

**ENVIRONMENT COURT OF NEW ZEALAND  
WELLINGTON REGISTRY**

**I MUA I TE KOOTI TAIAO O AOTEAROA  
TE WHANGANUI-A-TARA**

**ENV-2023-WLG-000005**

**Under** the Resource Management Act 1991

**In the matter of** the direct referral of applications for resource consent and notices of requirement under sections 87G and 198E of the Act for the Ōtaki to North of Levin Project

**By** Waka Kotahi NZ Transport Agency

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**STATEMENT OF EVIDENCE OF GRANT ECCLES  
ON BEHALF OF WAKA KOTAHI NZ TRANSPORT AGENCY**

**PLANNING: STATUTORY ASSESSMENT**

Dated: 4 July 2023

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## INTRODUCTION

1. My full name is Grant Robert Eccles.
2. I am a Technical Director - Planning for Tonkin and Taylor Limited, based in Hamilton.
3. I contributed to the preparation of the Assessment of Environmental Effects (**AEE**) (Volume II) for the Ōtaki to north of Levin highway Project (**Ō2NL Project** or **Project**). In particular, I prepared Statutory Context and Approvals Required section of the AEE (Part D), the statutory assessment section (Part I), and I reviewed the Assessment of Alternatives section (Section E). The AEE accompanied the application for resource consents and notices of requirement for designations (**NoRs**) lodged with Manawatū-Whanganui Regional Council (**Horizons**), Greater Wellington Regional Council (**GWRC**), Horowhenua District Council (**HDC**) and Kāpiti Coast District Council (**KCDC**) (together, the **Councils**) on 11 November 2022 in respect of the Ō2NL Project.

### Qualifications and experience

4. I have the following qualifications and experience relevant to the evidence I shall give:
  - (a) I hold the qualification of a Bachelor of Resource and Environmental Planning from Massey University. I have 28 years' professional planning experience and have been a planning consultant based in Hamilton for the last 26 years. I was admitted as a Member of the New Zealand Planning Institute in 2001.
  - (b) I have given expert planning evidence at local authority hearings, Environment Court, District Court, and Board of Inquiry hearings. I have provided planning assistance to the Boards of Inquiry established to hear the applications for the Te Mihi and Tauhara II Geothermal developments near Taupo, and the King Salmon Plan Change and Consent applications in the Marlborough Sounds.
  - (c) I have significant relevant experience in lead planning roles for infrastructure consenting and designation projects under the RMA for Waka Kotahi and a number of other Requiring Authorities. Relevant projects include (but are not limited to):

- (i) Hamilton Southern Links 2010-2016 (Waka Kotahi and Hamilton City Council) – designation(s) and key resource consents for 32km of new transport network in and to the south of Hamilton;
- (ii) Additional Waitemata Harbour Crossing 2015/16 (Waka Kotahi) – planning lead responsible for coordination of consideration of alternatives and AEE/NOR preparation;
- (iii) Waikato Expressway 2022/23 (Cambridge to Piarere section) – consideration of alternatives witness;
- (iv) Auckland Light Rail project 2023– planning and alternatives review; and
- (v) Powerco 2010-2017– new overhead transmission lines and zone substations throughout the Bay of Plenty and Coromandel.

### **Code of conduct**

5. I confirm that I have read the Code of Conduct for expert witnesses contained in section 9 of the Environment Court Practice Note 2023. This evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

### **Background and role**

6. I have been engaged by Waka Kotahi to provide expert planning advice in respect of the Project and have been involved in matters related to the Project since January 2022. In this capacity I have:
- (a) Authored Part D (Statutory Context and Approvals Required) and Part I (Statutory Assessment) of the AEE for the Project, and co-authored Part E (Consideration of Alternatives);
  - (b) Participated in effects assessment and management workshops with technical specialists;
  - (c) Contributed to stakeholder engagement; and
  - (d) Undertaken liaison with the relevant local authorities.
7. Since the consent applications and NoRs were lodged I have assisted with the response to the section 92 further information requests from the Councils, reviewed all the submissions received to the Project, assisted with providing

responses to the submissions, and participated in discussions and expert conferencing with relevant reporting officers.

### **Purpose and scope of the evidence**

8. The purpose of my evidence is to provide a planning assessment of the Project and associated resource consent applications against the RMA provisions most relevant to the Court's decision on the NoRs and resource consent applications. Those provisions include:
  - (a) sections 104 and 104D (in respect of the applications for resource consents);
  - (b) sections 105 and 107 (in respect of the applications for discharge consents); and
  - (c) section 171 (in respect of the NoRs).
9. I also specifically address the provisions of Part 2 of the RMA.
10. In order to carry out that assessment, I have considered the existing environment and the actual and potential positive and adverse effects of the Project on the environment. To that end, I have reviewed and am familiar with:
  - (a) the AEE and all other relevant parts of the application documentation, including all technical reports;
  - (b) advanced draft versions of the evidence of all Waka Kotahi witnesses.
11. My evidence therefore addresses the following matters:
  - (a) a brief introduction to the NoRs and resource consent applications for the Project, including:
    - (i) a description of the NoRs lodged and resource consents being applied for;
    - (ii) the bundling together of the resource consent applications as a non-complying activity; and
    - (iii) the lapse period and consent duration sought;
  - (b) the effects on the environment of confirming / granting the NoRs and resource consents, including the measures proposed to mitigate, offset, or compensate for adverse effects (the evidence of **Ainsley McLeod** addresses conditions);

- (c) matters relevant to discharge permits (sections 105 and 107) including the nature of the discharges; the sensitivity of the receiving environment; the reasons for the discharges; any possible alternative methods; and the likely effects of the discharges;
  - (d) consideration of the Project against RMA policy statements, plans, national environmental standards and other regulations;
  - (e) consideration of "any other matters" relevant to the Project, which includes the fit of this Project with other statutory plans, including under the Land Transport Management Act 2003;
  - (f) the "gateway test" for non-complying activities under section 104D;
  - (g) submissions;
  - (h) the section 87F and 198D reports prepared by Horizons, GWRC, HDC and KCDC (**council reports**); and
  - (i) Part 2 RMA matters.
12. My evidence should be read together with that of **Ainsley McLeod**, which relates to the proposed conditions of consent.

#### **EXECUTIVE SUMMARY**

13. Waka Kotahi has issued Notices of Requirement for the Ō2NL Project under s168 of the RMA, and has applied for resource consents for the works pursuant to sections 12, 13, 14, 15, 16 and 17 of the RMA, as well under the National Environmental Standard for Freshwater Management.
14. Because the Project is located in both the Horowhenua and Kapiti Coast Districts, a separate Notice of Requirement has been issued in each District. The Project also spans the boundary of the Horizons and Greater Wellington regions, meaning that separate suites of consents applications have been sought under each Regional Plan.
15. A 10 year lapse is sought for the designations. A 10 year duration is sought for the resource consents to authorise construction related activities, while a 35 year duration is sought for the resource consents to authorise ongoing operational discharges and other aspects. Neither the lapse sought for the designations nor the durations sought for the resource consents are in contention.
16. The consent status of the resource consents across both regions, once bundled, is non-complying. Because some of the potential adverse effects of

the Project, principally related to ecology, are of sufficient magnitude to require offsetting, the s104D(1)(a) gateway test cannot be met.

17. My assessment of the proposal against the objectives and policies of the relevant plans finds the proposal to be consistent with the vast majority of the relevant objectives and policies in all of the plans assessed. As a result, the Project passes s104D(1)(a) “objectives and policy” gateway test.
18. The Project is consistent with all the higher order planning documents applicable to it, including the relevant National Policy Statements and the respective Regional Policy Statements. In that regard, both the Horizons RPS and the Greater Wellington RPS provisions that relate to infrastructure strongly support the establishment and operation of regionally and nationally important infrastructure (including the road network as identified in the Horizons RLTP).
19. The respective RPS provisions weigh strongly in favour of granting the RMA authorisations for the Project - the significant benefits of the Project must be taken into account, and the adverse effects of establishing the Project are to be managed specifically in accordance with the effects framework set out in each respective RPS.
20. There is no contention that the Project will generate significant positive effects in terms of road safety, resilience, connectivity (including travel time), active transport mode (walking and cycling) provision. Other positive effects of a lesser magnitude will also be generated by the Project including (but not limited to) reduction in traffic noise for receivers along the existing state highways and in the Levin Town Centre, improvements in air quality, and improvements in surface water quality and groundwater recharge.
21. Beginning with the route selection process, the Project has been shaped and developed in a way that has avoided adverse effects where practicable. However, given the scale of the Project, total avoidance of adverse effects has not been possible and measures to remedy, mitigate, offset or compensate for adverse effects have been proposed. With the implementation of these measures, overall the positive effects of the Project will be significant, while the adverse effects will be minimised and acceptable.
22. For the majority of the potential adverse effects addressed by the Project, there is general agreement between the Waka Kotahi technical specialists and their counterparts on behalf of the local authorities as to the scale of the effects, the management methods and actions proposed by Waka Kotahi,

and what conditions are required to be applied to the NoRs and resource consents.

23. The significant exception is with regards to the potential flooding effects of the Project, where the technical reviewers for the local authorities contend that at this point there has been insufficient evidence provided by Waka Kotahi to demonstrate that a flood event of the magnitude required by the One Plan and its associated effects have been considered.
24. In my view, having considered all the relevant technical reports and the evidence of Mr McConchie for Waka Kotahi, the Project has modelled a flood event that achieves the policy intent of the One Plan and the results show that any flooding effects arising from the assessment of the concept design are transitory and extremely minor. As a result, the Project remains consistent with the relevant natural hazard related objectives and policies of the respective RPS's, Regional Plans, and District Plans.
25. There is also disagreement between Waka Kotahi and local authority reviewers as to the extent to which the Project adequately addresses the future urban environment in the Tara-Ika growth area to the east of Levin, principally driven by concerns from Horowhenua District Council about the cost of providing strategic infrastructure to serve the area in the future as a result of the construction of the Project. In my view, there is no requirement for the Project to consider the future environment in Tara-Ika given that the future environment is unconsented. The Project has rightly addressed the environment as it exists at present, and has taken into account any approved but unimplemented resource consents. The matter of cost of strategic infrastructure provision, to the extent it is relevant, can be remedied by Horowhenua District Council accepting the current offer before them from Waka Kotahi to fund the grade separated elements of the strategic infrastructure provision.
26. There is no contention that the Project has been developed in a way that is consistent with the relevant tests specific to NoRs in s171 of the RMA. Specifically, the work and designation are reasonably necessary to achieve Waka Kotahi's objectives as the Requiring Authority, and the alternatives consideration process achieves the statutory requirements of evaluation of alternatives, as set out in sections 171(1)(c) and 168A(3)(b) of the RMA.
27. The Project is consistent with Part 2 of the RMA and confirming the NORs and granting the resource consents subject to the proffered conditions (and as they may be further developed through the evidence exchange and

hearing process) would give effect to the sustainable management purpose of the RMA.

## **THE RMA AUTHORISATIONS**

28. Waka Kotahi has issued NoRs for the Project under s168 of the RMA, and has applied for resource consents for the works pursuant to sections 12, 13, 14, 15, 16 and 17 of the RMA.

### **Notices of Requirement**

29. The majority of the Project (approximately 20.9km) is located within the Horowhenua District, with the remaining approximately 3.8 km located within the Kāpiti Coast District. Accordingly, two NoRs have been issued by Waka Kotahi for the Project – one for the land required for the Project in Horowhenua District and one for the land required for the Project in the Kāpiti Coast District.
30. The NoRs while by necessity separate, share a common purpose (“*to construct, operate, maintain, and improve a state highway, shared use path and associated infrastructure*”) and common project objectives (discussed below).
31. Each of the NoRs seeks a 10 year lapse for the designation. This will mean that Waka Kotahi will have a period of 10 years from the date of inclusion of the designations in the respective District Plans to have either (i) given effect to the designation(s) by beginning construction of the Project; or (ii) be able to demonstrate that substantial progress or effort has and continues to be made toward giving effect to the designation.
32. In my view the 10 year lapse sought is appropriate to allow the designation to endure unencumbered by a shorter lapse period through any unexpected/unforeseen events that might delay the current construction programme for the Project such as changes to central government funding priorities, natural hazard events, or significant disruptions to supply chains.
33. I note that the 10 year lapse period for the designations has not been challenged by submitters, nor the District Councils.
34. It is also relevant to note that the Natural and Built Environment Bill currently before Parliament includes a mandatory lapse period for designations of 10 years.

## Resource consents

35. Necessary resource consents for the construction and operation of the Project are sought under the relevant regional plans in the Manawatū-Whanganui Region (the **One Plan**) and the Wellington Region (**Proposed Regional Natural Resources Plan / PNRP**), and under the National Environment Standards for Freshwater Management (**NES-F**). The exception being any consents that may be required under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health, as discussed further below.
36. The completion of the detailed design phase of the Project may however give rise to the need for further or different consents and those will be sought at the time. For example, I specifically note that one or more concrete batching plants and/or bitumen production plants may be required to be established and operated for the duration of the construction activities. Any resource consents necessary to authorise air discharges from those activities will be sought later when plant locations can be defined and additional air discharge modelling undertaken.
37. Appendix One to the AEE that accompanied the applications contains a detailed assessment of all the regional rules (including permitted activity rules) that are applicable to the Project.
38. Section 19 of the AEE (page 84) and Tables 1 and 2 in the Regional Council section 87F report (page 11) set out the resource consents sought for the construction and operational phases of the Project.
39. Under section 123(c) of the RMA the maximum period for any land use consent granted pursuant to section 13 of the RMA is 35 years and, under section 123(d), a maximum duration of 35 years also applies to resource consents granted pursuant to section 14 and 15 of the RMA. No maximum duration applies to resource consents granted under section 9(2) of the RMA.
40. The resource consents for on-going operational activities such as structures in water bodies, stream diversions, and certain discharges, will need to remain in place to authorise such activities on an enduring basis. For this reason, the maximum duration of 35 years is sought for these resource consents. A duration of ten years is sought for the construction phase resource consents to provide a conservative timeframe for the completion of construction activities.

41. Under section 125 of the RMA, a resource consent lapses on the date specified in the consent, or (for discharge permits, water permits and land use consents) five years after the consent commences if no date is specified. In this instance, Waka Kotahi seeks a specified date, being ten years from resource consents being granted. This timeframe aligns with the lapse period sought for the proposed designations.
42. The durations and lapse period proposed for the resource consents have not been challenged by any submitters, and are supported in the Regional Council s87F report<sup>1</sup>.

### **Bundling of consents**

43. Given the extent to which the activities for which resource consents are required in each region are interrelated and overlapping, they cannot realistically be considered separately. Therefore, it is appropriate for the resource consent applications to be 'bundled' together and considered jointly. As the most restrictive status for consents sought in both the Manawatū - Whanganui region and the Wellington region is non-complying, the overall 'bundled' activity status for the resource consent application suite in each region is non-complying.

### **Works outside the Designation**

44. In some discrete locations the Shared Use Path (**SUP**) is located outside of the area subject to the proposed designation. Additionally, the works to relocate and improve the existing Tararua Road/SH1 intersection are located outside of the proposed designation and partially within the existing SH1 designation in the Horowhenua District Plan (**HDP**) (Designation D2, '*State Highway 1 - To undertake maintenance, operation and use of, and improvement of a State Highway*'), partially within the existing NIMT designation in the HDP (Designation D1, '*Railway Purposes*'), and partly within the HDC local road reserve. Where the SUP is not within the existing or proposed designations, the rules in the HDP apply. Where the intersection works are within the North Island Main Trunk line (**NIMT**) designation held by KiwiRail, permission for the work will be sought by Waka Kotahi pursuant to s176 and 177 of the RMA.
45. The SUP where outside of the designation is located in the Rural Zone in the HDP. The construction and operation of the proposed SUP (where outside of Waka Kotahi designations) can be undertaken in a manner that achieves

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<sup>1</sup> see paras 342-348

compliance with all relevant permitted activity standards and, on this basis, no resource consent is required for the “out of designation” works.

### **Other statutory authorisations**

46. The Project will require other statutory authorisations<sup>2</sup> in addition to the designations and resource consents sought. Outline Plan(s) under s176A of the RMA will be provided to the District Councils for the main construction works. As set out in the AEE (Section 18.2, page 82) an Outline Plan waiver is sought under s176A(2)(c) for establishment works (ie those works that are necessary to enable construction to commence).
47. The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (**NES-CS**) is relevant to the Project as set out in the evidence of **Ms Halder**.
48. Because the Project will disturb the soil in, and change the land use of, HAIL sites identified within the land required for the Project the NES-CS applies to the Ō2NL Project.
49. Waka Kotahi will undertake detailed site investigations including soil testing of sites traversed by the Ō2NL Project in subsequent design phases and once land access becomes available. Informed by these detailed site investigation results, if necessary Waka Kotahi will then apply for any resource consents required by the NES-CS regulations and/or the relevant Regional Plans.
50. An ancillary part of the Project is the necessity to upgrade existing state highway and local road crossings of the NIMT. The NIMT line corridor is designated in both the relevant District Plan's in favour of KiwiRail. Accordingly, the Project will require permission from KiwiRail under s176 and s177 of the RMA before undertaking the upgrade works within the NIMT designation<sup>3</sup>.
51. Other subsequent approvals may also be required. Here I note the likely need for Archaeological Authority (or authorities) under the Heritage New Zealand Pouhere Taonga Act (as raised in the NZHPT submission), authorisations (likely under s71) of the Wildlife Act 1956 and permits under s97 of the Fisheries Act 1996.

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<sup>2</sup> see AEE Section 4.5, page 22

<sup>3</sup> see AEE section 3.3.1, page 17

52. In my experience, it is common practice on major infrastructure projects for the above types of authorisations and approvals to be applied for subsequent to confirming designations and receiving resource consents. This is because the subsequent approvals usually require a level of detail to be included in those applications that is not available until more detailed design stages of the Project have been completed, which usually do not occur until after designation and resource consents have been secured.

## **ENVIRONMENT FOR ASSESSMENT**

53. A comprehensive description of the existing natural and physical environment in the Project area is provided in Part B of the AEE (in Volume II), the technical assessments provided in Volume IV, and the Cultural Impact Assessments provided in Volume V.

### **The Environment as it applies to Tara-Ika**

54. A specific aspect of the environment that warrants more specific attention is the existing environment as it applies to the Tara-Ika Growth Area to the east of Levin, which the NOR for the Project in the Horowhenua District traverses. Specific consideration of this aspect/area is necessary in part due to submissions<sup>4</sup> received, and the Horowhenua District Council s189G report, that seek that the Project includes measures to address effects on the urban environment in the Tara-Ika Growth Area as it may exist in the future once Plan Change 4 (see below) is made operative.
55. In the Operative Horowhenua District Plan, the land in the Tara-Ika Growth Area that the Project traverses is zoned 'Greenbelt Residential'. The Operative Horowhenua District Plan also includes Structure Plan 13 "Gladstone Greenbelt Levin - Queen Street / Tararua Road", being an area of land extending east from Arapaepae Road/SH57 and bounded by Queen Street East to the north and Tararua Road to the south. Structure Plan 13 includes a notation for 'Transport Corridor (Future upgrades)' which runs adjacent and parallel to the east of SH57 between Tararua Road and Queen Street East.
56. The Tara-Ika Growth Area covers the same area as the Greenbelt Residential Deferred / Structure Plan 13 and is subject to Proposed Plan Change 4 (PC4) to the Horowhenua District Plan. PC4 seeks to amend Planning Map 30 to apply various zonings (including a 'Residential Zone') by way of a "Tara-Ika Precinct" over the Tara-Ika Growth Area and replaces

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<sup>4</sup> Kevin Daly (48), James McDonnell Ltd (JML) (72),

Structure Plan 13 with a new Structure Plan that includes the 'Ō2NL Corridor' (which generally follows the proposed Ō2NL Project designation).

57. PC4 was publicly notified in November 2020 and following a hearing process a decision was made and adopted by HDC on 4 July 2022. PC4 had three Environment Court appeals but I understand that two are now resolved (subject to consent orders). Waka Kotahi's appeal remains live, with mediation scheduled for July. That appeal seeks to insert reverse sensitivity provisions into the Tara-Ika provisions so that future development is required to be constructed and undertaken in a manner that addresses the existence and effects of the Project.
58. With regards to an assessment of the effects of the NoR for the Project in the Horowhenua District (which concerns land use matters under s9 of the RMA), the environment for effects assessment purposes has been defined through established case law<sup>5</sup> as the current / existing environment as it may be modified by (i) permitted activities; and (ii) the implementation of resource consents which have been granted and which are likely to be implemented.
59. Based on the above I am of the view that any urban development that might be generated cannot inform the analysis of the environment for the purposes of this evidence. Nevertheless, for completeness, I set out below the PC4 provisions from the Decisions Version of the plan change as they relate to the Project as if they were operative.
60. The underlying zoning of the land traversed by and immediately adjoining the Project in the PC4 area is Residential. The land between Arapaepae Road (SH57) and the western boundary of the land required for the Project is subject to the Arapaepae Road Special Treatment Overlay.
61. Any subdivision or development (ie landuse) of land in the Arapaepae Road Special Treatment Overlay is a Restricted Discretionary Activity (PC4 Rule 15A.3.2). Rule 15A.2.1 of PC4 provides for activities listed as a controlled activity in Chapter 15 of the Horowhenua District Plan as controlled activities in the Residential Zone of the Tara-Ika Precinct. The subdivision of land is a Controlled Activity pursuant to Rule 15.2(e) of the Operative Horowhenua District Plan provided that the standards in Rule 15.7.5 are met<sup>6</sup>, one of which is the accordance of the subdivision with any applicable Structure Plan in Appendix 8 of the District Plan.

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<sup>5</sup> *Queenstown Lakes DC v Hawthorn Estate Limited (No 2)* 12 ELRNZ 321 (CA) at [84].

<sup>6</sup> The minimum lot size in the Residential Zone is 330m<sup>2</sup> provided that any subdivision that creates two or more new allotments has an average net site area of 600m<sup>2</sup>

62. The subdivision of land in all zones of the Tara-Ika Precinct is a Restricted Discretionary Activity pursuant to Rule 15A.3.1 if the subdivision provides Primary Structure Plan Features shown on the Tara-Ika Structure Plan 013. Subdivision or landuse activities that do not provide Primary Structure Plan Features are a Discretionary Activity pursuant to Rule 15A.4.1.
63. The Primary Features on the Tara-Ika Structure Plan are Arterial and Collector Road connections, and Strategic Cycleways. The notations for the Arterial Road connection and both of the Strategic Cycleways cross the land required for the Project, which itself is shown on the Structure Plan as “Otaki to North Levin Corridor”.
64. From the above it can be seen that subdivision of land in the Residential Zone at Tara-Ika to urban density adjoining the Project designation under the PC4 decisions version provisions would require resource consent applications to be made and those consents to be granted. This means that the development that would arise in the future from such a consent being granted cannot form part of the environment by virtue of it not being permitted by the District Plan nor the subject of a granted but unimplemented consent. There are some unimplemented resource consents for subdivision granted in the Tara-Ika Plan Change area, however the parent sites are not directly affected by, or in close proximity to, the Project such that they are relevant to the assessment of the environment.
65. Landuse activity in the Residential Zone of the Tara-Ika Plan Changa Area is governed by the rules and associated conditions contained in Chapter 15 of the Operative Horowhenua District Plan. Residential Activity (ie allowing for the construction of a dwelling) is a Permitted Activity, as is Visitor Accommodation for up to 4 persons within any residential dwelling unit. A range of other less sensitive landuses are also allowed for as a permitted activity.
66. The existing dwellings on properties with the PC4 area have been identified and the potential effects on those dwellings assessed in the various technical assessments that support the NOR. There are some properties in the PC4 area where entitlement to construct a dwelling as a permitted activity exists and has not been given effect. The assessment of various effects on the existing dwellings and the mitigation measures that arise from those assessments, given the proximity of the existing dwellings to the Project, will by default also appropriately address effects on any houses that are yet to be constructed as a permitted activity.

