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OFFSHORE MOORING TERMINAIS

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REFERENCE



Auckland Harbour Board Princes Court, Princes Street, Auckland, N. F.

GENERAL MANAGER'S OFFICE

15 February 1972

The Chief Executive Officer, New Zealand Ports Authority, P.O. Box 10059, WELLINGTON.

Dear Sir,

ENQUIRY ON OPERATION AND CONTROL OF OFFSHORE MOORING TERMINALS

The Board has studied the preliminary submissions made by the Harbours Association and whilst it supports these in most respects as they affect matters arising from the Waverley and Taharoa arrangements it wishes in this submission to take a wider view. In so doing it will nevertheless in the first instance attempt to answer the specific questions posed by the Authority in its Notice No. 1 dated 27 August 1971.

1. The best method of regulating the location, operation, control and supervision of future offshore mooring terminals in New Zealand waters.

There is little doubt in the Board's mind that the first essential is to enact regulations on a national basis which will specify the conditions for the regulating and managing of offshore mooring terminals.

2. The role of the Marine Department in controlling or supervising the location and operation of such future offshore mooring terminals.

The magnitude of potential users and extent of our coastline make it essential for Central Government, through its appropriate Departments, more particularly the Marine Department, to co-ordinate and produce the guidelines which local authorities and other agencies should operate, control and supervise the activities specified and provided for in the National Regulations.

3. The role of Harbour Boards in relation to the location and operation of such future offshore mooring terminals.

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3. (Cont.)

The form of local supervision and control should be flexible. Where an established harbour authority with substantial development resources is capable of undertaking the control and supervision of a particular offshore activity, then it is logical for that harbour board to manage and possess jurisdiction. This responsibility should however be one that comes within the scope of those powers available to Boards prescribed in the Harbours Act.

4. Navigational and safety matters relating to such offshore mooring terminals.

The present system whereby navigational aids and other matters affecting the safety of shipping is supervised by Harbour Boards under the General Harbour Regulations and appropriate statutes should prevail. Otherwise the jurisdiction and national control as presently exists through the Marine Department in the provision, supervision and control of shipping using our coastal waters can be pursued either in its present form or amended to suit.

5. The desirability in the public-interest of promoting legislation in relation to any of the foregoing matters.

The increase of the size of bulk handling ships will make it essential for the promotion of legislation to meet the special demands that these super ships will require in mooring and operating in deep and exposed waters off our coastline. There are probably many economic advantages available to New Zealand in catering for such circumstances.

6. Any other matters associated with or incidental to the operation and control of such future offshore mooring terminals.

There are many and diverse matters which need to be considered in providing for the reception and despatch of ships of such size and for the handling of cargoes which are incapable of being satisfactorily and economically transferred at established ports. In the concluding submission the Board has attempted to review these other matters which it feels should be considered by the Authority.

In these submissions the Board wishes to avoid matters of detail but essentially sees the importance of promoting legislation which will create a Coastal Management Act to provide policy objectives for all our coastal zones and to authorise local authorities whether they be harbour boards or territorial authorities to manage and supervise activities within coastal waters and adjacent land.

National and local government share the responsibility to develop a coastal zone plan which will reconcile and agree among competing interests and protect long term values. In varying degrees, Central Government and local authorities, possess the resources, administrative machinery, enforcement powers and con-

stitutional powers. Central Government, through appropriate legislation can provide guidelines for the various functions which need to be catered for. Among such functions the legislation should designate and reserve certain water areas for offshore shipping activities and should include the concept of fostering the widest possible variety of beneficial uses so as to maximize the net social return, whether this be in monetary terms or in public amenities.

The magnitude of drafting legislation to cover all our future coastal problems is immense. Furthermore the problems vary according to the nature of the area and it may not be possible to formulate a uniform approach and create powers to cover all circumstances. In certain relatively undeveloped areas of our coastline only planning or zoning will be necessary and in such areas it may be appropriate and convenient to leave the jurisdiction and control in Government's hands.

In others however the contiguous local authority, or in the case where shipping activity may be permitted, the harbour authority should have jurisdiction. In most cases Central Government's powers will be needed to preserve resources of national importance. In all cases appropriate zonings should be agreed and the right to grant easements and licences by which private and local government activity can be regulated in accordance with the approved plan. Such zoning procedures would provide an effective and practical tool for managing water uses in the same form as operates on land under the Town & Country Planning Legislation.

