

BEFORE THE ENVIRONMENT COURT

**ENV-2006-WLG-42
ENV-2006-WLG-46**

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of two references pursuant to
clause 14 of the First Schedule of
the Act

BETWEEN **FRIENDS OF NELSON HAVEN
AND TASMAN BAY
INCORPORATED**

Referrer

AND **TASMAN DISTRICT COUNCIL**

Respondent

**EVIDENCE OF ELIZABETH JANE KIDSON ON BEHALF OF FRIENDS OF
NELSON HAVEN AND TASMAN BAY INCORPORATED**

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INTRODUCTION, QUALIFICATIONS AND EXPERIENCE

1. My name is Elizabeth Jane Kidson. I live in Nelson and am self employed as a landscape architect, working for Kidson Landscape Consulting Limited. Prior to April 2007 my landscape practice was based in Queenstown. Before this I was employed by Civic Corporation Limited from January 2000 till April 2005. I hold the qualification of a Bachelor of Landscape Architecture (Hons) from Lincoln University, a Bachelor of Arts majoring in Anthropology and a postgraduate Diploma (distinction) in Anthropology from Otago University. I am a member of the New Zealand Institute of Landscape Architects.
2. My main work involves providing landscape assessments for resource consents relating to proposed residential activity in the form of either subdivision consents or landuse consents. I have provided landscape advice for the Queenstown Lakes District Council as an expert witness on issues involving the creation of new zones and have been involved in many of the Queenstown Lakes District Environment Court hearings associated with landscape classification.
3. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and agree to comply with this Code of Conduct.
4. I appear as a landscape expert witness for Friends of Nelson Haven Incorporated (Friends).

SCOPE OF EVIDENCE

5. The Friends have two appeals against decisions on the Proposed Tasman Resource Management Plan (PTRMP or the Plan). These appeals date from 2000 and 2001. When the Plan was notified in 1996 it included Landscape Priority Areas (original LPAs) and associated objectives, policies and rules. The Tasman District Council subsequently removed the LPAs on the basis that they would be reviewed and replaced with appropriate provisions, following further

community involvement. The Friends appealed the Council decisions on the basis that the Plan failed to identify important landscapes in the coastal environment and was inconsistent with Part 2 of the Resource Management Act 1991 (the Act) and the New Zealand Coastal Policy Statement (NZCPS).

6. The relief sought under the appeals was worded as follows:

RMA 249/00:

"Chapter 9, Maps: Reintroduce Landscape Priority Areas in the coastal environment as originally notified and add Farewell Spit and all of the Golden Bay estuaries."

RMA 147/01:

"Planning Maps: Reinstate the Landscape Priority Areas as originally notified in the coastal environment on the Planning Maps, i.e. the NW coast LPA, the Whanganui Inlet LPA, the Abel Tasman coast LPA and Waimea LPA (less and land NW of Headingley Lane, Richmond), plus new LPAs for the estuaries not covered by the above and for Farewell Spit."

7. In 2004 the Council commissioned Boffa Miskell to carry out an investigation into the coastal landscape character of the Tasman District. However on receipt of the Tasman District Coast Landscape Character Assessment (Boffa Miskell Report or TDCLCA) and after a round of public consultation in 2005, the Council decided not to adopt and progress its findings.
8. The current Plan contains some objectives and policies that relate to landscape matters and LPAs apply in the St Arnaud and Takaka Hill areas. There remains, however, no identification of outstanding natural features and landscapes or other important landscape areas in the coastal environment of the Tasman District.
9. My evidence will include the following:
- a. Consideration of whether the current Plan sufficiently protects the coastal landscapes of the Tasman District, with regard to Part 2 of the Act (in particular sections 6(a), 6(b), 7(c) and (7d); the NZCPS and the Tasman Regional Policy Statement (TRPS);
 - b. Consideration of the original LPAs in the coastal environment included in the notified Plan with particular regard to the Works

Consultancy Services Limited report (dated February 1995) (Works Consultancy Services Report) that the original LPAs were based on and whether it adequately identified landscape areas for the purposes of sections 6 and 7 of the Act. A copy of the Planning Maps showing the original LPAs in the coastal environment is attached to my evidence as **Appendix 1**; and

- c. Assessment of the areas that I consider need protection under section 6 and 7 of the Act. The Amended Pigeon Bay Criteria will be used as the methodology for determining the landscape classification, and reference will be made to both the Act and the NZCPS. In carrying out this assessment I specifically consider the original LPAs in the coastal environment, estuaries and Farewell Spit as sought under the Friends appeals. However, in order to carry out a robust assessment based on the Amended Pigeon Bay criteria, I also consider the whole of the Tasman coastal environment, including public conservation lands excluded from the original LPAs.
10. My assessment has been done from my knowledge of the area which was supplemented by consideration of existing reports on landscape values in the area, including the Works Consultancy Services and Boffa Miskel Reports referred to above, as well as other sources identified in the bibliography attached at the end of my evidence, site visits both by land and sea conducted in June and July of 2007 and studying topographic maps and aerial photos of the Tasman District.

