Before the Expert Fast-track Panel

FTAA-2511-1150

Under	the Fast-track Approvals Act 2024 (**FTAA**)
And	
In the Matter	of an application for approvals by **MCCALLUM BROTHERS LIMITED** for the Te Ākau Bream Bay Sand Extraction Project located at Te Ākau Bream Bay, Northland

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Evidence of David Neilson Hay on behalf of McCallum Brothers Limited in Response to Invited Comments

(Planning)

Dated 12 August 2026

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Introduction

1. My name is David Neilson Hay.

2. I am a Planner and a Director of Osborne Hay (North) Limited, a Resource Management Practice. I hold the qualifications of a Master of Science Degree (with Honours) (1992) in Resource and Environmental Planning from the University of Waikato. I am a partially active member of the New Zealand Planning Institute.

3. I have 34 years' experience as a Planning Consultant. Since 1991 I have provided statutory and environmental planning advice to a range of clients for infrastructure and development projects. In particular, I have acted as the Planning Consultant for major subdivisions, quarry and sand mining developments, educational facilities, religious facilities, roading projects, telecommunication projects, wastewater and stormwater projects, electrical infrastructure projects and marina related activities.

4. This evidence is provided as part of McCallum Brothers Limited's (**MBL**) response to comments from invited persons on the Te Ākau Bream Bay Sand Extraction Project (**Project**).

5. I prepared the following material lodged in support of MBL's application:

   a. Report titled "Te Ākau Bream Bay Sand Extraction Project - Resource Consent and Wildlife Approval Applications and Assessment of Effects under the Fast-track Approvals Act 2024" dated January 2026 (**AEE**).

   b. The coordination and preparation of the draft recommended Resource Consent and Wildlife Approval conditions.

Code of Conduct

6. Although this is not a hearing before the Environment Court, I confirm that:

   a. I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses as specified in the Environment Court's Practice Note 2023 (**Code**); and

   b. The report referred to above authored by me:

i. Are within my area of expertise (except where I state that I rely upon the technical reports of other expert witnesses provided in support of the application);

ii. Have been prepared in accordance with the Code; and

iii. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

7. I have identified the following parties as having provided substantial comments that relate to the planning aspects of the application by MBL (including the recommended conditions and management plans) and which I have responded to in this Statement of Evidence.

a. Regulators:

   i Northland Regional Council (**NRC**)

b. Government Agencies:

   i Parliamentary Commissioner for the Environment;

   ii Department of Conservation (**DoC**);

   iii New Zealand Conservation Authority; and

   iv Te Rūnanga Papa Atawhai o Te Tai Tokerau – Northland Conservation Board.

c. Iwi Entities:

   i Te Pouwhenua O Tiakiriri Kukupa Trust (Te Parawhau Ki Tai);

   ii Patuharakeke Te Iwi Trust Board and Ngātiwai Trust;

   iii Te Parawhau Hapu Incorporation; and

   iv Te Rerenga Parāoa Rohe Moana Kaitiaki.

d. Others:

   i Waipū Cove Reserve Board;

   ii Bream Bay Guardians;

   iii Lang Cove Residents Association;

   iv New Zealand Institute for Earth Science Limited (**Earth Sciences NZ**);

   v Northport Limited;

   vi Whangarei Heads Citizens Association; and

   vii Royal Forest and Bird Society of New Zealand Inc.

8. Given the volume of comments from the invited parties that relate to planning matters, I have grouped my responses into the following “themes”.

Theme One:	Adaptive Management
Theme Two:	Precautionary Approach
Theme Three:	New Zealand Coastal Policy Statement
Theme Four:	Northland Regional Policy Statement
Theme Five:	Northland Regional Plan
Theme Six:	Purpose and Principles of the Resource Management Act 1991
Theme Seven:	Te Mana o Te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020
Theme Eight:	Conditions and Management Plans
Theme Nine:	Updated Cultural Impact Assessment Report for the Patuharakeke Te Iwi Trust Board

9. The following attachments have been included:

Attachment A:	Updated Attachment Twenty-Six – Recommended Resource Consent Conditions (clean version).
Attachment B:	Updated Attachment Twenty-Six – Recommended Resource Consent Conditions (tracked changes).
Attachment C:	Table Addressing Comments on Conditions.
Attachment D:	Updated Attachment Thirty-Five – Recommended Wildlife Approval Conditions (clean version).
Attachment E:	Updated Attachment Thirty-Five – Recommended Wildlife Approval Conditions (tracked changes).

Attachment F:	Table of Comments on DoC Recommended Changes to Wildlife Approval Conditions.
Attachment G:	Updated Attachment Twenty-Nine – Environmental Monitoring Management Plan (EMMP) (tracked changes).
Attachment H:	Updated Attachment Twenty-Nine – Environmental Monitoring Management Plan ("EMMP") (clean version).
Attachment I:	Updated Attachment Twenty-Seven – Sand Extraction Operation Plan ("SEOP") (tracked changes).
Attachment J:	Updated Attachment Twenty-Seven – Sand Extraction Operation Plan ("SEOP") (clean version).
Attachment K:	Updated Attachment Twenty-Eight – Marine Mammal Management Plan ("MMMP") (tracked changes).
Attachment L:	Updated Attachment Twenty-Eight – Marine Mammal Management Plan ("MMMP") (clean version).
Attachment M:	Updated Attachment Thirty-One – Biosecurity Management Plan ("BMP") (tracked changes).
Attachment N:	Updated Attachment Thirty-One – Biosecurity Management Plan ("BMP") (clean version).

10. I have read the Statements of Evidence Responding to Comments of Mr West, Mr Boyd, Dr Beaumont, Mr Mcllrath, Mr McCallum, Dr Beamsley, Dr Thompson, Mr Reinen-Hamill/Dr Beetham, Ms McConnell, Mr Sawyer, Mr Walters, Mr Donoghue, Mr Elstob and Dr Pine.

Theme One: Adaptive Management

Theme	Related Parties
Adaptive Management	• Parliamentary Commissioner for the Environment (Pages 4 and 5) • Waipū Cove Reserve Board (Paras. 5.21 and 5.22) • Te Pouwhenua O Tiakiriri Kukupa Trust (Te Parawhau Ki Tai) (Statement of Evidence of G. Olsen, Paras. 7.41 to 7.49) • Langs Cove Residents Association (Pages 13 and 14) • New Zealand Conservation Authority (Pages 5, 9 and 10)

Response:

11. A number of parties identified that an adaptive management approach should be undertaken. Adaptive management has been addressed in Paragraphs 7.10 to 7.16 of the AEE, and I remain of the opinion that it is appropriate to apply an adaptive management regime for the consent conditions.

12. The adaptive management approach adopted in Recommended Condition 20 (Extraction Area) and Recommended Condition 22 (PSEAR Requirements) has been significantly strengthened based on the recommendations of Mr West and Mr Reinen-Hamill/Dr Beetham. Mr West has addressed in detail in his Statement of Evidence Responding to Comments (Paragraphs 223 to 258) the changes to the adaptive management approach for the ecological monitoring results. Likewise, Mr Reinen-Hamill/Dr Beetham have also addressed the changes to the adaptive management approach for the bathymetry monitoring results in their Statement of Evidence Responding to Comments (Paragraphs 66-80).

