

IN THE MATTER OF the Resource Management
Act 1991

AND

IN THE MATTER OF the Proposed One Plan
notified by the Manawatu-
Wanganui Regional Council,
hearing related to Biodiversity
& Heritage.

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF RICHARD ZANE
PETERSON**

INTRODUCTION

1. My name is Richard Zane Peterson and I am an Associate and the Wellington Planning Manager of Harrison Grierson Consultants Limited.
2. I have a Masters Degree in Regional and Resource Planning (with Distinction), completed in 1997, and have some 12 years planning and resource management experience. I have worked as a planner in both the private and public sector, including work for both territorial authorities and a regional council. During my career I have been involved in a number of resource consent, designation and plan and policy making processes and consequently have been involved in many local authority hearings.
3. In my role as Manager of Harrison Grierson's Wellington Planning team, I oversee a team of four planners (myself included) who work for a wide range of clients including the resource consent and policy arms of local authorities, telecommunication providers, central government ministries and agencies, industry bodies, land developers and other private clients.
4. Amongst others things I assisted the Greater Wellington Regional Council in preparing draft Regional Policy Statement provisions in relation to energy and

regional form. I also worked with the New Zealand Institute of Economic Research to complete the Section 32 evaluation for the proposed National Policy Statement on Electricity Transmission, on behalf of the Ministry for the Environment. I recently assisted the Ministry for the Environment to review the Section 32 guidance material available on the Quality Planning Website.

5. I appear in connection with the submissions and further submissions lodged on the proposed One Plan by Mighty River Power Limited ("Mighty River Power"). I was engaged by Mighty River Power to present evidence in relation to its submissions, but was not involved in the preparation of the submissions.
6. I have read the Environment Court Consolidated Practice Note 2006 and agree to comply with it and to apply it as if it was a duty to the Hearings Panel. I understand that as an expert witness I have an overriding duty to assist the hearing panel impartially on relevant matters within my area of expertise. Except where I state that I am relying upon the specified evidence of another person, my evidence in this statement is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions which I express.

SCOPE AND SUMMARY OF SUPPLEMENTARY EVIDENCE

7. In the preparation of this supplementary evidence I have considered each of the Council Officers' revised recommendations as they relate to Mighty River Power's submissions and my original evidence. My supplementary evidence details my view on those 'revised recommendations' with which I do not agree or believe would be improved by further amendment.
8. For convenience Appendix 1 contains a complete list of the recommendations that I propose through this supplementary evidence. The base documents for the changes are the 5 November Officer track changes versions of the relevant parts of Chapters 7 and 12.
9. In paragraphs 17 to 24 I consider the revised version of Objective 7-1 and in paragraphs 32 to 34 the newly recommended Objective 12-2. I believe that both objectives have similar problems. Namely, as a result of the clauses attached to each objective, they are inappropriately absolute, are not appropriate to the purpose of the Resource Management Act 1991 (RMA), create tensions with the

more flexible direction provided by their related policies, and read more as policies themselves.

10. In relation to Objective 7-1, I remain of the view that clauses (a) to (c) should be deleted. I believe that without these clauses the outcome sought by the objective is clearly stated and provides an appropriate level of flexibility as to how the region's indigenous biological diversity is maintained or enhanced. I also believe that including the word 'net' would clarify the intent to maintain or enhance overall biodiversity.
11. In relation to Objective 12-2 I have recommended the inclusion of a qualifying phrase that would introduce greater flexibility into the objective.
12. In paragraphs 25-29 I consider the newly recommended Policy 7-1A, which would replace Policies 7-2 and 7-3. I generally support the recommendation of the officer in this respect, however I believe that it would be appropriate for Policy 7-1A to provide direction to territorial authorities as well as the regional council to help ensure a regionally consistent approach to the consideration of activities which affect rare, threatened and at-risk habitats. An additional clause should be added to the Policy for this purpose.
13. In paragraphs 35 to 37 I review the newly recommended Policy 12-4. I generally support its introduction into Chapter 12 but recommend some relatively minor changes. The reasons for my recommendations are two-fold: first to ensure that rule 12-7 is referenced within the Policy; and, second to ensure that clause (c), which relates to the assessment of the appropriateness of off-sets, is not more stringent than the corresponding clause in Policy 12-6.
14. In paragraphs 38 to 48 I review the newly recommended Policy 12-6. I again generally support the Policy, however recommend amendments. The key amendment that I recommend is the introduction of a new clause which cross-references to the Objectives and Policies of Chapter 3 of the One Plan. I believe that such a cross-reference, which in the Proposed One Plan as notified was provided by Policy 12-2, is particularly important if activities affecting rare and threatened habitats remain non-complying activities. In this regard the cross-reference will enable an infrastructure proponent to access Chapter 3 for the purposes of the section 104D gateway test. I believe that such access will be

important to enabling appropriate infrastructure projects to pass the gateway test and is appropriate given the proposed objective and policies of Chapter and the purpose and principles of the RMA more generally.

