

# Ngā Whenua Ahurei

Outstanding Natural Features and Landscapes

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181. Section 8(c) of the consultation draft of the Natural and Built Environments Bill requires that “outstanding natural features and landscapes are protected, restored, or improved”.

182. See ‘WESI’ [1999] Decision No. C180, paragraph 81. NZCPS Policy 15 adopts this interpretation by referring to “outstanding natural features and outstanding natural landscapes”, although the consultation draft of the Natural and Built Environments Bill retains the same phrasing as the RMA. Nevertheless, some practitioners maintain the meaning intended by the drafters of the RMA was ‘outstanding natural features’ and ‘outstanding landscapes’ and that such an interpretation would have accommodated all landscape types such as ‘outstanding cultural landscapes’.

183. ‘WESI’ [1999] Decision, NZEnvC No. C180, paragraph 82.

184. ‘WESI’ [1999] Decision, NZEnvC No. C180, paragraph 99.

185. ‘Port Gore’ [2012] NZEnvC 72, paragraph 82.

## What is an outstanding natural feature or landscape?

8.01 Section 6(b) of the RMA requires as a matter of national importance:

*...the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.*<sup>181</sup>

8.02 An assessment may be required to either identify outstanding natural features and landscapes (ONF/ONL) or to consider the effects on ONFs and ONLs. The principles and processes outlined in preceding chapters for assessing landscape character, values, and effects also apply to ONFs and ONLs. The main differences are:

- when identifying ONFs and ONLs, there is an additional step: considering whether a natural feature or landscape is outstanding; and
- when assessing effects, there is a specific consideration as to whether something is inappropriate.

8.03 These Guidelines refer to ONFs identified for landscape values. ONFs may also be identified separately for geoheritage values using methods tailored to such values (see paragraphs 8.13–8.14).

8.04 ‘Outstanding natural features and landscapes’ means ‘outstanding natural features’ and ‘outstanding natural landscapes’.<sup>182</sup>

### Meaning of ‘outstanding’

8.05 ‘Outstanding’ encapsulates both quality and relativity: for instance, “conspicuous, eminent, especially because of excellence” and “remarkable in”.<sup>183</sup> It is a matter of reasoned judgement. An ONF or ONL will often be obvious.<sup>184</sup> The value of a professional assessment in such circumstances is therefore to explain the reasons (justification) that an ONF or ONL is outstanding and describe its values (and the attributes on which the values depend).

8.06 While ‘outstanding’ is a high threshold, it does not mean ‘the best’ or ‘uniquely superior’.<sup>185</sup> ONF/ONLs are not regulated by quota. A district may comprise a high proportion of natural landscapes of such quality as to be ONLs (for instance Queenstown-Lakes). Conversely, it does not mean ‘the best of a poor choice’: A district may contain few ONF/ONLs.

8.07 A natural feature or landscape might be considered outstanding for many different reasons—it may have outstanding values that derive from its physical and/or associative and/or perceptual dimensions, although often the values arise from the interplay between all three dimensions. It is important that such values (and the attributes that embody the values) are identified precisely because they are what is to be protected.

186. That is, it is outstanding in the context of the relevant authority's territory. A district council is to identify ONFs and ONLs in the context of its district. A regional council is to identify ONFs and ONLs in the context of its region.

187. Assessing an ONL in the context of a region means more than simply applying a regional comparator. It means assessing whether the landscape is outstanding in its context. See 'Man O'War Bay' [2015] NZHC 767, paragraph 47. "...I am not persuaded that it is necessary to incorporate a 'national' comparator (or even a regional or district one) into the consideration of 'outstandingness'. The Courts in which the jurisprudence has been developed have not been asking 'is this a nationally significant outstanding natural landscape?' They have been asking simply 'is this an outstanding natural landscape'. That is the issue that they are required to consider, under the RMA."

188. 'Long Bay' [2008] NZEnvC 78 paragraph 135. "...There is a spectrum of naturalness from a pristine natural landscape to a cityscape, and a 'cultured nature' landscape may still be an outstanding natural landscape."

189. 'High Country Rosehip Orchards' [2011], NZEnvC 387, paragraph 93. 'Denniston Plateau' [2013] NZEnvC 047 paragraph 47. See also 'Hawthenden Farms' [2019] NZEnvC 160, paragraph 61, "There is no arbitrary threshold of sufficient naturalness for a feature or landscape to qualify as an ONF/ONL".

