

Coast Clash: When the developers move in

By Ben Chapman-Smith

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Apart from the sound of Reg Whale's boots treading through the sand, Te Arai Beach's dunes are quiet. The beach is deserted. The Northland farmer stops every few minutes, crouching down to check each of his pest traps hidden in the tussock. He retrieves a snared ferret, hardening in the mid-morning sun. Another trap has landed a hedgehog. The rest of the traps are empty, which means Whale's daily rounds are paying off.

This stretch of coastline, between Pakiri and Mangawhai, just 110km north of Auckland, is home to the New Zealand fairy tern which roosts and breeds in Te Arai's dunes. With around 40 remaining in the country, the bird is struggling to survive.

Thanks to the efforts of volunteers like Whale, wild cats, rats and hedgehogs are no longer a major threat to the fairy tern's existence. But now they claim a new threat looms.

Millionaire South Island developer John Darby wants to build 46 homes on a 616ha block of land that runs almost the entire length of the beach. This proposal, the latest in a battle which has been ongoing since 2005, took opponents of the beach development by surprise.

They thought they'd seen the last of Darby after fighting off his first plan, six years ago, for a golf course, lodge, spa, shops and 1400 houses. The proposal was classic Darby, whose company Darby Partners is known for its upmarket developments on sites which sell themselves on their spectacular beauty. But in this case, the Te Arai Preservation Society, Auckland surfers and the Department of Conservation came out fighting.

Darby came back again, this time wanting 850 lots, or sections. More than 1700 public submissions were submitted opposing the plan.

In 2007, the application was later reduced to 180 lots at which point the Rodney District Council handed the case to independent commissioners. They advised that the area was too environmentally rich, and its endangered species too important, to allow the development. The application was declined in July 2009.

The developers appealed to the Environment Court and the High Court but suddenly withdrew in November last year. Protectors of the beach and its wildlife breathed a sigh of relief. That was until September when Darby showed up again, this time with an application to the Auckland Council for 46 lots at Te Arai.

Opponents discovered what they call a "secret" deal between the developers and outgoing Rodney mayor Penny Webster shortly before the District Council was taken over by the Supercity, and days before the appeal cases were withdrawn. Now they have until December 19, when submissions close, to gather their forces and try once again to stop the development.

They argue development will ruin one of the last untainted beaches within an easy drive of Auckland. Any development so close to the beach will threaten the fairy tern, already close to extinction, and the other 16 endangered species living in the area, including the northern New Zealand dotterel, grey duck, katipo spider and caspian tern.

Te Arai is a treasured spot for surfers. Fishermen and day trippers also come, looking for respite from



Locals are up in arms at the threat to Te Arai beach from developers. Photo / Herald on Sunday

the city and suburbs. But it's a long enough drive (90 minutes) to make sure it never gets too busy, there are no shops and the road to the beach is unsealed.

"Why would you want to destroy something like this?" Whale asks, waving his hand towards the beach. "We don't want another Orewa. Once it's gone, it's gone."

Queenstown-based developer John Darby has near-celebrity status in Central Otago. He has developed a string of luxury lodges and resorts including Millbrook, Blanket Bay on the shores of Lake Wakatipu near Glenorchy, the upmarket Jacks Point golf course and clubhouse, Clearwater Resort and Golf Course in Christchurch and Michael Hill's private golf course. Darby's background is in landscape architecture and he's a Harvard University-trained golf course architect and resort planner.

Apart from the Te Arai project, Darby is up against opponents of a controversial golf resort proposed at Parkins Bay, near Glendhu Bay in a secluded part of Lake Wanaka. Darby and Glendhu Station owners plan an 18-hole championship golf course, a lakeside clubhouse, lodge, accommodation and 42 homes.

The Otago Daily Times reported this year that an "environmental package" had been offered to try to swing the Environment Court in the developers' favour. Three parties, including the Upper Clutha Tracks Trust and the Upper Clutha Environment Society have appealed to the court against a decision granted to the developers for the resort.

Darby has been less active in the North Island, limiting his development to the "new" south end of Omaha beach. Two years ago he turned his attention to another pristine stretch of North Island coastline, New Chum on the Coromandel Peninsula, noted for its beauty by National Geographic, the Observer and Lonely Planet.

With access only by boat or a 30-minute walk around rocks and through bush, New Chum is considered to be a jewel frozen in time. That was until Darby and businessman George Kerr lodged an application with the Thames Coromandel District Council to build 20 houses at New Chum and neighbouring Whangapoua. That proposal drew more than 1000 submissions against it, including Labour leader Phil Goff. More than 2000 people signed a petition against the proposal.

When Thames-Coromandel mayor Philippa Barriball learned that 360ha had been sold to Darby and Kerr she wrote to them in 2009 urging restraint. She feared the council's lenient district plan would allow the area to be carved up.

