

**BEFORE THE HEARING COMMISSIONERS FOR NORTHLAND REGIONAL
COUNCIL**

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of applications by Doug's Opuia Boatyard
for discharge consents and coastal permits
for activities ancillary to and associated
with the boatyard on 1 Richardson Street,
Opuia

STATEMENT BY DOUG SCHMUCK FOR THE APPLICANT

Introduction

1. I am the applicant. Since 1994 until just prior to his death in 2017, my father and I were owners and partners in the small commercial slipway and boatyard in Opuia, the subject of these applications. I have personally managed and operated the boatyard, known as Doug's Opuia Boatyard, since that time.
2. In conjunction with the boatyard, a yacht charter company and marine surveying business on both private and commercial small vessels up to 20 metric tons, operates from the existing jetty.
3. While not holding formal environmental or engineering qualifications, my years in the boatyard and my experience in sailing and marine construction, repair and maintenance, has allowed me to acquire some expertise in marine engineering and a reasonable knowledge of the Resource Management Act and the environmental characteristics of the Opuia Basin.
4. A brief CV of my experience is **attached** to this statement.

Historical overview of the occupation of the reserve and the foreshore

5. It has been said that my boatyard has changed the natural character of Walls Bay and the Opuia Basin. In fact, the historical occupation and modification of the land occurred long before I came along.
6. The first acknowledged structure in the Walls Bay area dates from the 1911 survey SO 16553 which shows "Stewart's House" located on the unformed Crown Grant road named Richardson Street. In the years up to WWII, multiple boatsheds, the old narrow gauge marine slipway, and then the army

barracks were all features of the occupation of the foreshore and unformed road.

7. Initially a slipway and boat building and maintenance activities were established around the Stewart house. In 1971, land taken and exchanged for road created the site now occupied by the boatyard. In 1966, Council permission for a boatyard and associated slipway to the sea was granted. Boats were cleaned and maintained on the foreshore as was the practice of the time.
8. In 1967 – 68, major earthworks provided the platform needed to allow the construction of a slipway to the boatshed on the boatyard property (see 1967 photograph **attached** to my application). The slipway has been in its current location since 1976. At that time planning consent allowed the slipway over the unformed road to be used only to move boats to and from the sea. Boat storage, cleaning and maintenance on the unformed road continued.
9. In 1995, at my request the Minister of Conservation and the FNDC agreed to stop a portion of the Crown Grant Road, and vest it in the FNDC as a local purpose (esplanade) Reserve over which the FNDC would subsequently grant an easement to the Boatyard to formalize the existing and proposed activities of the Boatyard. The unformed road was formally stopped in June 1998 and vested as a Local Purpose (esplanade) Reserve).
10. In 2000, I made a joint application to the NRC and Far North District Council for land use and discharge consents, and coastal permits for boatyard activities on the newly created reserve and in the coastal marine area. These consents, as amended by appeal, were granted by Environment Court Consent Order dated 31 January 2002.
11. Since that time the resource consents allow specified boatyard activities on the Reserve, including the wash down, repair and maintenance of boats while on the slipway, a discharge containment system located on the reserve, and the discharge of contaminants to air, land and the CMA, all in accordance with the conditions of the consents. In addition, coastal permits provide for a jetty and the exclusive occupation of a portion of the CMA.
12. The discharge consents were subsequently reviewed and replaced in 2008 with an expiry date of 31 March 2018. The coastal permits have an expiry date of March 2036. A copy of the existing consents held for the boatyard is attached to my applications.

13. **The Applications**

Beach rehabilitation

14. I wish to advise up front that I have reconsidered my proposal to rehabilitate the foreshore and beach in front of the boatyard and have decided not to proceed with that part of the applications.

Discharge Consents

15. The existing Discharge consents for boatyard activities on the land and in the CMA have now expired. I have applied for their renewal to effectively control and mitigate the effects on the environment from the activities of this boat maintenance facility. Without their renewal the land use consents and coastal permits will become useless into the future.

