



Recommendation and decision on notification of resource consent application(s) under sections 95-95G of the Resource Management Act 1991 (RMA)

Summary

I recommend the application be publicly notified. This is because:

- I consider that adverse effects on cultural and spiritual values may be more than minor because:
 - The discharge conflicts with Policy 3.6.7(7) of Te Tangi a Tauria;
 - A cultural impact assessment for a similar activity identified that it may have a significant impact on mana whenua values.
 - The applicant has initiated consultation but has not yet received any feedback from Te Ao Marama Inc, Te Rūnanga o Ngāi Tahu or the Tangata Tiaki for the Motupöhue Mātaitai reserve to indicate that adverse effects on cultural and spiritual values will be adequately avoided or mitigated.

The application

Particulars

Applicant:	South Port New Zealand Limited
Application reference:	APP-20242149
Site address or location:	Syncrolift site, Awarua/Bluff Harbour
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 New Zealand Limited has applied for a coastal permit to dredge sediment at the Syncrolift site at the Island Harbour, Bluff, and to discharge the associated sediment from the dredging into Awarua/Bluff Harbour about 320 metres northeast of the Syncrolift site.



The Syncrolift allows vessels to be lifted out of the water and is a key piece of infrastructure at the port. The area has been modified by past works, especially the construction of the Island Harbour. Whether that changed deposition patterns or there is some other cause, there is currently a significant build-up (approximately 1,300 m³) of sediment beneath the Syncrolift which will impede its use if not rectified.

The applicant wants to trial use of a suction dredge to remove the sediment. The sediment would be pumped a short distance and released close to the seabed, where it will be carried away by tidal currents. The sediment to be dredged is mainly silt, clay and very fine sand. This is similar to the sediments in the proposed discharge area. However, in the area of the syncrolift the sediment will contain contaminants associated with the vessel maintenance activities that occur at the syncrolift.

Coastal permit	
Relevant rule(s)	10.1.4 of the Regional Coastal Plan 10.2.4 of the Regional Coastal Plan
Activity Status	
Dredging of the sediment:	permitted activity
Deposition of the dredge material:	discretionary activity

