

BEFORE THE MANAWATU-WANGANUI REGIONAL COUNCIL

In the matter of the Resource Management Act 1991

and

In the matter of Submissions and further submissions made by
TRUSTPOWER LIMITED to the Manawatu-
Wanganui Regional Council on the Proposed Horizons
One Plan – Biodiversity Provisions.

STATEMENT OF EVIDENCE OF ROBERT JOHN SCHOFIELD
Environmental Planner

11 July 2008

Introduction

- 1.1 My name is Robert John Schofield, and I am a Senior Principal of Boffa Miskell Limited, a national firm of consulting planners, ecologists and landscape architects. I hold the qualifications of BA (Hons) and Master of Regional and Resource Planning (Otago). I am a Member of the New Zealand Planning Institute, and a Past President (1998-2000). I have been a planning consultant based in Wellington for over 23 years, providing consultancy services for a wide range of clients around New Zealand, including local authorities, land developers, and the infrastructure and power sectors.
- 1.2 My experience includes the writing and preparation of Plan Changes for Councils and private clients, as well as work on the preparation of District and Regional Plans, including formulating provisions for infrastructure and energy development and distribution.
- 1.3 In this matter, I have been commissioned by TrustPower Limited ('TrustPower') to prepare its submissions on the proposed One Plan and to present planning evidence on its points consistent with the purpose and principles of the Resource Management Act 1991 ('RMA'). I have worked closely with both TrustPower and with other generators as part of my involvement in submissions on the proposed One Plan.
- 1.4 In preparing my evidence, my approach was to:
- Consider the provisions of the proposed One Plan of consequence to TrustPower, having regard to the purpose and principles of the RMA and other relevant national policies and strategies; and
 - Recommend appropriate changes that would give effect to the amendments requested by TrustPower in a way that is consistent with the RMA and my duties as an independent planning expert.
- 1.5 I have been engaged by TrustPower to provide an analysis of the proposed One Plan in terms of the relevant statutory considerations and obligations, taking into account those issues raised by TrustPower in relation to Biodiversity. I do not intend to address many of the matters of other submitters' concerns in TrustPower's submission in detail, unless specifically relevant. Rather, the purpose of my evidence is to review the principal matters of concern to TrustPower within the Chapters of the plan on Biodiversity against the purpose and principles of the RMA and good planning practice.
- 1.6 My evidence takes into account the section 42A report recommendations on the Biodiversity-related provisions of the proposed One Plan.
- 1.7 My evidence is structured according to the following format:
- Statutory considerations, particularly the purpose and principles of the RMA.
 - An analysis of the section 42A report's recommendations into the submissions and further submissions on the proposed One Plan as they relate to the concerns of TrustPower.
- 1.8 I have read the Code of Conduct for Expert Witnesses issued as part of the Environment Court Practice Notes. I agree to comply with the code and am satisfied the matters I address in my evidence are within my expertise. I am not aware of any

material facts that I have omitted that might alter or detract from the opinions I express in my evidence.

2 Primary Issues for TrustPower

- 2.1 As outlined in its primary submission, TrustPower generally supports the intent of the proposed One Plan, which seeks to ensure an integrated approach to resource management in the Manawatu-Wanganui Region. In a large measure, TrustPower either supports or does not oppose the general direction and approach of the One Plan. However, the proposed One Plan introduces a number of changes to policy that have the potential to adversely affect the ability to maintain and enhance effective and efficient electricity generation within the Region.
- 2.2 In regard to the proposed provisions for biodiversity, the key concern is that the provisions would make it unreasonably and unnecessarily onerous to develop energy generation facilities in areas of identified significant biodiversity value.
- 2.3 To address this concern, I agree with TrustPower that some amendments should be made to the proposed One Plan, and I have advised the company on the form and detail of such changes that are appropriate in my opinion. In summary, the relief sought by TrustPower and the changes that I am recommending seek to ensure that the provisions contained in the proposed One Plan provide the appropriate recognition of resource activities and uses through a balanced approach to achieving sustainable management.

3 The Proposed One Plan – Biodiversity Provisions

- 3.1 First, I would note that if any matter raised in TrustPower’s submission is not discussed in my evidence, then it should be inferred that I agree with the relevant recommendations in the section 42A report.
- 3.2 To assist the Committee, I have attached as Appendix 1 a summary table of TrustPower’s submissions and further submissions, whether the officer’s recommendation is to accept or reject these submissions, and my comments on the recommendations in respect of the provisions on Biodiversity.

Recommendation Bio 1

Chapter 7 - General

- 3.3 In general, TrustPower supports a number of the section 42A report’s recommendations as they relate to TrustPower’s submissions on the Biodiversity provisions, most importantly the amendments to the regional policy statement in Chapter 7 (including Objective 7-1 and Policy 7-2) and to Schedule E.
- 3.4 Although TrustPower originally supported a number of submissions¹ to amend all references in the proposed plan from *"rare and threatened habitats"* to *"naturally occurring rare and threatened habitats"* or *"areas of significant indigenous vegetation and significant habitats of indigenous fauna"*, I am now satisfied with the

1 Refer for example submissions 268 51 and X 511 1, 363 111 and X 511 321

retention of these terms as outlined in the section 42A report, as a consequence of other recommended changes.

- 3.5 TrustPower supported the submission of Mighty River Power² which sought to delete the plan provisions relating to biodiversity, and to have the Council either consider a variation to the Plan which bases the identification and management of biodiversity values on an ecological district or LENZ approach, or, exclude infrastructure and energy activities from the Biodiversity chapter, and add a cross reference to Chapter 3 and Policy 3-3.
- 3.6 Following from a pre-hearing meeting on the biodiversity provisions, we were supplied with the technical report which underpinned the Schedule E approach, which clarified that the approach had been based on LENZ and other tools. As outlined in the evidence of my colleague Mr Matiu Park (who is also giving evidence on behalf of TrustPower), the use of LENZ has a number of merits over traditional approaches to biodiversity management, and accordingly, I am satisfied by the section 42A recommendations in this regard, subject to other changes being made, as outlined below.
- 3.7 TrustPower also supported a number of submissions seeking the deletion of Schedule E and any cross-references to Schedule E. However, as outlined in the ecological evidence of Matiu Park, the section 42A report recommendations on revising Schedule E (as outlined in the statement of Fleur Maseyk) would generally address many of the initial concerns regarding the Schedule.

Recommendation Bio 5

Chapter 7 - Objective 7-1 Indigenous Biological Diversity

- 3.8 I note that the section 42A report did not include any recommendations on a number of the submission points of TrustPower (and other submitters) in relation to Objective 7-1. I will briefly discuss those outstanding matters that I feel have not been sufficiently addressed.
- 3.9 I support the removal of Lakes Otamangakau, Te Whaiiau and Moawhango from Objective 7-1 as per the submission of Genesis Energy because they are artificial and are therefore not naturally-occurring habitats.³
- 3.10 TrustPower's original submission sought the deletion of clauses (a) and (b) of Objective 7-1 from the Proposed Plan⁴ and it supported a number of submissions seeking similar relief in relation to the levels of loss or modification of rare and threatened habitats and significant adverse effects on at-risk habitats.⁵ I consider the section 42A report has accepted in part much of the relief sought by amending Objective 7-1(a) to refer to "*more than minor*" loss or modification to the representativeness, distinctiveness or ecological context of the rare and threatened habitat types (as opposed to "*any*" loss or modification). This amendment would allow for some minor effects to occur, and is more consistent with the "effects-based" nature of the RMA. I concur with the section 42A report that there is still a very high level of protection consistent with the regional significance of these habitat types.

2 Refer submissions 359 73 MRP and X 511 311

3 Refer submissions 268 18 and X 511 318

4 Refer submission 358 51

5 Refer submissions 359 74, X 511 319, 363 112 and X 511 322

3.11 As outlined in the evidence of Mr Park, the recommended amendment of Objectives 7-1(a) and (b) to include the terms “*as assessed in accordance with Table 7.1*” is supported. Although the significance criteria in Table 7.1 were originally included as part of Schedule E as Table E.4, this table was not referenced within the provisions of One Plan. As Mr Park notes, inclusion of these well-understood ecological assessment criteria are essential to determine the significance of an area and any effects of activities on these habitat types as outlined by section 6(c) RMA. They therefore would provide a useful and consistent guide to the assessment of effects for specific proposals, and for decision-making purposes. As Mr Park notes, the criteria in Table 7.1 are also broadly consistent with case law and the assessment criteria used in many other regional and district plans across New Zealand.

3.12 In summary, in relation to Objective 7-1, TrustPower seeks:

(a) That the section 42A report recommendations be retained.

