

**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

**STATEMENT OF EVIDENCE OF AINSLEY JEAN MCLEOD
ON BEHALF OF WAKA KOTAHI NZ TRANSPORT AGENCY**

PLANNING: CONDITIONS

Dated: 4 July 2023

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INTRODUCTION

1. My full name is **Ainsley Jean McLeod**.
2. I am a planner and director of Ainsley McLeod Consulting Limited.

Qualifications and experience

3. I have the following qualifications and experience relevant to the evidence I shall give:
 - (a) I hold the qualifications of a Bachelor of Arts (Geography and Anthropology) and a Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute.
 - (b) I have over 20 years' experience in planning practice, primarily as a consultant planner based in Wellington and Christchurch, during which time I have undertaken both consenting, designations and policy planning work. I have provided professional planning advice to a range of clients including central and local government, and the private sector.
 - (c) I have particular expertise in respect of infrastructure and network utilities, having provided advice in relation to power transmission, distribution and generation, water and waste, rail and roading, and telecommunications projects. I have acted as an expert witness before hearings panels, boards of inquiry and the Environment Court.
 - (d) More specifically, I have provided expert planning and consultation advice and review to Waka Kotahi NZ Transport Agency (**Waka Kotahi**) in respect of:
 - (i) Te Ahu a Turanga – Manawatū Tararua Highway (to replace the closed section of SH3 through the Manawatu Gorge) (2018 – 2020);
 - (ii) the Christchurch Northern Arterial Project (alongside a similar role advising Christchurch City Council in respect of the Christchurch Northern Arterial Extension) (2013 – 2015);
 - (iii) the Christchurch Southern Motorway 2 and Main South Road Four-Laning Project (2010 – 2013);

- (iv) the Christchurch Southern Motorway 1 Project (construction phase, 2009 – 2010);
- (v) the relocation of Transpower New Zealand Limited's transmission lines to enable the Transmission Gully Project (2010 - 2012); and
- (vi) the development of district plans, such as the Christchurch Replacement District Plan and the Dunedin Second Generation District Plan, including the preparation of submissions and expert evidence.

Code of conduct

- 4. 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.
- 5. In addition, I also specifically acknowledge the direction given in Section 10 of the Practice Note in respect of draft conditions. I have prepared the conditions that are attached to my evidence in a manner that adheres to the requirements of Section 10.

Background and role

- 6. For the Ōtaki to north of Levin highway Project (**Ō2NL Project or Project**), I have been engaged by Waka Kotahi to provide expert planning advice and have been involved in matters related to the Project since March 2021. In this capacity I have:
 - (a) contributed to the preparation of Volume I: Applications for Resource Consents; Notices of Requirement for Designations (**NoRs**) and Request for Determination by the Environment Court 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 Project and accompanying Volume II: Supporting Information and Assessment of Effects on the Environment, including the being primary author of the

draft conditions (Appendix 5 to Volume II) (**consent applications and NoRs**);

- (b) visited the site as part of Project team site visits on 3 August 2021, 26 April 2022 and 24 August 2022;
 - (c) participated in various workshops with Project team technical experts in respect of option selection, effects assessment and effects management;
 - (d) attended public consultation events in Levin; and
 - (e) attended hui and meetings with tangata whenua, the Councils, stakeholders, potentially affected parties and landowners.
7. Later in this evidence I describe the work I have carried out since lodgement.
8. I have read the sections of technical assessments contained in Volume IV of the consent applications and NoRs that are relevant to my evidence and have similarly read in draft the statements of evidence of all of the Waka Kotahi witnesses.

Purpose and scope of the evidence

9. The purpose of my evidence is to explain the approach taken by Waka Kotahi to the management actual and potential adverse effects of the Project, including through the proposed designation and resource consent conditions.
10. I also respond to:
- (a) matters raised in submissions; and
 - (b) the reports prepared by Horizons, GWRC, HDC and KCDC (**council reports**) under section 87F and section 198D of the RMA respectively.
11. **Mr Grant Eccles** provides an overall planning assessment of the effects on the environment of allowing the activities for which designations and resource consents have been sought and the statutory planning matters relevant to the Project.
12. My evidence therefore addresses the following:
- (a) an overview of the Project and the designations and resource consents being sought;

- (b) the approach proposed by Waka Kotahi to address effects, including the proposed conditions;
 - (c) matters raised in submissions;
 - (d) responses to the council reports; and
 - (e) the changes that I support being made to the conditions proposed to be imposed on the designations and resource consents.
13. In my evidence, in the interest of brevity, I do not repeat the detail of the assessments set out in the consent applications and NoRs. Instead, I rely on the information and assessment included in the consent applications and NoRs, as supplemented by any updates to that information included in the suite of evidence filed by Waka Kotahi.
14. **Appendix A** to my evidence contains a set of updated draft designation and resource consent conditions (**evidence version**). Updates are made to the draft conditions as notified (dated 28 November 2022), with the evidence version including:
- (a) amendments proposed in the Waka Kotahi response to the request for further information made under section 92 of the RMA;
 - (b) amendments made in response to matters raised during consultation, in submissions and in notices given under section 274 of the RMA, that are supported by the evidence filed by Waka Kotahi;
 - (c) refinements identified through the preparation of evidence filed by Waka Kotahi;
 - (d) amendments made in response to the council reports, where these amendments are supported by the evidence filed by Waka Kotahi.
15. The evidence version amendments in Appendix A are presented as red underlined or ~~red~~ ~~strikethrough~~ in the left column. This evidence version in Appendix A is presented alongside the amendments to conditions suggested in the Section 198D and Section 87F Reports. These are in the right column and shown as purple underlined and ~~purple~~ ~~strikethrough~~. The amendments are accompanied by drafting notes, in the far-right column, alongside each condition that summarises the reasons for the amendments; confirms areas of agreement; and (where relevant) references the relevant evidence.

16. In addition, **Appendix B** to my evidence contains a clean version of the draft conditions (evidence version).

EXECUTIVE SUMMARY

17. The design of the Project has sought to avoid adverse effects on the environment where it is possible to do so. **Mr Lonnie Dalzell** and other witnesses, including in their technical assessments, describe the process by which the Project has been developed and the manner in which the options assessment for the Project has responded to environmental and other constraints to avoid, in the first instance, and then reduce and minimise the Project's actual and potential adverse effects on the environment.
18. A project of this scale and nature cannot be constructed without having adverse effects on the environment. In his evidence, **Mr Eccles** describes and assesses the Project's anticipated effects, both positive and adverse, permanent and temporary.
19. Where avoidance of adverse effects is not possible, a range of measures are identified to remedy, mitigate, offset and compensate for the potential adverse effects of the Project. These measures are:
 - (a) incorporated into the Project, as described in the consent applications and NoRs;
 - (b) proposed as mitigation;
 - (c) embedded in a comprehensive ecological offset and compensation package; and
 - (d) set out in a range of construction management methods.
20. The means by which the Project avoids, remedies, mitigates, offsets and compensates for adverse effects are 'locked-in' through a comprehensive suite of conditions to be imposed on the designations and resource consents for the construction and operation of the Project.
21. In addition to requiring the Project to be constructed in general accordance with the plans and other documents that describe the design parameters for the Project, the proposed conditions set out various standards, controls and requirements for the management of effects both during and following construction. A suite of management plans, and the measures these management plans provide, are pivotal to managing potential adverse effects

on the environment and, in some cases, achieving the positive effects of the Project.

22. I recommend a number of amendments to the conditions that are included as Appendix 5 in Volume II of the consent applications and NoRs. These amendments respond to further feedback from the Waka Kotahi witnesses, stakeholders, submitters, section 274 parties; incorporate amendments suggested in the council reports; and correct minor errors. These amendments further strengthen the Project's approach to the management of potential adverse effects on the environment.
23. It is my conclusion that the controls, measures and methods provided for in the proposed conditions set out in **Appendix A** and **Appendix B**, including the measures implemented through management plans, ensure that the Project's adverse effects on the environment are avoided or, where avoidance is not possible, are appropriately remedied, mitigated, offset or compensated for.

RMA AUTHORISATIONS OVERVIEW

Overview of the Project

24. The Ō2NL Project involves the construction, operation, use, maintenance and improvement of approximately 24 kilometres of new four-lane median divided state highway (two lanes in each direction) and a shared use path (**SUP**) between Taylors Road, Ōtaki (the northern end of the Peka Peka to Ōtaki expressway (**PP2Ō**)) and SH1 north of Levin. The Ō2NL Project is the northern most section of the Wellington Northern Corridor¹, which currently connects central Wellington to north of Ōtaki (Taylors Road) via Transmission Gully/Te Aranui o Te Rangihaeata, the Mackays to Peka Peka expressway, PP2Ō, and now the Ō2NL Project.
25. The Ō2NL Project will become the new State Highway 1 (**SH1**) and will replace the existing SH1 and that part of the existing State Highway 57 (**SH57**) along Arapaepae Road.
26. A comprehensive description of the Project is included in Part C of Volume II of the consent applications and NoRs. The Project is also described in the

¹ The Wellington Northern Corridor is a critical part of the state highway network that is characterised by its function in connecting Wellington to the central and upper North Island. It also provides an essential economic connection to Palmerston North, the largest freight node in central New Zealand. The route is essential because no other resilient route exists on the western side of the Tararua Ranges.

Design and Construction Report in Appendix Four to Volume II and the drawings and plans in Volume III. In addition, the evidence of:

- (a) **Mr Dalzell** describes the need for, and purpose of, the Project including the positive outcomes that will be delivered as a result of the Project; as well as the process for, and approach to, delivering the Project; and
- (b) **Mr Jamie Povall** describes design approach, including the preparation of a concept to enable effects to be assessed while providing for construction flexibility, the key design elements of the Project, and the likely construction methodology for the Project.

