
BEFORE THE MANAWATU- WANGANUI REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Submissions and Further Submissions lodged by **Meridian Energy Limited** to the Manawatu-Wanganui Regional Council on the Proposed Horizons One Plan – Chapters 7 and 12 in relation to Biodiversity.

SUPPLEMENTARY EVIDENCE (BIODIVERSITY)

**STATEMENT OF EVIDENCE OF CATHERINE MARY CLARKE
FOR
MERIDIAN ENERGY LIMITED**

1.0 Introduction and Qualifications

1.1 My full name is Catherine Mary Clarke. I am a planner and senior principal of Boffa Miskell Limited, a national firm of consulting planners, ecologists and landscape architects. I hold the qualification of Bachelor of Regional Planning (1st Class Honours) from Massey University. I am a full member of the New Zealand Planning Institute and a past president of the Auckland branch (1998-2000).

1.2 I have approximately twenty years experience in planning and resource management. My professional experience includes approximately three years in district planning, nine years with the Auckland Regional Council ('ARC') and most recently eight years in private consultancy based in Auckland.

1.3 I have had a range of experience in the development and implementation of regional planning documents prepared under the Resource Management Act ('RMA'). While employed by the ARC, I was responsible for project managing the development of the Auckland Regional Plan: Sediment Control and was directly involved in the development of the Auckland Regional Policy Statement and Auckland Regional Plan: Coastal. I am presently engaged by the ARC to assist in a review of the

implementation of policy in the Auckland Regional Policy Statement as part of the development of their second generation Regional Policy Statement. I have also acted for a number of infrastructure providers and resource users, wherein I have provided planning advice, lodged submissions and presented expert evidence on regional and district planning documents that affect their activities, including the ARC Proposed Air, Land and Water Regional Plan and recently variations to the Waikato Regional Plan.

1.4 I have also had experience in renewable energy issues and am currently project managing the acquisition of resource consents for a 42 turbine wind farm in the Waikato Region. This proposal is presently under appeal to the Environment Court.

1.5 I have read the Code of Conduct for expert witnesses in the Environment Court Practice Notes. I agree to comply with this Code of Conduct. I am satisfied that the evidence in this statement is within my area of expertise, except where I state that I am relying on the evidence of another person. I am also not aware of any material facts that I have omitted that might alter or detract from the opinions that I express in this evidence.

2.0 Scope of Evidence

2.1 I have recently been engaged by Meridian Energy Limited ('Meridian') to provide supplementary planning evidence in respect of the biodiversity provisions in the Proposed Horizons One Plan ('the One Plan').

2.2 The original pre-circulated planning evidence for Meridian on the biodiversity provisions in the One Plan was prepared by Ms Mary O'Callahan (GHD Limited, Wellington) and was submitted to the Hearings Panel in July 2008. I have reviewed this planning evidence and generally agree with opinions and conclusions contained within it. I will therefore not repeat again to the Committee, the professional opinions that have been advanced by Ms O'Callahan in this supplementary statement but in turn comment on matters that have arisen since her evidence was tabled in July 2008. The evidence of Ms O'Callahan remains the statement of planning evidence prepared on behalf of Meridian as at July 2008 except to the extent it is altered by the opinions I set out below.

2.3 As noted in the Statement and Supplementary Recommendations of Helen Marr for the Biodiversity Hearing, dated 5 November 2008 ("the Supplementary Report"), a series of events have now overtaken the previous statements of evidence tabled with

the Committee in July. These include a number of pre-hearing meetings between submitters and ecologists and caucusing between energy generators. Of particular relevance to Meridian is the agreed Statement of Issues by the Energy Generators and the suggested Track Changes to Chapters 7 and 12 (dated 15 October 2008) that arose out of the caucusing of the energy generators. I note Ms Marr's Supplementary Report also recognises this as the most recent and relevant position of the energy generators¹, although agreement was not attained on all matters.

2.4 My involvement with this process commenced with attendance at the prehearing meeting held at Horizons on 22 October 2008. I have not been party to any other pre-hearing meetings or caucusing sessions undertaken in relation to the biodiversity provisions in the One Plan.

2.5 The purpose of my supplementary evidence is to comment from a planning perspective on the provisions in Chapters 7 and 12 of Proposed One Plan (Indigenous Biological Diversity) as recommended by the officers as at 5 November 2008² ("the current tracked change version"), which accompanied Ms Marr's supplementary report. In particular I will comment on both the matters where I consider agreement has been reached with Meridian, as well as the matters that remain outstanding.

2.6 In terms of the outstanding matters, my supplementary evidence will provide comment on:

- Section 6 (c) and section 30(1)(ga) of the RMA and whether the provisions in Chapters 7 and 12 of the Proposed Plan are the most appropriate way of achieving the purpose of the RMA;
- Rules regarding the activity status for activities in rare and threatened and at-risk habitats;
- Policy 12-7 and the Assessment Criteria for assessing ecological significance.

2.7 Importantly in preparing this statement of evidence, I have drawn on the expert opinions contained in the original and supplementary statements of evidence by Mr Matiu Park and Stephen Fuller (both Senior Ecologists, Boffa Miskell Limited).

¹ Refer Paragraph 29, Statement and Supplementary Recommendations of Helen Marr for the Biodiversity Hearing, Dated 5 November 2008.

² Track changes to Chapter 7,12 and the Glossary incorporating recommended changes in the officers supplementary report as at 5 November 2008

2.8 To assist the Committee, I have attached to this statement of evidence, a revised version of Chapters 7 and 12 of the Plan, which sets out the amendments now sought by Meridian in light of those recommended by the Officers as at 5 November 2008. Words to be added to the current tracked change version are shown in underline and words to be deleted are shown in ~~strike through~~.

3.0 Matters of Agreement – Chapter 7

3.1 It would appear that the caucusing and prehearing meetings undertaken to date have overall been constructive. Importantly the process has helped to achieve agreement on a number of matters and has also assisted in defining the issues that remain outstanding between the parties involved.

3.2 I have assessed the provisions in the current track change version and support much of what is now being recommended by the Officers. Overall, unless otherwise stated, Meridian supports the amendments to the biodiversity provisions in the current tracked change version as at 5 November 2008.

Objective 7-1: Indigenous biological diversity

3.3 As stated in Ms Marr’s supplementary report, the wording of Objective 7-1 was agreed between all parties present at the prehearing meeting on 22 October 2008. However the wording of Objective 7-1 now recommended in the current tracked change version is different to that agreed at this most recent pre-hearing meeting. The inclusion of subclauses (a) to (c) to Objective 7-1, as recommended in the current tracked change version is not necessary or the most appropriate way of achieving the purpose of the RMA.

3.4 Firstly subclauses (a) to (c) essentially seek to summarise the provisions in the policies (being Policies 7-1, 7-1A, 7-4, 7-5, and 7-6 in the current tracked change version) which describe the manner “by” which this high order objective will be achieved. There is no need nor is it appropriate to summarise these very detailed policies in Chapter 7 with the simple and limiting statements in subclauses (a) to (c) to Objective 7-1.

3.5 Further subclauses (a) to (c) serve to highlight an overall concern with the objective and policy provisions in Chapter 7 and what the plan is attempting to do.

3.6 As the Hearings Committee will be aware, there are key provisions in the RMA that provide direction on the Regional Council’s role in the management of biodiversity.

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- 3.7** Section 6(c) of the RMA states “The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;” is a matter of national importance which the regional council must recognise and provide for, while achieving the overall purpose of the Act being “to promote sustainable management.”
- 3.8** Section 30(1)(ga) set out one of the functions of a Regional Council is “the establishment, implementation and review of objectives, policies and methods for maintaining indigenous biological diversity.”
- 3.9** Clearly the RMA differentiates between the ‘protection’ of areas of ‘significant’ indigenous vegetation and significant habitats (Section 6(c), RMA), while at a more general level requiring Regional Council’s to carry out functions ‘maintaining’ indigenous biological diversity (Section 30(1)(ga), RMA).
- 3.10** Objective 7-1 subclauses (a) and (b) in the current tracked changes version of the Plan now includes (a) “Protecting Rare and Threatened Habitats” and (b)“Maintaining At-Risk Habitats”.
- 3.11** As stated in the principal and supplementary ecology evidence of Mr Matiu Park, concerns are raised that Schedule E of the Plan identifies all ‘rare and threatened’ habitats as significant without having undertaken any ‘on the ground’ assessment as to whether they are in fact “significant” (based on the significance assessment criteria now proposed in Policy 12-7). Objective 7-1 now proposes to “protect” all rare and threatened habitats listed in Schedule E regardless of their significance.
- 3.12** Based on the evidence of Mr Park and Mr Fuller, I consider that it is inappropriate for Objective 7-1(a) and other subsequent policies (particularly Policy 7-1A discussed below) to require the ‘protection’ of all rare and threatened habitats as listed in Schedule E without any assessment of their significance. Such an approach imposes a higher level of protection than imposed by Sections 5 and 6(c), RMA. It requires the protection of all ‘rare and threatened habitats’, without having undertaken any ‘on the ground’ assessment to determine if they are actually ‘significant’ indigenous vegetation and/or significant habitats.
- 3.13** For these reasons I recommend that the Hearing Committee adopts the wording of Objective 7-1 that has already been agreed by all parties at the pre-hearing meeting in October 2008, and recorded in the minutes arising from that meeting, as follows:

Objective 7-1

“Indigenous biodiversity is maintained or enhanced by”

- ~~(a) — Protecting Rare and Threatened Habitats*;~~
- ~~(b) — Maintaining At-Risk Habitats*;~~ and
- ~~(c) — Enhancing the function of the best representative examples of Rare and Threatened Habitats*, and At-Risk Habitats*.~~

Policy 7-1: Responsibilities for maintaining indigenous biological diversity

- 3.14** The recommended wording of Policy 7-1 in the current tracked change version adopts the wording generally agreed by all parties including Meridian at the pre-hearing meeting on 22 October 2008. I support this wording of Policy 7-1, and Meridian seeks the Hearings Committee recommend the adoption of the wording in Policy 7-1 in the recent tracked change version.
- 3.15** In particular I wish to acknowledge support of Policy 7.1 (a)(ii) which refers to the Regional Council’s responsibilities including developing rules controlling land use activities “to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna for the purpose of maintaining biological diversity”. In my opinion this wording is consistent with S. 6(c) and S.30(1)(ga) of the RMA.

New Proposed Policy 7-1A

- 3.16** Ms Marr’s supplementary report and the current track-change version recommends that Policies 7-2 and 7-3 are deleted and combined as a new Policy 7-1A. I agree with combining these policies and that the new policy is simpler, clearer and more readily understood.
- 3.17** I also support the inclusion of the wording “with potential adverse effects on these areas”, in the Policy 7-1A(a)(ii), and the deletion of the wording “within or near these areas” in relation to managing effects on biodiversity from the discharge of contaminants and the taking and diversion of water.
- 3.18** With respect to Policy 7-1A(b)(ii) , I reiterate the point raised in the statement of Ms O’Callahan previously, that it is important to Meridian that the reference to “renewable energy generation facilities” be included within the broader definition of “infrastructure” in Chapter 3 and in particular Policy 3-1, if Policy 7-1A is to be adopted by the Hearings Committee.

3.19 However, I have some outstanding concerns with Policy 7-1A, subsection (a). In particular the wording “The Regional Council shall protect Rare and Threatened Habitats ...” As discussed above, some provisions in Chapter 7 (including Objective 7.1 and Policy 7-1A, (a) as now proposed in the current tracked changes) seek to classify all “Rare and Threatened Habitats” in Schedule E as significant habitats that require protection in accordance with Section 6(c) of the RMA. For the reasons outlined above (in Paragraphs 3.9 to 3.13 of my evidence) I consider that this is inappropriate. I propose changes to Policy 7-1A in Attachment 1 to address this concern. These changes are more consistent with the wording in Policy 7-1 above, which I consider correctly describes the policy approach, that should be adopted by the Council.

3.20 I consider that Policy 7-1A should also be amended to include reference to biodiversity offsets and net biodiversity gains, to provide high order policy direction in the Part 1 of the Plan (the Regional Policy Statement) to support Policy 12-4(b)(ii) and (c) and Policy 12-6 (b)(ii) and (c). In my view, the RPS should acknowledge the appropriateness of providing for biodiversity offsets which result in a net biodiversity gains, in certain circumstances. It is noted that Policies 7-2 and Policy 7-3 as originally notified, (and now proposed to be deleted and combined into a new Policy 7-1A) included reference to ‘net biodiversity gains’, however reference to ‘net biodiversity gains’ seems to have been lost in the new Policy 7.1A.

3.21 Amendments to the proposed new Policy 7-1A to address these concerns are recommended in Attachment 1.

Policy 7-4: Proactive management of representative habitats

3.22 I support the proposed amendments to Policy 7-4 in the current tracked change version. In particular I support the amendment which now recognises that Horizons will also work in partnership with “other parties with a legal interest in the land” in Policy 7-4(a) to improve the health and function of the best representative examples of rare, threatened and at-risk habitats.

Policy 7-5: Fostering an ethic of stewardship

3.23 Policy 7-5 as proposed in current tracked change version is supported by Meridian.

Policy 7-6: Pest plants and animals

- 3.24 Policy 7-6 as proposed in current tracked change version is supported by Meridian.

New Method 7-8: Biodiversity Advice and Information

- 3.25 The current tracked change version introduces a new Method 7-8 on Biodiversity Advice and Information which I support. I consider that improved knowledge and understanding by land-owners is an important factor in promoting voluntary initiatives for protecting and maintaining biodiversity on private land in the region. I therefore seek the Committee recommends the inclusion of this non-statutory method in the Plan.

4.0 Matters of Agreement – Chapter 12

New Proposed Objective 12-2: Regulation of activities affecting indigenous biological diversity

- 4.1 The current tracked change version introduces a new Objective 12-2 and new Policy 12-3 to Chapter 12 of the One Plan. As far as I am aware, this new Objective 12-2 and Policy 12-3 have not been recommended in any earlier versions of the Plan and there appears to be no discussion supporting their inclusion in the current supplementary reports. Further they were not discussed by the parties in the discussion at the pre-hearing meeting in October.

- 4.2 With respect to new Objective 12-2, I have the same concerns as those raised in relation to Objective 7-1 and Policy 7-1A, (a). In particular the inclusion of wording “Protecting Rare and Threatened Habitats” remains an overall concern with all the policy provisions in Chapter 12, and the inference that all “Rare and Threatened Habitats” in Schedule E are deemed to be significant habitats in accordance with Section 6(c) of the RMA. I have recommended that proposed new Objective 12-2 be deleted in Attachment 1 of my evidence.

New Proposed Policy 12-3: Regional rules for activities affecting indigenous biological diversity

- 4.3 I have no concerns with the introduction of Policy 12-3. I consider however that the Policy could be strengthened by also referring to Objective 11-1 which states “The

regulation of activities in a manner which maximises certainty and avoids unnecessary costs on resource users and other parties” and “The regulation of activities in a manner which gives effect to the provisions of Part I of this Plan, the Regional Policy Statement.”

Policy 12-4(b)(ii) and Policy 12-6(b)(ii): Introduction of the concept of Net Biodiversity Gains

- 4.4 I support the recognition of the concept of biodiversity offsets and the concept of biodiversity gains as proposed in Policy 12-4(b)(ii) and Policy 12-6(b)(ii) in the current tracked change version. The recognition of the concept of net biodiversity gains in these policies appropriately seeks to ensure that areas of the same habitat type are used as biodiversity offsets, but also recognises other options are available where they will result in an overall net biodiversity gain. This is appropriate as biodiversity offsets can provide a useful mechanism by which the effects of an activity can be mitigated through the protection and/or enhancement of other areas in appropriate circumstances, as outlined previously in detail in the evidence of Ms O’Callahan and the principal and supplementary evidence of Mr Park.
- 4.5 Also as noted above, the reference to biodiversity offsets has now been completely deleted from the Chapter 7, Regional Policy Statement provisions in the current tracked change version. I consider the provisions in Policy 12-4(b)(ii) and 12-6(b)(ii) relating to biodiversity offsets would be further strengthened by the inclusion of a reference to biodiversity “offsets’ in new Proposed Policy 7-1A (b), as outlined in Paragraph 3.20 of my evidence, and in Attachment 1.

Policy 12-6, Policy 12-7 and Schedule E - Assessing ecological significance

- 4.6 I support the proposed moving of Policy 7-7 to Chapter 12 and the creation of a new Policy 12-7. Policy 12-7 addresses matters that need to be considered in the assessment and determination of applications for resource consents, so is more appropriately located in Chapter 12 which contains the rules specifying the activities that require applications for resource consents. However as stated in the evidence of Mr Park, there continues to be on-going confusion with the purpose of new proposed Policy 12-7 – Criteria for assessing ecological significance.

