

Presentation to Auckland Council Environment Climate Change and Natural Heritage
Committee

By Michael Taplin 27 August 2014

Topic: **Environmental Risk management failure at Sandspit.**

Supporting notes and references

These notes provide the documentary evidence and references members of the Environment Committee need to substantiate the argument made in my brief presentation.

The committee is then in a position to judge whether this constitutes an unacceptable risk to the environment and ecology of the Matakana Estuary, Kawau Bay or the wider Hauraki Gulf.

Desired outcome: I wish to see a broad investigation of, and changes to the management of the environmental risks described in my presentation. A broad based investigation is needed, crossing departmental and functional boundaries to find a solution to the problem I have described..

Slide 2

This elevated shot of the Sandspit in 2011 shows the Auckland Transport car park at the top and the two tidal lagoons, the natural reserve and Dean's Island in the foreground.

In 2010, ARC in granting permits for works in the Coastal Management Area (CMA) denied an application to stockpile 10,000 m³ of clean sand in the tidal lagoon adjacent to the car park because it would create adverse effects on the amenity of the spit for residents. (Page 44, ARC Decision 28 July 2010).

Slide 3 shows the proposed marina footprint from a similar angle in 2014. The rock wall structure with the two diggers in operation encloses a 60 m square which will be filled with stockpiled dredgings to an unspecified height for storage and drainage.

The Construction Management Plan (CMP), approved by Auckland Council Coastal Consents team on 5 July 2014 does not specify a maximum height of the stockpile, but a quantity estimate of 10,000 m³ would seem reasonable given the quantity of material to be excavated and dumped and the works timetable. (100,000 m³ between October 2014 and July 2015).

Slide 4 shows the Sandspit Reserve with the shorebird roosting bank occupied by oystercatchers, godwits and pied stilts. The remaining natural areas of the reserve are being restored in accordance with the Sandspit Reserve Management Plan 1997. Please note that the Sandspit Reserve is established under the Reserves Act 1977 and is managed but not owned by Auckland Council.

The shorebird roosting bank is to be replenished and maintained by the Sandspit Marina Society (LAN-54602/4, Condition 17).

Slide 5 shows the condition of the roosting bank in July 2014, and the proximity of the site works to the protected reserve.

Slide 6 shows the present state of this area. I estimate the eventual height of the stockpile at 3.5 m for 10,000 m³. It will obscure the view of the distant Matakana ridge and much of Rainbows End from this part of the spit.

Slide 8 provides another view of this area. The Environment Court Decision No. [2012] NZEnvC052 clarified the expectation that the reserve is to be restored and enhanced to provide public amenity and requires a contribution from the Marina Society of \$10,000 to Auckland Council for this purpose. The Sandspit community is at present working on a long-term plan for the restoration of Sandspit Reserve with

the support of Rodney Local Board, and expert advice from Wildlands Consultants, who recently assessed the ecological value of this and other Reserves for Rodney Local Board.

Slide 9 Please check **appendices and references** for the technical detail and relevant correspondence.

Coastal Permit 41065, Condition 23 - Biosecurity protects Sandspit from importation of invasive marine species. It is silent on the risk of export of such species **from** Sandspit to other locations in the Gulf. These risks are significant for Great Barrier, Coromandel and Mahurangi, and have been investigated by Dr. Roger Grace and described in three papers. (References 1-4)

Slide 12 The Coastal Consents team recognizes the practical difficulties in disposing of dredged material by barge to the offshore disposal site (Appendix 2 email Alan Moore 6 June 2014) but fails to require the developers to show how the problem will be resolved.

The key issues are:

1. Lack of alignment of the dredging and dumping timelines.

- a. As a matter of logic “if you cannot dump it you cannot dig it.” There must be a disposal site with the capacity to accept the quantities of spoil to be dredged.
- b. The dumping permit (No. 568) for the offshore site off Great Barrier Island was amended by Maritime NZ (MNZ) in February 2013 from the limit of 50,000 m³ per annum as follows:

Nov 2012 – Nov 2013	15,000 m ³
Nov 2013 – Nov 2014	100,000 m ³
Nov 2014 – Nov 2015	35,000 m ³

reverting to the original 50,000 m³ p.a. limit thereafter. These changes were sought by Coastal Resources Ltd to accommodate the spoil from Sandspit Marina and were granted by MaritimeNZ on a “use it or lose it” basis on 28 February 2014.

- c. The CMP timeline (Appendix-F - Sandspit Marina Construction Plan) for the project indicates the following planned timing of dredging and disposal.

