

Decision No. A 113 /2006

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of appeals pursuant to section 120 of the Act

BETWEEN **ORUAWHARO MARAE TRUST**

ENV-2006-AKL-0003 13
ENV-2006-AKL-0003 16
(formerly ENV A143/05 and ENV A144/05)

AND

**ROYAL FOREST AND BIRD
PROTECTION SOCIETY OF NEW
ZEALAND**

ENV-2006-AKL-000214
ENV-2006-AKL-0002 17
(formerly ENV A166/05 and ENV A167/05)

Appellants

AND

AUCKLAND REGIONAL COUNCIL

Respondent

AND

**MT REX SHIPPING LIMITED, and
WINSTONE AGGREGATES (A DIVISION
OF FLETCHER CONCRETE AND
INFRASTRUCTURE LIMITED**

Applicants

BEFORE THE ENVIRONMENT COURT

Environment Judge L J Newhook (presiding)

Environment Commissioner R M Dunlop

Environment Commissioner C E Manning

kaipara and (final decision) (sp)



Decision on the papers concerning submissions on draft conditions.

**FINAL DECISION AND RECOMMENDATION TO THE MINISTER OF
CONSERVATION**

Introduction

[1] On 23 June 2006 we issued an Interim Decision¹ indicating that we considered that it might be appropriate to grant consent to each of the applicants to discharge seawater, shell and sand as part of their sand extraction operations near the entrance of the Kaipara Harbour; and to recommend to the Minister of Conservation that consent be granted, also subject to conditions, to certain restricted coastal activities being:

- (a) The extraction and removal of sand and to disturb the seabed for purpose of sand extraction in accordance with s12(1) and s12(2)(b) of the Act; and
- (b) The authorise the activity of sand extraction in the coastal marine area in accordance with s12(3) of the Act.

[2] In the course of coming to our conclusions in the Interim Decision, we commented upon many draft conditions placed before us by the applicants and respondent. We concluded that subject to input from any parties concerning certain conditions, it was our intention to proceed to grant the consents and make the recommendations to the Minister.

[3] On 10 July 2006 the applicants provided us with submissions, and complete new drafts of general, review, and specific conditions, along with comments from the other parties so far as they had been able to gain them in consultation for the purpose.

[4] The applicants were able to reach agreement with the respondent after discussions. Having taken into account certain recommendations of the respondent, draft conditions and comments were circulated to the other parties. The Rodney District Council as a party under s274 confirmed agreement with the amended draft conditions. The Department of Conservation was unable to provide its comments before the time by which the applicants were directed to lodge material in Court. The Royal Forest and Bird

Decision No. A83/2006.

kaipara sand (final decision) (sp)



Protection Society (“RFBPS”) as one appellant, and Oruawharo Marae Trust as the other, provided certain preliminary feedback but reserved the right to lodge submissions on some aspects. The applicants took account of some of the observations of those two parties in preparing the drafts that they then lodged.

[5] The Royal Forest and Bird Protection Society lodged submissions on 21 July, and Oruawharo Marae Trust did likewise on 24 July 2006.

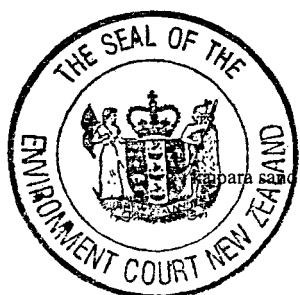
[6] On 31 July the applicants lodged submissions in reply to those of the two appellants, conceding some matters and replying to others. They attached further amended drafts of conditions for the permits the subject of our intended recommendation to the Minister.

[7] It is those latter permits that have attracted a measure of disagreement, not the discharge permits.

[8] Finally by way of background, it will be recalled from the Interim Decision that the sand extraction proposals of each of Mt Rex Shipping Limited and Winstone Aggregates are in contiguous locations in the Kaipara Harbour, and have proved to involve identical considerations. Accordingly, the numbering of the draft conditions intended for attachment to each of the permits to be recommended, is the same.

[9] As we hope will be seen from this decision, we have given careful consideration to the new iterations of draft conditions and to the submissions made on behalf of each of the parties. Some of the matters raised on behalf of the appellants had considerable validity in our view, and the applicants have wisely taken those matters on board and built them into the final drafts. It happens that the process has resulted in a set of conditions that we are largely prepared to approve by way of recommendation to the Minister. There is little need for us to comment on matters that were quite readily agreed amongst the parties during the early part of the latest round of negotiations. Our comments and findings relate more to those matters that remained in controversy or were the subject of belated agreement after quite considerable debate.

[10] We will deal with each of the disputed conditions in turn.



Condition 4(c)

[11] Condition 4 is a review condition. It makes provision for five events that might, in the discretion of the respondent or the Minister of Conservation, trigger a review pursuant to s 128 RMA.

[12] Condition 4(c) relates to a possible review upon the outcome of the numerical modelling that we indicated in our Interim Decision we would direct. To that extent, condition 4(c) is somewhat related to conditions 14 to 15, which also remained in dispute between the parties and to which we will come shortly.

[13] Taking account of comments made by us in paragraph [92] of our Interim Decision, the applicants produced a new draft condition 4(c) describing a review event in the following terms:

- (c) Should the numerical modelling required pursuant to conditions 14 and 15 be completed and demonstrate the assumptions made in the Kaipara Sand Study Final Report: Sand Movement, Storage and Extraction in Kaipara Tidal Inlet, NIWA Client Report: HAM 2002-064. December 2003 (minor edits October 2004) to be incorrect.

[14] Leaving aside some other aspects of condition 4 that eventually came to be agreed between the parties and also have our approval, debate centred on the above draft provision. While the parties were agreed that a review condition cannot make a review mandatory, RFBPS nevertheless submitted that promotion of sustainable management should require a review once numerical modelling was completed, and proposed that condition 4(c) be reworded as follows:

When the numerical modelling required pursuant to conditions 14 and 15 is completed.

[15] RFBPS submitted that *“the model may reveal relevant information that would lead the Council to require a review...”*.

[16] Oruawharo Marae supported RFBPS in that submission.

[17] We consider that the applicants were correct in their initial and reply submissions in pointing out that the condition should not purport to force the applicants to have conditions of consent reviewed if such a review was not shown to be necessary by



completed numerical modelling showing no discrepancy with the earlier Kaipara Sand Study. Further, the draft put forward by RFBPS has an inappropriately mandatory flavour about it.

[18] We approve the draft put forward by the applicants.

Conditions 14 and 14A

[19] The applicants put forward an amended draft condition 14, together with a new condition 14A, in response to comments made by us in paragraph [94](iv) of the Interim Decision regarding numerical modelling. We perceived at least one difficulty with the draft of 14A (requiring the identity of a peer reviewer to be agreed between a delegated official of the respondent, the consent holder and other persons), and the appellants submitted about that and gained appropriate final responses from the applicants to cure the problem.

