

NATURAL ENVIRONMENT VALUES

Landscapes of High Amenity Value

Section 32 Report for the Proposed Waitomo District Plan

Section 32 Report – Landscapes of High Amenity Value

ISSUES	RESOURCE MANAGEMENT ACT	NATIONAL DIRECTION	REGIONAL POLICY STATEMENTS	IWI MANAGEMENT PLANS CONTINUED
<p>A landscape assessment undertaken by Bridget Gilbert called the Waitomo District Landscape Study 2021 which forms part of this Section 32 report. This assessment is the first time a comprehensive landscape assessment has been undertaken in the district. The assessment identifies and maps the landscapes of high amenity value in the district.</p> <p>The issues for Landscapes of High Amenity Value (LHAVs) are:</p> <ul style="list-style-type: none"> Subdivision, use and development should recognise, maintain, and where practicable, enhance the qualities and values of the landscapes of high amenity value (LHAVs), including those values associated with working agricultural, pastoral and horticultural landscapes. Approximately 23% or around 82,000 hectares comprise the four landscapes of high amenity value in the district: Awakino gorge, Kawhia harbour, Limestone country, Rangitoto range and the Waipa valley. 78.5% of the landscapes of high amenity value are in private ownership. Council estimates that 63% of the landscape area (52,700 hectares) is developed as farms or in forestry. 	<p>Section 5 RMA This section of the Act is relevant as the landscapes of high amenity value seek to maintain the sense of place and visual amenity associated with an open, remote, natural, rural character. This character is part of the social and cultural identity of the district. Some activities have the potential to adversely affect this character and this plan seeks to manage those effects.</p> <p>Section 7 RMA Section 7(c) Council must have particular regard to the maintenance and enhancement of amenity values and 7(f) the maintenance and enhancement of the quality of the environment.</p> <p>These landscapes are managed to maintain and enhance their rural character and naturalness while allowing for appropriate development, particularly the ongoing use of rural land for agricultural, pastoral and horticultural activities. Consequently, a working pastoral landscape is envisaged for these areas and the provisions heavily rely on the underlying general rural zone to manage the effects of non-farming activities including rural industry, quarrying activities and tourism.</p> <p>Section 8 RMA The principles of Te Tiriti o Waitangi are complemented by section 7(aa) and 7(a) which requires Council to have particular regard to the ethic of stewardship and kaitiakitanga and the view of mana whenua as guardians of natural resources. Mana whenua value these amenity landscapes for their customary resources, naturalness and recreational opportunities. Areas of this landscape are also farmed through Maori Trusts and the ongoing use of this rural land for agricultural and pastoral activities is anticipated.</p>	<p>There are six National Policy Statements (NPSs) currently in place:</p> <ul style="list-style-type: none"> New Zealand Coastal Policy Statement 2010 NPS for Electricity Transmission 2008 NPS for Renewable Electricity Generation 2011 NPS for Freshwater Management 2020 NPS on Urban Development 2020 NPS for Highly Productive Land 2022 <p>It is considered that the New Zealand Coastal Policy Statement 2010 (NZCPS) is relevant to this topic, particularly as it relates to the landscape of high amenity value around Kawhia harbour. Policy (1) recognises that the coastal environment includes elements and features that contribute to the natural character, landscape, visual qualities or amenity values. Policy (3) requires a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that the natural character, public access, amenity and other values of the coastal environment meet the needs of future generations. Policy (6) requires that activities in the coastal environment set back development from the coastal marine area and other water bodies, where practicable and reasonable, to protect the natural character, open space, public access and amenity values of the coastal environment. Policy (18) recognises the need for public open space within and adjacent to the coastal marine area and seeks to ensure its location and treatment is compatible with the natural character, natural features and landscapes, and amenity values of the coastal environment.</p> <p>National Policy Statement for Electricity Transmission 2008 Policy 8 states that in rural environments, planning and development of the transmission system should seek to avoid adverse effects on areas of high recreation value and amenity and existing sensitive activities.</p>	<p>Waikato Regional Policy Statement: The Waikato Regional Policy Statement requires district plans to identify and appropriately recognise the qualities and characteristics of areas of amenity value.