

Workshop notes

Significant natural and historic heritage ('significant areas')

Tuesday 7 October 2014 - Toll Stadium, Whangarei

Workshop leads - James Griffin and Jon Trewin

Attendees

Keir Volkerling, consultant

Chris Richmond, Living Waters

James Witham, Resource Management Planner, Department of Conservation (DOC)

Marie-Katrin Richter, Opus

Phillipa Campbell, Opus

Jane Price, New Zealand Transport Agency (NZTA) Vince Kerr, mtsct

Tyneal Windelborn, Te Rarawa

Blair Peters, Te Rarawa

Bronwyn Hunt, Te Runanga o Te Rarawa and reconnecting northland

Bill Edwards a Heritage New Zealand Pouhere Taonga

Anne Warner Farmers of New Zealand

Garry Hooker Farmers of New Zealand

Gwyn Morgan Federated Farmers

Katrina Goddard, Marine Conservation Advocate for Forest & Bird

Colin Rameka, Lake Omapere Trust

Vaughan Cooper, Northland Inc

John Booth

Jodie Mitchell, Heritage New Zealand Pouhere Taonga

Regional council staff

Lisa Forester

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Session 1: Identifying significant areas

A 10-15 min presentation was carried out by NRC outlining scope of topic and how significant areas are currently identified (or not), along with a proposed approach for how they could be identified in the future. This was followed by facilitated discussion - both in groups and altogether.

Key questions for the discussion:

1. Do you agree with...
 - Removing MM1 areas and using overlays based on identified values? – Group
2. Thoughts on identifying...
 - Significant marine biodiversity–Criteria & Process - Group
 - Natural character values and ONFL's in freshwater, coastal areas? - All
 - Heritage, including the process? Bill Edwards – All

Notes from open discussion on identifying significant coastal areas

- Question on Bay of Plenty example where cultural areas have been mapped and how has this been done? Generally BOP have used statutory acknowledgement areas.
- Question on ONFs (Appendix 4 in the Proposed RPS for Northland), are more listed here than what's currently in the Geoscience inventory? No . The issue is that they are not spatially identified so mapping them now would involve putting boundaries around locations that are currently only identified by a point. In addition , freshwater features are not well identified by Geoscience inventory. More features may be identified through submissions on a new regional plan.
- National MPA strategy - to what extent does marine biodiversity mapping accord with it? It will be taken into account and used to help inform marine mapping.
- Auckland plan, does it use an overlay based approach? Yes, so does Bay Of Plenty RC for that matter.

Group Discussion on MM1 zones and biodiversity

What people thought about removing MM1 zones (and replacing them with more overlays of more specific values)

- Generally participants were OK with the principle of the overlay approach.
- This will lead to more certainty - but will really need good science and info if MM1 zones are removed and have overlays.
- NRC staff comment – we intend to confirm the RPS maps of ONL's/ONF's¹ and natural character first before putting biodiversity overlays into plans.
- The overlay approach is consistent with what is happening around the country and overlays need to take into account current land/sea use and there need to be 'trade offs'.
- If you get overlays right then it can work well and provide information for consents applicants i.e. criteria make it clear what an AEE2 needs to focus on. They can go bad though e.g. Gisborne - which is over-zealous about the emphasis on significance.
- Clear and robust criteria are necessary.
- Using overlays will be much more user friendly as they don't create a "catch all" but are specific.
- There would be benefits of a combined approach between mapping and using a criteria base for identifying area e.g Cape Brett could be protected through a zone. Could create an issue that zoning of some areas could lead to developers arguing that they can now do whatever they want in areas which are not zoned.
- In terms of mapping significant marine biodiversity, it was suggested existing science and knowledge are used as there is a lot available.
- There was widespread agreement that mapping and identification is needed but it will need to be done carefully.