[20] The appellants further submitted that in its then form, condition 14A was providing that the applicants were wrongly intending to keep the results of the numerical model confidential and away from the public domain. They submitted that the numerical modelling study was required as a condition of resource consent for a legitimate resource management purpose, and that it would be contrary to the tenet of public participation under the RMA to restrict access to the information only to parties contributing financially to the numerical modelling study. They submitted that it was important in an adaptive management regime, that the public be fully informed of all relevant information relating to the exercise of the consent. RFBPS submitted that not only should the numerical modelling study be reported to the delegated officer of the respondent and the other named parties, but also to itself, pointing to authority in that regard, *Carter Holt Harvey Limited v Te Runanga Tuwharetoa Ki Kawerau*².

[21] Oruawharo Marae agreed in principle with the addition of RFBPS as one of the groups which results should be reported to, unless, it said, a public body was specifically included, at no financial cost to that group within the Kaipara Harbour Entrance Monitoring working party named in the conditions.

² Reported, High Court Rotorua, Heith J, A.P42/2002, 12 December 2002.

³ Kaipara Sand (final decision) (sp)

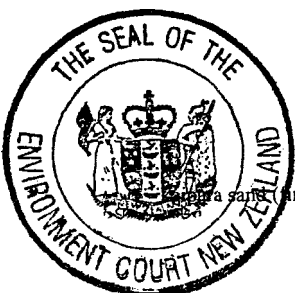


[22] The applicants responded to the suggestions concerning condition 14 that it should require the scope of the numerical model to be approved by the delegated officer of the respondent prior to commencement of the study. They considered this to be an unnecessary additional requirement, and reported that they had the support of the respondent that it would be sufficient that the scope of the numerical model would be peer reviewed by an independent expert. We consider that there are sufficient safeguards in that, and approve the approach taken by the applicants.

[23] As regards condition 14A, the applicants responded that, as had occurred during a pre-hearing debate about making available the contents of the Kaipara Sand Study, the results of the numerical modelling would be very commercially sensitive, having been obtained via a very expensive exercise undertaken at the cost of the applicants.

[24] The applicants noted that there would be two parts to the numerical modelling study, first the datasets and background information, and secondly the final report. The applicants felt able to agree to a carefully controlled release of the latter, but not the former. They submitted, that the issue could be resolved by adding three new sub paragraphs to condition 27, and a new bullet point within condition 28. The former (underlined) would be as follows:

27. The consent holder may comply with conditions 14 to 15 and 20 to 25 by participating in, and contributing to a Kaipara Harbour Entrance Monitoring Programme established on the following basis.
 - (a) ...
 - (b) ...
 - (c) ...
 - (d) ...
 - (e) The ownership of the numerical modelling study required by condition 14 to 15 will rest with the parties funding the study.
 - (f) Subject to the Council's obligations under the Local Government Official Information and Meetings Act 1987 the numerical study required by conditions 14 to 15 will remain confidential unless otherwise agreed in writing by all parties funding the study.
 - (g) Subject to the Council's obligations under the Local Government Official Information and Meetings Act 1987, except in the case of the consent holder, the results of the numerical modelling study required by conditions 14 to 15 will not be used for any



commercial gain unless otherwise agreed in writing by all parties funding the study.

[25] The proposed addition to condition to 28 (also underlined) would be as follows:

28. The consent holder and the holder of Permit No. 29193 shall form the “Kaipara Harbour Sand Extraction Monitoring Group” (the Group) for the purpose of liaising and meeting with the members of the group to discuss:

- ...
- the final report of the numerical modelling study required by condition 14A (subject to the agreement of all other parties financially contributing to the study should the study be undertaken by a working party established in accordance with condition 27).
- ...
- ...

[26] We agree with the applicants that making those additions concerning the manner in which numerical modelling study will be treated, will provide appropriate checks and balances between (first and most importantly) serving the purpose of the Act, and (secondly) maintaining commercial confidentiality in relation to information derived at great expense.

[27] Finally on this topic, we do not accept the appellant’s submissions about some sort of need for a further “public body” to be included for circulation purposes, because the respondent is in our view, very appropriately, that body.

Condition 14A - request from Oruawharo Marae for a more robust numerical modelling study

[28] The Marae Trust raised what we consider to be an entirely new matter, and one which was not adequately explained, or which in our view would be necessary. It recorded that on the basis of advice from its witness Dr K Black, that the peer review of the numerical modelling study would benefit from the inclusion of a “parallel modelling project carried out in conjunction with the main numerical modelling study”. We have some difficulty understanding what Dr Black was said to be recommending, and doubt that there was cogent evidence pointing to any need for it in any event. It sounds to us



like a request for us to direct needless extra expenditure in an area already the subject of robust requirements, and we refuse to give further consideration to it.

Condition 15 - timeframe for numerical modelling study

[29] The draft condition as submitted to us provides for the reporting of results of the numerical modelling study within 2 years of the first exercise of the consent. RPBPS submitted that there was evidence that it could be completed within a shorter timeframe, but later resiled on the basis that they understood that time should be taken to properly undertake the study. The Marae Trust nevertheless continued to push for the reporting to occur within one year of first exercise of the consent. We consider that the evidence establishes that a reasonable period of time is necessary for gathering bathymetry data, and for the other detailed necessary work. We accept that a period of two years is appropriate, and may even be necessary for the carrying out of the studies to a standard appropriate to the circumstances of the consents and the environment.

Conditions 18 and 19 - biological monitoring

[30] The applicants endeavoured to follow directions given by the Court to tighten up these conditions.

[31] RFBPS sought the addition of a requirement that the monitoring report should be provided directly to it. It did this because, while acknowledging that in terms of the current draft it would be likely to have access to the report as an invited member of the Kaipara Harbour Sand Extraction Monitoring Group, that Group might be disbanded, and indeed that the requirement to send a copy of the monitoring report to that Group is expressed in the alternative.

[32] Our reading of condition 28 is that the Group cannot be disbanded unless all parties agree, so we do not accept that particular concern of RFBPS. Nevertheless condition 19 does appear to be phrased somewhat in the alternative as between a Ngati Whatua Group and the Sand Extraction Monitoring Group, so we accept the (belated) invitation of the applicants to include express reference to RFBPS for the purposes of mandatory circulation. Reference to RFBPS shall be added after the reference to the Minister. The change involves but a few words, so we have added them by hand to the copy of the draft conditions attached to this decision.



[33] RFBPS sought additional amendments to proposed condition 18 as a matter of certainty, submitting that, as currently drafted, the condition raises room for disputes if the delegated officer of the respondent and the expert engaged by the applicants are unable to agree on an appropriate monitoring regime. The applicants provided us with a new amended version of the condition, essentially removing requirements for certain agreements to be reached and replacing them with requirements for approval by the delegated officer. The new form of the condition appears to us to be in an appropriate form, and we approve it.

