

COUNCIL REPORTING OFFICER'S RIGHT OF REPLY – Reconvened Hearing 16th August 2018

1. Response to Tonkin + Taylor Peer Review and Subsequent AECOM Discharge to Air Response

The peer review carried out by Tonkin + Taylor was largely consistent with the Discharge to Air Assessment carried out by AECOM.

In regards to the proposed changes to recommended conditions, I make the following brief comments:

Practicability of 60 second averaging period for wind speed conditions...

In regards to sanding and grinding operations, I accept the Tonkin + Taylor opinion that a 60 second averaging period to set wind speed conditions would be impractical for the consent holder and difficult for Council monitoring staff to enforce. I therefore accept the recommendation to amend proposed condition 70 to anticipate likely wind speeds over an *hourly* average rather than a 60 second average prior to starting boat maintenance activities.

Condition 70 has therefore been amended to read as follows:

*Sanding and grinding operations shall only be conducted when the wind speed is between 0.5 m/s and 5 m/s (as ~~a 60 second~~ **an hourly** average). The application of antifouling and paint shall only be undertaken when the windspeed is greater than 0.5 m/s and when apparent wind on the slipway is from the northeast to south (wind is blowing up the slipway through an angle of 45 to 170 degrees). The Consent Holder shall maintain equipment adjacent to the boatyard boundary that displays current windspeed and direction, this equipment and information display shall be visible from the reserve.*

Use of screens for water blasting...

I remain of the opinion that some form of screening is required to mitigate water mist from water blasting activities, regardless of the level of contaminant in the water droplets. I accept the Tonkin + Taylor assessment and AECOM response, that some water mist could potentially escape the top of any screen. However, the use of screens will provide greater mitigation than blasting with no screens.

I do not concur with the opinion of Mr Stacey within the AECOM response in regards to amenity effects, and I accept that amenity effects are not within his area of expertise. To consider the adverse amenity effects generated by the Applicant's water blasting activity on the adjoining Reserve is likely to be similar to water spray from ornamental water fountains or automatic watering of public gardens or golf courses on adjoining walking tracks is not acceptable. The Applicant is seeking to carry out water blasting activities associated with the operation of his own business over an esplanade reserve and adjacent to a public

walking track. This is an activity requiring resource consent as a discretionary activity and mitigation, avoidance or remedying of adverse effects is a requirement under the Resource Management Act 1991 (RMA). Submitters have clearly shown that spray drift associated with the Applicant's water blasting activity has adversely affected the amenity of the general public when using the Reserve and walking track.

The AECOM response recommends the erection of a sliding screen system supported by two posts placed either side of the slipway on the reserve. While I accept that this method provides mitigation while having a lesser burden on the Applicant, I do not believe it is appropriate or achievable, as the posts will be permanently placed over the Reserve, which may require further easements by the Applicant (although not a matter of consideration under this resource consent process). Furthermore, this option would not mitigate the effects of spray mist on users of the Reserve south of the slipway (Sec 3 SO 68634).

I do not accept the AECOM recommendation in regards to limiting the use of screens during certain wind directions and speeds, as this will be difficult to monitor. Council's Coastal Compliance Manager, concurs with me in this respect.

Based on the above comments, I recommend that condition 72 be further amended as follows:

*Temporary screens shall be erected ~~around~~ **between the** blasting area **and the Walls Bay Esplanade Reserve (Sec 3 SO 68634 and the walking track)** at all times during high pressure water blasting to mitigate effects of spray drift.*

Additional mitigation measures for dust emissions...

Both the Tonkin + Taylor peer review and the AECOM response recommend the use of vacuum attachments on all grinding and sanding equipment. This is already proposed for all sanding equipment.

The following amendment is recommended to proposed condition 69 to provide greater clarity:

*The preparation or smoothing of vessel hulls or superstructure including removal or smoothing of antifouling using a sanding **or grinding** device without an attached dust collection **apparatus that is operating effectively** shall not be undertaken within the consent area.*

The Tonkin + Taylor assessment also recommends the use of tarpaulins or sheeting to enclose dust generating activities. However, the AECOM response disagrees with this measure based on the results of a comprehensive monitoring study whereby it was concluded that discharges of particulates are unlikely to create a dust nuisance and will have no potential for health effects at the nearest residential locations. I accept this assessment of the AECOM response and note that the use of tarpaulins to enclose dust generating activities would be impractical and difficult to undertake. Furthermore, recommended condition 69 is considered to be an adequate control for the mitigation of dust emissions.