Notices of requirement and applications for resource consents

- 27. The approvals required for the Project are listed in Volume I of the consent applications and NoRs, including the lapse periods and durations sought (as relevant) and described in further detail in Part D and Appendix One of Volume II, and the evidence of **Mr Eccles**.
- 28. In summary, Waka Kotahi has:
 - (a) given notice of requirement for two designations under section 168(1) of the RMA to designate land in Horowhenua District and Kāpiti Coast District jurisdictions for the construction, operation, maintenance and improvement of new state highway and shared use path and associated infrastructure; and
 - (b) applied for resource consents for construction related activities and the on-going operation of the Project in the Manawatū-Whanganui Region and the Wellington Region jurisdictions under the relevant regional plan rules in the One Plan and the Proposed Regional Natural Resources Plan (**PNRP**) respectively; and under the National Environment Standards for Freshwater Management (**NES-F**).
- 29. The resource consents that are sought are as follows:

NES-F (Horizons and GWRC)

- (a) land use consents are sought pursuant to sections 9(2) of the RMA and Regulation 45 of the NES-F (discretionary activity) for vegetation clearance, earthworks and land disturbance within or near natural wetlands for the purpose of constructing specified infrastructure;

- (b) water permits (discretionary activity) are sought pursuant to sections 14 and 15 of the RMA and Regulation 45 of the NES-F the taking, use, damming, diversion, or discharge of water within or near natural wetlands for the purposes of constructing specified infrastructure;
- (c) land use consents (discretionary activity) are sought pursuant to section 13 and Regulation 57 of the NES-F of the reclamation of stream beds;
- (d) land use consents (discretionary activity) are sought pursuant to section 13 of the RMA and Regulation 71 of the NES-F for the placement, use, alteration, extension, or reconstruction of a culvert in, on, over, or under the bed of a river;

One Plan (Horizons)

- (e) a land use consent, a water permit and a discharge permit (controlled activity) are sought pursuant to sections 9(2), 14 and 15 of the RMA and Rule 13-2 of the One Plan for large scale earthworks (including the ancillary diversion of water and the discharge of sediment to water) where the earthworks are not:
 - (i) in a rare, at risk or threatened habitat;
 - (ii) within 5m of the bed of a permanently flowing river;
 - (iii) within 5m of the bed of a river that is not permanently flowing and has a width greater than 1m; or
 - (iv) within 10m of a wetland identified in Schedule F;
- (f) a land use consent, a water permit and a discharge permit (discretionary) activity are sought pursuant to sections 9(2), 13, 14 and 15 of the RMA and Rule 13-7 of the One Plan for land disturbance and vegetation clearance (including any ancillary disturbance of the bed of a river division of water and discharge of sediment or slash) that is not in a 'rare', 'at-risk' or 'threatened' habitat and is:
 - (i) within 5m of the bed of a permanently flowing river;
 - (ii) within 5m of the bed of a river that is not permanently flowing and has a width greater than 1m; or

- (iii) within 10m of a wetland identified in Schedule F but outside of a rare, at risk or threatened habitat.
- (g) a land use consent (discretionary activity) is sought pursuant to sections 9(2) and 13 of the RMA and Rule 13-8 of the One Plan for large scale earthworks and vegetation clearance within an 'at-risk' habitat;
- (h) a water permit (discretionary activity) is sought pursuant to section 14 of the RMA and Rule 13-8 of the One Plan for the diversion of water within an 'at-risk' habitat;
- (i) a discharge permit (discretionary activity) is sought pursuant to section 15 of the RMA and Rule 13-8 of the One Plan for the discharge of water or contaminants to water or land within an 'at-risk' habitat;
- (j) a land use consent (non-complying activity) is sought pursuant to sections 9(2) and 13 of the RMA and Rule 13-9 of the One Plan for large scale earthworks and vegetation clearance within a 'rare' or 'threatened' habitat;
- (k) a water permit (non-complying activity) is sought pursuant to section 14 of the RMA and Rule 13-9 of the One Plan for the diversion of water within a 'rare' or 'threatened' habitat;
- (l) a discharge permit (non-complying activity) is sought pursuant to section 15 of the RMA and Rule 13-9 of the One Plan for the discharge of water or contaminants to water or land within a 'rare' or 'threatened' habitat;
- (m) a discharge permit (discretionary) is sought pursuant to section 15 of the RMA and Rule 14-25 of the One Plan for the discharge of water to a reach of a surface water body or its bed with a Schedule B Value of Sites of Significance – Aquatic;
- (n) a discharge permit (discretionary activity) is sought pursuant to section 15 of the RMA and Rule 14-30 of the One Plan for the discharge or placement of cleanfill;
- (o) a discharge permit (discretionary activity) is sought pursuant to section 15 of the RMA and Rule 15-17 of the One Plan for the discharge of contaminants to air;

- (p) a water permit (controlled activity) is sought pursuant to section 14 of the RMA and Rule 16-5 of the One Plan for the taking of surface water;
- (q) a water permit (discretionary activity) is sought pursuant to section 14 of the RMA and Rule 16-9 of the One Plan for the taking of water for construction related dewatering outside of an 'at-risk', 'rare' or 'threatened' habitat;
- (r) a water permit (discretionary activity) is sought pursuant to section 14 of the RMA and Rule 16-13 of the One Plan for the diversion of water outside of an 'at-risk', 'rare' or 'threatened' habitat;
- (s) a land use consent a water permit and a discharge permit (discretionary activity) are sought pursuant to sections 9(2), 13, 14 and 15 of the RMA and Rule 17-3 of the One Plan for the placement of a bridge over the Ohau River and Waikawa Stream (and associated disturbance, diversion, deposition and discharges);
- (t) a land use consent, a water permit and a discharge permit (discretionary activity) is sought pursuant to sections 9(2), 13, 14 and 15 of the RMA and Rule 17-15 of the One Plan for the placement of a bridge over the Waiauti, Manakau and Kuku Streams (and associated disturbance, diversion, deposition and discharges);
- (u) a land use consent (discretionary) is sought pursuant to section 13 of the RMA and Rule 17-23 of the One Plan for the placement of culverts (and associated disturbance, diversion, deposition and discharges);

PNRP

- (v) a land use consent and a discharge permit (discretionary activity) are sought pursuant to sections 9(2) and 15 of the RMA and Rule R107 of the PNRP for earthworks (including any discharge of sediment);
- (w) a discharge permit (discretionary activity) is sought pursuant to section 15 and Rule R42 of the PNRP for a discharge to air from the Ō2NL Project works during the construction phase;
- (x) a discharge permit (discretionary activity) is sought pursuant to section 15 of the RMA and Rule R94 of the PNRP for the discharge of cleanfill to land and water.

- (y) a water permit (discretionary activity) is sought pursuant to section 14 and Rule K.R1 of the PNRP for the taking of services water in Kāpiti Whaitua;
- (z) a discharge permit (discretionary activity) is sought pursuant to section 15 of the RMA and Rule R50 of the PNRP for the discharge of treated stormwater from the Ō2NL Project;
- (aa) a land use consent, a water permit and a discharge permit (non-complying activity) is sought pursuant to sections 9(2), 14 and 15 of the RMA and Rule R118 of the PNRP for the works within, and reclamation of, a wetland;
- (bb) a land use consent (non-complying activity) is sought pursuant to sections 13 of the RMA and Rule R143 of the PNRP for the reclamation of streams associated with the installation of culverts (reclamation of the bed of a river or lake outside of a site identified in Schedule A1 (outstanding rivers), Schedule A2 (outstanding lakes) or Schedule C (mana whenua));
- (cc) a land use consent, a water permit and a discharge permit (discretionary activity is sought pursuant to sections 13, 14 and 15 of the RMA and Rule R145 of the PNRP as a discretionary activity for the placement of culverts (but not reclamation or diversion of water);
- (dd) a water permit (discretionary activity) is sought pursuant to section 14 of the RMA and Rule R147 of the PNRP for diversion of streams;
- (ee) a water permit (discretionary activity) is sought pursuant to section 14 of the RMA and Rule R160 of the PNRP for dewatering;
- (ff) a discharge permit (discretionary activity) is sought pursuant to section 15 of the RMA and Rule R160 of the PNRP for dewatering.

Other statutory approvals

- 30. There are other statutory approvals that are or may be required to construct and operate the Project as follows:
 - (a) a resource consent Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (**NES-CS**);

- (b) the submission of outline plans under section 176A of the RMA (Waka Kotahi is not seeking to waive the requirement to submit outline plans, except for establishment works where a waiver is sought);
 - (c) requiring authority consent under sections 176 and 177 of the RMA for works that may prevent or hinder an existing designated project or public work from KiwiRail (for crossing the existing rail corridor designation);
 - (d) an archaeological authority (or authorities) that may be required by the Heritage New Zealand Pouhere Taonga Act 2014 (**HNZPTA**);
 - (e) permits from the Ministry of Primary Industries under section 97 of the Fisheries Act 1996 in relation to fish;
 - (f) permission given by the Department of Conservation under the Freshwater Fisheries Regulations 1983 (made under Section 48A of the Conservation Act 1987); and
 - (g) an authorisation given by the Director-General of the Department of Conservation under section 53 of the Wildlife Act 1953 in relation to any protected wildlife.
31. These further statutory approvals are not sought as part of the current process and instead:
- (a) are approvals under other legislation;
 - (b) are separate, and generally subsequent, approvals and processes under the RMA; or
 - (c) will be sought once consent requirements are established through further investigations.
32. The proposed conditions have been drafted to not duplicate, overlap or result in conflict with these additional statutory approvals. Instead, these additional statutory requirements are deliberately relied upon to achieve the environmental outcome described in the consent applications and NoRs.

THE APPROACH TAKEN TO MANAGING THE ACTUAL AND POTENTIAL EFFECTS OF THE PROJECT ON THE ENVIRONMENT

33. The consent applications and NoRs, including the accompanying assessment of effects in Volume II and the range of technical assessments

included in Volume IV (further supplemented and confirmed by expert evidence), provide a thorough and complete assessment of the actual and potential effects on the environment of allowing the activities for which designations and resource consents are being sought.

34. These effects are both positive and adverse, and are temporary (generally related to construction effects) or permanent. The actual and potential effects of the Project are summarised in the evidence of **Mr Eccles**. To avoid unnecessary repetition, I rely on the summary provided by Mr Eccles.
35. The approach taken to managing the effects of this Project is underpinned by the sustainable management purpose of the RMA that includes, amongst other matters:
 - (a) managing the use, development and protection of natural and physical resources in a way that enables people to provide for their social, economic and cultural wellbeing and health and safety; and
 - (b) avoiding, remedying, or mitigating any adverse effects of activities on the environment.
36. Enabling the Project, and its associated transportation, economic and social benefits gives rise to adverse effects on the environment (as would any project of this nature and scale). It is therefore important that such adverse effects are appropriately avoided, remedied, mitigated, offset or compensated for.
37. The approach taken to managing the Project's actual and potential adverse effects is described in Part H of Volume II of the consent applications and NoRs and can be summarised as:
 - (a) a responsive Project development process that realises positive effects and avoids or minimises adverse effects through the route selection process and other design elements and parameters;
 - (b) proposed conditions imposed on the designations and resource consents that set out a range of parameters within which the Project must be designed, constructed and operated;
 - (c) a Cultural and Environmental Design Framework (**CEDF**) that directs the design and form of the Project;
 - (d) an overarching Construction Environmental Management Plan (**CEMP**) to address the way in which construction activities are undertaken;

- (e) a series of topic specific management plans that set frameworks and methods for how standards in the conditions are to be achieved through the management of construction and the delivery of mitigation, offset and compensation measures;
- (f) site specific plans to manage particular construction effects and to implement of offsetting measures;
- (g) a framework for on-going reporting, consultation, engagement and communication;
- (h) a suite of minimum requirements that express the absolute base standard, expectation or level of service that is to be provided as part of the contract for the construction of the Project; and
- (i) measures that address the effects of the Project but are delivered under other legislation.

