

Proposed District Plan (PDP) Hearings 11th March 2015

Pre Circulated Comment on the Matarangi Structure Plan and Related Matters from the Holes 1 and 2 Group at Matarangi Group

- Thank you for allowing us to present to you on the 11th March on the PDP specifically as it affects residents at Matarangi.
- My name is Rod Cameron. I represent the owners surrounding the Open Space that is currently holes one and two of the Matarangi Golf Course - Lot 36 DPS 72837 of 5.3685 hectares (Lot 36). I also represent many other owners who have made individual submissions with similar concerns as regards the pre circulated PDP and who have made further submissions on the notified PDP.
- I will have with me:
 - Graeme Lawrence our planning advisor to answer any specific planning questions that may arise from our submissions, the reporting Planners Report and our Council accepted Plan Change 14 and its various attachments and requests.
 - Rod Inglis who will if necessary give voice to those submitters that do not have properties adjacent to Lot 36 but who, along with the whole of Matarangi, will be dramatically affected by any of the Open Space that is currently a golf course being used to develop structures or for further residential land lots.
- As a group owning properties surrounding the Open Space that is holes 1 and 2 of the Matarangi golf course we were forced to take action starting in December 2009 when Matarangi Beach Estates Limited (MBEL), the former owners of Lot 36, obtained planning advice to use this lot for what we were led to believe was to be a multi lot residential subdivision.
- Among other actions we commissioned Graeme Lawrence to investigate the planning history of Lot 36 and confirm that this was open space created as a separation of the residential housing cells developed progressively in an east to west direction on the Matarangi Peninsula following a 1977 Planning Tribunal Decision, the 1978 first Generation of the Matarangi Structure Plan and a 1997 Town and Country Appeal Board decision.
- Graeme's Report dated 30th March 2011 concluded by confirming that all development rights had been transferred out of Lot 36 as part of the housing consents for all the land on the north side of Matarangi Drive.
- Lot 36 and the Spit End (formerly Lot 35 and now part of Lot 19 DP331131) were left out of the Matarangi Structure Plan in the 1997 District Plan Review as this plan was designed to guide the gradual development of the remaining undeveloped land – including the required but as yet unidentified Open Space. These land parcels were left out as all development that could take place north of Matarangi Drive and a small section in The Pines on the southern side had taken place. The Council and the developer at that time acknowledged this by leaving it out of future development plans as it did with all other open space and residential development outside the undeveloped southern side of Matarangi Drive.

- Council processes (or the timing of them) did not ensure that the spit end and Lot 36 were covenanted as Open Space in an enduring manner that was agreed and that is quantified in the various planning decisions involving these areas. Council should ensure that these errors are rectified in the PDP (which to a large extent they have) but more importantly do not allow current or future developers to conclude that they can take advantage of them and develop Open Space in a manner that disadvantages every resident but themselves financially.
- MBEL ownership was transferred from Hanover Finance to Allied Finance. Allied Finance bankers almost immediately put MBEL into receivership.
- Following two threats by the Receiver to implement the Hanover subdivision plan for Lot 36 and with the help of Graeme Lawrence we applied to the Council for a Plan Change to further clarify the current Recreation Passive zoning.
- This request made on the 24th July 2011 (and updated 23rd September 2011) was accepted by Council and is known as Plan Change 14.
- Plan Change 14 is currently on hold as most of what was requested in this change has been incorporated in the Proposed District Plan (PDP).
- Clearly lot 36 was created as open space and originally zoned as such in exchange for housing development and in line with the various authoritative directions starting in 1977.
- Various iterations of the District Plan have changed the zoning designation of Lot 36 from Open Space Rural B to a Conservation Zone to a mixture of Open Space and Recreation Passive.
- To be sure that, through you as Commissioners, Council understands that the original intent was to keep this open space free of structures we attach a table prepared by Graeme Lawrence that quantifies the zoning changes and the fact that all development rights for Lot 36 have been transferred elsewhere. The PDP recognizes this by returning the zoning to be more closely aligned to its original Rural/Open Space zoning.
- The PDP has included some policy as regards Open Space that is currently a golf course at Matarangi but in our view has incorrectly rejected the many requests and submissions to have more specific policy to guide future planners and to ensure that they are not bullied into unacceptable compromise as has been the case with all of the more recent development to the south of Matarangi Drive.
- The reporting Planner in his S42 Planners Report (on the PDP submissions) says that the Matarangi Structure Plan and the provisions of the PDP are sufficient to guide future Planners. By returning Lot 36 and the rest of the Open Space towards its original zoning is a big improvement but the confusing planning direction in the PDP could give rise to planning blunders in the future.
- It is our view and the view of all of our many supporters that the flexibility retained in the PDP as regards Open Space that is currently the Matarangi Golf Course (and particularly lot 36) does not adequately convey the planning history of Lot 36 or in fact convey even the current zoning as regards buildings to future Council Planners leaving the residents in the continuing and unacceptable role of "Planning Policeman".
- Following the poor planning decisions and less than adequate resource consent condition approval process over the last few years Council owes