¹ Outstanding Natural Lanscapes and Outstanding Natural Features

² Assessment of Environmental Effects

- Because there is a distinction in NZCPS3 Policy 11 between 'avoiding effects on significant biodiversity' and 'avoiding significant effects on other biodiversity values' it was suggested that underlies the need to identify significant sites and better describe other values.
- There was also discussion on the links with NZCPS Policy 5 and marine biodiversity. It was suggested that DOC4 will be producing guidance on this and policy 11 in the future.
- One challenge will be accounting for future use and not constraining it unduly.
- There was a comment that suggested linking cultural landscape mapping with biodiversity.
- Mapping is critical, particularly for protecting significant elements (as apposed to just using criteria to identify significance). (Bay of Plenty Regional plans were given as a good example with detailed high resolution mapping).
- Take a risk based approach to mapping - not everything needs to be mapped everywhere.
- Maps will need to be updated and can't be left another 20+ years (time since current plans were first drafted).
- Discussion on NRC top wetlands project which did a ranking of harbours and estuaries for biodiversity. Criteria used a national approach. Waipu estuary came out no.1 and Whangarei no.2. Question - has this information gone out to landowners? It will be good to test this with landowners and the community and to do it through the regional plan draft process. Best way to contact people is to phone them and to get them along and the start of the process.
- NRC could split Northland up in to regions and get marine biologists to identify the feature / value. This could however become very expensive. Marine biology experts should get involved early and help with the splitting up of the coast into zones. Their involvement will speed up the process immensely. NRC should also try and work with crown institutions, NIWA, Universities etc..
- There will need to be comparison of overlays vs exiting MM1 zones in s32 cost/benefit to identify risks/costs.
- Comment that this also relates to new rules/provisions in overlays & extent to which underlying MM2 provisions catch / manage other values.
- Overlays more consistent with Auckland plan - currently not consistent across boundary e.g. Kaipara harbour (Auckland uses overlays).
- Regarding the implications for MM2 – i.e. would MM2 rules / provisions relax given overlays identify significant areas there were comments that there could be some relaxation of control in MM2 on a number of activities that are known to be benign or of minor effect, but as overlays are unlikely to map all significant areas so some precautionary policy/criteria needed in MM2 zones.
- There is currently not a lot of detail on what NRC are trying to protect (in the coastal plan), e.g. protection of birds is mentioned, but no detail on what kinds of birds.
- Group agreed that most plans are heading this way (removing MM1 areas and using overlays), and Northland should too. But the 'devil is in the detail', and there will be a lot to be considered for inclusion into the plan including ecological and heritage

³ New Zealand Coastal Policy Statement

⁴ Department of Conservation

values which are currently not being protected at all. Detailing the values why an area is protected will provide much more clarity for developers.

- NRC should develop criteria which can be applied to areas where there are no overlays so that they can be applied to developments / consent applications. These criteria could drive the identification and could then also trigger a requirement to update the plans.
- There was concern raised regarding the cost of undertaking a lot of investigation to identify ONF. But there is a lot of information already available from a wide range of sources, this will need to be pulled together. Maybe seek funding from central government?
- NRC should develop a marine spatial planning exercise (might have to be in stages) i.e. this should become part of the coastal planning approach. Integrated planning (e.g. with catchment management plans) is the way to go, this links in with national policy.
- Comment that interaction with cultural values will be important – e.g. kaimoana. Plans have traditionally tended to split things up and can overemphasise natural values over the cultural values. Cultural values should be a part of the criteria. as should the Treaty of Waitangi
- Need to be conscious of the impact of mapped areas on land use. E.g. Protecting sea grass may mean restricting land use further up-stream.
- Some habitats are obvious (e.g. seagrass beds, salt marsh, etc...), other habitat not so obvious - e.g. rocky reefs have been mapped but biodiversity values may not necessarily be significant.
- what degree of confidence / certainty do we need to identify an area as
- having significant biodiversity values
- having high values
- How precautionary can we be (e.g 80% sure the values exist?).
- Mapped reef habitat is unlikely to be able to translated directly into a plan as a significant biodiversity overlay - it is an indication of habitat only, not significance?
- The RPS criteria need to be refined for marine/aquatic environment as the criteria is more terrestrial in nature. Will also need some guidance in application. Boundaries very difficult to define in CMA as this is a very fluid environment.
- Comment that there could be a dependency on MPA data, bio-region assessment and mapping by the Ministry of Conservation.
- It was mentioned that council is likely to need (potentially a lot of) funding for a thorough biodiversity mapping exercise.
- Process - there is a risk that the plan review process could duplicate the MPI area programme which is looking at rarity (rarity is also a criteria in Appendix 5 RPS). Central government is going to undertake a marine protected area assessment / mapping exercise as a priority. NRC should therefore not consider amending its plan until this is complete to avoid duplication of effort . The Government may prioritise Northland and if so, would this conflict with the RPS/NZCPS or be fit for RMA purpose? Timeframes of the MPA work unlikely to align with the regional plan process and the work relies on an MPA forum which is complex in Northland.
- Procedural steps are likely to be, first data collection and then a collaborative approach for methodology development. The draft methods/maps will then need to be tested with the community and peer reviewed by NIWA.

