

UNDER THE

Exclusive Economic Zone and
Continental Shelf (Environmental Effects)
Act 2012 (“the EEZ Act”)

IN THE MATTER OF

A Decision-Making Committee appointed
to consider a marine dumping consent
application made by Coastal Resources
Limited to dump up to 250,000 cubic
metres per year of dredged material at a
dump site east of Great Barrier Island.

AND

IN THE MATTER OF

A submission on the application by the
Director-General of Conservation

SUPPLEMENTARY STATEMENT OF EVIDENCE OF

JOHN ANDREW RIDDELL

1 December 2018

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SUPPLEMENTARY SUMMARY

1. My name is John Andrew Riddell. I have been practising as a resource management planner on a part-time basis since 1989 and a full-time basis since 1993, and have the experience set out in my primary statement of evidence.
2. Since lodging my primary statement of evidence I have attended a meeting of the planners to discuss consent conditions which resulted in a Joint Statement of Planners that I have signed. There have been continuing discussions with the other planners over consent conditions where disagreement or reservation were recorded in the Joint Statement of Planners.
3. In this supplementary statement I provide a summary of my approach to consent conditions and comment on some of the potential consent conditions where there is still disagreement between the planners.
4. This supplements my primary evidence, in which I explain in more detail my reasoning for amendments and additions to the consent conditions put forward by the applicant.
5. I confirm my opinion, given in my primary evidence, that, with suitable consent conditions, consent could be granted for this application.
6. In my opinion, the amendments and additions to consent conditions that I recommend are for one or more of three generic reasons:
 - the condition is good practice;
 - the condition is recommended by a technical expert; and/or
 - the condition addresses a matter the Decision Making Committee must take into account.

Good practice

7. Many of the remaining concerns I have about potential consent conditions are about good practice and consent conditions.
8. In my opinion, it is good practice to have consent conditions that set environmental standards to be met that are certain, that require

monitoring to check whether those standards are being met or not, and that set out the actions required by the consent holder where the standards are not met.

9. The basic good practice actions where it is discovered standards are not being met are reporting the situation to the consent authority, and ceasing the activity temporarily while an investigation and assessment is undertaken.¹
10. These considerations lead to my proposed consent conditions 5A and 7B, which are the conditions setting out the action where, respectively, a breach of the environmental standards in condition 5 occurs or an event occurs which could mean that the source site sediment and biodiversity characterisation can no longer be relied on.²
11. The applicant now proposing that reference to the ISQG standards be replaced with a new schedule setting out the standards to be met. I support this as providing certainty as to the environmental standards to be met.
12. There is still uncertainty remaining in proposed condition 5(b) which commences "A statistically significant difference between ...".
13. In my opinion, the degree of statistical significance needs to be stated. This would be an exercise for the technical experts.³
14. The applicant is proposing placing the detail of the methodology to be used for monitoring in schedules to the consent.
15. In my opinion, it is good practice to place detail about methodology either in a schedule or in a management plan. However, I consider that the consent conditions should state the crucial standards and actions, at least in summary form. This is because the consent

¹ I note that the High Court decision on *Taranaki-Whanganui Conservation Board v EPA* distinguished at paragraph 401 of the decision, between "normal monitoring conditions" and adaptive management conditions. In my opinion, the approach I set out here fits that "normal monitoring conditions" approach.

² The numbering I use is that used in the consent conditions attached to the Joint Statement of Planners. I discuss condition 5A at paragraphs 204 and 205 of my evidence, and condition 7B at paragraphs 197 to 200.

³ See paragraph 23 of the Joint Statement of Planners.

conditions will be looked at more often than the schedules, so there is likely to be an increased awareness of what is required if the required standard is included a consent condition, rather than in a schedule.

16. In my primary evidence, I recommend a clause in condition 5 that sets a standard for dredged material in each barge load to be dumped.⁴ This standard would apply in addition to standards applying to the dumped dredged material that accumulates on the sea floor at the Northern Disposal Site.
17. The following sentence in the first paragraph of Schedule Three addresses my concern:

Dredged material will only be acceptable for disposal at the NDA if the average concentration of each of the Primary Contaminants is below the ISQG-L values.⁵
18. Presumably, this is a test applied separately to dredged material from each of the source sites.
19. In my opinion, this standard that the average concentration of each of the specified contaminants in dredged material needs to be below what would now be the values set out in the new schedule is an important standard.
20. In terms of good practice it should be a standard in condition 5. I consider that it could replace my proposed 5(aa).⁶
21. There are four other good practice matters I will briefly refer to.⁷
22. First, the requirement for an appropriately trained crew-member that is part of the marine mammal condition 14. Mr Hay's suggestion is that "appropriately trained crew-member" be included as a further definition in the consent. The problem I see with relying on this

⁴ Clause 5(aa) at paragraph 111 of my evidence. This is discussed briefly at paragraphs 107 and 108 of my evidence.

⁵ This quote is from the version of Schedule 3 attached to the Joint Statement of Planners. There is a later version of this sentence that refers to the proposed new schedule setting out the actual values for the parameters being monitored.

⁶ See also paragraph 25 of the Joint Statement of Planners.

⁷ Other good practice matters are in my primary evidence and in the Joint Statement of Planners. Not discussing all of these in the supplementary statement should not be taken as meaning I necessarily resile from them.

definition is that it does not address the quality of the training to be provided.

