

**BEFORE HEARING COMMISSIONERS DELEGATED BY FAR NORTH
DISTRICT COUNCIL / TE KAUNIHERA O TE TAI TOKERAU KI TE RAKI
AT OMAPERE**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on the Proposed Far North
District Plan

**STATEMENT OF EVIDENCE OF SIMON JOHN COCKER (LANDSCAPE
EFFECTS) FOR WAITANGI LIMITED (SUBMITTER 503)**

**HEARING FOUR (NATURAL ENVIRONMENT VALUES & COASTAL
ENVIRONMENT)**

22 July 2024

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1. INTRODUCTION

- 1.1 My name is Simon John Cocker. I am the Principal Landscape Architect at Simon Cocker Landscape Architecture.
- 1.2 My evidence is given on behalf of Waitangi Limited (Submitter 503) in relation to the Proposed Far North District Plan (**Proposed Plan**).
- 1.3 Waitangi Limited's submission relates solely to the Waitangi National Trust Estate (**Estate**) which contains the historic Waitangi Treaty Grounds / Te Pitowhenua (**Treaty Grounds**). It is responsible for managing the day-to-day operations at the Estate.

2. QUALIFICATIONS AND EXPERIENCE

- 2.1 I have the following qualifications and experience relevant to the evidence I shall give:
 - (a) My qualifications and experience: Bachelor of Arts in Geography and a Master of Philosophy in Landscape Design, both from the University of Newcastle upon Tyne. I have more than 25 years' experience as a landscape architect, practicing primarily in the United Kingdom and New Zealand. In New Zealand, I was employed from 1994 to 2002 as a landscape architect by Boffa Miskell Limited at both their Auckland and Whangarei offices. From 2002 to 2004, I was a Parks Landscape Officer at the Whangarei District Council. Until August 2009, I was employed as a Senior Landscape Architect by Littoralis Landscape Architecture. Since that date, I have been practising as Simon Cocker Landscape Architecture.
 - (b) I am a Registered Member of Tuia Pita Ora, the New Zealand Institute of Landscape Architects (**NZILA**).
 - (c) As a consultant, my primary focus of work has been landscape planning. This has involved assessing the visual or landscape effects of a range of plan changes and development projects, including private dwellings, subdivisions, commercial developments, infrastructure projects, extensions to power stations and quarries, and developing mitigation strategies for those activities.
 - (d) I have also assisted Auckland, Whangarei, Kaipara, and Far North District Councils with the assessment of resource consents and private

plan changes from a landscape and visual perspective, and with the provision of landscape architectural advice regarding consenting matters.

3. CODE OF CONDUCT

3.1 While this hearing is not before the Environment Court, I acknowledge that I have read the Environment Court's Code of Conduct for Expert Witnesses (contained in the 2023 Practice Note) and agree to comply with it. Except where I rely on the evidence of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

4. BACKGROUND AND ROLE

4.1 I was engaged by Waitangi Limited in February 2023 to undertake a landscape assessment to support its submission on the Proposed Plan, which seeks to create a new special purpose zone (within the meaning of the National Planning Standards (November 2019)) to apply to the Estate.

4.2 I subsequently commenced my assessment of the landscape values and sensitivities throughout the Estate and the appropriateness of a special purpose zone as a planning tool to protect those values and sensitivities. That work is well advanced, and in my evidence, I provide an overview of my findings. I am continuing to undertake this work in consultation with Waitangi Limited's consultant planner, Ms Rochelle Jacobs.

4.3 Ms Jacobs originally proposed the use of a special purpose zone for the Estate and has been preparing a proposal to that end. I have reviewed her draft proposal and have discussed it with her.

4.4 In preparing my evidence I have also worked with Ms Jacobs to respond to matters relating to Waitangi Limited's secondary 'fall-back' relief as it relates to this hearing, including responding to the Far North District Council's (**Council**) reports prepared under section 42A of the Resource Management Act 1991 (**RMA**). I address these matters at section 8 of my evidence.

