

Engagement report: Addressing matters of interest to Te Hapū o Ngāti Wheke with regard to the Lyttelton Port Company Coalyard air discharge consent

Prepared by Dyanna Jolly, July 2021, for Lyttelton Port Company and Te Hapū o Ngāti Wheke

Agreed as accurate by Te Hapū o Ngāti Wheke on 28.07.21 (email, Andrew Scott, General Manager)

Agreed as accurate by Lyttelton Port Company on 28.07.21 (email, Kim Kelleher, Head of Environment and Sustainability)

Background and purpose of this report

1. This report documents an engagement process between Lyttelton Port Company and Te Hapū o Ngāti Wheke¹ for the purposes of a replacement discharge to air consent for existing operations at the port coal stockyard (CRC 940431). The report is prepared in my capacity as MAG Coordinator (since 2014), as requested by both parties.
2. Lyttelton Port Company (LPC) and Te Hapū o Ngāti Wheke have a formalised relationship expressed in a Joint Statement 2014 and operationalised through a Manawhenua Advisory Group (MAG).
3. The Joint Statement confirms the importance of working together to protect Whakaraupō/ Lyttelton Harbour and its ability to provide for cultural, social and economic well-being, and thus enable future generations to realise the benefits of the partnership. The MAG was formed in 2014 to facilitate on-going engagement in a consistent and structured manner on both consenting and more strategic planning matters. The group has a Terms of Reference, consists of 4 representatives from each LPC and Te Hapū o Ngāti Wheke,² and meets every two months.
4. The coal yard resource consent application (dust emissions) was first raised at the August 2020 MAG meeting. LPC signalled intentions to prepare a replacement consent application, and requested MAG advice on how best to engage on this matter. Since that time, LPC and Te Hapū o Ngāti Wheke MAG members have worked together to identify and address matters of interest and importance with regards to the activity.
5. Importantly, Te Hapū o Ngāti Wheke determined a cultural impact assessment report (CIA) was not required. Rather, it was proposed (and agreed to by LPC) to trial a process whereby the MAG contributed directly to the scope and nature the assessment of effects process early in the planning stages. The process was assisted by the MAG coordinator, and resourced by LPC.

¹ Te Hapū o Ngāti Wheke used here to refer to the legal representative (Te Hapū o Ngāti Wheke Inc) of the hapū Ngāti Wheke.

² Current members: LPC – Roger Gray (CEO), Paul Monk (GM of Bulk Cargo and Marine Services; Chair), Kim Kelleher (Head of Environment and Sustainability), and Phil de Joux (General Manager, Environment and Sustainability); Ngāti Wheke – Henry Couch (Tangata Tiaki), Christina Henderson, Caine Tauwhare, and Isaac Fahey.

Engagement process

6. The Table below provides a timeline of key steps of the engagement process. While the process did not result in a formal cultural impact assessment report, it did cover the key requirements and elements of such a process. The strength of the approach adopted in this case was that it: a) was agreed to by both parties b) occurred early in the planning stages of the AEE thus enabling a proactive and positive role for Te Hapū o Ngāti Wheke, and c) was flexible and adaptable, and open to change if so required.

Table 1 Engagement timeline

Date	Key steps in the process
August 2020	LPC advised MAG of need to prepare resource consent application and requested advice on how best to engage. Agreement to organise site visit to discuss activity.
October 2020	Site visit held on October 2. Te Hapū o Ngāti Wheke advised that a CIA was not required, but that a list of issues and questions would be provided to LPC to help identify what technical work was needed for the assessment of effects on the environment.
November 2020	Te Hapū o Ngāti Wheke MAG representatives had an internal Hui on November 6 th , supported by Dy Jolly, to discuss what issues might be important to address in the assessment of effects on the environment.
November 2020	Te Hapū o Ngāti Wheke provided list of 24 questions for LPC to include in its assessment of effects for the forthcoming application (Appendix 1). These were discussed and agreed to at the November MAG meeting.
December 2020	LPC provided an initial written response to Te Hapū o Ngāti Wheke confirming the technical work that would be done.
February 2021	LPC provided updates on updates on consent application and technical work progress at February MAG meeting
April 2021	LPC provided further updates at April MAG meeting. Agreed that a Hui would be held once technical work completed (June 2021), to discuss the results of that work.
June 2021	Hui #1 – Te Hapū o Ngāti Wheke (via MAG representatives) and LPC discuss results of technical work.
June 2021	Hui #2 - Te Hapū o Ngāti Wheke (via MAG representatives) and LPC work through a consent duration assessment process, as set out in their <i>Joint Position Statement</i> on consent duration.
July 2021	Te Hapū o Ngāti Wheke and LPC agreement on consent duration and condition of consent.