Recommendation Bio 6

Chapter 7 Policy 7-1 Responsibilities for maintaining indigenous biological diversity

3.13 Policy 7-1 apportions the responsibilities for maintaining indigenous biological diversity between regional and district councils, as required by section 62(1)(i)(iii) of the RMA. I consider this distinction in responsibilities an important component of the policies on indigenous biodiversity, and therefore support the intention to make it clear that Horizons is the lead agency with regard to biodiversity.

3.14 In summary, in relation to Policy 7-1, TrustPower seeks:

(a) That the section 42A report recommendations be accepted.

Recommendation Bio 7

Chapter 7 - Policy 7-2 Activities in Rare and Threatened Habitats

3.15 TrustPower’s original submission sought that Policy 7-2 be amended to either provide adequate balance for recognising the benefits of infrastructure and energy generation⁶ or, alternatively, that the policy be amended to only make provision for appropriately identified species and habitats of ecological significance.⁷ Given the changes now recommended to be made to Schedule E, and for the reasons outlined in the evidence of Mr Park and in the section 42A report, I am satisfied at the section 42A report’s rejection of TrustPower’s alternative relief in relation to making provisions for appropriately identified species and habitats of ecological significance.⁸

3.16 Accordingly, I support the section 42A report’s recommendation to accept in part TrustPower’s submission seeking the inclusion of the provision of infrastructure of regional and national importance as defined in Policy 3-1 (but subject to that policy being further revised as part of TrustPower’s submissions on Chapter 3, including to broaden the types of generation facilities identified as being regionally or nationally important). I consider explicit inclusion as provided for by the new clause (d) in Policy 7-2 to be consistent with Chapter 3 of the One Plan in that it both recognises

6 Refer submissions 358 58, supported in part by X 522 238 and supported by X 525 255

7 Refer submissions 358 55, supported by X 522 236 and supported in part by X 525 253

8 Refer submissions 272 21 and X 511 328

- the benefits of such infrastructure, and acknowledges that developing and maintaining such infrastructure can have significant effects that may not be able to be fully avoided, remedied or mitigated.
- 3.17 This new clause (d) also recognises that such activities may result in more than minor effects on these habitat types (having regard to the non-complying activity status associated with any activities in these habitats under Rule 12.8 and as discussed in more detail later in my evidence). As outlined in the section 42A report, it is my experience that there are often situations where development associated with major infrastructure projects may result in effects on parts of areas of significant indigenous vegetation and significant habitats of indigenous fauna, but which do not affect the overall integrity and viability of such areas.
- 3.18 The recommended revision to Policy 7-2 not only provides for such effects specifically associated with infrastructure of national and regional importance, but it goes the extra step of providing for mitigation through the use of biodiversity offsets consistent with the relief sought by a number of submitters.⁹ While I support the precautionary approach to provide for biodiversity offsets as outlined in the ecological evidence of Mr Park, I consider the revised Policy 7-2 is a good step towards providing a much-needed regional framework for biodiversity offset mitigation of any adverse effects associated with major infrastructure. I reiterate the advice of Mr Park that providing for such biodiversity offsets is likely to have better biodiversity outcomes across the region than a planning framework which either does not provide for it, or specifically excludes it – my interpretation of the proposed One Plan was the latter.
- 3.19 I concur with the ecological evidence of Mr Park, in that I have a number of concerns at the application of biodiversity offsets to mitigate “*any more than minor (but less than significant) adverse effects*”. I consider that this approach could potentially be detrimental to the use of biodiversity offsets across the Region, by solely providing for their use only as mitigation for such effects. As biodiversity offsets have the potential to be an extremely useful tool to mitigate adverse effects across a wide range of situations, to restrict the use of such a tool to a certain scale or magnitude of effects has the potential to be counter productive. I consider that leaving this scale of effects open-ended has a number of benefits for biodiversity across the Region.
- 3.20 I also consider the current restriction in the revised clause (d)(iii) restricting biodiversity offsets to financial contributions has the potential to severely limit their application. As has been outlined in the evidence of Mr Park, there needs to be scope for the applicant to offer up suitable mitigation through a number of biodiversity options.
- 3.21 On the matter of biodiversity offsets, it also important to question the use of the term “*net conservation gain*” in the One Plan as opposed to “*net biodiversity gain*”. In my opinion the term ‘biodiversity’ is more appropriate than ‘conservation’ and is more consistent with the generally understood concept of the term as it has been applied in New Zealand, particularly given the use of the term ‘indigenous biological diversity’ in the Resource Management Act (i.e., s30(1)(ga), Functions of Regional Councils; s62(1)(i)(iii), Contents of Regional Policy Statements). In my opinion the term ‘conservation’ could be applied negatively, suggesting that the biodiversity

9 Refer submissions 359 78 MRP, supported by X 511 329

- offset be limited to those areas with high conservation values, as opposed to having values as buffering or future ecological potential.
- 3.22 For the reasons outlined earlier in relation to Objective 7-1, I also support the section 42A report's recommended inclusion of Table 7.1 in Policy 7-2(d) and (e) as this provides an appropriate linkage, previously missing from the proposed One Plan, to the assessment criteria used to determine ecological significance under section 6(c) RMA.
- 3.23 I still have some concerns at the section 42A report's recommendations to insert reference to takes of water in clause (b)(ii) of Policy 7-2, as I consider this matter is more appropriately dealt with in other provisions of the One Plan relating to water takes (as opposed to indigenous biodiversity). I am also concerned at the potential uncertainty created by reference to '*near these areas*' in this clause and the difficulty this would create for applicants and for those assessing the application.
- 3.24 With regard to all other primary or further submissions on Policy 7-2, I share TrustPower's support for the proposed amendments as recommended by the section 42A report.
- 3.25 In summary, in relation to Policy 7-2, TrustPower seeks:
- (a) **That the reference to the provision of infrastructure of regional and national importance as defined in Policy 3-1 be made more explicit as per the section 42A report's recommendation.**
 - (b) **Amend Clause (d)(iii) as follows: "Any ~~more than minor (but less than significant)~~ adverse effects are adequately remedied or mitigated, including through the use of ~~financial contributions to adequately compensate or offset the adverse effects~~ biodiversity offsets".**
 - (c) **Amend Clause (d)(iv) as follows: "The remedy, or mitigation ~~or financial contribution~~ identified in (iii) above results in a net conservation biodiversity gain to the habitat type in the region".**
 - (d) **Delete those provisions of clause (b)(ii) relating to discharges of contaminants into water, or drainage or diversion of takes of water, within or near these areas.**
 - (e) **Delete the phrase "near these areas" from Policy 7-2(b)(ii).**

Recommendation Bio 8

Chapter 7 - Policy 7-3 Activities in At-Risk Habitats

- 3.26 TrustPower originally submitted on Policy 7-3, seeking either that Policy 7-3 be deleted from the Proposed Plan or that the provisions be amended to only make provision for appropriately identified species and habitats of ecological significance.¹⁰ Although TrustPower's submission was not discussed in the section 42A report (but was discussed in the context of Policy 7-2), for the reasons I have set out above and as has been addressed in the ecological evidence of Mr Park, I am satisfied at the section 42A report's recommendations and the statement of Fleur Maseyk in relation to Schedule E's inclusion of identified species and habitats of ecological significance.

¹⁰ Refer submissions 358 56 TPL, supported by X 522 237

- 3.27 As with TrustPower's submission on Policy 7-2, seeking that the adequate balance is provided for recognising the benefits of infrastructure and energy generation, I have some concerns that TrustPower's submission on Policy 7-3 was not sufficiently addressed by the section 42A report.¹¹ While the comments in the section 42A report that the maintenance and provision of infrastructure is adequately provided for by Policy 7-3 and that the policy does not need to provide for activities to pass through a non-complying gateway test, I still consider it is appropriate to provide greater recognition of these activities in a manner similar to revised Policy 7-2 which provides for activities within rare and threatened habitat types.
- 3.28 As outlined in the statement of Mr Park, I feel it is appropriate to question the relevance of the inclusion of at-risk habitat types in the One Plan. Both the section 42A report and the statement of Fleur Maseyk indicate that this refers to habitats that are between 20 – 50% of their former range. Although Mr Park recognises that Horizons has tried to implement a 'precautionary approach' to protecting these at-risk habitat types, I consider that requiring their protection as provided for by Policy 7-3 is more a general function under section 30(1)(ga) (in relation to maintaining indigenous biodiversity) than the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna under section 6(c).
- 3.29 Specifically, it is my opinion that the One Plans should be more explicit about whether the protection of at-risk habitats is a section 6 or 7(f) or 7(g) matter. I will get into more detail as to this activity status in my discussion in relation to Rule 12.7.
- 3.30 TrustPower also supported the submission of Powerco which sought that Policy 7-3 be amended to allow for vegetation clearance and other activities necessary to ensure the continued operation of infrastructure.¹² However, I am satisfied at the rejection of this relief and consider that the revised definition of vegetation clearance¹³ satisfies this submission point by providing an exception for maintenance associated with infrastructure.
- 3.31 As outlined in my evidence in relation to Policy 7-2, I support the section 42A report's rejection of submissions seeking the deletion of clause (d)(iii) in relation to financial offsets. I will take this opportunity to clarify to the Committee that the intent of TrustPower's further submission was solely in relation to the deletion of the terms 'financial contributions' as opposed to removal of the potential for offsetting significant adverse effects. As I have outlined earlier in relation to biodiversity offsets, the concept has considerable merit and is something TrustPower actively supports in the development of a workable policy framework for managing indigenous biodiversity.
- 3.32 In summary, in relation to Policy 7-3, TrustPower seeks:
- (a) **That Policy 7-3 be amended to be more explicit about whether the protection of at-risk habitats is a section 6 or 7 matter;**
 - (b) **That Policy 7-3 be amended to include reference to the provision of infrastructure of regional and national importance as defined in Policy 3-1 similar to the section 42A report recommendations in relation to Policy 7-2;**