The proposal may also provide the opportunity to streamline and improve the present procedures employed in the granting of permits for various coastal land and water uses. Coastal Zone Authorities, whether they be territorial authorities or established harbour boards, could grant permits covering fishing areas, culture of oysters, removal of sand, shingle etc. In all these activities the overriding jurisdiction should come from Central Government through an appropriate Authority. Many government agencies already work or control activities in our coastal waters and thus become contributors to the problem. Government must therefore share in the responsibility of coastal management and ensure that vital interests as navigation, hydrography and defence, are not endangered by any delegation of authority. It is also in the national interest to understand the natural processes occurring in the nearshore environment in order to predict and to control man's effects on this environment.

Co-ordination between the Central and Local Government roles must be especially close in relating the navigational and shipping requirements of an area and the special skills employed by harbour boards in the provision and supervision of shipping and cargo activities must not be overlooked and allowed to be transferred to private enterprise without proper regulation and licensing procedures being agreed and executed.

...

Summarised therefore the Board feels that the Ports Authority should consider the problem in the widest sense. It should not be guided by any special interim arrangements made in respect of the two ironsand projects, but consider an overall policy which will cover the majority of eventualities. If the Authority decides to adopt such a course then it could well consider the suggestion made earlier in this submission for the establishment of a Coastal Management Act to provide objectives for the establishment of coastal zones and the establishment of suitable authorities with the following basic powers —

1. Planning	To make comprehensive plans for the coastal waters and
	adjacent lands and to conduct the necessary studies and
	investigations.

2.	Regulation	To zone, to grant licences, permits, and easements, and
		to exercise other necessary controls for ensuring that use
		of waters and adjacent lands is in conformity with the plan
		for the area.

3.	Acquisition	To acquire lands where public ownership is necessary to
		control their use.

4.	Development	To provide, either directly or by arrangement with other
		agencies, such facilities and structures and other waterfront
		public facilities as may be necessary provided such facilities
		come within the jurisdiction and are permitted activities of
		the particular coastal authority.

Finally the Board believes it is important that the Government refrain from assigning rights to overseas shipping and trading organisations which permit the development and operation of offshore mooring facilities without bringing such activities under the jurisdiction of a properly established Authority.

Yours faithfully,

R.T. Lorimer GENERAL MANAGER lew, Seagar M. Ju Commits alleded.

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TARANAKI HARBOURS BOARD

AUCKLAND HARROUR EDAND

SURTISSIONS TO THE NEW ZEALAND PORTS AUTHORITY IN REGARD TO:-

THE OPERATION AND CONTROL OF OFF SHORE MOORING TERMINALS

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- (1) The best method of regulating the location, operation, control and supervision of future off shore mooring terminals in New Zealand waters would be to grant Harbour Boards the right to control foreshores between mean high water mark and mean low water mark and the sea bed (including the waters thereon) for a distance of 10 miles from mean low water mark. The whole of the coastline of New Zealand and the waters for 10 miles out should be divided up in accordance with the foreshores bounded by existing Harbour Districts. It is contended that an off shore mooring terminal is a harbour facility or function since the transfer of goods from shore to ship, or vice versa, is at present the primary role of port authorities in New Zealand. In other words, where cargo and ships are involved, control should be exercised by the nearest Harbour Board. There should be a maritime policy for this subject, finally determined by Government.
- (2) Within the maritime policy suggested in (1) above, the Marine Department would continue to carry out its functions of control and supervision, presently exercised through various Acts and Regulations for which the Marine Department, through the Minister of Marine, is directly responsible. The Marine Department is already designed and organised for this function—it is not designed for the day to day management of a port, harbour or similar facility and it should not become involved on this basis. Any involvement would lead to the detriment of the Department's present overall functions.
- (3) The role of Harbour Boards in relation to the location and operation of off shore mooring terminals would be substantiated by the suggestions made in (1) above. Such division of foreshores and sea beds would mean the creation of "spheres of influence." It may be that certain Harbour Boards in New Zealand would not be in a position to undertake the administration of a major undertaking. In such a case, reference could be made to the New Zealand Ports Authority for determination as to which other Harbour Board should undertake the responsibilities.