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- 4.7 ‘Rare habitats’, ‘threatened habitats’ and ‘at-risk habitats’ are areas identified in Schedule E of the Plan. The rules in Section 12.2.3 of the Plan, (in particular Rules 12-7, 12-8 and 12-9) determine the consent status of activities occurring within areas of ‘rare habitats’, ‘threatened habitats’ and ‘at-risk habitats’ as defined in Schedule E.
- 4.8 For the reasons set out in the principal and supplementary evidence of Mr Park, it is considered that the objective and policy provisions in Chapter 12 should make it clear that Schedule E identifies areas of *potential* ecological significance in accordance with Section 6(c), RMA. Schedule E should not be put forward as determinative of ecological “significance”.
- 4.9 Schedule E and the corresponding Rules 12-7, 12-8 and 12-9 are the provisions in Chapter 12 of the Plan that determine the consent status of an activity proposed to occur within the areas identified in Schedule E.
- 4.10 Following the determination of the consent status of an activity, I consider that the policy provisions in Chapter 12 (in particular Policies 12-4(a) and 12-6(a) and (b)) should then direct a decision maker to assess the ecological significance of the area in which the activity is proposed.
- 4.11 The ecological significance of the area should be assessed in accordance with the criteria in Policy 12-7: Criteria for assessing ecological significance (subject to the additional criterion as discussed in the evidence of Mr Park and Mr Fuller). Assessing the ecological significance of an area appears to be the primary role of the criteria in Policy 12-7.
- 4.12 In relation to Policy 12-6 which refers to decision making for activities in rare and threatened habitats, I consider the policy would be more appropriate if it stated (in the current tracked change version) as follows:

“Policy 12-6: Consent decision-making for activities in Rare and Threatened Habitats

- (a) For activities regulated by Rule 12-8 (Activities within Rare and Threatened Habitats) the Regional Council shall make decisions on consent applications and set consent conditions on a case by case basis, having regard to the site’s ecological significance as assessed in accordance with the criteria in Policy 12-7.
- (b) Rare and threatened habitats* that are assessed as ecologically significant in accordance with the criteria in Policy 12-7, shall be protected by generally not granting consent for any of the activities unless the provisions of subsection (b) or (c) apply.”

4.13 That is Policy 12-6 should direct that, where a rare and threatened habitat is determined to be ecologically ‘significant’ in accordance with Policy 12-7, then the protection of these areas should be considered (in accordance with Section 6(c) RMA); ie: rare and threatened habitats that are assessed as ecologically significant in accordance with Policy 12-7 shall be protected by not granting consent for activities in these areas, unless particular circumstances apply.

4.14 Policy 12-7 appears to then have a second role in consent decision-making for activities in Rare Habitats, Threatened Habitats and At-Risk Habitats. That is the determination of adverse effects on such habitats is to be assessed against the criteria in Policy 12-7 (refer particularly to Policy 12-4 (b)(i) and Policy 12-6 (b) and (d)).

4.15 I consider that Policy 12-7 should perform two distinct roles, being:

- (i) Firstly the criteria by which the ecological significance of an area is to be determined and then,
- (ii) Secondly the criteria by which the effects of a proposed activity in a Rare Habitat, Threatened Habitat, and At-Risk Habitat are assessed,

And that the provisions in Chapter 12 and in particular Policy 12-7 of the Plan (in the current tracked change version) should be re-drafted, to make the purpose and intent of Policy 12-7 more clear to decision makers and users of the Plan.

5.0 Outstanding Matters

Policy 12-7 and the Criteria for assessing ecological significance

5.1 As outlined in the evidence of Ms Maseyk, the assessment of ecological significance remains a key outstanding matter in the relation to the biodiversity provisions in the Plan.

5.2 The previous evidence of Mr Park and now supplementary evidence of Mr Park and Mr Fuller sets out concerns with the criteria for assessing ecological significance, now proposed in Policy 12-7 from an ecologist’s perspective. In particular, they consider a site’s condition and inherent ecological sustainability to be important components in determining it’s ecological significance.

5.3 From a planning perspective, I also consider ecological sustainability is an important matter to consider in assessing the ecological significance of a site in terms of promoting the overall purpose of the Act – being to promote sustainable management in accordance with a range of matters in Part II including Section 6 (c).

5.4 I note that proposed Policy 12-7 is about “assessing ecological significance”. Any assessment of ecological significance needs to be undertaken in the context of the overall purpose of the RMA – being to promote sustainable management. I consider that it is consistent with the purpose of the Act, to include the criteria recommended by Mr Park and Mr Fuller when assessing a site’s ecological significance and when assessing and determining the adverse effects of a proposed activity on a rare, threatened or at-risk habitat identified by Schedule E of the Plan as part of decision on a consent application.

Rule 12 -9, Non-complying Activity Status of Activities within a Rare and Threatened and Schedule E

5.5 Schedule E determines the activity status of land disturbance and vegetation clearance activities within rare, threatened and at-risk habitats. As has been outlined in the principal and supplementary evidence of Mr Park, and the principal planning evidence previously tabled by Ms O’Callahan for Meridian, Schedule E is a “broad brush” approach to the determination of rare, threatened and at-risk habitats. It is a predictive modelling approach that is based on satellite imagery to predict areas of significance, with no field based ground-truthing of the results. As noted in the evidence of Mr Park, this approach adopted by Council appears to have advantages over the traditional approach of scheduling sites of significance although its limitations must also be recognised. The most significant limitation being that it does not establish whether any given site is in fact ‘significant’ through a specific site assessment having regard to the appropriate criteria for determining ecological significance.

5.6 As a result of caucusing and evidence circulated to date and the advice of my colleague Mr Park, there appears no doubt that the use of the predictive modelling approach has advantages over traditional methods in that it casts the net very widely and constitutes a valid approach to identifying rare, threatened and at-risk habitats particularly in the regional context. In my view, it provides an appropriate starting point. It signals when an area may be significant and when the effects of an activity

within such as area require assessment and a determination by the Council by way of a resource consent.

- 5.7** However as stated previously, the Plan needs to recognise that Schedule E is only the basis on which the activity status of a resource consent is determined, without any field assessment to verify the ‘significance’ of the habitat.
- 5.8** I agree that areas of ‘significant indigenous vegetation and significant habitats of indigenous fauna’ should be protected in accordance with the RMA. However from my understanding of the evidence of Mr Park, due to the methodology that has been adopted by Council to establish Schedule E, there remains uncertainty as to whether the habitats listed in Schedule E as rare and threatened, will actually also be “significant” under Section 6(c) of the RMA in any given case. That is the rare and threatened habitats in Schedule E are only predicted to be significant areas in accordance with Section 6(c) of the RMA.
- 5.9** It is considered that this level of uncertainty needs to be recognised in the rules that rely upon Schedule E.
- 5.10** In my view, to resolve this difficulty and to more appropriately recognise the inherent uncertainty regarding the ecological significance of the activities identified as rare and threatened habitats in Schedule E, all activities within these habitats should be fully discretionary. To meet the purpose of the RMA, this status should be coupled with a clear policy direction that, if these habitats are also determined to be “significant” after appropriate assessment (in accordance with Policy 12-7) has been carried out, then consent shall generally not be granted, unless the provisions of Policy 12-6(b) to (d) apply.
- 5.11** The use of the discretionary status and this clear policy direction would retain the Council’s ability to consider all relevant effects and decline applications for resource consent for activities in rare and threatened habitats. It would also give clear policy guidance on when “protection” is required such that a distinction between significant and non-significant habitats is appropriate made.
- 5.12** I also concur with the principal evidence of Ms O’Callahan on this issue. She has previously stated a non-complying status is overly onerous given the broad-brush information and lack of certainty around Schedule E. Further that the adoption of a discretionary status does not undermine the overall aims of the Council regarding the protection of significant habitats together with the maintenance of biodiversity, and

still enables all adverse effects including significant adverse effects to be considered in the assessment of any application for consent and in any determination on public notification.

- 5.13** Should the Hearings Committee not be of a mind to assess as discretionary activities, all activities within rare and threatened habitats in Rule 12-8, then Meridian would support an amendment to the Rule 12-8 requiring that where the activity in a rare and threatened habitats is for the purpose of providing infrastructure of regional or national importance (as identified in Policy 3-1 and Policy 12-6(b)), then the activity will be assessed as discretionary activity. This approach would be consistent with the purpose of the RMA and the objectives and policies in Chapter 3 of the Plan that seek to recognise and provide for infrastructure of regional or national importance in the Region.

6.0 Conclusion

- 6.1** In conclusion, the approach undertaken to date including the pre-hearing meetings and caucusing of submitters and the meeting of the expert ecologists appears to have been a very constructive process. In particular I support many of the provisions in Chapters 7 and 12 as now recommended by the Officers (in the Supplementary Report dated 5 November 2008).
- 6.2** However, as outlined in this statement of evidence, I do have some remaining concerns with several of the provisions in Chapters 7 and 12. I consider these concerns can be traced back to a difference in professional opinion between Officers and submitters as to whether every habitat classified in accordance with Schedule E will in fact be “significant” in accordance with section 6(c) of the RMA.
- 6.3** From reviewing the findings arising from the expert caucusing of the ecologists and the pre-hearing meeting I attended, all parties appear to agree that the predictive methodology adopted by Council to manage biodiversity in the One Plan is a valid approach and has many benefits if used appropriately. However from reviewing the evidence of Mr Park, it appears to me that this predictive methodology creates a level of uncertainty as to whether the rare and threatened habitats identified in Schedule E are actually significant, as no ground truthing or field work has been done to verify this and the assessment is solely based on habitat type and size. The Officers have instead taken the view that there is no need for site-specific considerations to inform a determination of “significance”. However, they then go on to provide criteria for

assessing significance that purportedly go beyond the assessment inherent in Schedule E.