11 Refer submissions 358 58, supported by X 522 238 and X 525 255 (in relation to Policies 7-2 and 7-3)

12 Refer submission 272 22, supported by X 511 336

13 Refer Recommendation LAN 10 in the section 42A report on the Land provisions of the One Plan

- (c) Amend Clause (d)(ii) as follows: **“financial contributions a range of mechanisms, including the use of biodiversity offsets can be used to adequately compensate for or offset significant adverse effects”**; and
- (d) Amend Clause (d)(iv) as follows: **“The remedy, or mitigation or financial contribution identified in (iii) above results in a net conservation biodiversity gain to the habitat type in the region”**.

Recommendation Bio 12

Chapter 7 - Consequential Change New Table 7.1

- 3.33 The section 42A report’s recommendation to move Table E.4 from Schedule E and place it in Chapter 7 as Table 7.1 is fully supported. As outlined in the evidence of Mr Park, the ecological assessment criteria outlined in Table 7.1 are robust, are consistent with similar criteria used in Regional and District Plans across New Zealand and are generally well understood by ecologists and planners.¹⁴ I concur with the section 42A report that these ecological assessment criteria are clearer and more appropriately located in Chapter 7.
- 3.34 I therefore consider that it is highly appropriate that some aspects of traditional ecological significance assessments are retained in the One Plan to provide some continuity in the direction of individual site assessments, particularly for those more modified sites. Also relevant is the relatively novel approach to biodiversity protection proposed by the Schedule E framework (which relies on spatial models and predictive models) and the tradition of endless litigation associated with providing for significant natural areas within statutory plans (and the subsequent issues with resource consent applications and enforcement). On the matter of ongoing litigation, I note the recommendation of Mr Park regarding the inclusion of previously assessed sites as one of the ecological significance assessment criteria. Inclusion of this criterion recognises the large resource costs and commitments of territorial authorities or other agencies who have undertaken district-wide significance assessments within an RMA context.
- 3.35 In summary, in relation to the New Table 7.1, TrustPower seeks:
- (a) **That the section 42A report recommendation to include this table in Chapter 7 and incorporate it via reference in the relevant objectives and policies be retained.**

Recommendation Bio 13

Chapter 7 - Methods General

- 3.36 TrustPower originally sought that all the Methods in Section 7.5 be amended to include reference to the potential appropriateness of hydro-electricity generation and energy development interests.¹⁵ This relief was rejected by the section 42A report which stated that, if TrustPower or any generating company had a known interest in a waterway that was significant for protection for its biodiversity values, then Horizons would involve them in that project. Given that commitment, then the need to include

14 These assessment criteria have also been discussed at some length by the Environment Court (refer *Minister of Conservation v Western Bay of Plenty District Council* A071/2001, 6 NZED 732)

15 Refer submission 358 64, supported by X 519 291 and X 525 256

reference to hydro-electricity generation and energy development interests is not as necessary.

Recommendation Bio 20

Chapter 7 – Anticipated Environmental Results General

- 3.37 TrustPower submitted in opposition to the Anticipated Environmental Results in section 7.6 of the Proposed One Plan because it was concerned that the Results did not provide for any change, other than natural processes, to the recognised habitats and landscapes. I concur with the section 42A report's recommendation to accept in part TrustPower's submission because the current wording is not consistent with the policies and objectives, which state that some change is acceptable in limited circumstances. I consider these recommended amendments and the inclusion of the terms "*or change authorised by a resource consent*" also adequately takes into the TrustPower's related submission point which sought some changes associated with infrastructure or energy development in the national interest.
- 3.38 In summary, in relation to the Anticipated Environmental Results in Chapter 7, TrustPower seeks:
- (a) **That the section 42A report recommendations to amend the anticipated environmental results in relation to change by natural process or change authorised by resource consent be retained.**

Recommendation 23

Chapter 12 - Overall Biodiversity

- 3.39 TrustPower submitted in support of Meridian's submission that renewable energy development be provided for in a similar manner to farming and forestry activities: that is, all land disturbance and vegetation removal associated with renewable energy development be provided for as a permitted activity where a renewable energy development plan has been supplied to the Council. The only exception for this should be in those situations where resource consents are required for farming and forestry activities: i.e., land disturbance and vegetation removal involving protected habitats (Rules 12-7 and 12-8).
- 3.40 The section 42A report states that Horizons would encourage the development of a code of practice for vegetation clearance and land disturbance activities associated with energy developments that could be incorporated by reference in the One Plan by way of a plan change or variation. I would support such an approach.
- 3.41 However, the focus of TrustPower's submission was on recognising some form of non-regulatory approach to site specific environmental management such as that used by the Proposed One Plan's in regard to whole farm business plans. While I accept that there is no current industry Code or recognised best practice for such environmental management plans, the One Plan could at the least promote their development, which would provide a further initiative for the industry to develop a Code of Practice. TrustPower's submission sought only to achieve the same status for environmental management plans which presently applies in the proposed plan to the whole farm business plans.
- 3.42 In summary, in relation to Chapter 12 - Overall Biodiversity, TrustPower seeks:

- (a) **The insertion of a new subclause that recognises the role that environmental management plans or renewable energy development plans could play in avoiding, remedying or mitigating adverse effects from vegetation clearance and land disturbance activities.**

Recommendation 23

Chapter 12 - Policy 12-5 Consent decision-making regarding Rare and Threatened Habitats, and At-Risk Habitats

- 3.43 TrustPower supported the submission of Meridian seeking the amendment of Policy 12-5 to refer to significant indigenous vegetation or significant habitats of indigenous fauna and to expressly exclude renewable energy generation facilities.¹⁶ As outlined earlier in my evidence, I am now satisfied at the use of the One Plan terms 'rare', 'threatened' and 'at-risk' habitat types, as supported by the evidence of Mr Park. As he noted, rare and threatened habitats are considered to be a regional representation of the section 6(c) RMA requirements. However, I am still concerned at the application of such controls to at-risk habitats, a point I will address in relation to Rules 12.7 and 12.8.
- 3.44 I am also concerned at the statement in Policy 12-5 that the Regional Council will make decisions on resource consent applications in these habitat types in accordance with the objectives and polices in Chapter 7. Although the section 42A report recommended that this policy refer back to the exact policies in Chapter 7 which are relevant, I remain concerned that this cross-referencing does not recognise the benefits that regionally or nationally important infrastructure (as defined by Policy 3-1) provide. In my opinion, therefore, it would also be appropriate to include specific cross references to the relevant objectives and policies in Chapter 3.
- 3.45 In summary, in relation to Policy 12-5, TrustPower seek the following:
- (a) **That a clear statement be made in the One Plan that rare and at-risk habitat types are considered by Horizons to meet the section 6(c) RMA requirements as areas of significant indigenous vegetation and significant habitats of indigenous fauna; and**
- (b) **That in addition to the section 42A report recommendations that Policy 12-5 refer back to the exact policies in Chapter 7 which are relevant, that it also refer back to the specific policies in Chapter 3 in relation to nationally or regionally important infrastructure.**

Recommendation Bio 27

Chapter 12 - Rule 12-7 Activities within At-Risk Habitats

- 3.46 I note that TrustPower originally submitted on all the Rules 12-1 through 12-8 and similarly supported a number of submissions in relation to these rules. I would just like to clarify to the Committee that none of TrustPower's original submission points were addressed in the section 42A report on biodiversity (although I note that they were addressed at a generic level in relation to the section 42A report on the Land provisions on the One Plan). While this is likely to be an oversight of the generic nature of TrustPower's submission on these rules, I consider it appropriate that I

