

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Applications by Port of Napier Limited to the Hawke's Bay Regional Council for resource consents (CL180009E, CI180010E, CL180011E and CL180012W) to undertake wharf expansion, associated capital and maintenance dredging, disposal of dredged material within the coastal marine area, and occupation of the coastal marine area for existing port activities and the proposed new wharf.

STATEMENT OF EVIDENCE OF JANEEN ANNE KYDD-SMITH

INTRODUCTION

1. My name is Janeen Anne Kydd-Smith. I am a Director and Principal Planner of Sage Planning HB Limited, in Napier.

Qualifications and Experience

2. I have the following qualifications and experience relevant to the evidence I shall give:
 - a) I have a Bachelor of Arts (Geography) and a Master of Regional Resource Planning from the University of Otago;
 - b) I have more than 30 years' experience as a Planner working in central government, local government and the private sector;
 - c) I am an accredited Commissioner (with Chair Endorsement) under the Ministry for Environment 'Making Good Decisions' programme.
3. I have the following relevant experience:
 - a) Development Planner, Hastings District Council (February 1992 – July 1992);
 - b) Policy Planner, Hastings District Council (July 1992 – April 1996);
 - c) Senior Policy Planner, Hastings District Council (April 1996 – May 1998);
 - d) Development Manager, Hastings District Council (June 1998 – September 2001);
 - e) Environmental Planner, MWH New Zealand Limited (September 2001-January 2002);
 - f) Planning Manager, MWH New Zealand Limited (January 2002 – December 2002);
 - g) Senior Environmental Planner, Environmental Management Services Limited (February 2003 – August 2014);
 - h) Director, Kydd-Smith Environmental Planning Limited (September 2014 to 31 March 2017); and
 - i) Director and Principal Planner, Sage Planning HB Ltd (1 April 2017 – present).
4. My current clients are varied, including Hastings District Council, Central Hawke's Bay District Council, Napier City Council and the Hawke's Bay Regional Council. I also undertake work for a number of companies, including renewable electricity generators, iwi groups and individuals.

5. Work I have undertaken for Hawke's Bay Regional Council has included processing applications from Napier City Council to capital dredge two sites in the Napier Inner Harbour, and to deposit dredge spoil from the two capital dredge sites and from five maintenance dredge sites to Dredge Disposal Areas 1 and 2 located within coastal waters off-shore from Westshore Beach (i.e. consents CD070399Ea, CD070400La and CD070401La, granted in 2008).
6. I was engaged in 2013 by Wairoa District Council to obtain resource consents from Hawke's Bay Regional Council and Wairoa District Council to construct and maintain coastal revetments along Nuhaka-Opoutama Road and Mahia East Coast Road. Similarly, in 2017/2018 I assisted the Hastings District Council in obtaining resource consents from Hawke's Bay Regional Council and Hastings District Council to construct and maintain a coastal revetment at Clifton Beach.

Involvement with the Subject Project

7. I have been engaged by Napier City Council ("NCC") (Submitter #32) to prepare and present planning evidence in relation to NCC's submission on the Port of Napier Limited's ("PONL") application for a coastal permit to dispose of dredged material from capital and maintenance dredging within an offshore area shown in the application (i.e. "Application 5", in relation to Consent No. CD180012W).

Expert Witnesses Code of Conduct

8. I confirm that I have read the 'Expert Witnesses Code of Conduct' contained in the Environment Court of New Zealand Practice Note 2014. My evidence has been prepared in compliance with that Code in the same way as I would if giving evidence in the Environment Court. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Scope of Evidence

9. My evidence relates specifically to the concerns raised in NCC's submission on potential adverse effects of the proposal on the Westshore inshore sediment budget and potential destabilisation of the renourished beach barrier due to steepening of the nearshore beach profile.
10. I confirm that I have read the relevant material in the application documentation, the NCC submission, the pre-hearing meeting reports, the Joint Witness Statement Following

Conferencing of Coastal Experts, the section 42A Officer Report, the expert evidence of Dr Reinen-Hamill, the planning evidence of Ms Allan and expert evidence of Mr de Vos.

