

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991

AND of an appeal under section 120 of the Act

BETWEEN SURFBREAK PROTECTION SOCIETY
INCORPORATED

(ENV-2013-CHC-96)

Appellant

AND PORT OTAGO LIMITED

Applicant

AND OTAGO REGIONAL COUNCIL

Respondent

Environment Judge J R Jackson sitting alone pursuant to section 279 of the Act

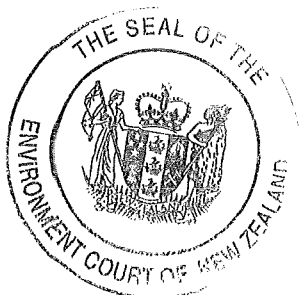
In Chambers at Christchurch

CONSENT ORDER

[A] Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Coastal Permit RM11.153.01 is granted subject to the conditions set out in the Schedule, attached to and forming part of this order;
- (2) the appeal is otherwise dismissed.

[B] Under section 285 of the Resource Management Act 1991, there is no order as to costs.



REASONS

Introduction

[1] On 7 August 2013 Surfbreak Protection Society Inc. lodged an appeal against a decision of the Otago Regional Council to grant Port Otago Limited a coastal permit authorising the discharge of dredging spoil at three disposal sites: Heyward Point, Aramoana Spit and Shelly Beach.

[2] On 2 December 2013 the parties participated in court assisted mediation with Environment Commissioner J Mills which resulted in an agreement being reached.

[3] The court has now read and considered the consent memorandum of the parties dated 11 December 2013 which proposes to resolve the appeal.

Other relevant matters

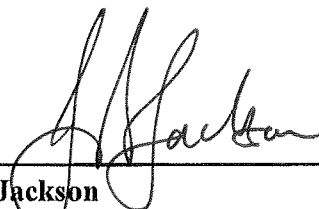
[4] No person has given notice of an intention to become a party under section 274 of the Resource Management Act 1991 ("the RMA" or "the Act").

Orders

[5] The court is making this order under section 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Christchurch 18 December 2013



J R Jackson
Environment Judge



Issued: **18 DEC 2013**

COASTAL PERMIT

Pursuant to Section 104B of the Resource Management Act 1991 the Otago Regional Council grants consent to:

Name: Port Otago Limited

Address: 15 Beach Street, Port Chalmers, Dunedin

Purpose: To discharge dredging spoil into the Pacific Ocean,
in accordance with;

the disposal of dredged material from the channel and berth areas in or about Otago Harbour at the three disposal sites described below.

Term: Three (3) years from the date of commencement in accordance with s.116 of the Resource Management Act 1991.

Location:

(i) Heyward Point	45° 45.07'S 170° 42.09'E 45° 44.95'S 170° 42.27'E 45° 44.44'S 170° 41.78'E 45° 44.63'S 170° 41.60'E (Area 38.2 ha approx.)
(ii) Aramoana Spit	45° 45.18'S 170° 42.74'E 45° 46.05'S 170° 42.93'E 45° 45.72'S 170° 42.47'E 45° 46.04'S 170° 42.47'E (Area 28.3 ha approx.)
(iii) Shelly Beach	45° 46.82'S 170° 42.56'E 45° 46.65'S 170° 42.79'E 45° 46.75'S 170° 42.96'E 45° 46.95'S 170° 42.77'E (Area 14.5 ha approx.)

CONDITIONS OF CONSENT

Spoil Disposal

1. The following specific maximum annual discharge quantities shall apply:

A: During the 2014 calendar year:

- (i) The total volume deposited shall not exceed 200,000 cubic metres
- (ii) The total volume deposited at Heyward Point shall not exceed 175,000 cubic metres
- (iii) The total volume deposited at Aramoana Spit shall not exceed 35,000 cubic metres
- (iv) The total volume deposited at Shelly Beach shall not exceed 30,000 cubic metres.



- (v) The maximum volumes specified shall be deemed to include any deposits to the specified sites made after 1 January 2014 and before this consent becomes operative.

B. During the balance of the duration of this permit:

- (i) No more than 50,000 cubic metres shall be disposed on an annual basis at Shelly Beach.
 - (ii) No more than 400,000 cubic metres of material shall be deposited on an annual basis across the Heyward Point and Aramoana sites provided that there is no more than 350,000 cubic metres deposited at Heyward Point and no more than 50,000 cubic metres disposed at Aramoana on an annual basis.
 - (iii) Any volume of material in excess of 200,000 cubic metres annually deposited at the Heyward Point site shall be deposited in a depth of water greater than 18 metres below chart datum.
2. Material discharged at the Shelly Beach renourishment area shall not be derived from any further westward of Longitude 170° 39' 50" East (being in the vicinity of Otago Harbour Beacons 15 & 16A between Pulling Point and Tayler Point), and, as far as practicable, be only discharged on an ebb tide.
 3. Material discharged shall only be derived from dredging that is authorised by the Coastal Plan or by a resource consent, and that is sourced from within Otago Harbour and its entrance.
 4. Any rock material shall only be disposed at the Heyward Point site and in a water depth greater than 18 m below chart datum.
 5. Except for rock material as specified in Condition 4 of this consent, material discharged from dredging activities undertaken in accordance with Consents 2010.193 and 2010.194 shall contain a minimum of 90% sand, on an annual basis.

Performance Monitoring

Disposal Records

6. The consent holder shall record the following information in relation to the disposal of material at each of the three disposal sites:
 - (a) the volume of dredge material in each disposal event; and
 - (b) the volume and percentage of each material type in each event; and
 - (c) the source geographic claim location information; and
 - (d) the GPS location (WGS84 format) of the event; and
 - (e) the date and time of disposal; and
 - (f) a cumulative total of the volumes of disposal (including material type) from the commencement of the consent.