July 2014 – Nov 2014	Channel dredging	8,800 m ³
Oct 2014 – Nov 2015	Marina Basin dredging	82,000 m ³
- d. There will be no difficulty in dumping the channel dredgings during the specified period.
- e. A major problem emerges from October 2014 because the CMP, Construction Methods Statement (CMS 2) specifies a dredging rate of 540 m³ per day, so the best estimate of the quantity that can be disposed of before the 2 Nov 2014 expiry date is 15,000 m³.
- f. The 2014/15 dumping limit is 35,000 m³, so it is not possible to dispose of the remaining 67,000 m³ in 2015. Under these circumstances the dredging period must be extended into the 2015/6 year. The CMP timeline fails to recognize this limitation in proposing the completion of barging in November 2015.
- g. This analysis does not take account of the demand for disposal of maintenance dredging from other marinas in the Hauraki Gulf, which are believed to be behind schedule due to the allocation of capacity to the

Sandspit Marina project in 2013/4. The “T R Healy” bottom dump barge has been idle for most of 2014, and in July was allocated to other projects.

- h. Auckland Council Coastal Consent staff have been advised of this issue on many occasions this year, and their response to our communications on this subject eventually conceded:

“You have listed the volumes of material that Coastal Resources Limited are able to dispose of at their dumping ground. These limits are placed by Maritime New Zealand. And as you rightly point out, the current disposal consent held by Coastal Resource Limited seems to pose some challenges for the Marina Society. This is a challenge for the society to manage. Not Council.”.

Appendices 2 (Page 7&8, and 3 (Page 9&10)

- i. The ARC Coastal Consent was granted on the assumption that disposal of the spoil would be continuous, by barge, direct to a land site at Haywood Lane, in the Matakana estuary. Stockpiling of spoil above MHWS would require an additional resource consent which has not been sought. After SMS abandoned the consents and appeals in respect of the Haywood Lane disposal site it negotiated transport and dumping of 100,000+ m³ with Coastal Resources Ltd at the MNZ Permit No. 568 site.
- j. The environmental consequence of these decisions creates serious doubt as to whether SMS can comply with the envisaged management and mitigation processes set out in the conditions for ARC 34730. The potential environmental consequences of non-compliance include
 - i. Increased siltation of the estuary and Kawau Bay.
 - ii. Extended disturbance of wading bird populations, both resident and migratory.
 - iii. Potential damage to benthic populations in the remaining sandbanks.
 - iv. Extended disturbance of views of the estuary and Matakana valley for visitors and residents alike.
 - v. Potential reduction in visitor numbers leading to financial hardship for businesses on the spit.
 - vi. Continuing pressure on Auckland Council and Auckland Transport to permit the dumping of the spoil on the land of the Sandspit Reserve, after many failed attempts to justify this by spurious claims of a need to “future-proof” the spit from rising sea level. This would be the final nail in the coffin for Sandspit Reserve.

Slide 13 The Sandspit community is entitled to be protected from the potential consequences of failure to meet the consented conditions in respect of:

1. Extension of the project completion date beyond the Consent expiry date of July 2015. Recent completion dates extend out to early 2016. This extends the loss of amenity suffered by residents to an unacceptable level of nuisance.
2. Project delays increasing costs beyond the SMS budget disclosed in the Project Information Memorandum - \$18.2 million.
3. Financial uncertainty due to unsold berths. On 22 August 2014 the SMS Newsletter indicated that they have just over 20 berths left to sell. On 25

August www.marinaberths.com offered for sale 21 berths with a value of \$3.9 million.

4. In the event of financial failure occurring, an uncompleted marina would be a visual eyesore until removed.
5. Which organisation would assume the liability for completion or restoration of the natural environment?

As Mr. Moore points out this is not Auckland Council's problem, **until** things go wrong and no-one is left to accept responsibility for removing the stockpile and restoring the environment to the standard required by the Resource Consent.

The inevitable consequence is that the community has to live with the resulting mess for an indefinite period.

Appendices

1. Pages 7& 8 Attachment to email correspondence between SSOSI and Coastal Consents team.
SSOSI Response to SYCMS marina website updates: 17 March 2014 & 26 February 2014
2. Pages 9&10 Email correspondence between Alan Moore Team leader, Coastal Consents team, and Caroline Barrett, a Sandspit resident.