Coastal permits

16. The structural removal and reconstruction consents for the slipway and jetty are for the renewal of thirty year old structures that were built to less than modern standards for safety, utilization, and security. They are now likely not to last the term of their existing consents without considerable capital investment.
17. The proposed new jetty structure will be located at the extreme north side of the bay with no change to the location of the abutment. It is designed to fit in along the bush to be visually more amenable to the bush clad foreshore whilst at the same time utilizing the width of the occupational footprint for approaches to the slipway and new jetty in a more effective manner at all tides. The three working berths and mudcrete grids are functions of the shorter length and configuration of the jetty allowing five berths overall instead of the present eight allowed by the existing consent.
18. The marina berths, pontoon and mooring areas consents replace an old pontoon and are for the purpose of accommodating a sustainable number of deep water marinas in relationship to the onshore infrastructures of parking, rubbish, restrooms, power, and water now that the boatyard operations have down sized for better environmental controls on the land.

Dredging

19. The capital and maintenance dredging consents are to augment access to the new structures within the new occupational footprint to allow for 24/7 all tide access to the 2 metre draft line along the Veronica Channel at low tide. There is no tangible reason to dredge the occupational structure footprint and leave it stranded as a pond at half to low tide in every tide cycle. This particularly so as the structures are commercial in nature with activities that are at the core purpose for the access within this application.
20. The "Dredging Mooring Management Plan" (**attached**) addresses the NRC Harbour Master's concerns. It lays out the processes by which the dredging will be conducted and the responsibilities of the consent holder to the mooring holders in the exercise of these consents. The consents imbedded in the utilization design of the jetty are for the greater safety, functionality, and security regarding basic marine maintenance activities both during the day and/or at night.
21. The consent to occupy space in the CMA is a follow on from the original coastal permits which were always based on the location of the slipway turning block at the eastern boundary of the occupation area. This block has not been shifted from its original location. The distance measurements have always been incorrectly shown on the NTS (Not to Scale) plan used for the earlier resource consents and by this application need to be corrected to reflect the existing situation. The Total Marine plan APP-039650-01 **attached** replicates NRC plan 4804/2 but is drawn to scale to reflect the existing situation.

Exclusive occupation of the CMA

22. The consent regarding exclusive occupation is also a follow on from the original coastal permits which allow for reasonable public access to the jetty. By this

application it is proposed to continue that policy but in a controlled manner during daylight hours. Reasonable public access over the jetty is proposed up to a proposed security gate located at the mudcrete grids, ~~some 15m offshore~~. Past the gate, during daylight hours access to pedestrians will be allowed with permission. Permission will not be granted for any form of access by boat, or for the collection of seafood, and/or recreational activities likely to conflict with those associated with the activities allowed by any resource consents.

23. Otherwise, it is proposed that for safety reasons access to the concrete dinghy ramp and deep water inshore be limited from the outer side of the cradle to the jetty during the operations of the slipway; and to the outside of the marina mooring areas when those are occupied by a vessel. It is also proposed that there be no public access to the structures from dusk to dawn or whilst the consent holder and/or his assignees are not in attendance.

Foreshore erosion barriers

24. The consent sought for foreshore erosion barriers seeks to protect landforms that have already slipped or are susceptible to land slippage and/or any areas of ecological import as depicted by the 4SIGHT report. The measures are proposed to mitigate the adverse effects arising from the proposed demolition, dredging, and construction, as shown and described by the Total Marine Services plans (to come).
25. The consent to extend the FNDC storm water drains is for the general protection of the foreshore. In heavy weather events the discharge from these drains has significant flow that is better directed into deep water for better control of erosion. In this event, it is also recommended to allow in this application extensions to the storm drain over the shellfish bed in order to effect greater protection for that area in a like manner. This will have to be a matter in conjunction with the solutions in dredging and structures presented by Total Marine Services.
26. The consent for the work boat pull is a slight relocation into the new occupational footprint along the stone seawall and concrete dinghy ramp into deep water at the edge of the dredged south batter and/or sub surface erosion barrier protecting the shellfish bed. These alterations will improve the utility of this facility by no longer being over the mud flats.

