



Te Kāwanatanga o Aotearoa
New Zealand Government

Your Comment on the Bream Bay Sand Extraction project application

Please include all the contact details listed below with your comments and indicate whether you can receive further communications from us by email at substantive@fastrack.govt.nz

1. Contact Details			
Please ensure that you have authority to comment on the application on behalf of those named on this form.			
Organisation name	Department of Conservation		
First name	Amy		
Last name	Robinson		
Postal address	PO Box 10420, Wellington 6140		
Mobile phone	██████████	Work phone	
Email	fast-track@doc.govt.nz and ██████████		
2. We will email you draft conditions of consent for your comment			
X	I can receive emails and my email address is correct	<input type="checkbox"/>	I cannot receive emails and my postal address is correct
3. Please provide your comments on this application			
Please find comments attached			

Jenni Fitzgerald
Fast-Track Applications Manager

Acting pursuant to delegated authority on behalf of the Director-General of Conservation.

Date: 26 May 2026

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

Comments on a fast-track consenting application

Fast-track Approvals Act 2024 section 53

To: The Expert Panel

From: Department of Conservation

Regarding fast-track project: Bream Bay Sand Extraction

Fast track Reference: FTAA-2511-1150

1 Overview

- 1.1 On 26 January 2026, McCallum Bros Ltd (MBL / the Applicant) lodged a substantive application with the Environmental Protection Authority (EPA) to extract sand from Bream Bay (the Project / application). On 17 February 2026, the EPA determined that the application was complete and complied with section 46(2) of the Fast-track Approvals Act 2024 (FTAA / the Act).
- 1.2 The application seeks to extract (using a motorised trailing suction dredge) up to approximately 150,000 m³/yr of sand for an initial period of three years and up to approximately 250,000 m³/yr thereafter, from a 15.4 km² area of seabed, at an approximate average seabed depth of 28 m¹ in the coastal marine area (CMA) of Bream Bay, Northland.
- 1.3 Approvals are sought in relation the Resource Management Act 1991 (RMA) and Wildlife Act 1953.
- 1.4 The specific approvals sought are understood to be for:
 - a. A resource consent (coastal permit) for sand extraction (and associated discharges) required under Rule C.1.5.13 of the Proposed Regional Plan for Northland (PRPN). This is a discretionary activity; and
 - b. A wildlife approval for the disturbance, capture, collection, and incidental killing of Scleractinian cup corals (*Kionotrochus suteri* and *Sphenotrochus ralphae*) (Cup Coral).
- 1.5 In accordance with sections 53(2)(k) and 53(2)(m)(i) of the Act, the Director-General of Conservation (D-G) has been invited to comment on the substantive application. Statutory delegations are in place for the Department of Conservation (DOC / the Department) to provide commentary on behalf of the D-G.

¹ The proposed sand extraction area is described as ranging from 22 m – 34 m seabed depth.

- 1.6 In its capacity as an administering agency DOC has addressed matters relating to the wildlife approval application in accordance with Section 51(2)(c) (s51 Report). These Section 53 comments will not unduly repeat the advice provided in that report.

2 Assessment

Coastal Processes Values and Assessment

- 2.1 The Department has requested Mr Samuel Morgan², of LDE Limited, provide expert advice on the Bream Bay Sand Extraction fast-track application (the application). Mr Morgan's statement of advice has been appended to these comments — Appendix A.
- 2.2 Te Ākau Bream Bay is considered to be a moderate energy coastline subject to maximum significant wave heights in the order of 6 m, predominately from the east-northeast to east, with shelter provided by Whangārei Heads to the north and Great Barrier Island and Coromandel Peninsula to the south.
- 2.3 The Department understands sand deposits in the embayment are relic from when the Waikato River mouth was situated at the base of the Firth of Thames and delivered sediment to the wider Hauraki Gulf basin.
- 2.4 As sea-level started to rise approximately 16,000 years ago these sediments became reactivated by coastal processes, and as sea-level stabilised 6-8,000 years ago the modern coastal geomorphic landforms developed. In some cases, reoccupying relic landforms.
- 2.5 There are no significant non-biogenic sand sources within the system.
- 2.6 As outlined in Attachment 8³ to the application, the Project has been advanced on the basis that sand extraction is to be undertaken seaward, or 'offshore' of the theoretical outer Depth of Closure (DoC) and Depth of Transport (DoT).
- 2.7 Broadly, the outer DoC represents the offshore limit of beach interaction with waves and sediment transport.
- 2.8 The DoT also represents the theoretical shore face boundary or offshore limit of beach interaction; however, it uses a method for calculating the seaward limit of sediment transport that is less conservative than the DoC. The DoT has been given more weight by Tonkin + Taylor in their assessment due to what they describe as improved use of physics in its formulation.

² Mr Morgan's qualifications and experience are set out at paragraphs 3 – 10 of Appendix A. He holds a Master of Science Degree (Hons) in Marine Science, specialising in Marine Geosciences, from the University of Auckland (UoA) and a General Environmental Practitioner Certification in the fields of coastal processes and coastal management under the Environment Institute of Australia and New Zealand scheme. Relevantly, he was Auckland Council's coastal processes expert witness in relation to Environment Court appeals on MBL's coastal permit applications to extract sand at Pakiri.

³ Attachment Eight — Te Ākau Bream Bay Sand Extraction: Coastal Process Effects Assessment — Tonkin + Taylor, Section

- 2.9 Mr Morgan broadly agrees with the use of the DoC to delineate the boundary of shoreline interaction with offshore sediment transport, noting it is likely to produce a more conservative finding than the DoT.
- 2.10 Mr Morgan's statement of advice seeks to answer the following key questions⁴:
- a. Is the proposed sand extraction deep enough so as not to affect the beach;
 - b. Is the quantity of sand being extracted enough to impact the beach and shoreline despite the extraction depth; and
 - c. What is the expected timeframe for sand from the outer limits of the outer DoC and deeper, to reach the upper shoreface, the surf zone and then the beach itself?
- 2.11 In answer to a. Mr Morgan concludes that the proposed extraction:
- sits at the edge or outside of the outer DoC...because of this the likelihood of effects being realised on upper shoreface and dry beach are considered to be low.*⁵
- 2.12 In other words, Mr Morgan agrees with the Tonkin + Taylor (T+T) conclusion on this point. Sand extraction from the proposed area is unlikely to result in noticeable erosion of the upper shoreface and dry beach. Noting a conclusion of low likelihood is not the same as ruling out the effect.
- 2.13 In terms of b. — impact of proposed extraction quantity on beach profile, Mr Morgan notes that no sediment budget is available or known for Bream Bay to be able to consider the scale of extraction activity in the context of the wider system of sedimentary sinks and sources (as was the case at Pākiri, for example). His analysis therefore focusses on whether the quantity of sand being extracted over the 35-year term would cause a change to seabed depth great enough to impact physical processes that are operating to transport sediment landward at the extraction area. In particular, he has assessed whether the drawdown of seabed depth would result in a change to the outer DoC to a point that the outer DoC could move seaward of the extraction area, and the proposed sand extraction could begin to impact the beach profile.
- 2.14 His conclusion is that quantity of sand being extracted is not of an amount that would offset the outer DoC (or close to) extraction depths.⁶ In other, words the quantity of sand extracted is also unlikely to result in a noticeable effect on the beach.
- 2.15 Regarding length of time it would take for sand from the extraction area to reach the beach (c.) Mr Morgan's opinion is that it would take several decades, or longer, to reach the upper and dry beach, whether or not extraction occurs. Therefore, Mr Morgan recommends monitoring for any shoreline erosion effects occurring in the lower shoreface, inner DoC and surf zone, to enable early detection of impacts arising from sand extraction, and corrective action prior to effects on the upper and dry beach being realised.

⁴ Statement of Sam Morgan, paragraph 27.

⁵ Statement of Sam Morgan, paragraph 51.

⁶ Statement of Sam Morgan, paragraph 60.