Presentation on Identifying Heritage

Bill Edwards, Heritage NZ, gave a presentation on identifying heritage with a focus on the marine environment. Key points from presentations:

- Heritage = names associated with people or events, fishing grounds, caves, wharves, maritime navigation, archeological sites, industry, defence, resource areas, ship wrecks.
- Coastline is important to heritage and a focus of activities, now and in the past.
- Protection = identification. Archeological sites protected by both the RMA and Heritage Act, particularly where in a plan and mapped and accessible to the public.

Notes from discussion in open forum on identifying heritage

- Regarding mapping heritage the NZAA archaeological sites (currently 14,000 identified in Northland) were identified as a starting point to then mapping the highest value sites.
- Often councils will rank or identify sites under Resource Management Act (RMA) section 6 as the test for what should be mapped.
- Some use alert layers, some identify these sites but have no policy, others identify and have protection policy and rules. The proposed RPS has criteria to identify historic heritage which requires us to make a plan assessment.
- Suggestion that the Regional Coastal Plan is the place to protect marine heritage.
- With greater heritage identification there is the increased potential for fossicking. Illegal to do it but it can happen without regulators knowing and we have to recognise that everyone is not caught. Way forward is to continue to increase awareness but we need to identify it first to provide meaningful protection.
- It was felt by some that there are two competing systems in NZ - Kaitiakitanga versus the western system. We need people on the ground that have better means to look after things and government should be supporting these people. There are different perspectives to Kaitiakitanga and the more attempts to codify Maori custom exacerbates the problem.
- S6 heritage definition talks about landscapes, not just sites, and a planning response needs to account for this. Need to have effects based response in regional plan, less emphasis on identification.
- Maps need to be continually updated.
- Recognition that some people don't want to give up knowledge and would rather maintain a silent file.
- Comment that the trouble with hierarchical systems is that they change over time. A seemingly low value midden at present may, in the future, be found to be highly significant. Context is also important to heritage.
- Comment that to address things that aren't (can't) be mapped - need to have criteria.
- Auckland unitary "guesstimate" approach is not a good approach as it doesn't provide certainty. They have massive databases and use alert layers. Huge amount of sites with buffers, e.g. 100m radius, with associated consent requirements but sites weren't researched. This approach is counter-productive and waters down any real protection. Generally this approach is not supported. Also activities that are caught are nonsensical and don't relate to the values.

- Dual approach - often district plans would identify assets in a non-statutory way with processes in place if assets are found on the ground. Separate to this, plans identify significant heritage.
- Auckland have performance measures for measuring the state of historic sites and do SOE monitoring based on this.
- Question on why the 1900 date is used in Auckland? Mainly for political reasons as we don't want all of Ponsonby to be a historic site.
- Question - what about cultural sites that don't have archaeological evidence? May receive some protection as wahi tapu areas, but don't have any legal protection under the Heritage Act. Tikanga can be used to support legal protection.

Session 2: Managing significant areas

NRC staff undertook a short presentation (10-15mins) outlining the current approach to managing significant areas and a proposed approach for how they could be managed in the future. This was followed by facilitated discussion (in groups or all together).

Key questions for the discussion,

How do you think significant areas should be managed?

Do you agree with...

1. Coastal (**Group**)
 - Clarifying what is meant by an adverse effect.
 - Retaining generally strict MM1 rule base for outstanding values?
 - Approach for offsetting and compensation
2. Not having specific rules for Natural Character in freshwater but rules for ONFL's where appropriate (**All**)
3. Having dedicated heritage policy and rules (**All**)

Notes from discussion in open forum

- Some thought that offsetting is not likely to be used much in the Coastal Marine Area (CMA).
- Adverse effects - defining them is contextual, values based. Adverse effects are also a combination of effects.
- The rules should reflect what the community want - e.g. aquaculture proposals that are iwi owned/initiated in communities where there are few opportunities.
- No guidance currently about what might be appropriate offsetting.
- It was felt by some of the group that if something is so special that it needs to be protected (e.g. a wetland) then the landowner should be compensated for doing a good job. Rates relief as a tool should be utilised if land is covenanted - land covenants are often used by councils. Rates relief should apply to contiguous land holdings. Note that councils don't have a lot of money and that if this decreases their revenue, this may not be palatable.

