

**BEFORE THE NORTHLAND REGIONAL COUNCIL HEARINGS
COMMISSIONER**

IN THE MATTER of an application under section 88 of the Resource Management Act 1991 (Act)

AND an application by Doug's Opuā Boatyard for resource consents relating to the redevelopment of the existing boatyard located at 1 Richardson Street, Opuā, and a consequential application to vary the conditions of the Interesting Projects Ltd (Great Escape Yacht Charters) resource consent.

**MEMORANDUM OF COUNSEL FOR THE APPLICANTS IN
RESPONSE TO MINUTES 4A AND 5**

Dated this 15th day of September 2020

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Introduction

1. The Commissioner, in Minute 4, dated 4 September 2020, and Minute 4A, dated 7 September 2020, sought further information from Mr Stacey, Mr Hood, Mr Papesch and the Applicants.
2. In Minute 5, dated 13 September 2020, but received 14 September 2020, the Commissioner sought further information from the Applicants in response to his query as to whether an amended pontoon design providing for public access was to be put forward or not.
3. Responses to the requests in Minutes 4/4A from Messrs Stacey, Hood and the applicants were provided by counsel's memorandum dated 11 September 2020. This memorandum provides the response from Mr Papesch, who was granted an extension until 15 September 2020. It also includes the response from Mr Schmuck (as the relevant applicant) to the Commissioners question in Minute 5.

Stormwater 360 location

4. In Minute 4/4A, **Mr Papesch** was requested to explain why the proposed position of the proprietary stormwater treatment system at the toe of the slipway is so critical; and whether it would work equally well in positions further up the slope of the reserve (within Area A) or within Mr Schmuck's property.
5. In his response, Mr Papesch notes that the position of the stormwater 360 system at the toe of the slipway is consistent with the concept plan in the Vision report, as applied for. The location allows for the collection of stormwater from working areas to be gravity fed into the sump and treatment device located underground, rather than the series of pumps used in the previous existing (now removed) system.
6. Mr Papesch agrees that it is possible to reintroduce a system that is reliant on pumps, but considers it more appropriate to adopt a gravity solution, saying "a stormwater system reliant on gravity reduces the risk of uncontrolled discharges to the CMA in the event of heavy rainfall or pump failure."
7. After consideration of the level of the grated channel drain, the storm tide level(s) and the head loss required for the treatment system to operate, Mr Papesch confirms that it would be possible to locate the treatment device just above the grated channel drain within Area A. Specific design to avoid excess surcharge loads being applied to the treatment system would be required but "this could be achieved with piled foundations or similar to support the rails on the underlying bedrock outside of the zone of influence of the tanks."
8. Mr Papesch considers it would not be practical to locate the treatment device within Mr Schmuck's property. Gravity pipes running against the slope with associated head losses coupled with the pipe depths required would make the positioning of the system too problematic.

9. Mr Papesch notes that underground infrastructure such as the stormwater 360 system is a permitted activity within the Far North District Plan.¹ He considers the treatment device, located underground, can be operated and maintained with minimal disruption to the use of the reserve in the preferred position.
10. Overall, Mr Papesch is of the opinion that, while it is possible to locate the treatment device in Area A on the reserve, slightly up-slope of the grated channel drain, he does not consider that position to be as robust as the recommended position down-slope in the reserve.

Condition 62 – amended wording

11. In para 10 of Minute 4/4A, Mr Hartstone was requested to provide amended wording for Condition 62 to “reflect the intent that the first 10mm of rainfall is to be discharged to trade waste in addition to all wash water.”
12. By reason of his delayed response as a result of the extension granted, **Mr Papesch** has taken the opportunity to consider the amended wording proposed by Mr Hartstone. While agreeing with the intent of the condition proposed, he does not consider the amended wording achieves the objectives sought. He recommends the proposed condition be further amended to read:²

62. All stormwater from areas of land used for the maintenance of vessels shall be directed to a proprietary stormwater treatment system for treatment prior to discharge to the coastal marine area. That proprietary stormwater treatment system shall utilise a demand driven diversion valve that shall automatically direct wash down water (trade waste) to the public sanitary sewer. In addition, the ‘first flush’ of 10 mm of rainfall shall be directed to the public sanitary sewer. The consent holder shall ensure that the slipway is cleaned after any water blasting of vessels.

13. A copy of Mr Papesch’s Further statement in response to questions from the Commissioner, dated 15 September 2020, is **attached**, marked “**A**”.

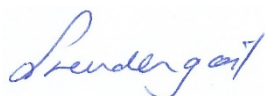
Amended pontoon design

14. **The Applicants** were requested to advise whether they wished to put forward for consideration, the amended pontoon design provided in response to the Commissioners questions in Minute 4/4A.
15. **Mr Schmuck**, as the applicant with overall responsibility for the structure and facilities, advises that he does wish to put the amended pontoon design forward as part of the application being considered.

¹ On my advice. See Far North Operative District Plan, Rules 17.2.6.1 Permitted Activities, and 17.2.6.1.1 Utility Services situated below ground in all zones.

² The suggested amendments/deletions are shown in para 17 of Mr Papesch’s Further Evidence attached to this memorandum

16. In doing so, Mr Schmuck acknowledges the possible confusion inherent in the plan attached to his response to Minute 4/4A. He has therefore considered an alternative layout for the amended pontoon structure to enable better utilisation of the space within the identified Marina Mooring Area, and thus within the scope of the application (see the plan marked as Attachment “B” to Mr Schmuck’s Response to Minute 5).
17. Mr Schmuck notes that the issue has always been one of space to allow the consented activities and the public to co-exist without conflict. The amended pontoon as now designed, would allow for the provision of a specific “public berthing area” in a manner that, subject to conditions providing for reasonable and appropriate use and control, “would be least likely to obstruct the primary operations of the working wharf/marina and Great Escape Yacht Charter pontoons.”
18. A copy of Mr Schmuck’s Response to Minute 5 is **attached**, marked “**B**”



C Prendergast
Counsel for the applicant
15 September 2020