

## **In Defence of Akaroa Harbour – a view from the front-line**

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The Akaroa Civic Trust was formed in 1969 with the objective of protecting the beauty and history of Akaroa and the surrounding area. Residents were concerned the town was at risk of losing its distinct colonial character to “brassy” new development. Christchurch architect Peter Beaven drew up an environmental plan in order to avoid the thoughtless and random development that was the fate of many attractive coastal towns (Wilson 2005, pp. 31-32).

Membership stands at around 240 individuals and families from around Canterbury but also includes national and international members. The volunteer board has maintained the Trust’s original objective, but must now function in the realm of professional consultants and the Resource Management Act (RMA). Fortunately many professionals of high standing serve on the board and over time have developed substantial knowledge and understanding of complex planning and environmental issues. As a long-standing and active group, the Civic Trust has a depth of background and community knowledge built up over a period of more than forty years that the Christchurch City Council, Environment Canterbury and outside consultants cannot match. The Civic Trust sees raising public awareness and appreciation of our history and culture as an important aspect of its work and over the years has co-ordinated a range of publications, exhibitions and workshops. Last year the Trust was honoured to receive three awards in the inaugural Christchurch Heritage Trust Awards for advocacy and protection of important cultural landscapes. The Trust works closely with the Friends of Banks Peninsula, another volunteer group that is directly involved in a range of environmental issues including the evolution of the District Plan and a twenty-year commitment to create a Marine Reserve in the Akaroa Harbour.

The Akaroa foreshore was registered by the New Zealand Historic Places Trust (NZHPT) in 1996. In 1999 the Civic Trust initiated the registration of the Akaroa Historic Area which encompasses a large portion of the town. More recently NZHPT registered Takapuneke, Onawe Peninsula, Tuhiraki and Oteauheke as wahi tapu, acknowledging the harbour’s importance to Ngai Tahu as tangata whenua.

The significance of the harbour’s coastal areas and scenic amenity has been emphasised for more than 40 years through a series of county and district plans, which have helped to maintain the relatively unspoilt landscape that we have today. The layering of multicultural stories and histories gives the landscape a depth of meaning, found in few other places in New Zealand, which begins with the arrival of Maori approximately 900 years ago. Beneath its more obvious scenic beauty the landscape tells the history of the founding of the nation. Looking out from the Britomart Memorial on Green’s Point the view encompasses numerous wahi tapu sites. Takapuneke is where the 1830 Brig *Elizabeth* incident took place, a contributing factor in James Busby’s being sent to New Zealand as the first British Resident and leading to the Treaty of Waitangi in February 1840. Two Ngai Tahu chiefs signed the Treaty a few months later at nearby Onuku Marae. This is the level of history held along and within the coastline of the harbour basin. The overlay of European history starts with the whalers and sealers, eventually leading to British sovereignty being demonstrated through the convening of a court of law in Akaroa just prior to the arrival of French settlers in August 1840. The first cattle in the South Island were landed on the shores of Takapuneke in 1839. These along with many other events and activities create a living cultural landscape that spans the full breadth of New Zealand’s history (Wilson 2010).

The harbour’s landscape is also very expressive geologically – the crater basin and rim, the lava flows and basalt outcrops clearly show its volcanic origins and formative processes. It is generally accepted that coastal influences extend to the crater rim and thus the whole of the

harbour basin is a “coastal environment” of national significance. The harbour basin is a very publicly accessible landscape – the coastline and water is all public space, roads circle much of the coastal and summit areas and there is a paper road around almost all of the coastline and along many ridges. This means that intrusive or unsympathetic development has the potential to impact on the appreciation and enjoyment of a large number of people. Canterbury residents view the harbour basin as their backyard and playground, because it is so close to Christchurch.

