

MINUTES

TITLE: Environment & Planning Subcommittee
DATE: Tuesday, 25 March 2008
TIME: 9.30 am
VENUE: Council Chamber, 189 Queen Street, Richmond

PRESENT: Cr T B King (Chair), Crs S G Bryant and Dr M Johnston

IN ATTENDANCE: Principal Consents Planner (R Askew), Consents - Planner Coastal (R Squire), Resource Scientist – Rivers and Coast (E Verstappen), Administration Officer (B D Moore)

1. PORT MOTUEKA USERS LIMITED – APPLICATION RM071067

1.1 Proposal

To undertake repair and on-going maintenance work to an existing 380 metre training wall structure located at the southern side of the entrance to the Moutere River at the entrance to Motueka Harbour.

The Committee proceeded to hear the application, presentation of submissions and staff reports as detailed in the following report and decision.

The Committee reserved its decision.

RESOLUTION TO EXCLUDE THE PUBLIC

Moved Crs King / Bryant
EP08/03/26

THAT the public be excluded from the following parts of the proceedings of this meeting, namely:

Port Motueka Users Limited

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for passing this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Port Motueka Users Limited	Consideration of a planning application	A right of appeal lies to the Environment Court against the final decision of Council.

Moved Crs Bryant / King
EP08/03/27

THAT the open meeting be resumed and the business transacted during the time the public was excluded be adopted.

CARRIED

2. PORT MOTUEKA USERS LIMITED – APPLICATION RM071067

Moved Crs King / Bryant
EP08/03/28

THAT pursuant to Section 104B of the Resource Management Act, the Committee GRANTS consent to Motueka Port Users Limited as detailed in the following report and decision.

CARRIED

Report and Decision of the Tasman District Council through its Hearings Committee

Meeting held in the Tasman Room, Richmond

on 25 March 2008, commencing at 9.30 am

A Hearings Committee (“the Committee”) of the Tasman District Council (“the Council”) was convened to hear the application lodged by **Motueka Port Users Limited** (“the Applicant”), to repair and maintain an existing training wall. The application, made in accordance with the Resource Management Act 1991 (“the Act”), was lodged with the Council and referenced as RM071067.

- PRESENT:** **Hearings Committee**
Cr T King, Chairperson
Cr S G Bryant
Dr M Johnston, Independent Commissioner
- APPLICANT:** Mr T Stallard, Legal Counsel
Mr L Bloomfield, Mr E Coppins, Mr H Trewavas, and
Mr P Besier, Directors of the applicant company
Mr N Barber, Chartered Professional Engineer
Mr G C Tear, Marine Civil Engineering Consultant
Mr M Lile, Resource Management Consultant
- CONSENT AUTHORITY:** **Tasman District Council**
Ms R Squire, Consent Planner, Natural Resources
Mr E Verstappen, Resource Scientist, Rivers and Coast
- SUBMITTERS:** Mr M Rea
- IN ATTENDANCE:** Mr R Askew, Principal Resource Consents Adviser -
Assisting the Committee
Mr B Moore – Committee Secretary

1. DESCRIPTION OF THE PROPOSED ACTIVITY

The Applicant proposes to undertake repair and ongoing maintenance work to an existing 380 metre long training wall structure that is approximately 70 years old and which is located at the southern side of the entrance of the Moutere River (locally known and referred to as the entrance to Motueka Harbour). The work includes some disturbance to the foreshore and seabed.

The activities require resource consent and which is referred to as a Coastal Permit.

The Applicant is an incorporated company whose directors are:

Peter Besier;
Alexander Bloomfield;
Murray Brown;
Edward Coppins;
Trevor Frank Knowles; and
Harold Trewavas.

The company has five share holders each having one share each:

Motueka Yacht & Cruising Club Incorporated;
Motueka Power Boat Club (Incorporated);
Golden Bay Motueka Commercial Fishermen's Association (Incorporated);
Motueka Peninsula Marina Society Incorporated; and
Talley's Group Management Limited.

2. STATUTORY PROVISIONS UNDER THE ACT AND PROPOSED TASMAN RESOURCE MANAGEMENT PLAN ("PTRMP") ZONING, AREAS AND RULE(S) AFFECTED

The proposed repair of the training wall in the Coastal Marine Area is an activity that requires a resource consent pursuant to the provisions of Section 12(1)(b) of the Act and falls to be considered as a discretionary activity pursuant to the provisions of Section 77C of the Act.

According to the PTRMP the following apply to the subject property:

Zoning: There is no applicable zone but the activity adjoins land zoned Rural 2
Area(s): Coastal Marine Area

The proposed activity, in regards to the disturbance of the foreshore and seabed, does not comply with permitted activity rule 25.2.3 of the PTRMP and is deemed to be a discretionary activity in accordance with rule 25.2.4 of the PTRMP.

3. NOTIFICATION AND SUBMISSIONS RECEIVED

The application(s) was notified on 17 November 2007 pursuant to Section 93 of the Act. A total of 57 submissions were received.

The closing date for submissions was 14 December 2007 and three of the submissions were late, being received by the Council on 17 December 2007.

The following is a summary of the written submissions received and the main issues raised:

Submitter	Support/Oppose (Conditions requested)	Comments/Conditions from submitters
Ben Van Dyke	Support with conditions	<p>Reasons for submission</p> <ul style="list-style-type: none"> - Concerned about the efficacy of the proposed works - Erosion/replenishment of sand on Jackett Island foreshore <p>Conditions sought</p> <ul style="list-style-type: none"> - Responsibility is taken for erosion
Peter Watkins	Neutral, but would like to see conditions imposed	<p>Reasons for submission</p> <ul style="list-style-type: none"> - Lack of consultation with Jackett Island residents - Preference for use of concrete rather than timber - No study undertaken on erosion/deposition <p>Conditions sought</p> <ul style="list-style-type: none"> - Introduction of a regime to regularly and comprehensively measure the erosion/deposition effects of the training wall repair on the north end of Jackett Island, with the possibility of redress if effects are adverse
Paul Coradine	Support with conditions	<p>Reasons for submission</p> <ul style="list-style-type: none"> - Concern over use of treated timber and the leaching of toxins to environment - Concern over erosion/deposition of Jackett Island foreshore - Monitoring <p>Conditions sought</p> <ul style="list-style-type: none"> - Infill material must not leach toxins, require benign material (suggests use of pre cast concrete) - Monitoring of shellfish toxins along foreshore of Jackett Island and other areas with a nil effect guaranteed - Survey benchmark at his south eastern boundary - Monitoring of erosion/deposition
Rudy Zondag	Support with conditions	<p>Reasons for submission</p> <ul style="list-style-type: none"> - Submits that the spit strongly influences the mid section of Jackett Island by deflecting the flow causing erosion. Repairing the training wall may improve this but to be effective he submits that it should be extended.