- 2.16 In answering the above key questions Mr Morgan has been able to address areas of specific concern, namely, coastal process effects on habitat for the Threatened - Nationally Critical⁷ New Zealand fairy tern (tara iti) and how coastal process effects will interact with climate change and sea-level rise.
- 2.17 Tara iti are further addressed below, in reliance on the expert statement of Dr Anthony Beauchamp⁸, where Dr Beauchamp confirms that the dry beach at Bream Bay is of importance to tara iti in terms of roosting and nesting, and that the Waipu and Ruakaka estuaries/river mouths are important breeding and management sites for tara iti. In that regard, Mr Morgan concludes that the likelihood of the proposed extraction having a discernible effect on the beach is low⁹, as noted above, and the likelihood of it having a discernible effect on the Waipu and Ruakaka river mouths is very low¹⁰.
- 2.18 Regarding climate change and sea level rise, Mr Morgan's opinion is that these factors will not increase the likelihood of adverse coastal process effects from the proposed sand extraction.

Shore Bird Values and Assessment

- 2.19 The Department has requested Dr Beauchamp provide expert advice in relation to potential effects of the Project on shorebirds and tara iti (Appendix B).
- 2.20 The Bream Bay sand mining application area is situated 4.98 km from the beach at Bream Bay and 6.25 km from Waipu and 5.0 km from Ruakaka estuaries, where there are breeding shorebirds and tara iti.
- 2.21 In Mr Beauchamp's opinion, Ruakaka Estuary is a very important spring high tide roosting site for all the c. 3500 Whangārei Harbour bar-tailed godwits (*Limosa lapponica*) and c. 380 red knots (*Calidris canutus*) and is an important post-roosting foraging site for red knot. The number of knot using the harbour has declined by over 90% which is likely due to the loss of estuaries in its migration route overseas.
- 2.22 Tara iti (*Sternula nereis davisae*) is the rarest breeding shorebird in New Zealand, with the highest threat status (Threatened - Nationally Critical). Tara iti have defended estuarine foraging territories and nest in scrapes in man-made shelled sites at Waipu.
- 2.23 Dr Beauchamp advises that in future the Department is likely to develop shelled areas to encourage more tara iti breeding at Waipu and to return breeding to Ruakaka estuary because current restoration of the population means that more breeding sites are required. Tara iti are plunge feeders in shallow estuaries and on the coastal margin.

⁷ Classified as such under the New Zealand Threat Classification System (NZTCS) 2021.

⁸ Dr Beauchamp's qualifications and experience are set out at paragraphs 3 – 7 in Appendix B. Relevantly, he was an expert witness on shorebirds and tara iti in relation to Environment Court appeals on MBL's coastal permit applications to extract sand at Pakiri.

⁹ Statement of Sam Morgan, paragraph 66.

¹⁰ Statement of Sam Morgan, paragraph 67.

- 2.24 Variable oystercatchers (*Haemotopus unicolour*) and northern New Zealand dotterels (*Anarhynchus obscurus aquilonius*) nest along the Bream Bay coastline, and both estuaries are wintering sites for dotterels. They nest at or above the high tide zone and forage on the coastline and in the estuaries.

Tara iti

- 2.25 Dr Beauchamp advises tara iti is a small tern of c.70 g. and is New Zealand's rarest breeding bird, as noted above it has a threat status of Threatened - Nationally Critical and the qualifiers Conservation dependent, Climate impact, Conservation research needed, Recruitment failure and Range restricted (Robertson *et al.* 2021)¹¹. Their core habitat includes the estuaries between Waipu and Pākiri and the Kaipara Harbour (as shown at Fig.1 in Appendix B).¹²
- 2.26 The tara iti population in March 2026 was 55 birds comprising 40 adults (18 females, 22 adult males), 9 pre-breeding second-year birds (three females, one 1 male and four unknown sex) and 11 first-year birds. The adult breeding population has not increased substantially over the past 20 years.¹³
- 2.27 Population modelling using the population composition in 2021-22 (11 females, seven immature females and two juvenile females) has shown that the factor driving population persistence (to 50 years) are changes to adult survivorship. However as adult survivorship is currently high at 86% per annum, there is limited room to improve population persistence by altering that parameter alone. However, any factor reducing adult survivorship would drive the population towards extinction.¹⁴
- 2.28 Dr Beauchamp further outlines the management strategy that DOC is following to assess whether population size can be enhanced and advises that the current demographic profile is expected to result in 10% of adult tara iti reaching 20 years old.¹⁵
- 2.29 Dr Beauchamp's statement addresses core habitat for tara iti (these areas include the Waipu and Ruakaka estuaries), which he notes have not been discussed in Attachment 13 to the application¹⁶ in terms of their importance for increasing the number of pairs and resilience of the population.
- 2.30 Mr Beauchamp makes clear that the Department requires new nesting sites at the Waipu and Ruakaka estuaries for an expected increase in breeding pairs (up to 14 in 2026-2027). These areas are therefore critical to the future recovery of the tara iti population.

¹¹ Robertson, H.A.; Baird K.A.; Elliott, G.P.; Hitchmough, R.A.; McArthur N.J, Makan T.D.; Miskelly, C.M.; O'Donnell, C.F.J.; Sagar, P.M.; Scofield, R.P.; Taylor G.A. Michel, P. 2021. Conservation status of birds in Aotearoa New Zealand, 2021. Department of Conservation.

¹² Statement of Dr Beauchamp Figure 1.

¹³ Statement of Dr Beauchamp paragraph [23]

¹⁴ Statement of Dr Beauchamp paragraph [25]

¹⁵ Statement of Dr Beauchamp paragraph [26]

¹⁶ Thompson, D., April 2025. Sand extraction in Te Ākau Bream Bay: Potential effect of seabirds and shorebirds. Prepared for McCallum Bros Ltd. NIWA.

Other shorebird values

- 2.31 At paragraphs 51 – 53 of his statement of advice Dr Beauchamp describes the other shorebird values within the Bream Bay area. Bream Bay has approximately 8% and 2.5% of the variable oystercatcher and northern New Zealand dotterel population, respectively (Reigen & Sagar 2020).
- 2.32 Ruakaka Estuary is a very important spring high tide roosting site for all the c. 3500 Whangārei Harbour bar-tailed godwits (*Limosa lapponica*) and c. 380 red knots (*Calidris canutus*) and is an important post roosting foraging site for knots. Dr Beauchamp also discusses the significance of Whangārei Harbour for shorebirds such as godwit and red knot.

Shorebird effects assessment

- 2.33 Dr Beauchamp confirms that if sand extraction did result in substantial erosion of the foredunes or significant changes to estuaries this could result in a “high impact” (significant adverse effect) on tara iti. However, as noted above Mr Morgan considers the likelihood of this outcome arising to be low.
- 2.34 Dr Beauchamp has confirmed his agreement with Dr Thompson (NIWA, Attachment 13) that the potential for tara iti to collide with the *William Fraser* is minor. In Dr Beauchamp’s opinion, tara iti are capable of avoiding a ship travelling at less than 10 knots.
- 2.35 Dr Beauchamp has more substantive concerns about the potential adverse effects of an oil spill from the *William Fraser* or another vessel involved in the proposed sand extraction on tara iti. While the likelihood of an impact from catastrophic failure of the *William Fraser* or any other ship involved in the proposed sand extraction may be remote, Dr Beauchamp has identified that the overall effect of a spill on tara iti would be “major”. In RMA terminology the Department considers an oil spill from the sand extraction vessel could amount to a significant adverse effect.
- 2.36 The reasons for this, and the very tenuous situation tara iti would face in the event of a large-scale oil spill, are further explained by Dr Beauchamp at 57 – 59 of his statement of advice.
- 2.37 To the extent that the Applicant has proposed Condition 34 and has prepared an “Oil Spill Contingency Plan”, it is common ground that adverse effects arising from an oil spill from the sand extraction vessel should be managed in accordance with the resource consent. This is primarily because the RMA defines “effect” in Section 3 as:

“In this Act, unless the context otherwise requires, the term effect includes—

- (a) any positive or adverse effect; and*
- (b) any temporary or permanent effect; and*
- (c) any past, present, or future effect; and*

(d) *any cumulative effect which arises over time or in combination with other effects - regardless of the scale, intensity, duration, or frequency of the effect, and also includes –*

(e) *any potential effect of high probability; and*

(f) ***any potential effect of low probability which has a high potential impact***
[DOC's emphasis in bold].

2.38 An oil spill, while of low probability would have a high potential impact on tara iti and would therefore fall into the category of a Section 3, clause (f) effect, which the Department says, should be managed under the proposed conditions. This matter is addressed further in section 6 below.

Seabird values and assessment

2.39 The Department has requested Mr Chris Gaskin¹⁷, an independent ecology expert, to provide technical advice in relation to effects on seabirds from the proposed sand extraction (Appendix C).