EXECUTIVE SUMMARY

11. Having assessed the landscape values of the coastal environment of the Tasman District it is my opinion that they are not adequately recognised and provided for in the Plan. None of the outstanding natural features and landscapes or section 7 landscapes are identified along the coast other than a generic 200m buffer strip along the entire coast (referred to in the Plan as the Coastal Environment Area). The rules in the Plan would not provide the level of protection required to adequately protect them even if they were identified.
12. Having reviewed the original LPAs in the coastal environment (see **Appendix 1**) and the Works Consultancy Services Report that they

were based on, I found that the LPAs were deficient as the methodology was outdated and too focused on the visual aspect of the landscape with inadequate consideration of ecological, geological and cultural aspects. The approach was also inconsistent as public conservation lands were excluded from consideration. I have attached a map showing the boundaries of the public conservation lands in the Tasman District as at 2005 as **Appendix 2**.

13. The Boffa Miskell Report concentrated more on the coastal character than landscape classification¹, however some section 6 and 7 landscapes were tentatively identified. I agree with these preliminary identifications, however consider that there are additional important landscape areas along the coastline that should also be identified for the protection of section 6(a) and (b); and section 7 values.
14. Figure 0 included in the Boffa Miskell report is attached to my evidence as **Appendix 3**. This shows the areas considered as outstanding natural features and landscapes in the Boffa Miskell Report.
15. Having established that the amended Pigeon Bay criteria is now a preferred methodology by the Court and that the VAMPLAN methodology used by the Works Consultancy Services is out dated, I have applied the amended Pigeon Bay Criteria in my landscape assessment; and considering these earlier reports, I have refined the coastal environment LPAs that I consider should be included in the Plan. In doing so, I have separately identified section 6(b) and section 7 landscapes. Section 6(b) landscapes are identified as "Outstanding Natural Features and Landscapes" (ONFLs). These are areas that I consider should be protected as a matter of national importance consistent with section 6(b) of the Act. I note that these areas have an overlap with section 6(a) values along the coastline and in inter-tidal areas.
16. Section 7 landscapes are identified as "Landscape Priority Areas" (LPAs). These are the areas within the coastal landscape that are high in amenity but insufficiently natural to be considered outstanding.

¹ Tasman District Coastal Landscape Character Assessment Background Report – Boffa Miskell Ltd – August 2005; page 6 para 1.2.2

Particular regard should be had to the landscape values of these areas under section 7 of the Act. These areas fall generally into the valley floor landscapes and those at the foothills of the larger mountains. Areas that are being farmed and used as a working landscape however are still valued for their natural character, amenity values and the contribution to the coastal processes. These landscapes are still intrinsically linked to the coast due to the flow of water from the mountain/foothill catchments across this farmland in to the estuaries or directly out to sea.

17. The ONFLs and LPAs that I have identified as a result of my assessment are shown on **Appendix 4** attached to my evidence. This map also shows the boundaries of the original LPAs. I have also attached a table to my evidence as **Appendix 5** which includes the work sheets based on the Amended Pigeon Bay Criteria used in assessing the landscape. These sheets broadly covered the coastal areas and show the thought process behind the lines on the map. These are in rough form due to the lack of time available. I envisage that this format could be used in any further analysis and refinement of the landscape lines produced in **Appendix 4**. I have also included in **Appendix 5** the geological map of the Nelson area produced by Geological and Nuclear Sciences², and excerpts from the Tasman District Biodiversity Overview³ that I relied upon in carrying out my assessment.
18. I note that I have prepared these maps and the supporting table by myself without the benefit of public or iwi consultation, within a very short period of time and with limited funds and resources. I anticipate that with further consultation and through this Court process that the ONFLs and LPAs will be further refined. I consider that what has been created is a robust start to this process.

² Geology of the Nelson Area; Geological and Nuclear Sciences; 1998

³ Tasman District Biodiversity Overview; Tasman District Council; March 2004

ADEQUACY OF CURRENT PLAN PROVISIONS:

19. In order to meet the requirements of the Resource Management Act, the important landscapes of the district must be protected. This is outlined mainly in two areas of the Resource Management Act:

“Section 6

Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of the natural and physical resources, shall recognise and provide for the following matters of national importance:

...

- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*

...

Section 7

Other matters

In achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to –

...

- (c) the maintenance and enhancement of amenity values:*

- (d) intrinsic values of ecosystems:*

...

- (f) maintenance and enhancement of the quality of the environment:*

...”

20. Other matters are also related to coastal landscape values, such as the preservation of the natural character of the coastal environment and the protection of it from inappropriate subdivision, use and development (section 6 (a)); the relationship of Maori with their ancestral lands and kaitiakitanga (section 6(e) and 7(a)); the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (section 6 (c)); and efficient use and development of natural and physical resources (section 7(b)). These are all inter-related in terms of landscape protection.

21. Section 6(b) requires recognition and provision for the protection of the outstanding natural features and landscapes as a matter of national importance. Section 7 identifies matters which all persons exercising functions and powers under the Act must have particular regard to. The onus is on the Tasman District Council to provide the statutory framework to protect these landscapes.

22. This is recognised in Chapter 9 of the Plan in the introductory paragraphs – in particular:

“9.0 introduction

The Act places increased importance on the protection of landscape values, with Sections 6(a) and (b) identifying a number of landscape matters of national importance which must be provided for. The New Zealand Coastal Policy Statement emphasises landscape as an essential part of the natural character of the coastal environment. Amenity values are also recognised by the Act.”⁴

23. Which is followed with this issue statement

“9.1 Issues

(a) Identification and protection of outstanding natural features and landscapes outside and adjoining the conservation estate...”

