

Submission to Waikato District Council on draft strategy: Taiao in the Waikato

Herenga ā Nuku Aotearoa — The Outdoor Access Commission

Herenga ā Nuku Aotearoa — The Outdoor Access Commission is the Crown agent responsible for providing leadership on outdoor access issues. Our role is to advise on and advocate for free, certain, enduring and practical access to the outdoors.

We administer a national strategy on outdoor access, including tracks and trails. We map outdoor access, provide information to the public, oversee a code of responsible conduct in the outdoors, help resolve access issues and negotiate new access.

Summary of key submission points:

In Herenga ā Nuku's submission on the Conservation Strategy, we:

- encourage a view of landscape connectivity that views esplanade reserves, esplanade strips and access strips as recreational assets and green space corridors for active transport as well as areas of riparian protection and management
- encourage Waikato District Council (WDC) to adopt a framework that facilitates the uptake of new esplanade strips and access strips, including those that are voluntarily offered to WDC, and
- encourage WDC to see esplanade and access strips as opportunities that can confer benefits of recreational access without the capital cost of landownership.

Principles

In compiling our submission, we considered the following:

- The purpose of esplanade areas (esplanade reserves, esplanade strips and access strips) is for public access and recreational use of riparian areas.

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- The importance of esplanade areas in providing both recreational spaces and green corridors for connectivity.
- How the legal differences between the three types of esplanade areas impact their use and function: Esplanade Reserves are land owned or administered by the WDC. In contrast, Esplanade strips and access strips are easements over privately owned land. For Esplanade Reserves – where the WDC owns or administers the land – it has more control over what occurs on the land and capital tied up in land ownership. Underlying landowner consent is typically required for management activities on Esplanade and Access Strip easements unless the matter is specified in the easement instrument.
- Significant population growth and impacts on availability and quality of outdoor public access within the Waikato District.
- The role of Herenga ā Nuku, as the government agency responsible for advocacy on public outdoor access and the statutory underpinnings of public access in Aotearoa
- Our work with groups and individuals in the region with outdoor access interests and aspirations
- The changing and evolving uses for outdoor spaces and how people recreate

Our submission

With respect to the above considerations, we offer the following points:

Feedback on the Draft strategy: Taiao (Nature) in the Waikato

Note where parts of the draft strategy are quoted, the phrases appear in italics

Page 11 Goals

Herenga ā Nuku encourages WDC to take a wider view of recreational activities on esplanade areas – beyond just walking and cycling – to include activities like dogs on leads, horse riding and vehicular use (motorbikes and other vehicles) to meet current and future recreational aspirations of the community.

The strategy focuses on some technical aspects of esplanade areas. Herenga ā Nuku encourages adding an outline of the purpose and benefits of esplanade areas to the strategy as it will provide important context for decision-making around esplanade areas.

The purposes of esplanade reserves and strips are outlined Resource Management Act 1991. Along with protecting conservation values, section 229 states the purpose is:

(b) to enable public access to or along any sea, river, or lake: or

(c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, lake, where the use is compatible with conservation values

Another useful source is the Quality Planning Resource: <https://www.qualityplanning.org.nz/node/737>, which outlines why esplanade areas are important.

In addition, we encourage WDC to consider adopting some of the benefits outlined in this submission under “other factors for consideration” (below) to understand why adopting and retaining esplanade areas provides value to WDC.

Page 18 Esplanade Reserves

“private property rights must be respected”

An esplanade reserve is public land (either council freehold title or crown land vested in the council). Therefore it is difficult to understand why WDC would need to respect private property rights when the land is under its control.

“landowners are responsible for minimising the effects of land use on waterbodies”.

As the WDC is the landowner, direction on appropriate management of Reserves is contained in the General Policies Reserve Management Policy.

Page 19 Esplanade Strips

A rule may require esplanade strips in a plan when land is subdivided, reclaimed or developed or a road stopped.

The Local Government Act 1974 section 3 outlines that when a road is stopped along a riparian margin, the road is vested in the council as an esplanade reserve (not an esplanade strip as stated above).

“Esplanade strips are a legal instrument made between the landowners and territorial authorities. They are [an easement] which is registered on the title, but the land within the strip remains in the ownership of the landowner. Although identified on a survey plan, they do not need to be formally surveyed”.

We submit that WDC should stipulate surveying of the esplanade strips as the default position, as this will assist in realising the public benefits of the easement. Surveying esplanade strips ensures the easement is depicted on the cadastre, thus making the easements visible to the public. The increased popularity of mapping systems reinforces the value of depicting public access provision. As the easement’s purpose is to create public access and recreation, it is important that the public can easily identify the location of the easement. Clear demarcation also helps reduce conflict.

The creation of a strip, and restrictions and requirements relating to its use and management are noted on the title and bind every party having an interest in the land. The form of the agreement and standard restrictions imposed on an esplanade strip is defined in Schedule 10 of the RMA.

We encourage WDC to consider how the easement instrument can be customised to enable public access and public recreational use, which will ensure the esplanade strips meet their purpose – refer to RMA section 229 (b) and (c)

An esplanade strip can include provisions to exclude access by the public during certain times or under certain circumstances (as prescribed in Form 31 of the Resource Management (Forms, Fees and Procedures) Regulations 2003 – also see examples of condition in the advantages and disadvantages space.

We encourage WDC to focus on how to facilitate public access and recreational use in line with WDC’s ambitions in Liveable, Thriving, Connected Communities.

Other factors for consideration

In addition, Herenga ā Nuku encourages WDC to consider:

- The value to the community of WDC accepting new esplanade areas by creating new public access to and alongside watercourses, i.e. extending the “Queen’s Chain.”

- The benefit of extended recreational access within watercourses by creating new esplanade reserves and strips. Esplanade reserves and strips provide access not only to the land they sit over but also an entitlement of public use to the midpoint of the adjacent watercourse.
- Ensuring that WDC has a framework to facilitate the acceptance of new esplanade reserves, esplanade strips, and access strips to meet the demands of a rapidly increasing population and mitigate the impacts of green space being converted into housing.
- Having the ability to accept esplanade strips even though there may not be enduring public access to the strip. The easement still has the possibility of delivering conservation benefits, and public access may come over time as land ownership or land use changes.
- Ensuring that where esplanade areas are being created by subdivision, the applicant bears the cost of surveying to confer a public benefit.
- Recognising how esplanade areas can contribute positively to providing non-vehicular connectivity. Esplanade areas can offer safe, dedicated cycling and walking routes for commuter connectivity or recreational use (or both).
- How this Strategy interacts with the proposed WDC Connectivity Strategy (revised 2016 Tracks and Trails Plan) to achieve the best outcome for landscape connectivity and access to recreational facilities for local communities?
- The contribution facilitating public use of esplanade areas can mitigate climate change and reduce vehicle use.
- Utilising esplanade areas to facilitate connectivity to open spaces, tracks, and trails to facilitate pest management.
- How esplanade areas can complement the growth in cycling as a form of active transport and recreational pursuit.

Concluding comments

We support WDC's intention in Draft Taiao (Nature) in the Waikato Strategy, particularly in the context of population growth and pressure on landscape connectivity, growing interest in active transport, burgeoning need for public green spaces and strong interest in active recreation. We thank you for the opportunity to comment on the draft strategy.

We submit that the strategy needs to be amended to clarify further and strengthen the role of various Esplanade areas in achieving these key objectives.

The contact person regarding this submission is:

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