

**Subject:** FW: Response re APP.041365.01.01 - DC Schmuck & Interesting Projects Ltd

The following is in response to the Commissioners response to a query from the applicants Counsel regarding provision of a public pontoon and subsequent advice regarding an additional condition or conditions addressing provision of public berthage associated with the proposed activities. The advice provided below is based on receipt and review of the applicant's Right of Reply documents provided under cover of email dated 25<sup>th</sup> September 2020 and, in particular, Mr Hoods statement regarding inclusion of a condition addressing public berthing as stated in paragraph 2 of that statement ('proposed condition'). I do not have comments to make on the legal submission made by the applicant's Legal Counsel.

Firstly, to confirm the issue of scope, I understand the intention is now to allow for temporary berthing by members of the public using the marina berth/s associated with the marina pontoon or marina mooring area. This does not introduce any new structure to the proposal as notified and considered at the time of the hearing. Rather, it simply provides for an additional potential use of the two marina berths while one or both of them are not occupied for any period of time. I consider that, for similar reasons to those outlined in my email to the Commissioner dated 16<sup>th</sup> September 2020, the use of that space as envisaged in the proposed condition is within scope of the application.

Secondly, I have discussed the matter of the proposed condition with NRC staff. I note that, in my opinion, an underlying premise is that the wording of the proposed condition, in conjunction with Condition 31, is to define what is considered to be reasonable public access on and through the coastal marine area in this location. While the proposed condition wording is somewhat unusual in terms of limitations on use and occupation, there is at least one similar situation in the Bay of Islands where a time limit is specified for occupancy of a wharf area for berthing, although it is for different operational reasons. As marina berths, they are expected to be leased to third parties by the consent holder. Given the 'rights' likely to be associated with those leases (as with most marina berths), it is appropriate that some limitations are imposed on any public use. The condition as presented is therefore acceptable on the basis that it does provide some scope for the public to utilise the marina berths if unoccupied and if required. While it is not stated, it is presumed that the consent holder cannot unreasonably withhold consent to any member of the public wishing to use a berth in accordance with the condition.

Lastly, the applicant has advised that the Total Marine plans provided with the draft conditions presented to the Commissioner are not correct. I understand the differences relate to annotations on the plan. The correct plans are attached and should replace the plans of the same NRC reference number previously provided to the Commissioner for consideration.

