

We are Stirling James (Jim) and Evelyn Patricia Ashby. We reside in Kennedy Street, Opuia and together founded and operated Ashby's Boat Yard established 1969 to 2003.

Our company established infrastructure in keeping with service demand over this 34 year period.

The facility is now owned by the applicant company F.N.H.L. trading as the Opuia Marina Boatyard.

- We strongly oppose both the N.R.C. and F.N.D.C. reports indicating procedural planning compliance on an application both ill researched and vague in substantiated data.
- These authorities have condoned the transgression of by definition a holdings company to provide development proposals in the company interests affecting some one kilometre of their occupied foreshore whilst removing the operational consented commercial activities within.
- The applicant company have sought and reached accommodation with singular Maori identity contrary to consultation with wider Maori interests as required under the existing R.M.A. conditions of Treaty Settlement. This has restricted consultation in regard to the due diligence of sites of far less community impact.
- The applicant company favours the accommodation in exclusive limited party's interests without any submitted geo technical data of affect regarding dredging and sea bed reclamation and retainment of such.
- The submitted application places a predominately three party commercial interest of priority with substantial diminishment of access to the thousands of recreational users whose safety is presently not compromised within the some 4m of the flat straight public use track width.
- The application statement that this 80m esplanade of tranquil water front adorned with summer flowering Pohutukawa is of low scenic value in comparison to the outer Bay of Islands assumes an elitist view when many of these beaches are signed "keep off private property" and are overviewed by tourists able to afford such viewing from vessels at substantial cost.
- To the common use people these views stated as high value scenically are not shared. On a daily basis the existing foreshore under threat provides delight to cyclists, runners, walkers and in particular families including mothers with baby strollers, wee new generation cyclists, this is free. Surely this family interaction is of worth and will be regarded as a generation reflecting the progress of youth away from the horrors of bad health and drug abuse.
- The railway embankment stated within the application as stable takes no heed that these batter angles were created late 1800's by hand and have not suffered the intrusion of heavy machinery and so have remained relatively free from subsidence. Conversely the same compromised batters extending to the boat yard from Baffin Street are constantly falling and engulfing vehicles with threat to pedestrians. Over dry periods the applicant company addresses this failure with signage "slow down dust problem".
- Adjacent residential property owners have had no consultation other than reference within the application provided assumedly by expert analysis potentially collated from a previously failed application.
- The attached letter dated 9th June 2014 from his worship the incumbent mayor advises as indicated within the final paragraph a first instance meeting with Adrienne and Andy Nock. I confirm this on site meeting took place with Andy, not Adrienne as referenced but from memory Jacquie Robinson council safety roading officer. She confirmed that a joint vehicle access of boat owner and cycle access would require an available roading width of some 9m.
- The F.N.D.C. report considering this application may accept a contestable maximum width at the entrance of some 6.5m yet provides for barge dock articulated vehicles with freight pile lengths of up to 22m, heavy oyster traffic vehicles and associated operational vehicles, access to a steam boat berth and at the applicant's behest controlled diminished entry and exit to and from moorings. The Haigh Workman report

states 6.5m width as a shared access with unconfirmed rhetoric in regard to safety barriers. There is no reference to issues reflecting Health and Safety.

- A subsequent N.R.C. Harbour Master plan reflecting mooring displacement is in conflict with the applicant's submitted analogy advising affect to some 2 to 3 moorings.
- In terms of due diligence assessing alternative options the Holdings Company is decommissioning the 20 year operation of the 100 tonne SWL slipway in favour of a newly constructed ramp serviced by a maximum capacity 60 tonne use trailer. This transition removes the emergency haul out capacity for these heavier vessels inclusive of tourist trade operations.
- Given that this commercial operation conducted within the boat yard provides for sporadic use commitment, interim use for oyster and barge utilisation could easily be accommodated. Existing access with onsite parking stated within the stage 2 area is defined for this purpose.
- Access for commercial heavy vehicles could be established at the termination of Baffin Street and progressed through the boatyard travel hoist, trailer lanes eliminating any compromise to public cycleway. This usage is able to be controlled by the boatyard in terms of time and motion schedule.
- Although the barge dock was eliminated within the stage 2 marina development the N.R.C. reports access to the existing boat launching ramp for oyster farm utilisation will remain until an alternative is provided thus presumably indicative that this operation has been compatible with public use for a period of some 20 years.
- F.N.H.L. with P.G.F. funding committed the northern most structurally sound end of the Port Opuā Wharf to a pontoon attachment thus further eliminating commercial use in favour of the affluent gentry.
- In summation we submit the public use and cycle trail remain uncompromised.
- During Covid lock down all participants were able to maintain social distancing whilst undertaking exercise conducive to public health.
- This application is subject to commercial use benefit and as such should create and encompass land occupation for this exclusive purpose.
- The evidence referenced by Gregory Michael Akehurst alludes to overall benefit yet does not substantiate such within a confirmed design structure of cost user fees, or economic return.
- Facility provision for the Minerva Steam Boat Trust maybe taken to establishing access meeting criteria to uplift social or tourist P.G.F. funding which is far removed from the commercial application.
- Both the rail and steam boat enthusiast have been reliant on public funding dating back for the rail trust over more than a 20 year period and the steamboat at least 10. Although commendable the transition from this status to commercial reality remains in serious sustainable doubt.
- In the meantime the oyster operations continue on the public ramp. The commercial barge dock operations have undertaken works such as the Russel Wharfe, Paihia Wharfe, the Opuā float pontoon. Funding for these projects have been publicised as from a progressive development source. The corporate applicant company creates revenue from commercial undertaking yet seeks funding without distinction under the guise of public benefit.
- Historically the boat yard has provided this commercial use in efficient compatibly within yard operations.
- We have no qualification to comment on expert witness reports but question the *Haigh Workman John Francis Papesch statements and in particular the executive summary by referenced as numbered within the report.*
- No. 14. This statement is in conflict with previously recorded council advice note attached letter from his Worship the Mayor and subsequent inspection.
- No. 16. *Consequently construction of a retaining wall at the top of the rock face is not anticipated to have any adverse effects on surrounding properties or the cycle trail.* This statement without confirmed geotechnical investigation subject to peer review confirmation does not provide assurance to either party.