67. Thus, all relevant components of the environment have been taken into account by the Project and effects either avoided or mitigated accordingly. I am therefore unable to agree with submitters that seek that the Project includes measures to address effects on the future environment.
68. Requiring the Project to address effects on the future environment would in part defeat the purpose of securing a designation<sup>7</sup> for the new highway as a piece of nationally and regionally significant infrastructure. One of the reasons that the NOR/Designation provisions of the RMA exist is to allow Projects or Works to be protected from incompatible development that might occur on or adjacent to the site or route of the NOR/Designation. Designations provide a clear planning mechanism for adjoining and adjacent landowners to understand the location and nature of the Project or work authorised by the designation (in this case, a new state highway) and as a result to ensure future development takes measures to address the authorised effects of the Project. In other words, the onus is on future development to address the effects of that development on the Project, not the other way around.
69. The One Plan RPS provisions support this view by way of Policy 3-2 that requires that regional councils and territorial authorities must ensure that adverse effects on infrastructure and other physical resources of regional or national importance from other activities are avoided as far as reasonably practicable, including by ensuring that infrastructure corridors are identified and had regard to in all resource management decision making.
70. Policy 3-2 also seeks to ensure the effective integration of transport and land use planning and the protection of the function of the strategic road and rail network.
71. Ms Anderson, the author of the s198D report, informed by the various technical review reports prepared in behalf of the District Council's, considers that unless the Arterial Road connection and both of the Strategic Cycleways that are shown on the Tara-Ika structure plan as crossing the Ō2NL corridor are actively provided by the Project, that integrated planning has not occurred and that the Project is thus inconsistent with the One Plan, the NPS-UD, and several policies in Plan Change 4 that seek well-functioning urban environments.

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<sup>7</sup> I note that a "Tara-Ika specific" NOR has already been issued by Waka Kotahi and continues to have interim effect. That NoR, not yet confirmed as a designation, is subsumed by the wider Ō2NL NOR, and if the wider Ō2NL designation is confirmed the Tara-Ika specific NOR will need to be withdrawn

72. That concern is on the basis that the advent of the Project (with the state highway carriageway at-grade) will make it more expensive for HDC or developers to construct the east-west arterial (which will need to be bridged over the new state highway) when required in the future, and that the additional expense could prevent the provision of the east-west arterial as a key piece of strategic infrastructure required by the Tara-Ika Structure Plan.
73. I have examined the Tara-Ika Structure Plan provisions, and can find no rule or any other reference that requires or sets an expectation as to the form of the east-west arterial (ie at grade or elevated) where it crosses the Ō2NL corridor marked on the Structure Plan. I also note that the Structure Plan, by virtue of the inclusion of the corridor shown as the likely route for the Ō2NL Project, envisages the presence of the Ō2NL Project at some point in the future. It would thus appear that the form of the east-west crossing was (rightly) left to future processes to determine.
74. In light of all the above I am thus unable to agree with the position of Ms Anderson and various other HDC experts that non-provision of the east-west arterial (or at least the grade separated components of it) by the Project creates an inconsistency with the various relevant policy provisions.
75. In my view, it is sufficient to ensure consistency with the relevant policy provisions that the Project does not preclude the ability for HDC or developers to provide the east-west arterial (and the strategic cycle/walkway crossings) across the new state highway when required in the future. What form the crossing takes and who pays for it are matters that are not well suited to being assessed in a planning policy environment and in my experience such debates are best left to other processes and forums where funding and potential alternative delivery mechanisms can be explored.
76. I acknowledge that whoever proposes to construct the east-west arterial across the Ō2NL designation corridor will need to obtain permission from Waka Kotahi under s177 of the RMA. While in theory the need to obtain this permission could be viewed as a potentially exclusionary step in the process, in my view when all the circumstances are considered it is extremely unlikely that Waka Kotahi would withhold such approval. I further note that s177(2) places some restrictions on the ability for requiring authority permissions to be withheld.
77. All of the above said, and to the extent that cost is relevant in a planning policy assessment sense, a remedy to the concerns expressed by HDC and Ms Anderson is readily available. Waka Kotahi has offered to HDC to fund

the grade separated components of the east-west arterial, as explained in the evidence of **Mr Dalzell**. This offer of funding does not alter my planning position above and nor is it an effect of the Project or a matter to be conditioned.

## **CONSIDERATION OF ALTERNATIVES**

78. Under sections 171(1)(b) and 168A(3)(b) of the RMA, a requiring authority is required to consider alternative sites, routes or methods if the requiring authority does not have an interest in the land sufficient for undertaking the work; or it is likely that the work will have a significant adverse effect on the environment.
79. Waka Kotahi does not have an interest in the land that is subject to the NoRs that is sufficient to undertake the work<sup>8</sup>. Therefore consideration of alternative sites, routes or methods for undertaking the work is necessary.
80. I rely in part on the evidence of **Mr Dalzell** that explains the systematic process used by Waka Kotahi to identify, assess and rank corridor and route alternatives, and how consultation and engagement with landowners, stakeholders and the general public fed into and informed that process. I also rely in part on the evidence of **Mr Peet** that addresses transport specific aspects of the alternatives consideration process.
81. In addition to having reviewed the evidence of Mr Dalzell and Mr Peet, I also as part of preparing the AEE reviewed in detail the various reports that documented the consideration of alternatives phase of the Project.
82. I have also had regard to the submissions of Louise Miles and Sarah Hodge that question the alternatives consideration process in the South Manakau area of the Project.
83. In my opinion, the corridor and route identification and evaluation process adopted achieves the statutory requirements of evaluation of alternatives, as set out in sections 171(1)(c) and 168A(3)(b) of the RMA. I note that Ms Anderson expresses the same view at para 221 of the District Council s198D report.

## **REASONABLE NECESSITY**

84. Section 171(1)(c) of the RMA provides that when considering a NoR a territorial authority must have particular regard to “whether the work and

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<sup>8</sup> Waka Kotahi does however own or administer some of the directly affected properties, and property acquisition is ongoing as described in the EIC of Mr Dalzell for Waka Kotahi.

designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought”.

85. In the context of section 171(1)(c), ‘reasonably necessary’ is to be understood as requiring something less than ‘absolutely necessary’ or essential. I also note that, importantly, Waka Kotahi as a requiring authority is able to establish its own priorities and objectives in relation to the state highway network.
86. The Ō2NL Project objectives respond directly to the well identified safety and resilience problems associated with the existing SH1 alignment, and also recognise the setting of the Project in an area experiencing urban growth and development. The Ō2NL Project objectives are:
- to enhance safety of travel on the state highway network.
  - to enhance the resilience of the state highway network.
  - to provide appropriate connections that integrate the state highway and local road network to serve urban areas.
  - to enable mode choice for journeys between local communities by providing a north-south cycling and walking facility.
  - to support inter-regional and intra-regional growth and productivity through improved movement of people and freight on the state highway network.
87. Once operational, the Project is expected to save approximately 25-30 deaths and serious injuries per 5-year period following its opening. This is primarily achieved by attracting through traffic off substandard sections of the existing SH1 and SH57 and shifting them to a high quality, median divided road.
88. In terms of resilience, the number of crash related closures on the state highway network is expected to drop by over 50% with the opening of the new highway. The Project will provide a more efficient new highway route, constructed to a high standard including in terms of addressing natural hazard risk. The old highway will be retained as an alternative route, adding redundancy to and increasing the resilience of the network.
89. The above factors, along with the provision of appropriately designed connections to the local road network, will improve the movement of people and freight on the state highway network.

90. The SUP will provide a north-south walking and cycling facility along the full length of the Project.
91. Based on all of the above, in my opinion the work is clearly necessary to meet the Project objectives set out in the NORs.
92. The use of designations to provide for the Ō2NL Project is considered reasonably necessary to achieve Waka Kotahi's objectives on the basis that a designation:
- (a) protects the land from development that might prevent or hinder the construction and operation of the Project;
  - (b) provides certainty that the Ō2NL Project can be maintained and operated efficiently in the future; and
  - (c) provides certainty to the community in relation to the nature of the work and the location of the Ō2NL Project.
93. I note that Ms Anderson agrees that the "reasonable necessity" test as set out above is met by the NoRs<sup>9</sup>.

## **EFFECTS ON THE ENVIRONMENT**

### **Project Shaping**

94. As addressed in the evidence of **Mr Dalzell, Mr Povall and Ms McLeod**, and as set out at section 38 (page 174) of the AEE, avoiding adverse effects has been a key driver for the identification of the preferred corridor and the subsequent shaping and refinement of the Project (including the final proposed location and extent of the land included in the NORs).
95. Unsurprisingly however given the scale of the Project, total avoidance of adverse effects has not been possible and measures to remedy, mitigate, offset or compensate for adverse effects have been proposed. With the implementation of these measures, overall the positive effects of the Project will be significant, while the adverse effects will be minimised and acceptable.

### **Positive effects**

96. The Project will generate a range of positive effects, ranging in their intensity and scale from significant to minor. These are briefly set out as follows, and are addressed in more detail in the evidence of the relevant technical experts:

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<sup>9</sup> see s198D report, para

### *Significant positive effects*

97. Significant positive effects are generated in respect of road user safety, resilience, connectivity (including travel time), and active transport mode (walking and cycling) provision.
98. I describe these positive effects as significant due to their nature and scale. As set out in the transport evidence of **Mr Peet**, and as noted by a number of submitters, a significant number of lives will be saved and serious injuries avoided by construction and operation of the Project.
99. While it is fair to say that most major transport projects will generate some reductions in deaths and serious injury incidents, the fatality and serious injury record for the existing alignment of the state highway(s) that the Project will replace sets the Project apart from others that I am aware of in terms of the safety benefits it will produce.
100. In terms of resilience, the Project will remedy the current situation of traffic on SH1 having no option other than to make an extreme 2hr detour through the Wairarapa should an accident, flooding or other event occur that closes the existing SH1 between Otaki and Levin. The resilience rating of the current state highway alignment is 'critical' and currently has a high risk of closure particularly from earthquakes, flooding or crashes<sup>10</sup>.
101. Other significant positive effects are generated as follows:
  - (a) Economic impacts at District and Regional level of growth stimulated by the Project (as further addressed in the evidence of **Dr Fairgray**); and
  - (b) Social impacts at regional and local level in terms of health and well-being and the quality of living environments, particularly in Levin (as further addressed in the evidence of **Ms Healy**).

### *Minor to Moderate Positive Effects*

102. A range of other positive effects, ranging from Minor to Moderate will be produced by the Project as follows:
  - (a) Reduction in road traffic noise in the Levin Town Centre (this effect could reach the threshold of significant)
  - (b) Reduction in operational road traffic noise from the existing SH1 and SH57 on PPFs and on human health (I note that this moderate positive

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<sup>10</sup> In the period 2017/18-2021/22 there were at least 28 unplanned closures primarily relating to crashes. There were 135 natural events that caused at least cautions, including fires, surface water, flooding fallen trees, rock falls, ice and drop-out.

effect will occur at more than 1000 properties which will experience road traffic noise reductions of between 2 and 6 dB LAeq(24h))

- (c) Improvements in air quality in areas adjacent to the existing road network
- (d) Reduction in operational road traffic vibration from the existing SH1 and SH57 on PPFs and on human health
- (e) Impacts on surface water quality and groundwater quality, recharge and soil moisture levels through better treatment and management of stormwater from the new highway than what occurs at present (ie no active management)

### **Positive Net Gain Effects**

103. The offsetting to be undertaken as part of the Project will result in a net indigenous biological diversity gain as explained further in the EIC of **Dr James** and **Mr Goldwater**.

### *Weighting*

104. It is important that the range of positive effects that will be generated by the Project (especially those that are significant) are not overlooked and are given due weight in the overall assessment of the actual and potential effects of the Project required by s104 which by necessity is wide ranging and must also consider actual and potential adverse effects.

### **Adverse Effects Assessment**

105. I now address the actual and potential adverse effects of the Project, on an individual effect basis. There are a number of potential adverse effects where there is substantial alignment between the relevant technical experts for Waka Kotahi and the local authorities as to the magnitude of the effects and the measures that are proposed to address those effects. As a result, while still addressing all relevant adverse effects, I have for brevity focused this section of my evidence more on those effects matters where there is disagreement between the experts and/or where more in depth discussion is warranted.
106. All references to “the conditions evidence” in this section means the evidence of **Ms McLeod** that in part sets out the proposed conditions to apply to both the NoRs and the resource consents and explains the rationale for them.

### *Transport*

107. I rely on the evidence of **Mr Peet** that sets out that the operational effects of the Project are overwhelmingly positive in transport terms (see the Positive Effects section above for more detailed discussion on the positive transport effects), however some minor adverse effects will occur in some locations in terms of travel time and property access<sup>11</sup>.
108. Adverse construction effects on the existing transport network will be greatly minimised given that the vast majority of the Project can be constructed “off-line”, with the only interaction with the existing SH1 and SH57 being at the tie in points at either end of the Project and where the alignment crosses SH57 north of Queen Street in Levin.
109. Localised adverse construction effects such as the effects of heavy construction vehicles on local roads and maintenance of access to properties will occur and will be managed by a Construction Traffic Management Plan, as set out in the conditions evidence.
110. On the basis of the above, the operational transport effects of the Project will be significant and positive, while the construction transport effects will be mitigated to minor adverse levels.

### *Cultural Effects*

111. I rely on the various briefs of evidence from the Project iwi partners that explain the potential cultural effects of the Project, and how those effects have been and can be addressed. I also reviewed the Cultural Impact Assessments lodged with the AEE, and have participated in a number of meetings and workshops with the iwi partners since lodgement of the applications.
112. In my view, it is evident that through the partnership with iwi that Waka Kotahi has had and continues to have a very good understanding of the potential cultural effects of the Project, and various measures and methods to effectively avoid, remedy or mitigate those effects have been developed. The evidence from the Project iwi partners reinforces this view, and in an overall sense conveys the desire from the iwi partners for the partnership to continue.

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<sup>11</sup> These areas are residual parcels of land east of the new highway south of Kuku East Road, Kimberly Road East residents wanting to travel west, Waihou Road residents who will be diverted to McDonald Road, and Avenue Road North which is severed to improve safety at the northern connection back to the old SH1

113. Accordingly, recognising that the Project is currently at the concept design stage, the Project iwi partners have sought more clarity and certainty on the processes and structures that will be put in place to ensure that cultural effects and values are appropriately infused into the subsequent detailed design and construction stage of the Project. As set out in the evidence of Mr Dalzell, Waka Kotahi are continuing to work with the Project iwi partners to develop measures to ensure that will occur. This is also discussed further in the conditions evidence.

#### *Noise and Vibration*

114. I rely on the evidence of **Mr Smith** that sets out that the operational noise mitigation for the Project has been considered and adopted at lower exposure levels than recommended by NZS 6806 and adopted on recent state highway projects.
115. Mr Smith's evidence sets out that there are 168 dwellings that do not currently receive road traffic noise, that will receive road traffic noise after the project is opened to traffic. Of those 168 dwellings, all but 22 will be in the lowest noise level category in NZS 6806.
116. The primary operational noise mitigation measures to be employed following multi-disciplinary assessment by the Project team is the use of high-performance low-noise road surface (the quietest road surface presently available in New Zealand with only 3km of the state highway network presently covered in this seal) for some 18km of the 26km route, with low (1.1m high) concrete barriers for a total of 4.2 km in five separate sections of the Project. Other more location specific measures to avoid noise of a more annoying character are also recommended by Mr Smith, such as avoiding using tactile road markers within 200m of dwellings.
117. Potential adverse effects from operational vibration are avoided by the Project, given that there are no sensitive receivers within 15m of the new carriageway, which is the accepted distance within which vibration effects might be encountered from a new state highway using modern pavement construction technology.
118. Potential adverse effects from noise and vibration during construction of the Project can be mitigated to acceptable levels using well-established methodologies as will be set out in a Construction Noise and Vibration Management Plan, as set out in the conditions evidence.

119. Mr Smith's evidence upon which I rely is based on his Noise and Vibration Technical Assessment that supported the AEE. That assessment has been reviewed by Ms Wilkening for the District Councils, who is in general agreement with its findings, and suggests some amendments to the proposed conditions. Those amendments are further discussed in the conditions evidence and in Mr Smith's evidence
120. One aspect of Ms Wilkening's conditions recommendations that it is appropriate for me to comment on is the recommendation to construct a landscape bund along the interface of the Project and the Tara-Ika urban growth area,<sup>12</sup> with the intention of the bund providing some acoustic benefit to future residents in Tara-Ika. I have previously discussed the existing environment for assessment purposes as it relates to Tara-Ika, and in light of that discussion my view is that the installation of such a bund for the sole (and unquantified) benefit of the future environment is inappropriate.
121. Overall, I am satisfied that the potential adverse operational and construction related noise and vibration effects from the Project can, through the imposition of appropriate conditions and the adoption of the recommended mitigation measures, be mitigated to acceptable levels.

#### *Air Quality*

122. I rely on the evidence of **Mr Curtis** that sets out the Air Quality assessment has been undertaken using best practice methods, best available data, and adopting the recommendations of the relevant good practice guides.
123. Potential adverse effects on air quality primarily arise during construction and more specifically from potential dust emissions. The area within which the Project is located is sensitive in terms of dust emissions given the number of potentially sensitive receivers within a 200m distance from the designation. Within that distance, there are a number of receivers that will be 50m or closer to the works that will need particular attention paid to them during construction.
124. With the application of measures contained within a Construction Air Quality Management Plan (**CAQMP**) as proposed in the conditions, Mr Curtis is satisfied that the potential adverse effects of dust from construction on the sensitive receivers within 50m of the designation will be appropriately reduced. Those measures will also ensure that effects of dust on sensitive

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<sup>12</sup> Such a bund has also been sought in the submission of Kevin Daly (48)

receivers in the 50m-200m distance from the designation are effectively avoided.

125. Air Quality in the Project area once the new state highway is open to traffic will be improved in an overall sense through an improvement in the efficiency of traffic flows. While some areas will experience a small decrease in air quality there will be no areas that fall outside air quality guidelines. Areas adjoining the existing SH1 may well experience an improvement in air quality.

#### *Landscape, Visual and Natural Character*

126. I rely on the evidence of **Mr Lister** who has assessed the landscape, visual and natural character effects of the Project. Mr Lister acknowledges that a new highway through a landscape such as Horowhenua must unavoidably have some adverse landscape, visual, and natural character effects but considers that the potential adverse landscape, visual, and natural character effects have been avoided to a substantial degree by the selection of the proposed route<sup>13</sup>.
127. For those remaining effects that are unavoidable, mitigation measures have been developed and are included in the conditions, Concept Planting Plans and in the Cultural and Environmental Design Framework (**CEDF**). The measures proposed to address the unavoidable remaining adverse effects, coordinated into a whole-of-landscape approach through the CEDF, will effectively mitigate such effects and contribute some positive landscape outcomes.
128. The CEDF's design principles are included in the proposed designation conditions and will endure through successive design and construction phases of the Project to guide the integration of mitigation measures recommended by various disciplines. In my view, in combination with the other property specific and more general mitigation measures described by Mr Lister, the CEDF will ensure that the landscape, visual, and natural character effects of the Project are mitigated to the fullest extent practicable.

#### *Social*

129. I rely on the evidence of **Ms Healy** that assesses the social effects of the Project and finds that the Project once operational will in an overall sense generate moderate to high positive social impacts through improved safety, connectivity, and resilience. Some adverse social effects will be experienced by people living in close proximity to the new highway, given that the highway

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<sup>13</sup> Lister EIC, paras 11 and 26

will be a significant new introduction to the environment. Ms Healy considers that those effects will be effectively mitigated by the various measures set out in the evidence of Mr Smith (Noise and Vibration) and Mr Lister (Landscape, Visual and Natural Character).

130. Adverse social effects have the potential to occur prior to and during construction of the Project through aspects such as (but not limited to) property access disruption, stresses associated with general construction related emissions such as noise and dust, and uncertainties around property acquisition. With the various mitigation measures recommended to address other effects, as well as the implementation of a communication plan to ensure landowners and the community are well informed about current and future Project activity and have a reliable point of contact for the Project, Ms Healy concludes that the potential negative social impacts from construction will be very-low to low.
131. One relevant social issue to emerge from submissions lodged on the Project is the desire from some equestrian interests for a bridle path to be provided as part of the Project. Ms Healy has investigated and been unable to identify any existing bridleways or heavily used equestrian routes that the Project severs or interacts with. I agree with Ms Healy that as a result there is no effect of the Project that provision of a bridle path would avoid, remedy or mitigate.
132. I further address the planning policy context of whether a bridle path for horse riders should be provided by the Project later in this evidence in my response to the Council planning reports.

#### *Hydrogeology and Groundwater*

133. I rely on the evidence of **Dr McConchie** that addresses effects related to hydrogeology and groundwater, as well as hydrology and flooding. In this section of my evidence I cover effects related only to Hydrogeology and Groundwater – I address hydrology and flooding effects and policy matters comprehensively in a later section of this evidence where I respond to the Council reports.
134. Dr McConchie's evidence conveys that the groundwater environment in the Project area is complicated and heavily influenced by the presence of the various highly mobile rivers and streams within the Project area. As a result, the design philosophy of the Project has been to identify and avoid any

potential adverse effects of the Ō2NL Project on groundwater, and where this is not possible, to mitigate potential adverse effects.

135. One example of the influence of the design philosophy of avoiding effects on groundwater on the concept design is that there are no significant areas of cut – nearly all of the Project is to be constructed above the highest point of the water table.
136. The avoidance philosophy has also influenced the stormwater drainage design which sees stormwater from the Project collected by a network of swales, retention basins and wetlands to ensure no excess runoff will occur onto adjacent land containing existing private bore(s), wetlands, or streams.
137. A small number (7 total) of wetlands and forest remnants that are connected to groundwater are in a location where the Project may intercept and reduce groundwater levels such that more than minor adverse effects on those features are possible. Where that does occur the adverse effects will be offset by the measures discussed in the evidence of **Mr Goldwater** (terrestrial and wetland ecology).
138. Dr McConchie notes<sup>14</sup> (and I support) that to monitor for any unforeseen residual adverse effects on the groundwater system, a Groundwater Monitoring and Management Plan is proposed as a component of the proposed Construction Environment Management Plan. The Groundwater Monitoring and Management Plan will allow any potentially adverse residual effects to be mitigated, and remedied, if necessary.

