

**IN THE MATTER of hearings regarding submissions to the Proposed Thames Coromandel District Plan relating to Biodiversity and Subdivision.**

---

**STATEMENT OF SUBMISSION OF ROSS EDENS AND OTHERS**

**Dated 11<sup>th</sup> February 2015**

---

**1.0 INTRODUCTION**

- 1.1** My name is Ross Edens. I was born at Thames and raised at Opito Bay on the family farm, a relatively remote coastal settlement at the time. Our property is situated in the northern end of Opito Bay and extends to Otama. It has been in freehold title since 1946. My grandparents Skipper and Joyce Chapman were early pioneers of the district and are steeped in the history. Skipper of Maori descent is related to Ngati Hei and Ngati Whanaunga, we are proud of our heritage, association and intimate knowledge of this area.
- 1.2** I am the 4<sup>th</sup> generation to be directly associated on the property, my daughter is the 5<sup>th</sup>. My parents, Murray and Sue Edens are the current custodians of the property. I am here to represent all those mentioned.
- 1.3** Our property has approximately 320 hectares of land of multiple titles proposed to be zoned "Rural" in the Proposed District Plan (PDP). Additionally, some of these titles are also influenced by the Coastal Environment. Therefore, we are going to be significantly affected by the resultant adopted District Plan. There will probably be few as affected as ourselves and I hope that families such as ours are not phased out by the regulations imposed by the academic process of debate between professionals of the RMA, RPS and NZCPS.
- 1.4** There are a number of concerns that we have with the PDP and have been activity involved with the Submissions, Further Submissions and Hearings to date. I wish to speak further on some aspects of the PDP. We conclude that a number of changes are required.

## 2.0 SECTION 56: RURAL ZONE

We provided three submissions and two further submissions regarding Section 56 Rural Zone, Rule 6 Earthworks.

### 2.1 ISSUES

- 2.1.1 Certainty for the ability to perform farming related earthworks in the Rural Zone; and
- 2.1.2 Earthwork threshold for maximum area per site per calendar year in the Coastal Environment of the Coastal Zone (Rule 6, Table 3).

### 2.2 DISCUSSION

- 2.2.1 It is to be noted that the only amendment to Section 56, Rule 6 is that the inclusion of reference to the WRP with respect to gravel extraction. It is surprising as there were in excess of 50 submissions and further submissions related to the rule. Many submitters were permanent landowners with farming interests that own property in the Rural Area. Some also own land in the Coastal Environment and are concerned that the proposed rule will hinder the ability for a viable business in these areas.
- 2.2.2 Noting the high volume and weight of submissions seeking greater certainty for the ability to perform farming related earthworks in the Rural Zone, we have faith that these submissions seeking to protect farming interests will be recognized through the hearing process. If any groups or individuals seek to decrease the thresholds' or permitted activities within Rule 6, the original submissions should be considered in the decision.
- 2.2.3 We would like to draw your attention to Rule 6, Table 3 – Earthworks Thresholds that is to be adhered to in the Coastal Environment of the Rural Zone. The maximum area per site per calendar year is 10,000 m<sup>2</sup> (1 ha).
- 2.2.4 The permitted maximum area of 1 hectare per site per calendar year is grossly inadequate for practical farming operations. This is particularly so when considering that we and other property owners have high class soils within the Coastal Environment which would need a Resource Consent if we wished to plough, seed or conduct contouring that is often periodically required.
- 2.2.5 Pastoral farm operations should continue to be viable without the necessity of a Resource Consent for trivial earthworks and will ultimately benefit the communities that they are located in with employment.

### 2.3 RELIEF SOUGHT

- 2.3.1 The relief sought is to have the Earthwork threshold for the Maximum area per site per calendar year in the Coastal Environment of Rural Zone increased to 5 hectares. (Rule 6, Table 3).

### 3.0 SECTION 38: SUBDIVISION

We provided 11 submissions and 14 further submissions regarding Section 38.

#### 3.1 ISSUE

- 3.1.1 **S38.4 Controlled Activities, Rule 2 Boundary Adjustment.** The maximum percentage permitted for a Boundary Adjustment in the Rural Zone is inadequate.