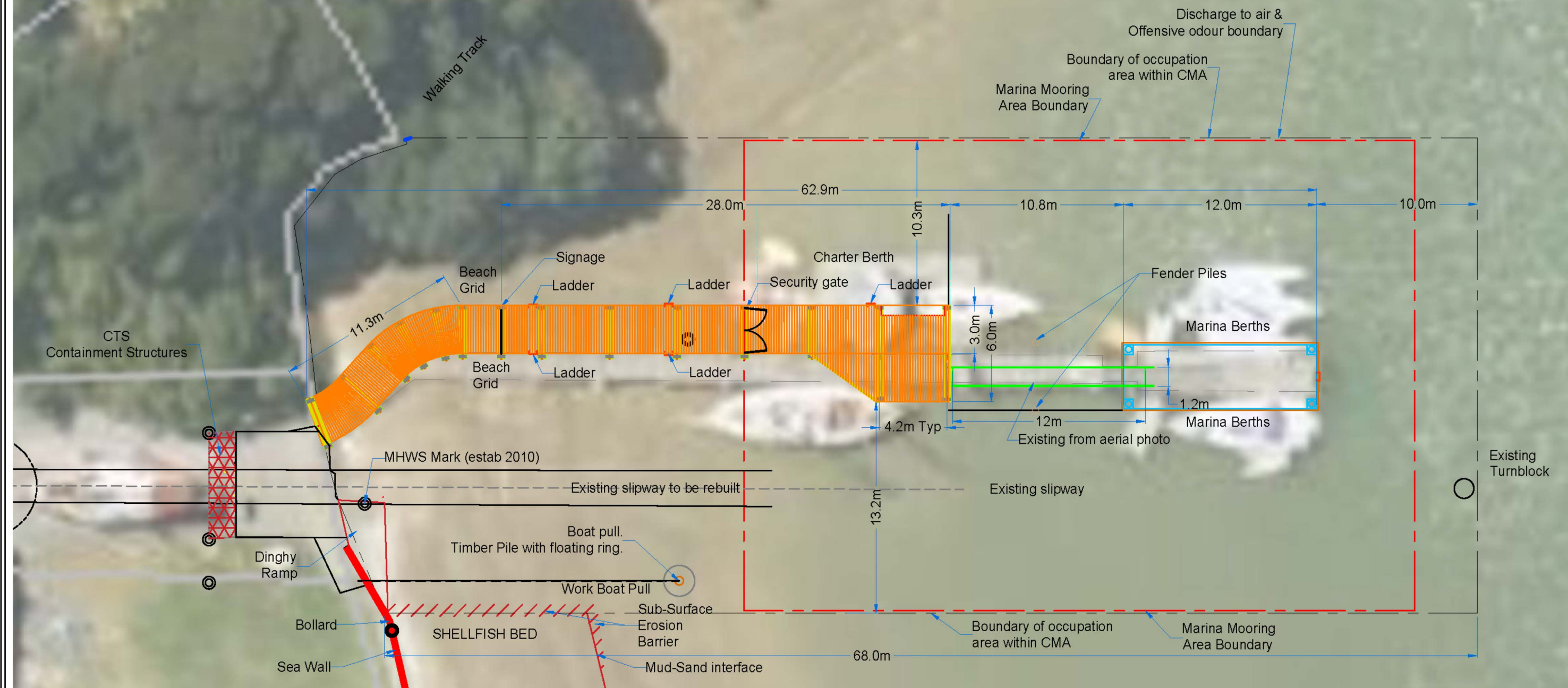
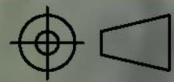
regards

Alister Hartstone BREP (Hons) MNZPI

☎ 0277555607