#### *Surface Water Quality*

139. I rely on the evidence of **Mr Keenan** (Stormwater Management Design), **Mr McLean** (Erosion and Sediment Control), and **Mr Hamill** (Water Quality) that cumulatively address technical matters that are relevant to surface water quality.
140. The adverse effects of operational stormwater discharges will be managed through a multitude of treatment devices including vegetated battered slopes, vegetated swales, vegetated wetlands, detention basins, infiltration, wetland swales and erosion control at discharge points. The discharge of treated operational stormwater from the Ō2NL Project to surface water will have a negligible or low/less than minor adverse effect on stream hydrology and water temperature. In terms of surface water quality, the Project results in

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<sup>14</sup> McConchie EIC, para 54

positive effects including overall improvements in water quality in all major catchments.

141. Earthworks have the potential to increase sediment loss and reduce water clarity. This is more apparent during high flow rainfall events and in smaller sub-catchments. Adverse effects of sedimentation from earthworks, vegetation clearance and concrete or hazardous chemicals during construction can be avoided, remedied or mitigated through the preparation and implementation of the proposed suite of management plans<sup>15</sup> to be contained with an over-arching Erosion and Sediment Control Plan.

#### *Contaminated Land*

142. I rely on the evidence of **Ms Halder** that sets out the preliminary investigations that have been able to be undertaken to date that have identified that potentially contaminated land could exist within the Project area. Ms Halder recommends that further, more detailed, investigations be undertaken at those sites and any others identified as a result of further surveys and testing work in the subsequent design phase of the Project.
143. As set out earlier, any necessary consents under the NES-CS and relevant other Regional and/or District Plan rules will be sought and obtained prior to construction work beginning in areas of the Project where contaminated land is confirmed to exist. These future consent processes will impose relevant conditions to ensure that potential adverse effects are appropriately avoided, remedied or mitigated.

#### *Terrestrial Ecology*

144. I rely on the evidence of **Mr Goldwater** who has assessed the terrestrial ecology effects of the Project and formulated (in consultation with Project iwi partners and key stakeholders<sup>16</sup>) the proposed terrestrial ecology mitigation, offset and compensation package described in his evidence.
145. Mr Goldwater notes<sup>17</sup> that the preferred alignment avoids High and Very High value forest habitats, which has resulted in the selection of a route that inevitably passes through adjacent terrestrial habitats of Low to Moderate ecological value such as mixed indigenous-exotic forest and scrub, and planted indigenous forest.

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<sup>15</sup> Chemical Treatment Plan; Erosion and Sediment Control Monitoring Plan; Dewatering Management Procedure; Emergency Spill Response Procedure; Stream Works Procedure; and Hazardous Substances Procedure

<sup>16</sup> Including the Department of Conservation, who have provided a letter of support for the project based on their satisfaction with the ecological effects package/conditions

<sup>17</sup> Goldwater EIC, para 15

146. The loss of wetland habitats within the footprint of the highway results in residual effects that range from 'Low' (for exotic-dominated wetlands) to 'Very High' (for indigenous wetlands of 'High' ecological value). Further, construction and operation will have indirect effects on habitats of high ecological value, and particularly the fragmentation of some fauna populations.
147. Mr Goldwater's evidence sets out a range of terrestrial ecology effects avoidance and mitigation measures that will be detailed in an Ecological Management Plan (**EMP**) that will reduce the residual adverse effects of the Project. The requirement for a EMP is included in the proposed conditions as set out in Ms McLeod's evidence.
148. Habitat restoration and enhancement at sites within the affected catchments, with the amount of restoration and enhancement calculated using the accepted Biodiversity Offset Accounting Model, will be undertaken to address residual adverse effects that are Low, Moderate, High, or Very High on all terrestrial indigenous and mixed indigenous-exotic vegetation of natural origin, and through the loss of all significant habitats. Mr Goldwater records that these measures will achieve a net indigenous biological diversity gain for affected habitats and species.

#### *Freshwater Ecology*

149. I rely on the evidence of **Dr James** who has assessed the freshwater ecology effects of the Project and formulated (in consultation with Project iwi partners and key stakeholders<sup>18</sup>) the proposed freshwater ecology mitigation, offset and compensation package described in his evidence.
150. Construction effects will be managed through the pre-construction capture and release of fish and large macroinvertebrates; the provision of fish passage and avoidance or periods of fish migration; the management of construction machinery and vehicles near water bodies; the implementation of a Freshwater Ecology Management Plan (as part of an EMP); and the implementation of erosion and sediment control measures that are set out in an ESCP.
151. In terms of water abstraction during construction, adverse effects will be avoided or mitigated by taking water at very low rates within minimum flows and available (or supplementary) allocation, utilising water storage ponds to

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<sup>18</sup> Ibid

maximise efficiency of use of the abstracted water, and ensuring correct mesh screen sizes on the pump intakes to avoid fish being entrained.

152. Operational effects are managed through the culverts in all permanent streams providing fish passage, riparian planting, and stormwater runoff from the road being conveyed through a stormwater treatment system.
153. Given the number and location of waterways within the Project area the permanent loss of freshwater habitat is an unavoidable effect. Offsetting is proposed to address residual effects that are not able to be managed at the site of impact. This is to be achieved with riparian fencing and revegetation at other locations in the affected catchments so that a 'Net Gain' in stream functioning is achieved.
154. Subject to the measures set out above, the potential adverse effects of the Ō2NL Project on freshwater ecology are appropriately avoided, minimised, remedied, mitigated or offset.

#### *Archaeology*

155. I rely on the evidence of **Mr Parker** who sets out<sup>19</sup> that the Project (assuming the standard level of mitigation HNZPT generally expects when granting archaeological authorities) will have only negligible or minor effects on the known archaeological landscape with the potential for mostly negligible or minor effects on unknown archaeological sites. The proposed designations:
  - (a) protect the wider archaeological landscape and avoid significant adverse effects to the dense archaeological landscapes of the Horowhenua and Kāpiti coastal dune system;
  - (b) ensure that the potential remaining effects can be appropriately managed through the use of archaeological discovery protocols and the HNZPT archaeological authority process; and
  - (c) mitigate adverse effects through positive opportunities to incorporate archaeological and cultural information in the Ō2NL Project's design framework.

#### *Built Heritage*

156. I rely on the evidence of **Mr Bowman** that records that there is only one heritage building affected by the Project, that being the Ashleigh house/homestead at 1024 Queen Street East in Levin.

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<sup>19</sup> Parker EIC, para 22

157. Mr Bowman is satisfied that:

- (a) the potential construction and operational adverse effects of the Project on Ashleigh in terms of vibration, dust, noise and visual effects can be mitigated to levels that are less than minor; and
- (b) there are no other effects of the Project on built heritage values.

*Economic Effects*

158. I rely on the evidence of **Dr Fairgray** that assesses the economic effects of the Project. In summary, Dr Fairgray concludes that:

- (a) the Ō2NL Project will generate positive economic effects, especially through its long term stimulus to growth in Horowhenua District, as well as during the construction phase; and
- (b) some adverse effects will arise during both the construction and implementation phases, however these adverse effects on the economy will be less than minor, and measures (such as signage and way finding to Levin) are proposed to mitigate against any adverse effects that cannot be avoided.

159. Overall, and in the medium to long term, the Ō2NL Project is expected to stimulate strong population and economic growth, and enhance performance of the Levin town centre - the District's main commercial hub – as well as the wider economy.

160. I note that Dr Fairgray's conclusions are consistent with the views expressed in the submission of The Horowhenua Company, which is the economic development agency for the wider Horowhenua district.

*Productive Land Effects*

161. I have addressed the potential effects of the loss of productive rural land in my evidence below where I assess the Project's relationship to the NPS-HPL.

*Property, Network Utilities and Infrastructure Effects*

162. The Project directly impacts a large number of properties where land is required either permanently or for construction. All land acquisition is handled under Public Works Act 1981 processes and as a result is not relevant to an assessment under the RMA. I simply note here my understanding that Waka Kotahi has an active property acquisition process underway, and has acquired in the order of 50% of the property it requires for the Project.

163. A number of existing network utilities<sup>20</sup> are located in the Project area and will be affected by the construction of the Project in terms of disruption of maintenance access, ensuring continuity of supply, potential machinery strikes, and the need to temporarily or permanently relocate networks.
164. The design and timing of reconnection of utilities effected by the Project will be discussed and developed in consultation with the utility owners. The potential adverse effects are typically temporary in nature and can be managed by Waka Kotahi, in consultation with the network utility owner or operator, to:
- (a) confirm the scope, location and timing of works to relocate network utilities and any measures necessary to provide for the identification of, safety and protection of network utilities;
  - (b) maintain permanent practical ongoing access to existing and relocated network utilities, including reasonable and emergency access during construction of the Project; and
  - (c) ensure compliance with relevant protocols and standards.
165. In this regard I understand that Waka Kotahi is in discussions with Spark and Connexa as to a Memorandum of Understanding for this and future projects. This matter is also addressed in the evidence of Ms McLeod.
166. KiwiRail will also be impacted by the Ō2NL Project, particularly at the relocated Tararua Road/SH1 intersection and level crossing and where the NIMT passes underneath the proposed highway at the far northern end. Waka Kotahi continues to consult with KiwiRail in respect of the detailed design and construction practices in the vicinity of the NIMT. Further, Waka Kotahi will require KiwiRail's written permission in respect of any construction activities within land subject to the NIMT designation. I understand that Waka Kotahi are in the process of finalising an overarching agreement with KiwiRail in like manner to that being developed with Spark and Connexa.
167. Local road effects such as disruption to local traffic during construction can be effectively addressed by way of the CTMP required by the designation conditions.

### **Cumulative effects**

168. There are no cumulative effects relevant to assessment of the Project.

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<sup>20</sup> For example, see submission (34) from Spark and Connexa, that seeks the inclusion of a condition that requires consultation with telecommunications network utility operators during the detailed design stage of the Project.

## **Proposed measures to address adverse effects**

169. I rely on the conditions evidence of **Ms McLeod** that explains the overarching rationale that has shaped the Project in terms effects of avoidance measures, and the conditions and other measures that are proposed to address adverse effects where they have not been able to be avoided.
170. In my opinion, based on experience with other infrastructure projects of a similar scale which have been consented and constructed, the effects management approach adopted by the Project is comprehensive and in several aspects (such as the integration of ecological, landscape and natural character planting) goes “above and beyond” what is necessary to address potential adverse effects in an effort to promote positive legacy environmental outcomes.
171. Overall, the Project has developed a suite of measures and conditions that effectively avoid, remedy, mitigate, offset or compensate for actual and potential adverse effects. The use of the full spectrum of the effects hierarchy is appropriate for a Project of this scale, and as set out in the following section of this evidence is supported by key objectives and policies in the relevant planning documents.

## **RMA POLICY STATEMENTS, PLANS, NATIONAL ENVIRONMENTAL STANDARDS AND OTHER REGULATIONS**

172. I authored the Statutory Assessment section (Part I) of the AEE that supports the NoRS and resource consents, which contains an extensive analysis of the Projects relationship to the relevant statutory planning documents. I adopt that assessment for the purposes of this evidence. The policy analysis set out in the following sections of this evidence focuses on and summarises those provisions that I regard as key to the assessment of the applications before the Court in terms of s104D and s171 of the RMA, having regard to the matters raised in submissions and the Council planning reports.

### **National Policy Statements**

173. There are three NPS’s that are relevant to the Project<sup>21</sup>. I address each relevant NPS as follows.

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<sup>21</sup> I note that a draft NPS for Indigenous Biodiversity has been in preparation for several years but is not yet operative – if it does become operative before the Ō2NL applications are decided it will be a relevant NPS to be considered.

## *NPS for Freshwater Management*

174. The NPS-FM addresses, as a matter of national significance, the management of fresh water through a framework that considers and recognises **Te Mana o te Wai** as an integral part of freshwater management. The NPS-FM is relevant when assessing the effects of the Project on the quality of fresh water, freshwater ecosystems and values associated with freshwater bodies (streams and natural wetlands).
175. There is a hierarchy of obligations in Te Mana o te Wai that prioritises:
- (a) First, the health and well-being of water bodies and freshwater ecosystems;
  - (b) Second, the health needs of people (such as drinking water); and
  - (c) Third, the ability of people and communities to provide for their social, economic and cultural well-being, now and in the future.
176. The hierarchy of obligations, and the relevant NPS-FM objective and policy provisions that stem from them, have been carefully addressed by the Project (informed by the contribution of tangata whenua as project partners) and as a result the Project is consistent with Te Mana o te Wai as set out in more detail in section 63.1.1 of the AEE.
177. The NPS-FM also contains an important policy thread that addresses specified infrastructure and functional need. A detailed assessment of this aspect of the NPS-FM is provided at section 63.1.2 of the AEE.
178. Specified infrastructure is defined in the NPS-FM as meaning *“infrastructure that delivers a service operated by a lifeline utility (as defined by the Civil Defence Emergency Management Act 2002 (“CDEMA”)), or regionally significant infrastructure identified as such in a regional policy statement or regional plan”*.
179. The Project qualifies as specified infrastructure under both heads of this definition because:
- (a) Waka Kotahi is defined as a lifeline utility as it carries out the business of providing a road network (state highway) under Part B of Schedule 1 of the CDEMA.
  - (b) While using slightly different terms, a strategic transport/road network (including a state highway) is identified in the regional policy statements of both Horizons (as ‘critical infrastructure’ and ‘regionally significant infrastructure’) and GWRC (as ‘regionally significant infrastructure’).

180. In summary the Project is consistent with the specified infrastructure and functional need clauses of the NPS-FM<sup>22</sup>, because:
- (a) The activity (ie the Project) is necessary for the construction of specified infrastructure;
  - (b) The Project will generate regional and national benefits;
  - (c) The Project has a functional need to be located and to operate in, and traverse, the selected location; and
  - (d) The effects management hierarchy has been applied to the management of the effects of the activity (including through offsetting and compensating for the unavoidable loss of extent of natural wetland and streams).
181. Accordingly, on the basis of all the above, granting the consents necessary to authorise the Project works within the affected wetlands and waterways would be consistent with the NPS-FM and there are no directive provisions with which the Project is inconsistent.
182. The NPS-FM also addresses fish passage and requires that the passage of fish is maintained or improved by in-stream structures. In turn, this requirement is complimented by the regulations of the NES-F that specify permitted culvert design and installation standards.
183. In summary, fish passage will be allowed for by the Project in a manner that is consistent with the NPS-FM because:
- (a) All culverted permanent stream crossings will follow the stream simulation design set out in the New Zealand Fish Passage guidelines for structures up to 4 metres, and will be complimented by riparian planting upstream and downstream of each culvert; and
  - (b) All completed/constructed culverts will be assessed using the Fish Passage Assessment Tool and the EMP will include procedures to measure culverts against the criteria in Regulation 70 of the NES-F.

#### *NPS for Urban Development*

184. The National Policy Statement on Urban Development (**NPS-UD**) came into force on 20 August 2020 and was amended on 11 May 2022. Objective 1 of the NPS-UD directs that New Zealand has “*well-functioning urban environments that enable all people and communities to provide for their*

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<sup>22</sup> Mr St Clair agrees with this assessment – see s87F report, para 183

*social, economic, and cultural wellbeing, and for their health and safety, now and into the future”.*

185. Policy 2 recognises the need for Tier 1, 2, and 3 local authorities to “*provide at least sufficient development capacity to meet expected demand for housing and for business land of the short term, medium term and long term*”.
186. Policy 3 imposes additional obligations on councils in tier 1 urban environments to adopt specific provisions in their regional policy statements and district plans relating to building heights and density of urban form, although these may be modified to accommodate a "qualifying matter" under Policy 4 and clause 3.32. Policy 5 requires councils in tier 2 and tier 3 urban environments, in their regional policy statements and district plans, to enable building heights and density of urban form relative to housing and business demand, and public transport and community services accessibility.
187. KCDC is a tier 1 local authority, and HDC is a tier 3 local authority. KCDC publicly notified<sup>23</sup> Proposed Plan Change 2 on 18 August 2022 to give effect to its obligations under the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.
188. The NPS-UD recognises that urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations (Objective 4). Therefore, Objective 6 requires local authority decisions on urban development that affect urban environments to be:
  - (a) Integrated with infrastructure planning and funding decisions;
  - (b) Strategic over the medium term and long terms; and
  - (c) Responsive, particularly in relation to proposals that would supply significant development capacity.
189. Under the NPS-UD<sup>24</sup>, a state highway is defined as nationally significant infrastructure.
190. Policy 6 identifies specific provisions decision-makers must have particular regard to when making decisions that affect the urban environment, including the planned urban form anticipated by the RMA planning documents that have given effect to the NPS-UD, possible changes to an area resulting from the planned urban form, benefits of urban development, contributions

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<sup>23</sup> Submissions closed on 15 September 2022

<sup>24</sup> Part 1.4 - Interpretation

towards meeting the NPS-UD's requirements to provide or realise development capacity and the likely current and future effects of climate change.

191. The Project is consistent with the NPS-UD for the following reasons:

- (a) The majority of the strategic, transport and more localised planning strategies and plans relevant to the Project identify and reinforce the need for the Project to occur to assist in improving transport network safety and resilience, reducing congestion, facilitating coordinated urban growth, and contributing to efficient freight and public transport provision. Local authority urban development decisions in the Project area have thus been able to be integrated with infrastructure planning and funding as it is relevant to the Project (Objective 1, Objective 6, Policy 10).
- (b) The Project will contribute to growth in the Horowhenua District through enablement of full capacity urban development of the Tara-Ika Growth Area east of Levin (and other areas identified for urban growth by HDC) by providing additional capacity on both the local and strategic roading network. It will also contribute to growth in the Kapiti Coast District through providing enhancing the resilience and connectivity of the state highway network (Objective 1, Objective 6, Policy 10).
- (c) The functioning of the Levin town centre will be enhanced, and people's health and safety improved, by the reduction in congestion (with associated air quality improvements) produced by inter-regional traffic (including heavy vehicles) in the town centre once the Project is operational (Objective 1, Objective 4, Policy 1, Policy 6).
- (d) The design of the Project provides appropriate connections with the existing and future local roading network in Levin and retains the connectivity of the existing local roading network at key points (for example, maintenance of vehicular and pedestrian/cyclist connectivity along Queen Street East where it crosses the highway alignment). The SUP also provides an active transport spine along the entire route to which all adjacent communities have the potential to connect to in the future (Objective 1, Policy 1, Policy 10).
- (e) The Project will be constructed to integrate with the existing and proposed local drainage network and will not create adverse effects in terms of up or downstream flooding potential. In some locations (for

example, Koputaroa) there will be a positive effect in terms of reduced flooding potential (Objective 1, Objective 6, Policy 1, Policy 6, Policy 10).

- (f) The Project will adapt to likely current and future effects of climate change (predominantly more frequent, higher intensity rainfall events) through the design of the Project's stormwater drainage and treatment system, and structural elements (eg culverts, bridges) such that existing and planned urban environments are not adversely affected. Significant infrastructure climate resilience benefits will also accrue from the Project given that the existing SH1 alignment traverses two flood plains, combined with the reduced hazard exposure of the Project alignment coupled with a 90% reduction in detour length should a significant rainfall/flood event occur (Objective 8, Policy 1).
- (g) Key urban amenity effects, particularly noise and visual matters, will be mitigated to levels that will ensure a well-functioning urban environment now and in the future (Objective 1, Objective 4, Policy 6).
- (h) Through the iwi partnership approach, the development of the Ō2NL Project is underpinned by, and responds to, cultural values and, in doing so, takes into account the principles of the Te Tiriti o Waitangi/Treaty of Waitangi (Objective 5, Policy 9).

#### *NPS for Highly Productive Land*

192. The National Policy Statement on Highly Productive Land (**NPS-HPL**) came into force on 17 October 2022<sup>25</sup>.

193. The sole objective (2.1) of the NPS-HPL is that:

*“Highly productive land is protected for use in land-based primary production, both now and for future generations”.*

194. Highly Productive Land is defined in the NPS-HPL (clause 1.3) as:

*“land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land)”.*

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<sup>25</sup> Referred to as the Commencement Date of the NPS-HPL

195. Clause 3.4 requires every regional council to, within 3 years of the commencement date of the NPS-HPL and in collaboration with relevant territorial authorities and in consultation with tangata whenua, map as highly productive land<sup>26</sup> any land in its region that:
- (a) is in a general rural zone or rural production zone; and
  - (b) is predominantly LUC 1, 2, or 3 land; and
  - (c) forms a large and geographically cohesive area.
196. Clause 3.5 requires that the mapped highly productive land must be included in the relevant RPS by way of a plan change. The relevant territorial authorities must include (without using the RMA 1<sup>st</sup> schedule process) the mapping in their district plans within 6 months of the relevant RPS plan change becoming operative.
197. Until a RPS containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply the NPS-HPL as if references to highly productive land were references to land that, at the commencement date (clause 3.5(7)):
- (a) Is:
    - (i) zoned general rural or rural production; and
    - (ii) LUC 1, 2, or 3 land; but
  - (b) is not:
    - (i) identified for future urban development; or
    - (ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.
198. The majority of the Project route traverses LUC class 1-3 land that is zoned Rural in both the Horowhenua District Plan and the Kapiti-Coast District Plan. Technical Assessment N – Productive Land that was part of the lodged application information suite sets out that a minimum of 229.5ha and a maximum of 358.7ha of highly productive land will be affected by the Project. The NPS-HPL is thus applicable to the Project.
199. The land within the Tara-Ika Plan change area is not classed as highly productive land under the NPS-HPL, given that the Tara-Ika area has been

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<sup>26</sup> Noting that any land identified for future urban development must not be mapped as highly productive land

identified for future urban development for some time and is currently in the latter stages of a plan change process to rezone the land for urban use.

200. The following policies from the NPS-HPL are directly relevant to the Project:

*Policy 1: Highly productive land is recognised as a resource with finite characteristics and long-term values for land-based primary production.*

*Policy 8: Highly productive land is protected from inappropriate use and development.*

*Policy 9: Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.*

201. The Project is consistent with these policies. The finite characteristics of the highly productive land that the Project traverses will be recognised (Policy 1) through minimising the final footprint of the works. The construction and operation of the new highway will not generate reverse sensitivity effects on any primary production activities (Policy 9).

202. With regards to Policy 8, clause 3.9(2) of the NPS-HPL states that:

*“A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:*

*...*

*(b) it addresses a high risk to public health and safety:*

*...*

*(h) it is for an activity by a requiring authority in relation to a designation or notice of requirement under the ...*

*(j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:*

*(i) the maintenance, operation, upgrade, or expansion of specified infrastructure:.....*

203. Clause 3.9(3) provides:

*“Territorial authorities must take measures to ensure that any use or development on highly productive land:*

*(a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and*

*(b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development."*

204. The matters set out in 3.9(2)(b) and (h) are applicable to the Project given it will address the high health and safety risk to road users of the existing highway alignment, and the Project is the subject of a Notice of Requirement which once confirmed will become a designation.
205. The Project achieves both the limbs of clause 3.9(3) in that through the design refinement process the actual loss of highly productive land will be minimised and given the nature of the Project it will avoid reverse sensitivity effects on primary production activities. In addition, the alternatives consideration process followed for the Project (as addressed later in my evidence) resulted in the preferred route for the Project cumulatively affecting the least amount of highly productive land of all the short-listed route alternatives.
206. On that basis the Project does not represent inappropriate use and development of highly productive land and is consistent with Policy 8.
207. Overall, taking all of the above into account, the Project is consistent with the NPS-HPL. Ms Anderson agrees with this assessment (s198D report, para 62).