13. The following clauses have been added into Condition 20 which provides additional reasons for cells to be excluded from an ASEA based on the recommendations in an SEMR:

"a) Cell(s) or parts of cells which have been recommended for closure from sand extraction in an SEMR on the grounds that bathymetry monitoring within the bathymetric control area shows progressive lowering of the seabed across two

or more annual surveys and the average change in seabed level across the 220 m width of the control area relative to the pre-extraction baseline survey (2025) exceeds 0.15 m, indicating a likely adverse effect of sand extraction that cannot be explained by natural processes and/or storm events; or

b) *Cell(s) or parts of cells which have been recommended for closure from sand extraction in an SEMR on the grounds that they demonstrate a trajectory of benthic change that is divergent from the trajectory of benthic change in the control site envelope having regard to the extent to which the change, or elements of the change, are likely to be attributable to sand extraction or natural variability, storm events, seasonal variation, other activities or a combination of those factors."*

14. Condition 22 (PSEAR Requirements) has been expanded to specifically include those matters which must be addressed in a PSEAR if a cell(s) previously excluded from an ASEA is to be included in an updated ASEA. Where a cell(s) has previously been excluded from an ASEA under Recommended Condition 20 then the following matters must now be addressed in the PSEAR:

"a) *Identify the reason why the cell or part of a cell was excluded;*

b) *Where the cell(s) or part of a cell was excluded under Condition 20 a) to e) demonstrate that the cell(s) or part of a cell no longer meets the relevant exclusion criterion or criteria; or*

c) *Where a cell(s), or part of a cell which has been recommended for closure under condition 20 f), include a conclusion from an SQEP that seabed levels within the bathymetric control area have stabilised having regard to natural processes, storm events and sand extraction; or*

d) *Where a cell(s), or part of a cell was excluded under Condition 20g), include a conclusion from an SQEP that the cell(s) has recovered to the point at which it is inside the control site envelope or exhibits a trajectory of benthic change that is not divergent from the trajectory of benthic change in the control sites having regard to the extent to which the change, or elements of the change are likely to be attributable to sand extraction or to natural variability, storm events, seasonal variation, other activities or a combination of these factors.*

e) *Include confirmation from a SQEP(s) that the cell(s) or part of a cell can be reopened based on a) to d) above."*

15. The EMMP (Attachment Twenty-Nine) (which these recommended changes to the conditions have been drawn from) has been expanded upon in terms of the Environmental Monitoring Design Rationale (Section 3) and the Sand Extraction Monitoring Report (Section 6). In particular, within Section 6, new sections have been included in terms of the adaptive management recommendations and trigger alert responses for both the bathymetric surveys and ecological monitoring. Section 6.11 (SEMR Recommendations, Triggers and Management Responses) sets out what each SEMR is to include and includes two tables which outline the response level and required responses for the bathymetry monitoring and ecological monitoring.

16. The first table requires the classification of the bathymetry monitoring results into one of the following response levels to be included in the SEMR:

Response	Meaning	Test	Required Response
Level 1 No adverse effects detected	Extraction is operating within expected parameters. No evidence of coastal effects attributable to extraction. The system is behaving within the envelope of natural variability.	• No track anomalies within the extraction area that exceed 2 m wide, 0.4 m depth, and 100 m in length. • No changes exceeding ±0.15 m within the 220 m wide control area that cannot be explained by natural processes and/or storm events. • Bathymetric difference maps show no progressive seabed lowering trends beyond	• No change to the extraction activity. • Continue annual bathymetric monitoring programme as consented. • Record findings in the Sand Extraction Monitoring Report.

		natural variability.	
Level 2 Track management	Track anomalies occur within the extraction area. No seabed level change in the control area or evidence of shoreface connectivity effects.	• Track anomalies within the extraction area that exceed 2 m wide, 0.4 m depth, and 100 m in length are present.	• Close cell where track anomalies are detected until recovery has occurred (geometry of anomaly no longer meets test). • Increase monitoring frequency to capture inter-annual variability — additional survey within 6 months. • Record findings and any recommendations
Level 2 Alert for negative trend	Seabed change detected in the control area across the seaward half of the bathymetric control area at the lower threshold of concern (within the outer third of the survey error margin). No confirmed evidence of shoreface connectivity effects.	• Observed seabed lowering within the control area adjacent to where dredging has occurred between -0.10 m and -0.15 m (i.e. within the outer third of the ±0.15 m survey error margin) that cannot be explained by natural processes and/or storm events	• Increase monitoring frequency to capture inter-annual variability — additional survey within 6 months. • Record findings and any recommendations
Level 3 Adapt activity proportional to potential <u>min</u> <u>or</u> effects	Seabed lowering across the seaward half of the bathymetric control area beyond the survey error margin. A potential early signal of extraction-related effects on the shoreface. Extraction must be modified and additi onal investigation undertaken.	• Seabed lowering within the control area that cannot be explained by natural processes and/or storm events AND is outside the survey error margin (i.e. greater than ±0.15 m), present across the seaward half of the bathymetric	• Recommend closure of landward cells adjacent to areas of control site seabed lowering. • Additional bathymetric survey/investigations required in the areas where changes are identified. • Monitoring report to include detailed interpretation and causal analysis.

		control area. E.g. the seaward half only — the seaward 110 m of the 220 m wide bathymetric control area.	
Level 4 Adapt activity proportional to likely <u>minor</u> effects	Measurable seabed lowering across the full bathymetric control area beyond the survey error margin. A potential early signal of extraction-related effects on the shoreface. Extraction must be modified and additional investigation undertaken.	• Progressive seabed lowering over multiple surveys averaged across the control area that cannot be explained by natural processes and/or storm events AND is outside the survey error margin (i.e. greater than ±0.15 m), present across the 220 m wide bathymetric control area.	• Recommend closure of all landward cells across at least one row and potentially multiple rows of cells to effectively more the activity seaward. • Recommend a reduction in dredge volumes achieved through cell closure by maintaining cell limits and track spacing as per management plan. • Recommend additional surveys/investigations required in areas where changes are identified. • Report to consent authority with SEMR recommendations,
Level 5 More than minor effects detected	Seabed lowering has propagated landward of the control area beyond the survey error margin.	• analysis of bathymetric profiles show progressive seabed lowering landward of the 220 m control area on the lower shoreface that: • (i) cannot be explained by other activities, natural processes and/or storm events; and • (ii) is outside the survey error	• Recommend closure of all landward cells across at least one row and potentially multiple rows of cells to effectively more the activity seaward. • Recommend a reduction in dredge volumes achieved through cell closure by maintaining cell limits and track spacing as per management plan. • Recommend additional surveys /investigations required in areas where changes are identified. • Report to consent authority with SEMR recommendations. The recommendations may lead to a s128 review of conditions.

		margin of ±0.15 m. • (iii) successive lowering trend confirmed across at least two consecutive annual surveys (to exclude single-event anomalies). • (iv) Is likely indicating the extracting is having an effect that is propagating towards the shore.	

17. The second table requires that the SEMR must classify ecological monitoring results into of the following response levels:

Response level	**Meaning**	**Indicative test**	**Required response**
No concern / recovered	Extraction cell or cell group are within the expected control site envelope and are moving with, remaining within, or converging toward the control site trajectory.	Values are within the control site prediction interval, ±2 within control standard deviations, or equivalent multivariate control envelope. No adverse directional trend is present.	Continue monitoring in accordance with the EMMP.
Watch / early warning	one indicator shows a possible adverse departure, or one or more indicators are approaching the edge of the control-site envelope, but the pattern is not persistent or clearly attributable to extraction.	One indicator falls outside, or approaches the edge of, the control site envelope on one monitoring occasion; or a weak directional trend is apparent but not yet persistent.	Investigate in the SEMR. Review sediment data, storm history, seasonal factors, extraction history, other activities and control site trends. Continue annual monitoring unless the SEMR demonstrates a longer interval remains appropriate.
Trigger / increased monitoring	multiple indicators showing early warning level responses, or the same or related indicators show repeated departure	The same or related indicators fall outside the control site envelope over two monitoring events, or several indicators move in an divergent	Undertake targeted analysis. Maintain or increase monitoring frequency. Review extraction pattern, cell recovery status and need for targeted monitoring or

	from the control site envelope, indicating a developing cumulative divergent trajectory that may be attributable to extraction.	direction relative to the control site trajectory.	precautionary cell management.
Action	A substantial, persistent, or ecologically meaningful extraction related divergence is identified, including delayed recovery, sensitive habitat effects, protected taxa triggers, or clear adverse community level change.	A substantial departure from the control site envelope; significant *Time × Treatment* interaction; clear multivariate divergence; sensitive habitat or protected taxa; delayed recovery; or adverse change likely attributable to extraction.	Implement management response, which may include cell suspension or closure for an extended recovery period, reduced extraction intensity, changed extraction pattern, reduced annual extraction volume, or review of the EMMP or consent conditions.

18. In respect to any future increase in the annual sand extraction volume, Condition 23 (Sand Extraction Volume) has also been further refined so that the adaptive management approach taken is now clearer and on the basis that the annual sand extraction volume for the previous three consecutive years has exceeded 145,000 m^3. Recommended Condition 23 is now clearer that sand extraction cannot increase to 250,000 m^3 per annum (and 25,000 m^3 per month) if:

    a. For each of the previous three consecutive years, annual sand extraction has not exceeded 145,000 m^3; and

    b. Monitoring since the commencement of sand extraction has identified lowering within the 220 m wide bathymetric control area (western side of the extraction area only) exceeding 0.15 m on average which cannot be explained by natural processes (having regard to any bathymetric changes at the northern and southern control sites, the six bathymetric profiles, and hydrodynamic conditions over the three-year period); and

    c. Monitoring since the commencement of sand extraction has identified ecologically significant statistical adverse change in the benthic biota assemblage, composition, and abundance relative to changes which cannot be explained by natural processes (having regard to the northern, southern and remote control sites); and

    d. The SEMR required under Condition 37 addressing the change in the extraction volume has not been certified by the Council.

