SUBMISSIONS BY OPOUTERE RATEPAYERS AND RESIDENTS ASSOCIATION ("ORRA") ON PROPOSED THAMES-COROMANDEL DISTRICT PLAN





Online:	www.tcdc.govt.nz/dpr
	Using our online submissions form
Posted to:	Thames-Coromandel District Council
	Proposed Thames-Coromandel District Plan
	Private Bag, Thames 3540
	Attention: District Plan Manager
Email to:	customer.services@tcdc.govt.nz
Delivered to:	Thames-Coromandel District Council, 515 Mackay Street, Thame

Attention: District Plan Manager (or to the Area Offices in Coromandel, Whangamata or Whitianga)

Submitter Details					
Full Name(s)	Opourlere Rotep	ayers - Residents Assoc (OKRA)			
Organisation	(if relevant)				
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Submissions must be received no later than 5 pm Friday 14 March 2014

If you need more writing space, just attach additional pages to this form.

PRIVACY ACT 1993

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Thames-Coromandel District Council

ECM No:

1001 50511155101	
The specific provisions of the Proposed District Plan that my submission relates to an (please specify the Objective, Policy, Rule, Map or other reference your submission relates to)	re:
Maps 29, 29K, 29L, 34H, 34 B	sections 6, 7, 8,9
€ 15, 16, 23, 24, 29, 31, 32	37, 58, 41,56
My submission is: (clearly state whether you SUPPORT or OPPOSE specific parts of the Proposed District Plan or w reasons for your view) I support oppose the above plan provision.	rish to have amendments made, giving
Reasons for my views:	
see attached submissions	
The decision I seek from the Council is that the provision above be:	
Retained Deleted Amended as follows:	
Proposed District Plan Hearing	
I wish to be heard in support of my submission. $\square Y \square N$	1
If others make a similar submission, I will consider presenting a joint case with them	n at a hearing. $\square Y \square N$
un for (orra)	-12/11/2
Signature of submitter Date _	1914
Person making the submission, or authorised to sign on behalf of an organisation making the submission.	
Arade Competition	
Please note that if you are a person who could gain an advantage in trade competition through the s submission may be limited by Clause 6 of Schedule 1 of the Resource Management Act 1991.	submission, your right to make a
I could gain an advantage in trade competition through this submission.	Y Y
If you could gain an advantage in trade competition through this submission please c	complete the following:
I am directly affected by an effect of the subject matter of the submission that -	
a) adversely affects the environment; and	/
b) does not relate to trade competition or the effects of trade competition.	Y YN
If you require further information about the Proposed District Plan please visit the Counci	l website www.tcdc.govt.nz/dpr
THAMES-COROMANDEL DISTRICT COUNCIL Private Bag, 515 Mackay Street, Thames 3540 phone: 07 868 0200 fax: 07 868 0234 customer services directs gout ng www.tode next ng	THAMES COROMANDE DISTRICT COUNCI

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Proposed Thames-Coromandel District Plan

Opoutere Ratepayers and Residents Association (ORRA's) submissions are;

- That the coastal area from Ohui (Motohaua Rock) in the north to Hikunui Island / Ruahiwiwi Point in the south and inland including the Wharekawa Estuary ("the Estuary") and Maungaruawahine¹ ("Opoutere") be classified as outstanding landscape in the District Plan ("DP") and in particular in overlay maps 29K, 29L,34A and 34B.
- That the privately owned land adjacent to the conservation reserve that runs the length of Opoutere Beach as shown in maps 29K, 29L and 34B and that is presently zoned rural, be either rezoned and/or have specific rules made in relation to it, that;
 - a. Render the following activities in that area 'non complying';
 - i. The establishment of a campground.
 - ii. The establishment of commercial recreation / event facilities.
 - iii. General commercial activity.
 - iv. The establishment and /or operation of visitor accommodation.
 - v. The holding of festivals or events.
 - vi. The establishment of electricity or telecommunication facilities including masts and towers.
 - vii. The operation of a home business.
 - viii. Mining or activities related in any way to mining such as exploratory drilling.
 - ix. The construction of more than one dwelling per lot.
 - x. Subdivision into lots of less than 10 hectares per lot.
- That the unformed road shown in map 29L and 34B that runs between the conservation reserve adjacent to the beach and the rural land behind and also the unformed road that runs around Ruahiwihiwi Point as shown on map 34B be deleted and/or permanently stopped.
- 4. That Opoutere be expressly recognised in the District Plan as an area of ecological significance and /or earmarked for ecological restoration.²

Reasons for our views / submissions;

Reasons for submission 1 above- that Opoutere be classified as outstanding landscape

 In March 2012 ORRA commissioned Mr Mark Lockhart of Encompass Landscape Architects to provide an expert opinion as to whether or not Opoutere qualified as an Outstanding Natural Feature and Landscape (ONFL) under the proposed Waikato Regional Policy Statement ("RPS"). Mr Lockhart completed a comprehensive report in which he reviewed

¹ See the area marked up on the map at Tab 1

² Perhaps in figures 1 and/or 2 in section 38 of the Plan

both known Local Government landscape assessments of the area³ and carried out his own independent assessment. He concluded that Opoutere did qualify as an ONFL under the proposed RPS⁴

 At the hearing on the RPS, the Hearings Committee indicated that if Opoutere did not qualify at regional level as an ONFL then it may well do so at district level. This was reiterated in their final decision in which it said;

"The Committee considered the evidence of the landscape architect and concluded that Opoutere generally did not fit the criteria used as a basis for identifying regionally significant ONFL's. However the Committee draws the submitters attention to the criteria in section 12 that should be used as the basis for district level ONFL identification"⁵

- ORRA relies on Mr Lockhart's expert report and the comments of the RPS Hearings Committee for the purposes of establishing that Opoutere should at least be classified as outstanding landscape at district level ie in the DP.
- Mr Lockhart, in has conclusion that Opoutere was an ONFL, placed significant weight on the ecological / biodiversity aspects of Opoutere. In this regard he relied on the work of Dr John Dowding.
- 9. Dr Dowding, one of New Zealand's leading and most respected biologists and ornithologists, provided a report dated January 2012 on the significance of Opoutere with respect to its ecology and biodiversity and in particular its native birds. ⁶ Dr Dowding reported, among other things, that;
 - a. The Estuary, including the sandspit is a gazetted wildlife refuge under the Wildlife Act⁷.
 - b. The Estuary is a site of international significance in respect to the NZ dotterel and variable oyster catcher, under the Ramsar Convention, an international treaty promoting the conservation of wetlands.⁸
 - c. That the Estuary is recognised as an Area of Significant Conservation Value "ASCV" by both NIWA and EW.⁹
 - d. That Opoutere has a very high diversity of native bird species, half of which are classified as threatened or at risk.¹⁰

³ Waikato Regional Landscape Assessment, technical report 2010/12 ("WRLA") and the Coromandel Peninsula Landscape Assessment dated September 2011 ("CPLA")

⁴ A copy of Mr Lockhart's report is at Tab 2

⁵ See copy of the Committee's finding at Tab 3 and please note that ORRA has appealed that decision to the

Environment Court (ENV 2012-313-000023) which appeal is expected to be heard later this year

^b See Dr Dowding's report at Tab 4

⁷ See pg 5 of Dr Dowding's report at para 2.2 and note para 11 below where Court of Appeal has expressly recognised the Estuary has being nationally important.

[°] See pg 6 of his report para 3.1

⁹See pg 6 last para.

- e. The wider Opoutere area is a major breeding ground and flocking site (in particular the two colonies at either end of the beach) for the threatened New Zealand Dotterel and the at risk Variable Oystercatcher" and "is the single most important site for New Zealand Dotterel in the Waikato region, and one of the most important globally".¹¹
- f. The combination of low density development, at a significant distance from the estuary and beach, outstanding habitat quality, very high existing biodiversity values and the ability to defend those values long term make Opoutere rare and worthy of special protection¹².
- 10. A further report about the ecology of Opoutere and its biodiversity, upon which Mr Lockhart relied, was provided by Dr Nicholson a member of, among other organisations, the Ornithological Society, the Forest and Bird Society and the Wetland Trust.¹³ Dr Nicholson's report contains a comprehensive overview of Opoutere's biodiversity, in particular he refers to the presence in the dune system of threatened natives such as the dune snail (succinea archeyi), the moko skink and native butterflies as well as threatened dune flora, such as spinifex and pingeao. ¹⁴
- 11. Mr Lockhart in his assessment of Opoutere also relied upon an expert report by the highly regarded Dr Louise Furey, archaeologist and presently the head of archaeology at Auckland Museum. ¹⁵ She identifies a large number of significant sites in Opoutere for both Tangata Whenua and Pakeha. She opines that many of these sites have survived and been preserved due to the low level of development in the area. ¹⁶
- 12. Opoutere or more particularly the Wharekawa Estuary ("the Estuary"),has been expressly recognised by the Court of Appeal as an area of national importance.¹⁷
- The Resource Management Act 1991 ("RMA") expressly specifies as matters of national importance;
 - a. The preservation of the natural character of the coast environment including wetlands and their margins and the protection of them from inappropriate subdivision, use and development.¹⁸
 - b. The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.¹⁹

19 S6(b)

¹⁰ Dowding pg 3 last para

¹¹ Dowding pg 9 para 3

¹² Dowding at pg 9 last par to pg 10 first two para's

¹³ See Dr Nicholson's report at Tab 6.

¹⁴ Note this is also referred to by Mr Lockhart at para 17 of his report.

¹⁵ See Dr Furey's report at Tab 87

¹⁶ See Dr Furey's report at pg 4 para3

¹⁷ ORRA-v-The Planning Tribunal [CA] 13 NZTPA at p446 (copy of decision at Tab 5)

¹⁸ S6(a)

- c. The protection of significant habitats of indigenous fauna.²⁰
- d. The protection of historic heritage.²¹
- 14. Further the RMA requires those engaged in preparing DP's to have particular regard to;
 - a. The ethic of stewardship.
 - b. Intrinsic values of ecosystems.
 - c. Maintenance and enhancement of the quality of the environment.²²
- 15. Further the RMA expressly provides that District Plans must give effect to the New Zealand Coastal Policy Statement ("NZCP") and Regional Policy Statements²³.
- 16. The NZCP provides as follows ;
 - Objective 1-to safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems including..intertidal estuaries,dunes and land by;
 - Maintaining and enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;
 - Protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of NZ's indigenous and coastal flora and fauna....
 - Objective 2 –to preserve the natural character of the coastal environment and protect natural features and landscape values through;
 - i. ..
 - ii. identifying those areas where subdivision, use and development would be inappropriate and protecting them from such activities.
 - iii. encouraging restoration of the coastal environment.
 - c. Policy 11-to protect indigenous biological diversity in the coastal environment and avoid adverse effects on;
 - i. Indigenous taxa that are listed as threatened or at risk.
 - ii.
 - Indigenous ecosystems ..that are threatened in the coastal environment, or are naturally rare.
 - iv. Habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare.
 - v. Areas containing nationally significant examples of indigenous community types; and
 - vi. Areas that are set aside for full or partial protection of indigenous biological diversity.

²⁰ S6(c)

²¹ S6(f)

²² S7(aa), (d) and (f) respectively

²³ S 75(3)

- Policies 13 (preservation of natural character), 14 (restoration of natural character), 15 (natural features and landscapes), 17 (historic heritage identification and protection) are also of relevance.
- 17. It is submitted that if TCDC does not classify Opoutere as an ONFL and/or adopt the other submissions that Opoutere makes to in some way ring fence or better protect the area from the impacts of people, then it has breached the provisions of the RMA and NZCPS just referred to.
- 18. The last point under this head is, that at present Hikunui Island at the mouth of the Wharekawa Estuary is classified in the proposed DP as outstanding landscape.²⁴ Although Hikunui Island is a striking landform, visually it is very much a part of Opoutere and there is no logical reason why it should be classified as outstanding and the rest of Opoutere not so classified.

Reasons for second submission- that the rural land adjacent to Opoutere Beach be rezoned and/or that more stringent rules be put in place in relation to activities that can occur on that land

- 19. The reasons in support of this submission are largely those in support of submission 1 above. Namely that Opoutere is (or should be) an outstanding landscape, it is an area of international and national importance for its biodiversity and it's ecological values and is in need of the highest levels of protection. The establishment of commercial enterprises, the holding of large scale festivals and events, development, sub division into smaller lots etc of land adjacent to the beach (an ecologically sensitive and comparatively well preserved area) is, ORRA submits, wholly inappropriate. Such activity should be classified for that area under the DP as non-complying.
- 20. To this should be added the point that Mr Lockhart makes in his report²⁵ namely that Opoutere is surrounded on all sides by the intensively developed area's such as Pauanui and Tairua to the north and Onemana, Whangamata etc to the south. This, it is submitted makes it all the more important to preserve at least one beach in the area from intensive development and degradation through human activity.
- 21. This area is and has been for many years under much pressure from would be developers and business people²⁶. As we prepare this submission ORRA is aware of at least two commercial enterprises operating, ORRA would say in breach of the present DP, from the area. Prana Ltd²⁷ situated at 750 Ohui Rd operates a luxury eco retreat with swimming pool and recording studio and also a more down market accommodation facility, on an adjoining lot, in the form of permanently positioned caravans, a funky barn with camp style kitchen

²⁴ See Map 34B of the proposed DP.

²⁵ See para's 68 to 72

²⁶ See for example ORRA –v-The Planning Tribunal at footnote 18 above

²⁷ May also operate under the name of Ohui Estate Ltd

and a café open upon request by guests. Prana holds at least one significant (3 day plus) festival a year to which hundreds if not thousands of people attend. ORRA submits that such festivals are appropriate in farmer's fields e.g Rhythm and Vines in Gisborne, but they are not appropriate in ecologically sensitive areas such as Opoutere.

- 22. Near Prana, at Ohui, is the Yoga retreat centre which, as its name suggests, runs Yoga retreats year round.
- 23. In 2011 Opoutere Trees Farms Ltd was granted against the opposition of ORRA consent to establish 11 temporary living places at 62 Wahitapu Lane a site which under the DP was restricted to a single dwelling. This was effectively a defacto sub division into 11 dwellings of a single dwelling lot.
- 24. Unless rules applicable to Opoutere and in particular the beach front area are tightened then the type of activity just described will only increase and irreparable harm will be caused to Opoutere and there will be little left to protect. Opoutere will become another Whangamata.

Reasons in support submissions 3 and 4 above

- 25. The reason that ORRA is opposed to unformed roads remaining in the areas on which they appear on the maps (submission 4 above) is self- evident i.e they go through the heart of ecologically sensitive and comparatively well preserved environment which ORRA is seeking to protect and enhance.
- 26. The reason that ORRA seeks to have Opoutere earmarked as an ecologically sensitive area/ an area for restoration (submission 5 above) is again self -evident. It contains significant biodiversity and ecological values and by reason of distance from housing etc lends itself to being protected.²⁸ Put simply it can still be saved.
- 27. To that should also be added that significant initiatives are already underway in Opoutere to enhance and protect the area. The local community are actively involved in the removal of weeds and intensively pest controlling (with close to 100 privately funded traps and bait stations in operation). ORRA has a subcommittee specifically engaged to submit on plans. There is another group whose focus is on restoration of the area and in particular in the establishment of riparian strips around the water ways to prevent or at least ameliorate run off / sedimentation from forestry activity. There is the Wharekawa Catchment Committee (containing some ORRA members) that has been engaged for many years with the local farming community and school to restore / replant the Wharekawa River which feeds into the estuary (and surrounds).

²⁸ See in particular Dr Dowding's conclusions para 4.2 pg 10

Michael Lloyd, on behalf of ORRA

Date

13 NZTPA

Court of Appeal

Opoutere Residents and Ratepayers Association v The Planning Tribunal

Court of Appeal 1 December 1988; 28 July 1989 Cooke P, Somers and Bisson JJ. Matters of national importance — Protection of the coastal environment — Proposed camping ground for 325 persons in scenic and unspoiled coastal village — Likelihood of disturbance to wildlife refuge — Failure of Tribunal to give sufficient primacy to s 3(1)(c) — Town and Country Planning Act 1977, ss 3(1)(c), 72. This appeal from a High Court decision which had upheld a Tribunal decision permitting, under s 72, the establishment of a camping ground for up to 325 persons in a remote scenic coastal area of the Coromandel, was allowed; and the matter ordered to be remitted to the Tribunal for further consideration, on the basis that the Tribunal had failed to accord the requisite degree of primacy to the matters of national importance in s 3(1), particularly para (c) relating to the protection of the coastal environment from unnecessary development.

The principal judgment was delivered by Somers J. In the course of it he made the following additional points:

1. The decision in the *Mangonui* case, (1989) 13 NZTPA 197, had turned on the relation between s 4(1) and s 3(1); but the relationship between s 72 and s 3(1) must be the same - viz the matters of national importance have primacy over district considerations.

2. Where there is a proposal to develop a site which has a significant natural character in terms of s 3(1)(c), the onus is not on opponents to show reason why consent should be refused; it is for the developer to show a necessity sufficient to override the national interests.

3. If in the present case it were held that a camping ground of some kind was reasonably necessary despite the national interest in conservation, the Tribunal must still ask whether the scale of the proposal is appropriate. In the present case the wildlife refuge raised a difficult problem, and it would be necessary for the Tribunal when reconsidering the matter to recognise that the provisions of s 3(1) "do not permit the Planning Tribunal to grant planning consent and simply leave the protection of the bird life to the Wildlife Service. The breeding grounds are entitled to the planning protection afforded by s 3(1)".

Case considered EDS and Tai Tokerau

EDS and Tai Tokerau District Maori Council v Mangonui County (1989) 13 NZTPA 197. **Appeal** from a decision of the Administrative Division of the High Court dismissing an appeal from the Planning Tribunal under s 162 of the Town and Country Planning Act 1977.

BIJ Cowper for the appellants

G M Harrison for the applicant, New Zealand Waterways Assn Ltd K Robinson for the Minister of Conservation.

COOKE P. Having had the advantage of reading the judgment prepared by Somers J, I agree with it but wish to add something to underline that we have had well in mind that the jurisdiction of this Court in appeals such as this is confined to questions of law. The Act leaves questions of planning merits to the expert Planning Tribunal, but they must apply the law and in particular the requirements of the Act itself correctly. In this case I am forced to the conclusion that they have not done so. It is important to note that both they and the High Court Judge had to consider the case before this Court decided in February 1989 *Environmental Defence Society* and Tai Tokerau District Maori Council v Mangonui County 13 NZTPA 197, the Karikari case.

In the Karikari case emphasis was given by this Court to the intention of Parliament that matters of national importance, such as the preservation of the natural character of the coastal environment and its protection from unnecessary development, should have a degree of primacy over other planning considerations if a conflict arose. The approach of the Tribunal in the present case appears, as might be expected, to have been the same as the one not upheld in the Karikari case, namely to treat the national considerations as merely part of a mix of factors to be taken into account ranking equally among themselves.

Opoutere Beach is described by the Tribunal as one of only two major beaches in the Coromandel area which do not have close settlement immediately behind them. The Tribunal adopt a town planner's description in evidence of the setting as "unique . . . modified (but not dominated) by farming, forestry and settlement". The Wharekawa spit is the only wildlife refuge in the Coromandel area and is used for nesting by threatened species of birds. I think that these matters are of national importance, and do not understand the Tribunal to have thought otherwise.

On a first reading of the Tribunal's reasoning it might seem that they had fully taken into account these matters as required by the Act; but on a closer reading it emerges that they have not found expressly that development as proposed is reasonably necessary. It is arguable that they have so found by implication, but their reasons are expressed in such a way that in the end I think not.

Without limiting the conclusion just stated, I refer to the central question argued on the appeal, whether the Tribunal were right to leave the protection of the bird habitat to the Wildlife Service. From the memorandum now 449

Opoutere Residents v Planning Tribunal

lodged by counsel for the Minister it appears that the Tribunal's suggestion that the Wildlife Service "will have to take stronger measures" may be impracticable. That is a question which may be examined in more detail at a rehearing before the Tribunal. Particularly in the light of the manner in which the Tribunal disposed of that question, I think that the Minister's concern at the scale of the proposed development may be well-founded, and that the public interest calls for a rehearing at which the national considerations can be given the primary weight intended by the Act. The Court heiro unanimous the anneal will be disposed of as is to be

The Court being unanimous the appeal will be disposed of as is to be stated in the judgment of Somers J.

SOMERS J. The Wharekawa Harbour is on the eastern side of the Coromandel Peninsula a short distance north of Whangamata. It has a narrow entrance bounded on its north by a sandspit which was proclaimed a wildlife refuge under s 14 of the Wildlife Act 1953 on 18 October 1967. It is an important habitat for birds including the threatened New Zealand dotter!. Adjacent to the sandspit, between the sea and the harbour, is a Maori reserve. Next to that is a recreation reserve which stretches northwards well up the coast and is bounded on its landward side by an unformed road. Between that road and Ohui Road there are a number of sections of land each comprising about five hectares. Well into the harbour itself and almost opposite its entrance is the small village of Opoutere.

The Planning Tribunal described the village as nestled sensitively into a natural bush and coastal environment. A witness speaking of the area generally, said: The combination of ocean beach, large recreation reserves, the harbour with its changing patterns, and the variety of terrain comprising flat land behind the pine-covered foredunes and the backdrop of hills, all make up a unique setting which has been modified (but not dominated) by farming, forestry and settlement. The Planning Tribunal, whose members visited Opoutere, considered this an accurate description. It added that Opoutere Beach is one of only two major beaches in the Coromandel area not having close settlement immediately behind it, and said that because access is difficult few people visit the lengthy ocean beach, which gives a sense of remoteness.

The area around the Wharekawa Harbour is said to be unique in the Coromandel in that it has no properly established and authorised camping ground open to the public. For some years, in holiday periods, people have been camping on the recreation reserve without any authority.

A private company called New Zealand Waterways Association Ltd owns about 9.5 ha of land on the northern side of the harbour between the village and the sandspit. For some years a part of its land has been used for what the Planning Tribunal described as "informal camping". Almost all the land of the Waterways Company together with the five-hectare sections to the north are zoned Residential C in the District Scheme of the Thames-Coromandel District Council. It is a special zone for rural land within 800 m of the coast; and camping grounds, caravan parks and motels are among the permitted conditional uses in the zone.

The Waterways company applied for planning consent to establish a permanent camping ground which would include camp sites on a grassed area and up to 24 cabins and service buildings in an area of sand hills at the northeast corner of its land. There were many objections to the proposal but the District Council gave its consent subject to a number of conditions. Some of the important limitations were that no vehicle access was to be permitted between the property and the unformed road which divides the premitted on the soften part of the land, and that the maximum number of people permitted on the site be 325.

The Opoutere Residents and Ratepayers Association, along with two The Opoutere Residents and Ratepayers Association, along with two owners and occupiers of property fronting the unformed road immediately north of the proposed camping site, appealed to the Planning Tribunal. They asked that the council's decision be set aside or, alternatively, that consent be granted to a form and scale of development appropriate to the site and to the area. They told the Tribunal they would not oppose consent to an informal camping site on the western side of the Waterways' company property. The Waterways company also appealed to the Planning Tribunal asking that the conditions imposed by the council be amended in a number of ways including authority to build 24 cabins in the sandhill area. The Ministry of Works and Development appeared by counsel before the Tribunal and drew attention to the importance of the wildlife refuge on the Wharekawa spit.

In its interim decision delivered on 22 October 1985 the Planning Tribunal dismissed the appeal by the Ratepayers Association and neighbouring owners and allowed the Waterways company appeal by varying the conditions in ways that need not be set out. It assumed the camping ground under the new conditions would have a capacity for 325 campers although it might be less. The Ratepayers Association and the two owners then appealed to the High Court under s 162 of the Town and Country Planning Act 1977, raising many questions of law the substance of which was that the Tribunal had not properly applied the provisions of s 3 of the Act. By that time the responsibility of the Ministry of Works and Development had been assumed by the Ministry of Conservation. Nor was the Planning Tribunal represented. In a reserved judgment delivered on 13 May 1988 Tompkins J dismissed the appeal, holding that the Planning Tribunal had taken account of all matters which it was required to consider. Subsequently on 16 June 1988 he gave the Ratepayers Association and the two owners (henceforth called the appellants) leave to appeal to this Court pursuant to s 162H of the Town and Country Planning Act and s 144 of the Summary Proceedings Act 1957.

The appellants failed to file and serve a notice of motion on appeal within the time limited for so doing, so that the matter came before this Court by way of application for special leave to appeal. The Waterways company having no objection, special leave to appeal was given and argument on the merits of the appeal was heard from Mr Cowper for the appellants and Mr Harrison for the Waterways company. The Planning Libunal, the District Council and the Minister of Conservation were all

I3 NZTPA

Court of Appeal

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relation between ss 3 and 72(2) must be the same. The matters of national importance set out in s 3 have primacy over district considerations.

of Works and Development v Waimea County [1976] 1 NZLR 379. That The decision of the Planning Tribunal in the instant case contains no statement that the case concerned their proper application. It seems clear that the Tribunal proceeded to balance the national considerations against other features which it considered material in the way suggested in Minister was also the approach taken by Tompkins J in the High Court. The Two passages in the Tribunal's reasons illustrate how it went about the discussion of the relationship between the two provisions, merely a Mangonui case, decided after the High Court decision, shows it is incorrect. matter:

the evidence and submissions and the requirements of s 3 in particular, we have concluded that the capacity of the camping ground proposed by the applicant should camping in the reserve. We have concluded that the number of people visiting Opoutere and desiring to holiday there will inevitably increase in future. The growth in regional population, greater mobility, better roads and more leisure time will cause the increase. People should not be prevented from enjoying the beauty of Should planning powers be used in a way which will restrict the number of people who may take holidays at Opoutere and enjoy the recreational experiences available by the appellants and as suggested by the respondent's planner? Having considered not be limited to 150 people or less. More people have been holidaying at Opoutere than can be accommodated at the present time, as is evidenced by the unauthorised there? Should the capacity of the proposed camping ground be restricted, as sought Opoutere. As to the wildlife refuge it observed, after comparing the instant case with Minister of Works and Development v Whangarei County Council (1985) 11 NZTPA 14, that "the facts in this case for refusal of consent are not nearly as strong" and continued:

There is plenty of room; the public can have their patch and they should allow fighting what must appear to them to be a rearguard action to protect threatened use of Opoutere Beach, they will have to take stronger measures to discourage the We have considerable sympathy for the officers of the Wildlife Service, who are species. All we can say is that in the face of an inevitable increase in the public public from entering the wildlife refuge, even to the point of having entry prohibited. the birds an undisturbed patch. It is against that background that the Tribunal thought that the increase of up to 325 in the holiday population was well within the "capacity of the total Opoutere environment and of the road serving the settlement and will not significantly damage the qualities which people seek there".

The present case was, as the Tribunal rightly said, concerned with paras (a) (b) and (c) of s 3(1) of the Act; it involved a remote coastal area, a of the coastal environment is to be protected against unnecessary small settlement and a wildlife refuge. Under para (c) the natural character development. It is for a developer to show a necessity sufficient to override se national interests. I doubt whether that could be achieved by

Court of Appeal

the Court was unwilling to give any final decision in this case without giving her an opportunity to be heard, and indicating that the Court would be effectiveness of legal protection of the wildlife refuge. Subsequently in April 989 we received a memorandum from counsel on behalf of the Minister. The application to develop a camping ground was made under s 72 of application we directed, following the hearing, that she be advised that interested in any statement about the Minister's attitude to the forms and As it was doubtful whether the Minister had been served with the named as respondents. None of them appeared by counsel in this Court.

72. Conditional uses - (1) Every application for the Council's consent to a the Town and Country Planning Act which provides:

conditional use of any land or building shall be by way of a notified application. (2) Subject to section 3 of this Act, in considering an application for consent to a conditional use, the Council shall have regard to

- The suitability of the site for the proposed use determined by reference
- to the provisions of the operative district scheme; and (a)
 - The likely effect of the proposed use on the existing and foreseeable future and the economic, cultural, social, and general welfare of the people of amenities of the neighbourhood, and on the health, safety, convenience, the district. (q)

Section 3, to which s 72(2) is made subject, is as follows:

3. Matters of national importance -(1) In the preparation, implementation, and administration of regional, district, and maritime schemes, and in administering the provisions of Part II of this Act, the following matters which are declared to be of national importance shall in particular be recognised and provided

- The conservation, protection, and enhancement of the physical, cultural and social environment: (a)
 - The wise use and management of New Zealand's resources: (q)
- The preservation of the natural character of the coastal environment and the margins of lakes and rivers and the protection of them from unnecessary subdivision and development: (c)
- The avoidance of encroachment of urban development on, and the protection of, land having a high actual or potential value for the production (p)
 - The prevention of sporadic subdivision and urban development in rural of food: areas: (e)
- The avoidance of unnecessary expansion of urban areas into rural areas in or adjoining cities: (£)
- The relationship of the Maori people and their culture and traditions with their ancestral land. (g)

(2) The Minister may exercise all such powers as are reasonably necessary for promoting, in accordance with the provisions of this Act, matters of national interest and the objectives of regional, district, and maritime planning. The relation between that section and s 4(1), which deals with the content of district schemes and is also expressed to be subject to s 3, was considered by this Court in Environmental Defence Society Inc and Tai Tokerau District Maori Council v Mangonui County Council (1989) 13 NZTPA 197. The

Court of Appeal

13 NZTPA

undeveloped part of the coast when many other parts of the same coast afford all types of accommodation. One of the objects of para (c) must demonstrating that many people wish to camp or stay in a comparatively be to prevent that happening.

Nor can it be right to speak of a "case for the refusal of consent". The the applicant has made out a case for the giving of consent in circumstances interests protected by s 3(1) are such that the proper question is whether where the stated national interests have primacy.

satisfied that disquiet on that ground is not of real weight in all the Further, even if it were found that some camping ground in the vicinity is reasonably necessary despite the national interest in conservation, the (accommodation for more than 300 people) is justified. The Minister has expressed concern at the scale of the operation, and I consider that the intention of the Act is not complied with unless the Tribunal is properly question would arise whether provision on the scale proposed circumstances.

appropriate signposting around the entire spit, with a one to two metre margin left above the mean high-water level to allow public access for swimming, fishing, and viewing the colonies of breeding birds. In addition management measures include the erection of temporary fencing with rangers patrol during the breeding season. The evidence suggests that these measures are not wholly effective and risks from uncontrolled camping that for various reasons the sandspit cannot be declared a sanctuary under s 9 which would empower prohibition on the right of entry. Recent The wildlife refuge raises a difficult problem in considering planning consent. The memorandum filed on behalf of the Minister makes it clear such as fire and dogs exist.

I am of opinion, however, that the provisions of s 3(1) of the Act do leave the protection of the bird life to the Wildlife Service. The breeding not permit the Planning Tribunal to grant planning consent and simply grounds are entitled to the planning protection afforded by s 3(1).

Whilst the ultimate decision must be for the Planning Tribunal if it correctly applies the intention of the Act, I am of opinion that the Tribunal misdirected itself and that its present decision cannot stand.

costs of printing the case and the travel and accommodation expenses of and remit the case to it for rehearing. I would further direct the Third Respondent to pay the appellants' costs in this Court and in the High Court in the sum of \$1,500 together with reasonable disbursements including the I would allow the appeal, set aside the decision of the Planning Tribunal, counsel as fixed by the Registrar. BISSON J. I have had the advantage of reading in draft the judgments to be delivered by Cooke P and Somers J. I agree with them and for the reasons given would allow the appeal. Solicitors: for the appellants: Chapman Tripp Sheffield Young (Auckland) for New Zealand Waterways Assn Ltd: Mason Lawrie & Stainton (Auckland).

Davies v Manukau City Council

High Court, Administrative Division (Wellington) 10 July; 18 July 1989 Jeffries J. Practice and procedure — Mode of service — Service by facsimile — Town and Country Planning Act 1977, s 162A(2).

In some circumstances, and particularly where the use of that mode of

service has caused no prejudice to the recipient, it may be permissible to serve a notice by means of facsimile.

Case considered

Jenssen v Registrar-General of Land, High Court, Napier, 23 June 1988 (This case was the subject of a note by the Registrar-General at (1988)

Interlocutory application to strike out a notice of appeal.

S S Howard for Kilroy Investments Ltd (the applicant). Alison Brown for the appellant

interlocutory one to strike out a notice of appeal to the Administrative JEFFRIES J. The principal application before the Court was an Division of the High Court at Wellington against a determination of the Planning Tribunal on the grounds that the appeal had been filed out of time. There was a further subsidiary ground that appellant had not properly for the original applicant by way of facsimile. The first and main ground served the notices of appeal because they had been delivered to the solicitor of the application that appellant had filed out of time was in the end abandoned in the circumstances which will be described. However, the subsidiary ground concerning service was pursued.

[The Court set out the circumstances which had led to the abandonment

The second ground of the appeal concerned the mode of service. Section

Davies v Manukau City

Submission 192

LANDSCAPE, NATURAL CHARACTER AND AMENITY

	Reasons: The Committee considered the evidence of the landscape architect and concluded that Opoutere generally did not fit the criteria used as the basis for identifying regionally significant ONFLs. However, the Committee draws the submitters' attention to the criteria in Section 12 that should be used as the basis for district level ONFL identification.			
168.116	Federated Farmers of New Zealand requests to delete 12A and undertake another			
1.00	process to identify ONFLS of regional significance separate to the RPS review.			
	Decision: Reject			
	Further submission:			
	Contact Energy Ltd (141.469) opposes. Decision: Accept in part			
	Reasons: See Reasons C12.45 through to C12.50 above			
189.37	Hauraki District Council (189.37) expresses concert that a landscape assessment commissioned by Hauraki District Council identified at area of hill country to the east of SH2, south east of Paeroa, as not worthy of ever local significance. This area has, however, been included as an area of outstanding landscape in the Proposed RPS, which is not supported.			
	Decision: Accept			
	Reasons: See Beasons C12 12 and C12 524 above			

12B Landscape values assessment criteria (Recommendation 340)

Decisions and reasons

ld	Submitter
8.36	Taupo District Council opposes the criteria contained in Section 12B and seeks replacement with criteria that provide robust measurable guidance as to what constitutes an outstanding natural feature and landscape of local significance. The alternative relief sought is to amend Method 12.1.2 as follows:
	Waikato regional Council will encourage territorial authorities to undertake a district-wide assessment of outstanding natural features and landscapes of local significance using the criteria in Section 17B as the basis of any new assessment.
	Decision: Accept in part
	Reasons: See Reasons C12.24, C12.28, C12.29 and C12.45 through to C12.50 above.
73.27	Hancock Forest Management (NZ) Ltd requests amending 12B by deleting reference to recreation values and adding to criterion 14 reference to exotic vegetation cover. Decision: Accept in part
	Further summission:
	Federate Farmers of New Zealand (168.409) supports. Decision: Accept in part
	Reasons: See Reasons C12.24, C12.28, C12.29 and C12.45 through to C12.50 above.
113.41	King Country Energy Ltd opposes Criteria Section 12B and requests amendments to be consistent with case law pertaining to Landscape Assessment criteria.
	Decision: Accept in part
	Further submissions:
	New Zealand Wind Energy Assoc (32.412) and Mighty River Power Ltd (142.394) support. Decision: Accept in part
	Reasons: See Reasons C12.12, C12.24, C12.28, C12.29 and C12.45 through to

Page 329

Wa

Opoutere including: Wharekawa Harbour and estuary, Maungaruawahine, Opoutere Beach and DOC Reserve behind it, Motohaua Rock and Hikunui Island, up to and including the ridgeline of Ruahiwihiwi

ABAYA





Design and Implementation Planning - Project Management 1/29 Ngauruhoe Street, Mt. Eden, Auckland 1024 P.O Box 56112, Dominion Road, Auckland 1446

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OPOUTERE LANDSCAPE ASSESSMENT BY ENCOMPASS LANDSCAPE ARCHITECTS

15 March 2012



Design and Implementation Planning • Project Management 1/29 Ngauruhoe Street, Mt. Eden, Auckland 1024 P.O Box 56112, Dominion Road, Auckland 1446 T = 09 631 7744 • F = 09 623 1687

15 March 2012

Introduction

- I have been engaged by the Opoutere Residents and Rates Payers Association (ORRA) to provide an opinion on whether the coastline of which; Ohui/Opoutere Beach forms part, from immediately south of Pauanui to Patuhamu Point immediately north of Whangamata and inland, including Wharekawa estuary and Maungaruawahine, as shown on the map attached at tab 2 to ORRA's submission, should be included in the schedule of outstanding natural features and landscapes (ONFL) under policy 12.1 / 12A, table 12.1 of Environment Waikato's (EW's) proposed Regional Policy Statement (RPS).
- 2. My qualifications and relevant experience are outlined in Appendix 1 (tab 4 of this report).
- 3. The material that I have read and relied upon in preparing this opinion is set out in Appendix 2 (tab 4 of this report)

Summary of my conclusions

- 4. In my opinion, applying any currently accepted criteria for the assessment of landscape, particularly in respect to outstanding natural features and landscapes, the Ohui / Opoutere Beach from the Ohui Bluffs in the north, including Motohaua Rock, to the ridgeline of Ruahiwihiwi point on the southern side of the estuary mouth, including Hikinui Island, and inland including the Department of Conservation reserve that runs the length of the beach and the Wharekawa estuary and Maungaruawahine,¹ does quality as an ONFL and should be included in table 12-1 under 12.A of the proposed RPS.
- 5. I disagree with the conclusions reached in the landscape assessments on which EW staff appear to rely in their rejection of ORRA's submission that Opoutere should be classed as an ONFL.
- I agree that the landscape assessments, on which EW staff rely, identify the correct and currently
 accepted criteria for assessing landscape. However I disagree with the way these criteria have been
 applied in the case of Opoutere.

¹ For the purposes of this opinion I will refer to this area as Opoutere

7. In particular, it is my opinion that the landscape assessments on which EW staff rely, give too much weight to the modification of the Opoutere area and the presence of forestry and residential settlement and the like and insufficient weight to other factors, particularly ecological, socio-cultural and heritage factors.

Relevant background

- 8. In February 2011 ORRA lodged a submission with EW in respect to EW's proposed RPS. I have read that submission together with the material supplied in support of it. Essentially ORRA seek recognition for Opoutere as an area of ecological significance (submissions 1 and 2) and also that it be recognised as an ONFL in what is now table 12.1 under 12A of the RPS (submission 3).
- 9. In the s32 assessment of submissions carried out by EW staff, ORRA's submissions 1 and 2 were rejected on the grounds that an RPS is not the appropriate place for identifying areas of ecological significance². ORRA's submission 3, namely that Opoutere be recognised as an ONFL was rejected in the following terms;

"Field assessment of the areas identified in the submission by a landscape architect indicates that even though the Opoutere Spit and ocean beach are highly distinctive and attractive, this part of the Coromandel Peninsula is currently too affected by both residential settlement, production forestry and wilding pines-including their spread along the immediate beach hinterland and over nearby headlands-to qualify as an ONL. Although significant at the local / district level, the subject area is not identified as a proposed ONL in the recent (2007-2011) district assessment and this landscape is not considered sufficiently 'eminent, remarkable, or outstanding at the regional level."

- 10. I understand that until receipt of the EW assessment ORRA was not aware of the existence of any assessments of landscape that had been carried but by local or territorial authorities of the area and accordingly did not appreciate the need to provide expert landscape assessment in support of their submission.
- 11. I was briefed to locate the landscape assessments on which EW staff were relying in their rejection of ORRA's submission 3 and to provide my opinion as to whether or not I agreed with those landscape assessments and/or the EW staff rejection of ORRA's submission 3. I have located those landscape assessments and for reasons that I will expand upon in this opinion I do disagree with the conclusions they reach and also the conclusions of the EW staff in their assessment.

Description of the subject area

² See EW staff report on submissions vol 1 pg16

³ See EW staff report on submissions vol 2 pg 264

- 12. I agree with the various descriptions given of Opoutere by the authors of the landscape assessments that have been commissioned by local and territorial authorities, which I will refer to in more detail later in this report, and also with ORRA in its submission.
- 13. Opoutere Beach is an extensive, undeveloped, north to south white sand beach approximately five kilometers in length [refer to photographs at tab 1 of this report and in particular photograph 1]⁴. At its northern end, dividing the beach from the holiday settlement of Pauanui, are impressive cliff faces, perhaps typical of the Coromandel coastline, known as the Ohui Bluffs. The northern end of the beach, known as Ohui, is marked by the striking form of Motohaua Rock [refer attached photographs 9,10,11]⁵. Motohaua Rock is readily accessible on foot at low tide and easy to walk up. It affords expansive views of the surrounding off shore Islands⁶, which can also be seen from the whole of the beach[refer photograph 12].
- 14. The beach widens at the Ohui end and is dissected by Ohui stream [refer photograph 11]. Ohui is home to one of the two significant NZ dotterel colonies in the area. The dotterel colony is clearly marked and roped off.
- 15. A Department of Conservation reserve comprised primarily of exotic pine forest but with some regenerating native bush runs the length of the beach [refer photographs 1 and 14]. Locals inform me that the forest is not made up of wilding pines but was planted by TCDC (or a predecessor) many years ago to provide protection for the largely unmodified dune system that also runs the length of the beach.⁷
- 16. I have not been able to verify this independently but the size and scale of the forest and the fact that it is not comprised of Pinus Radiata, the species of pine typically used by the NZ forestry industry, but rather by Maritime and some other European species of pine, would suggest that it may be true. Certainly the forest does provide a very effective buffer between the adjoining four hectare blocks and the dune system and beach and it creates a very real sense of remoteness and isolation for the beach which is both rare and attractive. Other than some farm buildings at the Ohui end of the beach no buildings can be seen from it.
- 17. The dune system is as good and as unmodified a dune system as I have seen anywhere in the Coromandel area. The dunes are well coated in native grasses primarily Spinifex Sericeus and Pinago (Golden Sand Sedge) a native grass which is very much in decline throughout New Zealand and is widely regarded as the single most important sand binder and stabiliser of dunes [refer photograph 8]. Native insects are found in it and native birds, particularly the NZ dotterel, are

⁴ Note photographs supplied by ORRA

⁵ Note Motohaua Rock is the name provided to me by ORRA and should not be confused with Motohaua (Shoe) Island

⁶ Motohaua, Whatakhau (Slipper), Penguin and Rabbit Islands, the Aldermans and Mayor Island

⁷ Dr Gordon Nicholson

known to nest in it. Its presence is generally regarded as a positive sign for the health of a coastal ecosystem.

- 18. I understand the dunes at Opoutere still contain populations of the now very rare dune snail (succinea archii) and the moko skink both of which are in serious decline and have disappeared from many other Coromandel beaches.⁸
- 19. The beach culminates at the southern end with a sand spit [refer photographs 1 and 5] on which the second and largest of the two NZ dotterel colonies in the area is located. This colony is also well marked and roped off. The sand spit ends at the mouth of the Wharekawa estuary ⁹which is marked, just off shore, by Hikinui Island [refer photographs 2,5 and 15]. Hikinui Island is described in the ORRA submission as being 'sculptural' and 'Gothic', descriptions that I agree with. The locals refer to it as the guardian or Taniwha of the estuary mouth¹⁰.
- 20. On the southern side of the estuary mouth is Ruahiwihiwi Point a former Maori pa site where the terracing is still quite evident to the naked eye but which is now significantly covered down to sea level with Pohutukawa [refer photograph 3].
- 21. The Wharekawa estuary itself is an internationally recognised and protected wet land, which I will talk about in more detail later in this report. One of the landscape assessments done in respect to the estuary says that it "contains a complex and rich mosaic of estuarine vegetation types including oioi and sea rush beds and seagrass which occurs throughout the lower and middle reaches of the harbor". ¹¹ The material filed with ORRA's submission and in particular the report by Catherine Beard an EW ecologist refers to the estuary's significant ecological values including saltmarsh, seagrass and mangrove communities. ¹²
- 22. The estuary's southern and western boundaries are comprised primarily of farm land and forestry while its northern and eastern boundaries are dominated by Maungaruawhaine [refer photographs 4 and 16], known by some locals as School House Hill. It is a visually impressive conical landform covered in mature coastal forest. Opoutere road travels between Manguaruawhaine and the estuary itself. The road is lined by Giant pohutukawa down to sea level. The fringes of the estuary are lined with mangroves.
- 23. Three rivers or streams feed into the estuary, the Tawatawa from the north, the Kapakapa from the north west and the Wharekawa from the southwest. The north west end of the estuary is overlooked by Opoutere village. The village is comprised of sparse low intensity housing mainly of the traditional NZ bach type. The houses are primarily on the hill side overlooking the estuary. They

⁸ Dr Gordon Nicholson

⁹ Note the Wharekawa Estuary is sometimes referred to as the Wharekawa harbour

¹⁰ See ORRA submission third to last page

¹¹ See Coromandel Peninsular Landscape Assessment at pg 168

¹² See Catherine Beard's report in the ORRA submission tab 5, pg 1 last para, refer also to photograph 4

are well separated and set in amongst the remnant coastal bush. There is a reserve in the village dedicated to Michael King, the well known NZ historian and author who lived and wrote in Opoutere up until his death some years ago. I understand that much of his literary output, including his very popular Penguin History of New Zealand, was written in Opoutere.

- 24. ORRA's submission seeks to include as an ONFL, in addition to the area that I have just described above, the coastline south of Ruahiwihiwi Point to Patuhamo Point just north of Whangamata. In my opinion it is not appropriate to include the area south of Ruahiwihiwi Point. I can not support ORRA's submission in respect to the coastline south of Ruahiwihiwi Point being included as part of an ONFL.
- 25. I don't consider that the coastline south of Ruahiwihiwi Point is sufficiently connected or proximate to the Opoutere area and in particular to the Wharekawa estuary. In addition it contains the township of Onemana which is a relatively intensive and modern semi urban development with shops and a restaurant and the like, on or very near the beach front, which in my opinion would be inappropriate to have included in an ONFL.
- 26. Landscape experts and the Courts often have difficulty defining appropriate boundaries for any given landscape. However in this case the Ohui bluffs and ridge line of Ruahiwihiwi Point provide very suitable and easy to define northern and southern points of the Opoutere beach. The estuary itself is easily identified as is the escarpment containing Maungaruawahine on the estuary's northern border.

Landscape assessments commissioned by EW / TCDC

27. I have located two recent landscape assessments that include the Opoutere area. The first is entitled 'Waikato Regional Landscape Assessment'¹³ ("WRLA") and is a landscape assessment that appears to have been commissioned in 2010 by EW for the whole Waikato Region¹⁴. The second is entitled 'Coromandel Peninsula Landscape Assessment' ("CPLA"). It appears to have been produced for TCDC in September of last year. ¹⁵

The WRLA

28. In the WRLA at chapter 4.14 the Wharekawa estuary (the report calls it 'harbour') is, along with all other harbours on the eastern coastline of Coromandel ,classified as a High Value Amenity Natural Feature and Landscape ("HVANFL")¹⁶. It is not classified as an ONFL. There does not appear to be an assessment of Opoutere Beach itself.

¹³ Waikato Regional Landscape Assessment-technical report 2010/12

¹⁴ Relevant excerpts from the WLRA at tab 2 of this report

¹⁵ Relevant excerpts from C:LA at tab 3 of this report

¹⁶ See WRLA at p76 ch 4.14 and pg 89 ch 7.2 (both included in tab 2 of this report)

- 29. The methodology used in the WRLA is to identify different landscape values and ascribe, for each area being assessed, a score, either medium or high, for each of those values. To be classified as an ONFL it would seem that an area needed to score 7 or more high scores, particularly for 'memorabily' and 'vividness'.¹⁷ Interestingly the Wharekawa and other areas do receive 7 high scores but are never the less classified, as HVANFL's rather than ONFL's.¹⁸
- 30. There are obvious shortcomings in the WRLA, some of these are;
 - The WRLA purports to assess landscape for the entire Waikato region. As the report itself makes clear the Waikato region covers most of the central North Island (approximately 25,000km2 or 2.5 million hectares. It has 1,150km of coastline.¹⁹ Any assessment of an area that large must necessarily lack depth. In other words the quality of assessment must be compromised to some degree by quantity.
 - The quantity –v-quality of assessment is borne out by a plain reading of the WRLA. For example to lump all of the Islands, river mouths, harbours and islands of the eastern coastline of the Coromandel together, as the WRLA appears to do, and label them all HVANL's is inappropriate and unsatisfactory from a landscape assessment perspective. The Wharekawa Harbour, which is undeveloped and an internationally recognized and protected wetland and home to a wide range of threatened bird species, is on any assessment a vastly different proposition from say the Whangamata Harbour which is an intensively developed harbour containing a large marina and no wild life of note. Yet both are classified together as HVANFL's and awarded 7 points.
 - There are inconsistencies as well between landscapes that are awarded ONFL status and those that are made HVANFL's. For example the Northern Herangi Range is awarded 7 high points but classified as an ONFL whereas the eastern harbours of which the Wharekawa is one, are also given 7 high points but classified only as HVANFL's. The explanation of the tables ²⁰ says that particular emphasis is placed on memorability and vividness yet the Eastern Harbours score high under both of these heads and the Northern Herangi Range scores only high under one of those heads.
 - There are flaws or inaccuracies with the scoring process as well which to some extent are caused by the problem identified above of lumping all of the eastern harbours together. For example if just the Wharekawa was being assessed (as opposed to all of the other eastern Coromandel harbours) using the same criteria, it would undoubtedly score a high mark under the 'ecology' criteria and quite possibly under the

¹⁷ See pg 87 WRLA paras 1 and 2 and summary tables for ONFL's and HVANFL's from pg 91 onwards

¹⁸ See classification table from WLRA at tab 2 of this report.

¹⁹ See WRLA pg 7

²⁰ See WRLA at p87 para2

'expressiveness', 'cohesion' and 'eminence' categories as well, taking it comfortably into the ONLF category.

The CPLA

- 31. The CPLA, as its name suggests, focuses purely on the Coromandel Peninsular as opposed to the whole of the Waikato region. It breaks down the Coromandel Peninsular into 88 landscape units. It individually maps, assesses, describes and photographs each unit and then categorises them, using a range of criteria, as either "outstanding" or "amenity" landscapes.
- 32. The CPLA splits the Opoutere area into three units, Opoutere Beach (Unit77), Wharekawa Harbour (Unit 78) and Wharekawa Harbour Escarpment (Unit 79). It classifies each of these areas as 'amenity' rather than 'outstanding.'²¹
- 33. The criteria that the CPLA uses are summarised in the introduction of the CPLA. Essentially the CPLA traverses a range of accepted criteria for assessing amenity and outstanding landscapes, including criteria established by case law²², and also criteria arising out of a comprehensive and well known study into public attitudes towards landscape²³ It then combines those criteria and incorporates them into three steps which it sets out in table form²⁴. It does not say why some criteria is preferred over others or why it chooses to combine the criteria in the way that it does or whether some criteria is considered more important than others.
- 34. I don't take particular issue with the criteria that the CPLA does use. I accept that there is no universally accepted methodology for undertaking a landscape assessment. Landscape architects will generally work with local authorities to establish criteria that are meaningful to any given area.²⁵ It is well recognised that assessment of landscape is not an exact science and will always necessarily involve some degree of value judgment and therefore an element of subjectivity.
- 35. If I was to challenge the criteria adopted in the CPLA I would question why four of the modified Pigeon Bay criteria, namely 'transient values', 'whether these values are shared and recognised', 'value to tangata whenua', and 'historical assocations', don't appear to find their way into the final criteria as set out in the tables adopted by the CPLA. I suppose it is arguable that they do come under broad headings such as 'sense of place' and 'key views' without explicitly being mentioned but this is by no means clear. In any event I don't take the authors of the CPLA to be saying that these are criteria which should be ignored.

²⁵ See WRLA p13

²¹ Classifications from CPLA are in tab 3 of this report.

²² See CPLA pg 4 middle para's and in particular the reference to the modified "Pigeon Bay Criteria"

²³ In particular 'Public Perceptions of Natural Landscapes of the Coromandel Peninsular, report no 241, Fairweather, Swafield'

²⁴ See CPLA pg 4 last para's under heading 'Assessment Criteria'

36. What I take primary issue with is the lack of clarity around the application of these criteria to the landscapes being assessed and also with the division of Opoutere into three separate landscape units. In my opinion the three landscape units should be assessed as a cohesive whole, that is as a single unit, rather than three separate units. I will deal with each of these issues in turn.

Application of criteria

- 37. The way that these criteria are actually applied, the weightings or the ratings that are given to each of the criteria and how the final 'rating' is arrived at is very unclear. For each landscape unit assessed there is a brief written summary of 'key physical elements' and 'landscape characteristics'. The tables that appear in the introduction of the CPLA are included for each landscape unit assessed and the column on the left hand side of each 'criteria' box within the tables is then shaded somewhere between high and low. A final rating of either 'amenity' or 'outstanding' is then shown.
- 38. It is not clear what criteria within each box is given what level of importance or what rating, there is just a shading on the column that seems to be applied to all criteria within the box globally. It is not clear what total level of shading in the left hand columns of the individual boxes earns an amenity rating and what level of shadings are required to earn an outstanding rating. A final rating is allocated with no obvious connection to what has gone before.
- 39. Similarly the connection between the written summary for each landscape unit and the final rating is unclear. Take for example the written summary for Opoutere Beach (CPLA's landscape unit 77). The summary rightfully, in my opinion, refers to the beach landscape as "dynamic and expressing the interplay between the coastline and the open waters of the Pacific Ocean....." It describes the beach's landscape as "highly dynamic". It acknowledges that the beach is a breeding ground for several endangered bird species including the NZ Dotterel. If concludes by saying ;

"Despite the presence of forestry backing the length of the beach²⁶ a high level of naturalness is derived from a combination of its natural elements, the dynamic natural process along the beach and its relative remoteness and wildness are further accentuated by the extensive length of the beach.

The landscape's uniform appearance incorporates a cohesive collection of natural elements, features and processes.

Due to its scale, sense of isolation and relative wildness this landscape is a landmark."

40. Yet, having described the beach in these strong, very complimentary, and in my opinion accurate, terms, the final rating given for the beach is, for no apparent reason, 'amenity' and not 'outstanding'.

²⁶ Note the authors don't appear to know the reported local history of the Maritime pine plantings behind the beach (see my earlier comments)

41. For reasons that follow I disagree with the final ratings allocated by the CPLA. In my opinion the final rating for the area as a whole should be 'outstanding' and not 'amenity'.

Area should be viewed as a whole and not as three separate units

- 42. I also take issue with CPLA's breaking of the Opoutere area down into three separate units. No reason is given in the CPLA for doing this and in my opinion it is inappropriate. Opoutere is a place that is very much the sum of its parts. The estuary is connected to the beach, physically by the sandspit, but also by the ebb and flow of the tide, by the dotterel colonies that occupy both the estuary and the beach sides of the sandspit and the other or Ohui end of the beach. The mouth of the estuary is dominated by the headland of Ruahiwihiwi. Maungaruawahine looms over the estuary, it is reflected in its waters and visually, from the estuary, appears to be connected to it, the canopy of the bush on Maungaruawhaine flows seemlessly down to the estuary edge.
- 43. The Courts in considering how far a single coastal environment could extend have held that a coastal environment is a complex, diverse and fragile ecological system which includes dunes and wetland areas and the like that are contiguous with or close to the coastline.²⁷
- 44. In the case of Kaupokunui Beach Soc Inc-v-South Taranaki DC Env²⁸the court said; "The coastal environment is just that, an environment. It is not a zone which might readily be identified by lines on a map. In defining that environment there will frequently be grey areas and blurred edges (and it is a question of fact in each case)". The Court concluded that it was not bound by the broad brush zone contained in a District Plan. It found that the coastal environment in that case included a river basin together with the sand hills and escarpments. It ceased at the escarpment ridgeline.
- 45. I consider that the Opoutere environment to be assessed for landscape purposes should logically and naturally include, as a single cohesive unit, the beach with the DOC reserve behind it, and Motohaua Rock and Hikinui Island just off shore from it, up to and including the ridgeline of Ruahiwihiwi, the estuary and Manugaruawahine.

My own assessment

- 46. Having critically analysed the WRLA and the CPLA landscape assessments 1 turn now to my own assessment of the area.
- 47. As I have already indicated above there is no universally accepted methodology for assessing landscape. The CPLA assessment combines various criteria which it then purports to filter through various steps. As I have said it does not say how or why it chooses to combine the criteria in the way that it does, or why some criteria are chosen in preference to others or what if any criteria is regarded more highly than others i.e whether there is a hierarchy of criteria.

²⁷ See Coutanche-v-Rodney DC WO94/93 (PT)

²⁸ Env C W030/08

- 48. There are also overlaps in the different criteria identified in the CPLA for example, 'natural science factors' being the first mentioned of the 'modified Pigeon Bay' criteria probably incorporates much of the first two criteria arising from the Fairweather and Swaffield assessment being 'naturalness' and 'endemic values' ; the second modified Pigeon Bay criteria, being aesthetic values probably incorporates the last two Fairweather criteria of 'visual drama' and 'visual diversity' and so on.
- 49. While I understand the reasons behind the methodologies adopted by the WRLA and CPLA, namely to demonstrate a logical and consistent approach across a wide range and number of landscapes, ultimately any system of landscape assessment still involves, at some level, making a value judgment. Ultimately the person assessing still needs to attach weight to different factors or criteria and come to a conclusion. For reasons that I will now turn to it is my opinion that the WRLA and CPLA assessments have given insufficient weight to some factors, too much weight to others and consequently come to the wrong conclusions.
- 50. For my assessment I have used as my starting point the 7 modified Pigeon Bay criteria and added to it one further criteria that I don't consider is adequately captured by it namely 'land form'. That gives a total of 8 criteria, namely;
 - Natural science factors
 - Aesthetic values (including memorability and naturalness)
 - Expressiveness (legibility)
 - Transient values
 - Whether these values are share and recognized
 - Its value to tangata whenua
 - Its historical associations
 - Landform
- 51. I appreciate that this methodology is arbitrary but it is no less arbitrary than the methods adopted in the WRLA and the CPLA and it is my hope that it is clearer and more transparent and that my overall assessment is more comprehensive.

Criteria 1- natural science factors

52. Under this head I include the ecology and the biodiversity of Opoutere. The various reports accompanying the ORRA submission establish the following;

- That the Wharekawa Estuary including the sandspit is a gazetted wildlife refuge under the Wildlife Act and a wetland of national importance.²⁹
- That the Wharekawa Estuary is also a site of international significance in respect to the NZ dotterel and variable oyster catcher, under the Ramsar Convention, an international treaty promoting the conservation of wetlands.
- That the Wharekawa is recognised as an Area of Significant Conservation Value "ASCV" by both NIWA and EW³⁰
- That Opoutere has a very high diversity of native bird species, half of which are classified as threatened or at risk.³¹
- The wider Opoutere area is a major breeding ground and flocking site (in particular the two colonies at either end of the beach) for the threatened New Zealand dotterel and the at risk variable oystercatcher" and "is the single most important site for New Zealand dotterel in the Waikato region, and one of the most important globally".³²
- The dune system running the length of Opoutere Beach is in excellent condition and home to both rare and /or rapidly declining flora and fauna.³³
- The combination of low density development, at a significant distance from the estuary and beach, outstanding habitat quality, very high existing biodiversity values and the ability to defend those values long term make Opoutere rare and worthy of special protection³⁴.
- 53. It should be noted that neither the WRLA nor the CPLA acknowledge Opoutere as containing a wet land of national significance or of international significance under the Ramsar convention, nor that the estuary is a gazetted wildlife reserve, nor that it is the single most important site for the NZ Dotterel in the Waikato region. The CPLA notes the healthy condition of the dune system but not the presence in it of rare/ declining flora and fauna. These in my opinion are significant factors to have omitted.

Criteria 2 -Aesthetic values including memorability and naturalness

54. I have given above a description of Opoutere and referred to the sense of isolation and remoteness that is created by the forested DOC reserve that runs the length of the beach. What is more difficult to describe is the sense of peace and tranquility and oneness with nature that that remoteness imparts. It is the essence of what I term "the Opoutere experience". There are few places left in the Coromandel in which those feelings can be experienced and it does make Opoutere highly memorable.

²⁹ See ORRA submissions at pg8 and ORRA-v-The Planning Tribunal [CA] 13 NZTPA at 446 at [tab 3] of the submissions

³⁰ See report of Dr Dowding tab4 of ORRA submission at pg 6 last para.

³¹ Dowding pg 3 last para

³² Dowding pg 9 para 3

³³ See this report above under "description of area".

³⁴ Dowding at pg 9 last par to pg 10 first two para's

- 55. I disagree that the exotic pine forest bordering the beach in some way detracts from the experience or the memorability or the naturalness of Opoutere. To say, as EW staff appear to in their rejection of the ORRA's submission 3, that the forest is comprised of 'wilding pines' is probably incorrect. The forest as I have explained is comprised primarily of Maritime pines as opposed to Pinus Radiata and that alone gives it a very unique feeling or ambiance. If what I have been told about the forest's creation is correct (see above) then it now forms part of Opoutere's socio-cultural history. Certainly the forest is very well established and has a brooding guality that makes it seem as if it is intrinsic and has always been there.
- 56. The sheer length and attractiveness and complete lack of development on Opoutere's white sand beach is also striking and now quite unique and rare both in Coromandel and in New Zealand. The clearness of the sea water, and the tidal pools that form on the beach, the view from the beach of the off shore Islands, the regular presence of pods of dolphins, the ethereal dotterel and their broken wing displays drawing passers by away from their nests. The clear waters also of the estuary alive with schools of fish and other marine life, the flocks of birds. These too are an integral part of the Opoutere experience and are aesthetically pleasing, highly memorable and natural.

Criteria 3-expressiveness

- 57. I have already guoted above some of the excerpts from the CPLA about the 'expressiveness' of Opoutere, with which I agree. There is the dynamic and expressive interplay between the coastline and the Ocean heightened in my opinion by the remoteness of the beach. There is the expressive nature of the incoming and outgoing tide from the estuary. There is the combination of these.
- 58. The expressiveness of a place or natural processes within a place is often best appreciated by those who spend time there, many natural processes are subtle and require patience and time to observe and appreciate. In this regard I refer to Dr Nicholson's submission³⁵. While I don't claim to know Opoutere as intimately as Dr Nicholson, his submission imparts very well a sense of the Opoutere experience. In Opoutere because of its wildlife reserve and its relative lack of development there is an ability there to appreciate the intricate workings of nature or the 'web of life' as Dr Nicholson calls it that is now rarely experienced. Under this criteria I would therefore rate Opoutere as 'high'.

Criteria 4- Transient values

59. Transient values are also present and highly visible in Opoutere. There is the ebb and flow of the tide as I have already referred to. There is also the coming and the going of the migratory birds, the godwits, the lesser knots, the pacific winged plovers and others ³⁶. However and perhaps most significantly in the context of Opoutere there are the comings and the goings in the dotterel colonies.37

³⁵ Tab 8 of ORRA's submission and in particular pg 3 para 2

 ³⁶ Dowding pg 4 table 1
 ³⁷ Refer Dowding

60. Each breeding season new life emerges in the two colonies at Opoutere. The chicks are assiduously counted by DOC and local volunteers, their numbers are recorded and posted on signs at the colonies and on a notice board in the village. Local volunteers are rostered to watch over the chicks when they are young and most at risk, some die, some disappear, some fledge. Of those that fledge some leave Opoutere and some remain. Under the transient values category I would rate Opoutere as 'high'.

Criteria 5-Whether these values are shared and recognised

- 61. It is self evident that some of the transient values that I refer to above i.e the coming and going of the tide and the migratory birds, are universally shared and recognized. However in Opoutere the very close connection and interest that the locals have with the dotterel colonies demonstrates a very particular and unique 'sharing and recognition' of transient values in this place and community.
- 62. It is now well accepted that in landscape assessment, "landscape" refers both to the physical environment but also to how people perceive, appreciate and interact with that environment.³⁸ The very close connection that the Opoutere people have with their local colonies of rare and threatened birds is a factor that in my opinion could and should properly be taken into account when assessing the Opoutere landscape. Again under this criteria, for the reasons given, I would rank Opoutere as 'high'.

Criteria 6-value to tangata whenua

- 63. The WRLA nor the CPLA refer at all to the value to tangata whenua of the Opoutere area. Dr Nicholson's submission, but more significantly the submission of Dr Louise Furey,³⁹ indicate that the area contains a large number of pa sites including Ruahiwihiwi on the headland and Maungaruawahine but also early occupation sites that are indicated by the presence of large quantities of bird and fish bones and the like. She refers to midden that may be up to 700 years old. Dr Furey goes onto to explain that these early occupation sites are now rare in the Coromandel and in the northern North Island.
- 64. Although I have not spoken to local iwi, it is self evident that there are sites in Opoutere that are of value to tangata whenua ie the Maori people in general and indeed to all New Zealanders. The omission of any reference at all to these sites of significance in the Opoutere area in the WRLA and the CPLA is in my opinion a serious oversight and must have impacted on the conclusions reached. As I have not spoken to local iwi I don't feel that I can rate Opoutere under this criteria as high but on the strength of Dr Furey's report alone it should at least be rated as having a moderate or medium level of significance.

³⁸ Outstanding Landscapes Protection Society Inc-v-Hastings DC [2008] NZRMA 8 (EnvC)

³⁹ See Dr Furey's report at tab9 of ORRA's submission and in particular at pg2 last three para's. Note Dr Furey is now the head of Archaeology

Criteria 7-Historical Associations

65. Again I refer to Dr Furey's report which outlines the extensive Maori and European history in the Opoutere area. I repeat that the failure to consider any of this human history in the area in both the WRLA and the CPLA is of concern. Under this criteria I would rank the Opoutere area as being of moderate or medium significance.

Criteria 8-Land form

- 66. I have already identified above in my description of the area, the landforms that comprise Opoutere. I note that neither the WLRA nor the CPLA refer to Hikinui Island at the mouth of the estuary nor Ruahiwihiwi point both of which are striking and memorable landforms in their own right. The WLRA does not mention Maungaruawhaine the most visible and dominant land form in the area, nor the 5km white sand beach. The CPLA divides the area into three units which in doing so, for the reasons given above, dilutes the impact and significance of land forms when they are viewed together as a cohesive unit.
- 67. The combination of the Ohui bluffs, Motohaua Rock, the 5km white sand beach, with the forest behind it, the 'gothic' Hikinui Island, Ruahiwihiwi Point, the conical bush clad Maungaruawahine, enclosing between them an estuary and wetland of international and national significance, there is little doubt in my opinion that the area under this criteria should be ranked as high.

Comparison with other areas and ONFL's on the Coromandel Peninsular

- 68. No landscape exists in isolation, landforms and bodies of water are interconnected and need to be viewed in context, that is, measured up against surrounding landscapes and landforms. When assessments are done, for the sake of some level of consistency, there does need to be comparisons carried out with other similar landscapes.
- 69. I note that Opoutere beach and coastline is surrounded on all sides by intensively developed beaches and coastline. Immediately to its north there is Tairua and Pauanui and to its south Onemana and Whangamata, all intensively developed areas with large 'McMansion' style housing and retail shopping. Opoutere is described variously in the material that I have read as *"one of the last remaining undeveloped white sand beaches of its size in the Coromandel"*. It is described as an *"oasis"* which I take to mean an area that is undeveloped but is surrounded by intensively developed areas, perhaps also a resting place, a place of respite and where the thirst, that we all have at some level, to commune with nature, can be quenched. I don't disagree with those descriptions.
- 70. I note that at least three other areas of the Coromandel coast have been scheduled in table 12-1 as ONFL's. ⁴⁰ I am familiar with all of these areas and don't' take issue with their inclusion in table 12-

⁴⁰ See current draft RPS at 12A table 12.1

1. However I don't consider that Opoutere is any less worthy of inclusion than the areas of Coromandel that have been included.

- 71. Take as the most obvious and well known example, Cathedral Cove (ONFL 10/1). It is self evidently included because of its dramatic 'cathedral' like cliff faces and rock formations. Yet it does not have, as far as I'm aware, any flora or fauna of significance. It is modified with its pathways and car / bus stops etc. No sense of remoteness or isolation can be got there as it always heavily populated with people.
- 72. How does one compare dramatic rock formations with an internationally recognised wetland? The first is so obviously dramatic and visually pleasing, the second isn't, it requires a more subtle and nuanced level of study and appreciation. Both, in their own way, are 'outstanding and natural features and landscapes'.

The EW rejection of ORRA's submission

- 73. EW has rejected ORRA's submission that Opoutere be included as an ONFL. It has done so, presumably based on the WRLA and /or CPLA, because of the presence of residential settlement, production forestry and wilding pines including along the beach. In other words it has decided that Opoutere is not sufficiently 'natural' or unmodified to qualify as an ONFL.
- 74. In my opinion EW has given the presence of residential development, forestry and farm land in the Opoutere area too much significance and the other factors that I refer to above, too little significance. EW has taken too narrow a view of what 'natural' is.
- 75. The Courts have held that words like "natural" and "natural character" may connote a range of qualities including such things as pasture and exotic tress.⁴¹ They have held that 'natural character' is not so much "scientific" as "cultural" and does not exclude a landscape containing gorse, grass and commercial forestry.⁴² They have long recognised that wetlands in particular are a valuable and diminishing resource.⁴³
- 76. While I agree that Opoutere would be more attractive if the southern side of the estuary was covered in native bush rather than farmland and production forestry, the presence of these is not sufficient in my opinion to negate the other features of Opoutere that I refer to above. They are not in my opinion sufficient to render Opoutere anything less than on ONFL

Conclusion

77. As I have said above ultimately landscape assessment requires value judgments to be made, it requires some level of subjectivity. There are places and there are landscapes that evoke feelings

⁴¹ Harrison –v-Tasman DC [1994] NZRMA 193 (PT)

⁴² Akaroa Civic Trust -v-Christchurch CC [2010] NZ EnvC 110

⁴³ Te Runanga o Ati Awa Ki Whakarongotai Inc v-Kapiti Coast DC (2002) 8 ELRNZ 265 (EnvC)

and moods that defy description and definition. These places are rare but Opoutere, is in my opinion , one such place.

78. Informal research on the internet to gauge others perceptions of Opoutere is informative (and I accept of limited value). A general theme that emerges is of Opoutere being a "hidden gem", one of Coromandels' "best kept secrets", a treasured and memorable place that those who visit swear to return to one day return to. Bill Manhire, one of NZ's most well known poets, has written a poem about Opoutere entitled 'Opoutere'. One entry I found sums up these sentiments well, it says this;

"There exist places endowed with a certain aura, an allure so strong that it becomes physical, a beauty bordering on magical. We remember them, return to them, never forget them. Opoutere is one such place, its effects are strong-there is no room for indifference."⁴⁴

79. For the reasons given above I am strongly of the view that Opoutere should be recognised as an ONFL in table 12.1 of the RPS. In my opinion it comfortably qualifies on any currently accepted criteria for the assessment of landscape it is 'outstanding, remarkable and eminent'. The WRLA and the CPLA were wrong to have classified Opoutere as anything less than outstanding and the EW staff were wrong to rely on these assessments in rejecting ORRA's submission that it should be classified as an ONFL. In particular WRLA and CPLA gave no or insufficient weight to the ecological, biodiversity, socio cultural, historic and tangata whenua factors and too great a weight to other factors such as the presence in the area of development, farming and production forestry.

Mark Lockhart, landscape architect

Date

44 http://tour.thepeninsular.co.nz

TAB 1

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Aerial view of Opoutere Beach, sandspit and Wharekawa Estuary, looking south to north.



Hikinui Island from the mouth of the estuary



Looking across the mouth of the estuary to Ruahiwiwi Point (terracing from former Maori Pa still in evidence)



Looking across the estuary at low tide to Maungaruawahine



Looking from the sandspit across the dunes to Hikinui Island



Looking from the sandspit end of the beach to the off shore Islands.


Looking north along the beach from the sand spit to Ohui



Native grasses on the sand dunes, Opoutere Beach



Looking North along Opoutere Beach approaching Ohui and Motohaua Rock



Motohaua Rock, Ohui end of Opoutere Beach



Looking down the Ohui Stream towards Motohaua Rock



View of offshore Islands from Ohui



The southern face of the Ohui Bluffs



The sand dunes on Opoutere Beach with the forest behind



View across the estuary from the village out to the mouth and Hikinui Island



Maungaruawhaine across the estuary from the village

TAB 2

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4.14 Eastern Coastline - River Mouths, Harbours and Islands (HVANFL 14)

These landscape features include the Manaia, Te Kouma, Colville, and Port Charles harbours; Potiki Bay, Kennedy Bay, Whangapoua Harbour, Opito Bay, Whitianga, Tairua, Wharekawa, and Whangamata harbours. There are a large number of islands off the west and east coast of the Coromandel Peninsula including the Motukawao Group, the Mercury Islands and Slipper Island.



Photo 4.16 Wharekawa Harbour

These coastal landscapes include narrow coastal edges with cliffs, sheltered harbours, enclosed bays with steep bush clad headlands, enclosed estuaries with tidal flats and native forest fringe, and white sand beaches and the off shore Islands. Many of these landscapes are memorable and vivid, particularly those with white sand beaches punctured by headlands. Some of these such as Cathedral Cove and parts of Hahei have been identified as Outstanding Natural Features and Landscapes.

The harbours and bays are distinctive open expanses of water due to transient values such as fluctuating tide levels, changes in light and weather, and birds. Many of these areas have very large viewing audience. Some of these harbours and estuaries have wetlands associated with them, as well as mangroves and coastal forest.

Again Maori have a strong relationship with these coastlines, especially with the harbours and estuaries. Particularly important is Manaia Harbour, which has a Maori settlement on its edge and is used by Maori for food gathering. Again hundreds of years of Maori history are represented in these areas. There were many pa sites along these coasts. Captain Cook anchored in Mercury Bay in 1769 where he observed the transit of Mercury. Later this area became an important port for the kauri timber and gold trade.

The river mouths and harbours on the Eastern Coastline are a focus for recreation including deep sea fishing, sailing, swimming, kayaking, and tramping and walking and holiday homes.

These landscapes retain high natural character in some places. The main factors contributing to their identification as a high value amenity landscape are the variety of landscape character including inlets, harbours, white sand beaches, the visibility of these water areas, and their value to tangata whenua.

Activities that could threaten those values would include extensive coastal residential development, exotic forestry, aquaculture and marina developments.



- Kawhia Harbour
- Marokopa River mouth
- Waikawau River mouth
- Awakino River mouth
- Mokau River mouth
- HVANFL 14
- Eastern Coastline river mouths, harbours and islands -
 - Manaia Harbour
 - Te Kouma Harbour
 - Colville Harbour
 - Port Charles
 - Potiki Bay
 - Kennedy Bay
 - · Whangapoua Harbour
 - Opito Bay
 - Whitianga Harbour
 - Tairua Harbour
 - Wharekawa Harbour
 - Whangamata Harbour
 - Off shore islands
- HVANFL 15 Horohoro Cliffs

7.3 Significant Natural Landscape Features (SNLF)

Five Significant Natural Landscape Features have been identified. These are features that are located within a larger landscape and are neither outstanding nor high value amenity but have specific ecological or geological values.

As described in earlier sections, the Significant Natural Landscape Features (SNLF) are:

SNLF 1	Whangamarino, Kopuatai and Torehape wetlands
SNLF 2	Miranda shell banks and chenier plain
SNLF 3	Huka Falls and Aratiatia Rapids
SNLF 4	Limestone bluffs, outcrops and caves in the Waitomo area
SNLF 5	Geothermal features -
	Craters of the Moon

- Orakei Korako
- Lake Rotokawa
- Waiotapu Area
- Te Kopia Scenic Reserve
- Rainbow Mountain



		Aestl	netic	Valu	DS		Phy Attri	bute	s	Associations				Totals				
Attributes →	Memorability	Vividhess	Expressivenese	Cohesion	Eminence	Geology	Тородгару	Ecology	Oynamic Change	Historical Assocations	Value to Tangata Whonua	Recreation Values	Shared/Recognised Values	Narural Character	High	Medium	Low	No info available
1 Hakarimata Range and Mount	M	M	M	H	M	M	M	M	н	н	н	L	M	M	4	9	1	0
2. Herangi Range South	M	M	M	H	M	M	H	M	L	e	Ð	M	¢	н	3	7	1	3
3. Rangitoto Range	M	L	L	M	L	H	H	M	M	Φ	0	Φ	Φ	M	2	5	3	4
 Kuharua, Kakaramea, Lake Rotoa ra and Pihanga 	M	M	H	н	M	н	H	M	H	M	H	M	M	н	7	7	0	0
5. Pureora	M	M	M	H	M	M	M	L	M	H	H	M	M	H	4	9	1	0
6. Titiraupenga	M	H	M	H	M	H	H	L	L	H	н	M	M	H	7	5	2	0
7 Tauhara	н	H	H	M	M	H	M	L	L	H	Н	M	H	M	7	5	2	0
8 Te Hoe	M	L	M	M	M	M	M	H	L	Ф	Φ	Φ	Ø	н	2	6	2	4
9. Paeroa Range	M	M	M	L	M	M	H	L	L	Φ	Ф.	M	L	M	1	7	4	2
10. Kaahu and Whakaahu	н	Н	M	M	H	H	H	L	L	H	H	L	М	M	7	4	3	0
11. Waikato River and Reservoirs	M	M	H	M	L	M	M	L	H	н	H	M	н	M	5	7	2	0
12, Kalmai Range - South	M	M	H	H	M	H	H	M	H	H	M	М	M	H	7	7	0	0
 Western Coastline – river mouths, harbours and islands 	M	м	н	H	М	L	H	М	н	H	н	М	M	н	7	6	1	0
14 Eastern Coastline - river mouths, harbours and Islands	н	н	M	M	M	M	м	M	H	н	H	н	н	м	7	7	0	0
15. Horohoro Clitts	H	H	H	M	M	H	H	M	M	H	H	M	M	M	7	7	0	0

SUMMARY TABLE - HIGH VALUE AMENITY NATURAL FEATURES & LANDSCAPES (HVANFL)

Key H M L

High Medium

Low No information available Φ

SUMMARY TABLE - SIGNIFICANT NATURAL LANDSCAPE FEATURES (SNLF)

)		Aest	netic	Value	×s		Phy Attri	sical butes	5	1	Assoc	atio	ns			Tot	als	
Attributes →	Memorability	Vividness	Expressiveness	Cohesian	Eminence	Geology	Topography	Ecology	Dynamic Change	Historical Associations	Value to Tengete Whenve	Recreation Values	Shared/Recognised Values	Natural Character	High	Medium	Low	No info available
1 Whangamanno, Kopuatai and Torehape wetlands	M	L	M	M	L	L	M	H	L	H	M	M	M	н	3	7	4	0
2 Miranda shell banks and chenier plain	M	м	H	M	M	М	M	н	M	н	Ф	M	H	н	5	8	Ф	1
3. Huka Falls and Aratiatia Hapids	H	н	н	M	M	н	M	L	M	H	M	H	M	M	7	6	1	0
 Limestone bluffs, outcrops and caves in the Waltomo area 	м	M	н	M	M	н	H	М	M	M	M	M	M	м	3	11	0	0
5 Geothermal Features		Values	vary for	each gro	dternal	eiture -	Natura:	anaracte	values	to each	thalure a	ine identi	lied in the	backgro	nd deta	the GI	S Maps	

Key

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TAB 3





Introduction

Brown NZ110 has been engaged by the Thames Caromandel District Council to convolidebing existing landscope avyaysments of the Conomously ("Brundula (inclusing the Coronandel Tennaula Lendscape Assessment (Nugus) 2008). の相当にはない centy out an assessment of the turnlycapes within the District, with the arm of by Mary Muchland of 1.34, and a picur review at that assessment by Stephen Dream Evenuence is in 2008, the the "Plannes Coronande" (Hitting Council)

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The "efforwing four aspects have been addressed in the discussion of Landscheristics:

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Amenity Landscapes:

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and must lensation of values that here event hours so do with local qualities and injourned their "fancticaus". To instance, whereas line enricipit of theological may pertain to a wide singing muture of beeth and coastline over particip, remnant bush and forest, mountain ranges and foothils, reling to upgraphy, itelefacts and bulkings tast creats a and foothils makery and distinctive serve of place, amentity enues may value to the outbook to a wige beach, with regis, and of rows, inter referent curso or chine feature that migh he lost to mate value for the a much more offerent tast. is practice. Be concept of "aminuty" is office bound up in the identification

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Outstanding Landscapes:

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Coromandel Peninsula Map



LANDSCAPE UNIT 77 Opoutere Beach



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LANDSCAPE UNIT 77 Opoutere Beach



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LANDSCAPE UNIT 78 Wharekawa Harbour



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Key Physical Elements

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he main hibulary feeding the flatbour is the Wharekawa fiver, American smaller streams craming the surrounding landlorms also feed into the Harpour.

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TAB 4

Appendix 1

Author's qualifications and relevant experience

I am a landscape architect currently in private practice in Auckland .

I hold the qualifications of a Bachelor of Arts and a Bachelor of Landscape Architecture from the University of Canterbury and Lincoln respectively.

I worked for Jasmax as a senior landscape Architect for approximately 4 years. I have also worked as landscape architect for Auckland City Council.

I have been in private practice as landscape architect for approximately 15 years.

I have worked on a range of projects including visual impact and landscape assessments and I have presented evidence at Environment Court and council planning hearings.

I am familiar with the Coromandel area having travelled through it extensively over the years. I am particularly familiar with the Opoutere area having holidayed at the camping ground there for the past two years and having visited it on a number of occasions prior to that.

Appendix 2

- The Resource Management Act 1991
- The Proposed Waikato Regional Policy Statement
- The Waikato Coastal Policy Statement.
- The Waikato Regional Plan.
- New Zealand Coastal Policy Statement.
- ORRA's submission dated 25 February 2011 and all of the attached reports / submissions.
- The WRLA and CPLA and some associate peer reviews and literature
- The various legal cases and literature that are footnoted throughout this report.



(This report is written by Dr Gordon Nicholson, a 78 year old retired specialist physician with a lifelong interest in nature who has holidayed in Opoutere for the last 36 years. He is a member of the Ornithological Society, Forest and Bird Society, The Wetland Trust and The National Native Forest Restoration Trust. He is a volunteer in the Marine Department of the Auckland Museum and on the committee of the Opoutere Resident and Ratepayers Association.)

The Opoutere/Ohui Area

In this report I wish to summarise why I consider the Opoutere-Ohui area of outstanding natural beauty .It sustains a diversity of fauna and flora which requires protection and is of regional and national significance. Furthermore, because it is in decline, its protection is a matter of urgency.

Natural Features and Landscape:

Enclosed by the Tairua pine forest, off the main road, isolated by rocky sea coasts and a narrow harbour entrance with a tricky bar, it remains a remote natural area despite its proximity to Whangamata, Pauanui and Tairua. It is readily accessible and within two hours of Auckland City.

The harbour is overlooked by the hills of Maungaruawahine and Rangipo with the southern and western shores having only one visible house on each. Likewise the spit to the east is a pleasant natural feature. The harbour varies with the tide, wind and weather, but has moments of great beauty when calm, in sunlight or moonlight, or with small sailboats, swimmers or kayaks in motion. There are the feeding streams, the Wharekawa, Tawatawa, Kapakapa, to explore, with birds and fish, to enjoy. In the west, the Coromandel range provides a dramatic backdrop. The now shallow harbour has the advantage that it is less suitable for larger boats and its limited expanse excludes legal speeding of motorboats. From most angles around the harbour, impressive views are present despite the uneven exotic pine forest component.

<u>The ocean beach</u> is one of the longest on the Coromandel, and is the more dramatic for the fact that buildings are not visible. The dunes backed by the pines of the long recreation reserve screen off the hinterland. Looking along the beach, the tide line with its crashing surf and the seaward views of the off shore islands are exceptional. At either end of the beach, inshore islands are present and Hikunui at the harbour mouth is particularly dramatic with its sculptured form (the guardian or taniwha). The break on the bar and Ruahiwihiwi, the southern head of the harbour with its terraces of the old pa above and the line of pohutukawa below, add to the scene. Further out to sea, the Mayor and Alderman Islands, named by Captain Cook, and the Slipper, Shoe and smaller islands highlight an ocean view which can contain seabirds, shoals of fish, dolphins, even whales and orca.

Looking from the sea, the rugged, near impassable coastline between Ohui and Pauanui is the northern boundary. The long 'uninhabited' beach is framed to the south, by the equally dramatic volcanic headland of Ruahiwihiwi and rocky coast extending south to Pokohino beach.

It is emphasised that it is rare to have these combined features, of an accessible, remote, natural, sparsely populated, little modified ocean beach, rocky coast and shallow estuarine harbour.

Historic Heritage

There are historical aspects of great interest. Early and later Maori inhabitation is reflected in multiple middens and several pa, most relatively undisturbed and therefore valued sites for further study. What is known is that these middens contain remains of moa, seal, bird and shellfish; that there was use made of obsidian from Mayor Island and the Coromandel; that warfare with the Ngapuhi was a major issue; that Te Kooti spent time here; that Wharekawa Maori embraced the Ringatu faith and took over the old Christian church; that Captain Cook passed by naming the offshore islands, introduced the pig which has thrived and remains in the Opoutere area; that native forestry, mining, kauri gum collecting , and later farming and exotic pine forestry have modified the area. Although already well studied in some parts, much remains of great interest to the Maori community and to archaeologists.

[-A memorable place-timeless, a best kept secret.

A major delight for many people is the close encounter with the natural world-with sun, sky, surf, spray, sand, wind, stars, moon, sunsets, sunrises, hills, reflections, clouds – for some the ' icing on the cake' is bird song, splash of fish in the water, moving crabs, the thrill of finding a new shell, or bird, the discovery of a tiny native flower or berry, towering ferns, the glimpse of glow worms, an eel in the torchlight, the call of the owl, the tapping of moths and beetles on the window, the push of the current, the squelch of the mud beneath the feet, the power of a wave. For a few there is the challenge to understand the food chain – how the web of life has been functioning for millions of years and the struggle to do less harm, perhaps even to support and achieve a sustainable place in the future for a natural treasure---]

Next I wish to consider the biodiversity of the area:

Biological diversity:

<u>The rivers and streams</u> flowing into the harbour contain native fish and eels. White-baiting and eel trapping are ongoing although catches now are smaller. Nevertheless, galaxids, kokupu, short and long-finned eels, fresh water crayfish koura are present. With increased support and periodic no-take seasons, accompanied by restoration of stream banks, these would increase in number. Mullet move up the brackish waters. The streams contain wildfowl, ducks (grey, mallard, shoveller, Paradise shelduck], black shag, kingfisher, whitefaced heron, and are on rare occasions, used by the Australasian bittern. Black swan, pied stilts and Canada geese both visit and some nest. A variety of birds use the associated wetlands and the riverside bush, eg , fern birds, banded rail, grey warbler, shining cuckoo, tui, bellbirds, welcome swallow, pukeko and spur-winged plover.

In the 'delta' wetland area of the western margin there are expanding areas of reeds, mangroves, and grassed banks which have a potential to increase habitat for bird (and possibly some fish). Fern bird, banded rail and waterfowl would benefit.

<u>The harbour</u> has a large intertidal zone with sea-grass, sandy banks and muddy soft areas .At low tide a tortuous narrow channel remains Such a harbour should be rich in the bottom components of the food chain, which thrive in shallow, sunlit waters. These nourish the mud eating crabs, snails

and mullet, . This fertility is under threat by episodes of sedimentation and pollution. Nevertheless, it provides the important basis for the biological functioning of the harbour. Fish species found in the harbour include parore, grey and yellow eyed mullet, piper, kahawai, trevally, short and long finned eels, snake eels, stargazers, yellow bellied and river flounder, and stingrays. Young fish use the protected water to feed (flounder, parore, trevally, kahawai, mullet) and the longer dark nights of mid- year see an increase in fish entering the harbour to feed.

Bird species include herons (blue reef and white-faced), pied stilts, gulls (Black backed and red billed), terns (Caspian and white fronted), pied and black shags, godwits, variable oyster catchers, New Zealand dotterel, banded dotterel, swan, duck, Canada geese, banded rail, fern birds, gannet etc. Rare sightings include white heron and little egret .Migrants other than godwits may call,

Breeding birds include New Zealand dotterel, variable oyster catchers, large pied shag, banded rail and fern birds.

There is a rich and varied marine life on which bird and fish feed. Plentiful marine worms, crustaceans (common and snapping shrimps), pipis, cockles, wedge shells, small black and green lipped mussels, mud snails, white bubble shells, whelks and horn shells. Cake urchins thrive and starfish, especially the cushion star, are numerous. In the harbour outlet, seahorses and pipefish may be found.

At low tide, shallow channels and pools are alive with shrimps and blennies, and rocks provide cover for flatworms, nerita and shellfish eggs. Some shellfish remain unnoticed even in the more used shore, eg blue periwinkles, several species of whelks horn and banded ear shellfish. Sea hares, nudibranchs and other interesting creatures have their season.

Sadly, almost all bird and fish species have declined in number, some directly related to human impact. Sedimentation, measured at up to fifty times pre-european arrival, is out of control .Changed weather patterns have further overwhelmed the previously ineffective control measures and an urgent review is required. For example, from a hundred white-faced herons, a major weather episode was followed by a drop down to twenty birds. Coincidentally, a vocal snapping shrimp population went silent and has taken several years to announce their return. These changes highlight gross damage to the biological functioning of the harbour.

The large sea-grass (Zostera) area in the mid harbour on the south side is particularly favoured by godwit, heron, and recently black swan and Canada geese. This possibly reflects loss of suitable feeding areas in adjacent harbours. The Wharekawa harbour has a larger proportion of sea-grass than others.

Because they are uncommon, special emphasis is placed on the suitable areas for fern birds and banded rail. Both are secretive and seldom seen without special attention. The harbour verge with associated reeds and shrubs conceals several important colonies of fern bird – such habitat is now rare according to PF Jenkins, formerly of the Zoology Department at University of Auckland, who studied these Opoutere birds .It should be protected. Banded rail are scattered around the harbour verges and should have adequate habitat.

<u>Forest birds</u> benefit from regenerating native bush and especially the very rare remnants of undisturbed old coastal forest. The main remnant is at the base of the Maungaruawahine reserve

and extends northwards beside the Youth Hostel and beyond. The flora represented are centuries old and includes large trees whose roots surround huge rocks. Their branches are festooned with perching lilies (astelias) and New Zealand orchids (Cunningham's and bamboo) while the understorey is rich in native shrubs, vines, ferns and mosses. Such coastal forest is precious and extremely uncommon. As well as the tui, bellbirds, grey warblers, morepork, kereru, the forest shelters a flock of about fourteen North Island kaka – possibly the largest flock on the Peninsula. It is usual to see and hear the kaka calling, and the kereru performing their aerial displays.

A smaller remnant with large pohutukawa, puriri, kohekohe and very tall tree ferns is on private land on a steep slope behind some baches. Again there are native orchids as epiphytes and ground growing hooded varieties present. Perhaps only those engaged in native forest replanting fully appreciate the massive difference between these centuries old native tree and plant communities – compared to our best efforts at replanting., They are irreplaceable treasures. A forest fire on the upper part of Maungaruawahine was fortunately contained and this remnant saved. Erosion of the road edge is an ongoing threat. Special predator trap lines are maintained and plant pests, (bamboo, Himalayan honeysuckle, privet and elaeagnus) are being addressed.

The dunes, the spit, the recreation and the nature reserve:

This narrow strip which extends the length of the beach is very important, despite a major component of Corsican pines. It supports not only the nesting area of the New Zealand dotterel, the variable oyster catcher and a pair of Caspian terns, but provides cover for flocks of Australasian brown quail, Californian quail, pheasants, fantail, warbler, finches and other birds. Rarer threatened natives such as the dune snail (Succinea archeyi), the moko skink and other lizards and native butterflies are found in it.

The dunes are bonded by spinifex, pingeao, succulents and native convolvulus and are partly protected from excessive erosion.

The undergrowth of the pines consists of patchy natives such as coprosma, kawakawa, mingimingi, tea-tree, with some plant pests (privet, pampas, barberry etc). In season it is home to a wide variety of fungi. Vigorous trapping and poisoning is necessary to protect the dotterel and other birds. Domestic as well as feral cats and dogs are a threat to both birds and lizards. A major risk here and elsewhere is fire and in spite of fire bans in the summer, fires occur and require the attention of the fire service.

The Beach:

The beach is a nature lover's delight and annually produces surprises which give insight into the adjacent ocean's diversity. Numerous shellfish species (over ninety) are reflected in the wash-up of shells. Jellyfish of several varieties, salps, pelagic marine snails, stalked barnacles, associated nudibranchs, Portugese man-o'war, by-the-wind-sailors, violet snails come ashore after storms. Also stones, and seaweeds bring in attached sponges, hydrozoa, bryozoa, marine worms and anemones. Ram's horn shells indicate an offshore population of this squid. The tests of kina, heart urchin and cake urchin are there .Dried seahorse, spiny sea dragon and the curious porcupine fish swim bladder occur and may become valued ornaments.

Storm fatalities wash up including penguins, petrels, shearwaters, gannets and these allow close up inspection. Even whales, some still alive, have beached here. Visits from fur seal have occurred. The Elephant sea,"Humphrey", made international news when he teamed up with an Opoutere herd of cows.

A wide variety of less welcome inanimate objects wash up – plastics, bottles, ropes, fishing gear, wooden planks perhaps covered with barnacles or filled with shipworm – you don't know what you will find until you look and beach combing is part of the thrill of such remote places.

New Zealand Dotterel:

The breeding of an icon species, the New Zealand dotterel, is important because this beach contributes nationally to its survival. Protection from predators and from inappropriate human disturbance are essential for a successful breeding programme

An object of the dotterel programme (which I have been interested in for thirty years) is to get a secure large population which is self perpetuating. Opoutere/Ohui offers preferred sites at the harbour mouth in the south and the Ohui stream mouth in the north, but because of the territorial behaviour of this bird, there is a limit to the pairs which will breed together, and are reaching that limit in good years now. The remaining pairs can and do breed on the open beach. It is a significant fact that at least three chicks were fledged from nests away from the colonies at the spit or Ohui. In my understanding, what makes Opoutere/Ohui very special – at a time of diminishing habitat for the New Zealand dotterel – there is more nesting space available.

Accomodation and access for public

A variety of accommodation is offered, camping, back-packer style rooms at the hostel, baches for rent, and motels in the adjacent Whangamata and Onemana.The car park is at the start of the main beach access track, which is a short walk through the reserve and sand dunes. In the nesting season people are encouraged to keep away from nesting birds and avoid the shoreline where chicks feed. A compromise is reached where there is free access on foot but the vehicle free beach allows both birds and people the necessary safe quiet space.

The community

The efforts of the Opoutere residents and ratepayers to sustain and promote their area as a precious natural area of low human impact, of national significance enters its fiftieth year---enough said.

The selection by EW to support the Wharekawa Catchment Care Programme indicates confidence in this community and acknowledges there are problems needing attention. The working together of holiday bach owners ,residents, local Maori, farmers, school staff and pupils with EW,DOC,TCDC indicates a shared vision and commitment.

The pest control, baiting of traps, clearing of weeds, planting ,fund raising, voluntary service fire control, advocacy—goes on and on .But it does continue because sufficient people believe it is important enough to make it a priority.

The community is special, and a reason for optimism

A Modified Place? A critical time!

Yes, some of the area is indeed modified and with important dysfunctional consequences. But almost everywhere accessible is modified to some degree. This area has exceptional landscape values, precious old forest remnants and biodiversity in a functioning, although impaired, environment. It does not get much better than this.

.My assessment is that we are at a <u>critical point</u> in what is predictably a downward course without intervention. An opportunity exists to set in place measures which could protect the fragile Opoutere/Ohui area as a safe haven for indigenous species and maintain its landscape in a natural unspoiled way .Experience elsewhere indicates that with appropriate nurturing birds,fish and other marine life can flourish ,native forest regenerate ,fresh water systems improve, land be returned to a sustainable state----.Biological systems are fragile but they also have a resilience and with help do recover. I am optimistic that much can be achieved and that it should be undertaken as soon as possible.

Gordon Nicholson,

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REPORT BY DR JOHN DOWDING, ECOLOGIST AND BIRD EXPERT

Significance of the Ohui-Opoutere-Wharekawa Harbour area with respect to native birds



Report prepared for: Michael Lloyd Opoutere Ratepayers & Residents Association, Inc PO Box 138 WHANGAMATA Report prepared by: Dr JE Dowding DM Consultants PO Box 36-274 CHRISTCHURCH 8146

JANUARY 2012

DM CONSULTANTS CONTRACT REPORT NUMBER 148

Summary

Dowding, J.E. 2012. Significance of the Ohui-Opoutere-Wharekawa Harbour area with respect to native birds. *DM Consultants contract report number 148*. DM Consultants, Christchurch.

The Opoutere Ratepayers and Residents Association (ORRA) is submitting that the Opoutere area should be recognised as an area of special character and significance and/or an outstanding natural landscape (ONL) in the Waikato Regional Policy Statement (RPS). This report was commissioned by the Association, and assesses the significance of the area for indigenous birds.

For its size, the area contains a very high diversity of native bird species; an unusually high proportion of these species (almost half) are classified as Threatened or At Risk.

The area is especially important as a major breeding and flocking site for the Threatened New Zealand dotterel and the At Risk variable oystercatcher. It is the most important site for New Zealand dotterels in the Waikato Region, and one of the most important globally.

Because of its avian values, the area qualifies as a wetland of international importance under two Ramsar Convention criteria. At a national level, it qualifies as significant habitat of indigenous fauna. At a regional level, the harbour and sandspit have been recognised as an ASCV by both NIWA and Environment Waikato.

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The area is clearly of outstanding value to native birds. Because of these very high biodiversity values, a number of documents, notably the NZCPS 2010, confer high levels of protection on the habitat.

I note that many beach and estuarine shorebird sites elsewhere have high densities of housing close to the beach and easy vehicle access, resulting in high levels of disturbance to breeding birds and gradual degradation of the habitat they depend on. The limited size of Opoutere Village, the fact that there are few dwellings close to the beach, and the lack of easy vehicle access to the beach, all act to reduce human impacts on bird life and contribute to the high species diversity found in the area. Importantly, these factors also suggest that it will be possible to defend the existing biodiversity values in the long term.

From a biodiversity perspective, I agree with the submission that the Opoutere area requires the highest possible levels of protection that can be afforded by the RPS.

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1 Background

1.1 Brief for this report

The Opoutere Ratepayers and Residents Association (ORRA) is preparing a submission on the draft Waikato Regional Policy Statement (RPS). ORRA will submit that the Opoutere area should be specifically recognised in the RPS as an area of special character and significance and/or an ONL, so qualifying it for a higher level of protection under the **Constant of the State Provide** an assessment of the significance of the area with respect to native birds, with particular emphasis on the status of the northern New Zealand dotterel.

My qualifications and experience as they relate to the subject matter of this report are outlined in Appendix 1.

1.2 Methods

In this report, I consider the Ohui-Opoutere-Wharekawa Harbour area ("the Opoutere area") to include:

- Opoutere Beach and sandspit, including the dunes behind the beach, from the headland at Ohui in the north to Ruahiwihiwi Point in the south
- The Motuhaua rock stacks near the northern end of the beach and Hikunui Island off the southern end of the beach

Wharekawa Harbour and its margins

Forested and scrub areas behind the beach and around Opoutere Village, including on the high hills above the village (Maungaruawahine).

In compiling this report, I have consulted the ornithological literature, particularly the records in Classified Summarised Notes of *Notornis*, reports written by the wardens assigned to manage and monitor New Zealand dotterels at the Wharekawa Wildlife Refuge annually, and unpublished reports from a number of agencies (including Department of Conservation and Environment Waikato). I have not used the recent Atlas of Bird Distribution in New Zealand (Robertson et al. 2007) – it contains pooled records from 10 x 10 km squares, so some species listed are likely to be from outside the area I have defined above.

I have also used unpublished material from my own papers and reports, from numerous discussions with shorebird wardens (at Opoutere and elsewhere), and opinions based on 25 years of experience studying and managing New Zealand dotterels and other endemic shorebirds.

2 Native bird species of the Opoutere area

2.1 Native bird species recorded in the area

A list of the native birds recorded in the area has been compiled and is shown in Table 1. Note that this excludes pelagic seabirds seen offshore (or found dead on the beach), and all introduced species.

Table 1 shows 41 native bird taxa, with their threat status according to the latest national rankings (Miskelly et al. 2008). No fewer than 19 (46%) are currently considered Threatened (10) or At Risk (9). A further 4 are international migrants that are mainly present from about September to April.

The list in Table 1 is not exhaustive, and further observations would almost certainly add to the species list for the area. The secretive spotless crake may well occur in Wharekawa Harbour (it occurs in other Coromandel east coast estuaries) and the harbour is probably also occasionally visited by native waterfowl (grey duck, grey teal, New Zealand shoveler) and some of the rarer migrant waders. I also understand that brown kiwi are occasionally heard in the Opoutere area.

Common name	Scientific name	Threat status
Paradise shelduck	Tadorna variegata	
Little penguin	Fuduntula minor	At Rick Declining
Grev-faced petrol	Dierodroma macrontera	At Risk, Decining
Australasian gannet	Morue servator	
Little shag	Phalacrocovar malanolaucoc	At Pick Naturally Uncommon
Black shag	Phalacrocorax carbo	At Risk, Naturally Uncommon
Diack Shag	Phalacrocorax paring	Threatened Nationally Vickorship
White fored heren	Fruitacrocorax ourius	Inreatened, Nationally vulnerable
Poof honor	Egretta novaenollanalae	The second NT-12 - 11 - 17 1 11
Australagian bittarn	Egretta sacra	Threatened, Nationally Vulnerable
	Botaurus poiciloptilus	Inreatened, Nationally Endangered
Swamp narrier	Circus approximans	1. D. 1. M
Banded rall	Gallirallus philippensis	At Risk, Naturally Uncommon
Рикеко	Porphyrio melanotus	
Lesser knot	Calidris canutus	Migrant
Eastern bar-tailed godwit	Limosa lapponica baueri	Migrant
Ruddy turnstone	Arenaria interpres	Migrant
Variable oystercatcher	Haematopus unicolor	At Risk, Recovering
South Island pied oystercatcher	Haematopus finschi	At Risk, Declining
Pied stilt	Himantopus himantopus	At Risk, Declining
Black stilt	Himantopus novaezelandiae	Threatened, Nationally Critical
Pacific golden plover	Pluvialis fulva	Migrant
Northern New Zealand dotterel	Charadrius obscurus aquilonius	Threatened, Nationally Vulnerable
Banded dotterel	Charadrius bicinctus	Threatened, Nationally Vulnerable
Wrybill	Anarhynchus frontalis	Threatened, Nationally Vulnerable
Spur-winged plover	Vanellus miles	
Southern black-backed gull	Larus dominicanus	
Red-billed gull	Larus novaehollandiae	Threatened, Nationally Vulnerable
Caspian tern	Hydroprogne caspia	Threatened, Nationally Vulnerable
White-fronted tern	Sterna striata	At Risk, Declining
New Zealand pigeon	Hemiphaga novaeseelandiae	
North Island kaka	Nestor meridionalis septentrionalis	Threatened, Nationally Vulnerable
Shining cuckoo	Chrysococcyx lucidus	
Morepork	Ninox novaeseelandiae	
New Zealand kingfisher	Todiramphus sanctus vagans	
Grey warbler	Gerygone igata	
Bellbird	Anthornis melanura	
Tui	Prosthemadera novaeseelandiae	
New Zealand fantail	Rhipidura fuliginosa	A CONTRACTOR OF
North Island fernbird	Bowdleria punctata vealeae	At Risk, Declining
Silvereve	Zosterops lateralis	
Welcome swallow	Hirundo neoxena	

Table 1 Native birds recorded in the Opoutere area



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2.2 New Zealand dotterels in the Opoutere area

Opoutere has long been known for its significant population of northern New Zealand dotterels (NNZD). The NNZD is an endemic taxon, thinly distributed around the coast of the North Island, mainly north of 39°S. The total population numbered about 1700 individuals in 2004. At least 80% of the population is found on the east coast, with the main strongholds being in Northland, Auckland, Coromandel Peninsula, and Bay of Plenty. The small population on the Waikato west coast is declining and at real risk of extirpation (Dowding & Davis 2007).

In the New Zealand ranking scheme, the NNZD is considered Threatened (Nationally Vulnerable), with the qualifier Conservation Dependent (Miskelly et al. 2008), meaning that it would decline without management. Internationally, the species is classified as Threatened (Endangered) by BirdLife International (2011).

The Opoutere site is important to NNZD as a breeding site, as a post-breeding flock site, and for the feeding grounds in Wharekawa Harbour. In a national census in October 2011, there were 57 NNZD in the area defined in section 1.2, including 24 breeding pairs. This represents about 3% of the national (and global) population, and about 12% of the Waikato regional population. The recent census shows that the Opoutere area, with these 57 birds, is the most important NNZD site in the Waikato Region.

Partly because of the importance of its NNZD population, the Wharekawa Wildlife Refuge was gazetted in 1967. It was the first site at which full management of NNZD occurred, beginning in the 1986-87 season. Management has been undertaken annually since then. As a result, Opoutere has for many years been a vital source population for the region, producing young birds that have colonised from as far north as Great Barrier Island to the central Bay of Plenty (Dowding 2001).

2.3 Other bird species of importance in the Opoutere area

A number of other species occurring in the Opoutere area are significant, either because of their rarity or the fact that good populations still exist in the area.

Variable oystercatcher

Opoutere is listed as a breeding site of major importance for this endemic species by Dowding & Moore (2006); there are typically 30-35 pairs in the area (about 1.5-1.8% of the national/global population) and a number of non-breeding birds. The size of the regional population is not known precisely, but is probably in the order of 800 individuals; Opoutere therefore has about 10% of the regional total.

Australasian bittern

This species is declining rapidly in Australia and it is internationally classified as Endangered (BirdLife International 2011). Trends in the New Zealand population are not clear, but it probably contains less than 1000 individuals and is ranked Nationally Endangered (Miskelly et al. 2008). Bitterns are dependent on wetland habitat, and prefer areas of shallow fresh or brackish water with dense fringing vegetation. The number of bitterns in the Opoutere area is unknown, but the area is significant habitat for the species because of its high threat status.

Banded rail

The banded rail is classified At Risk (Naturally Uncommon) in New Zealand (Miskelly et al. 2008). The species is highly cryptic and its population size is unknown. It prefers saltmarsh and mangrove habitat. It has probably declined as a result of wetland drainage and the introduction of mammalian predators (Heather & Robertson 1996). A good population of banded rails persists in Wharekawa Harbour.

Eastern bar-tailed godwit

Several hundred godwits spend the austral summer feeding in Wharekawa Harbour and roosting on the sandspit and beach. The area is not nationally significant for the species, but is regionally significant, with roughly 2% of the estimated Waikato population at Opoutere.

2.4 Opoutere area as an ecological unit

For a number of the bird species listed in Table 1, different parts of the Opoutere area (as defined in section 1.2) form an ecological unit. Banding has shown that NNZD breeding at Ohui regularly feed in Wharekawa Harbour year-round and flock on the sandspit in autumn. NNZD and variable oystercatchers use the beach between Ohui and the sandspit for feeding, particularly at night when disturbance levels are lower. Banding has also shown that dotterels reared at Opoutere have settled to breed at Ohui. A number of species (reef heron, red-billed gull, white-fronted tern) nest on the offshore rock stacks, roost and feed on the sandspit and beach, and forage in the harbour.

3 Significance of the Opoutere area for native birds

3.1 Criteria for significance

Based on a range of criteria at international, national and regional levels, it is clear that the area must be considered significant habitat for indigenous fauna.

Ramsar Convention

The Ramsar Convention (1971) is an inter-governmental treaty promoting the conservation and wise use of wetlands (especially as habitat for waterbirds) and the identification of wetlands of international importance. New Zealand is a contracting party to the Convention, which came into force in this country in December 1976.

The Convention sets out nine criteria for determining whether a wetland qualifies as 'internationally important'. The Opoutere area qualifies under two criteria:

Criterion 6 states:

"A wetland should be considered internationally important if it regularly supports 1% of the individuals in a population of one species or subspecies of waterbird."

By this criterion, the area is a site of international significance for the northern New Zealand dotterel and the variable oystercatcher.

Criterion 2 states that:

"A wetland should be considered internationally important if it supports vulnerable, endangered, or critically endangered species or threatened ecological communities." The IUCN categories Vulnerable, Endangered, and Critically Endangered are equivalent to the New Zealand categories Nationally Vulnerable, Nationally Endangered, and Nationally Critical. Under Criterion 2, the Opoutere area is internationally important for supporting no fewer than 10 threatened species.

Area of Significant Conservation Value

As noted by Bouma (2007), the sandspit and harbour have been identified as an Area of Significant Conservation Value (ASCV) by both NIWA (Lundquist et al. 2004) and the Waikato Regional Coastal Plan (Environment Waikato 2005), in spite of the fact that selection criteria and the purposes for selection were different. A summary of the values of ASCV 24 (from Appendix IV of the RCP) is shown in Table 2.

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Table 2Summary of the conservation values of ASCV 24 (Opoutere Sandspit and
Wharekawa Harbour) from Waikato Regional Coastal Plan, Appendix IV

24	Opoutere Sandspit and Wharekawa Harbour	 Site of significance to Hauraki iwi. Outstanding wildlife habitat. Large breeding population of NZ dotterel. Resident and frequenting rare and threatened waders and coastal bird species, including variable oyster catcher, banded rail and bittern. Significant saltmarsh, eel grass and mangrove communities.
		 Gathering of shellfish.
	-	 Wildlife Refuge, gazetted 1967

Environment Waikato guidelines

Under regional assessment guidelines (Environment Waikato 2002, 2010), the area meets criteria for "nationally significant habitat of indigenous fauna" because of the presence of globally threatened species.

New Zealand Dotterel Recovery Plan

Objective 3.2 of the current recovery plan (Dowding & Davis 2007) identifies 'key' breeding sites for the species as those containing 10 pairs or more, and 'key' flocking/feeding sites as those containing 30 birds or more. The Opoutere area easily qualifies as both a key breeding site and a key flocking/feeding site.

The importance of the site is clearly underlined by Action 1.5 of the plan, which identifies Opoutere as one of six sites nationally at which full management of NNZD should be undertaken annually, and ranks this task as "Essential" (Dowding & Davis 2007).

3.2 Protection of significant habitat and biodiversity

Given the significance of the area under the criteria listed above, a number of documents confer protection on the habitat and seek to reduce the impacts on it of activities and developments. One of the most important is the New Zealand Coastal Policy Statement (2010).

New Zealand Coastal Policy Statement

Policy 11 (Indigenous biological diversity) of the NZCPS (2010) advocates protection in a number of ways.

To protect indigenous biological diversity in the coastal environment:

(a) avoid adverse effects of activities on:

(i) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;

(vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation;

Policy 11 (a) (i) is relevant because of the 19 species identified in Table 1 as Threatened or At Risk. I note that the NZCPS (2010) confers this high level of protection (requiring avoidance of impacts) on a wider range of species than the 1994 version; it now applies to all Threatened and At Risk taxa (previously only to Threatened taxa).

Policy 11 (a) (vi) is relevant because of the presence of the Wharekawa Wildlife Refuge. Both policies are designed to provide a high level of protection, as they require avoidance of effects rather than allowing mitigation.
(b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:

- *(ii) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
- (iii) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;

(v) habitats, including areas and routes, important to migratory species Policy 11 (b) (ii) is relevant because many of the species listed in Table 1 breed either on the beach and sandspit, on Hikunui Rock, or around the margins of the harbour. Policy 11 (b) (iii) is relevant because most of the habitat types listed are found within the Opoutere area as defined above.

Policy 11 (b) (v) is relevant because of the annual presence of international migrants (mainly bar-tailed godwit) and internal migrants (mainly South Island pied oystercatcher and banded dotterel). These birds feed on the estuary and roost on the beach and sandspit.

Proposed Waikato Regional Policy Statement

A number of policies in Objective 3.18 of the proposed Waikato RPS are relevant with regard to protecting and preserving avian biodiversity values in the Opoutere area.

Policy 11.1 Maintain or enhance indigenous biodiversity

I note that Policy 11.1.2 (Adverse effects) states that:

Regional and district plans shall recognise that adverse effects on indigenous biodiversity include:

k) noise and disturbance on indigenous species, particularly within the coastal environment; This is of particular relevance, as disturbance is one of the major threats to breeding success for shorebirds, including New Zealand dotterels. I include notes on the impacts of disturbance on shorebirds below (Section 4.2 and Appendix 2).

Policy 11.2 Protect significant indigenous biodiversity

Given the very high proportion of Threatened and At Risk species in the area, this policy is particularly relevant. Policy 11.2.2 (Protect significant areas) contains the core requirements:

Regional and district plans shall:

a) protect or enhance areas of significant indigenous vegetation and the significant habitats of indigenous fauna, including all identified significant natural areas;

b) require that activities avoid the loss or degradation of areas of significant indigenous vegetation and the significant habitats of indigenous fauna, in preference to remedying or mitigating adverse effects; and

c) require that any unavoidable adverse effects on areas of significant vegetation and significant habitats of indigenous fauna are effectively remedied or mitigated through processes that:

i) replace like-for-like habitats or ecosystems (including being of at least equivalent size or ecological value);

ii) involve the legal and physical protection of existing habitat; or

iii) involve the creation of new habitat.

Policy 11.4 Safeguard coastal/marine ecosystems

This Policy is also highly relevant to protection of habitat in the Opoutere area and therefore the preservation of birds in those habitats.

In managing activities in the coastal environment, have particular regard to maintaining or enhancing:

a) any area in the inter-tidal or sub-tidal zone that contains unique, rare, distinctive or representative coastal/marine species or habitats;

b) areas used by marine mammals and wading/coastal birds including breeding, feeding, roosting and haulout sites;

c) whitebait spawning areas and shellfish beds;

d) habitats, corridors and routes important for preserving the range, abundance, and diversity of indigenous and migratory species; and

e) indigenous habitats and ecosystems that are unique to the coastal environment and vulnerable to modification and the impacts of climate change, including estuaries, lagoons, coastal wetlands, dunelands, rocky reef systems, seagrass and saltmarsh.

4 Discussion

4.1 Summary of biodiversity values

As shown in Table 1, at least 41 native species and subspecies of bird have been recorded in the Opoutere area. Neither the estuary nor the whole site are large compared to some of the other coastal ASCVs in the Waikato Region, and the high species diversity reflects the very high quality of the habitat that remains at Opoutere. I note that the summary of values for the site shown in the Waikato RCP (Table 2 above) describes the wildlife habitat as "Outstanding". I agree with that description.

The site is also notable for the fact that almost half the native species recorded are classified as Threatened or At Risk. This is an extremely high proportion, and in my opinion significantly raises the level of long-term protection that the site requires and should receive. In particular, the Opoutere area is the single most important site in the Waikato Region (and one of the most important globally) for the threatened New Zealand dotterel.

These biodiversity values are not only significant from a conservation management perspective. In my view, the presence of this wide range of native species, the high density of birds in a relatively small area, and the presence of so many Threatened and At Risk taxa all make a major contribution to the natural character of the Opoutere area.

4.2 Long-term protection of avian biodiversity values at Opoutere

In assessing the significance of Opoutere, I have also compared it with other shorebird sites on the Coromandel east coast. At many sites with potentially good shorebird habitat, such as Whitianga, Tairua, Pauanui, and Whangamata, there is extensive development immediately behind the beaches and around harbours and estuaries. There is also road access right to the beach at most sites. These factors result in particularly heavy human pressure on coastal habitat in these areas. As noted in the New Zealand dotterel recovery plan (Dowding & Davis 2007)

Northern New Zealand dotterels require coastal habitat, particularly sandy beaches and estuaries, for breeding, feeding and roosting. On the North Island east coast, which now holds more than 80% of the northern subspecies (Dowding 2003), these requirements are often in conflict with human activities (notably housing and marina developments, and recreational use of the coastline).

With an increasing human population, increasing demand for coastal housing, and increasing recreational use of the coast, that conflict will inevitably increase. Human activities on the coast cause disturbance, particularly in spring and summer when birds are breeding, and this results in lower breeding success; when this occurs repeatedly, it is likely that local bird populations will not produce enough young to replace themselves, and will gradually decline. In evidence to a recent hearing, I have outlined the impacts of disturbance on NNZD (Dowding 2010); the relevant section is attached here as Appendix 2.

Whether viable populations of breeding shorebirds can be maintained at many of these sites in the long term is by no means certain. The situation at Opoutere is very different.

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The village itself is relatively small. The presence of a recreation reserve along the beach front and restrictions on the density of housing behind that reserve, mean that there is very little development close to the beach. In addition, there is no public road access to the beach front, and most beach-users must walk from the car-park, a minimum round trip of about 1.4 km. In combination, these factors significantly reduce many of the human pressures on birds at the site. The low density of housing near the beach almost certainly also reduces the number of domestic animals (cats and dogs) that are known predators of shorebird eggs and chicks. I believe these circumstances make the Opoutere area a site at which it will be possible to reduce the habitat degradation that is occurring at many east coast sites and to defend native biodiversity values in the long term.

