



Notification of Resource Consent Application under sections 95-95G of the Resource Management Act 1991 (RMA)

Notification

Under s95A(2)(a) and s95A(3)(a) the application **must** be publicly notified, as has been requested by the applicant via email 14 September 2021¹.

As the applicant has requested the application be publicly notified, no determination is required to be made as to the significance of adverse effects of the proposed activities. However, I consider the effects of the proposed activities may be more than minor. I also consider that the cultural effects may be more than minor.

Particulars

Applicant:	South Port Limited
Application reference:	APP-20211362
Site address or location:	Bluff Harbour, Bluff
New consent(s) for new activity(ies) (s88)	<input checked="" type="checkbox"/>
New consent(s) for existing activity(ies) (s88)	<input type="checkbox"/>
Change to conditions of existing consent(s) (s127)	<input type="checkbox"/>

The proposal

South Port Limited proposed to utilise existing permits (listed below) and supplement these with additional new permits associated with dredging soft sediment from the upper Bluff Harbour and drilling, blasting, and breaking hard rock in the bed of the harbour and dredging/excavating that hard rock onto vessels. All dredged and excavated material will be deposited in two locations (listed below).

South Port's proposal is to dredge and removal seabed materials to a targeted depth of 9.7 m chart datum (CD) in the harbour entrance channel, 9.45 m CD in the swinging basin and 10.7 m CD in the Island Harbour berth basins. A maximum volume of 120,000m³ of soft sediment and 40,000m³ of rock is proposed to be dredged from the harbour.

This application was referred to an Independent Planning Consultant for external objective processing due to the shareholder status of the Southland Regional Council (Environment Southland) in relation to South Port NZ Limited.

South Port holds existing consents as follows:

Existing consents:

- Deemed Coastal Permit under s.384(1)(c) of the RMA provides a permits where South Port had existing permissions that they become coastal permits, in respect of any area in the coastal marine area, being a permission, licence, permit, or authority in force immediately before the date of commencement of the RMA. This permit includes the right of port companies to occupy the coastal marine area which expires on 30

¹ ES document management system ID A695355

September 2026. Specifically, the permit allows South Port to remove any blasted or fragmented rock that remains in the channel from the previous capital dredging campaigns in the 1970's and 1980's.

- Coastal permit 201285-V2 that consents the maintenance dredging and deposition of a maximum of 20,000m³ of soft sediment per annum with an annual average volume of spoil not exceeding 12,000m³ over the term of the permit. The permit expires on 2 December 2037.

Sought Consents:

The application (reference APP-20211362) is for the following resource consents to authorise proposed activities in the seabed within Bluff Harbour and Foveaux Strait south and east of Tiwai Point, to be exercised in conjunction with the existing consents listed above:

- × **Coastal Permit** to dredge soft sediment from the swinging basin and from the Island Harbour berth basins 3, 4, 5, 6, 7 and 8,
- × **Coastal Permit** for the disturbance and removal of the seabed/rock through breaking, drilling, blasting and dredging of rock material from rock outcrops within the harbour entrance channel and from the margins of the channel, and
- × **Coastal Discharge Permit** for the discharge of up to a maximum volume of 120,000m³ of soft sediment and 40,000m³ of rock is proposed to be deposited at two disposal sites located in Foveaux Strait offshore of Tiwai Peninsula. The soft sediment disposal site is located and the hard rock material is to be disposed of seaward of Tiwai Peninsula.

The location to which this application relates are:

Location: Centre of swinging basin: 4829468N 1243281E

Centre of berth basins:

Berths 3 & 4 4829504N 1242725E

Berth 5 4829611N 1242626E

Berth 6 4829575N 1242530E

Berths 7 & 8 4829800N 1242615E

Centre of harbour entrance channel: 4828749N 1244359E

Disposal site (sediment):

4829176N 1246514E

4829196N 1246312E

4828631N 1245765E

4828604N 1245986E

Disposal site (rock):

4828318N 1248754E

4828125N 1248607E

4827661N 1249289E

4827865N 1249428E

Legal Description of Property: Crown land comprising seabed.

For the purpose of the consent application, South Port has referred to the sought consents, to be identified as the "Capital Dredging" and all other consented works referred to as "Maintenance Dredging". The term

of consents being sought is 10 years, and the programme of physical works is 8 months, albeit 24 months from commencement has been sought for contingency purposes. The South Port application outlines the need to give effects to the Deemed Coastal Permit, the Maintenance Dredging Consent (Coastal permit 201285-V2), and the sought consents to achieve the depths required.

Overall, the application is a **discretionary activity**.