Suggested new condition

[34] RFBPS sought inclusion of a new condition providing for a peer review, or advice from an independent scientific research provider, in making any decision to undertake a review pursuant to proposed conditions 3 and 4. The applicants and the respondent have submitted that it is not necessary to add another layer in an area already the subject of robust control. We cannot recall the matter being raised in the hearing, and in any event on the basis of the evidence overall in this area, we consider the suggested further requirement to be quite unnecessary. We do not approve it.

Conditions 23A and 23B

[35] At paragraph [94](vii) of the Interim Decision, we noted that conditions 23A and 23B did not specify a frequency of monitoring of seabed profiles on the Taiporapora Banks and the Tauhoa Bank. The new draft conditions provide for this to occur “at least annually”.

[36] RFBPS has submitted that the monitoring should be required twice a year “*in light of the statutory framework and the precautionary principle*”. The Society and the applicants each accuse the other of providing no evidence in support of what they submit is appropriate. The applicants have evidently gained some input from their witness Dr T Hume on the point. They have offered to lodge further brief evidence on the point should we consider the need for it and grant leave to do so.

[37] On the basis of the evidence overall, we have the impression that the purpose of the Act will be served by annual monitoring. We approve the condition as drafted by the applicants. There will be no need for further evidence.

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Maui's Dolphin

[38] In our Interim Decision we directed tightening up of conditions and advice notes concerning protection of the rare Maui's Dolphin. The applicants addressed this issue quite comprehensively in the new draft conditions. The parties ultimately arrived at a level of comfort about it. We approve the new draft conditions and advice notes.

Conclusion

[39] Subject to the minor addition of reference to the Royal Forest and Bird Protection Society in condition 19, we consider that the applicants have ultimately produced conditions that meet the directions that we gave in the Interim Decision, that will serve the purpose of the Act, and are suitable for attaching to our recommendation to the Minister that authorisation be given to the dredging and removal of sand and disturbance of the seabed. We attach the approved conditions for the recommended permits 29193 (Mt Rex Shipping Limited) and 29202 (Winstone Aggregates), with our hand-written addition in condition 19 in each. For completeness we also attach copies of permits 32809 (Winstone Aggregates) and 32810 (Mt Rex Shipping) that we have granted relating to discharge of seawater, sand and shell from the sand extraction dredges.

[40] We reserved costs in our Interim Decision, but expressed the tentative view that they should lie where they fall. There has been sufficient time for any party to make application for costs, and none have done so. There are accordingly no orders for costs.

DATED at Auckland this *5th* day of August 2006.

For the Court:



L J Newhook
Environment Judge



kaipara and (final decision) (sp)

AUCKLAND REGIONAL COUNCIL

COASTAL PERMIT

Recommended Pursuant to the Resource Management Act 1991

PERMIT NO. 29202

CONSENT HOLDER: Winstone Aggregates, a division of Fletcher Concrete and Infrastructure Limited.

FILE REFERENCE: 17496

CONDITIONS OF CONSENT

Date of Commencement of Consent: To be determined in accordance with s116 and s119(7) of the Resource Management Act 1991.

Duration of Consent: This consent under s12(1)(c), s12(1)(e), s12(2)(b) and 12(3) to disturb, remove sand and shell, and use land of the Crown in the coastal marine area with a dredge to extract sand shall expire **20 years** from the date of commencement unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Date of Lapsing of Consent: Five years from commencement

Purpose of Consent: To authorise the dredging and removal of sand and to disturb the seabed for the purpose of sand extraction in accordance with Section 12(1), 12(2)(b) and 12(3) of the Resource Management Act 1991.

Site Location: The CMA in the Kaipara Harbour

Approximate Map Reference: Defined as an enclosed area by NZMS 260 Q09 grid references:
192360, 213321, 185318 and 170337.

DEFINITIONS:

ARC: Means the Auckland Regional Council.

Manager: Means the Group Manager, Consents and Consents Compliance, Auckland Regional Council, or nominated ARC staff acting on the Manager's behalf.

Minister: Means the Minister of Conservation



GENERAL CONDITIONS

1. That the servants or agents of the ARC shall be permitted access to the relevant parts of the site at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
2. The Consent Holder shall carry out the activities permitted by this consent in accordance with the Officer's report and the documentation submitted in support of the application as identified below and as amended by these conditions:
 - a) Coastal permit application dated: 28 April 2004
 - b) Plan title: Figure 1.2 Site Plan, contained within Application and Assessment of Environmental Effects, Winstone Aggregates, Kaipara Sand Extraction
Dated: April 2004

REVIEW CONDITIONS

3. The conditions of this consent may be reviewed by the Manager and/or the Minister of Conservation, pursuant to Section 128 of the Resource Management Act 1991, by the giving of notice pursuant to Section 129 of the Act, 1 year from the commencement of this consent and every year thereafter, in the event that it is necessary:
 - a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - b) To deal with any other adverse effect on the environment on which the exercise of the consent may have an influence.
4. The conditions of this consent may also be reviewed by the Manager and/or the Minister of Conservation, pursuant to Section 128 of the Resource Management Act 1991, by the giving of notice pursuant to Section 129 of the Act, in the following circumstances:
 - a) when the total sand extraction by the Consent Holders of Permit No's 29193 and 29202 reaches 400,000 cubic metres within any calendar year; or
 - b) within 5 years of the first exercise of either Permit No. 29202 or No. 29193; or
 - c) should the numerical modelling required pursuant to conditions 14 and 15 be completed and demonstrate the assumptions made in the Kaipara Sand Study Final Report: *Sand movement, storage and extraction in the Kaipara tidal inlet*, NIWA Client Report: HAM2002-064, December 2003 (minor edits October 2004) to be incorrect; or
 - d) at the stage an operative Rule in the Auckland Regional Plan Coastal requires a review of sand extraction permits; or
 - e) when reports of monitoring, including any submitted in accordance with Conditions 15, 17, 19, 26 or 27 below, indicate that unforeseen adverse effects relating to the exercise of this consent have become apparent.
- 4A. Any review shall take account of the conclusions and recommendations contained in the Kaipara Sand Study Final Report: *Sand movement, storage and extraction in the Kaipara tidal inlet*, NIWA Client Report: HAM2002-064, December 2003 (minor edits October 2004).

