

Introduction

1. Mr Chairman, fellow commissioners.
2. My name is Graeme Ebbett, chairman of Titahi Bay Residents Assn Inc and I speak for submission number 95.
3. Personally I have a background of advanced trades, am a registered Technician-Engineer and Fellow of the erstwhile Institute of Measurement & Control NZ. I have run businesses for over 45 years designing industrial control systems and writing management plans.
4. Our family home overlooks Titahi Bay beach and I have been intimately involved in the management of it since the late 1980s.

Background

5. There had been a 1971 Porirua Harbour Bylaw, no motor vehicles (MVs) on beaches unless launching/retrieving a boat, but it had proven impractical with 40 boat sheds at each end of the beach. Our group sought a workable compromise of a car-free centre-beach.
6. In 1988-89 Porirua City Council (PCC) formed a working party of senior council officers and commenced a major public consultation process. It came up with the Titahi Bay Beach Development Plan 1990 (Att2).
7. That was adopted by PCC in Feb 1990 except for deletion of recommendation 3 for a vehicle-free beach (except boat sheds and launching/retrieving) (page 4).
8. Then nothing happened with MV management.
9. Local mothers organised a petition, presented with 1265 supporters to PCC. Nothing happened.
10. The 1991 RMA process started and as a group of beach-front residents we formed Titahi Bay Residents Assn Inc (TBRA) in 1995 to go through the legal process of establishing workable rules for MVs on the beach in the Regional Coastal Plan 2000 (RCP) for the Wellington area. I have remained its chairman since then.
11. PCC resolved to shift the city boundary to MLWS in preparation for a bylaw for MVs in support of management under the RMA. The Minister of Local Government granted the change, but the bylaw proposal went nowhere.
12. We were satisfied that the definition for MHWS and ground survey gave Wellington Regional Council (WRC) jurisdiction for the whole beach right up to within about 2 metres of the boat sheds. We thrashed out details in mediation, were agreed on a night curfew and protection for the fossilised forest but eventually had to go to a hearing with PCC opposing WRC and ourselves over the northern boundary of a car-free area. The RCP was finally established in 2000 with legal costs to our fledgling group of \$35k.
13. But the plan was rendered unenforceable in about 2009 when PCC and WRC conspired to adopt an unlawful new MHWS jurisdiction boundary a 1/3 rd of the way down the beach (Att8, Att9).
14. PCC attempted to invoke a bylaw in support of that unlawful boundary, but stalled when we prepared the legal case against a bylaw which people had no knowledge of breaking because its boundary was an invisible line in the sand.
15. We have now gone through a similar process for the Proposed Natural Resources (PNRP). The difference is that WRC now has remained adamant, no driving or parking on beaches... and no exception for Titahi Bay boat sheds.
16. The hearing was presented with the unique situation of 40 boat sheds at each end of the beach and a complete breakdown of management between PCC and WRC. But the WRC position was upheld despite our plea to some of you who were the independent commissioners. You can now see on video the result of unenforceable beach rules as a result of deadly, uncontrollable access at Bay Dr and mayhem

from hoons on the beach (Att1).

17. The breakdown of integrated management between the regional and local council has continued with PCC declining to be party to our PNRP Court proceedings.
18. In mediation we agreed on a mapped definition for MHWS that allows PCC to squeeze in boat-shed parking. That was done on the basis that the car-free centre-beach boundary was to be shifted to the stream which is north of existing Bay Dr access. That was to implement the 1990 plan by replacing the Bay Dr entrance with angle parking, creating a new boat shed access north at Lambley Rd and using the stream as a demarcation/ enforcement mechanism.
19. But behind the scenes, PCC blocked the agreement by refusing to change entrances and legally, participants could not tell PCC, as a non-participating 3rd party, what to do. The Court Order was settled with this being a loose end, Map35 (Att3 and Att4).
20. This loose end remains a vital matter yet to be resolved in this PCC PDP. A workable beach management plan must have rules which are able to be monitored and enforced under s84 with sustainable management achieved under the RMA.
21. Last week PCC resolved to invoke a bylaw to ban MVs from the beach. But there is no management plan and Bay Dr is left as an uncontrolled access. Conditions include no mention of the fossilised forest, night curfew, caterpillar tracked vehicles, or even the PNRP definition of a MV which includes boat trailers. It fails to integrate with the PNRP conditions.