24. Only areas outside of the conservation estate are considered for landscape protection by the Council as *“Mountain landscapes are protected in the Nelson Lakes and Kahurangi national parks. Coastal landscape is partly protected in the Abel Tasman National Park”⁵.*

25. The Works Consultancy Services Report was commissioned by the Tasman District Council in preparing for the notification of the Plan in 1995. This report formed the foundation on which the Landscape Policy Framework in the notified Plan was based⁶. Reference to these areas was removed from the Planning Maps following notification.

26. A further landscape character assessment was commissioned by the Tasman District Council and a background report was prepared by

⁴ Proposed Tasman Regional Management Plan page 9/1

⁵ Ibid.

⁶ Ibid.

Boffa Miskell in August 1995⁷. I have not seen the brief prepared by the Council in relation to this report and I am unclear after reading the introduction to this report on its purpose. Having said that, both the Works Consultancy Services Report⁸ and the Boffa Miskell Report⁹ referred to the statutory responsibility of the Council to recognise and provide for and have particular regard to the protection of outstanding natural features and landscapes; the preservation of the natural character of the District's coastal environment and the maintenance and enhancement of amenity values; and the quality of the environment.

27. I agree that it is the responsibility of the Council to provide this protection. This is backed up by the New Zealand Coastal Policy Statement.
28. Under the New Zealand Coastal Policy Statement, Policies 1.1.3 and 3.1.2 are particularly relevant:

"1.1.3 It is a national priority to protect the following features, which in themselves or in combination, are essential or important elements of the natural character of the coastal environment:

- (a) *landscapes, seascapes and landforms including:*
 - (i) *significant representative examples of each landform which provide the variety in each region.*
 - (ii) *visually or scientifically significant geological features; and*
 - (iii) *the collective characteristics which give the coastal environment its natural character including wild and scenic areas;*
- (b) *characteristics of special spiritual historical or cultural significance to Maori identified in accordance to tikanga Maori; and*
- (c) *significant places or areas of historic or cultural significance.*

⁷ Tasman District Coastal Landscape Character Assessment Background Report – Boffa Miskell Ltd – August 2005

⁸ Tasman District Council Landscape Study; Part I; Works Consultancy Services Limited; February 1995; page 1; and page 8

⁹ Tasman District Coastal Landscape Character Assessment; Background Report; Boffa Miskell Ltd; August 2005; page 1

3.1.2 *Coastal policy statements and plans should identify (in the coastal environment) those scenic, recreational and historic areas, areas of spiritual or cultural significance, and those scientific and landscape features, which are important to the region or district and which should therefore be given special protection; and that policy statements should give them appropriate protection.”*

29. Again this emphasises that it is the Council's responsibility to protect the significant coastal landscapes. I do not consider that it is possible to protect these landscapes without at first identifying them.

30. The Tasman Regional Policy Statement also states the following issue with regard to landscape:

“Issue 5.5

Coastal Development

Coastal land is in demand for residential and tourist developments. Some coastal land in Golden Bay, Abel Tasman, Kaiteriteri, Mapua-Ruby Bay is a highly valued landscape and recreational resource for residents and visitors to the District. Special landscapes and natural areas need identification and protection from the effects of urban settlement encroachment and rural-residential development”

31. The NZCPS, the TRPS and issue 9.1 in the plan therefore all emphasise the need to identify and protect outstanding natural features and landscapes and other important landscapes.

32. I have read the rules and policies of the Plan and consider that it currently offers inadequate protection. Buildings can be built within the coastal area as a controlled activity up to 6.5 metres in height (5 metres if closer than 100m from MHWS), and the construction of additions is permitted as long as the extension is under 50% of the current footprint¹⁰. This does not give Council a great deal of control and in terms of the extension to an existing building, does not take in to account whether or not there is an existing adverse effect created by that building (although I note that the built form is not to go any closer to the MHWS).

¹⁰ TRMP; 18.14.2 and 18.14.3 page 18/60

33. I also consider that this controlled activity status does not recognise the sensitivity of the receiving environment – especially when reading the rules relating to height and setbacks¹¹.
34. The rules regarding discretionary activities are more helpful in that they list Councils discretion as including:
- (a) natural features;*
 - (b) landscape and seascape values;*
 - (c) significant natural values;*
 - (d) the character of any existing development.*¹²
35. However these values have not been adequately identified and it must be assumed that in order to be discretionary, the building would not meet the controlled activity criteria and could already be over 5 – 6.5 metres in height, or doubling the size of an existing building.
36. Having seen development along the coastline – especially at new subdivisions along Kina Cliffs, Little Kaiteriteri and along the fringes of the Abel Tasman (i.e. Stephens Bay around to Otuwhero), Port Tarakohe (with regard to the quarry site) Pakawau (above the Inlet), I am not satisfied that the current provisions have enough weight to protect the landscape (although I am aware of a variation (Variation 33) with regards to the Kina Cliffs that may increase protection regarding development and earthworks). It may be that some of the activities such as the reshaping of the Kina Cliffs (presumably for better views within the house sites) or that of the hole along the coastline created by the quarry at Tarakohe was done without consent, however this in itself is reason for concern at the lack of appreciation of the landscape and the disregard of repercussions from Councils monitoring system.
37. The Chapter 9 section on landscapes is deficient due to the fact that although listed as an issue¹³ the outstanding natural landscapes and features and significant landscapes have not been identified even

¹¹ Ibid page18/60-61

¹² Ibid 18/62

¹³ TRMP 9.1 page 9/1

though their protection is the only objective in the chapter¹⁴. I am unsure how the Council intends to achieve most of the environmental results anticipated¹⁵ when the significant landscapes of the District have not been identified and there are no rules to implement the Policies or Objectives.