4.3 Conclusion

This combination of low-density housing, outstanding habitat quality, very high existing biodiversity values, and the ability to defend those values long term, is already rare in the coastal environment and will become rarer. I agree with, and fully support, the submission that the Opoutere area should be recognised in the RPS as an area of special significance and/or an ONL, requiring the highest possible levels of protection.

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Appendix 1

Author's qualifications and experience

This report was compiled by John Dowding BSc (Hons) MSc PhD. I have 25 years experience surveying and monitoring New Zealand birds, particularly coastal and riverbed species.

I have undertaken detailed research on a number of New Zealand shorebird species, including New Zealand dotterels, shore plovers, variable oystercatchers, wrybills, and Chatham Island oystercatchers. The results of this research have been published in about 20 papers in scientific journals and in more than 200 reports, popular articles, statements of evidence, and conference proceedings.

I have carried out a wide range of research, management and consultancy contracts, mainly for the Department of Conservation and regional councils around the country. I am science adviser to two of DOC's species recovery groups. Of particular relevance here:

- I am a member of the Department of Conservation's expert panel that assesses the threat classifications of New Zealand birds every three years, and a co-author of the paper listing the latest rankings (Miskelly et al. 2008);
- I was senior author of a report commissioned from the Ornithological Society of New Zealand by the Department of Conservation on national habitat networks of indigenous shorebirds (Dowding & Moore 2006);
- I was commissioned by the Department of Conservation to compile a report on the effectiveness of management of New Zealand dotterels on Coromandel Peninsula (Dowding 2006);
- I have been a member of the New Zealand dotterel recovery group since its foundation. I was author of the first recovery plan for the species (Dowding 1993), and the senior author of the current plan (Dowding & Davis 2007);
- I am familiar with the Opoutere area, having visited it regularly to band birds as part of my New Zealand dotterel research since 1991. I have also been involved in assessing the impacts on native birds of development in the area (Dowding 2003, 2010);
- In 2006-07, I was asked by the Department of Conservation's Waikato Conservancy to review a report on the biological values of coastal ASCVs in the Waikato Region (Bouma 2007) for completeness and accuracy of bird data (Dowding 2007);
- In 2005-07, I was a member of the expert panel convened by the Department of Conservation to review and provide comment on the biodiversity provisions in the draft NZCPS;
- In 2008-09, I was asked by Environment Waikato to provide data on the size and diversity of bird populations in Waikato estuaries.

I have provided evidence to planning hearings and Environment Court hearings, dealing primarily with potential impacts of a wide variety of activities and developments on threatened coastal and riverbed birds. Most of these cases have involved an assessment of the ecological significance of a site at regional, national, and international level.

I am science adviser to the Ashley/Rakahuri Rivercare group, Inc., and a founding trustee of the Omaha Shorebird Protection Trust. I am a member of the Ornithological Society of New Zealand, the New Zealand Ecological Society, the Royal Australasian Ornithologists' Union, the Australasian Wader Study Group, and the International Wader Study Group.



Appendix 2

Comments on the effects of disturbance on shorebirds (from Dowding 2010)

2.5 Effects of disturbance

The ecological assessment mentions disturbance by pedestrians and motor vehicles as a threat, but does not examine the mechanisms or potential consequences of that disturbance. As a result, it could be assumed that the impact of disturbance is temporary, and that once the person, vehicle, or dog has left the area the situation returns to normal and there are no long-term consequences. That is not always the case.

There is a substantial body of international literature on the negative impacts of disturbance on shorebirds. People, vehicles and dogs can crush nests. When birds leave nests or small chicks repeatedly in hot or cold weather, thermal stress may kill those eggs or chicks; if disturbance occurs regularly, pairs may desert. Disturbance can also result in higher predation rates - birds leaving nests or chicks to perform defensive displays leave eggs and chicks more susceptible to predation, particularly by avian predators, such as gulls. Repeated disturbance results in repeated movements to and from a nest, and this leaves a higher density of tracks that makes nests more obvious to potential predators. Disturbance often causes chicks to run into territories of neighbouring pairs, where they are sometimes attacked and occasionally killed. This has occurred on numerous occasions at Opoutere, largely because of the high density (and resultant small territory sizes) of dotterel and oystercatcher pairs on the sandspit. Disturbance also reduces feeding time, particularly for chicks, and can jeopardise their survival.

These consequences of disturbance are often indirect and difficult to measure, and thus less often recognised and recorded than, say the consequences of predation or flooding, which are much more evident. In addition, losses may be attributed to predation, when that predation was in fact ultimately caused by disturbance. My experience suggests the impacts of human disturbance on shorebirds are routinely under-estimated.

In the New Zealand context, Lord (1996) studied the impacts of disturbance on New Zealand dotterels at several sites (including Opoutere), and showed:

- (a) that nesting dotterels are disturbed by people, and typically leave the nest when people are 40-90 m distant,
- (b) that roosting flocks are disturbed by people, and that flush distances are greater with groups of people than with an individual, and
- (c) that chicks (at Opoutere Sandspit) spent significantly less time feeding when people were present than when they were excluded.

It should be noted that even a short-duration disturbance event can have a disproportionate effect on breeding success. When a New Zealand dotterel chick is killed by a dog, run over, or killed by a neighbouring oystercatcher, the incident occurs in seconds, but up to two months of incubation and brood-rearing effort by both parents is lost. Single, brief events can therefore cause the damage, and disturbance does not need to be prolonged to have a serious impact.



Wharekawa – Opoutere – Ohui Cultural Landscape

This area, extending from Ohui in the north to the lower reaches of the Wharekawa River, encompasses an ocean beach and dune complex, an estuary and margins, and river flats bounded by high hills. Evidence of 700+ years of Maori occupation is present including food processing sites and shell dumps, pa, terraces, kumara storage pits, kainga sites and places where stone was worked into tools. European sites recorded include some of the first homesteads in the area, the site and buildings of a former native school, drives and shafts of goldmining sites and associated hut sites, timber workers huts, kauri timber driving dam remains in the tributaries of the Wharekawa River and the remains of the timber booms in the lower reaches of the river.

Archaeological surveys have been carried out over much of the area, either as a result of forestry activities where archaeological sites have been recorded over a 30 year period as trees were harvested, or as a result of a general survey of the coastal zone. The farmland on the south side of the estuary has not been systematically inspected for archaeological sites. There are 104 sites recorded in the New Zealand Archaeological Association site file for the Wharekawa–Opoutere–Ohui area (see attached maps showing location of sites).

Recent land history

The land block to the north of the Kapakapa Stream extending into the Tairua River catchment near Pauanui, is called Wharekawa East 2, and was awarded in the Maori Land Court in 1872 to Hohepa Paraone of Ngati Maru. At his request a restriction on alienation was placed on the Certificate of Title. The land was transferred to Hohepa Hikairo as the sole beneficiary of Paraone's will in 1883. In March 1886 the Crown published a proclamation that it intended to lift the restriction on alienation, and negotiated with Hikairo to purchase the land. It was transferred to the Crown in January 1887. On the same day an agreement between the Crown and Hikairo was made in relation to setting aside a portion of land as a Native Burial Reserve. An area of 21 acres on the north side of the Wharekawa Estuary was agreed to.

Wharekawa East No. 1 included the catchment of the Wharekawa River and the upper part of the estuary to the south of the Kapakapa Stream. The title was awarded to Hohepa Paraone and Miriama Konehu, sister of Eruera Te Ngahue (then deceased). Paraone and te Ngahue had identified the land boundaries for surveyors prior to the title investigation. Ownership was transferred to the Crown in 1878, and a lease to take timber issued to the Union Steam Saw Moulding Sash and Door Company in 1888. The lease was onsold to the Kauri Timber Company in 1889 and then bought at auction by Leyland O'Brien, an Auckland-based timber company. The upper catchment had previously suffered from two major fires in the mid- to late 19th century but Leyland O'Brien still managed to recover a large amount of timber which was rafted to their sawmill in Auckland.

European influences in the catchment prior to the 1890s were minimal. This was probably due to the fact that the land was still in the possession of its Maori owners, and

it was relatively unattractive for large scale timber extraction as the kauri logs were further inland in relatively difficult to get at places, the river entrance was small and shallow, and timber ships and scows were unable to enter the harbour. However by the 1880s gold had been discovered on the east coast of the Peninsula and timber extraction stepped up a level using timber dams and water to move the logs into the lower reaches of the river which made the Wharekawa a more attractive proposition for logging and for settlement.

Once the Crown had acquired the land, parts of the lower catchment identified as suitable for pastoral use were leased under a system of pastoral leases from the late 19th century. These areas were principally around Ohui, Tawatawa and Paritu. Residential licences were also issued from the same period for settlement at what is now Opoutere. Over a period of time the pastoral leases were converted to certificates of title.

From the 1880s Maori from other areas including Taranaki, Rotorua and east coast settled at Wharekawa. Gum digging was the main form of employment. Ohui became known as a Ngati Porou settlement, and people were also concentrated at Paritu and Tawatawa.

Kauri was felled in the upper Wharekawa catchment and transported to the coast by water released from behind the timber dams. During the period of Leyland O'Brien's lease there were up to 35 dams on tributaries of the river. The logs were collected behind a barrier structure composed of timbers and chain, known as booms, situated about 1 km upstream from the mouth of the river where the logs were tied together and rafted down the estuary to the scows waiting outside the entrance. The log raft was then towed to Auckland, a trip which took several days. Logging ceased in the 1920s when all the accessible timber was taken out.

A large part of the lower and middle catchment area of the Wharekawa River, and of the Wahi Tapu Stream, was gazetted as State Forest in 1930 and 1931, and plantings of pine and other species commenced at the same time.

Archaeological sites

There are a large number of pa in a small area including the prominent Ruahiwihiwi on the headland at the entrance to the estuary; Maungaruawahine overlooking the lower art of the estuary; Ruawhero at Kapakapa; and Te Rau o te Marama in the upper valley overlooking Paritu; plus three other unnamed pa. In the north there is a headland pa at Ohui, and a pa called Motuhaua on the bluff overlooking Ohui.

There are no published or accessible traditions relating to any of the pa: none have been dated but all are highly likely to post-date 1500 AD. The most recently occupied were probably the named pa as they were able to be identified by individuals who defined the boundaries of the Wharekawa East blocks to surveyors.

The first occupation sites, when people arrived in a previously uninhabited landscape, are now rare on the Coromandel Peninsula, as they are elsewhere in the northern North Island. These sites are usually very distinctive and have large quantities of bird bone including moa, sea mammal and fish bone and waste stone flakes resulting from the manufacture of adzes and other tools. These sites date to around 1300–1450 AD. There are the remnants of one of these sites in the intertidal zone on the south side of the estuary, and the lower layers of T12/20 on the north side of the estuary are also of this age. At this site the layers of shell represent many seasonal occupations at the same place over hundreds of years resulting in a large (over 100 m long) and deep (over 1 m in places) shell deposit. The site is evidence of the traditionally important summer activity of gathering shellfish, opening the shells and drying of the flesh to take away and store at other settlements. Wharekawa was known for its abundant shellfish: people came from some distance to collect the shellfish (Shane Ashby, Ngati Hikairo, pers. comm.). T12/20 is unique on the Coromandel Peninsula for the depth of occupation evidence over such a long period of time.

A large midden site at Ohui, now obscured by vegetation, backs onto the stable dune ridge which also has terracing and platforms. This type of occupation site adjacent to the beach is now rare on the Coromandel Peninsula, although perhaps not so unusual before other coastal areas were modified by housing development. The lower layers of this site may also be up to 700 years old.

Due to natural processes some coastal middens in the area have not survived the last 50 years since they were first recorded in the NZ Archaeological Association Site File but other unrecorded sites will be present and buried under more recent dune sand. This is apparent on the northern side of the estuary where recent erosion has exposed further large and deep middens.

Terraces and living areas have also been recorded. Shell midden in association with the terracing indicates places where people lived, and the site distribution extends several kilometres inland from the estuary up the Wharekawa River to near Taungatara and also onto the hills bordering the Tawatawa Stream catchment and the Paritu Stream catchment. The pa (Te Rau o te Marama) reinforced settlement in this inland area. At Ohui there are numerous small living sites, and also on the flat land on the north side of Maungaruawahine. This would also have been a highly desirable gardening area with sheltered land and deep soils. Opoutere village, despite having medium density housing, also has remnants of occupation sites and extensive shell middens on the boundary of the privately owned land and the pine plantations, particularly at Kitirahi.

Early European occupation is represented by the sites of early homesteads, particularly at Ohui and in the inland areas where farming took place. Gumdigging camp sites are also present in the pine plantation, and timber workers camp sites. The timber industry remnants include the booms on the Wharekawa River, about 1 km upstream from the mouth, and early maps record the locations of timber dams (only a few of which have been recorded in the NZAA site file). Goldmining sites are also present, notably the Phoenix complex of drives and shafts and associated living sites (T12/72-74, 103,1211); the Luck at Last mining complex including remains of the stamper battery, cyanide pits, drives, settlement sites and a water race on a tributary of the Wharekawa River inland

from Taungatara. Drives are also recorded in the area behind Ohui (T12/1015, 1285) where there was gold prospecting in the late 19th century.

During the late 1880s and early 1900s, the Wharekawa district was largely a Maori community brought together by the establishment of a native school in 1908. Children from Paritu, Tawatawa and Ohui were taught at what is now the Youth Hostel. The classroom and the teacher's house survive and are well maintained. There was also a church at Paritu, where followers of the Ringatu faith worshipped. It is rumoured that Te Kooti, following his return to the mainland after detention on the Chatham Islands, was going to settle in this area before he decided to take up residence for a time at Parakiwai on the south side of Whangamata. There was a large and active Maori settlement associated with the church, reputed to have many marae in the early decades of the 20th century, and descendants on a number of small landblocks in this area still form the focus of the Paritu settlement.

Significance

This area has been intensively occupied over a long period of time, just as other coastal areas on the Coromandel Peninsula have. There are a number of surviving sites, largely due to the fact that the low level of development in this area has preserved many, if not most, of the archaeological sites. Several of the sites are now the sole representative of their type on the Coromandel Peninsula, particularly T12/20 the large midden; and the kainga site at Ohui is rare. A 2003 reassessment of coastal sites on the east coast of the Coromandel Peninsula carried out by NZ Historic Places Trust confirmed T12/20 as a unique site for its size and depth of occupation over a period of time. A small archaeological investigation was subsequently carried out in 2007 under the sponsorship of HPT, in collaboration with University of Waikato, University of Auckland and CFG Heritage to recover information from the eroding face (McGovern-Wilson 2008). The Department of Conservation has since placed it on the actively managed list of archaeological sites.

Two places are associated with historically important people. The Ringatu church at Paritu, now destroyed, was built in 1894 on instructions from Te Kooti (Binney 1995) and he visited in the 1880s. Kitirahu at Opoutere was the place of residence of Hohepa Paraone (Tarawherawhera), a senior kaumatua of Hauraki with kinship ties to many Hauraki iwi, and his wife, Maata. Paraone initiated the survey of the Wharekawa East blocks and was named as an owner on the certificates of title for Wharekawa 1 and 2. During the NZ Wars, concern for the wellbeing of Paraone and Mataa resulted in three separate delegations being sent from Ngati Maru in Thames to beg them to return to safety among Ngati Maru (HMB 21: 250). They relented finally and never returned to Opoutere.

Archaeological sites are given protection under the Historic Places Act 1993 until an application is made to Historic Places Trust (the Trust) for an authority to modify or destroy, which the Trust is required to consider. However this does not guarantee long term protection and only in exceptional circumstances does the Trust refuse an authority. Four sites are on the Historic Places Register: two at Ohui and two at Opoutere. The

section process in 1987 when these sites were registered was haphazard and the number of registered sites is not indicative of the significance of these sites relative to others. Overall Wharekawa-Opoutere-Ohui is a reasonably intact cultural landscape representing layers of activity and settlement over hundreds of years. The types of Maori sites are representative of what would have been present in other areas of the peninsula prior to coastal development elsewhere. The cultural landscape at Ohui, and also around the Wharekawa Estuary, are of relatively high density and contain several sites which are significant from a scientific perspective and warrant scheduling under the Thames-Coromandel District Plan for their ability to inform on Maori life in the past. The pa, Ruahiwihiwi, at the entrance to the estuary, is particularly prominent with well defined terracing, and is a visual reminder of the cultural landscape and past Maori occupation. In addition, the gold mining complex of drives and hut sites at the Phoenix mine is a representative example of a small mining operation dating to around the mid-1890s. The buildings at the Native School also warrant additional protection as this was one of only two native schools on the Peninsula. Retaining the low level of development in this area would ensure archaeological sites survive.

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