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

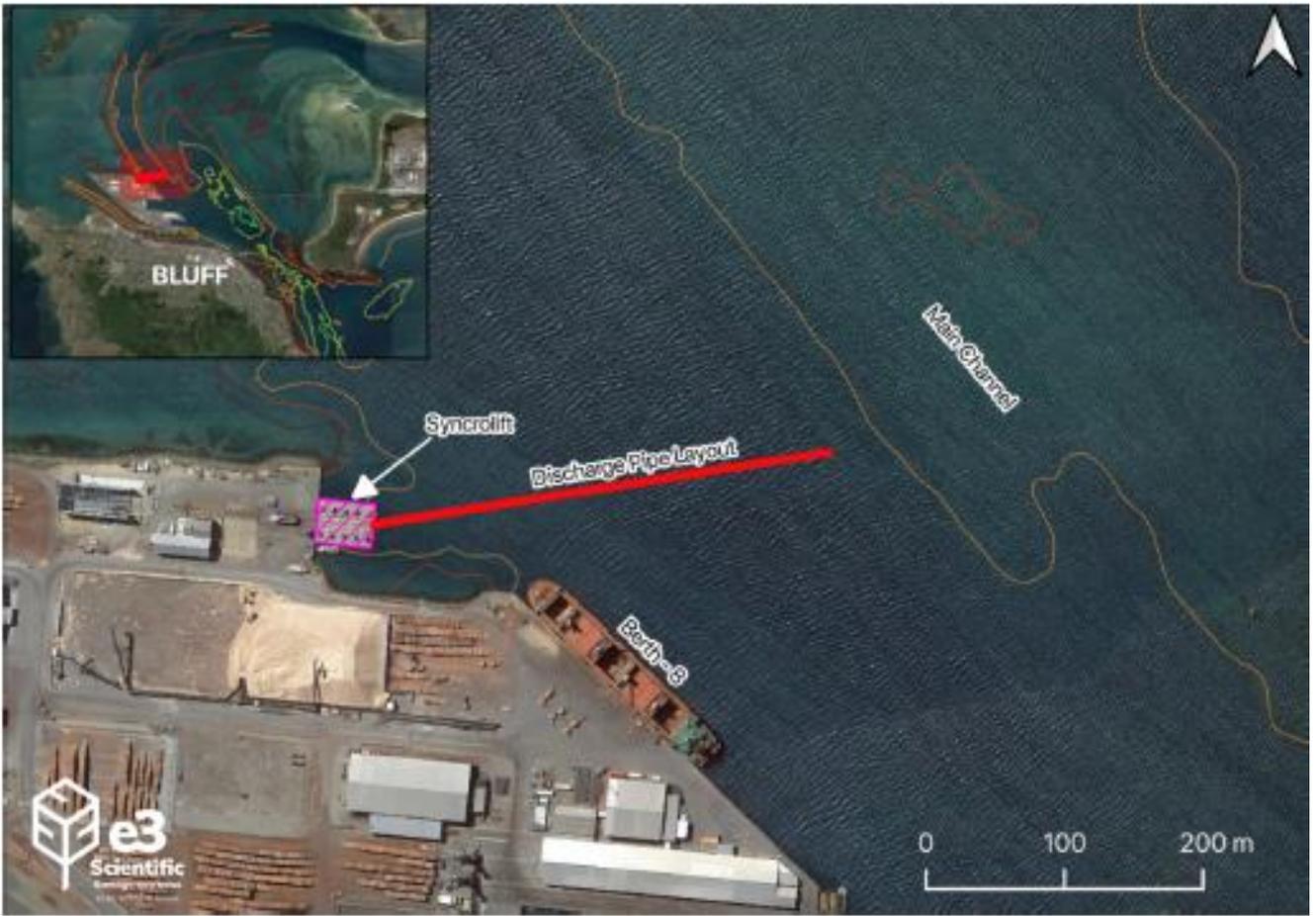


Figure 2-1: Syncrolift dredge sit and approximate discharge pipe layout
Reproduced from Figure 5, Assessment of Marine Environmental Effects, e3Scientific Limited.