		<p>Conditions sought</p> <ul style="list-style-type: none"> - Monitor the coastline annually for any changes <p>Keep submitter informed of monitoring results</p>
Brain Rhoads	Neutral, but would like to see conditions imposed	<p>Reasons for submission</p> <ul style="list-style-type: none"> - Concerned that the analysis in the application is too simplistic and doubts that a northwest drift under south easterly conditions is a significant factor in beach erosion. Would like to see more analysis. Submit that an eddy formed by the training wall on the outgoing tide is what leads to northerly littoral drift along the Motueka end of Jakkett Island foreshore. - Question who would be responsible for remedial works if the repair of the wall leads to erosion of the beach. <p>Conditions sought</p> <ul style="list-style-type: none"> - That all construction rubbish, including broken concrete is removed - That this consent is not used to justify any further works without separate notified consent
Michael Rea Presented submission at the hearing	Support with conditions	<p>Reasons for submission</p> <ul style="list-style-type: none"> - Has concerns that the design of the repairs will modify the existing littoral drift. - Questions whether or not the training wall will be able to withstand the forces acting upon it from sand build up on the southern side. - Questions the height of the intended repair and the efficacy of the works on enhancing Jakkett Island foreshore sedimentation, principally because any tide above MHWS will breach the training wall. - Discusses the effects of offshore sand bar movements and the proposed works on the erosion/sedimentation of the Jakkett Island foreshore. He notes that the proposed wall will improve the damming of sand and the accumulation of sand further south. <p>Conditions sought</p> <ul style="list-style-type: none"> - That the height of the wall be increased from the beach to pile number 90 using concrete. - That the gap in the wall between piles 79 and 82 be left to prevent material from building up against the southern side. - That the increased height of the wall be covered with shingle dredged from the channel and deposited on the southern side of the wall. - That additional material be placed on the northern side of the wall. - Place loose panels adjacent to the

		southern side of the wall at pile 90 to protect the manmade beach
<p>Director-General of Conservation</p> <p>An amended written submission was tabled at the hearing. Submitter did not appear although indicated that he wished to be heard.</p>	Neutral	<p>Reasons for submission</p> <ul style="list-style-type: none"> - Requests that particular regard be given to specific matters when determining the application: (i) The site is located in proximity to the Motueka and spit which forms part of the Motueka Delta identified in Schedule 25.1F of the TRMP which has nationally important natural ecosystem values. Care should be taken during the construction works to avoid disturbing seabirds, especially at high tides and whilst birds are nesting in the vicinity; (ii) The Council should have particular regard to Part II of the RMA, specified policies of the New Zealand Coastal Policy Statement (NZCPS), Tasman Policy Statement and the TRMP; (iii) Effects of reconstruction on coastal processes, natural character and natural functioning of the environment. Consent should not be granted unless the Council is satisfied that the proposal is consistent with the statutory provisions listed in the submission and any additional or cumulative effects of the proposed activity are nor more than minor, or can be avoided, mitigated or remedied.
Nelson Marlborough District Health Board	Not specified	<p>Reasons for submission</p> <ul style="list-style-type: none"> - Raise issues relevant to the health and safety of people and communities - To assist the Council in its duty to improve, protect and promote public health <p>Conditions sought</p> <ul style="list-style-type: none"> - Ensure that there are adequate mitigation measures in place to prevent or reduce the actual or potential effects on the local community. - The imposition of a Management Plan that identifies potential effects (including but not limited to noise, vibration and dust) and sets of mitigation measures to ensure the best practical options are employed to ensure effects are reasonable.
McDonald and Brown Limited	Support with conditions	<p>Conditions sought</p> <ul style="list-style-type: none"> - That the Council contract one of the local commercial fisherman to maintain lighting and buoyage systems

<ul style="list-style-type: none"> - Talleys Fisheries - Motueka Grey Power - Golden Bay /Motueka Fishermans Association - NgatiTama Manawhena Ki Te Tau Ihu Trust - Douglas Saunders-Loder - John Krammer - Karl Stevens - Philip Coppins - Matthew Hinton - Gaitan Franklin - Michael Compton - Andrew Lock - Bruce Manson - Peter Besier* - Nathan Lunn - Graham Wilson - Sharon Smith - Grant Stevens* - Lex Bloomfield - Linda Bloomfield - Robin Bloomfield - Tom Trewavas - Winston Rountree - Allen Reid - Arlyn Wells - Nicky Hanson - Kerry Snowdon - Lisa Watkins - Jud Kenning - Douglas Roberts - David Gilbertson - Angela Kenning - Duncan Miller - Peter Jensen - Dion Iorns - Eldred Iorns - Pamela Iorns - Ivan Thompson - Heather Thompson - Robert Darragh - David Ryder - Fred Te Miha - Melissa Lightfoot - Edward Coppins - Hugh Cropp - Jarrad Peychers (Late) - Tony Young (Late) - Sarah Blick (Late) 	<p>Support the application and request that the Council grant the application</p>	<ul style="list-style-type: none"> - Improve safety of port entrance and access - benefit local community/Improve wellbeing - Essential for the redevelopment of the port - Tidy up existing structure and stop deterioration - Wall needs repair and continued maintenance - Other attempts to improve entrance have failed - Encourage coastal shipping - Will maximise commercial use of the existing wharf and eliminate road transport of product
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* Presented evidence at the hearing on behalf of the Applicant.

Mr Saunders-Loder attended the hearing but stated that he no longer wished to speak to his submission as evidence provided by the Applicant had adequately addressed his issue.

4. PROCEDURAL MATTERS

The chairperson ruled that the three late submissions (Jarrad Peychers, Tony Young and Sarah Blick) be allowed as the submissions were only a few days over the date that submissions closed and that the reason for them being late was probably attributable to postal delays.

An amended submission from the Director General of Conservation was tabled at the hearing by the Council's Reporting Officer. The amendment advised that the Department had obtained a legal opinion which concluded that the activities proposed were not a restricted coastal activity and that it was not therefore necessary for Commissioner Dr M Johnston to be the Minister's appointee at the hearing.

On the advice of the Council's Reporting Officer, the Committee accepted that the activity was not a restricted coastal activity and this change did not prejudice any person involved in the notification and/or hearing processes.

Although the Director-General of Conservation had indicated he wished to attend the hearing no representative appeared at the hearing on his behalf.

5. EVIDENCE HEARD

The Committee heard evidence from the Applicant, expert witnesses, submitters, and the Council's reporting officer. The following is a summary of the evidence heard at the hearing.

5.1 Applicant's Evidence

Mr T Stallard, Counsel for the Applicant, tabled and read an opening statement. He described the purpose of the applicant company and produced a copy of the company registration providing details of directors and shareholders. Mr Stallard stated that the group that comprises the company is concerned at the significant deterioration of the existing training wall and the consequent decreasing accessibility to the Port of Motueka. The company believes that it is critical that a repair of the training wall be undertaken to enable the principal users of the port to safely navigate to and from the port to the open sea.

Mr Stallard stated that it appeared that the Department of Conservation has now formed the view that the consent sought is not a restricted coastal activity. He stated that the application must therefore be dealt with on the basis that it is a discretionary activity.

Mr Stallard advised that the Applicant accepts that it is an order to amend the proposed condition regarding the drafting of any management plan to reflect the desires and concerns of the Department of Conservation so that the condition can be drafted in consultation with the Department. He stated that the Applicant will volunteer to advise the Motueka office of the Department of Conservation within 24 hours of the commencement of any works.

Mr Stallard stated that the Applicant accepted the conditions outlined within the staff report, with the addition to the management plan to be carried out in consultation with the Department of Conservation to reflect the Department's concerns.

Mr Stallard outlined the consultation process that the Applicant had undertaken.

Mr Stallard stated that the Port Motueka is extremely important to the economic and social wellbeing of the community and the minor effects of this proposal can be mitigated by conditions of consent.