us a more certain planning future than is in the PDP especially as it relates to Lot 36. We will give an example of this and comment more specifically on these last 3 two bullet points on the 11th March..

- In its Planner report to you as Commissioners the current owners seemed to have based their argument for rezoning the Open Space at Matarangi that is currently a golf course (particularly Lot 36) as residential on clause 3.2 quote *“I accept that the historical planning documents sought to retain the subject site as an area of publicly accessible open space. However, I note that this was an outcome promoted by the original land owners, Matarangi Beach Estates Limited (MBEL) as part of their initial development plan for Matarangi. It is my understanding that the intention to keep the land for publicly accessible open space was never formalised (e.g. through an encumbrance on the title, designation or land acquisition) between the then landowner and the Council. Consequently, Council has relied upon the good will of the previous landowners and the open space zoning of the land in the planning documents for its protection as publicly accessible open space. MBEL has subsequently sold the land and it remains in private ownership. Golf (2012) Limited, as the current owner of the site, does not support the subject site being zoned open space and in particular the intention in the PDP that the subject site remain as open space and publicly open space, even if a golf course no longer operates at the site.”*
- Clearly the attached table of the Lot 36 planning and zoning history confirms that Lot 36 has not relied on the “goodwill of previous landowners” but was the result of detailed planning decisions and consents negotiated between the Council and these referred too previous developers.
- It is to prevent this sort of argument being used by a current or future owner with current or future planners to re introduce development rights for Open Space where these have clearly been traded out.
- It is to prevent this sort of argument that we need sensible and workable rules to guide future planners even if the rule is as basic as “there will be no structures permitted on Lot 36”. This will not necessarily stop and owner applying for Resource Consent in future to change the rules or to seek permission to erect something but in our view it needs to be a non complying activity.
- In summary as a group:
 - We totally support the PDP especially as it refers to Matarangi zoning and the Matarangi Structure Plan.
 - We support the submissions previously made and to be made we understand on the 12th March 2015 by the MRAI.
 - We do not support the request by the current owners to rezone the Open Space that is currently a golf course as Residential. This land has had all its development rights transferred out for the benefit of past developers at Matarangi and was created to comply with the various authoritative planning directives since the 1970’s and for the benefit of all Matarangi residents. The current owners of Lot 36 knew this or should have known this before they purchased the Open Space that is currently a golf course.
 - We request that the Commissioners take note of the poor council planning decisions and code compliance processes since and

including Stage 16 and the reasons for that by acknowledging the requests of pretty much all submitters to have unambiguous policy rules as regards Lot 36 and the rest of the Open Space that is currently a golf course.

- We have no comment on submitters objecting to or wanting alterations to the Open Space zone in the PDP for reasons remote from Matarangi except to say that we ended up with the Recreation Passive zoning that is in the current District Plan largely through matters unrelated to Matarangi. We do not want a continuation of district wide zoning without specific policy that recognises the unrelated planning history of various communities in the region. This may complicate the PDP but it will clarify and un-complicate the decision making process arising from owners or developers wanting to try and “double dip” on residential development in Open Space zones to the detriment of a community and its planning policy.