2.40 Mr Gaskin identifies Bream Bay as a high-value seabird foraging habitat of regional and national importance, supporting at least 34 seabird taxa, the majority of which are Threatened or At-Risk. He emphasises that the area functions as a key nearshore feeding hotspot, particularly for locally breeding species from adjacent island colonies, and that its importance is understated by Dr Thompson (Attachment 13) as no distinction is made between resident, migratory and pelagic species.

2.41 Mr Gaskin highlights the bay as a core foraging area for nearshore-dependent species such as kororā (little penguin) and pakahā (fluttering shearwater), for which the bay comprises a significant part of their accessible foraging range. More broadly, the bay supports a wide assemblage of resident and migratory seabirds, including species that forage in association with marine processes and cetaceans, and is therefore considered a critical feeding environment that is especially important for species constrained to coastal habitats and vulnerable to localised effects.

2.42 Mr Gaskin generally agrees that the effects identified by Dr Thompson are the relevant effects. He concurs that several effects are likely to be negligible or minor, including loss of terrestrial breeding habitat (outside of tara iti effects, re which he defers to Dr Beauchamp), airborne noise, and interactions with the extraction vessel where operations are confined to daylight hours and standard mitigation measures are applied. He also generally accepts that oil spill risks are low in likelihood, but like Dr Beauchamp for tara iti, he emphasises that the consequences for seabirds would be significant if such an event were to occur.

¹⁷ Mr Gaskin's qualifications and expertise are set out at paragraphs 3 – 4 of Appendix C.

2.43 However, Mr Gaskin considers that certain effects have been underestimated, particularly for locally breeding, nearshore-dependent species such as kororā (little penguin) and pakahā (fluttering shearwater). He concludes that exclusion from foraging habitat within the extraction area, changes to prey availability (including turbidity effects), and potential responses to underwater noise are likely to be more significant than assessed by Dr Thompson. In particular, he considers that the importance of Bream Bay as a core foraging area for these species has been understated, and that the potential for impacts on prey availability and marine food webs has not been adequately investigated, especially in the context of existing environmental pressures and cumulative effects.

Marine Mammal values and assessment

2.44 The Department has requested Mr Jochen Zaeschmar¹⁸, an independent ecology expert, to provide technical advice in relation to effects on marine mammals from the proposed sand extraction (Appendix D).

2.45 Mr Zaeschmar identifies Te Ākau Bream Bay as a high-value marine mammal habitat supporting at least 34 species, including several Threatened and At-Risk species such as coastal bottlenose dolphins and Bryde's whales. He notes that the area functions as a key foraging hotspot with high levels of occurrence, site fidelity, and critical behaviours (particularly foraging), based on both the Applicant's monitoring data and long-term research. In particular, bottlenose dolphins are shown to use the area intensively, with extended presence and repeated use by core individuals, indicating the sand extraction area and its surrounds comprise important, relatively undisturbed habitat within a wider region already subject to anthropogenic pressures.

2.46 The Applicant's assessment identifies eight potential effects (including underwater noise, habitat modification, ship strike, contaminants, debris, entanglement, lighting, and cumulative effects), and concludes that effects are generally negligible to low, with underwater noise representing the primary concern but still considered minor overall. Mr Zaeschmar broadly agrees that these effects have been appropriately identified and that risks such as ship strike, contaminants, debris, and entanglement are likely to be low with mitigation. However, he considers that key effects—particularly underwater noise and habitat modification—have been underestimated, given the ecological importance of the area and the intensity of marine mammal use.

2.47 He concludes that underwater noise is likely to result in behavioural disturbance and potential displacement, particularly for bottlenose dolphins and possibly Bryde's whales, and that the assumption effects will be minor due to species mobility does not adequately account for site fidelity and uneven use of home ranges. Similarly, he considers that habitat modification and associated changes in prey availability may lead to degradation of an

¹⁸ Mr Zaeschmar is a marine ecologist whose qualifications and expertise are set out at paragraphs 4 – 5 of Appendix D.

important foraging area, with displacement a plausible outcome. These effects are of concern given the long duration of the project (35 years) and the conservation status of affected species.

- 2.48 When considered cumulatively, Mr Zaeschmar concludes that the Project presents a real risk of cumulative impacts on marine mammals, noting parallels with other regions where similar stressors have contributed to population decline. He emphasises that displacement of at least some individuals, particularly bottlenose dolphins, cannot be ruled out, and that uncertainty remains high due to limited baseline data. Accordingly, he recommends a precautionary approach, including robust pre-commencement baseline monitoring and implementation of comprehensive, independent monitoring to enable adaptive management of effects.

3 Statutory Considerations

- 3.1 The substantive application identifies the statutory provisions relevant to an assessment of the Project. DOC, therefore, does not repeat that analysis here.
- 3.2 However, DOC highlights Policy 3 of the New Zealand Coastal Policy Statement 2010 (as amended in 2025) (NZCPS) is directly relevant to the application:

“Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse...”

- 3.3 As discussed, the application could give rise to several effects that are uncertain or little understood but may be significantly adverse. These include potential coastal erosion effects that could result in loss or reduction of habitat for Nationally Critical tara iti and other Threatened and At-Risk species.
- 3.4 It follows 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.
- 3.5 DOC’s technical experts have recommended a number of mitigation measures that follow a precautionary approach. These are explained in section 4 below and reflected in suggested condition amendments in section 5.
- 3.6 The importance of taking a precautionary approach is reinforced by Policy 11 of the NZCPS, which is also of direct relevance to the application.
- 3.7 Policy 11(a)(i), for example, requires avoidance of adverse effects on threatened and at-risk indigenous taxa —

“To protect indigenous biological diversity in the coastal environment:

(a) avoid adverse effects of activities on:

(i) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;”

- 3.8 The NZCPS 'avoid' policies have been described as setting an environmental bottom line, whereby there is a requirement to prevent the occurrence of adverse effects above the level of minor or transitory, on the relevant values¹⁹ addressed by those policies.
- 3.9 In DOC's view, regardless of the FTAA context, decision making on the application, and drafting of conditions should be undertaken with the aim of upholding these environmental bottom lines, particularly where the NZCPS Policy 11(a) matter of adverse effects on Nationally Critical tara iti is concerned.

DOC statutory matters

- 3.10 The relevant statutory documents under the Conservation Act 1987 were addressed in the s 51 Report. Those matters are not repeated here.

Treaty Obligations

- 3.11 DOC has provided an assessment of relevant Treaty of Waitangi settlement obligations in the s 51 Report. That assessment remains relevant to the wider application, including resource consent approval.

4 Effects Management

Coastal Processes effects management

- 4.1 Having reviewed technical assessments on a range of values, the Department's prime concern is that any adverse effect arising from the Project on Nationally Critical tara iti and their habitat be avoided.
- 4.2 That outcome relies on the appropriate management of coastal process effects, to ensure there is no erosion of the shoreface, dry beach and adjacent estuaries, resulting from the proposed sand extraction over its 35-year term.
- 4.3 Mr Morgan has assessed the likelihood of shore face and dry beach erosion as being low, however, low risk does not equate to avoidance of the effect.
- 4.4 In Mr Morgan's opinion, potential coastal process effects from the Project will remain uncertain and little understood without monitoring to confirm the theoretical conclusions made in the coastal process effects assessment. If they were to materialise, effects on tara iti and the coastal environment generally could be significantly adverse. Having regard to NZCPS Policy 3, a precautionary approach is appropriate.
- 4.5 Mr Morgan's key recommendation is that should bathymetric monitoring demonstrate successive annual lowering of the shoreface over the three-year monitoring period then extraction be restricted to beyond the maximum Annual Outer DoC (27 m water depth).

¹⁹ Being the values addressed in NZCPS Policies 11, 13 and 15 — indigenous biodiversity, natural character and natural features and landscapes respectively. See *Environmental Defence Society v The New Zealand King Salmon Co Ltd* [2014] NZSC 38 at [132]; *Port Otago Ltd v Environmental Defence Society* [2023] NZSC 112 at [64]; *Royal Forest and Bird Protection Society of NZ v NZ Transport Agency* [2024] NZSC 26.