</p> <p>Objective 3.21 The qualities and characteristics of areas and features, valued for their contribution to amenity, are maintained or enhanced. Policy 6.2 Development in the coastal environment occurs in a way, that amongst other things, avoids the adverse effects on areas with outstanding natural character, and outstanding natural features and landscapes and elsewhere ensures that activities are appropriate in relation to the level of natural character or natural feature and landscape, protects the valued characteristics of remaining undeveloped, or largely undeveloped coastal environments, and avoids ribbon development along coastal margins. Policy 12.3 Areas of amenity value, including landscapes, seascapes or natural features are identified, maintained and enhanced. Method 12.3.1 District Plans must identify and recognise areas of amenity value and maintain or enhance the qualities and characteristics for which they are valued. Areas of amenity value must be identified using accepted criteria and methodologies, be appropriately recognised, subdivision, use and development must be managed to avoid, remedy or mitigate adverse effects on the identified values of areas of amenity value and when recognising and providing for areas of amenity value, consideration must be given to the changing and evolving nature of land management practices that means the visual amenity values may also change. Method 12.3.2 District Plans must maintain or enhance the amenity values of the coastal environment.</p> <p>Manawatū-Whanganui One Plan: There are no provisions applicable to high amenity landscapes.</p>	<p>The Waikato Tainui Environment Management (WTEMP) Plan 2018 contains the following provisions relevant to landscapes of high amenity value:</p> <p>Policy 24.3.4.1(b)(vi): To ensure a precautionary approach to activities in the coast area that may result in adverse effects to the environment, community, and customary activities, any development in the coast area shall manage any adverse effects on the overall visual amenity of the landscape.</p> <p>The WTEMP promotes a range of implementation methods including: Identification and protection of culturally and or spiritual significant landscapes, the use of statutory instruments and methods promote the protection and restoration of landscapes and landscape values of importance to Waikato-Tainui and education of the public, local authorities, developers and resource users on Waikato- Tainui values of regionally, culturally and spiritually significant landscapes, vegetation and species.</p> <p>It is considered that the proposed provisions take account of the above policy in the WTEMP, as they seek to maintain and enhance the landscapes of high amenity value.</p>
OPERATIVE WAITOMO DISTRICT PLAN	Relevant case law considered		IWI MANAGEMENT PLANS	OTHER RELEVANT PLANS OR LEGISLATION
<p>Chapter 12 of the ODP includes provisions for a Landscape Policy Area which is an “overlay” Policy Area covering land in the Waitomo Caves locality and the Mokau-Awakino coastal area. These two areas were identified as containing features and landscapes that are particularly sensitive to change. In both cases these sensitive natural features form the basis of tourism development and are not amenity landscapes in the more modern sense. They do not meet the criteria set out by landscape architects assessing the district for the purpose of this plan. The ODP does not provide for high amenity landscapes and therefore there is significant change required by the proposed district plan to accommodate these matters. However, a working pastoral landscape is envisaged for these areas and the PDP’s provisions heavily rely on the underlying general rural zone to manage the effects of non-farming activities including rural industry, quarrying activities and tourism.</p>	<p>Council has reviewed relevant Environment Court cases regarding landscapes, and no specific case law relating to high amenity landscapes are applicable.</p>	<p>There are also seven National Environmental Standards (NESs) currently in place:</p> <ul style="list-style-type: none"> NES for Air Quality 2004 NES for Sources of Human Drinking Water 2007 NES for Telecommunication Facilities 2016 NES for Electricity Transmission Activities 2009 NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 NES for Plantation Forestry 2017 NES for Freshwater 2020 <p>There are no standards and associated provisions specifically relevant to this topic. However, some rules in this plan prevail over the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017. Clause 13 states that afforestation must not occur within a visual amenity landscape if rules in the relevant plan restrict plantation forestry activities within that landscape. Plantation forestry activities were assessed and it was determined that rules restricting afforestation in the landscapes of high amenity value were not necessary. Accordingly, they have not been imposed through the provisions of this plan.