Mr A Bloomfield, a director of the applicant company and member of Golden Bay – Motueka Commercial Fishermens' Association tabled and read a statement of evidence. He spoke of his 38 years of fishing from Port Motueka and during that time had seen many changes to the entrance to the harbour. He stated that for many years there had been a good depth of water across the sand bar with good straight runs in and out as the bar was crossed by vessels. However, now the route deviates to the south with the collapse over time of the training wall. He stated it is now quite unsafe to enter Motueka Harbour especially at night or in bad weather. He stated that large vessels no longer even try to come in to the harbour.

Mr Bloomfield stated that he hoped that in time, if the work done is successful, it will allow the return to the Port of those vessels that no longer use the Port. He spoke of the facilities that are available at Motueka Wharf for vessels. He outlined the commercial reasons why it is desirable for fishing vessels to have access to a local port. Mr Bloomfield stated that safe navigation into Port Motueka has become more and more difficult over the years, resulting in the loss of commercial vessels to the port and danger to smaller vessels.

Mr Bloomfield stated he believe there will also be considerable benefits also to the local Motueka community by increased use of the marina and its associated facilities in the event of the granting of the consent.

Mr E C Coppins, Operations Manager for Talley's Group Limited, stated that five to ten years ago Port Motueka was a vital and well used commercial fishing port. The diminishing access to the port has resulted in less use, especially by larger vessels that previously unloaded fish for processing at the Talley's factory. He stated there is significant cost involved, particularly with the rising cost fuel, in transporting fish by road backwards and forwards from Nelson. He stated that the more vessels that use the Port of Motueka, the more those additional costs can be avoided. He stated now it is completely impossible to enter Port Motueka two hours either side of low tide. He stated there would be significant economic benefits to fisherman from the ability to unload directly at Port Motueka. In addition, more employment would be available in the local Motueka area.

Mr H Trewavas of Motueka Powerboat Club stated that the use of the navigation channel is of critical importance to the continued ability of members of the club to be able to use the facilities offered at Port Motueka. Mr Trewavas stated the channel to the open sea is now a quite long and complicated route and a considerable degree of local knowledge is required. He stated that powerboats experienced particular problems when there is a heavy sea sideways to the channel that runs parallel to the sandbank and to Jackett Island.

Mr Trewavas stated that a secure and safe channel able to be navigated is required from the marina to the sea. Mr Trewavas stated that when the training wall is reinstated, the channel will tend to come back to a line that was there earlier through the sandbank.

Mr P Besier spoke on behalf of the Peninsular Society, which has developed the "mud hole" into a marina facility. He stated that a lot of deep draught boats have difficulties and that the geotextile groyne that was placed at the tip of the sand bar in 1996 had made the situation more difficult even at the mid-tide at the sand bar. Mr Besier stated that the Council has a moral obligation to see an improvement to the Port and facilities. He stated the major problem is the actual bar, even in high tide.

Mr N Barber, a Chartered Professional Engineer experienced in the design of marine structures stated that the proposed method of repair to the training wall is set out in the application and is designed to meet the requirements of NZ Standards for this type of construction. He spoke about the condition of the existing wall that was built in the 1930s. He stated that the design wave for this project is a breaking wave 1.8 metres high at 5.75 seconds period coming from Port Nelson lighthouse direction. He described the proposed method of the repairs that he stated are much stronger than the surviving un-reinforced concrete slabs that have withstood the test of time. Mr Barber stated that rock will be placed around the end of piles to guard against erosion from the expected faster water flow.

Mr G C Tear of OCEL Consultants NZ Limited read a statement of evidence regarding the marine civil engineering aspects and stated he had been engaged by Talleys Fisheries to provide a peer review of the proposal to repair the training wall. Mr Tear's evidence described the prevailing coastal processes and the present navigation channel. He described the training wall function and tidal scouring occurs. Mr Tear discussed the inlet stability and how the training wall stabilises or fixes the position of the entrance through into the Moutere Inlet.

Mr Tear described the scope of the proposed work as relatively modest and repairs would restore the function of the training wall, to direct flow and visual impact of the completed work will be minimal. He stated that part of the works proposal also includes the placement of some rock protection around the last 25 metres of the eastern end of the wall.

Mr Tear stated that because of the width of the sandspit directly off the end of the wall, a breakthrough is unlikely to occur through the offshore sandspit at this point. He stated that repairing the training wall can be viewed as an incremental first step towards establishing a navigation channel through the offshore sand bar.

Mr Tear provided some comment in response to submissions received from Mr M Rea and Dr B Rhoades.

Mr M A Lile, Resource Management Consultant read a statement of evidence providing a summary of the planning framework and statutory assessment of the proposed repair work. He referred to the application as a discretionary activity and that the proposed repair work was considered to be necessary on the basis that access to the port is extremely important both economically and socially to this community.

Mr Lile stated it is considered that the proposed work will achieve the sustainable management of this coastal resource and enhance the shape and location of the navigation channel and assist in build up of material on the foreshore of Jackett Island.

5.2 Submitter's Evidence

Mr M Rae sought clarification about the proposed height of the repair work to the training wall. He stated that the capping is only broken away at the end of the wall. He stated he would like to see the end of the wall raised all the way to catch the sand and avoid erosion. He stated vehicle access across the wall at the foredune could be assisted by placing gravel adjacent to the walls. He questioned why it was necessary to raise the height at the wall where it tapers in to the beach. He sought that an access gap remain in the wall, one bay wide, to provide for small craft access closer to Jackett Island. Mr Rae stated that minimal monitoring has occurred to demonstrate the extent of the erosion along Jackett Island beach.

5.3 Council's Reporting Officer's Report and Evidence

Ms R Squire spoke to her report contained within the hearings agenda. Ms Squire stated that the application status can be confirmed as a discretionary activity. She recommended that the coastal permit be granted to expire in 2043 (a term of 35 years). Ms Squire expressed support for the report provided by the Council's Resource Scientist, Mr E Verstappen. She stated that monitoring should be carried out by the Council as part of its normal monitoring processes. She stated that the training wall should have no capping landward of pile 39, however the missing panel areas are to be infilled in order to raise the height to their original level. Ms Squire recommended that the coastal permit be granted subject to the conditions listed within her report.

Mr E Verstappen, Resource Scientist, Rivers and Coast, stated that the training wall has been in existence for over 70 years and noted that it can be overtopped by the highest spring tides. He stated that there is no capping on the inner part of the wall and that the base of the wall has trapped north bound sand and that sand at the top of the beach passes over the wall. He stated that there are some quite strong current flows over and through the wall that carries sand. He stated a small ramp could be provided to assist vehicle access should any increase in wall height require this. Mr Verstappen suggested that the wall height be restricted to the top of the piles. He stated that scour holes are evident at the existing gaps in the wall and he stated that he would prefer the wall was completely closed rather than leave a gap open for navigation, as requested by Mr M Rea, as he considered the flows through such a gap could be significant and possibly a hazard.

He stated that the request to leave a gap in the training wall for boat access purposes has potentially adverse effects which outweigh any benefit and that the wall should be completely infilled as applied for.

Mr Verstappen stated that he believed that the repaired wall will enhance the potential of a future sand bar blowout, but to provide a straighter channel could take years. He stated that the proposed repair work was considered a first step of improving access to the port in conjunction with dredging.

Mr Verstappen stated that coastal erosion has occurred generally in the district including Jackett Island for some time. The sandspit / sand bar has grown substantially in the last 15 years and now poses a navigation problem.