#### 3.2 DISCUSSION

- 3.2.1 Currently the Operative District Plan's boundary adjustment rules (Section 705), provides clear guidance for rural properties. This should be retained. Initially the PDP proposed a maximum of 5% that the existing Lots could change.
- 3.2.2 The following point 22 of the Staff Report is a fair summary: *"Boundary adjustments are a legitimate form of subdivision involving the 'alteration' of existing lot boundaries, rather than the creation of additional lots. The basis for boundary adjustments in this Plan is that they are given the least onerous activity status that the RMA allows for subdivision activities (controlled), where they will have minor effect."*
- 3.2.3 It is accepted that boundary adjustments will have a minor effect and is encouraging that some relief has been realised in terms of the degree that the existing lots may change. The Staff Report has recommended the increase from 5% to 10%.
- 3.2.4 The guidance for this percentage was taken from the Hamilton City District Plan and the Auckland Unitary Plan which are predominately urban districts that do not have as similar characteristics to our district as other districts. I believe guidance should be taken from more comparable adjacent coastal districts such as the Western Bay of Plenty, Kawerau and Waikato Districts. Of the three, it appears that only the Waikato District Council stipulates a maximum percentage for a boundary adjustment of 20%; the others appear to only be constrained by the minimum lot size created.
- 3.2.5 We consider that the guidance should be taken from the Waikato District Council for the Rural Zone and for practicality, the Residential, Commercial and Industrial Zones should remain at 10% as per the urban districts.

#### 3.3 RELIEF SOUGHT

Rule 2.1a – Boundary adjustment to be adopted as:

- a) The boundary line to be adjusted does not result in the existing lots changing by more than:
- 10% in the Residential, Commercial and Industrial Zones; and
  - 20% in the Rural Zone.

Or;

- Retain Operative District Plan's Section 705 rule.

### 3.4 ISSUE

3.4.1 The inclusion of the following rule:

**S38.4 Controlled Activities, Rule 2.1e Boundary Adjustment.** *“Where an allotment of 4 ha or more is created along the mark of mean high water springs of the sea or along the bank of any river in the Rural Zone an esplanade reserve or esplanade strip is set aside.”*

### 3.5 DISCUSSION

3.5.1 While boundary adjustment is a type of subdivision, it is not specifically creating new titles, rather is a reconfiguration of lot boundaries which will generally have minor effects. I believe that esplanade reserves with respect to subdivision is not compulsory under s77 of the RMA but ‘...may include a rule in its district plan...’

3.5.2 While we respect the Councils discretion to recommend an esplanade reserve or esplanade strip during boundary adjustment, it has been included at the Hearing Report stage where affected persons who have not raised submissions, nor further submissions can challenge the inclusion. This is a late addition to the initial consultation process and such a regulation should have full community input.

3.5.3 I also believe it is not compulsory requirement for lots over 4 hectares in size to have an esplanade reserve or esplanade strip to be set aside under the RMA.

3.5.4 The resultant subdivision will generally have minor effects.

### 3.6 RELIEF SOUGHT

3.6.1 We seek the following rule removed:

**S38.4 Controlled Activities**

**Rule 2 Boundary Adjustment**

**e) “Where an allotment of 4 ha or more is created along the mark of mean high water springs of the sea or along the bank of any river in the Rural Zone an esplanade reserve or esplanade strip is set aside.”**

### 3.7 ISSUES

- 3.7.1 38.6 Discretionary Activities - Rule 9. Subdivision creating one or more additional lots within the Rural Zone is a discretionary activity.
- 3.7.2 'Minimum average' to be retained.

### 3.8 DISCUSSION

- 3.8.1 The activity of Subdivision creating one or more lots within the Rural Zone is a Discretionary Activity in the Operative District Plan. It is recommended by the Staff Report that this activity will remain as a Discretionary Activity in the PDP.
- 3.8.2 We have been involved in Rule 751 of the Operative Plan that is the predecessor to Rule 9 of the PDP and found it already challenging to complete a subdivision due to the comprehensive analysis. This is under the Operative District Plan that has a fairly limited assessment criteria compared to the PDP. An activity status in the Operational Plan cannot be translated across to the PDP as equivalents. They have been strengthened considerably.
- 3.8.3 There are many submissions requesting that creating one or more additional lots in the Rural Zone be a Restricted Discretionary Activity. This would align more with the requirements of the Operational District Plan for this activity of subdivision. While the Plan needs to bring in the many assessment criteria, there needs to be a balance between protecting or enhancing the environment and the reality that subdivision is required for the area to continue developing, socially, economically and culturally.
- 3.8.4 Historically, a couple raised their children in a rural area, the children obviously reached adulthood, moved out, met partners, subsequently had children and remained in the rural area nearby to their parents and family. This is a basic model of potential population growth in any area. The option of staying in the rural area will be unable to be sustained if subdivision is to be restricted to the expected limited numbers in the Rural Area under this PDP as a Discretionary Activity.
- 3.8.5 By having Rule 9 of the PDP as Restricted Discretionary Activity also creates certainty of the assessment criteria under Table 5 as there is no assessment criteria for a Discretionary Activity. As proposed by the PDP, this is a relatively unknown factor until an applicant begins the full process.