Avoiding or minimising effects through the development of the Project

38. The Project has been developed to respond to the receiving environment and, as described by a number of witnesses, potential adverse effects have been avoided in the first instance or minimised through the process of identifying a preferred corridor, and the subsequent project shaping and refinement of the corridor, to ultimately determine the location and extent of the Project. In particular, **Mr Dalzell**, with reference to Part E of Volume II of the consent applications and NoRs, describes the process undertaken to consider alternative sites, routes and methods and the role key physical, environmental and cultural constraints played in this consideration.

39. The following table, reproduced (in part) from Part G of Volume II of the consent applications and NoRs, provides a non-exhaustive summary of adverse effects that are avoided or minimised through the route selection and project shaping processes.

Topic	Project Effect on the Environment
Cultural	<ul style="list-style-type: none"> • The selected Project corridor avoids all recorded/registered wāhi tapu. • Impacts on significant cultural values and sites located to the west of SH1 are avoided, including potential effects on Punahau/Lake Horowhenua, Waiwiri/Lake Papaitonga, the coastal / dune landscape and the wetland at Forest Lakes/Pukehou.

Topic	Project Effect on the Environment
Transport	<ul style="list-style-type: none"> • Travel time benefits have been maximised by limiting the extent to which the route deviates from the current route of SH1. • Impacts on community connectivity are limited by reinstating connections for eight of the 14 roads that are intersected, and by connecting the remaining six into the existing network. • The redesign and improvements at the Tararua Road level crossing minimise safety impacts associated with increased use of this crossing.
Noise and vibration	<ul style="list-style-type: none"> • The selected Project corridor results in a reduction of road-traffic noise impacts on a large number of PPFs near existing SH1 due to reduced traffic. • The selected Project corridor avoids Manakau village and Ohau to minimise effects on these urban areas. • Using an existing transport corridor to the east of Levin reduces the number of properties that would be newly affected by road-traffic noise.
Air quality	<ul style="list-style-type: none"> • The selected Project corridor reduces road-traffic air quality impacts on a large number of homes near existing SH1 due to reduced traffic. • The selected Project corridor avoids Manakau village and Ohau to minimise effects on these urban areas • Using an existing transport corridor to the east of Levin reduces the number of properties that would be newly affected by air quality effects associated road traffic.
Landscape and visual	<ul style="list-style-type: none"> • The selection of the Project corridor avoids significant landscape and visual features, including cultural landscape focused on Punahau/Lake Horowhenua and Waiwiri/Lake Papaitonga and the sensitive sand dune country. • Urban settlements around the existing state highway have been avoided in the central part of the study area, particularly the smaller settlements of Manakau village, Kuku and Ohau as well as the impacts of passing through Levin. • The Project avoids steeper hill faces of Pukehou and avoids the toe of the Tararua Range so that these features remain as prominent landmark/features. • The selected Project corridor avoids, and is well separated from, frequented public places, such as scenic reserves, scenic lookouts, public historic places, cemeteries, marae, schools and public buildings.
Natural character	<ul style="list-style-type: none"> • The selection of a corridor east of SH1 avoids areas with higher natural character values, such as Punahau/Lake Horowhenua, Waiwiri /Lake Papaitonga and the coastal environment.
Social	<ul style="list-style-type: none"> • The provision of local reconnections and the SUP minimises social impacts by allowing communities continued access to community resources.
Hydrology and Hydrogeology	<ul style="list-style-type: none"> • Water body crossing structures specifications, in particular the proposed bridges, avoid or minimise the footprint within the active bed and maintain flows. • The selection of an eastern corridor and at-grade alignment generally avoids any intersection with groundwater and hydrological and water quality impacts associated with a below-grade alignment, including impacts on Punahau/Lake Horowhenua.

Topic	Project Effect on the Environment
Terrestrial ecology	<ul style="list-style-type: none"> • The Project avoids all mature indigenous forest and high-value tawa-tītoki treeland. • The selected Project corridor avoids Te Waiaruhe Swamp, the largest wetland in the vicinity of the Project. • The material supply sites, laydown areas and spoil sites avoid terrestrial and wetland habitats. • The construction buffer has been narrowed to avoid potential snail habitat at the northern side of the Waikawa Stream, wetlands located off Kuku East Road, and forest remnants at Pukehou and on Arapaepae Road. • The impacts of artificial lighting on fauna are minimised by lighting specifications for light spill and by only being installed at highway entry and exit points.
Freshwater ecology and water quality	<ul style="list-style-type: none"> • Bridge crossings of the Ohau River, Kuku Stream, Waikawa Stream, Manakau Stream and Waiauti Stream minimise effects on those water bodies and minimise effects on the passage of fish and adult aquatic insects. • The impacts of artificial lighting on fauna are minimised by lighting specifications for light spill and highway lighting only being installed at highway entry and exit points. • Culverts have been located to reduce stream length lost. • Earthworks have been shaped to reduce stream loss and to allow diversions to incorporate a natural meander. • Erosion and sediment control and stormwater treatment minimises effects on water quality.
Archaeology	<ul style="list-style-type: none"> • Significant adverse effects to numerous archaeological sites have been avoided by the selection of an east Project corridor (through the avoidance of numerous pa and kainga, hunting and cultivation grounds, colonial homesteads, battle sites, urupā and midden located west of the existing SH1).
Built heritage	<ul style="list-style-type: none"> • The Project avoids direct adverse effects on pre-1900 structures and statutorily recognised built heritage (including 'Ashleigh').
Productive land	<ul style="list-style-type: none"> • The selection of the Project corridor (at the 'short-list' stage) minimises the loss of productive land.
Economic	<ul style="list-style-type: none"> • Potential adverse effects associated with bypassing the Levin town centre are minimised through the provision of reconnections and various access points to and from the Ō2NL Project, as well as signs and landscaping to highlight the identity of Levin.

Conditions

40. The Environment Court may, should the NoRs be confirmed, impose conditions on the NoRs under section 198E(6) of the RMA. Similarly, if granted, the Environment Court may impose conditions on the resource consents under section 108 of the RMA.
41. In my experience, conditions are critical to:
- (a) defining, or confining, the activities that are authorised by a designation or resource consent;

- (b) appropriately managing the associated adverse effects of such activities;
- (c) providing confidence to decision-makers, stakeholders and communities in the management of effects and environmental outcomes authorised activities; and
- (d) enabling clear and certain implementation for the applicant or requiring authority, as well as the consent authority.

Approach to Condition Drafting

42. Waka Kotahi proposes a detailed suite of draft conditions that are included in Appendix Five to the Volume II of the consent applications and NoRs. I was the primary author of these conditions. I have developed the conditions in a manner consistent with the modified *Newbury* test and specifically to:

- (a) 'lock-in' the measures or parameters that have been incorporated into the Project to avoid or minimise adverse effects, including through defining an 'envelope' of effects that sets the maximum adverse effect that can be caused by the Project;
- (b) capture the findings of the assessment of actual and potential effects of the Project, including as described in the Technical Assessments contained in Volume IV of the consent applications and NoRs by ensuring that the conditions address adverse effects;
- (c) respond to the relevant consent requirements and policy direction given in the following key documents, including matters discussed with the Councils' officers pre-lodgement:
 - (i) National Policy Statement on Freshwater Management 2020 and the NES-F;
 - (ii) National Policy Statement for Highly Productive Land 2022;
 - (iii) One Plan;
 - (iv) PNRP;
 - (v) Horowhenua District Plan (**HDP**); and
 - (vi) Kāpiti Coast District Plan (**KCDP**);

- (d) broadly reflect evolving practice by reference to conditions imposed on recent Waka Kotahi projects and other projects in the Manawatū-Whanganui and Wellington Regions, while noting that approaches taken on other projects must be used with caution given the different nature and scale of projects, the extent of their potential effects and particularly the different receiving environment;
- (e) recognise that the outline plan process, and suite of management plans, are a tool for the refinement of approaches to the management of adverse effects within the parameters of standards set in the conditions;
- (f) incorporate the outcomes of consultation and stakeholder feedback;
- (g) avoid unnecessary duplication and overlap by:
 - (i) taking care that the designation and resource consent conditions are relevant to the jurisdiction to which they apply;
 - (ii) not proposing conditions where effects are managed through other methods or statutes;
- (h) limit the use of technical jargon, cross-references and the incorporation by reference of unnecessary material, particularly where there are gains in legibility and implementation; and
- (i) adhere to direction given in Section 10 of the Environment Court's Practice Note 2023.

Structure of Conditions

- 43. The proposed conditions are in two distinct sets, being designation conditions and resource consent conditions, with common 'abbreviations, acronyms and terms' and schedules (as relevant). The designation condition numbers begin with 'D', while the resource consent conditions begin with 'R'.
- 44. Within the two sets of conditions, there are 'General and Administration' Conditions (GA) followed by topic specific 'families' of conditions that relates to specific effects and/or types of consents sought. These are set out in the following Table.

Designation Conditions	Resource Consent Conditions
General Administration (DGA)	General Administration (RGA)
Construction Management (DCM)	Construction Management (RCM)
Tangata Whenua Values (DTW)	Tangata Whenua Values (RTW) ²
Archaeology (DAH)	Archaeology (RAH)
Communications and Engagement (DCE)	Terrestrial Ecology (RTE)
Landscape and Visual (DLV)	Freshwater Ecology (RFE)
Construction Noise and Vibration (DNV)	Ecology Management, Offset and Compensation (REM)
Construction Traffic (DCT)	Air Quality (RAQ)
Shared Path (DSP)	Earthworks and Land Disturbance (REW)
Operational Road-Traffic Noise (DRN)	Groundwater (RGW)
Post-Construction and On-Going Operation (DPC)	Surface Water (RWT)
	Erosion and Sediment Control (RES)
	Operational Stormwater (RSW)
	Bridges and Structures over Water Bodies (RBS)
	Works in the Beds of Water Bodies (RWB)

45. The conditions include the following Schedules:

Schedule	Content
Schedule 1	Referenced Drawings
Schedule 2	Objectives and content of the Construction Environmental Management Plan
Schedule 3	Objectives and content of the Muaupoko Management Plan
Schedule 4	Objectives and content of the Ngati Raukawa ki te Tonga Management Plan
Schedule 5	Objectives and content of the Communications Plan