</p>	<p>The Maniapoto Iwi Environment Management Plan (MIEMP) 2018 contains the following provisions relevant to landscapes of high amenity value:</p> <p>Objective 19.3.2 To protect and enhance significant cultural, spiritual, natural and ecological landscapes, features and locations in the Maniapoto rohe and to protect and enhance Maniapoto relationships and associations with these features.</p> <p>Policy 19.3.2.1 Activities and uses that adversely affect significant cultural, spiritual natural and ecological landscapes, features or locations in the Maniapoto rohe are avoided, and Maniapoto relationships with those landscapes, features or locations are maintained and restored.</p> <p>The MIEMP promotes a range of implementation methods including: Appropriately protect significant landscapes from destructive activities such as vegetation clearance and earthworks; Appropriately protect significant landscapes, features, locations and associated view shafts (lines of sight to significant areas) from development or any other adverse effects on their character or amenity values.</p>	<p>The Conservation Act 1987 promotes the conservation of New Zealand’s natural and historic resources, preserves indigenous freshwater fisheries and habitat, and advocates for conservation. Where landscapes of high amenity value overlap with any of the public conservation estate then the Conservation Act should be considered.</p> <p>Statutory acknowledgements identify the particular cultural, spiritual, historical and traditional association of mana whenua. These have been taken into account wherever landscapes of high amenity value are valued by mana whenua or have historical associations.</p> <p>Waikato and Wanganui Conservancy Management Strategies set out the long-term vision for each conservancy and identify a range of objectives relating to management of natural heritage and biodiversity within these areas. They also identify those areas of habitat and natural character that are of national importance.</p>

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SCALE & SIGNIFICANCE <i>s32(1)(c)</i>			It is considered that the proposed provisions take account of the above objective and policy in the MIEMP, as they seek to maintain and enhance landscapes of high amenity value.	STRATEGIC DIRECTION
<p>The assessment is based on eight factors outlined in Ministry for the Environment's guidance on Section 32 reports. Each factor is scored in terms of its scale and significance (where 1 is low and 5 is high).</p> <p>Reason for Change:1 Problem / Issue: 3 Degree of Shift from Status Quo: 3 Who and How Many Affected, Geographic Scale of Effects: 3 Degree of Impact on or Interest from Māori: 2 Timing and Duration of Effects: 1 Type of Effect: 2 Degree of Risk or Uncertainty:2</p> <p>Total (out of 40): 17</p> <p>The degree of change from the ODP has considered to be in the medium to minor range of significance, particularly given that there are only two rules which apply to large buildings and earthworks in this landscape. While amenity landscapes are currently identified, this approach does not correspond with the requirements of the WRPS, particularly that areas of amenity value must be identified using accepted criteria and methodologies, and subdivision, use and development must be managed to avoid, remedy or mitigate adverse effects on the identified values. For these landscapes only two provisions relating to larger buildings and earthworks apply to the landscapes of high amenity value. Despite the relatively minor the level of change anticipated by the PDP, a report has been commissioned to identify the landscapes of high amenity values using accepted criteria. The proposed provisions give effect to a higher order document and therefore the degree of risk and uncertainty is low.</p>				<p>The following objectives from the Strategic Directions chapter of the PDP are relevant to this topic:</p> <p>SD-09. Subdivision, land use and development must not contribute to any further degradation of Kawhia Harbour.</p> <p>SD-010. The buildings, structures, sites, areas, ecosystems, natural landscapes and features identified as having special qualities and values and which contribute to the district's sense of place and identity, are protected.</p> <p>SD-013. The district's communities have access to a diverse and connected network of open spaces which offer a range of recreational experiences while protecting the values of scheduled sites, features and overlays.</p>
UNCERTAINTIES AND RISKS <i>s32(2)(c)</i>				
				<p>Changes introducing new spatially defined overlays and associated provisions to manage activities in these areas are generally contentious because they represent a regulatory change. The risk or uncertainty of introducing such regulatory change is usually considered to be high. However, not acting would fail the statutory duty to give effect to the WRPS and may mean that the values of these areas could be degraded or lost. Overall, it is considered that there is sufficient information to act, and that risks of acting outweigh those of not acting. The degree of risk and uncertainty is low due to the certainty provided by well-understood potential effects, prescribed criteria and the approach taken for their management in the proposed provisions.</p>