Work on mudcrete grids

27. The consents regarding discharges from washing down on the mudcrete grids and vessel maintenance along the entire length of the jetty and marinas is a matter of mitigation to and containment from the waters of the CMA.
28. It is proposed that when working on any dry land of the mudcrete grids, drop cloths be deployed to contain and then remove particulates after each maintenance event. Any sanding contaminants by machine will be vacuum collected along with any screened hand sanding and/or grinding contaminants that otherwise might be discharged into the CMA. Ancillary equipment to operations like the club-foot crane will be stored in the adjacent sealed bench box on the jetty so no oil and/or any other debris from tools and the like enter the CMA.

↑
do not

29. Any associated non-permanent storage on the marina berths will likewise be sealed to prevent any discharges to the surfaces of that structure that could possibly lead to or end up in the CMA.

Discharges to land

30. Discharges to land from vessel maintenance on the boatyard and/or slipway will be controlled over impermeable surfaces so that they are either collected and treated for disposal to the Opuia sewer system or collected from contaminant temporary ground coverings so that these discharges can be removed to an offsite disposal facility.
31. Bunding and control surfaces are already in place on Area "A" of the slipway including the concrete structures of the turntable. However for clarity in the foreseeable future, conditions on these consents should be expansive enough to allow for the mitigation structures and improvements within the slipway corridor of section 2 to implement further controls. This in keeping within the meaning of condition 13 of land use resource consent RC 2000812 once land tenure issues are resolved before the Courts.
32. In reference to water blasting within the slipway corridor I **attach** the diagram "Radius of Fall" in example of effects due to winds on shore up to 15 knots that are present 94% percent of the time. All required screening and/or tenting to this effect should be of a commensurate height and positioned to ensure control of the specific contaminants onto impermeable surfaces in consideration of the environmental conditions present for each maintenance event.

Discharges to air

33. The identification of a boundary beyond which discharges to the air or odours associated with vessel maintenance within the occupational boundary of the CMA should not extend and/or be detected is accepted. At present however the offensive odour and occupational boundaries do not coincide. From discussions my solicitor had with Paul Maxwell of the NRC it seems that this was an oversight with NRC plan 4804 mistakenly reflecting the old boundary and that there is no reason why the boundaries should not be the same.
34. All spray painting applications should be contained and controlled in compliance with the EPA requirements and guidelines during paint application and contained over impermeable surfaces and take into account the same environmental conditions that are present when water blasting.

Discharge of treated stormwater

35. It is proposed the discharge of treated storm water should be controlled by the CSW with any improvements to the existing system to comply with future control requirements for the CTS at the collection sump below area "A" as shown on the **attached** plan #8095, "Amalgamation of Plans 3231b & SO 68634". This within the parameters of consent in land use resource consent RC 2000812.

Concerns in Staff Report

Dredging Mooring Management Plan

36. Discussions with the Harbour Master and Mooring Manager have resulted in the approval of my proposed Mooring Management Plan ("DMMP") which identifies control practices whilst dredging for navigational safety and consent holder responsibility to affected mooring holders. The DMMP (precirculated) is now in place and has been circulated for the Commissioners information.

Discharge Consent conditions

37. I have addressed the discharge consents both on the land and in the CMA above. I generally accept the conditions of consent. The only concerns I have relate to the conditions 70 and 72 of the consent for discharges to air on land. These relate to wind speed and direction, and the practical use of screening for containment of contaminants to impermeable surfaces. *deleted*
38. Condition 70 prevents the application of antifouling paint when the wind speed is below 0.5m/s or when the wind direction is blowing from between 45 degrees through to 170 degrees. Condition 72 requires screens to be erected around blasting areas to mitigate effects of spray drift.
39. As indicated in my diagram "Radius of Fall" with regard to the Woodward Clyde report, there is a clear consistent environmental condition at the boatyard of on shore winds 94% of the time less than 15 knots. Therefore no condition should be attached to this consent that in effect stops work when wind from any direction is less than 15 knots.
40. Spray drift from water blasting is solely fresh water and is not a contaminant that should or could be controlled by screens, except beyond the confines of Section 2 or slipway corridor.
41. I would therefore like to see conditions 70 and 72 amended to say:
- 70 All activities of water blasting of antifouling surfaces and spray painting shall not take place in onshore winds greater than 15 knots without screens.
- 72 Screens shall be erected around blasting areas during high pressure water blasting to mitigate effects of spray drift. The screens shall be of a height sufficient to effectively direct and contain contaminants within the impervious slipway surfaces to allow the collection and treatment of contaminated wastewater through the discharge containment system.