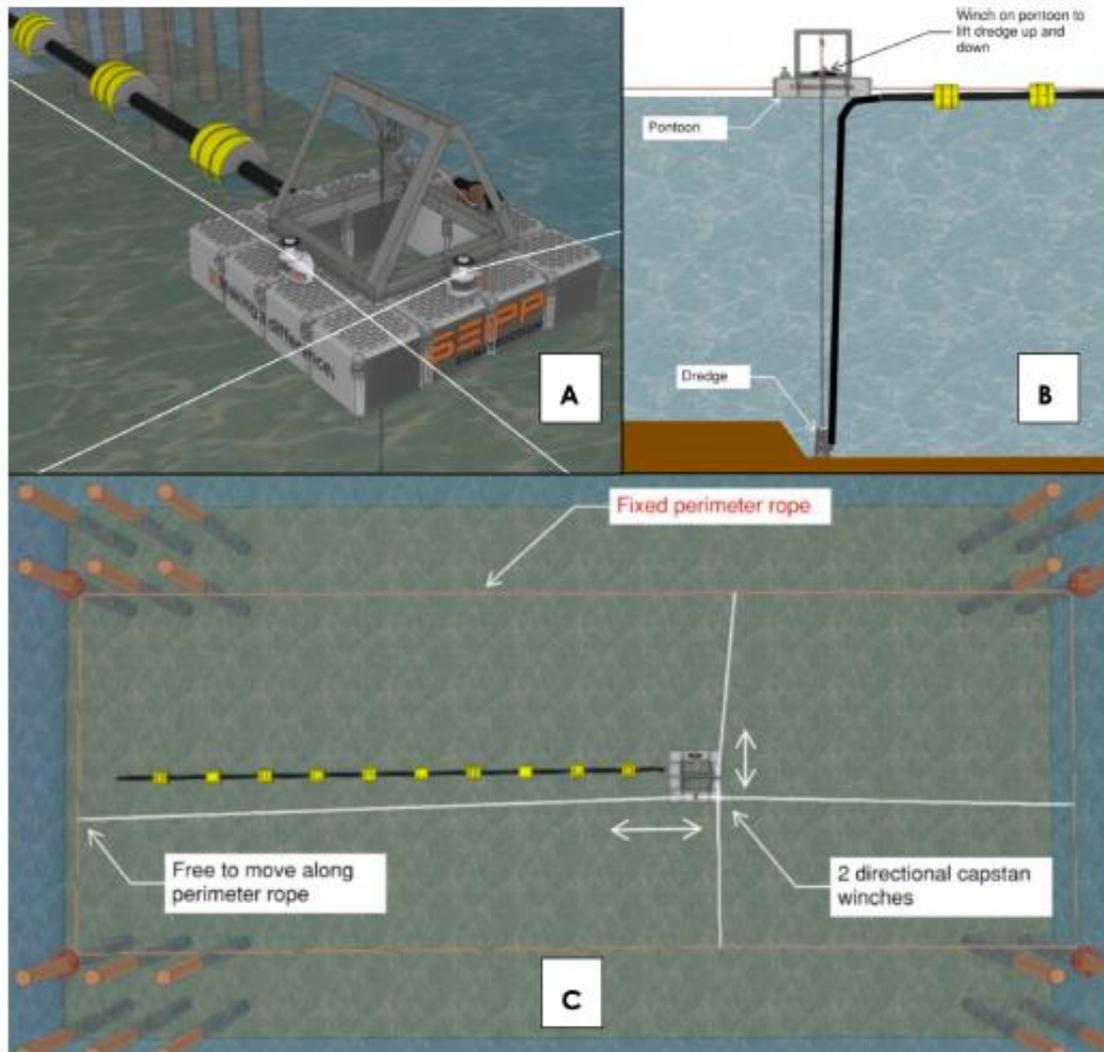


Figure 2-2: A) Example dredging pontoon, B) vertical suction head profile, and C) plan-view lateral movement configuration.

Public notification consideration

1. Is notification mandatory?

1.1	Has the applicant requested that the application be publicly notified? (s95(3)(a))	<input type="checkbox"/> Yes	Application must be publicly notified. Go to 10.2
		<input checked="" type="checkbox"/> No	Go to 1.2
1.2	Was further information, or commissioning of a report, requested under s92?	<input checked="" type="checkbox"/> Yes	Go to 1.3
		<input type="checkbox"/> No	Go to step 2.1
1.3	If yes, was the request refused, or did the applicant fail to respond or fail to provide the information by the deadline?	<input type="checkbox"/> Yes	Public notification is required by s95C. Go to 10.2
		<input checked="" type="checkbox"/> No	Go to step 2.1

2. Is notification precluded?

2.1 Is each activity subject to a rule or NES that precludes public notification?	<input type="checkbox"/> Yes	Rule(s): enter rule Go to 4.1
	<input checked="" type="checkbox"/> No	Go to step 2.2
2.2 Is each activity a controlled activity?	<input type="checkbox"/> Yes	Application must not be publicly notified unless there are special circumstances. Go to 4.1
	<input checked="" type="checkbox"/> No	Go to 3.1

3. Is notification required?

3.1 Are any of the activities subject to a rule or NES that requires notification?	<input type="checkbox"/> Yes	Application must be publicly notified. Go to 10.2
	<input checked="" type="checkbox"/> No	Go to 3.2
3.2 Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor? (see Note)	<input type="checkbox"/> Yes	Application must be publicly notified. Complete 3.3 and go to 10.2
	<input checked="" type="checkbox"/> No	Complete 3.3 and go to 4.1.