- 4.6 Mr Morgan further recommends that should bathymetric monitoring demonstrate successive annual lowering over a further three years after the sand extraction has been restricted to beyond 27 m water depth, then a section 128 review condition should be triggered, and consideration should be given to halting sand extraction until the shoreface has recovered.
- 4.7 Regarding the proposed bathymetric monitoring Mr Morgan's opinion is that there is a lack of current knowledge about the degree of seabed fluctuations in any of the control sites or extraction areas such that linking the amount of change to the margin of error (being +/-0.15 m) is inappropriate. In Mr Morgan's opinion it would be more appropriate to refer to successive annual lowering over three years across any of the monitoring sites, including within the 100 m wide bathymetric control area, the northern control area and the southern control area.
- 4.8 DOC has suggested condition amendments to give effect to this recommendation, which are further discussed below.
- 4.9 To be clear this is not a request to move the proposed sand extraction area seaward. Its boundaries would remain as applied for but for the first three years of the Project the available area for sand extraction would be restricted to beyond 27 m deep within those boundaries.
- 4.10 For completeness, this means there would be no movement of sand extraction over the anchoring points for commercial vessels that are located seaward of the proposed extraction area.
- 4.11 There is no practical issue with extracting beyond 27 m depth within the proposed area (noting the area forms part of the application anyway) as at 6.35 the Assessment of Environmental Effects²⁰ confirms the *William Fraser* can extract sand in depths up to 38 m and the proposed extraction area is described as reaching no deeper than 34 m.
- 4.12 Mr Morgan has also recommended additional monitoring requirements for the duration of the Project and triggers to cease sand extraction, if necessary, based on lowering of the shoreface at the bathymetric control sites. To the extent practicable DOC has reflected these recommendations in its suggested condition amendments, however, in DOC's view, more information is required to establish an appropriate monitoring program and to determine how any observed shoreface erosion should be managed. DOC considers these issues could usefully form the basis for expert conferencing on coastal process effects and mitigation.

Shorebird effects management

- 4.13 Dr Beauchamp disagrees²¹ with Dr Thompson's suggestion²² that shorebirds would be safer than seabirds in the event of an oil spill from the sand extraction vessel. Dr Beauchamp refers to the *Rena* oil spill event where approximately half of the Bay of Plenty northern dotterel

²⁰ Te Ākau Bream Bay Sand Extraction Project - Resource Consent and Wildlife Approval Applications and Assessment of Effects under the Fast-track Approvals Act 2024. Pg. 33. Paragraph 6.35.

²¹ Dr Beauchamp Statement of Advice, paragraph [41]

²² NIWA, Attachment 13

population were required to be captured and held in captivity during the clean-up, as they likely would otherwise have been covered in oil. In Dr Beauchamp's opinion New Zealand dotterels and variable oystercatchers would be very vulnerable to oil spills during the August – March breeding season, and as outlined, tara iti would be highly vulnerable also.

- 4.14 Dr Beauchamp's key concern is that DOC be notified as early as possible so it can act to reduce effects on tara iti and other shore birds in the event of an oil spill from the sand extraction vessel. DOC has suggested additions to proposed Condition 33 to require this.
- 4.15 Dr Beauchamp also comments that coastal processes monitoring such as that to be funded under Condition 43 needs to be directed at the impacts on threatened wildlife habitat, rather than just broad trends of accretion or erosion of the wider beach environment.
- 4.16 As outlined, if Mr Morgan's recommendations for monitoring and responding to coastal process effects are implemented DOC's other concerns in relation to shorebirds will be addressed.

Seabird effects management

- 4.17 Mr Gaskin's key concerns are in relation to lighting effects on seabirds and displacement of certain species.
- 4.18 Mr Gaskin recommends amendments to conditions to prevent sand extraction from occurring after sunset. DOC has suggested changes to the proposed conditions accordingly.
- 4.19 Potential displacement effects are raised by Mr Gaskin. More consideration should be given to this matter, and if appropriate, mitigation should be provided. DOC notes Mr Gaskin's suggestion to capture and GPS track kororā and pakahā. Such a project would require a Wildlife Act authority. DOC has not proposed a condition to this effect but suggests that it is something the applicant could consider further, potentially in collaboration with a research institution, either on a voluntary or *Augier* basis.

Marine Mammal effects management

- 4.20 Mr Zaeschmar's effects assessment has identified an area where improvement in the proposed mitigation is required — soundscape monitoring and marine mammal monitoring.
- 4.21 Mr Zaeschmar refers to Condition 16 a) iv). This Condition identifies an objective of the Environmental Monitoring Management Plan (EMMP) is to confirm that underwater noise monitoring does not identify a soundscape change that exceeds 3 dB. As Mr Zaeschmar points out the integrity of this assessment relies on baseline data collection. The draft EMMP explains that data will be collected for two six-month periods both before commencement and during the extraction activity respectively (described as "*with Project/without Project*" measurements). The monitoring period before sand extraction begins is necessary to determine the baseline noise level against which any increase could be measured. As this baseline has not been established prior to grant of consent a condition prohibiting sand extraction from occurring until after completion of the six-month underwater noise survey (and council certification that it has been completed) is necessary.

- 4.22 Mr Zaeschmar refers to a statement in Attachment 29²³ where it is suggested sand extraction could commence in advance of “without Project” measurements being available. This would render the 3 dB exceedance limit meaningless. DOC reiterates the importance of a pre-commencement condition requiring the baseline survey.

5 Conditions

- 5.1 Reasons for the substantive changes to conditions that DOC is seeking are outlined in Section 4 above. DOC’s recommended amendments are shown in tracked changes in Appendix E and in Table 1 below. The amendments have been made to the conditions dated 11 May 2026, provided by MBL in response to the Panel’s first request for information (RFI).
- 5.2 For certain matters, particularly coastal processes, DOC’s view is that there are differences of expert opinion regarding monitoring and potential responses most appropriately to be set out in conditions, should the Panel be minded to approve the application. DOC considers it would be useful for the Panel to direct independently facilitated expert conferencing on coastal processes, at minimum, to progress these matters.
- 5.3 DOC is also mindful, that should the Panel indicate grant of approval at section 70 stage there will be another opportunity for section 53 parties to comment on the Panel’s draft conditions. The Department welcomes that opportunity should it arise.
- 5.4 DOC has reviewed Mr McMahon’s “SMART”²⁴ review of MBL’s proposed conditions. DOC generally agrees with the changes and comments made in that review, noting condition changes based on factual findings about effects and other substantive changes were not part of Mr McMahon’s brief and are properly the domain of the Panel until they have made the relevant determinations, at which point it is understood Mr McMahon would assist in reflecting the Panel’s findings in the conditions. As a result, DOC adopts and generally hasn’t repeated Mr McMahon’s changes/comments but has recommended other substantive changes where appropriate.
- 5.5 As a general proposition, DOC notes that conditions will need to address the following matters (without limitation):
- a) Effects basis – conditions will need to be clearly linked to the actual and potential coastal process, ecological (and other) effects.
 - b) Management Plans – management plan conditions should be in accordance with section 21 of the July 2025 Panel Conveners’ Practice and Procedure Guidance document²⁵.
 - c) Substantive decision making relevant to whether a consent or approval should or should not be granted cannot be delegated to a subsequent management

²³ Attachment 29 to application, Section 7.5, Point 5.

²⁴ SMART – conditions that are Specific, Measurable, Achievable, Relevant and Time based.

²⁵ Fast-track Approvals Act 2024: Panel Conveners’ Practice and Procedure Guidance (22 July 2025) at section 21.

plan approval or certification process, whether that is certification of a management plan by the Panel or a Council. Substantive decision making needs to be addressed either by grant or decline of approval, or where appropriate, within legally binding consent conditions.

- d) A clear process for certification of any management plan must be conditioned. While it is helpful that draft management plans have been made available to the Panel and s 53 parties, in DOC’s view, resource management plans should be certified by the Northland Regional Council (NRC) rather than the Panel as NRC will enforce the conditions. As conditions may change materially in the course of the fast-track process if consent is granted, the management plans are likely to need material updates to meet the conditions. NRC will be better placed to certify these updated plans post grant of approval.
- e) Triggers/thresholds for pre-determined intervention and additional effects management, including cessation of sand extraction should be included in the conditions.
- f) Monitoring – of coastal processes and accompanying intervention triggers need to be in effect over the 35-year duration.
- g) Monitoring of coastal process and other effects should be funded entirely by the Consent Holder, and generally be the Consent Holder’s responsibility, rather than NRC. NRC’s responsibility will be to ensure that Consent Holder complies with the resource consent conditions.
- h) Review conditions under sections 128 – 129 of the RMA should explicitly reference the effects that may be detected by monitoring (such as shoreface erosion) and be able to be implemented at any time those effects are engaged (without limiting the ability to review the consent for other unforeseen adverse effects).

