IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of applications by Waka Kotahi NZ Transport Agency to Manawatu Whanganui Regional Council for resource consents associated with the construction and operation of Te Ahu a Turanga: Manawatū Tararua Highway.

SECTION 87F REPORT TO WAKA KOTAHI NZ TRANSPORT AGENCY

MANAWATŪ-WHANGANUI REGIONAL COUNCIL

25 May 2020

A. OUTLINE OF REPORT

1 This report, required by section 87F of the Resource Management Act 1991 ("**RMA**"), addresses the issues set out in sections 104 to 112 of the RMA, to the extent that they are relevant to the applications lodged with the Manawatū-Whanganui Regional Council ("**Horizons**") The consents applied for, by Waka Kotahi NZ Transport Agency (the "**Transport Agency**") are required to authorise the construction, operation and maintenance of the Te Ahu a Turanga: Manawatū Tararua Highway (the "**Project**").

2 In addition, the Transport Agency separately applied for a Notice of Requirement ("**NoR**") to Palmerston North City Council ("**PNCC**"), Tararua District Council ("**TDC**") and Manawatu District Council ("**MDC**"). The Environment Court confirmed the designation for the Project, including a more northern alignment (discussed later in this section 87F report), subject to conditions, on 23 March 2020. While this section 87F report only addresses the applications lodged with MWRC, the designation and the associated conditions have also been considered as part of the assessment.

3 This report has been prepared in accordance with section 87F of the RMA which sets out the matters the report must cover. This report includes:

(a) An introduction;

(b) A description of the applications sought and history;

(c) Site description;

(d) The notification and consultation process;

(e) Assessment against the relevant section 104-112 matters; and

(f) Recommended conditions.

4 In preparing this report, I have relied on the expert advice (attached as Annexure 1 to 6 to this section 87F report) from the following technical advisors:

(a) Deborah Ryan – Air Quality (**Appendix 1**)

(b) Jon Bell – Hydrology (**Appendix 2**)

(c) Logan Brown – Freshwater Ecology (**Appendix 3**)

(d) James Lambie – Terrestrial Ecology (**Appendix 4**)

(e) Kerry Pearce – Erosion and Sediment Control (**Appendix 5**)

(f) John Hudson – Natural Character (**Appendix 6**)

5 While this report is pursuant to section 87F of the RMA, I have in accordance with section 42A (1A) and (1B) of the RMA attempted to minimise the repetition of information included in the application and where I have considered it appropriate, adopt that information.

B. QUALIFICATIONS / EXPERIENCE

6 My name is Mark Leslie St Clair. I am a director of Hill Young Cooper, a Planning and Resource Management consultancy firm based in Wellington and Auckland. I hold a Bachelor of Resource and Environmental Planning, with first class honours, from Massey University. I have more than 25 years' experience in planning practice in local government (Lower Hutt City Council and Manukau City Council), central government (Ministry for the Environment) and private practice (Connell Wagner, Manukau Consultants Ltd, GHD Ltd, and Hill Young Cooper).

7 I have been a full member of the New Zealand Planning Institute since 1996, and between 1996 and 1998 I held the position of chair of the Auckland Branch of the New Zealand Planning Institute. From 1998 to 2000 I held the elected position of National Councillor for that Institute. In 2018 I received the Distinguished Service Award from the New Zealand Planning Institute for services to the profession.

8 I have been engaged by Horizons to provide planning expertise on resource consent applications by the Transport Agency for resource consents associated with the construction, operation and maintenance of the Project. I first became involved with the applications in August 2018 by way of a request from MWRC.

9 I am familiar with the general location and characteristics of the Project's geographical setting and I undertook a site visit of the proposed route on 10 September 2019 with representatives of the Transport Agency and the MWRC reporting team.

C. CODE OF CONDUCT

10 I confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this report is within my area of expertise.

11 Statements expressed in this report are made within my sphere of expertise, except where I rely on the technical advice, I have referred to in paragraph 4 of this report.

D. EXECUTIVE SUMMARY

12 The key conclusions of my report are:

(a) The Transport Agency and Iwi Project Partners have prepared a comprehensive application for the resource consents required for the construction, operation and maintenance of the Project.

(b) The overall activity status for the Project when assessed against the relevant provisions of the One Plan is as a non-complying activity.

(c) The Applicant's assessment as to effects and the MWRC technical experts, concur that there are residual adverse effects for;

- The cultural landscape, indigenous biodiversity, the mauri of the Manawatū River and catchment, and access to cultural resources;
- Terrestrial ecology, particularly the loss of indigenous biodiversity values including those identified as Schedule F under the One Plan; and
- Freshwater ecology concerning the loss and modification of stream habitat, as well as impacts on water quality.

(d) With regard to section 104D of the RMA, the Project does not meet the first gateway test. However, in my assessment, the Project, subject to the imposition of conditions recommended by the MWRC experts, will be generally consistent with the objectives and policies of the Regional Plan.

(e) If the recommended conditions are met, and the offset and compensation implemented and monitored for success over the life of the consents, then any environmental and cultural impact of the proposed activities could in my view be avoided, remedied, mitigated or offset/compensated. In those circumstances the sustainable management of natural and physical resources would be promoted in accordance with the purpose of the RMA.

E. INTRODUCTION

13 On 11 March 2019, the Transport Agency applied to MWRC for a suite of resource consents for the construction, operation and maintenance of the Project. The application was accompanied by a request for the application to proceed directly to the Environment Court for determination, which was granted by MWRC on 24 March 2020.

14 This report provides an analysis of the resource management issues for the Project, with a view to informing and assisting the Environment Court as part of the direct referral process. My assessment and recommendations are based on the information provided by the Transport Agency, my review of the submissions and my reliance on the section 87F technical expert reports. For the benefit of the submitters, I record that my assessment and recommendations are not binding on the Environment Court.

15 Specifically, I have considered the following documents from the Applicant:

(a) The application and Assessment of Environmental Effects ("**AEE**") dated 9 March 2020[1] which broadly seeks the following resource consents:

(i) Land use consents for land disturbance and vegetation clearance, including within the Hill Country Erosion Management Area, within 10m of a watercourse, and within a rare or threatened habitat;

(ii) Discharge permit for discharges of sediment during construction to a rare or threatened habitat; and

[1] Comprising Volume I: Application for Resource Consent and Assessment of Effects on the Environment.
Volume II: Design and Construction Report; Volume III: Drawings; Volume IV: Technical Assessments; Volume V: Technical Assessments; Technical Assessments continued; Volume VI: Cultural Impact Assessments; Volume VII: Management Plans.

(iii) Water permits for the taking of water (dewatering) associated with earthworks activities;

(iv) Land use consent for activities within the bed of rivers within a rare or threatened habitat (this relates to the construction of the Eco Bridge, one stream diversion and five culverts);

(v) Water permit for the taking and diversion of water (diversion and drainage) within a rare or threatened habitat;

(vi) Discharge permit for discharges of stormwater to a rare or threatened habitat (this relates to stormwater from Wetland 03 which is a proposed wetland / stormwater treatment facility to be constructed as part of the Project);

(vii) Discharge permit for discharges of spoil and imported fill;

(viii) Water permit for diversion of Streams;

(ix) Land use consents for the placement of bridges over the Manawatū River and the Mangamanaia Stream and for associated disturbances, diversions, deposition and discharges; and

(x) Land use consent for the placement of culverts within watercourses (and associated disturbance, diversion, deposition and discharges).

(b) Response to requests for further information under section 92 of the RMA, dated 29 April 2020.

16 A more detailed description of the history of the application, the proposed activities and the site is provided in sections F, I, and J of this report.

17 The recommendations made, and conclusions reached in this report, may be revisited following the mediation tentatively scheduled for 22 – 23 June 2020, the expert witness conferencing tentatively scheduled for 7 July – 17 July 2020, and following the review of evidence of the Applicant and submitters later in the process.

F. APPLICATION FOR RESOURCE CONSENTS

Application history – Notices of Requirement

18 The Transport Agency, as part of a separate process, gave notices of requirements to the territorial authorities, PNCC, MDC and TDC for the Project in November 2018. On 24 May 2019 the Panel appointed to consider the applications recommended that the Notice of Requirements be confirmed as modified by the submission and hearing process, subject to conditions.[2] The Transport Agency, as requiring authority, confirmed the requirement, subject to conditions, on 7 June 2019.

19 The matter was appealed to the Environment Court by the Department of Conservation ("**DOC**"), the Queen Elizabeth II National Trust ("**QEII**"), and affected landowners (who ultimately withdrew their appeal). The Environment Court confirmed the requirements, subject to amended conditions, by consent order dated 27 March 2020. In doing so, the Environment Court modified the requirements to provide for an alignment that moved further north of the original NoR boundary (the "**Northern Alignment**"). The designations now have legal effect within the relevant district plans.

Enabling Works – Resource Consents

20 In addition to the NoR, the Transport Agency has sought or is in the process of seeking a number of regional and district council resource consents for enabling works, some of which are outside the NoR boundaries. These enabling works are to be carried out in advance of the Main Works (to be authorised under the consents the subject of this application) and include works such as investigation activities, access tracks, quarry operations, a water take and the creation of reservoirs for water storage.[3]

21 Two enabling works consents have been granted by MWRC. One for the Western Access Track and another for Geotechnical Investigations. Copies of those consents are included in **Appendix 7** of this report.

22 At the time of preparing this report, a further enabling works resource consent application had been lodged with MWRC for another access track.[4] The application involves the construction of a 1130m long access track (referred to as the Eastern

[2] Te Ahu a Turanga – Manawatū Tararua Highway – Notices of Require for Designations – Territorial Authority Recommendation Report – May 2019.
[3] AEE Volume I, Section 1.6.3, Pages 28 - 29.
[4] Lodged with MWRC on 21 May 2020.

Access Track) off Hope Road and the creation of a hard stand area that will later be developed into a site office compound. The access track will provide access to the Te Ahu a Turanga Project construction area, to the abutments of the proposed bridge across the Mangamania Stream and to the proposed hard stand area.

23 It is understood that further enabling works consents will be lodged with MWRC and the territorial authorities (PNCC, TDC, and MDC) in the coming weeks.

Main Works Resource Consents

24 The resource consents sought for the proposal are in two groups. The first group of consents are required for the construction phase of the Project for which a duration of 10 years is sought. The second group of consents are required for the ongoing operation of the Project for which a duration of 35 years is sought by the Applicant.

Table 1: Resource consents sought

Activity	Type	Subtype	Authorisation IRIS ID	Duration*
Land disturbance and vegetation clearance within the Hill Country Erosion Management Area.	Land Use Consent	Land	ATH-2017201719.00	10 years
Land disturbance and vegetation within various waterways.	Land Use Consent	Water	ATH-2020203333.00	10 years
Land disturbance and vegetation clearance within a rare or threatened habitat.	Land Use Consent	Water	ATH-2020203335.00	10 years
Discharge of sediment within a rare or threatened habitat.	Discharge Permit	Land	ATH-2020203336.00	10 years
Taking of water (dewatering).	Water Permit	Groundwater	ATH-2020203337.00	10 years
For BR03, one stream diversion and five culverts in the bed of any lake or river, within a rare habitat or threatened habitat.	Land Use Consent	Water	ATH-2020203338.00	35 years
Stream diversion within a rare or threatened habitat.	Water Permit	Surface Water	ATH-2020203339.00	35 years

Discharge of stormwater (once operation from Wetland 03) to a rare or threatened habitat.	Discharge Permit	Water	ATH-2020203340.00	35 years
Discharge of spoil and imported fill.	Discharge Permit	Land	ATH-2020203341.00	35 years
Diversion of streams outside a rare or threatened habitat.	Water Permit	Surface Water	ATH-2020203342.00	35 years
Placement of a bridge and associated disturbance, diversion, deposition and discharges, over the Manawatū River which is identified as a Schedule B – Site of Significance – Cultural.	Land Use Consent	Water	ATH-2020203343.00	35 years
Placement of a bridge and associated disturbance, diversion, deposition and discharges, over the Mangamanaia Stream which is identified as a Schedule B – Value of Flood Control and Drainage.	Land Use Consent	Water	ATH-2020203344.00	35 years
Culverts and associated disturbance, diversion, deposition and discharges, within watercourses which comply with Rule 17-10.	Land Use Consent	Water	ATH-2020203345.00	35 years

Duration* - Refers to the term of consent requested by the Applicant

G. FURTHER INFORMATION AND INFORMATION GAPS

25 Further information was requested under section 92(1) of the RMA with regard to the applications on 3 April 2020. A copy of the request included in **Appendix 8**. The further information requested related to water quality, erosion and sediment control, terrestrial ecology and offsetting, air quality, natural character, landscape, and planning matters.

MWRC received a detailed response to these matters on 29 April 2020. A copy of the Transport Agency's response is included in **Appendix 9** (the Section 92 Response).

H. NOTIFICATION / SUBMISSIONS / WRITTEN APPROVALS

26 The applications were publicly notified on 24 March 2020. The submission period closed on 24 April 2020, with a total of 19 submissions received.

27 No late submissions were received.

28 The general position recorded in the submissions are tabled below:

General position of submission	Total
Oppose	7
Support	9
Neutral	3

29 A full list of submitters is provided in **Appendix 10**. The submissions have been summarised in **Appendix 11**.

30 At the time of preparing this section 87F report 10 submitters wish to be heard in relation to their submission, and 9 submitters do not wish to be heard.

31 At the time of preparing this section 87F report, I am not aware of the Applicant having made any formal amendments to the Project to address matters raised in the submissions.

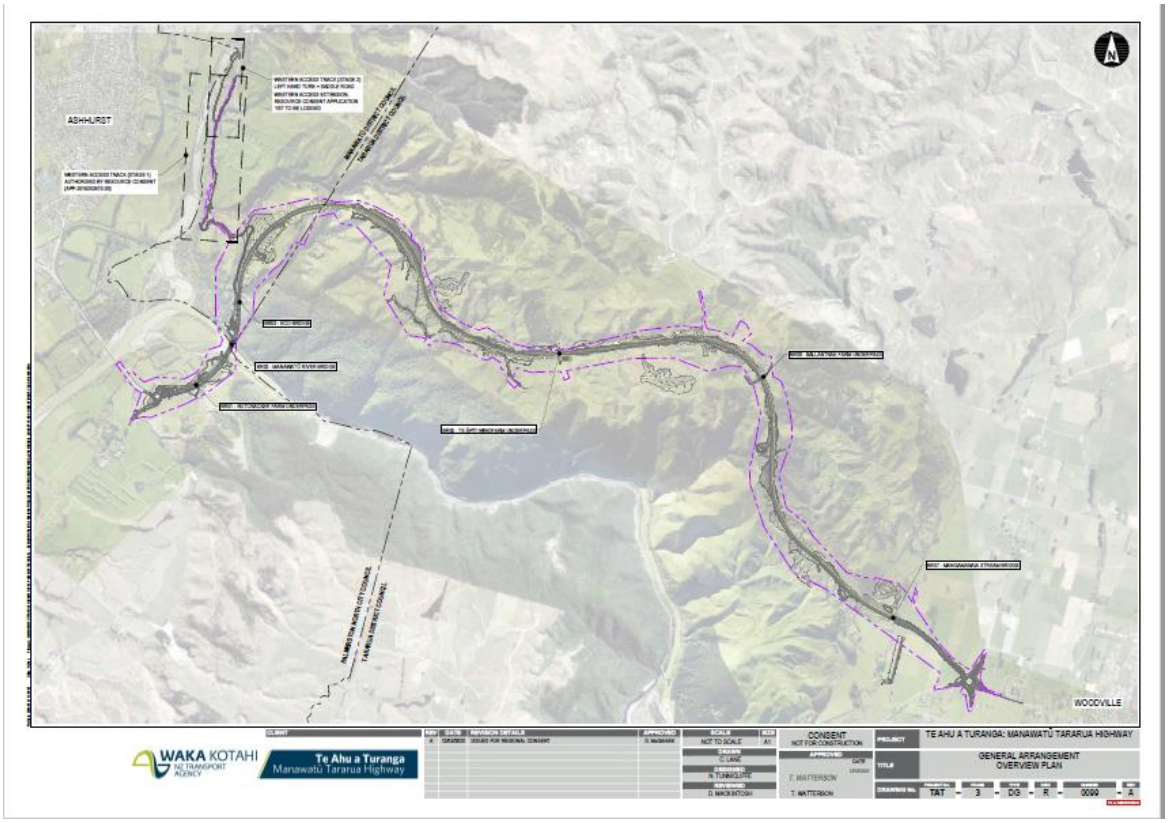
32 I have addressed the matters raised in the submissions generally throughout my report where those concerns are relevant to the environmental effect or statutory document being assessed. Supporting submissions have also been accounted for in my assessment. Section 87F experts for MWRC have also reviewed the relevant submissions, as required, and incorporated comments into their assessments accordingly.

