



NZAIA Impact Connector #6 - January 2019

Landscape Assessment

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Introduction

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The focus of this newsletter is landscape assessment, which has been discussed in great depth within the landscape architecture profession over the past year. Like with any robust process, it is important for the profession to continue refining its methodology, language and definitions to ensure landscape assessment appropriately reflects the ever evolving landscapes it is used to assess. We hope that this article will assist in adding to the momentum of further developing landscape assessment.

A diverse range of authors from throughout Aotearoa-New Zealand were asked to share their reflections on landscape assessment from their experience. Each of the authors were asked to cover a topic within this theme, using the overall 'think piece' written by Clive Anstey as a prompt for their article. The topics covered in this newsletter include:

- Outstanding natural landscapes/ features and provisions in Regional Policy Statements.
- Environment Court concerns with landscape assessment.
- The Environment Court and landscape assessment.
- Natural character assessments and provisions in a coastal environment.
- The assessment and management of amenity values.
- Community engagement: defining 'community' and informing consultation processes.
- Language and definitions.

Clive Anstey begins the newsletter with his overview piece which explains the connection of landscape assessment with statutory provisions, including the Resource Management Act 1991 (RMA) and the New Zealand Coastal Policy Statement. He also discusses the importance of landscape assessment and some of its history, including the recent workshops which have been held to review the landscape assessment guidelines.

John Hudson discusses outstanding natural landscapes and features in relation to the One Plan (the regional planning document for Horizons – Manawatu Whanganui) versus Hawke's Bay Regional Council to illustrate the vast differences between some of New Zealand's Regional Policy Statements. Begging the question, why the inconsistency?

Martin Williams follows with a focus on Environment Court concerns with landscape assessment and brings a perspective from outside the landscape architecture profession, giving a legal perspective on the issue. Martin discusses the need for a national policy statement in relation to landscape assessment and provides encouragement to those taking leadership in this respect.

Marion Read draws on her extensive research on the Environment Court and landscape assessment, and as part of her discussion she examines the need to amend certain sections within the RMA. Her argument demonstrates the importance to protect not only outstanding landscapes but also those which are modified but still highly valued.



Rhys Girvan and Emma McRae delve into natural character assessments in the coastal environment and help define the difference between natural character and landscape evaluation. They also consider how to define the coastal environment, scale of assessment, and outstanding natural character.

Stephen Brown explores the assessment and management of amenity, the line between amenity and landscape, and explains what is encompassed by the term. He deliberates on the specificity of amenity values from site to site and summarises the importance of amenity in the everyday lives of communities.

Shannon Bray provides a telling story on community engagement and provides insight into his experience with the consultation process. He discusses the importance of involving the community in the landscape assessment process and explains the benefits of listening to community members.

Dennis Scott discusses the difficult topic of language and definitions. He argues the need for a multidisciplinary approach so that landscape becomes a shared objective and asserts it is therefore imperative that there is a common understanding of the term 'landscape'.

Chantal Whitby is Landscape Architect who holds a Master of Science (with Distinction) in Environmental Management. She works for Hudson Associates Landscape Architects and works on range of landscape assessment projects, including those in the coastal environment. She lives near Dunedin with her partner on a regionally significant wetland, which continually refuels her passion for New Zealand's unique environment.



Lives and landscapes: who cares, what about, and does it matter??

Clive Anstey

Undertaking landscape assessments to inform planning and resource management decisions is not new. With the passing of the Resource Management Act 1991 (RMA), however, came a radical shift in focus, purpose, and language. Where the Town and Country Planning Act 1977 focused on the allocation of space, the Resource Management Act focuses on the management of effects. Within the landscape profession there was considerable optimism with the passing of the RMA; planning that separated uses and fragmented landscapes would be replaced by management that integrated uses and sustained landscapes.

While the Purpose and Principles set out in the RMA clearly reflect the need for communities to build relationships with their environments that are both sustaining and sustainable, much of the language and structure of the Act reflects a history of adversarial process and the separation, rather than integration, of interests. Landscape Architects have not been alone in struggles to interpret the language, mediate processes to apprehend the values and meanings communities attach to places, and provide direction to the management of resources. Our efforts have been subject to intense scrutiny, not least by the Environment Court. In spite of the evolving case law and the promulgation of guidelines in 2010, the profession continues to face criticism for a lack of consistency in assessing landscapes to ascribe values as well as in the assessment of the effects of activities. The various statutory processes attract increasing community interest, especially the qualitative dimension of resource management. The 'landscape' is now central to people's concerns. The number of visitors to our country each year is fast approaching the number who live here. Our landscapes frame a visitor's experience of New Zealand, making a vital contribution to our economy as well as the wellbeing of New Zealanders generally.

In order to accommodate the increasing diversity of interests and perspectives, coherent and transparent processes of landscape assessment and management have become critical. In response to concerns raised by the Environment Court a review of assessment guidelines was initiated by Shannon Bray, NZILA president at the time, in 2016. In 2017 some 120 people attended a series of workshops around the country. They were asked to respond to a series of questions. The collated responses are informing a review of our guidelines. This task is being undertaken by two of the professions most experienced practitioners. A draft of the revised guidelines will be circulated among those who have engaged in the review process, as well as representatives of the various professional bodies and interest groups with whom landscape architects engage. This newsletter provides a series of 'think pieces' exploring some of the key questions the review process is addressing.

Landscape matters arise in both sections 6 and 7 of the RMA, as well as policies 13 and 15 in the NZ Coastal Policy Statement. While the overriding objective of the Act is to sustain the character and quality of all landscapes there is a requirement to recognise the significance of particular landscapes in distinct contexts, notably in coastal environments and in landscapes where the impacts of culture have been minimal. ‘Amenity’ tends to be an important consideration in the management of all landscapes; values attaching to amenity must be identified and sustained regardless of context. All too often our assessments are limited in both their scale and scope so that the effects of a proposal are evaluated within very limited frames of reference. There is a need for us to clarify the language in the Act and to recognise the relationships between the various statutory contexts in order to provide more comprehensive and coherent assessments. And while assessments may identify differences in the character and quality of landscapes, they do not always provide direction to their management.