15. I have also recommended several other, more minor amendments in relation to the use of word 'representative', Policy 12-7, Rule 12-7 and Schedule E.
16. Finally for the purposes of this summary I wish to comment on the changes recommended by Mr Shaw in relation to Schedule E. I believe that it is very important that the changes Mr Shaw recommends are made to ensure that as much certainty is incorporated into Schedule E as possible. If significant uncertainty were to remain in the Schedule, this would severely undermine its appropriateness and that of the consent regime related to it.

OBJECTIVE 7-1

17. Ms Marr's supplementary report recommends a revised version of Objective 7-1 as follows:

Indigenous biological diversity is maintained or enhanced by:

(a) Protecting Rare and Threatened Habitats;

(b) Maintaining At- Risk Habitats; and

(c) Enhancing the function of the best representative examples of Rare and Threatened Habitats, and At- Risk Habitats. (Page 7-5, revised chapter 7)

18. I do not support the proposed revision.
19. Revised Objective 7-1 has two parts. The first part seeks to maintain or enhance indigenous biological diversity within the Region. In my view this is a clear and entirely appropriate objective and importantly provides flexibility for circumstances in which a specific habitat may be adversely affected, provided that the region's overall biodiversity is either maintained or enhanced.
20. However, the second part of the revised objective undermines the first part by, in particular clause (a), seeking to protect rare and threatened habitats. In my view this approach is too absolute and does not allow for an overall balanced approach which considers other relevant factors which may justify adverse effects on a rare

or threatened habitat. Importantly, I do not believe that such an absolute approach is appropriate within regard to the purpose and principles of the RMA.

21. I also note, that as was the case with the notified version of this Objective, the direction contained within clauses (a) to (c) differs from that in the corresponding policy and potentially creates tension between these provisions. Finally I note that the clauses read more as policies than they do as objectives. That is, these clauses explain broadly how the outcome sought in relation to biodiversity, as it is expressed in opening portion of the Objective, will be achieved.
22. I therefore reiterate my opinion, as expressed in my original evidence, that clauses (a) to (c), in both their original and modified form, should be deleted from the Objective.
23. Notwithstanding this I believe that there would be value in clarifying that the intent of the objective is maintain or enhance overall biological diversity. This is better achieved by the use of the word 'Net' rather than the words 'the existing level' as I originally proposed. The inclusion of the word "net" also links through to the wording contained in the most recently recommended version of Policies 12-4 and 12-6. I also accept that the inclusion of the words 'or enhanced' is appropriate as an aspiration and also reflects the intent of numerous public and private organisations and individuals to rehabilitate or restore habitat throughout the region.
24. I therefore recommend that Objective 7-1 be worded as follows:

"Net indigenous biological diversity is maintained or enhanced."

POLICY 7-1A – REGULATION OF ACTIVITIES AFFECTING INDIGENOUS BIOLOGICAL DIVERSITY

25. The supplementary officer report has recommended deleting Policies 7-2 and 7-3 but incorporating significant elements from these Policies into a new Policy 7-1A and transferring other elements to Chapter 12.
26. I generally support the supplementary recommendations of the officer as I believe the recommended policy is appropriate in the context of the purpose of the Act and

in relation to Objective 7-1 in the amended form that I recommend. I also accept there is benefit in planning terms of including these Policies in the Regional Plan portion of the One Plan, especially as they relate to activities categorised as non-complying activities.

