

Alissa Sluys
 Consents and Hearings Administrator
 Northland Regional Council

Thank you for sending details relating to APP.039650.01.01, ADDENDUM TO S42A report by Melanie Donaghy and further AECOM and Tonkin & Taylor reports, which I would like to comment on.

AECOM – Air Quality Assessment

26- *“Mr Stacey considers that electric sanding, grinding and spray coating operations should only be undertaken over impermeable surfaces and when the wind speed is between 0.5 m/s and 5 m/s (as a 60 second average)”.*

Melanie later on recommends adopting it.

I have concerns about the degree council relies on these and similar impractical conditions they make. Surely any business with discharges on or near any reserve in New Zealand must have tighter controls than was previously granted. Such an approach may be designed to limit a need for screens but has its flaws.

Monitoring

Given the history of non-compliance by the boatyard witnessed over 20 years, boatyard resource consents are impossible to constantly monitor effectively or indeed obtain a prosecution successfully if needed. Even abatement notices are left wanting and linger while offences continue.

How can evidence be reliably gathered? What guarantee is there that the anemometer is calibrated correctly or maintained regularly? How would wind direction be documented? Are times of work to be accurately recorded? None of this is detailed adequately with this application.

I believe reliable evidence of the nature required, could only be possible if it was recorded continuously while connected to a computer Council and the public could access.

On 12th September 2017 an email I received from FNDC general manager Mr. Myburgh highlighted their problem by saying, *“Council does not have the resources to check screening each time a boat is hauled and we rely on the owner’s expertise around working on boats.”*

Due to poorly documented consents, there has been a profusion of inconsistent, contradictory advice and interpretations amongst Mr. Schmuck, staff and administrators that has led to poor monitoring and an inability to control discharges to this day. It has led to procedural matters being obstructed, with continued annoyance and inconvenience to the public.

Consents need to be more frequently monitored and monthly inspections paid for by the boatyard.

Shamefully in spite of complaints from the public, NRC has waited 20 years and just last month done testing that proves a serious buildup of contamination has been allowed by disrespectful boatyard activities involving public land. We see here an inability to manage and protect the environment by both Councils due to non-compliance regardless of the consent conditions. Even within this application, we have seen a propensity to rubber stamp the word “no more than minor” frequently and rely on the public to do assessments.

NRC also needs much simpler, enforceable conditions of consent for them to be effective.

They need to be free of impediments and assorted interpretations as to the degree of air and ground contamination, and nuisance values, given the litigious history related to the boatyard.

Council must have something clearer and easier to monitor by its compliance group. These are compelling reasons for a change. This can be achieved by not relying on wind speeds but insisting without exception, on effective **screens always being used when boat work has discharges to the air or ground and is within 15 metres of public reserves.**

Councils also need to **urgently** approach the Environment Court in support of a simple law to control the use of screens or emissions and enable fines that can be readily sanctioned. In an ideal world something along these lines could be effective :-

- ❖ Should screens not be used when required or mudcrete grid conditions contravened after two initial warnings, an automatic fine be issued of \$200, made payable within 20 days. (accidents excluded)
- ❖ Should the same conditions be breached more than three times in any 12 month period the penalty becomes \$2000.
- ❖ Photographic evidence will be all that is necessary and persistent breaches could entail the withdrawal of consent altogether.

Should consents be granted here for ground and air emissions the following must be noted :-

- ❖ That, *“easements over the reserve have been quashed, save in respect of easements A3 and E”*, meaning the boatyard has to complete boat work upon its own land due to the Court of Appeal judgment.
- ❖ Therefore any consent given should be confined to the boatyard’s land and areas of occupation, not outside of their boundaries.
- ❖ Boats must not now overhang the turntable into the reserve but be turned sideways and consents must not apply over all of the reserve.
- ❖ Mr. Schmuck has initiated a 75% reduction in boatyard work . This means that reserve land is no longer necessary and an easement impossible to obtain under the ACT.
- ❖ NRC discharge consent conditions already state that waterblasting is confined to the yard impervious surface. (read boatyard proper, not elsewhere)
- ❖ That no boatyard emissions or discharges disrupt, interferes, or be of nuisance value to people using the reserve or walkway. A ruling that only approved commercial grade vacuum sanders, be used at all times within 15 metres of the reserve.
- ❖ That absolutely no waterblasting takes place anywhere within 15 metres of public reserves without effective screens at least 2.5 metres high entirely surrounding the boat. The size and type of sheeting to be stated in the conditions and not left to the applicant as you have done in the past.

This need for compulsory screening is further supported by Tonkin and Taylor’s report and the comment from Melanie Donaghy below.