It is now generally accepted, not least by the Environment Court, that the landscape attributes to be recognised in landscape assessments fall into three broad categories: biophysical, perceptual, and associative. There is also general agreement on critical attributes, and to a lesser extent, how their significance is to be evaluated. The evaluation of significance is often undertaken in collaboration with other experts and specialists, for example ecologists, social scientists, and those with the authority to weave the values and aspirations of indigenous communities into statutory processes. Landscapes are effectively ‘summary expressions’ of complex relationships, ecological and cultural. Landscape management must therefore recognise and provide for critical attributes and ensure their relationships are sustained.

Landscape assessments, like most resource assessments associated with the RMA, serve two primary purposes; they inform policy development and the establishment of ‘bottom lines’, and they inform decision makers on the likely effects of proposed developments, and how such effects can be managed. They may also need to address ‘cumulative effects’, effects extending through time and across space.

Most regions, and at least some districts, have completed landscape assessments in support of their policies. All too often however, assessments undertaken as part of consenting processes do not have the support of clear policy statements and mapped information; assessments are undertaken on a case by case basis in a limited context of effects. The capture and validation of values is often cursory, undertaken with limited consultation, either with other professionals or communities. Consenting processes tend to be adversarial. Development can be threatening for many individuals and their communities. Adversarial deliberations are not ideal for reaching a consensus on the values of a landscape’s character, quality, or amenity. The ‘effects’ of proposals are all too often overstated by affected individuals and communities, and underestimated by developers.

Landscape assessments to fully uncover the values and relationships across landscapes need to be collaborative and inclusive. Humans and the places they inhabit are a reflection of the cumulative effects of activities. Climate change reminds us that we share a commons and our relationships with land, air, water, and one another shape evolving futures. Landscape assessments are becoming increasingly important in informing conversations about such futures.

Papa-tu-a-Nuku (Earth Mother)

We are stroking, caressing the spine
of the land.

We are massaging the ricked
back of the land
with our sore but ever- loving feet:
hell, she loves it!

Squirming, the land wriggles
in delight.

We love her.

Hone Tuwhare

Regional Landscape Inconsistency

John Hudson



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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Landscape Management in the new world order: time to lift our game

Martin Williams

The *King Salmon* decision has forced a reset of our approach to landscape management under RMA. The question now raised is whether we as resource management practitioners either fully appreciate the implications of the decision, or are equipped to deal with them. This article explores some of these implications, and poses a challenge to the profession, landscape experts in particular, to assume a lead role in taking landscape evaluation and management forward into the new 'post *King Salmon* paradigm'.

When the New Zealand Coastal Policy Statement 2010 (NZCPS) came into force, it was undeniably within a setting whereby the requirements of any one policy, including Policies 13 and 15, were weighed in the mix. They did not set an absolute bottom line, prevailing over all other factors, whatever the cost. It was this 'overall judgment' approach that was applied by the Board of Inquiry in the *King Salmon* case, and it reflected nearly 20 years of case law. Now that the Supreme Court has rejected that approach, and Policy 13 and 15 do set bottom lines, in my view the profession needs to lift its game as to landscape assessment and management.

Local authorities are also not always distinguishing between areas 'with and without' the coastal environment (to which Policy 13 and 15 of the NZCPS actually and only apply), as to the level of landscape protection afforded under their policy statements and plans. For example, the now more stringent policy approach reflecting *King Salmon* applies both to the 16% of mainland Auckland rated as an ONL under the Unitary Plan, and to ONLs on the Hauraki Gulf Islands. In both areas, even farm buildings above 50m² on rural land rated ONL need resource consent, which may be refused. From my reading of the decisions version of the Queenstown Lakes District Plan, the same can be said of this district located within Central Otago, some 97% of which is rated as outstanding. Express policy makes it clear that subdivision and development is inappropriate "in almost all locations in" ONL areas, and only the exceptional case will be approved. In my view, this reality only makes meeting the challenge posed, all the more important.

In *Man O' War Station v Auckland Council*, the Court of Appeal confirmed the "factual" nature of landscape evaluation, divorcing the policy or planning implications arising from an ONL rating, from the rating exercise itself. While outstanding landscapes may therefore simply be "what they are", regardless of the planning consequences that follow, those consequences cannot be ignored in real world terms. I respectfully suggest that the landscape profession has an obligation in this regard, and not just to secure the protection of landscapes for their intrinsic sake or their value to wellbeing and tourism. The profession needs to also take land owners, infrastructure providers, farmers, developers, mana whenua and indeed all stakeholders affected by the policy implications of landscape rating, with it on the journey. To

do that, in my opinion, greater consistency and transparency of approach at all the relevant stages referred to in the NZILA 2010 Best Practice Note is required, i.e. landscape identification, characterisation, evaluation, and perhaps most important- change management.

One undeniable fact is that the word “outstanding” appears only once in Part 2 of the RMA. It does not appear in s6(a) (as to natural character of the coastal environment), nor in s6(c) addressing areas of significant indigenous flora and fauna. Something greater than “significant” was envisaged from the outset. The term “outstanding” was deliberately employed by the drafters of the RMA to draw upon case law surrounding water conservation orders in the previous legislation. Readers will be aware of the line of case law reflecting that approach, including the seminal *WESI* decision, confirming that landscapes may be “beautiful or picturesque” even “magnificent” without being outstanding. I do wonder whether the Practice Note definition of an ONL as being “particularly notable” fairly reflects the intended threshold, or (with respect to Court of Appeal) *should do* any more in the new paradigm.

The Environment Court has also several times noted that outstanding landscapes are generally so obviously exceptional, as to not require expert appraisal (*Man O’ War v Auckland Council*, for example). Yet case law is legion with divided expert opinion dominating disputes over the nearly two decades since *WESI*, as to whether landscapes vast and small should be rated outstanding, and if so, whether the effects of a given proposal (wind farm, dwelling, subdivision or quarry) are appropriate and so consistent with the requirements for ONL protection set by s6(b) of RMA.