✉ [alister@setconsulting.co.nz](mailto:alister@setconsulting.co.nz)



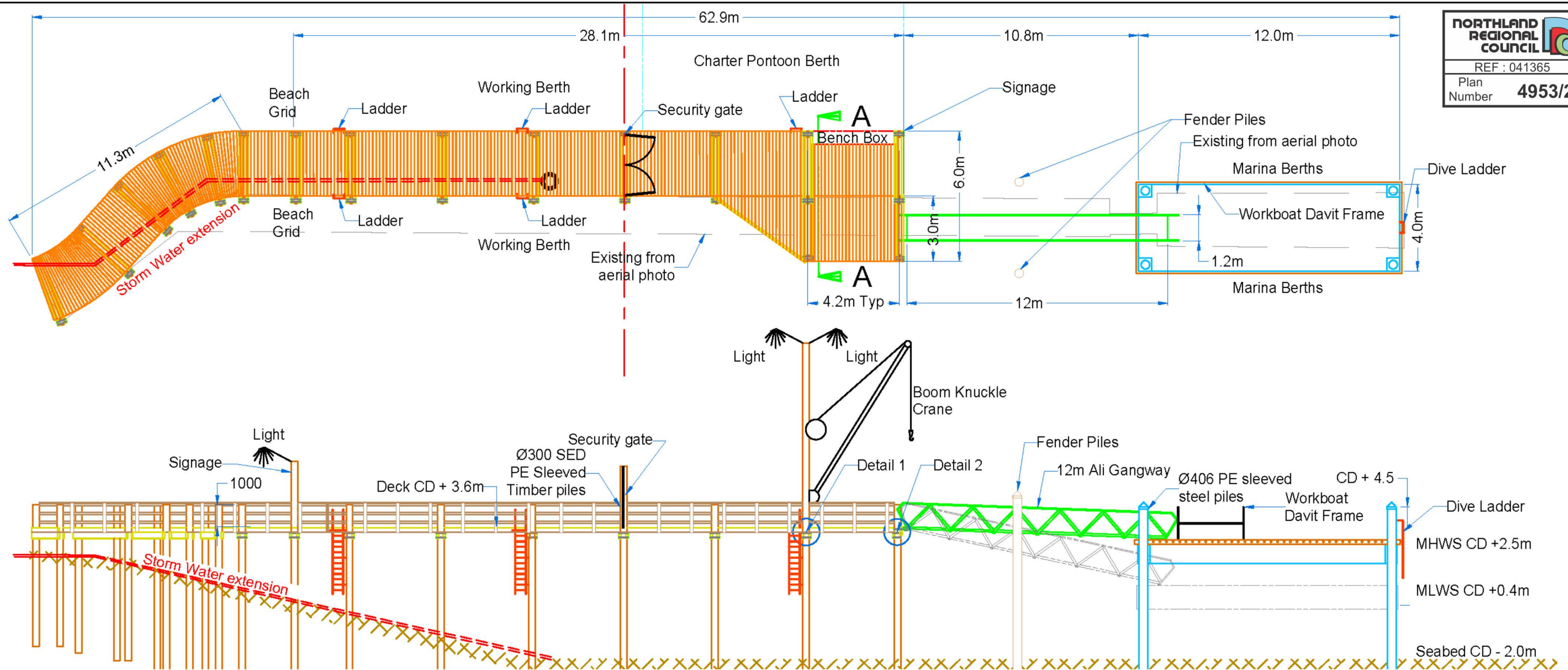
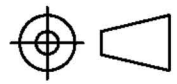