Effects and Issues

The application is for coastal permits/coastal discharge permits under s.14 RMA. Associated with these activities there are a number of environmental effects. These include:

- *The geology of the entrance channel;*
- *The coastal processes, from dredging, rock removal, deepening parts of the channel and of the harbour,*
- *The effects from dredging in term of effects on habitat, aquatic ecology, sediment plumes and effects on other harbour users*
- *The effects on sediment disposal offshore the beach from Tiwai Point and the Bay.*
- *The effects on marine ecosystems*
- *the effects on rocky reef habitat and marine life within removing rocks*
- *The effects from rock breaking, drilling and blasting, including the associated noise from those activities*
- *Sediment and rock disposal effects*
- *Vessel biofouling effects*
- *Effects on coastal water quality*
- *Effects on marine mammals (dolphins, whales etc), including Temporary Threshold Shift effects and Permanent Threshold Short effects, behavioural disturbance, habitat exclusion and or displacement, entanglement and vessel strike, toxic effects, tropic effects*
- *Effects from physiological injury from underwater noise*
- *Effects on avifauna (seabirds)*
- *Culture/Cultural and heritage effects, recognizing the statutory acknowledgement to Bluff Hill/Motupohue, and the Motupōhue Mātaitai Reserve, and the mahinga kai and tauranga waka effects on Iwi. Additional some burial sites are located in the Tiwai area ad also other archaeological sites. The Cultural Impact Assessment (Appendix 16) that outlines the values, rights and interests of Te Rūnanga o Awarua in the project, which has been supplemented by an Addendum which lists the potential cultural effects, risks and mitigation.*
- *Effects on natural character and landscape values*
- *Airborne noise effects*
- *Vibration effects*
- *Effect on marine farms (temporary crayfish holding pots in the harbour)*
- *Effects on navigation and other recreational users*
- *Effects of Climate Change*
- *Cumulative effects and associated risk to the natural and physical environments.*

The Assessment of Environmental Effects is supported by a Risk Assessment, a list of Proposed Conditions in the application and supporting appendices.

The threshold test of s.95E RMA is whether the adverse effects “are more than minor”. My evaluation of the application and specifically the above listed environmental effects have found that some of those effects are somewhat lacking in evidential basis (e.g. cultural effects with no official Written Approval), or reliant on previous studies, trials before commencing the works, or on mitigation factors where the

effectiveness is partially outside the control of the applicant and its contractors. An example of this, is the reliance of the communication plan to inform landowners to close their windows to avoid noise effects. Additionally, the cumulative effects of the programme have a range of scenarios that could occur when implementing the existing consents, and the sought consent which could potentially have more than minor environmental effects on marine environments, habitat and species.

The applicant has requested full public notification, and from my review of the application and assessment of environmental effects, I consider that some of the effects listed above will have, or is likely to have “*more than minor*”. I also consider that the cultural effects reported in the Cultural Impact Assessment (Appendix 16 of the application by Te Ao Marama Inc.) and the subsequent addendum (December 2021) state that the cultural effects will be “significant” and the “*application [and effects] will affect iwi values, the activity is one that isn’t able to be mitigated some activities [effects]*”. [brackets represent my emphasis/definition added to quote]. However, the Addendum contends that “*Awarua are confident that the outcomes sought in the CIA will be upheld and therefore allow the potential effects to our values, rights and interests to be managed collaboratively by South Port and Awarua*” which I have evaluated to mean that with mitigation and appropriate communications that tangata whenua are satisfied.

The proposal seeks 8 months of dredging and disposal works, but the works and associated environmental effects could be delivered in three separate occasions, potentially over 24 months (restricted to February to September). With such heavily reliance on mitigation and the conditions of consent, to address potential adverse effects on the environment and risks to the environment there could arguably also be special circumstances (s.95A (9) RMA) to public notification.

Additionally, the risks to the marine ecology, avifauna, coastal processes from disposal, and residents and businesses nearest the harbour are assessed whereby all the post mitigation (as proposed) results in risk assessments that are “Rare” or “Unlikely” **likelihood**, and “Less than “Minor” or “Minor” in **consequence**. This highlights the importance of certainty of the mitigation and conditions of consent to manage the risk to the natural, built, cultural and social environments, and also the potential effects that could occur through the uncertainties through the programme of works.

Public notification

While under s.95E RMA, the threshold test that environmental effects “that are more than minor” justify notification, under s95A(2)(a) and s95A(3)(a) the application **must** be publicly notified as requested by the applicant. The applicant has corresponded with Environment Southland that the basis of lodgement is that the Council will publicly notify the consent.

In part, South Port has indicated that through their consultation with the public and stakeholders that the application will be publicly notified. Their consultation has included in the application, including Appendix 18 (Letters of Support) from users of the port, Invercargill City Council (Bluff community Board), ancillary companies such as the freezing works, the Chamber of Commerce (Commerce South), owners of ships/vessels, Great South (the Regional Development Agency), and Sea Scouts (Te Ara O Kiwa Sea Scouts). These letters of support are not exhaustive as to who might be affected by this proposal, nor formal written approvals (s.95D(e) RMA), but the letters recognise that some wider support to this project that exists.

Correspondence with Ngai Tahu on the Customary Marine Title has occurred, which the response from Rachael Evans (Legal Advisor for Te Kura Taka Pini) has indicated that they have no comment, however the “*engagement between papatipu rūnanga and councils will allow mana whenua comment if appropriate*”. That engagement is in fact meant to occur between South Port and Te Ao Marama Inc.



Hamish Peacock
Consultant Consent Processing Officer

Date: 9/12/21

Delegated Authority Sign Off

The application will be publicly notified



This decision is made under delegated authority by:



Bruce Halligan
Acting Consents Manager

Date: 9 December 2021