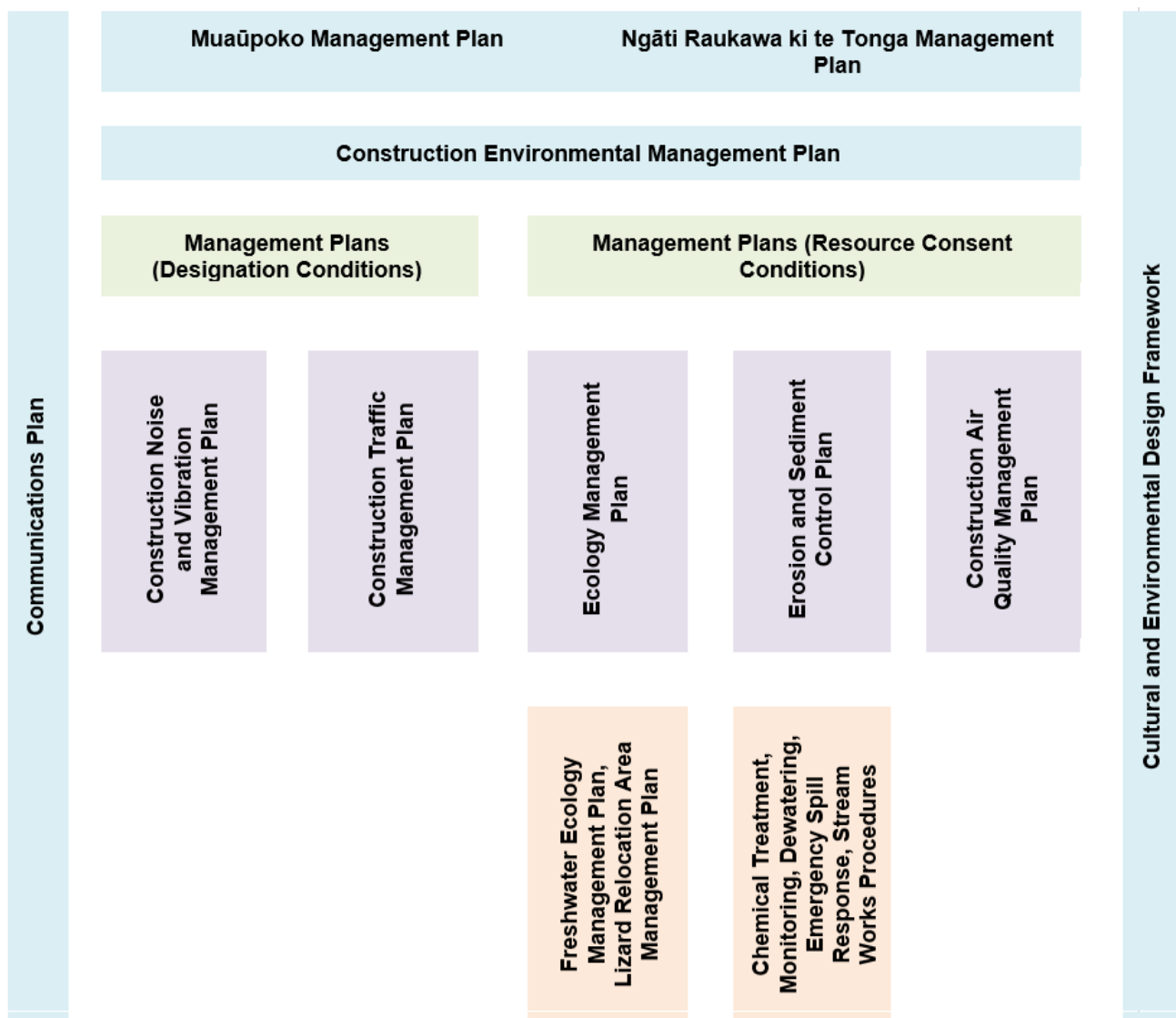
² Included in the resource consent conditions (in addition to the designation conditions) as part of this evidence and in response to the Section 87F Report.

Schedule 6	Methodology for revised assessment of visual effects
Schedule 7	Objectives and content of the Ecology Management Plan
Schedule 8	Objective and content of the Erosion and Sediment Control Plan
Schedule 9	Identified PPFs [Protected Premises and Facilities]

46. The Schedules primarily set out the detailed content required to be included in Management Plans (which I discuss below).
47. The conditions themselves also include tables that list the designations and resource consents that are being sought for the Project. The tables ‘assign’ the relevant conditions that apply to each designation and resource consent and set out lapse periods for the designations and resource consents, and expiry periods for the resource consent.

Management plans

48. In my experience, management plans are an effective and widely used method to manage the effects of large infrastructure projects. Management plans provide the ability to describe specific and detailed methods and procedures to respond to effects; to achieve performance standards set out in conditions; and to confirm compliance through monitoring activities. I am of the view that it is important that the role of management plans is confined to these purposes, as opposed to prescribing a broader range of effects management approaches or project activities.
49. The following Figure illustrates the management plan framework for the Project (as amended by my evidence).



50. Management plans have not been prepared as part of the consent applications and NoRs. Rather, the draft conditions require that the management plans be prepared to achieve standards, and/or implement controls, in conditions.
51. Schedules to the conditions prescribe the consultation requirements and content for each management plan to achieve the requirements of conditions and explicitly stated objectives.
52. In my experience it is relatively common for management plans to be prepared or finalised following the granting of consent or confirming of a notice of requirement. Where this is the case there is typically subsequent consent authority oversight in the form of participation in plan preparation or, in some cases, a certification process.
53. In this case, where there are management plans required by the designation conditions, the designation conditions provide for these management plans to

be prepared and submitted as part of the outline plan process. Through this process the management plans may be technically reviewed and amended, noting that section 176A of the RMA provides for the District Councils to request changes to outline plans.

54. The same approach is not available for the resource consents sought from the Regional Councils. For this reason, the resource consent conditions include a technical certification process (as opposed to a substantive approval process) that provides the Councils with a similar opportunity to confirm that the relevant management plans fulfil the requirements set out in the conditions.
55. The following Table sets out the intended oversight for each of the management plans, and also the associated site-specific plans, described further below.
56. I have also included mechanisms to revise and update management plans within the conditions, including clearly setting out the required 'oversight'.

Management plan	Resource consent or designation	Oversight Mechanism	Relevant authority
Construction Environmental Management Plan (overarching)	Designation and resource consent	Outline plan (district councils); for information (regional councils; subject to certification of plans set out below)	District councils and regional councils
Communications Plan	Designation	For information	District councils
Construction Noise and Vibration Management Plan	Designation	Outline plan	District councils
Construction Traffic Management Plan	Designation	Outline plan	District councils
Muaūpoko Management Plan	Designation	For information	District councils
Ngāti Raukawa ki te Tonga Management Plan	Designation	For information	District councils

Management plan	Resource consent or designation	Oversight Mechanism	Relevant authority
Ecology Management Plan	Resource consent	Technical certification	Regional councils
Erosion and sediment Control Plan	Resource consent	Technical certification	Regional councils
Construction Air Quality Management Plan	Resource consent	Technical certification	Regional councils
Site-specific Erosion and Sediment Control Plans	Resource consent	Technical certification	Regional councils (as relevant to site)
Ecology Offset Site Layout Plans	Resource consent	For information	Regional councils (as relevant to site)
Site Specific Noise and Vibration Mitigation Plans	Designation	For information	District councils (as relevant to site)

Site specific plans

57. The proposed conditions also require the preparation of the following site-specific plans:
- (a) Site Specific Noise and Vibration Mitigation Plans;
 - (b) Site Specific Erosion and Sediment Control Plans; and
 - (c) Ecology Offset Site Layout Plans.
58. The purpose of the site specific plans is to enable the preparation of detailed plans that respond directly to the receiving environment and circumstances of a particular locality. The conditions provide for the Site Specific Erosion and Sediment Control Plans to be certified so that the relevant council can confirm that the details of the physical works comply with the relevant standard and conditions.
59. Certification is not considered necessary in respect of the Ecology Offset Site Layout Plans because the extent to which the plans achieve compliance with conditions is measured through specific monitoring once the site has been established.

60. Similarly, the Site Specific Noise and Vibration Mitigation Plans supplement the Construction Noise and Vibration Management Plan and are provided to the relevant council for information only. In his evidence, **Michael Smith** confirms that this is standard practice.

The Cultural and Environmental Design Framework (CEDF)

61. The CEDF has been developed in collaboration with the Project Iwi Partners and is included in the consent applications and NoRs as Appendix Three to Volume II. The CEDF sets out overarching design principles or parameters within which the design of the Ō2NL Project will be developed and the 'look and feel' and legacy outcomes of the Project realised. The CEDF includes a design review audit process to assess and guide the manner in which the design of the Project conforms to the CEDF principles.
62. In turn, to embed the CEDF design principles in conditions, I have drafted a designation condition that requires regular design review audits to be conducted over the duration of construction (DTW5).

Other environmental management concepts applied through conditions

63. A range of other environmental management concepts are incorporated in the proposed conditions. This includes ecological offsets and compensation, monitoring and environmental standards.

Ecological offsetting and compensation

64. In his evidence, **Mr Nick Goldwater** describes, including through reference to Technical Assessment J in Volume IV to the consent applications and NoRs, a comprehensive package of offsetting and compensation measures to address adverse effects on terrestrial ecology that cannot be avoided, remedied or mitigated. **Dr Alex James** similarly describes (referencing Technical Assessment K) offsetting required to address stream habitat loss and modification, and associated adverse effects on freshwater ecology.
65. I have drafted conditions (REM1 – REM 19) to:
- (a) set the requirements for the measures to offset adverse effects on terrestrial and freshwater ecology (standards), including the retention of sites for that purpose;
 - (b) describe performance targets against which the achievement of the offset is measured;

- (c) require site specific plans to be developed (and amended as necessary);
- (d) provide for the oversight of implementation;
- (e) confirm the requirements for monitoring against the performance targets; and
- (f) allow for the review of offsetting requirements to respond to the design of the Project or outcomes of monitoring.

Monitoring, reporting and review

- 66. Monitoring is important to confirming that the measures proposed to address the Project's adverse effects are properly implemented to achieve the anticipated outcomes. Monitoring is embedded directly through conditions and indirectly through the required content of management plans.
- 67. The proposed resource consent conditions also include requirements to report on monitoring and provide monitoring data to the Councils. In turn, the conditions provide for a review of conditions to allow for monitoring requirements to be altered and conditions to be changed where there are unanticipated effects.

Environmental standards

- 68. Some conditions propose the application of environmental standards for managing the potential effects of construction. These standards include accepted New Zealand standards and regulations; 'Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region' June 2016 Version 2 (**GD05**); and Waka Kotahi standards, such as the Bridge Manual (SP/M/022) . In my experience these standards are all commonly used in large construction projects throughout New Zealand, where appropriate to do so.
- 69. That said, I am of the view that care must be taken when incorporating standards or guidelines by reference in conditions. Importing the external document should be appropriate and necessary to achieve outcomes that would not otherwise be easily achieved through the conditions. It is also important that standards are appropriately used so that they do not constrain construction methods in a way that prevents the adoption of advancements in technology and approach.

