

Our Ref: MEP-06010-12

30 April 2010

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Dear David

Coastal Resources Limited Request for Information 16th April 2010

You have invited a response from Maritime New Zealand (MNZ) with respect to the application from Pine Harbour Marine Ltd to dredge sediment and discharge it into the Beachlands-Howick embayment, specifically regarding use of a deepwater disposal site as an alternative.

As you are aware MNZ is a Crown Entity, responsible for administration of New Zealand's marine dumping provisions in the Exclusive Economic Zone (EEZ). This is provided for through Part 21 of the Maritime Transport Act 1994 and the regulations contained within Marine Protection Rule Part 180, which give effect to New Zealand's obligations as party to the 1996 Protocol to the 1972 London Dumping Convention.

Largely equivalent provisions exist in the Resource Management Act 1991 and Resource Management (Marine Pollution) Regulations 1998 for dumping activities within the 12nm limit of the Coastal Marine Area (CMA), and which give the jurisdiction for oversight of such matters to regional authorities. The two legal regimes are broadly consistent as far as marine dumping is concerned, and applications are assessed against similar criteria. This should ensure that wastes considered unacceptable for marine disposal in one jurisdiction (due to contamination for example) cannot simply be transferred to the other.

The dumping regime is predicated upon general principles to reduce the necessity for marine disposal over time; to characterise wastes for acceptability (in terms of environmental impacts); to undertake a waste prevention audit to minimise quantities disposed at sea; to consider re-use or recycling of wastes as an alternative to marine disposal in the first instance; and to ensure adequate monitoring and reporting.

MNZ is also responsible for compiling national reports on dumping activities in New Zealand marine waters annually, and communicating these reports to the Secretariat of the London Convention.

The majority of marine disposal activities involving dredged coastal sediments in New Zealand (by permit number and volume consented) occurs within the CMA under coastal permits. In 2008, nine of the sixteen regional authorities that issue consents for disposal of dredged material approved unconfined marine disposal of over 2 million cubic metres at monitored inshore CMA sites. Since 2000 the only region that has generated applications to MNZ for disposal of dredged material in the EEZ is Auckland.

For the most part, since 1992 Auckland regional disposal operations have relied on continued use of the Auckland Explosives Dumping Ground (AEDG) in the EEZ, a site of 5nm radius east of Cuvier Island, the boundary of which is 3.5 nautical miles past the CMA, ranging in water depth from 600-1200m.

Use of the AEDG has been problematic. It is unclear why the original decision was made to use a pre-existing deepwater military ordnance disposal site for dredge spoil, but its continued use has been one of practical necessity given existing regional demands and lack of alternatives. Unfortunately there is a paucity of reliable empirical data in existence for the site and equally little is known about the sensitivities of the benthic environment. The water depths encountered across the entire area make accurate monitoring all but impossible and even basic scientific assessment would be beyond the means of the average small operator. Therefore, meeting some of the obligations imposed on parties to the London Convention and its Protocol regarding monitoring would be difficult and costly – if indeed they are possible at all.

While its use may be consistent with the Disposal Options Advisory Group recommendation for maintenance dredgings to be disposed in waters greater than 100m, it would appear that the site's suitability with regards the general principles of the London Convention outlined above were probably not considered in any depth at the time of the original decision to use the site for dredge spoil.

In addition, the New Zealand National Policy on Sea Disposal of Wastes, developed by MNZ (then the Maritime Safety Authority) after public consultation in May 2002, indicates that unless an agreed management plan is in place for an identified dump site, marine disposal site should be limited to 50,000m³ per year. This level is potentially inadequate to provide for the total demand in the Auckland region.