190. Geoheritage is the aspect of geoscience concerned with identification and protection of significant geological features and landforms. The Geoheritage Sub-committee of the Geoscience Society of New Zealand is responsible for the New Zealand Geopreservation Inventory which lists and maps such features.

- 8.08 An ONF or ONL is considered outstanding in the context of a region or district.<sup>186</sup> ONFs and ONLs do not have to be nationally outstanding. Rather, it is a matter of national importance to protect such regional or district ONFs and ONLs. The values of ONFs and ONLs are specific to their context.<sup>187</sup>

#### Meaning of 'natural'

- 8.09 "Outstanding natural features and landscapes" does not mean features and landscapes that are outstandingly natural. It means natural features and natural landscapes that are outstanding.
- 8.10 'Natural' means characterised by natural elements (such as landforms, vegetation, rocks, water bodies) as opposed to built elements (such as buildings and infrastructure). The essence of an ONF or ONL is not necessarily the degree of naturalness but that it is sufficiently natural to be considered a natural feature or natural landscape. 'Natural' covers a broad scope. Some ONFs and ONLs comprise managed rural landscapes such as pastoral farmland and pine plantations. Most landscapes exhibit some modification, even if only through the impact of introduced plant and animal species. Some geoheritage ONFs consist of human-made exposures of natural rock features such as in road cuttings.
- 8.11 Whether a feature or landscape is a natural feature or natural landscape is a matter for reasoned assessment in context. 'Cultured-nature' landscapes may be sufficiently natural to be considered as an outstanding natural landscape.<sup>188</sup> It was suggested in two Environment Court decisions that the naturalness threshold might fall somewhere within 'moderate-high' on the 7-point scale so that "there will likely be landscapes within the moderate-high range of naturalness that could be regarded as natural enough for ONL status", although a subsequent decision reinforces that there is "no arbitrary threshold of sufficient naturalness".<sup>189</sup>

#### Meaning of 'inappropriate'

- 8.12 Whether a subdivision, use or development is 'inappropriate' will be answered with reference to the landscape values that make the ONF or ONL outstanding (i.e. what it is that is sought to be protected). An essential task, therefore, is to precisely identify such values and the attributes that embody those values.

#### Geoheritage and landscape values

- 8.13 Outstanding natural features can be identified separately for geoheritage reasons<sup>190</sup> alongside those identified for landscape reasons. The relevant matter in such situations is the values for which the feature is considered outstanding. If an ONF is identified

191. 'Geoscience Society of New Zealand, Best practice guide: Outstanding natural features. What are they and how should they be identified? How their significance might be assessed and documented', 2019, Geoscience Society of New Zealand Miscellaneous Publication 154. <https://www.gsnz.org.nz/publications-and-webstore/product/127>.

192. If ONFs are identified separately for geoheritage or landscape reasons, they should be classified so that the reasons for their identification (and the values to be protected) are clear.