16 Refer submission 363 142, supported by X 511 396

- address TrustPower's concerns as to Rules 12-7 and 12-8 in more detail as part of my evidence.
- 3.47 Most importantly, TrustPower opposes Rules 12-7 and 12-8 as they are likely to have significant adverse implications for wind or hydro generation projects and associated activities. To summarise TrustPower's position, it opposed the classification criteria for rare, threatened and at-risk habitats as the basis for these rules and sought either the deletion of any reference to rare, threatened or at-risk habitats; the amendment of rules 12-1 to 12-8 to include specific reference to infrastructure and energy development in the classification criteria and the amendment of the non-complying status or Rule 12-8 to become a discretionary activity.
- 3.48 On this matter, I consider that there is scope for any potential adverse effects on rare, threatened or at-risk habitat types to be suitably managed through best practice industry techniques and the development of environmental management plans.
- 3.49 Taking this situation into account, TrustPower also supported a number of submissions seeking similar relief in relation to Rule 12-7.¹⁷ I am concerned that all of these submissions were rejected by the section 42A report and more generally at what I consider to be a very restrictive approach to activities in these areas when some of these habitat types may be well represented across the region (as opposed to the section 42A report's evaluation that the habitats protected by this rule are considered 'significant' in terms of section 6(c) RMA).
- 3.50 Although I can see merit in the precautionary approach to protecting these at-risk habitats as outlined in the evidence of Mr Park, I consider that applying discretionary activity status solely for biodiversity protection on private land is overly restrictive and contrary to the intent of the RMA, particularly when considering the regional and national benefits of renewable energy generation which must be considered under section 7(j) RMA. On this matter, I note that the section 42A report notes that "*the policies in Chapter 3 relating to the benefits of infrastructure should also be considered when making decisions on resource consents*". I agree with this statement, but consider that if TrustPower's relief is not accepted, then it is appropriate that similar reference to infrastructure of national and regional importance be made more explicit.
- 3.51 As Mr Park has discussed, there is scope for the activity status to be amended from discretionary to restricted discretionary activity status without compromising the ability of the One Plan to manage adverse effects on these at-risk habitat types. Mr Park has discussed this in some detail and I will not repeat the discussion here other than to note to the Committee the potential for the addition of 'positive' criterion as per the Woolley Trust decision.¹⁸ Similarly, I consider appropriate matters of discretion could be developed for managing the potential effects of activities in at-risk habitat types and the restricted discretionary activity status would suitably retain the opportunity to decline consent in appropriate situations.

17 Refer for example submission 357 114, supported by X 511 418; submission 363 152, supported by X 511 414; submission 363 153, supported by X 511 415; submission 363 156, supported by X 511 416; and submission 426 152, supported by X 511 420

18 *The John Woolley Trust v Auckland City Council* A49/07 upheld in the High Court *Auckland City Council v The John Woolley Trust* CIV 2004-404-3787. This case brought Part 2 matters into the consideration of a resource consent application for a restricted discretionary activity because of the lack of benefits focused criteria in the matters of discretion - i.e. the criteria were conservation focused

3.52 As noted in the evidence of Mr Park, there is a risk that such a restrictive approach (because of its unrestrictive status) may lead to a reluctance from landowners to seek consent for any activities in these areas. In my experience, there is a significant potential that this activity status may lead to an actual reduction in biodiversity across the Region. I note to the Committee that there is a large amount of anecdotal evidence that the onset of similar rules or restrictions on harvesting of indigenous forest on private land has led to significant biodiversity loss in the past. I have also experienced such resistance and opposition elsewhere in New Zealand (for example, Wairoa and the Wairarapa).

3.53 On this matter, I note the evaluation in the section 42A report in relation to the biodiversity rules in general (BIO 26) which states the following in relation to treeland:

However the way Schedule E and the rules are currently written, if a landowner wanted to remove or trim a few trees in a small area of scattered trees, they may require consent for non-complying activity. This could be considered overly onerous for an activity that may have no more than minor adverse effect on the habitat it is actually providing habitat for.¹⁹

3.54 While I note the section 42A recommendations are in relation to treeland, for the reasons outlined in my evidence above and in the statement of Mr Park, I consider the same reasoning applies for activities in at-risk habitats that may have no more than minor effects when considered against the ecological assessment criteria outlined in Table 7.1. Despite the criteria in Table E.2, it is my opinion that not all activities in at-risk habitats will cause significant adverse effects. Both my earlier evidence and the statement of Mr Park in relation to Policy 7-2 address these concerns in more detail and I will not repeat them here.

3.55 As a final note, I question the appropriateness of including reference to “discharge of contaminants into water” and “diversions of water” within Rule 12-7 when other sections of the One Plan deal already deal with aquatic sites of significance and the management of these activities. Although this matter was raised by TrustPower’s original submission in relation to Rule 12-8, TrustPower’s comments apply equally to this rule.

3.56 However, in summarising, I would like to note that I concur with Mr Park’s general support for the comprehensive changes proposed to Schedule E to reduce uncertainty about the actual extent of these at-risk habitats and the recommended amendments to include linkages in the relevant biodiversity objectives and policies to the assessment criteria in Table 7.1.

3.57 In summary, in relation to Rule 12-7, TrustPower seeks:

- (a) **Either the classification of Rule 12-7 be amended from discretionary to restricted discretionary activity status and matters of discretion be added as appropriate for managing the potential effects of activities in at-risk habitat types; or**
- (b) **That the classification of Rule 12-7 be amended from discretionary to controlled activity status and include as a matter of control the**

¹⁹ Refer page 90 of the section 42A report

development of renewable energy environmental management plans or industry best practices; or

- (c) Alternatively, if TrustPower’s relief is not accepted, that an exception for infrastructure of regional or national importance be provided in Rule 12-7; and**
- (d) That the references to “discharge of contaminants into water” and “diversions of water” within Rule 12-7 be deleted.**

Recommendation Bio 28

Chapter 12 - Rule 12-8 Activities within Rare and Threatened Habitats Including Wetlands

- 3.58 As outlined above in respect of Recommendation Bio 27, none of TrustPower’s original submission points were addressed in the section 42A report on biodiversity. Similarly to Rule 12-7, the original and further submissions of TrustPower supported a number of submissions seeking the deletion or amendment of Rule 12-8 for activities in rare or threatened habitat.²⁰ These were all rejected by the section 42A report.
- 3.59 TrustPower is opposed to this relief and I am concerned at the somewhat cursory evaluation of TrustPower’s submissions given the highly restrictive activity status proposed for any activities within rare and threatened habitat types. Similar to the evidence of Mr Park in relation to activities in at-risk habitats, not all activities in rare and threatened habitats will cause significant adverse effects and not all sites identified as rare and threatened by the One Plan will meet traditional ecological assessment criteria as being significant and worthy of protection under section 6(c) of the RMA.
- 3.60 While I support the proposed amendments recommended by the section 42A report to Policy 7-2 which suggest that minor effects and/or mitigation may be appropriate for activities in rare and threatened habitats, I consider that these amendments do not flow sufficiently through to Rule 12-8. I note in this regard the officer’s statement in the section 42A report that *“when considering non-complying activities the objectives and policies of the plan become very important – being consistent with these objectives and policies is one of the tests to decide if consent should be granted”*.²¹ While this point is highly relevant from the perspective of Horizons decision-makers, in my experience, most landowners would only acknowledge and negatively perceive the non-complying status of the activity, with no reference to any of the policies. Given the One Plan is seeking effective implementation, I would urge the Committee to consider whether the objectives and policies on indigenous biodiversity would be as, if not more, effectively served by a discretionary activity status.
- 3.61 As outlined in the evidence of Mr Park, there is some risk that such a restrictive activity status runs the risk that some of these rare and threatened habitats may be lost by landowners who consider non-complying to mean that such activities will not be granted consent, no matter how ‘minor’. Despite the good intentions of the One

20 Refer for example, submissions 33 1, opposed by X 511 426; 359 100, supported by X 511 421; 363 154, supported by X 511 422; 363 155, supported by X 511 423; and 426 153, supported by X 511 425

21 Refer page 109 of the section 42A report

Plan to address the biodiversity decline that the region is experiencing, I take this opportunity to reiterate the evidence of Mr Park and the statement of Fleur Maseyk regarding the importance of non-regulatory methods for biodiversity protection.