4.5 As explained in Waitangi Limited's submission, the primary relief sought by it is for the application of a special purpose zoning (or a precinct of similar

effect) to the Estate. This is preferred to its secondary relief in respect of parts of the Proposed Plan.

5. SCOPE OF EVIDENCE

5.1 The purpose of my evidence is to:

- (a) provide a high level summary of the landscape values and sensitivities at the Estate;
- (b) sets out why I consider that a special purpose zoning is an appropriate means of protecting those values and sensitivities; and
- (c) provide commentary on Waitangi Limited's secondary 'fall-back' relief in respect of the parts of the (notified) Proposed Plan which apply to the Estate and are being considered at Hearing 4.

5.2 I confirm that in preparing my evidence I have read in draft the evidence of Mr Ben Dalton and Ms Jacobs for Waitangi Limited.

6. KEY LANDSCAPE CONSIDERATIONS AT THE ESTATE

6.1 The Estate is situated on the north side of Waitangi.¹ It includes, but is not limited to, the Treaty Grounds. The Estate is 506 hectares in total and is bounded by Haruru Falls Road to the north and west, the Waitangi River to the south, and the coastline of the inner Te Ti Bay to the east (refer to **Figure 1** in the Appendix to my evidence). I have characterised the Estate into eight landscape character areas based on a commonality of topography, vegetation types and patterns and land use.

6.2 I have adopted the definition of landscape character as described in Te Tangi a te Manu (NZ Landscape Guidelines)², where landscape character is each landscape's distinct combination of physical, associative, and perceptual attributes. A landscape's character comprises:

- (a) both tangible and intangible attributes ('characteristics and qualities');
- (b) the attributes in combination (as a whole); and

¹ The Estate comprises Lots 1, 2 & 3 DP 326610, Lots 1 & 2 DP 152502, Lot 3 DP 51155, Sec 6 – 11, 15 & 16 SO 338905.

² Te Tangi a te Manu: Aotearoa New Zealand Landscape Assessment Guidelines', Tuia Pito Ora New Zealand Institute of Landscape Architects, July 2022. P105.

(c) especially the combination that makes a place distinct.

6.3 Landscape character is more than its physical elements. Character encompasses everything about a landscape: its physical, associative, and perceptual dimensions.

6.4 These eight character areas are described below and depicted in **Figure 2** in the Appendix to my evidence:

(a) **Bay coastal character area:** Located within the northeast corner of the Estate, this character area is defined and contained on its western, southwestern and southern sides by landform. Tau Henare Drive traces a section of the western character area boundary ridge crest and allows spectacular views across Te Ti Bay to the north and east. Conversely, the steep ridge flanks and ridge crest form a sensitive backdrop to views from the water.

While the upper ridge flanks are under pasture and the roofs of built development associated with the golf course are visible, when peeking over the ridge, the vegetated lower slopes and the bush-clad eastern slope of Hobson Hill lend this character area a natural appearance that is uncluttered by built form.

The visual catchment of this character area comprises the coastal marine area (**CMA**) within Wairoa Bay and the wider inner Bay of Islands to the north, northeast and east. It also includes terrestrial locations to the north of Wairoa Bay and views from Tau Henare Drive (and the adjoining golf course) and Bayly Road.

(b) **Treaty Grounds character area:** This character area occupies a broadly rounded headland with narrow coastal reefs that project subtly from the northern mouth of the Waitangi River and is topped by a very gently undulating crest that runs over to the mid reaches of the River.

This character area is generally visually contained within a robust structure of vegetation (mature kanuka shrubland, with pockets of puriri, totara, taraire and kohekohe), such that views from the west north and north west are restricted to its edges. This area is visually exposed on its eastern (coastal) edge, with the catchment encompassing Russell, Paihia, and the intervening seascape. Limited views into this character area are afforded from the golf

course to the north and northwest, from Tau Henare Drive to the west, and from the Copthorne Hotel site to the south.