It is now well established that the *WESI* or *Pigeon Bay* criteria can be grouped into biophysical, associative and perceptual attributes (see, for example, *Upper Clutha Tracks v Queenstown Lakes District Council*). What seems considerably less clear is the methodology by which the rating of each attribute is determined, and how the various attributes are themselves then ranked or combined to obtain the final result.

The NZILA Best Practice guidelines were no doubt carefully prepared with a view to standardising the approach to landscape evaluation and management, and this is to be applauded. But as the responses to the survey recently conducted by former NZILA President Shannon Bray reveal, there is still much work to be done in this respect, including as to how landscapes are both characterised and rated.

In my respectful opinion, this is manifestly an area of resource management practice literally demanding a national policy statement or standard, directing a more uniform and consistent approach to how landscapes are identified, what attributes must be considered, and how the rating of each attribute is then to be determined. In my view, such national guidance should also address issues of weighting between attributes (biophysical versus perceptual for example) and as to how the final or overall evaluation and synthesis should be made to decide whether the threshold of *outstanding* is met. It should also cover process issues such as to what extent a multi-disciplinary exercise is required for the task, and the requisite degree of community and stakeholder engagement.

But as touched on earlier, this is when the potentially even more vexed question of landscape change management then arises, and how to determine whether a given development proposal is appropriate in particular. To that end, clearly and concisely framed records of the landscape evaluation, identifying in objective terms the characteristics and qualities that led to the rating, would aid the cause. Whether a given development is appropriate consistent with protecting the specific landscape characteristics and qualities can then be more predictably and transparently assessed. While no doubt we all have our own war stories, landscape



attribute descriptions as nebulous as “the interface of sea, bush and sky” simply beg the question, how on earth do you decide whether a given development proposal is appropriate in that context?

We should not as the Practice Note says, simply “freeze landscapes”. My overriding concern is that at present, the current landscape policy setting may direct that very outcome, without reference to the wider sustainable management implications of the decisions being made.

I would fully endorse any initiative taken by the landscape profession towards meeting the challenge ahead, and taking leadership in the preparation of national guidance regarding the critical aspects of landscape evaluation and management in particular. To be clear I am not proposing a straitjacket here disposing of the need for expert evaluation. But I am proposing a framework, which all experts in all districts and regions would be required to follow. Its time has come, if not overdue.

Martin Williams has over 20 years' experience practising in resource management and local government law. He has represented a wide range of private and public sector clients at local authority and appeal hearings, appearing as counsel in a number of leading Environment and High Court cases as well as in the Court of Appeal and Supreme Court. Martin was also counsel in the Man O' War cases referred to in this article. Martin is a former President of the Resource Management Law Association of New Zealand (Inc) serving on the National Committee of that Association for nine years. Additionally, Martin is an accredited Mediator (Resolution Institute) and Hearing Commissioner (Ministry for the Environment).

Landscape assessment and the Environment Court

Marion Read

Landscape assessment is a key aspect of the work of landscape architects, particularly for those whose professional life intersects with our local government planning systems governed by the Resource Management Act 1991. There are two aspects to this work. One aims to provide assessments of the quality of landscapes in order to determine if they warrant protection under S6(b) of the Act as ‘outstanding natural landscapes and features’. This would usually be done in relation to the development of a District or City Plan. The other aspect entails the assessment of the impacts of proposed developments on the landscape to determine if they comply with local planning documents, and ultimately with S6(b) and 7(b) of the Act. Should decisions within either of these aspects be appealed they will be heard in the Environment Court and landscape architects take the role of expert witnesses in these hearings.

The Environment Court is constituted by a judge, providing legal expertise, and commissioners selected from a wide range of environmental professions, including landscape architecture. It is the final arbiter of matters of fact in relation to the cases that it hears. Appeals against its decisions can only be made in regard to matters of law. Consequently the role of the Landscape Architect in the Environment Court is to assist the Court by providing evidence to enable it to determine the matters of fact upon which it will make its decision (Skelton, 2000).

One of the generally accepted defining features of a profession is the possession of a generalised and systematic body of knowledge. Professions are also expected to demonstrate a sense of social responsibility and a high level of self-regulation, particularly in regard to training, licensing and quality of work (Dsur, 2008, Freidson, 2001). This implies that the arbiter of best practice within a profession is that profession, and that, at least ideally, consistency of theory, method and results should be anticipated. Issues have, however, been raised over many years regarding the quality and consistency of approach to landscape assessment in this country.

In 1999 the New Zealand Institute of Landscape Architects (NZILA) held a conference focusing on landscape assessment followed in 2008 by a series of workshops at which practitioners discussed the ‘problem of landscape assessment’. These workshops led to the publication of a best practice note entitled ‘Landscape Assessment and Sustainable Management’ at the end of 2010. As a practitioner, there was little which I found to be helpful in this document beyond a confirmation that I was on the right track, in a very general sense. In 2013 the British Institute of Landscape Architects published an updated ‘Guidelines for Landscape and Visual Impact Assessment’. The NZILA Education Foundation toured one of its authors around New Zealand, presenting master classes based on the processes detailed in what is, essentially, a manual. At that time it was considered by many that these guidelines

could be adapted and adopted by the NZILA for use in this country, and many practitioners, myself included, adopted them as a sound basis for our assessment work. They were not adopted by the NZILA and disquiet about process continued. In late 2017 a further series of workshops on landscape assessment were held around the country. The notes from those meetings suggest some movement towards a more consistent approach is occurring, but also show that considerable variance in opinion and practice remains.

In 2010/2011 I undertook a piece of original research examining the influence that the Environment Court and its decisions had had on the practice of landscape assessment. This research concluded that the Court had exerted a strong influence. This was quite explicit in some instances, practitioners reporting that they simply repeated what seemed to be preferred by the Court. Practitioners also, however, often followed what they referred to, incorrectly, as 'case law'. What the practitioners meant by 'case law' was a presumption that previous Environment Court decisions were in some way binding on their practice. This is a misunderstanding of what 'case law' actually is, and the role of the LA as an expert witness.