### **One Plan - Summary**

208. Although the Project is likely to result in a range of adverse effects, overall, I consider that the Project is consistent with the objectives and policies of the One Plan. I have set out the detail of my analysis of the Project against the One Plan in **Appendix A**. Below is a summary.
209. The effects associated with the construction of the Project, such as those relating to sediment, earthworks, dust, water diversions, and works in a waterbody or stream bed, are temporary in nature.
210. These effects will be managed and mitigated through a range of management plans and proposed conditions as explained in the evidence of **Ms McLeod**. Furthermore, in terms of operation, the Project has largely avoided potential long-term adverse effects, such as on stormwater runoff,

flooding, other natural hazards, and water quality through the design of the Project and associated control measures, such as stormwater treatment.

211. None of the catchments traversed by the Project have high natural character, with the majority falling into the low-medium natural character range. In that regard, the natural character mitigation to be employed will maintain the current degree of natural character in each catchment in the short term, while the benefits of the proposed restoration and rehabilitation on natural character values will continue to increase over time as set out in the evidence of **Mr Lister**. On that basis the Project is consistent with the applicable One Plan provisions, particularly Objective 6-2(b).
212. The Project results in the loss of streams (through stream diversion). However, Policy 5-23(b) allows infrastructure of regional and national importance, or activities that result in an environmental benefit, to remedy or mitigate those effects where it is not practical to avoid them. On the basis of the above, the effects of the Project on waterbodies and their margins have been avoided, remedied and mitigated as far as practicable. The effects of stream loss are being offset as described in Freshwater Ecology - Technical Assessment K and the evidence of **Dr James**.
213. Activities within Schedule F (rare and threatened) habitats are a non-complying activity. Policy 13-4(b) allows for the granting of the consent if the decision maker is satisfied that "more than minor" adverse effects that cannot be avoided are mitigated at the point of the adverse effect, or offset to result in a net indigenous biological gain is proposed. Terrestrial Ecology - Technical Assessment J and the evidence of **Mr Goldwater** details the proposed mitigation measures, and how residual effects will be offset so that net gain will be achieved and accordance with Policy 13-4(d).
214. The Project is of regional and national importance, which is consistent with Chapter 3 as it involves the construction and operation of critical infrastructure as identified in the RLTP. As a result of this, the provisions in the One Plan seek that regard be had to the extensive range of benefits the Project provides, particularly in relation to positive transport, social and economic impacts. Under Chapter 3 and Chapter 5, the One Plan includes provisions which allow regionally and nationally important infrastructure to remedy or mitigate those effects where avoidance is not practicable.
215. Overall, as discussed throughout the above sections of my evidence, the potential adverse effects of the Project are avoided, remedied or mitigated in a manner that is consistent with the relevant objectives and policies of the

One Plan. Where there are residual adverse effects which cannot be avoided, remedied or mitigated, (in terms of effects on terrestrial and freshwater ecology), these are offset to a net gain in accordance with Policy 13-4(b).

216. Consequently, the Project is consistent with the objectives and policies of the One Plan.

### **Greater Wellington Regional Council Regional Policy Statement**

217. Given the shorter length of the part of the Project that is within the Wellington Region, and the lack of environmental features when compared to that part within the Manawatu-Wanganui Region, there are correspondingly a smaller range of matters within the GWRC RPS that are relevant to the Project when compared to the One Plan RPS. Those matters that are relevant are set out below.

#### *Chapter 3.1 Air Quality*

218. Objectives 1 and 2 require that discharges of odour, dust and smoke to air do not adversely affect amenity values or people's wellbeing, and that unacceptable levels of fine particulate matter are avoided in order to protect human health. As set out earlier in this evidence and in the evidence of **Mr Curtis**, the mitigation measures proposed ensure that the Project is consistent with these objectives.

#### *Chapter 3.3 Energy, Infrastructure and Waste*

219. Objective 10 requires that the social, economic, cultural and environmental benefits of regionally significant infrastructure are recognised and protected.
220. Policy 39(a) requires decision-makers to have particular regard to those benefits when assessing a Notice of Requirement or resource consent applications, while Policy 39(b) requires particular regard to be had to protecting regionally significant infrastructure from incompatible subdivision, use and development occurring under, over, or adjacent to the infrastructure.
221. Policy 57 requires that, in making progress towards achieving the key outcomes of the Wellington Regional Land Transport Strategy, the following matters shall be given particular regard when considering a Notice of Requirement or application for resource consent:
- (a) whether traffic generated by the proposed development can be accommodated within the existing transport network and the impacts on the efficiency, reliability or safety of the network;

- (b) connectivity with, or provision of access to, public services or activities, key centres of employment activity or retail activity, open spaces or recreational areas;
- (c) whether there is good access to the strategic public transport network;
- (d) provision of safe and attractive environments for walking and cycling; and
- (e) whether new, or upgrades to existing, transport network infrastructure have been appropriately recognised and provided for.

222. These provisions strongly support the RMA authorisations for the Project. Granting the authorisations would appropriately recognise the significant benefits that the Project will generate (as set out earlier in this evidence and in the evidence of **Mr Peet**) in a manner consistent with Objective 10 and Policy 39(a)<sup>27</sup>.

223. The Project is also consistent with key components of Policy 57, particularly given the safety, efficiency and reliability improvements it will create and its provision of the SUP as a safe and attractive environment for walkers and cyclists to link with the SUP provided on the PP20 project. Further, approval of the designation and consents required for the Project in the GWRC area would appropriately recognise and provide for the Project.

224. Confirming the designation for the Project will be particularly consistent with Policy 39(b) given the control on land use within the designation that can be exerted by Waka Kotahi (as the Requiring Authority) pursuant to s176 of the RMA.

### *Chapter 3.4 Freshwater*

225. Objectives 12 and 13 together require that the region's rivers, lakes and wetlands support healthy functioning ecosystems, and that the quantity and quality of fresh water:

- (a) meet the range of uses and values for which water is required;
- (b) safeguard the life supporting capacity of water bodies; and
- (c) meet the reasonably foreseeable needs of future generations.

226. Policies 40-43 give effect to Objectives 12 and 13 and seek to ensure that water quality, flows and water levels and aquatic habitats of surface water bodies are managed for the purpose of safeguarding aquatic ecosystem

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<sup>27</sup> Mr St Clair concurs (s87F report, para 244)

health (Policy 40), earthworks and vegetation disturbance are minimised to minimise erosion and silt and sediment runoff (Policy 41), stormwater runoff is reduced through implementation of a range of measures (Policy 42), and aquatic ecological functions are protected through having particular regard to a wide range of protection measures (Policy 43).

227. The Project is consistent with these provisions, as explained in detail in the Freshwater Ecology - Technical Assessment K and the evidence of **Dr James** for the following reasons:

- (a) The health of aquatic ecosystems in the Project area will be maintained during construction and improved over the long term improved (noting that there are no significant waterways crossed by the Project in the GWRC area); and
- (b) Best practice erosion and sediment control measures will be employed to minimise silt and sediment discharges to the fullest extent practicable; and
- (c) A best practice treatment train approach will be implemented to reduce and treat stormwater runoff from the Project; and
- (d) Riparian margin function will be enhanced through reinstatement of riparian habitat, natural flows and fish passage through new culverts will be maintained, and where native wetland plants and habitat is unavoidably affected a comprehensive offset package is implemented to achieve a net gain of ecological function.

### *Chapter 3.6 Indigenous Ecosystems*

228. These provisions seek to ensure that a range of ecosystem health matters are given particular regard to in assessing Notices of Requirement and consent applications, to ensure that indigenous ecosystems and habitats with significant biodiversity values are maintained and restored to a healthy functioning state. The Project through the route selection process has largely avoided areas of significant biodiversity value, which is consistent with the intent of Objective 16 and Policy 47.

229. Within the GWRC area, the principal indigenous ecological effect is where the Project unavoidably directly affects a valley floor wetland that lies approximately 500 metres to the southwest of more extensive, high value wetland habitats in the Paruauku Swamp - also known as O te Pua (Pukehou Swamp).

230. The ecological effects on the valley floor wetland, and the potential for the effect of the loss of the valley floor wetland to also adversely affect the Paruauku Swamp, have been assessed in Terrestrial Ecology - Technical Assessment J. The assessment concludes that there will be no cumulative or indirect effect on Paruauku Swamp, and that effects on the valley floor wetland can be appropriately addressed. With the various mitigation, offset and restoration measures to be implemented in the overall ecological effects management package for the Project, as set out in the evidence of **Mr Goldwater**, an overall net gain in indigenous biodiversity in the Project area, including for wetlands, will be achieved.
231. As a result, although the Project directly affects wetland habitat, it remains in an overall sense consistent with Objective 16 and Policy 47<sup>28</sup> (and is consistent with the wetland provisions in the NPS-FM as discussed earlier in this evidence).

#### *Chapter 3.7 Landscape*

232. Objective 18 requires that the region's special amenity landscapes are identified and those landscape values that contribute to amenity and the quality of the environment are maintained or enhanced.
233. As further addressed in the evidence of **Mr Lister**, within the GWRC area, the Kapiti Coast District Plan notes Pukehou hill as a 'special amenity landscape' and lists some of its values. The highway skirts the base of the hill but does not encroach into the identified feature. On that basis, the Project is consistent with the Objective.

#### *Chapter 3.8 Natural Hazards*

234. Objective 19 and Policy 51 require that risks and consequences to people, communities, their businesses, property and infrastructure from natural hazards and climate change effects are reduced. Objective 21 is that communities are more resilient to natural hazards, including the impacts of climate change. Consistent with these provisions, once operational the highway will provide an alternative and more resilient lifeline transportation route for the communities in the area at times of natural hazard events which will reduce the current total reliance on the existing SH1.
235. The principal natural hazard that could affect the Project are more frequent and severe flood events brought on by climate change induced extreme rainfall events. The Project has recognised and provided for this natural

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<sup>28</sup> Mr St Clair concurs (s87F report, para 252)

hazard risk through ensuring that all structures over and within waterways, stream diversions, and stormwater and sediment retention ponds are designed in accordance with relevant standards that include allowance for climate change.

236. Further, the concept design of the Project in the vicinity of South Manakau Road allows for the highway to be grade separated over the local road to ensure the flooding risk from the adjacent heavily meandered Waiauiti Stream is recognised and provided for.
237. Objective 20 and Policy 52 require that mitigation measures, structural works and other activities do not increase the risk and consequences of natural hazard events. I rely on the Hydrology and Flooding - Technical Assessment F and the evidence of **Dr McConchie** that assesses the potential for the Project and its various structures and waterway crossings to exacerbate flood effects, which concludes that the effect of the Project on hydrology and flooding will be less than minor when considered at an “all of project” scale.
238. I further address this matter later in my evidence where I respond to the Council planning reports that assert that the Project is inconsistent with the natural hazard and flooding related objectives and policies of the One Plan. At this point I simply note my disagreement with that position.

*Chapter 3.10 – Resource Management with tangata whenua*

239. The Project has been developed in a manner consistent with these provisions for the following reasons:
- (a) the Project will form part of the physical resources within the Wellington region, and the partnership with tangata whenua means that kaitiakitanga has been integrated into its development (Objective 25); and
  - (b) the health and life-supporting capacity of the overall freshwater resources affected by the Project are maintained and in some cases enhanced, which in turn sustains the mauri of that resource (Objective 26) and its ability to be used for mahinga kai and customary purposes (Objective 27); and
  - (c) the cultural relationship of Māori with their ancestral lands, water, sites, wāhi tapu and other taonga in the Project area has been maintained (Objective 28).

### *Chapter 3.11 – Soils and Minerals*

240. Objective 29 is that land management practices do not accelerate soil erosion. The erosion and sediment control procedures and measures to be implemented on the Project will ensure consistency with this objective.
241. Objective 30 is that those desirable physical, chemical and biological characteristics of soils that enable them to retain their ecosystem function and range of uses are maintained, while Policy 59 requires that, when considering Notices of Requirement and resource consent applications particular regard be given to safeguarding productive capability on Class I and II land. In this regard, the Project does not affect Class I and II soils in the Wellington region.

### **Greater Wellington Regional Policy Statement – Proposed Change 1**

242. Plan Change 1 to the Regional Policy Statement for the Wellington Region (**RPS PC1**) was publicly notified on 19 August 2022. Submissions closed on 14 October 2022, with further submissions closing on 19 December 2022.
243. The key topics addressed in RPS PC1 are:
- (a) Lack of urban development capacity and implementation of the National Policy Statement on Urban Development (NPS-UD) and Wellington Regional Growth Framework;
  - (b) Degradation of freshwater and partial implementation of the National Policy Statement for Freshwater Management (NPS-FM);
  - (c) Loss and degradation of indigenous biodiversity including regional policy to implement central government strategy and draft RMA national policy direction; and
  - (d) The impacts of climate change including regional policy to complement central government policy direction.
244. Given that RPS PC1 is in the early stages of the RMA Schedule 1 and the freshwater planning processes, and could thus be subject to significant change, little statutory weight can be given to its provisions at this time. Nevertheless, the Project is consistent with Proposed Change 1 for the following reasons:
- (a) climate change adaptation measures are included in the concept design of the Project (Objective CC1 of Proposed Change 1);

- (b) the Project is consistent with the Te Mana o te Wai provisions of the NPS-FM (as set out earlier in the evidence) (Objective 12, Policy 15, 40, 41, 44 of Proposed Change 1);and
- (c) Proposed Change 1 seeks to amend Objective 16 (the operative version of which is already addressed earlier in this evidence) to require protection, enhancement and restoration of significant ecosystem functions and services and/or biodiversity values. The earlier assessment equally applies to Objective 16 of RPS PC1.

**Proposed Natural Resources Plan (PNRP) for the Wellington Region (appeals version – Final 2022)**

245. The current version of the PNRP is the ‘Appeals Version – final 2022’. This shows all changes to the provisions since the Decisions Version as a result of consent orders, clause 16 amendments and/or additions/changes required by a national direction<sup>29</sup>.
246. The Wellington Regional Council adopted the Regional Coastal Plan part of the PNRP under clause 18 of the First Schedule to the RMA on 25 August 2022 and has referred that part to the Minister of Conservation under clause 19 of the First Schedule to the RMA for any amendments by the Minister and then approval.
247. Once the Wellington Regional Council receives the Ministers approval<sup>30</sup>, Council will then approve the part of the PNRP that is not the Regional Coastal Plan under clause 17 of the First Schedule to the RMA and set the date it will become operative under clause 20 of the First Schedule to the RMA.
248. Only a small portion of the overall Project is located within the GWRC area. That part of the Project includes no significant waterway crossings or hazard areas, nor any areas of outstanding natural character. As a result, the range of objectives and policies that are relevant to assessment of the Project is reduced when compared to the Horizons One Plan assessment set out above.
249. Granting consent to the overall suite of activities sought to enable the construction and operation of the Project would be consistent with the overall intent of the beneficial use and development provisions of the PNRP as it would recognise the social, economic, cultural and environmental benefits of

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<sup>29</sup> All Objective and Policy reference numbers recorded in this section are taken from the PNRP Final Appeals Version 2022 Cross Reference table available on the GWRC website as at 12 October 2022

<sup>30</sup> As at the date this evidence was finalised no approval from the Minister of Conservation had been received

the Project as regionally significant infrastructure and enable the transportation needs of present and future generations to be met in an appropriate place (as identified through the route selection process).

250. The majority of the effects associated with the construction of the Project, such as those relating to sediment, earthworks, dust, and the placement of culverts in tributaries are temporary in nature. These effects will be managed and mitigated through a range of management plans and proposed conditions. Furthermore, in terms of operation, the Project has avoided potential long-term adverse effects, such as on stormwater runoff, flooding, other natural hazards, and water quality through the design of the Project and associated control measures, such as stormwater treatment.
251. The Waitohu Stream catchment traversed by the Project does not have high natural character. The mitigation to be employed will maintain the current degree of natural character in the short term while in the longer term the benefits of the proposed restoration and rehabilitation on natural character values will continue to increase over time.
252. Objective O28 is to maintain or increase the extent of natural wetlands, to protect their values and to restore their condition. Policy P34 which seeks similar outcomes for natural wetlands. The Project unavoidably directly affects a gully floor wetland in the GWRC area, and so does not maintain or protect that particular wetland.
253. However, as discussed in detail in Terrestrial Ecology - Technical Assessment J and in the evidence of **Mr Goldwater**, a fulsome mitigation and offsetting scheme is proposed in respect of all affected wetlands, which will achieve an overall net gain in wetland values. That includes mitigation via the direct transfer of wetland plants and species (which will occur in the affected gully floor wetland) in a manner consistent with PNRP objectives and policies. As discussed below, that is consistent with Policies P31, P37 and P110 that, in like manner to the equivalent provisions in the Horizons One Plan, collectively import the “exceptions” provisions built in to the NPS-FM for specified and regionally/nationally significant infrastructure that can demonstrate a functional need to locate in a wetland or river environment.
254. The Project is consistent with the remaining objectives and policies for the following reasons:
  - (a) the Project will maintain water quality, flows, water levels and aquatic habitats in a manner that maintains biodiversity, aquatic ecosystem

health and mahinga kai, and achieves the objective of Table 3.4 (Objective O19 and Policy P30);

- (b) riparian habitats and margins will be restored in various locations within the catchments affected by the Project (Objective O21, Policy P30, Policy P109);
- (c) the design of all instream structures and diversions will allow for best practice fish passage measures, including for koura, to be implemented (Objective 23, Policy P32 and Policy P33);
- (d) restoration of natural wetlands will occur elsewhere in the Project area, which is consistent with Policy P35 that encourages and supports such restoration.

255. Policy P31 sets out the effects management hierarchy for activities that risk causing adverse effects on the values of a habitat listed in Schedule F of the PNRP. The Waitohu Stream and its tributaries, and the valley floor wetland that are affected by the Project are a listed habitat in Schedule F. As such, the first preference of the hierarchy is to avoid the habitat. If, as in the case of the Project, avoidance or minimisation is not practicable then the effects can be remedied. Where effects cannot be remedied then biodiversity offsetting can be provided.
256. However, the application of the effects mitigation hierarchy set out in Policy P31 can only occur if the exceptions in Policy P110 apply to the activity. Policy P110 in turn requires avoidance of the loss of extent and values of the beds of lakes and rivers and natural wetlands, except where (in relation to natural wetlands) specified infrastructure is involved and:
- (a) the activity, including any reclamation and drainage, is necessary for the construction or upgrade of specified infrastructure;
  - (b) the specified infrastructure will provide significant national or regional benefits; and
  - (c) there is a functional need for the specified infrastructure in that location.
257. These exceptions mirror the requirements of the NPS-FM. The assessment earlier in this evidence of the Project against the requirements of the NPS-FM explains that the Project falls squarely within the definition of specified infrastructure and meets all of the exception requirements and thus qualifies for application of the effects management hierarchy. The evidence of **Mr Goldwater** (Terrestrial Ecology) and **Dr James** (Freshwater Ecology) explain

how the effects management hierarchy is being applied to the Project to achieve positive ecological outcomes.

258. On the basis of all the above, the Project is consistent with the objectives and policies of the PNRP<sup>31</sup>.

### **District Plans**

259. Section 171(1)(a)(iv) of the RMA provides that particular regard must be had to the relevant provisions of a plan or proposed plan when considering a NOR, while under section 104(1)(b)(vi) of the RMA regard must be had to the relevant provisions of a plan or proposed plan when considering an application for a resource consent.

260. In this case the following Operative and Proposed District Plans and Plan Changes are applicable:

- (a) Operative Horowhenua District Plan;
- (b) Proposed Plan Change 4 (Tara-Ika Growth Area) to the Horowhenua District Plan; and
- (c) Operative Kapiti Coast District Plan.

261. Appendix Two to the AEE sets out the relevant objectives and policies from each of the above plans in full.

262. A summary assessment of the Project's relationship to the relevant objectives and policies is provided below. The assessment is arranged by topic to avoid repetition. Because only a small part of the Project is located in the Kapiti Coast District with a limited range of land use matters relevant, some topic areas (eg historic heritage) are not relevant to the Kapiti Coast District Plan.

263. I note that Ms Anderson, as set out in the s198D report, agrees with the vast majority of my District Plan(s) policy assessment. The exception is with regard to natural hazard and flooding provisions, which I address later in this evidence.

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<sup>31</sup> Mr St Clair agrees with this conclusion in general terms, with the exception of provisions relating to tangata whenua values, hydrology and flooding, and water quality (s87F report, para 293).

### *Tangata Whenua*

264. The relevant provisions seek that tangata whenua can exert kaitiakitanga through involvement in decisions that affect the natural and physical environment, and that tāngata whenua historic heritage, including wāhi tapu and other places and areas significant to Māori are recognised and protected. The partnership with tangata whenua for the Project has and will continue to ensure consistency with these provisions, through allowing a full expression of kaitiakitanga in all phases of the Project.

### *Archaeology, Heritage and Waahi Tapu*

265. The route selection process for the Project has largely avoided adverse effects on recorded archaeology, heritage and wāhi tapu. There are no historic heritage features directly affected by the Project in either the Horowhenua District or the Kāpiti Coast District.
266. Objective 13.2.1 of the Horowhenua District Plan seeks to protect significant historic heritage that reflects the culture and history of the Horowhenua District from inappropriate subdivision, use and development. In the case of the Ashleigh Homestead, Built Heritage - Technical Assessment M and the evidence of **Mr Bowman** concludes that the potential adverse effects on the homestead are largely confined to the construction phase of the Project (dust, noise, and vibration), and can be mitigated to less than minor levels.
267. There are no listed historic places or areas on the New Zealand Heritage List/Rārangi Kōrero or New Zealand Archaeological Association recorded archaeological sites within the proposed designation extent. Recorded tangata whenua sites of significance have been avoided by the Project, and a protocol will apply to any accidental discoveries, as further explained in the evidence of **Mr Parker**.
268. On the basis of all the above, the Project is consistent with the relevant District Plan provisions.

### *Rural Productivity and Soils*

269. These provisions cumulatively seek to:
- (a) safeguard the life supporting capacity of soils to enable a wide range of primary production activities and provide a resource for future generations while recognising the finite nature of the versatile land resource;

- (b) minimise and where possible avoid fragmentation of the versatile rural land resource for purposes not directly related to maintaining or enhancing the primary productive potential of the rural land resource; and
- (c) minimise and where possible avoid land use and development which has the potential to inhibit the efficient use and development of versatile land for primary production.