Discharges

89- *“The reserve, in particular the public walking track, is immediately adjacent to where water blasting is carried out and water spray in general*

maybe considered to be offensive by members of the public, regardless of whether there are any contaminants in the water spray or not.

I therefore, continue to believe that this condition is crucial in mitigating adverse effects from spray drift and do not support the Applicant's recommended change to condition 71".



Above is typical uncontrolled discharge rising more than 2 metres, of water, water vapor and contamination from Mr. Shmuck's operation.

Proof that boatyard work more than 10 metres away obstructs and frustrates the public

The public's rights, to freely enjoy the reserve and walkway have been severely hampered due to boatyard's activities. There must be no concessions here; there is to be no offensive commercial activity or discharges causing a nuisance.

AECOM report 9/7/18 – 5.0 Water blasting vessels

"Based (on) results of monitoring AECOM considers that there is no potential for nuisance from this activity."

This assumption is unsound due to:-

- ❖ Boats up to 25 tonnes are worked on but the sampling was done on small craft.
- ❖ No details are provided of what contamination and biota if any, was on the hulls at commencement of test.
- ❖ There was little to no wind.
- ❖ Water blasting pressure was not detailed.

How meaningful can their statement be when another test with larger craft, heavy contamination and different water pressure during continuous 4 - 5 knot winds will be markedly different, more compelling and extremely unpleasant to anyone based 5 metres away on the reserve trying to sunbathe or picnic?

AECOM- 13th August, Peter Stacey

8. "While in my report I did not consider the use of an exclusion zone around boat yard activities, upon further consideration, I agree that this would be a prudent measure to protect public safety. I therefore propose the following condition.

"Temporary signage shall be placed to the north and south of the slipway adjacent to the walking track, and 15 m to the south of Area A in the reserve, whenever boat yard activities are being undertaken."

This infers that his client is happy for boatyard work to continue causing annoyance and disrupt or deny the public a chance to have recreation or picnics on their reserve.

11. *"The respective permitted activity rules allow discharges beyond the boundary as long as they are not "offensive or objectionable"*

"I do not consider that boat yard activities should be required to meet a more stringent test."

15. *"spray drift from the boat yard is likely to be similar to people using public walking tracks adjacent, ornamental water fountains or the automatic watering of public gardens or golf courses."*

What nonsense, since when have ornamental water fountains, public gardens and golf courses used antifouling compounds? How can he sanitise the water blasting's removal of noxious chemicals with these words? Any boatyard alongside or upon a reserve must have very strict controls. One only has to consider the NRC test results and look at the photos and videos presented.

He is quite happy to suggest screens by the walkway.

17. *"I would recommend that a screen approximately 2 m high by 7.5 m wide, supported by two posts located either side of the slipway, be located just beyond the boundary between Area A and the walking track, as shown in Figure 1"*

My reply is simple, why stop there? Take 20 minutes longer and do all 4 sides of a boat regardless of where it is with lightweight frames. A height of at least 2.5metres is needed, as people anywhere on the reserve must be made to feel safe also. The resulting 85% reduction in drift would leave very minor effects beyond.

Marina

47- *"It is understood that toilet facilities are available in the boatyard building. If this is not the case, the nearest public toilet facilities are available near the Opuia ferry ramp. It is also understood that parking is likely to be able to be accommodated on the boatyard site with further limited parking near the Opuia Community Hall on the corner of Beechey Street and Richardson Street via the coastal walkway"*

I find this to be a very unprofessional, unsubstantiated assertion by staff, with clearly no local knowledge of ensuing effects. This attitude has led to systemic failures when NRC drafted previous conditions. Many overseas boats, staying for periods of time on jetties, need handy toilets and do use rental cars. Unless these are provided, the marina consent must be declined.

Any consent must insist that toilets and parking are provided within the boatyard property and available 24/7. This condition is not optional. NRC staff must not recommend street parking or public toilets as these already incur high demand during summer.

Public Access to the Reconstructed Jetty and Marina Facility

40. *“proposed locked gates be relocated further seaward to the commencement of the proposed gangway, thereby providing security to the proposed marina while allowing full public access over the fixed jetty. In addition, it is recommended that the locked gates remain open during daylight hours to provide unrestricted public use of the pontoon if not in use by another vessel”.*

This jetty is on the public seabed in a recreational boating area and must be available to the public at all times. There is a need for unrestricted access to a floating pontoon and temporary mooring of dinghys for use by Walls Bay boat owners and visitors, who require access from the CMA to the reserve, walkway, shops, school and hall etc. at all tides. The presence and recreational value of the sailing school and charter boats on the jetty are also important and I believe any consent should document plans for these berths to remain.