- 3.62 I also reiterate to the Committee an important issue that is often forgotten or simply is not recognised by those preparing such provisions – that the only reason many of these areas of significant indigenous vegetation and significant habitats of indigenous fauna on private land exist are due to landowners wanting to protect them voluntarily and at their own expense. In many situations, private landowners have taken the initiative many years ago to fence and undertake pest management in these areas. It is my opinion that the non-complying status of Rule 12-8 does not recognise these initiatives and runs not only the risk of actually reducing biodiversity across the Region – but the risk of destroying positive relationships between Horizons and landowners.
- 3.63 Accordingly, I would recommend changing the status from non-complying to discretionary, which would still provide for a high level of protection of these rare and threatened habitats as required by section 6(c), while also recognising that biodiversity protection on private land cannot solely be undertaken through a restrictive regulatory approach. On this matter, I would like to reaffirm to the Committee Horizon’s stated principles that the One Plan will both *‘permit day to day resource use activities that have minor adverse effects’* and *‘embrace a more non-regulatory approach’*.²²
- 3.64 As outlined in relation to Recommendation 27, I also question the appropriateness of including reference to “discharge of contaminants into water” and “diversions of water” within Rule 12-8 when other sections of the One Plan deal already deal with aquatic sites of significance and the management of these activities.²³
- 3.65 If the Committee decides to retain the non-complying activity status, I would recommend that the section 104(D) requirements be explicitly noted in either Chapter 7 or 12, preferably in close proximity to Rule 12-8.
- 3.66 In summary, in relation to Rule 12-8, TrustPower seeks:
- (a) **That the classification of Rule 12-8 be amended from non-complying to discretionary activity status;**
 - (b) **Alternatively, if TrustPower’s relief is not accepted, that an exception for infrastructure of regional or national importance be provided in Rule 12-7 that recognises the section 42A report recommendations in regard to the corresponding Policy 7-2; and**
 - (c) **That the references to “discharge of contaminants into water” and “diversions of water” within Rule 12-8 be deleted.**

22 Refer page 14 of Helen Marr’s ‘Planning Evidence and Recommendations Report’ for the Overall Plan, May 2008

23 Refer submission Point 33 (page 20) of TrustPower’s primary submission as this was not matter was not addressed by the section 42A report

Recommendation Bio 30

Glossary - At-Risk Habitat

- 3.67 TrustPower's primary submission sought the deletion of 'At-risk habitat' from the Proposed Plan and any references to this term elsewhere in the document.²⁴ Other submissions seeking similar relief were also supported by TrustPower. Although this relief was rejected by the section 42A report for reasons of clarity and certainty, I note that I am generally supportive of the proposed changes to Schedule E in relation to at-risk habitats and the section 42A recommendations to amend the definition of at-risk habitat to refer directly to Schedule E (rather than in the glossary).
- 3.68 On this matter, for reasons of clarity and interpretation I would recommend that the term 'at-risk habitat types' be referred to consistently, as opposed to solely 'at-risk habitats'.
- 3.69 In summary, in relation to the Glossary Term At-risk Habitat, TrustPower seeks:
- (a) **That the definition of 'At-risk Habitat' refer directly to Schedule E (rather than the glossary) as per the section 42A report recommendations.**

Recommendation Bio 32

Glossary - Rare and threatened habitat

- 3.70 Similar to its submissions on at-risk habitat types, TrustPower's primary submission and further submissions also sought the deletion of the definition of 'Rare and threatened habitat' from the Proposed Plan and any references to this term elsewhere in the document.²⁵ For those reasons outlined in Recommendation Bio 32, I am generally supportive of the proposed changes to Schedule E in relation to rare and threatened habitat types and the section 42A recommendations to amend the definition of rare and threatened habitat types to refer directly to Schedule E (rather than in the glossary).
- 3.71 In summary, in relation to the Glossary Terms Rare and Threatened Habitats, TrustPower seeks:
- (a) **That the definitions of 'Rare and Threatened' Habitat' refer directly to Schedule E (rather than the glossary) as per the section 42A report recommendations.**

Recommendation Bio 34

Schedule E - General

- 3.72 TrustPower's primary submission sought either the deletion of Schedule E from the Proposed Plan or the deletion of the threatened, at-risk and rare categories from Schedule E; or the amendment of Schedule E to be less inclusive or contain appropriate justification for the inclusion of each of these habitats and species, and include individual maps identifying the locations for each of the threatened species identified in Table E.²⁶ Alternately, TrustPower sought the amendment of Schedule E to only make provision for appropriately identified species and habitats of

24 Refer submission 358 135, , supported by X 495 388

25 Refer submissions 358 141, supported by X 511 551; and 363 207, supported by X 511 552

26 Refer submissions 358 168, , supported by X 495 442 and X 522 454

ecological significance.²⁷ TrustPower also supported a number of submissions seeking similar relief in relation to Schedule E.²⁸

3.73 I largely concur with the ecological evidence of Mr Park that the revised Schedule E provides a much more workable framework for the protection of indigenous biodiversity in the Manawatu-Wanganui Region. Mr Park has expanded on the Schedule E approach in some detail and I do not consider it necessary to go into this in any more detail. However, I will note to the Committee that having been involved on many occasions in the development of district plan provisions relating to indigenous biodiversity (and the ongoing litigation associated with the identification and protection of significant natural areas), I am supportive of the approach taken by Horizons to take the lead on this through the approach outlined in Schedule E. As has been outlined by Mr Park, there are a number of benefits of this approach to the traditional approaches of surveying and mapping areas of significant indigenous vegetation and significant habitats of indigenous fauna and the use of general vegetation clearance rules.

3.74 In summary, in relation to Schedule E, TrustPower seeks:

- (a) **The retention of Schedule E as outlined in Appendix 4 of the evidence of Fleur Maseyk, subject to the minor modifications outlined in the evidence of Mr Park**

4 Conclusion

4.1 In conclusion, I support the overall intent and approach of the One Plan to provide a strong framework for promoting the integrated management of the Region's natural and physical resources, focusing on key regional assets and issues. In particular, the recognition of the regional and national importance of infrastructure within the biodiversity provisions of the Plan is supported.

4.2 The focus of TrustPower's submission was on ensuring that the management framework through the use of Schedule E provided sufficient certainty and clarity in the types and levels of protection, and that the plan could be better understood by Plan users and the general public. It also sought a flexible consent regime that provides for some limited change to occur in a manner that would avoid, remedy or mitigate significant effects and promote a net biodiversity gain for the Region, while recognising the national and regional benefits of renewable energy.

4.3 Accordingly, I would recommend that the relief sought by TrustPower be accepted, according to the manner outlined in my evidence.



Robert Schofield
Senior Principal, Boffa Miskell Limited | Environmental Planner
11 July 2008

27 Refer submission 358 52, supported by X 495 436, X 522 452 and X 525 252

28 Refer for example, 359 141, supported by X 511 578 and 363 210, supported by X 511 579; 426 236, supported by X 511 583; and 426 82, supported by X 511 580

APPENDIX 1:
**Summary of primary and further submissions of TrustPower Limited on the
Biodiversity Provisions of the Horizons Proposed One Plan**

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
Recommendation Bio 1 - Biodiversity General			
268 51 Genesis Power Limited (Genesis) X 511 1 (Support)	Amend all references in the proposed plan from "rare and threatened habitats" to "naturally occurring rare and threatened habitats".	268 51 Reject X 511 1 Reject	Support in part
359 73 Mighty River Power (MRP) X 511 311 (Support)	Delete the plan provisions relating to biodiversity and consider a variation to the Plan which bases the identification and management of biodiversity values on an ecological district or LENZ approach; or - Exclude infrastructure and energy activities from this chapter and add a cross reference to Chapter 3 and Policy 3-3 on page 3-4 in particular subject to the Mighty River Power submissions on Chapter 3 being accepted; or - Amend the objectives and policies as detailed below. Refer also to Mighty River Power submission on the relevant rules	359 73 Accept in part X 511 311 Accept in part	Support
363 101 Meridian Energy Limited (MEL) X 511 312 (Support)	Meridian opposes Chapter 7 and requests the following amendments or similar: Adopt Meridian's submission requests with respect to Schedule E and F. Any consequential amendments necessary to give effect to this submission	363 101 Accept in part X 511 312 Accept in part	Support in part, refer to more specific discussions on Schedule E
Recommendation Bio 5 - Chapter 7 Objective 7-1 Indigenous biological diversity			
268 18 Genesis X 511 318 (Support)	Genesis Energy submits that Lakes Otamangakau, Te Whaiu and Moawhango are excluded from Objective 7-1 as they are man-made and are therefore not naturally-occurring habitats.	268 18 Accept X 511 318 Accept	Support
358 51 TrustPower Limited (TPL) X 506 25 Manawatu Branch of the New Zealand Green Party (Oppose)	Delete clauses (a) and (b) of Objective 7-1 from the Proposed Plan. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of Section 7.1.2 and Objective 7.1 as proposed in this submission.	No section 42A relief provided.	Support the more than minor loss of these habitats and reference to the revised Table 7.1
358 53 TPL X 522 209 MEL (Oppose)	Retain Objective 7-1(c) as read. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of Section 7.1.2 and Objective 7.1 as proposed in this submission.	No section 42A relief provided.	Support the proposed amendments and cross-reference to Table 7.1
359 74 MRP	The amendment of Objective 7-1 (a) so that it reads as follows:	No section 42A relief	Support, as above

Horizons Proposed One Plan - Submission by TrustPower Limited
Statement of Evidence by Robert Schofield - Biodiversity Provisions

