

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

Decision No. [2019] NZEnvC 110

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an appeal pursuant to cl 14 of Schedule 1
to the Act

BETWEEN WESTERN BAY OF PLENTY DISTRICT
COUNCIL
(ENV-2015-AKL-000127)
Appellant
AND BAY OF PLENTY REGIONAL COUNCIL
Respondent
AND PORT BLAKELY LIMITED,
CARRUS CORPORATION LIMITED,
TKC HOLDINGS LIMITED,
NGĀTI MAKINO HERITAGE TRUST and
MATAKANA HAPŪ
Section 274 parties

Court: Environment Judge D Kirkpatrick
Māori Land Court Judge S Clark
Environment Commissioner K Edmonds
Environment Commissioner D Bunting

Hearing: on the papers

Submissions: J Caldwell and M Gribben for Western Bay of Plenty District
Council
M Hill for Bay of Plenty Regional Council
T Fischer for Port Blakely Ltd
V Hamm for Carrus Corporation Ltd
R Bartlett QC for TKC Holdings Ltd
A Neems for Ngāti Makino Heritage Trust
R Enright for Matakana Hapū

Date of Decision: 21 June 2019

Date of Issue: 21 June 2019



SECOND DECISION OF THE ENVIRONMENT COURT

- A: A proposed version of item ONFL 5 - Te Ure Koti Koti (Matakana barrier arm) for inclusion in Schedule 3 – Outstanding Natural Features and Landscapes in the Coastal Environment to the Proposed Regional Coastal Environment Plan is **attached** to this decision.
- B: Any response by any party to that proposed version must be filed and served by 5 July 2019.

REASONS

Introduction

[1] In an interim decision dated 7 September 2017¹ the Court concluded:

- (a) that the whole of the sand barrier of Matakana Island in the Bay of Plenty should be identified and listed as an outstanding natural feature or landscape (**ONFL**) in the Bay of Plenty Regional Coastal Environment Plan (**RCEP**); and
- (b) that the description of the sand barrier and of its attributes and values should be drafted in light of the reasons for that decision.

[2] We therefore directed the Respondent to consult with the other parties about how best to proceed with reviewing the entry in Schedule 3 to the RCEP for ONFL 5 (Matakana Sand Barrier). The Respondent advised that each party would develop a written proposal based on the interim decision. Those proposals would then inform a meeting of the parties at which they would endeavour to settle on common wording for the entry and, to the extent that agreement could not be reached, identify the matters of disagreement in terms that could be referred back to the Court for its final decision.



[3] The Court noted that this process was not to reopen the consideration of the case, and that proposals should be based on the evidence before the Court. The Court expected that the interim decision would assist in setting the parameters within which any proposal was developed and discussed. The appropriateness of any proposed plan provisions, on the appeal, would be for evaluation by the Court.

[4] The parties duly met and discussed these matters, assisted by an Environment Commissioner who is not sitting on this appeal. Ultimately, they each produced a different version of the entry for the sand barrier and placed these all before the Court for determination. Regrettably, under pressure from other cases, the Court has been unable to complete the task set by the parties until now.

[5] It is therefore appropriate to go back over the principal conclusions reached by the Court in its interim decision as to the qualities and attributes of the sand barrier and as to the manner in which those qualities and attributes ought to be assessed and then described in the RCEP. We do so in the context of the rest of Schedule 3 to the RCEP, mindful that consistency in the drafting of statutory planning documents is generally desirable. We also have regard to the framework for assessment of landscapes and the effects of human activities on landscapes, as recounted in our interim decision.

[6] In particular, the Court found, on the evidence, that lower aesthetic value ratings for the whole of the sand barrier in respect of coherence, vividness and naturalness based on the presence of the forest plantation and associated forestry activity were not fully justified and that the sand barrier is at least the equal of other ONFLs in the region both when taken individually and when considered in the context of the regional coastal environment in and around Te Awanui / Tauranga Harbour. On that basis we were satisfied that the whole of the sand barrier merits identification as an ONFL in the RCEP and should be included in Schedule 3 to the RCEP as ONFL 5 (Matakana Sand Barrier).

[7] We noted the issues relating to how it should be included. We referred to and attached a draft set of Attributes and Values that had been presented in evidence. We observed that the draft was consistent with the form and style of the other listings in Schedule 3. We also noted that the draft was generally written in a descriptive, sometimes discursive, style, possibly as the result of it largely following the overall assessment of the ONFL using the factors in Set 2 of Appendix 4 to the Bay of Plenty Regional Policy Statement (**RPS**). We remarked that in that sense it consisted more of evidence in support of the scheduling rather than the policy conclusions which result



from being scheduled. We expressed our view that it would be more appropriate for these provisions to be written in a way that guides future planning decisions rather than simply as a record of why the ONFL is scheduled.

[8] In particular, we observed that the statement of attributes and values could provide better guidance for users of the RCEP if the listing in the schedule were focussed more on the particular attributes and values of the ONFL which make it outstanding and are sought to be protected. In setting out these matters, we thought that the text should break down the elements so that the particular adverse effects which are to be avoided can be readily identified. These elements could be described in terms of their landscape capacity and resilience, so that issues of vulnerability and sensitivity can be identified. If done in a consistent way, we thought that such descriptions would be more useful than just a description of the landscape itself.

[9] In addition, we said that the listing could also be more specific about the character, intensity and scale of the effects of current activities, to provide some sort of baseline against which ongoing activities can be assessed in relation to the attributes and values to be protected. Such an approach should attempt to distinguish between:

- a) those effects which create no real detracting from the values and attributes for which the ONFL is scheduled and so may be regarded as not being adverse; and
- b) those effects which may be tolerated as existing uses but ought not to be allowed to continue otherwise or be allowed to be replicated by any new activity.

[10] We acknowledged that this approach to the description of the sand barrier as an ONFL and its scheduling would therefore require careful consideration. We did not consider that the Court should attempt to do that at that interim stage as we did not hear detailed evidence or submissions from all parties about particular wording. It would be more appropriate, having set out our reasons why the whole of the sand barrier should be recognised and provided for as an ONFL, that the parties should be given an opportunity to reconsider this text and propose any amendments that they consider would be appropriate.

[11] We received seven different versions of proposed text for ONFL 5. It will not serve much purpose to attempt to summarise each of those. Instead we will review the overall



structure of the schedule item and then address the particular text for each section. We **attach** a version of the text that the Court generally considers to be appropriate, for the reasons set out below and subject to any response that any party wishes to make. We also invite the Hapū to consider our comments below in relation to the whakataukī, whakatauākī and pepeha that have been proposed to be included and respond to our request in that regard.

Statutory context

[12] We remind ourselves of the relevant statutory provisions that are relevant to the drafting of the RCEP, including Schedule 3.

[13] The purpose of the RCEP, as part of a regional plan, is to assist the regional council to carry out any of its functions in order to achieve the purpose of the RMA.² The relevant functions of the regional council³ in relation to Matakana Island and to the issues arising in this appeal appear to be:

- (a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:*
- (b) *the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:*

[14] While a regional plan must include the objectives for the region and the policies to implement the objectives,⁴ the inclusion of any rules to implement the policies⁵ may not be in respect of those two functions.⁶ It follows, as counsel for the district council submitted, that the entry in Schedule 3 is not a rule and that the planning or other regulatory consequences of identification of the sand barrier of Matakana Island as an ONFL is a separate matter from such identification.⁷

[15] A regional plan must be prepared in accordance with the provisions of Part 2 RMA⁸ and must give effect to the NZCPS⁹ and to the regional policy statement.¹⁰ It must

² Section 63 RMA.