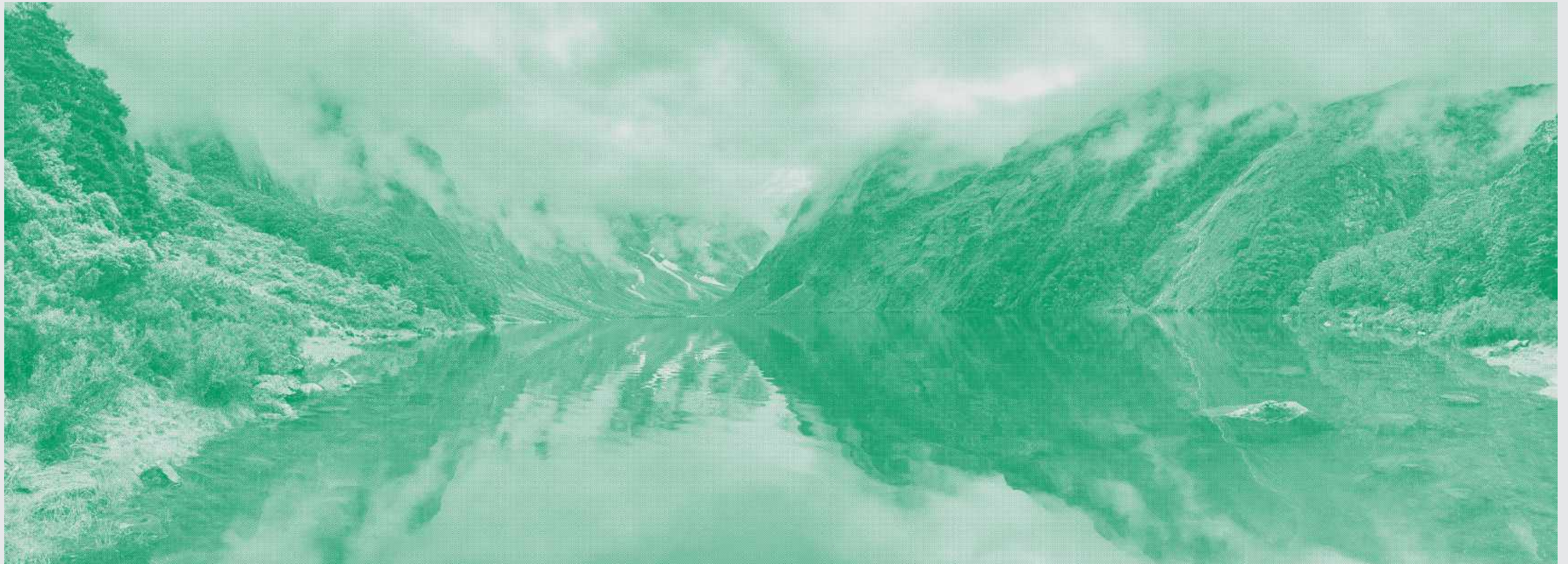
for its geoheritage values, it is the geoheritage values that are to be protected. If an ONF is identified for its landscape values, it is the landscape values that are to be protected. The reasons for which the ONF is identified should be reflected in its classification.

- 8.14 Geoheritage values are assessed by methods tailored to such values.<sup>191</sup> Examples of ONFs identified for geoheritage values include landforms of geomorphological significance such as volcanoes and caves; geomorphological features such as fault-displaced watercourses and terraces; 'type-locations' for rock or soil types; and geological exposures such as those that contain important fossils, minerals, sedimentary and structural features and relationships between rock units. Geoheritage and landscape ONFs can be identified and classified separately,<sup>192</sup> or (preferably) as part of a cross-disciplinary approach that harnesses both landscape and geoscience expertise. While ONFs identified from landscape and geoheritage perspectives do not always coincide, it is not uncommon for ONF landforms to have both landscape and geoheritage significance. Combining such matters means those values may be protected in an integrated way.



Plait a many stranded rope  
for yourself, plait a thousand  
stranded rope for yourself;  
land is the substance, land  
is the foundation, it cannot  
be taken

**Whiria he kaha tuatinitini mōu,  
whiria he kaha tuamanomano mōu;  
he koutu whenua, he take whenua,  
e kore e taea**





Above: Kura Tawhiti/  
Castle Hill  
Image: Simon Button

193. A regional or district wide assessment enables potential ONFs and ONLs to be properly interpreted and evaluated with respect to their context. Such an approach is also able to assess other aspects of the landscape resource, such as cultural landscapes, in an integrated way. Context in this sense means the setting from which a landscape derives its significance (see paragraph 8.22). It means more than the level of comparison (e.g. it means more than simply 'amongst the best in the district').

194. See for example 'Unison Networks' [2007] CIV 2007-485-896 paragraphs 81, 85, 86. Also 'Stephenson Island' [2014] NZEnvC 92, paragraph 78 ff. 'Central Wind' [2010] NZEnvC 14, paragraph 69. 'Chance Bay' [1999] NZEnvC Decision W70/99 paragraph 159. The same principle applies to ONFs, for instance see 'Puti Bridge Kawhia' [2007] NZEnvC Decision W25/07 paragraphs 178-179 and 199-200.

195. See 'Southland Fish and Game (Oreti River)' [2016] NZEnvC 220, paragraph 302-304. "The Environment Court may find that a natural feature or landscape is outstanding even where the District Council has not carried out this assessment and recognised and provided for them (where they exist) in their planning documents. A finding that a natural landscape and feature is outstanding in the absence of a district-wide assessment will be the subject-matter of comprehensive evidence."