23. I consider that good practice is that the training content, time to be spent on each phase of the training, the required qualifications or experience of the trainer, and any requirement for a refresher, would be set out in a schedule to the consent.
24. Second, it is good practice to anticipate that there will be occasions where the documents referred to in consent conditions and the methodology set out in the schedules need to be updated.
25. In my primary evidence I suggest a review condition to provide for this updating.⁸ This shown as condition 25 in the consent conditions attached to the Joint Statement of Planners.
26. Third, it is, in my opinion, good practice to include a generally applying condition allowing the consent authority, in this case the Environmental Protection Authority, to request information from the consent holder on matters related to the exercise of the consent at any time.⁹ I do not agree that such a condition is unnecessary or undesirable because of the information gathering ability indirectly provided by section 141, power of entry for inspection.
27. Four, the schedules are technical statements related to monitoring methodologies. I draw the Decision Making Committee's attention to paragraph 52 of the Joint Statement of Planners. It says that the experts (planners) consider that the schedules need to be reviewed by the technical experts to ensure that they are accurate and capable of practical implementation. In my opinion the appropriate time for such an exercise would be after the Decision Making Committee has confirmed what parameters are to be monitored.

Recommended by a technical expert

28. I recommend some consent conditions based on the advice of technical experts, in particular Dr Longdill and Mr Duffy.
29. These are:

⁸ See paragraphs 212 to 217 of my primary evidence.

⁹ My suggested wording is shown at condition 26 in the consent conditions attached to the Joint Statement of Planners.

- a sediment plume standard (condition 5(d)) and sediment plume monitoring (condition 8B);
 - benthic fauna monitoring each spring (condition 8A);
 - grab or box core sampling (condition 8A(d));
 - reference to a mechanical excavator as the means of dredging v identifying dredging methods that are not to be used (condition 10).
30. Whether the conditions should include the matters listed above depends on whether the technical evidence in support of them is accepted by the Decision Making Committee or not.
31. I will expand on the issue of how often monitoring should occur. The applicant's proposal is for monitoring after each 125,000 cubic metres of dredged material is dumped for disposal mound, contaminant analysis and sediment grain size analysis.
32. At the applied-for annual volume of dumping, this would translate to monitoring every 6 months.¹⁰ The consent conditions attached to the Joint Statement of Planners suggest a maximum time period between monitoring events could be added to condition 8.
33. The expert opinion of Mr Duffy is that benthic fauna monitoring should be undertaken at the same time each year.¹¹ The ecology/monitoring experts consider that mound formation and spread should also be monitored annually in spring.¹²
34. Whether the technical experts consider that there is a way of rationalising the different monitoring intervals could be a matter for the Decision Making Committee to explore.

A matter the Decision Making Committee must take into account

35. In my primary evidence I suggest that the volume of dredged material that should consented to be dumped should be 100,000

¹⁰ Condition 9A limits dumping to 80,000 cubic metre of dredged material while the monitoring report is prepared, provided to the EPA, and certified. In the worst case scenario this would be a limit on 80,000 cubic metres over 5 months of dumping. That would mean that in the sixth month 45,000 cubic metres of dredged material would required to be dumped to achieve a dumping rate of 125,000 cubic metres per 6 months.

¹¹ See paragraph 33 of Mr Duffy's evidence.

¹² See paragraph 26 of the Joint Statement of Experts in Ecology/Monitoring.

cubic metres per annum, and not the applied for 250,000 cubic metres per annum.

36. I considered that there was an issue with the requirement from section 59(2B)(c) and (d) of the EEZ Act for any alternative methods of disposal or whether there are practical opportunities to reuse, recycle or treat the dredged material to be taken into account when making the decision on the application.
37. Further, section 62(1A) of the EEZ Act requires the marine consent authority to refuse consent if it considers that the waste (dredged material) may be reused, recycled or treated without more than minor adverse effects or without imposing unreasonable costs on the applicant; or if the marine consent authority considers that dumping the waste is not the best approach to its disposal in the circumstances
38. Since I discussed this in my primary evidence,¹³ there has been more information provided on the potential sources of dredged material which largely accounts for the 150,000 cubic metres of dredged material per annum that had been described in the application as coming from sites yet to be identified.¹⁴
39. On further reflection on the process of taking into account the opportunities for reuse, recycling, treatment or the use of alternative methods of disposal, I realise that this consideration is not as straightforward with this application as it would be where the person undertaking the dredging of an area is also seeking a marine dumping consent to dump the dredged material.
40. In that case there can be a direct consideration of the other opportunities and alternatives.

¹³ At paragraphs 66 to 84 of my evidence.

¹⁴ Noting that these extra sources identified in the recent report by Market Economics show *potential* origins for dredged material. This includes a "fall-back" provision for the Ports of Auckland Limited if their own application for a marine dumping consent is unsuccessful. On the other hand the Market Economics report did not assess other potential dredged material sources similar to the recently approved dredging of the Mahurangi River. It concentrated on marina and port related dredging, and from that point of view, may be considered to have understated potential volumes of dredged material.

41. With this application, any taking into account of those matters is an indirect consideration because Coastal Resources Limited is not the agent undertaking the dredging.
42. Probably, the main conclusion that can be taken into account is that dredged material is likely to be dumped at the Northern Disposal Site, and not disposed of in some other way, where the use of the Northern Disposal Site is the lowest cost disposal option.
43. I am no longer so concerned that there is an issue with justifying the applied for dumping of 250,000 cubic metres of dredged material per annum.

A handwritten signature in black ink, appearing to read 'A. Riddell', with a stylized flourish at the end.

Andrew Riddell
2 December 2018