'Case law' has a narrow and particular meaning and is a part of the system of jurisprudence based on judicial precedents. It is made up of a body of reported cases and the interpretations of the law in those cases become binding on lower courts. It is certainly a fundamental part of the New Zealand legal system ensuring consistency of approach between levels and divisions of the wider court system. The key point, however, is that it focuses on the correct interpretation and application of the law and as noted above, the role of the landscape architect is to assist the Court in the determination of the facts.

Section 4 of the Evidence Act 2006 defines an expert as 'a person who has specialised knowledge or skill based on training, study or experience'. Experts are able to provide opinion as well as factual evidence. Such experts must qualify themselves to the Court by evidence of qualifications, experience and membership of an appropriate professional body. Consequently the locus of the professional's abilities and their qualification as an expert lies with the profession to which they belong, and it is to this profession that individuals must look for the answers to definitional and procedural questions, and not to the Court.

That having been said, it is the case that the legislation within which landscape assessment practice occurs is, in my opinion, problematic. Section 6(b) of the RMA requires the protection of outstanding natural landscapes and features from inappropriate subdivision use and development. It is strongly my opinion that this needs to be amended, and it appears from the 2017 professional workshops that this opinion is gaining traction within the profession. This clause has engendered arguments within the landscape profession which remain unresolved after 27 years regarding the meaning of 'outstanding natural landscape' and how these should be determined. My particular issue with this clause is that it is the case that most of our most outstanding and most natural landscapes are already protected by our network of national parks. We have many landscapes which are highly valued but also highly modified and at times it seems the ONL/ONF concept has been stretched to fit. It would be far better, in my opinion, to amend the Act to require the protection of 'outstanding landscapes' enabling communities to protect the landscapes which are important to them, whether urban or rural, modified or pristine.

With regard to landscape assessment practice, the outcome of the 2017 workshops is promising. It is clear there is an appetite within the profession for greater consistency of practice and a clarity that this must come through the determination of concepts and processes from within the profession. As well as calls for an updated practice note a strong emphasis on ongoing professional development from the NZILA and an acknowledgement of



landscape planning and assessment as an advanced specialism within the profession are, in my opinion, positive and likely to address successfully some of the weaknesses identified to date.

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Marion Read has a PhD in Landscape Architecture from Lincoln University and a Masters of Resource and Environmental Planning with Honours from Massey. From 2005 to 2013 Marion worked for Lakes Environmental, and its predecessor Civic Corp, both organisations charged with the planning and regulatory work for Queenstown Lakes District Council, as a Landscape Planner. From 2013 to 2017 she was self-employed doing similar work, but retired at the beginning of this year. Marion's work has been both in consenting and in policy. She lives on a small farm (lifestyle block) near Dunedin with her partner and Jack Russell, Freddie.



Natural character assessments and provisions in a coastal environment

Rhys Girvan and Emma McRae

Defining natural character

The term 'natural character' occurs within the first of eight matters of national importance under Section 6 of the Resource Management Act (RMA). Under the RMA, sustainable management of natural and physical resources requires the preservation of natural character within the coastal environment (including the coastal marine area), wetlands, rivers lakes and their margins. However, the term 'natural character' is not defined.

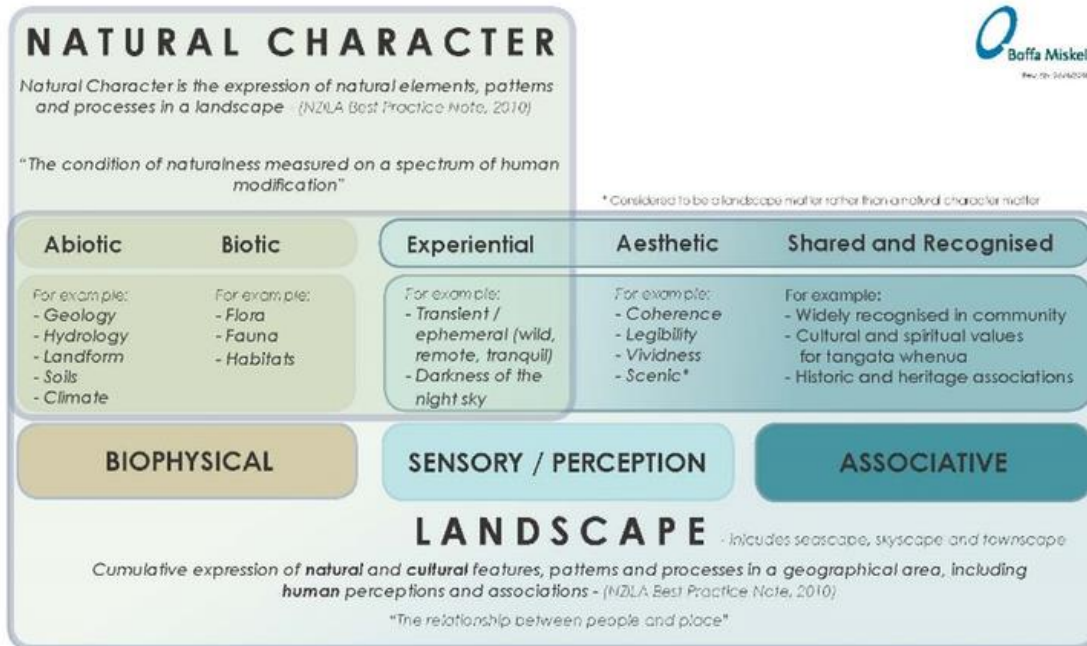
When the New Zealand Coastal Policy Statement (NZCPS) was released in December 2010, local authorities were tasked under Policy 13 to map or otherwise identify (at least) areas of high natural character in the coastal environment. The NZCPS also introduced the new term, 'outstanding natural character'. In defining natural character, the NZCPS clarifies that natural character is not the same as natural features and landscapes or amenity values and provides a list of eight matters which may apply in Policy 13 (2).