³ Section 30 RMA.

⁴ Section 67(1)(a) and (b) RMA.

⁵ Section 67(1)(c) RMA.

⁶ Section 68(1)(a) RMA.

⁷ *Man O'War Station Ltd v Auckland Council* [2017] NZCA 24 at [61].

⁸ Section 66(1)(b) RMA.

⁹ Section 67(3)(b) RMA.

¹⁰ Section 67(3)(c) RMA.



therefore:

- (a) Recognise and provide for, as one of a number of matters of national importance, the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;¹¹
- (b) Give effect to Policy 15 NZCPS relating to the protection of the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use and development including by identifying and assessing them; and
- (c) Give effect to any relevant provisions of the RPS: we note here that we were not referred to any such provisions which provide any greater or more detailed expression of the matters raised in Part 2 RMA or the NZCPS than are stated in the higher order provisions other than the criteria listed in Appendix F to the RPS,¹² which are repeated in the introductory section of Schedule 3 to the PRECP.

[16] Within the PRECP itself,¹³ Objective 2 in relation to natural heritage includes protecting the attributes and values of outstanding natural features and landscapes of the coastal environment from inappropriate subdivision, use and development. Policy NH 1 provides that activities may be considered appropriate if they meet the criteria of that policy, including, among other things, having a functional need to be located in the coastal environment and being of an appropriate form, scale and design to be compatible with the existing environment or will only have temporary and short-term effects. Policy NH4 requires adverse effects to be avoided on the values and attributes of ONFLs identified in Schedule 3. The bluntness of that policy appears to be tempered by Policy NH4A which contemplates an assessment of the extent and consequence of any adverse effect on such values and attributes, including recognition of existing activities and that a minor or transitory effect may not be unacceptable.

[17] We accordingly proceed to consider the entry in Schedule 3 to the PRECP in terms of being the most appropriate way to meet these statutory requirements by addressing the principles and policies to achieve integrated management of the resources of Matakana Island in relation to any effects of the use of those resources which are of

¹¹ Section 6(b) RMA.

¹² Quoted in Appendix 1 to our interim decision on pp 61 – 64.

¹³ Quoted in Appendix 1 to our interim decision on pp 64 – 67.



regional significance.

Schedule 3 – general provisions

[18] In addressing the overall structure of Schedule 3 to the PRECP, we must start with its introductory section. While it appears that only the text of ONFL 5 was identified as the subject of the appeal by the District Council and this introductory text may not therefore be open to amendment in this process, it is the framework in which ONFL 5 is placed and therefore affected by this decision. As well, we note that the draft versions submitted by some parties do propose certain amendments to this text. On our review, certain amendments which appear to be desirable can be made without altering the substance of this section.

[19] Schedule 3 is headed “Outstanding Natural Features and Landscapes in the Coastal Environment”. It then consists of a table headed “Assessment of Outstanding Natural Features and “Landscapes”. Below that follow four sections:

- a) Introduction
- b) Selection Process
- c) Landscape Values
- d) Assessment criteria and Method

Dealing with each section in turn, we make the following comments.

[20] The section headed “Introduction” is really a summary of the selection process. As information about how the draft schedule was produced, it may serve some explanatory purpose. Once the items in the schedule have been notified and proceed through the Schedule 1 process, however, then each item must stand by itself and this background information ceases to have much, if any, effect or utility. This section does not appear to include any policy or other material which would be directly relevant to an assessment of a proposal for a resource consent or a requirement or a future plan change. Deletion of it would therefore not affect the utility of Schedule 3 and would probably pass unnoticed by users of the RCEP. We consider it should be deleted.

[21] The wording submitted by the two councils after the interim decision would include the following two sentences at the end of this section:



The assessment and description of ONFL 5 Te Ure Kotikoti (Matakana barrier arm) reflects significant additional work undertaken after the Plan was notified in 2014. This includes incorporation of matauranga Māori provided by the Matakana Island hapū.

[22] While the substance of these sentences appears to be unobjectionable, this information is also not directly relevant to the purpose of the schedule. The location of this information at the beginning of Schedule 3 rather than as part of the text for ONFL 5 is odd.

[23] The section headed “Selection process” is more about assessment methods than about how the ONFLs were selected. In that sense it may assist users in understanding how the next section on “Landscape values” is intended to work. On the other hand, the express recognition of the complex nature of the assessment process in a brief summary statement serves to highlight a risk that this section does not go far enough to adequately explain the process, yet far enough to create a risk of misunderstanding among users. The specific reference to a different scale for Matakana Island may be unnecessary and could be better located in the text for ONFL 5.

[24] The wording submitted by the two councils would clarify that the ratings of low, medium and high also include intermediate ratings of low-medium and medium-high. This wording would also insert a new second sentence:

In the case of ONFL 5 Te Ure Kotikoti (Matakana barrier arm), a seven-point scale has been used, which also includes ‘very low’ and ‘very high’ ratings.

[25] We think that readers of the RCEP are likely to be able to understand qualitative assessments of low, medium and high, and combinations or qualifications of those terms, without the need for explanation. We do not consider ratings of that kind to constitute a fully systematic evaluation system in a field as complex as landscape: in this context, the system depends far more on the substantive content of the assessment, especially the identification of attributes and values, than on the fairly basic relativities of low-medium-high. As well, in the absence of any fixed point for comparison or other way of knowing whether the ratings are commensurable between assessment factors, the terms are unlikely ever to achieve any certainty. We are therefore doubtful that there is much to be gained from elaborating on this approach. Having said that, the schedule uses this method throughout and the entry for ONFL 5 includes some extended ratings, so we have included this sentence, but moved it to that entry where it may be better placed.

[26] In our view, this text should be edited to limit it to factual descriptions of what the assessment methods involve and to delete the attempted summary of the assessment



factors which are dealt with in full later. If that were done, the section might read as follows:

Assessment methods:

The assessment of outstanding natural features and landscapes is based on an evaluation system for all the assessment factors listed below. The system is qualitative rather than quantitative and there is no score to become 'outstanding'. This is a complex process requiring the exercise of judgement in a multi-dimensional framework. Outstanding natural features and landscapes can include human modifications (including activities) or otherwise be influenced by cultural associations, whether historical or modern.

[27] The next section headed "Landscape values" is almost certainly too short and broad to be helpful in this context. It appears to add little to the understanding that comes from reading the next section on assessment factors and evidence in their entirety. Given the academic and juridical processes that have resulted in the identification of the assessment factors, we do not think it is correct to suggest that the identification of the nature of landscape values comprises subjective judgment, even though the assessment or evaluation of those values almost always does. In any event, an objective of including provisions in a plan should be the resolution of disputes rather than the creation of them, and on that basis we think it would be better to delete this section.

[28] The next section is in three columns of which the first two are headed "Assessment criteria" and the third is headed "Method". This section essentially restates the factors and the types of evidence on which such factors are to be assessed. It is clearly derived from the case law which was surveyed in the interim decision and from Policy 15(c) New Zealand Coastal Policy Statement (**NZCPS**). We do not propose to re-write the section, but we do note that the headings would be more accurate if they were amended to "Assessment factors" and "Evidence". As we explained in the interim decision, the listed matters are framed as factors rather than criteria and are evaluated as factors by experts in the field. There are few or no statements of methodology in the third column: the matters listed there are collections of information used to inform assessment of the factors.

Matakana Island Coastal Edge - ONFL 5

[29] As notified, the listing in relation to Matakana Island in the decisions version of the PRECP relates only to its coastal edge. The full text is set out at [24] in our interim decision.