He stated that Jackett Island has eroded a lot recently as a result of sandspit / sand bar growth and outlet channel proximity to the shoreline. He referred to monitoring that the Council has carried out through the use of aerial photos, but there have been no recent hydrographic soundings carried out. He stated that the groyne has been totally overwhelmed by littoral drift processes and any effect of the groyne on Jackett Island erosion issues can be discounted.

He stated that much of the base end of the existing sand bar is presently underwater on high spring tides. The Council will continue to carry out a programme of aerial photographic monitoring.

5.4 Applicant's Right of Reply

Mr Stallard responded for the Applicant and confirmed that, in regard to the matters raised by Mr Rea, the Applicant does not offer a ramp to be provided for access. He said that the Applicant also has concerns for marine safety and insurance reasons and did not agree to a gap through the training wall because of the potential for outward flows of six to seven knots that could be against a tidal flow. He stated that the provision of this gap is not necessary and that the Applicant was fairly much in agreement with the proposed conditions of consent outlined in the Council officers' reports. Mr Stallard particularly referred to section 3.3 on page 5 of the staff report from Mr Verstappen and indicated the agreement of the Applicant to the points raised in that section.

6. PRINCIPAL ISSUES

The principal issues that were in contention were:

- a) Would the repair of the training wall result in any positive effects to improve navigation and safe access to Motueka Harbour?
- b) Would the activity have any adverse effect on the hydrodynamic coastal processes?

7. MAIN FINDINGS OF FACT

The Committee considers that the following are the main facts relating to this application:

- a) Evidence presented at the hearing was that the current channel into Port Motueka was shallow and difficult to navigate due to changes which have occurred in the channel and the offshore sand bar. Evidence presented was that boats larger than 12 tonnes (which were commercial vessels) had difficulty entering the harbour and that even experienced mariners sometimes grounded while negotiating the tortuous channel entrance.

The expert evidence of coastal engineers was that the repair of the training wall would have unquantifiable, but beneficial, effects in improving the hydrodynamics of the tidal prism discharge from the Moutere Inlet by concentrating and constraining the flow from the Inlet onto the offshore sand bar to scour it and flush sand out of the navigation channel. The expert opinion was that, over time, the channel would become more defined and provide a more functional route to the sea, particularly it should aid in breaching the sand bar which by natural coastal processes is extending southeast across the mouth of the inlet.

- b) Expert opinion presented at the hearing was that the influence of the repaired training wall would have little, if any, discernible influence or adverse effect on the hydrodynamics of the local coastal environment which is dominated by the movement of sand off shore of the port in response to southeast littoral drift. A possible positive effect was that the repaired training wall would act as a groyne to interfere with counter current drifts northwards along the shore and thereby encouraging more deposition of sand on the southern side of the wall on the foreshore of Jackett Island.

8. RELEVANT STATUTORY PROVISIONS

8.1 Policy Statements and Plan Provisions

In considering this application, the Committee has had regard to the matters outlined in Section 104 of the Act. In particular, the Committee has had regard to the relevant provisions of the following planning documents:

- a) The New Zealand Coastal Policy Statement
- b) Tasman Regional Policy Statement (TRPS);
- c) The Proposed Tasman Resource Management Plan (PTRMP).

8.2 Part II Matters

In considering this application, the Committee has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act, as well as the overall purpose of the Act as presented in Section 5.

Part 2 of the Act outlines its purpose and principles which is to promote the sustainable management of natural and physical resources.

Matters of National Importance that the Committee has recognised and provided for in granting this consent are:

Section 6 (a) of the Act which *requires that the preservation of the natural character of the coastal environment (including the coastal environment area) from inappropriate use and development shall be recognised and provided for as a matter of national importance.*

Section 6 (d) of the Act which *requires that the maintenance and enhancement of public access to and along the coastal marine area shall be recognised and provided for as a matter of national importance.*

The Committee has also had particular regard to the provisions of Section 7(c) of the Act in regards to *the maintenance and enhancement of amenity values*.

9. DECISION

Pursuant to Section 104B of the Act, the Committee **GRANTS** consent subject to conditions.

10. REASONS FOR THE DECISION

The Committee acknowledges that Port Motueka is a highly valued and important economic, social and recreational facility for the Motueka community and environs.

The Committee noted that none of the 57 submissions received in response to the application was opposed to the proposal, although a number qualified this by asking that conditions be imposed. It was also noted that the Applicant had undertaken thorough consultation with affected persons and others before lodging this application.

The proposed activity intends to restore the training wall to its original functionality when it was constructed in the 1930s with the aim of improving the hydraulic efficiency of the scouring action caused by the discharge of the tidal prism from the Moutere Inlet. The concentration of the tidal discharge from the inlet may help improve the channel access to the port between the sand bar and Jackett Island so that it can continue to provide for the social and economic wellbeing of the community.

The current access channel is non-navigable to the larger vessels that used to visit the port. In addition, the channel can be hazardous to navigate for smaller boats, even to those locals that have a good knowledge of the sand bar and channel access. Because part of the present channel is now parallel to Jackett Island vessels are beam on to the prevailing wind and wave direction, which results in a further hazard.

On the basis of the expert evidence heard, the Committee considers that the wall, by concentrating and directing the tidal outflow towards the sand bar, may have the additional benefit of facilitating the accretion of sand on the foreshore of Jackett Island.

The evidence presented, including expert evidence and the recommendations and advice from the Council reporting staff, was that the activity of repairing and maintaining the training wall would have adverse effects that were more than minor.

The Committee acknowledges that the Motueka Delta and Moutere Inlet are listed in Schedule 25.1F of the PTRMP as areas with nationally or internationally important natural ecosystem values, but that the proposed activity is unlikely to have any adverse impact on these areas.

The Committee has had particular regard to Policies 1.1.1, 1.1.2, 1.1.3, 1.1.4, 3.2.2, 3.2.4, 3.4.2, 3.4.3, 3.4.4 and 4.1.3 of the New Zealand Coastal Policy Statement (NZCPS).

The policy directives of the NZCPS which are considered to be particularly relevant to this application are:

The preservation of the natural character of the coastal environment;

The protection of landscapes, seascapes and landforms, characteristics of special significance to Maori and significant places or areas of historical or cultural significance;

The preservation of the natural character of the coastal environment to protect the integrity, functioning and resilience of the coastal environment in terms of dynamic processes and features arising from the natural movement of sediments, water and air;

In particular the Committee notes that the NZCPS provides for development to occur *where the natural character has already been compromised.*

The repairs are being made to an existing structure which has deteriorated over the past 70 years to a point where it is no longer functioning as it was originally intended. Deterioration has involved the failure in several piles and the collapse of a number of panels between piles and some piles have been 'knocked over'. The expectation is that the repairs will restore the original functioning of the wall which will have implications for the natural movement of sediments and water but these are not expected to compromise the integrity, functioning and resilience of the coastal environment. Thus, it is considered that the repair of the wall will not further compromise natural character and landscape values to any degree.