Guidance prepared by the Department of Conservation on how NZCPS Policy 13 is applied, identifies that the degree or level of natural character depends on:

- 1. The extent to which the natural elements, patterns and processes occur;**
- 2. The nature and extent of modification to the ecosystems and landscape/seascape;**
- 3. The degree of natural character is highest where there is least modification;**
- 4. The effect of different types of modification upon natural character varies with context and may be perceived differently by different parts of the community**

Whilst such guidance is useful for understanding the concept of natural character, it does not clarify how natural character relates to a landscape assessment. In seeking to clarify this relationship, natural character can be conceived of as a measure of the condition of biophysical landscape attributes. Such condition can vary as a result of levels of human modification and takes account of the way biophysical attributes are experienced i.e. the 'feeling' of being in a wild unmodified environment. By comparison, landscape evaluation considers a broader suite of biophysical, sensory / perception and associative attributes including aesthetic and scenic qualities alongside other shared and recognised values.

The Relationship Between Landscape and Natural Character



Any natural character methodology must be flexible and adapt to suit different types and scales of coastal environments. The outputs from natural character assessments are enhanced through terrestrial, freshwater and marine ecologists and other natural science experts (e.g. geomorphologists), as well as landscape architects and planners. However, assessing natural character is different to determining whether coastal features, habitats or species are geologically or ecologically significant.

In essence, assessing natural character is primarily concerned with the degree to which biophysical landscape attributes have undergone human modification. In the case of habitats and ecosystems for which human action has resulted in at least some transformation of New Zealand's pre-human condition, assessment should consider how representative the current assemblage of species is relative to its possible natural successional stage. This also recognises that such natural character attributes can be restored or rehabilitated as promoted by NZCPS Policy 14.

Defining the coastal environment

Preserving natural character within coastal environments requires identifying the extent and characteristics of the coastal environment itself. Policy 1 of the NZCPS 2010 recognises that the coastal environment will vary from location to location and includes a list of nine matters it includes. The coastal marine area (CMA) is defined below the mean high-water spring (MHWS), however the inland extent of the coastal environment can be more difficult to define. Policy 1 recognises that the coastal environment includes "Areas where coastal processes, influences or qualities are significant...". In this context, significant implies not just that coastal processes, influences or qualities are present, but that they form a key characteristic of that environment.

Natural boundaries such as coastal escarpments and ridges can provide a clearly defined and logical inland boundary to the coastal environment. Coastal watersheds can also be helpful. Where structures, such as roads and buildings are evident, these can dramatically reduce the significance of coastal processes, influences or qualities of the coastal environment. In 'flat' coastal areas, the significance of coastal influences may decrease gradually as you move inland. Consequently, mapping these areas can be challenging, and land use, coastal hazard lines and landscape character may help define where the inland extent of the coastal environment occurs.

Scale of assessment

When defining levels of natural character within the coastal environment, it is important to clearly identify the spatial scale considered. The scale at which the coastal environment is assessed will typically depend on the study area or likely impacts and nature of a proposed development. Within a district or region-wide study, assessment scales may be divided into broader areas which consider an overall section of coastline with similar characteristics, and finer more detailed 'component' scales considering separate more local parts, such as specific bays or escarpments. In essence, the coastal environment can express different levels of natural character, depending on the level of detail gathered and the scale at which natural character is appreciated.

Outstanding Natural Character

For an area to have outstanding natural character it should exhibit an exceptional combination of natural processes, natural patterns, and natural elements, predominantly unaffected by human induced modification. In practical terms, when undertaking a district or region wide study, this requires re-examining areas or components identified as having at least high natural character and evaluating whether all or part of such areas stand out as exceptional. Transparency of this assessment can be greatly assisted by use of a matrix which sets out indicators which identify where levels of natural character occur across the range of abiotic, biotic and experiential attributes assessed.

Areas of high natural character may also qualify as outstanding natural features and landscapes. However, other sensory and associative landscape attributes must also be considered when undertaking a landscape evaluation which determines whether a natural landscape or natural feature also qualifies as outstanding.

Assessing Natural Character Effects

The assessment of natural character effects involves considering the change to attributes which indicate levels of natural character. This can be assessed by measuring and qualifying post development condition against current condition. Adverse effects reflect a reduction in natural character condition.



In all areas of the coastal environment, significant adverse effects must be avoided. Whilst the nature of significant adverse effects is not defined in the NZCPS, such effects are more likely to occur in areas with higher levels of natural character proposed to undergo more substantial reductions in condition. Any adverse effect and consequent reduction in condition must be avoided in areas with outstanding natural character. In all other areas of the coastal environment, any adverse effect on natural character must be avoided, remedied or mitigated.

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The Assessment & Management of Amenity

Stephen Brown

Since 1991 and the advent of the Resource Management Act (RMA), resource management practitioners have struggled with the seemingly arbitrary split between ‘landscape’ and ‘amenity’. Both involve human perception of the physical environment, the attachment of values to different locations and places, and the shaping of both values and identity by cultural mores and associations. Yet, one is a Section 6 Matter of National Importance and the other – amenity – has remained the ‘little brother’ as part of Section 7 addressing Other Matters. This resulting division between these concepts is made to appear even more arbitrary when one looks at the meaning of Amenity Values in the RMA, which describes them as follows:

Amenity values means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

Arguably, all of these factors are just as relevant to the appreciation of different landscapes and the forging of their identity. Moreover, since the decision *J A Campbell vs Southland District Council* of 1991, it has generally been accepted that amenity values relate to much more than just visual perception of a landscape or environment: they also relate to such factors as noise, lighting, smells and awareness of activity and movement. In other words, they can encompass the full spectrum of sensory factors that contribute to perception and appreciation of an area’s character, pleasantness, aesthetic coherence and identity.

So where does the point of division between landscape and amenity actually lie? My own view is that it primarily relates to two matters: scale and the appreciation of identity or sense of place. Whereas landscapes can encompass a wide range of scales – from the most grand and all-encompassing, such as the Southern Alps or Canterbury Plains, to the quite modest – scale at the amenity level focuses much more on human perception of the known, the familiar, even the ‘domestic’. Inevitably, this brings into play values associated with more personalised spaces and environments: residential environs, the neighbourhood, the local community and the landscapes that frame and contribute value to those places in all respects. Similarly, identity and sense of place – evolved from the Greek concept of the ‘*genius loci*’ – largely relate to the familiar and known: the idea of a place that offers comfort, succour and aesthetic value derived from a certain harmony of physical elements and their composition.