Discharge of treated boat washdown water, Richardson st, Opua. Discharge of stormwater to the CMA

It has been acknowledged that there are high levels of land contamination due to boatyard activity.

This impact on the reserve must be addressed. Immediate remedial and decontamination work to an approved standard by the boatyard must be part of any conditions before proceeding.

Both washdown and stormwater consents must alleviate further issues on both the boatyard's land and Area “A” of the reserve. Boatyard storm water must not be allowed to continue onto the reserve. All discharges in future must be treated, kept out of the CMA and transferred into a trade waste system only.

Mudcrete Grid

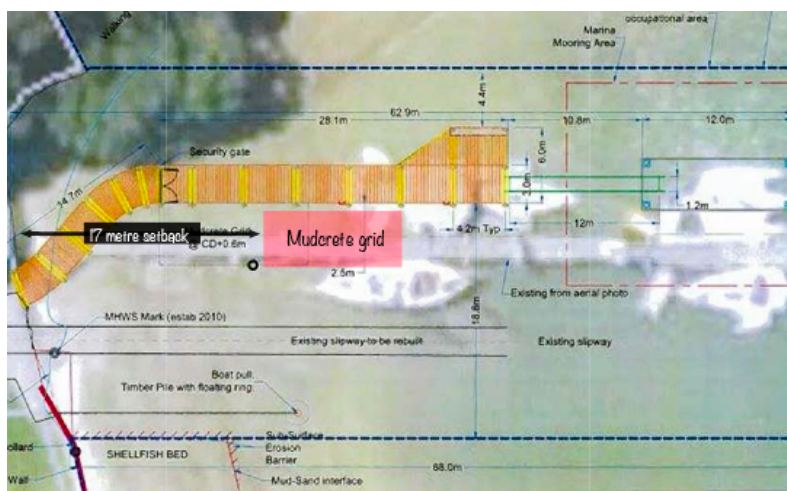
58- *“The mudcrete grid shall be designed to include a sump capable of holding a submersible pump and constructed so that any water discharged onto the grid is directed into the sump”.*

If a grid was installed, **there is a high risk of direct discharge into the CMA** should a pump be subject to blockages which can occur. An operator could be focussed entirely on his boatwork and may not be aware when a blockage occurs while working on the opposite side until after an overflow ensued.

It should be noted that many operators would be boat owners using this equipment for the very first time and a workable, loud alarm system must be fitted. An emergency plan needs to be detailed.

Due to recent developments I now believe, that an appropriately placed, well planned, well run and well supervised mudcrete grid could be acceptable and justified. It may well be an asset to the community, providing restrictions were made as to its use.

These must be confined to biosecurity and hull inspections, soft hand cleaning or washing with low pressure water, scraping only, and minor replacements such as anodes, hull fittings and work with propellers.



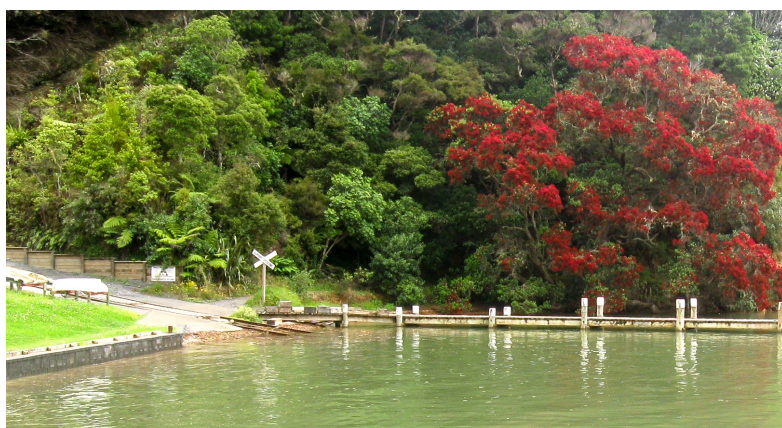
I believe there is support for one mudcrete grid that did not risk damage to the CMA or impaired the visual and natural environment in any way. To achieve this a minimum setback of 17 metres seaward from the beach is necessary, so that the scenery shown in photos provided is not obscured.

Total Marine 16th July

2.2 Aesthetics

"And despite the existing structure already being there for years, for those residents that could see the structure it was important it does not compromise the natural flow of the coast line and spoil the view."

I agree that any development around this spectacular reserve and walkway environment, **must not effect or compromise the natural flow of the coastline or block these views** in any way, from the walkway of the natural surroundings, scenery or CMA.



Unobstructed views out to the 6th pile need to remain.

Doug Dysart. Opua. 14/8/18