Additional mitigation measures for emissions from paint and anti-fouling...

In this regard, the Tonkin + Taylor assessment recommends that measures be put in place to exclude the public from a compliance zone of the order of 15 m from the spray painting activities when diisocyanates are being used. While not considered in the initial AECOM assessment, the latest AECOM response concurs with the Tonkin + Taylor recommendation in that an exclusion zone would be a prudent measure to protect public safety.

I would like to remind the Committee that a condition has already been recommended within my suggested consent conditions which requires the following (condition 71):

All spray application of antifouling paint shall comply with Environmental Protection Agency rules including setting up of a controlled work area around the vessel concerned.

The Environmental Protection Agency (EPA) rules as referred to in condition 71 above, are set by the EPA under the Hazardous Substances and New Organisms (HSNO) Act 1996. The rules include the requirement that a controlled work area be set up to prevent overspray entering the environment, or coming into contact with neighbouring boats or bystanders and that all application of antifouling paint must take place in the controlled work area. Other rules include the posting of signs at every entrance to the controlled work area to warn people of the activity being carried out and the collection and appropriate removal of old antifouling paint. For more detail in regards to EPA requirements when using antifouling paints, the EPA website is helpful and provides a brochure with the key rules in force as of 1 July 2015 in this regard.

Further condition amendments in relation to discharge to air...

In order to be consistent with the relevant Total Marine Services drawings and to provide further clarity, the following minor corrections are recommended to proposed conditions 66 and 68:

Condition 66:

*The discharges to air authorised by this consent applies only to the **'Discharge to Air and Offensive Odour Boundary' area below Mean High Water Springs Occupation Area** identified on the attached Total Marine Services Limited drawings referenced as Northland Regional Council Plan Numbers 4826/1 and 4826/4.*

Condition 68:

*The discharges to air authorised by this consent applies only to the ~~Boatyard Discharge area~~ **'Discharge to Air and Offensive Odour Boundary' area above Mean High Water Springs** identified on the attached Total Marine Services Limited drawings referenced as Northland Regional Council Plan Numbers 4826/1 and 4826/4. This consent does not authorise dry abrasive blasting activities.*

Further to the above two corrections, it is noted that the AECOM response is supportive of the change to condition 68.

In further discussions with Council's Coastal Compliance Manager the following change is recommended to condition 74, which is also generally consistent with the recommendation of the Tonkin + Taylor assessment and the AECOM response and brings the condition back into line with the permitted criteria of the Proposed Regional Plan (PRP) and the Operative Regional Air Quality Plan (RAQP):

*The Consent Holder's operations shall not give rise to any **offensive or objectionable** dust, overspray, or odour at or beyond the ~~Boatyard Discharge area~~ **'Discharge to Air and Offensive Odour Boundary' as identified on Northland Regional Council Plan Numbers 4826/1 and 4826/4.***

2. Response to 4Sight Consulting and Total Marine Comments on the s42A Report Addendum

Sediment metal concentration targets...

The 4Sight response recommends that proposed condition 35 would be better replaced with an Advice Note, given the likelihood of non-compliance for some years. Condition 35 specifies target concentrations for copper, lead and zinc in sediment within a 10m mixing zone from the structures. 4Sight recommend an Advice Note which acknowledges present concentration levels but which also indicates clearly that future monitoring sought shall show an improving trend.

Council's Coastal Compliance Manager, Mr Eyre, was approached regarding the above recommendation put forward by 4Sight Consulting. While he doesn't consider this approach to be ideal, he has acknowledged that it reflects reality. Mr Eyre is therefore in general agreeance with the 4Sight recommendation and has suggested the following addition of an Advice Note to condition 35 which is consistent with similar boatyard consents:

Concentrations of metals in seabed sediments as measured at any point 10 metres from the facilities shall not exceed the following:

Metal	Limit in Milligrams per Kilogram (dry weight)
Copper	65
Lead	50
Zinc	200

Advice Note:

The results of some tests up to the date of issue of this consent have shown copper, lead and zinc concentrations to exceed those shown in the above table. Therefore, any successive test results for copper, lead and zinc concentrations from the date of commencement of this consent, that are higher than the limits set in the above table, are required to show a progressive reduction to these levels.