270. The Project traverses areas of Class I and II highly productive land (all in the Horowhenua District), and results in a loss of those soils directly affected by the Project footprint. The area of highly productive soil lost is 298ha, set against the amount of highly productive soils in the Horowhenua District of 43,766 ha, meaning a 0.68% loss. While this quantum of loss is considered insignificant, on a strict / absolutist reading the Project is nevertheless inconsistent with the objective of safeguarding the life supporting capacity of the soil to recognise its finite characteristics (HDP Objective 2.2.1).
271. However, this inconsistency is tempered by the fact that the proposed designation follows the short-listed route option identified in the route selection process that best minimises impacts on versatile soils and inhibition of the use of the land for primary production, and the Project footprint (ie the constructed work within the designation for the project) will be minimised as far as practicable at the detailed design stage to reduce impact on the soil resource.
272. As discussed earlier in this evidence, the Project is consistent with the provisions of the very recent NPS-HPL. The HDP and KCDP provisions predate the NPS-HPL. It is therefore appropriate in my view to place more emphasis on the NPS-HPL provisions than the district plan provisions when assessing the Project in respect of rural productivity and soils.
273. Further, any inconsistency with District Plan policies on a confined matter such as productivity and soils must be considered in light of the objective and policy framework for significant infrastructure as set out in the Horizons RPS, particularly Policy 3-3 that directs that the significant benefits of the Ō2NL Project must be taken into account, and the adverse effects of establishing the Ō2NL Project are to be managed specifically in accordance with the framework set out in Policy 3-3.

### *Rural Character and Amenity*

274. The relevant Objectives<sup>32</sup> for each of the respective rural zones seek to enable primary production activities, and to manage the effects of activities to maintain and enhance rural character and amenity.
275. In terms of amenity the HDP policies focus specifically on maintaining overall day and night time noise conditions that are compatible with the rural environment (HDP Policy 2.4.17), while the KCDP focuses on remedying or mitigating the adverse effects on rural character values from earthworks activities (including extractive industries). The KCDP also seeks to retain the general sense of openness and the natural landforms of the Rural Zone.
276. Several landowners that will live adjacent to the Project have lodged submissions expressing concerns about the changes to the levels of amenity they currently experience that will be produced by the Project during construction and operation. This is not surprising, given that the Project unavoidably introduces a significant manmade element to the Rural Zone(s) of each District.
277. Tempering this is the fact that the Rural Zones of both districts contain roads, highways, electricity distribution and transmission lines and a range of other built infrastructure. In that regard the Project will not represent an unusual element in the rural landscape, albeit it will be of a larger scale than any existing infrastructure.
278. In my view, amenity is comprised of a number of component parts, that all need to be balanced in considering amenity effects. This is especially the case in working rural areas (ie the Rural Zone in both relevant Districts) where levels of amenity vary from day to day or season to season depending on the time of year and the nature of the activities being undertaken.
279. Illustrative of this in terms of the current Project is that while some landowners will experience higher and/or a change to existing noise levels in the environment where they live, many residents living near the existing SH1 and SH57 will experience reduced noise levels through a reduction in traffic on those roads and perceive this as an improvement in amenity.
280. There is also an amenity balance to be found when considering mitigations for effects such as noise and visual impacts. For example, an effective mitigation for noise received at one or more receivers might be construction

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<sup>32</sup> Horowhenua District Plan Objective 2.4.1. Kapiti Coast District Plan Objective DO-011

of a noise wall, but that wall may generate unacceptable levels of amenity reduction in other ways (for example, loss of daylight).

281. When considering the amenity provisions of both District Plans and the Projects relationship to them, it is also important in my view to recognise the overall planning context within which the amenity provisions sit. Elsewhere in the respective District Plans and in higher order planning documents such as the respective RPS's, as well as in the relevant NPS's, significant infrastructure of the type represented by the Project is encouraged and facilitated in recognition of the benefits such infrastructure generates. This necessitates a recognition that alteration to local amenity values is an unavoidable consequence of the establishment of significant infrastructure.

#### *Ecology and Biodiversity*

282. As the Project avoids significant indigenous vegetation and significant habitats of indigenous fauna in the Horowhenua District it is consistent with the relevant HDP provisions.
283. The Project is supported by HDP provisions which encourage land use and development that maintains and enhances indigenous biological diversity through the protection and enhancement of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and that requires regard to be had to any positive effects associated with landscape and biodiversity restoration. These outcomes will be achieved by the comprehensive ecological mitigation and offset/compensation package to be implemented as part of the Project as set out in the evidence of **Mr Goldwater** (terrestrial ecology), **Dr James** (freshwater ecology) and **Ms McLeod** (conditions).
284. Within the Kapiti Coast District, a small part (approximately 2000m<sup>2</sup>) of a natural wetland is directly affected by the highway construction. While there will be a degree of adverse effect on that natural wetland (noting that it is not an ecological site listed as significant in Schedule 1 of the KCDP, but for the purposes of this analysis is regarded as significant due to the effect of the GWRC Proposed Natural Resources Plan definition of significance which captures all wetlands), the Project remains consistent with the relevant KCDP objective<sup>33</sup>, in that the habitat and vegetation of the wetland will subject to mitigation through direct transfer of vegetation from the affected part of the wetland to mitigation sites.

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<sup>33</sup> Objective DO-02

285. The Project as a whole is consistent with the remainder of the relevant KCDP provisions, due to the ecological mitigation and offset package and its component activities, and its objective to achieve at least a no net biodiversity loss attributable to the Project.

*Landscapes and Natural Character*

286. Provisions in both District Plans seek to protect Outstanding Natural Landscapes, and Special Amenity Landscapes, from inappropriate subdivision, use and development. Fundamentally the Project is consistent with these provisions because the route selection process has avoided affecting any areas classed as an Outstanding Natural Feature or Landscape, or as a Special Amenity Landscape.

287. Given that the Project crosses a number of waterways in the Horowhenua District, the HDP provisions that seek to protect the natural character of lakes, rivers and other water bodies and their margins, from inappropriate use, and development are also relevant.

288. In this regard, I rely on the findings of Technical Assessment D appended to the AEE and on the evidence of **Mr Lister** on landscape, visual and natural character matters both of which conclude that:

- (a) the route selected for the Project substantially avoids potential adverse natural character effects by avoiding areas with significant natural character values in the western part of the districts.
- (b) The river, streams and wetlands crossed by the highway range between low-moderate and moderate-high natural character value.
- (c) the natural character in each of the six main river or stream catchments will be maintained having regard to existing natural character, the modified context, the functional need for the highway to cross the water bodies, the consequentially unavoidable effects of the highway on perceptions of naturalness in the vicinity at such locations, and measures proposed to rehabilitate and restore the natural characteristics and qualities. The proposed measures will continue to increase the natural character of the main streams over time.

289. On the basis of the above the Project is consistent with the relevant provisions in the HDP.

### *Natural Hazards*

290. I address the relevant natural hazard provisions from the District Plans in detail later in this evidence where I respond to the Council planning reports that assert that the project is inconsistent with the natural hazard and flooding related objectives and policies in the District Plans. At this point I simply note my view is that the Project is consistent with the natural hazard objectives and policies in both District Plans.

### *Contaminated Land*

291. No land directly affected by the Project in the Kapiti Coast District has been identified as potentially contaminated, thus the contaminated land provisions of the KCDP are not relevant.

292. The relevant HDP provisions seek to avoid, or mitigate the risk of adverse effects from the subdivision, use, redevelopment or remediation of contaminated and potentially contaminated land on human health and the environment. Development sites that have a history of land use that could have resulted in contamination of the soil are required to undertake a preliminary site investigation to confirm whether further investigation, remediation or management is required, to ensure that the land is suitable for the intended exposure to humans and the environment. Any contaminated land that is redeveloped must be remediated to a standard consistent with its proposed end use.

293. The Project is consistent with these provisions. The evidence of **Ms Halder** explains that a Preliminary Site Investigation has been undertaken along the route of the proposed designations and that a Detailed Site Investigation of currently identified potentially contaminated sites, and any others that may subsequently be deemed necessary if more information comes to hand as part of the land acquisition process, will be undertaken to support the obtaining of consents under the NES-CS during the detailed design phase of the Project.

### *Infrastructure, Access and Transport*

294. As explained earlier in this evidence and in the evidence of **Mr Peet**, once the new highway is open, a significant decrease in the number of death and serious injury crashes on the existing state highway network in the area will occur, along with a similarly significant decrease in the number of crash related closures on the state highway network. Travel times will decrease

and opportunities for people to use alternative travel modes will be enhanced.

295. Given the above, the Project is consistent with and strongly supported by all of the respective transport orientated District Plan objective and policy provisions for the following reasons:

- (a) confirming the designations and resource consents for the Project will recognise its national, regional and local benefits;
- (b) it will enhance the ability of the land transport network to efficiently and safely move people and goods to meet current and future needs, while enhancing resilience of the transport network;
- (c) safe and convenient road access for the community will be created;
- (d) it will provide for a land transport network that is safe, convenient and efficient, and which avoids, remedies or mitigates adverse effects to maintain the health and safety of people and communities, and the amenity and character of the environment;
- (e) designation of the route for the Project, with all of its enduring safety and efficiency benefits, will allow for it to be protected from the adverse effects of land use activities, subdivision and development and will signal to subdivision and land use that adjoin the designations in the future that such activity needs to take measures to protect itself from the effects of the Project;
- (f) it has avoided, remedied, mitigated or (where mitigation is impracticable) offset any adverse effects on the natural and physical resources, sensitive areas, and amenity and landscape values of the Districts, and will ensure the mauri of natural systems will be maintained and enhanced;
- (g) stormwater will be managed via a best practice treatment train approach to avoid adverse effects both during construction and operation of the Project;
- (h) it has been designed to meet or exceed all applicable design standards, including safety, geometrics, drainage, lighting, noise, landscaping and signage;
- (i) the provision of the SUP, and its integration with compatible existing and future walking and cycling links, will support the opportunity for people to use non-vehicular transportation modes;

- (j) lighting of the highway and the SUP will be provided where it passes through urban areas; and
- (k) the content of the assessment criteria set out in Policy INF-PNU-P16 of the KCDP has been addressed through the various technical reports for the Project and the Project is generally consistent with those assessment criteria.

#### *Network Utilities*

296. These provisions cumulatively seek to ensure that the establishment, maintenance and upgrading of essential network utilities<sup>34</sup> is enabled, while also requiring the adverse effects of network utilities to be avoided, remedied or mitigated and the health and safety of the community to be safeguarded.

297. The Project is consistent with these provisions because:

- (a) it avoids any unmanageable adverse effects on existing network utilities, and will effectively manage any construction related effects on those other network utilities through liaison with the relevant network utility operator(s);
- (b) confirming the Notices of Requirement and granting the consents sought for the Project will enable the establishment and operation of the new highway as an essential network utility, which will improve the health and safety of road users compared to the current situation; and
- (c) the actual and potential adverse effects of the Project will be avoided, remedied or mitigated and where they cannot be mitigated will be offset and compensated for.

#### *Community and Economy*

298. The KCDP contains two Objectives<sup>35</sup> that focus on achieving and recognising economic benefits, and allowing for greater opportunity for community activity and access to open spaces. As explained in the evidence of **Dr Fairgray** the Project will generate positive economic effects, especially through its long-term stimulus to growth, as well as during the construction phase. The SUP and its linkage to the SUP that is part of the PP20 expressway will allow for greater opportunity for community activity and access to open spaces in a manner. As a result the Project is consistent with these Objectives.

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<sup>34</sup> These provisions are relevant because the Project is in itself a network utility (given that Waka Kotahi is a network utility operator as defined by the RMA) and because there are other network utilities present in the Project area.

<sup>35</sup> DO-015 and DO-017

### *Public Access to Waterbodies*

299. The HDP requires the maintenance and enhancement of public access to and along the coast, rivers, lakes and streams, at appropriate locations while preserving the natural character, cultural values and other values of these water bodies and their margins, and where the need for the protection of sites and areas of significance to Tangata Whenua is taken into account.
300. The Project is consistent with the relevant HDP provisions as the SUP will allow for enhanced public access across the waterbodies in the Horowhenua District, which will contribute to people's appreciation of their natural qualities and values. In places there may be opportunity for public access to the waterbodies themselves to be created as legacy outcomes from the Project depending on final design and land acquisition outcomes.

### *Cross Boundary Issues*

301. The District Plans seek to ensure that resource management issues that cross District boundaries are addressed in an integrated manner through co-operation with adjoining authorities. The Project is consistent with the relevant provisions in both District Plans given the pre and post lodgement engagement that has occurred with all the relevant authorities, the integrated approach adopted to the assessment of the effects of the Project, and as evidenced by the coordinated processing of the Notices of Requirement and resource consent applications.

### **Transport Related Plans and Strategies**

302. The transport strategies and plans relevant to the Project identify and reinforce the need for the Project to occur to assist in improving safety and resilience, facilitating coordinated urban growth, and ensuring efficient freight movements. While not directly relevant as the project is directly funded by the government rather than through the National Land Transport Fund (as explained in **Mr Dalzell's** evidence), the Project is consistent with the Government Policy Statement on Land Transport (GPS) 2021, the National Land Transport Programme, the Horizons RLTP (where it is identified as a priority investment area, and a priority project in the Manawatu-Whanganui Economic Recovery Strategy developed as a plan for economic recovery in response to the COVID-19 pandemic) and the Greater Wellington RLTP (which contains no direct reference to the Project however the Project is a continuation of the wider Wellington Northern Corridor improvements, and as

such is consistent with the WRLTP investment priorities of travel choice, strategic access, safety, and resilience).

### **Other Related Plans and Strategies**

303. There are a number of other relevant local plans and strategies that the Project is consistent with as follows:

- (a) Levin Town Centre Plan (2018) - the Project will remove state highway traffic (in particular heavy vehicles) from the town centre thus creating a more pedestrian and cyclist friendly town centre.
- (b) Horowhenua Growth Strategy 2040 – the Project will create opportunities for growth and further development in the District (particularly around Levin, Manakau and Ohau), and will support a potential transport mode shift to cycling through provision of the SUP
- (c) Horowhenua Integrated Transport Strategy 2020- the Project is listed as a key development Priority in the HITS as it will improve north-south access through the Horowhenua District, and present a significant opportunity to regenerate the Levin Town Centre.
- (d) Horowhenua Infrastructure Strategy 2021-2051 - notes that the Project once opened will generate significant changes to traffic demand across the local road network, meaning that Council needs to undertake a staged programme of local network upgrades between 2021 and 2029 when the Project is programmed to open.
- (e) Horowhenua Long Term Plan 2021-2041 - the Long Term Plan recognises the Project by funding the roading improvements identified in the Horowhenua Infrastructure Strategy that arise from the Project.
- (f) Kapiti Coast cycleways, walkways and bridleways strategy (2009) - while this Strategy is dated, the Project is consistent with it through provision of the SUP which will link to the SUP on the Peka Peka to Ōtaki (PP2O) project. I note here the submissions that have sought that a bridleway be provided as part of the Project, citing the provision of a bridleway on the PP2O project (which I note is wholly located in the Kapiti Coast District) as a precedent. The provision of such a facility in the PP2O project was in part influenced by the 2009 strategy referenced above, however in that case several existing bridleways were affected. The same cannot be said in the case of the Ō2NL project, thus I do not consider that the absence of a bridleway provision in the Ō2NL project (which is predominantly located in the Horowhenua

District) results in inconsistency with the KCDC 2009 strategy. I discuss this matter further later in this evidence where I respond to the Council planning reports.

- (g) Te tupu pai/growing well/Kapiti Coast growth strategy (2022) - One of the objectives of Te tupu pai/growing well is to develop Ōtaki as the northern centre of the Kapiti Coast District. In combination with PP20, the Project will contribute toward achieving this objective by providing better access to and from Ōtaki.

## **OTHER MATTERS**

304. The consideration of “other matters” is relevant under section 171(1)(d)<sup>36</sup> of the RMA for the Notices of Requirement and section 104(1)(c)<sup>37</sup> of the RMA for the resource consent applications.

305. ‘Other matters’ that may be identified as relevant are typically other statutes and non-RMA planning documents.

306. The preceding section of this evidence sets out the local government plans and policies that can be considered as “other matters”. Table 72-1 in Section D of the AEE sets out other statutes that can be considered. These are briefly addressed as follows:

- (a) *Land Transport Management Act 2003* - The Project is consistent with Waka Kotahi’s legislative purpose and the purpose of the LTMA as the Project provides an effective, efficient and safe state highway route from Ōtaki to north of Levin.
- (b) *Government Roding Powers Act 1989* - The issuing of the notices of requirement and lodgement of the resource consent applications for the Project are consistent with the powers of the government under this Act.
- (c) *Railways Act 2005* - The purpose of the Railways Act 2005 is to promote the safety of rail operations and manage the rail corridor. The Act is relevant because the main highway component of the Project crosses the NIMT and ancillary part of the Project works requires the closure of an existing level crossing at Tararua Road in Levin and the establishment of a new crossing in the vicinity. The Project is

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<sup>36</sup> this section provides that, when considering a NoR, a territorial authority must have particular regard to “any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement”.

<sup>37</sup> when considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to “any other matter the consent authority considers relevant and reasonably necessary to determine the application”.

consistent with the Act as the NIMT is designated in favour of KiwiRail and Waka Kotahi will need to gain approval from KiwiRail as the incumbent requiring authority under section 176 and/or 177 of the RMA for the Project works affecting the NIMT. This will ensure that all new crossings of the NIMT constructed as part of the Project will be safe and efficient.

- (d) *Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA)* - While no known or recorded archaeological sites will be damaged or destroyed during construction of the Project, it is anticipated that unidentified sites may be within the footprint of the works for which designation and resource consents are sought. For this reason, Waka Kotahi will be separately seeking an Authority (or authorities) under section 44(a) of the HNZPTA.
- (e) *Reserves Act 1977* - The Project directly affects two parcels of land gazetted under the Reserves Act 1977, both in the vicinity of the Ohau River crossing point. Neither parcel is the subject of any Reserve Management Plans that need to be had regard to, and any implications of the status of the parcels will be resolved through the land acquisition and legalisation process.
- (f) *Wildlife Act 1953* - The Project has effects on areas of ecological value. Therefore, the Wildlife Act is relevant such that the Project will require an authorisation(s) given by the Director-General of Conservation under section 71 of the Wildlife Act for disturbance of any protected wildlife. It is anticipated that any such authorisation will require management plan(s) similar to the EMP required by the proposed designation and consent conditions.
- (g) *Freshwater Fisheries Regulations 1983* - These regulations under Section 8A of the Conservation Act 1987, require that fish passage be provided for freshwater and sports fish. The design philosophy for the Project is that fish passage is provided except for some culverts on ephemeral flow paths where no fish are present, and no viable habitat exists upstream. The regulations give the Director-General of Conservation a decision-making role in relation to fish passage when facilities such as new or modified culverts, dams, weirs and diversions on natural waterways are proposed. The Department of Conservation uses RMA processes to comment on the effects of instream structures and activities. Where it is satisfied that appropriate conditions relating

to fish passage have been proposed, any additional permission is at its discretion. I note that the Department of Conservation elected not to lodge a submission on the Project, on the basis of their satisfaction with the NoR and consent conditions put forward by Waka Kotahi at the time of lodgement (see letter dated 1 March 2023 attached as **Appendix B** to this evidence).

307. In summary, it is my view that there are no “other matters” to which the Court must have regard that are an impediment to the confirmation of the NoRs and granting of the consents sought.

#### **THE "GATEWAY TEST" UNDER SECTION 104D**

308. Section 104D is relevant to assessment of the resource consent applications given the bundling approach taken to determining the overall non-complying status.

309. In determining an application for a non-complying activity, the decision maker must first consider whether one of the two tests under section 104D of the RMA can be met. In summary, an application for a non-complying activity can only be granted if the adverse effects of the activity on the environment will be minor (section 104D(1)(a)); the application is for an activity that will not be contrary to the objectives and policies of relevant plans and proposed plans (section 104D(1)(b)).

310. The AEE lodged with the NORs and consent applications was supported by a number of technical assessments, the authors of which have prepared evidence upon which I have relied to reach a judgement on the overall level of effect of the Project as set out earlier in this evidence. Those assessments demonstrate that some of the adverse effects of the Project are more than minor. On that basis, the Project does not pass the section 104D(1)(a) effects gateway test.

311. In order to pass the second gateway test under section 104D(1)(b), the Project must demonstrate that it is not contrary to the objectives and policies of relevant plans or proposed plans.

312. Considering the application in respect of section 104D(1)(b) is a test of whether the application is “contrary” to relevant objectives and policies following a balanced assessment of the objectives and policies of a plan as a whole. The word “contrary” is understood as meaning opposed in nature, different, or opposite to. An absence of support is not sufficient to meet the test of “contrary” and therefore, an activity need not be consistent with every

objective or policy. This is important to note because, perhaps not surprisingly for the scale of the Project, there are some policies with which it is not entirely consistent.

313. The assessment of the Project against the objectives and policies of the relevant plans set out in the AEE and earlier in this evidence (and in my response to the Council reports), finds the proposal to be consistent with the vast majority of the relevant objectives and policies in all of the plans assessed. Therefore, the applications pass the section 104D(1)(b) “objectives and policy” test.

### **WORK SINCE LODGEMENT**

314. Since the application was lodged, I have been involved in further work as set out below.

### **Response to section 92 requests for further information**

315. I assisted with the co-ordination and review of the response to further information requests from the Councils, and the drafting of statutory planning related components of the section 92 response.

### **Further Policy Assessments**

316. In January 2023 changes to both the NPS-FM and the NES-F became operative. I reviewed both documents in terms of the implications (if any) of the changes for the Project, liaised with the Council reporting officers and reported to Waka Kotahi accordingly.
317. In short, the amendments hold little implication for the Project because they served to introduce a consenting pathway and associated policy support for a range of activities including mining and quarrying, and some forms of urban development. The provisions for specified infrastructure under which the Project has sought consents under the NES-F remained unchanged.
318. One aspect of the amendments that does have an implication for the Project is the alteration to the definition of natural inland wetland. The changes to the species types that are now captured by the definition potentially change (ie reduce) the quantum of offset planting required by the Project to address the loss of wetlands. This matter is covered in more detail in the evidence of **Mr Goldwater**.

### **Engagement with stakeholders**

319. I have been involved in ongoing post-lodgement engagement with the respective Council's. Since the consent applications were lodged, this has

included meetings with the Council reporting officers and technical advisors to clarify aspects of the applications and to discuss key assessment matters.

320. One of these meetings was with Ms Anderson, the author of the s198D report for the District Councils, where we discussed our respective positions on the environment as it applies to the assessment of the effects of the Notice of Requirement in particular. This matter assumed heightened importance given the position of Horowhenua District Council technical advisors and Ms Anderson, and some submitters, that the NOR needs to include measures to mitigate effects on the future urban environment as it might develop in the Tara-Ika growth area in Levin.
321. Ms Anderson and I met on 16 June 2023, and the outcome of that discussion is set out in the meeting notes attached as **Appendix C** to this evidence. Those notes are pertinent to the discussion earlier in this evidence about the environment and the Tara-Ika area.

### **COMMENTS ON SUBMISSIONS**

322. As might be expected for a Project of this scale, nature and setting the majority of submissions raise site specific effects related concerns. Those submissions have been addressed in the evidence of the relevant technical experts in the Project team.
323. Most of the statutory planning related matters that are within the scope of my evidence to address have arisen from the respective Council planning reports, and I address those in the following section of this evidence.
324. Nevertheless, there remain some submissions that still require a response in this evidence and I address the majority of them on a themes basis, as follows.