33 Submission 8 from Mr Shoebridge raises concerns about the acoustic impacts of the Project on his property. These issues are outside the area of expertise of MWRC and have not been assessed in this report. To the extent that Mr Shoebridge has raised questions around flooding, Mr Bell addresses the submission in his technical report (Appendix 2).

I. LOCATION – EXISTING ENVIRONMENT

34 The Applicant has provided a detailed description of the existing environment in the AEE, both human and natural environments, including the site location, physical characteristics and site geology, water catchments quality and quantity and terrestrial flora and fauna of the proposed route and surrounding area.[5]

35 A plan below shows the locality of the proposal.



J. PROPOSED ACTIVITY

36 A thorough description of the proposal is set out in the AEE.[6]

37 In summary, the Transport Agency is proposing to construct a 11.5km long section of new state highway which will connect with State Highway 57 east of Ashhurst and State Highway 3 west of Woodville, via a route over the Ruahine Ranges. The new highway will be median separated with two lanes in each direction over the majority

[5] AEE Volume I, Section 2, Pages 35 - 53.
[6] AEE Volume 1, Section 3, Pages 58 - 71.

of the route. The Project also includes a Shared Use Path ("**SUP**") for cyclists and pedestrians, as well as a number of new bridges, including one over the Manawatū River. In order to deliver this Project, a range of resource consents are required from MWRC associated with both the construction and operational phases.

38 A summary list of the features of the Project are as follows;

(a) Approximately 11.5km of two-lane, median divided, access-controlled rural state highway, with crawler lanes over the majority of the length in each direction;

(b) Connection to the existing state highway network by way of two single-lane roundabouts at either end of the Project extent (the Western and Eastern Roundabouts);

(c) A four-lane bridge across the Manawatū River (BR02) and the adjacent Palmerston North – Gisborne rail line at the western end of the Manawatū Gorge – located approximately at CH 3600 to CH 3900;

(d) A four-lane Eco Bridge (BR03) spanning the ecologically sensitive area located on the northern side of the Manawatū River at the western end of the Project Alignment – located approximately at CH 4000 to CH 4300;

(e) A four-lane Mangamanaia Stream Bridge (BR07) and a farm track passing underneath which is located above the Q10 flood level;

(f) Underpasses (in the form of box culverts) with internal access roads at:

(i) Approximately CH 3270 providing access to a private property which is situated to the south of the proposed state highway (Nutcracker Farm Underpass (BR01));

(ii) Approximately CH 8240 connecting the northern and southern sections of Te Āpiti Wind Farm (Te Āpiti Wind Farm Underpass (BR05)); and

(iii) Approximately CH 10210 connecting the northern and southern sections of Ballantrae Farm (Ballantrae Farm Underpass (BR06)).

(g) Safe stopping areas ("**SSA**") accessed from the main Alignment leading to viewing areas / rest areas accessed via a footpath at the following locations:

(i) Off the eastbound carriageway at approximately CH 5200;

(ii) Off the westbound carriageway at approximately CH 8150; and

(iii) Off the westbound carriageway at approximately CH 11650.

(h) A controlled access for over-dimension vehicles to Te Āpiti Wind Farm at approximately CH 8000;

(i) Realignment of access tracks within Te Āpiti Wind Farm to maintain the network of accesses between the wind turbines for ongoing farm operations;

(j) Creation of a Western Gateway Park at the western end of the Manawatū Gorge Scenic Reserve providing open space area and approximately 120 car parks;

(k) A SUP for pedestrians and cyclists commencing at the existing SH3 Ashhurst Bridge and terminating at the Vogel Street/Hampson Street intersection, Woodville;

(l) A replacement airstrip and associated access track located approximately 100 m to the south of its current location at CH 13050;

(m) New walking tracks and boardwalks within the Wetland Experience Area between approximately CH 4000 and CH 4250 (on the west side of the main Alignment on the Eco Bridge);

(n) A 2-3 m wide walking / cycling track linking the western rest area (Ashhurst lookout) and the new Wetland Experience Area between approximately CH 4200 and CH 4800 to the north of the Manawatū River and west of the Alignment;

(o) A repurposed existing access track (the Western Access Track) to provide walking and cycling facilities alongside the Pohangina River (over a distance of approximately 3 km) from the Project through to Saddle Road;

(p) Stormwater treatment wetlands, stormwater swales, drains and sediment traps;

(q) Culverts to reconnect streams crossed by the proposed works and stream diversions to recreate and reconnect streams; and

(r) Spoil sites (at various locations, see Drawings TAT-3-DG-C-3640 - 3650 (Volume III).[7]

39 In addition, an offset/compensation package of planting, fencing and pest control is also proposed primarily outside the NoR alignment boundaries[8].

K. STATUTORY CONSIDERATIONS

40 Section 87F of the RMA provides that if a consent authority grants a request for direct referral it must prepare a report on the application. The report must:

(a) Address issues that are set out in sections 104 to 112 of the RMA to the extent that they are relevant to the application; and

(b) Suggest conditions that it considers should be imposed if the Environment Court grants the application; and

(c) Provide a summary of the submissions received.

41 There are no written approvals of persons/parties such that effects on those persons/parties must be disregarded in terms of section 104(3)(a) of the RMA.

42 The application is to be assessed overall as a non-complying activity under the One Plan. When considering an application for a non-complying activity, the consent authority must have regard to Part 2 of the RMA, and sections 104, 104D, and where relevant sections 105, 107, 108 and 108AA of the RMA.

Section 104

43 Section 104 of the RMA sets out the matters a consent authority shall have regard to in considering an application for resource consent and any submissions received. The section 104 matters that I consider to be of relevance to the applications include:

(a) **Actual and potential environmental effects[9]** - In the following paragraphs, I consider the AEE and the technical expert reports in concluding my overall

[7] AEE Volume I, Section 3.1, Pages 58 - 59.
[8] AEE Volume I, Section 6.10.6, 6.10.7, 6.11.4.
[9] Section 104(1)(a), RMA.

assessment of the actual and potential effects of the activities. This assessment is given in paragraphs 46 – 101 of this report.

(b) **National Environmental Standards (NES)[10]** - The NES for Air Quality 2004, the NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011, the NES for Telecommunications Facilities Regulations 2016, and the NES for Electricity Transmission Activities Regulations 2009 are relevant to this application. I concur with the statement in the application that the NES for Plantation Forestry 2018 and, following my own assessment detailed below, the NES for Sources of Drinking Water 2007, are not relevant to this Project.[11] I discuss the relevant NES in paragraphs 103 - 117.

(c) **Other regulations[12]** - There are no other regulations of relevance to the suite of applications relating to the Project.

(d) **Relevant National Policy Statements (NPS)[13]** - The NPS for Freshwater Management 2014, the NPS for Renewable Electricity Generation 2011 and the NPS on Electricity Transmission 2008 are relevant to this application. I discuss the relevant NPS in paragraphs 117 - 159 of this report and conclude that the proposed activities are consistent with those NPS. I concur with the statement in the application that the NPS on Urban Development Capacity 2016 is not relevant to this application.[14]

(e) **New Zealand Coastal Policy Statement[15]** - I concur with the statement in the application that the New Zealand Coastal Policy Statement is not relevant to this application.[16]

(f) **Relevant Regional Policy Statements (RPS)[17]** - The relevant objectives and policies of the One Plan RPS are discussed in paragraph 132 of this report.

[10] Section 104(1)(b)(i).
[11] Volume I - Assessment of Effects on the Environment, Section 8.3, Page 177.
[12] Section 104(1)(b)(ii).
[13] Section 104(1)(b)(iii).
[14] Volume I - Assessment of Effects on the Environment, Section 8.2.1, Para 2, Page 175.
[15] Section 104(1)(b)(iv).
[16] Volume I - Assessment of Effects on the Environment Section 8.2.1, Para 1, Page 175.
[17] Section 104(1)(b)(v).

(g) **Relevant Regional and District Plans**[18] - The relevant objectives, policies and rules of the One Plan are discussed in paragraphs 131-185 of this report. District Plans are addressed in paragraph 186 of the report.

(h) **Other Matters MWRC Considers Relevant**[19] - Relevant to this application are the following: the Manawatū River Leaders Accord, the Horizons Regional Land Transport Plan and the Government Policy Site on Land Transport. These matters are discussed in paragraphs 191-198 of this report.

Matters relating to the grant of discharge permits

44 Section 105 of the Act lists additional matters that a consent authority must have regard to when considering applications for discharge or coastal permits to do something that would contravene section 15 of the RMA. These matters are addressed in section 10 of this report.

45 Section 107(1) of the Act places restrictions on the grant of resource consents for the discharge of contaminants into water if they cause certain adverse effects in receiving waters after reasonable mixing. However, there are a limited range of exceptions to this prohibition provided in section 107(2). These section 107 matters are discussed in section 10 of this report.

Actual and Potential Effects on the Environment

46 The assessment of environmental effects below considers the key effects arising from the application that are within the jurisdiction of MWRC. These effects are:

(a) Effects on air quality;

(b) Effects on hydrology, operational stormwater (quantity) and flooding;

(c) Ecological and freshwater quality effects;

(d) Land disturbance/earthworks/sedimentation effects;

(e) Effects on terrestrial ecology and wetland ecosystems;

(f) Effects on natural character;

[18] Section 104(1)(b)(vi).
[19] Section 104(1)(c).

(g) Landscape effects;

(h) Effects on tangata whenua and cultural values;

(i) Effects on navigational safety;

(j) Positive effects.

Air quality

47 There is the potential for effects on air quality from the construction and operation of the Project, primarily in the form of dust. The Applicant has addressed these issues in the AEE[20] and Technical Assessment E.[21] Submitters raised issues regarding dust effects and increased contamination on the receiving environment from vehicles.[22] Ms Deborah Ryan assessed these air quality effects issues on behalf of MWRC.

48 Ms Ryan concurs with Mr Chilton, air quality expert for the Transport Agency, that dust is the key consideration for the air quality assessment, with the relevant assessment criteria being avoidance of adverse effects from offensive or objectionable dust[23] as well as noxious dust in relation to ecological receptors.[24]

49 In assessing the effects from construction of the Project, Ms Ryan's assessment notes:

(a) The Applicant has appropriately identified the potential source and issues associated with dust discharges, identified locations where the risk of dust impacts is high and gone on to make recommendations around mitigation and monitoring;[25]

(b) Rural dwellings, electricity infrastructure, wind farm infrastructure, a fertiliser research area and some rare, threatened or at-risk ecological habitats are

[20] AEE Volume I, Section 6.9, Pages 116 - 118.
[21] AEE Volume IV, Technical Assessment E: Air Quality.
[22] Submission Nos. 6, 18.
[23] Section 87F Report, Ms D Ryan, Para 15.
[24] Section 87F Report, Ms D Ryan, Para 52.
[25] Section 87F Report, Ms D Ryan, Paras 18 - 19.

identified as being potentially sensitive[26] and Ms Ryan agrees that the mitigation proposed as to specific receptors is appropriate;[27]

(c) Given the high-risk of dust impacts, Ms Ryan concurs with Mr Chilton's advice that a 'Construction Air Quality Management Plan' ("**CAQMP**") is required, which can be provided through a Dust Management Procedure/Dust Control Procedure ("**DMP/DCP**") as part of the Erosion and Sediment Control Plan.[28]

(d) The monitoring proposals put forward by the Applicant including real time monitoring, adapting the trigger level for 150 µg/m^3 as a 1-hour average are appropriate[29] and the dust management tool-box measures[30] are appropriate;

(e) Additional conditions are recommended.[31]

50 Ms Ryan has relied on the technical advice of Mr Lambie when considering the effects of dust on plants.[32] Mr Lambie is of the view that, provided dust is managed below nuisance thresholds, the effect is likely to be minor.[33]

51 In conclusion, considering the revised DMP/DCP provided by the Transport Agency in the s92 Response, Ms Ryan agrees with the recommendation provided by Mr Chilton that the DCP/DMP is a fit for purpose framework to manage and minimise the potential effects of dust to an acceptable level.[34] Ms Ryan has recommended however, that the conditions of consent are clear around the need for the DCP/DMP to be prepared, and also complied with, by the Transport Agency.

52 I rely on Ms Ryan's report and have recommended conditions which support the view that the effects of dust will be less than minor.

Hydrology and Flooding (Stormwater Quantity) Effects

53 Two submissions raised the issue of hydrology and flood effects.[35]

[26] Section 87F Report, Ms D Ryan, Para 20.
[27] Section 87F Report, Ms D Ryan, Paras 25 - 29.
[28] Section 87F Report, Ms D Ryan, Para 24.
[29] Section 87F Report, Ms D Ryan, Paras 30 - 35.
[30] Section 87F Report, Ms D Ryan, Paras 36 - 39.
[31] Section 87F Report, Ms D Ryan, Paras 48 - 56.
[32] Section 87F Report, Ms D Ryan, Para 42.
[33] Section 87F Report, Mr J Lambie, Para 40.
[34] Section 87F Report, Ms D Ryan, Para 46.
[35] Submission Nos 8, 13.

54 Mr Jon Bell, Manager Investigations and Design at MWRC, has assessed the application from a hydrology and flood & erosion risk perspective. I have had the opportunity to view a draft report prepared by Mr Bell. In addition I have spoken to Mr Bell and I understand that he is generally comfortable with the Transport Agency's conclusions, noting that a sound consideration of the hydrology of the river has been undertaken using appropriate assumptions, techniques, and methodologies. A written technical report will be provided in support of Mr Bell's position.

55 Mr Logan Brown, Freshwater and Partnerships Manager at MWRC has assessed the effects of stormwater from an ecological perspective.[36] Mr Brown generally agrees with the Transport Agency's analysis that stormwater quality can be expected to have a negligible or minor impact on stream water quality, notwithstanding concerns in relation to E. coli and soluble nutrients from stock effluent.[37] Overall, Mr Brown considers that there will be an improvement in the quality of stormwater (arising from the proposed treatment) discharged to the Manawatu River when compared to the current situation. Mr Brown recommends a condition that monitoring be undertaken from at least one of the treatment wetlands to address residual concerns around E.coli and soluble nutrients from stock effluent.[38]

Freshwater Ecology – effects on water quality and ecology

56 The effects of the proposed activities on the surface waters and freshwater ecology across the Project catchments and the Manawatu River are identified in the AEE,[39] and through the Transport Agency's section 92 Response. Potential effects on freshwater quality and ecology were raised in the majority of the submissions[40] as identified in the submission summary table in **Appendix 11** of my report.