Note: In forming this opinion (a) to (e) apply:

- (a) we must disregard any effects on persons who own or occupy the land on which the activity will occur or any land adjacent to that land (section 95D(a));
- (b) we may disregard an adverse effect of the activity if a rule or NES permits an activity with that effect (subject to Policy 36 of the pSWLP) (95D(b));
- (c) in the case of a restricted discretionary activity, we must disregard any adverse effects that do not relate to the matters over which the rule or NES restricts discretion (95D(c));
- (d) we must disregard trade competition and the effects of trade competition - 95D(d); and
- (e) we must disregard any effect on a person who has given written approval - 95D(e)

3.3 Reasons adverse effects on the environment are less than minor / minor / more than minor

The existing environment

The proposed works will occur in Awarua/Bluff Harbour, which is a working port. The proposed discharge area is in the coastal marine area, in an area modified by the construction of the Island Harbour, and by ongoing works to facilitate the port. The Harbour supports cargo vessels as well as a fishing fleet and recreational boating activities.

Awarua/Bluff Harbour supports marine and estuarine vegetation and fish, including paua, mussels, kina, moki, butterfish, lobster, octopus and seahorses. Species of shark, including the endangered white pointer, utilise the harbour and Foveaux Strait at times. Seals are commonly observed along the foreshore near Bluff township. A variety of seabirds utilise Awarua/Bluff Harbour and the nearby marine area, including endangered or threatened species such as yellow-eyed penguins, sooty shearwaters, black-billed gulls and white-fronted terns. Seagrass habitat within the harbour provide important habitat and are vulnerable to disturbance.

In the dredge area at the syncrolift the sediment on the seabed was largely silt, clay and very fine sand. The sediments exceed guideline values for copper, arsenic and zinc. The sediment under the syncrolift also exceeds guidelines for Tributyltin, which is associated with anti-fouling marine paints. Replicate and duplicate samples have been inconsistent, which may indicate that the Tributyltin are attributable to discrete particles of antifoul paint.

The proposed discharge area is adjacent to the main channel from the harbour to Foveaux Strait, which flows between the Bluff and Tiwai peninsulas, past the port facilities and township to the south, and the Tiwai wharf to the north. Due to the proximity and elevation on the township side, the channel is highly visible from Bluff township. The seabed in the proposed discharge area is dominated by sand with lower fractions of silt and clay. Contaminant levels are either low or similar to background.

The Gunanur area is within the Rakiura/Te Ara a Kiwa (Rakiura/Foveaux Strait) Coastal Marine Area statutory acknowledgement area under Schedule 104 of the Ngāi Tahu Claims Settlement Act 1998, which means that the Crown has acknowledged that Ngāi Tahu has a cultural, spiritual, traditional and historic association with the area.

There is a mātaihai reserve, the Motupöhue Mātaihai, on the west and southern sides of the Bluff peninsula, ending at the eastern most point of Bluff.

There are no archaeological sites recorded in the dredging or discharge areas of the harbour.

Adverse effects of the proposed activities on the environment

The excavation/dredging is permitted, so it is the discharge/deposition and its effects that needs to be considered. The key adverse effects are likely to be:

- Cultural/spiritual effects
- Water quality effects
- Effects on the ecology and habitat of the seabed
- Redistribution of contaminants.

Cultural/spiritual effects:

The applicant has initiated consultation with Te Ao Marama Inc, Te Rūnanga o Awarua, and Te Rūnanga o Ngāi Tahu, but has yet to receive a response. The applicant also contacted Te Runanga o Ngai Tahu to seek its views in accordance with the Marine and Coastal Area (Takutai Moana) Act. In addition, the applicant is seeking contact details to initiate consultation with the Tangata Tiaki for the Motupöhue Mātaihai reserve.

Te Ao Marama Inc has confirmed that some discussion has occurred. However they have not yet been able to check with the community itself, including fishermen and Tangata Tiaki, so they have concerns that the public may be affected.

