

Submission to the Opotiki District Council on their Statement of Proposal in response to the joint request by Te Arawhiti and Te Whanau a Apanui.

My name is Diane Stringfellow and my home is at 7/8461 SH35 RD3 Opotiki 3199 which is on the beachfront at Whanarua Bay and is accessed via Lot 66.

1. Background

My husband and I purchased our property with my inlaws over 40 years ago. My children had their first birthday at Whanarua and have enjoyed many trips to Whanarua since.

I remember the original subdivision access through the Whanarua Stream as specified by the Maori Trustee that was subsequently blocked by the Park whanau. I have seen the letters from lawyers for the Park or Wirepa families demanding payment before the stream access would be re-opened.

If payment is not received from all 15 section owners by 31 July 1986, our clients will have no alternative but to close off the Wirepa land, which is private property.

We look forward to receipt of the sum of \$180.00 by the above stipulated date.

Our clients have decided that it would be appropriate if you paid a licence fee for the use of their land, the licence being to use the land for access to your property by foot or vehicle but causing as little disturbance to the land as possible in so doing.

The licence would run for 12 months initially, from 1 June 1992 to 31 May 1993, at a fee of \$250.

I remember the day that hapu members came and put up a fence to stop us getting access to the beach. I also remember the arguments between whanau and hapu soon after as they fought over who should have control of the keys to the gate. The descendants of the subdivider (Romio Wirepa) argued they were being "locked out" of the Bay.

"The majority of the hapu live in another area but claim rights over Whanarua Bay owned by the WiRepa whanau," she said.

It became untenable so we were forced to take a case to the Maori Land Court (at great expense) and were awarded with an easement over lot 75. The Judge then noted that we

would now need to see Opotiki District Council to gain an easement over lot 66, to finally get legal access to our home and remove our landlocked status.

In 2008 my husband and I demolished the original bach and built a new house. That house is our home.

2. The Access

2.1 The Subdivision access is blocked

The designated access through the Whanarua Stream was blocked by the Park whanau. In order to restore access, the beachfront property owners developed and sealed the accessway along lot 66 that we use to this day. The roadway down lot 66 was developed in the late 70's – over 40 years ago. The road was cut with the knowledge of Opotiki District Council staff who had been advised beforehand.

2.2 Council acknowledges the situation

A number of Council's Chief Executives have added to the tacit approval of the accessway by acknowledging that "there is a need for some property owners to use the track through the recreation reserve (Lot 66) to obtain access to their properties."

WHANARUA BAY ACCESS

It has long been accepted by Council that there is a need for some property owners to use the track through recreation reserve (Lot 66) to obtain access to their properties. These properties have legal access from state highway 35 but this is impractical and therefore their only practical access is through Lot 66.

2.3 Council acknowledges the accessway and warns of the need to take care

Opotiki District Council staff installed a sign at the top of the accessway. This also seemed to be a practical recognition of the presence of the accessway down to the Bay.



The sign has since been painted over but has not been replaced by ODC.

2.4 Council starts negotiations for an easement in favour of the beachfront properties

In January 2018 Community Facilities Group Manager (Mike Houghton) and Councils Property Officer (Tina Gedson) met with Beachfront representatives (Mark Stringfellow and Mark Meikle). Mr Houghton produced a draft easement document to the meeting which had been prepared by OPUS. He then set in motion the process for negotiating an agreement with beachfront owners.

Nature of easement, <i>profit</i> , or covenant	Unique identifier (document number)	Servient Tenement (Identifier/CFR)	Dominant Tenement (Identifier/CFR or in gross)
Right of way	Lot 66 DP 4651	GS3C/615	GS1A/272; GS1A/906; GS1A/670; GS1A/336; GS1A/288; GS1A/248; GS1A/271; GS1A/489; GS129/50; GS5B/1003; GS130/23; GS129/65; GS1A/910; GS4B/672.

Table copied from: "EASEMENT INSTRUMENT TO GRANT EASEMENT OR PROFIT A PRENDRE, OR CREATE A LAND COVENANT" – as supplied to beachfront representatives by Opotiki District Council.

2.5 Council signals that the access might be closed

I note from the recent reserves management plan review hearings that the same family (the Park whanau) now want to close off our access via the lot 66 reserve – and staff have accepted. I provide for you below a portion of the submission made on behalf of Te whanau a Rangi-i-runga that seeks "that all vehicle access to the reserve is prohibited."