Corrections to Plans and Problem Solving

42. There are issues with some of the dimensions and distances shown on the plans submitted with this application. This issue will be addressed by Andrew Johnson of Total Marine to ensure clarity in the final plans.
43. The conditions relating to dredging have required a rethink on the matter of establishing and protecting the shellfish bed to secure the area in relation to the dredging. This is also a matter for problem solving by Total Marine Services and will be addressed by Andrew Johnson.

44. I believe and would accept conditions applied to the dredging consent to place subsurface erosion barriers and modified inshore dredging so as to achieve both tasks of protection of the shellfish bed and sustainable dredging batters for the occupational footprint to the south of the slipway.

Submitters Concerns

Access to the reserve and CMA

45. I believe the major areas of concern raised by the submitters are the issues around access to and use of the reserve; and the occupation and exclusive use of the CMA associated with this application. I cannot change what has come to pass over the last 50 years or more.
46. The boatyard legally, practically, socially, and environmentally must coexist with the reserve and the reserve with the boatyard into the future. It will never be in anybody's interest to continue to believe that the resource consents for these activities both on the land and in the CMA have not been firmly put into effect and will not remain so.
47. With that said, most of the concerns about the reserve are not relevant to this application. I therefore endorse and agree with paras 41 and 42 of the staff report.

Photographs

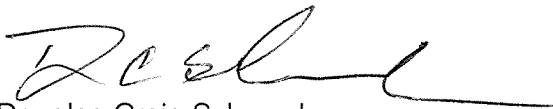
48. The photographs submitted as evidence in some submissions are generally positive in their nature showing clearly that most of the operations of the boatyard and slipway have an ongoing ability to mitigate the effects on the surrounding environment over many years. They are however misleading. There are no dates as to when they were taken, no indication of the circumstances as to why they focus on the boatyard operations at any given point in time and/or what took place after they were taken. They are clearly not from any form of monitoring process that I am aware of by the NRC or FNDC.
49. I imagine the photos are trying to show breaches of the consent conditions by the boatyard. As to evidence of non-compliance with discharges to area "A" on the reserve, the photos fail. There is no corroborating evidence to show whether the discharge control systems were working or not. None of the photos show the CTS sump at the lower boundary of area A, other than from a distance when there is no discernable discharges leading to the CMA.
50. As to the storm water run-off in heavy weather events; there is little or no control whatsoever after the first flush in rain events over 100 ml in a 4 to 6 hour period.
51. The videos provided by some submitters were essentially road show productions to raise funds for legal campaigns in matters of land tenure. They too are not relevant to these applications.

Conclusion

52. In the course of my involvement in the boatyard over the last 24 years I have worked closely with the NRC to avoid or mitigate the adverse effects of the boatyard on the environment and the CMA. I am no expert in the titled sense,

but I know my slipway and its environment as a skilled expert practitioner in marine professional provisioning, facilitating, and maintenance.

53. For the discharge consents, I have endeavored to follow best practice methods in containment system designs, multiple structure placement, impermeable surfaces, screening when required due to environmental conditions, control utilities both on and hidden under ground, direct discharge connection to the Opuia sewer scheme, and foreshore improvements. I note that the discharge consents are inextricably related to the valid FNDC land use consent I hold which provides for boatyard activities on the reserve.
54. For the coastal permits, I have endeavored to satisfy the concerns expressed in the staff report. I have obtained approval from the Harbormaster to the proposed capital dredging. In recognition of the cultural and ecological issues likely to arise, I have decided not to proceed with the beach rehabilitation earlier proposed.
55. For the most part, I accept the conditions proposed by the Council consultant planner. For those conditions where I have expressed some concern, I am happy to discuss and accept conditions amended as necessary to take account of those concerns.
56. I believe my applications, when taken together with the conditions proposed and accepted, will benefit both the users of the boatyard and members of the public while having no more than minor effects on the environment.
57. I agree with the conclusions and recommendations of the staff report. I believe the applications can be approved and ask the Commissioners to do so.



Douglas Craig Schmuck

Date 17/5/2018