The application refers to a cultural impact assessment for the recent capital dredging application for the entrance to Awarua/Bluff Harbour (APP-20211362)¹. That assessment identified potentially significant effects on mana whenua values, particularly due to effects on water quality, benthic habitat and mahinga kai species. The assessment identified the following values of particular importance to tangata whenua:

- Mauri, and the life supporting capacity and cultural and ecological health of the harbours.
- The ability for our future generations to engage with the harbour as their ancestors did.
- That water quality is protected to a standard that allows for mahinga kai to be diverse, abundant and safe to eat.
- Mahinga kai species, habitat, and access to these for customary use during and after the activity.
- That existing and any future proposed Mātaihai reserves in the harbour are protected.
- Wāhi tapū, wāhi ingoa and archaeological sites on or under the seabed are protected.

¹ I have saved the cultural impact assessment separately as A1073879

With regard to these matters, the application points to a memorandum of understanding between Te Rūnanga o Awarua and the applicant about port activities and collaborative actions to support mahinga kai species and habitat. The applicant notes that the timing of the discharge on ebb tides, and over winter months, should mitigate adverse effects on taonga species. In particular, the works are timed to occur outside the Little Penguin breeding months and the seagrass flowering season. The restriction will also avoid the predominant season when marine mammals have been found to utilise the harbour.

The applicant's modelling indicated that the sediment discharge would not impact on the Motupöhue Mātaitai reserve.

The cultural impact assessment (which was for the nearby capital dredging, not the current application), stated that Te Rūnanga o Awarua recognised the ongoing relationship with South Port and the strengthening of that relationship through ongoing hui and joint projects.

Section 3.6.2(1) of Te Tangi a Tauria is as follows:

Require that all decisions related to coastal land use and development activities within Southland's coastal environment recognise and give effect to the spiritual and historical association of Ngāi Tahu ki Murihiku within the coastal environment. Any activity within, adjacent to or that may potentially impact on Statutory Acknowledgment areas, including Te Mimi o Tū Te Rakiwhānoa (Fiordland Coastal Marine Area) and Rakiura/ Te Ara a Kiwa (Stewart Island/Foveaux Strait Coastal Marine Area), will require consultation with both Te Rūnanga o Ngāi Tahu, Ngāi Tahu ki Murihiku and Tangata Tiaki gazetted under the South Island Customary Fishing Regulations 1998.

Section 3.6.7(7) of Te Tangi a Tauria states:

Avoid the use of coastal waters and the ocean as a receiving environment for the direct discharge of contaminants.

The discharge conflicts with Policy 3.6.7(7), although it is a transfer of sediment from the seafloor in one area to another.

I note that the applicant's attempts at consultation are with the parties identified in section 3.6.2(1).

Overall I consider that the sediment discharge may adversely affect cultural and spiritual values, particularly through impacts on water quality, benthic habitat and mahinga kai. However, I am unclear if the mitigations proposed by the applicant will be sufficient to ensure that the effects on cultural and spiritual effects are no more than minor.

I note that the applicant is seeking to proceed by limited notification of Te Ao Marama Inc, Te Rūnanga o Ngāi Tahu and the Department of Conservation. Given the difficulty in determining the scale of effect in the absence of feedback from Te Ao Marama Inc., a conservative approach would be to assume that the adverse effects are more than minor, based on the discharge being inconsistent with Policy 3.6.7(7) of Te Tangi a Tauria, and the applicant's identification that the activity can have significant effects on mana whenua values.

Water quality effects:

The point of discharge will be near the seafloor within the harbour. The applicant considers that the discharge will not give rise to conspicuous discolouration at the surface when viewed from Bluff township. In part this is because of the nature of the port area. The assessment seems to be concerned with visual amenity rather than water quality effects, but as the discharge will be several metres underwater, will be temporary and associated with necessary maintenance work, any visible plume beyond reasonable mixing is probably a minor effect.

The applicant has modelled the spread of sediment from the dredge discharge and it shows localised deposition near the discharge point. The model was masked to exclude deposition of less than 1 mm, so there may be some fine deposition over a wider area near the discharge point, or in other locations within the harbour.