11. In preparing my evidence I have relied on the expert evidence of Dr Peter Cowell (lodged on behalf of NCC) in forming my own views.

RESPONSE TO SYLVIA ALLAN EVIDENCE

12. I have read Sylvia Allan's planning evidence and make the following comments in relation to it, insofar as it relates to the matters raised in the NCC submission.
13. At paragraph 104, Ms Allan states that, in light of the assessment provided by the applicant and the caucusing statement, that "*it is difficult to conclude that this [an adverse effect caused by the project of not disposing material at Westshore] is an actual or even a potential adverse effect that is of any significance*".
14. Dr Cowell considers that the dredged navigation channels (including the entrance to Ahuriri) are likely sinks for sub tidal sand from Westshore beach and therefore contribute to the deficit in the Westshore sediment budget. This component of the deficit is evident in the progressive lowering of the sub tidal nearshore and surface. Dr Cowell considers that if continued nearshore sand loss is allowed to continue, without nourishment of the subtidal seabed off Westshore, sand loss rates can be expected to decline over time. This declining rate of sand loss alongshore will likely occur at the expense of increased rates of gravel loss alongshore. That is, as the time average elevation of the nearshore sand surface decreases, the lower intertidal beach and step will become predominantly composed of gravel.
15. At paragraph 105, Ms Allan refers to there being an implication throughout the Section 42A Report that PONL has been providing sediment which contributes to "nourishment of Westshore Beach". It is Ms Allan's understanding that the dredged material has never contributed to beach nourishment as this has been done separately by NCC, and as the material is deposited beyond 200 m from MHWS "*.. part of this material may make its way into the active surf zone and temporarily contribute to beach sediments*".
16. Ms Allan's understanding about the contribution of beach nourishment does not align with the Joint Witness Statement (Issue/Question 5(a)) which states that the experts agreed that "Previous applications of fine to very fine sand within Dump zone R are generally thought to have had a stabilising effect on beachface in the vicinity of the disposal site". Dr Reinen-Hamill states in his evidence (paragraph 4.2) that "ongoing nearshore disposal of fine sandy material would continue to provide a temporal benefit

manifest by higher nearshore seabed levels, and Dr Cowell has explained why the deposition in the nearshore is important.

17. Ms Allan refers (at paragraph 111) to the risk of adverse effects of turbidity and sediment movement in the nearshore area from inshore disposal of material, particularly by capital dredging which could result in adverse effects on Pania Reef and Rangitira Reef in terms of water quality, fine sediments and consequent adverse cultural impacts. I concur with Ms Allan in part, insofar as depositing material in Area "R" Ext that is not authorised under consent CL970159D could have adverse effects on the reefs. However, where the deposition complies with the conditions of that consent, including the limit on the volume of material that can be deposited, any potential adverse effects on Pania Reef and Rangitira Reef must be regarded as having been addressed.
18. Dr Cowell states (at paragraph 78) that the suitability of channel-dredge material for nourishing the seabed off Westshore relates to the similarity of the grain size distributions of the dredge material and native nearshore sediments. He considers (at paragraph 80) that the ideal criterion for suitability of dredge spoil applied in nearshore nourishment can be put at a maximum of 10 percent sediment with size less than 0.0625 mm. The areas proposed to be dredged have already been mapped in respect of size distributions of sediments, which facilitates the identification of borrow areas from which material for nearshore nourishment can be obtained. Dr Cowell identifies these areas as being in the fairway north of line 719600m N (NZ Geodetic Datum 1949, Hawke's Bay Circuit) and Dredging Area A. However, if the Applicant considers that the identification of such material is problematic, Dr Cowell (at paragraph 87) states that any material of any grain size placed in Area "R" Ext will mitigate the effects of both the natural loss of sediments and the effects, agreed by all parties to the expert caucusing, of removing both the existing dredge volumes and any increased dredge volumes from the littoral system.
19. To that end, I recommend below, in my response to the Officer Report, that the Reporting Officer's recommended conditions for the disposal of dredge material for Westshore beach nourishment be amended to address Dr Cowell's recommendations. I also consider that the amendments would address Ms Allan's concerns (outlined in paragraph 118 of her evidence) that there is no guidance given in the recommended conditions as to suitability of the material to be deposited.
20. At paragraph 59, Ms Allan states that if alternative dredging disposal areas are proposed in the Westshore area, New Zealand Coastal Policy Statement ("NZCPS") Policies 13(1)(a) and 15(a) would have to be accorded significant weight, as neither dredge disposal plume modelling nor investigations of the post-disposal fate of disposed matter

