

**BEFORE THE PALMERSTON NORTH CITY, MANAWATŪ DISTRICT AND
TARARUA DISTRICT COUNCILS**

IN THE MATTER of the Resource Management Act 1991 (“the Act”)

AND

IN THE MATTER NOTICES OF REQUIREMENT by NZTA under s168 of the Act for the construction, operation, maintenance and improvement of approximately 11.5km of new State Highway between Ashurst and Woodville to replace the closed section of SH3 through the Manawatū Gorge and associated works, know as the Te Ahu a Turanga, Manawatū Tararua Highway Project (“the Project”)

Michael James Briggs

**EVIDENCE ON BEHALF OF THE DIRECTOR-GENERAL OF CONSERVATION
(Planning)**

Dated: 15 March 2019

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Executive Summary

- i. The notice of requirement applications currently before the Hearing Panel, would see the Te Ahu a Turanga, Manawatū Tararua Highway Project constructed through areas of significant indigenous vegetation and habitats of indigenous fauna.
- ii. The current mitigation, offset and compensation package proposed by the NZ Transport Agency (“**NZTA**”) does not provide certainty that the Project target of net indigenous biological diversity gain will be achieved. The current package lacks quantifiable information to determine the quantum of positive actions required to address residual adverse effects or measure conservation outcomes to prove a net gain.
- iii. In my opinion, in its current form, the Project does not meet the purpose and principles in Part 2 of the Act for the following reasons:

- (a) It does not provide certainty that the potential adverse ecological effects will be avoided, remedied, or mitigated, or that life-supporting ecosystems will be safeguarded.
 - (b) It will not preserve or protect the natural character of wetlands, rivers and their margins, from inappropriate use or development or protect areas of significant indigenous vegetation and habitats of indigenous fauna.
- iv. In my view, NZTA needs to revise its assessment of effects, proposed positive ecological effects package and draft conditions to:
 - (a) Adequately demonstrate how the proposed mitigation, offset and compensation package will achieve a net indigenous biological gain.
 - (b) Provide certainty that NZTA can secure and protect in perpetuity the areas required to implement the measures to achieve a net indigenous biological gain.
 - (c) Detail the outcomes the proposed conditions seek to achieve to appropriately avoid, remedy and mitigate adverse effects.
- v. It is my view that a recommendation should be made that NZTA's Notice of Requirement applications be withdrawn if the above cannot be undertaken within the current Hearing Panel process.
- vi. If, contrary to the above, the Hearing Panel recommends confirming the Notices of Requirement, the designation should incorporate conditions that:
 - (a) Avoid, as far as practicable, areas of significant indigenous vegetation and habitats of indigenous fauna.
 - (b) Amend the conditions to provide confidence that a net indigenous biological gain will be achieved by the avoiding, remedying, mitigating, offsetting or compensating the adverse ecological effects.
 - (c) Remedy or mitigate the adverse of the Manawatu Gorge Scenic Reserve.

1. QUALIFICATIONS AND EXPERIENCE

- 1.1. My full name is Michael James Briggs.
- 1.2. I am employed at Harrison Grierson as a Senior Planner in the Company's Hamilton office. Prior to that I was employed as Senior Planner at Opus International Consultants. I hold the qualification of Bachelor of Resource and Environmental Planning from Massey University. I am an Intermediate Member of the New Zealand Planning Institute as well as a member of the Resource Management Law Association.
- 1.3. I have 12 years' experience as a planner in council and consultancy roles based in Whanganui, Palmerston North and Hamilton. During my career, I have been involved in a number of resource consent, designation and plan making processes for both private and public sectors. I currently undertake planning work for a wide range of clients throughout the Waikato region.
- 1.4. My experience includes undertaking business case assessments, stakeholder and landowner consultation, and preparation of Notices of Requirement and resource consent applications for a number of roading projects. These projects include the Hamilton and Longswamp sections of the Waikato Expressway, Sections C and D of State Highway 2 Pokeno to Mangatarata and SH1 Cambridge to Piarere.
- 1.5. I undertook a full day site visit to the Project site with Department of Conservation ("**DOC**"), NZTA and council staff and specialists on 23 November 2018, and I am generally familiar with the proposed site.
- 1.6. I have read the Environment Court's Code of Conduct for Expert Witnesses, and I confirm that I have complied with it. The issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I have specified where my opinion is based on limited or partial information and identified any assumptions I have made in forming my opinions.
- 1.7. I rely in part on the Evidence in Chief ("**EIC**") presented by expert witnesses appearing for DOC, in particular the EIC's of:

- a. Dr Tim Martin (Ecology).
 - b. Dr Nick Goldwater (Freshwater Ecology).
 - c. Dr Kelvin Lloyd (Biodiversity Offsetting).
- 1.8. In addition, in preparing my evidence I have reviewed the relevant documents provided as part of the Project Notices of Requirement applications (“NOR”) including:
- a. The Assessment of Effects on the Environment and supporting material dated 31 October 2018.
 - b. The technical assessments on noise and vibration, social, landscape, natural character and visual, and terrestrial ecology.
 - c. The EIC and Supplementary Evidence prepared by NZTA witnesses.
- 1.9. I have also reviewed the Reporting Officer’s Section 42A Report prepared on behalf of Palmerston North City Council (“**PNCC**”), Manawatu District Council (“**MDC**”) and Tararua District Council (“**TDC**”).