The Banks Peninsula District Plan is central to this discussion and both the Friends of Banks Peninsula and Civic Trust have been active in its development since its notification in 1997. The rural coastal and landscape provisions of the Plan have been the most contentious – these were finalised by the Environment Court in 2008 after 10 years of stakeholder meetings and mediations and a comprehensive Landscape Study carried out by Boffa Miskell Ltd in 2007. The Outstanding Natural Landscape (ONL) and Coastal Natural Character Landscape (CNCL) areas were altered and somewhat reduced. Forestry, earthworks and most buildings are non-complying activities in these areas. However, the whole of the Rural Zone (RAL) is now recognised as being an amenity landscape with standards for the scale and appearance of buildings and subdivision and dwelling density thresholds.

The abolition of the Banks Peninsula District Council in 2006 and the inclusion of the largely rural district within the area administered by the corporate-minded, urban and distant Christchurch City Council created a new set of challenges and complexities. Those administering the district plan from Christchurch often have little if any understanding of the context of rural activities and small, self-sufficient communities. Council hearing panels are chaired by a commissioner and may include elected representatives.

The economics and use of the harbour basin are also critical to the area’s well being. The local fishing industry is virtually extinct, with eco tourism and the use of the harbour for pleasure and recreation now the key economic base for those living in the area. Small salmon and mussel farms have been established but an extensive mussel farm proposal by a Marlborough company encountered huge community opposition and was fortunately refused consent by Environment Canterbury. Tourism thrives on the very qualities that are increasingly under threat from conflicting use of the harbour and inappropriate development along the coastline.

Farming remains the most important rural activity and the continuation of pastoral farming and small scale horticulture, along with the protection of significant natural areas, is key to maintaining the natural open landscapes and scenic amenity of the Peninsula. Ten years ago the Banks Peninsula Conservation Trust was formed to protect native ecosystems. To date it has registered 46 covenants across Banks Peninsula covering 420 hectares and the Queen Elizabeth II Trust is also very active in the area. (*Land Notes* 2011) The push for subdivision under the ‘effects’ based RMA increasingly threatens the viability of farming. ‘Market’ valuations of rural land, and coastal land in particular, are now based not on existing or permitted uses or productive value, but on a speculative value which often can only be realised by gaining consent for a non-complying use.

The effect of permissive subdivision is to inflate the value of rural farmland even further. Existing farm owners struggle to pay increasingly exorbitant rates and new purchasers are often compelled to reduce debt by subdividing land. Wealthy investors from outside the area, often from overseas, acquire coastal property with the expectation that it is possible to build a holiday home on the best site to experience exceptional views of the harbour. Applicants then hire expensive lawyers and consultants to argue that their proposal has little if any impact. The RMA, coastal policy statements and district plan requirements are often

interpreted in a self-serving and selective manner, supported by extensive paperwork and evidence consisting of questionable justifications for a particular proposal. Such action disenfranchises and disengages individual submitters and local communities to the advantage of individual property owners.

In 2008 the Civic Trust and Friends of Banks Peninsula opposed a proposal by Sez Investments Ltd for a holiday home on the top of Red Point, a small, prominent headland directly opposite Akaroa. The proposed dwelling location was within the Coastal Protection Area which later became the reduced Coastal Natural Character Landscape Area (CNCL) following the final decisions on the Plan. The Council granted consent for subdivision and two dwellings on the 51-hectare site. One dwelling was just outside the CNCL line, the other in a prominent and highly natural location within the CNCL. The Trust believed it was important to appeal the decision to allow a building in the CNCL, as a test case to seek appropriate interpretation of the new rural provisions of the Plan and in particular to determine that appropriate location is the most critical factor in avoiding adverse effects in sensitive areas (Civic Trust v City Council 2009).

The Civic Trust was greatly assisted by the Ministry for the Environment which allocated the maximum amount of funding to pay for legal and consultant fees. Even at that the Trust's lawyer and expert consultants added many extra hours of work at no charge and the Trust's voluntary 'experts' put in hundreds of hours. Key to the case was the assistance of Boffa Miskell who took on our case because they considered that this kind of development was not at all what they had envisaged when they undertook the Banks Peninsula Landscape Study.

