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Environmental Protection Authority
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28 September 2018

Dear Richard

Request for advice under section 56 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 regarding the Coastal Resources Limited Application - EEZ100015

Thank you for your letter to Auckland Council requesting advice regarding the Coastal Resources Limited Application to dump dredged material in the EEZ to the east of Great Barrier Island.

Our response to the four requests in your letter is set out below.

1. Please produce a report (or diagram) that outlines Auckland's Coastal Planning framework. In particular, the management regimes and hierarchy of statutory and non-statutory planning instruments and processes that provide for the management of the coastal marine area and exclusive economic zone around the Hauraki Gulf under the RMA.

These matters are covered in the attached PowerPoint presentation (**Attachment 1**). The PowerPoint was presented to the application's Decision Making Committee at their induction briefing on 7 August 2018.

2. Please provide advice on the roles and relationships between the statutory functions of the Auckland Council, Maritime NZ, and the Harbour Master in relation to potential barge movement within the coastal marine area (out to 12 nm).

The statutory functions of Maritime New Zealand (MNZ) cover a range of matters including operational and health and safety requirements, seafarer certification, and the registration for ships and vessels. MNZ are responsible for various maritime and marine protection rules which are made by the Minister of Transport under the Maritime Transport Act 1994. The Maritime Rules relate to the safety of ships and people. The Marine Protection Rules aim to prevent the disposal of waste and marine pollution from ships. Further information on these is available at www.maritimenz.govt.nz.

The principal statutory function that Auckland Council has in relation to the movement of barges relates to navigation safety. One of the main roles of the Council's Harbourmaster's office is to ensure maritime safety on the region's navigable waters. The powers of the Harbourmaster are legislated in the Maritime Transport Act.

The Auckland Harbourmaster's Office is located within Auckland Transport in the Council's organisational structure. I have enclosed an Auckland Transport Board agenda report which explains the roles and responsibilities of the Harbourmaster's Office (**Attachment 2**).

The Auckland Council has issued the 'Auckland Council Navigation Safety Bylaw 2014 and Controls' (the Bylaw) which puts in place the relevant navigation and safety rules relating to navigation within the Auckland region. The Bylaw is produced pursuant to the Maritime Transport Act 1994, the Local Government Act 2002 and the Local Government (Auckland Council) Act 2009. The Bylaw is included as **Attachment 3**. Various Harbourmaster Directions and Navigation Safety operating requirements are issued under the Bylaw. These are available at www.at.govt.nz/about-us/harbourmaster. The Harbourmaster also issues weekly 'local notices to mariners' which cover events, local issues and infrastructure issues that may affect navigation in the Auckland region. These are also available on the Harbourmaster's webpage.

Barges moving through the coastal marine area must comply with the Maritime Transport Act, the Maritime Rules, the Marine Protection Rules, the Navigation Safety Bylaw, Harbourmaster Operating Requirements, and Harbourmaster Directions.

In the past, the Harbourmaster's office has been informed of barge voyage plans because either Maritime New Zealand or the EPA has required an applicant to inform the Harbourmaster. This has been for information rather than to meet a particular statutory requirement. The Harbourmaster's Office does not monitor all vessel movements but will respond to any navigation and safety issues they become aware of.

If a barge dumps material on the way to a dump site due to adverse weather conditions or equipment failure, they would need to inform Maritime New Zealand as a 'maritime accident or incident', and the Auckland Council Consents Department as a Resource Management Act (RMA) compliance issue. Any oil, petrol or diesel spills should be reported to the Harbourmaster for an appropriate response under the New Zealand Oil Spill Response Strategy.

Barge movement within the coastal marine area is not regulated under the Council's RMA functions. The Auckland Unitary Plan provisions relating to discharges of hull bio-fouling would apply to discharges from barges as they move about the region. These provisions aim to limit the spread of marine pests. Under rule F2.19.7(A79) passive discharge of hull biofouling organisms from a commercial vessel is a permitted activity provided it meets standard F2.21.8.8. The standard requires that the vessel must be subject to an approved Bio-fouling Management Plan that implements the guidelines of the International Maritime Organisation, adherence to which can be demonstrated through the maintenance of a Bio-fouling Record Book which is available for inspection upon request by council. The Auckland Unitary Plan is available at www.aucklandcouncil.govt.nz/unitaryplan.

3. Please provide advice on Auckland Council's approach to setting and monitoring standards for contaminant levels for proposed dredging in the coastal marine area noting those proposed by CRL (ANZECC guidelines low) and the different values in the Auckland Council Technical guideline book.

Dredging in the coastal marine area requires a resource consent under the Auckland Unitary Plan. The consent assessment considers the potential effects of the proposed dredging on the environment. This includes assessing the potential for contaminated sediments to be dispersed through the dredging operation. The concern around contaminants in the dredged material is different to that which the EPA needs to consider, because the dredging is largely removing contaminants (with some risk of disturbing and dispersing contaminants), whereas a dumping application process must consider the effects of receiving those contaminants.