Group discussion on protecting significant coastal areas

What is meant by an adverse effect? Comments included:

- There is a need to identify the values intended for protection - be clear and specific (site specific wherever possible given changes in the 'avoid adverse effects' regime).
- Defining 'adverse' will be difficult but useful e.g. there were discussion about adverse effects that are not permanent and the difference between these and long term, short term and transitory effects.
- Reference to decisions in case law could be valuable to determine what an adverse effect is & what is a significant adverse effect. One suggestion was that DOC fund these works as part of their implementation guidance?
- What activities would not have an adverse effect should be assessed on a case by case basis. Some are benign and can in fact limit other effects, e.g. providing moorings can help avoid anchor damage; navigation aids without lights? Also relates to the receiving environment - e.g. will a discharge be the same or better than receiving water?
- Pest/plant & animal control could be allowed under controlled circumstances - e.g. chlorine to control styles; spraying spartina? Is this a transitory impact with positive effect over time...could we therefore permit this subject to terms/conditions (within the scope of NZCPS policy).
- In principle many parties agreed that some activities do not meet test for an adverse effect on the grounds that they are benign / transitory.

Retaining generally strict MM1 rule base for outstanding values? Comments included:

- A high test is appropriate but need to be refined for different values e.g. a discharge to water unlikely to affect ONL but will affect natural character / biodiversity. A structure may not affect biodiversity but will affect ONL / ONC.
- Current MM1 rules a good starting point & generally catches activities with known significant effects.

Approach for managing adverse effects including offsetting and compensation

- Some thought that offsetting is not likely to be used much in the Coastal Marine Area (CMA).
- There is uncertainty over where offsetting can apply i.e. it may not be possible to offset within outstanding places.
- Case law is evolving in this area in terms of reconciling existing development versus outstanding stuff - especially in remote areas e.g. use of offsets to get below policy/effects threshold, for example use an offset so effects no longer considered significant?
- It was noted that some values cannot currently be offset - e.g. significant biodiversity, but it may be possible to offset high natural character.
- DOC is heavily involved in offsetting initiatives and has good expertise. They are also involved in Auckland unitary plan and presenting information about offsetting. DOC does have some guidance available. There are some conversations happening about the implications of King Salmon - no sense of change to the NZCPS specifically, but government has signalled reform of the RMA generally.

- How do you tie landowners into the long term management necessary?
- Also there can be issues where the proponent doesn't own the land.
- Discussion on environment type funds - Taranaki has got a good model. Northland uses a similar model. Rotorua lakes was another example cited. In this example, a contestable fund is being used to reduce nutrient loading (however there is a requirement to prove that you're reducing nutrients).
- Hauraki Gulf experience - Firth of Thames operates effectively as a separate system. Firth of Thames does have sedimentation issues. They have been stabilised for now but not sure what's going to happen in the future e.g. when it might tip. Reactivated historic sediment versus contemporary sediment. What's the natural level of sediment? Still trying to understand the problem.
- Comment that it is important to note that there can be a lot of land in the CMA that is pasture.
- One particular issue raised was that the scrappy bits of land that have had drainage, but now drainage is not working and reverting back to an estuarine system.
- It was felt by some that council should not unduly constrain development by protecting marginal stuff. Need to recognise that the value of land is not just ecological or for heritage, there's also economic value.
- Important to note that often the costs of restoration are significant and communities can't afford it
- A lot of Maori land is undeveloped – there was a feeling (by some participants) that it is not fair to constrain development on this land to while surrounding land has been allowed to develop.
- Need to ensure that economic values are included when offsetting (alongside protection values)
- Generally the group felt that offsetting is a balancing act, and will be difficult to write a general rule that is specific enough. Developing a hierarchy to aim for the best solution is a possible way forward: avoid, remedy, mitigate, offset, compensate.
- One idea mentioned was to set up a trust for example to undertake marine spatial planning. Any significant resource consent could then be asked to donate to the trust to provide compensation if they can't offset their effects in any other way. This money could be used to offset effects. There may be legal implications of this however. Also how could this money be best use without "wasting" it on administration?
- Need to keep in mind that mitigation of effects for significant areas in a coastal environment is not applicable where the avoid regime applies in the NZCPS.
- Like for like & proximity are difficult factors to overcome but effect for effect may be more achievable, e.g. nutrient reduction in a catchment to offset fish farm or fishery quota purchase; removal of a derelict oyster farm to offset new farm.
- How does offsetting concept relate to absolute bottom lines?