5.6 Specific condition amendments suggested by DOC are shown in **red** while changes made by MBL, dated 11/05/2026 are shown in **green**. These are set out in Table 1 below:

Table 1.

Recommended Change		Reason for recommendation
Abbreviation/Term	Meaning/Definition	Addition to the abbreviations/definitions table above the proposed conditions to assist with interpretation of DOC’s

Recommended Change		Reason for recommendation																			
<p><u>Soundscape</u></p>	<p><u>Means all sounds within a specific area, including the spectral, temporal and spatial variation of biologically-generated sounds (termed biophony), natural sounds such as wind and rain (termed geophony) and man-made noise (termed anthrophony). At Te Ākau Bream Bay. For the purpose of this consent, the soundscape is comprised of fish, invertebrates and marine mammals (Bream Bay’s biophony), weather and sand movements make up its geophony and vessels (both commercial, shipping and recreational) control the anthrophony.</u></p>	<p>new “Underwater Soundscape Change Measurement and Assessment” Condition. This is the description of “soundscape” as applied to Te Ākau Bream Bay given in the Assessment of Underwater Noise Levels by Styles Group Limited (Attachment 11 to the application, executive summary, pg.5). DOC notes a broader (but in effect the same) definition has been given in Appendix A to that report (the glossary). DOC has used the descripton in the executive summary as it is specific to Bream Bay and therefore to these conditions.</p>																			
<p>Abbreviation/Term</p>	<p>Meaning/Definition</p>	<p>Addition to the abbreviations/definitions table above the proposed conditions to assist interpretation of DOC’s new “Underwater Soundscape Change Measurement and Assessment” Condition. The proposed Sound Scape Monitoring Location have been included. These location/coordinates are provided in the draft EMMP.</p>																			
<p><u>Soundscape Monitoring Locations</u></p>	<p><u>Two locations in the southern area of Te Ākau Bream Bay, approximately 1.5km apart, as the following coordinates:</u></p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">World Geodetic System 1984 EPGS:4326</th> <th colspan="2">New Zealand Transverse Mercator Projection EPGS:2193</th> </tr> <tr> <th>Latitude</th> <th>Longitude</th> <th>Northing</th> <th>Easting</th> </tr> </thead> <tbody> <tr> <td>Mark 1</td> <td>-36.025073</td> <td>174.550723</td> <td>6012157.276</td> <td>1739723.867</td> </tr> <tr> <td>Mark 2</td> <td>-36.014353</td> <td>174.524521</td> <td>6013383.690</td> <td>1737381.437</td> </tr> </tbody> </table>		World Geodetic System 1984 EPGS:4326		New Zealand Transverse Mercator Projection EPGS:2193		Latitude	Longitude	Northing	Easting	Mark 1	-36.025073	174.550723	6012157.276	1739723.867	Mark 2	-36.014353	174.524521	6013383.690	1737381.437	
	World Geodetic System 1984 EPGS:4326		New Zealand Transverse Mercator Projection EPGS:2193																		
	Latitude	Longitude	Northing	Easting																	
Mark 1	-36.025073	174.550723	6012157.276	1739723.867																	
Mark 2	-36.014353	174.524521	6013383.690	1737381.437																	

Recommended Change		Reason for recommendation				
<table border="1"> <thead> <tr> <th>Abbreviation/Term</th> <th>Meaning/Definition</th> </tr> </thead> <tbody> <tr> <td><u>Without Project Underwater Noise Measurements</u></td> <td><u>Continuous acoustic measurements for six months to quantify the soundscape without the Project</u></td> </tr> </tbody> </table>	Abbreviation/Term	Meaning/Definition	<u>Without Project Underwater Noise Measurements</u>	<u>Continuous acoustic measurements for six months to quantify the soundscape without the Project</u>		<p>Addition to the abbreviations/definitions table above the proposed conditions</p> <p>“Without Project Underwater Noise Measurements” have been defined to assist interpretation of DOC’s new “Underwater Soundscape Change Measurement and Assessment” Condition.</p>
Abbreviation/Term	Meaning/Definition					
<u>Without Project Underwater Noise Measurements</u>	<u>Continuous acoustic measurements for six months to quantify the soundscape without the Project</u>					
<p>1. General Accordance</p> <p>Except as provided for in the conditions below, the Project must be undertaken in general <u>accordance</u> with the information submitted with the Application and the Applicant’s responses to s67 of the FTAA requests for further information all listed in Attachment One to these conditions.</p>		<p>“In accordance” is more certain terminology.</p>				
<p>2. Inconsistency Between Information</p> <p>Where there is inconsistency between:</p> <ul style="list-style-type: none"> a) The information identified in Condition 1 and these <u>conditions</u>, these conditions must prevail; b) The information and plans lodged with the Application and further information provided post lodgment (but before the decision on the Application), the most recent information and plans must prevail; c) The draft management plans lodged with the Application and the management plans certified under their <u>accordance with the</u> conditions of this resource consent, the certified management plans must prevail; and d) A certified management plan and <u>these conditions, these</u> conditions must prevail. 		<p>As above.</p>				
<p>6. Review Condition</p>		<p>Deletion of “general” for the reasons outlined above.</p> <p>Addition in Condition 6 b) to explicitly link the review condition to the outcome of monitoring at the bathymetric control</p>				

Recommended Change	Reason for recommendation
<p>Council may, under section 128 of the RMA, initiate a review of any or all conditions of this resource consent within 60 working days following receipt by Council of an SEMR, or annually for those years when an SEMR is not required to be submitted or if Council determines that a condition of consent has been contravened.</p> <p>a) A review of conditions under clause a) is:</p> <ul style="list-style-type: none"> i) To deal with any adverse effect on the environment that may arise from the exercise of this resource consent and that is appropriate to deal with at a later stage; or ii) To deal with any significant unanticipated adverse effect on the environment which is identified in the SEMR. <p><u>b) A review of conditions under clause a) must be initiated if there is successive annual lowering over the three consecutive years, after the Project moves to water no shallower than 27 m depth, if that must occur in accordance with Condition 23, across any of the monitoring sites, including within the 100 m wide bathymetric control area, the northern control area and the southern control area.</u></p> <p>b/c) A review of conditions under clause a) may allow for the consideration of the following:</p> <ul style="list-style-type: none"> i) The modification of monitoring activities, including the frequency of the monitoring, the monitoring methodology and changes to technology used for the monitoring; ii) The deletion, amendment or addition of new conditions as necessary to avoid, remedy, mitigate, offset or compensate for any adverse effects; and iii) To require any remedial actions or alterations to the extraction activity to rectify that significant unanticipated adverse effect including, but not limited to, a reduction in the consented area, and/or annual extraction volumes, <u>and/or complete cessation of sand extraction for a defined period to allow for recovery of the</u> <p style="text-align: right;">7</p> <hr style="border: 1px solid black; margin: 20px 0;"/> <p><u>receiving environment.</u></p>	<p>sites and the requirements of Conditions [23] and [37].</p> <p>Addition to give effect to Mr Morgan's recommendation that in the worst-case sand extraction should cease to allow for recovery of the shoreface/dry beach and/or seabed if an unanticipated erosion effect arises.</p>