27. However I do have one concern regarding Policy 7-1A now proposed by the officer. The Policy does not provide any guidance to territorial authorities on how they should address matters of biological diversity when considering resource consent applications or notices of requirement. Instead Policy 7-1A is restricted specifically to the actions of the Regional Council. Previously, Policies 7-2 and 7-3 applied generally to all consent applications or notices of requirement. In other words the direction within Policies 7-2 and 7-3 applied as much to territorial authorities as it did to the regional council. Consequently, one of the benefits of Policies 7-2 and 7-3 was that they encouraged a regionally integrated or consistent approach to the management of the specified habitats.
28. I recognise that the One Plan gives primary responsibility for managing the specified habitats to the Regional Council. However in accordance with Part II and s104 of the RMA, territorial authorities will nevertheless need to address effects on such habitats as part of their consideration of relevant discretionary and non-complying resource consent applications and in relation to notices of requirement.
29. For reasons of regional integration and consistency, I consider that it would be appropriate that the Regional Policy Statement direct territorial authorities to consider that same matters that the Regional Council is required to consider. I therefore recommend the inclusion of an additional clause to Policy 7-1A as follows:

"When considering relevant resource consent applications and notices of requirement, Territorial Authorities shall protect Rare and Threatened Habitats, and maintain At-Risk Habitats* while:*

- (i) Allowing activities undertaken for the purpose of pest control or habitats maintenance or enhancement;*
- (ii) Recognising and providing for the establishment of infrastructure of regional or national importance as identified in Policy 3-1; and*
- (iii) Allowing the maintenance* and upgrade* of existing structures,*

including infrastructure.”*

USE OF THE WORD 'REPRESENTATIVE' IN CHAPTER 7

30. Before I leave Chapter 7 I note, as Mr Shaw has, that in Objective 7-1 (c) and Policy 7-4 (a) the term 'best representative examples' has been used. Mr Shaw suggests that the use of the word 'representative' in these cases is intended to have a different meaning from the use of the term 'representativeness' in Policy 12-7 (and elsewhere in the Plan). Notwithstanding the intent, there is potential for confusion to arise.
31. I concur with Mr Shaw that a simple solution to this potential confusion would be to delete the word representative from the term 'best ~~representative~~ examples'. I do not believe that this change would alter the meaning of the provisions, but that it would help to avoid uncertainty or confusion over the meaning of the word representative in this context.

OBJECTIVE 12-2 - REGULATION OF ACTIVITIES AFFECTING INDIGENOUS BIOLOGICAL DIVERSITY

32. The notified Proposed One Plan did not include objectives in Chapter 12 (the Regional Plan section dealing with land-use activities and land-based biodiversity). I understand that such objectives are now recommended by officers following pre-hearing meetings with representatives of territorial authorities.
33. As an overall comment I recognise that s67 (1) requires regional plans to state the objectives for the region. It therefore would seem relevant to include objectives in Chapter 12. However, I note that I have similar concerns about Objective 12-2 as I do for Objective 7-1. Specifically I believe that clauses (a) and (b) of Objective 12-2:
- are too absolute;
 - do not allow a more balanced approach to the management of these habitats, as is anticipated within the purpose and principles of the RMA; and
 - potentially create tensions with the more balanced approach presented in the policies that are intended to implement the Objective.
34. Therefore I recommend that Objective 12-2 be amended as follows (recommended amendment underlined):
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The regulation of activities for the purpose of:

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

as appropriate to ensure that net indigenous biological diversity is maintained or enhanced.

POLICY 12-4 CONSENT DECISION-MAKING FOR ACTIVITIES IN AT-RISK HABITATS

35. Policy 12-4 would be a new policy within Chapter 12, but incorporates much of the content of proposed Policy 7-3. Provided new Policy 7-1A is adopted in the revised form that I have recommended above, I support the relocation of the policy direction from Policy 7-3 from the Regional Policy Statement into the Regional Plan.
36. Notwithstanding this general support, I note that neither Policy 12-4 nor 12-6 address activities within at-risk, rare and threatened habitats which occur as treeland. This appears to have been an oversight in the supplementary recommendation. I therefore recommend that clause (a) of Policy 12-4 be amended accordingly to resolve this matter. A consequential amendment would also usefully be made to the heading for this Policy to reflect its wider scope.
37. I therefore believe that clause (a) of Policy 12-4 should be reworded as follows:

- "(a) For activities regulated by Rule 12-7 (Activities within Rare and Threatened Habitat* or At-Risk habitat* where they occur as treeland* and Rule 12-8 (Activities within At-Risk Habitats) the Regional Council shall make decisions on consent applications and set consent conditions on a case by case basis, having regard to the site's representativeness, rarity and distinctiveness, and ecological context as assessed in accordance with Policy 12-7.*

POLICY 12-6 CONSENT DECISION-MAKING FOR ACTIVITIES IN RARE AND THREATENED HABITATS

38. Like Policy 12-4, Policy 12-6 would be a new policy within Chapter 12. In this case, Policy 12-6 incorporates much of the content of proposed Policy 7-2. Provided new Policy 7-1A is adopted in the revised form that I have recommended above, I support the introduction of Policy 12-6 into Chapter 12.