References

1. Grace, R.V. 2014 Marine pest species at Sandspit, northern New Zealand. www.whangateauharbour.org, January 2014.
2. Grace, R.V. 2014 Risks of spreading Marine Pests from Sandspit by dredge spoil dumping at Sea. www.whangateauharbour.org February 2014
3. Grace R.V. 2014 More Concerns about spread of marine invasive species from Sandspit during Marina construction March 2014 www.whangateauharbour.org
4. Grace R.V. February 2014 Sea Snot story for Dive NZ. www.whangateauharbour.org
5. Hopper Construction Ltd, 2014 Construction Management Plan, Appendix F - Sandspit Marina Construction Programme
6. Dumping Permit – Maritime NZ, General Permit to Dump Waste or Other Matter at Sea No. 568

Appendix 1. Attachment to Email correspondence with Auckland Council Coastal Team

Sandspit SOS Inc Response to SYCMS marina website updates: 17 March 2014 & 26 February 2014

On 17 March 2014, and 26 February 2014 SYCMS posted marina updates on their website (copies attached). There appear to be a number of irregularities within these updates.

1. Construction Management Plan and Dredging Material Disposal Site

The 17 March update states that most of the Construction Management Plan is with Council, when our understanding is that Council has not received the CMP, and has no information on the dredged material disposal site. Information provided to date by SYCMS regarding the disposal site is vague. Dredging of the marina footprint, and disposal of the dredgings are inextricably linked. Construction and dredging should not commence until an approved disposal site is confirmed, and included in the CMP.

2. Stockpiling of dredged material

The attached SYCMS updates, and the CLG minutes of 26 March 2014, state that during construction, dredgings will be stockpiled to provide a platform above high tide level, and dredged material will be stockpiled on this platform to drain, prior to barging out. Regardless of the logistics, duration, or the reasons for the proposed stockpiling, the assumption is that SYCMS have resource consent to stockpile.

Resource consent to stockpile dredged material within the CMA (and the marina footprint is within the CMA) is a requirement. SYCMS do not have consent to stockpile within the CMA, or on land.

- Resource consent to stockpile within the CMA was refused: SYCMS originally applied for resource consent to stockpile up to 10,000m³ of sandy dredgings within the CMA, for the purpose of a beach construction on the northern side of the northern rock breakwater (which is no longer being constructed), and for the high tide bird roost. Regardless of the intended use of the sandy dredgings, resource consent to stockpile dredged material within the CMA was refused on the grounds of “the potential adverse amenity effects on local residents. These effects would include potential adverse visual effects for the duration of the marina construction process.....and potential issues with stockpile management – especially sand drift”. [Ref: ARC Decision p 44]. SYCMS did not appeal this decision.
- Should the stockpile extend above MHWS, a land use consent would be required, consistent with Environment Court decision [129] “the bird roost and beach replenishment features are necessary parts of the marina consents but require a land use consent for the portion above MHWS.”
- SYCMS were also refused consent to stockpile on land at 19 Haywood Lane, Matakana (Resource Consent Decision No: R54601). SYCMS appealed the decision, and then retracted the appeal.
- Any new resource consent applications to stockpile within the CMA or on land, should be refused on the same grounds as the original applications were refused. Additionally, the now intended stockpiling would consist of all of the dredged material, including dying and decaying matter (and not just sand),

and would therefore invoke the odour management provisions of RMA Sections 15 & 17, and Auckland Council District Plan (Rodney Section) 2011, Rule 16.6.1(a).

3. Management of invasive marine species

There is still no approved plan in place for the management of the invasive species that have been identified within the marina footprint.

4. Barges

The original coastal resource consent application contained, on page 12, "Purpose built shallow draft barges are proposed to transport the dredged material from the area of the excavation to the land based disposal site with each carrying up to 120m³ of material. The applicant has yet to provide details concerning the operation of the barge activity including requirements for the use of safety support vessels/tugs and back-up barge vessels. However, the applicant has confirmed that this will be addressed via the Construction Management Plan in consultation with the ARC and RDC Harbourmasters."

Use of that land based disposal site across the estuary was refused. This was appealed and the appeal withdrawn as alternate disposal sites were to be proposed. However the barge with 120m³ capacity was noted in Condition 16.6 [Contamination] of the coastal consent. No other barge has consent for dredging work in the estuary during construction of the marina.

Should the disposal site be outside the 12nm limit, an ocean going barge would be required. An existing coastal permit to dispose of dredgings to that site requires a bottom dump barge and the existing barge servicing this consent is 40m long with a draft of 2.5m.

5. Biosecurity Management Plan – Barges and Vessels

Under the Biosecurity Management Plan which is a condition of the coastal consent, barges and vessels with consent to dredge within the estuary are required to be inspected to ensure they do not become a vector for the spread of any unwanted or risk species.