57 Mr Brown has undertaken an assessment of the proposal in regard to surface water quality effects. Mr Brown's report sets out an overview of the surface waters and associated values around the proposed site, noting that the Project falls within the following water management zones identified in the MWRC One Plan, being the Upper Gorge (Mana_9) and Middle Manawatū (Mana_10) and the following water

[36] Section 87F Report, Mr L Brown, Paras 114 - 125.
[37] Section 87F Report, Mr L Brown, Para 126.
[38] Section 87F Report, Mr L Brown, Para 158.
[39] AEE Volume I, Section 6.7, Pages 112 - 115 and Section 6.11, Pages 130 -137, AEE Volume IV, Technical Assessment C, AEE Volume V, Technical Assessment H.
[40] Submission Nos 2, 6, 8, 9, 10, 13, 16, 19.

management sub-zones Middle Manawatū (Mana_10a), Lower Pohangina (Mana_10d), and Mangaatua (Mana_9c). Mr Brown identifies that a number of the waterways in this area are already compromised.[41]

58 Mr Brown then concludes:

(a) The baseline monitoring conducted by the Applicant provides a thorough understanding of the values of the streams/catchments currently, enabling an assessment of the effects on those values. Mr Brown records that Catchments 5 and 7 are the most sensitive from a water quality and ecological perspective, with generally the highest water quality and ecological values of the catchments affected by the Project;[42]

(b) That the Applicant's assessment of fish passage and its provision through culverts is sound, acknowledging that fish passage has been enabled in all instances where feasible and appropriate. Mr Brown recommends additional conditions, including retrofitting at specified locations, review of culvert design by specialists, provision of 'as builds' plans, and ongoing maintenance;[43]

(c) The fish species identified in the technical assessments are what could be expected and while the proposed fish recovery protocols satisfactorily detail how the process will be undertaken, Mr Brown recommends that these protocols should be incorporated into conditions;[44]

(d) In relation to stream habitat loss, Mr Brown considers that the Stream Ecological Valuation ("**SEV**") used by the Applicant is the appropriate tool, and that the assessment of the loss of stream habitat and/or its function is transparent and based on an accepted methodology for the calculation for the area required to offset the effects. He has however recommended the imposition of conditions to address residual uncertainty over the location of the offsets (with key sites within the relevant catchments not yet secured);[45]

(e) Three catchments (Catchments 5, 6 and 7) will experience high (adverse) effects of sedimentation. Those catchments are also those with the highest

[41] Section 87F Report, Mr L Brown, Paras 20 - 27.
[42] Section 87F Report, Mr L Brown, Paras 28 - 31.
[43] Section 87F Report, Mr L Brown, Paras 32 - 42.
[44] Section 87F Report, Mr L Brown, Paras 43 - 47.
[45] Section 87F Report, Mr L Brown, Paras 52 - 55 and Para 12(c).

ecological value, and include areas within the QEII covenanted land. Given the values within the catchments, the effects of sedimentation on those values, and the unknown timeframe for recovery from sediment deposition, Mr Brown recommends that catchment specific discharge standards should be imposed;[46] and

(f) That the proposed stream diversion restoration provides some ecological function to mitigate some of the effects of habitat modification, and while the offered conditions of stream diversion restoration requires 9520m^2 of new stream channel, regard needs to be given to the minimum planting width at the stream edge. Mr Brown is of the view that 20m of planting is best practice, and further, if a lesser amount has been used in calculating offsets, the extent of the offset will need to be recalculated by the Transport Agency.[47]

59 Having undertaken a detailed assessment Mr Brown records, in summary, that;

(a) The Proposal will have adverse effects on the values of the waterways within the catchments affected by the Project, with the majority of these effects able to be managed by avoidance, remediation or mitigation measures as contained in the application.[48]

(b) The exception is the loss of stream habitat which cannot be fully avoided, remedied or mitigated within the footprint of the works area;[49]

(c) Stream loss will occur as a result of the creation of spoil sites, diversions for the road, and the installation of culverts. The streams affected by the Project have had SEV scores calculated for them pre and post (with mitigation) construction of the works.[50] Subject to the necessary sites being secured (which should be required via conditions), the application includes a transparent approach to provide for the stream habitat restoration to offset the residual effects.[51] If the preferred sites cannot be secured, the offsetting

[46] Section 87F Report, Mr L Brown, Para 12(d).
[47] Section 87F Report, Mr L Brown, Paras 56 - 61.
[48] Section 87F Report, Mr L Brown, Para 146.
[49] Section 87F Report, Mr L Brown, Para 146.
[50] Section 87F Report, Mr L Brown, Para 148.
[51] Section 87F Report, Mr L Brown, Paras 12(c) and 54.

calculation may need to be revisited to ensure alignment with offsetting principles, including the location of the works within a similar environment.[52]

(d) The majority of the culverts are to have fish passage included within their design and construction and for a limited number of culverts no fish passage will be provided (there is either very limited habitat (either length or intermittent flows) upstream of the culvert or the habitat available will be unsuitable).[53]

60 Mr Brown recommends conditions[54] regarding:

(a) Remediation of the Kiwirail culvert which is currently a barrier to fish passage;

(b) Requirements as to the construction and design of fish passage, design supervision, as built certification and ongoing monitoring for the lifetime of the culverts;

(c) Principles regarding fish recovery;

(d) Additional requirements in conditions relating to monitoring;[55] and

(e) Inclusion of the stream offsetting restoration outcomes and performance measures from Table 4.1 within the Ecology Management Plan[56] as enforceable standards for riparian management as part of stream restoration.

61 I rely on Mr Brown's report, in reaching the view that the proposal will have adverse effects on the values of those waterways affected by the proposal. While the effects of stream habitat loss cannot be fully avoided, remedied or mitigated, it is my view that, with the conditions recommended by Mr Brown, the actual and potential effects on water quality and ecology can be suitably managed.

[52] Section 87F Report, Mr L Brown, Paras 143(c) and 148.
[53] Section 87F Report, Mr L Brown, Para 147.
[54] Section 87F Report, Mr L Brown, Paras 151 - 158.
[55] For example ECIS.
[56] AEE, Volume VII, Ecology Management Plan, Pages 55 - 56

Land Disturbance/ Earthworks/Sediment Control

62 The Applicant addresses land disturbance/earthworks effects in the AEE[57] and the issues are raised by a number of submitters.[58] Mr Kerry Pearce assesses these issues on behalf of MWRC.

63 The proposal includes land disturbance activities of approximately 195ha of earthworks, including bulk structural cut to fill of approximately 4,600,000m^3 and cut to waste with disposal of surplus material (undercut and unsuitable) of approximately 1,200,000m^3. Any sediment laden discharge, will either directly or via upstream catchments, ultimately flow to the Manawatū River.[59]

64 In relation to the Project's approach to erosion and sediment control, Mr Pearce notes:

(a) The approach provides for a three level management plan approach following the Auckland Council Guidance Document 05 "Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region", June 2016/Amendment 1 ("**GD05**"), which is considered to be best practice and continues to evolve over time. As a minimum, compliance with GD05 is recommended by Mr Pearce to be a condition of consent;[60]

(b) Site Specific Erosion and Sediment Control Plans ("**SSESCPs**") are proposed to be certified by MWRC, for specific construction activity; the area, volume and nature of the earthworks and the downstream receiving environment; methods for managing effects; the duration, the time of year and any additional specific measures required; stabilisation methods and timing; and chemical treatment;[61]

(c) As earthworks during winter are more susceptible to wetter weather and a resultant increase in sediment discharge risk, a seasonal restriction is considered appropriate and approval from MWRC for earthworks during this period should also be required;[62]

[57] AEE, Volume I, Section 6.4, Pages 102-105 and Volume IV, Technical Assessment A.
[58] Submission Nos. 6, 8, 9, 10, 13, 15, 16.
[59] Section 87F Report, Mr K Pearce, Paras 19 - 21.
[60] Section 87F Report, Mr K Pearce, Paras 37 - 41.
[61] Section 87F Report, Mr K Pearce, Paras 44 - 45.
[62] Section 87F Report, Mr K Pearce, Para 46.

(d) Chemical treatment (flocculation) is considered a key tool to assist in the sediment control efficiency of the sediment impoundment devices, which is included in the proposed Chemical Treatment Management, but should be the subject of a consent condition;[63]

(e) Dewatering management procedures should be strengthened through a condition which requires that any discharge must meet a clarity standard prior to the discharge occurring.[64]

65 As part of his assessment, Mr Pearce reviewed the sediment yield assessment undertaken by the Transport Agency and is in general agreement with the approach taken.[65] However, Mr Pearce disagrees that the intended target of 90% efficiency sediment removal on its own provides an accurate indication of the sediment discharge from site or the related effects of discharges on the receiving environment.[66]

66 Mr Brown has assessed sedimentation effects and standards from an ecological perspective.[67] Mr Brown agrees with the Applicant that catchments 5, 6, and 7 will experience high effects of sedimentation from the Proposal. Mr Brown concludes that the end of pipe concentrations used by the Applicant to assess the effects of the discharge on the receiving environment should form the basis of resource consent conditions for discharge standards/thresholds/triggers.[68]

67 Mr Pearce agrees, and concludes, having reviewed Mr Brown's report, that a condition should be imposed with a discharge standard for the proposed sediment retention devices based on the TSS discharge calculations derived from the USLE.[69]

68 In the absence of a discharge standard, Mr Pearce concludes that further conditions will be required to ensure that sediment control devices are achieving the expected efficiency standards that are relied on (by the Transport Agency) in assessing the effects of the Project on the receiving environment.[70]

[63] Section 87F Report, Mr K Pearce, Para 47.
[64] Section 87F Report, Mr K Pearce, Paras 49 - 50.
[65] Section 87F Report, Mr K Pearce, Paras 51 - 54.
[66] Section 87F Report, Mr K Pearce, Paras 55 - 62.
[67] Section 87F Report, Mr L Brown, Paras 68 - 113, 127 - 133.
[68] Section 87F Report, Mr L Brown, Para 103.
[69] Section 87F Report, Mr K Pearce, Para 61.
[70] Section 87F Report, Mr K Pearce, Para 71.

69 In assessing the proposed management plans and the three SSESCPs referred to in the AEE, Mr Pearce notes that there are a number of performance outcomes, reporting requirements, and trigger response procedures in these management plans that more appropriately form the basis of consent conditions. This will ensure:

(a) The adverse effects of the proposal are avoided, remedied or mitigated through enforceable conditions and not via the content of management plans;

(b) The consent document is a transparent reference point for compliance when undertaking consent monitoring of key environmental (bottom line) outcomes, thereby avoiding having to search through management plans; and

(c) That important elements of consent are not unintentionally changed through the management plan review and approval process; with conditions setting out bottom lines which are only able to change via the Review condition.[71]

70 Mr Pearce considers that the matters raised in submissions are addressed in his report, with the exception of geotechnical considerations and the impact on Transpower and Meridian infrastructure which is out of the scope of the ESC Assessment.[72] I address these matters later in my report, with particular reference to conditions of consent proposed with regard to the stability of cut and fill and spoil sites.

71 In summary, while the Applicant's approach is current best practice, Mr Pearce requires a number of performance outcomes, standards and reporting requirements proposed for management plans, to be secured through consent conditions.[73]

72 Relying on Mr Pearce's and Mr Brown's assessments, it is my view that, with the conditions recommended by Mr Pearce[74] (and Mr Brown), the actual and potential effects associated with land (erosion and sediment) disturbance, can be mitigated.

73 In relation to geotechnical matters including land instability and earthquakes, the Applicant provides an assessment at Section 6.3 of the AEE.[75] I understand that the Applicant is liaising with Meridian Energy as to specific geotechnical matters regarding the route and proposed works through the Te Apiti Windfarm. The Applicant's assessment concludes that: *"The geotechnical design of the Project is in accordance*

[71] Section 87F Report, Mr K Pearce, Para 88.
[72] Section 87F Report, Mr K Pearce, Para 90.
[73] Section 87F Report, Mr K Pearce, Para 91 - 97.
[74] Section 87F Report, Mr K Pearce, Paras 98 - 110.
[75] AEE, Volume I, Section 6.3, Pages 100 - 102 and Appendix A of DCR Volume II.

with the required standards as specified in the Transport Agency's Bridge Manual to minimise as far as practicable any potential adverse effects on life, infrastructure and property from natural hazards, including land instability and earthquake induced effects, once the Project is operational."[76] Further information has been sought from the Applicant regarding the geotechnical investigations it has carried out to date.[77]

74 I note that there are very limited conditions as to geotechnical matters in the suite of conditions included in the Application. To address that matter I have included conditions requiring the provision of reports and information to MWRC.

Terrestrial ecology and wetland ecosystems

75 The AEE addresses effects on terrestrial ecology[78] and effects of this nature were also raised by a number of submitters.[79] Mr James Lambie, on behalf of MWRC, undertook an assessment of the Project on issues related to managing effects on terrestrial and wetland ecosystems.

76 Mr Lambie has reviewed the technical material presented with the Application to determine first whether the significant adverse effects on biodiversity have been reasonably avoided, remedied or mitigated; secondly, whether offsetting/compensation is appropriate; and finally, whether the offsets/compensation package reasonably demonstrates net-gain.

77 Mr Lambie generally agrees with the Applicant in relation to:

(a) The assessment of ecological values, noting that the evaluation of Old-growth treeland habitat value has been reduced since the NoR Ecological Assessment;[80]

(b) The assessment of statutory significance and classification of habitat types, noting that there is a correct association with One Plan types;[81]

[76] AEE, Volume I, Section 6.3, Page 102.
[77] As referenced in the submission of Meridian S13, Section 2, Pages 6 - 7.
[78] AEE, Volume I, Section 6.10, Pages 118 - 130 and Volume V, Technical Assessments F and G.
[79] Submission Nos 2, 6, 9, 13, 15, 16, 19.
[80] Section 87F Report, Mr J Lambie, Paras 29 - 31.
[81] Section 87F Report, Mr J Lambie, Paras 32 - 34.

(c) The magnitude of effects assessment, noting that whilst there is still loss, there is a reduction in the magnitude of effects in the case of Old growth forest (hill country);[82]

(d) The assessment of residual effects, noting that there are instances where the residual effects on terrestrial and wetland biodiversity values remain moderate to high after measures to avoid, remedy and mitigate are considered;[83]

(e) The accuracy of the input metrics in relation to the key elements of biodiversity concern to guide the magnitude of revegetation as part of the calculation of offsets.[84]

78 In terms of offsets and compensation, Mr Lambie concurs with the Applicant that there is a high degree of certainty that the habitats showing as 'verified net gain' through the modelling will demonstrate net biological diversity gain over the life of the Project. There is less certainty when considering those habitats where net gain is only 'expected'. Mr Lambie is of the view that the expected net gain does not (in and of itself) confirm that vulnerable habitats are within the limits to offsetting - i.e. whether an offset is appropriate for the ecosystem or habitat type by reason of its rarity, vulnerability or irreplaceability[85] – and further certainty is required around the likelihood (of success) that the compensation proposed will bring about a net gain. If it cannot bring about a net gain, then Mr Lambie has concerns that the "compensation" is less akin to an offset in terms of the outcome it brings about for biodiversity values. This is particularly the case where the Applicant has proposed a layer of further compensation (what Mr Lambie refers to as the over-compensation) to address the risk of false positives and shore up the prospects of a net gain being achieved. Mr Lambie's opinion is that this adds more layers of uncertainty, without providing confidence that the expected net gain will achieve a net gain.[86] To address these concerns, and to better demonstrate the success of an 'expected' net gain, Mr Lambie has suggested a number of solutions.