Rev	Date	Description	Check	App					
10	17/01/2019	MOVE DRAIN, PONTOON BERTH, SECURITY GATE & MOORING AREA	WNMAJ						
11	17/01/2019	REMOVE CONCRETE SLIPWAY CAPPING	WNMAJ						
12	27/05/2019	ADDED BEACH GRID NOTE	CC	AJ					
13	28/05/2020	ADDED FENDER PILES TO PROTECT GANGWAY	CC	AJ					

Drawing No:	0155-0504-0001-0001	Scale:	1:250
Date:	28/05/2020	Client:	Doug's Opua Boatyard
		Drawn by:	Craig Cave

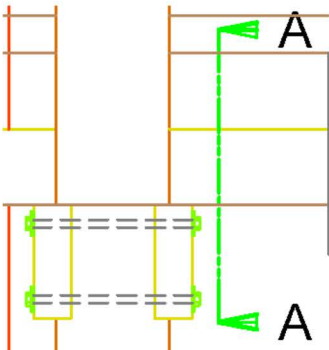
© All designs and calculations contained in this plan are the sole and wholly owned intellectual property of Total Marine Services Ltd, New Zealand.		<b>TOTAL MARINE</b> SERVICES LTD		APP-039650-01-01 Sheet 0001	
				Structural Site Aerial Overlay	