19. Recommended Condition 31 (Plume) has been expanded to state that if the turbidity level exceeds the 2NTU threshold then the Consent Holder shall implement the response procedures set out in Section 6 of the certified EMMP. This is set out in the current Section 6.10.4 (Trigger Response) of the EMMP which reads:

"If the trigger above (6.9.3) is exceeded;

- *The known seabed sediment texture composition of the area extracted at the time of water quality sampling will be reviewed,*
- *An investigation into the maintenance and operation of the ship and its operations shall be conducted to determine whether it is working to the level expected.*

Repeat sampling shall be conducted within one month. Further expertise will be required if repeat sampling also exceeds the trigger response. Actions could include, for example, revision of the seabed sediment texture composition exclusion criteria, and or the upgrade or replacement of ship components to achieve compliance with Condition 42."

20. Recommended Condition 36 (Underwater Soundscape Change Limit, Measurement and Assessment) has also been strengthened so there is now a clear direction to be followed in the event that the underwater soundscape change assessment does not demonstrate compliance with the requirement that sand extraction must not exceed an average of 3dB L_{eq} assessed over any calendar month at the underwater acoustic monitoring location. If this occurred, a Mitigation and Additional Underwater Soundscape Change Measurement and Assessment Report outlining the mitigation options that will be adopted to reduce the soundscape change arising from the sand extraction to no more than an average of 3dB L_{eq} over any calendar month at the underwater acoustic monitoring location is to be prepared. The report is also to outline the Underwater Soundscape Change Measurement and Assessment to be undertaken upon sand extraction recommencing and the reporting period for this assessment.

21. Taking into account the various recommended changes to the consent conditions and the EMMP I consider that they now better address concerns raised by Ms Olsen[1]. In particular the changes now ensure that:

   a. There is clear provisions for adaptive management responses.
   b. Monitoring is linked to clear and enforceable response risks.
   c. There are clear triggers to modify or cease activities.
   d. The requirements to submit draft PSEAR and SEMR Reports to Te Parawhau ki Tai for their review and comments have been retained.

22. Likewise, I am also of the opinion that the various changes also address the concerns raised by the Parliamentary Commissioner for the Environment[2]. In particular:

   a. There are clear responses to various triggers arising from the monitoring results including the options to modify or suspend extraction activities.
   b. There are clear responses which outline when further reviews or assessments are required.
   c. The recommended changes to the conditions strengthen the adaptive management approach.

23. I note that Recommended Condition 6 (Review of Conditions) outlines when the Council may initiate a review of any or all of the conditions under s128 of the RMA and those matters which it may consider. Any review under s128 of the Act could require the suspension or cessation of extraction activities depending on the outcomes of that review.

24. The Waipū Cove Reserve Board[3] raise various comments asserting there are limitations in the conditions and the approach to adaptive management. I do not agree with the statement that the recommended conditions are largely reliant on monitoring detecting adverse effects after extraction has already occurred, rather than preventing those effects from arising in the first instance. This statement ignores the extensive investigations undertaken to date (including the preparation of the PSEAR) to determine the suitability of the site, the depth of closure, to identify and address the expected level of effects arising from the sand extraction and to

[1] Paragraphs 6.11 and 7.47, G Olsen Statement of Evidence for e Pouwhenua o Tiakiriri Kūkupa Trust
[2] Page 4, Comments from the Parliamentary Commissioner for the Environment
[3] Paragraphs 5.21 to 5.26, Comments from Waipū Cove Reserve Board

develop the various mitigation methods including the preparation of a range of management plans. The adaptive management approach incorporated into the recommended conditions and in the EMMP then builds upon this baseline information.

25. I do not agree with the Waipū Cove Reserve Board that there are only limited enforceable trigger points. As I have outlined above, although the original recommended conditions had certain “trigger points” (for example, Condition 20 (Extraction Area)) these have now been expanded upon in a number of conditions and in the EMMP.

26. Taking into account the scope and timing of the monitoring and reporting required under the recommended consent conditions and detailed in the EMMP, I do not hold the same concern as the Parliamentary Commissioner for the Environment or the Waipū Cove Reserve Board that any evidence of adverse environmental effects is likely to be slow or that effects may only become apparent after irreversible damage has occurred.

Theme Two: Precautionary Approach

Theme	**Related parties**
Precautionary Approach	• Parliamentary Commissioner for the Environment (Pages 4 and 5) • Department of Conservation (Comments on a Fast Track Consenting Application Section 3 – Statutory Considerations) • Bream Bay Guardians (Expert Panel Submission - Paragraph 6.17) • Langs Cove Residents Association (Section 7.4.6)

Response:

27. I am in agreement that a precautionary approach including on the setting of conditions (and including adaptive management mechanisms) should be undertaken.

28. As outlined in various sections of the AEE (i.e. Paragraphs 12.51 - 12.53, 12.141-12.142, 12.262 and 16.6) a precautionary approach has been undertaken in terms of the development of the proposal, the site selection (with Mr McCallum expanding on this in his Statement of Evidence Responding to Comments), extraction volumes and the proposed monitoring. In my opinion the approach taken has been consistent with Policy 3 of the NZCPS.

29. In their comments[4], DoC has stated "*that precaution should be exercised in decision making on the application, and should the Panel be minded to grant approval, in the drafting of conditions it may impose*." In Section 5 of their comments, DoC then outlines the reasons for the substantive changes which DoC is seeking.

30. As I have outlined above, a number of recommended conditions and the EMMP have been strengthened in terms of the adaptive management approach being taken. In terms of the broad adaptive management/precautionary approach themes DoC has raised that conditions will need to address I note:
    a. Effects basis. Where relevant, the recommended conditions are specifically linked to actual and potential effects including coastal processes, ecology, plume and underwater noise soundscape.
    b. Triggers/Thresholds. A number of recommended conditions and the EMMP have been strengthened so there are specific links between responses from monitoring and the required response (including exclusion of cells in the ASEA).
    c. Monitoring for the SEMR is proposed for the life of the consent and Recommended Condition 37 (sand Extraction Monitoring Report) has been refined to make it clearer when a SEMR has to be undertaken including for the final year the consent is given effect to.

31. I address various other changes to conditions later in this evidence and Attachment A to this evidence is a clean version of Appendix Twenty-Six – Recommended Resource Consent Conditions while Attachment B is a tracked version. In Attachment C I have included a table addressing the various changes to the

[4] Paragraph 3.4, Department of Conservation on a Fast Track Consenting Application

recommended consent conditions including comments on changes sought by various parties.

32. Having taken into account the recommended changes to the consent conditions, the various management plans (which I address separately later in this evidence) and in particular the Statements of Evidence Responding to Comments of Mr West, Mr Reinen-Hamill/Dr Beetham and Ms McConnell, I remain of the opinion that an appropriate precautionary approach has been undertaken in terms of the site selection, the sand extraction methodology, the recommended consent conditions and in the preparation of the management plans.

Theme Three: New Zealand Coastal Policy Statement

Theme	**Related Parties**
Statutory Documents	• Waipū Cove Reserve Board (Paras. 6.3-6.15) • Department of Conservation (Comments on a Fast Track Consenting Application Section 3 – Statutory Considerations, Paras. 3.1 – 3.9) • Patuharakeke Te Iwi Trust Board and Ngātiwai Trust (CIA, Paras. 2.21-2.24)

Response:

33. I am in agreement with the Waipū Cove Reserve Board that Policies 3, 6 and 13 of the NZCPS are of direct relevance to this application and with DoC who have highlighted Policy 3 and 11 as relevant. I have addressed these in the AEE[5].