38. Mr Welsh, the planner for the Friends, has considered the shortcomings of the Plan in relation to the protection of ONFLs and LPAs from a planning perspective. I support his conclusions.

CONSIDERATION OF LPAs IN COASTAL ENVIRONMENT AS INCLUDED IN NOTIFIED PLAN

39. I have concluded that in order to meet the requirements of sections 6 and 7 of the Act, the NZCPS and the TRPS, outstanding natural features and landscapes and areas to which particular regard should be had under section 7 should be identified in the Plan. Friends have sought reinstatement of the original LPAs in the coastal environment and new LPAs to cover estuaries and Farewell Spit.
40. As mentioned previously, the Works Consultancy Services Report identified landscapes for the notified Plan as LPAs or Landscape Priority Areas following the VAMPLAN (Visual Assessment Method of Planning) method. This method was devised by the Ministry of Works and Development in the early 1980s¹⁶. The methodology is based on studying topographical maps, dividing the landscape in to visual catchments (i.e. contiguous areas that can be viewed from settlements or major transport routes); and then these areas are visited and assessed against the headings “character”, “vulnerability”, “importance” and “management” in terms of their visual value to the region. From this visual analysis, areas were classified as either “outstanding” or “regionally significant”.¹⁷

¹⁴ TRMP 9.1.0 Objective; page 9/2

¹⁵ TRMP9.4 page 9/6

¹⁶ Tasman District Council Landscape Study; Part II; Works Consultancy Services Limited; February 1995;pg 3

¹⁷ Ibid

41. As stated under the Statutory Responsibilities heading in the Works Consultancy Services report:

*“The policy options are focused on protecting the **visually** [their emphasis] outstanding natural features and landscapes as identified per the Vamplan methodology. These policies are also relevant to regionally significant natural features and landscapes” at the beginning of this landscape study, the Vamplan is based “on **visually** outstanding natural features and landscapes*

There will be additional natural and physical resources which require protection based on their scientific, ecological or cultural importance. It is acknowledged that there may be a visual dimension to these resources which requires some protection. The visual protection policies and rules developed in relation to visually outstanding natural features and landscapes will therefore have some relevance. However formulating appropriate objectives and policies for protecting outstanding scientific, ecological and culturally significant natural and physical resources is another step in the management process.”

42. Since the Works Consultancy Services Report was published, the Environment Court has provided a preferred list of criteria when assessing outstanding natural features and landscapes and section 7 landscapes.

43. In *Pigeon Bay Aquaculture Ltd v Canterbury Regional Council*¹⁸ the Court identified a set of aspects as relevant to assessment of the significance of landscape. These were then widened to include ecological values and to slightly amend the wording in the subsequent Environment Court Decision *Wakatipu Environmental Society Inc v Queenstown Lakes District Council* C180/99 to the following wording:

- “(a) the natural science factors – the geological, topographical, ecological and dynamic components of the landscape;*
- (b) its aesthetic values including memorability and naturalness;*
- (c) its expressiveness (legibility): how obviously the landscape demonstrates the formative processes leading to it;*
- (d) transient values: occasional presence of wildlife; or its values at certain times of the day or of the year;*
- (e) whether the values are shared and recognised;*

¹⁸ [1999] NZRMA 209 at 231-232 (para 56) – based on a series of Marlborough aquaculture decisions by Environment Judge Kenderdine’s division of the Court including: *Trio Holdings Ltd* 2 ELRNZ 353 (W103A/96); *Browning* W20/97; *NZ Marine Hatcheries (Marlborough) Ltd* W129/97; *Kaikaiawaro Fishing Co Ltd* 5 ELRNZ 417 (W84/99).

- (f) *its value to tangata whenua;*
- (g) *its historical associations.*¹⁹

44. I refer these as the Amended Pigeon Bay Criteria. As the *Wakatipu* decision provides a useful discussion on landscape under the RMA, I have included the relevant Chapter of this decision as **Appendix 6** to my evidence. I have read this decision and find I am in agreement with the views expressed by the Court in this Chapter with particular regard to the discussion on landscape, the meaning of “outstanding” and “natural” and the consideration of other important landscapes which are to be considered with regard to section 7 of the Act.
45. The Environment Court states that the Amended Pigeon Bay Criteria is not frozen and can be added to²⁰, however I have not thought of any additional criteria.
46. As this set of criteria supersedes the VAMPLAN methodology and is accepted by the Court, I applied the Amended Pigeon Bay Criteria when assessing the coastal landscape of the Tasman Region. The Friends, being a local interest group that did not have specialised expertise in landscape assessment, would not have been aware that the VAMPLAN methodology has been superseded when wording their appeal. The Friends also would not have been aware that the VAMPLAN methodology concentrated on the visual aspects of the landscape and had left other considerations for a future study.
47. When I applied the Amended Pigeon Bay Criteria, I found that the original LPAs did not include some important areas especially estuaries and inlets along the coast.
48. In addition, while Works Consultancy Services separated out the section 6(b) and 7 landscapes in the text of their report, the landscape lines drawn on the maps in the report included both categories of landscape within the same boundary. As a consequence the original LPAs do not distinguish between section 6 and section 7 landscapes. I consider that section 6(b) and 7 landscapes need to be separately identified to provide the higher level of protection for the outstanding natural features and landscapes while still providing an appropriate

¹⁹ C180/99 paragraph 80

²⁰ *Ibid*

level of protection for the landscapes which require particular regard due to their importance under section 7 of the Act.