A group headed by Phil Keoghan, Kiwi-born host of the American TV show The Amazing Race, went public and Darby later said he had never intended to build the houses, he was simply trying to establish a value for the land he owned.

He also argued that he wanted to protect a historic pa site on the land, protect 337ha of land to regenerate as native bush and develop a strip along the beach as a reserve.

Then Darby's Coastal Land Trust Holdings came up with a new proposal. His land, and that owned by two other family trusts for whom he acts, would be offered for sale back to the Crown. Half the amount paid would be gifted back into a trust to protect the coastline and create a public reserve next to the beach, if the Government matched that.

But the proposal fell through late last year when the \$10 million government valuation of the land fell short of Darby's expectations, thought to be closer to \$20m. For now, the New Chum issue has stalled, leaving those wanting to protect the beach in an uneasy position.

JOHN DARBY refused to talk to the Herald on Sunday. Instead he sent statements through his spokesman David Lewis. Lewis says Darby is tired of being misrepresented as a greedy developer without regard for the environment or the locations he develops.

Ewen Henderson, a project manager for Darby and long-time friend, says Darby is quite the opposite of how many perceive him. He says Darby cares deeply about protecting the beauty of his development sites.

Darby eventually sent a statement saying there was inevitable misunderstanding about what he proposed.

"That goes with the territory because people are attached to places where they live, so I understand that. My track record, however, is to work very carefully with the environment."

With regards to New Chum, Darby says the previous owner of the land was a developer who wanted to develop housing close to the beach.

"What I'm proposing, along with the other landowners, is exactly the opposite to that of the last developer."

Darby says Te Uri o Hau wanted to develop a proposal at Te Arai that protected the environment. "We're delivering that."

Aside from a large area set aside as reserve, the proposal includes a conservation plan to improve the protection of seashore birds and the revegetation of foreshore in native species.

But opponents are wary about any development near the beach.

DOC says the native fairy tern needs wide, open spaces to spot their enemies and survive. As development has encroached on its habitats, the bird now ranges over an area from south Kaipara to Whangarei Harbour. One of the most important roosting areas for the birds is at Te Arai.

The department's Auckland Conservator Sean Goddard says DOC is looking at the potential impact the proposed development will have on two endangered birds in particular, the fairy tern and the New Zealand dotterel.

The land was acquired by the Ngati Whatua hapu Te Uri o Hau in 2002 as part of a \$15m Treaty of Waitangi settlement.

Rawson Wright, a Te Uri o Hau trustee, says the hapu made it clear to the Rodney council they intended to develop the land. In 2004 the hapu sold a 75 per cent share to New Zealand Land Trust Holdings Ltd, owned by Darby and a partner, for \$20 million.

The remaining 25 per cent share was kept by the Renaissance Group, the development arm of the Te Uri o Hau. In 2005, the developers and landholders put forward the first major proposal and the battle to save Te Arai started.

Wright says Te Uri o Hau was misled by the district council, allowing them to believe they could develop the land but then declining the application.

"It seems that most of the coast has been subdivided by Pakeha, but when Maori try to do it, we get blocked, even when we're proposing to gift a parcel of land for a public reserve."

The result of Auckland Council "thwarting proposals time after time" is that millions of dollars of income have been lost to the hapu which could have been used to create jobs and fund education opportunities, says Wright.

AUCKLAND COUNCILLOR Wayne Walker was a Rodney District councillor at the time of the so-called secret deal between the almost-defunct Rodney council and the developers. Walker says he was unaware of the deal until after it had been made.

"I don't think it was proper," he says. "I would suggest the High Court case would have failed and there was no need to do the deal."

Another Rodney councillor at the time, Greville Walker, says he also was oblivious to any agreement.

"The council had rejected the plan change. It should have been final. I was unaware that there was any ongoing panel activity."

Penny Webster, now an Auckland councillor for Rodney, says she doesn't think of the deal as secret. She says negotiations went on for some time between the council's chief executive and senior management staff, and the applicants. But she does not recall any meetings taking place in which minutes would have been taken.

"I don't think it came to a meeting, as it wouldn't necessarily." The main purpose was to avoid going to the High Court and to save Rodney ratepayers from paying court costs, says Webster.

Mark Walker, president of Te Arai Preservation Society, says his members are stunned by the new application.

Part of the proposal includes 172ha which would be added to the existing Te Arai Point Reserve at the south end of the beach.

A 20m marginal strip already exists between the beach and developers' land, administered by DOC, but the developers say they will build another 200m back from the beach. They will also protect 5.6ha of wetland, they say.

But Mark Walker says the application is a nothing more than a bribe.

"The deal is land for title. Is that morally acceptable?"