196. See WESI' [1999] NZEnvC Decision C180/99, paragraph 99.

### Identifying outstanding natural features and landscapes

- 8.15 The process can be summarised as follows:
- identify 'candidate' natural features and natural landscapes
  - assess the character and values of each candidate
  - evaluate whether each feature and landscape is outstanding
  - delineate the ONF or ONL.

### Identify candidate natural features and landscapes

- 8.16 ONFs and ONLs are best assessed as part of a region or district-wide landscape assessment. Good practice for such exercises is to assess the landscape character and values of the whole region/district paying attention to each area's physical, associative, and perceptual dimensions within a historical frame (as outlined in Chapter 5). Candidate outstanding natural features and landscapes will become evident from such an assessment. At the same time, it will provide the context within which to assess the values of each candidate ONF and ONL.<sup>193</sup>
- 8.17 There are situations, though, in which landscape assessors are required to assess whether a single natural feature or landscape has the qualities of an ONF or ONL. It is open to decision-makers to make a finding as to whether such a feature or landscape is an ONF or ONL notwithstanding plan provisions (i.e. to decide a natural landscape is an ONL even though not identified as such in the plan, or to decide an identified ONL is not in fact an ONL, or to refine the boundaries of an ONL).<sup>194</sup> In such instances, decision-makers rely on landscape evidence. It is not necessary to assess all landscapes in a district to arrive at a professional opinion. Whether a natural feature or landscape is outstanding is a matter of reasoned judgement rather than exhaustive comparison.<sup>195</sup> 'Outstandingness' should generally be obvious—especially once the reasons have been articulated.<sup>196</sup>
- 8.18 Confirm that the candidate feature or landscape is sufficiently natural to be a natural feature or natural landscape (see paragraph 8.11).

### Assess the character and values of candidate ONFs and ONLs

- 8.19 Assess the character and values of the natural feature or landscape in terms of its physical, associative, and perceptual dimensions, following the process outlined in Chapter 5 of the Guidelines.

### Determine whether they are outstanding?

- 8.20 In effect, there is one criterion (that it is outstanding) and one pre-condition (that it is a natural feature or natural landscape).

197. See 'Man O'War Station' [2017] NZCA 24, paragraph 62 "The questions of what restrictions apply to land that is identified as an outstanding natural landscape and what criteria might be applied when assessing whether or not consent should be granted to carry out an activity within an ONL arise once the ONL has been identified. Those are questions that do not relate to the quality of the landscape at the time the necessary assessment is made; rather, they relate to subsequent actions that might or might not be appropriate within the ONL so identified..."

198. 'Matakana Island (1st decision)' [2017] NZEnvC 147, paragraphs 128 and 166.

- 8.21 The reasons ONFs and ONLs are outstanding vary. An ONF or ONL may be outstanding, for example, for natural science values, and/or because of important traditions, ancient stories, and whakapapa, and/or because it is aesthetically distinctive in a strategic location. While an ONF or ONL may be outstanding for a single reason, it is more likely to be outstanding for a combination of reasons. The physical, associative, and perceptual dimensions typically reinforce each other.
- 8.22 Whether a natural feature or landscape is outstanding also derives in part from context: the role and meaning it has in the context of an area, and its value for that area. What might be unremarkable in one location can be outstanding in another context.
- 8.23 Evaluating whether a feature or landscape is outstanding is a matter of reasoned judgement. As with other matters of professional opinion, the reasons given in justification are key.

#### ***Delineate and map the ONF/ONL***

- 8.24 The general extent of a natural feature or landscape will be apparent when assessing its character and value. Delineating the boundary precisely is usually a subsequent step taken after assessing whether it is outstanding or not. The extent and boundary should derive from the values and attributes of the natural feature or landscape (see paragraphs 5.18–5.20). The boundaries should not be determined in response to the potential constraints of such delineation on land use.<sup>197</sup>
- 8.25 See paragraphs 5.20 and 8.30 about treating landscape boundaries in a reasoned way when assessing effects.

#### ***Describe the landscape values***

- 8.26 Describe the values that make the natural feature or natural landscape outstanding, and the attributes on which those values depend and that therefore are to be protected. Be precise: these are the values against which the appropriateness or otherwise of an activity will be assessed. Such values should be listed in the statutory plan.<sup>198</sup>



199. See 'Man O'War' [2017] NZHC 3217, paragraph 95. "...whether an activity causes "adverse effects" or whether an activity is "inappropriate subdivision, use [or] development" will be determined by its effect on the characteristics and qualities of the ONL that are "existing in or caused by nature". This is a contextual assessment. Where there are existing farming activities the mere continuation of those activities will not ordinarily give rise to adverse effects on the natural characteristics and qualities of the ONL."

