



24 November 2016

The Manager
Crown Property Management
Land Information New Zealand
Private Bag 5501
WELLINGTON 6145

Attention Graham Williams

Dear Graham

APPLICATION FOR FREEHOLD INTEREST IN RECLAIMED LAND
OUR CLIENT: PORT OF TAURANGA LIMITED
YOUR REF: PRY-A30-19276-DIS-Z/01 AND PRY-A30-3203196-DIS-Z/01

1. We refer to your letter dated 16 September 2016.
2. We refer to the relevant areas of land (in accordance with our original application) as follows:
 - (a) Section 1 SO 464237 as being "the Northern Reclamation"; and
 - (b) Section 1 SO 59443 as being "the Southern Reclamation";together being referred to as "the Reclamations".
3. We respond below to your comments in the same order as set out in your letter:

District Plan Map

- (a) We **enclose** a copy of the Tauranga City Council's District Planning Maps and Maps Key.

Further capital investment

- (b) The Reclamations were reclaimed to develop wharf structures and this work has been completed. As previously advised, the level of investment in the Northern Reclamation is approximately \$2.7M and the level of investment in the Southern Reclamation is estimated to be approximately \$5.4M.¹ Therefore, other than maintaining the existing wharf infrastructure, at this point in time it is not intended that our client will invest further significant capital on the Reclamations in the future.

¹ See section 7 of the application.
GBS-228826-889-355-1: gbs

Conditions of resource consents

- (c) In relation to the Southern Reclamation, we are not aware of there being a resource consent as such. The Southern Reclamation was carried out under the authority of an Order in Council made pursuant to s 175(3) of the Harbours Act 1950, published in the NZ Gazette 199 at p. 126. A copy of the gazette notice is included at Appendix J to the application.
- (d) In relation to the Northern Reclamation, resource consent 66134 included at Appendix H(iv) to the Application was granted subject to conditions. As far as we are aware, the conditions of resource consent 66134 were complied with.
- (e) In respect of both Reclamations, the Minister of Conservation and the Bay of Plenty Regional Council have certified the reclamations under s 245(5)(a) of the Resource Management Act 1991.² Under s 245, the holder of every resource consent granted for a reclamation shall as soon as reasonably practicable after completion of the reclamation, submit to the consent authority for its approval a plan of survey in respect of the land that has been reclaimed. Section 245(4) further provides:

A consent authority shall approve a plan of survey submitted to it under subsection (1) if, and only if, it is satisfied that—

- (a) The reclamation conforms with the resource consent and any relevant provisions of any regional plan; and
- (b) The plan of survey conforms with subsections (2) and (3) and the resource consent; and
- (c) In respect of any condition of the resource consent that has not been complied with—
 - (i) A bond has been given under section 108(2)(b); or
 - (ii) A covenant has been entered into under section 108(2)(d).

Accordingly, whether any relevant conditions were complied with formed part of the Minister of Conservation and the Bay of Plenty Regional Council's consideration before issuing the s 245(5)(a) certificates.

Certificates of Title

- (f) The Reclamations may form part of one new Certificate of Title, regardless of the fact that these parts of the land do not have a physical adjoining boundary.
- (g) However, we request the Minister determines that a separate new Certificate of Title issue in respect of each of the Northern Reclamation and the Southern Reclamation.
- (h) These new Certificates of Title may be issued with a memorial registered on them which records that these areas of land have no frontage to a legal road (copy of CT SA67D/525 **enclosed** for reference).

Written advice from Office of Treaty Settlements (OTS)

- (i) We **enclose** a copy of the written advice received from OTS dated 21 November 2016 as to whether there are any historical claims or pending claims over the Reclamations being considered as potential redress in any settlement of historical Treaty of Waitangi claims, and whether it has received any applications for customary marine title affecting the land.

² Appendix L for the Southern Reclamation (Minister of Conservation) and Appendix I for the Northern Reclamation (Bay of Plenty Regional Council).

- (j) OTS advises that there are no historical or pending claims over the land and that they are not being considered as potential redress in any settlement of historical Treaty of Waitangi claims at this time. Further, the Marine and Coastal Area (Takutai Moana) Act 2011 will only affect the common marine and coastal area abutting the land and there are no customary marine title applications abutting the area in question.

Heritage assessment

- (k) Our client is in correspondence with Heritage NZ regarding an assessment report for the Northern Reclamation, and as soon as we have this we will forward it.

Cultural values

- (l) Sulphur Point sits within the rohe of Ngai Tamarawaho, and the Port of Tauranga (POT) has obtained a written report from its authorised tangata whenua. The Cultural Values Assessment is **enclosed**.

- (m) In relation to the Cultural Values Assessment:

- (i) The assessment records that a case 'might' be made for the Reclamations to be regarded as surplus Crown lands and therefore available for Treaty claims settlement purposes through OTS.³ POT does not agree that the Reclamations could be regarded as surplus Crown lands as they are very much an integral part of the operational Port of Tauranga. Further, the letter from OTS dated 21 November 2016 (**enclosed**) confirms that the land within the Reclamations is not being considered as potential redress in any settlement of historical Treaty of Waitangi claims.
- (ii) The assessment suggests some 'mitigation measures'.⁴ POT does not consider that these can logically form part of the application for a freehold interest in the Reclamations, but is engaging with Buddy Mikaere separately in relation to the suggestions.

4. In terms of the application, once we have provided the assessment from Heritage NZ, we understand that the next step will be for the Minister to advise POT of his proposed determination and provide POT with a reasonable opportunity to comment on that proposed determination. We look forward to hearing from you in due course.

Yours faithfully
HOLLAND BECKETT



GEORGINA SMITH
Associate

Supervising Partner: **VANESSA HAMM**

encl.

³ Page 4.

⁴ Pages 14-15.