### **Support for the Project**

325. A number of submissions<sup>38</sup> support the Project on the basis of the significant safety, resilience and efficiency benefits the Project will generate for road users, and the Project's consistency with wider regional transport planning strategies and plans. These submissions reinforce my view that the need for and benefits of the Project are well embedded and recognised in the higher order regional policy and plan documents.
326. In supporting the Project the Horowhenua District Council recognises not only the Project's transport benefits, but also notes the significant community

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<sup>38</sup> Central Economic Development

benefits that will accrue from it in terms of supporting district growth, unlocking housing areas, improving business opportunities, and increasing education and employment opportunities. Horowhenua District Council also notes that the Project will improve food security through better connectivity of the District's food producing areas to the wider region and vice versa.

327. The Horowhenua District Council submission also appropriately notes the regulatory role that Council plays in the current RMA process, and seeks that the NoRs and consents be granted subject to appropriate conditions to avoid, remedy and mitigate effects and to ensure consistency with objectives and policies of all relevant planning documents. In this regard, Ms McLeod's evidence sets out and explains the comprehensive set of conditions that are proposed to apply to the Project, while my policy assessment earlier in this evidence and that which follows in response to the Council planning reports demonstrates the Project's consistency with objectives and policies.
328. Other submitters<sup>39</sup> express support for the Project conditional on various technical transport matters being addressed, or at the same time expressing concerns about whether funding decisions or extreme climatic events might delay or even stop altogether the progression of the Project. **Mr Peet** addresses technical transport matters in his evidence, while **Mr Dalzell** addresses central government commitment to the Project in his evidence.
329. KiwiRail supports the Project overall but recorded a specific concern about the existing Tararua Road level crossing and its adequacy to cope with road traffic generated by the Project. **Mr Peet's** evidence explains the technical solution that has been included as part of the Project works, while **Mr Dalzell** explains the current status of discussions with KiwiRail in terms of entering into a project specific agreement between KiwiRail and Waka Kotahi to undertake the works.

### **Tara-Ika and the Future Urban Environment**

330. Kevin Daly and JML Ltd, while supportive of the Project overall, request that infrastructure and mitigation be provided when the Project is constructed to take into account and address effects on the future urban environment as it will likely exist in the Tara-Ika Plan Change area east of Levin.
331. I have largely addressed these requests earlier in this evidence where I discuss the environment and Tara-Ika. I simply reiterate there that all relevant components of the environment have been taken into account by the

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<sup>39</sup> Horowhenua New Zealand Trust (35), Lynette Bailey (37), Roger McLeay (52).

Project and effects either avoided or mitigated accordingly, and there is no requirement in planning terms for the Project to address the as yet unconfirmed and unconsented future environment in Tara-Ika. However, as mentioned above, in his evidence **Mr Dalzell** sets out Waka Kotahi's offer to fund the grade separated components of the east-west arterial.

### **Bridlepath**

332. A number of submitters<sup>40</sup> request that the Project provide a bridle path for horse riders in addition to the SUP that caters for walkers and cyclists. This matter is addressed from a social effects perspective in the evidence of **Ms Healy**, while I address the statutory planning aspects of the request in the following section of this evidence where I address the Council reports.

### **Kāinga Ora**

333. The extent of the NoR in the Horowhenua District as issued by Waka Kotahi required land from sites at 242 Muhunua East Road and 96/98 Arapaepae East Road in Levin owned by Kainga Ora. The Kāinga Ora submission opposes the Project, noting that the facilities at these two sites house residents with special needs whose tolerance of construction related effects are reduced when compared to the general population.

334. One aspect of the relief sought was for Waka Kotahi to review the spatial extent of the designation boundaries at the location of the Kāinga Ora sites, with a view to reducing the land required.

335. I am advised that Waka Kotahi have undertaken such a review and the upshot is that the NoR is now amended to completely remove the land requirement from the 96/98 Arapaepae Road site. The evidence of **Mr Dalzell, Mr Curtis, Mr Smith and Mr Lister**, and the conditions attached to Ms McLeod's evidence, set out the proposed approach to appropriately mitigate potential effects at 96/98 Arapaepae Road.

336. I have considered whether the removal of the land requirement from the Kainga Ora site as proposed by Waka Kotahi has any implications in terms of the reasonable necessity test under s171(1)(c) of the RMA. The land formerly required was small in area and was to be used for construction purposes. Waka Kotahi believe that is feasible for the Project construction

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<sup>40</sup> Horowhenua Equestrian Advocacy Group, Josien Reinalda, Beth Reille, Jane Lenaghan, Kelly Henry, Maggie Braddock, Sharon Walker, Ruth Halliday & Kapiti Equestrian Advocacy Group, Lynne Moore, Anita Jones, Jacqui Lane, Michael Braddock, New Zealand Equestrian Advocacy Network, Lynda Andrews, Rebecca Wilson, Nicola Robinson, Elisabeth Holman, Sarah de Geest.

work to be undertaken without the land and to that end the reduced land take remains reasonably necessary to achieve the objectives of the Project.

## **COMMENTS ON THE COUNCIL REPORTS**

337. Overall, there is a significant amount of agreement between the authors of the Council reports (Mr St Clair for the Regional Councils and Ms Anderson for the District Councils) and myself in terms of key statutory tests, policy assessments, and conclusions on levels of effects generated by the Project. There are however some areas where we are not currently aligned, and I address these as follows.

### **Flooding**

338. Informed by the Technical Review reports of Mr Kinley and Mr McArthur, Mr St. Clair and Ms Anderson have reached a view in their respective reports that there is insufficient information available to demonstrate that the Project will not generate unacceptable flooding effects. As a result both Mr St. Clair and Ms Anderson regard the Project as inconsistent with the relevant flooding related provisions of the relevant plans.

339. I have undertaken a detailed analysis of the relevant plan provisions, Technical Report F (Hydrology and Flooding) submitted with the AEE, and the technical review reports provided by Mr McArthur and Mr Kinley and I do not support the conclusions reached by Mr St. Clair and Ms Anderson. Relying on the evidence of **Mr McConchie** with regards to technical flooding matters, I explain further as follows.

340. Mr Kinley and Mr McArthur assert in their technical review reports that the One Plan requires consideration of a 0.5AEP event plus climate change (or in other words a 1:200yr event plus climate change). I disagree with this assertion. While it is correct to say that the relevant One Plan policies (specifically Policy 9-2) require consideration of a 0.5AEP/1:200yr event, I can find no reference in the relevant One Plan provisions (nor for that matter in any relevant non-statutory guidance material published by Horizons) to the need for an additional consideration of climate change to be built in to modelling. This is important because Mr Kinley considers that in the absence of an assessment of the 0.5% AEP storm event, with an allowance for the effects of climate change, the effects of the works that Horizons seeks to understand in its One Plan are unquantified. However, this fundamental

concern is not supported by One Plan provisions and in my view is unfounded.

341. I acknowledge that the Project is not strictly consistent with Policy 9-2 given that an alternative magnitude flood event (1:100yr plus climate change) is used as the basis for the flooding assessment. However, as set out in detail in the evidence of **Dr McConchie**, this modelling approach produces outputs that in practicable terms exceed the requirements of the One Plan. I also note **Dr McConchie's** evidence that the same modelling approach was used by Waka Kotahi for the recent Te Ahu a Turanga project (also in the Horizons Region), and was agreed as appropriate by Horizons in that case even though it did not strictly match the One Plan requirement. From a policy point of view, I am therefore satisfied that the modelling approach used to inform the Ō2NL project flooding assessment is fundamentally consistent with the intent of the One Plan, if not meeting the policy "to the letter".
342. Mr Kinley and Mr McArthur have adopted the approach that avoidance of effects in this instance means that no flooding at all as a result of the Project can occur outside of the designation boundary, save for a 10mm depth tolerance to allow for modelling "noise". That approach in my view has no basis in either the One Plan nor the PNRP policy environment. It could also lead to artificial and inappropriate outcomes given that one option open to Waka Kotahi (in theory at least) to resolve the concerns of Mr Kinley and Mr McArthur is simply to adjust the designation boundary to encompass the areas that are modelled to receive short duration and very shallow depths of flooding.
343. It is also inconsistent with interpretations of the term "avoid" that have evolved since the Supreme Court King Salmon decision, that acknowledge that within the realm of "avoid", transitory and minor effects can be tolerated. I consider that I am well placed to comment on this particular issue given my experience as the planning advisor to the Board of Inquiry that heard and determined the King Salmon applications. In this case, my view is that paddocks within an existing floodplain being affected by less than 500mm of water for up to a maximum of 6 hours at a time in the case of a modelled extreme weather event fall squarely within the realm of transitory and minor. I also note that no buildings are affected.
344. The potential flooding effects of the Project also need to be viewed within the over-arching lens of Policy 3-3 (Adverse effects of infrastructure and other

physical resources of regional or national importance on the environment) of the One Plan.

345. While I have addressed that Policy earlier in this evidence, I reiterate here that the Policy stipulates that in managing any adverse environmental effects arising from the establishment, operation, maintenance and upgrading of infrastructure or other physical resources of regional or national importance, the Regional Council and Territorial Authorities **must**:

*.....(b) allow minor adverse effects arising from the establishment of new infrastructure and physical resources of regional or national importance; and*

*(c) avoid, remedy or mitigate more than minor adverse effects arising from the establishment of new infrastructure and other physical resources of regional or national importance, taking into account:*

*(i) the need for the infrastructure or other physical resources of regional or national importance,*

*(ii) any functional, operational or technical constraints that require infrastructure or other physical resources of regional or national importance to be located or designed in the manner proposed,*

*(iii) whether there are any reasonably practicable alternative locations or designs, and*

*(iv) whether any more than minor adverse effects that cannot be adequately avoided, remedied or mitigated by services or works can be appropriately offset, including through the use of financial contributions*

346. In my view, Policy 3-3 and the deliberate use of the term “must” sets a very important context to the consideration of flooding matters. From my reading of the reports and evidence from the respective experts, it would appear that the debate is about whether sufficient evidence has been provided to demonstrate that potential adverse flooding effects from the Project are less than minor. When viewed in the directive context of Policy 3-3 above, and on the assumption that if the potential adverse flooding effects are not less than minor they become minor, such debate is rendered largely irrelevant because Policy 3-3 compels the Council's to allow such minor effects.

347. I now address the relevant District Plan provisions that Ms Anderson believes the Project is inconsistent with, on the basis of Mr McArthurs view that the

Project has not provided sufficient information to allow an appropriate assessment of flood effects to be made.

*Kapiti Coast District Plan*

348. **Policy NH-Flood-P12** (High Hazard Flood Areas) is raised by Mr McArthur and Ms Anderson as justification for the view that the Kapiti Coast District Plan requires no increase in flood level as a result of the Project. As set out below this Policy is relevant only in the river corridor, stream corridor, overflow path and residual overflow paths. These areas are mapped on the Kapiti Coast District Plan maps. I have reviewed the relevant planning maps and the only corridor referenced in Policy NH-Flood-P12 that the Ō2NL Project intersects is the stream corridor containing the Greenwood Stream adjacent to the tie in point of the Ō2NL Project with the recently opened PP2Ō project. That stream already contains a culvert installed by the PP2Ō project. The Ō2NL Project simply proposes an extension of that culvert, the effect of which in terms of flooding has already been assessed and deemed acceptable as part of the PP2Ō consenting process.

<b>NH-FLOOD-P12</b>	High Hazard Flood Areas
<p><u>Development</u> in the <u>river corridor</u>, <u>stream corridor</u>, <u>overflow path</u>, and <u>residual overflow path</u> areas will be avoided unless the 1% <u>AEP</u> hazard can be mitigated on-site to avoid damage to property or harm to people, and the following criteria are met:</p> <ol style="list-style-type: none"><li>1. no increase in flood flow or level on adjoining <u>sites</u> or other parts of the floodplain;</li><li>2. no reduction in storage capacity on-site; and</li><li>3. all flow corridors or <u>overflow paths</u> are kept clear to allow flood waters to flow freely at all times.</li></ol>	

349. While the Ō2NL Project is within the catchment of the Waitohu Stream, the Project itself does not cross the Waitohu Stream nor the mapped Waitohu river corridor. That corridor is crossed by the immediately adjacent PP2Ō project.

350. My view is that Policy NH-Flood-P12 (High Hazard Flood Areas) does not have District wide effect, is barely relevant to the Ō2NL Project, and to the extent that it is relevant the Ō2NL Project is consistent with it.

351. This is important because Mr McArthur appears to base his view that there should be no flooding outside of the designation, or any increases in flood

level within it, on the requirements of Policy NH-Flood-P12, in particular clause 1. Given my analysis above, Policy NH-Flood-P12 cannot in my view be relied upon as an over-arching policy that influences an overall assessment of the acceptability or otherwise of the flooding effects of the Project.

352. **Objective DO-05** is set out below:

<b>DO-05</b>	Natural Hazards
To ensure the safety and resilience of people and communities by avoiding exposure to increased levels of <a href="#">risk</a> from <a href="#">natural hazards</a> , while recognising the importance of natural processes and systems.	

353. In considering the Project's relationship to this Objective, it should be recognised that the existing SH1 is significantly exposed to hazard risk, and in that regard the construction of the Project will give rise to significantly greater safety and resilience for people and communities through provision of an alternative route that is less exposed to hazard risk.

354. As set out in the evidence of **Mr McConchie** and as I have discussed above, people and communities will not be placed at increased risk of exposure to flood hazard as a result of the construction of the Project. As a result my view is that the Project is consistent with Objective DO-05.

355. **Policy NH-P2** is set out below:

<b>NH-P2</b>	<a href="#">Risk</a> Based Approach
A <a href="#">risk</a> based, all hazards approach will be taken to <a href="#">subdivision</a> , <a href="#">land</a> use, and <a href="#">development</a> within areas subject to the following <a href="#">natural hazards</a> :	
<ol style="list-style-type: none"><li>4. flood hazards;</li><li>5. earthquake hazards; and</li><li>6. fire hazards</li></ol>	
Hazard categories will be developed for flood and <i>seismic</i> hazards to guide decision making and help minimise potential harm to people and damage to property due to these hazards, while allowing appropriate use.	

356. The Project is consistent with this policy. **Dr McConchie's** evidence sets out the methodology for assessing flood risk associated with the concept design of the Project. Neither Mr McArthur nor Mr Kinley disagree with the methodology used.

357. My analysis and opinion on Policy NH-Flood-P12 equally applies to **Policy NH-P3** as set out below. To the degree Policy NH-P3 is relevant, the Project is consistent with it.

**NH-P3** Managing Activities in Natural Hazard Prone Areas

In areas identified on the District Plan Maps, new [subdivision](#), use and [development](#) will be managed in a way that avoids increasing [risks](#) from [natural hazards](#). [Subdivision](#), use and [development](#) will be allowed only where it can be shown that any potential increase in [risk](#) exposure on or beyond the [land](#) itself has been avoided, remedied or mitigated.

358. Given the modelling that has been undertaken for the Project has assessed an event larger than that required by the One Plan, and the effects outside of the designation are (at worst) transitory and minor, my view is that the Project is consistent with **Policy NH-P4** as set out below. I do not understand that any of the experts are suggesting the potential effects from flooding from the Project are significantly adverse.

**NH-P4** Precautionary Approach

A precautionary approach will be taken to the management of [risks](#) from hazards that may impact on [subdivision](#), use and [development](#), where there is uncertainty about the potential [effects](#) and where the [effects](#) are potentially significantly adverse.

*Horowhenua District Plan*

359. I set out as follows the provisions that Ms Anderson considers the Project to be inconsistent with, and my analysis thereafter.

**Objective 8.1.1 Risks and Adverse Effects of Natural Hazards**

*The adverse effects of natural hazards on people, property, the environment and the wellbeing of communities are avoided or mitigated.*

**Policy 8.1.3**

*Identify areas on the Planning Maps where land is at significant risk of inundation from flood events where there is a known high probability or high potential impact from a flood event's predicted effects (a 0.5% AEP (1 in 200 years)). The mapping of these areas is to be updated as new information becomes available*

**Policy 8.1.4**

*Control the location and design of land use, structures and subdivision in identified areas at significant risk from flood events, as identified in Policy 8.1.3, to avoid or mitigate the adverse effects on people, property and the environment.*

360. My comments above in terms of the very short duration, extent and intensity of the modelled flooding outside of the designation based on the concept design of the Project are relevant here. In my view, adverse effects from the Project will largely be avoided and where they are generated will be mitigated through the design of the Project to at worst minor levels in some locations, meaning the Project is consistent with Objective 8.1.1 and Policy 8.1.3 and 8.1.4.
361. It is also important to bear in mind the “bigger picture” that the Project will provide the community with a state highway and overall roading network that is significantly more resilient to natural hazard risks and climate change impacts than the existing network. This is consistent with the community wellbeing aspect of Objective 8.1.1.

***Policy 8.1.5***

*Avoid the establishment of any new structure or activity, or any increase in the scale of any existing structure or activity, within the identified areas at significant risk from flood events, as identified in Policy 8.1.3, unless:*

- *flood hazard avoidance is achieved or the 0.5% AEP (1 in 200 years) flood hazard is mitigated, or*
- *the non-habitable structure or activity is on production land, or*
- *there is a functional necessity to locate the structure or activity within such an area, in which case the structure or activity may be allowed.*

362. As I have explained earlier in this evidence, the Project has a functional need to be located in the area proposed and thus unavoidably traverses a number of floodplains and waterways in the Horowhenua District that will be subject to inundation in a 1 in 200 year (0.5% AEP) flood event. The Project is predominantly located on production land in the Rural Zone.
363. As explained in Hydrology and Flooding - Technical Assessment F and in the evidence of **Dr McConchie**, the location of the proposed designations in combination with the implementation of best practice hydraulic design of structures, means that the adverse effects of the modelled flood events on the Project itself will be avoided or mitigated as required by policy.
364. As a result, the Project meets all of the exemptions in Policy 8.1.5 and is consistent with it.

***Policy 8.1.6***

*Flood hazard avoidance must be preferred to flood hazard mitigation.*

The Project is consistent with this policy. The design of the Project will ensure flood hazards are avoided in the majority of locations and where they do occur will be mitigated to at worst minor levels.

**Policy 8.1.7**

*Ensure any development undertaken within identified flood areas, as identified in Policy 8.1.3, adopts specifically designed measures to avoid or mitigate the hazard risks by ensuring:*

- *Occupied structures have a finished floor or ground level, which includes a reasonable freeboard above the 0.5% AEP (1 in 200 years) flood level.*
- *In a 0.5% AEP (1 in 200 years) flood event, the inundation of access between habitable structures and a safe area where evacuation may be carried out (preferably that will not be flooded) must be no greater than 0.5 metres above finished ground level with a maximum water velocity of 1.0 m/s, or some other combination of water depth and velocity that can be shown to result in no greater risk to human life, infrastructure or property.*
- *Adverse effects on the effectiveness of existing flood hazard avoidance or mitigation measures, including works and structures within River and Drainage Schemes, natural landforms that protect against inundation, and overland stormwater flow paths, are avoided.*
- *Adverse effects on existing structures and activities are avoided or mitigated.*
- *Regard is had to the likelihood and consequences of the proposed flood hazard mitigation measures failing.*
- *Regard is had to the consequential effects of ensuring occupied structures have a finished floor or ground level, including but not limited to landscape and natural character, urban design, and the displacement of floodwaters onto adjoining properties.*
- *Regard is had to the proposed ownership of, and responsibility for maintenance of, the flood hazard mitigation measures including the appropriateness and certainty of the maintenance regime.*

365. The Project does not include any structures designed for occupation. The concept design of the Project works within the identified flood areas incorporates design measures that have taken account of existing flood hazard avoidance and mitigation measures and natural landforms that protect against inundation (for example, the incorporation of single span bridges and specific scour protection measures). In that regard, key design measures have been incorporated into the proposed consent conditions as set out in the evidence of **Ms McLeod**. As a result, I regard the Project as consistent with Policy 8.1.7.

**Objective 8.2.1 Worsening the Risks or Severity of Natural Hazards**

*Land use and development that does not significantly worsen the risk of occurrence or the severity of natural hazards or compromise the*

*effective functioning or integrity of natural hazard protection or mitigation works*

366. The Project will not have any influence on the occurrence of natural hazards nor will it significantly worsen the severity of natural hazard events that do occur. Neither will it compromise the functioning and integrity of existing hazard protection and mitigation works. As a result, I regard the Project as consistent with Policy 8.2.1.

**Bridle Path**

367. The s198D report for Horowhenua District notes the submissions requesting that the Project provide a bridle path for horse riders in addition to the SUP that caters for walkers and cyclists, and recommends that a study be undertaken to ascertain the need for such a pathway.

368. From an effects perspective, I rely on the findings of **Ms Healy** that there is no evidence that any routes frequently used by equestrians are impacted by the Project. On that basis, there would not appear to be any environmental effect that needs to be remedied or mitigated by the provision of a bridle path.

369. Given that there are no compelling effects based grounds for provision of a bridle path by the Project, I have examined the relevant plans and strategies for each District Council to see if they might provide policy guidance.

370. The latest KCDC document of relevance is the Sustainable Transport Strategy (March 2022) (**STS**). That strategy would appear to supercede (or at least compliments) the Kapiti Coast Cycleways, Walkways and Bridleways Strategy (2009) which I have discussed earlier in this evidence. The STS makes numerous references to bridleways as well as the Ō2NL Project, noting that “the speed of progress of the Ō2NL Project may determine ... the potential to enable better cycleway, walkway and bridleway networks with Horowhenua”<sup>41</sup>. In my view the STS (unsurprisingly) reflects the fact that there is an established bridle path network in the Kapiti Coast District, and promotes linkages with any similar network in the Horowhenua District as well as working with other agencies to develop the bridle path network.

371. The Open Space Strategy (February 2012) (**OSS**) sets the direction for the provision and management of Kāpiti Coast’s open spaces network for the

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<sup>41</sup> KCDC Sustainable Transport Strategy, pg 17

next 30 years. It is relevant as the recreational trails associated with the Cycleway, Walkway and Bridleway (**CWB**) network form part of the OSS.

372. The OSS notes that the walking, cycling and horse riding network in the Kapiti Coast District is predominately located in linear open space corridors, promotes the establishment and management of bridle paths, and sets direction for the acquisition of land or the establishment of land management agreements to strengthen the CWB network. The provision of the bridle path in the PP20 project (developed after the OSS became operative in 2012) was consistent with the OSS.
373. It is thus apparent that within the relevant KCDC strategies (to the degree they are relevant to the Ō2NL project), there is support for extending the bridle path network in the Kapiti Coast District into the Horowhenua District.
374. The Horowhenua Integrated Transport Strategy (May 2020) (**HITS**) has a number of Focus Areas, one of which is Active Transport. The priorities of that Focus Area are to:
- (a) improve active mode travel;
  - (b) ensure cross-government collaboration occurs to improve active mode travel networks;
  - (c) maximise the provision of shared pathway projects, on road and off road cycle lanes, access ways and open space linkages through integrated landuse and transportation planning; and
  - (d) collaborate with transport partners, regional economic development Agencies, neighbouring councils, community organisations and networks, to support and promote the District's cycleway/shared pathway network.
375. The HDC Shared Pathways Strategy (March 2016) provides direction for walking and cycling infrastructure and investment priorities. Its purpose is to:
- (a) Establish the strategic direction for a cycle trail network;
  - (b) Provide for the development of an integrated Horowhenua Shared Pathways network;
  - (c) Support future funding proposals for network development and expansion; and
  - (d) Seek support and endorsement from New Zealand Cycle Trail for inclusion as a potential expansion to the 'Great Rides' network.