In order to address these challenges, prior to 2004 MNZ attempted to facilitate the establishment of a regional stakeholder group that could pool resources to develop a management plan for the AEDG and undertake the necessary monitoring to ensure impacts were at acceptable levels within predictions, or indeed to identify a new site in shallower water where monitoring could occur more efficiently. At that time the Ports of Auckland Limited (POAL) was still considering marine disposal options, and its involvement in the process was seen as critical to the success of the initiative due to its commercial resources. However, POAL subsequently decided to dispose of all dredging wastes in the Ferguson Terminal reclamation, and withdrew its support for the stakeholder group. While MNZ continued to encourage the regional stakeholders in this regard, no progress was made. MNZ also continued to consider applications for disposal at the AEDG based on its historic use, relying on characterisation of the wastes to ensure environmental protection through demonstration of acceptably low levels of contamination and limiting annual volumes of dumped material, while relaxing requirements for site specific information which would be difficult to ascertain in practice.

The situation is not considered an acceptable long-term solution, rather an interim measure to provide for continued viability of Auckland regional coastal facilities while other disposal options are pursued. To ensure that no single applicant can monopolise the 50,000m³ annual site limit, MNZ imposed a 10,000m³ individual annual limit per applicant for disposal at the AEDG, and only issues permits for a maximum of three years under certain conditions. An alternative site more suited for ongoing monitoring and management in shallower water is considered the preferred option.

To date, Coastal Resources Limited (CRL) is the only stakeholder that has submitted a credible proposal for an alternative site that has progressed through the application process. A site has been identified in approximately 120-140m water depth (at the limit of what can be accurately surveyed by current technologies for monitoring purposes) and a comprehensive monitoring methodology has been developed to support an application for a 35 year dumping permit. Public consultation on the application was invited through notification in the national press, on the MNZ website, direct communication with key maritime stakeholders, and extensive direct communication by the applicant, which attracted three submissions (Ngati Rehua, Ngatiwai Trust Board & ARC, all in opposition). Following subsequent consultation with the submitters, MNZ approved a one-year limited volume (7000m³) trial dumping permit in December 2009. Once the results of the monitoring have been submitted to MNZ later in 2010 and further consultation has occurred with stakeholders, the Director of MNZ will consider whether the long-term application for the 35 year permit can be granted or not.

Should the CRL application be unsuccessful, ongoing use of the AEDG will once again be under the spotlight and subject to increasing demand. In the long-term when POAL concludes its reclamation activities and once again seeks a marine option for disposal of dredged material, the total regional requirement for disposal of dredged material will almost certainly exceed the current annual regulatory limitations at the AEDG. It is unlikely that MNZ will increase these annual limits for the AEDG stipulated in the national policy to allow for the increased demand unless a management plan is in place.

There are also broader issues which are relevant to any considerations of marine disposal. The necessity for dredging arises because of coastal sedimentation, and it is widely acknowledged and understood that in recent years the elevated levels of sediment entering coastal systems emanates from land. Activities occurring on coastal land under resource consent such as earthworks or vegetation clearance cause sediment erosion to flows into the marine environment, which (in addition to causing significant environmental impacts) then necessitates dredging to maintain access to existing coastal facilities. In order to reduce the need for marine disposal over time and minimise waste generation as required under the London Convention and its Protocol, the only option is to address land-use practices to reduce sediment generation at source. Furthermore, in considering options to re-use or recycle as a preferred alternative to marine disposal, most - if not all - opportunities (reclamation, construction, habitat creation, beach nourishment) will exist within the jurisdiction of the regional councils and be consented under Resource Management Act 1991. These areas are beyond the control or influence of MNZ, and therefore cannot be considered fully through our application process for disposal in the EEZ.

In conclusion, while MNZ acknowledges significant environmental impacts may arise from coastal sediment deposition in near-shore ecosystems, long-term reliance on a deepwater marine disposal site in the EEZ to service the needs of Auckland regional stakeholders should not be taken for granted - despite the DOAG recommendation. The AEDG in particular presents practical difficulties that, in the event it is the only option for the Auckland region, could eventually lead to significant challenges to the viability of coastal facilities such as POAL and the various marinas in the Hauraki Gulf.

Yours sincerely



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