Mitigation and management methods outside the RMA

70. When considering how the actual and potential adverse effects of the Project will be managed, it is also relevant to consider methods that cannot be enforced under the RMA. Such methods may include contractual agreements that impose an obligation on another party, or approvals that may be required under other statutes. For this Project, such methods include the legal protection of areas of ecological mitigation, offsetting or compensation; approvals under the Wildlife Act 1953 and the requirement for an archaeological authority under the HNZPTA. In addition, the minimum requirements that will apply to the design and construction of the Project incorporate minimum or base standards, expectations or levels of service that are to be provided as part of the design and construction contract.
71. Where environmental outcomes are achieved through other methods or statutes, I have not proposed conditions to achieve the same outcome. That is, where possible the conditions seek to avoid unnecessary duplication or overlap that consequently may give rise to inconsistent or conflicting requirements.

WORK SINCE LODGEMENT

72. Since the NoRs were given and the applications for resource consents were lodged, I have been involved in further work related to the proposed conditions including:
- (a) contributing to the Waka Kotahi response to the Councils' request for further information under section 92 of the RMA, particularly by explaining the approach taken in conditions and proposing further amendments to the conditions;
 - (b) attending hui with the Project Iwi Partners to further develop conditions that managed effects on cultural values;
 - (c) attending meetings with submitters and section 274 parties to resolve matters raised in submissions and assisting with the preparation of letters to submitters that respond to the matters raised; and
 - (d) participating in discussions with representatives of the Royal Forest and Bird Protection Society Inc (**Forest and Bird**) and the **Department of Conservation** in respect of the management of effects on indigenous biodiversity values, with the meetings culminating in

revisions to the conditions that manage effects on lizards (and specifically the amendments to Condition REM10 that relates to the lizard relocation area).

73. As described earlier, I have drafted a number of amendments to the proposed conditions. The amendments I suggest, and support, are appropriate because the amendments, as relevant:
- (a) reflect the information provided by Waka Kotahi in response to the Councils' request for further information made under section 92 of the RMA;
 - (b) are refinements identified, and supported by the conclusions reached, in the evidence filed by Waka Kotahi;
 - (c) respond to matters raised during consultation, in submissions and in notices given under section 274 of the RMA, that are supported by the evidence filed by Waka Kotahi; and
 - (d) respond to the council reports and particularly amendments to conditions suggested in those reports, where these amendments are supported by the evidence filed by Waka Kotahi.
74. My 'evidence version' of the conditions is included in **Appendix A** to my evidence in track changes (alongside the Section 87F Report and Section 198D Report suggestions). **Appendix B** includes a clean version of the amended conditions.

COMMENTS ON SUBMISSIONS

75. I have read and considered submissions made on the applications for resource consents and NoRs that relate to the draft set of conditions as notified. I respond to the matters raised in submissions below where those matters are within my area of expertise and scope of my evidence.

Project Iwi Partners³

76. The submissions made by the Project Iwi Partners acknowledge their partnership with Waka Kotahi and support the Project, but consider that the

³ Muaūpoko Tribal Authority, Ngāti Raukawa ki te Tonga (representing 10 Hapū); Ngā Hapū o Otaki on behalf Ngāti Kapumanawawhiti, Ngāti Huia ki Poroutawhao, Ngāti Huia ki Mātau, Ngāti Kikopiri, Ngāti Ngarongo, Ngāti Pareraukawa, Ngāti Takihiku, Ngāti Tukorehe and Ngāti Wehiwehi.

conditions, as notified, do not sufficiently address cultural effects or provide for the matters addressed in the relevant cultural impact assessments.

77. I agree that the DTW conditions would benefit from further refinement to provide a bespoke approach to addressing cultural effects in way that reflects the Waka Kotahi partnership relationship with the submitters.
78. In this regard, I have attended a number of hui with Project Iwi Partners in order to understand the concerns raised in submissions and to develop the conditions framework to appropriately respond to the cultural effects of the Project. This collaborative approach to the development of revised conditions is continuing. Until such time as these conditions are confirmed, I have deleted the content of Conditions DTW1 and DTW2, but retained the Conditions as placeholders that will be filled once new or revised conditions are confirmed with the Project Iwi Partners.

Heritage New Zealand Pouhere Taonga

79. The submission made by Heritage New Zealand Pouhere Taonga (**HNZPT**) acknowledges that Waka Kotahi has undertaken extensive engagement with HNZPT that has resulted in “appropriate conditions relating to archaeology” being included in the draft conditions have been included in the set of draft conditions. The submission confirms that if Condition DAH1 and Condition RAH1, or closely similar, are included in the application, HNZPT “has no objection to the consents [sic] being granted”.
80. Condition DAH1 and Condition RAH1, as currently drafted and included in Appendix A and Appendix B, are unchanged since notification and are therefore in the form supported by HNZPT. As such, it is my conclusion that the Project, and draft conditions, address the HNZPT submission in its entirety.

Spark New Zealand Trading Limited (Spark) and Connexa Limited (Connexa)

81. The submission made by Spark and Connexa opposes the draft conditions, as notified, on the basis that the conditions do not include any requirement for Waka Kotahi to consult with telecommunications network operators “*during the detailed design phase to identify opportunities to enable, or not preclude, the development of new telecommunications facilities including access to power and ducting within the project, where practicable to do so*”. The submission seeks that the following further condition be imposed on the designations:

“XX: The Requiring Authority shall consult with telecommunications Network Utility Operators during the detailed design phase to identify opportunities to enable, or not preclude, the development of new telecommunications facilities including access to power and ducting within the project, where practicable to do so.

The consultation undertaken, opportunities considered, and whether or not they have been incorporated into the detailed design, shall be summarised in the Outline Plan or Plans prepared in accordance with Condition [TBC].”

82. The submission goes on to acknowledge that while there is no direct obligation for Waka Kotahi to accommodate the future opportunities, the submitters are of the view that a requirement to consult and consider opportunity is reasonable. In this regard, I am of the view that achieving the outcome sought within the conditions is problematic because the relief is not responding directly to an adverse effect.
83. The Section 198D Report does not directly consider the relief sought in the submission.
84. I have met with the submitters to discuss the possible methods to achieve the outcome sought in the submission, including through conditions and other means. Acknowledging that the submission is generally seeking an on-going relationship with Waka Kotahi, a memorandum of understanding (**MOU**) between the parties (outside of this RMA process) has been proposed to set out a framework for how Waka Kotahi and the submitters will engage in respect of the Project.
85. While not resolved, I understand that Waka Kotahi, Spark and Connexa are continuing to work towards confirming a MOU. On this basis, and for reasons stated above, I do not consider that a new condition is required.

Wellington Fish and Game Council (Fish and Game)

86. The submission made by Fish and Game comments that there *“appears to be no specific mention of conditions designed to ensure continued health, abundance, and mobility of sports fish and game birds, and their habitats in this application”* and seeks conditions that:
 - (a) are set with measurable objectives and a pathway for actions should unanticipated outcomes occur;

- (b) ensure “*practical mitigation measures can be implemented to minimise impacts on waterways, wetlands, sport fish and recreational angling opportunities, and gamebirds and hunting opportunities*”; and
- (c) require a sports fish monitoring programme and site-specific management plans which clearly avoid or minimise harm to the habitat of sports fish and game birds.

87. In terms of the ability to respond to unanticipated outcomes, I consider that the conditions, as notified, explicitly provide the ability to address unanticipated effects (RGA5 Review of Conditions) and no amendments to the conditions are necessary.
88. In his evidence, **Dr James** addresses the relief sought by Fish and Game in detail. He describes the conditions that manage effects on freshwater ecology and concludes that there are numerous management actions to minimise adverse effects on waterways to the benefit of all freshwater species. Further, it is **Dr James’** opinion that the Project is very unlikely to have any measurable adverse effects on the population of trout.
89. **Dr James** goes on to conclude that the sports fish monitoring programme suggested in the submission is disproportionate to the actual effect of the Project on trout habitats, with the monitoring required by conditions being sufficient to detect habitat degradation.
90. Based on the evidence of **Dr James**, and noting the requirements of Conditions RFE1 to RFE4, as amended by my evidence, it is my conclusion that no further amendments to conditions are necessary in response to the submission made by Fish and Game.

Forest and Bird

91. The submission made by Forest and Bird raises specific concerns about the conditions as notified. Those concerns relate primarily to ensuring that the intended outcomes of the proposed ecology mitigation, offset and compensation measures, including no net loss of biodiversity, will be achieved.
92. **Mr Goldwater** includes a detailed response to the Forest and Bird submission in his evidence, including addressing the specific condition points made. As **Mr Goldwater** explains, a comprehensive suite of ecology conditions is proposed that will ensure the intended outcomes are achieved.

93. I note that there is some overlap between the themes of the Forest and Bird submission and the council reports (addressed below) in respect of conditions. As discussed below, Mr Goldwater has proposed amendments to the conditions in response to the council reports.

COMMENTS ON THE COUNCILS' REPORTS

94. The Section 198D Report (for the District Councils) concludes that, in general, the proposed designation conditions are appropriate but notes that the technical specialists (that have contributed to the Section 198D Report) have identified conditions where the approach proposed is not supported or where additional conditions are required to avoid, remedy or mitigate effects. Appendix 13 to the Section 198D Report includes suggested amendments to the proposed conditions, as notified. However, the Report also notes that Appendix 13 is not complete with matters that require clarification or information set aside to be addressed at a later date.⁴
95. Similarly, the Section 87F Report (for the Regional Councils) includes as Appendix 19 recommended amendments to the proposed conditions, as notified (and incorporating amendments set out in the Waka Kotahi response to the Councils' request for further information under section 92 of the RMA).
96. I set out my consideration and conclusions in respect of these recommended amendments below. In this regard, I indicate where I rely on the conclusions reached in the evidence of others.
97. For brevity, I do not address amendments that I consider to be minor or immaterial and where I agree with the Section 87F Report or Section 198D Report conclusions. Drafting notes that accompany the conditions in **Appendix A** identify where amendments are made and include a brief explanation for the amendments.
98. The Conditions in **Appendix A** also include amendments or refinements that I consider improve the legibility and the ability to implement the conditions in the future. One such example is where I have refined timebound conditions that refer to the 'Project being open for public use' to, where appropriate, refer to the 'road' being open. This is because, either:
- (a) the road is likely to be opened before the Project as a whole (noting that the SUP must be in place within 12 months of the road being open,

⁴ Paragraph 234(d).

and the SUP forms part of the Project) and an earlier date is more appropriate; or

- (b) the effect being managed by a condition is relevant to the road only, but not elements such as the SUP and therefore the condition should be appropriately confined.