[30] The format consists of an introductory description and a list of current uses,



followed two columns headed “Evaluation” and “Rating”. The column headed Evaluation lists an assessment of the ONFL in terms of the assessment criteria set out at the beginning of the schedule. The column headed Rating then contains values of L, L-M, M, M-H or H for the range from low to medium and then to high.

[31] In further work following our interim decision, the name of ONFL 5 has been amended to *Te Ure Koti Koti (Matakana barrier arm)*. This recognises the extension of the ONFL to include the whole of the sand barrier, but excluding the peninsula, and includes the Māori name for that barrier. These changes are appropriate.

[32] The councils propose dividing the entry for ONFL 5 into two parts, set out in separate tables:

- (i) An updated attributes table in Table 1; and
- (ii) A description of existing uses and their effects on natural features and landscape values in Table 2.

ONFL 5 –Table 1

[33] Turning to proposed Table 1, the updated attributes table, we start with some general observations.

[34] The description and the assessments of attributes and values expand on the decisions version of the text, in some places extensively. It appears from the versions filed that there is not a great deal of dispute about that text. Some minor differences appear to be related to the issue of how existing activities, especially forestry, should be treated. Some of these differences appear to include factual issues that would require evidential hearings in order to resolve them in a justiciable manner. We will address that in more detail below.

[35] Our principal and general concern about this text is that it is essentially descriptive and does not provide a clear framework to assist users in assessing whether and how any proposal might affect ONFL 5. At least some of the material appears to be mainly concerned with gaining or improving a particular position. It does not offer any focus on what makes the landscape outstanding, what in it needs to be protected, or what is to be controlled in order to sustainably manage the ONFL so as to protect it from inappropriate subdivision, use and development.



[36] In our interim decision¹⁴ we suggested that this could be done by an analysis of the way the landscape is likely to respond to change, including its resilience and capacity, and its sensitivity and vulnerability, in order to enable plan users to assess the opportunities, risks and threats that any proposal may have for the ONFL. We took this conceptual framework from a best practice note issued by the New Zealand Institute of Landscape Architects¹⁵ as it appeared to us to be a useful methodology. There, the authors suggest using the following terms to analyse the way in which a landscape is likely to respond to change:

***Landscape resilience** is the ability of a landscape to adapt to change whilst retaining its particular character and values.*

***Landscape capacity** is the amount of change that a landscape can accommodate without substantially altering or compromising its existing character or values.*

***Landscape sensitivity** is the degree to which the character and values of a particular landscape are susceptible to the scale of external change.*

***Landscape vulnerability** is the extent to which landscape character and values are at risk from a particular type of change.*

They then suggest that such an analysis should identify the opportunities, risks, threats, costs and benefits arising from potential change, and their relative magnitude and importance.

[37] As well as addressing each element on its own, it may also be useful to link resilience and vulnerability as ends of a scale of adaptability to change. Similarly, one could link capacity and sensitivity as dimensions of such adaptability to change. Then one might place the landscape, or the particular value or attribute of the landscape, in the frame created by those dimensions in order to assess the magnitude and importance of the opportunities and threats posed by the potential change.

[38] This analytical process could then inform the judgment to be made for the purposes of s 6(b) RMA, Policy 15 NZCPS and any relevant provisions of the RPS about what activity may be inappropriate in that ONFL and so provides a foundation for the preparation of appropriate plan provisions in terms of the effects of such activities under ss 68(3) and 76(3) RMA.

[39] The essential question to be answered by plan provisions such as schedules of

¹⁴ *Western Bay of Plenty DC v Bay of Plenty RC*, above n 1, at [166] – [167].

¹⁵ Landscape Assessment and Sustainable Management 10.1 – Best Practice Note, New Zealand Institute of Landscape Architects Education Foundation, 2 November 2010.



ONFLs, either in general or in relation to a particular resource, might then be stated as:

What are the adverse effects that are to be avoided, or remedied, or mitigated to protect the attributes and values that make a landscape an outstanding natural landscape from inappropriate subdivision, use and development?

Alternatively, or as well, the issue might be addressed conversely, by asking:

What effects are not consequential, or are otherwise appropriate, for the ONFL if they do occur?

[40] Such an approach is consistent with the identification by the Court of Appeal in *Man O'War*¹⁶ that much turns on what is sought to be protected. We encourage the use of clearer and more direct assessments that may better guide users of a plan.

[41] Our view of the evidence is that the most important elements that make the sand barrier of Matakana Island an ONFL and that should be identified for protection are:

- (a) In the category of natural science, its geological formation and its consequent topography as a large sand barrier should be protected from activities that could substantially interfere with or alter the appearance of those features. Such activities would include large-scale earthworks and reclamation. We anticipate that these values and attributes would tend to be more resilient than vulnerable in the face of such activities, provided that there were clear boundaries set to minimise disputes over capacity and sensitivity.
- (b) In the category of aesthetic values, its appearance as a barrier for the harbour and its essentially uniform appearance, principally from middle- and long-distance views, stand out. Those attributes should be protected from activities that could substantially alter its appearance, such as substantial permanent changes to its cover in trees, including the location of large or extensive buildings (including areas of smaller buildings) or cleared areas. It is generally accepted that the transient values are not high and so temporary changes, which in the context of the island include cyclic harvesting of sections of the production forest, would not be prevented. Again, given the on-going effects of forest harvesting, the island appears to be relatively



¹⁶ *Man O'War Station Ltd v Auckland Council*, above n 7, at [65].

resilient to the effects of existing activities in these categories, but it may still be appropriate to consider a level of protection which would meet the risk of any significant change in the present regime for the forest.

- (c) In the category of associative values, including shared and recognised values, Māori values and historical associations, key values are the strong ancestral relationship of tangata whenua to the island and numerous places on it, and the place of the island in the wider context of Te Awanui and the other nearby landmarks including Mauao. It may be that these values and the risks they may face can be adequately protected by the same methods as may be appropriate for the natural science and aesthetic values, or tangata whenua may consider that other methods would be more appropriate.

[42] We consider that drafting the entry in Schedule 3 for ONFL 5 along these lines would be a clearer guide for planners and participants in planning processes than the current text. We have included wording along these lines in the relevant sections of the **attached** draft.

[43] We note the translations of the column headings and factors in te reo Māori, which provide a measure of recognition of the cultural associations between tangata whenua and the motu. We consider this to be an appropriate contribution to addressing the previous lack of recognition of those things.

[44] We also note the inclusion of whakataukī – whakatauākī (proverb, aphorism), kupu whakarite (metaphor, simile) and pepeha (tribal saying, motto or proverb), and the explanation for such inclusion in the introduction to this item, together with translations into English and explanatory material or general commentary to assist readers who may not otherwise appreciate the significance of such aphoristic statements. We also consider this inclusion to be generally appropriate, subject to a caveat.

[45] We do express concern at the number and extent of the statements proposed by the Hapū. Generally, the impact of any such statement is enhanced by it being a pithy comment which captures the essence of the issue. We also raise the question whether they are all pertinent to the assessments they accompany. A number of them, as expressed in English, appear to address matters that might be considered beyond the scope of an assessment of outstanding natural features and landscape. We appreciate



that this may reflect a broad holistic conception of an assessment factor in te ao Māori, but the material in Schedule 3 must always be relevant to that context.

[46] It is not for us to choose among the items which have been suggested by the Hapū. Instead we invite the Hapū to reflect on the context for these statements, review the number and extent of them (including the explanations and commentary) that are proposed for inclusion and consider any amendments so that only the most pertinent and appropriate are retained for inclusion.