49. The coastal landscape includes beaches and coastlines, estuaries, river deltas, flatter farmable areas (the working landscape) and mountain catchments which all have separate resource management issues. I consider that there is an opportunity to recognise these differences in landscape character within the policy framework. This is why I have separately identified coastline ONFLs and mountain catchment ONLFs in my maps (**Appendix 4**).
50. The maps that were attached to the report did include some specific landscape features as hatched areas along the coastline. These areas seemed to be included in the PTRMP maps in the more general 200m coastal buffer area which is not always large enough to include the entire feature as originally shown.
51. Areas that had some protection due to the land owners were excluded from assessment.²¹ For example, Abel Tasman National Park, Farewell Spit and those parts of the Kahurangi National Park in the Tasman District were not included in the Works Consultancy Services assessment or the resulting LPAs included in the notified Plan on the basis that they were part of the Conservation Estate. The boundaries of public conservation lands in the Tasman District are shown on **Appendix 2** attached to my evidence. I consider that all of the coastal landscape needs to be classified to give a clear and consistent understanding of coastal landscape values within a district. The land ownership and any protection offered by this is not a matter of consideration when classifying a landscape however it may be considered at a later date. I also note that there are privately owned areas (i.e. Torrent Bay) that are enclosed by Abel Tasman National Park, but do not form part of the National Park. These areas were also excluded from the original LPAs.
52. Also the VAMPLAN assessment relates only to land above the MHWS (mean high water springs which is the average spring tide high water level). I consider this to be an inadequate methodology in a coastal environment – especially one that has such a large inter-tidal zone

²¹ Tasman District Council Landscape Study; Part II; Works Consultancy Services Limited; February 1995;pg 2

that is exposed every day and for this time appears part of the landscape.

LANDSCAPE ASSESSMENT

53. For the reasons set out above, I concluded that the original LPAs based on the Works Consultancy Services Report were deficient. I carried out my own assessment of the areas that should be identified for protection in the Plan. In carrying out my assessment I specifically considered the original LPAs in the coastal environment, estuaries and Farewell Spit as sought in the Friends appeals. However, in order to carry out a robust assessment based on the Amended Pigion Bay criteria I re-considered the landscape values of the whole of the coastal environment of the Tasman District.

Methodology

54. The starting point of my assessment was to consider the Works Consultancy Services Report and the Boffa Miskell Report.
55. I have already outlined why I consider the LPAs identified by the Works Consultancy Services to be deficient.
56. The Boffa Miskell report indicated in the text and on Figure 0 Attached as **Appendix 3**), the areas that were considered outstanding natural features. This included Whanganui Inlet, Ruataniwha Inlet, Parapara Inlet, the Takaka River Delta and Motupipi Inlet, the Moutere Inlet and Kina Peninsula; Waimea Inlet and Rabbit Island²².
57. I agree with these findings, however would also include the Golden Bay and Tasman Bay coastline as well as the other estuaries which have national significance due to their high visual aesthetic and the value of the quality of the landscape due to the intactness of the ecosystem, their high natural character and their value as features to the coastal environment.

²² Ibid figure 0

58. I note that both the above reports chose not to include public conservation lands in their assessments. I disagree with this approach for reasons already given relating to the need for clarity and consistency of approach. All of the coastal landscape needs to be classified to provide a consistent approach to the treatment of coastal landscape values within a district.
59. My methodology also involved determining what constituted the coastal environment.
60. The coastal environment is defined in the Interpretation section of the Tasman Regional Policy Statement as follows:

“Coastal Environment – includes the coastal marine area, land above the coastal margin that is affected by coastal processes, resources and issues, and all associated plants, animals, and physical resources.”²³

61. This same definition is used in Chapter 2 of the TRMP²⁴. This definition was expanded on in the Boffa Miskell Report²⁵ where it was stated that the dominant coastal ridgeline was used (if a mountain range or foothills were located in the vicinity of the coastal environment)²⁶ as the outer limits of the coastal environment. Landforms such as Farewell Spit, if an integral part of the coastal environment were included wholly into this environment²⁷. In some areas such as the Motueka and Richmond coastal boundary, the boundary was less definite, with development patterns overriding any clear edge to this environment.

²³ Tasman Regional Policy Statement; page 12.

²⁴ TRMP page 2/6

²⁵ Tasman District Council Landscape Character Assessment Background Report – Boffa Miskell Ltd; August 2005

²⁶ Ibid pages 17,23,35, 41,51,57

²⁷ Ibid page 11

62. In *Marahau Valley Farm Community Incorporated vs Tasman District Council*²⁸ the Court commented on the use of the dominant ridgeline in the Boffa Miskell Report and noted:

“As it happens the TDCLCA does not follow that approach for the Marahau Valley when defining the landward limit of its ‘local coastal character area’. That is, the line the TDCLCA proposes does not follow the dominant ridgeline behind the coast – which is the edge of the Marahau River’s catchment rising up to Mt Evans at 1,156 metres above sea level. Rather the ‘local coastal character area’ is shown as a straight line across the valley upstream of the communities land”²⁹

63. In this decision the Court also identified the approach generally taken by the Court whereby:

“The coastal environment is usually accepted as extending to the crest of the nearest skyline.”