34. The Waipū Cove Reserve Board[6] identify Policies 24 to 27 as being of relevance and which I have not addressed in the AEE. I remain of the opinion that these Policies are not relevant to this application for the following reasons:

[5] Paragraphs 12.51 to 12.82, AEE

[6] Paragraphs 6.7 and 6.8, Waipū Cove Reserve Board Comment

a. Policy 24 (Identification of coastal hazards) relates to the identification of coastal hazards. The sand extraction area has not been identified by Northland Regional Council (**NRC**) as an area affected by coastal hazards.

b. Policy 25 (Subdivision, use, and development of areas in coastal hazard risk) is not of relevance as the sand extraction area has not been identified by NRC as an area potentially affected by coastal hazards.

c. Policy 26 (Natural defences against coastal hazards) is not relevant as the proposal does not relate to natural defences.

d. Policy 27 (Strategies for protecting significant existing development from coastal hazard risk) is not relevant as the proposal does not relate to an existing development.

35. Ms McConnell has further addressed Policy 11 in her Statement of Evidence Responding to Comments (Paragraphs 84 and 85) and confirms that her opinion, in respect to Policy 11, has not changed taking into account the additional information (including the underwater soundscape monitoring) now available (and which has been outlined in the Statement of Evidence Responding to Comments of Dr Pine).

36. Having considered the comments received and the various Statements of Evidence Responding to Comments (including those prepared by Ms McConnell, Dr Thompson, Mr West and Mr Reinen-Hamill/Dr Beetham), I am of the opinion:

a. In respect to Policy 2, potential adverse effects are either avoided or mitigated to an appropriate level including through the use of management plans and resource consent conditions. Patuharakeke Te Iwi Trust Board and the Ngātiwai Trust Board have an opposing opinion. However, the Panel may present further opportunities for iwi to outline how kaitiakitanga may be exercised through the consent conditions and/or management plans in the event that consent is granted. Alternative conditions to address how kaitiakitanga may be exercised have not been outlined in the Final Cultural Impact Assessment submitted by the Patuharakeke Te Iwi Trust Board and the Ngātiwai Trust Board and this may reflect the current position of seeking that the consent application is declined.

b. Consistent with Policy 3, a precautionary approach has been adopted for the application including in terms of the site selection, extraction methodology, the preparation of the various management plans and consent conditions; and

c. The proposal is not contrary to Policy 11 as adverse effects on those matters listed under Policy 11(a) are being avoided and significant adverse effects on those matters listed under Policy 11(b) are also being avoided.

37. The Waipū Cove Reserve Board[7] notes that "*the long-term effects on sediment transport, coastal stability, and shoreline behaviour are inherently uncertain*" and links that to the Policy which directs that a precautionary approach should be adopted. The bathymetric surveys proposed as part of the SEMR (and detailed in the EMMP) have been specifically designed to monitor any changes to the bathymetry of the seabed immediately landward of the sand extraction area. Any adverse changes occurring in the bathymetric control area will be identified prior to the risk of coastal erosion above MHWS occurring. This has been further addressed in the Statement of Evidence Responding to Comments of Mr Reinen-Hamill/Dr Beetham[8].

38. In my opinion, this proposed monitoring is consistent with Policy 3. In the event that adverse bathymetric effects are identified during the SEMR process then the SEMR process provides the mechanisms for further effects to be avoided through recommendations such as the closure of cells for sand extraction.

39. It is this same concern with downstream effects on beach morphology and dune systems etc, which I understand is the reason the Waipū Cove Reserve Board[9] considers the application does not satisfy the requirements of Policy 13. I have addressed this Policy in Paragraphs 12.73 to 12.80 and having read the Statement of Evidence Responding to Comments of Mr Reinen-Hamill/Dr Beetham my opinion remains the same that the proposal is not contrary to Policy 13.

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[7] Paragraphs 6.4 - 6.6, Waipū Cove Reserve Board Comment
[8] Paragraphs 66-80, Statement of Evidence Responding to Comments
[99] Paragraph 6.10 and 6.11, Waipū Cove Reserve Board Comment

40. Turning to Policy 6, the Waipū Cove Reserve Board considers that the proposal does not satisfy the requirements of Policy 6 – Activities in the Coastal Environment as "*In this case, the scale of extraction and the uncertainty of effects means that the environmental thresholds set by the NZCPS are not met*". I addressed Policy 6 in detail in the AEE[10]. I do not agree with the assessment undertaken by the Waipū Cove Reserve Board which asserts there will be adverse effects on existing commercial activities in the Northland Region – I rely on the Statement of Evidence Responding to Comments of Mr Mcllrath[11] is that regard. In addition, the scale of an activity is not directly a consideration under Policy 6 rather it is the actual potential and actual effects arising from that activity which require consideration, with the degree of these effects having been determined to be no more than minor.

Theme Four: Northland Regional Policy Statement

Theme	***Related Parties***
Northland Regional Policy Statement	Waipū Cove Reserve Board (Paras. 6.18-6.40)

Response:

41. The Waipū Cove Reserve Board has formed the opinion that the proposal is contrary to Policies 4.4.1, 4.6.1, 5.1.2 and 7.2.1. I assessed Policies 4.4.1 and 4.6.1 in Paragraphs 12.122-12.131 of the AEE. I did not assess Policies 5.1.2 and 7.2.1.

42. I did not consider Policy 5.1.2 in the AEE as this relates to development in the coastal environment and focuses on urban development. I remain of the opinion that this Policy is not relevant to this application. Even if it was considered that the proposal fell within the scope of "use" in Policy 5.1.2 then the application is not contrary to this Policy because it:

a. Will not impact on public access, open spaces and amenity values; and

b. Will allow for the continued natural functioning of coastal processes and ecosystems (although localised impacts on benthic fauna will occur); and

[10] Paragraphs 12.54 to 12.60, AEE.
[11] Paragraphs 265-280, Statement of Evidence Responding to Comments

c. Will not impact on access to and the use and enjoyment of surf breaks of natural significance.

43. I remain of the opinion that Policy 7.2.1 is not relevant to the assessment of the proposal as the area of sand extraction does not form part of a natural system or feature that contributes to reducing the impacts on natural hazard events on the built environment. The difference in opinion is a result of the Waipū Cove Reserve Board forming the opinion that any reduction in available sediment (from the sand extraction) has the potential to weaken the resilience of dune systems and beaches over time. Mr Reinen-Hamill and Dr Beetham have addressed this in their Statement of Evidence Responding to Comments, under Theme 9: Risk to the Beach.

44. I remain of the opinion that the proposal is not contrary to Policies 4.4.1 and 4.6.1. The difference in opinion between myself and the Waipū Cove Reserve Board again seems to arise from the Waipū Cove Reserve Board forming the view that any reduction in available sediment (from the sand extraction) has the potential to weaken the resilience of dune systems and beaches over time (and thereby affecting the natural character and landscape values and ecological areas and habitats of the Bream Bay coastline). I have formed my opinion based on the Coastal Processes Effects Assessment (Attachment Eight to the Application) and the Statement of Evidence Responding to Comments of Mr Reinen-Hamill/ Dr Beetham.

Theme Five: Northland Regional Plan

Theme	***Related Parties***
Northland Regional Plan	Patuharakeke Te Iwi Trust and Ngātiwai Trust Board (CIA, Paras. 4.3.10 onwards) Waipū Cove Reserve Board (Paras. 6.41 to 6.71)

Response:

45. The Waipū Cove Reserve Board has formed the opinion that the application is contrary to Policies D.2.17, D.2.18, D.2.19 and D.2.20. I assessed these policies in Paragraphs 12.189 to 12.197 of the AEE. I did not form the same opinion.

46. Similar to my discussion above of Policies 4.4.1 and 4.6.1, the difference in opinion between myself and the Waipū Cove Reserve Board seems to arise from the Waipū Cove Reserve Board forming the view that any reduction in available sediment (arising from the sand extraction) has the potential to weaken the resilience of dune systems and beaches over time and thereby affecting the natural character and landscape values and ecological areas and habitats of the Bream Bay coastline. Based on the Coastal Processes Effects Assessment (Attachment Eight to the Application) and the Statement of Evidence Responding to Comments of Mr Reinen-Hamill/Dr Beetham I do not consider such effects will arise.

47. The final CIA for the Patuharakeke Te Iwi Trust identifies that an assessment of Objectives F.1.4 (Fish Passage), F.1.10 (Natural Hazard Risk) and F.1.11 (Improving Northland's natural and physical resources) was not undertaken in the AEE. This is correct.

48. I remain of the opinion that these objectives are not relevant for the following reasons:

    a. F.1.4 relates to fish passage within watercourses.

    b. F.1.10 relates to the risks and impacts of natural hazard events. There are no natural hazard events I consider are of relevance to this proposal and require consideration in the application.

    b. F.1.11 relates to enabling and positively recognising activities that contribute to improving Northland's natural and physical resources. Noting this is an enabling provision, I don't consider this is of relevance to this application.

