

April 14, 2020

Auckland Council  
(by email)

Attn. Shenan Stanton

Dear Shenan

**Re: CST60343373 – S92 Response and Public Notification Request**

Osbornehay write on behalf of their client Kaipara Limited.

This is the full response to the Council s92 request dated 7 October 2019. As part of this response, the following specialist reports/responses are attached:

- 1 Assessment of Underwater Noise Effects (Styles Group);
- 2 Assessment of Airborne Noise Effects (Styles Group);
- 3 S92 Response – Ecology (Bioresearches);
- 4 S92 Response – (Beca);
- 5 Surveyworx Report of Survey; and
- 6 Marine Mammals Assessment of Effects (Cawthron Institute).

Sea testing of the William Fraser Barge has now been undertaken and it is now confirmed:

Speed of barge while extracting: 2-2.5 knots

Track length (for extraction): Approximately 15km

Extraction depth: Approximately 50-80mm

Draghead width: 1.5m

- Q1 Please refer to the attached Assessment of Underwater Noise Effects and Assessment of Airborne Noise Effects. The Ecology s92 response and the Marine Mammals Assessment of Effects then further addresses the potential effects on invertebrates, fish and mammals.
- Q2 Please refer to the Ecology s92 response and the Beca s92 response.
- Q3 The updated tracking dimensions are provided above and the further ecological assessment is provided in the Ecology s92 response.
- Q4 Please refer to the Ecology s92 response.
- Q5 Please refer to the Beca s92 response.
- Q6 Please refer to the Beca s92 response.
- Q7 Geographic coordinates have been used to define the Auckland Sand Extraction Area (proposed condition 2). It is recognised that this may include areas shallower than the 25m isobath or deeper than the 40m isobath. There is also a limit on sand extraction between the 25m and 30m isobaths in proposed condition 13. If Council considers that the depth of extraction needs to be better articulated then proposed condition 2 could be amended to include the following at the end of the current proposed condition:

*“Within this area, sand extraction will be limited to between the 25m and 40m isobaths.”*

Q8

Other Matters:

- 1 An assumption has been made in the application that only one barge would be operating in the Auckland Offshore Sand Extraction Site. The following condition is now proposed to reflect this assumption:

*“Only one sand extraction barge is to be operational within the Auckland Offshore Sand Extraction Site at any time.”*

- 2 The Marine Mammals Assessment of Effects recommends that a Marine Mammal Management Plan (MMMP) be development and implemented. The applicant is agreeable to this recommendation and the following condition is now offered:

*“Prior to the consent being given effect to, the consent holder is to submit to the Team Leader North-West Monitoring for certification a Marine Mammal Management Plan (MMMP). This MMMP is to be prepared by a Marine Mammal Expert. This MMMP shall outline:*

*(i) mitigation procedures referred to in Table 4, of the Marine Mammals Assessment of Effects (Cawthron Institute April 2020);*

*(ii) any procedures that will need to be reviewed for effectiveness during operations (e.g. standardised sighting protocol); and*

*(iii) timelines for any reporting requirements.*

*Any subsequent updates to the MMMP shall be submitted to the Team Leader – North-Western Monitoring for certification and so that Council can maintain a current copy of the MMMP.”*

- 3 For clarification, the 25 m, 30 m and 40m isobaths used in defining the extraction area are based on chart datum.
- 4 Drawing 3233103-CA-013 which was included as Figure 4 of the Beca Coastal Effects Assessment had an incorrect scale shown. The corrected drawing is attached.
- 5 An assessment against the relevant objectives and policies of the New Zealand Coastal Policy Statement is included in Section 7 of the Application and AEE. It is now considered that Policy 11 (Indigenous Biological Diversity) is also of relevance and in particular Policy 11a.

The Cawthron Institute Report (Marine Mammals Assessment of Effects) has identified that the site is within the much more extensive Hauraki Gulf which is used by the critically endangered Bryde’s whales as a resting and feeding habitat throughout the year. Policy 11a(i) and (iv) are therefore relevant.

The actual sand extraction operation (which consent is required for) does not itself significantly impact on the Brydes whale or its habitat. Section 5 of the Report states:

*“Overall, the residual effect of any impacts from sand extraction activities on local and visiting marine mammals is considered to be less than minor to negligible (Table 3). This assessment is based on the consideration of the types of effects, their spatial scales and durations, and relevant species information. It also takes into consideration existing operational aspects, as well as natural avoidance factors, that currently help mitigate adverse effects on marine mammals. However, given that some of the possible consequences of rare events (i.e. vessel strike) could have population level effects (i.e. injury or death of a threatened animal), further mitigation is discussed and several recommended actions are listed in Table 4 to help reduce these risks to as close to zero as possible.”*

The risk to the Brydes whale in the Hauraki Gulf arises from the transiting of boats within the Hauraki Gulf. The transiting of vessels within the Hauraki Gulf is a permitted activity in terms of the Resource Management Act 1991. The adoption of the mitigation measures proposed in the Cawthron Report (and which have been summarised in the new proposed consent condition requiring a Marine Mammal Management Plan) will ensure that the likelihood of a collision is reduced to as close to zero as possible, and in the unlikely event of a collision any wider scale effects on the local Bryde's whale population will be avoided.