'Subject to detailed design' (DGA1 and RGA1)

- 99. The Section 198D and Section 87F Reports seek that 'subject to detailed design' be deleted from Conditions DGA1 and RGA1 respectively. Neither Report describes the rationale for suggesting this amendment. That said, I support the suggested amendments on the basis that reference to 'subject to detailed design' does not serve any particular purpose in the context of Conditions DGA1 and RGA1. I am of the view that the suggested amendments remove any ambiguity in terms of the parameters for the design of the Project, established by the consent applications and NoRs.

'Suitably qualified person or persons' (defined term, DGA9 and RGA6)

- 100. The Section 198D Report at Appendix 1 and Appendix 3 (relating to terrestrial ecology and noise and vibration respectively) seeks that the conditions be amended to reference the specialist expertise of ecologists responsible for implementing the RTE conditions and that the conditions explicitly require the Construction Noise and Vibration Management Plan to be prepared by a suitably qualified person.
- 101. The conditions include 'suitably qualified person' as a defined term with direct reference to expertise in the relevant field. I have further amended the defined term to reference the expertise being relevant to the task or action directed by a condition. I consider that the defined term is sufficiently directive and certain to achieve the outcome sought in respect of the RTE conditions without further amendment.
- 102. The conditions have been drafted to include Condition DGA9 and RGA6. The purpose of these conditions is to set out all documents or measures that are required to be prepared or undertaken by a suitably qualified person. Condition DGA9 lists the Construction Noise and Vibration Management Plan as one of these documents. As such, no amendment to the conditions is necessary to achieve the outcome sought in the Section 198D Report.

Tangata Whenua values (DTW and RTW)

103. The Section 198D Report does not suggest any amendments to Conditions DTW1 to DTW5, which relate to Tangata Whenua values, but concludes:

“207 As identified above, all of the above submitters support or are not opposed to the project. Tangata whenua submitters are of the view that conditions as currently proposed are inadequate and therefore the residual cultural effects to the Project have not been mitigated. I understand that the Requiring Authority is working with these submitters to further refine the conditions to address the matters raised. It may be that further information is forthcoming in respect of the Iwi Project Partners and submitters views as to these effects and how they are to be addressed during the hearing process.

208 At this time, I consider, based on the submissions received, that conditions as currently proposed have not adequately addressed cultural effects and that additional information is required from the Requiring Authority to show how residual cultural effects have been appropriately mitigated.”

104. The Section 87F Report (and particularly in Appendix 19) seeks that designation Conditions DTW1 to DTW5 are cross-referenced or replicated in the resource consent conditions. Similar to the Section 198D Report, the Section 87F Report comments as follows:

“146. As identified above, all of the above submitters support or are not opposed to the Ō2NL Project. Equally all the submitters are of the view that conditions as lodged are inadequate and therefore the residual cultural effects to the Ō2NL Project have not been mitigated. I understand that Waka Kotahi is working with the submitters to further refine the conditions to address the matters raised. It may be that further information is forthcoming in respect of the Iwi Project Partners and submitters views as to these effects during the hearing process. Should additional information be presented by Iwi Project Partners or submitters, I will reassess my opinion at that time.”

105. As described above, I have been working alongside representatives of the Project Iwi Partners to refine the conditions to better respond to the cultural effects of the Project that are identified in the cultural impact assessments.

106. At this time, I have deleted the content of Conditions DTW1 and DTW2, but retained the Conditions as placeholders that will be filled once new or revised conditions are confirmed with the Project Iwi Partners.
107. In addition, I also agree with the Section 87F Report that Conditions DTW1 to DTW4 be included in the resource consent conditions and I have amended the resource consent conditions to include RTW1 to RTW4.
108. In terms of the Section 87F Report suggestion that condition DTW5 (Cultural and Environmental Design Framework) be replicated in the DTW and RTE conditions, I am not in favour of this duplication. I understand, with reference to the evidence of **Mr Gavin Lister** and **Mr Dalzell**, that the CEDF is intended to inform the 'look and feel' outcomes for the Project, as opposed to being the tool to manage effects on matters that fall within the Regional Councils' jurisdiction (such as effects on waterbodies). I consider that the effects on matters that fall to the Regional Council, including waterbodies and their margins, along with natural character mitigation, are secured through the resource consent conditions, as amended by my evidence.
109. While no amendments have been explicitly proposed, the Section 198D Report seeks that the conditions be amended to provide the District Councils with a role in certifying and monitoring the CEDF, based on the recommendations made in Appendix 2 (Landscape, Visual and Natural Character). The rationale for seeking this amendment is that the Design Review Audits provided for by Condition DTW5 do not include "*formalised scope for questioning, comment and/or certification*" and therefore it is concluded that, "*without a robust monitoring and certification pathway, there is no obligation for Waka Kotahi to make any design refinements irrespective of the outcome of any engagement process that may occur*".
110. I do not agree with this suggestion, or the rationale for it. Condition DTW5 'locks in' the design principles in the CEDF and requires on-going engagement and checks against those principles through the 'Design Review Audits'. Provided the design principles are sufficient to direct Project outcomes, then it follows that the Audits are a process to confirm this.
111. Given that a certification process ought to be for the purpose of confirming that conditions are complied with, I am of the view certification in respect of the CEDF and Design Review Audits would likely be a confirmation that the audit has been completed correctly, rather than an evaluation of the merits of a design.

112. The most recent 'Design Review Audit' must be included in an outline plan for the Project (DGA6(c)(ii)) and through this statutory process the Councils have the ability to seek changes. Therefore, certification of the design audits or of the CEDF would not manage effects nor serve any particular RMA purpose.

Communications and engagement (DCE and RCM2)

113. The Section 87F Report seeks, in Appendix 19, that:

- (a) Condition DCE2, which provides for the establishment and requirements of a Community Liaison Group, be amended to include reference to matters arising from the regional consents;
- (b) Condition DCE3, which relates to complaints management, should be replicated in relation to the regional consents.

114. In terms of complaints management, and Condition DCE3, I note that this condition is replicated as Condition RCM2 in the regional consent conditions and, on that basis, do not consider that any further amendments to the conditions are necessary in this regard.

115. In terms of Condition DCE2, the necessity and effectiveness of a community liaison group, in the form proposed, has been reevaluated. In her evidence, **Ms Jo Healy** acknowledges the existing forums and format for engagement with the community and considers there is merit in retaining the community-based meeting approach into the construction phase of the Project. That is, a programme of community and stakeholder meetings (organised geographically and by topic) could be continued to achieve 'informing', 'responding to' and 'collaborating' outcomes. **Ms Healy** concludes that using the existing forums builds on the social capital established in the pre-lodgement phase so that partnership with community can be furthered.

116. Condition DCE2 is rigid and inconsistent with retaining the existing engagement platforms or providing for communications and engagement that responds to the changing needs of the Project. Conversely, it is considered that the outcome described by **Ms Healy** can be achieved through the implementation of the Communications Plan (Schedule 5 to the Conditions). On this basis, Condition DCE2 is deleted.

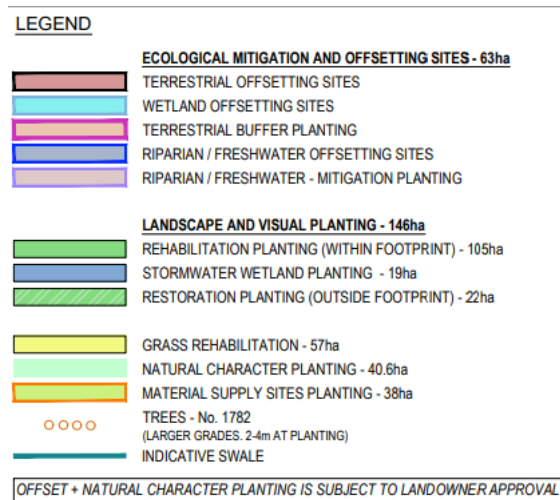
'Subject to landowner approval' (DLV1, RTE7 and RWB3)

117. The Section 198D and Section 87F Reports express concern that natural character, indigenous buffer and landscape planting is 'subject to landowner approval' and seeks that the clause be deleted from, or not included in, Conditions DLV1, RTE7 and RWB3.
118. It is understood that the deletion of 'subject to landowner approval' is sought on the basis that, if landowner approval is withheld, planting will not occur and the extent to which adverse effects on natural character and/or landscape and/or ecology values are mitigated will be constrained.
119. In his evidence, **Mr Lister** explains that extending the landscape and 'natural character' planting beyond the designation is an additional measure, rather than being necessary to mitigate landscape and natural character effects. Further, he notes that it is questionable whether areas for mitigation planting could be designated and compulsorily acquired for that purpose as part of the Project.
120. In terms of the buffer planting, **Mr Goldwater** concludes that should buffer planting on private property not be achieved "*I am confident that, in combination with the proposed landscape planting, there will be sufficient buffering provided within the designation to address edge effects and effects on fauna*".
121. On this basis, I am of the view that deleting 'subject to landowner approval' is not necessary for the appropriate management of effects. Further, I consider that deleting the clause has the effect of imposing an obligation over land owned by another party in a manner that could frustrate the exercise of the consents or designations and is, therefore, not appropriate.

Natural character planting (RWB3)

122. The Section 87F Report suggests, in Appendix 19, that the Planting Concept plans should be amended to move natural character planting to a separate category and that this planting should be addressed in the regional resource consent conditions, including through incorporation in the Ecology Management Plan.
123. Natural character planting is addressed as a separate category in the resource consent conditions in Condition RWB3. Further, the 'Planting

Concept Plan: RMA Purpose Type' clearly distinguishes natural character planting as shown on the legend extract included in the Figure below.



124. I do not consider that creating a further category on the legend to the Planting Concept Plans would result in greater clarity or a different Project outcome in respect of effects on natural character.
125. In terms of whether the natural character planting should be managed alongside the ecological offset planting, **Mr Lister** has confirmed that the natural character planting was designed alongside the landscape and visual planting and is separate to, and additional to, ecological offset planting.
126. In addition, it is my view that including conditions for natural character in the conditions that relate to ecology may:
- (a) confuse the approaches to implementation and monitoring of the ecological offset;
 - (b) inappropriately impose more stringent ecology performance targets (where natural character planting is not required to achieve a biodiversity net gain).

Noise and vibration (DNV and DRN)

127. The Section 198D Report summarises recommended amendments to the conditions that manage noise and vibration.⁵ These recommended amendments are set out in the following Table alongside my consideration of the suggestion and response.

⁵ Paragraph 80.