200. 'King Salmon' [2014] NZSC 38, paragraph 105. "We consider that 'inappropriate' should be interpreted in s6(a), (b) and (f) against the backdrop of what is sought to be protected or preserved. That is, in our view, the natural meaning. The same applies to objective 2 and policies 13 and 15 in the NZCPS."

201. For example, Policy 15 (a) of the NZCPS is to avoid adverse effects on ONF/ONLs in the coastal environment; the regional and district plans may give effect to this requirement in more specific detail.

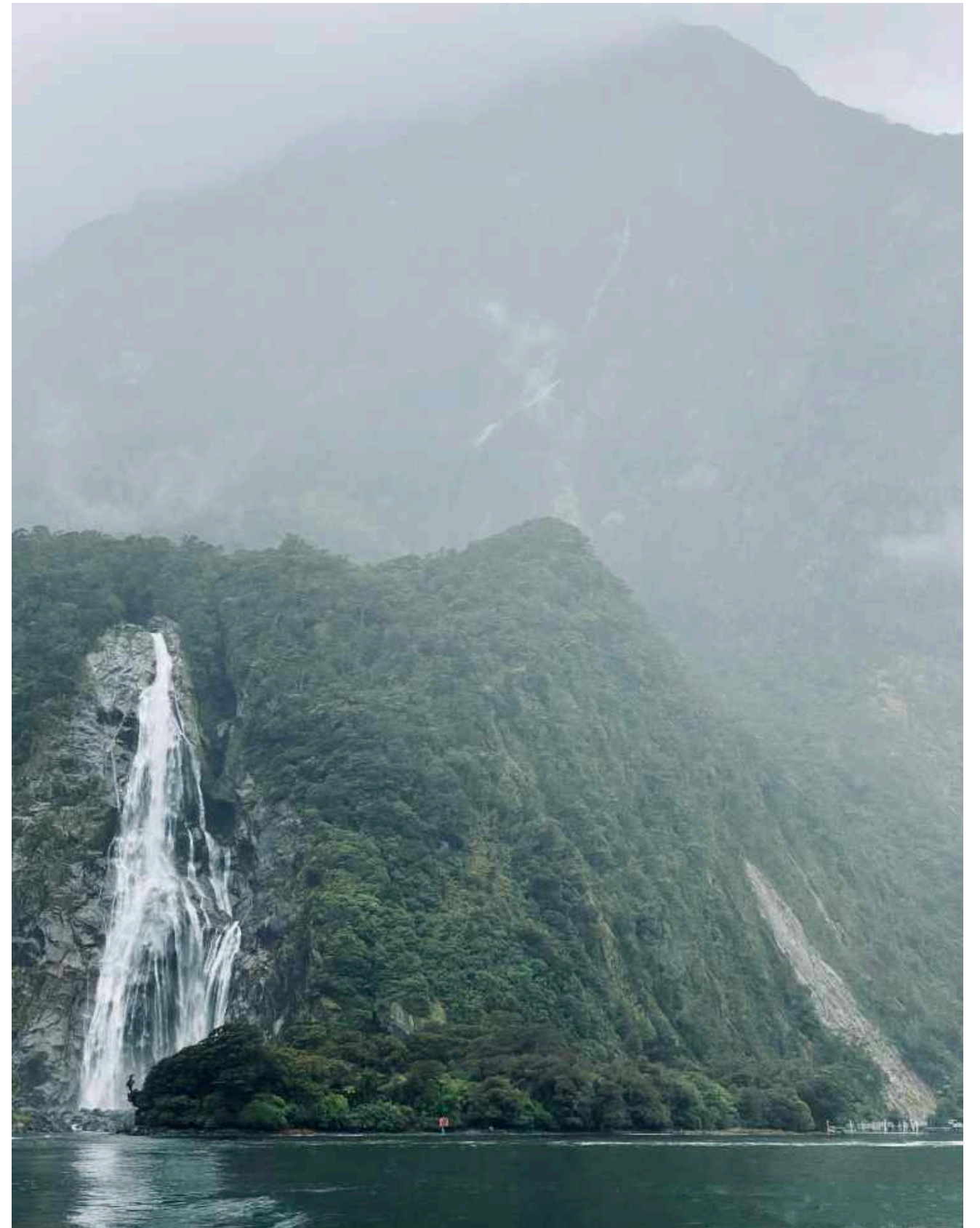
202. See 'Papanui Inlet' [2018] NZEnvC 250, paragraph 151. 'Skyline Enterprises (2nd Decision)' [2018] NZEnvC 242, paragraph 50. 'WESI' [1999] NZEnvC C180/99, paragraph 99. "...Just because an area is or contains an outstanding natural landscape does not mean that development is automatically inappropriate."