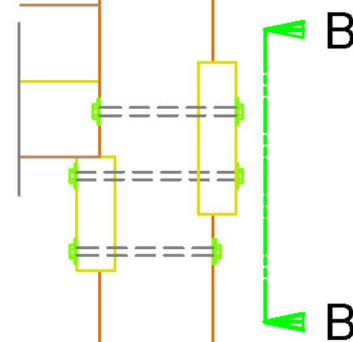
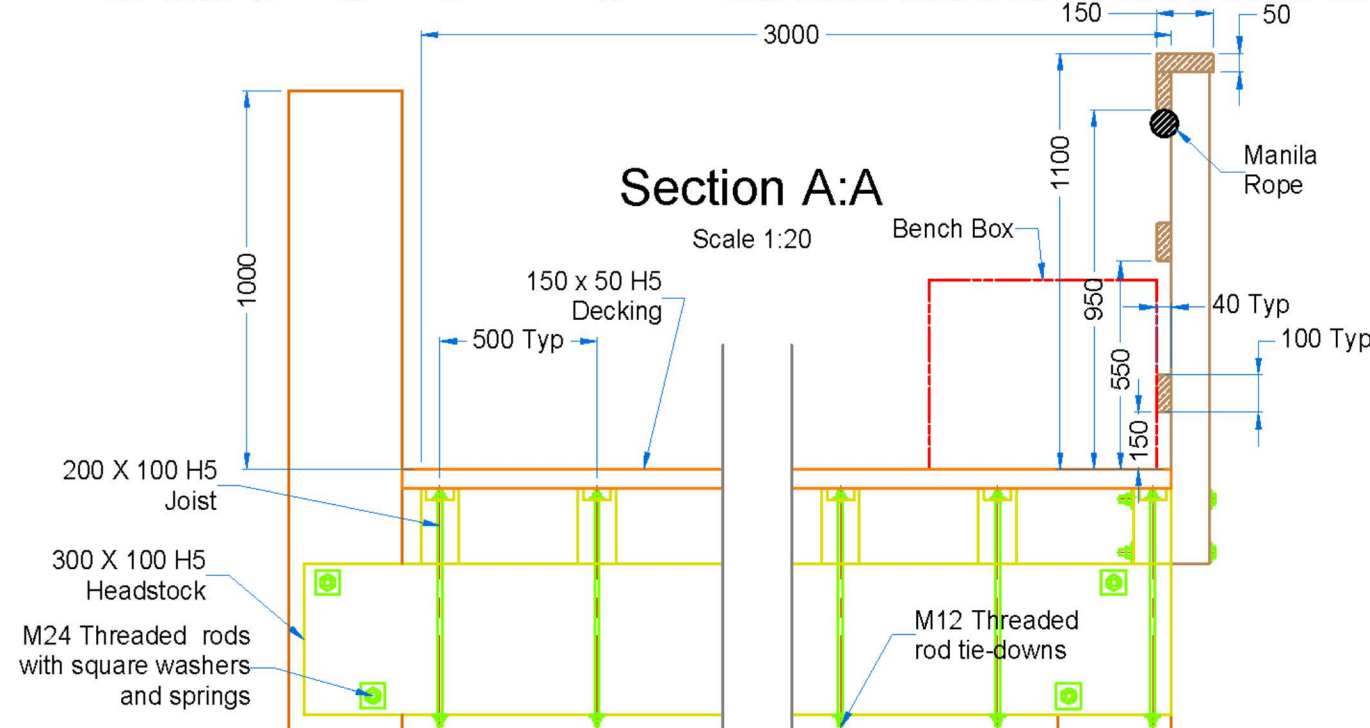
### Detail 1 Typical Jetty construction