[82] Section 87F Report, Mr J Lambie, Paras 37 - 39.
[83] Section 87F Report, Mr J Lambie, Para 42.
[84] Section 87F Report, Mr J Lambie, Paras 45 - 46.
[85] Section 87F Report, Mr J Lambie, Para 49-50.
[86] Section 87F Report, Mr J Lambie, Para 53.

79 Overall, Mr Lambie concludes that the Applicant has appropriately demonstrated an approach to avoid effects in the first instance, to secondly remedy or mitigate, and finally to consider management of residual effects through offset and compensation.[87]

80 Mr Lambie considers that modifications to conditions that provide for compliance monitoring and adaptive management will be necessary in order to provide the certainty needed to overcome current information limitations (around the likelihood of a net gain being achieved), which will ensure the proposal is better placed to address whether some habitats are capable of being offset in the first instance.[88]

81 The key changes to conditions relate to the nature and duration of pest management (over 35 years, not 10, for example), regular review of offset calculations with changes to the offset/compensation package as required, and prevention of vegetation clearance without legal agreements securing offset sites in perpetuity being in place.[89]

82 If the Project can be implemented in a way that ensures that the residual effects on biodiversity are managed to bring about a net gain of indigenous biological diversity within the local range of that biodiversity affected by the Project, Mr Lambie is of the view that effects on the highly valued vegetation impacted by the Project will be able to be appropriately managed with reference to the One Plan framework.

83 Mr Lambie has also considered the effects on invertebrates, avifauna, and bats, reaching the view that the management plans proposed by the Applicant, including the use of surveys to detect the presences of any nests or habitats before construction commences (with an adaptive response as required), are largely consistent with the requirements of the conditions of the Designation, and will ensure effects are managed appropriately. Assisting matters is the fact that there is less fragmentation of the forest habitat, with more edge disruption. There are some gaps identified by Mr Lambie in preparation of the Management Plans. In my view it is sensible that the conditions containing the mitigation or offset/compensation measures should be finalised before the management plans. I have recommended a condition which requires the EMP, and all related managements plans, to be submitted twenty (20) working days after the decision on the resource consent.

[87] Section 87F Report, Mr J Lambie, Para 89.
[88] Section 87F Report, Mr J Lambie, Para 102.
[89] Section 87F Report, Mr J Lambie, Para 109 (a) - (bb).

84 Drawing on Mr Lambie's conclusion and recommended conditions,[90] I am of the view that the effects on terrestrial ecology and wetland ecosystems will be more than minor in terms of biodiversity and that it is not until the offset/compensation measures are accounted for that the residual effects may be considered acceptable, subject to modifications to conditions of consent, as recommended by Mr Lambie.

Landscape and Natural Character

85 The Applicant addresses the effects on natural character in the AEE[91] and in Technical Assessment I[92] and is a matter raised by a number of submitters.[93] On behalf of MWRC, Mr John Hudson undertook a review of the natural character assessment.

86 Mr Hudson notes that while the Project route passes through two Outstanding Natural Features and Landscapes ("**ONFLs**") identified in the One Plan, namely the Manawatu Gorge and the Ruahine Ranges, the application did not include a landscape assessment. This assessment was subsequently provided by way of the Section 92 Response. Mr Hudson has reviewed the Applicant's landscape assessment and concurs with the conclusions as to the specific ONFLs as follows;

> *Overall, the Applicant concludes that for the Ruahine Ranges ONFL* "with the limited adverse effects of the Project within the ONFL, there will be no significant adverse cumulative effects on the characteristics and values of the ONFL." *as to effects on ONFLs.*[94]
>
> *Overall, the Applicant concludes for the Manawatū Gorge ONFL* "given the effects of the Project are limited to a small portion of the ONFL, at a location where there is already considerable modification, the Project will not have significant adverse cumulative effects on the characteristics and values of the ONFL."[95]

87 Mr Hudson has also considered the assessment of natural character,[96] noting there are some inconsistencies in the assessment, particularly in relation to the existing natural character in catchment 6 and 7[97]. However, relying on the reports of Mr Brown and Mr Lambie as to the freshwater ecology and terrestrial ecology assessments

[90] Section 87F Report, Mr J Lambie, Para 109.
[91] AEE, Volume I, Section 6.12, Pages 137 - 141.
[92] AEE, Volume V, Technical Assessment I.
[93] Submission Nos. 2, 13, 15, 16, 19.
[94] Section 87F Report, Mr J Hudson, Para 14.
[95] Section 87F Report, Mr J Hudson, Para 16.
[96] AEE, Volume V, Technical Assessment I.
[97] Section 87F Report, Mr J Hudson, Paras 20 - 28.

contributing to the n/c assessment, as well as the change in alignment and improved methodology since the NoR process, Mr Hudson accepts the ratings of natural character provided in the application.

88 In relation to the scale at which the effects are assessed, Mr Hudson considers that the catchment scale approach of the Applicant has led to high localised effects (at crossing sites) being considered less significant when viewed within a wider catchment.[98] This is despite some changes in natural character moving from High to Low pre and post construction. To address these effects on natural character, Mr Hudson recommends that additional mitigation is needed to address the significant impacts at crossing point s 5A, 7A and the raupo wetland.[99] This approach is consistent with the submission from Forest and Bird (Submission Number 15).

89 Finally, Mr Hudson notes that the Applicant has not secured all the planting sites, for both landscape and ecological planting within the Project area and that these matters are not addressed in the proposed conditions.[100] Mr Hudson is of the view that this may raise issues with respect to the positive landscape and biodiversity enhancements the Project claims as part of the proposal to manage/offset effects, particularly with any measures needing to occur within the same catchment in order to adequately address natural character (which is location specific). Mr Hudson recommends specific matters that any suite of planting conditions should address.[101]

90 Noting some residual concerns, Mr Hudson considers in the round that the conclusions reached by the Applicant as to the cumulative effects of the Project (in combination with other activities) on natural character are unlikely to be significant.

91 Relying on the advice of Mr Hudson, I reach the view that the effects on landscape and natural character will be less than minor, although care must be taken in mitigating the effects within the appropriate catchment, and at a local, not just catchment scale.

Cultural effects

92 Effects on cultural values are addressed in the AEE.[102] In addition, the application includes Cultural Impact Assessments ("**CIA**") from Rangitāne o Manawatū,

[98] Section 87F Report, Mr J Hudson, Paras 29 - 37.
[99] Section 87F Report, Mr J Hudson, Paras 57 - 59.
[100] Section 87F Report, Mr J Hudson, Para 11(d).
[101] Section 87F Report, Mr J Hudson, Paras 63 - 67.
[102] AEE, Volume I, Section 6.13, Pages 142 - 153.

Rangitāne o Tamaki nui-ā-Rua; Ngāti Kahungunu ki Tāmaki nui-a-Rua and Ngāti Raukawa ki te Tonga, as well as, Te Apiti Ahu Whenua Trust in representing the owners of Parakahi Island[103].

93 Cultural effects were raised in two submissions, one from Te Apiti Ahu Whenua Trust[104] and one from Dr S Hill[105] The submission from Te Apiti Ahu Whenua Trust notes that the Trust has applied to the Maori Land Court to recognise an area of accretion to Parahaki Island and seeks that the application be placed on hold until that application has been resolved. As I understand it, the Maori Land Court process is separate to the granting of resource consent under the RMA, with this consenting process able to run concurrently to the question of ownership of land. I also understand that the Transport Agency is working with the Trust regarding the area of accretion, but as a matter to be considered separate to the application.

94 The submission from Dr Hill, notes that *"… tapu and wahi areas will also be impacted - such as Te Ahu a Turanga peak, where a group of Rangitāne chiefs and Turanga-i-mua - captained the Aotea waka to Aotearoa New Zealand from Hawaiki - were killed and buried."*.[106] The submission does not expand further as to the nature or significance of the impacts.

95 For each of the four iwi, the individual position of the iwi, the identification of cultural effects and how those are to be managed, are recorded in the application. The four iwi and the Te Apiti Ahu Whenua Trust were invited to be and are now partners to the Project ("**Iwi Partners**"), which has allowed, it is understood, cultural and spiritual values to be integrated into the Project design and management of effects.[107]

96 A key concern of all iwi is the effects of the Project on indigenous biodiversity.[108] While noting that the ecological response package, in part, addresses the concerns of iwi, the AEE includes a series of tables summarising the residual effects and management response. This is primarily in the form of conditions, which by way of example include:

[103] AEE, Volume VI – Cultural Impact Assessments.
[104] Submission No. 12.
[105] Submission No. 2.
[106] Dr S Hill, Submission Number 2, Reasons for supporting or opposing the application.
[107] AEE, Volume I, Section 6.13.6, Page 152.
[108] AEE, Volume I, Section 6.13.1.1, Page 144, AEE, Volume I, Section 6.13.2.1, Page 147, AEE, Volume I, Section 6.13.3.1, Page 148, AEE, Volume I, Section 6.13.4, Page 150.

(a) Requiring the development of cultural indicators and monitoring, as well as the undertaking of kaitiaki cultural monitoring;[109]

(b) The Tangata Whenua Values Management Plan;[110]

(c) The involvement of Iwi Partners in design and implementation of ecological offset planting;[111]

(d) The involvement of Iwi Partners in the design of signs and wayfinding and setting out cultural narratives;[112] and

(e) Planting on Parahaki Island.[113]

97 A common theme in the CIAs and reflected in the application, is the desire of each iwi to have a continuing involvement as a partner with the Transport Agency to ensure that cultural and spiritual values are integrated into the Project and to manage effects during construction. Iwi consider effects management to be an on-going process.[114]

98 The application includes a suite of conditions under the heading Tangata Whenua Values.[115] It is understood that the Iwi Partners support those conditions. In considering all of the above and taking account of the proposed conditions proffered by the Applicant and Iwi Partners, it is my view that there are residual cultural effects to the Project. It may be that further information is forthcoming in respect of the Iwi Project Partners views as to these effects during the hearing process. Should additional information be presented by Iwi Partners, I am able to reassess my opinion at that time.

[109] AEE, Volume I, Table 6-13 Rangitāne o Tamaki nui-ā-Rua: Summary of residual effects and management, Page 147.
[110] AEE, Volume I, Table 6-12 Rangitāne o Manawatū: Summary of residual effects and management, Page 144.
[111] AEE, Volume I, Table 6-14 Ngāti Kahungunu ki Tāmaki nui-a-Rua - Summary of residual effects and management, Page 149.
[112] AEE, Volume I, Table 6-15 Ngāti Raukawa Cultural Impact Assessment: Residual impacts and management, Page 151.
[113] AEE, Volume I, Section 6.13.5, Page 152.
[114] AEE, Volume I, Section 6.13.6, Page 152.
[115] AEE, Volume I, Appendix E, Pages 10 - 12.

Positive Effects

99 The Applicant has addressed positive effects of the proposal in the AEE.[116] In summary, these include;

(a) A safer, more efficient transport route;

(b) Increased network resilience;

(c) Improved connectivity, modal choice and recreational benefits through the provision of the shared path;

(d) Positive social effects;

(e) Support regional economic activities and productivity including through reductions in operating costs and travel times

(f) A range of environmental benefits including;

(i) A net gain in biodiversity through habitat restoration, riparian planting, stream retirement, stock exclusion fencing, maintenance and weed and pest control which will improve water quality and habitat connectivity, resulting in positive landscape and biodiversity enhancements within the area.

(ii) Providing stormwater treatment on the new highway improving water quality in streams and contributing to the overall improvement of the Manawatū River and Pohangina River; and

(g) The Mangamanaia Stream Crossing Bridge (BR07) is anticipated to reduce (slightly) the net effect of the existing flood hazard of the Mangamanaia floodplain, thereby enhancing the Mauri of the Foxton Loop and Manawatu River

100 I concur with the Applicant's assessment of the positive effects of the Project as I have set out above and adopt that as part of my report. That said, in line with what I

[116] AEE, Volume I, Section 6.2, Pages 98 - 100.

understand to be applicable case law, I have not considered positive effects when examining effects under section 104D(1)(a).[117]

Summary of actual and potential effects on the environment

101 After reviewing the AEE and accompanying technical assessments, the mitigation proposed by way of monitoring and conditions, the technical reviews undertaken by the MWRC section 87F experts, and having considered the matters raised in submissions, I consider that with the recommended conditions in **Appendix 12** of this report, a number of the effects can be mitigated to a level which is minor or less than minor. However, putting to one side any beneficial or positive effects of the Project, I concur with the Applicant that there is a high level of effect that remains for;

(a) The cultural landscape, indigenous biodiversity, the mauri of the Manawatū River and catchment, and access to cultural resources;

(b) Terrestrial ecology, particularly the loss of indigenous biodiversity values including those identified as Schedule F under the One Plan; and

(c) Freshwater ecology concerning the loss and modification of stream habitat.

(d) I also rely on the report of Mr Brown regarding the effects on water quality in some catchments.

Statutory Assessment

102 As addressed earlier in this report, while this is a section 87F of the RMA report, I have in accordance with section 42A (1A) and (1B) of the RMA attempted to minimise the repetition of information included in the application and where I have considered it appropriate, adopt that information. As a starting point therefore, I adopt the objectives and policies assessment as provided by the Applicant and will provide additional commentary below on the objectives and policies that I consider relevant to the suite of consent applications, or where my view differs from that of the Applicant.

[117] *Crater Lakes Park Limited v Rotorua District Council* EnvC A126/09, where the Court confirmed that the threshold test under s104D(1)(a) of the RMA properly related to adverse effects, and therefore while it could consider mitigating factors or conditions, it could not take into account wider beneficial effects.

National Environmental Standards (NES)

103 In my view, the applicable NES's for this proposal are the NES for Air Quality, the NES for Assessing and Managing Contaminants in Soil to Protect Human Health, the NES for Telecommunication Facilities, the NES for Electricity Transmission Activities Regulations and the NES for Sources of Human Drinking Water. I concur with the Applicant that the NES for Plantation Forestry 2018 is not relevant to the works within this application.[118]

NES for Air Quality

104 The NES for Air Quality ("**NESAQ**") 2004 came into effect on 8 October 2004 and was amended on 1 June 2011. Relying on the Air Quality Technical Assessment E, and Ms Ryan's review of that document, I concur with the statements in the application that the dust emission from the Project will be within the NESAQ ambient air quality standard.[119]

NES for Assessing and Managing Contaminants in Soil to Protect Human Health

105 The NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 ("**NESCS**") came into effect on 1 January 2012.

106 The PSI identified six potential areas of soil contamination, of which five were activities on the Hazardous Activities and Industries List ("**HAIL**") that is maintained by the Ministry for the Environment. The DSI identified four areas (being the Saddle Road stockyards and sheep-dip, a hobby organic orchard, and fertiliser storage associated with a small rural air-strip) that contained levels of contamination that exceeded the adopted acceptance criteria for the protection of human health and or the regional background concentrations. The Applicant has set out that remediation of these areas will be authorised by way of land use consents pursuant to the NESCS and will be sought from the relevant territorial authority[120] and that the remediation of those sites will occur prior to commencement of the main works.[121]

[118] AEE, Volume I, Section 8.3, Page 177. I note that the Applicant has removed some pine trees as part of their enabling works programme (separate to this application), with those works to be undertaken as a permitted activity under the NES.
[119] AEE, Volume I, Section 8.3.1, Page 177.
[120] AEE, Volume I, Section 2.3.10, Page 52.
[121] AEE, Volume I, Section 6.8.1, Page 115.