Worst-case sediment footprint (from a P3 release location over a spring tide cycle from 1 h before to 4 h after high water) with seabed resuspension excluded. The green and red contours highlight 2 and 4 mm respectively. The purple, yellow and black hatched patch represents the seagrass, rocky and mataitai area respectively. Deposition thickness of less than 1mm were masked (from Zyngfogel & McComb, 2023).

Effects on the ecology and habitat of the seabed:

Fish and other mobile benthic species are likely to move away from the discharge area.

The modelling predicts short-term deposition of low levels of sediment, but generally not in ecologically sensitive areas. The depositional areas are assumed to be due to localised eddies, and because the eddies are existing features in the current, the predicted deposition areas are likely to already be sites of fine sediment deposition, and not particularly sensitive to the activity.

Overall, E3 Scientific assessed adverse effects on the ecology of the discharge area and harbour as low (minor).

Redistribution of contaminants:

The modelling indicates that the sediment will be mainly deposited over less sensitive areas, within a “highly dynamic part of the harbour mouth”. E3 Scientific considered that species present in that area would be relatively resilient to the presence of sediment. The short-term (estimated to be only days) presence of sediments with elevated copper concentrations was expected to have no more than minor effects, particularly given that dispersal will also have the effect of reducing concentrations of contaminants.

Effects on marine farming activities:

Discharging the dredged sediment during outgoing ebb tides will help protect marine farming activities further up the harbour. The applicant expects any effects on marine farming activities to be no more than minor.

Effects on water takes in the area:

The applicant was asked about effects on water takes from the harbour in the vicinity of the discharge to demonstrate that the discharge would not adversely affect the takes. The modelling actually relates to deposition effects, so may be of limited value in assessing effects in the water column. However, I also assume that any water takes in the area are used to periods of discolouration. Therefore I expect that effects should be minor.

Effects on amenity values

This is related to the water quality effects of the sediment discharge. As noted, the applicant expects that the sediment plume will have a minimal effect on visual amenity.

The applicant consulted with the Bluff Yacht Club, Greenpoint Yacht Club and the Awarua Rowing Club and confirmed that the discharge period would not coincide with any planned recreational or community events in or next to the harbour that may be impacted by discolouration in the harbour.

The sediment discharge is unlikely to affect the operation of vessels, nor activities on the Tiwai side of the Harbour. There may be some amenity effects for recreational boaties if the sediment causes discolouration, but the effect should be transitory.

The application discusses noise effects. However, those are largely associated with the permitted dredging activity, rather than the discharge. In any case, the applicant considers that the noise is unlikely to be audible to the nearest residents, so noise emissions should easily comply with the relevant regional rules.

Effects on monitoring activities:

The applicant was asked to assess if the discharge would affect any investigation or monitoring activities in the area, but was not able to identify any that would be affected.

I have checked with our SOE and Compliance monitoring teams and they did not believe that the discharge would affect their monitoring activities, including those associated with the aluminium smelter.

Planning provisions (policies and objectives) relevant to adverse effects

The key policy in the Coastal Plan is:

Policy 10.2.4 *Dispose of dredging spoil from the coastal marine area onto similar substrate in the coastal marine area.*

The policy does not provide any direct indication of adverse effects, but by implication discharge onto similar substrate should have less adverse effects than otherwise.

Conclusion: significance of adverse effects on the environment

In general, the proposal will be carried out in a way that should avoid significant adverse effects on the environment, particularly in terms of sediment deposition, and avoiding key seasons for vulnerable seagrass and animal species.

The applicant has referred to a cultural impact assessment (for a nearby capital dredging activity) that identified that dredging had the potential to significantly impact on mana whenua values. For the capital dredging project, the applicant overcame those issues with mitigations and obtained written approval from Te Ao Marama Inc. However, in the case of this application, the applicant has yet to obtain consultative feedback from the local Irohunga or the Tangata Tiaki for the Motupöhue Mātaitai reserve to confirm that the proposed mitigations will be sufficient. I also note that the discharge conflicts with Policy 3.6.7(7) of Te Tangi a Tauria. On balance that leads me to consider that the adverse effects on cultural and spiritual values is more than minor.