[47] As a matter of form, we seek confirmation that the spelling (in particular the appropriate use of macrons) of the text of these statements has been checked. On the version currently before us it appears that macrons have not been consistently applied.

[48] We observe that there appears to be no translation of the rating “low” into te reo Māori anywhere in the table, while other ratings have been translated. We invite the Hapū to advise what an appropriate translation of that word would be for use in the table.

[49] There was some dispute about the inclusion of the word “harmony” with “coherence” in the section of the entry addressing aesthetic values. We note that the description of coherence in the introductory section of the schedule makes it clear that this element includes the harmony of landform, land cover and land use and the absence of discordant elements. There is accordingly no need to repeat a reference to harmony for each item in the schedule.

[50] Finally, we note that the aesthetic value of naturalness is proposed to have two ratings: low – moderate for “indigenous naturalness” and high for “perceived naturalness” or *ko nga tairongo ta te tangata*. There do not appear to be any submissions relating to this amendment beyond a brief explanation that it was agreed at mediation. The distinction appears to lack any foundation in the reasoning in our interim decision and in particular is not based on the modified *Pigeon Bay* factors. Ultimately, “indigenous naturalness” appears to be another way of referring to the biotic natural science element of representativeness and is better assessed under that heading. From our review of the case law, which in turn comprises an extensive review of the field of landscape assessment, we conclude that naturalness is necessarily perceived. If there were any doubt in this case, it is removed by the phrase “perceived naturalness” being at the beginning of the assessment text. We therefore do not accept that the element of naturalness should be further subdivided.



ONFL 5 – proposed Table 2

[51] We turn next to consider Table 2, proposed by the Councils and the Hapū and opposed by Port Blakely, Carrus Corporation and TKC Holdings.

[52] This is a table to be included in Schedule 3 to the RCEP as an additional table for ONFL 5. It is headed “Existing Uses and their effects on natural features and landscape values. Is arranged in four columns, dealing with:

- i) Current physical features and activities of the sand barrier
- ii) Description
- iii) Positive effects on natural feature and landscape values
- iv) Adverse effects on natural feature and landscape values

[53] The current features and activities listed are:

- i) Indigenous vegetation
- ii) A 50m – 150m wide coastal buffer zone of shelter trees
- iii) Exotic or Production forest (mainly pine, but also eucalyptus)
- iv) Forest Production activities
- v) Former forest mill structures
- vi) Dwellings
- vii) Wharf, barge ramp, navigation structures, electricity, telecommunication, water and infrastructure utilities
- viii) Kaitiakitanga, conservation and education activities; Activities – principally by tangata whenua, including mahinga kai, rongoā, habitat & biodiversity enhancement, pest control, conservation/restoration projects, plant nursery areas, wānanga/education, karakia, and urupā

[54] Some features and activities (numbers i, iii and viii) were listed as having only positive effects; some (v and vii) as having only adverse effects, and the rest (ii, iv and



vi) as having both.

[55] We consider that Table 2 may be based on a sound idea, but its analysis is cast in a binary framework that is rudimentary at best. The assessment of effects only in relation to natural feature and landscape values appears to produce problematic results. For example, treating production forest as distinct from forest production activities does not appear to promote integrated management of that resource. Assessing infrastructure as only having adverse effects raises a difficult question about any higher-level activity on the island. Generally, the table is cast in descriptive terms which appear to shy away from an analysis of the interaction of the existing activities in the existing environment.

[56] Perhaps this is the result of deeper concerns about whether a single provision in the RCEP (being the either the entry for ONFL 5 or Schedule 3 as a whole) can adequately and appropriately address the development and protection at the same time. Our impression is that some parties would rather not integrate production forestry with the status of the sand barrier as an ONFL and other parties would prefer to tip any balance towards development rather than protection.

[57] This, of course, is an inherent problem in any regime that is established to promote a complex purpose. Solutions to such a problem include preparing plans which are worded in banal, non-specific terms and which leave to the moment of decision a very broad discretion, or articulating with a greater degree of specificity how decisions are to be made. The former approach tends to suit day-to-day management, which is often consonant with political institutions, while the latter approach may falsely provide an illusion of certainty until unforeseen circumstances combine to present the risk of unlooked-for consequences. In both scenarios, the word “plan” is inapt.

[58] We remain of the view expressed in the interim decision that the guidance of the Court of Appeal in its decision in *Man O'War*¹⁷ is particularly helpful, at least conceptually. The central question to be asked is: what is to be protected? More particularly, what are the boundaries of, or the points that can be identified on, a continuum of development, use and protection to achieve the sustainable management of the particular resource being managed? And underlying those questions is the primary question of purpose: why are we protecting this particular resource? In addressing these questions, it is also important to keep in mind those who will want to know the answer to those questions,



¹⁷ *Man O'War Station Ltd v Auckland Council*, above n 7, at [61] – [67].

including applicants, affected persons and decision-makers, and who should expect answers that go further than a mere recitation of the text of ss 5 and 6 RMA.

[59] As we have set out above, it appears to us from the evidence that the main considerations that any assessment would need to address would include:

- (a) The landform;
- (b) The land cover;
- (c) The coastal edge;
- (d) The limited number of structures in limited locations; and
- (e) The limited infrastructure.

[60] Those matters are adequately addressed in Table 1. Dealing with existing activities in that location is consistent with the rest of Schedule 3. It is difficult to see how splitting the entry and putting the identification of existing activities in a separate table assists in considering the issues that may arise in an integrated way.

[61] A key element may be the place of production forestry. As discussed at length in our interim decision, this was a significant issue for the parties and, especially, for their consultant planners and landscape experts. It is certainly arguable that the character of production forestry and especially the adverse effects associated with harvesting trees presents a fundamental challenge to the general sense of what often is regarded as being suitable for identification as an outstanding natural feature or landscape, but for the reasons we have already given, we consider that Matakana Island is capable of being both at the same time. It follows that there should be an integrated rather than a dichotomous approach to the management of the resource.

[62] In our view, this can be achieved in the manner we set out above in relation to Table 1. On that basis we consider that Table 2 should not be included in the PRECP and we do not include a draft in the **attached** version.

Conclusion

[63] Based on our reasoning as set out above, a proposed version of item ONFL 5 - Te Ure Koti Koti (Matakana barrier arm) for inclusion in Schedule 3 – Outstanding Natural



Features and Landscapes in the Coastal Environment to the Proposed Regional Coastal Environment Plan is **attached** to this decision.

[64] We invite all parties to review this proposed text and make any further submissions they consider appropriate in response. As well, we invite the Hapū to consider the matters raised in paragraphs [43] – [48] of this decision and make further submissions in response.

[65] Any response by any party to the proposed version must be filed and served by 5 July 2019.

[66] We will then consider whether any further amendments should be made to the text and make a final decision.