### 3.9 RELIEF SOUGHT

- 3.9.1 Subdivision creating one or more additional lots within the Rural Zone to be a restricted discretionary activity.
- 3.9.2 We also support the notion that the 'Minimum average' be maintained and not amended to 'Minimum' as promoted by the Staff Report in Table 2. (Point 14a).

### **3.10 ISSUE**

- 3.10.1 ASSESSMENT STANDARDS, MATTERS AND CRITERIA, Table 2.** The minimum lot area when able to connect to wastewater and when connected to wastewater reticulation has been amended to increased minimum lot sizes of 800m<sup>2</sup> and 1,200m<sup>2</sup> in the Coastal Living Zone.

### **3.11 DISCUSSION**

- 3.11.1** Prior to the Hearing Report, the minimum lot area when able to connect to wastewater and when connected to wastewater reticulation was 600m<sup>2</sup> and 1,000m<sup>2</sup> respectively for the Coastal Living Zone. This has now been amended to increased minimum lot sizes of 800m<sup>2</sup> and 1,200m<sup>2</sup>.
- 3.11.2** While there were some submissions requesting this, there are others, including ourselves that did not submit to this as the status quo was acceptable. As a consequence of the initial submissions, we did however, submit further submissions to this issue.
- 3.11.3** The main reason that the Staff Report increased the minimum lot size of 600m<sup>2</sup> to 800m<sup>2</sup> when connected to a wastewater reticulation was to differentiate between the Coastal Living Zone and the Residential Zone, and to better align with the Description and Purpose of the Zone in Section 41. The Staff Report also notes that it is visible from water.
- 3.11.4** Increasing the minimum lot sizes will not decrease the built area as the site coverage is a percentage of the lot size, nor will it decrease the visibility from a public area as it does not alter the building height. The result will be larger, wider houses on the lot. Increasing the lot size is an incomprehensible action in terms of using this valuable resource of the Coastal Living Zone. There are limited future Coastal Living Zones on the Peninsula and under this PDP, expect there will be minimal, if any additional Coastal Living Zones ever identified. This will no doubt lead to an increase in section prices and less affordable living for families and the older generation looking at relocating to the Coromandel for an improved lifestyle in this Zone.
- 3.11.5** The Staff Report support for increasing the net lot area for sites not connected to wastewater reticulation to 1,200 m<sup>2</sup> is because of the potential cumulative adverse effects on groundwater and surface water bodies in these locations from insufficient land area (especially on steep slopes, clay soils and where there is a high ground water level) from wastewater treatment and discharge.
- 3.11.6** Without case studies or technical data supporting this statement, it is difficult to confirm nor disprove. It is also questionable how an additional 200m<sup>2</sup> was determined, the same proposed increase as the reticulated lot.
- 3.11.7** We do agree that the treated wastewater disposal area will be influenced by the slope, soil and groundwater levels. When Table 2 is to be used for matters of Restricted Discretionary Activities and Discretionary Activities, I believe that it would be expected that local soil conditions would be investigated by a relevant professional, a report generated and a wastewater treatment system elected to best suit the lot size. By keeping the minimum size 2(b) to 1,000m<sup>2</sup>

will not increase the cumulative adverse effects on groundwater and surface water location if the applications are processed with qualified evidence.

3.11.8 Technology and engineering expertise should be able to determine whether allotments can be created at a nominated size and also include on-site disposal of wastewater in a sustainable way.

### **3.12 RELIEF SOUGHT**

3.12.1 38.7, Table 2 a) & b) to revert to original sizes of 600 m<sup>2</sup> and 1,000 m<sup>2</sup> for the minimum net lot area when the lot is able and not able to connect to a wastewater reticulation respectively in the Coastal Living Zone.

## 4.0 SECTION 29: BIODIVERSITY OVERLAY

We provided three submissions and ten further submissions regarding Section 29.

### 4.1 ISSUE

4.1.1 Removal of "Indigenous Vegetation" and replaced by all "Vegetation"

### 4.2 DISCUSSION

4.2.1 A significant variation between the PDP that was released for submissions and the document proposed as a result of the Staff Report and assessment is that where the Plan referred to "Indigenous Vegetation", the term has been replaced by all "Vegetation".