The records shall be kept and submitted in report format to the consent authority on an annual basis, no later than the anniversary of the date of the commencement of this permit.

Bathymetry

7. As a minimum, the consent holder shall undertake annual bathymetric surveys of the seabed at the Shelly Beach disposal site and six-monthly bathymetric surveys of the seabed at the Heyward Point and Aramoana disposal sites. All bathymetric surveys shall have a minimum accuracy of 0.25 metres vertically.
8. The consent holder shall submit a six-monthly report to the Consent Authority, no later than the half-yearly anniversary of the date of the commencement of this permit, that summarises the results of all bathymetric surveys undertaken in accordance with this consent, and shall clearly indicate the degree of change to the seabed in the surveyed areas.

Biological

9. Within 3 months of the commencement of this consent, the consent holder shall commission a biological study, by a person or organisation recognised by the consent authority as having the requisite qualifications and experience, to evaluate the findings of the biological monitoring work undertaken as a condition of the former maintenance disposal consent (2000.472) and provide recommendations as to suitable suite of biological monitoring indicator species that could be adopted for the long-term adaptive management of disposal activities at the Heyward Point and Aramoana sites.
10. The biological study required by Condition 9 shall be completed within 2 years from the date of commencement of this consent in accordance with s.116 of the Resource Management Act 1991. The study shall include, as a minimum requirement, recommendations for a long-term ecological monitoring programme. The long-term ecological monitoring programme must identify measures that can be adopted for managing the effects of disposal activities on species diversity, community composition, and species abundance.

Surf, Current and Sediment Transport

11. Within 3 months of the commencement of this consent, the consent holder shall commission a wave, hydrodynamic and sediment dynamics study, by a person or organisation recognised by the consent authority as having the requisite qualifications and experience. The study will involve numerical modelling and empirical analysis of the coastal and sediment dynamics, including the transport pathways, for the coastal region between Taiaroa Head and the Karitane Peninsula.

This purpose of the study will be to identify the optimum location and extent of disposal grounds for the long-term deposition of dredge spoil from the harbour maintenance programme. The study will consider the equilibrium sediment supply requirements for the beaches west of the harbour entrance and the effects of disposal on surfing wave corridors, and wave quality at surf breaks of national significance identified in NZCPS (2010). The study shall be completed within 2 years from the date of commencement of this consent in accordance with s.116 of the Resource Management Act 1991, and shall include as a minimum:



- (a) a program of wave and current measurement for the purpose of calibration and validation of numerical coastal process models; and
 - (b) establishment of numerical models of the wave, hydrodynamic, tidal and sediment transport parameters; and
 - (c) remote photographic and video capable monitoring of the Aramoana and Whareakeake surf breaks and the establishment of a web site to allow surfers to record their personal observations of surf quality; and
 - (d) beach profile analysis and the completion of long-term shoreline change analysis from aerial photographs.
12. Following completion of the studies required by Conditions 9 to 11 of this consent, the consent holder shall commission a report, by a person or organisation recognised by the consent authority as having the requisite qualifications and experience, that integrates the results of the monitoring required by Conditions 6 to 11 of this consent and provides a long-term sediment budget for each of the disposal sites together with a detailed methodology for adaptive management of the sediment, wave and biological effects associated with potential long-term disposal activities. This report shall be completed and submitted to the consent authority no later than 6 months prior to the expiry of this permit.
13. The consent holder shall continue to work with the formal working party established as a condition of the former maintenance disposal consent (2000.472), which includes representatives of Te Runanga Otakou, Kati Huirapa Runanga ki Puketeraki, Department of Conservation and Otago Regional Council. The consent holder shall invite the Surfbreak Protection Society and the South Coast Board Riders Association to each nominate a local representative to join the working party. The working party shall meet at least six-monthly to discuss and review the monitoring report, any other reports, and the previous six months of surf quality data required by this permit.
14. The consent holder shall provide a report to the consent authority and the working party every six months from the commencement of this permit. This report shall include but not be limited to the following:
- (i) results of monitoring and reporting completed in the previous six months;
 - (ii) the monitoring work programme for the next six months; and
 - (iii) recommendations on any mitigation required for any adverse effects that have arisen over the previous six months that are attributable to disposal activities.

Adaptive Management

15. The consent holder shall provide a six-monthly work plan to the consent authority that shall incorporate any mitigation recommendations provided in the most recent working party report required by Condition 14. The work plan shall be provided within one month of holding a six-monthly working party meeting.



General

16. During the exercise of this consent, the consent holder shall take all practicable precautions to protect public safety at all times.
17. The consent holder shall ensure that no fuel or oils enter into the coastal marine area as a result of these works. This shall include the maintenance of machinery at all times to prevent leakage of fuel or oil into the coastal marine area. In the event of contamination, the consent holder shall instigate remedial action and shall notify the consent authority as soon as practicable.
18. The consent authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent within 3 months of receipt of any reports received under Conditions 6 to 12 and Condition 14 for the purpose of:
 - (a) ensuring that the monitoring regime is appropriate; or
 - (b) determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; including but not limited to:
 - (i) the effects of the exercise of this consent on the ecology and water quality of the near shore and offshore areas; or
 - (ii) the effects of the exercise of this consent on surf breaks of national significance identified in the NZCPS (2010); or
 - (iii) the appropriate mitigation of the environmental effects of the activity having regard to the available deposition technology; or
 - (iv) ensuring the conditions of this consent are consistent with any National Environmental Standards.
19. The consent holder shall ensure that any contractors engaged to undertake work authorised by this consent abide by the conditions of this consent. A copy of this consent shall be available on site at all times while the work is being undertaken.