For the Court:



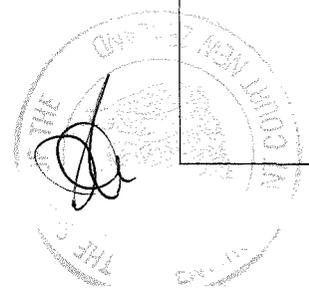
D A Kirkpatrick
Environment Judge



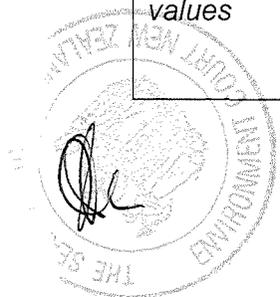
DRAFT accompanying Second Decision of the Environment Court

Schedule 3 – Outstanding Natural Features and Landscapes in the Coastal Environment

Assessment of Outstanding Natural Features and Landscapes		
Assessment methods:		
<p>The assessment of outstanding natural features and landscapes is based on an evaluation system for all the assessment factors listed below. The system is qualitative rather than quantitative and there is no score to become 'outstanding'. This is a complex process requiring the exercise of judgement in a multi-dimensional framework. Outstanding natural features and landscapes can include human modifications (including activities) or otherwise be influenced by cultural associations, whether historical or modern.</p>		
Assessment factors		Evidence
<i>Natural science</i>	<p>Representativeness: Natural features and landscapes that are clearly and recognisably characteristic of the area, district or region. The key components of the landscape will be present in a way that more generally defines the character of the area, but which distils this character and its essence. Natural features are in a good state of preservation and are representative and characteristic of the natural geological processes and diversity of the region.</p>	<p>Data sets including contour data, vegetation patterns, ecological significance, conservation zones and geology were analysed.</p>
	<p>Research and education: Natural features and landscapes are valued for the contribution they make to research and education.</p>	<p>Publications, community group initiatives and site educational material was reviewed.</p>
	<p>Rarity: Natural features that are unique or rare in the region or nationally and few comparable examples exist.</p>	<p>Data sets including contour data, vegetation patterns, ecological significance, conservation zones and geology were analysed. Geo-preservation site data was considered.</p>



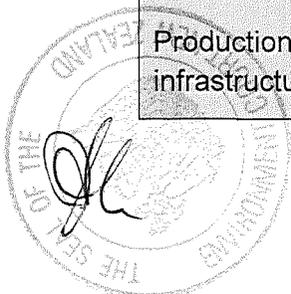
<i>Aesthetic values</i>	Coherence: The patterns of land cover and land use that are largely in harmony with the underlying natural pattern of the landform of the area and there are no significant discordant elements of land cover or land use.	Vegetation patterns were reviewed using high resolution aerial data, along with field assessment.
	Vividness: Natural features and landscapes that are widely recognised across the community and beyond the local area and remain clearly in the memory; striking landscapes that are symbolic of an area due to their recognisable and memorable qualities.	The prominence of a landscape and the analysis of a landscapes features were undertaken through field work, contour mapping, registered sites of ecological and geopreservation significance. Scale and context were key in the evaluation of this attribute.
	Naturalness: Natural features and landscapes that appear largely uncompromised by modification and appear to comprise natural systems that are functional and healthy.	Natural features and landscapes that appear largely uncompromised by modification and appear to comprise natural systems that are functional and healthy.
	Intactness: Natural systems that are intact and aesthetically coherent and do not display significant visual signs of human modification, intervention or manipulation. These are visually intact and highly aesthetic natural landscapes.	The absence of human modification and disruption to the natural systems that occur on the feature or landscape. This includes coastal processes, natural river systems and hydrology, modification to margins and extent of landform change.
<i>Expressiveness (Legibility)</i>	Natural features and landscapes that clearly demonstrate the natural processes that formed them. Examples of natural processes in a landscape exemplify the particular processes that formed that landscape or feature.	Geomorphological processes were reviewed with the assistance of topographical and hydrological mapping combined with field assessment.
<i>Transient values</i>	The consistent occurrence of transient features (for example the seasonal flowering of pohutukawa, intertidal movement and changes in landform) contributes to the character, qualities and values of the landscape. Landscapes that are widely recognised for their transient features and the	Observation and anecdotal information on seasonal and constant change of the elements within this landscape or feature.



	contribution these features have to identify this feature or landscape.	
<i>Shared and Recognised Values</i>	Natural features and landscapes that are widely known and valued by the immediate and wider community for their contribution to a sense of place, leading to a strong community association with or high public esteem for the place.	Publications including Reserve Management Plans, regional, District and city plans, non-statutory strategies and site educational material were reviewed.
<i>Māori Values</i>	Natural features and landscapes that are clearly special or widely known and influenced by their connection to the Māori values inherent in the place.	Review of information collated from iwi and hapū management plans, Treaty Settlement documents, customary fishing recognitions provided under the Fisheries Act.
<i>Historical Associations</i>	Natural features and landscapes that are clearly and widely known and influenced by their connection to the historical values inherent in the place.	Information is taken from the Coastal Historic Heritage Review Project: Historic Heritage Inventory 2006 and a review of other relevant publications.

...

Te Ure Koti Koti (Matakana barrier arm) - ONFL 5	Map Sheets 3a, 4a, 6a, 8a, 9a, 11a
Description:	
Te Ure Koti Koti, the barrier arm of Matakana Island, is the largest sand barrier island in New Zealand. The coastal extent of the barrier arm forms a large sand dune system that extends some 23 km between the northern and southern Tauranga harbour entrances. The key values and attributes which support the classification as an ONFL and require protection are its high natural science values, its high aesthetic values, and the very high associative values of the barrier, including shared and recognised values, Māori values and historical associations.	
Current uses:	
Production forestry including production activities and harvesting, former (now unused) forest mill structures and associated dwellings, infrastructure including forest roading, wharf and ramp, and kaitiakitanga and cultural activities.	



He hanga na te waha o te ngutu no mua iho ano (Although it is created by the mouth, it is actually from ancient times)

Ki te ao marama – Introduction

Māori ancestral sayings are taonga from the past; they have mana, and transmit or involve Māori values, tikanga, people, places and taonga for the preservation, safety and peaceful social interaction between Māori and their natural and spiritual worlds. Whakatauki, whakatauaki and pepeha convey information on life and society, ecosystems, the natural world and traditional ecological or metaphysical knowledge.

Relevant Māori values or attributes are identified in the following format:

1. **The ancestral saying – a whakatauki, a whakatauāki or a pepeha**
2. (A translation or explanation of the ancestral saying), and
3. *A descriptive context for each ancestral saying, where appropriate.*

The whakatauki, whakatauāki and pepeha express the intrinsic Māori values of Te Uri Koti Koti (Matakana sand barrier). They are relevant to both Matakana hapū and people and their communities generally.

Evaluation

Nga ahuatanga urutapu Assessment factors	Nga ahuatanga motuhake Elements	Nga pitopito korero kia hangaia nga ahuatanga urutapu Assessment – Attributes and Values * In the case of ONFL 5 Te Ure Kotikoti (Matakana Barrier Arm) a seven-point scale has been used which includes 'very low' and 'very high' ratings.	Rating (VL-VH)*
Matauranga urutapu putaiiao Natural Science	Whakaatanga Representativeness	Ahuropi kore (Abiotic): The high natural science values derived from the geomorphological and coastal processes which have formed this highly recognisable landform feature and its consequent topography as a large sand barrier should be protected from activities that could substantially interfere with or alter the appearance of those features. Such activities would include large-scale earthworks and reclamation. These values and attributes would tend to be more resilient than vulnerable in the face of such activities,	Teitei High



