

Regional Landscape Inconsistency

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Quandary. Take a look at this picture. On the left the Regional Council names this landscape as outstanding but to the right the neighbouring regional Council makes no comment. So why the difference as clearly these are the same landscape divided only by a boundary line?

The plan governing the left, being the One Plan, (the combined regional planning document for Horizons (Manawatu-Whanganui) Regional Council), goes to some detail in describing the natural landscapes and features that are considered to be outstanding throughout their region. Fifteen such outstanding natural features and landscapes are identified in the Horizons region, including the Forest Park of the Ruahine Range. The Horizons northern boundary abuts the Hawke's Bay regional southern boundary near Dannevirke, with a line that then runs along the top of the Ruahine Range and bisects the state forest park. The landscape to the right (north-east) appears identical to that of the left (south-west), with a regional boundary line being the only separating feature. Yet the north-eastern portion within Hawke's Bay Region receives no recognition in the Regional Policy Statement within the Hawke's Bay Regional Resource Management Plan (RRMP). Nor does any other landscape. In fact, the Hawke's Bay RRMP is silent on identification of Outstanding Natural Features and Landscapes (ONFL's) except for a single policy relating to Significant Natural Landscapes for expansion of urban areas.

But the difference doesn't stop there. The Regional Policy Statement within the One Plan not only identifies and describes the 15 ONFL's, it also lists their characteristics, stating with complete clarity that landscape identified at the regional scale shall be included in the District Plan:

The natural features and landscapes listed in Schedule G Table G.1 must be recognised as regionally outstanding and must be spatially defined in the review and development of district plans (One Plan Policy 6.6)

It goes on to give detailed guidance on how Territorial Local Authorities (TLA's) are to assess additional ONFL's at a district scale and, if appropriate, refine the boundaries of the regional features and landscapes. The method prescribed relates to that established through case law and popularly known as the modified Pigeon Bay factors, which has been adopted by many councils throughout the country. This approach is to consider the landscape in terms of three broad contexts; natural sciences, aesthetic/perceptual, and associational. To ensure this approach is followed by TLA's the One Plan states:

The Regional Council and Territorial Authorities must take into account but not be limited to the criteria in Table 6.1

The result can be that many smaller landscapes and features are added to those identified at the regional scale. The two levels of assessment complement each other. The benefit of such an approach is that even if a TLA fails to undertake an assessment at the District scale, at least those regionally important landscapes within the district are protected because a district plan must give effect to a Regional Policy Statement.

At a minimum, even if it unfortunately fails to identify specific landscapes and features, it is common throughout New Zealand for a Regional Policy Statement to direct TLA's to identify ONFL's and frequently they suggest how to go about doing so. This is the implied approach taken in the Hawke's Bay Regional Coastal Plan, where policy guidance is given on application of the Modified Pigeon Bay factors to assess ONFL's and the need for their protection. While this is likely driven by the NZ Coastal Policy Statement's directive policy 15 that requires identification of the natural features and landscapes of the region or district, such an approach does not appear to have extended beyond the coastal environment for the Hawke's Bay Regional Council.

So why the difference in approach? The Ruahine Range is consistently outstanding and doesn't change character at the regional boundary. Provision is made in both the Hawke's Bay Regional Coastal Plan and Horizons One Plan for ONFL assessment of the coast, so consistency prevails for the coastal environment. But what about the Hawke's Bay hinterland? Of interest is that the operative Hawke's Bay RRMP is a second generation plan, with the first generation RPS containing quite detailed provisions regarding ONFL's. This did not flow through to the second generation plan. Possibly because the Hawke's Bay Regional Council made a political decision to concentrate on water and discharge, seeing land use matters as a district plan matter.

Yet every other regional or unitary council in the country addresses ONFL's on a region wide basis. All except for Hawke's Bay direct or encourage TLA's to identify ONFL's in their district and many even state the method to be used and some identify the regional ONFL's.

It appears the weight of the NZCPS has achieved a reasonably consistent outcome in the coastal environment, with all regions at least recommending identification of ONFL's. Horizons One Plan (and many others) have gone further and actually identified those regional outstanding landscapes within their coastal environment as well as directing the method of further assessment. Despite the nationwide consistency within the coastal environment, where does this leave the Hawke's Bay hinterland?

This is the heart of the quandary:

- The RMA (through the NZCPS) requires identification within the coastal environment of the natural features and landscapes of the region or district and provides a method for this. This has been done with reasonable consistency throughout the country;
- The RMA does not require such identification beyond the coast, although many regions have done so with varying consistency;
- The inconsistency becomes apparent when a region chooses not to identify ONFL's nor to require TLA's to identify them, as has happened in Hawke's Bay hinterland. Whether this is compliant with the RMA s 61 [61(1)(b)] and case law such as the Court of Appeal Decision *Man O'War Station Limited v Auckland Council* CA422/2015, [2017] NZCA 24 appears questionable.



It is the role of the NZILA to guide a consistent approach to assessing ONFL's. However, it is the role of councils to undertake such assessments, such as is required within the coastal environment.

The NZCPS has provided a consistent national direction for landscape assessment and protection of the coastal environment, yet the example of the Ruahine Range above suggests that a similar national direction is required for the hinterland, which, after all, is the vast majority of the country.

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