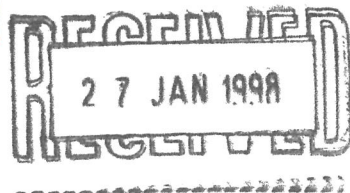


NORTHLAND  
REGIONAL COUNCIL

- 9 MAY 2018

FILE No  
N.R.C



23 January 1998

D. Guildenhuys  
Resource Planner  
Far North District Council  
Private Bag 752  
Kaikohe

Richardson Street  
C/o P.O. Opua  
Bay of Islands  
New Zealand

Ph/Fax (09)402 7055  
A/h (09)402 7425

Dear Derk

I wish to start this letter by way of apology for going off my nut at you when I found out about the Council's request for additional comment from non-affected parties in these consent application proceedings.

Without any further preamble I wish you to know that I have now sent all of the main players in Council staff, letters of inquiry as to their conduct in this long drawn-out saga of bureaucracy gone amiss.

Further, I would like you to appreciate that Great Escape Yacht Charters has not one iota of bearing whatsoever as the status of these consent hearings. They are there by my consent to use my wharf and property as access to the sea and by license to operate as vendors of legal business from your very own District offices.

I will say to you what I said to the NRC. Only I have the right to say who may come and go on my property or use it with reasonable supervision. This situation is also technically and historically attached to the land between the titled property and the sea by prior consent and specified departure. That is why you need to find the old 17 November 1971 agenda. If the documents are not legal then and only then will I comply to the pleasure of the Council on these matters.

In the beginning of our efforts I would have gladly settled for an amiable solution to the scope of my endeavours for easements over areas "B" and "C". Now with all that has gone on heretofore, I will settle for nothing less than full restitution and/or reconfirmation of all rights, lands, and associated activities implied, and/or literally called out in conjunction with the 1966 and 1971 specified departure documents and their subsequent meanings under any proposed, active, and/or future plan or scheme with regards to the land or its adjacent water of any kind.

I will furthermore, take to task any party in Council that again questions my integrity, ability and/or professional status within the marine industry or the operation of my facility under the above specified departure to the full extent and limit of legal recourse available.

As to the status between you and me, I say do your job and present the report as you have seen it all along. You have everything you need and the comments from other parties can be addressed as an adjunct to your report.

I truly believe that you will deal with the issues on a non-political basis, I can ask no more of you than that. But please do not judge that which has taken place for reasons you do not understand.

I have waited long enough for your report Derk and I would like to see it within ten working days.

Yours faithfully

Marine Supplies • Surveying

Doug Schmuck

**THE BOATYARD THAT CARES**

TRESPASS NOTICE

TO : MIKE RASHBROOKE (SECRETARY ORPA)

OF : ENGLISH BAY RD.

↑  
Ratepayer

N/O PO OPVA

B.C.I.

DEAR : MR. RASHBROOKE

NOTICE UNDER SECTION 4(1)(2) & (4) - TRESPASS ACT 1980

In accordance with the above Act and Section, you are hereby warned to stay off the place known as DAVE'S OPVA BOATYARD OR and occupied by WITH IN TEN METERS OF ANY BOATYARD

STRUCTURE OWNED BY DAVE SCHMACK  
You are advised that in accordance with the provisions of the Trespass Act 1980, it is an offence punishable by a fine not exceeding \$1,000 or imprisonment not exceeding 3 months, to enter onto the aforementioned place within the space of 2 years, after you have received this warning.

Yours faithfully

15. From public's  
land.

Dave Schmuck

OWNER, 10/12/91

DAVE'S OPVA BOATYARD

OPVA

N/O PO OPVA

B.C.I. 4027055

TRESPASS NOTICE

TO : MIKE RASHBROOKE

OF : OPVA

DEAR : MIKE

NOTICE UNDER SECTION 4(1)(2) & (4) - TRESPASS ACT 1980

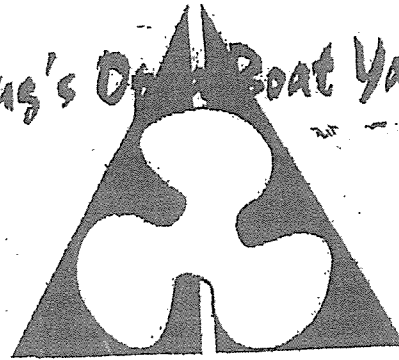
In accordance with the above Act and Section, you are hereby warned to stay off the place known as Don's OPVA SCATYARD and occupied by D.C. SCHMIDT & T. DUNN OTHERWISE KNOWN AS "GREAT ESCAPE YACHT CHARTERS". You are advised that in accordance with the provisions of the Trespass Act 1980, it is an offence punishable by a fine not exceeding \$1,000 or imprisonment not exceeding 3 months, to enter onto the aforementioned place within the space of 2 years, after you have received this warning.