OBJECTIVE <i>s32(1)(a)</i>
<p>Relevance – The purpose of the RMA is to promote the sustainable management of natural and physical resources by managing the use, development and protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural well-being. The objective achieves the purpose of the RMA by recognising the issue and requiring that activities in landscapes of high amenity value (LHAVs) ensure they maintain and enhance the identified values, thereby meeting the intent of section 7(c) and (f) which the plan must have particular regard to. The Objective seeks to recognise, maintain, and where practicable, enhance the qualities and values of the LHAVs, which contribute to visual amenity and to the district's identity. Managing the LHAVs appropriately will ensure that future generations continue to enjoy their values in accordance with Section 5(2)(a).</p> <p>Usefulness – Appropriately managing the values of the LHAVs ensures that the visual amenity and identity of the district, which provides the community with a sense of place, is maintained. The objective also provides for social and economic wellbeing by including those values associated with working agricultural, pastoral and horticultural landscapes. In this way, the objective directly identifies the contribution that pastoral activities make to the values of these landscapes. This indicates to policy makers that only limited provisions are required to respond to and manage the agricultural activities in these landscapes.</p> <p>Reasonableness – The proposed objective is aligned to, and consistent with higher order direction from the WRPS. The objective is consistent with best practice and aligned with the identification of LHAVs in other districts. This includes assessing landscapes (the ONFLs and LHAVs) identified in surrounding districts to ensure consistency across geographical boundaries. The objective is in line with Council's functions under section 31 of the RMA, to recognise, maintain, and where practicable, enhance the qualities and values of the LHAVs.</p> <p>Achievability – The identification of LHAVs is a standard approach across district plans in the Waikato region, and is supported by best practice assessment criteria. There is direct alignment between the plan's objective and the higher-order documents prepared under the RMA. The objective guides decision makers when assessing resource consent applications as to the outcomes that are expected in terms of properly recognising the values of LHAVs which meet the needs of future generations (Section 5(2)(a) of the Act). The objective provides a clear and achievable statement of intent and certainty as to the appropriate outcomes.</p> <p>The proposed objective is considered to meet the tests of relevance, usefulness, reasonableness and achievability. It gives effect to the purpose and principles of the RMA, aligns with higher order documents drafted under the RMA and with best practice drafting for objectives. The objective has been examined and evaluated, in terms of the purpose of the RMA, its provisions and the hierarchy of planning documents, and is considered to be the most appropriate way to achieve the purpose of the RMA.</p>

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PROVISIONS s32(1)(b)	
EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii), 32(2)(a)(i), s32(2)(a)(ii)	ALTERNATIVES s32(1)(b)(i)
<p>Benefits Anticipated</p> <p><u>Environmental</u> The plan identifies, maps and schedules four landscapes of high amenity to ensure certainty of location and to clearly physically demark the expectations associated with the values of these areas. Only two activities are controlled in these landscapes (large buildings and high-volume earthworks) as these are expected to have adverse effects on the values of these areas. Although Council has the ability to manage afforestation of plantation forestry it is not considered necessary in these landscapes as forestry is considered to contribute to the values of these areas as working rural environments. Other activities routinely permitted in the general rural zone are permitted in the LHAVs.</p> <p><u>Economic</u> Economic development is not restrained by the landscapes of high amenity value rules except by restricted discretionary status rules requiring a consent for any building greater than 8 m in height and/or greater than 300 m² in size, and earthworks - including farm quarrying and forestry quarrying greater than 500m³ per holding per calendar year (in the general rural & natural open space zones). These provisions are largely to manage the location and integration of the activities in the landscape.</p> <p><u>Social</u> There are a large range of social benefits which accrue from the backdrop of the LHAVs in Waitomo District. The rural character of these areas forms part of the backbone of the visual amenity of Waitomo district and is representative of the many community members whose economic wellbeing is derived from pastoral and forestry activities.