The Committee considered that the objectives and policies in Sections 9 and 12 of the Tasman Regional Policy Statement (TRPS) are the most relevant to this application and which are:

Objective 9.3 which *aims to ensure that the adverse effects from activities, including structures, physical modification, or occupation, are avoided, remedied or mitigated;*

Objective 9.5 which *aims to preserve the natural character of the coastal environment, including the functioning of natural processes;*

Policy 9.3 which states that *the Council will provide for activities in the coastal marine area, while avoiding, remedying or mitigating their effects;*

Policy 9.6 which provides that *the Council will preserve the natural character of the coastal environment by protecting natural features and landscapes, habitats, ecosystems, natural processes ... ;*

Objective 12.5 which *aims to maintain and enhance a safe and efficient maritime transport system while avoiding, remedying or mitigating the adverse effects on human health, public amenity and water, soil, air and ecosystems;*

Policy 12.6 which states *that Council will seek to avoid, remedy or mitigate adverse environmental effects of activities at the District's ports and on adjoining land.*

The objectives and policies in Chapters 20 and 21 of the PTRMP are considered to be most relevant to this application and which are:

Objective 20.1.0, which aims to provide for safe navigation, amenity values and natural values that are not compromised by the passage of craft, or by other activities on the surface of the water.

Policy 20.1.2, which aims to avoid, remedy or mitigate adverse effects on safe navigation from structures, occupation or other uses of the coastal marine area, especially in established fishing areas, ports or their approaches, or in other intensively used coastal marine space.

Objective 21.1.0 aims which to preserve the natural character of the coastal marine area, particularly its margins, including the maintenance of all values that contribute to natural character, and its protection from the adverse effects of use or development.

Policy 21.1.1 which aims to avoid, remedy or mitigate adverse effects on the natural character of the coastal marine area from activities, including:

- (a) Physical modification to foreshore or seabed, including reclamation, dredging, removal or deposition of material, or other disturbance;
- (b) Disturbance of plants, animals, or their habitats;
- (c) Structures, including impediments to natural coastal processes;
- (d) The use of vessels or vehicles; and
- (f) The discharge of any contaminant or waste.

Policy 21.1.2 which aims to avoid, remedy or mitigate adverse effects on outstanding or other significant natural features and seascapes arising from modification other than through natural processes.

Policy 21.1.3 which aims to restrict the placement of structures in or along the coastal marine area to those for which a coastal location is necessary and whose presence does not detract from the natural character of the locality, including the natural character of adjoining land.

Objective 21.2.0 which aims to avoid, remedy, or mitigate adverse effects on marine habitats and ecosystems caused by:

- (c) Disturbance of the foreshore or seabed;
- (d) the placement and use of structures for port, berthage, aquaculture, network utilities, roads, mineral extraction or any other purpose;

Policy 21.2.2 which provides for navigational aids necessary for the efficient achievement of safe navigation throughout the coastal marine area, and to protect them from adverse effects of other activities.

Policy 21.2.3 which aims to avoid, remedy or mitigate adverse effects of structures or works in the coastal marine area, for any purpose, on:

- (a) *natural character;*
- (b) *natural coastal processes and patterns;*
- (c) *coastal habitats and ecosystems, particularly those supporting rare or endangered indigenous or migratory species, or nationally or internationally significant natural ecosystems;*
- (d) *public access to coastal marine space;*
- (e) *visual amenity and landscapes or seascapes;*
- (f) *navigational safety; and*
- (g) *historic and cultural values.*

Policy 21.2.5 which *aims to avoid, remedy or mitigate adverse effects from the maintenance, replacement or protection of utility structures or facilities, including roading structures, wharves, or jetties, in the coastal marine area.*

Policy 21.2.6 which *aims to require the removal of disused or obsolete structures except where removal would have adverse effects on the environment or where the structure is registered under the Historic Places Act 1993.*

Policy 21.2.16 which *aims to confine port activities and facilities to existing port locations, unless sites with less adverse environmental effects from such activities can be demonstrated.*

Policy 21.2.21 which *aims to restrict structures and disturbance such as port developments, jetties, moorings or aquaculture from locating in areas where they would adversely affect nationally or internationally significant natural ecosystem values or significant habitats such as estuaries and intertidal areas.*

Objective 21.3. which *aims to maintain the natural character and landscape of the coastal marine area.*

Policy 21.3.1 which *aims to allow structures or physical modifications in the coastal marine area only where the effect on the natural components of landscape and seascape values of the area including any contribution to any likely cumulative effect, is limited in extent and is consistent with the existing degree of landscape and seascape modification.*

Objective 21.4.0 which *aims to maintain natural coastal processes free from disturbance or impediments.*

Policy 21.4.1 which *aims to avoid impediments to natural coastal processes except where a community need (such as the need to protect a physical resource of significance to the community) outweighs adverse effects on the natural environment.*

Policy 21.4.3 which *requires that the likely effects of disturbance, including excavation, deposition or removal of material, or structures, on natural coastal processes, to be avoided or mitigated.*

Objective 21.6.0 which *aims to maintain and enhance public access in the coastal marine area, including public passage or navigation:*

- (a) *while preserving natural character, and maintaining ecosystems, heritage, and amenity values; and*
- (b) *without undue hazard or loss of enjoyment as a result of private occupation or use of coastal marine space.*

Objective 21.7.0 which *aims to maintain and enhance the amenity value derived from the natural character of the coastal marine area.*

Policy 21.7.1 which *aims to avoid, remedy or mitigate the adverse effects of activities in the coastal marine area, including structures for its use and enjoyment, on the amenity values of any part of the coastal marine area or coastal land, particularly on those values dependent on natural character, such as in areas adjacent to national parks, estuaries and open beaches, and taking into account:*

- (a) *location*
- (b) *permanence*
- (c) *size and number*
- (d) *frequency and duration of use*
- (e) *need to exclude other activities or people.*

The Committee has thoroughly considered the application and also has fully evaluated the evidence presented at the hearing from all parties and has undertaken a site inspection of the training wall and its environs following the public part of the hearing. The Committee has concluded that the activity is consistent with the statutory provisions under the Act and the NZCPS, the TRPS and PTRMP and that the activity will not cause any adverse effects that are more than minor and has included conditions of consent to ensure that any possible adverse effects can be avoided, remedied or mitigated.

The Committee has considered the relevant policies and objectives of the NZCPS, the TRPS and PTRMP and have concluded that the proposed activity does not offend any of the policies and objectives referred to and that the activity is supported by many of the policies and objectives referred to.

11. COMMENTARY ON CONDITIONS OF CONSENT

Condition 7 requires the Consent Holder to advise the Motueka Office Area Manager of the Department of Conservation one working day prior to of commencement of works authorised by this consent. This condition was volunteered by the Applicant at the hearing.

Condition 10 recommended by the Council's Reporting Officer has been amended to require the Consent Holder to consult with the Department of Conservation when preparing the Management Plan.

Conditions 4 and 5 provide for inspection of the existing piles to be undertaken prior to any works commencing and where any piles are considered to be at risk of failure when subjected to the additional loads the reinstatement of the wall will create, then those piles will have to be replaced.

Conditions 21 to 24 inclusive provide for biennial inspection of the training wall and has provisions for the maintenance and repair of the wall should any structural element be compromised by any cause.

The Committee did consider the matters raised by submitter Mr M Rea in regard to his recommendation that one of the failed panels between two piles not be reinstated thereby allowing a passage through the wall for small craft and for a ramp over the wall to allow for vehicle access across the foredune. The Committee considered that the velocity of water through any such gap (as evidenced during the site visit) could have significant adverse effects by initiating scouring and that the narrowness of the gap, combined with the velocity, could pose a significant health and safety hazard for anyone using the gap or being in its vicinity.