- No. 18. *Mr. Galbraith advises that the applicant's intention is that the cycleway remain open at all times other than when closure is necessary for construction / health and safety reasons. As with No. 16 without established detailed planning intent this statement is highly speculative.*
- No. 22. *My evidence will subsequently address the access. This access road safety comment will be referenced in No. 42.*
- No. 27. *Similar retaining wall construction is envisioned for the reclamation as was constructed for the Opuā marina stage 2 development comprising a tied back pile and panel wall. Many failures were observed during this construction with the resort to tie backs implemented as a result from unidentified and potentially inadequate geo technical research. The stage 2 consented application included an extended width of the trailer boat/oyster use ramp which remains incomplete possibly due to ongoing slump of dredged material. Curvature of the head stock concrete beam was apparent prior to the installation of the straightened timber decking in spite of restititional tie backs suggesting overload. Given that promotional comment indicated all of the 170 berths would be retained by the applicants subsequent advertisements to sell some 40 of these berths may suggest related cost over runs (just saying). This application speaks in reference without any substantiated anchoring of these tie backs or commitment to time motion study.*
- No. 29. *The cut face is considered stable in its current form. This statement does not reflect heavy machinery disturbance in works undertaking or ongoing usage.*
- No. 30. *Although referenced this area is outside of the site and not affected by this project. This bank instability has been subject to modification and similar heavy traffic to that proposed within the development.*
- No. 36b. *Given the constraints of working around existing buildings, boatyard operations and the rock face, the practical maximum carriage width achievable the section is 6.5m wide. This application identifies substantial reclamation with compromised public access for the proposed use of predominantly two commercial entities. The applicant company has not researched avenues in accordance standalone options in regard to potential extent in land sacrifice and reinstatement within areas considered as reclamation.*
- No. 38. Refer to No. 42.
- No. 42. *If the barrier between the road carriageway and cycle trail was limited to .700m height however, this would allow for an over width load on a flat deck truck or trailer to pass over the top. Further the barrier would be below handle bar height and provide increased comfort for cyclists to pass. Whoop de do. This statement is contemptuous in disregard and confirms this shared access as unworkable.*
- No. 44. *Peak traffic oyster farming occurred during harvesting June to November. This statement confirms equal attributable diminishing demand also in regard to the existing ramp use.*
- No. 47. *Gravel access formation up to gates generally in good condition with some minor potholes which have been repaired. This road formed over underlying rail scoria has ongoing pot hole failure and is subject to continual dust disturbance.*

SUMMATION: The application produced for submitter appraisal with time response condition form 13 has been subject to a bombardment of additional expert witness redress. *I refer to Haigh Workman initial statement an additional fence above the embankment base cut retention maybe required.* This is in conflict with their statement regarding the sporadic maintenance affecting continual regenerated self-seeded wattle tree proliferation.

The application statement that mooring owner access will be enhanced by restricted gated entry subject to the applicants control by booking usage during company operational hours is in defiance of reality.

Mooring access is predominantly utilised outside of these hours leaving the only option incurring further foot traffic potentially with hand carts within restriction of the cycleway inclusive of other mentioned users.

Due diligence in respect of alternative sites.

The applicant company has recently dismantled the 100 tonne SWL slipway in favour of an installed ramp serviced by a max 60 tonne SWL trailer.

Given a sporadic use requirement this ramp with an adjacent structural wall may provide a significant unused time period to be available for barge dock oyster ramp usage.

The Opuā maritime servicing reclamation Far North Holdings plan DWG No. 03 depicts an existing entrance to provide commercial vehicle access to this location.

The mentioned Colenso triangle application opposed is by Maori Ngāti Manu reflected opposition to any further intrusion into the Kawakawa River yet their advocate Arapeta Hamilton has reached accommodation in support of this application in conflict with his submitted evidence and wider representation.

This first choice location maybe subject to re visitation.

There is no conflict with public use other than as simple crossing.

The previous applicants gained mooring owner support with written confirmation that no moorings would be disturbed.

This application is unbalanced and subject to commercial use criteria to the detriment of recreational users.

The decision we seek is to decline the application as submitted.

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Office of the Mayor

9 June 2014

Mr SJ Ashby
5 Kennedy Street
Opuā 0200
Bay of Islands

Dear Jim,

Public Access Proposal Jointly with Government Initiated Cycle Trail

Thank you for your letter dated 2 April 2014 and open letter dated 14 June 2013. I will respond to the latter as I was not in Council during 2013. The open letter you refer was not forwarded onto David Penny - Project Manager for consideration or response.

* I have spoken with Andy Nock, who has explained that the principal of moving the gateway access was discussed with David Penny prior to his departure.

The idea of creating additional parking for swing mooring owners near the dinghy dock, and in doing so freeing up parking for visiting cyclists is certainly beneficial.

Andy informs me that the work would be carried out by local swing mooring owners which is important as you will appreciate Council has already made significant investment in developing the carpark and entranceway for the cycleway at Opuā.

With David having departed may I suggest you meet with Adrienne and Andy in the first instance so they may provide the Council with a review of this proposal.

Yours sincerely

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Hon John Carter QSO
Mayor
Far North District Council