SPECIFIC CONDITIONS



Exercise of Consent

The volume of sand to be extracted by the Consent Holder shall not exceed:

- a) 250,000 cubic metres per annum averaged over the first 5 years of extraction unless, following a review pursuant to conditions 3 or 4, the Manager and/or the Minister of Conservation authorise either a temporary or permanent adjustment of the maximum extraction volume. Unless amended following a review pursuant to conditions 3 or 4, the total sand extracted by the Consent Holders of Permit No's 29193 and 29202 will not exceed 400,000 cubic metres in any one year; and
 - b) 308,000 cubic metres per annum, with an average rate of 264,000 cubic metres per annum over the remaining life of the permit unless, following a review pursuant to conditions 3 or 4, the Manager and/or the Minister of Conservation authorise either a temporary or permanent adjustment of the maximum extraction volume to a lower volume.
6. This consent shall not be exercised without the surrendering by the Consent Holder of the existing consent (CPA 0149) held by the Consent Holder, authorising sand extraction from the Taporapora Banks area.
 7. The Consent Holder shall ensure that any pumping or mechanical equipment used in the extraction operation is muffled so as to minimise any detrimental effect the noise may have on any recreational or other uses of the coastal marine area or adjacent land.
 8. Coarse shell and other marine organisms shall be screened from the sand and returned to the seabed at the extraction site.
 9. The site of extraction shall be regularly moved throughout the extraction area, and the dredge shall not reoccupy or extract from the same dredge hole, as logged by GPS co-ordinates, for at least 7 days.
 10. Sand extraction shall be located and equipment deployed so as to minimise the likelihood of marine life being entrained or destroyed. The dredge pump shall have a minimum spherical solids clearance of 80 mm, to allow shellfish and other benthic organisms up to that size to pass through the system.

Where visual or aural observations made by the dredge crew during the exercise of the consent, alerts them to the presence of marine creatures being entrained and either loaded with the sand or discharged with tailings, extraction shall cease and the dredge relocated.

11. The Consent Holder shall notify the ARC in writing of the proposed date of commencement of the sand extraction covered by this consent, at least 10 working days prior to the proposed start date. All correspondence shall be marked to the attention of the Coastal Consents and Compliance Co-ordinator, ARC.
 12. In the event of archaeological evidence being uncovered (e.g. shell midden, hangi or ovens, pit depressions, defensive ditches or human bones), work shall cease in the vicinity of the discovery and the ARC archaeologist shall be contacted so that the appropriate action can be taken before work may recommence there.
- In the event of archaeological evidence being uncovered, the ARC archaeologist will contact the ARC Iwi Liaison team in the Heritage Department to verify the required iwi authority contacts for the area and the accepted level of consultation.
13. Vessels used by the Consent Holder will, to the extent practicable, travel at a speed that results in no, or minimal, wake when within 300 metres of dolphins.

Numerical Modelling

14. The Consent Holder shall commission a numerical modelling study to review the water and sediment circulation patterns on to and off the Taporapora Banks area generally west of Taporapora Island. The modelling is to test the Kaipara Sand Study's conceptual and quantitative knowledge regarding the quantity of sand coming towards Taporapora Banks from seaward, the amount moving off the banks, and the amount of sand depositing on the banks.



The study shall be undertaken by a suitably qualified and experienced person (or persons) acceptable to the Manager.

- 14A. The outcome of the numerical modelling study is to be reported to the Manager and the Consent Holder, and if commissioned by a Kaipara Harbour Entrance Monitoring working party established in accordance with condition 27, to other members of that working party. The scope of the numerical study and its findings shall be peer reviewed by a suitably qualified person (or persons) acceptable to the Manager, then published in a final report.
15. The Consent Holder shall conduct and report the results of the numerical modelling required by condition 14. above within 2 years of the first exercise of consent.

Compliance Monitoring

16. The Consent Holder shall keep a daily record and a map documenting the volume of sand extracted and the position of the extraction, the date and time of extraction (commencement and completion of extraction), stage of the tide, sea conditions and depth of water at the extraction site.
17. The Consent Holder shall provide the Manager at quarterly intervals an electronic copy of the records and the map detailed in Condition 16 above, together with any details specified in Condition 10 above.

Biological Monitoring

18. The Consent Holder shall commission the biological monitoring programme in accordance with the report dated 6 November 1996 "Kaipara Harbour Sand Extraction. Biological Monitoring Programme for Proposed Extraction at Fitzgerald Bank". The monitoring programme shall be scoped and undertaken by a suitably qualified and experienced person acceptable to the Manager. A number of sampling sites at the operational depth for the barge in both the extraction area and in a control site(s) of approximately similar biological diversity and abundance, will be approved by the Manager in advance of the monitoring. The method of sampling will be approved by the Manager, and where approved, shall include measuring samples with both a 1 mm and 9mm sieve. The next survey shall take place before December 2009 to ensure that the report is available prior to any review of the consent undertaken in accordance with Condition 4(b) above.
19. The Consent Holder shall produce a report of the biological monitoring programme detailed in Condition 18 above, within 6 months of completing the survey. A copy of the report shall be forwarded to the Manager, the Minister, and Ngati Whatua (Nga Rima o Kaipara and Te Uri o Hau) or alternatively the Kaipara Harbour Sand Extraction Monitoring Group (see condition 28) and Rodney District Council.

Coastal Monitoring

20. The Consent Holder shall undertake a monitoring programme that measures changes in beach profiles along the western side of Taporopora Island (Manukapua Island). This programme shall be a continuation of the current monitoring programme, utilising current profile datum measurements. The monitoring programme shall include at least 5 beach profiles and a Differential GPS survey of the high tide line, the dune line and the low tide line, monitored at least two times per year, and shall be approved by the Manager. The monitoring report shall provide an account of the net gain or loss of sand from areas of accretion and erosion on the western side of Taporopora Island.
21. The Consent Holder shall undertake a monitoring programme that measures changes in beach profiles and landforms at Kaipara South Head (Waionui Inlet, Ti Tree Island to mouth) and Papakanui Spit extending south to the ocean beach. The monitoring shall include at least 5 beach/spit profiles, plus an ocean beach profile, and Differential GPS survey of the high tide line, the dune line and the low tide line where practicable. The monitoring shall be undertaken at least two times per year. This programme shall be developed in consultation with the Manager and the Department of Conservation (Auckland), and be approved by the Manager.