Scale 1:20



### Section A:A

Scale 1:20

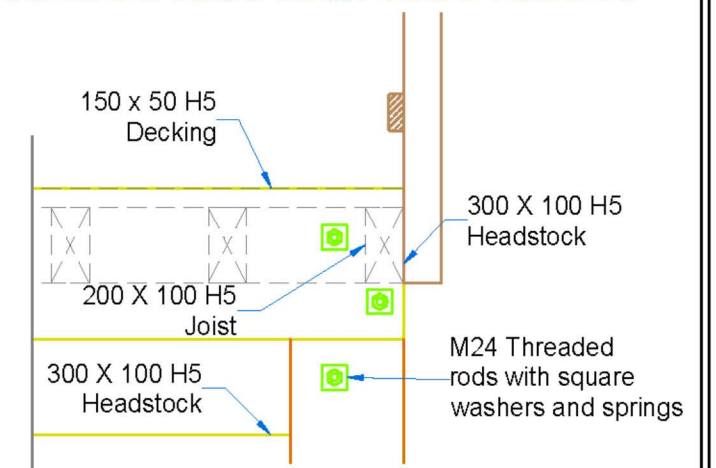


### Detail 2 Gangway Abutment

Scale 1:20

### Section B:B

Scale 1:20



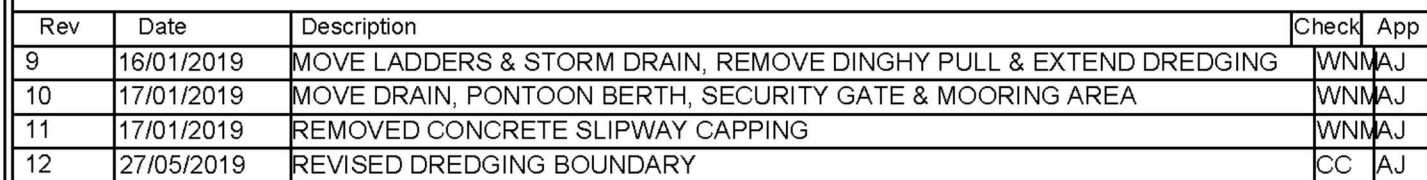
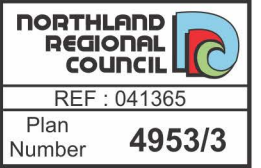
Rev	Date	Description	Check	App
11	17/01/2019	REMOVED CONCRETE SLIPWAY CAPPING	WNMAJ	
12	27/03/2019	ADDED HANDRAIL TO SIDE ELEVATION	CC	AJ
13	27/05/2019	ADDED BEACH GRID NOTE AND SLEEVE NOT TO TIMBER PILES	CC	AJ
14	28/05/2020	ADDED FENDER PILES TO PROTECT GANGWAY	CC	AJ

Drawing No: 0155-0504-0002  
Date: 28/05/2020

Scale: 1:200 & 1:20  
Client: Doug's Opua Boatyard  
Drawn by: Craig Cave



APP-039650-01-01 Sheet 0002  
General Structural Arrangement



Drawing No:	0155-0504-0003	Scale:	1:600
Date:	28/05/2020	Client:	Doug's Opua Boatyard
		Drawn by:	Craig Cave

© All designs and calculations contained in this plan are the sole and wholly owned intellectual property of Toti Marine Services Ltd, New Zealand.



APP-039650-01-01 Sheet 0003
Dredging & Mooring management Plan



Rev	Date	Description	Check	App
9	16/01/2019	MOVE LADDERS & STORM DRAIN, REMOVE DINGHY PULL & EXTEND DREDGING	WNM	AJ
10	17/01/2019	MOVE DRAIN, PONTOON BERTH, SECURITY GATE & MOORING AREA	WNM	AJ
11	17/01/2019	REMOVED CONCRETE SLIPWAY CAPPING	WNM	AJ
12	27/05/2019	REVISED DREDGE BOUNDARY	CC	AJ

Drawing No:	0155-0504-0005
Date:	28/05/2020
© All designs and calculations contained in this plan Marine Services Ltd, New Zealand.	