The matter of the ramp was considered during the site visit and the Committee noted that the landward-most pile was below the level of the sand on the foredune and that the wall did not appear to pose any barrier to any small vehicle that was crossing the foredune.

12. LAPSING OF CONSENT(S)

Pursuant to Section 125(1) of the Act, resource consents, by default, lapse in five years unless they are given effect to it before then.

13. EXPIRY OF CONSENT(S)

The Coastal Permit (RM071067) expires in 35 years, which is the maximum provided in the Act for such consents and is considered appropriate as the activity is unlikely to change significantly once the repairs have been completed.

Issued this 3rd day of April 2008



Cr T King
Chair of Hearings Committee

RESOURCE CONSENT NUMBER: RM071067

Pursuant to Section 104B of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants resource consent to:

Motueka Port Users Limited
(hereinafter referred to as “the Consent Holder”)

ACTIVITY AUTHORISED BY THIS CONSENT: To undertake repair work and ongoing maintenance work to an existing 380 metre long training wall structure located at the southern side of the entrance of the Moutere River (locally known and referred to as the entrance to Motueka Harbour).

LOCATION DETAILS:

Location of structure: The southern side of the channel entrance to Motueka Harbour extending from the foreshore adjacent to 9 Jakkett Island (Lot 3 DP 7208) and extending out into the coastal marine area 380 metres approximately in an east of north east direction.

Legal description: Seabed being coastal marine area

Easting and Northing: From 2512186E:6007545N to 2512539E:6007688N (NZ Map Grid)

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

CONDITIONS

General

1. The activity shall be undertaken in general accordance with the application for this resource consent.

In particular, the works authorised by this consent includes:

- a) Replacing five missing concrete piles and replacing and/or realigning other damaged piles as required by Conditions 4 and 5 of this consent;
- b) Infilling the gaps between the existing concrete piles with 200 millimetres diameter H5 and H6 treated poles using M16 stainless steel U bolts;
- c) Replacing any missing or damaged capping; and
- d) Placing up to 80 cubic metres of rock protection adjoining either side of the eastern most 25 metres of the wall.

Advice Note:

The works authorised by this consent are limited to works required for the repair and maintenance of the training wall and do not authorise any works beyond the training wall such as dredging or maintenance of the channel.

2. The activity shall also be undertaken in general accordance with the following plans lodged with the application for this resource consent:
 - a) The pre-works longsection plans of the training wall prepared by Nikkel Surveying Limited, referenced as POR-M 1620, dated November 2007 and attached to this consent marked Plan A - RM071067 and Plan B – RM071067 and dated 25 March 2008; and
 - b) The training wall restoration work plans prepared by Nick Barber, referenced as Sheet 1 and Sheet 2 and attached to this consent as Plan C – RM071067 and Plan D – RM071067 and dated 25 March 2008.
3. Notwithstanding Conditions 1 and 2 of this consent, if there are any inconsistencies between the information and/or plans submitted with the application and the conditions of this consent, the conditions of this consent shall prevail.

Pre-Works Inspection

4. The Consent Holder shall ensure that an inspection of the condition of existing piles is carried out by a suitably qualified engineer experienced in coastal structures and a report on the condition of the piles shall be submitted to the Council's Engineering Manager prior to repair works commencing.
5. If such inspection indicates that the condition of any piles is sufficiently poor as to be at risk of failure during or after repair works have been undertaken, then the pile(s) shall be removed and replaced.

Notifications Required

6. The Consent Holder shall advise the Council's Co-ordinator, Compliance Monitoring at least two working days prior to undertaking the works authorised by this consent so that monitoring of conditions can be programmed.
7. The Consent Holder shall, in addition to Condition 6 of this consent, advise the Motueka Office Area Manager of the Department of Conservation at least one working day prior to the commencement on site of any works authorised by this consent.

Advice Note:

Condition 7 was volunteered at the hearing.

Work Practices

8. The Consent Holder shall ensure that contractors or others undertaking the works are made aware of the conditions of this consent and shall ensure compliance with the conditions.

9. The hours of operation shall be limited to between 7.00 am to 6.00 pm Monday to Friday and between 8.00 am to 1.00 pm Saturdays, excluding public holidays.

Management Plan

10. A Management Plan shall be drafted in consultation with the Department of Conservation, identifying potential effects and setting out mitigation measures to ensure that the best practical options are employed to minimise the effects of the works authorised by this consent. The plan shall be submitted to the Council's Co-ordinator Compliance Monitoring for approval prior to any works commencing.

Advice Note:

The matter of consultation with the Department of Conservation referred to in Condition 10 of this consent was volunteered at the hearing.

11. The Management Plan shall include details on how the Consent Holder intends to mitigate noise generated by the activity such that it does not exceed the recommended upper noise limits as described in the NZ Construction Noise Standard NZS6803:1999 Acoustics – Construction Noise. Such noise shall be measured and reported in by the Consent Holder in accordance with this standard.

Works and Materials

12. The Consent Holder shall undertake the best practicable options to limit any adverse effects of this activity on the foreshore, water quality, natural estuary beach profile, prevailing coastal processes, noise generation, and other disturbances to adjacent residents, and the reasonable continuation of public access to and along the beach.
13. The rock protection material used to prevent scouring adjacent to the eastern end of the wall shall be comprised of competent, regularly shaped angular material with graded to suit the prevailing conditions and shall be sufficiently clean prior to placement so as to not contaminate the coastal marine area. Such material shall be limited in height so as not to protrude above mean low water.
14. The Consent Holder shall ensure that all excess concrete, timber and other material is removed from the site on completion of the works, disposed of to a land-based disposal site that is authorised to accept such materials, and that the site is left in a tidy condition.

Hazardous Substances

15. The Consent Holder shall ensure that all machinery is maintained and operated in such a manner so as to minimise to the greatest extent practicable any spillage of fuel, oil and similar contaminants to water or land, particularly during machinery refuelling, servicing and maintenance.
16. Maintenance, refuelling and lubrication of machinery shall not be carried out within 20 metres of the coastal marine area or any surface water body.
17. Spillage of contaminants into any watercourse or onto land shall be remediated so that no residual potential for contamination of land and surface water run-off occurs.

18. If a spill of more than 20 litres of fuel or other hazardous substance occurs, the Consent Holder shall immediately inform the Council's Co-ordinator Compliance Monitoring.

Maintenance and Repairs

19. The Consent Holder shall ensure that retrieval and disposal (or reuse) of any structural elements of the wall is undertaken for any materials that may break free from the wall during storm or other circumstances as soon as practicable after the Consent Holder has become aware of materials becoming detached.
20. The Consent Holder shall ensure that all elements of the training wall, including the sea bed in the immediate vicinity of the wall are subject to an inspection by an appropriately qualified and experienced Structural or Marine Engineer biennially, the first inspection shall be carried out in April 2010 and the second inspection shall be carried out in April 2012.
21. Following the April 2012 inspection, the requirement for any further inspections and reports on the structural integrity of the training wall, and changes in the sea bed in the immediate vicinity of the wall, shall be subject to review as provided in Condition 24(b) of this consent.
22. A report on the condition of the structural integrity of the wall shall be provided to the Council's Resource Scientist, Rivers and Coast on or before the end of May in the year that the inspections referred to in Condition 20 is carried out. The report shall also note any changes found to have occurred to the sea bed in the immediate vicinity of the wall. If requested by the Council's Engineering Manager the Consent Holder shall forward to the Council's Engineering Manager, a plan and longitudinal sections at the toe of the wall documenting the changes. Such documentation shall be prepared by a registered professional surveyor.
23. Either as a result of the inspections referred to in Condition 21, or any further inspections required pursuant to Section 22, of this consent or after the occurrence of any damage to the wall, appropriate maintenance and/or repair works shall be undertaken as soon as practicable and no later than three months of the required repair and/or damage becoming evident.

