

Coastal Resources Limited marine dumping consent application

Submission Reference no: 52

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Submitter Type: Not specified

Source: Email

Overall Notes:

Clause

Do you intend to have a spokesperson who will act on your behalf (e.g. a lawyer or professional adviser)?

Notes

No

Clause

Do you wish to speak to your submission at the hearing?

Position

Yes I/we wish to speak to my/our submission at the hearing

Notes

Yes

Clause

We will send you regular updates by email

Position

I can receive emails and my email address is correct.

Notes

Email

Clause

What decision do you want the EPA to make and why? Provide reasons in the box below.

Position

Refuse

Notes

In deciding whether to grant a marine permit, the EPA must "give effect" to the principles of the Treaty of Waitangi (section 12). This is a stronger than the requirement to "have regard to" Treaty principles under the Crown Minerals Act. It is unclear whether a report from the Māori advisory committee to the EPA has been received. On balance the adverse effects of granting of this consent outweighs any benefit (Part 2 RMA). Both domestic and international obligations as they relate to Māori and indigenous peoples are required to be meaningfully considered in any decision that impacts on their fundamental rights, including decisions such as this.

The submitter have elected to withhold their personal details from publication.

Submission to the Environmental Protection Authority (EPA)

In the matter of An application from Coastal Resources Limited for a marine dumping consent to dump dredged material at a deep-sea site east of Great Barrier Island.

In accordance with Section 46 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ)

This submission does not support this application and objects to the granting of this consent.

Background

In preventing the excesses of waste pollution, international law, the 1972 London Dumping Convention along with the 1982 United Nations Convention on the Law of the Sea now make dumping at sea illegal. Harmless matter including dredged material, sewerage sludge, organic material, ships, platforms and other structures may be dumped but only under permit.

The Basel Convention 1989, significant international waste law, applies to household and hazardous waste disposed of, or intended for disposal, that aims to control and limit the movement of waste. Importantly, this is based upon a process of prior informed consent, a fundamental right included in the United Nations Declaration on the Rights of Indigenous Peoples and a standard higher than that of consultation.

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

Adopted in 2012, the Exclusive Economic and Continental Shelf (Environmental Effects) Act (EEZ), colloquially known as the Resource Management Act 1991 (RMA) at sea, aims to “promote the sustainable management of the natural resources of the EEZ and Continental Shelf” through a robust consent process. The general rule is that no person or company may undertake any activity within the exclusive economic zone or continental shelf unless the activity is authorised by a marine

consent. Unlike the Crown Minerals Act, the focus is not economics, but the environment.

Environmental Protection Authority

The Environmental Protection Authority (EPA) is responsible for issuing marine consents and ensuring that permit holders comply with the relevant environmental and safety standards. Permitted activities under the EEZ Act do not require a marine consent, however activities categorized as “discretionary” require a marine permit.

When applying for a marine consent, companies must submit an impact assessment, prepared in accordance with s 39 of the EEZ Act. The purpose of an impact assessment is twofold.

First, it requires consent applicants to identify the effects of the proposed activities on the environment and on persons with an existing interest, including Ngati Rehua Ngatiwai ki Aotea who have a Treaty settlement within the area; and a customary marine title application under the Marine and Coastal Area (Takutai Moana) Act 2011. The impact assessment must describe any consultation undertaken with persons whose existing interests are likely to be adversely affected by the proposal.

Second, the impact assessment must ensure that the applicant take steps to avoid, remedy and mitigate any adverse effects identified, and if necessary, look for alternative solutions.

In deciding whether to grant a marine permit, the EPA must “give effect” to the principles of the Treaty of Waitangi (section 12). This is a stronger than the requirement to “have regard to” Treaty principles under the Crown Minerals Act. To give effect to the Treaty, the EEZ establishes an independent Māori Advisory Committee, the Ngā Kaihautū Tikanga Taiao, to provide advice and assistance to the EPA on matters relating to policy, process, and decisions of the EPA.

The Application

Ngati Rehua Ngatiwai ki Aotea and the Whanau Trust have significant interest within

the area.

This current application and applicant has not consulted with Ngati Rehua Ngatiwai ki Aotea nor this Whanau Trust regarding this application.

There is no report from Ngā Kaihautū Tikanga Taiao.

The effects of this application are more than minor and contrary to the United Nations Convention on the Law of the Sea that now make dumping at sea illegal. This is compounded by the fact that the EEZ Act 2012 aims to “promote the sustainable management of the natural resources of the EEZ and Continental Shelf” with a focus on the environment. In view of this the applicant has not undertaken any steps to mitigate or remedy these effects in the context of the adverse effect on Ngati Rehua Ngatiwai ki Aotea nor the Whanau Trust

This submission does not support and objects to this application.