64. I agree that the dominant coastal ridgeline is an appropriate tool in many cases, however with regard to the North West Coastline – due to the lack of access to the sea along this coast I have been unable to establish whether the Whakamarama/Burnett Range would form this dominant ridgeline. I see the relevance in including all catchment areas that drain to the west from the Whakamarama/Burnett Range Ridgeline in this coastal environment due to the coastal weather it is subject to and the fact that the Whanganui Inlet is an integral part of this coastal landscape which has the Burnett Range Catchment behind. I agree on the TDCLCA including all of this area in one landscape. I consider this the correct approach – although this may be further refined during public consultation.

65. The TRMP also defines the Coastal Environment Area in Chapter 18. The Chapter 18 definition reads as follows:

“The Coastal Environment Area has been delineated on the planning maps for the purposes of guiding the management of the District’s Coastline. The inland extent of the Coastal Environment Area is shown by a line on all coastal sheets of the planning maps. The seaward boundary of the Area is

²⁸ C17/2007 para27 - 28

²⁹ Ibid

*mean high water springs. Information required with resource consent applications is detailed in Chapter 19.*³⁰

66. I do not consider the Chapter 18 definition to adequately cover the land above the coastal margin that is affected by coastal process. As mentioned previously, I agree with the Court's use of dominant ridgelines as the method of determining landward boundaries for coastal environment.
67. In terms of determining the seaward boundary, I also consider the coastal environment to extend below the MHWS, with regard to both section 6(a) and 6(b) landscapes. I consider that defining the coastal environment to end at high water springs is deficient in protecting the outstanding natural landscape of the inter-tidal area which is interconnected to the land/sea environment, sitting wholly in neither the land nor the sea.
68. The Act has a definition for Coastal Marine Area³¹, mirrored by the Tasman Regional Policy statement³², which has been copied in to the TRMP³³.
69. This definition is too extensive to be useful in determining outstanding natural features and landscapes in the coastal environment, but may be useful for an assessment of seascapes. I have not considered seascapes in depth for this purpose of this evidence.
70. The Act does not include a definition for coastline or coastal margins which would be applicable for land based ONL's. The New Zealand Coastal Policy Statement does not have a definition of either of these terms. The Collins Concise Dictionary describes the coast as:

***"coast n 1** the line or zone where the land meets the sea.*³⁴

And coastline as:

³⁰ TRMP; 18.4.1 page 18/60

³¹ Section 2

³² Tasman Regional Policy Statement page 12

³³ TRMP page 2/6

³⁴ Collins Concise English Dictionary; 1999

“coastline n the outline of a coast”³⁵

71. The coastline is not static; it is continually changing due to coastal processes and the flux and flow of the tide. The visual perception of the line where the land meets the sea depends on whether the tide is in or out. The coastal tidal zone however is relatively consistent, measured by the mean high water springs and the mean low water springs. I consider this inter-tidal zone to be part of the landscape, and therefore the edge of the coastline should be measured by the extent of coast that is exposed at mean low water springs. If this area is found to be not part of the landscape, then this will have to be looked in to in the future as an outstanding seascape that warrants protection.
72. In summary, for the purposes of my assessment, the seaward boundary of the coastline was defined by mean low water springs. **Appendix 4** of my evidence shows my estimation only of the seaward boundary. This landscape would need to be mapped more accurately to align with mean low water springs.
73. The landward boundary of the coastal environment was defined based on the dominant ridgeline, of either the mountain catchment or adjoining foothills. Where there were no dominant ridgelines or clear landscape boundaries (such as across valley mouths) a line which was slightly more arbitrary was established. I found that these coastal boundary lines drawn across the valley floors of the Aorere and Takaka Valleys was generally consistent with that delineated by the Boffa Miskell Report. This line linked with the dominant ridgelines on either side of the valley and covered an area where the coastal processes would still have an effect on the environment and ecology of plant species present.

³⁵ Ibid

Assessment

74. The results of my assessment are outlined below.

Overview of coastal environment of Tasman District

75. The coastal environment of the Tasman District runs from Kahurangi Point on the west coast, around to Waimea Inlet in Nelson. It is impressive in its variety, with the coast broadly divided into:

- Exposed shores on the west coast renowned for its wildness and remoteness and the expressive nature of the land sea interface where large waves, high winds and wet, stormy have a spectacular effect on the rocky shoreline and coastal vegetation.
- The sheltered coastal environments which include both Tasman and Golden Bays and their estuaries and inlets, river deltas, intertidal flats³⁶. This area has sheltered bays which area a haven for yachts, speed boats and kayaks, with the sheltered coast providing a more protective environment for flora and fauna which has high cultural importance as with regard to the harvesting of kai moana. The sheltered coastline also enabled the use of the sea as a transportation route, encouraging industry and trade through the construction of wharves and ports.

76. The two areas differ also in the experiential qualities and memorability, with the exposed coastline valued for those wild scenic attributes that still has the feeling of a frontier landscape which is not well explored and would be dangerous to do so. The Northwest Coastline is outstanding due to its high scenic and natural qualities associated with the unmodified coastline which due to its isolation, ruggedness and severe weather conditions is largely left in its natural state. There are areas valued for their natural state such as the Kahurangi National Park, Mangarakau Swamp, Big River Estuary and Westhaven Inlet which is representative (in terms of Big River) of an estuary which has an intact coastal forest (that hasn't been logged) continuous with an estuarine habitat.³⁷ Whanganui Inlet similarly has a high degree of

³⁶ It is acknowledged that there are also important sheltered coastal elements on the north west coast such as Whanganui Inlet.