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39. Notwithstanding this general support I am of the view that it would be beneficial to amend Policy 12-6 in two ways.
40. The first and key changes that I recommend is the inclusion of a new clause which enables direct access to the Objectives and Policies in Chapter 3 of the One Plan. Such access was provided by the One Plan, as proposed, via the original wording of Policy 12-1 (now 12-2). However, this Policy has subsequently been amended to remove reference to Chapter 3 and to clarify by way of a note that it is not intended to apply to the consideration of biodiversity effects of activities within rare and threatened habitats.
41. Direct reference to Chapter 3 is particularly important in Policy 12-6 if activities within rare and threatened habitats remain a non-complying activity. Under this activity status, in order for activities to be able to be considered under s104 of the RMA they must first pass the 'gateway' test in s104D. Given that significant infrastructure projects may be expected to have adverse effects which are more than minor (i.e. they will not pass clause (a) of the gateway test) then such projects will rely upon being able to show that they are not contrary to objectives and policies in the regional plan (i.e. they will need to pass clause (b) of the gateway test).
42. In this regard, I note that there are no provisions in the regional plan part of the One Plan which directly recognise the benefits of infrastructure provision. The provisions in the regional plan tend to focus on managing the adverse effects of activities. I believe that it is appropriate that proponents of infrastructure proposals are able to access the provisions of Chapter 3 for the purposes of the 104D gateway test and therefore recommend that direct reference to Chapter 3 be included in Policy 12-6.
43. Doing so would give appropriate recognition of s7(j) of the RMA, which requires particular regard to be had to the benefits to be derived from the use and development of renewable energy. I also believe that doing so would more appropriately 'give effect to' the Objectives and Policies of Chapter 3.
44. While I recognise that decisions are yet to be made on the final form of the provisions within Chapter 3, I note that Policy 3-1 (b), as proposed, states that in making decisions about infrastructure within the Region, the benefits derived from it shall
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be taken into account. Further Policy 3-3, again as proposed, recognises that functional constraints associated with infrastructure should be taken into account when determining the acceptability of adverse effects.

45. Finally, I also note that the Officer recommendations on Chapter 3 propose that the scope of Policy 3-4 be increased. In particular revised Policy 3-4 would require all persons exercising functions and powers under the RMA to have particular regard to four factors. Three of these factors provide a balance to the consideration of the potential adverse effects of renewable energy activities.
46. In my view, revised Policy 12-6 does not give effect to the Policies within Chapter 3, as is required under s67(3)(c) of the RMA and should be therefore amended as outlined below.
47. The second amendment is required simply to rectify an incorrect rule reference within the Policy.
48. In relation to the above I recommend that Policy 12-6 be amended as follows:
 - "(a) Rare and threatened habitats* shall be protected by generally not granting consent for any of the activities regulated by Rule 12-89 (Activities within Rare and Threatened Habitats) unless the provisions of subsection (b) or (c) apply.*
 - (b) The activities regulated by Rule 12-89 may be allowed where the activity is for the purpose of providing infrastructure of regional or national importance as identified in Policy 3-1, and*
 - (i) Any more than minor adverse effects as assessed in accordance with Policy 12-7 are avoided as far as practicable, or*
 - (ii) Any more than minor adverse effects as assessed in accordance with Policy 12-7 are remedied or mitigated, as far as practicable, or offset to result in a net biodiversity gain.*
 - (c) When assessing the appropriateness of providing for an offset in accordance with subsection (b)(ii), preference shall be given for an offset which:*
 - (i) Provides for net gain within the same habitat type; or*
 - (ii) Is provided for in the same ecologically relevant locality as the affected habitat,*

- (d) When assessing whether infrastructure of regional or national importance may be allowed under subsection (b), particular regard shall be had, but not limited to Objective 3-1 and 3-X¹, and Policies 3-1 to 3-4
- (e) The activities regulated by Rule 12-89 may be allowed for other purposes where there are no more than minor adverse effects on the representativeness, rarity and distinctiveness or ecological context of the rare and threatened habitat*, as assessed in accordance with Policy 12-7."