Dr Roger Grace, in a report entitled *Marine Pest Species at Sandspit, Northern New Zealand (2014)* has identified one marine invasive species, which cannot knowingly be moved without a permit, and one species which should not knowingly be moved.

The question has been put by Dr Grace as to how frequently will the barges be inspected for invasive marine species which have attached to their hulls while working in the estuary, in order to comply with the condition of consent.

Marine invasive species have the opportunity to be spread within dredgings to be dumped at a disposal site and also by larvae attaching themselves to the hulls of barges and tugs working in the estuary.

The marina construction received consent, subject to conditions. We request that SYCMS adhere to all the coastal and land conditions, and that this is monitored by Auckland Council.

Appendix 2

From: Alan Moore <Alan.Moore@aucklandcouncil.govt.nz>
Subject: RE: Sandspit marina dredge spoil disposal
Date: 6 June 2014 8:18:23 AM NZST
To: Caroline Barrett <carolinebarrett1@mac.com>
Cc: Mike Stone <Mike.Stone@aucklandcouncil.govt.nz>

Hi Caroline, thank you for your email.

The Auckland Council and the Environment Court issued the Marina Society with consent to build and operate a marina at Sandspit. The Council approval included consent to dredge 104,600 m³ of material. Of this volume, some material is to be used in the construction of the access route. However, this access route will need to be removed at some stage during the development. Dredged material is also to be used in the formation of the reclamation, the bird roosting area and the beach replenishment. All these uses reduce the total amount of material that will need to be dumped at the marine disposal ground.

Contrary to your email there is no direct link between the dredging and the disposal of the dredged material. Council has issued the consent to dredge under the Resource Management Act. No consent was sought for the disposal of the dredged material. There is no requirement for Council to link a dredging consent to a disposal proposition, as a party wishing to dredge may have a number of options for disposal that may or may not require consent (or a new consent). However, there are obvious operational practicalities that need to be considered. This is a matter for the consent holder.

You have listed the volumes of material that Coastal Resources Limited are able to dispose of at their dumping ground. This limits are placed by Maritime New Zealand. **And as you rightly point out, the current disposal consent held by Coastal Resource Limited seems to pose some challenges for the Marina Society. This is a challenge for the society to manage. Not Council. (emphasis added)**

Council's responsibility is with the conditions of the consents issued under the RMA. We exercise this responsibility through our compliance work, including the approval of the CMP. Matters of disposal of material that we have responsibility for are in relation to the matters provided for by the consent – access route, bird roost and the beach replenishment. Council has no jurisdiction or statutory interest in the marine dumping ground or the exercise of these permits.

Alan

Alan Moore

Team Leader - Coastal

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Natural Resource and Specialist Input

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From: Caroline Barrett [<mailto:carolinebarrett1@mac.com>]
Sent: Thursday, 5 June 2014 12:58 p.m.
To: Alan Moore
Subject: Sandspit marina dredge spoil disposal

Dear Alan

I have received a copy of the Construction Management Plan (6.2.3 Dredging Disposal) CMS-03 and MNZ Permit #568. These documents show: 1. CMS-03 (4.4): Barging of the dredged material to the disposal site: Commences October 2014 until November 2015. 2. MNZ Permit #568: Maximum volume of sediment discharge shall not exceed 100,000 cubic metres between 3 November 2013 and 2 November 2014 (Year 2 of the permit). 3. MNZ Permit #568: Maximum volume of sediment discharge shall not exceed 35,000 cubic metres between 3 November 2014 and 2 November 2015 (Year 3 of the permit).

MNZ Permit #568 does not allow unused sediment volumes to be carried over from one period to another, and although Sandspit may continue to dispose dredgings into Year 3, the total volume that may be disposed at the site in Year 3 remains 35,000 cubic metres. Furthermore, the permit volumes include disposals for all marinas - not just Sandspit.

Dredging and disposal of the dredgings are inseparable.

Since barging of the dredged material does not commence until October 2014, the discharge volume of 100,000 cubic metres ends on 2 November 2014, and the limit for Year 3 is 35,000 cubic metres, I would like an explanation as to why Auckland Council have approved the CMP when it is clear that disposal of the total dredgings cannot take place within the time frames of the CMP and MNZ Permit #568.

I would appreciate not being referred to Maritime NZ, since it is Auckland Council, as the consenting authority, that has approved the CMP and the dredging/disposal to which I refer.

Thank you.
With regards
Caroline Barrett