376. In both the HDC strategies addressed above the focus is on walking and cycling with no reference at all to horse riding routes or bridle paths. In this regard, the lack of specific reference to horse related networks would seem to reflect the fact that such networks are simply not as prevalent in the Horowhenua District as they are in the Kapiti Coast District, which in turn is borne out by the research referenced in **Ms Healy's** evidence that the Ō2NL Project does not impact any established horse riding routes in the Horowhenua District.
377. Given the strong focus of the relevant Horowhenua District strategies on active mode walking and cycling provision, I conclude that the Ō2NL Project is consistent with them through the provision of the SUP in the form proposed (ie catering for walkers and cyclists). Not providing for horse riding access as part of the Project is not inconsistent with the relevant Horowhenua District strategies.
378. On the basis of the above findings my view is that there is neither an effects, or policy, basis for the Ō2NL project to provide a bridle path for horse riders.

## **PART 2 ASSESSMENT**

379. The Court will be familiar with the findings of *Davidson v Marlborough District Council* in terms of the circumstances when recourse to Part 2 of the RMA can be appropriate when considering the merits of applications made under the RMA.
380. In undertaking the analysis against the objectives and policies of the relevant plans set out earlier in this evidence, I have not found the provisions of those plans to be equivocal. Nor have I found that there are any omissions or gaps in the plans in terms of Part 2 matters that would lead me to believe that they have not been completely prepared.
381. In my view the assessment of the Project's relationship to the objectives and policies of the relevant planning instruments provides clear direction that the NoRs should be confirmed and the consents granted, and with what type of conditions.
382. I have not therefore provided a Part 2 assessment in this evidence, as I do not believe recourse to Part 2 is necessary in this instance.

383. Nevertheless, should the Court be of the view that recourse to Part 2 is necessary to inform its decision, I rely on the Part 2 assessment that I authored that is provided at Section 74 (page 379) of the AEE. That assessment sets out that the Project is consistent with Part 2 and that confirming the NoRs and granting the resource consents subject to the preferred conditions would give effect to the sustainable management purpose of the RMA. I continue to hold that view.

**Grant Eccles**

**4 July 2023**

## APPENDIX A – DETAILED ONE PLAN OBJECTIVES AND POLICY ASSESSMENT

### Regional Policy Statement – Horizons One Plan

1. The RPS component (Part 1) of the **Horizons One Plan** sets out the regionally significant resource management issues in the Manawatū-Whanganui Region and the objectives, policies and methods that will be used to address these issues, over ten chapters (Chapters 1 to 10). Part 2 of the One Plan is the Regional Plan section, which gives effect to the RPS and primarily contains regional rules regarding the control of the region's natural and physical resources over nine chapters (Chapters 11 to 19), but also contains objectives and policies designed to guide decision-making on resource consent applications.
2. An assessment of the One Plan objectives and policies is provided in detail in Part I of the AEE, and concludes the Project is consistent with the relevant objectives and policies. I do not repeat that assessment here, except where the objectives and policies are particularly pertinent or have been addressed in submissions or the section 87F report.

#### *Chapter 3 - Infrastructure*

3. Chapter 3, specifically Objective 3-1, Policy 3-1, Policy 3-2 and Policy 3-3 of the RPS relate to infrastructure, and therefore are particularly relevant to the Project as they strongly support the establishment and operation of regionally and nationally important infrastructure (including the road network as identified in the RLTP).
4. The Project is "infrastructure" as defined in section 2 of the RMA. For the purposes of these RPS provisions it is infrastructure that is "*of regional and national importance*", because it is mapped and identified in the Horizons RLTP as a priority investment area. The Project also:
  - (a) is a priority project in the Manawatū-Whanganui Economic Recovery Strategy (developed as a plan for economic recovery in response to the COVID-19 pandemic).
  - (b) is identified in the National Land Transport Programme (2021 – 2024) as a key project for the Manawatū-Whanganui region.
  - (c) is defined as Nationally Significant Infrastructure in the NPS-UD, and Specified Infrastructure as defined in the NPS-FM and NPS-HPL.

- (d) delivers a range of benefits including positive transport, social and economic impacts.
5. Policy 3-3 is a policy specific to important infrastructure, with a particular approach or pathway being offered because such infrastructure has special importance (when compared to other activities). Policy 3-3 establishes a framework for the management of adverse effects arising from the establishment, operation, maintenance and upgrading of infrastructure of national importance. This framework provides for minor adverse effects to be allowed, and more than minor effects to be avoided, remedied or mitigated, or offset.
  6. As discussed elsewhere in my evidence, route alternatives have been considered and the Project's design has sought to minimise adverse effects. Measures will be undertaken during the construction phase of the Project to avoid, remedy and mitigate those adverse effects as far as practicable. Nevertheless, the Project will still result in more than minor adverse effects on the environment, particularly on terrestrial and freshwater ecology.
  7. In this regard, it is relevant to note that Policy 3-3(c)(iv) provides that "*any more than minor adverse effects that cannot be adequately avoided, remedied or mitigated by services or works can be appropriately offset, including through the use of financial contributions*". The flexibility afforded by this policy (underscored by the option of offsetting, which includes financial contributions) reflects the importance of enabling regionally or nationally significant infrastructure, notwithstanding the scale of residual effects following efforts to avoid, remedy, or mitigate them.
  8. Read together, Objective 3-1 and the associated policies both enable and seek to protect significant infrastructure including the Ō2NL Project. These RPS provisions weigh strongly in favour of granting the RMA authorisations for the Project - the significant benefits of the Project must be taken into account, and the adverse effects of establishing the Project are to be managed specifically in accordance with the framework set out in Policy 3-3.
  9. I note that Mr St. Clair for the most part agrees<sup>42</sup> with my analysis with regards to the One Plan Chapter 3 Infrastructure provisions addressed above, with the exception of aspects related to flooding, where there is dispute among the relevant technical experts as to the degree of adverse

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<sup>42</sup> see s87F report, para 193

effect that the concept design could have. I comment further on this matter later in this evidence.

### *Chapter 5 - Water*

10. Chapter 5 addresses the management of fresh water in the Region, specifically, the management of water quality, water quantity and the beds of rivers and lakes. Each is addressed in turn below.

#### Water Quality

11. Objective 5-1 and supporting Policy 5-1 require that surface waterbodies and their beds are managed in a manner which safeguards their life supporting capacity and recognises as well as provides for the water management values (hereafter referred to as values) set out in Schedule B of the One Plan.
12. The One Plan establishes 29 surface water management zones within the 11 parent catchments of the Manawatū-Wanganui Region. The One Plan sets water quality targets that apply throughout the region, as well as specific targets for each sub-catchment (termed 'water management sub-zone'). The water quality targets focus on managing the impacts of farming land use, setting limits for parameters such as nitrogen, phosphorus, bacteria and algal growth. There are no limits for heavy metals or hydrocarbons.
13. The rivers and streams within the Project area in the Manawatū-Wanganui Region are located within four parent catchments: Manawatū (Mana), Ohau (Ohau), West Coast (West) and Punahau/Lake Horowhenua (Hoki). Schedule A of the One Plan identifies that the rivers, streams and waterways affected by the Ō2NL Project fall within the following water management sub-zones:
  - (a) Mana\_13e (Koputaroa Stream);
  - (b) Ohau\_1b (Ohau River and Kuku Stream);
  - (c) West\_9a and West\_9b (Waikawa Stream and Manakau Stream); and
  - (d) Hoki\_1a and Hoki\_1b (Lake Horowhenua and Hokio Stream catchment).
14. The targets for the sub-zones set out above are recorded in Schedule E of the One Plan and are set out in detail on page 332 of the AEE.
15. Policy 5-2 identifies that the water quality targets cited at Schedule E must be used to inform the management of surface water quality as set out in Policies

5-3 and 5-4. Policy 5-3 applies to on-going compliance when water quality targets of Schedule E are met, while Policy 5-4 applies when those water quality targets are not met. Policy 5-5 is not relevant as it only applies when the existing water quality is unknown – in this case the water quality of the catchments affected is known and reported on.

16. The existing water quality in the sub-catchments affected by the Project is discussed in the Water Quality Technical Assessment H and in the evidence of **Mr Hamill**. Current water quality in these catchments is variable, and largely dependent upon upstream land use, ranging from generally high (in the Ohau River and Waikawa Stream) to poor (in the Koputaroa Stream and tributaries of the Waitohu Stream).
17. Water quality monitoring undertaken for the Project indicates that none of the sub-catchments meet all of the One Plan water quality targets. When targets are not met, Policy 5-4 requires the water quality to be managed so that it is enhanced.
18. The vast majority (95%) of operational discharges (stormwater) will be treated, which is a significant improvement from the treatment that is being provided for the existing state highway network within the Project area, including SH1 and SH57 (Arapaepae Road). On this basis, there is the potential for the Project to improve water quality in the Project catchments.
19. Further, the riparian planting proposed in the immediate Project catchments, as described in the evidence of **Dr James**, is likely to improve water quality and ecosystem health. As a result of these treatment and improvement elements, my view is that in the long term, Policy 5-4 can be met.
20. During construction the potential contaminants that could adversely affect water quality are sediment, hazardous substances (including concrete) and wood slash from vegetation clearance. These potential temporary effects can be minimised and mitigated with adherence to the conditions, and as reflected in the ESCP and the Hazardous Substances Procedure contained within the overall Design and Construction Report and the provisions relevant to wood slash and mulch management that will be contained in the overall CEMP for the Project. These aspects are explained in greater detail in the evidence of Mr McLean.
21. Policy 5-10 is relevant to the proposed discharges of cleanfill (spoil) to land. These discharges will not result in pathogens or other toxic substances being discharged, as the material to be discharged is cleanfill only. There are

suspected areas of potentially contaminated land within the footprint of the Ō2NL Project – as further explained in the evidence of **Ms Halder** these areas will be subject to detailed site investigations (and additional consents if required) once land access is available to confirm or otherwise the presence of contaminants.

22. There may also be areas of contaminated soils within the Project area which are undocumented. If unexpected contamination is discovered during construction, a DSI will be undertaken at the area of concern. The results will determine what (if any) remediation or mitigation is required.
23. Policy 5-13 (Efficient use of water) is relevant due to the water take consents being sought for construction effects mitigation purposes. As set out in the AEE (section 14.4.8.1, page 75) and as addressed in the evidence of **Dr McConchie**, Waka Kotahi proposes to take water from the Ohau River (only at times of high flow in recognition of the fully allocated status of the Ohau River) and the Koputaroa, Waikawa, Manakau, Waiauti and Waitohu Streams.
24. Water taken for the Project during construction will be stored in a series of constructed storage ponds within the designation (some of which will be used as permanent stormwater treatment ponds once the Project is operational). From those storage locations the water will be transported and used as required along the length of the Project.
25. The proposed take and use of the water is consistent with Policy 5-13<sup>43</sup> which requires the efficient use of water including through promotion of water storage (ie the Project will use water storage ponds), the enablement of water permit transfers (ie the Project may be able to utilise any water permits held for properties to be acquired), and regular monitoring of water takes including by way of water metering and telemetry (ie conditions of consent will be applied requiring this).

#### *Beds of Lakes and Rivers*

26. Objective 5-4 (which is supported by Policies 5-22 to 5-27<sup>44</sup>) seeks to ensure that the beds of rivers and lakes will be managed in a way that:
  - (a) sustains their life supporting capacity;

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<sup>43</sup> Mr St Clair generally concurs with the AEE assessment of the objectives and policies in Chapter 5 of the RPS, with the exception of Policy 5-17(b)

<sup>44</sup> I note that Mr St Clair (s87F report, para 204) concurs with the AEE assessment of these provisions, with the exception of Policy 5-24 with regards to rivers and beds with Schedule B Flood Control and Drainage value

- (b) provides for the instream morphological components of natural character;
  - (c) recognises and provides for the Schedule B values; and
  - (d) provides for infrastructure and flood mitigation purposes.
27. It goes on to require that land adjacent to the bed of reaches with a Schedule B value of 'Flood Control and Drainage' is managed in a manner which provides for flood mitigation purposes.
28. The Ō2NL Project involves bridges over the Waiauti, Manakau, Waikawa and Kuku Streams and the Ohau River. The Site/Reach Specific Schedule B values of ecological and water quality relevance at each of these waterways are listed below.

Waterway	One plan schedule B site/reach specific value
Ohau river and Kuku Stream	Site of significance-aquatic , Trout fishery - category II Regionally Significant, Trout spawning , Domestic food supply , Flood control/drainage
Manakau stream	Domestic Food Supply, Flood Control/Drainage
Waikawa stream	Site of significance-aquatic, site of significance-riparian, amenity, water supply, domestic food supply, flood control/drainage
Waiauti stream	flood control/drainage

29. Policy 5-22 sets out the general management requirements for activities in, on or under the beds of rivers such that:
- (a) The Schedule B values as required in Policies 5-23 to 5-25 are recognised and provided for (as described in the table above);
  - (b) Any significant reduction in the river/bed's ability to convey flood flows or significant impediment to the passage of floating debris are avoided;
  - (c) Effects on the stability and function of the river bed, habitat diversity, natural character and public access are avoided, remedied or mitigated; fish passage is provided for;

- (d) The nature and extent of navigation or access for the operation/maintenance/upgrade of infrastructure and other physical resources of regional or national importance is not obstructed; and
  - (e) Continued public access in accordance with Policy 6-10 is provided for.
30. This policy is of relevance to all bridge crossings and works within streams. The Project has been designed seeking to avoid, remedy and mitigate effects on the beds of rivers and lakes as far as practicable to generally achieve the above requirements.
  31. Policy 5-23 relates to activities in sites with a Schedule B Natural State, Sites of Significance - Cultural, or Sites of Significance – Aquatic value, and as a consequence, it is relevant to the bridge crossings of the Ohau River and Waikawa Stream.
  32. Policy 5-23(a) requires effects on these values to be avoided in the first instance. Policy 5-23(b), however, allows for the mitigation or remedy of effects where it is not practicable to avoid them in respect of infrastructure and other resources of regional and national importance, or for activities that will result in an environmental benefit. The Project is identified as being of regional and national importance; therefore effects do not need to be avoided, but they must be remedied or mitigated.
  33. Regardless of the “avoidance” exemption in the policy for significant infrastructure, permanent effects on aquatic values from the crossings of the Ohau River and Waikawa Stream have been practically avoided through the selection of a bridge structure as the preferred crossing form.
  34. Under Policy 5-23(c), the habitat and spawning requirements of identified species are to be maintained. The Freshwater Ecology - Technical Assessment K, and the evidence of **Dr James**, explains how the effects management hierarchy has been applied to the management of temporary construction effects at the Ohau River and Waikawa Stream crossings and other locations. As a result, the Project is consistent with the overall requirements of Policy 5-23.
  35. Policy 5-24 is relevant to activities in rivers and their beds with a Schedule B value of ‘Flood Control and Drainage’ and is, therefore, relevant to all of the bridge crossings. The Policy requires the activity (that is, the bridges) to be managed in terms of flood hazard, erosion protection and adverse effects.
  36. The Hydrology and Flooding evidence of **Dr McConchie** concludes that the potential adverse effects on hydrology and flooding in the area of

constructing the proposed bridges over the respective waterways will be less than minor. This is consistent with Policy 5-24(a). The Project is also consistent with Policy 5-24(b) on the basis that the design of the bridges avoids adverse effects on the instream morphological components of natural character.

37. Policy 5-25(a) is relevant to all other activities in rivers and their beds in respect of all other Schedule B values. It requires that significant adverse effects, in the first instance, be avoided, remedied or mitigated on the instream morphological components of natural character and the Schedule B values.
38. Policy 5-25(b) then goes on to provide consent applicants with the option of providing an offset. As the zone-wide Schedule B values apply to the whole Project, this policy is therefore applicable to the 39 stream diversions and 33 new culverts proposed to be constructed as part of the project. As outlined in the Freshwater Ecology evidence of **Dr James**, the stream loss and modification associated with these stream diversions and new culverts can neither be avoided nor fully remedied or mitigated. As such, a comprehensive offset approach is proposed as enabled by Policy 5-25(b).
39. Policy 5-26 provides for activities in, on, under or over the beds of rivers and lakes that are essential or result in an environmental benefit to generally be allowed. The activities for which resource consent is sought pursuant to section 13 of the RMA are essential to enable the Project to proceed, which in turn, is considered essential given the Project's identification as a priority project under the RLTP.

#### *Indigenous Biological Diversity*

40. Objective 6-1 and Policy 6-2 seek that significant indigenous biodiversity, particularly rare, at risk and threatened habitats, are protected and managed, and enhanced where appropriate.
41. The potential impacts of the Project on indigenous biological diversity have been assessed in Terrestrial Ecology - Technical Assessment J and in the evidence of **Mr Goldwater**, with reference to the One Plan provisions, including identification and quantification of the types of rare, at risk and threatened habitats and species affected and the extent of the effect.
42. The route selection process for the Project, coupled with ongoing concept design refinements, has resulted in the Project footprint and construction

buffer avoiding all direct effects (that is, clearance) on indigenous forest remnants, treeland, and scrub of High or Very High value.

43. Policy 6.2 directs that the Regional Council must protect significant indigenous biodiversity through regulation. The rules in Chapter 13 give effect to this Policy, and as such the Regional Plan provides for consideration of activities in these areas. Specific decision-making criteria are outlined in Chapter 13 of the One Plan and a detailed analysis of these provisions is provided later in this evidence.
44. In his evidence **Mr Goldwater** includes a detailed assessment of the effects of the Project, and recommends measures to avoid, remedy and offset/compensate for those effects. Those recommended measures are reflected in the proposed designation and consent conditions, with more detailed methodology to be set out in the Ecology Management Plan, as explained in the evidence of **Ms McLeod**. This is consistent with Objective 6-1.
45. Public access to parts of the rivers and streams (as selected in conjunction with tangata whenua as Project partners) crossed by the Project will be enhanced through the provision of the SUP, and the potential provision of new public access to and along the Waikawa River once the materials supply site adjacent to the Waikawa River bridge is exhausted and remediated. Any of the access enhancements will be undertaken in the context of balancing the need to protect rare and threatened habitats, in a manner consistent with Policy 6-10.

#### *Natural Character*

46. Objective 6-2 in the One Plan deals with outstanding natural features (“ONFs”) and landscapes (“ONLs”), and natural character. The components of Objective 6-2 that address ONFs and ONLs are not relevant to the Project as there are no identified ONFs or ONLs directly affected by or in proximity to the proposed designations.
47. Objective 6-2(b) and (c) seek to protect the natural character of amongst other matters wetlands, rivers and their margins, by ensuring that:
  - (a) The natural character of wetlands, rivers and their margins is protected from inappropriate development;
  - (b) Adverse effects on the natural character of wetlands, rivers and their margins are avoided where they would significantly diminish the

attributes and qualities of areas that have high natural character, and avoided, remedied, or mitigated in all other cases; and

- (c) Rehabilitation and restoration of the natural character of wetlands and rivers and their margins is promoted.
48. Policy 6-8 requires that the natural character of wetlands, rivers and their margins must be preserved and that these areas must be restored and rehabilitated where this is appropriate and practicable.
49. Policy 6-9 lists matters for consideration to determine whether use or development is appropriate. They include:
- (a) compatibility with the existing level of modification;
  - (b) functional necessity and that no reasonably practicable alternative locations exist;
  - (c) appropriate form, scale, and design that is compatible with existing natural features;
  - (d) not significantly disrupting natural processes or ecosystems; and
  - (e) providing for restoration and rehabilitation where that is appropriate and practicable.
50. Fundamentally, as set out in the evidence of **Mr Lister**, significant adverse effects on natural character at a district scale have been avoided through the route selection process and the preference for a Project route to the east of Levin that avoided areas to the west that hold higher natural character values.
51. Landscape and Natural Character – Technical Assessment D, and Mr Lister’s evidence, sets out that the existing natural character for each of the main catchments traversed by the Project varies between low-moderate to high-moderate. The Ō2NL Project will, before taking into account mitigation, have adverse effects on each catchment, largely through effects on perceptions of naturalness of the rivers, streams, and wetlands.
52. The proposed mitigation (including but not limited to wetland restoration, and riparian vegetation rehabilitation and planting<sup>45</sup>) will address such effects so that the current degree of natural character will be maintained in each catchment. The benefits of the proposed restoration and rehabilitation on natural character values will continue to increase over time.

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<sup>45</sup> As set out in the Technical Assessment and evidence for Landscape and Natural Character (**Mr Lister**), Terrestrial Ecology (**Mr Goldwater**) and Freshwater Ecology (**Dr James**).

53. On the basis of the above, in my opinion the Project is consistent with the requirements of Objective 6-2 and Policies 6-8 and 6-9<sup>46</sup>.
54. I also note that Policy 5-23(b) allows infrastructure of regional and national importance, or activities that result in an environmental benefit, to remedy or mitigate those effects where it is not practical to avoid them. On the basis of the above, the effects of the Project on waterbodies and their margins have been avoided, remedied and mitigated as far as practicable.

#### *Historic Heritage*

55. Objective 6-3 requires the protection of historic heritage from activities that would significantly reduce heritage qualities.
56. As set out in the evidence of **Mr Parker**, the route selection process has significantly minimised the potential for adverse effects to archaeological sites.
57. While not directly affected by the NoR, the “Ashleigh” homestead has heritage values that in part relate to its setting, as has been raised in the submission by Mr and Mrs Prouse. These values and the measures that are proposed to mitigate the indirect effects of the Project on them are addressed in the evidence of **Mr Bowman**.
58. The potential for works to disturb unidentified archaeological sites is appropriately managed by an Archaeological Authority that is to be sought from HNZPT and, if necessary, an interim archaeology discovery protocol.
59. On the basis of all the above, the Project is consistent with Objective 6-3<sup>47</sup>.

#### *Air Quality*

60. Concerns about the Project’s effects on air quality, particularly during construction, are a particular concern for a number of submitters. The Project’s relationship to the air provisions of the One Plan is therefore important to examine.
61. Objectives 7-1 and 7-2 and Policies 7-1, 7-2 and 7-3, require that a standard of ambient air quality is maintained and fine particulate levels (PM10) are managed to comply with NESAQ and regional standards set out in Policy 7-2 (the discharge must not cause any noxious, offensive or objectionable dust beyond the property boundary).