49. Although identifying these additional objectives and a number of policies (most of which were addressed in the AEE), I have not found in the material provided in the CIA a detailed assessment of the proposal against the relevant objectives and policies of the Northland Regional Plan. The Author of the CIA states in Paragraph 1.1.12 that he was invited to assist with the preparation of a CIA report as well as provided separate planning evidence. I have not viewed this planning evidence which may provide the detailed assessment against the relevant objectives and policies.

Theme Six: Purpose and Principles of the Resource Management Act 1991

Theme	Related Parties
Purpose and Principles of the Resource Management Act 1991	Waipū Cove Reserve Board (Paras. 7.1-7.11)

Response:

50. I provided an assessment against Part 2 of the RMA in Paragraphs 9.14 to 9.32 of the AEE.

51. I disagree with the Waipū Cove Reserve Board[12] that "*the proposal will not result in any economic benefit to the Northland Region and risk undermining existing regional economic activity.*" The economic benefits were outlined in the Assessment of Economic Effects (Attachment 18) and addressed in the AEE including Paragraphs 11.13-11.19. In respect to Northland specifically, Mr McIlrath in Paragraph 280 of his Statement of Evidence Responding to Comments finds that:

"Like the Lang Cover Residents Association, it appears that Mr Cooks economic argument assumes that enabling the proposal to proceed will undermine the existing regional economic activity. Based on the findings of the Tonkin & Taylor report, I consider Mr Cook's position as unfounded."

52. I do not hold the same concern as the Waipū Cove Reserve Board[13] that the proposal is inconsistent with section 5(2)(b) and (c) of the RMA because the application does not provide sufficient certainty that the life-supporting capacity of coastal ecosystems and natural coastal processes will be safeguarded, nor that adverse effects on the environment can be avoided, remedied, or mitigated. The application includes a large number of specialist reports and, to date, the processing of the application, the Statements of Evidence Responding to Comments and the comments received have not, in my opinion, identified any significant gaps in terms of potential environmental effects which have not been addressed. As can be expected for an application of this nature, a number of points of clarification and further detail have been sought (through the RFI and comments process) and there

[12] Paragraph 7.3, Waipū Cove Reserve Board Comment
[13] Paragraph 7.5, Waipū Cove Reserve Board

are differing opinions on a number of matters. Furthermore, the recommended Resource Consent and Wildlife Approval Conditions will continue to evolve through the process. Even if a party considers that the original application did not provide sufficient certainty, the consideration that matters most is that the Panel has sufficient information at the time it makes its decision.

53. Turning to Sections 6 and 7 of the RMA, this again has been addressed in the AEE[14] and I am not in agreement that the proposal is inconsistent with these sections of the RMA. As I have outlined earlier, the difference in opinion between myself and the Waipū Cove Reserve Board seems to arise from the Waipū Cove Reserve Board forming the view that any reduction in available sediment (arising from the sand extraction) has the potential to weaken the resilience of dune systems and beaches over time and thereby affecting their resilience and long-term stability (and associated ecosystems and amenity values for example). Based on the Coastal Processes Effects Assessment (Attachment Eight to the Application) and the Statement of Evidence Responding to Comments of Mr Reinen-Hamill/Dr Beetham I do not consider such effects will arise and therefore do not agree the proposal is contrary to Sections 6 or 7.

54. It is unclear on what basis and investigations the Waipū Cove Reserve Board has drawn the conclusion in Paragraph 7.10 that "*The potential adverse effects on coastal resilience, natural character, recreation, tourism, indigenous biodiversity, and public coastal assets are matters that weigh strongly against the proposal when assessed against the purpose and principles of the RMA.*" I reach a contrary and supportive conclusion in reliance on the findings of the specialist reports and Statements of Evidence Responding to Comments.

Theme Seven: Te Mana o Te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020

Te Mana o Te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020	**Related Parties**

[14] Pages 68 and 69, Te Ākau Bream Bay Sand Extraction Project - Resource Consent and Wildlife Approval Applications and Assessment of Effects under the Fast-track Approvals Act 2024

Conditions	New Zealand Conservation Authority (Pages 12 and 13)

Response:

55. The New Zealand Conservation Authority (Section 6) consider that aspects of the application are inconsistent with the objectives of, and targets in the consequent implementation plan, Action for Nature which was released in April 2026. National Targets 3 and 10 are specifically identified and these are set out in "New Zealand's national targets contributing to the Global Biodiversity Framework" (New Zealand Government, December 2024).

56. Te Mana o Te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 (and the associated National Targets and Action for Nature) are non-statutory documents. The Strategy preceded the National Policy Statement - Indigenous Biodiversity (which is addressed in the AEE including in Paragraphs 12.88 to 12.90). The application is required to be considered in terms of a suite of relevant documents, some of which are supportive of sand extraction as a critical mineral. This is not a case where a failure to be fully consistent with one document results in the applications having to be declined.

57. In respect to National Target 3, this refers to a broader national policy of using economic tools to promote the protection and restoration of biodiversity. It is not a target that is applicable to specific consent applications.

58. National Target 10 is a broad, New Zealand wide, target which is not appropriate to apply to specific consent applications. The full National Target 10 reads:

    Ecosystems and species are protected, restored, resilient and connected from mountain tops to ocean depths.

    By 2030:

    a) Improved baseline information, comprehensive mapping, and improved knowledge of species and ecosystems help reduce the cumulative effects of pressures on biodiversity.

b) *There is no loss of the extent or condition of indigenous land, wetland, freshwater ecosystems, and marine and coastal habitats, which have been identified as having high biodiversity value.*

c) *The state of indigenous species known to be at risk of extinction stabilises or improves."*

59. Although I do not consider this National Target 10 is applicable to a specific consent application, in respect to this application I note:

    a. The ecological monitoring undertaken as part of the first PSEAR has contributed to the baseline information available.

    b. Target 10 applies to habitats which have been identified as having high biodiversity value. The proposed sand extraction area is outside any identified significant ecological areas, and no significant habitats of indigenous fauna have been identified within the sand extraction area. It is not an area that has been identified in any statutory documents as having high biodiversity value.

    c. This is a specific target and the sand extraction itself will not undermine this target in terms of the Tara Iti in particular.

Theme Eight: Conditions and Management Plans

Theme	**Related Parties**
Conditions and Management Plans	• Waipū Cove Reserve Board (Para. 5.21 to 5.26) • New Zealand Institute for Earth Science Limited ("Earth Sciences NZ") (Page 4) • Northport Limited • Te Parawhau Hapu Incorporation (Pages 13-14) • Whangarei Heads Citizens Association (Section 5.1) • Parliamentary Commissioner for the Environment (Page 4)

	• Te Pouwhenua O Tiakiriri Kukupa Trust (Te Parawhau Ki Tai) (Statement of Evidence of G. Olsen, Pages 11-13) • New Zealand Conservation Authority (Pages 9 and 10) • Northland Regional Council (Section 3, Memorandum by Dr De Luca, dated 26 February 2026 and Attachment Four – Sand Mining Bream Bay Monitoring Condition, Dr De Luca, dated 1.04/2025.) • Royal Forest and Bird Society of New Zealand Inc. (Paragraphs 8 to 15 and 26 to 34) • Department of Conservation (Comments on a Fast-track Consenting Application, including Section 5) • Bream Bay Guardians (Expert Panel Submission - Section 7 and the Process Update Email from Dr Doole.) • Patuharakeke Te Iwi Trust Board and Ngātiwai trust Board (D Milner Cultural Statement, Section 9). • Te Rerenga Parāoa Rohe Moana Kaitiaki (Section 5) • Te Rūnanga Papa Atawhai o Te Tai Tokerau - Northland Conservation Board (Pages 1-3) • Langs Cove Residents Association (Pages 13 and 14)

Response:

Resource Consent Conditions

Updated Recommended Conditions

60. The changes to the recommended resource consent conditions are based on the version submitted in RFI1. Attachment A includes a clean version of the updated

Appendix Twenty-Six – Recommended Resource Consent Conditions. Attachment B includes a tracked change version.

61. I have included in Attachment C a table addressing the changes to each condition and, where relevant, if and how they have addressed a specific comment received.

62. The changes to the recommended resource consent conditions take account of:

a. Changes recommended by Mr McMahon in his SMART review for the Panel. A large number of these are stylistic in nature;

b. Changes recommended by the NRC Officers;

c. Changes recommended by DoC; and

d. Comments by other parties on specific recommended conditions.

