

Proposed Waikato District Plan

Further Technical Response to Submissions on Landscape Classifications of the Waikato River
Prepared for Waikato District Council

9 December 2020



1.0 Introduction

Following the District Plan hearing, Waikato District Council has engaged in further discussions with Waikato-Tainui regarding the classification of the Waikato River, leading to the concluding hearing report for the Hearings Panel. As part of these discussions it has been confirmed by Waikato-Tainui's technical representative (Giles Boundy) that its preference is to:

- Identify the waterbody of the Waikato River, in its entirety, as an ONL, not an ONF or ONF/L.
- Retain the banks / margins of the Waikato River as Significant Amenity Landscapes, where identified in the Proposed Waikato District Plan.

Boffa Miskell Ltd was requested to consider this relief and provide the following technical response. Responses to a separate cultural landscape overlay are not addressed any further in this report.

2.0 Response to Relief Sought

2.1 River Water Body v River and Margins

The relief sought by Waikato-Tainui in its submission to identify the river water body as both an ONF and ONL seeks to address the associative values identified with the river. This retains the river as a connected physical entity but recognises the differing characteristics and qualities of the river margin along its length as a river.

The landscape assessment considered the river, including its banks, as a whole entity, however mapped this differently at different sections of the river, including whole of river, and then parts of the river.

As mentioned above, Waikato-Tainui have since narrowed its relief and now seek to identify only the water body of the Waikato River as an ONL.

2.2 Features v Landscape

As stated in the earlier technical response, dated 31 July 2020 ("earlier report"), the Waikato River moves through and is formative of the landscape in which it resides. Whilst a large feature it remains nonetheless a feature within the Waikato Plains landscape and character areas through which it traverses. Naturally it is a feature of a landscape. The identification of the Waikato River as a feature, as opposed to a landscape is supported by the following observations made by the Environment Court in *The Western Bay of Plenty District Council v Bay of Plenty Regional Council* [2017] NZEnvC 147 ("Matakana Decision"):

[82] : ...*The Environment Court has previously held, relying on a dictionary definition, that a feature is a distinctive or characteristic part of a larger landscape and therefore an outstanding natural feature is a distinctive part of a*

larger landscape, which is an outstanding natural landscape¹. But with respect, that cannot be a fixed relationship: The scale of elements is necessarily relative and a feature may be so large, as in case of a mountain or an island, that it can encompass one or more landscapes while retaining its overall integrity as a feature. A feature may also be relatively small, such as a particular geological formation, whereas one would ordinarily not characterise a similarly small area as being a landscape. In some cases, an outstanding natural feature may exist in splendid isolation without an outstanding natural landscape around it, while in others, it may be outstanding because of its relationship to other features or the landscape, whether those other things are outstanding or not.”:

It is noted that the current request to identify the river as an outstanding natural landscape is inconsistent with the Waikato Landscape Study’s approach which distinguished the difference between an ONF and an ONF. **It is recommended that in response to the request to recognise the waterbody as Outstanding, it be considered as a Feature, rather than a Landscape.**

2.3 Assessment scale – parts v whole river.

As stated in the earlier report, the Landscape Study approach considered the ‘areas’ the River passes through and in doing so, considered the river as a feature with different sections that are informed by the surrounding landscape character. In doing so, there are distinctive ‘character areas’ where the river and its margins vary in condition and extent.

Recognising the Waikato River is a connected feature that forms a connected cultural landscape, the indicators to the ‘areas’ along the river are informed primarily by the biophysical and sensory dimensions. The water body itself remains the cohesive biophysical element that connects all areas along the river, and inherently is the main element identified with.

As identified in the earlier report, there are varying degrees of condition and value of the attributes that inform the biophysical and sensory values along the river corridor. These include:

- *Modified river margins to include stop banks, restricting the natural hydrological patterns of the River’s water body.*
- *Varying biophysical characteristics of the river hydrology and geomorphology including narrow and incised, low and wide and meandering and shallow with islands to a sand spit river mouth.*
- *Modified biotic condition of the River and its margins including the presence, and in some instances dominance of weed and pest species.*
- *Varying degrees of land use/ activities along the River margin including:*
 - *Agriculture*
 - *Rural Residential Housing*
 - *Residential*
 - *Commercial, including towns*

¹ Queenstown Bungy Ltd v Queenstown Lakes DC Decision no. C35/2002 at (18)

- *Industrial, including electricity generation.*

Recognising the high associative value attributed to the River by Waikato-Tainui, the river water body holds utmost cultural value. Considering a method for identifying this value of the waterbody is typically undertaken with the river margins as a whole.