Section 198D suggestion	Consideration and response
<p>Amendments to the conditions to ensure the CNVMP process proposed to manage construction noise and vibration will be robust (Conditions DNV1 to 4).</p>	<p>In conjunction with Mr Smith, I have reviewed the specific amendments in Appendix 13 of the Section 198D Report and have drafted a range of revisions to Conditions DNV1 to DNV4 in response as follows:</p> <ul style="list-style-type: none"> - DNV1 is amended to include buildings that accommodate commercial activities. Industrial activities are not included on the basis that there are no known industrial receivers near the Project and industrial activities are not permitted by the District Plans. - Condition DNV4 (as renumbered) is amended to provide a refined approach to site specific mitigation that more clearly articulates where site specific consideration must be given to the effects of construction noise and vibration and embeds the 'scheduling' type approach suggested as new Condition DNV5 in Appendix 13 to the Section 198D Report.
<p>The timeframe to install the low road noise surface specified in DRN1 be amended to 12 months from the opening of the Project, and other minor amendments to this condition.</p>	<p>I understand that it is not possible to reduce the timeframe to install the low noise road surface because, before the surface can be laid, the Project must have been operational over the period between May to October. Allowing for appropriate weather, and depending on the month the Project is operational, the laying of the surface may not be achievable. 'As soon as reasonably practicable' has been included to encourage urgency.</p>
<p>Amendment to DRN4(b) to require a shorter timeframe (3 months) to undertake a post construction review.</p>	<p>Condition DRN4 is amended to provide more straightforward direction and to confirm the 3 month timeframe suggested in the Section 198D Report.</p>
<p>Inclusion of a new condition requiring maintenance of structural noise mitigation measures (barriers and road surface).</p>	<p>The Section 198D Report recommends this new condition in order to "<i>indicate to any future maintenance personnel that road surfaces are to be retained as high performing low noise road surface, and that edge barriers are not to be replaced with wire barriers in the future</i>".</p> <p>I do not consider that the proposed condition is necessary on the basis that the Project must retain the road surface and noise barriers in any case in order for the Project to comply with Condition DRN1 and DRN2. If the Project fails to include these elements, it becomes a matter of compliance. The proposed condition does not result in a different outcome and is unnecessary.</p> <p>Further, adding a maintenance condition can confuse the role of maintenance personnel relative to requirements in the standards in DRN1 and DRN2, and infer that alternative outcomes might be available.</p>
<p>A requirement to provide an acoustic landscape bund adjacent to the Tara-Ika Urban Growth Area in order to provide additional noise level reduction to the future residential area of Tara-Ika</p>	<p>In his evidence, Mr Smith notes that Appendix 3 to the Section 198D Report does not request a noise bund, but rather considers there to be noise benefits if a landscape bund is provided.</p> <p>That said, Mr Smith concludes that the effectiveness of an earth bund to achieve a noise reduction is limited, with a 3 metre high bund located between the Project and Tara-Ika typically reducing noise levels by less than 1 dB.</p>

Terrestrial ecology (RTE)

128. The Section 87F Report is generally aligned with the conclusions reached by **Mr Goldwater**. However, a number of amendments and refinements are proposed to the conditions.
129. The Section 87F Report recommends that Condition RTE1 is amended to:
- (a) confirm the forest and treeland areas that are avoided by the Project;
 - (b) distinguish the maximum area of vegetation removal from Paruaku Swamp;
 - (c) clarify that all vegetation is delineated.
130. Based on the advice of **Mr Goldwater**, I support the suggested amendments, but propose that these amendments be accommodated in a new Condition RTE1A that sets out the areas that are avoided. In addition to these amendments, **Mr Goldwater** had also made corrections to Table RTE-1.
131. Consistent with the Section 87F recommendation and the evidence of **Mr Goldwater**, I have drafted a new condition (RTE1B) that requires the direct transfer of listed species and provide a 'contingency plan' that applies in the event that direct transfer is not successful. Similarly, a new condition is included to provide for a response to the loss of gravelfield habitat (with this habitat also being explicitly listed in Condition RTE2).
132. The Section 87F Report suggests a refined approach to the management of the New Zealand Pipit. In response, and in conjunction with **Mr Goldwater**, I have revised and improved the drafting of Condition RTE4 to address these concerns.
133. In respect of Condition RTE7, the evidence of **Mr Goldwater** does not support the inclusion of property #479 in the requirement for buffer planting, as sought in the Section 87F Report. Further, the Report suggests the deletion of reference to 'where it is practicable to do so' in respect of the timing of buffer planting. In this regard, I understand that the retention of the clause is important to provide for situations where the planting cannot occur before construction commences. This could include the ability to access the site. In my view (and as described in the preceding section of my evidence) it

would be inappropriate to prevent the commencement of construction in such circumstances.

134. The Section 87F Report also seeks an amendment Condition RTE7 to confine the circumstances where the width of buffer planting may be reduced through the deletion of reference to the 'construction footprint'. In this regard, I understand that this condition is intended to address situations where the Project Area is reduced or confined by other constraints, including in order avoid effects on the environment so that the area available for buffer planting is reduced. For this reason, I do not support the proposed amendment.

Freshwater Ecology (RFE)

135. Based on the evidence of **Dr James**, amendments proposed in the Section 87F Report to Condition are generally agreed and included in my evidence version of conditions. That said, I do not support the inclusion of reference to the New Zealand Freshwater Database on the basis that providing information for the database is not directly relevant to the management of effects on freshwater ecosystems. I understand that Waka Kotahi has an existing process to provide this information in any case.
136. A new condition RFE1A is included to respond to the Section 87F Report by specifically addressing the potential impact of artificial lighting on freshwater fauna as supported in the evidence of **Dr James**.
137. The approach to the provision of fish passage in Condition RFE2 is refined to identify those watercourses where fish passage will be maintained at all times. The seven day trigger for providing fish passage in respect of other waterbodies is retained to allow construction flexibility, with **Dr James** noting that Condition RFE1(a) applies during periods of migration.
138. The Section 87F Report seeks the inclusion of a further clause (b) in Condition RFE3 requiring the provision of as-built plans for culverts. In this regard, I note that clause (a) of the condition requires the collection and provision of information required by Regulations 62, 63 and 68 of the NES-F as set out in the following Table.

NES-F Information Requirements

Regulation 62	Regulation 63	Regulation 68
<ul style="list-style-type: none"> • the type of structure • the geographical co-ordinates of the structure • the flow of the river or connected area (whether none, low, normal, or high) • whether the water is tidal at the structure's location • at the structure's location, the width of the river or connected area at the water's surface; and the width of the bed of the river or connected area • whether there are improvements to the structure to mitigate any effects the structure may have on the passage of fish • whether the structure protects particular species, or prevents access by particular species to protect other species • the likelihood that the structure will impede the passage of fish • visual evidence (for example, photographs) that shows both ends of the structure, viewed upstream and downstream. 	<ul style="list-style-type: none"> • the culvert's asset identification number • the culvert's ownership • the number of barrels that make up the culvert • the culvert's shape • the culvert's length • the culvert's diameter or its width and height • the height of the drop (if any) from the culvert's outlet • the length of the undercut or erosion (if any) from the culvert's outlet • the material from which the culvert is made • the mean depth of the water through the culvert • the mean water velocity in the culvert • whether there are low-velocity zones downstream of the culvert • the type of bed substrate that is in most of the culvert • whether there are any remediation features (for example, baffles or spat rope) in the culvert • whether the culvert has wetted margins • the slope of the culvert • the alignment of the culvert • the numbers of each other type of structure to which this subpart applies, or of wingwalls or screens, on the culvert • if there is any apron or ramp on the culvert, the information required by regulation 68 for each of them. 	<p>For aprons:</p> <ul style="list-style-type: none"> • the apron's length • the height of the drop (if any) from the apron's downstream end • the material from which the apron is made • the mean depth of the water across the apron: • the mean water velocity across the apron • the type of bed substrate that is across most of the apron. <p>For ramps:</p> <ul style="list-style-type: none"> • the ramp's length • the slope of the ramp • the type of surface that the ramp has • whether the ramp has wetted margins.

139. Given the extensive information required by clause (a) of Condition RFE3, it is not clear what further information is needed by the Councils in order to be satisfied that the effects on waterbodies and freshwater ecosystems are

effectively managed. In the absence of this information, I do not support the inclusion of the suggested additional clause.

140. In respect of freshwater ecology monitoring required by Condition RFE4:
- (a) The Section 87F Report suggests the inclusion of a requirement that baseline monitoring begin at least two years prior to works commencing. The rationale for seeking this amendment is not clear or comparable to similar activities in waterbodies with similar characteristics. That is, the receiving environment is not especially outstanding or sensitive and I am not aware of the same requirement being imposed on other Waka Kotahi projects. Further, I understand that the inclusion of a requirement for two years of monitoring would have significant construction programme implications. For these reasons, I do not support including a requirement for two years' of baseline monitoring.
 - (b) I support the amendment to clause (b)(iii) that is suggested in the Section 87F Report to define what is meant by trigger event.
 - (c) I do not consider that including a clause requiring incident monitoring is necessary (as suggested in the Section 87F Report) because incidents are appropriately managed by Condition RCM3.
 - (d) I have included a range of amendments that are addressed in **Dr James'** evidence to refine triggers and monitoring parameters.
141. As a final matter, I note that this condition is very long. I am of the view that there is an opportunity to split the construction and post construction monitoring into separate conditions in order to improve their legibility.

Ecology management offset and compensation (REM)

142. Conditions REM2 and REM3 include a clause that provides for the Ecology Management Plan to be deemed certified in situations where a Regional Council has not certified the Management Plan or advised that the Management Plan is not suitable to be certified. The Section 87F Report suggests that the 'deemed certification' clause is deleted.
143. The ability for the Ecology Management Plan to be deemed certified is a critical element of the REM conditions because the deemed certification provides the consent holder with certainty in respect of timeframes and

confidence that implementation of effects management measures can commence within the specified timeframe. This is important for the implementation of a range of ecological mitigation and offsetting measures, including offset planting that requires upfront investment to source plants and has seasonal planting and programme restrictions.

144. The Section 87F Report suggests amendments to Condition REM4 to address the risk of myrtle rust and to manage the spread of a range of other pest plant species. A new clause in respect of myrtle rust is included. However, Mr Goldwater does not consider that the inclusion of a further clause to address all pest plant species in the Regional Pest Management Plans, and other listed pest plants, is necessary because the intention of the conditions is that any pest plant incursions are managed through measures set out in the Ecology Management Plan. On this basis, I have not included the suggested clause. The Regional Pest Management Plan provides a framework for the management of pest plants such that it is unnecessary to duplicate the management of pest plants in the context of these conditions.

Source of plants (REM7, REM8 and REM9)

145. The Section 87F Report suggests that plants required for implementing Conditions REM7, REM8 and REM9 are eco-sourced. **Mr Goldwater** agrees, and I have amended the Conditions accordingly.

Replacement of poroporo (REM8)

146. **Mr Goldwater** agrees with the suggestion in the Section 87F Report that poroporo should be replaced at a ratio of 1:1. On this basis, I have included a further clause in Condition REM8.