Yours faithfully

D. Schmidt

28 Oct 2003

Doug's Opua Boat Yard



27 May 2000

Robert P. Manuel  
 Legal Co-ordinator  
 Far North District Council  
 Private Bag 752  
 Kaikohe

Richardson Street  
 C/O P.O. Opua  
 Bay of Islands  
 New Zealand  
 Ph/Fax (09) 402 7055  
 A/h (09) 467 4577

Dear Robert

### EASEMENTS OVER ESPLANADE RESERVE: DOUG'S OPUA BOATYARD

Further to our recent conversations regarding the decision from the Department Of Conservation I now submit the following.

I decline outright their proposed alteration of position regarding the scope of easements.

In review of the gravity of these outcomes regarding Section 48 of the 1977 Reserves Act there now leaves open three windows of opportunity for Council to rectify the events of the past.

The three options are these:

1. Revocation of the area of land not needed for the walking track as identified in the July 1995 position of Council to the Department Of Conservation under provisions of Sec 24 (b) of the 1977 Reserves Act. This with the intent to sell or create easements over Council land for which the closure of the road was paid for and that created the Esplanade Reserve by the owner of adjoining land for a specific purpose of a slipway operations and a discharge water containment system.

2. Change of purpose of the existing reserve by reclassification of that same area of land not needed for walking track as identified in the July 1995 position of Council to the Department Of Conservation under Sec 24A (b) of the 1977 Reserves Act. This with the intent to allow legal CONFORMITY with the purpose of the Act as amended in 1979 and inserted by Sec 362 of the RMA 1991 for existing and proposed Resource Consents.

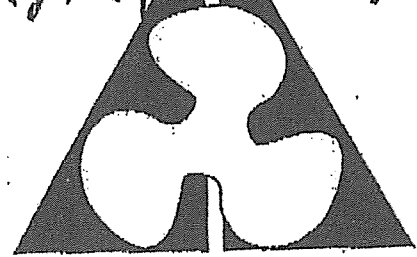
3. Provide restitution to the Boatyard for costs, damages, and lost income for the working life time of the owner of the boatyard for misrepresentations and inappropriate application of law in regards to the processes leading to the creation of Esplanade Reserve from unformed road for the purpose of alleged unattainable easements.

Personally, with all due respect, I prefer option number 2.

I await your earliest reply.

Yours faithfully

  
 Doug Schinuck  
 Owner and Proprietor  
 Doug's Opua Boatyard



Richardson Street  
C/o P.O. Opua  
Bay of Islands  
New Zealand  
Ph/Fax (09) 402 7055  
A/h (09) 407 4577

6 July 2000

Pam Greenfield  
Environmental Services Manager  
Far North District Council  
Private Bag 752  
Kaikohe

Dear Pam

REF: APPLICATION FOR THE REVOCATION OF A ESPLANADE RESERVE TO MEET THE PURPOSE OF  
THE ACT UNDER SEC 5 OF THE RMA

Good morning Pam. I hereby request further modification to my current application for public notification for the  
revocation of Esplanade Reserve status of land between my property and the sea to within three meters of the CMA.

This in keeping with the land use area covered by an existing Resource Consent for an operational port facility that is  
located within a marine 4 management area, identified in the NRCP, and subject to cross-boundary issues and those  
associated policies that are outlined in the New Zealand Coastal Policy Statement and the adopted Far North District  
Council's Reserves Policy July 1995.

In due course I will provide a new assessment of effects to cover all of the modifications and proposals associated  
with the operation of this existing commercial seaway.

Your faithfully

  
Doug Schmauck

ANNEXURE #1

(1 page)

Re ENF 183/98

Application Date: 10/08/00

INCIDENT ON RESERVE 1  
Date: Saturday November 13, 2010

Affidavit by Mike Rashbrooke, 5A English Bay Road, Opuia.

A working bee had been arranged for 10am in the morning with Bay Of Islands Coastal Watchdog and other local community groups, as part of the Walls Bay esplanade reserve restoration and beautification project. I arrived before the others and parked my car on Richardson Street beside the reserve. I took some tools down and did some levelling and marking out in the new dinghy rack area we were creating, then returned to my car on Richardson Street for some more tools.