POLICY 12-7 CRITERIA FOR ASSESSING ECOLOGICAL SIGNIFICANCE

49. The supplementary officer report recommends the incorporation of a revised version of Table E.4 from the proposed One Plan into a new Policy 12-7. I support this recommendation as it would clarify the purpose of this table. However I have one specific comment in relation to the detail of the table relating to bullet 1 of the 'Rarity and Distinctiveness' criteria.
50. This bullet refers to the current New Zealand Threat Classification System and Lists. I interpret the intent of this bullet as being the incorporation by reference of the threat classification system and lists into the One Plan, in accordance with clause 30 of Part 3 of the First Schedule to the RMA. To do so properly I believe the bullet needs to specifically list the documents which make up the Threat Classification System and Lists. Mr Shaw has identified that four documents make up the current Threat Classification System and Lists. I therefore recommend that a footnote be attached to bullet point one which specifically references these four documents.

RULE 12-7 ACTIVITIES WITHIN RARE AND THREATENED HABITAT OR AT-RISK HABITAT WHERE THEY OCCUR AS TREELAND

51. In relation to this rule I have only one minor comment to make. This is that the matters over which Council's discretion would be restricted to do not extend to the appropriateness of any proposed biodiversity off-set. While I recognise that off-sets may be treated as a benefit, taken into account as part of the overall consideration of the Part II of the RMA, I believe that it would be useful to explicitly state that consideration of the appropriateness of biodiversity off-sets is a matter over which Council has discretion.
52. I therefore recommend the inclusion of the following matter of discretion:

¹ Mighty River Power has sought the inclusion of an additional objective in their submission on Chapter 3.

The appropriateness of any biodiversity off-set.

SCHEDULE E

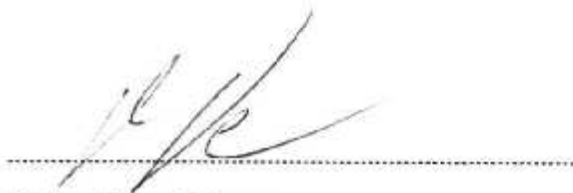
53. I note that Mr Shaw has made detailed comments on Schedule E both within his original and supplementary evidence. I believe these changes are important to ensure that the process for identifying whether habitats fall within the definitions of at-risk, rare or threatened habitats is certain and robust. Should the changes not be made and consequently should significant uncertainty remain in relation to whether a habitat falls within the rare, threatened or at-risk categories, I believe that the appropriateness of the resource consent regime which is attached to Schedule E would then be questionable. I therefore support the changes sought by Mr Shaw to Schedule E.
54. In addition to Mr Shaw's comments, I have three minor matters to raise in relation to the details contained in Schedule E.
55. First, if Rule 12-7 relating habitats that occur as treeland is adopted then the section of the schedule entitled 'Interpreting Schedule E', including the flow chart, would need to be amended to reflect this.
56. Second, the introductory sentence to Table E.2 (b) would read more easily if amended as follows:

*"(b) ~~If~~ ~~Aan~~ area of any habitat type described in table E.1, ~~is also required to~~ meets **any** of the following criteria it is ~~to~~ not ~~be considered to be~~ habitat for the purposes of this plan:"*

57. Third, I note that Ms Maseyk recommends the inclusion of a specific Schedule E glossary. Given that these definitions are specific to terms used in Schedule E I believe it is appropriate to include the definitions within Schedule E and not to incorporate them in the Plan-wide glossary. However I believe that it would be useful to include an advice note in both the Plan-wide glossary and the Schedule E Glossary so that they cross-reference each other and their respective purposes are made clear.

CONCLUSION

58. My supplementary evidence addresses the revised Officer recommendations as they relate to Mighty River Power's submissions and my original evidence. I broadly support the amendments now proposed by the Officers, however I recommend that should the Hearing Panel choose to adopt them, then various further amendments would be appropriate as outline in Appendix 1.



Richard Zane Peterson
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Harrison Grierson Consultants Limited

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Appendix 1 – Recommended Amendments to Chapters 7 & 12

Note: The base document for these recommendations are the Supplementary Recommendations of Helen Marr. I propose that the underlined text be added to Ms Marr's recommendations and the ~~struckthrough~~ text be deleted.