³⁷ Department of Conservation, Nelson/Marlborough Conservancy; 1993; Occasional Publication; pg17

naturalness due to the intact vegetation sequence of forest through to salt marsh through to eelgrass. Therefore the coastal environmental process is operating in a natural state.

77. This North West Coastline landscape is valued for these remote and wilderness attributes where as the sheltered coast is far more accessible and has a high recreational use for holiday activities such as swimming, boating, walking, kayaking and fishing. This coastline is more likely to have been explored in depth either on land or by sea, with many holiday homes available between Kaiteriteri and Pakawau.
78. Farewell Spit forms an intermediary landscape between the northwest coast and Golden Bay with both coastlines valued for outstanding qualities. Farewell Spit is a dynamic feature due to the forces of wind and sea currents and is recognised as both a wetland of international importance and a landform of international importance³⁸. Farewell Spit has high scenic attributes associated with the wild and isolated northern coast; the sand dune systems; and the sheltered inter-tidal Farewell Spit Nature Reserve. It has also been tentatively nominated as a World Heritage Site³⁹ along with the adjoining Kahurangi National Park, Waikoropupu Springs and Canaan Karst System.
79. The sheltered coastline can be further divided into Golden Bay, Abel Tasman, and Tasman Bay coastal environments due to the different composition of each of these areas:
 - Golden bay Coastal Environment has a large sweeping coastline with Farewell Spit a dominant feature forming an enclosure to the north and providing shelter. The coastal area is typified by mudstone and quaternary sediment along most of its length, with limestone outcrops at Farewell Spit, Rangihaeata headland and from Pohara to Ligar Bay. The coastline and views of this are outstanding due to their natural character, high visual amenity; the ecological importance of the estuaries, inlets and inter-tidal areas and its shared value as a nationally recognised landscape

³⁸ Department of Conservation, Nelson/Marlborough Conservancy; 1993; Occasional Publication; pg 34

³⁹ Our World Heritage; A Tentative List of New Zealand Cultural and Natural Heritage Sites; November 2006; pg 24

recreational amenity. The inter-tidal areas are also valued for their ecological importance to numerous wader birds which feed on the abundance of biota that are supported by the estuaries and inlets along the coast. These estuaries inlets and tidal areas are all interconnected and dependent on each other and the catchment areas that feed in to them from the mountain systems of the Burnett/Whakamarama Range, the Tasman Mountains and the Takaka mountains that connect on to the Abel Tasman.

- Abel Tasman Coastal Environment consists of a granite landscape forming impressive headlands and rocky coastline interspersed with sheltered bays of golden sand or rounded boulders. Native bush often flows down to the beaches and rocky shore, with small islands located off the coast. The landscape is considered outstanding due to the importance of this area ecologically with an abundance of wildlife in the marine, inter-tidal and landward coastal area. The area is iconic and nationally and internationally valued as an area of scenic beauty and is valued for its recreational attributes in terms of swimming and snorkelling, kayaking, tramping, exploring of the shoreline; with tourists and locals enjoying both the visual and the ecological elements of this area either in the National Park or within the privately owned areas such as Awaroa and Torrent Bay.
- The Tasman Bay coastal environment forms the mouth of the wide Waimea Plains, with its outstanding attributes associated with the expansive nature of the shoreline, the outstanding natural feature of the Kina/Moutere/Ruby Bay Bluffs, the outstanding natural feature of the Waimea Estuary and its associated Islands which form the largest estuary in the South Island and the high natural character values of this estuary that has national and international importance with regard to the ecology. The Coast between Riwaka and Waimea is not experienced to the same level as that of Tasman Bay further north or of Golden Bay although houses are encroaching along the Kina Cliffs and Moutere Bluffs, and there are camp grounds tucked along the length of the coast.

ONFLs and LPAs

80. The areas that I have identified as ONFLs or LPAs are shown on the map attached as **Appendix 4**. The detail of my assessment is set out in the tables included in **Appendix 5**.
81. The outstanding natural features and landscapes (ONFLs) were separated from the section 7 landscapes (LPAs) due to their higher status as a matter of national importance under the Act. The outstanding natural features however were not separated out from the outstanding natural landscapes as they were contiguous to each other.
82. What all of the Tasman Regional coastline has in common, is its relatively unmodified and natural state as many have been reduced in area and degraded by siltation, pollution and reduced water quality⁴⁰.
83. In the Tasman Bay Aquaculture enquiry (*Golden Bay Marine Farmers vs Tasman District Council*⁴¹) the Court considered the Golden Bay landscape and the following paragraphs provide a good summary:
- [726] On our site visit, whether we visited the coastal beaches, estuaries, Farewell Spit or elevated sites and the tidal flats, the coastal seascape/landscape of Golden Bay drew like a magnet. We concluded that despite the modified locations onshore, the natural character of the coastal margins was worthy of protection in almost all areas. Our visit was to confirm much of the evidence of Messrs Baxter, Rackham, Dr Dennis, Mr Potton, Ms Lucas and Mr Wynne-Jones – as well as that of the Friends and their witnesses.⁴²*
- [731] In terms of protecting outstanding landscapes and natural features as a matter of national importance under s.6(b), we have approached the issue noting that there are physical modifications in terms of settlements along the coastal margins, two small scale marine farms in the coastal margins and some Challenger and Ringroad developments offshore.*
- [732] In this case, as an entity, we find Golden Bay is an outstanding natural landscape/natural feature on the evidence of several of the landscape and planning witnesses. And even if we did not have that evidence, as the Environment Court has held in*

⁴⁰ Department of Conservation, Nelson/Marlborough Conservancy; 1993; Occasional Publication; pg 9

⁴¹ Decision W 42/2001

⁴² W 42/2001; para 726.