The Harbour Boards must be in a position to know what is going on - they must be in a position to discuss with other parties such questions as servicing the off shore buoy, the placement of navigational aids, the servicing of the ship when tied to the buoy, the possibility of the record meeting the whole or part of the cost of the pipeline and buoy system. They must, in all cases, be in a position to negotiate the form of charge

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to be made for services rendered. Negotiation by the off shore interests should be primarily with the Marbour Board and not with the Marine Department.

- (4) Navigational and safety matters relating to off shore mooring terminals should be referred in the first instance to the local controlling Harbour Board. When these matters have been satisfactorily agreed to and approved by the local Harbour Board, reference to the Marine Department would then take place. Harbour Boards have the local knowledge needed to fulfil such functions.
- (5) It would be highly desirable in the public interest to promote legislation in relation to the suggested control by Harbour Boards. Such legislation would permit orderly planning. Harbour Board control, with necessary legislation, would prevent the likely proliferation of small type harbour authorities or districts as already established at Waverley and at Taharoa. Any attempt to form separate organisations to deal with individual undertakings must only lead to the formation of numerous semi autonomous authorities which could well overlap with existing port authorities and lead to complicating a situation which could be quite simply administered by an existing Harbour Board.

In regard to the promotion of legislation as suggested above, the Board is well aware of several Acts which have a bearing on this whole subject matter. These Acts and our Opinions in regard to same are set out hereunder:-

(a) Submarine Cables and Pipelines Protection Act:

This Act is primarily concerned with the protection of submarine cables and submarine pipelines. We do not think it has any great relevance to the general proposals under consideration.

We think that the Act ought to remain in its present form regardless of whether or not control of the sea bed and foreshore passes to Harbour Boards.

The Act's greatest local significance is that it would preserve present civil liability for damage to any cable which may be laid in connection with the Maui field. However, as stated this is of no significance in relation to the proposals under consideration.

(b) Mining Act 1926:
We are aware that this Act is at present being redrafted and

at the time of writing we understand that a Bill is currently before the House. In these circumstances we feel that experimental any consideration of its contents must necessarily be deferred and the new Act fully considered by the New Zealand Ports Authority in conjunction with Harbour Boards and/or the Harbours Association of New Zealand, when the present Bill is enacted.

(c) Iron and Steel Industry Act 1959:

This particular Act vests in the Crown the right to prospect for and mine ironsands in certain areas. The areas concerned all extend from the mean high water mark inland for a distance of 3 miles and there is, therefore, no fundamental conflict between this Act and the Board's proposals which deal with the creation of Harbour Districts extending seaward from the mean low water mark.

Harbour Boards throughout New Zealand are not happy with the arrangements entered into between Government and the Marcona Corporation concerning the export of ironsands from the Waipipi area. The knowledge of this Board leads us to believe that the Wanganui Harbour Board has little or no control over many aspects of this particular operation. If this Board's suggestions are implemented the present dissatisfaction could be overcome and Harbour Boards would have control of all aspects of such operations. In our opinion, and without at this stage going into the matter in detail, we think it important that this be achieved. We do not think that the present laissez-faire situation in such loading operations should continue and if this basic premise is accepted then it appears clear that the appropriate authorities for controlling such activities are Harbour Boards. It is merely to our mind an extension of control over areas of activity already traditionally within the ambit of Harbour Board control and regulation.

(d) The Territorial Sea and Fishing Zone Act 1965:

This is probably the most important Act which would affect the Board's proposals. The fundamental purpose of the Act is to define the limits of the territorial sea and fishing zone of New Zealand. Leaving aside such matters as the effect of the presence of bays, the territorial sea extends for a seawards distance of three nautical miles from mean low water mark. Section 7 of the Act vests the bed of the territorial sea in the Crown. It is proposed that control of the seabed be given to Boards for a distance of 10 miles from mean low water mark.

In our view this proposal is entirely reconcilable with Section 7 by leaving ownership of the seabed with the Crown but bringing in new legislation providing for control of the seabed by the appropriate Harbour Board. To achieve the necessary receptive attitude by Government to such a proposal it may be of assistance to suggest to the Government that such Board control could be subject to an over-riding Government control to be exercised by the Minister of Marine. Such Government control could be limited to matters of national importance but clearly this is a matter of negotiation and discussion between the Harbours Association and Government. In our view the legislation giving control to Boards should specifically outline (but without limitation) matters which fall within Board control, e.g. collection of revenue, imposition of safety requirements, imposition of loading limits, placement of off-shore mooring terminals etc.