This character area encompasses one of New Zealand's most important cultural landscapes and accommodates a number of heritage features associated with the signing of Te Tiriti o Waitangi / the Treaty of Waitangi in 1840.

- (c) **Coastal built character area:** Adjoining the Treaty Grounds character area on its southern side, the Coastal built character area occupies the same landform as described above, and shares a similar coastal character as its northerly neighbour. Small in area, this character area is confined to a narrow and low-lying peninsula that shelters the northern side of the Waitangi River mouth.

On its western edge, this character area adjoins Tau Henare Drive and its western half is dominated by buildings within, and car parks associated with the Copthorne Hotel and Resort Bay of Islands. On its eastern edge, the buildings are separated from the foreshore by a manicured lawn and a row of large phoenix palms. The contrast between the vegetated character of the Treaty Grounds, which imparts an indigenous character, and the eastern 'face' of the Coastal built character area, which is relatively open and 'exotic' in its vegetative character, is marked.

The southwestern edge of this character area contains the northern entrance to the Waitangi River is vegetated with scattered small specimen pohutukawa. These trees soften the appearance of the built form and areas of car parks on this river edge that are visible both from the water and from Te Karuwha Parade and the road bridge.

Located at the southern tip of the peninsula are the club rooms and boat and car parks of the Bay of Islands Yacht Club. The visual catchment associated with this character area is similar in extent to that described for the Treaty Grounds character area, but also includes the Waitangi River and road bridge to the south, and the northern part of Paihia (Te Ti Bay) to the southeast.

- (d) **Ridge (Recreation) character area:** This character area borders the Treaty Grounds character area on its northern and western

sides, and its eastern end straddles an easterly trending that bisects the northern part of the Estate (and forms the northern edge of the Hutia Creek catchment). At its eastern end, the ridge crest is some 20-30 metres in height with moderately steep flanks that slope down to the Waitangi River to the west and south west, and to Te Ti Bay on the east.

The topographical character of this character area is identical to the Ridge (Pastoral) character area to the west (described below), but is differentiated from that character area by its recreation (golf course) land use and consequent vegetative character. This area displays a parkland character with scattered specimen native trees, groups of native trees, and some isolated forest remnants. Built development within this character area is limited, with the golf course club rooms being the principal feature. These are located close to the ridge crest within the north western part of this character area.

Given the elevation and relative openness of the majority of this character area, it tends to be visually exposed to the wider landscape, particularly with respect to the visual catchment to the east. Notwithstanding this visual exposure, the western flanks of the ridge are more visually contained.

- (e) **Ridge (Pastoral) character area:** Lying to the west of and adjoining the Ridge (Recreation) character area, this character area shares a commonality with respect to its topographical character and degree of visibility from the wider landscape. This character area is bisected by a spine ridge that is traced by Haruru Falls Road and rises to a height of some 70 meters at its highest point (this being Hobson Hill in the northeastern corner).

The character area is almost exclusively under pasture, with vegetation confined to the lower ridge flanks. As with the Ridge (Recreation) character area, lower lying portions of this character area (on the southern ridge flank) tend to be less visible from the wider visual catchment.

- (f) **Estuarine coastal character area:** This character area encompasses the estuarine coastal margins of the Estate and adjoins the Ridge (Recreation), Ridge (Pastoral), and Southern

pastoral ridge character areas. The riparian margins slope steeply to the river and tend to be densely vegetated with native forest.

The character area also includes the majority of the catchment of the Hutia Creek, defined on its northern edge by the spine ridge that is traced by Haruru Falls Road. The ridge rises to a height of some 110 meters. With the exception of isolated pockets of exotic forestry, this character area is vegetated with native forest and displays high levels of naturalness.