- 6.4** In my view, having read the officer's reports and taking the plan provisions in their totality, it would be more appropriate for Schedule E to be treated as a "trigger" for consent rather than a determination of significance. The Policies can then be amended to clearly express the Plan's intention of protecting those areas that are truly significant in accordance with section 6(c) while ensuring an assessment of effects is carried out for other areas in order to achieve the overall goal of maintaining indigenous biodiversity.
- 6.5** To conclude, it appears to me that there is simply a difference in opinion between the ecology experts as to how the predictive methodology in the Plan should be used. In my opinion, the most appropriate way for it to be used is as a trigger for resource consent, and the case by case assessment that entails.
- 6.6** Amending the provisions as I have recommended will, in my view, better achieve the purpose of the Act as well as the overall intent and purpose of the Plan including Objective 11-1 (a) of the Plan which states "The regulation of activities in a manner which maximises certainty and avoids unnecessary costs on resource users and other parties.". Further the other overarching objectives and policies in Part 1 of the Plan (including Chapter 3 which seeks to recognise and provide for infrastructure in the region).
- 6.7** Accordingly I commend to the Hearings Committee the changes to Chapters 7 and 12 outlined in Attachment 1 of my statement. These changes are in my opinion more appropriate, particularly given the inherent uncertainties of the predictive model adopted by the Council in the management of the biodiversity for the region.



Catherine Clarke

Senior Principal and Planner
Boffa Miskell Limited

1 December 2008

ATTACHMENT 1

**Chapter 7, Chapter 12 and Glossary
of Proposed One Plan (Indigenous Biological Diversity)
as recommended by Officers as at 5 November 2008**

**Including further amendments sought by Meridian Energy Limited
as at 1 December 2008**

**Words to be added are underlined
Words to be deleted are shown in ~~strike through~~**

7 Living Heritage

7.1 Scope and Background

7.1.1 Scope

This chapter addresses three matters:

- (1) **Indigenous biological diversity** – The maintenance of indigenous biological diversity, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the division of responsibilities between the Regional Council and Territorial Authorities for managing indigenous biological diversity
- (2) **Landscapes and natural character** – The protection of outstanding landscapes and the management of the natural character of the coastal environment, wetlands, rivers, lakes and their margins
- (3) **Historic heritage** – The protection of historic heritage

Chapter 4 - The Te Ao Maori – also contributes to the management of historic heritage, in particular sites of significance to Maori, including waahi tapu.

7.1.2 Indigenous Biological Diversity

As discussed in Chapter 1, the decline of indigenous biological diversity (“biodiversity”) is one of the four most critical issues addressed in this Plan.

Biodiversity in the Manawatu-Wanganui Region

The Manawatu-Wanganui Region now has only 23% of its original forest cover and 3% of its wetland habitat. The majority of the forest is found in the hillcountry and the ranges, with fragments scattered throughout the lower lying and coastal areas of the Region, where typically less than 10% of original habitat remains. Remaining natural habitat is small, fragmented and under pressure from pests and disturbance. Aquatic biodiversity is in a similar state of degradation with indigenous fish populations greatly reduced, poor habitat (loss of riparian margins in most areas and introduction of exotic fish and pest plants) and many barriers between coastal wetlands, streams and headwaters.

Much of the remaining indigenous biodiversity is in poor condition and health. Ecosystem processes are more often than not interrupted. The long-term viability of natural areas is further compromised by continued pressure from invasive species and surrounding land use. If such habitats and linkages between them are to survive they will require protection and ongoing management.

Future Approach

This Plan’s approach to biodiversity management focuses primarily on habitats, rather than on individual species or genetic diversity. The Regional Council believes that by managing habitats it will most effectively sustain regional biodiversity into the future.

The Regional Council proposes to take a more active role around the coordination of biodiversity management within the Region. The Regional Council's overall biodiversity strategy is two-tiered, involving:

- (a) **Halting the decline** – Those habitats that are rare or threatened or at-risk (as shown in Schedule E of this Plan) will be given a high level of protection, through rules, from activities likely to cause any further loss or modification.
- (b) **Active Management** – In addition, rare and threatened and at-risk habitats will be proactively managed through collaboration with landowners for work such as pest control and fencing, and provision of economic incentives such as grants and rates relief.

The protection and active management of sites on private land is crucial to maintaining indigenous biological diversity in the Region. Success in halting the biodiversity decline depends largely on the involvement and commitment of private landowners. This is a tall order for individuals, and the Regional Council recognises that the public good arising from maintaining indigenous biological diversity should not be solely at the expense of landowners. The Regional Council is therefore committed to seeking arrangements that adequately assist landowners and fairly apportion the costs of biodiversity management.

7.1.3 Landscapes and Natural Character

The protection of outstanding landscapes from inappropriate subdivision, use and development is a matter of national importance.

A number of outstanding or unique regional landscapes and their associated values are identified in Schedule F. Although the issue of landscape change and competing pressures is best dealt with at a territorial level, some policies giving guidance on the appropriate balance between important infrastructure, including renewable energy, and other values, such as landscape, are provided in Chapter 3.

Preservation of the natural character of the coastal environment, wetlands, rivers, lakes and their margins is also a matter of national importance. Natural character is a sliding scale and varies from a low degree of naturalness, such as urban environments, to a high degree of naturalness (for example, Tongariro National Park).

The approach of the One Plan is to maintain the current degree of naturalness of the natural character of the coastal environment, wetlands, rivers, lakes and their margins by:

- continuing to provide a regional policy on natural character to guide decisionmaking
- protecting and managing biodiversity, important wetlands, rivers and lakes as described elsewhere in this Plan.

The natural character of rivers, lakes and their margins can be adversely affected by activities, in particular structures and flood mitigation measures such as stopbanks. It is important that preservation of the natural character of rivers, lakes and their margins, where this is reasonable, is considered when making decisions on relevant activities. The natural character of wetlands can best be provided for by proactively managing the top 100 wetlands in the Region (as provided for in the sections of this chapter dealing with biodiversity).

The natural character of the coastal marine area is covered in Chapter 9. The natural character of the coastal environment landward of mean high water spring, wetlands, rivers, lakes and their margins is dealt with in this chapter. The coastal environment has seen some change in the last 10 years. There has been an increase in residential

subdivision on both the western and eastern coastlines. Within a 1-km inland coastal strip, however, this development accounts for only 4% of the area. Although residential development is expected to continue, it is unlikely to affect the natural character of the coast at a regional scale for some time beyond the life of this Plan. Nevertheless, it is important and appropriate for local decision-making on land use, particularly residential subdivision, to continue to take into account the natural character of a particular area.

7.1.4 Historic Heritage

The protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance. Historic heritage includes those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, including historic sites, structures, places and areas, and archaeological sites*, and sites of significance to Maori, including waahi tapu. Some activities that are controlled by the Regional Council can have an adverse impact on historic heritage values. For example, earthworks can modify or destroy archaeological sites, and the discharge of sewage to land or water could have an adverse impact on the values of a particular site. The Regional Council can control these activities to ensure that adverse impacts are minimised.

The Manawatu-Wanganui region has a long and recognised history and culture and contains special places such as the Tongariro National Park, Whanganui River, Lake Papaitonga, the wreck of the Hyderabad, historic towns such as Marton, Taihape, Bulls and Raetihi, and many important archaeological sites such as Willis Redoubt, Waiu Pa and Te Aputa Pa. The accurate identification of historic heritage sites, including the identification of currently "unknown" or "undiscovered" sites, is an issue in our region, as is their protection from potential threats including demolition, "demolition by neglect", fire and flood and earthworks.

Subdivision and land use can also have a negative effect on historic heritage values. This is particularly an issue in coastal areas which are rich in historic sites, including waahi tapu and archaeological sites. Territorial Authorities can control subdivision and land development to ensure that adverse impacts are minimised.