Unsurprising, therefore, amenity value, as interpreted under the RMA, has long retained a strong connection with residential environs and the values either associated with individual properties or local communities. Naturally, not all places are perceived as being equal in either regard. Some reveal an acute sense of intimacy and connection that is profound, whereas others seem fragmented, disjointed and disrupted – whether because of the outlook and landscape(s) that they are exposed to, or because of noise, activity, and the concatenation of all of the above.

Nor is this focus on residential environs exclusive: Section 7(c) of the Act refers to “*cultural and recreational attributes*”, which also takes us to places that we ‘play in’ and that have cultural meaning. For many New Zealanders, such places will extend from the local playground and domain, or beach, to far-flung fishing spots, while for others it may well encompass the local church, community hall, marae or urupa. Each of these places and spaces will have specific values, from just peace and quiet to an abiding sense of spirituality and historical meaning.

Consequently, even though a basic level of amenity underpins most environments that provide the focus for residential occupation and recreation, amenity values also remain highly specific to individual locations. They encompass both the various attributes, and their composition, that contribute to the sense of identity and place associated with an area – for locals and visitors alike – and the quality of life that this engenders for those occupying or working and playing within it.

In relation to the management of amenity values and effects on them, this situation hardly engenders a great deal of comfort. The sheer variability of amenity values and their site specific, nature makes both the assessment of amenity values and their management fraught with complexity – much like landscape. At a basic level, amenity values are maintained via district plan standards and controls that we are all familiar with: zoning, bulk and location requirements, noise limits and other controls which set out to achieve a minimum level of amenity and to minimise nuisance effects – for residential, open spaces and other sensitive areas.

Beyond this, however, resource management takes us into a world of cumulative effects and nuance: of values and effects that have less to do with measurable thresholds and more to do with the way in which environmental factors – such as noise – contribute cumulatively (in combination with other factors) to changes in the perceived character, demeanour and pleasantness of a particular location and environment. Both the baseline that these existing values and sense of place establish, and the effects that a development proposal might have on them, can only be assessed at an entirely site specific, level. Moreover, as the recent *Blueskin Bay* decision¹ highlighted, the measurement of such values and effects must take into account local perceptions and values – not just those of ‘outside experts’. In other words, engagement with local communities and individuals is a ‘must’; it is a prerequisite to sound decision making in this highly complex arena.

¹ *Blueskin Bay vs Dunedin City Council* decision ([2017] NZEnvC 150): addressing a wind farm above Blueskin Bay in north Dunedin



Consequently, much as amenity remains continues to be regarded by many as the 'little brother' of landscape, this is not reflected in the importance of amenity values for most New Zealanders. Amenity is indeed fundamental to the day to day quality of life that nearly all New Zealanders enjoy. It is equally critical to the wider values and sense of place that they associate with the various places that they live in, recreate in, and that have cultural, social and spiritual meaning. In other words, they are critical to the well-being of all of New Zealand's communities.

Stephen Brown is a Fellow and past president of the NZILA, and has specialised in landscape assessment and planning for the best part of 36 years – working in the UK, Australia and New Zealand. He has undertaken strategic, landscape and natural character assessments from Whangarei and Auckland to the South Island's West Coast, and developed the methodology for a study of Hong Kong. Stephen has also been involved in a large number of major development projects – dating back to involvement in the Channel Tunnel project in the UK, then evaluation of the initial proposals for development of a port at Marsden Point. More recently, he has been involved with projects ranging across marina applications, new harbour crossing options for Auckland, the Waterview Connection Project and East West Link, and numerous wind farm projects. He frequently appears, as an expert witness, in the Environment Court and at council hearings, and has a small, but busy, practice, that addresses 'landscape' issues – including effects on amenity values – across the country.



The rise of the THIMBY

Shannon Bray

Recently I attended a Resource Consent Hearing for a proposed infrastructure project. The applicant set out all the benefits the project would bring, which few people doubted. Then various experts for the applicant outlined how they had assessed the potential effects of the proposal, and how these could be mitigated. The applicant's planner summed up the case by saying that the proposal would be valued, and that the effects would be less than minor.

'Please grant the consent, Commissioner.'

A friend of mine, who had never been to a consent hearing before and isn't confident in public speaking, outlined to the packed room of suited people her concerns about the project. She agreed that the proposal would be of great benefit to a number of people. But she was worried about how the proposal might affect the view from her house, and whether the charm of the area in which she'd chosen to live would be forever changed. She openly wondered whether the proposal was located in the right place.

The Commissioner asked my friend whether she had seen the plans and read all the reports. She said she was overwhelmed by the thickness of the reports and the technical nature of the plans and drawings.

The experts mused. Was this a visual effects issue overlooked? Was it about landscape character, or something else? Or was this just another Not In My Back Yard, thank you very much, submitter number 35?

'We fully support your proposal, but put it somewhere else please.'

As it happens, all my friend really wanted was to talk to someone about what was being proposed, to outline what she was worried about, be listened to, and be reassured that steps were in place to make sure that her concerns were being addressed. She absolutely wasn't opposed to the project, she just wanted to make sure that the place in which she lived was being treated with care.

And why not? We all care about the place we live. Our love for home is deep-rooted not only in our cultures, but in our own ways of life. It is part of our self-definition², an extension of who we are as people.

² Susan Clayton, Environmental Psychologist at the College of Wooster, Ohio



‘Who are you, and where are you from?’

We learn about the place we live in through experiences and storytelling. We attach emotions to the things that surround us. We know when it’s going to rain by the feel of the wind, we tell the time by the shadows on the hill, and fully remember what happened on that little rock behind Mrs Jones’s place back in 1993. The environment around us is our home, familiar to us, our comfort blanket.

So, it’s little wonder that we look out for it. We notice the things that change it, and what might threaten it. We discuss with our family and friends what other people are doing, and whether we like it or not. We love it when they do something that makes our place even better. But it also upsets us when they build something we don’t like – because it changes the connection we have with that place.