The visual catchment is confined by the Hutia Creek and Waitangi River where these estuarine waterbodies adjoin this character area, or from the river to the east at its mouth. Views are also possible from the Haruru Falls settlement, where dwellings afford views to the river edges. The Haruru Falls Track traces the northern edges of the Waitangi River from Waitangi to Haruru Falls. This popular pedestrian linkage offers immediate views of the river and creek margins within this character area.

- (g) **Southern pastoral ridge character area:** This character area displays a commonality of character with the Ridge (Pastoral) character area. It comprises an undulating easterly trending ridge that rises to a height of around 80 meters, with moderate to steep pastured flanks. The ridge forms a rural backdrop to views from the Haruru Falls settlement to the south and south west, and contains the catchment of the Hutia Creek.

The visual catchment associated with this character area is similar to that described above for the Ridge (Pastoral) character area and is visible from an extensive eastern, southeastern, southern and southwestern visual catchment that includes the Waitangi River, the Haruru Falls settlement, and locations along Puketona Road. In addition, proximate views are afforded from Haruru Falls Road where it traces the northern and western edges of this character area.

A small portion of the Estate is located on the western side of Haruru Falls Road in its south western corner. This area is visible both from the road and from a number of nearby rural residential properties. The northern and northeastern parts of this character area are visible from Hutia Creek and the Haruru Falls Track.

- (h) **Haruru Falls rural residential character area:** In the south west corner of the Waitangi Estate, the Bledisloe Domain contains club rooms and a sports field that cut into the sloping landform. These are served by an area of car parks. This low-lying and gently rolling landscape is spatially associated with rural residential settlement at the southern end of Haruru Falls Road. The nearby rural residential development and pony club facilities lend this area a more 'inhabited' character than the elevated and pastured ridge to the east. The visual catchment of this character area is confined principally to the road corridor and the landscape to the west of the road that is constrained by vegetation growing along the riparian margin of the Haruru River.
- 6.5 The landscape values, and consequently sensitivity of these character areas varies. This is a consequence of the intrinsic landscape values associated with each character area and/or the degree of visual exposure within the wider landscape.
- 6.6 In order to understand the effects of the changes anticipated by the Proposed Plan (as notified) or a special purpose zone proposal, it is necessary to consider the value of the landscape, its sensitivity to change, and how this relates to the wider landscape character of the relevant areas.
- 6.7 In considering the Proposed Plan provisions and special purpose zone proposal, I assessed the landscape values of the Estate and determined the visual 'exposure' of the character areas.
- 6.8 The landscape values of the Estate were determined through analysis of its physical, associative and perceptual attributes. This analysis included the consideration of previous landscape assessments, including the Far North District Landscape Assessment³ and the more recent Northland Mapping Project,⁴ as well as the natural character overlays identified in the Proposed Plan (which mirror the Northland Regional Policy Statement), and the Kerikeri Protected Natural Areas Surveillance Report⁵.
- 6.9 My assessment of the landscape values of the Estate is visually represented as **Figure 3** of the Appendix to my evidence.

³ LA4 Landscape Architects. Far North District Landscape Assessment. 1995.

⁴ Littoralis Landscape Architecture and Simon Cocker Landscape Architecture. Northland Mapping Project. Northland Regional Council. February 2014.

⁵ Linda Conning and Nigel Miller. Natural areas of Kerikeri Ecological District : reconnaissance survey report for the Protected Natural Areas Programme. Dept. of Conservation (Northland Conservancy), 1999

6.10 The values are mapped as either 'High', 'Medium' or 'Low'.

7. WHY I SUPPORT A SPECIAL PURPOSE ZONE

7.1 As described above, a special purpose zone has been proposed by Ms Jacobs for the Estate as an alternative to the framework provided in the Proposed Plan. I have reviewed her proposal, and have discussed it with her. I consider that a special purpose zone is an appropriate tool to protect the ranging landscape values and sensitivities throughout the Estate.