Review

24. The conditions of the consent may be reviewed in accordance with Section 128 of the Act at any time during the exercise of this consent for the purposes of:
 - a) dealing with any adverse effect on the environment arising from the exercise of the consents;
 - b) determining the required inspections and reporting on the condition of the training wall (if any) following the April 2012 inspection required by Condition 20 of this consent;
 - c) taking into account uncertainties such as predicted sea level rise, climatic changes and beach accretion or erosion, all of which may influence the operation or sustainability of the structure and discharges;

- d) requiring the Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment;
- e) to deal with any other adverse effect on the environment on which the exercise of these consents may have an influence; and/or
- f) requiring compliance with the requirements of any relevant operative regional plan, national environmental standard, or Act of Parliament.

Duration of Consent

26. This consent expires on 15 April 2043.

ADVICE NOTES

- a) In the event of Maori archaeological sites (eg shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi being uncovered, activities in the vicinity of the discovery should cease. The Consent Holder should then consult with the New Zealand Historic Places Trust (PO Box 2629, Wellington, phone (04) 802 0003), and should not recommence works in the area of the discovery until the relevant Historic Places Trust approvals to damage, destroy or modify such sites have been obtained. It should also be noted that the discovery of any pre-1900 archaeological site (Maori or non-Maori) which is subject to the provisions of the Historic Places Act needs an application to the Historic Places Trust for an authority to damage, destroy or modify the site.
- b) This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either:
 - a) comply with all the criteria of a relevant permitted activity rule in the PTRMP;
 - b) be allowed by the Act; or
 - c) be authorised by a separate resource consent.
- c) The Consent Holder shall meet the requirements of the Council with regard to all Building and Health Bylaws, Regulations and Acts.
- d) Monitoring of the consent is required under Section 35 of the RMA and a deposit fee is payable at this time. Should monitoring costs exceed this initial fee, the Council will recover this additional amount from the Consent Holder. Costs are able to be minimised by consistently complying with the conditions of consent and thereby reducing the frequency of the Council's staff visits.
- e) Plans attached to this consent are reduced copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing at the Richmond Office of the Council.
- f) Copies of the Council Standards and Documents referred to in this consent are available for viewing at the Richmond Office of the Council.

Meanings of Words

- h). Unless otherwise specifically defined, the meanings of words in this consent are as provided in Chapter 2 of the Proposed Tasman Resource Management Plan or Sections 2 and 3 of the Resource Management Act.

Advice Notes

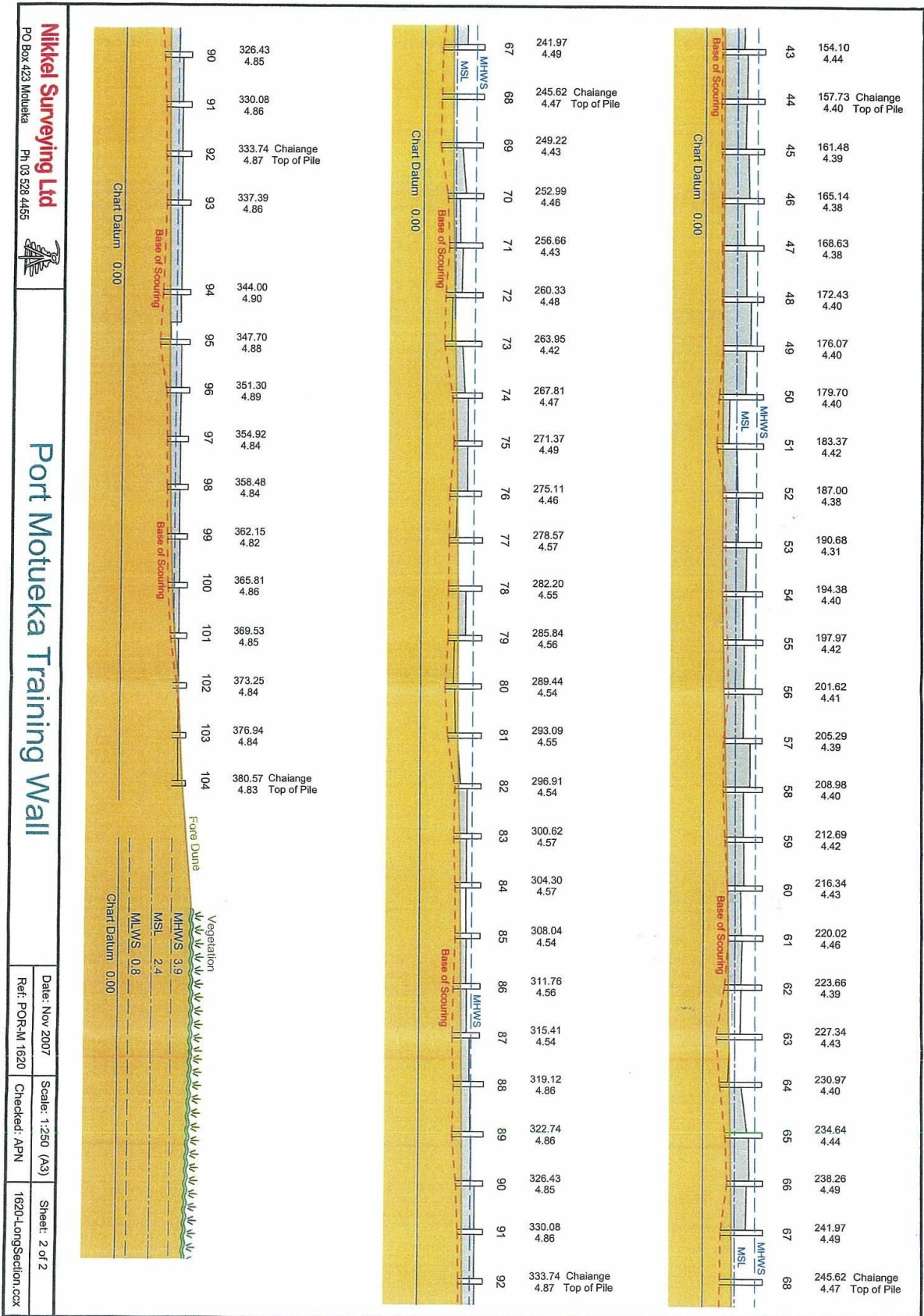
- i). Advice notes are provided for the information and guidance of the Consent Holder and are not conditions of consent.