107 In case of accidental discovery of contaminated sites, the Transport Agency has offered a Contaminated Soil Management Plan ("**CSMP**") to address such circumstances.[122]

108 In so far as the CSMP forms part of the application and is offered as a condition of consent, in my view the NESCS is a relevant consideration.

NES for Telecommunication Facilities

109 The NES for Telecommunication Facilities ("**NESTF**") 2016 came into effect on 1 January 2017. I concur with the Applicant that the NESTF is relevant in as much as the proposal requires the relocation of any telecommunication facilities, which will need to occur in consultation with any relevant network utility operator[123]. I observe that there were no submissions from any telecommunication network utility operators.

NES for Electricity Transmission Activities Regulations

110 The NES for Electricity Transmission Activities Regulations ("**NESETA**") 2009 came into effect on 14 January 2010. The Project requires the raising of conductor levels on the Transpower Mangamaire – Woodville A 110kV transmission line, at the eastern end of the proposed highway to achieve the necessary clearance from the alignment. The application states that the increase in height is within the permitted activity standards of the NESETA.[124]

111 Submission Number 10, Transpower NZ Ltd, highlights the implications of the proposed works as to the transmission lines and the relevance of the NESETA which is primarily in relation to final design works.[125]

112 To the extent detailed in the Transport Agency's application and the submission details provided by Transpower NZ Ltd, the NESETA is a relevant consideration. I address this matter further in my assessment of the National Policy Statement for Electricity Transmission starting at paragraph 126 below.

[122] AEE, Volume I, Section 6.8.1, Page 116.
[123] AEE, Volume I, Section 8.3.3, Page 177.
[124] AEE, Volume I, Section 8.3.4, Page 177.
[125] Transpower NZ Ltd – Submission Number 10 – Attachment – Paras 2.8 – 2.11.

NES for Sources of Human Drinking Water

113 The NES for Sources of Human Drinking Water came into effect on 20 June 2008. Regulation 7 of the NES for Sources of Human Drinking Water sets out that a Regional Council must not grant a discharge permit for an activity that will occur upstream of an abstraction point, if the discharge will result in the drinking water not meeting health quality criteria or exceeding aesthetic guidelines. This regulation applies to abstractions serving at least 501 people for more than 60 calendar days a year. In addition, Regulation 8 requires Regional Council's not to grant discharge permits upstream of an abstraction point where drinking water is not tested.

114 Regulation 12 of the NES requires consideration of whether the activity being considered could result in an event (the example of a spill is given), or as a consequence of an event (an example of heavy rainfall is given) that may have a significant adverse effect on the quality of water at any abstraction point. Regulation 12 applies to abstractions serving at least 25 people for more than 60 calendar days a year. This regulation further stipulates that if the situation described above applies, a condition must be imposed on the resource consent which requires notification of the registered drinking water supply operators.

115 I have reviewed the location of bore information and registered drinking water sites held by MWRC. I note that the Ashhurst water supply is from two bores[126] located near the end of Hacketts Road, downstream of the existing bridge. This water supply is categorised as 'minor' serving a population range of 501-5000 people. The depth of the bores are approximately 80m below ground level. Given the location and depth of the bores,[127] I consider that the location of the proposed works are suitably far from the location of these takes.

116 I therefore conclude that, in my opinion, the NES for Sources of Human Drinking Water is not directly relevant in consideration of the proposal.

National Policy Statements (NPS)

117 In my view, the applicable NPS's for this proposal are the NPS for Freshwater Management, the NPS for Renewable Electricity Generation, and the NPS for

[126] MWRC Consent Numbers - ATH-2010013190 and ATH-2010013189.00.
[127] Bores are over 80m deep both with screens below 70m and above ground wellheads.

Electricity Transmission. I concur with the Applicant that the New Zealand Coastal Policy Statement and the NPS on Urban Development Capacity 2016 are not relevant to this Project.[128]

NPS for Freshwater Management

118 The National Policy Statement for Freshwater Management ("**NPSFM**") 2014 came into effect on 1 August 2014. Amendments made in August 2017 took effect on 7 September 2017. The Applicant has set out an assessment of the relevant provisions of the NPSFM as to the potential effects of the Project.[129] I concur with the statement in the application that the NPSFM addresses, as a matter of national significance, the management of fresh water through a framework that considers and recognises Te Mana o te Wai as an integral part of freshwater management.[130]

119 The application also states that the NPSFM is primarily relevant to the development of regional plans but is also relevant to the assessment of the effects of the Project.[131] I see the NPSFM differently, in that, it is my view that this NPSFM is relevant to any resource consent application, especially one with a non-complying activity status.

120 The application concludes that the Project is consistent with the objectives of the NPSFM for the following reasons:

(a) Once operational, the Project will improve the overall quality of freshwater through improved stormwater treatment as detailed in the Stormwater Management - Technical Assessment B. The proposed treatment scenario is an improvement on the existing situation where no formal treatment of stormwater runoff from the existing state highway roads within the Project area is provided (Objective A1 and A2).

(b) Appropriate erosion and sediment controls will be implemented during construction in accordance with GD05 (and the ESCP at Volume VII and proposed SSESCPs) (Objective A1 and A2).

(c) Although the Project will result in the permanent loss of sections of streams, it is proposed to offset these effects via new stream channels (stream diversions)

[128] AEE, Volume I, Section 8.2.1, Page 175.
[129] AEE, Volume I, Section 8.2.2, Page 175- 176 and Appendix D, Section 2.
[130] AEE, Volume I, Section 8.2.2, Page 175.
[131] AEE, Volume I, Section 8.2.2, First Para, Page 175.

and riparian planting/enhancement to achieve no net loss of ecological function overall (Objective B1 and B4).

(d) The integrated management of fresh water and the use of land and development has been appropriately considered in the proposed stormwater management design for the Project (Objective C1).

(e) Tangata whenua values are reflected in the management of fresh water as iwi, as Project Partners, have been involved in confirming the design approach for stormwater management, and where the Project has impacted freshwater bodies, they have been and will continue to be involved with the design and implementation of mitigation and offset measures (Objective D1).[132]

121 Based on the Applicant's AEE and supporting material, I conclude that the Project activities are generally consistent with the objectives and policies of the NPSFM. However, as identified in the MWRC section 87F expert reports, in particular the reports of Mr Brown, Mr Lambie and Mr Pearce, additional conditions as to discharge standards and offset/compensation are required in order to ensure that the application is consistent with Objective A1 of the NPSFM. The imposition of those conditions will ensure that the life supporting capacity of the ecosystems will be safeguarded.

NPS for Renewable Electricity Generation

122 The National Policy Statement for Renewable Electricity Generation ("**NPSREG**") 2011 came into effect on 13 May 2011. The Applicant addresses the relevant provisions of the NPSREG[133] and provides a description of the northern alignment through the Te Apiti Wind Farm and the consultation undertaken with Meridian Energy as to the programming of construction. The Applicant concludes that the Project is consistent with the NPSREG in that it does not hinder the operation or maintenance of the renewable electricity generation activity.[134]

123 Meridian Energy (Submission Number 13) has identified a number of issues as to the potential effects of the Project on the windfarm operations and seeks that those matters be addressed in the following manner:

[132] AEE, Volume I, Section 8.2.2, Page 176.
[133] AEE, Volume I, Appendix D, Section 2.
[134] AEE, Volume I, Section 8.2.3, Page 176.

(a) The exclusion of the Te Āpiti Windfarm site as an area for any offset mitigation planting or if there is planting that it be redesigned to include only plants and located in areas that do not provide for bird habitat for Threatened or At-Risk indigenous bird species.

(b) That sufficient detailed design is carried out to ensure that the matters raised in the submission regarding geotechnical issues, temporary works and spoil sites hydrology, and stormwater management are effectively addressed.

(c) The provision of sufficient evidence to demonstrate that before/after flood effects are no more than minor; and

(d) Any further, consequential or alternative relief as may be necessary or appropriate to address the matters raised in the submission.

124 Objective A, Policy A of the NPSREG directs decision makers to recognise and provide for the national significance and benefits that are derived from renewable electricity generation. In my view, when considering the issues raised by Meridian, particularly around the potential location and nature of offset planting, and the location of earthworks/spoil sites, in terms of impacts on infrastructure, the part of the NPSREG that is of particular relevance is Objective D which states: *"Decision-makers shall, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities."*

125 Subject to further detail being provided by Meridian Energy and the Transport Agency at the hearing, if the matters identified by Meridian Energy can be addressed, then in my view the Project would not be contrary to the objectives and policies of the NPSREG.

NPS for Electricity Transmission

126 The National Policy Statement for Electricity Transmission ("**NPSET**") 2008 came into effect on 10 April 2008. The NPSET outlines that electricity transmission has special characteristics that create challenges for its management, including that the network can be significantly constrained by the adverse environmental impact of third-party activities and development.

127 The Objective of the NPSET is to recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of new

and existing transmission resources while managing the adverse effects of the network, and of other activities on the network.

128 Policy 2 requires that decision makers recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network. Policy 10 requires that decision makers must, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on the electricity transmission network and ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.

129 I have noted above, the Project requires the raising of conductor levels on the Transpower Mangamaire – Woodville A 110kV transmission line, at the eastern end of the proposed highway to achieve the necessary clearance from the alignment.

130 The submission by Transpower New Zealand Limited raises concerns about the impact of the proposal and adverse effects of the construction works on Transpower's assets.[135] The application sets out that the works in the vicinity of the National Grid are to be designed and managed to ensure the Project will not hinder the operation and maintenance of the national electricity transmission activities. I concur with Transpower that the Applicant has not explained what measures are proposed to ensure this – other than the need to raise poles. The provision of further information is therefore warranted. Should these matters be able to be addressed, then in my view the Project would be consistent with the NPSET.

Regional Policy Statement and Regional Plan (One Plan)

131 The One Plan is MWRC's Regional Policy Statement and Regional Plan. It was first notified in May 2007 and became fully operative on 19 December 2014. The One Plan is a combined Regional Policy Statement and Regional Plan. Part 1 of the One Plan is the Regional Policy Statement and Part 2 is the Regional Plan.

Regional Policy Statement (RPS)

132 I have assessed the application against what I consider to be the relevant policies of the RPS, with those that require specific comment set out below. For the most part

[135] Submission number 10 - Transpower New Zealand Limited, Para 2.7.

these are included in the Applicant's assessment[136] and so are not repeated in full in this report.

Chapter 2 - Te Ao Maori	
Policies 2-1 (involvement); 2-2 (sites of significance);; 2.4 (other resource management issues).	Objective 2-1 (resource management)

133 The statutory assessment in the application identifies the relevant objective (Objective 2-1) and policies (Policies 2-1, 2-2, and 2-4) as they relate to the Project.[137] The assessment concludes that the Project is consistent with the objective and policies, noting the Transport Agency's partnership with Iwi Project Partners; the input of the Iwi Project Partners in both the design (including proposed mitigation) and implementation of the Project, with specific regard to five CIA lodged with the application (which record the importance of protecting the natural environment, particularly in relation to natural water bodies and areas of indigenous biodiversity); and the inclusion of accidental discovery protocols for the duration of construction.

134 Conditions of consent are proposed to address tangata values.[138] It is understood that the conditions, and the Project more generally, are supported by the Iwi Project Partners and that those conditions manage any potential residual effects on tangata whenua. I therefore concur with the Applicant that the proposed activities are consistent with Objective 2-1 and Policies 2-1, 2-2, and 2-4.

Chapter 3 - Infrastructure	
Policy 3-1 (benefits of infrastructure); 3-2 (adverse effects on regional or national importance); 3-3 (adverse effects of infrastructure); 3-6 (renewable energy); 3-14 (identification of priority contaminated land); 3-15 (management of priority contaminated land).	Objective 3-1 (Infrastructure); 3-2 (renewable energy); 3-5 (waste, hazardous substances and contaminated land).

135 The statutory assessment included in the application addresses these objectives and policies[139] and for the most part I concur with that assessment. That said, in relation

[136] AEE Volume I, Section 8.5.2, Pages 178 – 190 and Appendix D.
[137] AEE Volume I, Section 8.5.2.2, Pages 179-180.
[138] AEE, Volume I, Appendix E, Pages 10 – 12.
[139] AEE, Volume I, Section 8.5.2.3, Pages 180-182.

to Policy 3-2 which specifically relates to the effects on the National Grid and Te Apiti Wind Farm, and the need to ensure that the adverse effects of other activities on regionally or nationally important infrastructure are avoided as far as reasonably practicable, the matters raised in the submissions of Transpower and Meridian Energy need to be considered. As I identified in paragraph 125 above, if the effects as to the National Grid and Te Apiti Wind Farm are able to resolved then the Project would be consistent with Policy 3-2. If not, there will need to be an assessment of whether the effects of the Project have been avoided as far as reasonably practicable. This assessment will need to be informed by the outcome of any further discussions between the Applicant and submitters, and I will revisit this policy at that time.

136 I concur with the Applicant's assessment as to the applicability of Policy 3-3 (c). This policy is a directive policy and establishes a hierarchy when considering any adverse environmental effects associated with the establishment of infrastructure. After considering the options to avoid, remedy or mitigate, there remains significant residual effects as to terrestrial and freshwater ecology which the Applicant has sought to offset or compensate in circumstances where there are functional, operational or technical constraints associated with the delivery of necessary infrastructure.[140]

137 I note that Policy 3-3 c) iv. only refers to offsetting, which includes the use of financial contributions. I address the matter of offset and compensation further in my assessment of Policy 13-4 below. It is my opinion that the imposition of effective and enforceable consent conditions is of particular relevance in meeting Policy 3-3 (c) as it relates to the avoidance, remedying or mitigation of new infrastructure, with particular adherence to (iv) as to appropriate offsetting.

138 In relation to Objective 3-5 and the associated policies 13-14 and 3-15, the Transport Agency proposes to undertake remediation of contaminated land prior to commencement of the main works. In addition, the application includes a Contaminated Soils Management Plan to address situations of accidental discovery of contaminated land. I concur with the Applicant's assessment that these measures are consistent with the RPS contaminated land objectives and policies.[141]

[140] The application also considers route alternatives in the AEE, Volume 1, Section 7], Pages 155 – 166.
[141] AEE, Volume I, Section 8.5.2.34, Page 182.

Chapter 4 - Land	
Policy 4-2 (land use activities).	Objective 4-2 (Regulating potential causes of accelerated erosion)

139 As outlined from paragraph 62 of this report, the proposal involves substantial land disturbance associated with the construction of the road including vegetation clearance and the potential for accelerated erosion. I concur with the Applicant's assessment[142] that the objective relates to the regulation of the potential causes of accelerated erosion and requires the avoidance of increased sedimentation in water bodies, as far as reasonably practicable, or otherwise remedied or mitigated. The policy also seeks to ensure that sediment loads entering water bodies as a result of accelerated erosion should be reduced to the extent required to be consistent with the water management objectives and policies for the water quality set out in Chapter 5. The importance of those water management objectives and policies (and associated values) is highlighted through the evidence of Mr Brown. The importance of the policy is further articulated in Chapter 13, which I address below.

Chapter 5 – Water	
Policy 5-1 (management zones and values); 5-2 (water quality); 5-3 (compliance where water quality targets are met); 5-4 (water quality targets are not met); 5-10 (point source discharge to land); 5-22 (beds of rivers and lakes); 5-23 (Value of SOS-C, SOS-A); 5-24 (Value of FCD); 5-25 (other Schedule B Values); 5-26 (essential and beneficial activities).	Objective 5-1 (water management values); Objective 5-2 (water quality); Objective 5-3 (water quantity and allocation); Objective 5-4 (beds of rivers and lakes).