Wakatipu Environmental Society Inc v The Queenstown-Lakes District Council, usually an outstanding landscape should be so obvious in general terms that there is no need for expert analysis...Looked at as a whole, together with other [natural] features that are [outstanding], the modifications become part of the whole which is greater than the sum of its parts.

[733] *We find that the attributes of Golden Bay as a matter of fact combine to form an outstanding natural landscape/feature which is not diminished by its developed areas. It is so obvious in general terms. Despite the settlement modifications which exist on the land, the shape of the coastline, the estuaries, the extensive tidal flats, the shallow bay and its coastal waters and islands, the geographic definitions of Farewell Spit and Abel Tasman Park all lead inexorably to this conclusion.*⁴³

84. I find having assessed the Golden Bay coastal environment, that I agree with the Courts findings with regard to the coastline and adjoining coastal mountains of Golden Bay. I have also included the Tasman Bay coastline as an outstanding natural landscape.
85. I have separated out some of the flatter adjoining land that sits either between the coastline and mountain landscape, or in the case of the Moutere Hills form the semi-enclosing backdrop to the Waimea and Moutere Inlet, as these areas are landscapes that may not be sufficiently outstanding or natural to be considered under section 6 of the Act, but that still require particular regard due to their importance under section 7 of the Act.
86. These are working landscapes of either orchard or farm land that has both perceived and actual natural value and high amenity. These areas are also linked to the coastal environment, forming localised catchment areas (with regard to the Moutere Hills) or are areas that the larger mountain catchment areas feed in to. The LPAs adjoin the estuaries, marshlands and inlets and coastline.
87. With regards to my assessment, the flatter areas within the coastal environment (including foothills) were consider to have amenity values and were also important to the maintenance and enhancement of the quality of the environment. These values were linked in part to the cohesive nature of the landscape due to the predominance of farming as a landuse. This is accepted and it is anticipated that rules should

⁴³ Ibid para 731-733

allow for responsible farming activities and good custodianship of the land. I envisage that rules requiring enhancement of natural values should be included to ensure that the landscape is indeed maintained and enhanced. These areas were therefore classified as section 7 landscapes as a matter which should have particular regard to under the Act – especially in terms of section 7(a), 7(c), 7(d) and 7(f). These were called LPAs in keeping with the TRMP terminology established by the Works Consultancy Services Report.

88. In the Marahau Region, the valley floor was separated from the mountain catchment in general alignment with the Marahau Environment Court decision⁴⁴, however due to the poor quality of the map appended to this decision, this is not accurate and any future map would need to be realigned to ensure a match with the Courts decision.
89. It may be that the valley floors of Wainui Bay and Mangarakau are also separated out of the outstanding natural landscape into the LPA, however at the time of writing this evidence, I have not had the opportunity of revisiting these areas to give this further thought.

SUPPORTING PLANNING FRAMEWORK

90. As outlined in the evidence of Craig Welsh, planner for Friends, the relief sought by friends is to include objectives and policies in Chapter 9, and rules in Chapter 18 that provide protection for the recommended ONFLs and LPAs in the Plan, through a section 293 process.
91. In order to provide appropriate protection, the section 6 landscapes need to be separated from the section 7 landscapes, with policies covering the issues raised in Mr Welsh's evidence protecting the landscape against certain activities, and protecting the values of the ONFLs that provide the qualities that make them outstanding (i.e. the Pigeon Bay Criteria). Permitted activities that have no adverse effect on these qualities should remain.

⁴⁴ C17/2007 Marahau Valley Farm Community INC vs Tasman District Council

92. The LPAs should be maintained and enhanced through the provisions of the Plan, again with a policy formed around the amended Pigeon Bay Criteria.
93. I support the planning process outlined in Mr Welsh's evidence and agree that the next logical step would be for the notification of the proposed changes to allow the public and affected parties the opportunity to participate in these changes.

CONCLUSION

94. In conclusion I find I can support the Friends appeals, as the Plan is deficient in protecting the outstanding natural features and landscapes and the section 7 landscapes that also need due regard. I find however that the reinstatement of the original LPAs would not meet the requirements of the Act in terms of protecting these landscapes and have therefore suggested amendments and included these amendments in map form as requested by the Court. These amendments are accompanied by objectives, policies and rules outlined by the Friends planner Mr. Craig Welsh. I am in agreement with the framework of these and consider that both the proposed landscape lines and the planning evidence provide a starting point on which further analysis can be based, preferably through public notification.
95. As noted earlier, the coastal landscape lines drawn by myself in **Appendix 4** have been assessed and drawn without the benefit of public consultation or iwi consultation, within a very short period of time with limited funds and resources. Therefore I anticipate that with further consultation and through this Court process that the areas will be refined. I consider that what has been created provides a robust start to a process which should have been completed by the Council some time ago.

Dated this 31st day of July 2007.

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