Group discussion on mangrove management

- The current Regional Coastal Plan rules are a little inconsistent across zones; removal for certain reasons/methods are not recognised.
- Having to seek consent for removal for the purposes of maintaining site lines seems unnecessary. Roading authorities and District Council's generally do site-line trimming to a high standard but this may not necessarily be the case for other parties.
- The need for consent for small areas of removal may be unjustified (outside significant biodiversity/outstanding areas).

- When considering the case for an area based permitted thresholds there is a problem with incremental 'creep' of removal / cumulative effect of multiple removal sites.
- It may be better to relate control to the purpose of removal.
- There should be a test for how the outcome sought will be achieved, for example in many cases removal does not achieve a return to a sandy beach i.e. the outcome may be adverse effects of algal slime, sea lettuce, reduced habitat and amenity.
- Consent for removal can have ongoing obligations (monitoring/compliance/maintenance).
- When council staff were asked of the scale of illegal mangrove removal regionally, it was estimated that there are about 6 incidents investigated each year and that most are small areas.
- Consider recognising (permitting) the benefits of removing mangroves from salt marsh for ecological reasons e.g. they can invade saltmarsh or seabird roosts/ other habitat loss.
- The method of removal is important; particularly for permitted activities e.g. a digger should not be used.
- The group considered whether there a case for mangrove removal to be relaxed in development zones (MM3; MM4; MM5; MM6⁵). Group considered it should not probably be not carte blanche i.e. only where it they impede the use of zone. Although perhaps it could be permitted in MM5&6 and a controlled activity elsewhere.
- It was suggested that the general principle could be that the effect of removal be directly related to values of site. So high level of control in ONC/significant biodiversity areas - no control in MM5&6 (given amenity, natural character and biodiversity values are much lower than the intended by the utility of the zone intent). Area in-between (e.g. MM2/ high natural character) needs real consideration – i.e. test rationale, outcome sought, scale & methods of removal.
- It was mentioned that mangroves are a symptom of poor land management resulting in erosion and sedimentation. Land management issue therefore also need to be considered and catchment management could be part of the remedy (for mangrove spread).
- It was suggested that non-complying activity status is retained for removal in ONC/significant biodiversity/ONL.
- It was mentioned that the Regional Water and Soil Plan rules are weak & unclear on mangrove up creeks/drains and it is unclear the status they hold.
- Recognise that Mangroves are a good carbon fixer (approximately 8 tonnes/ha/annum. Also they help to stabilise sediment/silt.

Group discussion on protection of historic heritage

- Comment made that there are very few listed buildings in the CMA.
- Gazetting archaeological sites, e.g. wrecks is important (for their recognition and protection).
- Heritage NZ role is to identify. It's about knowing where it is so people can make good decisions.

⁵ MM3 (Marine Farming areas); MM4 (Mooring management areas); MM5 (Port Facilities) and MM6 (Wharves)

- Suggestion made that there was a degree of duplication between district and regional plans on heritage?
- Comment that we need to recognise that development pressure in the CMA not likely to be to the same intensity as outside the CMA. Principle management issue is how you deal with undiscovered heritage.
- Some support for scheduling. Concern expressed about the costs of investigative work where something might be identified but there is not enough information on it to determine appropriate management.
- Opportunity costs - identification is the key.
- Good model highlighted by a participant was the Kaikoura coastal road. Developers went along the whole road and identified all the areas that were sensitive and areas that were appropriate for disturbance to occur - for example deposition of fill.
- Comment that NZAA site list only shows the top of the site which in some cases might be the tip of the iceberg. Also issues with recording accuracy.
- Historic areas also important - e.g. at Marsden Cross which is in the CMA. Legal status of this areas is that it is just identification, any protection would come through the regional plan. Heritage NZ can supply these areas to the council.
- NRC comment - Historic heritage not currently mapped in the regional coastal plan.
- NRC comment - council already has an inventory of coastal structures it did in the early 90s which could be used.
- Old land claim maps may be helpful to determine location of heritage resource.