Submission Procedure

22. Our submission was published in the Council records in part only, ie missing the map example of a definition for MHWS. That missed the opportunity for further submissions. It failed to be scheduled in HS1 so TBRA lost the opportunity to present a joint case with others seeking a mapped definition of MHWS. By PCC officers relegating it to HS3, commissioners have been denied the opportunity to view evidence which would have influenced their decision on whether mapping was necessary as a definition for MHWS at a time when they were formulating their decision.

Our Submission

23. Basically our submission is comprised of key points of the Court Ordered conditions of the PNRP plus the PCC's own 1990 plan.
24. We take it as read with the following notes.
25. A mapped definition for MHWS is a fundamental city-wide matter, paramount to establishing the boundary for PCC jurisdiction in the plan in all coastal areas. At the coal face of day-to-day management in dynamic situations, operators must have, clearly established in advance, who is the authority and what rules apply right now, on the spot. This is essential, as shown by the practical example of unlawful interference and a major failure of the RCP at Titahi Bay with the MHWS boundary change.
26. The elevation of the mapped area of Titahi Bay fossilised forest to an area of National Significance in the PNRP is paramount to all decisions on beach usage. For integrated management with WRC we believe PCC would be expected to put effect to the Environment Court Order.
27. The key element for sustainable management is a plan which shifts the boundary of the car-free Area A to the stream and closes MV access at Bay Dr.
28. Experience over decades has proven that PCC cannot be relied on for a practical management plan and needs the detailed items of our submission specified as policies, rules and standards in its District Plan.
29. We stand by the multiple submitters who we represent because we know that parking at boat sheds for PCC leaseholders is a reasonable expectation and workable with resource consent under an agreed, practical, sustainable management plan. Sample submission (Att5).
30. If this is not done then we see perpetuation of the opposition and destruction already displayed (Att6 and Att7).

31. Part 4 Schedule 3. We withdraw our submission for retention of the Former US Marines Hall because PCC has now been granted Resource Consent for demolition by commissioners (albeit that the decision referred to the wrong hall).

Officer s42A Report

32. The report recommends referral of the matters of the TBRA submission to a bylaw. I consider that to be an unprofessional diversion. The matters raised by TBRA require sustainable management. That is the purpose of the RMA under which this procedure is being conducted. A bylaw is established under the Local Government Act which makes no mention of sustainable management in its purpose. A bylaw can be invoked and revoked at the political whim of a local council.
33. In fact introduction of the bylaw of 2022 that the report refers to was resolved under urgency by the Council last week because of the mayhem on the beach. It fails in a number of ways (ref para 21).

Conclusion

34. The intransigent position of WRC followed by the shenanigans of PCC have prolonged a resolution and escalated our legal costs over the PNRP to more than \$45k plus \$8k still owing. At the time of the hearing I pleaded with commissioners to help avoid the matter having to go to Court. I plead with commissioners to do more this time. Please understand the huge life and death risks faced on this beach on a daily basis and our prolonged struggle with the matter. Please give it strenuous consideration and all your expertise.

Requested Action

35. That this HS3 be adjourned with an instruction to PCC to provide an amended report under s42A of the RMA which properly addresses the matters of the TBRA submission. And that the hearing be scheduled to resume in February 2022.
36. We see this as a practical solution to the problem we all face now.

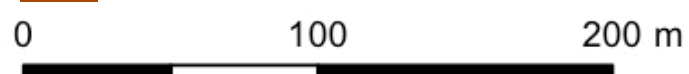
Titahi Bay fossil forest (indicative)

Map 35



~~This version of the map is not complete. The version of this map available online through the online web map viewer shows the complete, detailed information on a GIS overlay that is not shown on this hard copy.~~ The online version is available on the Council's website at <https://mapping.gw.govt.nz/gwrc/> (select theme ~~proposed~~ Natural Resources Plan 2015) and can be accessed from the Council offices or public library.

- Titahi Bay fossil forest
- Area A
- Porirua District addition to Area A management under ENV-2019-WLG-000121



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