63. As part of the review of the recommended resource consent conditions undertaken in response to the comments received, the wording of a number of recommended conditions have been clarified or expanded upon to improve their applicability. As I have outlined earlier, a review was also undertaken in terms of identifying if the adaptive management approach could be enhanced both through the monitoring and reporting (with linkages to specific responses) and then through specific consent conditions.

64. I have addressed earlier in this evidence under Theme One, the changes to the conditions relating to adaptive management and the comments on this subject by the Parliamentary Commissioner for the Environment, Te Pouwhenua O Tiakiriri Kukupa Trust (Te Parawhau Ki Tai and The Waipū Cove Reserve Board. I do not repeat this under this Theme.

65. A number of parties have commented that there are now multiple versions of conditions and that they continue to evolve. At any one time, there is only a single set of recommended conditions being put forward by the Applicant. The version appended to this Statement of Evidence (Attachment A) replaces the earlier version submitted with the RFI 1 response.

66. It is common during a resource consenting process, such as this, that the recommended conditions evolve over time. In my opinion, this is best practice, as it takes account of additional issues being raised that need to be addressed through new or amended conditions and provides for the clarification of the wording of conditions so there is a clear understanding of the final condition by key stakeholders. For this application, it was identified that further improvements in terms of the adaptive management approach could be incorporated into the consent conditions. I do not agree with the proposition that an evolving set of recommended conditions implies that the proposal is materially incomplete.

Certification of Management Plans

67. A number of parties, including the Panel, have raised the issue of whether the certification of the Management Plans should be undertaken by the Panel or by NRC. I remain of the opinion that it would be appropriate for the Panel to certify the Management Plans given the degree of detail provided in them, that they give effect to a number of conditions and that the Panel has the ability to commission SQEP(s) to review these Management Plans as part of the processing of the application.

Langs Cove Residents Association

68. The Langs Cove Residents Association[15] seeks a 5-year consent term "*to allow a genuine review point before further extraction is authorised*". In my opinion, and with the requirement for the monitoring and reporting required through the SEMR process (Recommended Condition 37), I do not agree with a 5-year consent term. The Council also has the ability to undertake a review of the consent under s128 of the RMA and as outlined in Recommended Condition 6 if unexpected adverse effects arise for example.

69. The Langs Cove Residents Associations also seeks that before the sand extraction goes to the Stage 2 volumes, a separate consent application with a full hearing is

[15] Pages 13 and 14, Langs Cove Residents Association Comments

held. There is no basis for such a process being sought by reference to this application and the comprehensive engagement with the issues arising, and the recommended conditions provide an appropriate pathway for certification of the increase in sand extraction volume. Recommended Condition 23 (Sand Extraction Volume) sets out the parameters for when sand extraction cannot increase to 250,000 m^3 per annum. Condition 23 has been expanded upon in the updated set of recommended conditions so that the increase in the sand extraction volume cannot proceed if annual sand extraction for the previous three consecutive years has not exceeded 145,000 m^3 and if the SEMR required under Recommended Condition 37 has not been certified by the Council.

70. In respect to the request for pre-extraction surveying for Stony Corals, the PSEAR sets out the process for the baseline monitoring, and the Stony Corals were identified during the first PSEAR conducted.

71. The Langs Cove Residents Association seeks that an independent environmental monitor appointed by the Panel be required throughout the consent term. The required monitoring has been undertaken to date, and will continue to be undertaken, by a number of specialist professional companies (for example Tonkin and Taylor, Styles Acoustic Consultants and Bioresearches). The first PSEAR has been submitted with the application and is being reviewed by the Panel. Future PSEAR and SEMR reports have to be reviewed and certified by NRC, who may choose to use independent experts to undertake the review if the NRC don't have the required expertise in-house.

72. In terms of the request for enforceable triggers, it is considered that the changes to the EMMP and the subsequent changes to the consent conditions to improve the adaptive management approach, addresses the request for enforceable triggers.

<u>Waipū Cove Reserve Board</u>

73. In respect to the Waipū Cove Reserve Board [16]comments on conditions I note:

[16] Paragraphs 5.21 to 5.26, Waipū Cove Reserve Board Comments

a. I have addressed the changes to the adaptive management approach in the EMMP and recommended conditions under Theme One.

b. The proposed hours of operation are set out in Recommended Condition 29 and are during the daylight hours and briefly into dusk during the shorter days of the year. I do not consider that issues in terms of real-time monitoring or enforcement will arise due to the proposed hours of extraction. Furthermore, issues relating to non-compliance are an enforcement matter and not a consideration of the consenting process. The key issue is whether the conditions can be enforced, and it remains my opinion they can be.

<u>Earth Science NZ</u>

74. Earth Science NZ[17] seeks that the conditions allow for reviews of the Environmental Monitoring Management Plan to take account of Earth Science NZ monitoring of incoming seawater quality at the Northland Aquaculture Centre. This is advanced on the basis if, following the commencement of the proposed sand extraction operations, this monitoring detects a change in the water quality regime of significance for the centre's operations, reviews of the Environmental Monitoring Management Plan should be enabled to take account of, and respond to, this information. Attachment 9 to the AEE concludes in Section 6.3.1.1 the potential effects of the extraction activity on the aquaculture water intake are considered to be negligible. Notwithstanding this, Dr Wilson and Ms Jones have addressed this in their Statement of Evidence Responding to Comments[18] and conclude that this data is not required for the assessment, and they do not consider that a specific consent condition is required.

<u>Northport Limited</u>

75. Northport Limited[19] seeks that appropriate conditions should be attached providing for monitoring and, if necessary, management responses to sedimentation being observed within the commercial shipping channel. Mr Reinen-Hamill/Dr Beetham have addressed this in their Statement of Evidence Responding to Comments (Paragraph 81) and conclude that there is no basis for suggesting an adverse effect

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[17] Pages 4 and 5, Earth Sciences NZ Comments
[18] Paragraphs 14 to 21, Statement of Evidence to Comments of Dr Wilson and Ms Jones
[19] Page 2, Northport Limited Comments

on the Northport access channel may occur that would require a consent condition to monitor or address sedimentation that may occur in the Northport access channel.

Te Pouwhenua O Tiakiriri Kukupa Trust (Te Parawhau ki Tai)

76. Te Pouwhenua O Tiakiriri Kukupa Trust have submitted as part of their comments an Addendum to their Cultural Impact Assessment. This addendum records the outcomes of a review of the management plans submitted with the application. Although it does not specifically address consent conditions, a number of comments made on the management plans relate to matters which are outlined in the relevant recommended consent condition.

77. A key issue in the CIA Addendum is the requirement for a formal notification process between MBL and Te Pouwhenua o Tiakiriri Kūkupa Trust (Te Parawhau ki Tai). In my opinion this has been incorporated into the relevant recommended consent conditions (10, 22, 37, 40 and 41).

78. In the CIA addendum[20], additional plume modelling is requested. A new condition 31A (Frequency and Reporting of Plume Monitoring) is now recommended (and included in Attachment Twenty-Six). Condition 31A sets out that plume monitoring must be undertaken in accordance with the EMMP, within 20 working days of the commencement of sand extraction and then at 6 months and 12 months after sand extraction has commenced and then as part of every SEMR. Section 6.10 of the EMMP has been expanded to reflect these changes.

New Zealand Conservation Authority

79. The New Zealand Conservation Authority[21] consider that *"there are no consequential decision points, and the purpose and the timing of monitoring often seems ambiguous, with unclear objectives beyond regularly documenting change (or absence of change) in the extraction area and vicinity"* and *"The consequences are unclear for management, and there are few, if any, defined trigger points that will*

[20] Section 4, Addendum to Cultural Impact Assessment
[21] Pages 9 and 10, New Zealand Conservation Authority Comment

result in changes in activity. If this sand mining goes ahead, there need to be clear points at which operations must cease if/when defined deleterious impacts are observed."

80. The New Zealand Conservation Authority has not made any recommendations in terms of the further monitoring detail they consider is necessary or those matters they consider ambiguous. As I have covered under Theme One, a review of the EMMP and recommended consent conditions has been undertaken to improve the adaptive management approach which has been adopted. There are now clearer connections between monitoring outcomes and required responses and these changes may now address the concerns raised in the comments.

Northland Regional Council

81. The NRC provided separately, recommended changes to the resource consent conditions which are addressed in Attachment C.