4.2.2 Upon reviewing the Planners Report to determine the reasons for this substantial change it appears that it is not as result of any particular submission requesting the change but rather is an outcome of the analysis of submission number 182.4.

4.2.3 Submission 182.4 requested change was "In Section 6 and 29: Replace the words "indigenous vegetation" with "areas of significant indigenous vegetation". Further review of their full submission is that it will allow the Plan to better align with the terminology used in the RPS and the WRC report on Significant Natural Areas (SNA's) which are the foundations of Section 6 and 29.

4.2.4 As a result of submission 182.4, somehow, this simple request has transformed Section 29 to the stage that is almost completely rewritten. This is justified through the Staff Report statement that *"the biodiversity provisions are intended to apply to all vegetation regardless of whether it is significant or non-significant indigenous vegetation or habitats of indigenous fauna"*. It is unclear to us how this statement, not directly raised or stated by any submitter can change the plan with such influence.

4.2.5 The change to include all Vegetation at this stage appears to circumvent part of the consultation process for the PDP. Only persons or groups that have submitted to the relevant sections can now present evidence at the Hearing. I believe if the Plan had been released as it is written now, the submissions would have focused strongly on the aspect that all vegetation was included. Also, I would expect many would disagree with the proposal using valid arguments.

4.2.6 To include all vegetation, including exotic species to New Zealand will have a large impact in preventing people from reasonable use of their property. It also has some ambiguity in application, for example, if a large Macrocarpa or Pine is cut down in the Rural Zone of the Coastal Environment, it may be argued by TCDC that it did not enhance the ecosystem by removal, therefore it was not a permitted activity. This would be a Restricted Discretionary Activity requiring a Resource Consent. It has created a complicated system that will use up valuable time and resources, which is not common sense.

4.2.7 The Staff Report in Section 38 argued that the district did not retain conservation lots through the subdivision process as around 99,000 hectares



or 45% in the District is 'legally protected. If such a large area is already protected, private property should retain more control over their vegetation.

4.2.8 I can understand the basis of the application to Indigenous Vegetation. However to change that to all Vegetation at this late stage will have a large impact on the reasonable use of property owners' resources. Full community consultation is required if this change is to be proposed. It is therefore inappropriate.

#### **4.3 RELIEF SOUGHT**

4.3.1 The modified "Vegetation" to be returned to "Indigenous Vegetation".

## **5.0 SECTION 6 – BIODIVERSITY**

We provided 5 submissions and 14 further submissions regarding Section 29.

### **5.1 ISSUE**

5.1.1 Objective and Policies are overzealous when practically applied.

### **5.2 DISCUSSION**

5.2.1 As you will be well aware, Section 6 is the foundations to many activities in the Plan, particularly Subdivision. Discretionary and Restricted Discretionary Activities will be directly or indirectly measured against the Objective and Policies.

5.2.2 While few will dispute that the Biodiversity is an important attribute of the District that needs protecting, we believe that the Objectives and Policies are overzealous to the practicalities of Subdivision. It could unintentionally create prohibition by way of regulation. Again, considering the fact that around 99,000 hectares or 45% in the District is already 'legally protected', communities need to use the resources in the district.

5.2.3 We oppose the exceedingly high standards set out in 6.3. As persons with past experience in subdivision in the District, these are seemingly impossible ideals to accomplish. It will be an incredibly expensive and lengthy process to prove that these objective and policies will be adhered to, often with equally expensive mitigating measures with no certainty that the activity can occur.

5.2.4 A balance needs to be made between required subdivision and the environment that we all live in. Biodiversity is often for the community good, there is no reason the community cannot give financial contributions to the cause. This proposed provision will penalise private land owners without compensation or financial assistance.

### **5.3 RELIEF SOUGHT**

5.3.1 Section 6 standards to be lowered in the entire section so subdivision could occur, particularly in the Coastal Environment; and

5.3.2 Community financial contributions for biodiversity be granted via the District Council to persons/groups going through this process.

## **6.0 CONCLUSION**

- 6.1.1 As a member of a pioneering family of Opito Bay that still owns freehold title of the property in the proposed Rural Zones with influence by the Coastal Environment, we hope that we can still have reasonable use of our property for farming operations.
- 6.1.2 Additionally, subdivision is often required on a property like ours to offset the high rates. We hope that subdivision is still achievable under this Proposed District Plan, particularly in the Rural Area.
- 6.1.3 Thank you for your time and have faith that the recommended changes can be fulfilled. Any further questions?