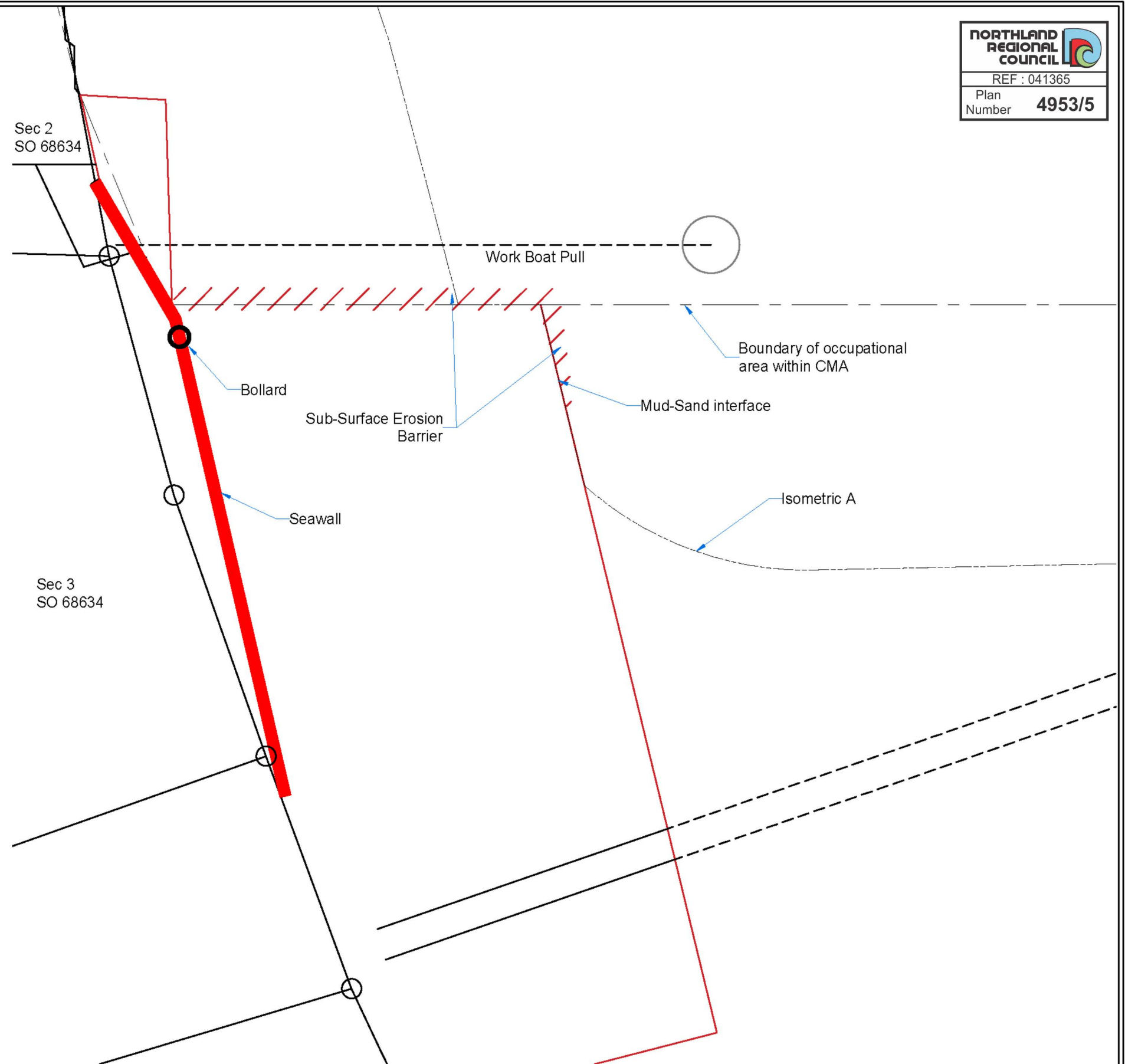
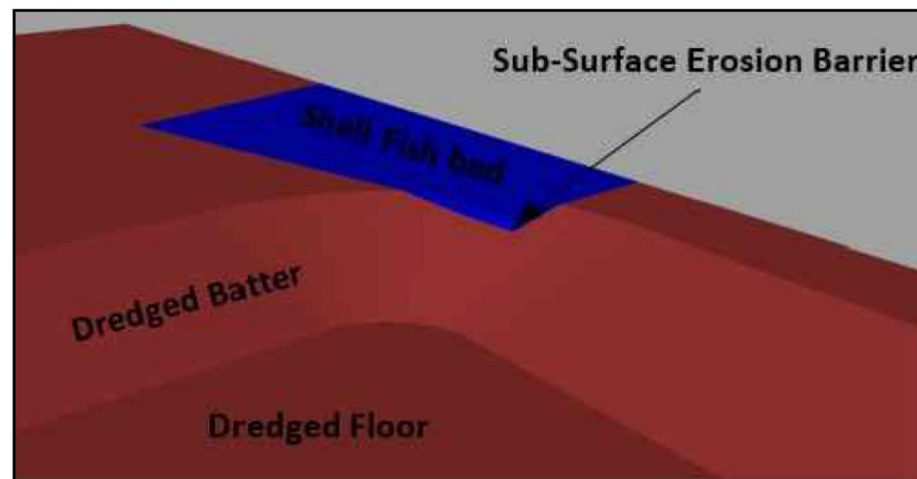
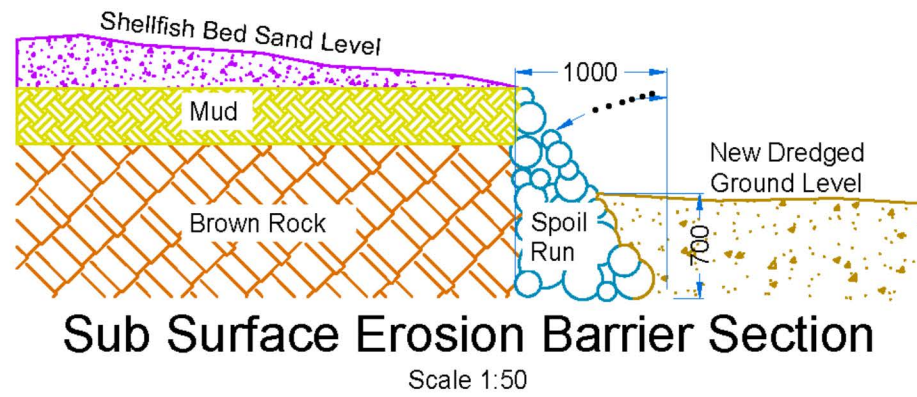
Scale	1:250
Client	Doug's Opua Boatyard
Drawn by	Craig Cave

