



Newsletter July 2022

Dear Comrades in Arms,

our newsletters contain information about ourselves, the latest development in our fight against NRC and sometimes important links.

On our website www.russellcommonsense.com you'll find everything you need to know about our group, the projects we are dealing with and other valuable information. Under *Breaking News* for instance you can always get our latest major updates.

In our newsletters however we want to let you know what is recently happening, how you can (always appreciated) participate and/or contribute etc. At the beginning as always we post:

Urgent News

First the good News:

Our advertisement campaign was a success. The two half-page, well-placed ads in the Northern Advocate have led to numerous inquiries by phone as well as via our website. So far 11 new members have joined our community group and the public has been made aware of us. Perhaps more importantly, however, is the fact that NRC recognizes that we're not just going away but make further efforts to expose the questionable methods of this agency.

What is particularly pleasing is the fact that 19 of our members have made these advertisements possible, some of them with generous donations.

The well placed ads cost \$1,674.40 and we raised \$1,685.00 in donations. We want to keep the small difference in our war chest, if only because, as explained below, in the near future we could probably face further expenses for our cause.

Also in view of these possible new developments, we have sent three new complaints to the Ombudsman for further preparation and to keep things going.

The first complaint was sent by Pete Deeming:

Office of the Ombudsman

L 14, 70 The Terrace

Wellington 6011

PO Box 10152

Wellington 6143

your reference: 548839 (Complaint ground: 548852), your letter dated: 6 October 2021

15 July 2022

by e-mail

Complaints about Malcolm Nicolson's (CEO, NRC) replies to OIRs, Northland Regional Council staff members' faulty advice to Council and thus resulting wrong Councillors' decisions.

A) Introduction:

On 6 October 2021 you wrote:

(quote): "... if you wish to pursue your concerns, I would suggest that you clearly and concisely explain to the Council that you are making a formal complaint about the general adequacy of the Council's responses to your concerns, with reference to why you are specifically dissatisfied with the Council's attempts to respond to your concerns....

This will allow the Council the appropriate opportunity to consider and address your specific concerns, or provide you with a reasonable explanation as to their actions. If you are dissatisfied with the Council's response to such a complaint and wish to escalate the matter to this Office, you will need to provide:

- a copy of your complaint to the Council;
- a copy of the Council's response to your complaint;
- an explanation as to why you believe the response to be unreasonable; and
- an explanation as to what outcome you are instead seeking." (unquote).

I have complied with these demands as set out below:

a) copy of my complaint to NRC:

22 November 2021

Northland Regional Council
Private Bag 9021
Whangarei 0148

by e-mail

attn.: Malcolm Nicolson (CEO)

Re: Ombudsman ref 548839 (Complaint ground: 548852)

Good Afternoon Mr Nicolson,

In a letter dated 6 October 2021, the Ombudsman's office asked me to contact you again before they can investigate my complaint about the way in which NRC **answered OIRs**

Although this has already been done extensively without achieving any results, I will hereby once more comply with their following request:

(quote) "...if you wish to pursue your concerns, I would suggest that you clearly and concisely explain to the Council that you are making a formal complaint about

- the general adequacy of the Council's responses to your concerns, with reference to why you are specifically dissatisfied with the Council's attempts to respond to your concerns.

(unquote)

My complaint about the general adequacy of the Council's responses to my concerns, with

reference to why I am specifically dissatisfied with the Council's attempts to respond to my concerns.

How NRC staff 's (CEO) faulty advice led to Council's wrong decisions:

As emerges from this complaint, on several occasions NRC staff members' and especially Mr Nicolson's behaviour of withholding essential, indeed crucial information, has resulted in the elected representatives of the public not being able to make informed decisions. Had such information, at council staff's disposal, been made available to the Councillors, serious mistakes such as wasting public money would have been avoided, their decisions would not have been unreasonable, unjust, oppressive or improperly discriminatory and not contrary to law (Biosecurity Act).

Summarized examples:

- The fact, that as early as in June **2010** MAF Biosecurity NZ (MAFBNZ) had called off their programme to rid NZ waters of the introduced marine pest, the Mediterranean Fanworm (*Sabella spallanzanii*) due to new information that the pest was then already too widespread to eradicate.
- The fact, that as early as in June **2010** MAF Biosecurity NZ (MAFBNZ) had called off their programme to rid NZ waters of the introduced marine pest, the Mediterranean Fanworm (*Sabella spallanzanii*) because MAFBNZ had come to the conclusion that “to continue to fund this effort did not add up given the geographical spread of the pest and the high cost of what is a very intensive process to remove them and that the Government therefore has determined that the response to the Mediterranean Fanworm be stood down.
- The fact, that as early as in June **2010** MAF Biosecurity NZ (MAFBNZ) had called off their programme to rid NZ waters of the introduced marine pest, the Mediterranean Fanworm (*Sabella spallanzanii*) because MAFBNZ had come to the conclusion that the projected costs of extending the elimination attempts to such a widespread area were simply not justified and that it would also be extremely difficult to **locate** and **remove** the fanworms using **divers** from an area that is over **10,000** hectares.
- The fact, that compared with 10,000 ha the area of the Bay of Islands comprises of **26,000** ha, this is **2.6** times more area, and any probability to stop the spreading of the fanworm on all Northland coasts is therefore negligibly small and simply not justified.
- The fact, that Cawthron Institute has clearly stated in their report no.2479 A: (quote)
“Effective management of marine pests after they have been detected in a location is often challenging and expensive. Successful invasive species management is largely reliant on the species having:
limited natural dispersal potentiality
low fecundity
specific habitat requirements
conspicuous morphology and visible individuals”
(unquote)
Mediterranean Fanworm (and many other marine pests) fails to meet any of these general criteria as its natural dispersal potentiality is next to unlimited (strong tidal streams and currents, winddrift), its fecundity is extremely high (spawning bursts of at least 50.000 eggs/individual worm at a time occur between May and September). Moreover: this fanworm doesn't have specific habitat requirements and our shallow coastal waters are simply ideal for its existence, and in regards to conspicuous morphology it can be argued that its individuals are very hard to find in the low visibility of our tidal waters.
- The fact that the Mediterranean fanworm doesn't even need boats to extend its habitat. In fact it prefers to avoid boats' hulls according to the well-known marine biologist

Giangrande's research. (quote): "...because even if *Sabella spallanzanii* (*Med. Fanworm*) is a fouling organism of artificial docks and pylons, it is not a typical or common fouler of ship hulls" (unquote Giangrande et al. 2000). But even if it was, the decision to remove all grid pole haul -out facilities and the only heavy-duty slipway in the Bay of Islands was certainly counterproductive to NRC's hypocritical slogan: "Clean below, good to go."

My organisation NMO & RP , myself and our former MP Matt King have on several occasions used OIRs to request information about these inconsistencies. Apparently NRC has the relevant information, but we have never received any clear explanations for NRC's continued implementation of its interpretation of the Biosecurity Act, other than as a revenue gathering way of taxing the ratepayers and a selected group of boat owners (keywords: "You are an easy target", quote: Deputy CEO Bruce Howse). All OIRs submitted by us in this regard are available and can be resubmitted at any time. For reasons of space, I avoid doing this again here and now.

We know that the primary intention of LGOIMA is to allow requesters to seek access to information that is already 'held' by an agency, and an agency is under no obligation to create new information or to form an opinion in order to respond to questions. That is why we have formulated our questions clearly and unambiguously, in such a way that, in general, only a "yes" or "no" would have been sufficient as an answer.

Nevertheless, we received only evasive replies, that is, apart from the instructions from the CEO, forbidding our organisation, to communicate with the elected representatives of the public (and vice -versa).

We therefore call on you now to finally assess our complaint accordingly.

Kind regards
Pete Deeming

b) a copy of the Council's response to my complaint:

From: [Malcolm Nicolson](#)
Sent: Tuesday, 23 November 2021 2:08 pm
To: p.d.deeming@xtra.co.nz
Cc: [Christy Weightman](#)
Subject: RE: NRC Pete Deemings complaint 22 November 2021[5529]

Afternoon Mr Deeming,

I acknowledge receipt of your email and attached letter, I have sent copies to the Chair and will provide a more comprehensive response in due course.

Ngā mihi
Malcolm Nicolson
Chief Executive Officer

Because unfortunately, as in many other earlier examples, nothing happened, I wrote several reminders:

1. From: [Dianne Deeming](#)
Sent: Thursday, 17 February 2022 9:21 am
To: [Malcolm Nicolson](#); bruceh@nrc.govt.nz; [Penny Smart](#); martyr@nrc.govt.nz; jocey@nrc.govt.nz
Subject: Your comprehensive response.....

Morning Mr Nicolson,

I acknowledge receipt of your email dated 04/02/2022 and answer as follows:.....Your answer, already promised on 23 November ("... will provide a more comprehensive response in due course...") is still pending. We need it for our further complaint to the Ombudsman as requested by his office. That is why we are awaiting your comments as a matter of urgency. In any case, of course, the Ombudsman will be informed.

Regards
Pete Deeming

2. From: [Dianne Deeming](#)

Sent: Thursday, 17 March 2022 11:04 am

To: [Malcolm Nicolson](#)

Subject: more comprehensive response

Morning Mr Nicolson.

Re, My email 22nd November 2021

Your reply 23rd November 2021 where you stated , “ ... will provide a more comprehensive response in due course”

My email 3rd February 2022

Your reply 5th March 2022 where you replied to part of my email

I again draw your attention to my email of 22nd November 2021 and ask you again to provide a more comprehensive response.

Regards Pete Deeming.

3. From: Dianne Deeming <p.d.deeming@xtra.co.nz>

Sent: Monday, 28 March 2022 9:52 am

To: Malcolm Nicolson <malcolmn@nrc.govt.nz>

Subject: waiting for your response

Morning Mr Nicolson. Regarding my email of 17-03-2022 and previous unanswered emails pertaining to the subject matter, I am still waiting for your reply and a “more comprehensive response”.

Regards Pete Deeming.

4. From: Pete Deeming p.d.deeming@xtra.co.nz

Sent: 20th June 2022

To: Northland Regional Council Whangarei

By email

Attn. Malcolm Nicolson cc Penny Smart

Afternoon Mr Nicolson

According to our records, your (“... will provide a more comprehensive response in due course...”) has not been received.

Summary of correspondence between NMO & RP, Ombudsman and the CEO of NRC, Malcolm Nicolson since June 2021.

Outcome so far:

We, and therefore the Ombudsman, appear to have to continue to wait for Malcolm Nicolson's long overdue reply. As a result, we have not been able to provide the Ombudsman's office with a continuation of our pending complaint, as requested.

Regards

c) an explanation as to why I believe the response to be unreasonable:

As can be clearly seen from this, the CEO of NRC ignores inquiries from the public, although reference is repeatedly made to requests from the Ombudsman's Office. This behaviour even suggests disregard for this institution and fundamental democratic principles.

However, in the context of another complaint by our Community Group "NMO & RP" to the Ombudsman, made at about the same time as this one on an investigation into breaches of the Councillors "Code of Conduct" it becomes also apparent that NRC has certain motives for withholding inconvenient information.

In this context we would also like to remind you of the following RNZNews item from 2018, which is very revealing in this regard: (SEE COPY ATTACHED below)

d) an explanation as to what outcome I am instead seeking:

My community group "Northland Mooring Owners & Ratepayers" and I finally expect to know, after more than four years of unsuccessful inquiries, why very important information was withheld (we have provided various unanswered OIRs on this) for the decision-making process of our elected representatives on the implementation of the MPMP by the NRC staff.

e) Additional note:

With Mr Nicolson stepping down as CEO of the NRC in September, we suspect his well-established delay tactics may be related to that circumstance. We therefore hope that this will be taken into account when dealing with my complaint.

Yours faithfully
Pete Deeming

The second complaint was sent by Avril and Dave Warren:

Office of the Ombudsman

L 14, 70 The Terrace
Wellington 6011
PO Box 10152
Wellington 6143

by e-mail

19 July 2022

Complaint about Malcolm Nicolson's (CEO NRC) conducting an investigation into the breach of a Councillor's Code of Conduct and the related behaviour of Councillor Justin Blaikie, who was appointed to finalise the preliminary investigation.

A) Background:

Almost a year ago our community group “Northland Mooring Owners & Ratepayers”, through the intervention of our MP Willow-Jean Prime, asked Councillors in charge of our area to contact us directly on the matter at hand although they were prohibited by decree to communicate with us, their constituency. This is in itself an unheard-of process in a democracy. However, after we had still not heard from our elected representatives of the public for a long time, we asked Councillor **Marty Robinson** directly, whose subsequent meaningless and evasive information, however, led to nothing other than the matter being passed on to the CEO after another staff member who was conveniently connected had high-handedly simply turned our personal inquiry into an OIR according to LGOIMA, in order to once again offer the CEO the - in a democracy- very questionable opening for being able to deal exclusively with the case himself.
See attached communication (oldest last).

B) Further course of the process:

In order to emphasize the critical facts once again, we expressly point out that in this case we never requested official information according to LGOIMA but asked our elected representative some questions from the perspective of a community group in his constituency which we expected **him** to answer **but not a staff member**. That Mr Robinson didn't understand the problem, shows that he is apparently not aware of the requirements of the relevant legal provisions of the LGA 2002 and his own Code of Conduct. The fact that Mr Robinson forwarded our inquiry, addressed to him personally, directly to Mr Nicolson without even acknowledging its receipt, clearly shows how much this negligent behaviour, disregarding ratepayers and constituents, has spread within NRC.

On 2 August 2021 we wrote the following letter to Mr Robinson and to Mr Leonard who had informed us of the unrequested OIR, but we never received any replying comments:

(quote) “...Thank you for your completely unexpected message. We cannot explain how you want to initiate an OIR on our behalf. At best we can imagine how such an absurd idea could have come about and we are happy to explicate this as follows:

After many disappointing experiences, it is quite conceivable for us that Mr Robinson, disinterested and entirely dependent on his CEO's orders, proposed this OIR in order to evade his responsibility towards his electorate....despite the clear Code of Conduct rules like regarding...

- Public trust: “Members, in order to foster community confidence and trust in their council, will work together constructively and uphold the values of honesty, integrity, accountability and transparency.” Where did Mr Robinson show his accountability when not answering our queries but referring them to Council staff?
- Transparency: Members should be as open as possible about their actions and those of council, seek opportunities to actively engage with the community and explain the reasoning behind actions and decisions. See above!
- Raise any concerns about the performance or behaviour of the Chief Executive with the Chairperson. We have done so several times and Mr Robinson must be aware of it, but unfortunately our "voice of the public" Ms Penny Smart (Chair), remains silent, and so does he! How much more clearly does the total failure of the NRC leadership need to be shown?
- Relationships with the public: Given that the performance of the council requires the trust and respect of individual citizens, members will: Interact with members of the public in a fair, respectful, equitable and honest manner; be available to listen and respond openly and honestly to community concerns; represent the views of citizens and organisations accurately, regardless of the members' own opinions on the matters raised. Consider all points of view or interests when participating in debate and making decisions; treat members of the public in a courteous manner; and act in a way that upholds the reputation of the local authority. Any failure by members to act in the manner described above represents a breach of this Code.

At least in this last regard Mr Robinson has clearly violated his Code of Conduct when he didn't bother to answer our inquiry but just asked a staff member to create an unspecified OIR.”(unquote).

We asked Mr Robinson some simple, personal questions which can not be answered by an OIR. Therefore we expected him, as our elected representative, to show himself accountable to us and not to hide behind the bureaucratic structures of the Council.

These are our questions we had and still have for Mr Robinson and which have not been answered :

(quote) “...our MP Willow-Jean Prime has informed us that she spoke to you and asked you to get in touch with us on the subject. This you haven't done.

You wrote: "In answer to your concerns regarding fanworm". With all due respect, where in our request to you did we ask for an opinion on the MPMP or the "Fan Worm?" In fact, we just wanted to know, following MP Willow-Jean Prime's suggestion, how things are in the meantime regarding the willingness of our Councillors to communicate with us, after such communication was made impossible and limited to contacts between us and the CEO only, because of alleged legal advice – an outrageous process for a democracy!.....

You further wrote: "I am personally convinced that this is the right option to protect our indigenous species of marine life."

Please explain how you can be "personally convinced" if you had to admit that any of the above (facts) was unknown to you or, if you had known, why you can then be as convinced as you allegedly are. Why do you for instance not promote a much more effective and cheaper method like a CVP (clean vessel pass) - if you are of the (erroneous) opinion that boats are the main cause of the spreading of marine pests?

We urgently await your clarification as our elected representative and not as the mouthpiece of your CEO.”(unquote).

Because again, as so often before, nothing happened, we officially complained to the CEO.
(Excerpt:)

“We are dismayed by the attitude of Mr Robinson as well as of Penny Smart, Joce Yeoman and yourself, who all in our view seem to imply that staff decisions are beyond questioning although in a true democracy, nobody can be beyond criticism or questioning. Tax-paid staff are not tin gods. Attempts to silence councillors who otherwise might find their own voices and appear to be unafraid of questioning staff decisions is appalling arrogance. Councillors as elected representatives of the public should be exercising their right to free speech anytime and under any circumstances as guaranteed under the Bill of Rights, and the United Nations Charter.

Indeed, uncritically accepting everything put before them would be an abrogation of their responsibility to those who elected them. Such behaviour lets them rather look like insignificant pen pushers, who look for a crack in every embarrassing mistake through which they can sneak away from their responsibility.

Thus we complain about Mr Robinson's breach of NRC's Code of Conduct and the inaction of the other named Councillors, their Chair in particular.”

Surprisingly, this had some, if only superficial and feigned success, as it turned out.

We were informed that an official investigation was to be launched into whether Mr Robinson had breached NRC's Code of Conduct. In fact, what was said to be an independent investigator named Bruce Robertson was appointed who did write to us soon after to get our views. He stated (see the full statement in collection of all correspondence below) among other things:

(quote):I would appreciate if you would agree to a zoom call so I can understand further your concerns.

In reviewing your letter of complaint I have the following questions I would like to follow up on:

Confirming the background of the allegation – NMOR

- What is the background to the complaint?
- What were the nature of the questions asked of Cllr Robinson?
- Why was it important he answer them rather than the “organisation”?
- Were these questions dealt with through the LGOIMA process?
- Were answers provided to NMOR’s questions?

Confirming the background of the complaints against the others named

- How are the other elected members (EMs) involved in this matter?
- Is the complaint that they too caused inaction?
- Similarly, what is the alleged action (or inaction) against the CEO?
- Are there additional facts/evidence to these claims against the others not apparent in those involving Cllr Robinson?

Confirm the nature of the alleged breach

- What is the specific sections of the CoC are NMOR are alleging have been breached?

Obviously there may be other questions that arise from this and/or you may have other points you wish to raise related to your complaint.

Would you be available for a Zoom call tomorrow?..

I think we would need 60 to 90 minutes. And I am prepared to make a second session if necessary to ensure I have the full nature of your concerns.

If tomorrow is not possible - and that is entirely reasonable at this late stage, could a call on Monday afternoon work for you?

Otherwise would you please let me know when is convenient for you.

Please call if I can clarify anything about my approach or over setting up a time.

Regards

Bruce Robertson”

(unquote)

It is clear from the highlighted passages that Mr Robertson originally attached great importance to our opinions to ensure a truly independent and fair investigation. In order to find out our opinion, he had planned an hour and a half questioning and, if necessary, even a second interview, because he wanted to make sure for the investigation that he found out the "full nature of our concerns".

As it turned out later, he suddenly changed these principles, which were rightly and originally very important to him.

We replied that we very much welcomed the investigation (quote: ...”we do very much appreciate the conduct of the councillors to be investigated in an objective, unbiased manner based on their Code of Conduct...unquote). Nevertheless, we also expressed our astonishment that the CEO, who was also accused by us, chose the independent investigator himself from a list that included a total of four, i.e. three more, suitable people and that for our community group of more than 700

supporters quite simply too little preparation time was allotted ("tomorrow") and that we preferred more preparation time and also a different way of (written) statement.

To deduce from this that we were **not willing to cooperate**, and then not to be heard from again borders on impudence and certainly has nothing to do with an independent and fair investigation.

(see email from Mr Robertson to Mr Nicolson, apparently misdirected to us, of November 14, 2021, ignoring the tone, which appears quite private if not "matey" for an "independent" investigation)

(quote) :“Malcolm,

Please note the last sentence of the 5th bullet point. Essentially they will not cooperate...”(unquote).

Consistent with this is the long time that followed (more than 3 months!) before we received what Councillor Justin Blaikie, who had been appointed to finalise the investigation, called **the final finding, although the Investigator Bruce Robertson himself quite clearly called it "preliminary,"** knowing full well that he had completely ignored our opinion and reasoning. Although we pointed out this intolerable fact to Councillor Blaikie, he also ignored our objections and stuck to his untenable interpretation that the result of the inquiry was final and not preliminary. It found, to our great amazement, **that Councillor Robinson had not breached the NRC Code of Conduct!** (see letter from Mr Blaikie, dated 29 March 2022):

(quote) “... The code of conduct investigation has been completed and a copy of the investigators report was provided to you in my letter dated 8 March.

I am satisfied that the code of conduct proceedings were completed in a professional manner and nothing you raise in your emails brings forward information that I consider would change this.”(unquote)

Can such an investigation really be called fair, impartial and independent? No, in our opinion it was a farce.

Therefore we answered this highly unsatisfactory, even outrageous result accordingly:

“Dear Mr Blaikie,
we confirm receipt of your letter and Mr Robertson's **preliminary assessment** of our Code of Conduct complaint.

We attribute the preliminary nature of the investigation's findings to the facts that:

- The **investigation itself must be incomplete, because we, as the party that initiated it, have never been heard on the matter, although we have clearly drawn Mr Robertson's attention to wanting to be heard extensively.**
- That Mr Nicolson had chosen an investigator who is not included in the list of the four people designated by the Council for this purpose. In addition, only two of them appear to have clearly declined to act as investigators. Mr Sills has not been contacted and the correspondence with Mr Cochrane is strangely untraceable.
- We trust you are aware of our reply to Mr.Nicolson's advice to us having appointed Mr. Robertson as well as our reply to Mr.Robertson.

Other than that Mr Robertson's 'report' has little relevance to our expectations of an investigation.

We look forward to the **final report of the investigation, which takes into account our contribution.**

Kind regards

on behalf of NMO & RP”

Bruce Robertson’s core conclusions and recommendations of 22nd Feb. were:

“resolve their differences, ---**However I do consider the matter should be addressed.** And I am comfortable that Council appears determined to follow the matter through appropriately.-- opinion to marine pest management and costs. ----- “

(see full copy attached)

However, the investigation was carried out without any contact being made with us, the plaintiffs, and Bruce Robertson's conclusions now seem to have been devalued, even taken ad absurdum by the CEO and his in-house appointee, Mr Blaikie.

C) Expected outcome:

We expect the investigation to be reopened with the aim of finally obtaining a satisfactory result, namely that Councillor Robinson has indeed breached his Code of Conduct. This should be achieved if only to answer the important questions that have been pending for years, so that it can finally be clarified why insufficient, even wrong information has been provided to the Councillors in charge of the implementation of the MPMP and other, more important information was withheld to ensure that a desired result would occur. All informed stakeholders know how this happened, but certainly those councillors who voted against or abstained from implementing MPMP at the time.

Yours faithfully

Dave Warren

The third complaint was sent by another supporter:

To: Office of the Ombudsman 18 July 2022

Wellington

info@ombudsman.parliament.nz

Ref:Complaint: Northland Mooring Owners & Ratepayers vs Northland Regional Council.

reference no: 475423, complaint ground no: 487271

Dear Sir.

I am writing directly to you concerning the IMMANENT LEGAL DANGER that we, as a group, are facing from NRC.

As you are aware, this issue has been before your office since **March 2018; Nearly 4 1/2 years.**

In that time, we have supplied answers to all your questions and requests. I am sure you have a large file outlining the issues.

Sadly, NRC has not responded in kind. The CEO has consistently created legal smokescreens in order to spin this issue out from year to year.

The Immediate issue is that NRC has now issued a SUMMARY JUDGEMENT APPLICATION in the Kaikohe Court against our spokesperson, Klaus Kurz.

This is a **personal attack against an individual**, who, as leader of a group of **tax and rate payers**, has been attempting to have a dialogue with the Councillors.

I, as an individual, would like to point out that NMO & RP is just that: individual mooring owners (and some of us are also ratepayers). Most of us have never met each other, however we have come together because of a feeling of unjustified taxation by NRC. Namely the **Biosecurity fee**

We are certainly not a clique of "Rich Yachties". Our boats varying from large to small, from old to new. We all have boats for different reasons. Boats and the sea have been **my** life for 75 years.

NRC introduced the Biosecurity fees for boat moorings in 2017 and have been using it as a revenue source since then. In 2021 these fees went up by a huge 25% over previous years. And NRC bought a new *flashy* work boat!

The moorings in question are *individual private property* that are located on CROWN LAND (subject to an annual ground rent). Since this Crown rent is administered by NRC, the ownership list became a handy asset for NRC to focalize a new source of revenue. However we are not going away. And, we are actually a small proportion of "boaties" who use the Bay of Islands.

I now find that a neighbour has a boat that is the same size as mine. It is worth ten times the value of mine but he pays NO BIOSECURITY fees (nor navigation safety fees), because his boat is on a trailer in his back yard. But he regularly uses the council provided boat ramp.

Sir, what I am asking is that **our file be actioned immediately** and that a restraining order is placed, forthwith, on NRC and its CEO's activities until the core issue is examined and resolved.

Regards

This third complaint leads directly to our not-so-good news:

What did we already suspect in our June newsletter?

Let's repeat it:

There is a new development!

Maybe it's just a new trial balloon, who knows? But in any case it is better to be prepared . What happened?

On 10/6/22 Klaus received a "Letter of Formal Demand" to pay the unpaid biosecurity fees plus interest by 30/6/22 and, if not received by 1/7/22 NRC would commence proceedings for recovery by way of a "Summary Judgement Application" to the Kaikohe District Court. This was signed by a Nicola Hartwell, In-house Legal Advisor. As far as could be found out, this person is relatively young and probably light on experience which seems to show in her referring to a case to serve as a precedence for such procedure based on totally different facts compared with our well founded objections to accept NRC's biosecurity fees. Furthermore Klaus researched that a "Summary Judgement" cannot be applied by a judge unless he has fully taken into consideration the reasoning of the accused for refusing to pay. So, it very much looks like young Nicola singled Klaus out and tried to find a way to scare the pants off him and, if successful, has in mind applying this across the board. Obviously Klaus does not comply with her demand but awaits further developments, if any.

In the meantime, this "trial balloon", which was initially suspected, has actually become a new maneuver by the NRC:

Four more of our members have received identical love letters and it seems that NRC is trying a new step by step approach. Therefore it is now appropriate to elaborate on the wording of these letters:

First of all, it must be made clear that their **two core statements** are wrong.

(quote): "...The marine biosecurity charge ensures the costs associated with council's marine work under the Biosecurity Act **are distributed equitably**. The charges were fixed through **proper legal processes...**" (unquote).

- The costs are **NOT distributed equitably**. See aquaculture industry (mussel and oyster farmers), trailered boats, anchored boats, visiting boats from highly infested waters, commercial vessels. **They all do NOT pay the biosecurity fee.**
- The charges were **NOT fixed through proper legal processes**, since NRC staff (especially the CEO) withheld crucial information from Councillors when they had to make informed decisions to implement the MPMP on June 8, 2017, but were unable to do so. **Three of them** recognized the problem even then and **voted against the MPMP**. The relevant connections are made clear in the above complaints and shall also be made available to the judge of the Kaikohe District Court as needed when determining the admissibility of an application for Summary Judgment.

The author of the third complaint, further suggests to send a flood of emails, soon to the Ombudsman (email: info@ombudsman.parliament.nz) repeating the same submission as below:

“Dear Mr Boshier. (The Ombudsman)

Thank you for your reply of today. I wish to point out that we have had a "reference No. " for the past FOUR and ONE HALF years.

My letter of the 18th July requested some Immediate Action (and assessment) in order to avoid a miscarriage of justice that is in the making, simply because there has been no assessment by your office for 4 1/2 years.

As stated the spokesperson of our concerned group is facing legal prosecution because he has dared to repeatedly question the actions (or lack thereof) of the Northland Regional Council.

Does your lack of assessment imply that NRC is above the law?

My regards
”

We expressly request all our members to follow this suggestion and to fill the old principle with life: Together we are stronger!

Whilst we do not expect this NRC action to be any more successful than the others prior to it, we ask that you be even more vigilant and involved now. Should any of you receive a similar approach please let us know without delay for further advice.

We will of course keep all our members informed about the details of this new development and expect full support from all of you in case of a legal escalation.