</p> <p><u>Cultural</u> There are many farming operations in whanau/hapu ownership in the LHAVs. There are also a number of marae, clusters of farm buildings and the township of Aria. In these landscapes, the ethics of stewardship apply equally to all landowners as provided for in section 7(aa).</p> <p>Costs Anticipated</p> <p><u>Environmental</u> No environmental cost has been identified in relation to the preferred option of identifying LHAVs. General rural activities are permitted in these landscapes in order to ensure that the landowners can appropriately use their properties for economic gain, such as pastoral farming and plantation forestry. In many districts plantation forestry afforestation is controlled by rules in LHAVs. However, in our district large areas of land are best utilised for forestry rather than pastoral farming given the rugged nature and remoteness of these land parcels.</p> <p><u>Economic</u> Requiring a resource consent for large buildings or high-volume earthworks may result in higher costs (including time and uncertainty) for landowners. However, these are not major restrictions and can be reviewed if Council finds that they have become burdensome on landowners and are failing to protect the values of the landscape in a meaningful way. There are also compliance costs to Council to enforce the provisions of the plan and to process resource consents and monitor these.</p> <p><u>Social</u> No costs identified.</p> <p><u>Cultural</u> No costs identified.</p> <p>Economic Growth and Employment Opportunities It is not considered that the opportunities for economic growth or employment are reduced by the imposition of the LHAVs. The provisions of the underlying zone apply except for high-volume earthworks and larger buildings where the location and the integration of these activities in the landscape is managed by rules.</p>	<p>For the purpose of this evaluation, the Council has considered the following potential options:</p> <ol style="list-style-type: none"> 1. The status quo; and 2. The proposed provisions; and 3. Do nothing. <p>In order to identify other reasonably practicable options, the Council has undertaken the following:</p> <ul style="list-style-type: none"> • Reviewed other relevant district plan provisions for provisions relating to high amenity landscapes; and • Engaged Bridget Gilbert, a landscape architect to identify map and assess the values of potential LHAVs against best practice criteria; and • Sought feedback from stakeholder groups including the Department of Conservation, Federated Farmers, The Waikato Regional Council, Manawatū-Whanganui Regional Council, QEII Trust and other key groups; and • Collated feedback obtained from workshops undertaken with mana whenua representatives comprising a working group on the proposed district plan. <p>Options:</p> <ul style="list-style-type: none"> • Status Quo - retain the ODP provisions: The ODP identifies amenity landscapes which appear to have been based on areas of high tourism. Draft versions of the ODP show these overlays as tourism overlays. This option does not fulfil the requirements of section 7 of the RMA, and therefore the Council's functions and duties under section 31. This option does not give effect to the WRPS, particularly because the criteria used to identify the amenity landscapes appear to be based on tourism requirements and drivers rather than landscape assessment methodology. As such it is not appropriate because it fails to meet the requirements of the primary legislation and the WRPS. • Alternative – the proposed provisions: This approach involves identifying, mapping and scheduling LHAVs using subject matter experts employing best practice criteria. It involves the development of a new policy framework and rules which acknowledge the contribution of lawfully established farming activities as contributors to the values of this landscape. This approach is consistent with the requirements of the WRPS. Identifying and mapping LHAVs provides certainty and is easier to administer and monitor. This option achieves the best environmental, social and economic outcomes and is consistent with higher-order documents. The approach is likely to be the option most acceptable to the community based on consultation that has been undertaken to date. The approach is consistent with the approaches of other District Councils within the Waikato region. This approach considers the location of outstanding natural landscapes and amenity landscapes in surrounding districts in order to provide consistency and continuity of landscape form. It is the most effective option to achieve the objective. • Do nothing: This alternative does not meet the intent of section 7(c) and (f), nor does it give effect to the WRPS. This option is not environmentally acceptable and is not directly aligned with the policy intent of the two Iwi Environmental Management Plans.