203. 'Central Wind' [2010] NZEnvC 14, paragraph 94 and 'Unison Networks' [2006], NZEnvC W58, paragraph 42. The same principle was established for effects on natural character of the coastal environment in 'West Wind' [2007] W31/07 paragraph 405.

204. See 'Okura' [2018] NZEnvC 78, paragraph 635.

## Assessing effects on outstanding natural features and landscapes

- 8.27 Identify the ONF's or ONL's values, and the attributes on which the values depend. As discussed above, such values and attributes may be described in the regional or district policy statement/plan but, if not, or if inadequately identified, a landscape assessor may need to undertake their own assessment.
- 8.28 Identify potential effects of subdivision, use or development with reference to:
- the values to be protected, and the attributes that embody those values; and
  - the provisions of the relevant statutory plan or policy statement; and
  - the context of the specific landscape.<sup>199</sup>
- 8.29 Analyse the nature and degree of effects on the ONF/ONL's values in the same way as outlined in Chapter 6, including attention to the attributes which embody the values. Assess the overall effects on the values of the ONF or ONL, and whether the proposal is appropriate or inappropriate:
- An adverse effect is one that detracts from the values for which the natural feature or landscape is considered outstanding.
  - Whether a subdivision, use or development is 'inappropriate' will be answered with reference to the landscape values (what it is that is sought to be protected),<sup>200</sup> the landscape context, and the statutory provisions.<sup>201</sup>
- 8.30 It does not follow that activities/development within an ONL will necessarily lead to adverse effects on the values for which the ONL is protected.<sup>202</sup> Conversely, activities/development outside the boundaries of an ONL can lead to adverse effects on such values.<sup>203</sup> Treat boundaries in a reasoned way when assessing effects (see paragraphs 5.18–5.20 and 8.24).
- 8.31 For the avoidance of doubt, an adverse effect on an ONF/ONL should be measured against the values rather than the 'outstanding' threshold: whether the landscape in question would remain outstanding is not determinative of whether there is an adverse effect or not.<sup>204</sup>







Hold fast to the valued treasure, not to the illusory treasure, lest you be left as fertiliser for the human land

## **Kia mau ki te kura whero, kei mau koe ki te kura tawhiwhi; kei waiho koe hei whakamōmona mō te whenua tangata**

## **Whakarāpopototanga**

### Summary

Natural features or natural landscapes are characterised by their predominance of natural components (landform, vegetation, water bodies) over built components (buildings and infrastructure), earthworks.

ONFs and ONLs are natural features and natural landscapes that are outstanding, not features and landscapes that are (necessarily) outstandingly natural.

‘Outstanding’ is a measure of quality and relativity in the context of a region or district. It is a high standard but is not limited to only ‘the best’ or ‘uniquely superior’. Context means more than the level of comparison—it means the setting from which a feature or landscape derives its significance.

ONFs or ONLs might be considered outstanding for many different reasons. The values for which they are considered outstanding might derive from their physical and/or associative and/or perceptual dimensions: often it is the interplay between all three dimensions.

It is the values for which the ONF or ONL is considered outstanding that are to be protected (through management of the attributes in which the values are embodied).

The process for identifying and evaluating ONFs and ONLs can be summarised as:

- identify ‘candidates’ (normally as part of a district or regional landscape assessment)
- assess the character and values of each candidate
- evaluate whether the candidate is outstanding and (sufficiently) natural
- delineate the ONF or ONL.

Effects on ONFs and ONLs are considered in terms of identified landscape values. Whether subdivision, use and development are inappropriate or not will be answered with reference to such values.

ONFs can be classified on both geoheritage and landscape grounds. In either situation, the values for which the ONF or ONL is considered outstanding determine what is to be protected.