140 Chapter 5 addresses the management of freshwater in the Region, with the objectives and policies contained in Chapter 5 underpinning several key aspects of this application, including water quality targets. The Applicant provides a detailed assessment of those provisions in the application.[143]

[142] AEE, Volume I, Section 8.5.2.4, Page 182.
[143] AEE, Volume I, Section 8.5.2.5, Pages 182-186.

141 Objective 5-1 seeks to manage surface water bodies and their beds in a manner which safeguards their life supporting capacity and recognises and provides for the values listed in Schedule B of the One Plan. Mr Brown has assessed the adverse effects on instream values. Based on Mr Brown's advice, I am of the view that conditions are required to adequately mitigate adverse effects on Schedule B values, and to ensure that water quality is carefully monitored to check the One Plan targets are not exceeded to a level that would result in further diminishment of Schedule B values set to protect contact recreation, life supporting capacity, and capacity to assimilate pollution values.

142 I also have had particular regard to Objective 5-2, which relates to water quality. See, in particular, (a)(i), (a)(ii) and (b). Given that the existing water quality is at a level which will not support the Values in Schedule B, this objective directs that water quality should be enhanced. This objective is supported by a number of policies. Policy 5-4 applies when the water quality targets in the One Pan are not met. This policy requires that water quality is managed so that it is enhanced. As the existing water quality in the catchments affected by the proposal do not meet the water targets in the One Plan,[144] the Project must be managed in a way to protect the receiving waters, ultimately the Manawatu and Pohangina Rivers. There are two aspects that need to be considered in the assessment of this policy – the long term discharges for the operation of the road and any discharges during construction.

143 The Applicant's view is that over the long term the operational discharges (stormwater) will be treated and that this will lead to an improvement in the quality over discharges from the existing roads and that the riparian planting proposed in the catchments will also lead to improved water quality[145]. Mr Brown agrees that there will be an improvement in the quality of stormwater (especially metals and TPH) discharged to the Manawatū catchment from the road, and that stormwater discharge can be expected to have a negligible or minor impact on stream water quality.[146]

144 The application recognises that there will be discharges of sediment during construction, however the Transport Agency's experts consider that these effects will be temporary and minimised through erosion and sediment control measures.[147] As identified in the effects assessment above, Mr Brown considers that catchments 5, 6,

[144] AEE, Volume I, Section 8.5.2.5, Para 2, Page 184.
[145] AEE, Volume I, Section 8.5.2.5, Para 3, Page 184.
[146] Section 87F Report, L Brown, Para 125.
[147] AEE, Volume I, Section 8.5.2.5, Para 4, Page 184.

and 7 will experience high effects of sedimentation from the Proposal. Mr Brown is of the view that further increases in the amount of sediment (suspended and deposited) within already compromised waterways will not be consistent with the directives in the One Plan to maintain and enhance (noting in particular that enhancement is necessary where Schedule B values are not met).[148]

145 Relying on the assessments of Mr Pearce and Mr Brown, I am of the view that more stringent conditions are required to address the construction effects and protect the values of the surface water bodies. In particular, I have included conditions to ensure the Project meets sediment control and discharge standards. Subject to the imposition of those conditions to avoid adverse effects on the Schedule B values, it is my view, that the proposal will be consistent with the relevant objectives and policies.

146 As to the objectives and policies relating to the beds of lakes and rivers,[149] I concur with the assessment of the Applicant,[150] but also rely on the report of Mr Brown, in particular as to mitigation and offsetting (and the recommendations around additional conditions) for consistency with the policy direction in these policies.

147 I also concur with the Applicant that Policy 5-6 relating to groundwater is not relevant as there will be no discharge of contaminants to groundwater.

148 Policy 5-10 is relevant, in relation to the discharge of cleanfill and imported fill but also as to stormwater discharges and discharges from sediment treatment devices. The application states that discharges of cleanfill material will not result in the discharge of toxic substances to the soil.[151] I consider that aspect to be consistent with the policy direction of 5-10. However, to reach the same conclusion for other discharges to land, such as stormwater and sediment discharges, I rely on the reports and recommendations of Mr Brown and Mr Pearce to satisfy this Policy.

149 For completeness I do not consider Policies 5-8 and 5-11 are relevant to this application.

[148] Section 87F Report, Mr L Brown, Paras 99-100.
[149] Objective 5-4, Policies 5-22 to 5-27.
[150] AEE, Volume 1, Section 8.5.2.5, Pages 185 – 186.
[151] AEE Volume I, Section 8.5.2.5, Page 184.

Chapter 6 – Biodiversity & Landscape	
Policy 6-2 (Indigenous biological diversity); 6-8 (natural character); Policy 6-6: (Regionally outstanding natural features and landscapes); 6-9 (managing natural character); 6-10 (public access along rivers and lakes and their margins).	Objective 6-1 (Indigenous biological diversity); Objective 6-2 (Outstanding natural features and landscapes, and natural character)

150 Chapter 6 of the One Plan deals with indigenous biological diversity, landscape and historic heritage. Objective 6-1 is designed to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna and to maintain indigenous biological diversity, including enhancement, where appropriate. Whereas, Objective 6-2 seeks to protect the characteristics and values of outstanding natural features and landscapes, and the natural character of (relevantly here) wetlands, rivers and lakes and their margins, from inappropriate subdivision, use and development.

151 In relation to indigenous biodiversity, Policy 6-2 (c) particularly directs decision makers to protect rare and threatened habitats. This is supported by the rules in Chapter 13 and the direction provided by Policy 6-2 (e)(ii) to consider offsets, only after efforts to avoid, remedy or mitigate effects are exhausted, which I address later from paragraph 164 of my report. The Applicant acknowledges the Project will result in the removal of significant vegetation however considers the proposed alignment has been designed to minimise the impact on the areas as far as reasonably practicable.[152] The Applicant contends that offset measures have only been considered after efforts to avoid, remedy and mitigate biodiversity effects, with those aspects referred to as 'compensation' proposed to address residual biodiversity effects only after all appropriate avoidance, remediation, mitigation and biodiversity offsets are applied.

152 I note that the Ruahine Ranges and the Manawatu Gorge are individually identified as an outstanding natural feature or landscape ("**ONFL**"). Having conducted a review of the Applicant's landscape effects assessment provided as part of the section 92 RMA Response, Mr Hudson agrees with the Applicant that in relation to those ONFLs, the Project is consistent with Objective 6-2 and Policy 6-6.[153] I am of the same view.

[152] AEE, Volume 1, Section 8.5.2.6, Para 1, Page 187.
[153] Section 87F Report, J Hudson, Para 16.

153 In relation to the natural character aspects of Objective 6-2 and the associated policies 6-8 and 6-9, the Applicant's assessment relies on Technical Assessment I to reach the view that there are no areas of outstanding natural character within the areas potentially affected by the Project. Of the nine catchments considered, only one has an overall high existing natural character rating (with no change to that overall rating post construction), and while the level of natural character will be significantly diminished after construction at individual crossing (and wetland) points, when these are considered in their respective catchments, the reduction in natural character is attenuated such that the Project "does not offend" Objective 6-2.[154]

154 Mr Brown[155] and Mr Lambie[156] for MWRC confirmed the appropriateness of the methodology for the freshwater and terrestrial ecology assessments that contributed to the Applicant's natural character assessment, and generally agreed with the ratings of attributes contributing to the overall natural character rating of the catchments. In reliance on those assessments, as well as his own review of the application, Mr Hudson has accepted the Applicant's position of the effects on natural character. That said, Mr Hudson, Mr Brown and Mr Lambie have all reached their views subject to the contribution of the proposed mitigation and offset/compensation package, with the experts variously emphasising the importance of effects being mitigated in the same catchments. This has raised some questions for Mr Hudson, Mr Lambie and Mr Brown when considering the submission of Meridian (and the location of planting) and also the need to secure offsetting sites for the habitat recreation and planting.

155 Despite having concerns over the transparency and detail of the cumulative effects assessment for natural character, Mr Hudson confirms that there are unlikely to be significant cumulative adverse effects.[157]

156 Relying on the assessments of Mr Hudson, Mr Brown and Mr Lambie, subject to imposition of conditions requiring appropriate offsetting and mitigation of biodiversity and ecological effects contributing to natural character, it is my view, that the proposal will be generally consistent with the relevant objectives and policies in Chapter 6.

[154] AEE Volume I, Section 8.5.2.6, Pages 187 – 188; and Technical Assessment I, Paras 24-26.
[155] Section 87F Report, L Brown, Paras 132- 136.
[156] Section 87F Report, J Lambie, Paras 57 – 61.
[157] Section 87F Report, J Hudson, Para 49

Chapter 7 - Air	
Policy 7-1 (National Environmental Standards); 7-2 (regional standards for ambient air quality); 7-3 (discharges to air).	Objective 7-1 (ambient air quality); Objective 7-2 (fine particle PM_{10} levels).

157 Relying on the conclusion and suggested conditions in Ms Ryan's section 87F Report, it is my view that the discharge of contaminants to air, primarily dust associated with the construction activities of the project, can be managed and mitigated in a manner which prevents noxious, offensive or objectionable effects beyond the boundaries of the designation and spoil sites. I, therefore, concur with the Applicant[158] and conclude that, subject to appropriate consent conditions, the proposal will meet the objectives and policies of Chapter 7.

Chapter 9 – Natural hazards	
Policy 9-1 (natural hazard management); 9-3 (new critical infrastructure); 9-4 (other types of natural hazards); 9-5 (climate change).	Objective 9-1 (Natural hazards).

158 Objective 9-1 manages the adverse effects of natural hazard events on people, property and infrastructure so that effects are avoided or mitigated. The Applicant has set out an assessment of the Project as to the natural hazard objective and policies[159]. The flood hazard risks have been assessed in Technical Assessment B – Stormwater Management and in Technical Assessment D – Hydrology with the highway alignment, bridges and culverts designed to minimise the potential adverse effects on life, infrastructure and property. I understand from discussions with Mr Bell on behalf of MWRC that he agrees with the assessments identified above. Other hazard risks such as land stability and seismic activity are addressed in the design of the Project and, subject to recommended conditions (including additional reporting on cut and fill and spoil site stability), I agree that the Project is consistent with Objective 9-1.

[158] AEE Volume I, Section 8.5.2.7, Page 188.
[159] AEE Volume I, Section 8.5.2.8, Pages 188 – 190.

Summary of Regional Policy Statement

159 In summary, the statutory assessment accompanying the application sets out the reasons for concluding that the proposal is consistent with the One Plan Regional Policy Statement.[160] For those reasons and the additional reasons set out in my assessment above, and subject to the imposition of conditions recommended by the technical experts for MWRC, the proposal is considered to be generally consistent with the Regional Policy Statements.

OPERATIVE REGIONAL PLAN (ONE PLAN)

Regional Plan – Policies

160 The following is an assessment of the proposal against the Objectives and Policies of the Regional Plan being Part II of the One Plan. The Application has identified some of the relevant Objectives and Policies within the Application.[161] I have provided commentary on those which require further analysis below.

Chapter 13 – Land	
Policy 13-1 (vegetation clearance, land disturbance); 13-2 (consent decision making for vegetation clearance, land disturbance); 13-3 (regional rules for activities affecting indigenous biological diversity); 13-4 (consent decision making for activities in rare habitats, threatened habitats and at-risk habitats); 13-5 (criteria).	Objectives 13-1 (vegetation clearance, land disturbance); 13-2 (indigenous biological diversity).

161 Objective 13-1 regulates activities to manage erosion and sedimentation in water bodies, and specifically requires that the potential increased sedimentation in water bodies as a result of human activity is avoided as far as reasonably practicable, or otherwise mitigated. The proposal involves a significant volume of earthworks and removal of vegetation. The Applicant has prepared an ESCP to manage the construction effects and concludes the proposal is consistent with Objective 13-1 and Policy 13-2[162]. Policy 13-2 is relevant to managing construction effects by requiring

[160] AEE Volume I, Section 4, Reasons for Consent, Pages 72 – 78.
[161] AEE, Volume 1, Section 8.5.3, Pages 190 - 197.
[162] AEE, Volume 1, Section 5.5.3.2, Page 191.

resource consents for activities adjacent to some water bodies and large scale land disturbance (here, large scale earthworks) within 5 metres of streams and rivers.

162 Mr Pearce is of the view that there are adequate sediment and control measures proposed through a comprehensive management plan structure. Use of GDO5[163] in managing erosion and sediment control is currently regarded as industry best practice, and so long as further consideration is given to non-structural approaches in catchments where sedimentation effects are occurring and with conditions better reflecting standards (and not management plans), Mr Pearce is of the view that the Project should sufficiently manage adverse effects on water quality.

163 Subject to the additional matters identified by Mr Brown and Mr Pearce regarding amendments to conditions to manage sedimentation effects, I consider that the proposal will be consistent with Objective 13-1 and Policies 13-1 and 13-2.

164 Objective 13-2 requires the regulation of "*resource use activities to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna or to maintain indigenous biological diversity, including enhancement where appropriate".*

165 Mr Lambie's evidence agrees with the assessment of ecological values and statutory significance of the habitat types affected by the Project. The effects assessment addressed in paragraphs 65 onwards notes that there is the permanent loss of areas of significant indigenous vegetation and significant habitats of indigenous fauna, therefore the second limb of Objective 13-2 is to be considered.

166 The Applicant has identified a hierarchical approach (avoid, remedy, mitigate, and offset) to managing the biodiversity loss where the effects are more than minor in accordance with Policy 13-4(b)[164] and has adopted that approach in the application and technical assessments.[165] I agree that this policy enables any more than minor effects that cannot be avoided, remedied or mitigated, to be offset to result in a net indigenous gain, subject to the limits on offsetting set out in Policy 13-4(d).

167 Policy 13-4(d) provides as follows:

An offset assessed in accordance with b(iii) or (c)(iv) must:

[163] Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region Guidance Document 2016/005 Incorporating Amendment 1.
[164] AEE Volume I, Section 5.5.2, Page 91.
[165] AEE Volume I, Section 6.10.7, Page 128 and Volume VII – EMP.

(i) provide for a net indigenous biological diversity gain within the same habitat type, or where that habitat is not an area of significant indigenous vegetation or a significant habitat of indigenous fauna, provide for that gain in a rare habitat or threatened habitat type, and

(ii) reasonably demonstrate that a net indigenous biological diversity gain has been achieved using methodology that is appropriate and commensurate to the scale and intensity of the residual adverse effect, and

(iii) generally be in the same ecologically relevant locality as the affected habitat, and

(iv) not be allowed where inappropriate for the ecosystem or habitat type by reason of its rarity, vulnerability or irreplaceability, and

(v) have a significant likelihood of being achieved and maintained in the long term and preferably in perpetuity, and

(vi) achieve conservation outcomes above and beyond that which would have been achieved if the offset had not taken place.

168 The Applicant has set out in detail the offset and compensation package proposed as part of the Project in Technical Assessment G. Mr Lambie is generally in agreement with the input metrics used by the Applicant and considers that the modelling undertaken accurately captures the key elements of biodiversity concern. He is also in agreement that the Applicant has demonstrated a sequential approach to the effects hierarchy of avoid, remedy, and mitigate before considering the management of residual effects through offsetting (and compensation).