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
X 511 319 (Support)	Rare and threatened habitats, as defined in Schedule E, are protected from activities that may cause loss or modification to the features that make the habitat significant [as defined using criteria such as representativeness, distinctiveness, and ecological context] to these areas. Where activities identified as essential infrastructure in Chapter 3 are proposed, provision is made for remedying or mitigating adverse effects on the environment including where appropriate the ability to offset any residual adverse effect by way of a financial contribution.	provided.	
363 110 MEL X 511 320 (Support)	Meridian opposes Objective 7-1 and requests the following or similar: (a) Remove reference to Schedule E; Any consequential amendments necessary to give effect to this submission.	No section 42A relief provided.	Support, as above
363 111 MEL X 511 321 (Support)	Meridian opposes Objective 7-1 and requests the following or similar: Amend objective to refer to significant indigenous vegetation or significant habitats of indigenous fauna as opposed to rare and threatened habitats'. Any consequential amendments necessary to give effect to this submission.	No section 42A relief provided.	Support in part
363 112 MEL X 511 322 (Support)	Meridian opposes Objective 7-1 and requests the following or similar: Amend objective to ensure that these values are only protected to the extent appropriate; Any consequential amendments necessary to give effect to this submission.	No section 42A relief provided.	Support in part, subject to the inclusion of the more than minor loss of these habitats and the revised Table 7.1
363 113 MEL X 511 323 (Support)	Meridian opposes Objective 7-1 and requests the following or similar: (a) Adopt Meridian's submission with regard to Schedule E; or (b) Delete Objective 7.1 Any consequential amendments necessary to give effect to this submission	No section 42A relief provided.	Support in part, as above. Refer separate recommendations in relation to Schedule E.
Recommendation Bio 6 - Chapter 7 Policy 7-1 Responsibilities for maintaining indigenous biological diversity			
358 54 TPL	(i) Retain Policy 7-1 as read. (ii) Any similar amendments with like effect. (iii) Any consequential amendments that stem from the amendment of Policy 7-1 as proposed in this submission.	358 54 Accept in part	Support the 42A report recommendations to clarify this policy
Recommendation Bio 7 - Chapter 7 Policy 7-2 Activities in Rare and Threatened Habitats			
272 21 Powerco X 511 328 (Support)	Policies 7-2(d) and 7-3(d) are amended to include an additional circumstance where consents will generally be granted to read: "vegetation clearance and other activities necessary to ensure the	272 21 Accept in part X 511 328 Accept in part	Support the section 42A report recommendations to amend this policy to refer to infrastructure of or regional or national importance,

Horizons Proposed One Plan - Submission by TrustPower Limited
Statement of Evidence by Robert Schofield - Biodiversity Provisions

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
	continued operation of infrastructure". Recognition that there are links to Policies 5-1, 5-2, 5-3, 5-4 and 5-5.		subject to the amendments in relation to the nature of the adverse effects and biodiversity offsets
358 55 TPL X 522 236 MEL (Support in Part) X 525 253 Genesis (Support)	Either delete Policy 7-2 from the Proposed Plan or amend the provisions to only make provision for appropriately identified species and habitats of ecological significance. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of Policies 7-2, 7-3 and Schedule E as proposed in this submission.	358 55 Reject X 522 236 Reject X 525 253 Reject	Support, as above
358 56 TPL X 522 237 MEL (Support in Part)	Delete Policy 7-3 from the Proposed Plan or amend the provisions to only make provision for appropriately identified species and habitats of ecological significance. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of Policies 7-2, 7-3 and Schedule E as proposed in this submission.	358 56 Accept in part X 522 237 No section 42A relief provided.	Support, as above
358 58 TPL X 522 238 MEL (Support in Part) X 525 255 Genesis (Support) X 527 40 Tararua Aokautere Guardians (TAG) (Oppose)	Revise appropriate sections of the Proposed Plan to provide adequate balance for recognising the benefits of infrastructure and energy generation. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of Policies 7-2, 7-3 and Schedule E as proposed in this submission.	358 58 Accept in part X 522 238 Accept in part X 525 255 Accept in part X 527 40 Reject	Support, as above
359 78 MRP X 511 329 (Support)	- Delete the policy; - In the alternative, add the following text to (d) as follows: In considering whether an adverse effect is minor or not the following factors will be taken into account: - The net effect on the biodiversity of the ecological district or LENZ environment taking into account the mitigation measures proposed - The benefits of the activity at a regional and national level - The provisions of Chapter 18 Financial Contributions where relevant	359 78 Accept in part X 511 329 Accept in part	Support, as above
363 116 MEL X 511 330 (Support)	Meridian opposes Policy 7-2 and requests it is amended as follows: Rename Policy 7-2 to: "Activities in significant habitats of indigenous fauna" Delete clause (a); and Amend clause (b) as follows: (b)Significant habitats of indigenous fauna shall be protected from inappropriate subdivision use and development; Delete clause (c); and	363 116 Reject X 511 330 Reject	Support

Horizons Proposed One Plan - Submission by TrustPower Limited
Statement of Evidence by Robert Schofield - Biodiversity Provisions

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
	Amend clause (d) to remove reference to rare and threatened habitat and Schedule E; Or delete Policy 7-2 in its entirety. Any consequential amendments necessary to give effect to this submission		
372 106 Department of Conservation (DOC) X 511 333 (Oppose)	Retain existing wording as written except as suggested elsewhere in this submission.	372 106 Accept in part X 511 333 Reject	Support, as above
372 107 DOC X 511 334 (Oppose)	Add (b) (iii) "surface water takes or groundwater takes that will impact on the surface water levels of any water body identified as a rare or threatened habitat".	372 107 Accept in part X 511 334 Reject	Oppose, seek the deletion of those provisions of clause (b)(ii) relating to discharges of contaminants into water, or drainage or diversion of takes of water, within or near these areas.
417 57 Fish & Game Wgtn X 511 335 (Oppose)	Policy 7-2 is supported and we wish it to be retained.	417 57 Accept X 511 335 Reject	Support, as above
426 101 Federated Farmers of NZ (Fed Farmers) X 511 332 (Support)	Delete Policy 7-2	426 101 Reject X 511 332 Reject	Support, as above
460 66 Forest & Bird X 511 331 (Support)	(a) Would like to see selection criteria provided for Schedule E. This will increase transparency of the identification process and will help landowners understand why a particular habitat is classified as important. (b) Support in part - amend to read - "Rare and threatened habitats shall be protected by generally not allowing" (generally adds nothing to the policy)	460 66 Reject X 511 331 Reject	Support, as above
Recommendation Bio 8 - Chapter 7 Policy 7-3 Activities in At-Risk Habitats			
272 22 PowerCo X 511 336 (Support)	Policies 7-2(d) and 7-3(d) are amended to include an additional circumstance where consents will generally be granted to read: "vegetation clearance and other activities necessary to ensure the continued operation of infrastructure". Recognition that there are links to Policies 5-1, 5-2, 5-3, 5-4 and 5-5.	272 22 Reject X 511 336 Reject	Support in part, subject to the section 42A report recommendations to clarify the definition of vegetation clearance to include reference to maintenance of infrastructure.
357 90 Horticulture NZ X 511 339 (Support)	Decision Sought: Delete Policy 7-3.	357 90 Reject X 511 339 Reject	Oppose, seek similar recognition of infrastructure of regional and national importance
363 117 MEL X 511 337 (Support)	Meridian opposes Policy 7-3 and requests that it is deleted as the issues are adequately addressed under Meridian's submission request to Policy 7-2 [363/116].	363 117 Reject X 511 337 Reject	Oppose, as above

Horizons Proposed One Plan - Submission by TrustPower Limited
Statement of Evidence by Robert Schofield - Biodiversity Provisions