In my expert opinion, the water body, on its own, retains high sensory value which increases in parts of the river, alongside the varying biophysical condition of the river's waterbody, including the islands within the river. In the-lower reaches of the river where the water body forms part of a connected delta river system, the current identification has extended into the water body. The values attributed to the river's waterbody further upstream inherently remain the same and are reinforced by Waikato- Tainui's position with regard to the values attributed to the river as a whole.

In response to a question raised at the hearing by Commissioner Cooney, in regard to the weighting of factors and the direction stated in the Matakana Decision, I reviewed whether an ONF or ONL can be identified on one factor alone, in this instance - cultural / tangata whenua values (the Associative dimension). In considering the practical application of landscape assessment, the Matakana Decision (in paragraphs 135 -136) discusses the weighting given to 'technical' vrs 'non technical' expertise informing the dimensions considered (Biophysical, Sensory and Associative).

The decision was not focused on the weighting of factors ahead of others or the singular or cumulative ranking of these. Rather, it addressed whether the associative values, including cultural / tangata whenua values, should be identified as "non-technical" given the existing case law "*which clearly states that any of the range of factors may be so significant in relation to a particular landscape or feature as to justify a finding that it is outstanding and that an ONFL should be so obvious (in general terms- that there is no need for expert analysis)*"².

The Matakana Decision also refers to the decision in *QLDC v Wakatipu Environmental Society* [2000] NZRMA 59 whereby a range of factors can elevate to justify inclusion as outstanding, noting however that the test for being sufficiently natural is also required. There are, with all landscapes, factors under each of the dimensions that are defining or prevalent, and through the assessment are brought into the overall evaluation of all three dimensions of the landscape. It is not a singular assessment of one factor within one dimension (for example the cultural factors within the Associative dimension) but an overall landscape assessment of all three dimensions.

By recognising that parts of the Waikato River-margins vary in value and have resulted in lower classifications of parts of the river, the river's waterbody as a whole was compartmentalised. When considering the waterbody as a whole area, separation from the river margins is a method that identifies the importance of the river's water body, whilst recognising the differing degrees of contributing values of the margins along the length of the Waikato River.

² Refer pagraph 136 EnvC 2017-147 – Matakana Island.

It is considered there are suitably high value factors attributed to the waterbody of the Waikato River to identify it as an ONF, whilst addressing the margins in a manner that responds to the changing characteristics along the length of the River (In the Waikato District). In response to the relief sought the following technical position is supported:

- Identification of the waterbody of the Waikato River throughout the Waikato District as an Outstanding Natural Feature.
- Mapping of the ONF of the Waikato River to include:
 - Existing ONF areas including the River margins identified as ONF.
 - Mapping to the water's edge (excluding margins) where the adjoining River Margin is identified as a SAL or having no landscape identification.
 - All river islands to be identified as being part of the water body.
- Retention of the already identified SAL with minor mapping of the river's waterbody interface to marry with the identified waterbody edge of the proposed ONF.

Noting the earlier reported recommended mapping adjustments attributed to the SAL along the Waikato River, the above recommended approach would not inherently affect these earlier recommendations. The only inclusion of additional terrestrial (land) areas to the ONF will be some of the river islands which are currently identified as SAL-

3.0 Conclusion

I support the inclusion of the waterbody as an ONF, as separate from the river margins. Although such an approach is not typically applied to rivers, it responds to the relief sought and the unique and nationally recognised values attributed to the Waikato River by Waikato-Tainui. Furthermore, it is consistent with some other areas, such as lake bodies, where water bodies are identified but the margins are sometimes excluded. Therefore, this approach provides a cohesive approach to the river, whilst recognising the varying degrees of values attributed to its margins, through what is a series of landscape areas.

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