Offsetting residual effects on freshwater ecology (REM11)

147. The Section 87F Report suggests that riparian planting be a minimum of five metres in width. **Dr James** addresses this suggestion in his evidence and suggests an alternate approach whereby the minimum width is relative to the width of the wetted channel. I have revised clause (c) of Condition REM11 accordingly. The Section 87F Report also suggests that the implementation of offsetting must be timebound. I agree and have revised clause (b) of Condition REM11 to require implementation within a year of the road being open, where practicable. In my opinion, it is important to include this caveat to provide for situations when implementation is inadvertently delayed and would otherwise result in non-compliance with conditions.

Performance targets, triggers and standard (REM12 and RES1)

148. The Section 87F Report notes that the use of 'target' is not accepted in a number of conditions and seeks that a standard should be used or a trigger to initiate action.
149. In the context of Condition REM12 it is considered that 'performance target' is the correct term to use in. Table REM-12 includes a range of measures to determine whether outcomes are achieved. These are not standards because it is not intended that not achieving an outcome would result in a non-compliance with conditions. Similarly, the measures themselves are not a trigger for action, instead that trigger is in Condition REM19 (which is determined with reference to the various measures in Table REM-12). I therefore do not propose amendments to Condition REM12 in this regard.
150. In the context of Condition RES1, the Council's position is noted and amendments are made to refer to 'triggers' on the basis that the Condition provides a framework for a response in circumstances where the performance of erosion and sediment control devices exceed a trigger limit.

Sites for offset and compensation (REM13)

151. Condition REM13 is intended to provide for the on-going legal arrangements to ensure the longevity of the offset, and therefore the achievement of a net gain. The Section 87F Report seeks that the Condition is expanded to also apply to 'buffers and landscape measures'. I understand that the rationale for the suggested amendments is to provide a mechanism for this planting to be required on private land. As I have noted earlier, **Mr Lister** and **Mr Goldwater** do not rely on this mitigation to address landscape, natural character or edge effects and, on this basis, I conclude amending the Condition is not necessary.
152. In addition, I note that it is my experience that conditions such REM13 are typically reserved for offsetting of effects in indigenous biodiversity because providing for the retention of the sites through an on-going legal mechanism is generally required to achieve consistency with the relevant offsetting guidance. As such, I am of the view that the amendments suggested inappropriately borrow a concept that is generally only necessary in the context of achieving a net indigenous biological diversity gain.

Offsetting monitoring (REM19)

153. The Section 87F Report suggests that Condition REM19 needs to make explicit reference to all of the measures that will indicate a net gain at year eight and a further, longer, timeframe. Mr Goldwater proposes amendments to Condition REM19 to respond to the Section 87F Report, including the addition of measures and a fifteen year timeframe. These amendments are included in my revised conditions.

Air Quality (RAQ)

154. The Section 87F suggests a new clause be added to Condition RAQ1 as follows:

“c) The consent holder must ensure that properties located within 200 m of the designation boundary with roof-collected drinking water systems must be upgraded to an appropriate standard to ensure that the drinking water supply meets the Water Services (Drinking Water Standard for New Zealand) Regulations 2002.”

155. In his evidence, **Mr Andrew Curtis** concludes that no adverse effects on drinking water systems are anticipated as a result of the Project. On this basis, I do not support the inclusion of the additional clause. Further, I consider that the suggested condition, as drafted, is problematic for a number of reasons, including because the condition:

- (a) fails to align the proposed mitigation to an effect and instead directs all supplies to be upgraded;
- (b) fails to take into account the existing environment, including the existing quality of water or condition of supply;
- (c) appears to require betterment through the use of the term ‘upgrade’, such that the condition is seeking that Waka Kotahi go beyond addressing effects.

156. The Section 87F Report goes on to suggest the inclusion of new conditions in respect of dust and meteorological monitoring and trigger limits. **Mr Curtis** has considered the suggested conditions, and together we have drafted two new conditions (RAQ1A Visual Dust Inspections and RAQ1B Dust Monitoring) to respond to the Section 87F Report. In this regard, it is concluded that (in respect of the drafting in the Section 87F Report):

157. the separate monitoring plan proposed in the Section 87F Report is not considered necessary, with the Construction Air Quality Management Plan addressing monitoring activities;
- (a) the requirements for communications are set out in Schedule 2 and Schedule 5, as amended by my evidence and do not need to be repeated;
 - (b) it is efficient for monitoring data to be provided by way of summary report as part of the annual report required by Condition RGA3, rather than imposing a different monitoring programme;
 - (c) it is not necessary to refer to the management of complaints because these are managed by Condition RCM2.

Earthworks and land disturbance (REW)

158. The Section 87F Report suggests limited amendments to Condition REW3, which relates to winter works, that I understand he suggested amendments to be responding to the suggestion by Mr Pearce's suggestion that "*a condition should be included requiring any winter works to be approved in advance, and in writing, by Regional Councils and this is provided for in REW2*".⁶
159. The suggested drafting requires that a written request to undertake winter works must be made by 1 April. It is not clear why the suggested amendment imposes this deadline when the works would need to be approved before being undertaken in any case. That is, a request could be made in June with the works commencing in August. For the reason I do not support the suggested amendment to Condition REW3.
160. The Section 87F Report also suggests the deletion of clause (b) that provides for works to commence in circumstances where no written confirmation is received. It is not clear why this amendment has been made. In my experience including a clause such as this is important to avoid stalemates or regulatory delays, and to provide the necessary construction programming and resourcing certainty. I therefore do not support the deletion of this clause.
161. The Section 87F Report acknowledges that any approvals that may be necessary under the One Plan and/or the NES-CS for the disturbance of

⁶ 'Section 87F Report of Kerry Pearce – Erosion And Sediment Control', Paragraph 43.

contaminated soil will be secured once sufficient design and investigations have been completed and the design of the Project is confirmed.

162. However, the Section 87F report goes on to propose an updated form of Condition REW4 that has the effect of significantly lengthening that condition, and in large part restating the process that Waka Kotahi will need to follow when seeking consent under the NES-CS. I consider that to be an unnecessary approach, and it is therefore considered confusing, and unnecessary duplication, to partially regulate such activities as part of the current application for resource consents. For this reason, I propose to delete Condition REW4 so that any use of potentially contaminated land can be addressed comprehensively, and at one time.

Groundwater (RGW)

163. The Section 87F Report suggests amendments to Condition RGW1 to limit the duration of dewatering. In his evidence **Dr Jack McConchie** concludes that limiting dewatering in this way is not necessary. I have therefore retained Condition RGW1 unchanged.
164. The Section 87F Report suggests the inclusion of two further standards in Condition RGW2 that relate to impacts on wetlands and the provision of water an alternative water supply to a property. In this regard I note that:
- (a) wetlands that are impacted by the Project have been assumed to be lost with effects addressed through ecological offset such that the outcome in suggested clause (b) is already achieved; and
 - (b) The Project will not result in any adverse effects on the yield or quality of water from the bore at 195 Muhunua East Road.
165. I therefore consider the additional clause suggested in the Section 87F Report unnecessary.

Surface water (RWT1)

166. The Section 87F Report suggests that Condition RWT1 be adjusted to better align the proposed take with the conditions at the point of taking the water. While the consent applications propose a rate of water take relative to the river and stream gauges that are referred to by the Regional Councils, I understand that the Councils prefer that the data from these gauges is adjusted to match the likely flow conditions at the point of each proposed

take. **Dr McConchie** has discussed and agreed the gauge adjustments, including consequential adjustments to rates of take, with Council Officers and these are now included in an amended condition RWT1.

167. I note that Condition RWT1 is cumbersome and extends over a number of pages. An alternative drafting approach may be to split the condition to include general water take conditions and then separated waterbody specific standards.

Erosion and sediment control (RES and RGW1)

168. The Section 87F Report suggests catchment specific triggers to measure clarity depending on the sensitivity of the waterbody. In his evidence, **Gregor McLean** concludes that differing clarity triggers are not necessary or appropriate and notes that the trigger relates to the performance of erosion and sediment control measures, rather than effects on a waterbody. On this basis, I have retained a 100mm clarity trigger in Condition RES1 and RGW1.

Operational stormwater

169. The Section 87F Report suggests the detailed design plans for all operational stormwater devices be provided by means of conditions, that fish passage be provided in stormwater systems and that a stormwater operation and maintenance plan be prepared and provided to Councils for certification.
170. **Dr McConchie** and **Mr Nick Keenan** have considered these suggestions and, in response, amendments to conditions RSW1 and RSW2 are made. The changes to RSW1 include reference to Waka Kotahi design specification (P46 Stormwater Specification) and to the Wellington Water design guide. In addition, in response to concerns that water from stormwater devices may increase drainage through an area of contaminated land, an additional clause is proposed that requires devices to be impermeable where draining to contaminated land that exists at the time of construction of the device (this allows for the possibility that contaminated land may be treated in accordance with separate approvals under the NES-CS and/or the One Plan).
171. These changes in combination require the design of the stormwater system to respond to the issues that are of concern to Councils and so it is not necessary for these designs to be certified.

172. **Mr Keenan** and **Keith Hamill** have considered the request that a stormwater operation and maintenance plan be prepared and conclude that this is not necessary. I note that in terms of water quality, the overall operational effects of the Project on the environment are positive and therefore no conditions are required to manage adverse effects. Accordingly, I agree with Mr Keenan and Mr Hamill and I am not proposing any changes to conditions to this effect.

Bridges, structures and culverts over waterbodies

173. The Section 87F Report suggests that reference to 'and all associated works' be included in the Conditions RBS1 and RWB1, which relate to the design of bridges and culverts. No rationale has been given for suggesting these amendments.

174. I do not support the suggested amendments on the basis that the activities or works that might be captured by 'all associated works' is not sufficiently clear or certain. Further, it is not clear to me what works might be captured by the addition of 'all associated works' that are not currently captured by the requirements related to for the construction of bridges or placement of culverts

175. The Section 87F Report suggests that requirements for further flood modelling be included in Condition RBS1. In response, **Dr McConchie** supports the inclusion of reference to the Waka Kotahi Bridge Manual and concludes that, with this reference included, any effects on hydrogeology and flooding will be no greater than as assessed. **Dr McConchie** reaches the same conclusion in respect of culverts, subject to reference to the Waka Kotahi Bridge Manual, stormwater standards and stormwater specification being included in Condition RWB1. These amendments are included in the revised draft conditions.

Ainsley Jean McLeod

4 July 2023

APPENDIX A – DRAFT CONDITIONS (EVIDENCE VERSION) TRACKED

APPENDIX B – DRAFT CONDITIONS (EVIDENCE VERSION) CLEAN

Provided as separate documents