Recommended Change	Reason for recommendation
<p>MANAGEMENT PLANS AND AMEDEMMENT CERTIFICATION CONDITIONS</p> <p>11. Requirement for Certified Management Plans</p> <p><u>Where any condition(s) require the Consent Holder to submit a Management Plan to the Council for "certification" (including amended management plans for "re-certification" under Condition 13), it must mean the process set out in the following paragraphs a) to c) and the terms "certify" and "certified" have the equivalent meanings:</u></p> <p style="text-align: right;">9</p> <hr/> <p><u>a) The Consent Holder submits the management plan to the Council, and the Council assesses the documentation submitted;</u></p> <p><u>b) The process must be confined to confirming that the management plan gives effect to its objective, complies with the information requirements, and will achieve any performance standards specified in these condition(s); and</u></p> <p><u>c) The management plan is otherwise in accordance with Condition 1 and 14 – 19.</u></p>	<p>“Certification” condition to ensure the criteria by which management plans are certified (or certification is refused) is transparent and clear for all parties.</p> <p>As outlined at 6.5 above. DOC is of the view that resource consent management plans should be certified by the Council rather than the Panel.</p>
<p><u>12.</u> The following Management Plans, <u>prior to certification</u> under Conditions <u>11 and 14</u> to <u>19</u>, must be updated to reference the final consent number, the relevant condition numbers and any other changes required to reflect the final conditions of this consent:</p> <ul style="list-style-type: none"> a) Biosecurity Management Plan (BMP). b) Cup Coral Management Plan (CCMP). c) Environmental Monitoring Management Plan (EMMP). d) Marine Mammal Management Plan (MMMP). e) Sand Extraction Operation Plan (SEOP) including the Lighting Management Plan (LMP). <p>The Consent Holder must implement the certified management <u>plans</u> and all <u>sand extraction, other works</u>, monitoring and reporting must be carried out in <u>general</u> accordance <u>with the conditions of this consent and</u> with the certified management plans required by this condition.</p>	<p>Consequential changes to the new certification condition above.</p> <p>Changes to explicitly refer to sand extraction previously the end of the Condition simply referred to all “works”. “Works” is not a defined term.</p>

Recommended Change	Reason for recommendation
<p>Minor Amendment to a Certified Management Plan for Administrative Purposes</p> <p>Any certified Management Plan may be amended to reflect a <u>minor change in operational methods or management of effects administrative change</u> without the need for re-Certification where:</p> <ul style="list-style-type: none"> a) The amendment/s have no, or a <i>de minimis</i> adverse effect on the environment; <u>and/or</u> b) The amendment is an administrative change, including nominating personnel. <p>Any management plan amended under this Condition must be provided to Council within 5 working days of the change. If Council determines that the amendments do not comply with a) or b) above, then the amendments are to be submitted for certification under Condition 13.</p>	<p>Change to a management plan without certification should only be for a minor administrative purpose such as that described in b). The condition should be met only when there is a <i>de minimis</i> effect on the environment and the change is administrative.</p>
<p>13. Certification of an Amendment to a Certified Management Plan</p> <p>Amendments to management plan(s) that do not meet the requirements of Condition 12 must be re-certified.</p> <p>The certification process must confirm that the amended management plan(s) <u>meets the relevant conditions of this consent, adequately</u> gives effect to its objectives <u>as contained in the relevant conditions</u> and <u>otherwise</u> contains the required information and methodologies to achieve these objectives and <u>any</u> relevant consent conditions.</p> <p><u>The Consent Holder must submit, in writing, the amendment to the Council for certification that the amendment meets the relevant condition(s), objectives and performance requirements contained therein.</u></p> <p>Advice Note: Should the Council determine that the amended management plan(s) submitted achieves the requirements of the relevant condition(s), the Council <u>may must</u> issue a written confirmation of certification to the consent holder. If the Council's Response is that it <u>is not able to</u> certify the amended management plan(s) it <u>may must</u> provide in writing the reasons why and any recommended changes.</p> <p>The Consent Holder <u>may must</u> consider any of the reasons and recommendations of the Council and <u>may</u> resubmit an amended management plan(s) to be certified. <u>Certification must be in accordance with the Conditions 11, 13 and 14 -19, where applicable,- The process outlined in this condition must be repeated until the Council is able to provide written confirmation that the management plan(s) has been certified.</u></p>	<p>Amendments to clarify the terms of recertification, in particular that conditions must met and given effect to. An alternative suggestion of this condition is:</p> <p><i>13. Amendments to management plan(s) that do not meet the requirements of Condition 12 must be re-certified.</i></p> <p><u><i>If an amendment to any certified management plan is required, the Consent Holder must re-certify the management plan in accordance with the process in Condition 11 above.</i></u></p>

Recommended Change	Reason for recommendation
	<p>Additions to ensure the consent holder explains how the amendment will meet the relevant conditions.</p> <p>Advice Note — Consent conditions shouldn't bind the Council as a matter of principle. This should be an advice note.</p> <p>Certification must be based on whether the management plan meets the consent condition(s). If the amendment does meet this test the Council simply can't certify it. A condition cannot bind the Consent Authority in the manner attempted here.</p>
<p>14. Biosecurity Management Plan (BMP)</p> <p>The certified BMP must be submitted to the Council for certification in accordance with the process in Condition 11 is the BMP Version 1, Dated 15/07/2025, or for recertification in accordance with the process in Condition 13. any subsequent recertified versions provided for under Condition 12 and 13. The objective of the BMP is to prevent the introduction or spread of marine pests through effective ballast water management and vessel maintenance practices.</p> <p>The BMP must include as a minimum:</p> <p style="text-align: right;">11.</p> <hr style="border: 1px solid black; margin: 10px 0;"/> <ul style="list-style-type: none"> a) Include a ballast water management plan. b) Address biofouling management. c) Address staff training. 	<p>Change to implement the recommended certification conditions above. This change will need to be made to all of the management plan conditions (14 - 19). It has not been repeated in tracked changes.</p> <p>Deletion of " include" in chapeau for readability.</p>

Recommended Change	Reason for recommendation
<p>15. Cup Coral Management Plan (CCMP)</p> <p>The certified CCMP is the CCMP Version 2, Dated 28/10/2025 or any subsequent recertified versions provided for under Condition 12 and 13. The objective of the CCMP is to avoid or <u>minimise</u> the risk of disturbance, possessing and incidental killing of <u>cCup cCoral</u> during both monitoring and sand extraction.</p> <p>The CCMP must include as a minimum:</p> <ul style="list-style-type: none"> a) The methodology and processes to <u>minimise</u> the disturbance, possession and incidental killing of cup corals during sand extraction, b) The methodology and processes to <u>measure coral status and abundance, and minimise</u> the disturbance, possessing and incidental killing of cup corals during monitoring. c) <u>Details of how incidental killing of protected corals will be detected and assessed outside of annual monitoring periods.</u> d) <u>A clear explanation of how monitoring will inform operational decisions and management responses.</u> e) <u>Any updates (where necessary) to be consistent with any approval required in accordance with the Wildlife Act 1953.</u> <p><u>Advice note: The Consent Holder must hold an approval under the Wildlife Act 1953 before disturbing, capturing, collecting and/or incidental killing of any Scleractinia cup corals. Any such activities will need to be undertaken in accordance with the requirements of that approval.</u></p>	<p>Changes for consistency with DOC's recommended wildlife approval conditions in Appendix A to the s51 Report.</p> <p>At 6.5.5 and 6.5.6 of the s51 Report DOC has indicated its preference for the wildlife approval to be granted for a term of no more than 10 years. If this is accepted by the Panel MBL would need to re-apply for wildlife approval over the 35 year life of the resource consent. This would likely be for a standard s53 wildlife permit. As the CCMP is intended to address both the relevant wildlife approval conditions and resource consent conditions it may need to be updated when this occurs (as the new wildlife permit may have additional conditions/CCMP requirements). This update may also trigger re-certification of the CCMP under resource consent Condition 13.</p>

Recommended Change	Reason for recommendation
<p>16. Environmental Monitoring Management Plan (EMMP) 12</p> <hr style="border: 1px solid lightgray; margin: 10px 0;"/> <p>The certified EMMP is the EMMP Version 1, Dated 4/07/2025, or any subsequent re-certified versions provided for under Condition 12 and 13. The objectives of the EMMP (Attachment Five) are:</p> <ul style="list-style-type: none"> a) To outline a monitoring programme to: <ul style="list-style-type: none"> i) Provide the baseline ecological and bathymetric information for subsequent monitoring. ii) Identify areas where sand extraction is not to be undertaken. iii) Identify benthic ecological or bathymetric changes arising from the sand extraction. iv) Identify beach wide erosion or accretion trends. The monitoring programme must survey the beach in its entirety. v) To confirm the underwater noise monitoring does not identify a soundscape change that exceeds 3db. vi) To confirm compliance with Condition 31 (Plume). 	<p>Addition to give effect to Mr Morgan’s recommendation in his statement of advice that a beach wide monitoring program should be prepared for monitoring beach erosion and accretion trends over the duration of the Project. As noted in DOC’s s53 comments expert conferencing on coastal processes could usefully consider the details of a beach wide monitoring programme.</p>

Recommended Change	Reason for recommendation
<p>b) Identify changes required to the sand extraction method to minimise any identified significant unanticipated adverse ecological, bathymetric and/or coastal processes effects on the environment.</p> <p>c) The EMMP must include as a minimum:</p> <ul style="list-style-type: none"> i) The requirement and methodology for a PSEAR. ii) The timing, monitoring methodology and reporting requirements for the SEMR. iii) The recommendation process within the SEMR for any changes to <u>the ASEA's</u> sand extraction methodology, monitoring and/or reporting as an outcome of monitoring findings. iv) The requirements for sand extraction and vessel tracking report. v) The requirements and methodology for underwater noise monitoring to measure the underwater noise soundscape change resulting from sand extraction activities <u>in accordance with Condition [17].</u> <p>The EMMP must be reviewed at least <u>at</u> year three, year five and then every five years by the Consent Holder. The reviewed EMMP is to<u>must</u> be submitted to the Council for certification in accordance with Condition 13.</p>	<p>The requirements have been set out in the new condition [17] proposed by DOC below.</p> <p>Consequential change due to new Condition [17] below.</p>
<p><u>17. Underwater Soundscape Change Measurement and Assessment</u></p> <p><u>The Project must not result in a changed monthly soundscape at the Soundscape Monitoring Locations by an average of more than 3db in all calendar months.</u></p> <p><u>At least 20 working days prior to commencement of the Project the Consent Holder must submit the monitoring results of the Without Project Soundscape Measurements to the Council for certification. Certification must be based on evidence that the Without Project Soundscape Measurements have occurred continuously for six months without the Project.</u></p> <p><u>The Project must not commence prior to certification of the Without Project Soundscape Measurement results.</u></p> <p><u>The Consent Holder must submit the monitoring results of the With Project Soundscape Measurements to the Council for certification. Certification must be based on evidence that the With Project Soundscape Measurements have occurred continuously for six months during the Project.</u></p> <p><u>The Final Report on the Project Soundscape measurements must be submitted to Council within 8 months of sand extraction commencing.</u></p>	<p>New Condition to make the 3db soundscape change, as recommended in Attachment 11 to the Application, an environmental bottom line enforceable under a condition and to ensure the Project does not commence prior to the “Without Project Soundscape Measurements” being provided to the Council. Addition also to require provision of “Final Report” to the Council in accordance with the draft EMMP. The changes use the defined terms referred to above.</p>

Recommended Change	Reason for recommendation
<p>Marine Mammal Management Plan (MMMP)</p> <p>The certified MMMP is the MMMP Version 4, Dated 28/07/2025 or any subsequent re-certified versions provided for under Condition 12 and 13. The objective of the MMMP is to avoid or minimise the potential effects of sand extraction operations (including active extraction and transit) on marine mammals, including by minimising underwater noise.</p> <p>The MMMP must include as a minimum:</p> <ul style="list-style-type: none"> a) Procedures and methods to ensure that the <i>William Fraser</i> is maintained and operated to minimise underwater noise. a+b) Procedures and methods to ensure the Project does not result in a changed monthly soundscape at the Soundscape Monitoring Locations by an average of more than 3db in all calendar months. b+c) Methods employed to minimise the risk of marine mammal ship strike. e+d) Methods employed to minimise the risk of entanglement of marine mammals with the dredge head and associated underwater equipment. 	<p>Consequential amendment to the new condition above.</p>

23. Sand Extraction Volume and Area

The total volume of sand extracted (defined as the sand which is loaded into the William Fraser and transported from the Extraction Area) must not exceed 150,000 m³ per annum with a maximum sand extraction rate of 15,000 m³ per month from the date of commencement of sand extraction.

From 1 month after the certification of the SEMR which assesses a proposed change to increase the sand extraction volume Year 4 SEMR (under Condition 37), sand extraction cannot increase to 250,000 m³ per annum with a maximum sand extraction rate of 25,000 m³ per month if either of the following outcomes of monitoring are established:

- a) For each of the previous three consecutive years, annual sand extraction has not exceeded 145,000 m³, and monitoring ~~Monitoring for the previous three years~~ has identified ~~successive annual~~ lowering over the previous three years across any of the monitoring sites including within the 100 m wide bathymetric control area, the northern control area and the southern 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 or
- b) For each of the previous three consecutive years, annual sand extraction has not exceeded 145,000 m³ and or monitoring ~~Monitoring for the previous three years~~ 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

18

the northern, southern and ~~remote control sites~~).

~~b)~~

If the outcome of monitoring in a) is established (i.e., there is successive annual lowering over the previous three years across any of the monitoring sites, including within the 100 m wide bathymetric control area, the northern control area and the southern control area) the Project must then operate within the Extraction Area, in water no shallower than 27 m depth.

If the lowering described in a) continues to be observed over a subsequent three consecutive years (after the Project moves to operate in water no shallower than 27 m depth) then a s128 review condition must be initiated in accordance with Condition 6.

The maximum sand extraction volume per cell must not exceed 5000 m³ per annum.

The changes shown in green are from MBL, dated 11/05/2026.

DOC changes are shown in red.

Because of the double negatives, the start of Condition 23 a) and b) gets ambiguous. It appears it is intended to mean extraction must be over 145,000 m³. But it can also be read as meaning extraction must be under 145,000 m³ to trigger the condition. This needs attention.



See Mr Morgan's expert statement. Given the absence of a baseline dataset it is unrealistic and inappropriate to require attribution of shoreface lowering effects to the proposed sand extraction. The change is also to implement his recommendation at [78] of his statement of advice: "Given the lack of current knowledge about the degree of seabed fluctuations in any of the control sites or extraction area I do not think linking the amount of change to the margin of error is appropriate (being +/- 0.15m). It would be more appropriate for the trigger to be enacted should successive annual

Recommended Change	Reason for recommendation
	<p><i>lowering over three years of the seafloor”.</i></p> <p>As identified by Mr McMahon the effects referred to in a) and b) are distinct but either of them being observed should result in a block to increasing the volume of sand extraction.</p> <p>It is not clear what is being referred to as “remote control sites” at the end of b).</p> <p>Addition to implement Mr Morgan’s recommendation that successive annual lowering over the three year monitoring period across any of the monitoring sites, including within the 100 m wide bathymetric control area, the northern control area and the southern control area result in limiting of the Sand Extraction to beyond the Annual Outer DoC (27 m water depth).</p> <p>Addition to trigger a s128 review in accordance with Condition 6 in the event lowering continues after moving the Sand Extraction to beyond the Annual Outer DoC (27 m).</p>

Recommended Change	Reason for recommendation
<p>29. Hours of Sand Extraction</p> <p>Sand extraction must only occur before [civil twilight] or between the hours in a) and b), whichever is the earliest of:</p> <p>a) 1200 to 1800 during the months of April to September (inclusive); or b) 1200 to 2000 during the months of October to March (inclusive).</p> <p>A sand extraction event must not exceed 3½ hours from the time sand extraction commences. If there is a stoppage during the sand extraction, this</p> <p style="text-align: right;">20</p> <hr/> <p>period of time shall not be considered as part of the permitted 3½ hours sand extraction period.</p>	<p>Amendment to address the potential effects on seabirds of operating in Bream Bay after sunset, as recommended by Mr Gaskin.</p> <p>The intent of these amendments is to require Sand Extraction occur in daylight hours only.</p>
<p>33. Oil Spill Contingency Plan Requirement</p> <p>The William Fraser or any alternative vessel certified in accordance with</p> <p style="text-align: right;">21</p> <hr/> <p>Condition 43 must have at all times an Oil Spill Contingency Plan approved by Maritime New Zealand.</p> <p>In the event of an actual or likely Oil Spill from the William Fraser or any alternative vessel certified in accordance with Condition 43 the Consent Holder must notify the Council and DOC immediately.</p>	<p>Additions to address the issue raised by Dr Beauchamp in relation to immediately notifying the Department of Conservation in the event of an oil spill.</p> <p>While the term “likely” is acknowledged as being less certain Dr Beauchamp’s concern is that DOC, if possible, receive advanced warning of an impending oil spill prior to oil reaching the beach.</p>
<p>36. Soundscape Change Measurement and Assessment</p> <p>An underwater Soundscape Change Measurement and Assessment is to be undertaken in accordance with Section 7 of the EMMP. The final report on this monitoring programme must be submitted to Council within 8 months of sand extraction commencing.</p>	<p>Deleted as this condition has been replaced with a new Condition (new Condition 17) that sits between the EMMP Condition and the MMMP Condition since it is directly relevant to those documents. The new</p>

Recommended Change	Reason for recommendation
	condition ensures the “Without Project” soundscape measure will occur prior to commencement of the Project/sand extraction to obtain an appropriate baseline soundscape measurement.

Recommended Change	Reason for recommendation								
<p>37.36. Sand Extraction Monitoring Report (SEMR)</p> <p>The Consent Holder must prepare a SEMR for those ASEA's where sand extraction has occurred since the last SEMR monitoring in those years specified in Table One below.</p> <p>Table One: Years SEMR are Required</p> <table border="1" data-bbox="400 562 863 1010"> <tr> <td>SEMR Required</td> </tr> <tr> <td><u>If no increase in sand extraction volume is to occur during the life of the consent:</u></td> </tr> <tr> <td style="text-align: center;">Years 2-47 (inclusive)</td> </tr> <tr> <td><u>Then every 3rd year for the remainder of the period the consent is given effect to or at a lesser period if recommended in any SEMR.</u></td> </tr> <tr> <td><u>If an increase in sand extraction volume occurs:</u></td> </tr> <tr> <td><u>Annually for Year 2 onwards until 3 years after the increase in the sand extraction volume has commenced.</u></td> </tr> <tr> <td><u>Then every 3rd year for the remainder of the period the consent is given effect to or at a lesser period if recommended in any SEMR. Then every 3rd year for</u></td> </tr> </table> <p style="text-align: right;">23</p> <hr style="border: 1px solid gray; margin: 20px 0;"/> <table border="1" data-bbox="400 1279 863 1335"> <tr> <td><u>remainder of the period the consent is given effect to or at a lesser period if recommended in any SEMR.</u></td> </tr> </table> <p>The SEMR must be undertaken in accordance with the methodology outlined in the certified EMMP. The SEMR must include an updated ASEA Map and any recommended changes to the sand extraction method, volume, monitoring and reporting based on the findings of that SEMR.</p> <p>The Year 4 SEMR (or any subsequent For any SEMR's where an increase in the sand extraction volume is being proposed, and in accordance with Condition 23 is to be met, the SEMR) must address those matters required under Condition 23 to confirm if sand extraction can increase to 250,000 m³ per annum with a maximum sand extraction rate of 25,000 m³ per month <u>and the Project can operate within the Extraction Area, in water shallower than 27 m.</u></p>	SEMR Required	<u>If no increase in sand extraction volume is to occur during the life of the consent:</u>	Years 2-47 (inclusive)	<u>Then every 3rd year for the remainder of the period the consent is given effect to or at a lesser period if recommended in any SEMR.</u>	<u>If an increase in sand extraction volume occurs:</u>	<u>Annually for Year 2 onwards until 3 years after the increase in the sand extraction volume has commenced.</u>	<u>Then every 3rd year for the remainder of the period the consent is given effect to or at a lesser period if recommended in any SEMR. Then every 3rd year for</u>	<u>remainder of the period the consent is given effect to or at a lesser period if recommended in any SEMR.</u>	<p>Changes from MBL, dated 11/05/26 are shown in <u>green</u>.</p> <p>DOC changes are shown in <u>red</u>.</p> <p>Consequential amendments to reflect the changes to proposed Condition 23.</p>
SEMR Required									
<u>If no increase in sand extraction volume is to occur during the life of the consent:</u>									
Years 2-47 (inclusive)									
<u>Then every 3rd year for the remainder of the period the consent is given effect to or at a lesser period if recommended in any SEMR.</u>									
<u>If an increase in sand extraction volume occurs:</u>									
<u>Annually for Year 2 onwards until 3 years after the increase in the sand extraction volume has commenced.</u>									
<u>Then every 3rd year for the remainder of the period the consent is given effect to or at a lesser period if recommended in any SEMR. Then every 3rd year for</u>									
<u>remainder of the period the consent is given effect to or at a lesser period if recommended in any SEMR.</u>									

Recommended Change	Reason for recommendation
<p>42. Contribution to the Council Bream Bay Beach Profile Survey Programme (offered on an Augier basis) </p> <p>By the 30th of March each year from the commencement of sand extraction, the consent holder shall pay Council \$25,000 as a contribution to the current Bream Bay Beach Profile Survey programme undertaken twice per year by Council. </p> <p>This annual payment is not required <u>in the event that</u> Council ceases its Beach Profile Survey programme for Bream Bay. The contribution payable to the Council shall be adjusted annually with the adjustment based on the percentage change in the <u>All Groups</u> Consumer Price Index (CPI) for New Zealand, as published by Stats NZ, for the 12-month period ending in the quarter immediately preceding the adjustment date. The adjusted amount shall be calculated by applying the CPI percentage change to the previous year's payable amount.</p>	<p>In DOC's view, a beach profile survey programme is not an <i>Augier</i> matter.</p> <p>The need for beach profile monitoring is directly related to the potential adverse effects of the Project.</p> <p>Accordingly, the Panel may impose a monitoring condition requiring the Applicant to carry out such monitoring at its full cost and responsibility. DOC requests this condition be revised so that beach profile monitoring is carried out by the Applicant, in conjunction with other beach monitoring requirements DOC has written into the EMMP Condition.</p> <p>If the Panel decides this Condition should remain as drafted, see Mr Morgan's statement of advice where he identifies \$25,000/annum as a more realistic sum for funding a beach profile monitoring program.</p>

Pakiri offshore area sand extraction conditions

- 5.7 DOC was previously involved as a submitter on MBL's publicly notified consents made under the RMA (and the Auckland Unitary Plan—Operative in Part) to extract sand from the Mangawhai-Pākiri Embayment.
- 5.8 This included involvement in the Environment Court proceedings. To assist the Panel DOC has prepared a table comparing how effects are proposed to be managed under the Bream Bay conditions, dated 11 May 2026, with the latest version of MBL's proposed conditions for sand extraction from the "offshore"²⁶ area at Pākiri that DOC has on file.²⁷ This table is available at Appendix F. The Pākiri conditions themselves are also provided at Appendix G for context. These are simply provided to assist the panel to understand how sand extraction was proposed to be managed by MBL at Pākiri and how the proposed conditions for Bream Bay may have evolved subsequently.

6 Conclusion

- 6.1 Based on the technical reviews discussed above DOC considers that, although the application documents have used generally appropriate methodologies, they have underestimated effects and risks, and the effects management measures are not yet adequate take a precautionary approach.
- 6.2 These matters are largely resolvable by adopting the changes to the proposed consent conditions suggested by DOC and, where a gap in management of effects remains, adducing further information and resolving differences of expert opinion through the fast-track process.
- 6.3 DOC is open to continuing to work through the issues raised – either directly with the applicant, or through combined processes such as expert conferencing.
- 6.4 DOC hopes the Panel finds these comments helpful.

²⁶ Noting applications were made to extract sand from three areas at Pakiri — the "in-shore" extraction area was proposed to be within 5 m – 15 m depth, the "mid-shore" area was proposed to be within 15 m – 25 m depth and the "offshore" area was proposed to be within 25 m – 40 m depth. The offshore area is considered comparable with the Bream Bay application as that proposed extraction area was understood to be beyond the depth of closure at Pakiri.

²⁷ Noting the Pakiri offshore application was ultimately declined by the Environment Court so the conditions were at a draft stage and didn't take effect. They are dated July 2023.

7 Appendices

Appendix A: Coastal processes technical assessment, Sam Morgan, LDE Ltd

Appendix B: Shorebirds technical assessment, Dr Tony Beauchamp, DOC

Appendix C: Seabirds technical assessment, Chris Gaskin, Northern New Zealand Seabird Charitable Trust

Appendix D: Marine mammal ecology assessment, Jochen Zaeschmar, Independent marine ecologist

Appendix E: DOC's suggested amendments to proposed draft conditions

Appendix F: Comparison of 11 May 2026 Bream Bay proposed conditions with July 2023 Pakiri offshore area

Appendix G: Pakiri offshore area extraction proposed conditions, dated July 2023.

Appendix A: Coastal processes assessment

Appendix B: Shorebird assessment

Appendix C: Seabird assessment

Appendix D: Marine mammal assessment

Appendix E: DOC's suggested amendments to proposed draft conditions

Appendix F: Comparison of 11 May 2026 Bream Bay proposed conditions with July 2023 Pakiri offshore area

**Appendix G: Pakiri offshore area extraction proposed conditions,
dated July 2023.**