		<p>provided that there are clear boundaries set to minimise issues of capacity and sensitivity.</p> <p>I ahu mai te ingoa a Te Ure Kotikoti (The source of the name - Te Ure Kotikoti)</p> <p><i>The name Te Ure Kotikoti derives from traditions and customary knowledge concerned with the landscape's evolutionary sequences. Thus the name is directly connected to a consequence of a natural process.</i></p> <p>Unu tai - nga tai a Pahipahi (What water is where you are from – the waters of Pahipahi)</p> <p><i>This speaks to the origins of the people being linked to the origins of the island's physical landscape. The emphasis is Pahipahi being the source of the geological characteristics of the island, specifically Te Ure Kotikoti.</i></p> <p>Te whakaruruhau – Te Ure Kotikoti (sheltering qualities of physical landform)</p> <p><i>The barrier island's sheltering qualities act both culturally as the korowai whakaruruhau mo Tauranga Moana, and physically as a buffer between Mauao (Mount Maunganui) and Te Kura a Maia (Bowentown Heads) to natural coastal hazards such as erosion and tsunami events.</i></p> <p>Kei nga mea tino whakamiharo o te moutere, nga punawaiariki, nga moana, ngā puna wainuku, nga tohutohu a moana me nga ngaru moana (The geothermal springs, the ocean waters (estuarine and open coast), assemblage of freshwater aquifers and freshwater inputs, seafaring and seasonal indicators and surf-breaks are highly valued as taonga)</p>	
		<p>Biotic: Strong uniform cover, primarily production plantation forest with areas of indigenous vegetation regeneration in isolated locations. It also provides a shrubland / wetland understory around the island's periphery, as well as within identified ecological sites and wetlands.</p> <p>Kei nga mea tino whakamiharo o te moutere, nga punawaiariki, nga moana, ngā puna wainuku, nga nohonga whakawhanau whakatipu ika, nga tohutohu a moana, nga ngaru moana, te iwi kainga poka ke te ahua i era atu iwi Māori o te</p>	Low



	<p>ao (The geothermal springs, the ocean waters (estuarine and open coast), assemblage of freshwater aquifers and freshwater inputs, fish nurseries, seafaring and seasonal indicators, the people who are different from other indigenous peoples of the world are highly valued as taonga).</p> <p>Ko te mauri he mea huna ki nga repo, ki nga puna wainuku, ki nga awaawa, ki te moana (The source of mauri is hidden within the wetlands, springs & aquifers, groundwater-surface water veins, tributaries and ocean)</p>	
<p>Kaupapa rangahau me te whai matauranga</p> <p>Research and education</p>	<p>The distinctive nature of the geomorphology and some of the native fauna has led to organisations such as the Matakana Island Environment Group promoting research and education on the Island. Cultural, ecological, geological, geomorphological, paleo botanical, archaeological and matauranga Māori research on the Island has been undertaken and is ongoing with the support of the hapū.</p> <p>Ma te matauranga, ka taea te pae tawhiti; Ma te maramatanga, ka taea te ao; (The search for knowledge will reveal distant horizons; it is with understanding that the door to the world will be opened)</p> <p>Ko te matauranga te kai a te rangatira – ko te kai a te rangatira, he korero (Knowledge is the food of chiefs, the chiefs' sustenance derives through dialogue)</p> <p>Ko nga kete wananga (The baskets of knowledge)</p>	<p>Toharite ki te Teitei</p> <p>Moderate - High</p>
<p>Nga ahuatanga ahurei</p> <p>Rarity</p>	<p>The Island's location, enclosing the Tauranga Harbour, together with it being the largest barrier island in New Zealand, is significant. Two harbour entrances and the associated natural harbour hydrology create an extremely rare feature regionally, nationally and internationally.</p> <p>Kaore he moutere i ko atu i ko mai i a Matakana (There is no other island like Matakana.)</p> <p>Ko te tūhonotanga ki te whenua, ka kīia tēnā ko te pito (The attachment to the land, it is said to be the pito)</p>	<p>Teitei</p> <p>High</p>



		<i>This illustrates whakapapa connections to the land, the genealogy unique to nga hapū. This is accentuated by not being connected to the mainland.</i>	
Nga hononga rerehua Aesthetic Values	Nga ahua reretahi Coherence	<p>Matakana Island's appearance as a barrier for the harbour and its essentially uniform appearance, principally from middle- and long-distance views, stand out. Those attributes should be protected from activities that could substantially alter its appearance, such as substantial permanent changes to its cover in trees, including the location of large or extensive buildings (including areas of smaller buildings) or cleared areas. It is generally accepted that the transient values are not high and so temporary changes, which in the context of the island include cyclic harvesting of sections of the production forest, would not be prevented. Given the on-going effects of forest harvesting, the island appears to be relatively resilient to the effects of existing activities in these categories, but it may still be appropriate to consider a level of protection which would meet the risk of any significant change in the present regime for the forest.</p> <p>Te marae koiora a Tangaroa. He akau taiao kore kainga, ka tau. He karoaroa, he pa whakawairua (It is serene, an expression of the mauri of a place or person)</p> <p><i>The natural space of Tangaroa, a coastal environment with no built form.</i></p> <p>Iti noa ana, he pito mata (The uncooked portion may sprout to produce many kumara)</p> <p><i>The traditional practices associated with the management of vegetation cover and cyclic cropping apply also to production forestry.</i></p> <p>Ko te tūhonotanga ki te whenua, ko te Pahipahi tēnā (The ties to the land, it is Pahipahi)</p> <p><i>The barrier began as a series of sand banks, of which Pahipahi was the largest, that joined to become Te Uri Kotikoti</i></p> <p>E anga to mata ki te moana Otuhua, ki te ara haerenga o nga tipuna (Turn to face the ocean we know as Otuhua, to the pathway travelled by our ancestors)</p>	Teitei High



		<i>Used here to refer to the ocean beach and the unimpeded views that connect nga hapū to other islands (Karewa, Tūhua, Motiti) and to their tipuna who traversed these waters.</i>	
Nga ahua puahoaho, me nga ahua pupuri	Vividness	<p>The scale of the barrier, its location between the two entrances to Tauranga Harbour, the extent of the long, white sandy beach, and the cohesive nature of its landcover and landform, results in the island being highly legible from many locations. It is also a symbolic feature that offers a visual counterpoint to Mauao and Te Kura a Maia.</p> <p>Ko te tūhonotanga ki te whenua, ko taku moutere tēnā (My island, my home – sense of place)</p> <p><i>Te Ure Kotikoti is a symbolic feature including its whakapapa and relationship with, and contrast to, Mauao. It has significance as a tohu (wayfinding landmark). Such interaction is experienced from a wide range of viewpoints from land, sea and air.</i></p> <p>Ka whakahokahokai anō au kia topa iho i te ipukarea ki te Paretata (mai Mauao) (I stretch out to soar down the ancestral homeland to Paretata (from Mauao to Paretata)</p> <p><i>Metaphor used to express the ocean beach being reflective of the people. The coastal side of the island is distinct in the memory. Its isolation, remoteness and air of tranquillity contribute to this.</i></p> <p>Te korowai a Papatuanuku me ona ahua piringa</p> <p><i>Refers to the natural forest-clad dune island features set against a natural coastal backdrop. It is the green of the trees against the white of the sand.</i></p>	Teitei rawa Very High
Nga ahua taketake	Naturalness	<p>A perceived naturalness is maintained over the barrier as a whole due to the presence of vegetation cover (currently exotic), dynamic coastal processes and residual dunes, and absence of built form (apart from Mill Site buildings, Panepane Point's wharf, boat ramp and Port of Tauranga Navigational Beacon). Clear skies and clear nights void of light pollution contribute to the sense of isolation.</p>	Teitei High