22. The Consent Holder shall undertake a monitoring programme on the Pouto shoreline. This programme shall be based on an expansion of the current monitoring programme to include the addition of two further profile lines, in Pouto Bay and in Maori Bay (South of Tauhara Creek) and Differential GPS survey of the high tide line, the dune line and the low tide line where practicable. The monitoring shall be undertaken at least two times per year. This programme shall be developed in consultation with the Manager and a NRC representative and be approved by the Manager.
- 23A. The Consent Holder shall undertake a monitoring programme that will measure changes in seabed profiles on the Taporapora Banks. This programme shall include at least 10 profiles, extending from low tide to 10m water depth, 5 of which connect with beach Profiles 1 to 5 that have been established on the western shore of Taporapora Island as described in condition 20. above and monitored at least annually. The monitoring programme shall be developed in consultation with the Manager and shall be approved by the Manager.
239. The Consent Holder shall undertake a monitoring programme that will measure changes in seabed profiles on the western end of the Tauhoa Bank at least annually. This programme shall include at least 3 profiles, and shall be developed in consultation with the Manager and shall be approved by the Manager.
24. The monitoring programmes described in Conditions 20, 21, 22, 23A and 239 above shall establish reference datum points for long-term consistency in survey, and shall establish aerial photo or satellite image control points if practicable. Aerial photographs or satellite images shall be taken at approximately 2 yearly intervals. The number of profiles may need to be increased at some stage to take account of future shoreline and landform changes. The monitoring programmes shall be submitted to the Manager within 3 months of exercising this consent, for approval.
25. The programmes shall be established by the Consent Holder and managed, analysed and reported upon by persons possessing appropriate expertise in the assessment of physical processes and beach behaviour.
26. Analysed results of the monitoring programmes shall be forwarded to the Minister, the Manager, and Ngati Whatua (Nga Rima o Kaipara and Te Uri o Hau) or alternatively the Kaipara Harbour Sand Extraction Monitoring Group, and Rodney District Council annually.
27. The Consent Holder may comply with Conditions 14 to 15, and 20 to 25 by participating in, and contributing to a Kaipara Harbour Entrance Monitoring programme established on the following basis:
 - a) A working party being formed within one month of the date of commencement of consent consisting of representatives from the Consent Holder, the Auckland and Northland Regional Councils, and any other party prepared to financially contribute to the monitoring programme.
 - b) The monitoring programme shall include, but not be limited to, the modelling studies described in the Numerical Modelling conditions above (Conditions 14 to 15) and the monitoring activities described in the Coastal and Seabed Monitoring Conditions above (Conditions 20 to 25).
 - c) The working party shall engage the necessary experts to carry out the monitoring programme and in consultation with the experts will define the precise parameters of the monitoring.
 - d) The monitoring programme will be funded by the Consent Holder and any other party represented as shall be agreed between the parties.
 - e) The ownership of the numerical modelling study required by conditions 14 to 15 will rest with the parties funding the study.
 - f) Subject to the Council's obligations under the Local Government Officials Information and Meetings Act 1987 the numerical study required by conditions 14 to 15 will remain confidential unless otherwise agreed in writing by all parties funding the study.



- g) Subject to the Council's obligations under the Local Government Officials Information and Meetings Act 1987, except in the case of the Consent Holder, the results of the numerical modelling study required by conditions 14 to 15 will not be used for any commercial gain unless otherwise agreed in writing by all parties funding the study.

Kaipara Harbour Sand Extraction Monitoring Group

28. The Consent Holder and the holder of Permit No. 29193 shall form the "Kaipara Harbour Sand Extraction Monitoring Group" (the Group) for the purpose of liaising and meeting with the members of the Group to discuss:

- the monitoring requirements and outcomes as required by conditions 16 to 23 inclusive of this consent,
- the final report of the numerical modelling study required by condition 14A (subject to the agreement of all other parties financially contributing to the study should the study be undertaken by a working party established in accordance with condition 27).
- results of other monitoring undertaken or harbour changes noted by members of the Group, and
- any other relevant matters that may be agreed by the Group,

The Consent Holder and the holder of Permit No. 29193 shall invite the following parties to participate in the Group:

- Ngati Whatua (Nga Rima o Kaipara)
- Oruawharo Marae
- Te Uri o Hau
- Rodney District Council
- Kaipara District Council
- Northland Regional Council
- Guardians of the Kaipara
- Royal Forest & Bird Society - Kaipara Branch
- Pouto Residents & Ratepayers Society

The ARC will automatically be a member of that Group.

The Consent Holder and the holder of Permit No. 29193, shall convene a meeting of the Group as required and agreed by the Group, but at least as soon as practicable once monitoring information is available and prior to it being submitted to the ARC as required by this consent.

The Consent Holder in conjunction with the holder of Permit No. 29193 shall provide a written invitation to the members of the Group at least ten working days before the meeting is proposed to be held.

The meeting shall be held at a convenient location to the parties. The costs of the meetings (not including any costs relating to attendees) shall be borne by the Consent Holder and the holder of Permit No. 29193.

The minutes of the meeting shall be provided to all attendees promptly following the meeting.

The Group will be disbanded if members of the Group agree. The ARC shall be informed in writing if this occurs

Cancellation of Consent



29. This coastal permit may be cancelled by written notice served on the Consent Holder if the coastal permit has not been used for the purpose of sand extraction during the preceding 2 years.

Administration

30. The Consent Holder shall pay to the ARC any administrative charge fixed in accordance with Section 36(1) of the Resource Management Act 1991, or any additional charge required pursuant to Section 36(3) of the Resource Management Act 1991, in respect of this consent.
31. The Consent Holder may not transfer the whole or any part of the Consent Holder's interest in the permit to any other person unless the written approval of the Manager is obtained. The Manager's consent shall not be unreasonably withheld in the case of a transferee who can satisfy the Manager that he, she or it has appropriate and relevant expertise in extracting sand.

Advice Notes

1. Sightings of Maui's dolphins will be reported by the Consent Holder to the WWF Sightings Network. Where practicable detail on the sighting including GPS coordinates, number of dolphins, and date and time of sighting, will be provided.

Any sightings of dead or stranded Maui's dolphins are to be immediately reported by the Consent Holder to the Department of Conservation.



AUCKLAND REGIONAL COUNCIL

COASTAL PERMIT

Recommended Pursuant to the Resource Management Act 1991

PERMIT NO. 29193

CONSENT HOLDER: Mt Rex Shipping Limited

FILE REFERENCE: 17480

CONDITIONS OF CONSENT

Date of Commencement of Consent: To be determined in accordance with s116 and s119(7) of the Resource Management Act 1991.

Duration of Consent: This consent under s12(1)(c), s12(1)(e), s12(2)(b) and 12(3) to disturb, remove sand and shell, and use land of the Crown in the coastal marine area with a dredge to extract sand shall expire **20 years** from the date of commencement unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Date of Lapsing of Consent: Five years from commencement.

Purpose of Consent: To authorise the dredging and removal of sand and to disturb the seabed for the purpose of sand extraction in accordance with Section 12(1), 12(2)(b) and 12(3) of the Resource Management Act 1991.

Site Location: The CMA in the Kaipara Harbour

Approximate Map Reference: Defined as an enclosed area by NZMS 260 Q09 grid references: 204338, 200327, 189323 and 191336.

DEFINITIONS:

ARC: Means the Auckland Regional Council.

Manager: Means the Group Manager, Consents and Consents Compliance, Auckland Regional Council, or nominated ARC staff acting on the Manager's behalf.