The territorial sea is that area of the sea surrounding the coastline over which this country's Government has jurisdiction. Beyond the territorial sea are international high waters which as a general rule are not subject to the overall jurisdiction of nearby countries. Clearly, therefore, in order to implement the Board's proposals it will be necessary to amend the Act by extending the territorial sea from the present 3 mile limit to a 10 mile limit. We would mention that in carrying out such an action, problems can arise in that other countries are not always necessarily prepared to accept such extensions and obviously there has to be a reasonable distance limit to such extensions. In the event of dispute the matter can be referred to an international Court at The Hague which is/somewhat ineffective body having no really effective policing or enforcement procedures. While we mention this particular aspect we do not feel an extension to 10 miles is likely to cause any such problem.

The Territorial Sea and Fishing Zone Act also amends the definition of "harbour" contained in the Harbours Act and this amendment is now incorporated in Sub-section (2) of Section 2 of The Harbours Act. The amendment provides that the limits of any harbour or port shall not extend beyond the territorial sea and is an added reason for the necessity of extending the definition of "territorial sea" to a distance of 10 miles if Harbour Boards are to have the type of control mentioned for such a distance.

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(e) The Continental Shelf Act 1964:

This Act, broadly speaking, makes provision for the exploration

and exploitation of the continental shelf of New Zealand. The shelf is defined as being adjacent to the coast of New Zealand but beyond its territorial limits. In effect it also gives jurisdiction to this Country over the Continental Shelf as well as the territorial sea., If the Continental Shelf lies between the present territorial sea and the proposed 10 mile area (as we imagine it certainly would) then the definition of "continental shelf" as (inter alia) being "beyond the territorial limits of New Zealand" would still suffice to prevent any conflict between the provisions of the Act and control being vested in Harbour Boards because the Continental Shelf would still be beyond the proposed 10 mile limit. However, if the Government is not prepared to have the Act only being, in effect, effective for those parts of the Continental Shelf lying further than 10 miles from mean low water mark, then the Continental Shelf Act would almost certainly have to be amended to avoid conflict with the new Act which would have to be passed to give control as envisaged to Harbour Boards.

(f) The Petroleum Act 1937:

In our view, steps could be taken to amend Section 20 of this Act dealing with entry on land, seabed etc. for the purposes of the Act to provide that entry to the seabed is to be subject to permission of the appropriate Harbour Board instead of the Minister of Marine. This could be subject to consultation by the Board with the Minister before the Board deals with any application under the Section. This is a reversal of the present procedure under Subsections (3) and (6) which require applications to be made to the Minister who is then to consult with any public body controlling the appropriate area. The reversal of authority would, we feel bring the matter more in line with the concept of overall Harbour Board control.

The Board recognises at this stage it has only been able to deal with these legislative matters in a broad manner and would recognise that the proposals outlined will require detailed discussion with the Government. We believe that if the Government is prepared to accept and implement suggestions made, in the form of proper legislation, more detailed investigation should readily be undertaken into the form of the new legislation and consequential necessary amendments to existing legislation.

- (6) (a) The movement of vessels in connection with an off shore undertaking could well interfere with the normal traffic movements of an existing port. The Taranaki Harbours Board has already had experience in this respect concerning off shore oil exploration.
 - (b) When an operation is under way and administered by a Harbour Board, any individual employed by that Board and directly or indirectly involved in the operations must be responsible wholely and solely to the Harbour Board.
 - (c) Whilst appreciating that the suggestion of control by Harbour Boards will mean, in some cases, lengthy areas of foreshore to control and lengthy distances to be travelled to a possible off shore mooring system, the Harbour Board should be given the right to consider such matters in and for a particular location. The off shore interests should be compelled by legislation to approach the Harbour Board in the first instance, for discussion and agreement purposes. Any major difference of opinion in regard to modus operandi (including charges for services rendered) could be placed before the New Zealand Ports Authority and/or Minister of Marine, for Arbitration.

