

APPENDIX 1

ASSESSMENT OF PROPOSED CYCLEWAY / WALKWAY AGAINST POLICIES AND OBJECTIVES OF THE COASTAL ZONE AND PART 2 OF THE RMA

OBJECTIVES AND POLICIES OF THE COASTAL ZONE

17.2.2 Objectives and Policies

Objective 1 The retention, preservation and protection of the distinction natural character of Opotiki coastal environment for the enjoyment of the community and visitors to the district.

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| Policies | <p>1.1 Require setback for structures and buildings from the coast to ensure maintenance of the coastal ecosystem and the natural character of the coastline, and to enable esplanade reserves, or esplanade strips to be set aside for the future.</p> <p>1.2 Ensure that the subdivision and use of land within the district's coastal areas avoids as far as practicable adverse effects on the coastal ecosystem, water bodies, riparian areas, indigenous vegetations, indigenous habitats, natural character and on areas of historical or cultural value.</p> |
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Assessment

In terms of Objective 1, the cycleway / walkway route will have minimal negative effects on the distinctive natural character of the coastal environment. The proposed route is, for the most part, through areas where natural character has through past land use practices been significantly modified through activities such as grazing, vehicle use and weed infestation. The Ecological Assessment (*Cashmore et al*) commissioned for the consent application describes the vegetation in general terms as in a 'degraded condition with a mixture of exotic and indigenous vegetation' (p3) and for parts relevant to this consent application (Sections 22 to 29) identifies *minimal or no vegetation issues*. In addition, the trail has been designed to minimise earthworks and to compliment the natural contour of the dune systems. The majority of the trail occupies public land, either reserve or unformed road, which by the land title, anticipates public use and access for the 'enjoyment of the community and visitors to the district'. The trail will provide for controlled access for public recreation and further, the proposed mitigation and ongoing environmental enhancement work will result in considerable long term improvements to natural character.

In respect of Policy 1.1, the proposal does not include buildings or structures along the coast and so no setbacks are required in respect of this. The proposal does not provide an opportunity to create esplanade reserves although the intended purpose of the trail is consistent with the purpose of esplanade reserves with respect to preservation of the coastal environment and public access.

In respect of Policy 1.2, the proposal is not a subdivision. The proposed cycleway / walkway uses land that has been set aside for road and reserve purposes and includes private land. The development of the cycleway / walkway does not significantly affect coastal ecosystems and is not in close association with any water bodies. Earthworks and vegetation disturbance has been minimised and no identified historical and cultural values are affected. A protocol has been proposed in the event of accidental discovery of historical or cultural artefacts.

Opportunities to enhance ecological values have been included in the proposal with the planting of indigenous species along the cycleway / walkway route.

Objective 2 Improvement in the public access opportunities to and along the coast which do not depreciate the quality of the coastal environment.

Policies 2.1 Require esplanade reserves or esplanade strips to be set aside along the coast and inland water bodies within the Zone at the time of subdivision, or as conditions of resource consent for land use application. The esplanade areas will be used for conservation purposes, water quality enhancement, habitat protection, or for public access except as otherwise provided for in Te Ture Whenua Maori Land Act 1993.

Assessment

In terms of Objective 2, improvements to public access opportunities to and along the coast is the fundamental purpose of the cycleway proposal. Considerable care has been taken in the design of the cycletrail to minimise the effects of construction so that that the proposal will not depreciate the quality of the coastal environment. It should be noted that for the most part the cycletrail occupies either recreation reserve or legal road that anticipates public access over such land.

With respect to policy 2.1, the proposal does not include any subdivision of land so the various policies that contain a subdivision focus are not relevant to this proposal.

Objective 3 Cohesive and planned subdivision and development within the coastal environment where effects on the natural character are avoided, or are confined to areas where the natural character is able to absorb the effects of the development better than other areas of the coast.