4. Special circumstances and public notification

4.1 Do special circumstances exist in relation to the application that warrant the application being publicly notified?	<input type="checkbox"/> Yes	Application must be publicly notified. Explain reasons in 4.2 and go to 10.2
	<input checked="" type="checkbox"/> No	Explain reasons in 4.2. If each activity is a controlled activity go to 10.1. Otherwise go to 5.1

4.2 Reasons why special circumstances do or do not exist

Potentially there are special circumstances with regard to identification of affected parties, given that the discharge will occur in Bluff Harbour, which supports a variety of values, interests and activities. In a public area adjacent to a township, activities can give rise to interest and concern without adversely affecting those persons. I believe that I have considered the main adverse effects, so parties concerned by other effects are likely impacted to a minor or less extent. Therefore I don't believe that this is a special circumstance that warrants notification.

Affected Parties and Limited Notification

5. Protected Customary Rights Group or Customary Marine Title group

5.1 Is the activity in the coastal environment, within an area where it may adversely affect a protected customary rights group(s) or a customary marine title group(s) (see s95G)?	<input type="checkbox"/> Yes	Go to 5.2
	<input checked="" type="checkbox"/> No	Go to 6.1
5.2 May the activity have adverse effects on a protected customary right carried out in accordance with the requirements of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011?	<input type="checkbox"/> Yes	The customary rights group(s) is an affected customary rights group(s). Application must be limited notified on them. Record in 5.3 and go to 6.1
	<input checked="" type="checkbox"/> No	Go to 6.1

There is a customary marine title applicant group, Te Rūnanga o Ngāi Tahu, but not actually a customary marine title group, as yet. I note that Te Rūnanga o Ngāi Tahu was sent notice but did not respond.

5.3 Adversely affect a protected customary rights group(s) or a customary marine title group(s):

Unclear. However Te Rūnanga o Ngāi Tahu generally seeks to support the local rūnanga, and I doubt that a maintenance dredging activity would be contrary to the interests of Te Rūnanga o Awarua. That said, the choice of discharge may well be of concern.

6. Statutory Acknowledgement Areas

6.1	Is the activity on or adjacent to, or may it affect, a statutory acknowledgement area?	<input checked="" type="checkbox"/> Yes	Go to 6.2
		<input type="checkbox"/> No	Go to 6.3
6.2	Are the adverse effects on Te Rūnanga o Ngāi Tahu minor or more than minor?	<input checked="" type="checkbox"/> Yes	Include TRONT in 8.2 and go to 6.3
		<input type="checkbox"/> No	Go to 6.3

6.3 Reasons why adverse effects on Te Rūnanga o Ngāi Tahu are less than minor, minor or more than minor:

Te Rūnanga o Ngāi Tahu was sent notice but did not respond. In the absence of feedback from Te Rūnanga o Ngāi Tahu or Te Ao Marama Inc, I am unable to be certain that Te Rūnanga o Ngāi Tahu is not affected to at least a minor degree.

7. Is limited notification precluded?

7.1	Is each activity subject to a rule, NES or regulation that precludes limited notification?	<input type="checkbox"/> Yes	Go to 9.1
		<input checked="" type="checkbox"/> No	Go to 8.1

8. Are any people adversely affected?

8.1	Are the adverse effects on a person minor or more than minor (but not less than minor)?	<input checked="" type="checkbox"/> Yes	Go to 8.2
		<input type="checkbox"/> No	Go to 8.3

8.2 Person(s) considered to be adversely affected (complete and go to 8.3)

Person	Effect on person (see Note)
Te Ao Marama Inc (representing Te Rūnanga o Awarua)	Adverse effect on cultural and spiritual values, particularly if not given an opportunity to exercise of kaitiakitanga. And because of the effects that had previously been identified in a cultural impact assessment for dredging activities in the area.
Te Rūnanga o Ngāi Tahu	Adverse effect on cultural and spiritual values, particularly if not given an opportunity to exercise of kaitiakitanga. And because of the effects that had previously been identified in a cultural impact assessment for dredging activities in the area.

