. As you are aware pursuant to s138 the surrender takes effect not at a date when the Port decides but when EBOP advises that the surrender is accepted. For that reason we suggest that the Port's surrender of the area from the permit should be carried out after you have received the new permit. The port will certainly agree and consent to the granting of the new occupation right, and agree to surrender its s384A permit on such granting.

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JDP-228826-1006-1-V1.dml

Partners
Simon Paul Collett B.A.L.B.
Vanessa Jane Hamm B.A.L.B.
William Beau Holland LL.B. (Notary Public)
John David Mackay LL.B.

Michael Joseph Sharp B.Com.LL.M.
Dean Andrew Thompson LL.B.
Mark Eaton Tingei B.Com.LL.B.

Consultants
Allen Conway Hunter LL.B.
John Douglas Patterson LL.B.
Michael John Smith LL.B.

Associates
Lara Charlotte Ruth Burkhardt BBS LL.B. (Hons)
Luke Andrew Stewart LL.B.

Landward side

6. You may be aware, at the time the land was transferred, the Port Company and the Council came to agreement concerning the use of the land for non-residential activities and marine related activities, all of which are set out in the restrictive covenant registered against the land and referred to in your application. The Port Company is aware that giving its consent as an adjoining owner means that any adverse effects on the Port Company will not be taken into account in granting the resource consent. It is prepared to accept this situation but on the basis that the contractual obligations contained in the restrictive covenant are still fully binding between the parties. Any approval or consent given by the Port Company to these landward developments would still preserve all rights agreed to by the parties and noted in the restrictive covenant.

Conclusion

7. The consent authority will not be satisfied with any conditional consent or approval and therefore our suggestion is as follows:
- (a) Tauranga City Council and Port of Tauranga enter into a simple agreement whereby:
 - (i) Council pursuant to the Waterspace management deed consents to Port of Tauranga surrendering its s384A permit in respect of the area in question.
 - (ii) That will take effect upon Council obtaining a substitutionary occupation permit.
 - (iii) Port of Tauranga will on the issue of the new permit, notify the Regional Council pursuant to s138 of the Resource Management Act 1991 that it is surrendering the statutory coastal permit sofar as it relates to the water space.
 - (iv) Port of Tauranga agrees to give its consent to the planning applications as an adjoining owner.
 - (v) The parties agree that notwithstanding the granting of that consent that the contractual obligations set out in the restrictive covenant will still continue to apply.
 - (b) On that basis the Port would provide the consent authority with unconditional written consent to the planning applications.

Yours faithfully
HOLLAND BECKETT



JOHN PATTERSON
Consultant

52/
30/6/0

27 July 2010

Mr Paul Johnstone
Partner
Arnold & Johnstone Limited
PO Box 933
Seventh Avenue
Tauranga 3140

Dear Paul

**HARBOUR CENTRAL RESOURCE CONSENTS - PERMISSION TO USE PORT
OF TAURANGA DEPOSITION SITES**

The Port of Tauranga Limited confirms its agreement to the use of the deposition sites defined in consents:

No 61154	-	Sulphur Point Extraction Consent
No 040157	-	Deposition Site 'D'
No 60079	-	Deposition Site 'G' for Silt

on the following conditions:

- That the purpose is directly related to the consent for the development currently known as 'Harbour Central' being applied for by Priority One.
- That the consent holder shall be directly responsible to the Bay of Plenty Regional Council for complying with all applicable conditions in the three Port of Tauranga consents.
- That a hard copy of all notices and reports required in the monitoring and reporting conditions of those consents are forwarded to the Port of Tauranga Limited.

Yours sincerely



Geoffrey Thompson
DESIGN ENGINEER



Appendix D

Layout of "Refit" Proposal

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