82. Separate to this, in the NRC comments on the application, Dr De Luca[22] has recommended changes to the timing of benthic monitoring and provided Attachment 4 – Sand Mining Bream Bay-Monitoring Condition. The changes to the EMMP and recommended conditions to provide for a more adaptive management approach has been addressed by Mr West in his Statement of Evidence Responding to Comments[23] and further detail has now been included in the EMMP to address the benthic monitoring undertaken as part of the SEMR.

Royal Forest and Bird Society of New Zealand

83. The comments on specific changes to the recommended resource consent conditions have been addressed in Attachment C.

[22] Boffa Miskell Memorandum dated 01/04/2025 (Attachment 4 to the Northland Regional Council Comments)
[23] Paragraphs 223-245

84. In response to the comment on baseline ecological and bathymetric information[24], the baseline ecological and bathymetric monitoring has been completed in the first PSEAR (and in accordance with the EMMP). This PSEAR is included in Appendix C of Attachment Twenty-Nine of the Application. It is considered that the required baseline information to understand the existing environment for the proposed on-going monitoring (under the SEMR) has been completed and provided. The baseline information required for assessment against in future monitoring, and which is critical for giving effect to the adaptive management regime provided for in the consent conditions, has therefore already been obtained and provided as part of the application.

85. I do not agree with the comments[25] that the monitoring conditions do not connect well to specific responses and there is uncertainty as to whether adverse effects will be addressed in a timely manner.

86. The EMMP sets out the detailed methodology for the various monitoring and reporting requirements including the written deliverables. As I have outlined under Theme One, a review of the EMMP and the relevant consent conditions has been undertaken, and various changes have been made to improve the adaptive management approach and connections between monitoring outcomes and specific responses.

87. I disagree that there will be a significant reliance on the review of consent conditions to make any changes necessary to address adverse effects arising after the grant of consent. The SEMR process has been specifically designed as an adaptive management tool so that monitoring is undertaken at set periods, recommendations on matters such as extraction areas, extraction volumes and methodology can be made, and the SEMR has to be undertaken and provided to Council under Condition 37 at set times. The whole objective of an adaptive management approach is to be able to implement changes during the life of a consent based on outcomes from monitoring.

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[24] Paragraphs 8 to 11, Royal Forest and Bird Society of New Zealand Inc. Comments

[25] Paragraphs 12-15, Royal Forest and Bird Society of New Zealand Inc. Comments

88. In respect to the comment on the ASEA[26] the first ASEA is included in Attachment Twenty-Nine as Appendix E to the EMMP. The first PSEAR covered the full extent of the proposed sand extraction area, and no cells were identified to be excluded, in terms of the criteria a) to d) recommended under Condition 20. This is on the basis that the Wildlife Approval being sought is granted (in terms of criteria d). The criteria e) to g) are not relevant in respect to the first ASEA as they relate to outcomes which could only arise once sand extraction has commenced. For clarification, if a cell is to be excluded from any future ASEA, then it would be identified in a different colour.

Bream Bay Guardians

89. The comments by Dr Doole (for Bream Bay Guardians) on specific conditions have been addressed in Attachment C. As a general comment in respect to broader comments on conditions by the Bream Bay Guardians, the NRC as the consenting authority will be responsible for reviewing the monitoring undertaken (including PSEAR and SEMR Reports) and may choose to use independent experts to do this if they do not have the in-house expertise. Furthermore, NRC is responsible for ensuring that consent conditions are given effect to and can take enforcement action for non-compliances. The monitoring information provided to a Council becomes public information. Having consulted with NRC Officers on the recommended consent conditions and taking into consideration their recommended changes, I consider that the consent conditions are enforceable.

90. I am not in agreement with the criticisms of the monitoring cell framework[27]. This framework was developed through the consenting application process for the Pakiri Sand Extraction Applications and has been further refined through this application process. Those parties who have been involved in the monitoring to date and going forward (for example, Bioresearches and Tonkin and Taylor) are supportive of the monitoring cell framework and have not raised the concerns put forward by the Bream Bay Guardians.

[26] Paragraph 30, Royal Forest and Bird Society of New Zealand Inc. Comment

[27] Paragraph 7.8, Bream Bay Guardians Comment

91. The Bream Bay Guardians seek that there is a requirement for a bond[28]. I consider that it is appropriate that a bond is set to cover the cost of undertaking an SEMR in the event an SEMR is not undertaken by the Consent Holder or the Consent Holder abandons the consent before any outstanding SEMR is undertaken. New recommended Conditions 48 to 50 have been included which set out the requirement for the bond, bond amount and bond fixing and adjustment.

92. Mr Bennett for the Bream Bay Guardians[29] sets out recommendations for a maritime archaeology and heritage assessment of the sand extraction site. Although there have been no indications that there are any such features within the sand extraction site from the bathymetric surveys, diving or filming undertaken to date for the monitoring, I am in partial agreement with the recommendations of Mr Bennet. I have therefore recommended a new Condition 20 A which requires a maritime archaeological and heritage assessment to be undertaken prior to the pre-start Hui with Iwi and Hapū representatives (required under Condition 10).

93. If an archaeological site is discovered as part of this process, then the requirements of the Heritage New Zealand Pouhere Taonga Act apply. No further outline of the process to then be followed needs to be stipulated in the resource consent. In practice, this would mean that sand extraction in the vicinity of the identified archaeological site could not be undertaken until an Authority was obtained.

<u>Patuharakeke Te Iwi Trust Board and Ngātiwai Trust Board</u>

94. The Patuharakeke Te Iwi Trust Board and Ngātiwai Trust Board (D Milner Cultural Statement, Section 9) set out their concerns in respect to the Pre-Start Hui, Mahere Tikanga Plan and Cultural Contribution conditions. Te Rerenga Parāoa Rohe Moana Kaitiaki set out similar concerns. I am not in a position to recommend any changes to these conditions to address the concerns raised.

<u>Te Rūnanga Papa Atawhai o Te Tai Tokerau – Northland Conservation Board</u>

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[28] Paragraph 7.13, Bream Bay Guardians Comment

[29] Pages 7 and 8, Past Heritage Memorandum Dated 15 May 2026 attached as part of the Bream Bay Guardians Comment

95. Te Rūnanga Papa Atawhai o Te Tai Tokerau seek that if consent is granted then this "*be conditional on predetermined measurable and monitored regional economic and social benefits being met for the consent's duration*."

96. In my opinion, such a condition cannot be set. Even if such a condition was to be imposed, I do not know what the parameters for measuring the regional economic and social benefits would be and no such parameters have been recommended in the comments.

97. The monitoring of the coastline and coastal dune systems has been addressed in the Statement of Evidence Responding to Comments of Mr Reinen-Hamill/Dr Beetham. Te Rūnanga Papa Atawhai o Te Tai Tokerau also seek monitoring of any potential adverse effects on tara iti and other Threatened and At-Risk species but without expanding on the nature or scope of monitoring they are seeking. It remains my opinion based on the Potential Effects on Seabirds and Shorebirds Assessment included in the Application and the Statement of Evidence Responding to Comments of Dr Thompson that such monitoring is unnecessary.

98. Te Rūnanga Papa Atawhai o Te Tai Tokerau also seek a "*substantially reduced consent duration with mandatory review periods and clearly defined environmental trigger thresholds.*" I do not consider there is a basis for a reduced consent duration period. The SEMR process provides for the regular monitoring and as outlined under Theme One the adaptive management approach has been enhanced through clearer linkages between monitoring outcomes and responses. Section 127 of the RMA (and as addressed under Recommended Condition 6) provides the ability for NRC to undertake reviews of the consent.

Recommended Wildlife Approval Conditions

99. DoC in the report to their Panel has outlined a series of changes to the recommended Wildlife Approval Conditions. These have been considered and a revised Attachment Thirty-Five – Recommended Wildlife Approval Conditions are attached as Attachments D (Tracked Version) and E (Clean Version).

100. Attachment F is a table documenting how the various recommendations by DoC have been addressed in the updated recommended Wildlife Approval conditions.

101. Culicia rubeola has been added when the specific corals which the Wildlife Approval is to cover are named. This reflects that this species will now also need to be included in any Wildlife Approval, given the recent identification of dead specimens within the extraction area.

102. I do not consider there is an environmental effects basis for limiting the Wildlife Approval to a duration of 3-years as sought by Te Rūnanga Papa Atawhai o Te Tai Tokerau[30].