Topic number	Topic	Question/Decision requested	Applies to submission no/s:
T166	Whanarua Bay cultural considerations WHBC1	The unrestricted public access to wahi tapu (urupā) sites is of significant concern to local hapū. Seek that all vehicle access to the reserve is prohibited	32
T168	Whanarua Bay cultural considerations WHBC3	Heritage values must be improved through the identification of historic and current values and sites, protection of those values and sites from further degradation, and restoration of historic damages. This includes the exclusion of vehicles from the Reserve.	32

I also note that at T168 they suggest that, at Whanarua Bay “This includes the exclusion of vehicles from the reserves.” **The accessway over the lot 66 reserve is how I get to and from my home.**

It doesn't make sense to commence negotiations for an easement on one hand and then to consider agreeing to blocking the same accessway a short time later. I don't understand why Opotiki District Councillors have chosen to “accept” the staff response that vehicles should be excluded from the (lot 66) reserve – a position that would mean we are either blocked into our home or blocked out of our home. What was your rationale for doing this?

3. Look for Alternatives

Although the Statement of Proposal proposes the parcels that have been requested by Te Arawhiti and Te Whanau a Apanui in their Joint Request, Councillors are not restricted from offering, for settlement, alternative reserves along the coast. An alternative to lot 80 might be the 1.7345 Ha Tokatea reserve which would not impact on residents to the extent that lots 66 or 80 will. It is one “of a number of isolated LP reserves located in the Te Kaha area which individually add little recreational value, are isolated from public access and present the Council with issues regarding their management.” (See Te Kaha Recreation Reserves, ODC Reserves Management Plan, adopted 6 October 2020). The Tokatea reserve (below) is part of the original Motuaruhe Block and therefore very relevant to Te Whanau a Rangi-i-Runga.

Motuaruhe 6B1 Block	6904386	Tokatea	L.P. Esplanade	1.7345
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State Highway 35 (Te Kaha)

4. **My Submission**

- 4.1. **First Proposal.** Opotiki District Council proposes that seven parcels of land at Whanarua are transferred.

My submission is that Lot 66 and Lot 80 are not transferred.

My submission is that the 1.7345 hectare Tokatea reserve be offered instead.

My submission is that Lots 3, 68, 69, 70 and 71 could be transferred.

- 4.2. **Second Proposal.** Opotiki District Council proposes that the urupa on Lot 80 should be vested in Te Whanau a Apanui as a separate title of land and no longer having reserve status.

I have no problem with this – except that staff have not surveyed or defined the area. Only for that reason, I reject the proposal.

- 4.3. **Third Proposal.** Opotiki District Council proposes that the Recreation Reserve Lot 66 (the roadway down into the Bay) and the remainder of Lot 80 (as well as some other smaller lots) are vested in Te Whanau a Apanui and reclassified as Historic Reserves. The (walking) public rights of access would be as per the Act as is currently the case.

The remainder of Lot 80 is the beach that I use to access the water for kayaking, boating and swimming most days in summer. Once again, because the hapu has sought to cut off our access to our home and the beach, how could I be expected to agree to any transfer of any land to the iwi or hapu?

Lot 66 and Lot 80 must remain with Opotiki District Council

Once the urupa is separated from Lot 80 there will be no reason for the remainder of Lot 80 to be classified as historic. It should remain as recreation reserve.

- 4.4. **Fourth Proposal.** Opotiki District Council proposes that Te Whanau a Apanui would be the sole administering body for the reserves.

This suggestion totally ignores the animosity shown to beachfront property owners by the hapu's submissions to close off all vehicle access to our property. History has taught us that without a legally documented 'right' to pass over land at Whanarua Bay, we are at the whims of others who have demonstrated they are willing to block us out using fences and gates as a way of resolving disputes.

My submission is that Lot 66 and Lot 80 must continue to be administered solely by Opotiki District Council.

I note the following August 1985 comment attributed to Judge Smith of the Maori Land Court:

Judge Smith indicated that he has personally been in contact with Mr. Phillips of the Opotiki County Council as late as January this year telling him that the Opotiki County Council should "give up to its responsibilities". This statement was, we understand, not put in writing by Judge Smith but told verbally to Mr. Phillips.

Perhaps the hapu has still not forgiven Romio Wirepa for selling his land. There is little we can do now about Romio's decision to sell but we (you) can remedy the Maori Trustee's failure to ensure legal access was constituted. Transferring the reserves is irreversible and doesn't solve the mistakes of the past - it just exacerbates them.

I am asking Opotiki District Councillors to finally do the right thing and protect my way home by formalising access in favour of the 15 landlocked beachfront properties like ours. An easement document had been prepared by the council's lawyers, was being finalised and about to be presented to the councillors when the Crown proposal was received. The easement process must be finished.

I am also asking that councillors fully understand the implication of agreeing to the irreversible transfer of all the reserves being requested.

A handwritten signature in blue ink, appearing to be 'Diane Stringfellow', written in a cursive style.

Diane Stringfellow

Whanarua Bay

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