- Policies**
- 3.1** Require building setback from MHWS as a means of avoiding, remedying, or mitigating the adverse effects of potential coastal hazard risks.
 - 3.2** Council to undertake a programme of identification of indigenous vegetation and habitats of importance within the Coastal Zone.
 - 3.3** Ensure that any site within the Zone is of a sufficient size to avoid or mitigate any potential effects of the on-site disposal of effluent, and to ensure that there are no adverse effects on the coastal environment.
 - 3.4** Control the location and design of buildings and structures where they may adjoin a site of historical worth or an outstanding natural feature or landscape.
 - 3.5** Manage subdivision, use and development within the Coastal Zone to ensure that it is planned and appropriate, and so that it preserves the natural character of the Zone.
 - 3.6** To manage the effects of the subdivision and use of land within the Coastal Zone to avoid as far as practicable adverse effects on the coastal environment.
 - 3.7** Encourage subdivision, use and development within the coastal environment to be cohesive and planned, where the effects of sprawling subdivision on the natural character of the coast will be avoided, remedied, or mitigated.
 - 3.8** Investigate the use of economic instruments as a method to encourage the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and wetlands.
 - 3.9** Avoid adverse effects on features scheduled in the Operative Regional Coastal Environment Plan.

Assessment

In terms of Objective 3, its subdivision focus is not relevant to the cycleway / walkway proposal.

The proposal is, however, a development that will require earthworks and vegetation disturbance and further, result in increased use of the land by the public on, for the most part, public land. The effects on the natural character have been avoided as much as possible by careful route selection to minimise adverse effects on the coastal environment and natural character. It is also to be noted that the quality of the existing vegetation is not regarded as significant as stated in the ecologist's report and landscape assessment that forms part of the application. It is also proposed to mitigate effects of vegetation removal by planting indigenous vegetation along the route, thereby enhancing natural character.

Policy 3.1, 3.2, 3.3, and 3.4 are not relevant to the proposal.

Policy 3.5 and 3.6 requires use and development within the Coastal Zone to preserve the natural character and avoid adverse effects on the coastal environment. Expert reports confirm that the effects of the proposal on natural character and environment will be minimal and it is the conviction of the applicant that proposed mitigation and on going management will more than compensate these effects. Wildland Consultants assessment states with respect to the proposal that; *'This level of change will not affect the overall natural character in any consequential way'*.

Policy 3.6, 3.7, 3.8 and 3.9 are not relevant to the proposal.

Objective 4 Manage the effects of activities within the Coastal Zone so that the natural character and amenity values are preserved.

Policies 4.1 Ensure that appropriate measures are included as a condition of consent to avoid the adverse effects of activities as far as practicable. Where it is not practicable adverse effects will be remedied or mitigated through the use of conditions of consent, where these may include requirements for landscaping, screening and separation distances from the coast or from adjoining water bodies.

4.2 Management of the effects of residential activities so that they will not detract from the character of adjoining properties or the coastal environment. Where this shall include managing adverse noise, glare, signage, and other on-site effects.

4.3 Maintenance of residential activity sites so that they will not detract from the amenity values of adjoining properties or the coast.

4.4 Manage the effects of activities within the Coastal Zone where the activity uses or stores hazardous substances, to ensure that the adverse effects on the coastal environment are avoided or mitigated.

4.5 Continued consultation with the Iwi and Hapu of the district to ensure that their interests in the coastal environment are considered when assessing resource consent applications.

Assessment

In terms of Objective 4, considerations to minimise effects on natural character within the Coastal Zone has been critical in the design and route selection of the trail. The Wildland Consultants assessment states that with mitigation through revegetation (using indigenous plants) and weed control '*effects on the natural character will be inconsequential*' (p12). Amenity values will be improved through the development of managed access for the use and enjoyment of the public.

Policy 4.1; the adverse effects of the cycleway / walkway proposal are minor. Proposed mitigation offered by the applicant include revegetation, weed control and the preparation of a management plan to address operational matters relating the future use of the trail and environmental enhancement of the coastal environment.

Policies 4.2 and 4.3 relate to residential development and so are not relevant to the proposal.

Policy 4.5 relates to hazardous substances. There is a minor risk of contamination of the environment during construction through accidental fuel or other petro - chemical spills. This will be mitigated by restricting all refuelling of machinery to be undertaken off site.

The proposal has the support of iwi and hapu. Further iwi is represented on the management and governance groups associated with progressing the project and, critical component of the project will be interpretation signs telling some of the cultural stories relevant to the landscape and environment.

Objective 5 Integrated management of the coastal resource as an important resource of the district, and an important component of the district environment.

Policies 5.1 Continued inter-agency liaison in the management of the district's coast resource, and to involve Environment Bay of Plenty, Whakatane District Council and the Department of Conservation where liaison with these agencies will assist in ensuring a positive environmental outcome.

Assessment

It is considered that Objective 5 has been met with respect to the integrated management of the environment and improved public access.