7.2 This is because:

- (a) under a special purpose zone, rules applying to the Estate can be specifically tailored to specific areas throughout the site to appropriately take into account and protect landscape and natural character values, while at the same time considering and providing for appropriate recreational, tourism, and productive uses. The Estate is a site like no other in the Far North District and would benefit from bespoke provisions that can protect the varying landscape values and sensitivities throughout the site;
- (b) a special purpose zone will be better able to effectively accommodate the spatial variations in landscape values and sensitivities across the site, rather than requiring the majority of the Estate to be subject to a uniform level of control. This will enable a greater degree of 'protection' to be applied to more sensitive areas (including those sensitive areas not subject to additional controls such as Outstanding Natural Landscapes, Outstanding Natural Features (**ONF**) or High Natural Character Areas (**HNCA**) under the Proposed Plan), while a more permissive approach can be applied to provide for areas with lower sensitivities;
- (c) a special purpose zone will give appropriate recognition to the unique character and sensitivity of the nationally historic Treaty Grounds and its contextual landscape, being a landscape that is imbued with cultural sensitivity as well as being a significant tourism attraction; and
- (d) the unique mix of historic, cultural, recreational, and tourism activities associated with the Estate necessitates the consideration of a diverse mix of land uses and consequent pressure on the

landscape character. These activities include temporary events of some scale, including the bicentenary events discussed in Mr Dalton's evidence. A special purpose zone will enable a more flexible statutory framework to be 'tailored' for the Estate, which also takes into account landscape and natural character values.

8. MATTERS SPECIFIC TO HEARING 4

8.1 I respond to matters relating to Waitangi Limited's secondary 'fall-back' relief as it relates to landscape effects below, and provide some commentary on provisions that could apply to a special purpose zone for the Estate.

Permitted Building Size

8.2 Section 6.2.17 of the section 42A report (natural features and landscapes) has recommended that the permitted size of a building be increased to 50m² within the coastal environment and that it not be used for a residential activity.

8.3 The Treaty Grounds has an outstanding landscape classification because of its historic significance, but also because of its coastal location and prominence. For the Treaty Grounds, Waitangi Limited is seeking a more restrictive control of buildings of 30m². Given the site's national significance and prominent location within the Bay of Islands, I am of the opinion that a more restrictive permitted standard is a better outcome.

8.4 Within the balance of the Estate, the landscape does not have the same visual and cultural sensitivity as the Treaty Grounds, and as such, I am accepting of a lesser standard (50m²) within all other outstanding landscapes.

8.5 Any proposed permitted building size rules for a special purpose zone could be tailored to take into account the variation in landscape value and sensitivity (as mapped in **Figure 3**).

8.6 In her evidence, Ms Jacobs notes that the Estate includes two ONFs. One is situated to the north of the flagpole, and the other is situated at Haruru Falls.

8.7 Since these ONFs are category B, the 25m² permitted building size control would apply under the Proposed Plan. Notwithstanding the fact that both

ONFs would be almost impossible to build on, since one is generally within the coastal marine area and the other is a waterfall, it is my opinion that the 30m² permitted building size control proposed within the Treaty Grounds would provide adequate control.

- 8.8 With reference to the Coastal Environment, the section 42A report recommends that the permitted building size be separated into categories: Outstanding Natural Character Areas (**ONCA**), HNCA, and other areas of the coastal environment.
- 8.9 Under CE-R1 PER-2, the control for ONCA is proposed to be 25m², for HNCA, the control is proposed to be 50m², and for all other areas of the coastal environment, the control is proposed to be 100m².
- 8.10 The Estate does not contain ONCA but does contain HNCA. If a special purpose zone were to be accepted for the Estate, a 50m² restriction may be appropriate for areas identified and mapped as having a High or Moderate Sensitivity. The High and Moderate sensitivity areas include all of the HNCA.
- 8.11 Over the balance of the Estate, which is covered by a Low sensitivity area, a 100m² restriction, as proposed for CE-R1 PER-2, could apply.
- 8.12 In my view, any permitted building size controls proposed for a special purpose zone proposal would likely be consistent with the provisions proposed in the section 42A report, but also provide a 'finer resolution' of landscape protection by taking into account the variations in landscape values and sensitivity within the Estate.