2. SCOPE OF EVIDENCE

- 2.1. My EIC will focus on the matters in the NOR applications that are relevant to the DOC submission, it provides:
- a. A summary of the DOC submission and DOC’s interests in the Project and the site.
 - b. A summary of the process and outcomes from the consultation that has been undertaken by NZTA with DOC.
 - c. An assessment of the:
 - i. Assessment of alternatives undertaken by NZTA.
 - ii. Relevant statutory framework in relation to the NOR application, including Part 2 of the RMA and key statutory planning documents.
 - iii. Ecological adverse effects of the Project.
 - iv. Potential adverse effects of the Project on the Manawatu Scenic Reserve.
 - v. Adequacy of mitigation, offsets and compensation proposed by NZTA overall and on the recommended conditions contained in the Reporting Officer’s Section 42A Report.

vi. Proposal in terms of Part 2 of the RMA.

- 2.2. I don't propose to cover the site description or the proposal description in my EIC because they have already been comprehensively described in the NOR and supporting information, and succinct summaries are provided in the Reporting Officer's Section 42A Report, all of which I agree with.

3. CONTEXT

The DOC Submission

- 3.1. The areas of particular concern identified in DOC's submission to PNCC, MDC and TDC relate to the appropriate management of adverse effects to achieve a net indigenous biological diversity gain, the Project's effects on the Manawatu Gorge Scenic Reserve and the adequacy of the proposed conditions.
- 3.2. In relation to achieving a net indigenous biological diversity gain, DOC requested that the existing vegetation and habitats within the designation corridor be re-assessed and then adequately managed to provide sufficient certainty that a net gain will be achieved.
- 3.3. To ensure that the effects on the Manawatu Gorge Scenic Reserve are appropriately avoided, remedied or mitigated, DOC sought that NZTA provide additional details in relation to the car park and the effects of abandoning the current state highway alignment.
- 3.4. The submission also sought that NZTA take the opportunity to provide adequate access arrangements for DOC and the public to access the northern area of the Scenic Reserve.
- 3.5. The submission then requested that NZTA withdraw the NOR applications unless further information was provided that gave the required certainty that the adverse effects of the proposed activities will be adequately avoided, remedied, mitigated, offset or compensated for (in that order).

DOC Functions

- 3.6. The functions of DOC are established under the Conservation Act 1987. DOC's functions include (amongst other things) management of land and natural and historic resources for conservation purposes, preservation so far as is practicable of all indigenous freshwater fisheries, protection of recreational freshwater fisheries and freshwater fish habitats and advocacy for the conservation of natural and historic resources. DOC's interests in the Project relate to these matters.
- 3.7. DOC is also the authority responsible for processing applications under the Wildlife Act 1953 and the Freshwater Fisheries Regulations 1983. I understand that approvals under both above Acts will be required for the Project prior to construction commencing and that most of these approvals are yet to be sought.

4. CONSULTATION WITH DOC

- 4.1. As identified in the NOR application¹, NZTA has undertaken consultation with DOC on the Project as part of the key stakeholder group. The consultation that has been undertaken by NZTA with DOC has assisted to resolve some, but not all, of DOC's concerns that were raised in the submissions.
- 4.2. My own involvement with consultation on behalf of DOC began in November 2018. On 22 November 2018 I attended a meeting with NZTA and other DOC representatives to discuss our initial thoughts of the NOR applications and to specify our site visit requirements.
- 4.3. On 23 November 2018, the other DOC representatives and I undertook a site visit with NZTA, PNCC, MDC and TDC representatives. I was able to:
 - a. View the Project area from the Manawatu Gorge Scenic Reserve car park and vantage points along Saddle Road.
 - b. Walk through The Emigrant and Colonists Aid Corporation Limited property adjacent to the railway line to view the Manawatu Gorge Scenic Reserve car park area and proposed alignment from northern side of the Manawatu River.

¹ NOR, Volume 2 (AEE and Supporting Material), Part F, Section 20.