Policy 5.1 The Motu Trails Cycle Trail project is an interagency initiative – management of the project is a partnership arrangement between the Opotiki and Gisborne District Councils, the Department of Conservation and the Whakatohea Maori Trust Board.

PART 2 OF THE RMA

Section 5

Purpose

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—
 - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
 - (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
 - (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Section 5 Assessment

It is considered that the cycleway / walkway proposal meets the purpose of the Act specified in Section 5. It manages the use and development of the land involved to enable people and communities to provide for their social and economic wellbeing. The development is a low key one and uses resources in a way that would allow for future generations to meet their recreational needs and does so in a way that does not lock up the resources so that future generations have no flexibility to re-organise this resource should recreational needs change. The cycleway / walkway proposal does not affect the life supporting capacity of air, water, soil or ecosystems. Some adverse effects of the disturbance of coastal vegetation has been avoided by the route selection and mitigated through the planting of indigenous species along the route. This planting will considerably enhance the existing modified and degraded coastal environment and natural character.

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 natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- (f) The protection of historic heritage from inappropriate subdivision, use, and development.
- (g) The protection of recognised customary activities.

Section 6 Assessment

Section 6(a); The existing environment relevant to the proposal is in degraded state. Proposed mitigation measures offered will result in a net benefit to the natural character and critical elements of the coastal environment and improved long term management.

Section 6(b), the coastal environment at this location has not been identified in the district plan as an area of outstanding natural feature and landscape.

Section 6(c), no significant indigenous vegetation or fauna has been identified along the coastal route of the trail. The dunes are a mix of exotic species (for example, pasture grasses, blackberry and bracken) and 'recovering' *Muehlenbeckia* sp vinelands. This species is not endangered or significant. An Ecological Assessment (Cashmore et al) concludes that *'the overall effects of this proposal on flora and fauna are relatively minor'*.

Section 6 (d); public access to the is considerably enhanced by the proposal.

Section 6 (e); the cycleway / walkway proposal is supported by iwi and hapu. There are no identified archaeological sites although consultation with iwi has resulted in some amendments to the route to avoid culturally significant sites along the route. Further, a protocol is proposed to address any accidental discovery of cultural artefacts.

Section 6(f); there are no identified historic heritage values along the proposed cycleway / walkway route. In the event of accidental discovery, a protocol is in place to stop work refer to experts for advice.

Section 6(g) Enquiries have been made with the Maori Land Court (pm 24 February 2011) and we have been verbally advised that there have been no customary rights orders issued under the Foreshore and Seabed Act 2004. For this reason, it is believed that recognised customary activities are not affected by the proposed cycleway / walkway.

Section 7

Other matters

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 natural and physical resources, shall have particular regard to—

- (a) Kaitiakitanga:
 - (aa) The ethic of stewardship:
- (b) The efficient use and development of natural and physical resources:
 - (ba) The efficiency of the end use of energy:
- (c) The maintenance and enhancement of amenity values:
- (d) Intrinsic values of ecosystems:
- (e) *Repealed.*
- (f) Maintenance and enhancement of the quality of the environment:
- (g) Any finite characteristics of natural and physical resources:
- (h) The protection of the habitat of trout and salmon:
- (i) The effects of climate change
- (j) The benefits to be derived from the use and development of renewable energy.

Section 7 Assessment

Section 7 (a – aa) The proposal demonstrates responsible kaitiakitanga / stewardship of the use, development and protection of natural and physical resources by enhancing indigenous biodiversity and; improving and controlling public access.

Section 7 (b – ba) the proposal demonstrates efficient use of natural resources.

Section 7 (c) the proposal significantly improves amenity values by providing managed public access to and

along the coastal environment.

Section 7 (d); the proposal has regard for intrinsic values of ecosystems and aims to enhance the biodiversity.

Section 7 (e) –

Section 7 (f); the proposal will enhance and maintain the natural environment through reintroducing indigenous vegetation.

Section 7 (g) the proposal does not affect the future capacity of the natural resource.

Section 7 (h); does not apply

Section 7 (i); a Hazard Assessment has been undertaken to assess the effects of climate change on the proposal.

Section 7 (j) the proposal has only minor effect on renewable energy advocating walking and cycling as a mode of transport.

Section 8

Treaty of Waitangi

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 natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Section 8 Assessment

It is considered that the partnership arrangement in the management of this project and a commitment to ongoing consultation with iwi and hapu fulfils the requirements under section 8 – Treaty of Waitangi.