Subsurface Erosion Barrier...

As discussed in the recent addendum to my s42A report (paras 72 – 74) , I do not consider the proposed subsurface erosion barrier can be considered as part of the current applications.

This recently proposed structure has been included in the applications post the public notification period and is an additional structure to those proposed in the current applications and requires resource consent pursuant to Rule 21.6.3(L) of the RCP and Rule C.1.1.16 of the PRP

RCP Rule 31.6.3(L):

The erection of any new structure, (including refuelling facilities), and the occupation of space for any new structure, (other than a permanent swing mooring, a navigation aid or building) which is not a restricted coastal activity. - DISCRETIONARY

RCP Definition (Structure):

Structure - any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.

PRP Rule C.1.1.16:

Structures outside significant marine areas – DISCRETIONARY

In a Mooring Zone or the General Coastal Zone any structure that is not a:

- 1) permitted activity under C.1.1.1 'Existing structures – permitted activity', or*
- 2) permitted activity under C.1.1.3 'Temporary coastal structure – permitted activity', or*
- 3) permitted activity under C.1.1.4 'Aids to navigation – permitted activity', or*
- 4) permitted activity under C.1.1.5 'Signs – permitted activity', or*
- 5) permitted activity under C.1.1.6 'Monitoring and sampling equipment – permitted activity',*
or
- 6) permitted activity under C.1.1.7 'Reconstruction, maintenance or repair of a structure – permitted activity',*
or
- 7) permitted activity under C.1.1.9 'Additions and alterations to structures – permitted activity', or*
- 8) permitted activity under C.1.1.10 'Removal of structures - permitted activity', or*
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- 9) controlled activity under C.1.1.11 'Structures for scientific, research, monitoring or education purposes – controlled activity ', or*
- 10) non-complying activity under C.1.1.21 'Structures with no functional or operational need – non-complying',*
is a discretionary activity...

PRP Definition (Structure):

Structure (in rules relating to the CMA)- A building, equipment, device, pipeline or other facility which is fixed to land. It includes a structure which is fixed to another structure, which is fixed to land.

Should the Committee determine otherwise (that the subsurface erosion barrier is able to be considered with the current suite of applications), I provide the following further comments:

The Total Marine response has confirmed that there is a high degree of uncertainty of the performance of the structure in the long term. I therefore recommend that a precautionary approach should be adopted when considering the effects of this structure. In this regard, an expert assessment in coastal processes would be required. I do not know whether Mr Johnson would qualify as an expert in coastal processes.

The 4Sight response has indicated that the effects on the pipi bed would be minor if the dredge batters extend into it, as recommended by Mr Maxwell (Council's Coastal Works and Consents Manager)¹. It is therefore considered more appropriate and simpler to consider the dredge batter without the additional complication of the erosion control structure.

Mudcrete Grid...

In response to the further detail provided from both the 4Sight and Total Marine responses to my s42A Report Addendum, I remain of the opinion that a precautionary approach should be adopted and therefore do not recommend the granting of consent for the mudcrete grid². However, as stated in my Addendum, should the Committee choose to grant consent for the grid and associated discharge permit, consent conditions have been recommended³.

Access/Security Gates...

In regards to relocating the locked gates to the landward end of the T-head (as shown in figure 3 of the Total Marine response), I generally accept this proposal put forward in the Total Marine response and acknowledge that the T-head is the most hazardous part of the jetty facility in regards to general public safety. However, I remain of the opinion that these gates should remain open during daylight hours to provide adequate public access. This was a significant issue of contention at the hearing in May.



Melanie Donaghy
Reporting Planner

Date: 15th August 2018

¹ Expert advice sought in regards to the Total Marine Further Information within s42A Addendum (para 13).

² S42A Report Addendum (para 56).

³ S42A Report Addendum (para 58-62).