Outcomes

7. At the first Hui (June 23, 2021), LPC and Te Hapū o Ngāti Wheke reviewed and discussed the results of the technical work, with specific reference to the 24 questions provided by the Rūnanga MAG representatives at the beginning of the process. Discussion topics included climate change, the nature of the coal resource, air quality, potential effects on the marine environment, stormwater monitoring, and dust suppression techniques. Importantly, the discussion was not limited to matters covered by the specific scope of the consent application, and this was seen as positive by both parties.
8. The outcomes of the June 23rd technical hui were:
 - a) The MAG has no further concerns on technical matters with regard to potential cultural or environmental effects;
 - b) Consent duration remained a matter for discussion; and
 - c) Both parties were supportive of the process used for this consent application.
9. Given these outcomes, it was agreed that the coalyard dust resource consent application presented an opportunity to test the process set out in the *Joint Position Paper on Consent Duration* (LPC and Te Hapū o Ngāti Wheke 2021).
10. The *Joint Position Paper on Consent Duration* was prepared in 2021, in response to the desire by LPC and Te Hapū o Ngāti Wheke for a consistent and guided approach determining an appropriate consent duration. The paper provides a process to co-assess a number of agreed matters of relevance, using information sources provided by both parties. While the preferred outcome from the process is an agreed consent duration; LPC retains the right to apply for a consent duration that is not agreed to, and Te Hapū o Ngāti Wheke retains the right to submit an alternative duration.
11. The consent duration Hui was held June 30th at Rāpaki. At this hui, LPC and Te Hapū o Ngāti Wheke MAG representatives worked through the co-assessment process. At the end of the process, it was agreed that:
 - a) There is a high degree of certainty that the effects of the activity on the environment and community are low/minor.
 - b) From a cultural perspective, Whakaraupō is a highly sensitive environment.
 - c) There are no viable alternatives to the activity.
 - d) There is high confidence that LPC will continue to adopt new technology as available.
 - e) While the activity is not consistent with the *Whaka-ora Healthy Harbour Plan* as it does have some effect on the environment, it is also not inconsistent as it does not impede the goals of the Plan.
 - f) LPC requires high degree of certainty for this consent, due to contract requirements and Te Hapū o Ngāti Wheke is comfortable with that reality.

- g) Te Hapū o Ngāti Wheke is confident that the activity will not affect mahinga kai, but there must be provisions to ensure a return to the table if things change, and 'make any wrongs right'.
 - h) There is a need to think beyond the people at the current table when planning for this consent.
 - i) Preference is for a specific consent condition to enable this, rather than stock standard consent review conditions.
12. A consent duration was not agreed on at this Hui. However, as anticipated from the co-assessment process, both LPC and Te Hapū o Ngāti Wheke were able to identify a duration they considered appropriate and explain the reasons why. LPC identified business forecasts as requiring a 25 year duration, and considered the existing nature of the activity (not new) and high understanding and confidence of effects as a reasonable basis for a longer period. Te Hapū o Ngāti Wheke identified a 15 year a consent duration as appropriate based on their assessment of the sensitivity of the environment and inability to predict the future. Given this, the parties agreed to give further thought to their positions to see if they could reach an acceptable position.
13. Discussions over the following week resulted in the following agreement:
- a) LPC to seek a 20 year consent duration for this application.
 - b) LPC to volunteer a consent condition to enable the collective consideration of monitoring results via the MAG; specifically that LPC and Te Hapū o Ngati Wheke would meet at least annually to discuss the results of monitoring information and to enable Te Hapū o Ngāti Wheke to raise any matters or provide feedback about the activity.
 - c) With these provisions, Te Hapū o Ngāti Wheke sees no reason to submit on the consent application.
14. Both parties recognises that the consent duration was not the preferred option, but appreciated the willingness of the other to reach a decision.
15. Te Hapū o Ngāti Wheke ratified this outcome (provided to the Rūnanga as MAG advice) on Sunday, July 11th, and advised LPC by email on July 12th.

Appendix 1: List of questions provided by Ngāti Wheke for the purposes of the AEE

1. To what degree is the watering of the coal stockpile effective at suppressing the emission of coal dust to air?
2. Does the watering of the coal stockpile take place 24/7?
3. What proportion of coal dust escapes the LPC treatment/suppression system?
4. How far is such dust capable of travelling?
5. In which direction is such dust most likely to travel to?
6. Under which weather patterns is the emission of coal dust to air most likely and most severe?
7. Under such conditions, whereabouts would the coal dust travel & settle?
8. Does LPC have any gauge of the extent to which coal dust, in the past, has escaped and entered the CMA (i.e., is there a coal dust legacy issue within the CMA)?
9. Has LPC undertaken any physical assessment of the existence and accumulation of coal dust within the marine environment adjoining the LPC operational area?
10. Is it possible that coal dust could be emitted to air and settle upon the LPC wharves, such that the dust could be discharged/washed into the CMA?
11. What are the effects upon ecosystem health of coal dust entering and accumulating in the CMA?
12. To what extent is it likely that, under the proposed conditions for the renewal consent, there will remain a possibility that coal dust could enter the CMA?
13. Is it feasible that a monitoring station(s), in or adjoining the CMA, could be installed so as to measure coal dust proximate to the CMA?
14. To what extent does the stormwater treatment system for the coal stockpile yard provide an assurance that all coal particles/dust will be captured and treated so that there is no residual escape of coal particles/dust beyond the stockpile yard?
15. What proportion of coal dust (if any) might be expected to escape the stormwater treatment system?
16. Where would such coal dust escape to?
17. To what extent is there a legacy of coal dust settlement upon the pine plantation directly behind the coal stockpile?
18. To what extent does this heighten the risk of fire?
19. What measures does LPC propose to address this matter?
20. What is the remaining lifespan of the adjoining pine plantation before it is harvested (does LPC know whether there is an intention to fell)?
21. What effect upon the emission of coal dust will the felling of the pine plantation have, and will the absence of the plantation mean that coal dust will travel unimpeded in the direction of the local community?
22. Is it proposed that a monitoring station be installed in or adjoining the pine plantation?
23. How will the actual and potential adverse effects of the stockpiling of coal be taken account of regarding LPC's 'biodiversity net gain' component of its Sustainability Strategy?
24. What approach and what other options will LPC look to detail in the assessment of alternatives within the AEE document?