As I was getting out the tools from the car boot, I noticed that a boatyard employee had begun to waterblast a vessel on the boatyard slipway fully on esplanade reserve. The boatyard has not obtained the required authorisation under the reserves Act to conduct this, or any other boatyard activities on or over esplanade reserve. The slipway across the reserve is consented only for the transport of vessels between the sea and private boatyard property. There is a recent history to this deliberate flouting of the Reserves Act.

I noticed that the employee was facing away from my position on Richardson Street as he waterblasted the near-side of the vessel, and the apparent boat-owner/client was seated at a table on reserve watching the work in progress. I saw opportunity to take a photograph of the offence against the Reserves Act, out of the view of the participants, without causing any intrusion. I found my camera, lined up the shot and took it quickly. As I put my camera away in my car I heard a loud shout of "Fuck you!" and looked up to see Mr Schmuck walking rapidly from the boatyard jetty, to the right of the scene, onto the reserve towards me. He continued to shout. I picked up my digital recorder and held it up clearly for Mr Schmuck to see it from a distance. This was intended to deter his threatening behaviour, or if unsuccessful at that, to record it. I heard the phrases: "Fuck you Mike!" "Fuck you asshole!" "I'm going to give you a smacking!" and "fuckwad!"

I made no reply, but as he reached the middle of the reserve area I put my recorder in my pocket and walked down the DoC track, with the further tools, to the working area on reserve, that is, generally away from the shouting man. Mr Schmuck continued to exclaim dramatically, and changed direction to aggressively stride the further distance over to where I now was. I clearly heard the phrases: "I'm going to give you a good kicking!" "I'm going to give you a hiding!" and "I'm going to dance on your grave, Mike!"

As he approached me, I took a good hold of my spade with it's end remaining on the ground, and shifted my weight in readiness to employ it as necessary for blocking purposes to defend myself against what had every appearance of being an impending assault. He appeared to read the body language and stopped, about 1.5 metres away from me. I advised him to calm down, that his bullying behaviour amounted to harassment, and that I may need to consider applying for a restraining order against him. After a few more snarls and threats, he stormed off, with random shouts of "fuckwad" still ringing out.

I formed an impression that this rather sudden and dramatic presentation of seemingly uncontrollable rage, while primarily directed at intimidating me, was also intended for the consumption of his employees and/or his client. It seemed he was trying to construe events into some kind of 'incident' for which he could 'blame' me. He is not in the photo of the boat being unlawfully worked-on on esplanade reserve, and the people in the shot on public land are looking only at the boat. Had he not evidently been observing me from out of my sight, then made such a spectacle, they would have been none the wiser. Nor would they be culpable in any subsequent prosecution pursuant to the Reserves Act. As the owner/operator of the boatyard, and proveably aware that the private commercial activity I photographed being conducted by his boatyard business on public land is in fact unlawful, he would be the only person culpable.

Shortly thereafter, some other community volunteers arrived, and I told them what had just occurred. As is usual when others are present, I heard no more such verbal antics from Mr Schmuck that morning.

Mike Rashbrooke. Registered Teacher No 164251.

As solemnly and sincerely affirmed Mike Rashbrooke.  
at Paikia on 22 February 2011  
before me J.M. Toplis JP

J.M. Toplis, J.P.  
Secretary  
PAIKIA



INCIDENT ON PUBLIC ROAD      Affidavit by Mike Rashbrooke, 5A English Bay Road, Opuia.  
Date: Thursday, December 23, 2010

As part of the Walls Bay esplanade reserve restoration and beautification project overseen by Bay Of Islands Coastal Watchdog Inc., I arrived at the reserve around 8.30 am to finish some weed-eating/mowing we had begun earlier in the week. There was only a small area left. We wanted it completed by Christmas. The Chairperson of BOICW Inc, Mrs Maiki Marks, was due at the reserve at the same time, but it turned out she was delayed some 20 minutes

I was nervous to begin the job on my own because of previous incidents where the adjoining boatyard owner, Doug Schmuck, would approach me, abuse me, and make threats when I was on my own on reserve in the vicinity of his boatyard. Some of these incidents are the subject of other affidavits. Mr Schmuck used to do this mowing himself, only ceasing around 2000 after failing to gain Reserves Act 'easements' to allow him to expand his business activities onto the reserve.

Because of ongoing complaints from Mr Schmuck to Council about our beautification project, we were advised to keep some kind of record of our activities and progress. Hence photographs as a pictorial record for later presentations. While waiting for Maiki to arrive, I took the 'before' photo of the small area of grass on reserve I was about to mow. I was standing on Richardson Street above the reserve, having parked my car some 30 - odd metres away on the roadside where it would be out of the way and well shaded. There was no-one on the reserve, and as far as I can recall, there was no boat on the slipway on reserve either.