Our Environment Court case was basically the same argument as our original submissions but was presented by highly regarded professionals the second time around. The appeal process involved nearly two years of voluntary work on the part of the Civic Trust but the effort was well worth it when Judge Jackson's decision overturned the Council's resource consent. The Court's decision concluded that the proposed Red Point dwelling would detract from the very qualities of naturalness that make this particular part of the CNCL an important area within Akaroa Harbour. While considerable weight was given to the careful design of the dwelling and to a proposed 36-hectare protective covenant, these factors were found to be not sufficient to mitigate the adverse effects of the proposal. The decision found that the location of the building out on Red Point would make it visually dominant. The decision also made important findings on the issues of cumulative effects, sprawling and sporadic development, precedent, how natural character is defined and the value of 'environmental merits'. It found that the proposal could seriously undermine confidence in the consistent administration of the Plan and make similar proposals difficult to resist.

The part of the consent which allowed Sez Investments to erect a dwelling outside the CNCL was not appealed. However, the Court's decision went so far as to express concern with this location also, stating that a cluster of two or three houses further up the slope would be preferable. In a postscript, the decision drew attention to problems with Plan's treatment of landscapes and suggested a need for the Council to review a range of matters in relation to sections 6(a) and (b). (Environment Court Decision 2010).

The Christchurch *Press* on 12 April 2010 came out with a strongly worded editorial supporting the Environment Court's decision stating "Christchurch citizens' dissatisfaction with building developments on the flat and on the hills is well documented, and has often arisen because of officials' generous interpretation of planning regulations in favour of builders. The impact on residents needs to be the major consideration". (*Press* 2010)

The harbour's headlands had also come under the scrutiny of the Court in 2000, when consent was declined for a holiday home on the Tikao headland. (Pacific Investment Trust v

Banks Peninsula District Council 2000) The decision found that this was a case where the 'first cut is the deepest in respect of development on this headland and possibly some others'. Just prior to the release of the Red Point decision, the Christchurch City Council granted consent for another holiday home within the CNCL on the same property on the Tikao headland, which sits directly opposite Red Point. These two headlands are the 'centre stage' of Akaroa Harbour and define its narrowest point. The Friends of Banks Peninsula, supported by the Civic Trust, lodged another appeal. Given the findings in the Red Point decision, we are optimistic that this matter can be resolved through mediation rather than another long and expensive Court case.

It would appear the *Press* and Environment Court are of the same view as the Civic Trust when it comes to protecting the character of the coastal landscape.

So where did things go wrong?

As already mentioned volunteers are placed at an extreme disadvantage when the Council's hearing panel gives significant weight and preference to lengthy legal submissions. The Civic Trust's and Friends of Banks Peninsula's expertise, local knowledge and sound understanding of RMA principles and district plan requirements are given token consideration at best, as non-expert evidence.

Individuals now rarely become involved in consent processes, which have become very time-consuming, intimidating, costly and at times downright unpleasant, with submitters sometimes belittled because they are not professionals or 'experts' in a given field. Economic forces have effectively turned the RMA into a public-excluded process.

Another difficulty is the tendency of landscape experts to focus only on the visual attributes of landscape. This leads to an attitude that as long as a development is a recessive colour or largely screened from view it has little actual effect on the landscape.

A casual visitor may marvel at the stunning beauty of the landscape while on a harbour cruise or over a latte during a day trip. In contrast, some residents have family connections which date back generations and many live on the same land as their forebears. These long cultural associations imbue the land with stories and family histories. Many individuals can read the landscape as one would a book, page by page and word for word. Local residents, along with Maori, know the land as no one else and this relationship is layered in multiple meanings and levels of both personal and historic events.

Cultural landscapes are part of our national heritage. Just as historic buildings assume a gentle patina over years of human use and activity, our important landscapes are culturally significant because they have been moulded by both personal and historic associations. These associations and links form us both as a people and as a nation and this national identity attracts tourism, bringing overseas revenue into the country, while also providing jobs for Kiwis.