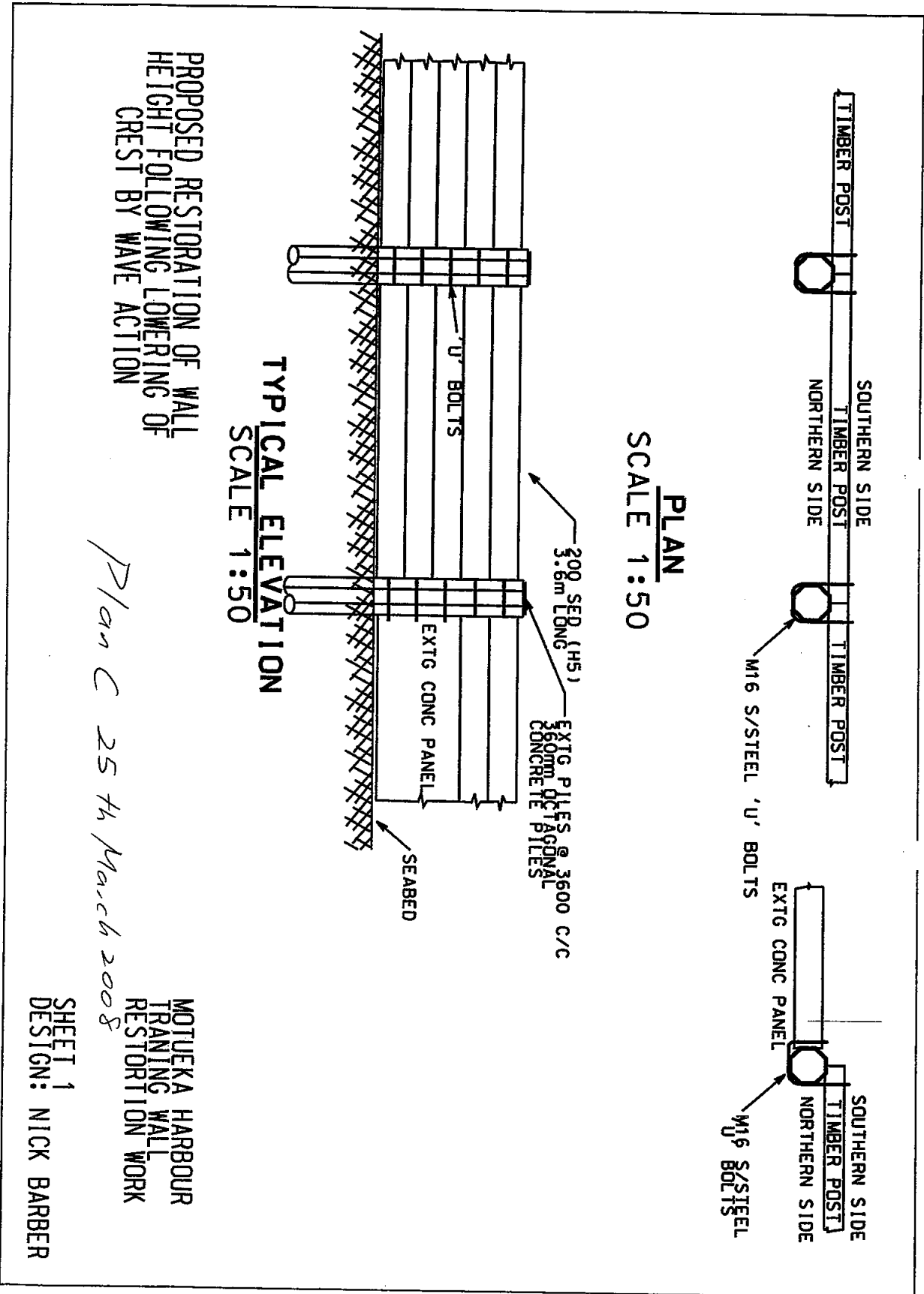
Issued this 3rd day of April 2008

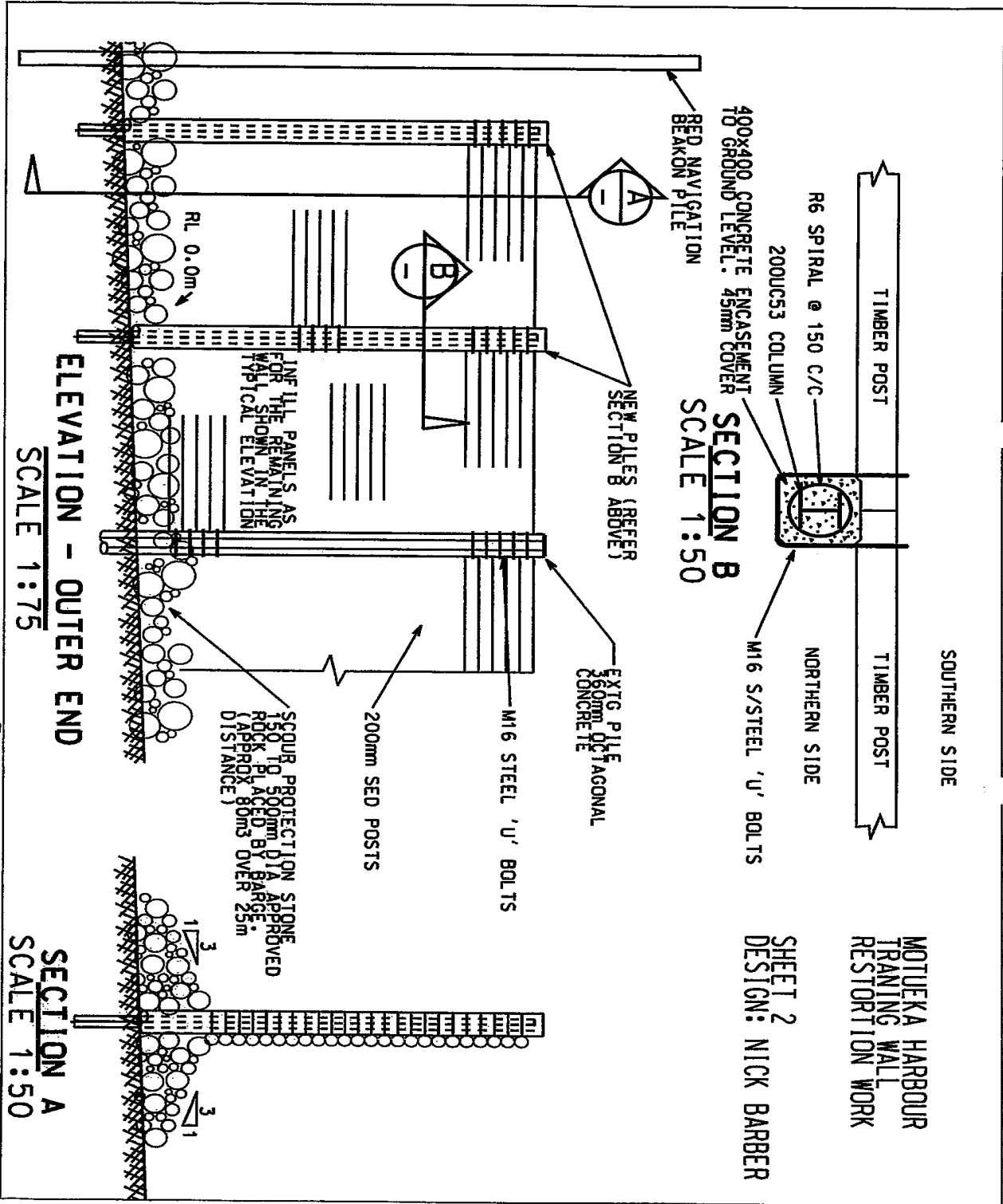
A handwritten signature in black ink, appearing to be 'T King', written over a light grey rectangular background.

Cr T King
Chair of Hearings Committee

Plan B – RM071067







Plan D 25th March 2008

Date Confirmed:

Chair: