

From: [Whyte, Duncan](#)
To: [Louise Walker-5004](#)
Cc: [Peter Yealands](#); [Harkness, Richard](#); [Mabin, Mark](#); [Robinson, James \(Christchurch\)](#)
Subject: FW: Minute of the Hearing Panel - Port Clifford Limited
Date: Wednesday, 9 May 2018 6:15:56 p.m.
Attachments: [PMEP Minute of Hearing Panel - Minute 22.pdf](#)

Louise

Further to your email below and the attached minute of the hearing panel the opportunity to provide further information and comment has been considered. Port Clifford Limited do not believe that it is necessary to add anything further than has already been presented at the hearing except to reiterate matters already discussed and provide the following summary:

1. There is an existing Port Zone at this location that is much larger than the proposed pocket port that forms a part of the existing environment.
2. Ports must be developed in the coastal environment, and it is in an existing zone where it is all the more possible to develop a port where the test is to avoid, remedy or mitigate other adverse effects of activities described in Policy 11. All three options are allowed for. It is not to avoid significant adverse effects as required in the earlier part of Policy 11 (refer to the highlighted section below). That must be the case or there are other ports across New Zealand that would be constrained and no change would be permitted:

Policy 11 Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

(a) avoid adverse effects of activities on:

- (i) indigenous taxa⁴ that are listed as threatened⁵ or at risk in the New Zealand Threat Classification System lists;*
 - (ii) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
 - (iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare⁶;*
 - (iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
 - (v) areas containing nationally significant examples of indigenous community types; and*
 - (vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation; and*
- (b) avoid significant adverse effects and **avoid, remedy or mitigate other adverse effects of activities on:***

- (i) areas of predominantly indigenous vegetation in the coastal environment;*
- (ii) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
- (iii) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
- (iv) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
- (v) habitats, including areas and routes, important to migratory species; and*
- (vi) ecological corridors, and areas important for linking or maintaining biological values identified under this policy.*

3. If W78 is a coastal wetland providing indigenous habitat or the types of values as described in Policy 11, it has never previously been identified or discussed (refer to the Tranz Rail hearing or the WARMP).
4. An artificial channel from the area identified as W78 to Lake Grassmere has been long established as can be observed in historical aerial imagery. This may have drained water, or could also have taken water from Lake Grassmere to create an area identified as W78. No

information has been provided by MDC on how it was decided that this area has been identified as a Significant Wetland. The land is otherwise mainly within the Rural Environment Zone and currently grazed by stock, with the balance being in the Open Space Zone.

5. The decision of the Tranz Rail hearing was that a port is an appropriate use and development at this location and that public access to the dunes would be improved by the creation of a port. Policy 9 of the NZCPS specifically recognises and protects the operations of ports.
6. The location of the pocket port is arguably better for the increased separation it provides from Lake Grassmere and avoids significant adverse effects on that area and those are the significant adverse effects envisaged by Policy 11 of the NZCPS.
7. In the absence of information about whether W78 has the types of values envisaged by the NZCPS and that development of a port would have significant adverse effects, and since it is within the area of the harbour of a significantly larger Port Zone than the pocket port, the MDC is not constrained by the NZCPS or for any other reasons to accept the submission of PCL.

As a consequence, no further evidence is to be presented by PCL in this matter at this time.

Kind regards

Duncan Whyte

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From: Louise Walker-5004 [mailto:Louise.Walker@marlborough.govt.nz]
Sent: Friday, 27 April 2018 5:17 p.m.
To: Whyte, Duncan
Cc: Lawrence, Helen
Subject: Minute of the Hearing Panel - Port Clifford Limited

Good Afternoon,

Please find attached a minute of the MEP Hearing Panel for your consideration.

Kind regards

Louise Walker

MEP Hearing Facilitator



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