FOR AND ON BEHALF OF THE TARANAKT HARBOURS BOARD

J.G. Boddy, GENERAL MANAGER.

22nd October 1971.

ITEM 3

31 August 1971

The Chairman, General Purposes Committee, AUCKLAND HARBOUR BOARD.

INQUIRY ON OPERATION AND CONTROL OF OFFSHORE MOORING TERMINALS

We have been advised under date 27 August 1971 that the New Zealand Ports Authority in terms of its Act has been instructed by the Minister of Marine to enquire into and report to him on the operation and control of future offshore mooring terminals within New Zealand waters.

Undoubtedly this enquiry has been the outcome of recent negotiations and decisions made in respect of the pumping of ironsand at Waipipi and the projected scheme of a similar type for Taharoa. Other proposals including the pumping of oil have during the last few years been also the subject of discussion, and the Harbours Association has pressed the Minister that there should be some legislation and guidelines given which will permit the orderly development and control of such facilities, and if necessary that such control come within the jurisdiction of established Harbour Boards.

The New Zealand Ports Authority has accordingly written and invited submissions from all interested bodies and persons on -

- The best method of regulating the location, operation, control and supervision of future offshore mooring terminals in New Zealand waters;
- (2) The role of the Marine Department in controlling or supervising the location and operation of such future offshore mooring terminals;
- (3) The role of Harbour Boards in relation to the location and operation of such future offshore mooring terminals;
- (4) Navigational and safety matters relating to such offshore mooring terminals;
- (5) The desirability in the public-interest of promoting legislation in relation to any of the foregoing matters;
- (6) Any other matters associated with or incidental to the operation and control of such future offshore mooring terminals.

I consider it essential that the Board express its views on the role of Harbour Boards in relation to the control of these systems and that appropriate submissions be drafted.

It is further recommended that a Sub-Committee be set up to consider and approve these submissions when completed.

R.T. Lorimer

GENERAL MANAGER

NEW ZEALAND PORTS AUTHORITY MACARTHY TRUST BUILDING, LAMBTON QUAY, WELLINGTON Our Ref.51/2/19 Secretary P.O. Box 10059 27 August 1971. AUCKLAND HARBOUR MOARD The General Manager, Auckland Harbour Board, P.O. Box 1259, AUCKLAND. REC: 3 0 AUG 1971 ACKU Dear Sir, ANSD. OFFSHORE MOORING TERMINALS. The Minister of Marine and Fisheries has requested The New Zealand Ports Authority, established in pursuance of the New Zealand Ports Authority Act 1968, to consider and report to him on the operation and control of future offshore mooring terminals. The Authority has invited by public notice in the metropolitan and principal provincial newspapers, written submissions on the matters specified in the advertisement. A copy of the advertisement is enclosed for your information and convenience. Yours faithfully, Secretary to the Authority. Encl. In. MTSD.NM Thosas a Comi & Sera The Plo ACM Exthenses besi with copy of my are GP Em. 3//8/71 12.0. lev. Jeagar De for see please

NEW ZEALAND PORTS AUTHORITY.

INQUIRY ON OPERATION AND CONTROL OF OFFSHORE MOORING TERMINALS.

(Notice No. 1)

The Minister of Marine and Fisheries has in pursuance of the New Zealand Ports Authority Act 1968 requested the New Zealand Ports Authority to inquire into and report to the Minister on, the operation and control of future offshore mooring terminals within New Zealand waters.

The New Zealand Ports Authority accordingly invites written submissions from all interested bodies and persons on:

- (1) The best method of regulating the location, operation, control and supervision of future offshore mooring terminals in New Zealand waters;
 - (2) The role of the Marine Department in controlling or supervising the location and operation of future such offshore mooring terminals;
 - (3) The role of Harbour Boards in relation to the location and operation of future such offshore mooring terminals;
 - (4) Navigational and safety matters relating to such offshore mooring terminals;
 - (5) The desirability in the public interest of promoting legislation in relation to any of the foregoing matters;
 - (6) Any other matters associated with or incidental to the operation and control of future such offshore mooring terminals.

The Chairman, General Purposes Committee, AUCKLAND HARBOUR BOARD.

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The New Zealand Ports Authority has accordingly written and invited submissions from all interested bodies and persons on -

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> R.T. Lorimer GENERAL MANAGER