Minister: Means the Minister of Conservation



GENERAL CONDITIONS

1. That the servants or agents of the ARC shall be permitted access to the relevant parts of the site at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
2. The Consent Holder shall carry out the activities permitted by this consent in accordance with the Officer's report and the documentation submitted in support of the application as identified below and as amended by these conditions:
 - a) Coastal permit application dated: 02 April 2004
 - b) Plan title: Figure 1 Location Map, contained within Assessment of Environmental Effects Mt Rex Shipping Limited, Tapura Banks Sand Extraction Dated: April 2004

REVIEW CONDITIONS

3. The conditions of this consent may be reviewed by the Manager and/or the Minister of Conservation, pursuant to Section 128 of the Resource Management Act 1991, by the giving of notice pursuant to Section 129 of the Act, 1 year from the commencement of this consent and every year thereafter, in the event that it is necessary:
 - a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - b) To deal with any other adverse effect on the environment on which the exercise of the consent may have an influence.
4. The conditions of this consent may also be reviewed by the Manager and/or the Minister of Conservation, pursuant to Section 128 of the Resource Management Act 1991, by the giving of notice pursuant to Section 129 of the Act, in the following circumstances:
 - a) when the total sand extraction by the Consent Holders of Permit No's 29193 and 29202 reaches 400,000 cubic metres within any calendar year; or
 - b) within 5 years of the first exercise of either Permit No. 29202 or No. 29193; or
 - c) should numerical modelling required pursuant to conditions 14 and 15 be completed and demonstrate the assumptions made in the Kaipara Sand Study Final Report: Sand movement, *storage and extraction in the Kaipara tidal inlet*, NIWA Client Report: HAM2002-064, December 2003 (minor edits October 2004) to be incorrect; or
 - d) at the stage an operative Rule in the Auckland Regional Plan Coastal requires a review of sand extraction permits; or
 - e) when reports of monitoring, including any submitted in accordance with Conditions 15, 17, 19, 26 or 27 below, indicate that unforeseen adverse effects relating to the exercise of this consent have become apparent.
- 4A. Any review shall take account of the conclusions and recommendations contained in the Kaipara Sand Study Final Report: *Sand movement, storage and extraction in the Kaipara tidal inlet*, NIWA Client Report: HAM2002-064, December 2003 (minor edits October 2004).

SPECIFIC CONDITIONS

Exercise of Consent

5. The volume of sand to be extracted by the Consent Holder shall not exceed:
 - a) 150,000 cubic metres per annum averaged over the first 5 years of extraction unless, following a review pursuant to conditions 3 or 4, the Manager and/or the Minister of Conservation authorise either a temporary or permanent adjustment of the maximum



extraction volume. Unless amended following a review pursuant to conditions 3 or 4, the total sand extracted by the Consent Holders of Permit No's 29193 and 29202 will not exceed 400,000 cubic metres in any one year; and

- b) 392,000 cubic metres per annum, with an average rate of 336,000 cubic metres per annum over the remaining life of the permit unless, following a review pursuant to conditions 3 or 4, the Manager and/or the Minister authorise either a temporary or permanent adjustment to the maximum volume to a lower volume
6. This consent shall not be exercised without the surrendering by the Consent Holder of the existing consent (CPA 0150) held by the Consent Holder, authorising sand extraction from the Taporapora Banks area.
7. The Consent Holder shall ensure that any pumping or mechanical equipment used in the extraction operation is muffled so as to minimise any detrimental effect the noise may have on any recreational or other uses of the coastal marine area or adjacent land.
8. Coarse shell and other marine organisms shall be screened from the sand and returned to the seabed at the extraction site.
9. The site of extraction shall be regularly moved throughout the extraction area and the dredge shall not reoccupy or extract from the same dredge hole, as logged by GPS co-ordinates, for at least 7 days.
10. Sand extraction shall be located and equipment deployed so as to minimise the likelihood of marine life being entrained or destroyed. The dredge pump shall have a minimum spherical solids clearance of 80 mm, to allow shellfish and other benthic organisms up to that size to pass through the system.

Where visual or aerial observations made by the dredge crew during the exercise of consent, alerts them to the presence of marine creatures being entrained and either loaded with the sand or discharged with tailings, extraction shall cease and the dredge relocated.

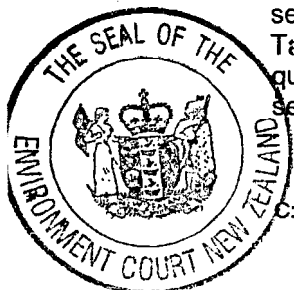
11. The Consent Holder shall notify the ARC in writing of the proposed date of commencement of the sand extraction covered by this consent, at least 10 working days prior to the proposed start date. All correspondence shall be marked to the attention of the Coastal Consents and Compliance Co-ordinator, ARC.
12. In the event of archaeological evidence being uncovered (e.g. shell midden, hangi or ovens, pit depressions, defensive ditches or human bones), work shall cease in the vicinity of the discovery and the ARC archaeologist shall be contacted so that the appropriate action can be taken before work may recommence there.

In the event of archaeological evidence being uncovered, the ARC archaeologist will contact the ARC Iwi Liaison team in the Heritage Department to verify the required iwi authority contacts for the area and the accepted level of consultation.

13. Vessels used by the Consent Holder will, to the extent practicable, travel at a speed that results in no, or minimal, wake when within 300 metres of dolphins.

Numerical Modelling

14. The Consent Holder shall commission a numerical modelling study to review the water and sediment circulation patterns on to and off the Taporapora Banks area generally west of Taporapora Island. The modelling is to test the Kaipara Sand Study's conceptual and quantitative knowledge regarding the quantity of sand coming towards Taporapora Banks from seaward, the amount moving off the banks, and the amount of sand depositing on the banks.



The study shall be undertaken by a suitably qualified and experienced person (or persons) acceptable to the Manager.

- 14A The outcome of the numerical modelling study is to be reported to the Manager and the Consent Holder, and if commissioned by a Kaipara Harbour Entrance Monitoring working party established in accordance with condition 27, to other members of that working party. The scope of the numerical study and its findings shall be peer reviewed by a suitably qualified person (or persons) acceptable to the Manager, in a final report.
15. The Consent Holder shall conduct and report the results of the numerical modelling required by condition 14. above within 2 years of the first exercise of consent.

Compliance Monitoring

16. The Consent Holder shall keep a daily record and a map documenting the volume of sand extracted and the position of the extraction, the date and time of extraction (commencement and completion of extraction), stage of the tide, sea conditions and depth of water at the extraction site.
17. The Consent Holder shall provide the Manager at quarterly intervals an electronic copy of the records and the map detailed in Condition 16 above, together with any details specified in Condition 10 above.