This history is of course constantly unfolding and compounding but change can occur in a way that respects what has gone before. To destroy the uniqueness contained in our cultural landscapes lessens who we are and undercuts the economic base of the country.

After the September 2010 and February 2011 earthquakes we saw the coastline and volcanic rim of the harbour's crater in a different light and timeframe. In a geological sense it was a wake up call and we noted the movement of earth, massive rock falls and discolouration along the shoreline. A new layer of meaning and awareness was laid down which will become part of our overall history.

Artists, writers, and photographers have always been attracted to the Akaroa harbour basin. The attraction is fundamentally romantic and resides in the human scale of the landscape and the ever-changing combination of sky, sea and volcanic landforms which provides vast creative inspiration. These factors combined with a benevolent climate make the coastal realm irresistible. Artists inspired by the Peninsula's coastal landscape include Nicolas Chevalier, Colin McCahon, Rita Angus, Doris Lusk and Jeffery Harris.

Since the first settlement people have built their houses in the bays, valleys and sheltered gullies. They didn't build on ridgelines and the exposed upper slopes – these areas were steep and erosion prone, fertility was low, access difficult and there was little natural water supply. Farmhouses and larger settlements generally appear in the context of the rural landscape because they have been sited for practical needs and have an obvious purpose. Now, when a commanding view is often the first prerequisite for a holiday home and engineering and wealth can conquer the most difficult sites, dwellings are appearing in areas that would not previously have been considered either suitable or desirable.

Another major proposal for inappropriate and insensitive coastal residential development was at Takapuneke/Green's Point, adjacent to the township of Akaroa. The Banks Peninsula District Council had purchased the rural land as an investment to help fund future infrastructure needs, and granted consent to itself for a 47-section subdivision, along with a small recreational reserve. The area was sacred to Ngai Tahu as the scene of the massacre that occurred during the Brig *Elizabeth* incident in 1830.

When the Chairman of the Onuku Runanga, George Tikao, was asked by members of the Runanga why he had agreed to the development of a large portion of the land, he explained that it was the best deal that he could get at the time. The Civic Trust added its support to that of Onuku to protect the overall site and the matter grew into a major project spanning many years. Gaining greater public and political awareness about the national significance of the land took years of work and the Runanga also required time to come to terms with a distressing history which would become publicly accessible. The landscape itself remains largely intact visually from earlier times, even though a sewage treatment plant was built on the shoreline and a rubbish tip located at the upper level of the site. The farmhouse at Red House Bay and the immigration barracks, relocated to the shoreline in 1899, have become part of the European history of the site as the land use and habitation changed. NZHPT registered the entire area wahi tapu in 2002 but the designation offered no real protection in terms of preventing inappropriate land use.

Over the years the Civic Trust formed a strong partnership with Onuku and a representative of the Runanga has served on our board for the past twelve years. Perseverance finally won the day and the Council was persuaded to formally protect the overall site as an historic reserve. A formal blessing of the land took place on 5 February 2010.

Our view from the front-line is that, while some battles have been lost, the efforts of the community over the years have been effective in protecting the natural character and heritage landscapes of Akaroa Harbour. Court cases involving the Red Point and Tikao headlands have, we hope, set clear benchmarks for development in sensitive coastal areas. There is increasing recognition of the value of historic sites for both community well being and economic benefits from tourism.

Areas of concern remain. There is no strategic planning for management of coastal areas in relation to demand for development or the effects of climate change. Given the importance of marine eco-tourism on the harbour it is concerning that there is no proper planning or protection in place for the coastal marine area. A proposed 500- hectare marine reserve was

recently declined by the Minister of Conservation. A review of this decision is being sought in the High Court.

The Akaroa Harbour is a public amenity and asset. Pressure for holiday home development, marine farming and tourism ventures remains high. With this in mind the Akaroa Civic Trust and others will be keeping a vigilant eye on proposed activities to ensure that they are genuinely beneficial to the harbour and its community, and respect the harbour's special character and history.

#### References

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