Objective 7-1 Indigenous Biodiversity

Net indigenous biological diversity is maintained or enhanced. ~~by:~~

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

This Objective relates to Issue 7-1.

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

- (a) The Regional Council shall protect Rare and Threatened Habitats*, and maintain At-Risk Habitats* by regulating the following activities through its regional plan and decisions on resource consents:
 - (i) Vegetation clearance* and land disturbance* within these habitats; and
 - (ii) Discharges of contaminants to land or water, diversions of water including for the purpose of drainage, and takes of water with potential adverse effects on these habitats.
- (b) When regulating the activities described in subsection (a) the Regional Council shall:
 - (i) Allow activities undertaken for the purpose of pest control or habitats maintenance or enhancement;
 - (ii) Recognise and provide for the establishment of infrastructure of regional or national importance as identified in Policy 3-1; and
 - (iii) Allow the maintenance* and upgrade* of existing structures, including infrastructure*.

(c) When considering relevant resource consent applications and notices of requirement, Territorial Authorities shall protect Rare and Threatened Habitats*, and maintain At-Risk Habitats while;

- (i) Allowing activities undertaken for the purpose of pest control or habitats maintenance or enhancement;
- (ii) Recognising and providing for the establishment of infrastructure of regional or national importance as identified in Policy 3-1; and
- (iii) Allowing the maintenance* and upgrade* of existing structures, including infrastructure*.

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

Policy 7-4: Proactive management of representative habitats

- (a) The Regional Council shall aim to improve the health and function of the best representative examples of ...

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

The regulation of activities for the purpose of:

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

as appropriate to ensure that net indigenous biological diversity is maintained or enhanced.

Policy 12-4: Consent decision-making for activities in At-Risk Habitats and activities in At-Risk, Rare and Threatened Habitats where they occur as treeland

- (a) For activities regulated by Rule 12-7 (Activities within Rare and Threatened Habitats* or At-Risk Habitats* where they occur as treeland* and Rule 12-8 (Activities within At-Risk Habitats*) the Regional Council shall make decisions on consent

applications and set consent conditions on a case by case basis, having regard to the site's representativeness, rarity and distinctiveness, and ecological context as assessed in accordance with Policy 12-7.

(b) Consents shall generally be granted in circumstances where:

- (i) There will be no significant adverse effects on the site's representativeness, rarity and distinctiveness, and ecological context as assessed in accordance with Policy 12-7, or
 - (ii) Any significant adverse effects can be avoided, remedied or mitigated, as far as practicable, or offset to result in a net biodiversity gain.
- (c) When assessing the appropriateness of providing for an offset in accordance with subsection (b)(ii), the following factors shall be taken into account:
- (i) Providing for the net gain within the same habitat type; and
 - (ii) Providing for the net gain in the same ecologically relevant locality as the affected habitat.

This Policy implements Objective 12-2.

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

- (a) Rare and threatened habitats* shall be protected by generally not granting consent for any of the activities regulated by Rule 12-89 (Activities within Rare and Threatened Habitats) unless the provisions of subsection (b) or (c) apply.
- (b) The activities regulated by Rule 12-89 may be allowed where the activity is for the purpose of providing infrastructure of regional or national importance as identified in Policy 3-1, and
 - (i) Any more than minor adverse effects as assessed in accordance with Policy 12-7 are avoided as far as practicable, or
 - (ii) Any more than minor adverse effects as assessed in accordance with Policy 12-7 are remedied or mitigated, as far as practicable, or offset to result in a net biodiversity gain.
- (c) When assessing the appropriateness of providing for an offset in accordance with subsection (b)(ii), preference shall be given for an offset which:

- (i) Provides for net gain within the same habitat type; or
- (ii) Is provided for in the same ecologically relevant locality as the affected habitat,
- (d) When assessing whether infrastructure of regional or national importance may be allowed under subsection (b), particular regard shall be had, but not limited to Objectives 3-1 and 3-X, and Policies 3-1 to 3-4.
- (e) The activities regulated by Rule 12-89 may be allowed for other purposes where there are no more than minor adverse effects on the representativeness, rarity and distinctiveness or ecological context of the rare and threatened habitat*, as assessed in accordance with Policy 12-7.

This Policy implements Objective 12-2.

Rule 12-7: Activities within rare and threatened habitat* or at-risk habitat* where they occur as treeland*

Discretion is restricted to over:

(ea) the appropriateness of any proposed biodiversity off-set