Environmental Monitoring Management Plan ("EMMP")

103. As I have outlined under Theme One, the EMMP has been modified and expanded upon, so it better provides for an adaptive management approach and linkages between monitoring outcomes and responses. The updated EMMP is included as Attachment G (tracked version) and H (clean version).

104. The key changes in terms of the bathymetry and the ecological monitoring have been addressed respectively in the Statements of Evidence Responding to Comments of Mr Reinen-Hamill/Dr Beetham and Mr West. The key changes are:

a. A number of new definitions have been included in the glossary including those relating to the benthic monitoring and analysis and underwater soundscape.

b. The table of timing for SEMR Reports has been updated in Section 2.5 (Sand Extraction Monitoring Report) to reflect the recommended change in Condition 37.

c. The explanations in Section 3.1 (Monitoring for benthic ecology effects) has been expanded on for benthic communities including the addition of a definition for "Effects".

d. Expansion of Section 4.2 (Cell exclusion criteria).

e. Expansion of Section 4.3 (Cell reopening criteria).

f. Expansion of 5.8 (Written deliverables) has been expanded so it is clearer what the final PSEAR is to include in terms of responding to any comments from Te Parawhau ki Tai.

g. Expansion of the recommendations for bathymetry monitoring in the SEMR Section (6) and Section 6.2 in particular. A new section on recommendations

[30] Paragraph 3.2, Te Rūnanga Papa Atawhai o Te Tai Tokerau Comment

has been added. The former Section 6.1 (Written deliverables) has been shifted to the end of this section and expanded upon.

h. Section 6.10.2 (Methodology) has been expanded upon in terms of the plume monitoring. Section 6.10.5 (Monitoring and Reporting Schedule) which also relates to the plume monitoring has also been expanded upon to reflect new recommended Condition 31A.

i. Expansion of what information each SEMR is to include in Section 6.11 (SEMR Recommendations, Triggers and Management Responses). This now includes Table 1: Bathymetric Response Levels and Table 2: Benthic Ecological Response Levels (which I have addressed under Theme One).

j. Under Section 6.11.1 (Application of the Control Site Envelope and Weight of Evidence Application) a description of how an adverse ecological trajectory may be indicated for key taxa has been included.

k. Under Section 6.12 (SEMR addressing increase in extraction volume) a refinement of the criteria when assessing if the sand extraction cannot increase.

l. In Section 7.1 (Objective), the definition of underwater soundscape has been modified, and this is now also reflected in the glossary and the recommended conditions. Section 7.5 (Methodology for soundscape change assessment) has been refined, and these refinements are then reflected in Section 7.6 (Reporting).

m. Appendix F (Sensitive Benthic Communities) has been updated so it now includes Scallops separately and this change has also been made to Attachment Four of the recommended resource consent conditions.

Sand Extraction Operation Plan ("SEOP")

105. Minor updates to the SEOP (Attachment Twenty-Seven) have been undertaken. The updated SEOP is included as Attachment I (tracked version) and J (clean version). The key changes are:

a. Inclusion of definitions for EMMP and PSEAR in the Glossary of Terms.

b. Change to Section 2.3 (Operating Hours) to clarify the period of sand extraction and to include those public holiday (or the following Monday when relevant) when sand extraction is not to occur.

c. Minor change to Section 2.4 (3) (Method of Extraction) by providing the full wording for the Approved Sand Extraction Area

d. Change to Section 2.5.2 (Sand Extraction Rotation Methodology) with a more detailed explanation of the rotational methodology provided including an explanation of when minor lateral deviations and short sections of incidental overlap may occur. A new section on the sequencing of adjacent extraction tracks has been included. This is addressed in the Statement of Evidence to Comments by Mr Elstob (Paragraphs 19 – 25).

e. Changes to Section 2.6.3 (Internal Steps for Closing Cells), so the wording aligns with the revised recommended consent Condition 20.

f. Addition of Section 2.6.4 (Internal Steps to Reopen a Closed Cell). This reflects the revised recommended Condition 22.

Marine Mammal Management Plan ("MMMP")

106. A minor update to the MMMP (Attachment Twenty-Eight) has been undertaken. The updated MMMP is included as Attachment K (tracked version) and Attachment L (clean version). In Section 6.0 (page 12) the wording relating to the 100 m exclusion zone for large whales has been updated so that it now reflects the proposed change to recommended Condition 26.

Biosecurity Management Plan ("BMP")

107. Minor updates to the BMP (Attachment Thirty-One) have been undertaken in response to the comments from the Ministry for Primary Industries. The updated BMP is included as Attachment M (tracked version) and Attachment N (clean version). The key changes are:

a. Expansion of the scope (in Section 1.2) of the BMP by addressing the contingency planning for the detection and potential occurrence of unwanted organisms or other species of biosecurity concern.

b. Section 2.2 has been updated to reflect that seawater ballast will not be used during the sand extraction operation. Freshwater ballast will be used, and this is addressed in Section 2.3.

c. A new Section 4.0 (Contingency plan for the detection and potential occurrence of unwanted organisms) has been added. This also includes in Section 4.4 a specific response for the detection of *Caulerpa*.

Cup Coral Management Plan ("CCMP")

108. The CCMP has been updated so it now also covers the *Culicia rubeola*. This includes the following key changes

a. Section 1.0 has been expanded to cover *Culicia rubeola.*

b. Section 3.0 now includes a description of *Culicia rubeola* including its habitat. This is expanded upon in the new Section 3.3, with Figure 4 being a photograph of a *Culicia rubeola.*

c. Section 3.4 has been expanded and provides a description of the resilience of *Culicia rubeola.*

Theme Ten: Updated Cultural Impact Assessment Report for the Patuharakeke Te Iwi Trust Board

Theme	Related Parties
Updated Cultural Impact Assessment Report for the Patuharakeke Te Iwi Trust Board	Patuharakeke Te Iwi Trust Board and Ngātiwai Trust Board

Response:

109. I have read the final Cultural Impact Assessment Report prepared for the Patuharakeke Te Iwi Trust and McCallum Brothers Limited dated May 2026 and provided with the comments from Patuharakeke Te Iwi Trust Board and Ngātiwai Trust Board. I have addressed separately comments on the NZCPS under Theme Three, the Northland Regional Plan, under Theme Five and conditions under Theme Nine.

110. I recognise that it remains the opinion of the Patuharakeke Trust Board that sand extraction should not occur. In the AEE (Paragraph 1.18) I provided the summary statement

"There is differing opinion between the different iwi and hapū as to the nature and level of effects and whether resource consent should be granted. From a Te Ao Māori

perspective, it is recognised that some iwi/hapū consider that the project presents unacceptable cultural, ecological, and economic effects and there will be an adverse effect on customary authority, and customary rights/interests/practices. On this basis, the Ngātiwai Trust Board and the Patuharakeke Te Iwi Trust Board oppose the application as it currently stands.". Having read the final Cultural Impact Assessment Report, my opinion remains the same.

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David Hay

12 August 2026

Attachment A: Updated Attachment Twenty-Six – Recommended Resource Consent Conditions (Tracked)

Attachment B: Updated Attachment Twenty-Six – Recommended Resource Consent Conditions (Clean)

Attachment C: Table Summarising Change to Recommended Consent Conditions

Attachment D: Updated Attachment Thirty-Five – Recommended Wildlife Approval Conditions (Tracked)

Attachment E: Updated Attachment Thirty-Five – Recommended Wildlife Approval Conditions (Clean)

Attachment F: Table of Comments on DoC Recommended Changes to Wildlife Approval Conditions

Attachment G: Updated Attachment Twenty-Nine – Environmental Monitoring Management Plan ("EMMP") (Tracked)

Attachment H: Updated Attachment Twenty-Nine – Environmental Monitoring Management Plan ("EMMP") (Clean)

Attachment I: Updated Attachment Twenty-Seven – Sand Extraction Operation Plan ("SEOP") (Tracked)

Attachment J: Updated Attachment Twenty-Seven – Sand Extraction Operation Plan ("SEOP") (Clean)

Attachment K: Updated Attachment Twenty-Eight – Marine Mammal Management Plan ("MMMP") (Clean)

Attachment L: Updated Attachment Twenty-Eight – Marine Mammal Management Plan ("MMMP") (Tracked)

Attachment M: Updated Attachment Thirty-One – Biosecurity Management Plan ("BMP") (Tracked)

Attachment N: Updated Attachment Thirty-One – Biosecurity Management Plan ("BMP") (Clean)