Along with the Regional Council and Territorial Authorities, a number of other agencies have responsibilities towards the identification and/or management of historic heritage. These agencies include the New Zealand Historic Places Trust (NZHPT), the New Zealand Archaeological Association (NZAA) and the Department of Conservation. In particular, the modification of archaeological sites is controlled by the NZHPT, and a person carrying out any activities that may damage, destroy or modify these sites must have authority from the NZHPT to do so. The NZAA owns and manages the national database of archaeological records, the Site Recording Scheme.³

7.2 Significant Resource Management Issues

Issue 7-1: Indigenous biological diversity

Indigenous biological diversity is not being maintained in the Manawatu-Wanganui Region. Only a small proportion of the original extent of indigenous habitats remains as a result of historical land development practices. The diversity within remaining

³ **Guidance Note:** In determining whether an activity is "appropriate" decision makers may refer to the document New Zealand Historic Places Trust (3 August 2007) Sustainable Management of Historic Heritage Guide No. 1 Regional Policy Statements (p12-13) which provides a best practice example of the matters to be considered by local authorities. These matters include – respect values, diversity and community resources, sustainability, Maori heritage, research and documentation, respect for physical material, understanding significance, respect for contents, cartilage and setting.

areas is declining owing to their isolation and/or as a consequence of a range of activities, most notably:

- (a) pest plants and animals
- (b) stock access
- (c) land drainage, which impacts upon wetlands
- (d) perched culverts and other barriers to fish migration
- (e) run-off and discharges causing poor water quality
- (f) vegetation clearance*.

Issue 7-2: Landscapes and natural character

- (a) The Region's landscapes are at risk from the effects of development, particularly the Tararua and Ruahine ranges. Developments with the potential for greatest impact include wind farms, residential subdivision and other major structures.
- (b) The natural character of the coastal environment, wetlands, rivers, lakes and their margins is at risk from the effects of land-use activities and development, particularly new river works, drainage and subdivision in areas with a high degree of naturalness.

Issue 7-3: Historic Heritage

Historic heritage is at risk from the effects of land-use and development activities, particularly land disturbance*, activities in the beds of rivers and lakes, and discharges to land and water.

7.3 Objectives

Objective 7-1: Indigenous biological diversity

Indigenous biological diversity is maintained or enhanced ~~by:~~

- ~~(a) — Protecting Rare and Threatened Habitats*;~~
- ~~(b) — Maintaining At Risk Habitats*; and~~
- ~~(c) — Enhancing the function of the best representative examples of Rare and Threatened Habitats*, and At Risk Habitats*.~~

This Objective relates to Issue 7-1.

Objective 7-2: Landscapes and natural character

- (a) The characteristics and values of the outstanding landscapes identified in Schedule F are protected as far as practicable.
- (b) Adverse effects, including cumulative adverse effects, on the natural character of the coastal environment, wetlands, and rivers, lakes and their margins are:
 - (i) avoided in areas with a high degree of naturalness
 - (ii) avoided, remedied or mitigated in other areas.

Objective 7-3: Historic Heritage

Historic heritage is protected from activities that would have an adverse effect on heritage values.

This Objective relates to Issue 7-3.

7.4 Policies

7.4.1 Indigenous Biological Diversity

Policy 7-1: Responsibilities for maintaining indigenous biological diversity

In accordance with s 62(1)(i) RMA, local authority responsibilities for controlling land use activities for the purpose of maintaining indigenous biological diversity in the Manawatu-Wanganui Region are apportioned as follows:

- (a) **The Regional Council shall be responsible for:**
 - (i) developing objectives, policies and methods for the purpose of establishing a region-wide approach for maintaining indigenous biological diversity
 - (ii) developing rules controlling land use activities to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna for the purpose of maintaining biological diversity.
- (b) **Territorial Authorities shall be responsible for:**
 - (ii) retaining schedules of notable trees and amenity trees in their district plans and/or such other measures as they see fit for the purpose of recognising amenity and cultural values associated with indigenous biological diversity.
- (c) **Both the Regional Council and Territorial Authorities shall be responsible for:**
 - (i) Recognising and providing for matters described in s6(c) of the RMA and having particular regard to matters identified in s(7)(d) RMA when exercising functions and powers under the RMA, outside the specific responsibilities allocated above, including when making decisions on resource consent applications.

This Policy relates to Issue 7-1 and Objective 7-1.

Policy 7-1A: Regulation of activities affecting indigenous biological diversity

- (a) The Regional Council shall protect Rare and Threatened Habitats* [determined to be areas of significant indigenous vegetation and significant habitats of indigenous fauna](#) and maintain At-Risk Habitats* by regulating the following activities through its regional plan and decisions on resource consents:
 - (i) Vegetation clearance* and land disturbance* within these habitats;
and

-
- (ii) Discharges of contaminants to land or water, diversions of water including for the purpose of drainage, and takes of water with potential adverse effects on these habitats.
- (b) When regulating the activities described in subsection (a), the Regional Council shall:
- (i) Allow activities undertaken for the purpose of pest control or habitat maintenance or enhancement;
 - (ii) Recognise and provide for the establishment of infrastructure of regional or national importance as identified in Policy 3-1; and
 - (iii) Allow the maintenance* and upgrade* of existing structures, including infrastructure*;
 - (iv) [Recognise and provide for biodiversity offsets that result in a biodiversity gain as a method to mitigate adverse effects in appropriate circumstances.](#)

This Policy relates to Issue 7-1 and Objective 7-1.

Policy 7-4: Proactive management of representative habitats

- (a) The Regional Council shall aim to improve the health and function of the best representative examples of rare and threatened habitats* and at-risk habitats* by working in partnership with relevant landowners and other parties with a legal interest in the land to establish a plan and incentive programme for the voluntary proactive management of each of these areas by 2016.
- (b) For the purposes of subsection (a), separate programmes will be established for wetlands, bush remnants, native fish communities and coastal ecosystems.
- (c) The management plans under subsection (a) will generally address the following matters as a minimum:
 - (i) fencing and prevention of stock access
 - (ii) pest control
 - (iii) planting
 - (iv) agreed land uses
 - (v) work and materials to be provided by the Regional Council or a third party
 - (vi) financial assistance to be provided by the Regional Council or a third party
 - (vii) monitoring
 - (viii) legal options for ensuring longevity of the measures implemented.

This Policy relates to Issue 7-1 and Objective 7-1.

Policy 7-5: Fostering an ethic of stewardship

The Regional Council shall equip landowners and others with the information they need to act as good stewards for biodiversity, and to act responsibly and proactively. These initiatives will be additional to the council-led programmes under Policy 7-4.

This Policy relates to Issue 7-1 and Objective 7-1.

Policy 7-6: Pest plants and animals

- (a) To the extent that they relate to the maintenance of biodiversity, the plant and animal pest management functions of the Regional Council shall primarily target pests threatening rare and threatened habitats* and at-risk habitats*.
- (b) When making decisions about subdivisions and land-use activities, territorial authorities shall take into account the risks of introducing plant or animal pests into rare and threatened habitats*, at-risk habitats* and nearby areas shall be taken into account.

This Policy relates to Issue 7-1 and Objective 7-1.

7.4.2 Landscapes and Natural Character

Policy 7-7: Outstanding landscapes

The landscapes listed in Schedule F shall be recognised as outstanding. All subdivision, use and development affecting these areas shall be managed in a manner which:

- (a) avoids or minimises to the extent reasonable any adverse effects on the characteristics and values specified in Schedule F for each landscape
- (b) takes into account and avoids any cumulative adverse effects
- (c) takes into account the policies in Chapter 3 when assessing activities involving renewable energy and infrastructure of regional importance.

Policy 7-8: Natural character

The natural character of the coastal environment, wetlands, rivers, lakes and their margins shall be preserved and protected from inappropriate subdivision, use and development, by encouraging the natural character of these areas to be restored where appropriate and by making decisions on resource consent applications that take into account whether the activity:

- (d) is compatible with the existing level of modification to the environment
- (e) is necessarily located in or near the wetland, river or lake and whether any alternatives exist
- (f) is of an appropriate form, scale and design to blend with the existing landforms, geological features and vegetation
- (g) does not significantly disrupt natural processes or existing ecosystems.

Policy 7-9: Public access

- (a) Activities within or near rivers and lakes shall be established and operated in a manner which readily provides for public access, and public access may be restricted only where necessary for safety, cultural or conservation purposes.
- (b) Public access for recreational purposes shall recognise the need to protect rare and threatened habitats* and at-risk habitats*.

7.4.3 Historic Heritage

Policy 7-10: Historic heritage

Historic heritage is recognised as a matter of national importance and all resource use activities controlled by the Regional Council shall be managed in a manner which protects historic heritage values and avoids, remedies or mitigates any adverse effects, including cumulative adverse effects, on historic heritage.

This Policy relates to Issue 7-3 and Objective 7-3.

Policy 7-11 Historic Heritage Identification.