Walker is staggered his group have to go through the fight all over again. Without the fairy tern as their trump card, he doubts the opponents would stand a chance.

"If you can't save a piece of land with that sort of protection, then what can you save?"

But Webster says New Zealand needs to be open to developing areas such as Te Arai into eco-tourism spots, she says.

"If you look at places like Fraser Island in Australia, they have eco-lodges that extract an income but you can't even see they're there, hidden in the trees."

When these sorts of land battles arise, people often lose perspective, she says.

"We tend to make these decisions based on emotion, not common sense."

She doesn't think New Zealand can afford to protect every piece of land in the country "just because it looks good".

Cholmondeley-Smith disagrees. She says New Zealand can't afford not to protect its coastline and outstanding landscape areas. "It is not acceptable that in a country which relies so heavily on tourism we continue to allow this coastal development 'creep' to continue."

John Shaw, president of the Surfbreak Protection Society, made a plea to the Auckland Council in an open letter in October.

"A small subdivision at Te Arai is just the thin end of the wedge," he says. "Smart lawyers will argue precedent for future expansion."

Te Arai Preservation Society wants to see the council buy the 616ha outright. But Webster says the price would be huge and not one the council could afford.

Ann Hartley, chairperson of the council's regional development and operations committee, says the overall approach to Auckland's expansion will be dealt with under the Unitary Plan, not due to be finalised until the end of next year before being opened to public submissions.

"I won't preempt the decision but I will say that Auckland is very protective of its coastal areas.

"They're rather like the jewel in the crown, if you like.

"I think Aucklanders overwhelmingly are concerned about access and protection of our coastal areas. That doesn't matter whether it's on the Manukau, Takapuna or Te Arai."

In the meantime the council will work within the existing district plan, she says. Wayne Walker describes the Te Arai decision as one of the most important issues in this council's term.

"This is one of the most pristine coastal environments in the Auckland region," he says. "It's not every day the council is making decisions about one of the most-threatened species in the country."

– Additional reporting Jane Phare

John Darby's developments

BLANKET BAY

A luxury lodge on the shores of Lake Wakatipu near Glenorchy. Spectacular lake and mountain views. Its website boasts a quote from Lord of the Rings star Sir Ian McKellen: "Blanket Bay is really the most splendid property, possibly the best in the world."

MILLBROOK

A 200ha sprawling estate near Arrowtown that features a golf course, boutique hotel, restaurants, spa and villas.

THE HILLS GOLF CLUB

Michael Hill's private course is next to Millbrook and is nicknamed Hillbrook by locals. It is open to those with enormous chequebooks. Has hosted the NZ Open Championships three times since opening in 2007.

CLEARWATER RESORT AND GOLF COURSE, CHRISTCHURCH

Darby designed the 18-hole championship golf course in consultation with golfing legend Sir Bob Charles. The resort is set on 188ha and includes a lodge and restaurant, a clubhouse overlooking a lake, houses and apartments. Darby says that the project included delivering a regional park and walkways, and has been awarded several environmental awards.

SHERATON DENARAU VILLAS

Darby Partners was involved in the planning of Denarau Island Resort, Fiji, with the late Howard Paterson.

OMAHA BEACH DEVELOPMENT, SOUTHEND

Darby says the south end "stands in contrast with the rest of Omaha in terms of sensitivity to the environment". An additional nine holes were developed for the local golf club and a coastal reserve gifted to DOC.

JACKS POINT

Developed Jacks Point estate, golf course and housing near Queenstown, before selling the remainder of the development to Australian interests.

Trouble at Te Arai

2002 616-hectare block of land at Te Arai is obtained by Ngati Whatua hapu Te Uri O Hau as part of a Treaty of Waitangi settlement with the Crown.

2004 A 75% share in the land is sold for \$20m to Queenstown property developers John Darby and a partner, of New Zealand Land Trust Holdings Ltd. Renaissance Group, the development arm of the Te Uri o Hau, retain 25% share.

2005 Developers propose a golf course, lodge and a 1400-lot subdivision at Te Arai. Rodney District Council declines proposal.

2006 Darby's Te Arai Coastal Lands Ltd (TACL) buys the 75% share for \$21.8m.

2007 April – TACL reapplies to Rodney District Council for an 850-lot subdivision.

2007 May – 3000-strong petition opposing plan presented to council by Te Arai Beach Preservation Society.

2009 July – TACL submits new proposal for a 180-lot subdivision. Application declined by council.

2009 August – TACL appeals to Environment Court, then High Court.

2010 October – After meetings with Rodney mayor Penny Webster, ACL agrees to withdraw High Court

case in return for the council's agreement to accept new proposal.

2011 September – New proposal for 46 lots submitted by TACL to Auckland Council.

2011 November – Public submissions begin.

2011 December 19 – Submissions close.

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