Biological Monitoring

18. The Consent Holder shall commission the biological monitoring programme in accordance with the report dated 6 November 1996 "Kaipara Harbour Sand Extraction. Biological Monitoring Programme for Proposed Extraction at Fitzgerald Bank". The monitoring programme shall be scoped and undertaken by a suitably qualified and experienced person acceptable to the Manager. A number of sampling sites at the operational depth for the barge in both the extraction area and in a control site(s) of approximately similar biological diversity and abundance, will be approved by the Manager in advance of the monitoring. The method of sampling will be approved by the Manager, and where approved, shall include measuring samples with both a 1 mm and 9mm sieve. The next survey shall take place before December 2009 to ensure that the report is available prior to any review of the consent undertaken in accordance with Condition 4(b) above.
19. The Consent Holder shall produce a report of the biological monitoring programme detailed in Condition 18 above, within 6 months time of completing the survey. A copy of the report shall be forwarded to the Manager, the Minister and Ngati Whatua (Nga Rima o Kaipara and Te Uri o Hau) or alternatively the Kaipara Harbour Sand Extraction Monitoring Group (see condition 28), and Rodney District Council.

Coastal Monitoring

20. The Consent Holder shall undertake a monitoring programme that measures changes in beach profiles along the western side of Taporapora Island (Manukapua Island). This programme shall be a continuation of the current monitoring programme, utilising current profile datum measurements. The monitoring programme shall include at least 5 beach profiles and a Differential GPS survey of the high tide line, the dune line and the low tide line, monitored at least two times per year, and shall be approved by the Manager. The monitoring report shall provide an account of the net gain or loss of sand from areas of accretion and erosion on the Western side of Taporapora Island.
21. The Consent Holder shall undertake a monitoring programme that measures changes in beach profiles and landforms at Kaipara South Head (Waionui Inlet, Ti Tree Island to mouth) and Papakanui Spit extending south to the ocean beach. The monitoring shall include at least 5 beach/spit profiles, plus an ocean beach profile, and Differential GPS survey of the high tide line, the dune line and the low tide line where practicable. The monitoring shall be undertaken



at least two times per year. This programme shall be developed in consultation with the Manager and the Department of Conservation (Auckland), and be approved by the Manager.

22. The Consent Holder shall undertake a monitoring programme on the Pouto shoreline. This programme shall be based on an expansion of the current monitoring programme to include the addition of two further profile lines, in Pouto Bay and in Maori Bay (South of Tauhara Creek) and Differential GPS survey of the high tide line, the dune line and the low tide line where practicable. The monitoring shall be undertaken at least two times per year. This programme shall be developed in consultation with the Manager and a NRC representative and be approved by the Manager.
- 23A. The Consent Holder shall undertake a monitoring programme that will measure changes in seabed profiles on the Taporapora Banks. This programme shall include at least 10 profiles, extending from low tide to 10m water depth, 5 of which connect with beach Profiles 1 to 5 that have been established on the western shore of Taporapora Island as described in condition 20. above and monitored at least annually. The monitoring programme shall be developed in consultation with the Manager and shall be approved by the Manager.
- 23B. The Consent Holder shall undertake a monitoring programme that will measure changes in seabed profiles on the western end of the Tauhoa Bank at least annually. This programme shall include at least 3 profiles, and shall be developed in consultation with the Manager and shall be approved by the Manager.
24. The monitoring programmes described in Conditions 20, 21, 22, 23A and 23B above shall establish reference datum points for long-term consistency in survey, and shall establish aerial photo or satellite image control points if practicable. Aerial photographs or satellite images shall be taken at approximately 2 yearly intervals. The number of profiles may need to be increased at some stage to take account of future shoreline and landform changes. The monitoring programmes shall be submitted to the Manager within 3 months of exercising this consent, for approval.
25. The programmes shall be established by the Consent Holder and managed, analysed and reported upon by persons possessing appropriate expertise in the assessment of physical processes and beach behaviour.
26. Analysed results of the monitoring programmes shall be forwarded to the Minister, the Manager, and Ngati Whatua (Nga Rima o Kaipara and Te Uri o Hau) or alternatively the Kaipara Harbour Sand Extraction Monitoring Group, and Rodney District Council annually.
27. The Consent Holder may comply with Conditions 14 to 15, and 20 to 25 by participating in, and contributing to a Kaipara Harbour Entrance Monitoring programme established on the following basis:
 - a) A working party being formed within one month of the date of commencement of consent consisting of representatives from the Consent Holder, the Auckland and Northland Regional Councils, and any other party prepared to financially contribute to the monitoring programme.
 - b) The monitoring programme shall include, but not be limited to, the modelling studies described in the Numerical Modelling conditions above (Conditions 14 to 15) and the monitoring activities described in the Coastal and Seabed Monitoring Conditions above (Conditions 20 to 25).
 - c) The working party shall engage the necessary experts to carry out the monitoring programme and in consultation with the experts will define the precise parameters of the monitoring.
 - d) The monitoring programme will be funded by the Consent Holder and any other party represented as shall be agreed between the parties.
 - e) The ownership of the numerical modelling study required by conditions 14 to 15 will rest with the parties funding the study.



- f) Subject to the Council's obligations under the Local Government Officials Information and Meetings Act 1987 the numerical study required by conditions 14 to 15 will remain confidential unless otherwise agreed in writing by all parties funding the study.
- g) Subject to the Council's obligations under the Local Government Officials Information and Meetings Act 1987, except in the case of the Consent Holder, the results of the numerical modelling study required by conditions 14 to 15 will not be used for any commercial gain unless otherwise agreed in writing by all parties funding the study.

Kaipara Harbour Sand Extraction Monitoring Group

28. The Consent Holder and the holder of Permit No. 29202 shall form the "Kaipara Harbour Sand Extraction Monitoring Group" (the Group) for the purpose of liaising and meeting with the members of the Group to discuss:

- the monitoring requirements and outcomes as required by conditions 16 to 23 inclusive of this consent,
- the final report of the numerical modelling study required by condition 14A (subject to the agreement of all other parties financially contributing to the study should the study be undertaken by a working party established in accordance with condition 27),
- results of other monitoring undertaken or harbour changes noted by members of the Group, and
- any other relevant matters that may be agreed by the Group,

The Consent Holder and the holder of Permit No. 29202 shall invite the following parties to participate in the Group:

- Ngati Whatua (Nga Rima o Kaipara)
- Oruawharo Marae
- Te Uri o Hau
- Rodney District Council
- Kaipara District Council
- Northland Regional Council
- Guardians of the Kaipara
- Royal Forest & Bird Society - Kaipara Branch
- Pouto Residents & Ratepayers Society

The ARC will automatically be a member of that Group.

The Consent Holder and the holder of Permit No. 29202 shall convene a meeting of the Group as required and agreed by the Group, but at least as soon as practicable once monitoring information is available and prior to it being submitted to the ARC as required by this consent.

The Consent Holder in conjunction with the holder of Permit No. 29202 shall provide a written invitation to the members of the Group at least ten working days before the meeting is proposed to be held.