Height restrictions for buildings or structures

- 8.13 The section 42A report relies on the recommendations of Melean Absolum Landscape Architects (**MAL**) to justify retaining a 5m height restriction within the coastal environment (excluding sites zoned as mixed use). My assessment of the landscape values of the Estate has determined that, while in some more visually sensitive locations, the 5m height control is appropriate, in other less visually sensitive locations, the height control should be less restrictive. As I have previously stated, the extent of the High, Moderate and Low sensitivity areas is mapped in **Figure 3**.
- 8.14 I am of the opinion that a 5m height restriction is appropriate where an area has been identified as having High or Moderate sensitivity. However,

outside of these areas, I am of the opinion that an 8m height restriction would be more appropriate.

- 8.15 Within the more developed areas of the Estate, such as the Copthorne, rather than removing the height restriction as recommended by the section 42A report, a 10m height limit may be appropriate to ensure that any future development of the Copthorne site still provides for the consideration of the Treaty Grounds which is the prominent feature of the Estate.

Colour scheme requirements NFL-S2

- 8.16 The proposed standard requires both buildings and structures to be painted using colour from the Resene BS5252 colour palette. The section 42A report writer has recommended changes to the standard (refer to section 6.2.23 of the section 42A report). I am generally accepting of the proposed changes, however, I share the concern expressed in Ms Jacobs' evidence, where she explains how the rule could be interpreted to mean that natural materials must achieve a 30% reflectivity.
- 8.17 Further, I have a concern that in specifying the BS5252 colour palette, there is the potential to restrict the use of products such as long run roofing where the colour options of the roofing do not precisely match the specified BS5252 colours.
- 8.18 I am of the opinion that this issue can be addressed by adding the words "or equivalent" to the rule.
- 8.19 I support the proposed amended control below:

NFL-S2 Colours and Materials

The exterior surfaces of new buildings or structures shall:

1. be constructed of natural materials; ~~and/or~~

2. ~~finished to achieve~~ be constructed with materials that have a finish achieving a reflectance value no greater than 30%; and

3. if the exterior surface is painted, have an exterior finish within Groups A, B or C as defined within the BS5252 standard colour palette or equivalent.

Earthworks and Indigenous Vegetation Clearance CE-S3

- 8.20 The section 42A report has recommended, at section 5.2.14, that earthworks be restricted to 50m² if in an ONC area or an area of HNC. Outside of those areas, a 100m² restriction will apply. Cut heights are proposed to remain at 1m. I accept this recommendation where it applies to the wider district.
- 8.21 Vegetation clearance has been split from the earthworks standards and will remain at 50m² in a HNC area and 400m² outside of these areas. I generally accept this recommendation where it applies to the wider district.
- 8.22 I am of the opinion, however, that my assessment of the landscape values and sensitivities will enable a 'finer-grained' approach to prescribing controls on earthworks and vegetation clearance as part of a special purpose zone for the Estate.
- 8.23 As provided in Ms Jacobs' evidence, more restrictive standards could apply to the Treaty Grounds given its landscape values (as signalled by the overlays for Outstanding Landscape, Coastal Environment, the Sites of Cultural Significance to Māori and the various heritage buildings in the Proposed Plan).
- 8.24 The earthworks standards could also be modified to acknowledge the sensitivities (in terms of the archaeological features) within the golf course.
- 8.25 Outside of these areas, the lesser restrictions (as proposed under CE-S3) could apply, except within those areas subject to HNCA.
- 8.26 I support the proposed WSZ-S5 rule from a landscape perspective.

Simon Cocker

22 July 2024

APPENDIX: FIGURES DEPICTING THE ESTATE