In terms of the potential for Stony Coral to be disturbed, this is being avoided by the requirement for pre-sand extraction assessment monitoring to identify areas of stony coral and to exclude such areas from the approved sand extraction areas.

In terms of Policy 11(b), the proposal is consistent with this Policy as no potential significant adverse effects on those matters listed under (1) to (vi) of the Policy.

### **Iwi Consultation Update:**

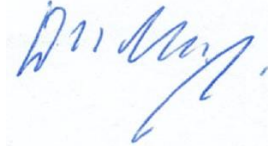
- 1 The Te Uri O Hau Settlement Trust was commissioned to prepare a Cultural Effects Assessment on the 26<sup>th</sup> of February 2019 at a meeting with the Trust. After some delays in the preparation of this report a second meeting was held on the 20<sup>th</sup> November 2019. Mr Brown of Te Uri o Hau emailed on the 19 February 2020 to confirm they are making progress on the CEA and it will be completed as soon as possible. A follow up email inquiring about the progress of the CEA was sent to the Trust on the 27<sup>th</sup> March 2020. The Trust responded on the 20<sup>th</sup> of March 2020 confirming that the CEA should be provided prior to the end of the "lockdown period". The Trust was informed by email on the 7<sup>th</sup> of April 2020 that Mr Hohneck would contact them directly to incorporate them into the discussions on the cultural liaison fee.
- 2 Consultation has been re-initiated with the Ngati Manuhiri Settlement Trust with a meeting on the 20<sup>th</sup> of February 2020. It was articulated at that meeting that the Trust still had significant concerns with the cultural liaison fee which is paid to Ngati Wai and for this reason the Trust had not been open to further discussions with Kaipara Ltd. Since then Kaipara Ltd has made Ngati Wai aware of the concerns held by the Settlement Trust (in an email/letter dated 18 March 2020). In response to an email from myself to The Trust and the Ngati Wai Trust Board on the 30<sup>th</sup> of March following up from the 18<sup>th</sup> of March email from Kaipara Ltd, Mr Hohneck phoned to confirm Ngati Manuhiri were available for a video call with Kaipara Ltd and Ngati Wai during the lockdown period and a video conference was held on the 7<sup>th</sup> of April 2020. At that conference, it was agreed that Ngati Manuhiri and Ngati Tai would meet again shortly (with Te Uri o Hau Settlement Trust) to determine how the cultural liaison fee should be managed and allocated in the future and will report back their proposal to Kaipara.
- 3 Joseph Kingi (who represents the Ngapuhi Nui Tonu - Awataha, Matawhaorua, Maungarei, Taiao, Te Kotahitanga and Waitangi Maraes) contacted Kaipara on the 28<sup>th</sup> of August 2019 expressing an interest. There were various issues in contacting Mr Kingi to arrange a meeting and a meeting was held with him on the 15<sup>th</sup> of January 2020. Kaipara is awaiting Mr Kingi to confirm a date for the next meeting to be held at Te Arai Point.
- 4 Since lodging the application there have been various delays in obtaining a meeting with the Ngati Wai Trust Board due to staff and trustee changes. Kaipara Ltd sent an email/letter to the Ngati Wai Trust Board on the 18<sup>th</sup> of March 2020 outlining the concerns raised with them and advising they are putting the cultural liaison fee payment on hold (and into a Trust) until a meeting is held to discuss the concerns raised. As outlined above, a video conference was held on the 7<sup>th</sup> of April 2020 and discussions on this matter are now progressing.

### **Public Notification Request**

The applicant requests that the application is fully notified by Auckland Council as soon as practical. The required deposit fee for notification (\$20,000) has been paid by internet banking on the 3/04/2020 (ref. KAIPARA CST60343371). It is requested that a draft of the notification letter and newspaper advertisement wording is forwarded to us for a technical review prior to Council proceeding with the

notification. I have attached the proposed notification wording and a more detailed description to accompany the notification packages if Council requires this.

Sincerely,



**David Hay**  
Planning Consultant  
*Ph:* 09 425-9844  
*Mobile:* 027 425-0234

Copy to: Kaipara Ltd, Attn. Steve Riddell (by email)

Attachments: Corrected Drawing 3233103-CA-013; Notification Summary; Beca s92 Response; Bioresearches Ltd s92 Response, Marine Mammals Assessment of Effects; Assessment of Underwater Noise Effects (Styles Group); Assessment of Airborne Noise Effects (Styles Group); Surveyworx Report.