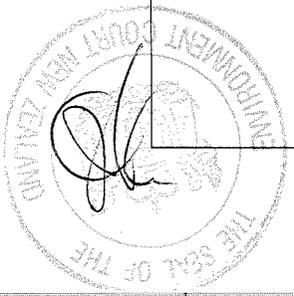
		<p>Ka piha te tai, korikori ana nga au moana, ka puta a tarawhata (The tide blows up/out at Marupiha, the waves dance, tarawhata appears)</p> <p><i>This describes the natural coastal processes that occur at the Panepane end on the sandbank Marupiha, which have done so from long ago.</i></p> <p>He akau kainga kore, ka tau (A coastline without homes, it is deliberate)</p> <p><i>There is a reason why there are no homes (and never has been permanent kāinga) along this coastline for practical and sustainability reasons such as dynamic coastal processes, seasonality and freshwater availability.</i></p> <p>Ngaoko ana te moana, ngarue ana te whenua (Rough seas and trembling earth)</p>	
	<p>Mauri tau</p> <p>Intactness</p>	<p>The sand barrier as a landform remains intact in its entirety. The seaward coastal margin of the island includes dunes that feature high quality and diverse indigenous vegetation beneath the pine canopy, including threatened plant species. This provides a relatively undisturbed habitat for a wide range of threatened and uncommon shore birds, notably the New Zealand dotterel, and other taonga species.</p> <p>Some of the natural systems and processes related to the geophysical form of the barrier island remain apparent, although the majority of the sand barrier has been modified by production forestry.</p> <p>He iwi taketake tatou (We are indigenous to the Island - from birth through death – our naturalness is one with the whenua; one cannot be separated from the other).</p> <p><i>Nga hapū are part of the island’s intact naturalness.</i></p>	<p>Toharite</p> <p>Moderate</p>
<p>Expressiveness (Legibility)</p>		<p>The barrier was formed from dynamic volcanic and coastal processes. As a whole, the form and context of the sand barrier as a natural feature is expressive of the continuing natural processes that form this coastal feature. These include the daily coastal and tidal flows, seasonal coastal processes and natural events.</p> <p>Tangaroa whakamautai (Tangaroa, controller of the sea - shifting sands, tides, winds)</p>	<p>Toharite ki te teitei</p> <p>Moderate – High</p>



		<p>Kaua e huri to tuara ki a Tangaroa, hei kai ma te ika (We do not turn our backs on Tangaroa for we shall be food for the fish.)</p> <p><i>As people, we cannot assume management of Tangaroa, we must understand the concept of the life of the moana.</i></p>	
Transient Values		<p>Ephemeral processes including tidal patterns, natural erosion and accretion of the coastal margins and dune system are apparent and vary from day to day. The dynamic interplay of wind and waves constantly form and reform the barrier interface with the harbour and ocean. The migratory patterns and movements of birds and kaimoana species add to this mixture of daily and seasonal change, while fluctuating weather patterns add another layer to the various 'moods' of Matakana Island.</p> <p>Transient values are less apparent within the interior of the sand barrier. Fauna tends to concentrate near the Island's margins, and the homogeneity of most of the vegetation cover limits the appreciation of seasonal and daily (including tidal) changes that are more apparent around its sea margins.</p> <p>Ko nga mahi a Hinemoana (The intactness of natural processes are evident through the actions of Hinemoana)</p> <p>Nā ngā hau o tai ka horo ki uta (Winds eat away the barrier).</p> <p><i>Erosion events occur on the ocean-beach. On one hand it is sad to see the whenua or Papatuanuku horo away into the sea but on the other hand, it gives credence and pays tribute to our worldview in relation to the ongoing battles between our atua. It also recognises the processes associated with climate change.</i></p> <p>Ka ngaro ka ngaro, ka ea ka ea, Te Paretataa o te remu (it is lost/gone, it lost/gone, it appears, it appears - Te Paretataa o te remu <i>the tail feathers of the white tern</i>)</p> <p><i>Used here in reference to the white tern that symbolises certain cultural conditions at certain times of the year. The birds return to the sandbanks. The pronunciation of the name Paretataa reflects the call of the tern.</i></p>	Low - Moderate



Associative	Shared and Recognised Values	<p>Highly recognisable with a large viewing audience, also through science, recreation and kaitiakitanga. Known as a local and regional landmark, the Island is in numerous examples of promotional material for the region and two districts.</p> <p>He kare moana, he manu tirikohu (a ripple on the sea, a plunging/diving bird)</p> <p><i>Used to express the ability of the tipuna to tell what kind of fish were running by the ripples they made on the surface and by the type of birds and their behaviour at sea. Points to diverse fish life and long, strong associations, observations and interaction with the moana environs.</i></p> <p><i>The island's location and its accessibility (by boat only) help create a sense of remoteness and isolation. The community is small and includes non-resident forestry land owners and operators, but is otherwise predominantly a Māori community connected through whakapapa to the island. This creates a strong identity with, and connection to, the island through tikanga, social, cultural, recreational and employment activities.</i></p>	Teitei rawa Very High
	Māori Values	<p>Te Ure Kotikoti is the traditional name given to the sand barrier by Māori. It is a landscape that is rich in natural, cultural and spiritual resources. The Matakana Island Hapū Management Plan records values and sites of significance, including ancient pa, kāinga, urupā, mahinga kai. The key values are the strong ancestral relationship of tangata whenua to the island and numerous places on it, and the place of the island in the wider context of Te Awanui/Tauranga Harbour and the other nearby landmarks such as Mauao. It may be that these values and the risks they may face can be adequately protected by the same methods as may be appropriate for the natural science and aesthetic values, or tangata whenua may consider that other methods would be more appropriate.</p> <p>Te kauae runga me te kauae raro (the upper jaw, the lower jaw)</p> <p><i>Te kauae-runga represents everything pertaining to the gods, the heavens, the origin of all things, the creation of man, the science of astronomy, and the record of time. Te kauae-raro deals with the history of the people, their genealogies, migrations, the tapu, and all knowledge pertaining to earthly matters. It is used here to illustrate the</i></p>	Teitei rawa Very High



difference between how pakeha view and value knowledge (research and education) and how Māori view knowledge (the variety, sources of and ways of learning etc) and this informs the difference in values that Māori and other indigenous people place on knowledge, research and education. The intactness of this traditional knowledge has particular significance for the Island and its hapū.

I ka tonu taku ahi, e mana ano (My fire still burns, our mana remains intact)

The expression used here to express natural cultural coherence is enhanced through the cultural integrity of place. Nga hapū of Matakana and Rangiwaea are ahi kā. They have a whakapapa relationship with the barrier as whenua which carries with it responsibilities as kaitiakitanga. As recounted from their ancestors, their occupation is not of living by the sea but of being of the land and of the sea. Matakana demonstrates a coherent island culture. The barrier is a crucial and substantial part of this. The landscape is a coherent whole and to nga hapū that coherence is highly intact.

He Toka Tu Moana (A rock standing in the ocean)

Like a rock in the ocean constantly battered by the crashing waves and yet remains steadfast, its formidable resilience able to dissipate the outside pressures and forces like the people of these islands – like its tides they will always rise to protect it.

Ko te āhuratanga o te wai tai he riporipo tōna tohu karanga ki te tangata i uta mā te ahunga me te kaha o te rere o te wai – mā te ihi me te wehi, ma te mana me te tapu, ma te kaha o nga piringa, ma te tae, te kakara, te reka, me te rongō i te ahunga o te hau.

The tidal waters are characterised by the rippling currents calling to the people on the land through the direction and strength of flow – through the feeling of excitement and fear, through such natural responses to those things, through the divine authority, the sacredness, through the power of connections, through the colour, the smell, through the taste, and feel of the direction of the wind.

