

20 May 2022



The Chairperson  
Whakatāne Commercial Boat Harbour Expert Consenting Panel  
Attn: Graeme Mathias

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Dear Sir

### **WHAKATĀNE COMMERCIAL BOAT HARBOUR (FTC000036) – COMMENTS ON DRAFT CONDITIONS OF CONSENT**

The Whakatāne District Council thanks the panel for an opportunity to comment on the draft conditions of consent for the Whakatāne Commercial Boat Harbour.

We can confirm that the Council has met with the applicant's representatives to discuss the draft conditions and to work towards an agreed position on the conditions.

The Council is generally supportive of the draft conditions and two amendments that the Council and the applicant have discussed specifically. We have reviewed the draft conditions in light of our comments made on the application dated 8 April 2022 and the panels response. Our further comments are focussed on matters of workability around the proposed conditions.

#### **Comments on Conditions**

**Conditions 1.1.3.1 and 1.1.3.2** – These conditions appear to be inconsistent in that 1.1.3.1 (a) requires information to be submitted “...no less than 20 working days prior to the commencement of constructions works...” for the Councils to certify, but condition 1.1.3.2 allows 30 working days for the Councils to complete certification, request further information, decline certification or not respond. We ask that the timeframe between these two conditions be aligned.

In addition, condition 1.1.3.1(c) seems to negate the purpose of condition 1.1.3.2, by requiring no work to start until written certification is received.

Following a meeting between the applicant's representative and Council staff, the applicants have proposed alternative wording for these conditions. The District Council is supportive of that amendment that allows 30 working days for certification (or declining certification) and a timeframe of 15 working days to request further information or to respond upon receipt of further information.

The amended conditions would read as follows:

- 1.1.3.1 All information required by the conditions of these resource consents may be submitted in parts or stages to address particular activities or to reflect a staged implementation of these resource consents. Information submitted in part and/or for a particular stage must:*

- a. *Unless otherwise specified in a specific condition, be submitted to the Council(s) for certification no less than ~~twenty (20)~~ thirty (30) working days prior to the commencement of construction works onsite for that part or stage.*
- b. *Clearly explain the relationship between the submitted information and the parts and/or stages of the Project that it relates to.*
- c. *Work shall not start until:*
  - i. *Written certification is received; or*
  - ii. *The timeframes set out in Condition 1.1.3.2 have been extinguished.*

1.1.3.2 *Where the consent holder submits information for certification by the Council(s) in accordance with a condition(s) of these resource consents:*

- a. *Certification (or withholding certification) relates to whether the Information meets the requirements of the relevant consent condition(s).*
- b. *The consent holder may proceed with the works following certification by Council that the Information meets the requirements of the relevant consent conditions, or where both of the following apply:*
  - i. *Thirty (30) working days have expired following provision of the Information to Council, and the Council has not provided written notice to the consent holder that it declines to certify that the Information is consistent with the condition(s) of the resource consents; and*
  - ii. *The Council has not requested further Information from the consent holder within fifteen (15) working days following provision of the information to Council.*
- c. *Where Council has requested further information from the consent holder, the consent holder may proceed with the works:*
  - i. *Following certification by Council that the Information meets the requirements of the relevant consent conditions; or*
  - ii. *Where ~~thirty (30)~~ fifteen (15) working days have expired following provision of the additional information and Council has not provided written notice to the consent holder that it declines to certify that the Information is consistent with the condition(s) of the resource consents.*

The Council is agreeable to these amended timeframes considering that:

- It will have reviewed and provided feedback on the plans through our role on the Reference Group before they are lodged for certification;
- The final certification process following provision of any further information from the Consent Holder would be limited to those matters which further information was requested on.

Consequentially, there is a need to also align conditions 1.2.4.1, 1.2.5.1, 1.2.6.1, 1.2.7.1, 1.2.8.1, 1.2.9.1, 1.2.10.1, 1.2.11.1 and 2.2.1 with the timeframe specified in Conditions 1.1.3.1 and 1.1.3.2. These conditions currently refer to “No less than twenty (20) working days prior to the commencement of any construction...” and this timeframe appears inconsistent with the 30 working days now proposed in condition 1.1.3.2.

**Condition 1.2.1.3(c)** – The Council supports the inclusion of this condition. It is in response to a request for either a lead agency to be nominated or better coordination between the two consent authorities and the applicant, and the reference group is an appropriate forum to enable coordination to occur.

**Condition 1.2.1.4** – The Council supports this condition to enable it to plan for receiving information and to ensure we can respond in a timely and efficient manner to meet conditions 1.1.3.1 and 1.1.3.2.

**Condition 1.2.3.1(e)** – This name should be corrected to read “Whakatāne Ōhope Community Board”.

**Condition 1.4.3(h) and Condition 2.2.2(e)** – The applicants have discussed the workability of these conditions with the Council, and we support the proposed amendments that makes the conditions consistent with the Isthmus Landscape Assessment (Appendix X to the Application). The applicants have proposed a revision as follows:

**Condition 1.4.3h** - Confirmation that the development within the site is constructed to the heights and layouts identified in the Architecture and Urban Design Report required in accordance with Conditions 2.2.1 and 2.2.2 ensures that existing views from Te Hokowhitu a Tū ki te Rāhui marae towards the culturally significant sites of Kohi Point, the escarpment behind the urban area of Whakatāne and the Kapu Te Rangi pā site are protected;

**Condition 2.2.2e** - Confirmation, through identification of the final building and structure heights and site layout, that any development within the site is sited and designed to ensure that existing views from Te Hokowhitu a Tū ki te Rāhui marae towards the culturally significant sites of Kohi Point, the escarpment behind the urban area of Whakatāne and the Kapu Te Rangi pā site are protected

**Relocate condition 2.5.4** – The Council supports this condition, but we note that it relates to stormwater but has been placed in a section concerning potable water and wastewater. We would suggest it be relocated to condition 1.2.4.2, under (i) to become a new (j).

**Condition 2.1.1** – The Council supports this condition and has estimated a monitoring fee of \$1,500 for the initial consent compliance monitoring charge based on the complexity of the consent conditions and the wording of the advice note.

If you have any queries, please contact me. I look forward to receiving the panel’s decision in due course.

Yours faithfully



David Bewley  
GENERAL MANAGER DEVELOPMENT AND ENVIRONMENT SERVICES