TABLE 1: EVOLUTION OF PLANNING PROVISIONS IN PLACE TO PROTECT OPEN SPACE			
Plan	Action Initiating Decisions	Method	Scope
Coromandel County District Plan	1977 Planning Tribunal Decision Under Town & Country Planning Act 1953	Residential Cell at eastern end Future Development Cells surrounded by open space to be progressively provided by Plan Change as “need” is established	Development Cells surrounded by open space. Open Space identified as Rural “no development” if held in private ownership otherwise vested as public reserve
Coromandel Division District Scheme	Operative 1978	1 st Generation Matarangi Structure Plan Future Development Cells	Cells surrounded by public and private open space. Rules developed by Plan Change & Structure Plan in place. 100 m ocean setback and Spit End identified as having high natural character, at risk to coastal erosion and to be retained for public access. Golf Course concept being developed for use of open space by Woodhead Properties Ltd and Rothmans.
Thames Coromandel District Scheme Becomes Transitional District Plan	Notified 1986 Operative 1990 RMA 1991	<u>Private open space zoned Rural B.</u>	18 hole Golf Links concept being by Bob Charles Rural B zone purpose to keep land clear of buildings, for areas subject to erosion and for private open space such as airfields or bowling greens and new golf course at Matarangi. Council Public Work Designation in Place over Spit End and

			100m ocean setback.
Thames Coromandel District Plan	Notified 1997	<u>Conservation Zone</u>	Applied to all spit end golf course and Open Space
	Decision 1998	Agreement reached between developer and Council that golf course could establish on open space and recreation policy areas	Golf Course design refinements being made. Council agrees to uplift public work designation over spit end and 100 m setback of holes 1 & 2 in return for covenant that the land will vest in Council if it ceases to be used for golf course
	1999 Appeals over future development areas south of Matarangi Drive	Conservation zone to be split into Recreation Policy Area and Open Space Policy Area of Coastal Zone August 2001 resolved by consent with provisions for Structure Plan	Incorporates the land to be used for Golf Course south of Matarangi Drive Structure Plan contains rules for covenants to be put in place to protect open space in perpetuity. Holes 1 & 2 and spit end are beyond the scope of appeal so outside the Structure Plan
Jan 2009 Council resolves to make District Plan operative in part	Operative 2010	Matarangi Structure Plan operative with zones in place instead of policy areas over land to	Spit end subject of covenant. Oversight by Council leaves 100 Ocean setback on Lot 36

		be retained as open space	(containing Holes 1 & 2) out of covenant. Balance of golf course under Structure Plan requires covenanting as open space
Variation #3	<p>Council notifies variation to turn policy areas into zones</p> <p>Appeal by Matarangi Ratepayers Assoc Inc(MRAI)</p> <p>Appeal resolved by consent</p>	<p>Variation #3 notified applies to whole of District</p> <p>Appeal lodged to address need to make provision for golfing on Matarangi Golf Course</p> <p>Variation #3 amended to provide for golf course on <u>open space and recreation passive zones</u></p>	<p>Outstanding issues at Matarangi not addressed</p> <p>Limited in scope on understanding issues covered in agreements with developer, in covenants or Structure Plan rules</p> <p>Rules to ensure golf course considered as a single site and floor area or site coverage of buildings and structures limited to 100m2 for whole site.</p> <p>Ongoing meetings with MRAI Council and Developer to address and resolve issues as they arise.</p>
Developer goes into receivership	Covenant over spit end removed	Private land in new ownership	Concerns over protection of open space
<p>July 2011 Landowners surrounding Lot 36 containing Holes 1 & 2 initiate a request for Private Plan Change</p> <p>December 2011 Council approves Plan Change 14 for notification</p>	Council approves Plan Change 14 for notification	To recognise and provide for the recognition that Lot 36 (as for the balance of the land comprising the golf course) has had all development opportunities traded out to other locations within Matarangi.	<p>Key components of Plan Change 14:</p> <ul style="list-style-type: none"> • Include Lot 36 (Holes 1 & 2) in the Structure Plan • Add to purpose of structure plan protection of open space provided by Lot 36

		<p>To ensure that with change of ownership open space areas were retained and double dipping prevented from occurring.</p> <p>Plan Change put on hold pending preparation of new District Plan & Review</p>	<ul style="list-style-type: none">• Add rules to prevent subdivision other than boundary adjustment• Provide Prohibited Activity status for houses and accessory buildings and other activities that would compromise the open space provided by Lot 36
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