Takiri ko te ata i o matawahu. (The connection of Mauao to the Islands stands sentinel over the Islands)



I te taha Hauaaauru o te Moutere i etahi o nga wahi o te Moutere, he hononga ki te taha taone, ki te wahi e noho nga whaanau o nga Hapū o te moutere nei, He mea nui ki nga whanau o te moutere kia hoki atu nga whanau o te taone ki to ratou moutere ki te whakauu i nga hononga ki te whenua e kia nei Te Moutere o Rangiwaea. I te taha moana ki te taha raawhiti o te Moutere ka ahei te kite i nga Moutere e noho ana i te pae tawhiti araa ko te moutere o Karewa me te moutere o Tuhua.

From various points on the southwestern side of the barrier are visual connections to the mainland where many of our wider whanau of Hapū and whanau live. These connections and relationships are important to the island whanau. On the eastern side of the barrier are stunning views to Karewa Island and Tuhua further out.

Nga kupu ahua - context

Oral traditions, recorded histories, archaeological information and information gathered from residents confirm the long inhabitancy of Matakana and Rangiwaea Islands. The settlement pattern of Matakana Island Hapū was not restricted to these two Islands. It included Karewa and Tuhua off the coast, and harbourside Motuhua Island, present day Katikati, Bowentown, Tuapiro and inland resource areas. The cultural landscape for the Matakana and Rangiwaea Island hapū can be referred to as the rohe (ancestral district) made up of natural features such as water catchment areas, forests, bush, marshlands and physical formations such as motu (islands), valleys, estuaries, rock outcrops and cultural features such as pā (defended places), kainga (settlements), mahinga kai (harvesting and gathering areas), maara kai (gardens) and burial places. The cultural landscape is more than just physical features.

Ka noho hei puhi ki te moana (I remain steadfast on the Island. An expression of an eponymous ancestress who sent her people away to safety to save them.)

The identity of nga hapū is inextricably linked to the islands and moana environments and like their tupuna before them, the hapū will go to great lengths to protect their unique island-coastal indigeneity and their relationship to the islands and moana.

Ko te kaakahi, ko te korehurehu i runga i te moana āio (the 'kaakahi' is the haze on the calm sea which is seen on fine days and looks a little like smoke on the sea).



Used here to describe a special natural phenomenon typically only experienced by nga hapū o te hau kāinga. It is understood to be a tohu pai, a special characteristic associated with offshore islands and whanaunga-whakapapa and a feature of the ocean-beaches expansive view-shafts and pristine naturalness

Panepane (mudfish species)

I kohi kaimoana mo nga mahi rongoa, Ka kai te upoko o te Panepane hei rongoa Māori. Koia nei te ingoa o 'Panepane' i ahu mai.

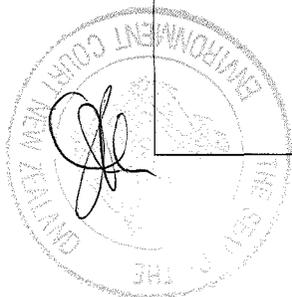
The head of Panepane was eaten as a medicine. It is associated with the drying and wetting with tidal cycles, and explains the name.

Wāhi tapu

Wahi tapu are located throughout the barrier island. The sand barrier contains wāhi tapu areas including pa, burial sites (known and unknown), and battle sites but wāhi tapu are not limited to burial places or battle grounds. Wāhi tapu are supported by traditional narratives recently documented for Treaty of Waitangi claims and archaeological assessments and evidence. The recorded and unrecorded archaeological resource provides valuable insight into interpreting the settlement patterns, resource use, distribution and activities of traditional Māori occupation. Of particular note is the burial place of Hori Tupaea, paramount chief of Ngaiterangi. He is recorded to have been buried on Matakana Island following a tangi (a funeral) of several months.

Ko nga ahuatanga o te hau kainga (traditional values and practices on mana whenua)

The Matakana Island sand barrier continues to be considered by tangata whenua to be significant as a repository for transferring cultural harvesting traditions and practices, and associated hapū narratives such as the tradition describing "ka mirimiri a (Pampa) i te paruparu ki ona kiri ki te hii mako, he momo tikanga ki te kohi kai" - My koroua would rub himself with clay and go shark fishing. Some of the protocols associated with our ancestors were the preparation of rongoa for the warriors in battle.



	<p>Historical Associations</p>	<p>Tangata whenua have a strong history with Matakana Island with continuous ownership and occupation of some parts going back numerous generations. Tangata whenua have always exercised kaitiakitanga with their traditional connection to the sand barrier still being practiced today.</p> <p>He Karoro inu tai (the black-backed gull that drinks the tide)</p> <p><i>For the hapū of Matakana, the islands are their only traditional lands. There is nowhere else in Tauranga Moana where they share a stronger connection. The uninterrupted, undisputed and enduring occupation of the island by the 5 hapū provides unequivocal testimony of such. As island peoples, the hapū have retained their distinct traditions and customs which largely constitute their coastal indigeneity. This indigeneity binds the hapū to the island's natural landscape and features in which their whakapapa embeds them. Thus the hapū themselves form a core part of the landscapes naturalness. The landscape comprises places made sacred by the lives and deaths of their tipuna. To sever, extinguish or alienate the hapū from any part of the Island, the way the Island is viewed or 'managed', would severely compromise its naturalness.</i></p> <p>He whenua rangatira (these sovereign lands)</p> <p><i>This phrase has different meanings. In the context of the historical relationship of the 5 hapū with their whenua, it represents a declaration by the 5 hapū that they hold the ultimate chieftainship over their lands, not anyone else. It also denotes the underlying ancestral, spiritual, strategic and economic significance of the land. To the 5 hapū of the island, the contemporary relevance of the expression survives as claims by other tribes have to rely on crown treaty settlement policy and process to establish recognition. He whenua rangatira endures as being one of the key tests that invalid claims will always fail to demonstrate.</i></p> <p>Mana i te whenua (authority-autonomy from the land)</p> <p><i>Many interpret the phrase "Mana i te whenua" as "our authority for or autonomy over these lands." The ability of the hapū to govern ourselves as we have done for centuries, to determine our own internal political, environmental, economic, and social</i></p>	<p>Teitei rawa</p> <p>Very High</p>
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rights and objectives, and to act collectively in accordance with those objectives, is paramount to the wellbeing of the hapū and the Island's natural environments.

Our rights and obligations to the land come from our mana i te whenua. The ultimate authority and responsibility belongs to the hapū with mana i te whenua. It is the ancestral landscape that which defines the historical relationship between the hapū and the natural island environment. It is quite literally, the embodiment of the cultural heritage. The state of their ancestral landscapes is therefore inextricably linked to the spiritual, emotional, physical and social wellbeing of the hapū and is further cemented through their enduring kaitiakitanga practices.

Taonga tuku iho (divine gifts from our tipuna)

Our tupuna intended for us to receive taonga, and they protected our taonga under Te Tiriti o Waitangi. Taonga enhance our experience in this world and the lives that we live. In the context of the cultural heritage of the hapū, the finding of the Waitangi Tribunal in their report for the Tauranga Moana enquiry makes particular mention of the cultural heritage significance of Matakana. The report notes that despite the failings of the Crown to honour their treaty obligations to protect taonga, and despite having suffered from the development of commercial pine forests, the ancient, intensive, and continuous occupation of Matakana Island was amply documented in early maps which contained many names, many named places, many swamps, many settlements, many tracks, and within the landscape itself, in the form of many thousands of archaeological sites. The hapū assertion is that despite the prevalence of pakeha archaeological values which regard a site as less important once it has been damaged, past modification of sites does not justify further destruction because for the hapū, it is the ongoing violation of tapu that would be considered the more egregious effect. Notwithstanding, it is acknowledged that there are many unrecorded sites and the same principles of tapu apply equally to these unrecorded sites.