QUANTIFICATION OF BENEFITS & COSTS s32(2)(b)	
<p>Section 32(2)(b) requires that, where practicable, the benefits and costs of a proposal are to be quantified. 23% of the district's total area is identified as a landscape of high amenity value. This equates to 82,000 ha. The majority of this land area is not protected, with only 17,000 ha or 21.5% of LHAVs being reserve, crown estate or subject to a similar protective mechanism. This means that 78.5% of the landscape is in private ownership, although 18% of the land in private ownership is SNA. Council estimates that 63% of the landscape (52,700 hectares) is farmed or in forestry. It is not possible to quantify the costs or benefits of identifying these areas as LHAVs. However, there are very limited restrictions on farming activities and no restrictions on plantation forestry in the plan's provisions. There are also intangible benefits gained from these landscapes which are very difficult to quantify in monetary terms. As such quantifying the benefits and costs is not considered practicable.</p>	
EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii)	REASONS FOR PROVISIONS s32(1)(b)(iii)
<p>s32(1)(b)(ii) requires assessing the efficiency and effectiveness of the provisions in achieving the objectives:</p> <p><u>Efficiency</u> This approach is efficient as it recognises, maintains, and where practicable, enhances the qualities and values of the landscapes of high amenity value which are identified in SCHED9, including those values associated with working agricultural, pastoral and</p>	<p>The proposed provisions are considered to be the most appropriate approach to achieve the objectives of the natural features and landscapes chapter. The evaluation has been undertaken in accordance with Section 32 of the Act in order to identify the benefits, costs and the appropriateness of the proposed objective and provisions, having regard to their effectiveness and efficiency relative to other means in achieving the purpose of the RMA. This evaluation demonstrates that the proposed objective and provisions are</p>

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<p>horticultural landscapes. The approach is pragmatic and fit for purpose. Activities requiring resource consent are limited to high-volume earthworks and large buildings, particularly their location and integration in the landscape and decision-makers are able to make an informed decision based on detailed policy guidance, and on the identified values of the LHAVs. This approach is not considered to be restrictive for landowners. This approach protects lawfully established activities and maintains and enhances the identified values of LHAVs.</p> <p><u>Effectiveness</u></p> <p>The proposed provisions are considered to be effective as they directly address the two resource management issues and the outcomes sought through the objective. The approach of identifying LHAVs through mapping and scheduling, by applying consistent assessment criteria, reflects best practice and is a clear and consistent approach. The provisions providing for a wide range of permitted activities and only manage two activities which might have more than minor adverse effects on the values of the LHAVs.</p>	<p>the most appropriate option because they provide for the recognition and management of LHAVs, including specific identification using best practice criteria, direction and certainty on appropriate and inappropriate activities in relation to the identified values. A wide range of permitted activity rules, aligned largely with those in the general rural zone, allow for activities within the landscape that are generally appropriate and/or contribute to the values of LHAVs. Resource consents are required to manage the effects of high volume earthworks and large buildings that may have adverse impacts on the values of LHAVs. Overall, it is considered that the proposed objective and provisions are the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies gained from their adoption.</p>
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