- (a) Territorial Authorities shall develop and maintain a schedule or database of known historic heritage for their district.
- (b) The Regional Council shall develop and maintain a schedule or database of known historic heritage for the coastal marine area.
- (c) Places and areas for inclusion in the Historic Heritage schedules or databases shall be identified using the following criteria:
 - (i) Physical Values – archaeological, architectural, technological, scientific, rarity, representativeness, integrity, vulnerability, context or group.
 - (ii) Historic Values – People, events, patterns.
 - (iii) Cultural Values – identity, public esteem, commemorative, education, statutory recognition tangata whenua (including sites of significance to Maori as identified in accordance with the relevant methods in Chapter 4, namely ‘Memoranda of Partnership’, ‘Code of Practice for Waahi Tapu Protection and Discovery’, ‘Regional Iwi Environmental Projects’, and ‘Iwi Management Plans’).

7.5 Methods

The main non-regulatory methods the Regional Council will pursue are outlined below as action plan summaries.

Method	Wetlands – Biodiversity
Description	<p>The Regional Council and other agencies will work with landowners to protect and restore priority wetlands throughout the Region. Resources will be directed towards the most significant sites.</p> <p>Wetland owners will be provided advice and financial/project management assistance to carry out enhancement and protection measures including fencing, planting, and pest (plant and animal) control. The Regional Council will seek funding from third parties to assist with this project, and encourage the establishment of covenants.</p> <p>Monitoring of the effectiveness of the protection and enhancement works will be undertaken.</p> <p>The project will include publicity to increase public awareness about the importance of wetlands and indigenous biological diversity..</p>
Who	Regional Council, Landowners, other relevant consent holders, Federated Farmers, Territorial Authorities, Department of Conservation, non-government agencies including NZ Fish and Game, QEII Trust, NZ Wetland Trust, NZ Landcare Trust and relevant funding agencies including the He Tini Awa Trust, Biodiversity Condition Fund, Nga Whenua Rahui and Ducks Unlimited.
Links to Policy	This Method implements Policy 7-4.
Targets	The top 100 wetlands in the Region are actively managed, including protection and/or restoration measures, within 10 years of this Plan becoming operative.

Method	Bush Remnants - Biodiversity
Description	<p>The Regional Council and other agencies will work with landowners to protect and enhance priority bush remnants throughout the Region. Resources will be directed towards the most significant sites.</p> <p>Bush remnant owners will be provided with advice and financial/project management assistance to carry out enhancement and protection measures including fencing, planting, and pest (plant and animal) control. The Regional Council will seek funding from third parties to assist with this project, and encourage the establishment of covenants.</p> <p>Monitoring of the effectiveness of the protection and enhancement works will be undertaken.</p> <p>The project will include publicity to increase public awareness about the importance of bush remnants and indigenous biological diversity.</p>
Who	Regional Council, Landowners, Federated Farmers, Territorial Authorities, Department of Conservation, non-government agencies including QEII Trust, and NZ Landcare Trust and relevant funding agencies including the He Tini Awa Trust, Biodiversity Condition Fund, Nga Whenua Rahui.
Links to Policy	This Method implements Policy 7-4.
Targets	The top 200 bush remnants in the Region are being actively managed, including protection and/or enhancement restoration measures, within 10 years of this Plan becoming operative.

Method	Sites of Significance – Aquatic
Description	<p>The Regional Council and other agencies will work with landowners to protect and enhance waterways and parts of waterways that serve an important role in the lifecycle of the Region's rare and threatened native fish. Resources will be directed towards the most significant sites.</p> <p>Waterway owners will be provided advice and financial/project management assistance to carry out enhancement and protection measures including fencing, planting, replacement of perched culverts and pest (plant and animal) control. The Regional Council will seek funding from third parties to assist with this project.</p> <p>Monitoring of the effectiveness of the protection and enhancement works will be undertaken.</p> <p>The project will include publicity to increase public awareness about the importance of native fish and indigenous biological diversity.</p>
Who	Regional Council, Landowners, other relevant consent holders, Federated Farmers, Territorial Authorities, Department of Conservation, funding agencies including the He Tini Awa Trust, Biodiversity Condition Fund, Nga Whenua Rahui.
Links to Policy	This Method implements Policy 7-4.
Targets	The top 100 sites of significance– aquatic are actively managed, including protection and/or enhancement restoration measures, within 10 years of this Plan becoming operative.

Method	Inanga Spawning and Native Fishery Site – Biodiversity
Description	<p>The Regional Council and other agencies will work with landowners to protect and enhance waterways and parts of waterways (wetlands and streams) that serve an important role in the lifecycle of the inanga and whitebait species. Resources will be directed towards the most significant sites.</p> <p>Waterway owners will be provided advice and financial/project management assistance to carry out enhancement and protection measures including fencing, planting, replacement of perched culverts and pest (plant and animal) control. The Regional Council will seek funding from third parties to assist with this project.</p> <p>Monitoring of the effectiveness of the protection and enhancement works will be undertaken.</p> <p>The project will include publicity to increase public awareness about the importance of native fish and indigenous biological diversity.</p>
Who	Regional Council, Landowners, other relevant consent holders, Federated Farmers, Territorial Authorities, Department of Conservation, funding agencies including the He Tini Awa Trust, Biodiversity Condition Fund, Nga Whenua Rahui.
Links to Policy	This Method implements Policy 7-4.
Targets	The top 30 inanga spawning sites and native fishery sites are actively managed, including protection and/or enhancement restoration measures, within 10 years of this Plan becoming operative.

Method	Biodiversity (Terrestrial and Aquatic) Research Monitoring and Reporting
Description	The aim of this project is to develop an integrated research, monitoring and reporting programme that supports delivery and refinement of existing policies and methods, guides implementation planning, and allows implementation effectiveness to be assessed..
Who	Predominantly Horizons Regional Council, with assistance from research institutes, universities and non-government agencies and community groups as required.
Links to Policy	This Method implements Policy 7-4.
Targets	A research, monitoring and reporting programme that supports delivery and refinement of existing policies and methods, and guides and assesses implementation.

Method	Education in Schools – Biodiversity
Description	The aim of this project is to raise awareness amongst the youth of the Region of the significance of our indigenous biological diversity, the threats to it, and what they can do to protect/restore it. This will be achieved through various environmental education programmes/initiatives eg., Green RIG, Enviro-schools, Trees for Survival, Youth Environment Forum etc.
Who	Horizons Regional Council, Department of Conservation, and various national and local environmental education providers
Links to Policy	This Method implements Policy 7-4.
Targets	The Regional Council develops and delivers a biodiversity-related environmental education programme

Method	District Planning – Natural Features, Landscapes and Habitats
Description	<p>The Regional Council will formally submit on resource consent applications received by Territorial Authorities for land use activities where there is potential for effects on outstanding natural features, landscapes or native habitats.</p> <p>The Regional Council will formally seek changes to district plans if required to ensure provisions are in place to provide an appropriate level of protection to natural features, landscapes and native habitats.</p> <p>The Regional Council will formally seek changes to district plans if required to ensure district plan rules requiring protection of indigenous vegetation and the habitats of indigenous fauna do not duplicate rules on biodiversity in this plan.</p>
Who	Regional Council and Territorial Authorities.
Links to Policy	This Method implements Policies.7-1, 7-7 and 7-8.
Targets	<ul style="list-style-type: none"> • Submissions completed on consent applications. • District Plan changes sought if necessary by 2008

Method	Biodiversity Advice and Information
Description	The aim of this project is to provide land owners and other parties with an interest in biodiversity with advice and information about the state of biodiversity in the region, information about the rules and methods contained within this plan to manage biodiversity and advice about how these methods and rules will be implemented. This includes providing guidance on the rules contained within this plan so that they can be easily understood and used by landowners.
Who	The Regional Council, with assistance from landowners and community groups as required. .
Links to Policy	This Method implements Policies.7-4 and 7-5..
Targets	An education and advice programme that is freely available and allows those interested to understand the use of methods and rules provided for in this plan.

Method	Proactive Identification of Historic Heritage
Description	<p>The aim of this project is to determine an approach(s) to provide for the proactive identification of historic heritage resources within the Manawatu-Wanganui Region.</p> <p>The approach(s) may range from, for example, the development of a region wide database or list of areas with a high potential for containing unidentified historic heritage sites, to the development of policy amendments or variations to existing Regional or Territorial Authority Plans, or agreed partnerships for funding and carrying out surveys.</p>
Who	Regional Council, Territorial Authorities, New Zealand Historic Places Trust, New Zealand Archaeological Association, . .
Links to Policy	This Method implements Policies.7-10 and 7-11..
Targets	An approach(s) is agreed upon within two years of this Plan becoming operative.