The meeting shall be held at a convenient location to the parties. The costs of the meetings (not including any costs relating to attendees) shall be borne by the Consent Holder and the holder of Permit No. 29202.

The minutes of the meeting shall be provided to all attendees promptly following the meeting.

The Group will be disbanded if members of the Group agree. The ARC shall be informed in writing if this occurs



Cancellation of Consent

29. This coastal permit may be cancelled by written notice served on the Consent Holder if the coastal permit has not been used for the purpose of sand extraction during the preceding 2 years.

Administration

30. The Consent Holder shall pay to the ARC any administrative charge fixed in accordance with Section 36(1) of the Resource Management Act 1991, or any additional charge required pursuant to Section 36(3) of the Resource Management Act 1991, in respect of this consent.
31. The Consent Holder may not transfer the whole or any part of the Consent Holder's interest in the permit to any other person unless the written approval of the Manager is obtained. The Manager's consent shall not be unreasonably withheld in the case of a transferee who can satisfy the Manager that he, she or it has appropriate and relevant expertise in extracting sand.

Advice Notes

1. Sightings of Maui's dolphins will be reported by the Consent Holder to the WWF Sightings Network. Where practicable detail on the sighting including GPS coordinates, number of dolphins, and date and time of sighting, will be provided.

Any sightings of dead or stranded Maui's dolphins are to be immediately reported by the Consent Holder to the Department of Conservation.



AUCKLAND REGIONAL COUNCIL

RESOURCE CONSENT

Granted Pursuant to the Resource Management Act 1991

PERMIT NO. 32809

CONSENT HOLDER; Winstone Aggregates, a division of Fletcher Concrete and infrastructure Limited.

FILE REFERENCE: 17496

CONDITIONS OF CONSENT

Date of Commencement of Consent: On the date of the Coastal Permit (ARC ref. 29202) is determined in accordance with s116 and s119(7) of the Resource Management Act 1991 by the Minister of Conservation.

Duration of Consent: This consent under s15(1) RMA to discharge seawater, sand and shell, from a dredge extracting sand, shall expire 20 years from the date of commencement unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Date of Lapsing of Consent; Five years from commencement

Purpose of Consent: To authorise the discharge of contaminants being seawater, shell and sand as part of the sand extraction operation in accordance with Section 15(1) of the RMA.

Site Location: The CMA in the Kaipara Harbour

Approximate Map Reference: Defined as an enclosed area by NZMS 260 Q09 grid references:
192360, 213321, 185318 and 170337.

DEFINITIONS:

ARC: Means the Auckland Regional Council.

Manager: Means the Group Manager, Consents and Consents Compliance, Auckland Regional Council, or nominated ARC staff acting on the Manager's behalf.

Minister: Means the Minister of Conservation



GENERAL CONDITIONS

1. That the servants or agents of the ARC shall be permitted access to the relevant parts of the site at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
2. The Consent Holder shall carry out the activities permitted by this consent in accordance with the Officer's report and the documentation submitted in support of the application as identified below:
 - a) Coastal permit application dated: 28 April 2004
 - b) Plan title: Figure 1.2 Site Plan, contained within Application and Assessment of Environmental Effects, Winstone Aggregates, Kaipara Sand ExtractionDated: April 2004

REVIEW CONDITION

3. **The** conditions of this consent may **be** reviewed by the Manager, pursuant to Section 128 of the Resource Management Act: 1991, by the giving of notice pursuant to Section 129 of the Act, 1 year from the commencement of this consent and every year thereafter, in the event that it is necessary:
 - a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - b) To deal with any other adverse effect on the environment on which the exercise of the consent may have an influence.

SPECIFIC CONDITIONS

4. The Consent Holder shall ensure that all practicable steps shall be taken to minimise sediment loading and increased turbidity in the coastal marine area due to the sand extraction.
5. This consent is linked to the coastal permit (ARC reference 29202) granted by the Minister to the Consent **Holder for the extraction** of sand and shall only be exercised in association with that Coastal **Permit**

This Consent has been granted by the Auckland Regional Council Commissioners pursuant to the Resource Management Act 1991

AP Jensen

06.07.06

PP Group Manager

Consents and Consents Compliance



AUCKLAND REGIONAL COUNCIL

RESOURCE CONSENT

Granted Pursuant to the Resource Management Act 1991

PERMIT NO. 32810

CONSENT HOLDER: Mt Rex Shipping Limited

FILE REFERENCE: 17480

CONDITIONS OF CONSENT

Date of Commencement of Consent: On the date of the Coastal Permit (ARC ref. 29193) is determined in accordance with 416 and s119(7) of the Resource Management Act 1991 by the Minister of Conservation.

Duration of Consent: This consent under s15(1) RMA to discharge seawater, sand and shell, from a dredge extracting sand shall expire 20 years from the date of commencement unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

Date of Lapsing of Consent: Five years from commencement.

Purpose of Consent: To authorise the discharge of contaminants being seawater, shell and sand as part of the sand extraction operation in accordance with Section 15(1) of the RMA.

Site Location: The CMA in the Kaipara Harbour

Approximate Map Reference: Defined as an enclosed area by NZMS 260 009 grid references:
204338, 200327, 189323 and 191336.

DEFINITIONS:

ARC: Means the Auckland Regional Council.

Manager: Means the Group Manager, Consents and Consents Compliance, Auckland Regional Council, or nominated ARC staff acting on the Manager's behalf,

Minister: Means the Minister of Conservation



GENERAL CONDITIONS

1. That the servants or agents of the ARC shall be permitted access to the relevant parts of the site at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
2. The Consent Holder shall carry out the activities permitted by this consent in accordance with the Officer's report and the documentation submitted in support of the application as identified below:
 - a) Coastal permit application dated: 02 April 2004
 - b) Plan title: Figure 1 Location Map,
contained within Assessment of Environmental Effects
Mt Rex Shipping Limited, Taporu Banks Sand Extraction

Dated: April 2004

REVIEW CONDITION

3. The conditions of this consent may be reviewed by the Manager, pursuant to Section 128 of the Resource Management Act 1991, by the giving of notice pursuant to Section 129 of the Act, one year from the commencement of this consent and every year thereafter, in the event that it is necessary:
 - a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - b) To deal with any other adverse effect on the environment on which the exercise of the consent may have an influence.

SPECIFIC CONDITIONS

4. The Consent Holder shall ensure that all practicable steps shall be taken to minimise sediment loading and increased turbidity in the coastal marine area due to the sand extraction.
5. This consent is linked to the coastal permit (ARC reference 29193) granted by the Minister to the Consent Holder for the extraction of sand and shall only be exercised in association with that Coastal Permit.

This Consent has been granted by the Auckland Regional Council Commissioners pursuant to the Resource Management Act 1991

AP Jensen 06.07.06

Group Manager

Consents and Consents Compliance