have been undertaken that shows that all effects would be avoided. She goes on to say, at paragraph 62, that the potential adverse effects associated with deposition of fine material in the near-shore area on the identified culturally, ecologically and recreationally significant Pania Reef area and its natural character and other values are caught by the "avoid" direction of NZCPS Policies 11 and 13.

21. At paragraphs 63 to 70, Ms Allan sets out objectives and policies in the Hawke's Bay Regional Policy Statement ("RPS") that are relevant to Pania Reef. At paragraph 73 she states that she does not consider that sufficient regard has been had to them by some submitters, and in the s42A report when recommending inshore disposal of dredged material.
22. As I have mentioned above, provided that the deposition of dredge material to Area "R" Ext complies with the conditions of consent CL970159D, any adverse effects on Pania Reef must be regarded as having been addressed. Therefore, where compliance with that consent is achieved, the activity must be regarded as being consistent with the NZCPS and the RPS.
23. Given the above, I do not concur with Ms Allan's conclusion that the effects of the proposed activities on the environment at Westshore Beach will be generally less than minor, or that the consents sought should be granted subject to the conditions proposed in the application documentation and with the minor modifications (recommended by Ms Allan) to the Reporting Officer's draft conditions.

RESPONSE TO OFFICER REPORT

24. I have read the Officer's s42A Report and I concur with the Officer's recommendation to grant consent subject to conditions, including conditions under consents CL180009E, CL180010E and CL180011E for the disposal of suitable maintenance and capital dredging material within Area "R" Ext for Westshore Beach nourishment.
25. However, I consider that the current reference in the recommended conditions to 'suitable material' is inappropriate as there is no method in the conditions to determine what material would be suitable for disposal to Area "R" Ext.
26. Based on the evidence of Dr Cowell¹, I consider that the Reporting Officer's recommended Conditions 17 to 19 under the heading "Disposal of Suitable Material for Beach Nourishment" in CL180011E (relating to maintenance dredging) should be amended to require maintenance dredging material excavated from the fairway north

¹ Paragraphs 76 – 87.

of the line at 719600m N (NZ Geodetic Datum 1949, Hawke's Bay Circuit), and identified (through required sampling) as having grain sizes comparable to the material on the sea bed at Westshore, to be disposed of to Area "R" Ext as follows:

Disposal of Suitable Maintenance Dredge Material for Westshore Beach Nourishment

17. At least 30 working days prior to the commencement of any maintenance dredging (excavation) campaign in the fairway north of the line at 719600m N (NZ Geodetic Datum 1949, Hawke's Bay Circuit), the consent holder shall sample material from the sea bed in the area to be dredged to determine that it has a maximum of 10 percent sediment with size less than 0.0625 mm.
 18. The results of the sampling required by Condition 17 shall be submitted to the Hawke's Bay Regional Council within one month of the completion of the sampling. At this time the consent holder shall also provide to the Council a map identifying where the samples were taken.
 19. Where the results of sampling required by Condition 17 confirm that the material to be maintenance dredged has a maximum of 10 percent sediment with size less than 0.0625 mm, the consent holder shall dispose of all suitable dredging material sourced under the current maintenance dredging (excavation) campaign from the fairway north of the line at 719600m N (NZ Geodetic Datum 1949, Hawke's Bay Circuit) within Area "R" Ext up to the maximum volume authorised by CL970159D (or any subsequent replacement consent), and any remaining maintenance dredge material from the area shall then be disposed of to the Offshore Disposal Area shown in Figure 1 authorised by CL180012W.
 20. The material used for Westshore Beach nourishment under Condition 19 must be disposed of in accordance with the current DDMP and WQMP prepared certified specifically for the current that dredging (excavation) campaign under Conditions 6 to 10.
 21. Bathymetric surveys must be undertaken following each dredging campaign to monitor change in the Westshore Beach profile. The surveys undertaken must allow for the future analysis of the effects of nourishment of the nearshore at Westshore Beach.
27. I note that Mr Michel de Vos has requested in his evidence (at paragraph 63(c)) that Condition 18 of CL180009E be amended so that the Offshore Disposal Area can be used

when existing consent CL970159D expires in 2033. Amending the condition as requested is, in my opinion, inappropriate as it would impose a finite period on the deposition of material to Area "R" Ext when the effects of the proposed dredging will extend beyond that. I therefore consider that, if consent CL970159D expires in 2033 (with no other consent granted to replace it) and PONL wishes to change the condition of consent CL180009E to allow all dredged material to be disposed of to the Offshore Disposal Area, PONL should be required to apply to the Council for a variation to the consent at that time. This would ensure that any potential adverse effects of changing the consent condition are appropriately considered at that time.

28. Mr de Vos has also requested (at paragraph 63(d)) that the applicant be able to use the new disposal area where the maximum volume limit for disposal of material to Area "R" Ext (i.e. 350,000 m³) is exceeded. I consider that my amendments to Condition 17 set out above (now shown as Condition 19) would partly address Mr de Vos' concerns, as it would allow any remaining maintenance dredge material that cannot be disposed of to Area "R" Ext under CL970159D to be disposed of to the new Offshore Disposal Area.
29. Also, on the basis of Dr Cowell's evidence, I consider that the Reporting Officer's recommended conditions under the heading "Disposal of Suitable Material for Beach Nourishment" in CL18009E and CL180010E (relating to capital dredging) should be amended to require the disposal of capital dredging material excavated from "Dredging Area A" to be disposed of to Area "R" Ext, as follows:²

Disposal of Suitable Capital Dredge Material for Westshore Beach Nourishment

18. The consent holder shall dispose of all ~~suitable~~ dredging material sourced from "Dredging Area A" shown in Figure 2 within Area "R" Ext up to the maximum volume authorised by CL970159D (or any subsequent replacement consent), and any remaining capital dredge material from the area shall then be disposed of to the Offshore Disposal Area shown in Figure 1 authorised by CL180012W.
19. The material used for Westshore ~~beach~~ nourishment under Condition 18 must be disposed of in accordance with the ~~current~~ DDMP and WQMP ~~prepared~~ certified specifically for the ~~current~~ that dredging (excavation) campaign under Conditions 6 to 10.
20. Bathymetric surveys must be undertaken following each dredging campaign to monitor change in the Westshore ~~beach~~ profile. The surveys undertaken

² The numbers of the conditions under the two consents are different and would need to be amended as a consequence of my recommended amendments.

must allow for the future analysis of the effects of nourishment of the nearshore at Westshore Beach.

30. In addition to the above amendments to the conditions in CL18009E and CL180010E, I consider that a new Figure 2 (in **Attachment 1**) should be inserted into the recommended consent conditions that shows the location of "Dredging Area A".

Janeen Kydd-Smith

13 August 2018

ATTACHMENT 1

New Figure 2 showing location of “Dredging Area A”

Figure 2: Location of "Dredging Area A"