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<sup>46</sup> I note that Mr St Clair (s87F report, para 208) generally aligns with this assessment

<sup>47</sup> Ms Anderson concurs with this assessment (S198D report, para 26)

62. Air Quality - Technical Assessment C and the evidence of **Mr Curtis** notes that the main discharge to air associated with the Project's construction will be dust and concludes that the dust likely to be generated from various sources during the construction phase of the Project will remain within the NESAQ ambient air quality standards if appropriately managed. It also states that the Project can meet Policy 7-2 (Regional standards for ambient air quality) provided the recommended mitigation measures are followed and managed in accordance with the proposed CAQMP.
63. Likewise with regards to operational air quality the assessment shows that predicted concentrations of all pollutants assessed are less than the relevant health impact assessment guidelines<sup>48</sup> and the NES-AQ values, and concludes that the Project will improve overall air quality in the Project area as a result of improved traffic flows which correspond to reduced traffic emissions.
64. Policies 7-5 and 7-6 are not relevant as the Ō2NL Project is not located within a polluted airshed.
65. Given all the above the Ō2NL Project is consistent with the objectives and policies of Chapter 7 of the One Plan<sup>49</sup>.

#### *Natural Hazards*

66. Objective 9-1 seeks the avoidance and mitigation of adverse effects from natural hazard events on, amongst other matters, infrastructure. The objective is supported by Policies 9-1 to 9-5 that provide clear direction regarding the avoidance of increased risk, except where certain circumstances apply, and applying a precautionary approach to the effects of climate change.
67. Importantly, Policy 9-2 (g) states that Policy 9-2 (Development in areas prone to flooding) does not apply to critical infrastructure. Critical infrastructure includes strategic road and rail networks (as defined in the RLTP). The Ō2NL Project is in turn identified as a priority project in the RLTP and must therefore be regarded as critical infrastructure. There is thus no policy imperative for the route for the Project to avoid areas prone to flooding.
68. Policy 9-3 relates to the placement of new critical infrastructure, in an area likely to be inundated by a 0.5% AEP (1 in 200 year) flood event, or in an area likely to be adversely affected by another type of natural hazard. It

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<sup>48</sup> Including the thresholds set out in the recent update of the Health and Air Pollution in New Zealand Study 2016 ("HAPINZ 3.0")

<sup>49</sup> Mr St Clair (s87F report, para 208) concurs with this assessment

states that such locations are to be avoided, unless there is satisfactory evidence to show that the critical infrastructure:

- (a) will not be adversely affected by floodwaters or another type of natural hazard;
- (b) will not cause any adverse effects on the environment in the event of a flood or another type of natural hazard;
- (c) is unlikely to cause a significant increase in the scale or intensity of natural hazard events; and
- (d) cannot reasonably be located in an alternative location.

69. In this case the Project unavoidably traverses a number of floodplains and waterways that will be subject to inundation in a 1 in 200 year flood event. However, as explained in Hydrology - Technical Assessment F and in the evidence of **Dr McConchie**, the location of the Project has taken into account flood risk and it is in generally favourable locations to allow, in combination with the implementation of best practice hydraulic design of structures, any adverse effects of the Project on hydrology and flooding in the area to be less than minor.
70. Therefore, the proposed infrastructure is unlikely to be adversely affected by floodwaters, nor is it likely to cause any, or increase the intensity of, adverse effects on the environment in the event of a flood, ensuring consistency with Policies 9-3 and 9-4.
71. In terms of climate change, the effects of flooding have been assessed using a model adjusted for predicted climate change. Furthermore, the Project has been designed in accordance with all relevant guidelines and design standards that allow for anticipated changes produced by climate change, and a precautionary approach to the effects of climate change has been adopted, ensuring consistency with Policy 9-5.
72. The Project will result in this section of the state highway network being less susceptible to natural hazards than the current SH1 and SH57, which aligns with the intent of Chapter 9.

## **Regional Plan – Horizons One Plan**

### *Chapter 13 – Land Use Activities*

73. Objective 13-1 and Policy 13-1 require the regulation of vegetation clearance and land disturbance outside areas of significant indigenous vegetation to ensure that accelerated erosion and any associated effects, such as

increased sedimentation within waterbodies or damage to people, buildings or infrastructure, are avoided where appropriate or remedied or mitigated.

74. Policy 13-2 sets out the matters for decision making including the requirement to consider the appropriateness of establishing infrastructure of regional or national importance including achieving integrated management through consent conditions.
75. An Erosion and Sediment Control assessment and associated draft ESCP has been prepared as part of the wider DCR (see Appendix Four of the DCR) to appropriately manage the effects of the proposed construction works. Part G of the AEE and the evidence of **Mr McLean** sets out how effects of vegetation clearance and land disturbance will be managed across the Project area such that they are consistent with the relevant provisions<sup>50</sup>.

### *Chapter 13 – Indigenous Biological Diversity*

76. Objective 13-2 and Policy 13-3 seek to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna or to maintain indigenous biological diversity, including enhancement where appropriate.
77. Schedule F sets out the classification of habitat type through a regional lens (Table F.1 of the One Plan) and then criteria to apply to those habitat types (set out in Table F.2(a)) to determine if they qualify as rare habitats, threatened habitats or at-risk habitats (in accordance with Policy 13-5).
78. In that regard, the Schedule F habitats in the Project area are identified within Terrestrial Ecology - Technical Assessment J and the associated maps and drawings in Volume III of the AEE. A range of resource consents are sought for the Project including land use consent, water permit and a discharge permit for activities within these habitats.
79. As elaborated upon in the evidence of **Mr Goldwater**, the Project will, after an assessment in accordance with Policy 13-5, result in a range of residual adverse effects on habitats identified as significant in the One Plan, after avoidance and minimisation measures are accounted for.
80. Policy 13-4(b) stipulates a hierarchical approach to any more than minor adverse effects (in accordance with Policy 13-5). They are to be avoided in the first instance, and where they cannot be reasonably avoided, they are to be remedied or mitigated at the location where the effect occurs. Where this

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<sup>50</sup> Mr St Clair (s87F report, para 218) concurs with this assessment subject to the additional condition matters raised by technical reviewers Mr Brown and Mr Pearce

cannot be achieved, Policy 13-4(b)(iii) requires that the effects are offset to result in a net indigenous biological diversity gain.

81. Policy 13-4(d) sets out how offset is to be achieved including:
- (a) by providing for a net indigenous biological diversity gain within the same habitat type, or where that habitat is not an area of significant indigenous vegetation or a significant habitat of indigenous fauna, provide for that gain in a rare habitat or threatened habitat type;
  - (b) use of methodology appropriate and commensurate to the scale and intensity of the residual adverse effect;
  - (c) generally be in the same ecologically relevant location as the effect;
  - (d) not be allowed where inappropriate for the ecosystem or habitat type;
  - (e) be able to be achieved and then maintained successfully in the long term; and
  - (f) achieve conservation outcomes above and beyond that which would have been achieved if offset were not required.
82. Therefore, in order to grant consent for the activities in areas of significance in accordance with Policy 13-4(b) the decision maker must be satisfied that where “more than minor” adverse effects cannot be avoided or mitigated at the point of the adverse effect, then an offset to result in a net indigenous biological gain must be able to be achieved and maintained.
83. **Mr Goldwater** explains in his evidence the modelling approach that has been used to address the residual adverse terrestrial ecological effects of the Project that cannot be avoided or minimised such that a Net Gain is achievable for all affected habitat types. The key points are that:
- (a) all residual adverse effects assessed as Low, Moderate, High, or Very High will be addressed by biodiversity offset or compensation measures, including effects on all significant habitats identified in the One Plan; and
  - (b) none of the adverse residual effects of the Project are beyond the limits of offsetting; and
  - (c) none of the habitats affected are irreplaceable, and adverse effects can be addressed by restoration actions within a reasonable timeframe (i.e less than 25 years).

84. Thus, through adoption of the key biodiversity offsetting principles as set out in the Terrestrial Ecology Assessment, Policy 13-4(b) is achieved<sup>51</sup>.
85. The offsetting proposed goes beyond what is required to be offset under the One Plan provisions (Policy 13-5) given that it has been calculated to offset all adverse effects and not solely those habitats identified under Schedule F. As such, the offsetting proposed achieves an overall net gain. In addition to the offset proposed, compensation measures are also proposed as discussed in Terrestrial Ecology - Technical Assessment J and in **Mr Goldwater's** evidence.
86. The offset and compensation proposed (to be undertaken in accordance with the EMP) demonstrates that residual ecological effects are able to be appropriately managed and a net overall biodiversity gain is able to be achieved and can be maintained. Accordingly, Policy 13-4(d) is able to be met and is not an impediment to consent being granted.
87. In any event, it is noted that the Project will allow for the construction of nationally significant infrastructure and therefore RPS Policy 3-3 and the support it provides the Project has an over-arching influence on indigenous biodiversity matters. Mr St Clair at para 228 of the s87F report disagrees with this view on the basis of his contention that there is no hierarchy between the RPS chapters or an overarching influence from Chapter 3 of the One Plan. Given that Policy 3-3 requires territorial authorities to allow minor adverse effects arising from the establishment of new infrastructure and physical resources of regional or national importance, and to avoid, remedy or mitigate more than minor adverse effects, my view is that Policy 3-3 certainly has an over-arching influence on all effects related matters.

#### *Chapter 14 – Discharge to Land and Water*

88. Objective 14-1 seeks the management of discharges onto or into land or water in a manner that safeguards the life supporting capacity of water, provides for the values and management objectives in Schedule B of the One Plan and seeks to avoid, remedy or mitigate adverse effects on surface water or groundwater in regard to discharge onto or into land.
89. Policies 14-1 and 14-2 set out a range of matters which the Regional Council must consider when making decisions on resource consent applications,

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<sup>51</sup> Relying on the evidence of Mr Lambie, and the recommended amendments to conditions, Mr St Clair concurs (s87F report, para 226)

including the objectives of Chapter 5 and associated Policies 5-1 to 5-5 and Policy 5-9, which have been addressed above.

90. Policy 14-3 directs the Regional Council to have regard to industry-based standards (including guidelines and codes of practice), recognising that such standards generally represent current best practice, and that they may accept compliance with those standards as being adequate to avoid, remedy or mitigate adverse effects to the extent that those standards address the matters in Policies 14-1, 14-2, 14-4 and 14-5.
91. Policy 14-4 seeks the consideration of opportunities to use alternative options or a combination of methods for the discharge of contaminants into water, or onto or in land to mitigate adverse effects.
92. Policy 14-8 confirms the monitoring requirements for discharges to water and Policy 14-9 sets out the decision-making requirements in respect of the NPS-FM. Policy 14-9 requires the Regional Council, when considering an application for a discharge, to have regard to the extent to which the discharge would avoid contamination that would have adverse effects (particularly where it would have a more than minor adverse effect) on freshwater, ecosystems and the health of people and communities (through secondary contact with freshwater).
93. The resource consents being sought under Chapter 14 (Rule 14-21), relate to the 'discharge' of imported material (engineered fill) for road construction. Although engineered fill falls within the definition of 'cleanfill material' in the One Plan, the use of imported material for road construction does not fall within the definition of 'cleanfill'.
94. As a result, and on a precautionary basis, a resource consent is being sought pursuant to Rule 14-30 as a discretionary activity for the discharge of contaminants to land or to water associated with the placement of imported cleanfill material. Where filling (including the disposal of excess cut material (spoil)) to land occurs using material sourced from the same site (that is, the material is not imported) it is considered that this falls within the One Plan definition of 'land disturbance' and consent for this activity, where required, is sought under the rules in Chapter 13. As discussed in the evidence of **Ms Halder**, should contaminated soil be encountered during construction an Accidental Discovery protocol will be adhered to, to ensure there are no (further) discharges of contaminants to the environment.

95. Once the Project is operational, there will be increased impervious areas, affecting stormwater runoff. As set out in the evidence of **Mr Keenan** the Project proposes a treatment train approach using a range of stormwater management devices. As a result the Project's stormwater discharges (once operational) are permitted under Rule 14-18 and can, therefore, meet the objectives and policies of Chapter 14.
96. Where the discharges of sediment are ancillary to earthworks, this is covered by the land disturbance rules in Chapter 13. However, resource consents for the Project are being sought for the discharge of stormwater once operational and the discharge of sediment during construction where these discharges are within Schedule F habitats.
97. As set out in the evidence of **Mr McLean**, sediment run-off from earthworks areas will be managed via an overarching best practice ESC framework methodology that uses a hierarchy of measures to avoid and minimise adverse effects on water quality. The objectives and policies of Chapter 5 of the One Plan have been assessed and the Project is considered to be consistent with those provisions, which seek to ensure that adverse effects on water quality are appropriately managed.

#### *Chapter 15 - Discharges to Air*

98. Objective 15-1 seeks the management of air quality in a manner that maintains or enhances air quality to safeguard human health, meets regional and national standards, is not detrimental to amenity values, and manages fine particle levels.
99. As set out earlier in this evidence, and in the evidence of **Mr Curtis**, provided the dust control measures are implemented in accordance with the Construction Air Quality Management Plan required by the conditions of consent, dust emissions will be mitigated to avoid offensive and objectionable levels of dust being received at the closest residential receivers beyond the designation boundaries. Nor will the discharge result in offensive or objectionable odour, dust, smoke or water vapour at the boundary of any sensitive area as defined in Policy 15-2(d).
100. On this basis, the management of air discharges associated with the Project is consistent with the objectives and policies of Chapter 15<sup>52</sup>.

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<sup>52</sup> Mr St Clair is generally aligned with this assessment, subject to condition amendments proposed by Mr Stacey (s87F report, para 232)

*Chapter 16 - Takes, uses and diversions of water and bores*

101. The Project is consistent with the objectives and relevant policies of Chapter 16 because<sup>53</sup>:

- (a) Any dewatering that is required during the construction phase of the Project will be short term and very low in volume, and will not generate adverse effects on lawfully established groundwater bores or any surface water bodies (as further discussed in the evidence of **Dr McConchie**)
- (b) All efforts to avoid and minimise effects from the stream diversions required for the Project have been explored, as have measures to address residual effects which are described in Freshwater Ecology - Technical Assessment K and the evidence of **Dr James**. As stream loss cannot be avoided or fully mitigated, stream creation (through diversions), and riparian restoration and enhancement is proposed to offset the identified residual effects. This approach is in accordance with Policy 5-25 of Chapter 5 of the RPS
- (c) In respect of resource consents for diversions and drainage of water, Policy 16-3 requires the Regional Council to manage effects on rare, threatened or at-risk habitats, in accordance with Chapter 6 and the relevant objectives and policies of Chapter 13 and on the natural character of water bodies (also in accordance with Chapter 6). The relevant Chapter 13 provisions are discussed earlier in my evidence and I conclude that the Project is consistent with them.
- (d) The Project seeks short duration consent (ie for a duration to cover the construction period of the Project) from Horizons to take water from the Koputaroa Stream, Waikawa, Manakau and Waiauti Streams in a manner that does not exceed minimum flows and maximum core allocations in those waterways (apart from where supplementary takes will occur at times of high flows), and from the Ohau River as a supplementary take at times of high flow only, primarily for the purpose of mitigating construction effects.
- (e) Water storage devices will be constructed and used throughout the Project area to ensure that the relatively low volumes of surface water taken will be stored and used efficiently. Additionally, water take will be

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<sup>53</sup> Mr St Clair is generally aligned with this assessment, subject to recommendations from the regional council technical reviewers (s87F report, para 237)

maximised within consented limits at times of high flows in the relevant waterways. Other sources of water for effects mitigation purposes will also be employed to the fullest extent practicable on land that is occupied by the Project (eg using water from existing bores and other industrial activities currently being undertaken). As a result the takes sought represent a reasonable and justifiable allocation of the water.

*Chapter 17 – Activities in artificial watercourses, beds of lakes and rivers, and damming*

102. The Project traverses several streams and waterways in the Manawatū-Wanganui region. Bridge structures are proposed at the major waterway crossings<sup>54</sup> while culverts will be used in other locations.
103. Objective 17-1 directs the regulation of structures and activities in artificial watercourses, the bed of rivers and lakes, and damming to occur in a manner that safeguards life supporting capacity and recognises and provides for the Schedule B values and those relevant Chapter 5 objectives and policies.
104. Recognising their hydraulic characteristics, all of the waterways crossed by bridges hold One Plan Schedule B values for (amongst other things) Flood Control and Drainage. As a result, the concept design of all of the bridges addresses the potential for river bank and bed scour and provides scour protection, as well accommodating anticipated climate change influences (these aspects are elaborated on in the evidence of **Dr McConchie**).
105. Potential temporary effects resulting from construction works associated with all of the bridge crossings will be mitigated by implementing the ESCP (in particular the Stream Works Procedure contained in the ESCP) and the Fish Recovery Protocol contained in the EMP. Consequently, adverse effects on the life supporting capacity of the waterways at all crossing locations are minimised.
106. Where culverts are proposed to be installed, fish passage has been provided for wherever practical and necessary and the design of culverts has been informed by potential ecological effects, ensuring that adverse effects on freshwater ecology are minimised, and the life-supporting capacity of the relevant waterway is safeguarded. Consequently, the Project is consistent with Objective 17-1.
107. Policy 17-1 guides consent decision making for such activities to have regard to best management practices, to avoid any adverse effects on other lawful

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<sup>54</sup> Ohau River, Kuku Stream, Waikawa Stream, Manakau Stream, Waiauti

activities, and have regard to the objectives and policies of Chapters 2, 3, 5, 6, 9 and 12 as well as the matters in Policy 14-9 which relate to the NPS-FM.

108. In regard to Policy 17-1, all activities, including the construction of the aforementioned structures, will be undertaken in accordance with best management practices, which have been assessed and proposed within the supporting technical assessments and management plans. While other matters of Policy 17-1 have been discussed in other sections above, I consider the Project is consistent with Chapters 2, 3, 5, 6, 9 and 12 and Policy 14-9. On this basis, the Project is consistent with the objective and relevant policies of Chapter 17<sup>55</sup>.

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<sup>55</sup> Mr St Clair concurs with this assessment (s87F report, para 239)

## APPENDIX B – DEPARTMENT OF CONSERVATION LETTER



DOCDM- 7278634

1 March 2023

Waka Kotahi New Zealand Transport Agency  
Private Bag 6995  
Marion Square  
Wellington 6141  
New Zealand

Dear Greg Lee,

**Waka Kotahi New Zealand Transport Agency - Ōtaki to North of Levin Highway Project  
(O2NL)**

Thank you for the opportunity to work alongside Waka Kotahi as you developed the proposal for the Ōtaki to North of Levin Highway.

Early engagement with the Department of Conservation's Manawatu District Office and experts has enabled us to share our knowledge of sites of higher ecological value and achieve a satisfactory suite of notice of requirement and consent conditions at time of lodgement. This includes conditions that provide for further input from the Department of Conservation on ecological matters.

I commend the time you have invested into this project in engaging with us and the open and transparent way it has occurred to date. Waka Kotahi's approach in taking onboard the advice of our expert team and facilitating discussions with your ecological consultants has been a productive exercise in reaching this point in the process.

The consultants contracted by Waka Kotahi in this instance have operated using industry best practice and supported productive engagement.

The Department of Conservation has subsequently made the decision not to lodge a submission on the applications currently notified by Horizons Regional Council, Greater Wellington Regional Council, Kāpiti Coast District Council and Horowhenua District Council.

If you have any further comments or updates, please feel to get in touch with Tom Christie – 027 341 9514 or [Tchristie@doc.govt.nz](mailto:Tchristie@doc.govt.nz).

Yours sincerely

Moana Smith Dunlop  
Operations Manager  
Manawatu District

Department of Conservation *Te Papa Atawhai*  
RMA Shared Services: Private Bag 3072, Hamilton 3240, New Zealand  
[www.doc.govt.nz](http://www.doc.govt.nz)

## APPENDIX C – MEETING NOTES

### Meeting notes – Ō2NL Tara-Ika issues

16 June 2023 at 10.30am

#### MS Teams Meeting

#### Attendees:

Grant Eccles (GE)	Planning consultant for Waka Kotahi (WK)
Helen Anderson (HA)	Planning consultant for Kāpiti Coast District Council and Horowhenua District Council

GE and HA agree that:

- the purpose of a designation (designation being defined as per s.166 RMA) is to protect a site or route for a public work/project from incompatible development, and to allow for future development to be aware of the designated work and take steps to address the existence of the designated work (whether constructed or not).
- when assessing the effects of a NOR, the assessment is against those activities that exist at the time of assessment and that comprise the existing environment for effects assessment purposes
- the existing environment is defined as the environment as it might be modified by (i) permitted activities and (ii) approved but unimplemented resource consents.
- All subdivision and most landuse development in Tara-Ika requires resource consent (ie. most activities provided by PC4 are not permitted but will require resource consent), and thus does not form part of the existing environment. The East West Arterial as shown on the Tara-Ika Structure Plan is not considered as part of the existing environment because it has not been built, and is not consented, and would need WK approval both for the Limited Access Road onto SH57 and from WK as Requiring Authority given the O2NL NoRs.
- construction of the east-west arterial as a grade separated crossing (eg.as a bridge) of the O2NL project will cost more than if it were at grade without O2NL in place – although neither GE and HA have sought specific advice as to the likely cost difference
- s171(1)(d) of the RMA allows for “any other matter” considered necessary by the Territorial Authority to be considered.

HA explained her view that s171 allows for a much broader consideration of matters than just looking at effects on the existing environment and addressing only those. S.171(a)(iv) requires that when considering a requirement particular regard to ‘any relevant provisions of a plan or proposed plan’ is required. Therefore, in HA’s opinion the provisions (objectives and policies) of PC4 and the Structure Plan (SP013) are relevant, and noted that these are beyond legal challenge and therefore operative.

HA notes that the EWA is expected to be delivered as part of the Structure Plan, and O2NL prevents the delivery of an at-grade EWA. The O2NL designation now means that the EWA must be a bridge over O2NL, and the additional cost of constructing the east-west arterial as an overbridge (given the presence of O2NL) instead of at grade makes it more difficult and costly for developers or HDC to construct the

EWA, and the potential arises for that additional cost to jeopardise the development of Tara-Ika in a well connected manner as required by relevant District Plan policies. HA also considers that the long term planning and intent for urban development of the Tara-Ika land is a relevant other matter.

HA's view is that the project is not consistent with the relevant District Plan objectives and policies, especially the Objectives and Policies introduced by PC4 (specifically Obj PA.1 and Pol 6A 1.1 & 6A.1.2), because it does not actively provide for the construction of east-west arterial crossing as part of the project works, nor either of the pedestrian/cycle crossings shown on the Tara-Ika Structure Plan.

GE's view is that it is sufficient to ensure consistency with the relevant objectives and policies that the project does not preclude the ability to provide the infrastructure when it is required in the future.

HA's view is that the NoR does not demonstrate how the O2NL project provides for the Tara-Ika cross connections in a way that does not hinder or preclude the ability to construct these connections in the future.

Should O2NL be confirmed as a designation, HDC or a developer would need to gain Waka Kotahi approval under s176 of the RMA to construct an arterial road bridge across the O2NL designated corridor. Both GE and HA agree that it is extremely unlikely in the circumstances that such approval would not be provided by Waka Kotahi.

GE and HE agree that the "Tara-Ika specific" NOR already issued by Waka Kotahi continues to have interim effect but is not yet confirmed as a designation, is subsumed by the wider O2NL NOR, and that if the wider O2NL designation is confirmed the Tara-Ika specific NOR will need to be withdrawn.