‘It’s our back yard too.’

The RMA has no formal requirement to consult on projects. It’s perfectly plausible to rely on your experts, to speak legal, technical language and sing how the benefits of your proposal outweigh any minor effects. What do these non-experts know about effects-based assessments anyway?

But there’s no arguing with someone who speaks from their heart about the place they love. Submitters who say, ‘I’m concerned’ and ‘I’m worried’ can’t be wrong – they’re simply opening up about how they feel. It might not be rational, it might not be based on facts, but it is of concern, and without being given attention the concern can fall victim to strong emotion.

In a recent roading project I was involved in, the Project Manager decided that sausages would be the best way to overcome the potential loss of significant screening vegetation that had been established along people’s boundaries. Over several days, we set up a BBQ and a tent, and invited the neighbours around.

Laughing with a stranger about how many sausages their 12-year-old son can eat in five minutes is a remarkable ice-breaker. Alongside the weather, we talked about the neighbourhood, about families, and about what it’s really like to live next to a motorway. We learned about the problems people were having with the vegetation in terms of shading, and we came to appreciate other challenges we’d not given much consideration to.

Talking to the community made us think.

We adapted the proposal, making subtle changes to some of the key elements. We listened, and we responded. We answered people’s questions about what we thought were silly things, and helped them get an appreciation of why we had to do some of the things the way we were doing them.

Our reward? After full notification (for a motorway stretching through 10km of a medium density residential suburb) we received less than six submissions. And we had positive interactions with people during the construction phase.

I’ve now been involved in a number of projects where we actively seek consultation with stakeholders and the community. We share the proposals, and listen to the concerns people raise. Sometimes we’ll draw up two or three different solutions and test them – ask people why they like one option over another. We involve them in the process, and help them understand the changes the project will make to their place. We give them new stories and new experiences that further enrich their connection to their place.



These interactions help us learn about a place too. It allows us to think smarter about our project and minimise potential problems we might not have even known about. We also eliminate potential issues during the design phase of the project – when they can be better accommodated – rather than trying to adapt designs during consenting.

I call my friend a **THIMBY**.

*'Please do things **Thoughtfully In My Back Yard**.'*

Shannon Bray is a registered landscape architect based in Hawke's Bay. His company, Wayfinder, work with large infrastructure providers around the country, including the New Zealand Transport Agency, Auckland Transport, Spark, Transpower, Meridian Energy and numerous Councils. He describes landscape architecture as 'storytelling the environment around us'.



Landscape - Is there a common understanding of the Common?

Dennis Scott

Landscape is an important sectoral issue in its own right. The RMA specifically identifies landscape in s6(b). Here, “*outstanding natural landscapes*” are the matter of national importance. This tripartite dilutes the great import of “*landscape*” in the every-moment, every-day and ever-transforming stage-set for the theater of life³. Landscape is both the public realm and borrowed private realm of an integrated common.

Environment becomes landscape when seen, perceived and interpreted. Landscape is the intersection of nature and culture. This represents two human identity products of one origin, relentlessly chasing each other, dominating one another at times or sometimes in balance.

The rapid emerging and uncertain condition where life on earth is seemingly currently positioned is considered an unacceptable imposition. This sensitive condition is overtly sensed and experienced as landscape. Landscape as a construct needs to regain priority as a central topic in the management of areas and resources. The primacy of the RMA s5 promise demands clear responses and guidance to the variations that collective social, economic and environmental processes and actions have on landscape. Recognition of a multidisciplinary knowledge approach is therefore necessary. It is in this context that landscape becomes the integrating common foundation. To achieve this, it is important to investigate the meaning and definition of landscape.

The New Zealand Institute of Landscape Architects (NZILA) define landscape as:

“Landscape is the cumulative expression of natural and cultural features, patterns and processes in a geographical area, including human perceptions and associations.”
(NZILA - Best Practice Note 10.1)

However, I prefer the European Landscape Convention (ELC) definition of landscape as a starting point:

“Landscape – an area perceived by people whose character is the result of the action and interaction of natural and/or human factors.” (Council of Europe, European Landscape Convention, Article 1,2000)

³ Tripartite of “*outstanding natural landscapes*” is considered by the writer as an incomplete and restraining perception of landscape and as a result leads to misinterpretation of what ‘*landscape*’ is and/or comprises. The writer considers that the focus on “*outstanding natural landscapes*” is woefully insufficient to do justice to the enormous importance of landscape as an everyday, ordinary and continuous experience. This presence of landscape as “the stage-set for the theater of life” is too overwhelmingly fundamental to be managed within the confines and the cursory and limiting construct that s 6(b) produces.

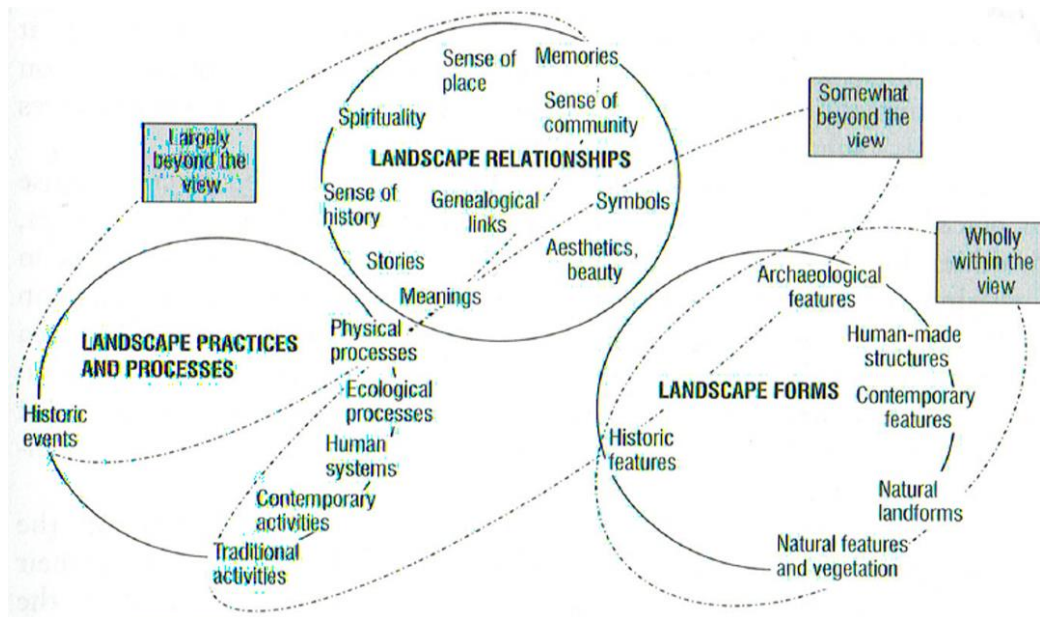
Irrespective, these careful wording(s) embrace a number of important concepts:

1. A landscape is a relatively bounded area, and that geographic recognition depends on human perception which often is spontaneous and intuitive in its identification (within a coherent area of land). Landscape therefore includes the subjective and perceptive dimension, which is the contemplation of an area (aesthetic view) and the objective and (spatial/geographical dimension).⁴
2. Landscape is the product of a relationship between a person ('the observer') and the object ("the observed"). The dominant agency is vision – "that seen" but other senses also come into play. Equally important is "perception" which passes through a lens of experiences and relationships. A multiple vision emerges - that "seen" (visible) and that "perceived" (understood) interpreted through plural meanings.
3. A fundamental factor of landscape is its "distinctive character" which has resulted from a complex pattern of actions and interactions manifest in both historical legacy (heritage) contemporary dynamics (land-use and management) and economic and social/community dynamics (associative). This introduces landscape as a constantly re-worked palimpsest, a historical phenomenon, as well as a reflection of evolution.
4. It implies that distinctive places are frequently an outcome of either a fortuitous combination of natural and human factors and/or the reverse, an accumulation of an unfortunate series of natural (catastrophic) and human (deleterious interventions) events and/or a combination of both.
5. Interaction also takes seeing and perceiving beyond an immediate process to one of ongoing reciprocal action and influence. This also provides connotations of connection and relationship/interrelationships (associative factors) inherent in a deep re-elaboration and transformation of place (spatial factors) over time (temporal factors).

Most importantly, there is human agency involved in the perception of landscape and the definition acknowledges that landscape is the result of the interaction of natural and cultural factors. What is emphasized is the presence of humans both as an active component of continuous and transformative interactions with nature, and as the synthesizer of definition.

This complexity and interactive dynamic is best illustrated in the following diagram:

⁴ Landscapes are considered to be boundless, and are more often than not seen and perceived as both static and dynamic geographic (objective) and contemplative (aesthetic) entities. Landscapes can be considered as hierarchical entities. Boundaries are either referenced and/or imposed for 'management purposes' e.g. RMA "*outstanding natural landscapes*". It is important to recognise that landscape is a 'whole' – i.e. that seen - and are not the '*features*' within any particular landscape; reference s6(b) "*outstanding natural features*"



(Source: After Countryside Agency 2006, Stephenson 2007 and Selman 2008)

Landscape Assessment (LA) therefore needs to recognise these complexities and interactions. Current LA practice recognises that landscape factors include three broad categories:

1. Biophysical (Abiotic and biotic/bio-physical including formative factors)
2. Perceptual (Experiential, sensory and aesthetic factors)
3. Associative (Cultural, heritage - including time-depth 'stories' and economic and social influences)

In applying a full appreciation of landscape dynamics it is also important to reflect on the fact that LA is but one part of the landscape planning, design and management process. This reality is often neglected in the focus on a limited and restrained application of LA [partial s6(a)/NZCPS 201) Policy 13 and s6(b)/NZCPS 2010 Policy 15 and s7(c)], particularly at a Regional and District policy formulation stage. The directive legislative constraints seemingly deny a full constitutive landscape policy input across all geographic areas, land-use typologies and sectoral domains. In this sense landscape currently under-performs in the policy context. Critical landscape management policies are limited and perceived as been necessary and only applied to the 'prettiest' or outstanding areas. Amenity landscape identification is also a selective policy process. The wider common remains as an overlooked construct and place.

The corrective process, the recovery, regeneration and creation of landscape as place, is applied through the resource consent application and implementation process, and often in the absence of formal regulation. Here, landscape as landscape architecture, planning and design performs as a different and inclusive process in the construction and management of specific interventions, whether as new developments and/or the management of existing areas and features.



The constitutive and corrective processes are an important distinction in the consideration of landscape in the RMA context.

Can we change the policy context of landscape?⁵ The emerging urgency of creating resilient and adaptive landscape beyond that of a selective protective safety culture to one replaced by an emergency culture is yet to be imagined. Certainly, historic and evolving economic, social and political inscriptions on the landscape are no longer considered to be side effects of human interventions. They are a direct expression of nature and culture acting interdependently. The plea for a closer and more intensive inspection of the relevance of landscape and its constituent parts is to be taken seriously, not just as an assessment framework, but as the fundamental basis of an applied planning and design process.

The realisation of a common understanding of the Common is critical to this important landscape endeavor.

Dennis Scott is the director of DJScott Associates Ltd. Dennis is a Registered Landscape Architect and Fellow of the New Zealand Institute of Landscape Architects (NZILA). He has over 45 years of experience. Dennis has been both a committee member and President of the NZILA. He has held senior landscape planning policy positions in both Central Government and Local Authority public sector organisations. DJScott Associates Ltd is a private practice that engages with a diverse range of clients and projects at the full landscape planning, design and management and project implementation spectrum. Dennis has also lectured within the Unitec Landscape Architecture programme since its inception in 1996, where he held an Adjunct Professor role between 2006 – 2012.

⁵ **General Note:** *Landscape Assessment* is represented throughout this paper as the assessment of landscape as a resource (Biophysical, Perceptual, Associative). Without confusing matters, paradoxically, *Visual Assessment (VA)* is considered to be a closely allied and integrated process with LA. However, VA specifically assesses views and amenity effects. LVIA's are normally processed as one entity, with separate and distinctive methodologies applied to each.