169 The Applicant states that the One Plan does not distinguish between "offset" and "compensation" and the One Plan refers to offset in a broad sense. This being different to the approach in BOURMA[166] where a distinction in terms is made. Following the BOURMA guidance, the Applicant has not classed compensation as offsets due to the time necessary to reinstate some values and the inability to replace some values at all (i.e. loss of wetlands). The Applicant has instead relied on additional compensation such as stock fencing and pest control to provide further certainty of net gain, concluding that Policy 13-4 is met and that Policy 13-4(d) is not an impediment to consent being granted.[167]

170 From an ecological perspective, Mr Lambie does not consider the difference between "offset" and "compensations" to necessarily result in a failure to navigate Policy 13-4

[166] "Biodiversity Offsetting Under the Resource Management Act – A Guidance Document 2018".
[167] AEE Volume I, Section 8.5.3.2, Paras 4-6, Page 192.

(d), as it is the successful implementation, and demonstration of biodiversity benefit that is important. However, in order to overcome some of the limits to offsetting (and indicate appropriateness of the offsetting/compensation package within the One Plan framework) Mr Lambie is of the view that there needs to be some more certainty around the likelihood of 'expected gains' being achieved and maintained. With amendments to the conditions to better provide those expected net gains, Mr Lambie reaches the view that the issue of certainty as to delivery can be addressed.[168]

171 Relying on the evidence of Mr Lambie, and the recommended amendments to conditions, it is my view that the Project is consistent with Policy 13-4.

Chapter 14 – Discharges (land and water)	
Policy 14-1 (discharge to water); 14-2 (discharge to land); 14-3 (industry-based standards); 14-4 (options for discharges to surface water and land; 14-8 (monitoring requirements); 14-9 (decision making requirements from the NPSFM).	Objective 14-1 (water quality)

172 The objectives and policies within Chapter 14 are relevant to the Project. Objective 14-1 outlines the management of the effect of discharges on surface and ground water to provide for Schedule B values, provides for the objectives and policies of Chapter 5 of the One Plan, and seeks to avoid, remedy or mitigate the effects of any discharge to water. There are eight (8) policies in support of this objective.

173 Policy 14-1 is of particular relevance as it identifies the matters to be considered when processing applications for the discharge of contaminants to water, including the objectives of Chapter 5 and associated policies, which I have already discussed in this report. The proposal has the potential for discharges during construction and then following the operation of the road, post construction, being stormwater.

174 Policy 14-1 requires consideration of the relevant objectives and policies of Chapter 5 when making a decision or setting consent conditions for the discharge of contaminants to water. I have dealt with this earlier in my report, and, I agree with the Applicant's identification of the relevant objectives and policies under Chapter 14. Therefore, I will not repeat my earlier analysis within this section of my report.

[168] Section 87F Report, J Lambie, Para 102.

175 Policy 14-9 (introduced by Plan Change 1 – Operative April 2016 (introduced as required by Policy A4 of the NPSFM)) requires decision makers to have regard to the life supporting capacity of fresh water,[169] the health of people and communities,[170] and the sustainable management of the use of development of land, and of discharges. This policy is relevant to this application. In my view the Applicant has demonstrated, subject to compliance with the recommended conditions of consent, that the Project will not compromise any of the matters set out in Policy 14-9.

Chapter 15 - Air	
Policy 15-2 (consent decision making).	Objective 15-1 (air quality).

176 Objective 15-1 outlines matters relevant to the management of the Region's air resources to enable their maintenance or enhancement. The Applicant has prepared a DCP to manage the construction effects and concludes the proposal is consistent with Objective 15-1 and Policy 15-2,[171] subject to the implementation of management techniques regarding dust. With the recommended conditions, I consider the proposed activities to be consistent with Objective 15-1.

Chapter 16 – Takes, uses and diversions of water, and bores	
Policy 16-1 (takes and uses of surface water and groundwater); 16-3 (diversions and drainage).	Objective 16-1 (takes, uses and diversions of water).

177 Objective 16-1 outlines matters relevant to takes, uses and diversions of water. The proposal includes the construction of permanent diversion channels and stream diversion works to maintain stormwater flows through or around the alignment embankment and associated works areas.

178 Policy 16-1(b) seeks to enable non-consumptive uses of water including the recycling of water.[172] The Applicant sets out that where groundwater is encountered during land disturbance activities, incidental groundwater takes for the purposes of construction, and dewatering is likely to be required. I concur with the Applicant that the Project will

[169] One Plan Policy 14-9 b.
[170] One Plan Policy 14-9 c.
[171] AEE, Volume 1, Section 8.5.3.6, pg 194.
[172] One Plan Policy 16-3 b.

not have an adverse effect on other lawful activities including existing consented groundwater bores.

179 Policy 16-3 requires the Applicant to manage the effects on rare, threatened or at-risk habitats, and I have discussed this aspect of the application above. The Applicant sets out that as stream loss cannot be avoided or fully mitigated, stream creation, through diversions, and riparian restoration and enhancement is proposed to offset identified residual effects. Mr Brown considers that the assessment of the offsetting by way of stream restoration was transparent, however, there is the need to continue to recalculate the SEV scores to check that what is predicted to occur does occur. This will address issues of permanence, but also assist in managing some of the uncertainty around the offsetting sites.[173] Subject to recommendations as to conditions from Mr Brown, I concur that the proposal is consistent with Chapter 16[174].

Chapter 17 – Artificial Watercourses, beds of rivers and lakes, and damming	
Policy 17-1 (activities in, on, under or over the beds of rivers and lakes).	Objective 17-1 (structures and activities).

180 The proposal intersects several existing waterways and includes construction of the Manawatu River Bridge (BR02), Mangamanaia Stream Bridge (BR07), and culverts. Objective 17-1 directs that structures and activities in artificial watercourses and in the beds of rivers and lakes, and damming must occur in a manner that safeguards the life supporting capacity and provides for Schedule B values. These are matters I have canvassed earlier in this report, as has the Applicant in detail within the AEE.

181 The effects of structures have been assessed in Technical Assessment A – ESC, Technical Assessment D – Hydrology, Technical Assessment B – Stormwater management, and Technical Assessment H – Freshwater Ecology. The potential effects resulting from construction will be mitigated by implementing the ESCP, the Stream Works procedure contained within the ESCP, and the Fish Recovery Protocol contained in the EMP. Mr Brown has recommended the imposition of conditions regarding fish passage in culverts. Subject to compliance with the conditions recommended by the MWRC experts, I concur with the Applicant that these measures

[173] Section 87F, L Brown, Paras 60 – 66.
[174] AEE, Volume 1, Section 8.5.3.5, Pages 194-195.

will ensure that adverse effects on the life supporting capacity of rivers and streams are minimised.

182 The Applicant has set out that the design of the Manawatu River Bridge in particular, has been designed to ensure adverse effects on the bed of the river and Parahaki Island have been minimised. I understand that Mr Bell for MWRC concurs.

183 Policy 17-1 requires decision makers to have regard to the extent to which the activity is consistent with best management practices.[175] The Applicant sets out that all activities, including construction will be undertaken in accordance with best management practices. The Applicant concludes that the proposal is consistent with Objective 17-1 and Policy 17-1.[176]

184 With the imposition of management plans including the ESCP and Ecological Management Plan ("**EMP**") as per the conditions, I concur that the proposal is consistent with Chapter 17.

Regional Plan Objective and Policy Summary

185 When considered in the round, it is my view that the Project is generally consistent with the objectives and policies of the Regional Plan.

District Plans

186 For the purpose of meeting section 104(1)(b)(vi) of the RMA, the Applicant has undertaken an assessment of the Project as to the objectives and policies of the relevant District Plans, namely the Palmerston North City Council District Plan ("**PNCCDP**"), Manawatū District Plan ("**MDP**") and Tararua District Plan ("**TDP**").[177] I agree that the relevant objectives and policies are identified. I also agree with the assessment undertaken and adopt that as part of my report.

[175] One Plan Policy 17-1 a.
[176] AEE Volume 1, Section 8.5.3.6, pgs 195-196.
[177] AEE Volume I, Section 8.6, Pages 197 – 199.

One Plan Rules

187 The Applicant has set out a rule assessment for each of the activities that make up the proposal.[178] I concur with the rule assessment undertaken by the Applicant and adopt it for the purposes of this report with the following clarifications.

188 For completeness, in relation to earthworks "cut" to "fill" is covered by Chapter 13 of the One Plan. However, cut to waste (discharge to land at the spoil areas) is "cleanfill" and addressed in Chapter 14 of the One Plan. The Applicant is also applying for the discharge of imported material as cleanfill. Therefore, the application includes the discharge of "cut to waste" and "imported material" to land under 14-30.

189 I summarise the activity status for the consents below;

Construction Phase Resource Consents

(a) A **land use consent** is sought pursuant to Rule 13-6 of the One Plan and sections 9(2), 14 and 15 of the RMA as a restricted discretionary activity for land disturbance and vegetation clearance (and associated diversion of water and discharge of sediment) within the Hill Country Erosion Management Area, but outside of a rare, at-risk or threatened habitat and not within 10m of a watercourse;

(b) A **land use consent** is sought pursuant to Rule 13-7 of the One Plan and sections 9(2), 14 and 15 of the RMA as a discretionary activity for land disturbance and vegetation clearance (and associated diversion of water and discharge of sediment) within 10m of a watercourse, but outside of a rare, at risk or threatened habitat.

(c) A **land use consent** is sought pursuant to Rule 13-9 of the One Plan and section 9(2) of the RMA as a non-complying activity for earthworks and vegetation clearance within a rare habitat or threatened habitat.

(d) A **discharge permit** is sought pursuant to Rule 13-9 of the One Plan and section 15 of the RMA as a non-complying activity for discharges of sediment during construction to a rare habitat or threatened habitat.

[178] Statutory Assessment (Beca E3) Foxton Wastewater Discharges – Matakarapa, 30 Oct 2015, Section 3.1, Pages 2-3.

(e) A **water permit** is sought pursuant Rule 16-9 of the One Plan and section 14(2) of the RMA as a discretionary activity for the taking of water (dewatering).

Operational Phase Resource Consents

(a) A **land use consent** is sought pursuant to Rule 13-9 of the One Plan and section 13 of the RMA as a non-complying activity for activities (BR03, one stream diversion and five culverts) in the bed of any lake or river, within a rare habitat or threatened habitat.

(b) A **water permit** is sought pursuant to Rule 13-9 of the One Plan and section 14 of the RMA as a non-complying activity for the taking and diversion of water (diversion and drainage) within a rare habitat or threatened habitat.

(c) A **discharge permit** is sought pursuant to Rule 13-9 of the One Plan as a non-complying activity to section 15 of the RMA for discharges of stormwater (once operational from Wetland 03) to a rare habitat or threatened habitat.

(d) A **discharge permit** is sought pursuant Rule 14-30 of the One Plan and section 15 of the RMA as a discretionary activity for discharges of fill.

(e) A **water permit** is sought pursuant to Rule 16-13 of the One Plan and section 14 of the RMA as a discretionary activity for the diversion of streams.

(f) A **land use consent** is sought pursuant to Rule 17-3 of the One Plan and section 13 of the RMA as a discretionary activity for the placement of a bridge and associated disturbance, diversion, deposition and discharges, over the Manawatū River which is identified as a Schedule B – Site of Significance – Cultural.

(g) A **land use consent** is sought pursuant to Rule 17-15 of the One Plan and section 13 of the RMA as a discretionary activity for the placement of a bridge and associated disturbance, diversion, deposition and discharges, over the Mangamanaia Stream which is identified as Schedule B – Value of Flood Control and Drainage.

(h) A **land use consent** is sought pursuant to Rule 17-23 of the One Plan and section 13 of the RMA as a discretionary activity for the proposed culverts and

associated disturbance, diversion, deposition and discharges, within watercourses which do not comply with Rule 17-10.[179]

Overall Activity Status

190 Overall, when bundled, the activities are to be assessed as a non-complying activity.

Section 104(1)(C) Other Relevant Matters

191 There are a number of other relevant matters that in my view should be taken into account. I have set out those matters below.

Transport Related plans and policies

192 The Applicant sets out the transport related policies at a national and regional level in the application, noting the key priority status of the alternative Manawatu Gorge route.[180] In my view it is appropriate to consider these policies in recognising the strategic importance of the Project for land transport in the region (and beyond).

Other relevant Policies and Plans

193 Section 8.7 of the AEE, Volume I, contains a list and assessment of the other policies and plans that the Applicant considers relevant to the Project.[181] I agree that those policies and plans are relevant.

194 Of particular relevance is the Manawatū Rivers Leaders Accord, which is a non-statutory document recording agreement between various parties in the region. The goal of the Manawatū River Leaders Accord is to improve the quality of the Manawatū River, the mauri (life force) of the Manawatū River Catchment, such that it sustains fish species, and is suitable for contact recreation, in balance with the social, cultural and economic activities of the catchment community. The Accord was developed by forum leaders and signed in August 2010. The Accord identifies six key areas that need to be addressed for the River to improve.

195 In June 2011, the Manawatū River Leaders Forum launched an Action Plan which details the steps that will be taken to clean up the river. The six key priorities identified

[179] AEE, Volume I, Section 4.9, Pages 77 – 78.
[180] AEE Volume I, Section 8.4, Pages 177 – 178.
[181] AEE Volume I, Section 8.7, Pages 199 – 200.

above are backed up by over 130 specific actions to be taken by various members of the forum and are to be added to over time.

196 The Applicant notes that the aim of the Action Plan is to clean up the river and that the Project supports that goal, through the management and mitigation of short term construction effects such as erosion and sediment discharges and long term operational effects such as stormwater quality[182]. Subject to the provisos noted in the section 87F Reports of Mr Brown, Mr Lambie and Mr Pearce as to conditions of consents, and greater certainty as to mitigation and offset/compensation, I concur that the Project would support the outcome sought by the Action Plan.

197 I also consider that the Horizons Regional Council Regional Pest Management Plan 2017-3037 ("**RPMP**") is relevant to the application in relation to the pest management programme proposed as part of the offset/compensation package. Subject to the inclusion of the conditions recommend by Mr Lambie to address the importation of pest plants to the site, I consider that the Project is consistent with the RPMP.

Section 104 D Non-complying activity status

198 As identified in paragraph 190 above, the activity status for the resource consent applications applied for, when bundled, is non-complying.

199 When determining an application for a non-complying activity, under section 104D of the RMA the application must meet one of two tests, known as the gateway tests, before it is assessed under sections 104 and 104B of the RMA. Those tests being:

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) The application is for an activity that will not be contrary to the objectives and policies of the relevant plan and any proposed plan.

200 The conclusion of the Applicant's effects assessment is that the Project may result in adverse effects on the environment that are more than minor in respect of;

(a) The cultural landscape, indigenous biodiversity, the mauri of the Manawatū River and catchment, and access to cultural resources;

[182] AEE Volume I, Section 8.7, Table 8-2, Row 4, Page 200.

(b) Terrestrial ecology concerning the loss of indigenous biodiversity values including those identified as Schedule F under the One Plan; and

(c) Freshwater ecology concerning the loss and modification of stream habitat.[183]

201 I have reached the same view at paragraph 101 of my report, with the addition of effects on water quality from sedimentation and resultant effects on Schedule B values. In reaching this view I have had regard to the mitigation of effects where proposed by the Applicant, but not, as I understand to be appropriate, any positive effects. I concur with the Applicant that the first gateway test, s104D(1)(a) is not met.[184]

202 Turning to section 104D(1)(b), the Applicant concludes that on analysis of One Plan and the relevant District Plans the second limb of the gateway test is met, noting specifically as to the One Plan that:[185]

> *"The Project has been designed and is able to avoid, remedy or mitigate potential adverse effects in a manner that is consistent with the One Plan. The proposed offsetting of residual adverse ecological effects will ensure that the Project is able to achieve the policy direction regarding the protection and management of indigenous biodiversity and natural character."*

203 Based on my assessment of the One Plan, it is my view, subject to compliance with the conditions recommended by the MWRC experts (particularly in respect of the offsetting limits under Policy 13-4), that, when considered in the round, the Project is not contrary to the objectives and policies of the One Plan.