are the sole and wholly owned intellectual property of Total



APP-039650-01-01 Sheet 0005

Structural Site Boundary Details



Rev	Date	Description	Check	App
9	16/01/2019	MOVE LADDERS & STORM DRAIN, REMOVE DINGHY PULL & EXTEND DREDGING	WNMAJ	
10	17/01/2019	MOVE DRAIN, PONTOON BERTH, SECURITY GATE & MOORING AREA	WNMAJ	
11	17/01/2019	REMOVED CONCRETE SLIPWAY CAPPING	WNMAJ	
12	27/05/2019	EDITED ISOMETRIC	AJ	AJ

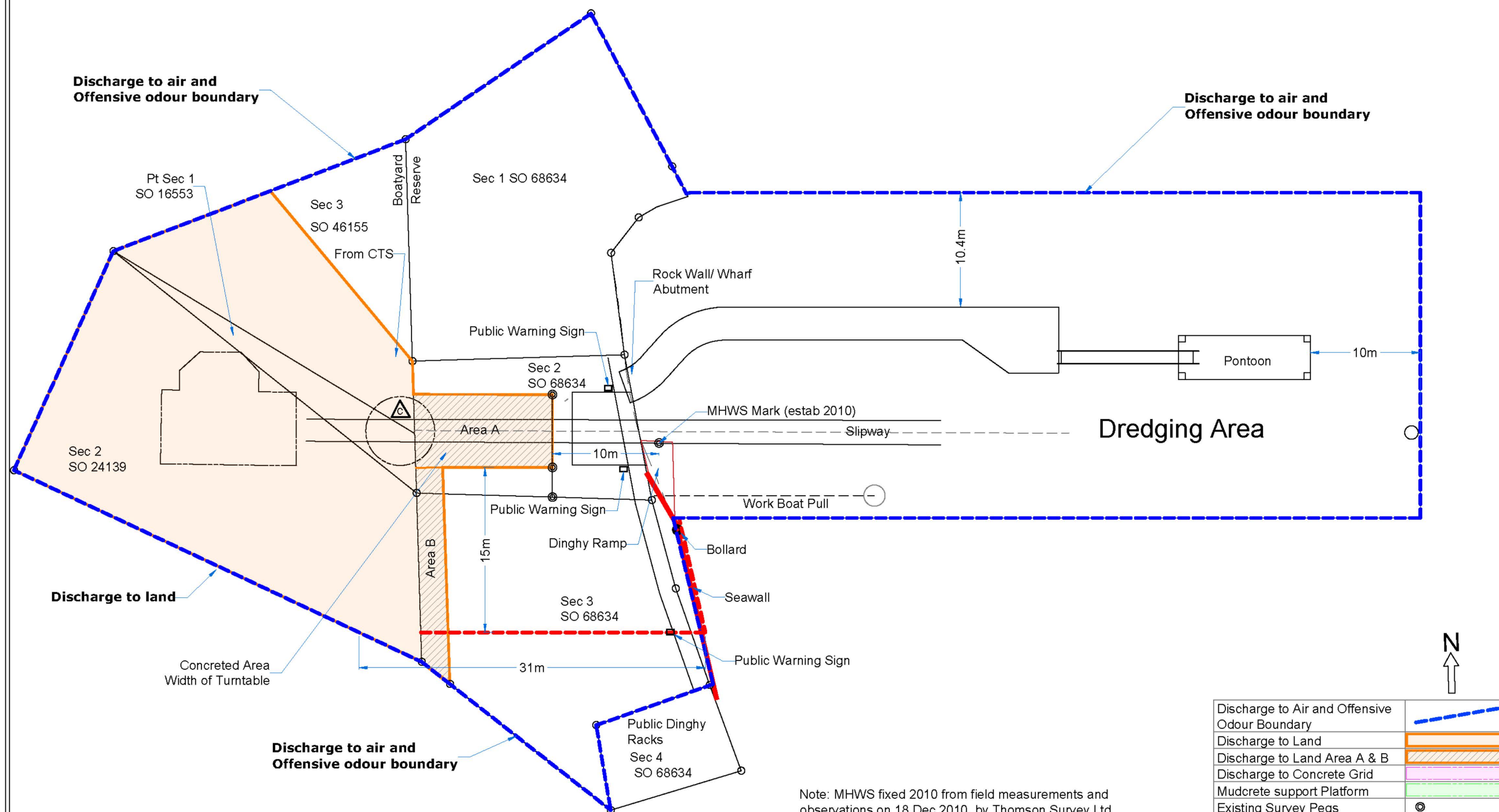
Drawing No: 0155-0504-0006  
 Date: 28/05/2019  
 Marine Services Ltd, New Zealand

Scale 1:150  
 Client: Doug's Opua Boatyard  
 Drawn by: Craig Cave



APP-039650-01-01 Sheet 0006  
 Shellfish bed Sub-Surface  
 Erosion Barrier





Note: MHWS fixed 2010 from field measurements and observations on 18 Dec 2010, by Thomson Survey Ltd

Discharge to Air and Offensive Odour Boundary	
Discharge to Land	
Discharge to Land Area A & B	
Discharge to Concrete Grid	
Mudcrete support Platform	
Existing Survey Pegs	

**Offensive odour boundary and Discharge to air boundaries, Discharges to land and to the CMA**

Rev	Date	Description	Check	App
8	15/01/2019	JETTY SHIFTED SOUTH, GRID REMOVED & MOORING BOUNDARY ADJUSTED	WNMAJ	
9	16/01/2019	MOVE LADDERS & STORM DRAIN, REMOVE DINGHY PULL & EXTEND DREDGING	WNMAJ	
10	17/01/2019	MOVE DRAIN, PONTOON BERTH, SECURITY GATE & MOORING AREA	WNMAJ	
11	17/01/2019	REMOVED CONCRETE SLIPWAY CAPPING	WNMAJ	

Drawing No: 0155-0504-0007

Scale: 1:350

Client: Doug's Opua Boatyard

Date: 16/01/2019

Drawn by: Craig Cave

© All designs and calculations contained in this plan are the sole and wholly owned intellectual property of Total Marine Services Ltd, New Zealand.



APP-039650-01-01 Sheet 0007

Discharge Boundaries