As I took the shot, I heard a loud angry shout of "Mike!" Mr Schmuck was walking from the boatyard towards me with an angry expression. This had nothing whatsoever to do with him. I was disappointed and exasperated. I made no reply, but walked back up to my car to prepare the weed-eater while waiting for Maiki.. Mr Schmuck followed me all the way along public road to my car. He was in an evident state of rage and agitation. He came so close I observed a nervous twitch in his left lower eyelid. I prepared myself for needing to block or fend off any blows. He stood within reach and verbally abused me at some length. There were no issues raised, just personal abuse. For example, I was "a completely useless and unemployable arsehole." Most sentences began and finished with "Mike"

After a minute or so of this loud offensive verbal assault, with my desperately wishing Maiki to appear to witness it, I felt compelled to do something to bring it to a halt. As he drew a breath, I informed him that my recorder was in my pocket, that he had been doing this on a regular basis, and that I really should apply for a restraining order against him. He said "You can record all you want, Mike, I don't give a fuck." I pointed out that I had not ever responded to him in kind, and asked him to leave me alone. I said "Please go away" three separate times. Each time he replied: "Whatya gonna do Mike?"

It struck me that behind his authentic-seeming melodrama was an intent to create some 'incident' to subsequently misrepresent and exploit. He was creating what is known as a 'double-bind' - where one is 'damned for yes and damned for no'. If I do and say nothing, he achieves 'dominance' - his 'right' to control or intimidate me in this way. If I resist, or engage in like kind, he achieves an 'incident' to try and exploit and claim as 'harassment'. Either way he wins. This was illustrated in a psychology lecture by reference to a lawyer asking a defendant or civil litigant: "Answer me yes or no - have you stopped beating your wife yet?" When done for malicious purposes, it is an extremely manipulative technique.

I felt increasingly overwhelmed by this provocative barrage of hostility and self-indulgent rage. As a diversion, I drew attention to his eyelid tic. He faltered briefly. I then offered him my opinion regarding potential causes of that, and of his recent behaviour, involving a glib humorous 'psychoanalysis' from a cartoon strip in the 70s. Again he faltered briefly, but then returned to his hate-speech.

Finally it occurred to me to get my camera from the front seat. At this, he hastened away, and I suggested as he strode off that he knew that what he was doing was wrong, because he didn't want to be photographed harassing me on public road some significant distance from the reserve.

Mike Rashbrooke. Registered Teacher No 164251.

Is solemnly and sincerely affirmed  
before me at Paikia  
2 February 2011  
J.M. Toplis JP

J.M. Toplis, J.P.  
Secretary  
PAIHIA



Mike Rashbrooke.



INCIDENT ON RESERVE 3  
Date: Friday, September 2, 2011.

Affidavit by Mike Rashbrooke, 5A English Bay Road, Opuia.

1

A working bee had been organised for 10 am between Bay of Islands Coastal Watchdog Inc. (BOICW) member Mike Rashbrooke, Kororareka Marae Society Inc. Chair and BOICW member Maiki Marks, and local Ngati Manu Kaumatua, Harry Mahanga, to plant and bless two Titoki trees on Walls Bay esplanade reserve in Opuia.


Members of BOICW had made presentations to and held discussions with relevant FNDC staff and a Councillor, July 14, then made presentations to the Bay of Islands-Whangaroa Community Board when they met in Opuia, July 27, and had a discussion with the Mayor, August 24, about our plans to install two picnic tables and two shade trees on the reserve as part of the ongoing FNDC approved and funded community restoration and beautification project. We had raised with Council staff and the Mayor the possibility that the owner of the neighbouring boatyard (Doug Schmuck) might try and create problems because he evidently felt the reserve was in some way 'his', or that he 'controlled' the public use of it. We were assured that he did not, and that this part of our community project could go ahead as planned.

Mrs Marks and I drove a utility vehicle to Waipapa, Thursday September 1<sup>st</sup>, to pick-up two large Titoki trees (2-2.2 metres high) that had been selected for this purpose and paid-for by Council the previous year. The aggressive antics of the boatyard owner had delayed the planting last year, and the group were keen to get these trees established before the weather became hotter and drier, and while the picnic tables were in process of construction. We also picked-up some small trees from a community shade house to plant as replacements for trees that had not survived the previous year's plantings, including two that had been destroyed by the neighbouring boatyard owner.