Tangata Tiaki for Motupöhue Mātaitai	The applicant’s modelling predicts that the sediment discharge will not impact on the Mātaitai reserve. However, given the proximity of the reserve to the harbour mouth where the sediment plume will exit the harbour, I am taking a conservative view that the interests of the Tangata Tiaki for the Mātaitai could be impacted. I expect that there may be some difficulty identifying the Tangata Tiaki based on previous applications.
Department of Conservation	The discharge may adversely impact on indigenous flora (seagrass) and the habitat of endangered indigenous fauna. The applicant is seeking to avoid or mitigate such effects, but the proposal may still conflict with the Department’s role and interests with regard to indigenous species. Also the Department typically represents the Crown with regard to the seabed.
Bluff Community Board	As mentioned, it is difficult to identify all the affected parties, and the applicant has advised that the discharge periods will not occur during periods of community events within the harbour. However the Community Board does represent the community and may be a conduit for information to people that are affected that we aren’t aware of.

Note: In forming this opinion (a) to (c) apply:

- (a) We may disregard an adverse effect of the activity on the person if a rule or an NES permits an activity with that effect; and
- (b) We must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and
- (c) Must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.

8.3 Reasons why no other person is considered to be adversely affected

Although the discharge point is into Bluff Harbour in proximity to the Tiwai wharf, I don’t believe that they are adversely affected. The discharge is unlikely to affect the wharf or activities associated with it. As mentioned, I have also checked with our Compliance team about investigation and monitoring activities in the area. Therefore I don’t consider that New Zealand Aluminium Smelters Ltd is an affected party.

9. Special Circumstances – Limited Notification

9.1 Are there special circumstances that warrant limited notification of any other persons?	<input type="checkbox"/> Yes	Application must be limited notified to those persons and any other affected persons. Go to 9.2
	<input checked="" type="checkbox"/> No	Go to 10

9.2 Reasons special circumstances exist and persons to be notified

I have not identified a special circumstance that warrants notification of anyone else.

Recommendation and decision

10. Officer's recommendation

This is somewhat of an 'on balance' recommendation that there may be adverse effects on cultural and spiritual values that are more than minor, based on the earlier cultural impact assessment, and the nature and location of the discharge. I note that the applicant has initiated consultation with Te Ao Marama Inc and Te Rūnanga o Awarua, but at this stage we don't have any information to show that the adverse effects regarding cultural and spiritual values are adequately avoided or mitigated.

I also note that, as the applicant requested limited notification, the decision of public notification does not impose any additional timeframe issues.

10.1	The application be processed non-notified	<input type="checkbox"/>
10.2	Public notification is required/recommended	<input checked="" type="checkbox"/>
10.3	The application be placed on hold while the applicant tries to obtain written approvals from the affected persons	<input type="checkbox"/>
10.4	Limited notification is required. Persons to be served notice are those listed in 8.2	<input type="checkbox"/>



Stephen West
Principal Consents Officer

Date: 18 April 2024

Decision under Delegated Authority

11.1	I agree with the recommendation	<input checked="" type="checkbox"/>
11.2	The application will be processed non-notified	<input type="checkbox"/>
11.3	The application will be publicly notified	<input checked="" type="checkbox"/>
11.4	The application shall be placed on hold while the applicant tries to obtain written approvals from the affected persons	<input type="checkbox"/>
11.5	The application will be limited notified. The parties to be served notice are those listed in section 8.2	<input type="checkbox"/>

This decision is made under delegated authority by:



Bruce Halligan
Strategic Regulatory Advisor

Date: 18 April 2024