7.6 Anticipated Environmental Results

Anticipated Result	Environmental	Link to Policy	Indicator	Data Source
Except for change because of natural processes, or change authorized by a resource consent, by 2017, the area of each habitat type identified as rare, threatened or at-risk is the same as that estimated prior to this Plan becoming operative, and no "not threatened" habitat types have fallen into the at-risk category.		<p>Living Heritage Policies: 7-1, 7-2, 7-3, 7-5, 7-6 and 7-8</p> <p>Administration Policies: 2-1, 2-2, 2-3 and 2-5</p> <p>Water Policies: 6-1, 6-2, 6-3, 6-4, 6-5, 6-7, 6-10, 6-17, 6-18, 6-19, 6-26 and 6-28</p>	<ul style="list-style-type: none"> Area of each habitat type compared to former extent Number of rare and threatened and at-risk habitat sites damaged by unauthorised activities 	<ul style="list-style-type: none"> Landcare Research: Land Environments NZ Tool, Ecosat tool and Landcover Database 2 tool Horizons's incidents database
By 2017, the Region's top 100 wetlands and top 200 bush remnants will be in better condition than that measured prior to this Plan becoming operative.		<p>Living Heritage Policies: 7-1, 7-4, 7-5, 7-6 and 7-8</p> <p>Administration Policies: 2-1, 2-2, 2-3 and 2-5</p> <p>Water Policies: 6-1, 6-2, 6-3, 6-4, 6-5, 6-7, 6-10, 6-17, 6-18, 6-19, 6-26 and 6-28</p>	<ul style="list-style-type: none"> Number of top 100 wetlands and top 200 bush remnants under proactive management Habitat condition measure(s) (which, where possible will be consistent with those used by the Department of Conservation) 	<ul style="list-style-type: none"> Horizons' identification and assessment of significant indigenous aquatic, coastal and terrestrial habitat types Horizons' progress reports on results of proactive management of top wetland and bush remnant habitats
By 2017 the Regions known historic heritage will be recorded in District Plan Schedules or databases		Living Heritage Policies: 7-10 and 7-11	<ul style="list-style-type: none"> Territorial Authorities have Schedules of known historic heritage sites in their District Plans, or databases HRC has a schedule or database of historic heritage in the coastal marine area 	<p>District Plans</p> <p>HRC database</p>

<p>Except for change because of natural processes, or change authorized by a resource consent, at 2017 the characteristics/values of all outstanding landscapes and natural features identified in the Region (Schedule F) will be in the same state as assessed prior to this Plan becoming operative.</p>	<p>Living Heritage Polices: 7-7 and 7-8</p> <p>Administration Polices: 2-1, 2-2, 2-3 and 2-5</p>	<ul style="list-style-type: none"> • Number of Schedule F outstanding landscapes and natural features where identified characteristics/values have been damaged • Level of protection afforded to Schedule F outstanding landscapes and natural features in Territorial Authority district plans • Ratio of successful submissions versus total submissions made on outstanding landscapes and natural features to Territorial Authority consent 	<ul style="list-style-type: none"> • Outstanding landscapes and natural features characteristics/values assessment survey • Horizons' SED (Subdivision Enquiry Database) database • Territorial Authority district plans • Territorial Authority consent decisions
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7.7 Explanations and Principal Reasons

Biodiversity

Rare and threatened habitats* are made up of habitats that are either naturally rare in the Region, (that is, there was never a large number of that type of habitat) or have been reduced to level of less than 20% of their original extent in the Region. At this level they cannot sustain themselves without intervention. Even a small loss of, or small amount of damage to, these habitats may lead to the total loss of this habitat type in the Region.

At-risk habitats* are made up of habitats that have been reduced to a level of less than 33% of their original extent in the Region. These habitats are at risk of falling into the threatened category (described above) in the lifetime of this Plan if something is not done to prevent that habitat loss. At-risk habitats* also include those areas which provide a habitat for a rare or threatened species.

The objectives, policies and methods adopted here aim to prevent the further deliberate loss of rare and threatened habitats and to control activities which may have an adverse effect on the unique characteristics of at-risk habitats*. Also included are objectives, policies and methods to actively manage, improve and protect the best examples.

Landscapes

The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development is a matter of national importance. While this issue is best dealt with at a territorial level, it is considered important that this document should continue to provide a list of outstanding natural features and landscapes and their associated values. The objectives, policies and methods adopted here are to provide guidance and direction in the protection of these values.

Natural character

Preservation of the natural character of the coastal environment, wetlands, rivers, lakes and their margins is a matter of national importance. The approach of the One Plan is to maintain the current degree of naturalness of the natural character of the coastal environment, wetlands, rivers, lakes and their margins. The objectives, policies and methods adopted in this document aim to achieve this by providing policy guidance on natural character to be taken into account when making decisions on applications which may affect natural character and by actively protecting and managing biodiversity.

Historic Heritage

The protection of historic heritage from inappropriate subdivision, use and development is a matter of national importance. It is considered important that this document provide a regional framework for the protection of historic heritage by (a) requiring Territorial Authorities and the Regional Council to identify historic heritage sites and to list them in the form of a Schedule or database, and (b) requiring the Regional Council to manage the effects on historic heritage for those resource use activities for which they have jurisdiction. The Objective 7-3 and Policies 7-10 and 7-11 adopted here provide the regional framework, guidance and direction required to manage historic heritage values.

12 Land-Use Activities and Land-Based Indigenous Biological Diversity

12.1 Land-Use Activities

Note: Objectives, policies and rules which relate to vegetation clearance and land disturbance are the subject of a separate hearing and are not included in this version of Chapter 12 (except for Rule 12-1 which is subject to the Land Use Activities hearing but is included in this document because it is referred to in the biodiversity rules).

12.2 Land-Based Indigenous Biological Diversity

~~12.2.1 Objectives~~

~~Objective 12-2: Regulation of activities affecting indigenous biological diversity~~

~~The regulation of activities for the purpose of:~~

- ~~(a) Protecting Rare and Threatened Habitats*;~~ and
- ~~(b) Maintaining At Risk Habitats*.~~

12.2.2 Policies

Policy 12-3: Regional rules for activities affecting indigenous biological diversity

The Regional Council shall regulate activities within Rare and Threatened Habitats* and At-Risk Habitats* through regional rules in accordance with [Objective 11-1, and](#) Policies 11-1, 11-2 and 11-3.

This Policy implements Objective 12-2.

Policy 12-4: Consent decision-making for activities in At-Risk Habitats

- (a) For activities regulated by Rule 12-7 (Activities within At-Risk Habitats) the Regional Council shall make decisions on consent applications and set consent conditions on a case by case basis, having regard to the ecological values of the site's representativeness, rarity and distinctiveness, ecological context as assessed in accordance with Policy 12-7.
- (b) Consents shall generally be granted in circumstances where:
 - (i) There will be no significant adverse effects on the ecological values of the site's representativeness, rarity and distinctiveness, and ecological context as assessed in accordance with Policy 12-7, or
 - (ii) Any significant adverse effects can be avoided, remedied or mitigated, as far as practicable, or offset to result in a net biodiversity gain.
- (c) When assessing the appropriateness of providing for an offset in accordance with subsection (b)(ii), the following factors shall be taken into account:
 - (i) Providing for the net gain within the same habitat type; and or
 - (ii) Providing for the net gain in the same ecologically relevant locality as the affected habitat,

This Policy implements Objective 12-2.

Policy 12-6: Consent decision-making for activities in Rare and Threatened Habitats

- (a) For activities regulated by Rule 12-8 (Activities within Rare and Threatened Habitats) the Regional Council shall make decisions on consent applications and set consent conditions on a case by case basis, having to site's ecological significance assessed in accordance with Policy 12-7.
- (a)(b) Rare and threatened habitats* that are assessed as ecologically significant in accordance with Policy 12-7 shall be protected by generally not granting consent for any of the following activities regulated by Rule 12-8 (Activities within Rare and Threatened Habitats) unless the provisions of subsection (b) or (c) apply
- (c) The activities regulated by Rule 12-8 may be allowed where the activity is for the purpose of providing infrastructure of regional or national importance as identified in Policy 3-1 and

- (i) Any more than minor adverse effects as assessed in accordance with Policy 12-7 are avoided as far as practicable, or
 - (ii) Any more than minor adverse effects as assessed in accordance with Policy 12-7 are remedied or mitigated, as far as practicable, or offset to result in a net biodiversity gain.
- (d) When assessing the appropriateness of providing for an offset in accordance with subsection (b)(ii), preference shall be given for an offset which:
- (i) Provides for net gain within the same habitat type; or
 - (ii) Is provided for in the same ecologically relevant locality as the affected habitat,
- (e) The activities regulated by Policy 12-8 may be allowed for other purposes where there are no more than minor adverse effects on the representativeness, rarity and distinctiveness or ecological context of the rare and threatened habitat*, as assessed in accordance with Policy 12-7.