When these trees were being unloaded and stored at the side of Richardson Street near the reserve that afternoon, September 1<sup>st</sup>, Mr Schmuck was on his boatyard property and started yelling out "Mike!" In view of his previous abusive episodes, and acting on advice from a range of people including Council staff, we did not engage or respond, but just carried on with completing our task as quickly as possible. He proceeded to shout even more loudly a few times, as if performing for his boatyard clients, then stopped. We left as soon as we could.

I arrived at the reserve, Friday September 2, around 10 am, and met up with Mrs Marks. We stored the smaller trees in an area of cleared bush to be planted out after we had dealt with the two main ones. Mr Mahanga arrived, and around 10.30 am I dragged the compost bag down the slope to the area we were planting, then assisted him to bring down the Titoki trees one at a time in a wheelbarrow. We positioned the trees carefully on the reserve in their large bags, taking into account anticipated growth such as they would not in future interfere with activities on the private boatyard land; the visual corridors; the shade angles and offset required to shelter the picnic tables, and an aesthetic and practical spacing between the tables.

The Northernmost tree was sited on reserve at a point approximately 8 metres distance from the nearest boatyard slipway rail on reserve, approximately 7 metres distance from the boatyard boundary with reserve. The other tree was sited to the South on reserve approximately 6 metres distance from the boatyard boundary with reserve. We were still fine-tuning exact sites when Mr Schmuck strode up to me and said: "What are you doing Mike?" I replied quietly: "We're planting shade trees for two picnic tables on reserve. This project has been approved by Council." He stepped closer and said aggressively: "No! What are you doing Mike!" I replied quietly: "Doug, we don't come here and tell you what you can or can't do on reserve - we talk to Council. If you've got any concerns about our project, talk to Council. Give them a ring, please"

  
7191.

MR



Mr Schmuck suddenly grabbed the tree I was about to plant, dragged it down the reserve with great energy like someone possessed, and threw it into the sea where the high tide was lapping up against a reclamation wall. I was shocked, even despite his previous aggressive antics subject of three prior affidavits. I took out my camera and attempted to record his theft/vandalism of Council property. As he strode back past me towards Mr Mahanga and his tree, I commented quietly, intending to bring him to some sort of sense or reason, that I was surprised that he should chose to draw this kind of attention to himself while he had the controversial boatyard matter before Parliament. He snarled: "Go fuck, Mike !" and carried on towards Mr Mahanga. It failed to have any effect on him at all. He seemed blind to any other reality than his own perceived right to control public reserve land, and to destroy (Council) property, if that is what he 'felt' like doing.

He grabbed Mr Mahanga's tree after challenging him in an even more intimidatory manner than he had displayed to me, and also dragged that tree down the reserve and threw it into the sea. He returned and again put his face aggressively very close to Mr Mahanga's face. It was clear to me that he was trying to provoke a reaction he could then exploit for his own purposes. Mr Mahanga was, like me, too disciplined to fall for that manipulative tactic.

At some stage during these events, which I estimate to have occurred over two or three minutes, a man walked from the boatyard jetty up the slipway on reserve, and called out to Mr Schmuck "That's the way to protect your property !" I commented calmly: "It's not his land, this is public reserve." This person became more excited and stated more loudly along these lines: "I've worked in the freezing works, and this is the way we do things !" I was concerned that Mr Schmuck's example of destructive and confrontational behaviour had excited this man, who was in turn exciting and inciting Mr Schmuck to acts of vandalism and disorderly conduct.

We decided it was best to leave the reserve quickly, and met to discuss the situation at the Opua Hall, from where we contacted the FNDC to report what had happened.

I observed the following morning that Mr Schmuck had evidently later removed the trees from the sea and planted them on another part of reserve where they will interfere with other trees we have planted as part of our Council-approved plan. Their present position is of no use at all for the approved purpose of providing shade for two approved public picnic tables on reserve. I suspect the trees will be damaged despite observing Mr Schmuck watering them, and would be further degraded by subsequently transplanting them to their approved positions. We will be seeking for him to remove and dispose of them on one of his own properties, and to pay for replacements as a matter of urgency since it is getting late in the year to get them established before the summer heat.

*Mike Rashbrooke*

Mike Rashbrooke, Registered Teacher No 164251.

SWORN BY :

IN PAIHIA 7th DAY OF SEPTEMBER 2011.

*Murray D Jenkin* J.P.

Murray D Jenkin JP - Reg: 99320

Paihia

Justice of the Peace  
for New Zealand