The dispersal of contaminants during dredging can be managed through the dredging equipment being proposed. In most cases this is an excavator mounted on a barge. This methodology generates less suspended sediment than cutter suction bucket dredging. The council places monitoring requirements on dredging operations to ensure that the level of adverse effects is within that which has been agreed as acceptable for the activity. In areas of high contamination, council may set conditions that contain sediment plumes, for example through use of silt fences, however these are used in limited circumstances due to the effects and navigation hazard caused by the silt fence themselves.

To show whether there is a risk of dispersing contaminated sediments, applicants need to report on contaminant levels and generally do this in comparison to the values specified in the 'Australian and New Zealand Guidelines for fresh and marine water quality' (ANZECC 2000) and sometimes those in 'Blueprint for monitoring urban receiving environments, ARC Technical Publication 168 revised edition August 2004' (TP168) (**Attachment 4**).

The Auckland Regional Council (ARC) technical publication (TP168) was developed to address the accumulation of certain contaminants in the environment from stormwater and wastewater. It was linked to the introduction of new stormwater and wastewater controls in the ARC's regional plans and is still used in monitoring coastal contaminants. TP168 includes environmental response criteria (ERC) for the coastal marine area that provide thresholds for assessing environmental quality in relation to stormwater and wastewater discharges. The ARC took a conservative approach in the development of regional ERC, so that they can provide early warning signals which allow action to be taken before substantial impacts occur. TP168 also provides regionally consistent methods for collecting and analysing monitoring data.

TP168 is not focussed on sediment quality for dredging purposes. It was drafted for other purposes. Some dredging applicants reference the ARC guidelines, while others do not. The council does not require dredging applications to consider TP168 but when an applicant has considered the ERC, the consent assessment considers the information they provide. This is more to provide a full response report to the decision maker, rather than out of necessity for assessment.

Appendix A of TP168 includes a summary of the rationale for selecting the ERC and the differences between the red ERC and ANZECC guidelines. If a dumping applicant is required by the EPA to report against values in the ANZECC guidelines, they may choose to note the ANZECC and TP168 ERC values in the same report if it is to be used for a dredging application.

An updated version of the ANZECC 2000 guideline has recently been released as 'ANZG 2018, Australian and New Zealand Guidelines for Fresh and Marine Water Quality. Australian and New Zealand Governments and Australian state and territory governments, Canberra ACT, Australia'. The new version is available at www.waterquality.gov.au/anz-guidelines. In future, the council will consider whether to update TP168 and/or the Auckland Unitary Plan to refer to the new guidelines.

4. As part of CRL's current and proposed application they follow a particular process to characterise the sediment before it is disposed of. Please advise what sediment characterisation process you use to determine what contaminant levels are in the proposed dredged material.

Section 3.3 of TP168 sets out sampling protocols relevant to stormwater and wastewater contaminants.

What is required for a dredging permit depends very much on the location and the council would seek expert technical advice on what is necessary for each situation. Generally in marinas, applications are for maintenance dredging (dredging to a previously approved depth) which disturbs relatively recently deposited sediments. Such sediments will typically have contaminants associated with vessels, particularly copper and zinc. Due to the enclosed and depositional nature of most marinas, the sediment plume from dredging is often contained within the marina. The council would generally require a low level of testing in such areas.

In processing applications for capital works dredging (excavating areas that have not previously been dredged), or dredging in areas where contaminant levels are suspected to be high (e.g. the downtown port and areas with a history of vessel maintenance), a dredging consent process would require a more detailed assessment of contamination. These would be *in situ* samples. There can be reluctance by applicants to take samples from the full depth range proposed in any dredging. If the council's technical experts consider this is necessary, it can be required. Sampling will be spot sampling. In some areas more extensive sampling can be needed if we are aware there are "hot spots" of contamination where materials might have been dumped or lost from a ship in the past. Such hot spots were not uncommon in the Auckland port area, especially in areas outside routine maintenance dredging areas. However, such locations are now becoming rare as most areas have had some maintenance dredging.

Our consents officers have noted that they are aware that in the past for marine dumping permits, conglomerate samples have been taken and it has been acceptable to dilute more contaminated sediments by mixing them with less contaminated sediments to achieve an over-all acceptable contaminant level. Because council has not been involved in any disposal applications for a long period, we have not had to deal with such matters.

Please contact me if you have any further questions.

Yours sincerely,



Kath Coombes
Principal Planner

Attachments:

1. PowerPoint presentation on Auckland's coastal planning framework with respect to dredging and disposal of dredged material (presented to the EPA Decision Making Committee Induction briefing for the Coastal Resources Ltd application for marine dumping in the EEZ, 7 August 2018).
2. Auckland Transport Board meeting agenda item no 11.1 26 May 2015 – setting out the roles and responsibilities of the Harbourmaster department.
3. Auckland Council Navigation Safety Bylaw 2014 and Controls.
4. Blueprint for monitoring urban receiving environments, ARC Technical Publication 168 revised edition August 2004.