This Policy implements Objective 12-2.

Policy 12-7: Criteria for assessing ecological significance

- (i) The ecological significance values of Rare Habitats*, Threatened Habitats* and At-Risk Habitats*, and
- (ii) The determination of adverse effects on such habitats,

shall be assessed against the following criteria.

Criteria	Explanation
Representativeness	<ul style="list-style-type: none"> • The site comprises habitat type that is under-represented (20% or less of known or likely former cover). LENZ land environments, national spatial databases and predictive models will be used to assess representativeness. • <u>The site comprises habitat type that is under-represented (20% or less of known or likely former cover); and</u> • <u>The site is an area of indigenous vegetation that comprises indigenous species diversity structure, composition, and ecological processes typical of its habitat type.</u>

Rarity and Distinctiveness	<ul style="list-style-type: none"> • The site supports one or more indigenous species that are classified as threatened (as determined by the current New Zealand Threat Classification System and Lists); or • The site supports an indigenous species, or community of indigenous species, that is distinctive to the Manawatu-Wanganui Region; or • The site supports an indigenous species, or community of indigenous species, that is at a natural distributional limit; or The site supports an indigenous species, or community of indigenous species, that forms a natural disjunct defining a floristic gap; or • The site supports an indigenous species, or community of indigenous species, that is uncommon within the area; or • The site comprises indigenous vegetation or habitat (which can include physical substrate) that was originally (pre-human) uncommon in New Zealand.
Ecological Context	<ul style="list-style-type: none"> • The site provides connectivity (physical or process connections) between two or more areas of indigenous habitat; or • The site provides an ecological buffer (provides protection) to an adjacent ecological significant habitat, including aquatic habitat; or • The site is an area of indigenous habitat that forms part of an indigenous ecological sequence (connectivity between different habitat types across a gradient (e.g. altitudinal or hydrological)); or • The site provides important breeding areas, seasonal food sources, or is an important component of a migration path; or • The site is an area of indigenous vegetation that provides habitat for indigenous species that are dependent on large and contiguous habitat; or • The site is an area of indigenous vegetation that is large relative to other sites in the area, comprises indigenous species diversity typical of its habitat type and exhibits functioning ecosystem processes.
Previously Assessed Sites	<ul style="list-style-type: none"> • Any site assessed at a previous time, or by a previous agency, on criteria in keeping with the policies, objectives and criteria of this plan, to be of ecological significance; or • Any site that is legally protected by the Queen Elizabeth II Trust, the Nature Heritage Trust, Nga Whenua Rahui, Territorial Local Authority Reserve or Covenant, or Department of Conservation Covenant unless it can be proven to not meet any of the other criteria in this table.
<u>Ecological Sustainability</u>	<ul style="list-style-type: none"> • Key ecological processes remain viable or still influence the site; and • Key ecosystems within the site are known to be or are likely to be resilient to existing or potential threats under some realistic level of management activity

This Policy implements Objective 12-2

12.1.3 Rules – Land-Use Activities

Rule	Activity	Classification	Conditions/ Standards/ Terms	Control/ Discretion/ Non-Notification	Links
<p>12-1 Minor and beneficial activities</p>	<p>Any vegetation clearance* or land disturbance* for any purpose listed in condition (a) of this Rule, and any ancillary:</p> <p>(a) Diversion of water pursuant to s14 RMA; or</p> <p>(b) Discharge of sediment or other contaminants pursuant to s15 RMA.</p>		<p>(a) The activity shall be for one or more of the following purposes:</p> <ul style="list-style-type: none"> (i) Grazing; (ii) Pruning or thinning operations associated with production forestry and the clearance of understorey, including indigenous understorey, beneath plantation forests; (iii) The planting or management of trees, including forestry, for soil conservation purposes; (iv) The control of pests as defined in a Regional Pest management Strategy prepared under the Biosecurity Act 1993; (v) The maintenance* or upgrade* of existing structures, including fences, buildings, roads, tracks, railway lines and other infrastructure*; (vi) Activities undertaken for transport safety purposes, including road safety; (vii) Activities undertaken for the purpose of protecting or enhancing areas of indigenous vegetation or habitat; (viii) The recontouring or planting of coastal dunes to improve dune stability provided this activity does not involve a Coastal Fore-dune*; 		<p>This Rule implements Policy 12-1.</p>

			<ul style="list-style-type: none"> (ix) The collection of firewood for an individual's reasonable domestic needs, provided the firewood is not sourced from an At Risk Habitat*, Rare Habitat* or Threatened Habitat*; (x) Domestic gardening; (xi) The establishment or management o shelter belts; (xii) The clearance of vegetation that is fallen or dead; and (xiii) Military training using live ammunition under the Defence Act 1990. 	
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12.2.3 Rules – Land based Biodiversity Including Wetlands

Rule	Activity	Classification	Conditions/ Standards/ Terms	Control/ Discretion/ Non-Notification	Links
12-7 Activities within rare and threatened habitat* or at -risk habitat* where they occur as treeland*	<p>Any of the following activities within a rare and threatened habitat* or at -risk habitat* where they occur as treeland*:</p> <p>(a) vegetation clearance* or land disturbance* pursuant to s9 RMA;</p> <p>(c) discharges of contaminants into water, or into or onto land pursuant to s15 RMA; or</p> <p>(d) diversions of water pursuant to s14 RMA.</p> <p>This rule does not apply to:</p> <p>(da) Those activities permitted by Rule 12-1</p> <p>(e) The discharge of agrichemicals they are carried out for the purposes of controlling pests pursuant to a pest management strategy prepared under the Biosecurity Act 1993, or</p> <p>(g) The discharge of fertiliser</p> <p>(h) Activities that are classified as a discretionary, non-complying or prohibited activity under another rule in this Plan in which case the other rule applies.</p>	Restricted discretionary		<p>Discretion is restricted to over:</p> <p>(a) the nature, scale, timing and duration of activity</p> <p>(b) effects on any nearby rare and threatened habitat* or at -risk habitat* for which the treeland is acting as a buffer</p> <p>(c) effects of removing trees which are providing or contributing to a riparian buffer</p> <p>(d) effects of removing trees which are providing crucial life supporting habitat to a threatened species</p> <p>(e) effects on the site based upon an assessment of the site's representativeness, rarity and distinctiveness, as assessed in accordance with Policy 12-7</p> <p>(f) revegetation requirements</p> <p>(g) procedures in the event of discovering or disturbing an archaeological site, waahi tapu or koiwi remains</p> <p>(h) duration of consent</p> <p>(i) review of consent conditions</p>	<p>This Rule implements Policy 12-3.</p> <p>Policies guiding consent decisions include: 12-4, 12-5 and 12-7</p>

				(j) compliance monitoring. Resource consent applications under this rule will not be notified and written approval of affected persons will not be required (notice of applications need not be served on affected persons).	
12- 8 Activities with-in at-risk habitats	<p>Any of the following activities within an at-risk habitat*</p> <p>(c) vegetation clearance* or land disturbance pursuant to s9 RMA;</p> <p>(c) discharges of contaminants into water or into or onto land pursuant to s15 RMA; or</p> <p>(d) diversions of water pursuant to s14 RMA.</p> <p>(e) the discharge of agrichemicals for the purpose of controlling pests pursuant to a pest management strategy prepared under the Biosecurity Act 1993;</p> <p>(ea) The planting or harvesting of crops from land that is already used for cropping; or</p> <p>Activities that are classified as a discretionary activity, non-complying or prohibited activity under another rule in this Plan in which case the other rule applies.</p>	Discretionary			<p>This Rule Implements Policy 12-3.</p> <p>Policies guiding consent decisions include: 12-4, 12-5, and 12-7.</p>

<p>12- 9 Activities with-in rare and threatened habitats including wetlands</p>	<p>Any of the following activities within a rare and threatened habitat*:</p> <p>(a) vegetation clearance</p> <p>(c) discharges of contaminants into water or into or onto land pursuant to s15 RMA; or</p> <p>(d) diversions of water pursuant to s14 RMA.</p> <p>This rule does not apply to:</p> <p>(da) Those activities permitted by Rule 12-1;</p> <p>(e) the discharge of agrichemicals for the purpose of controlling pests pursuant to a pest management strategy prepared under the Biosecurity Act 1993;</p> <p>(ea) The planning or harvesting of crops from land that is already used for cropping; or</p> <p>Activities that are classified as a discretionary, non-complying or prohibited activity under another rule in this Plan in which case the other rule applies.</p>	<p><u>Non-complying Discretionary</u></p>			<p>This Rule Implements Policy 12-3.</p> <p>Policies guiding consent decisions include: 12-4, 12-5, and 12-7.</p>
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