204 Therefore, in my opinion, the Project can pass the second gateway test of s104D and can be assessed under sections 104 and 104B of the RMA.

L. ASSESSMENT AGAINST RMA PROVISIONS

Section 105

205 Section 105 states:

[183] AEE Volume I, Section 9.5.1, Page 209.
[184] AEE Volume I, Section 9.5.1, Page 209, Para 4.
[185] AEE Volume I, Section 9.5.1, Page 210, Para 1.

Where an application is for a discharge permit or coastal permit to do something that would otherwise contravene Section 15 (relating to discharge of contaminants), the consent authority must, in addition to the matters in Section 104(1) have regard to:

(a) The nature of the discharge and the sensitivity of the receiving environment to adverse effects;

(b) The Applicant's reasons for making the proposed choice; and

(c) Any possible alternative methods of discharge, including discharge into any other receiving environment.

206 The nature of the discharge and the sensitivity of the receiving environment to adverse effects are considered by the Applicant in the AEE[186] as to discharge of cleanfill, discharge of sediment, and operational stormwater discharges. The sensitivity of the receiving environment is also addressed in the section 87F Reports of Mr Brown, Mr Lambie, Mr Pearce and Ms Ryan.

207 Similarly, in relation to section 105(1)(b), the Applicant set out the reasons for the proposed choice of each discharge type. Reasons include, selection of spoil sites to avoid significant adverse ecological, natural character and cultural effects, and an analysis of BPO[187] as to the operational stormwater discharges.

208 With regard to section 105(1)(c), the possible alternative methods of discharge were evaluated by the Applicant, who took into account factors such as treatment efficiency, cultural preferences for more natural treatment systems and the ability to produce positive environmental outcomes.[188]

209 Based on the information provided by the Applicant in their AEE, consideration of the views of submitters and the reviews provided by MWRC section 87F reporting officers, it is my view, subject to the recommended conditions particularly related to discharges and the receiving environment; that alternative options for the discharges associated with the Project have been adequately considered by the Applicant.

210 Therefore, from a planning perspective, it is my view that the provisions of Section 105 for the Project have been addressed.

[186] AEE Volume I, Section 9.6, Pages 210 – 212 and Technical Assessment in Volumes IV and V.
[187] AEE Volume IV, Technical Assessment B – Stormwater Management.
[188] AEE Volume I, Section 7.6, Pages 170 - 174 – 212 and Technical Assessment in Volumes IV and V.

Section 107

211 Section 107 of the Act addresses restrictions on the grant of certain discharge permits. A discharge permit shall not be granted to do something that would otherwise contravene section 15 and 15A, allowing a discharge of a contaminant onto or into land in circumstances which may result in that contaminant entering water, if, after reasonable mixing, the contaminant discharged is likely to give rise to:

(a) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended material;

(b) A conspicuous change in the colour of visual clarity;

(c) An emission of objectionable odour;

(d) The rendering of freshwater unsuitable for consumption by farm animal; and

(e) Significant adverse effects on aquatic life.

212 Under section 107(2), a discharge permit that allows any of the effects described in section 107(1) may be granted if the decision maker is satisfied that (a) exceptional circumstances justify the granting of the permit; or (b) the discharge is of a temporary nature; or (c) that the discharge is associated with necessary maintenance work.

213 Relying on Mr Brown's section 87F report,[189] it is likely that the discharges resulting from land disturbance operations and operational stormwater discharges will cause effects as set out in section 107. This is due to the high values within Catchments 5, 6 and 7, the impact of sedimentation on those values, and the unknown timeframe within which those values will take to recover from sediment deposition. Mr Brown has also raised concerns over the ability of the stormwater treatment devices to be able to remove E. coli and soluble nutrients. The Project, therefore, needs to meet at least one of the exception clauses under section 107(2).

214 In relation to discharges associated with construction, I generally agree with the Applicant,[190] subject to the recommended conditions in my report, that given the temporary nature of the proposed sediment discharges associated (4-4 ½ years), the measures to manage and minimise sediment discharges, and the recommended

[189] Section 87F Report, Mr L Brown, Para 12 d) and e).
[190] AEE Volume I, Section 9.7, Page 212.

discharge standards (to ensure the effects are not significant), it is my view that section 107(2) applies in this case. In relation to the stormwater treatment devices being able to remove E. coli and soluble nutrients, I have recommended monitoring and remedial works (if required) conditions to address this issue. Therefore, I consider that these discharges meet the exceptions contained in section 107(2) and from a planning perspective is not precluded from the grant of consent by section 107(1).

215 I am of the view that the proposed activity is consistent with Section 107 of the Act.

Part 2 Assessment: Sections 5 – 8

216 Section 104 is subject to Part 2. I have provided a summary of my views in relation to Part 2 below, in the event it is required.

217 The purpose of the Act is to promote the sustainable management of the natural and physical resources. It aims to ensure that communities manage environmental resources sustainably, whilst benefiting from the well-being, health and safety it provides. The RMA requires that pursuit of an activity should only occur on the basis that it can achieve section 5 (a), (b) and (c). I consider that the matters of section 5 are supported by the conditions recommended as part of this report.

218 I agree with the Applicant's assessment as to the economic, transport and social benefits of the Project[191] and consider that the proposal as a whole is consistent with the matters contained in section 5. Given the resulting adverse effects relation to cultural effects, the loss of indigenous biodiversity values including those identified as Schedule F under the One Plan, and the loss and modification of stream habitat, there is a potential for an impact on soil and water in a manner which may conflict with aspects of Part 2 of the RMA. However, if the recommended conditions are complied with and the offset/compensation is correctly implemented, then any environmental and cultural impact of the proposed activities could in my view be avoided, remedied or mitigated, and the sustainable management of natural and physical resources promoted in accordance with the purpose of the RMA,

<u>Section 6 – Matters of National Importance</u>

219 I consider that the proposal provides for the relevant matters in section 6, and in particular section 6(a), (b), (c), (d), (e), and (h).

[191] AEE Volume I, Section 9.3, Page 204.

220 In particular, I am of the view that the Project has recognised and provided for ONFL and areas with natural character, although I note the recommendations of the MWRC experts with regard to the need to remedy and mitigate effects on natural character, including at crossing sites. There have also been efforts to enhance public access to parts of margins of rivers and other waterbodies as part of the Project, including through development of the shared path, pedestrian paths, and the Gateway Park.

221 The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga has been recognised through the Project, and their input into design and implementation of the Project. The Applicant's assessment states that the provision has been provided for, "*by embedding Māori cultural values in the Project, including through the incorporation of Te Aranga principles (via the CEDF), cultural mitigation measures (proposed conditions in Appendix E) and provision of ongoing partnership between the Transport Agency and the Iwi Partners in respect of the Project."* [192] On the face of the application, this appears to be the case, supported by the CIAs provided by the five iwi involved with the Project.

222 As a consequence, I am of the view that the Applicant has recognised and provided for and matters set out in sections 6(e) of the Act. In addition, the accidental discovery protocol and the monitoring and cultural values framework provided for in conditions will address any residual effects which may arise as a consequence of the activities.

Section 7 – other matters

223 The Project provides for section 7(a) kaitiakitanga through iwi being a partner to the Project and by having input and advice into the design and implementation of the Project. The continuing involvement of iwi has been translated into recommended conditions. The net outcomes of the Project are also consistent with section 7(d) ecosystems and section 7(f) environmental quality because of the avoid, remedy, mitigate approach to adverse effects, the offset and compensation package (once settled), and the design of the Project and the conditions recommended.

224 Section 7(g) and its emphasis on finite resources has been considered in relation to rare, at-risk and threatened habitats through avoidance where practicable or by limiting the Project footprint and including procedures such as pre-construction

[192] AEE Volume I, Section 9.3.2, Page 205.

surveys and relocation of fauna to manage impacts on significant avifauna, lizards and bats.

225 The effects of climate change have been addressed in the bridge and culvert designs, and the benefits of renewable energy should not be comprised at the Te Apiti Wind farm, subject to resolution of the technical issues raised by Meridian Energy.

226 Therefore, from a planning perspective, it is my view that particular regard has been given to the applicable matters in section 7 of the Act.

Section 8 – Treaty of Waitangi (Te Tiriti o Waitangi)

227 The Transport Agency has partnered with Rangitāne o Manawatū, Rangitāne o Tamaki nui-ā-Rua; Ngāti Kahungunu ki Tāmaki nui-a-Rua and Ngāti Raukawa ki te Tonga, as well as, Te Apiti Ahu Whenua Trust through hui and CIAs in the design of the Project. As Iwi Project Partners, I understand that partnership will continue through implementation of the Project. I concur with the Applicant that this partnership-based approach reflects the principles of the Te Tiriti o Waitangi, and is intended to continue, including by realising opportunities for tangata whenua associated with the Project.

228 Based on my analysis of the application, including supporting material, and section 104 and Part 2 of the Act, the Project provides for the relationship of tangata whenua with their ancestral land, water, waahi tapu and taonga. In addition, the ongoing relationship is provided through the conditions, including the proposed Tangata Whenua Monitoring and Management Plan.

229 Subject to any further views of tangata whenua through this process, it is my view from a planning perspective that the principles of Te Tiriti o Waitangi have been integrated into the Project both in its design (including mitigation) and implementation.

M. CONCLUSION

230 This report has analysed the relevant sections 104, 105, 107 of the RMA as required under section 87F. Conditions are recommended pursuant to sections 108 and 108AA below. This analysis includes the individual section 87F expert reports, which have been relied on in preparing my report, and are annexed to this report.

231 Sections of the RMA that have not been referenced (106, 109, 110, 111 and 112) are not considered relevant to this proposal.

N. TERM

232 I have considered the term(s) sought by the Applicant. In recommending term(s), I have given consideration to Chapter 12, Policy 12-5 of the Operative One Plan, 2014 (which sets a common catchment expiry) and the terms sought by the Applicant.

233 The Project spans two water management sub-zones. The western portion of the project is within the Middle Manawatu management zone and the eastern portion spans into the Upper Gorge water management zone. Both water management zones have a common catchment expiry date of 1 July 2013.

234 Should the decision maker be of the mind to grant the applications, I would recommend the following term(s) for these applications:

Activity	Type	Subtype	Authorisation IRIS ID	Duration*
Land disturbance and vegetation clearance within the Hill Country Erosion Management Area.	Land Use Consent	Land	ATH-2017201719.00	10 years
Land disturbance and vegetation within various waterways.	Land Use Consent	Water	ATH-2020203333.00	10 years
Land disturbance and vegetation clearance within a rare or threatened habitat.	Land Use Consent	Water	ATH-2020203335.00	10 years
Discharge of sediment within a rare or threatened habitat.	Discharge Permit	Land	ATH-2020203336.00	10 years
Taking of water (dewatering).	Water Permit	Groundwater	ATH-2020203337.00	10 years
For BR03, one stream diversion and five culverts in the bed of any lake or river, within a rare habitat or threatened habitat.	Land Use Consent	Water	ATH-2020203338.00	35 years
Stream diversion within a rare or threatened habitat.	Water Permit	Surface Water	ATH-2020203339.00	35 years
Discharge of stormwater (once operation from Wetland 03) to a rare or threatened habitat.	Discharge Permit	Water	ATH-2020203340.00	35 years

Discharge of spoil and imported fill.	Discharge Permit	Land	ATH-2020203341.00	35 years
Diversion of streams outside a rare or threatened habitat.	Water Permit	Surface Water	ATH-2020203342.00	35 years
Placement of a bridge and associated disturbance, diversion, deposition and discharges, over the Manawatū River which is identified as a Schedule B – Site of Significance – Cultural.	Land Use Consent	Water	ATH-2020203343.00	35 years
Placement of a bridge and associated disturbance, diversion, deposition and discharges, over the Mangamanaia Stream which is identified as a Schedule B – Value of Flood Control and Drainage.	Land Use Consent	Water	ATH-2020203344.00	35 years
Culverts and associated disturbance, diversion, deposition and discharges, within watercourses which comply with Rule 17-10.	Land Use Consent	Water	ATH-2020203345.00	35 years

235 The Applicant has sought a term of 10 years for the consents associated with construction of the Project and 35 years for the consents associated with the ongoing operation of the Project. In my view, these terms are justified. For the consents associated with construction based on an anticipated construction period of 4 – 4 ½ years a duration of 10 years is considered appropriate. Similarly, for the consents associated with the operational aspects of the Project, a term of 35 years is also considered appropriate as they will apply for the life of the Project.

236 I have considered the One Plan Policy 12-5(b), the common catchment expiry dates, the balance between environmental protection and investment, and the provision of s128 reviews. Finally, I note that on-going monitoring and annual reporting as conditions of the consent will be important to identify unanticipated adverse effects and the implementation of offset and compensation package.

O. CONDITIONS

237 A suite of conditions relating to all applications were suggested in the application. I have adopted some of these conditions. However, I have made some additions and changes where I consider it necessary, after taking into account the submissions and expert section 87F reports prepared by MWRC technical advisors, in order to avoid, remedy or mitigate potential adverse effects and offset/compensate residual effects. It is anticipated that conferencing amongst experts will occur in relation to the conditions. A final copy of recommended conditions will be presented prior to the hearing.

238 In preparing the additions to the conditions, I note that the Applicant filed the EMP, the ESCP and the Contaminated Soil Management Plan, for which certification is requested.[193] I observe that the conditions as proffered do not set out for each of these management plans, specifics as to the objective of the management plan or what it matters it should address. I contrast this with the conditions of the Designations which have specified conditions as to what technical certification needs to address.

239 I also note that the Designation conditions require the EMP to have specific regard to the conditions of the regional resource consents, the direction given by the relevant provisions of Policy 13-4, and the BOURMA.[194] The EMP also must take into account the outcome of consultation with, inter alia, DOC and QEII, who have both submitted on the application with some concerns. These matters are therefore still 'live'.

240 By way of example, Mr Hudson has recommended matters to be addressed in conditions.[195] In my view those recommended conditions relate to Planting Establishment Plan (PEP). The PEP is part of EMP filed as part of the application, but it is not directly referenced in the conditions. By contrast the requirements of PEP is detailed in the Designations. Mr Lambie also recommended conditions as to the Biosecurity Management Plan,[196] which forms part of the EMP, as to the 'Horizons 'Regional Pest Management Plan'. However, the there is no certification process included in the conditions as suggested and there is no reference in the NoR

[193] AEE Volume I Section 1.7, Page 32.
[194] Condition 24(e) of the Designations.
[195] Section 87F Report, J Hudson, Para 65.
[196] Section 87F Report, J Lambie, Para 103 (aa).

conditions to the Biosecurity Management Plan, only to biosecurity measures as part of the Terrestrial Invertebrate Management Plan.[197]

241 In my view, further consideration of the conditions is required in order establish bottom lines and standards to address the effects and the requirements of the relevant management plans to demonstrate how the conditions will be met. I have therefore recommended that the management plans are provided for certification against the relevant conditions twenty (20) working days after the decision on the application.

MARK ST CLAIR

25 May 2020

[197] NoR Conditions, Condition 23.