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
	Any consequential amendments necessary to give effect to this Submission		
372 109 DOC X 511 341 (Oppose)	Retain existing wording as written, up to and including sub-paragraph 7-3 (d) (ii)	372 109 Accept in part X 511 341 Reject	Oppose, as above
372 111 DOC X 511 342 (Oppose)	Add the following after 'enhancement': "and are compatible with maintaining or enhancing the values for which the area has been identified"	372 111 Reject X 511 342 Accept	Oppose, as above
417 58 Fish & Game Wgtn X 511 343 (Oppose)	Policy 7-3 is supported and we wish it to be retained.	Accept in part X 511 343 Reject	Oppose, as above
426 102 Fed Farmers X 511 340 (Support)	Delete Policy 7-3	426 102 Reject X 511 340 Reject	Oppose, as above
460 67 Forest & Bird X 511 338 (Support)	Remove - (iii) financial contributions can be used to adequately compensate for or offset significant adverse effects.	460 67 Reject X 511 338 Reject	Support in part, support the use of biodiversity offsets, but seek the deletion of solely financial contributions to mitigate adverse effects
Recommendation Bio 12 - Chapter 7 Consequential Change New Table 7.1			Support, the inclusion of this table and its move from E.4 to Table 7.1.
Recommendation Bio 13 - Chapter 7 Methods General			
358 64 TPL X 492 140 DOC (Oppose) X 519 291 MRP (Support) X 525 256 Genesis (Support) X 527 46 TAG (Oppose)	Amend all the Methods in Section 7.5 to include reference to the potential appropriateness of hydro-electricity generation and energy development interests, including in "Sites of Significance - Aquatic", "Inanga Spawning and Native Fishery Sites - Biodiversity", "Biodiversity (Terrestrial and Aquatic) Research, Monitoring and Reporting", and "District Planning Natural Features, Landscapes and Habitats". Any similar amendments to like effect. Any consequential amendments that stem from the amendment of the Methods in Section 7.5 as proposed in this submission.	358 64 Reject X 492 140 Accept X 519 291 Reject X 525 256 Reject X 527 46 Accept	Support the acknowledgement of TPL interests.
Recommendation Bio 20 - Chapter 7 Anticipated Environmental Results			
363 124 MEL X 511 361 (Support)	Meridian opposes Section 7-6: Anticipated Environmental Results and seeks its deletion. Any consequential amendments necessary to give effect to this submission	363 124 Reject X 511 361 Reject	Support the amendments to amend the anticipated environmental results in relation to change by natural process or change authorised by a resource consent be retained.
358 66 TPL	That Table 7.6 be either deleted from the Proposed Plan or that the	358 66 Accept in part	Support the proposed changes as

Horizons Proposed One Plan - Submission by TrustPower Limited
Statement of Evidence by Robert Schofield - Biodiversity Provisions

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
X 519 293 MRP (Support) X 527 48 TAG (Oppose)	<p>Anticipated Environmental Results in relation to rare, threatened or at-risk habitats, bush remnants and outstanding landscapes and natural features be deleted and replaced with the following text in the first column of Table 7.6:</p> <p>Anticipated Environmental Result</p> <p>"Except for change because of natural processes or infrastructure or energy development in the national interest, at 2017 the area of each habitat type identified as rare, threatened or at-risk is the same as that estimated prior to this Plan becoming operative."</p> <p>Except for change because of natural processes or infrastructure or energy development in the national interest, at 2017 the Region's top 100 wetlands and top 200 bush remnants will be in better condition than that measured prior to this Plan becoming operative."</p> <p>"Except for change because of natural processes or infrastructure or energy development in the national interest, at 2017 the characteristics/values of all outstanding landscapes and natural features identified in the Region (Schedule F) will be in the same state as assessed prior to this Plan becoming operative."</p> <p>Any similar amendments to like effect.</p> <p>Any consequential amendments that stem from the amendment of Section 7.6 and Table 7.6 as proposed in this submission.</p>	X 519 293 Accept in part X 527 48 Reject	outlined in Appendix B of the section 42A report.
Recommendation Bio 21 - Chapter 7 AER Table Row 2			
372 119 DOC X 511 362 (Support)	Include a general statement that where possible habitat condition measures will be compatible with those used by the Department of Conservation	372 119 Accept X 511 362 Accept	Support
Recommendation Bio 23 - Chapter 12 Overall Biodiversity			
363 135 MEL X 492 194 DOC (Oppose) X 501 196 Ernslaw One (Oppose) X 511 382 (Support)	<p>Meridian opposes Chapter 12 and seeks the following or similar:</p> <p>Renewable energy development is provided for in a similar manner to farming and forestry activities, that is, all land disturbance and vegetation removal associated with renewable energy development be provided for as a permitted activity where a renewable energy development plan has been supplied to the Council. The only exception for this should be in those situations where resource consents are required for farming and forestry activities, i.e. land disturbance and vegetation removal involving protected habitats (i.e. Rules 12-7 and 12-8).</p> <p>It is noted however, that Meridian opposes Rule 12-7 and considers Rule 12-8 requires amendment.</p> <p>Any consequential amendments necessary to give effect to this submission</p>	363 135 Accept in part X 492 194 Accept in part X 501 196 Accept in part X 511 382 Accept in part	Support in part, subject to the insertion of a new subclause that recognises the role that environmental management plans or renewable energy development plans play in avoiding, remedying or mitigating adverse effects from vegetation clearance and land disturbance activities
Recommendation Bio 24 - Chapter 12 Policy 12-3 Important and essential activities			

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
359 97 MRP X 511 388 (Support)	Amend the start of the policy so that it reads as follows: The Regional Council will generally allow vegetation clearance* or land disturbance* including within rare and threatened habitats and at-risk habitats...	359 97 Reject X 511 388 Reject	Support
Recommendation Bio 25 - Chapter 12 Policy 12-5 Consent decision-making regarding Rare and Threatened Habitats, and At-Risk Habitats			
363 142 MEL X 511 396 (Support)	Meridian requests that Policy 12-5 is amended as follows, or similar: Amend to refer to significant indigenous vegetation or significant habitats of indigenous fauna; and Expressly exclude renewable energy generation facilities; or Delete Policy 12-5 in its entirety. Any consequential amendments necessary to give effect to this submission.	363 142 Reject X 511 396 Reject	Support in part the section 42 recommendation to refer specifically to the exact policies in Chapter 7, subject to similar reference to the relevant provisions in Chapter 3. Seek that a clear statement be made that rare and at-risk habitat types are considered by Horizons to meet the section 6(c) RMA requirements as areas of significant indigenous vegetation and significant habitats of indigenous fauna.
Recommendation Bio 27 - Chapter 12 Rule 12-7 Activities within At-Risk Habitats			
	Note that TrustPower's original submission in relation to Rules 12-1 to 12-8 was not dealt with by the section 42A report.		Seek recognition of TrustPower's primary submission points.
357 114 Horticulture NZ X 511 418 (Support)	Delete Rule 12-7.	357 114 Reject X 511 418 Reject	Oppose, seek that this rule be amended from discretionary to restricted discretionary activity status and matters of discretion be added as appropriate for managing the potential effects of activities in at-risk habitat types (or other similar relief that recognise the benefits of infrastructure. Seek also that the references to "discharge of contaminants into water" and "diversions of water" be deleted.
363 152 MEL X 511 414 (Support)	Meridian opposes Rule 12-7 and seeks its deletion. Any consequential amendments necessary to give effect to this submission	363 152 Reject X 511 414 Reject	Oppose, as above
363 153 MEL X 511 415 (Support)	Meridian requests that a new permitted rule is included for land disturbance and vegetation clearance associated with renewable energy generation facilities as requested in Meridian's primary submission to Chapter 12.	363 153 Reject X 511 415 Reject	Oppose, as above

Horizons Proposed One Plan - Submission by TrustPower Limited
Statement of Evidence by Robert Schofield - Biodiversity Provisions

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
	Any consequential amendments necessary to give effect to this submission.		
363 156 MEL X 511 416 (Support)	In the event that this submission and Meridian's preference to have a separate permitted activity status for land disturbance and vegetation clearance outside areas of significant habitat value is not accepted, Meridian requests that a controlled activity rule covering all land disturbance and vegetation clearance on highly erodible land and land disturbance and vegetation clearance affecting protected habitat areas associated with renewable energy development is included. A possible controlled activity rule is included in the submission. Any consequential amendments necessary to give effect to this submission.	363 156 Reject X 511 416 Reject	Oppose, as above
372 137 DOC X 511 419 (Oppose)	Retain the rule as written.	372 137 Accept in part X 511 419 Reject	Oppose, as above
426 152 Fed Farmers X 511 420 (Support)	Delete Rule 12-7.	426 152 Reject X 511 420 Accept	Oppose, as above As an aside, we note that TPL's submission should read reject as per the section 42A report.
460 104 Forest & Bird X 511 417 (Oppose)	Submitter strongly supports Rule 12-7: Activities within At-Risk Habitats given the level of loss to At-Risk Habitats in Horizons' region.	460 104 Accept in part X 511 417 Reject	Oppose, as above.
Recommendation Bio 28 - Chapter 12 Rule 12-8 Activities within Rare and Threatened Habitats Including Wetlands			
	Note that TrustPower's original submission in relation to Rules 12-1 to 12-8 was not dealt with by the section 42A report.		Seek recognition of TrustPower's primary submission points.
33 1 Fish & Game X 511 426 (Oppose)	Retention of Rule 12.8	33 1 Accept in part X 511 426 Reject	Oppose, seek that this rule be amended from non-complying to discretionary with better cross-referencing to the corresponding Policy 7-2 and that the references to "discharge of contaminants into water" and "diversions of water" be deleted.
359 100 MRP X 511 421 (Support)	Amend Rule 12-8 so that non-compliance with the rule results in the need for an application for resource consent for a discretionary activity.	359 100 Reject X 511 421 Reject	Oppose, as above
363 154 MEL X 511 422 (Support) Reject	Meridian opposes Rule 12-8 and requests the following amendments or similar:	363 154 Reject X 511 422 Reject	Oppose, as above

Horizons Proposed One Plan - Submission by TrustPower Limited
Statement of Evidence by Robert Schofield - Biodiversity Provisions

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
	Delete Rule 12-8 in its entirety; Any consequential amendments necessary to give effect to this submission		
363 155 MEL X 511 423 (Support)	Meridian opposes Rule 12-8 and requests the following amendments or similar: Amend Rule 12-8 to a discretionary activity status. Any consequential amendments necessary to give effect to this submission	363 155 Reject X 511 423 Reject	Oppose, as above
426 153 Fed Farmers X 511 425 (Support)	Delete Rule 12-7 Amend Rule 12-8 to discretionary classification	426 153 Reject X 511 425 Reject	Oppose, as above
460 105 Forest & Bird X 511 424 (Oppose)	Submitter supports Rule 12-8: Activities within Rare and Threatened Habitats, including wetlands; but advocates "the rule is broadened to encompass protection for the biophysical context in which these habitats occur." Submitter seeks Rule title be amended to read: "Activities within OR ADJACENT TO Rare and Threatened Habitats, including wetlands."	460 105 Accept in part X 511 424 Reject	Oppose, as above
Recommendation Bio 29 - Glossary New terms			
372 211 DOC X 511 536 (Support)	Amend definition of 'rare and threatened habitat' in glossary	372 211 Reject X 511 536 Reject	Support the revised definition in accordance with Schedule E.
426 85 Fed Farmers X 511 534 (Support)	Define "riparian margin" within the Glossary	426 85 Reject X 511 534 Reject	Support,
Recommendation Bio 30 - Glossary At-Risk Habitat			
357 8 Horticulture NZ X 511 540 (Oppose)	Decision Sought: Delete clauses a) and b) from the definition of 'at-risk habitats'. Develop, in consultation with land owners, appropriate measures related to specific species and adverse effects.	357 8 Accept in part X 511 540 Accept	Support the revised definition in accordance with Schedule E.
358 135 TPL X 492 351 DOC (Oppose) X 495 388 Ruapehu District Council (Support)	Delete the definition of 'At-risk habitat' from the Proposed Plan and any references to this term elsewhere in the document. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of this definition as proposed in this submission.	358 135 Reject X 492 351 Accept X 495 388 Reject	Support, as above
363 195 MEL X 511 539 (Support)	Meridian opposes the definition of at-risk habitat and requests its deletion. Any consequential amendments necessary to give effect to this Submission.	363 195 Reject X 511 539 Reject	Support, as above
372 209 DOC X 511 541 (Oppose)	Amend definition of 'at-risk habitat' in glossary as follows: In subparagraph (b) insert ' or physical substrate' after '(whether	372 209 Reject X 511 541 Accept	Support, as above

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
	indigenous or not) In subparagraph (c)) amend latter half (after parentheses) 'or physical substrate that contains or supports, or could be reasonably known to contain or support, threatened plant and/or animal species as identified in Table E3.'		
426 220 Fed Farmers X 511 542 (Support)	Delete clauses a) and b) from the definition of at-risk habitats. Develop, in consultation with land owners, appropriate measures related to specific species and adverse effects.	426 220 Accept in part X 511 542 Accept in part	Support, as above
Recommendation Bio 32 - Glossary Rare and threatened habitat			
358 141 TPL X 492 373 DOC (Oppose)	Delete the definition of 'Rare and threatened habitat' from the Proposed Plan and any references to this term elsewhere in the document. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of this definition as proposed in this submission.	358 141 Reject X 492 373 Accept	Support the revised definition in accordance with Schedule E.
363 202 MEL X 511 551 (Support)	Meridian requests the definition of Rare and threatened habitat is deleted in its entirety. Consequential relief necessary to give effect to this submission	363 202 Reject X 511 551 Reject	Support, as above.
Recommendation Bio 33 - Glossary Threatened Habitat			
363 207 MEL X 511 552 (Support)	Meridian requests the definition of threatened habitat be deleted in its entirety. Any consequential amendments necessary to give effect to this Submission.	363 207 Accept X 511 552 Accept	Support revised definition in accordance with Schedule E.
Recommendation Bio 34 - Schedule E General			
358 168 TPL X 488 27 Fish & Game (TAR) (Oppose) X 491 28 Fish & Game (WGT) (Oppose) X 492 447 DOC (Oppose) X 495 442 Ruapehu District Council (Support) X 522 454 MEL (Support)	Either delete Schedule E from the Proposed Plan or delete the threatened, at-risk and rare categories from Schedule E; Or, amend Schedule E to be less inclusive or contain appropriate justification for the inclusion of each of these habitats and species, and include individual maps identifying the locations for each of the threatened species identified in Table E. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of Schedule E as proposed in this submission.	358 168 Reject X 488 27 Accept X 491 28 Accept X 492 447 Accept X 495 442 Reject X 522 454 Reject	Support in part the retention of Schedule E as outlined in Appendix 4 of the evidence of Fleur Maseyk, subject to minor modifications.
358 52 TPL X 488 25 Fish & Game (TAR)	Either delete Schedule E from the Proposed Plan or amend it to only make provision for appropriately identified species and habitats of ecological	358 52 Accept in part X 488 25 Accept in part	Support in part, as above

Horizons Proposed One Plan - Submission by TrustPower Limited
Statement of Evidence by Robert Schofield - Biodiversity Provisions

Submitter number	Relief Sought	Officer's recommendation	Comments on recommendation
(Oppose) X 491 26 Fish & Game (WGT) (Oppose) X 492 445 DOC (Oppose) X 495 436 Ruapehu DC (Support) X 522 452 MEL (Support) X 525 252 Genesis (Support)	significance. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of Section 7.1.2 and Objective 7.1 as proposed in this submission.	X 491 26 Accept in part X 492 445 Accept in part X 495 436 Accept in part X 522 452 Accept in part X 525 252 Accept in part	
358 57 TPL X 488 26 Fish & Game (TAR) (Oppose) X 491 27 Fish & Game (WGT) (Oppose) X 492 446 DOC (Oppose) X 522 453 MEL (Support) X 525 254 Genesis (Support)	Either delete Schedule E from the Proposed Plan or amend the provisions to only make provision for appropriately identified species and habitats of ecological significance. Any similar amendments to like effect. Any consequential amendments that stem from the amendment of Policies 7-2, 7-3 and Schedule E as proposed in this submission.	358 57 Accept in part X 488 26 Accept in part X 491 27 Accept in part X 492 446 Accept in part X 522 453 Accept in part X 525 254 Accept in part	Support in part, as above
359 141 MRP X 511 578 (Support)	Delete the plan provisions relating to biodiversity and consider a variation to the Plan which focuses on the identification and management of biodiversity values on an ecological district or LENZ approach.	359 141 Accept in part X 511 578 Accept in part	Support
363 210 MEL X 511 579 (Support)	Meridian opposes Schedule E and requests the following or similar: Delete Schedule E; In the alternative, but without prejudice to the relief sought above: Amend Schedule E to be more appropriate to the s6(c) RMA requirements; and Amend Schedule E to be less inclusive and contain improved justification of the inclusion of each of these habitats and species; and Include individual maps identifying the locations for each of the threatened species identified in Table E3. Any consequential amendments necessary to give effect to this submission.	363 210 Accept in part X 511 579 Accept in part	Support in part, as above
372 210 DOC X 511 581 (Oppose)	Amend definition of 'at-risk habitat' in Schedule E as follows: In subparagraph (b) insert ' or physical substrate' after '(whether indigenous or not)' In subparagraph (c)) amend latter half (after parentheses) 'or physical substrate that contains or supports, or could be reasonably known to contain or support, threatened plant and/or animal species as identified in Table E3.'	372 210 Reject X 511 581 Accept	Support in part, areas as above

Horizons Proposed One Plan - Submission by TrustPower Limited
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372 218 DOC X 511 582 (Oppose)	Include descriptions or guidelines for interpretation for the following in the plan: 'rare'; 'no threat category'; 'continuous'; 'discontinuous'; life-supporting habitat'.	372 218 Accept in part X 511 582 Reject	Support
426 236 Fed Farmers X 511 583 (Support)	Delete Schedule E and notify a Variation that identifies specific areas accuracy mapped where threatened species are known to exist and an appropriate management approach in conjunction with affected landowners.	426 236 Reject X 511 583 Reject	Support in part, as above
426 82 Fed Farmers X 511 580 (Support)	Delete Schedule E and all reference to it within the Plan.	426 82 Reject X 511 580 Reject	Support in part, as above