- c. Drive through the J & G Bolton Limited property to key viewing points of the proposed alignment and significant features.
- 4.4. I note that (due to time limitations) I was not able to join the NZTA and council staff and specialists to view the eastern extents of the proposed alignment beyond that observed from Saddle Road. For these areas I have instead relied on available site photos, google earth imagery and descriptions of the site in the NOR applications, as well as other experts.
 - 4.5. Following the site visit, DOC representatives and I met with NZTA on 5 December 2018. DOC provided ecological feedback to NZTA and raised the follow matters:
 - a. Additional ecological information was required to provide certainty of effects and assess appropriateness of compensation package.
 - b. An effects assessment of abandoning the current state highway alignment was not included in the applications.
 - c. Additional information was required in relation to the proposed car park mitigation.
 - d. DOC needed to review the draft and final Management Plans as a key stakeholder.
 - e. Opportunity to provide DOC legal access to the northern side of the Manawatu Gorge Scenic Reserve over current private access arrangements.
 - f. Opportunity to provide walking and cycling facilities within the designation footprint.
 - 4.6. On the morning of 15 February 2019, DOC representatives and I attended an Ecological Mitigation Workshop with representatives from NZTA, mana whenua, PNCC, MDC, TDC, Forest and Bird and Horizons Regional Council. That afternoon, DOC representatives and I meet with NZTA to further discuss the additional ecological information requested, mitigation of the car park and conditions of consent.
 - 4.7. Dr Forbes and Dr Martin undertook expert conferencing on the topic of ecology on 22 February 2019. The conferencing resulted in a joint statement (dated 22 February 2019) which confirms the points of agreement and disagreement between the two ecologists.

- 4.8. The key matters which remain unresolved are addressed in the evidence of the DOC ecological witnesses and in the following sections of my EIC. For ECR's, they include:
- a. The low ratios for some of the proposed habitat ECRs.
 - b. The proposed ECRs do not adequately account for the time lag of restoration areas.
 - c. The exotic dominated seepage wetland ECR of 1:1.5 does not acknowledge that the habitat cannot be replaced.
 - d. That the ECRs need to acknowledge the higher risks of the compensation approach and the uncertainty of the location of restoration areas.

5. ASSESSMENT OF ALTERNATIVES

- 5.1. While the Section 42A Report considers that further consideration of alternative sites, routes or methods of undertaking the work may be required², I have relied upon the expert advice of NZTA's specialists and the opinions that they provided to inform the Multi-Criteria Analysis (MCA) process identified in the NOR³.
- 5.2. The remaining aspects of my EIC therefore focus on the chosen alignment that is proposed for the Project.

6. STATUTORY FRAMEWORK

- 6.1. In this section, I identify the statutory framework and documents that are relevant to the Project. I then assess these in section 11 of my evidence.
- 6.2. The relevant statutory framework in the Act includes sections 5, 6, 7 and 8 in Part 2 (purpose and principles) and sections 166-186 in Part 8 (designations and heritage orders).

Relevance of Part 2

- 6.3. I am aware that there have been a number of recent Court decisions tackling whether or not decision-makers under the Act need to

² Section 42A at [746].

³ NOR, Volume 2 (AEE and Supporting Material), Part E.

specifically consider the matters in Part 2 or whether they should instead rely solely on the provisions of the relevant planning documents which give effect to Part 2. I understand that all of those cases agree that it is appropriate to consider Part 2 matters in the circumstances where, for whatever reason, the RMA planning documents are invalid, give incomplete coverage or uncertainty of meaning to the matter that the decision maker is considering.

- 6.4. I note that both the NOR applications⁴ and Reporting Officer's Section 42A Report have considered Part 2 matters, and I have taken the same approach. The High Court's decision on *NZTA v Architectural Centre Inc*⁵ in relation to the application of Part 2 matters under section 171(a) of the Act confirms that Part 2 matters prevail over other considerations in the event of a conflict. I comment on the relevant sections in Part 2 below and I will draw my conclusions with respect to these matters later in my evidence.

Section 5

- 6.5. The purpose of the Act in section 5 is to “...*promote the sustainable management of natural and physical resources*”.
- 6.6. There are two general elements of “sustainable management” in the context of section 5(2) that must be considered. They are:
- Managing the use, development, and protection of natural and physical resources.
 - Enabling people and communities to provide for their social, economic and cultural wellbeing.
- 6.7. I recognise that there are clear social and economic well-being and safety benefits associated with the Project. These benefits are comprehensively described in the NOR⁶. However, I also consider that there social, economic and cultural well-being benefits associated with the ecological values that will be lost as a result of the Project.
- 6.8. With respect to the requirement that adverse effects be “avoided, remedied or mitigated”, the Regional Plan⁷ establishes a mitigation

⁴ NOR, Volume 2 (AEE and Supporting Material), Part I, Section 46.

⁵ *New Zealand Transport Agency v Architectural Centre Inc* (2015) NZHC 1991.

⁶ NOR, Volume 2 (AEE and Supporting Material), Part A, Section 3.1 and 3.2.

⁷ Regional Plan, Policy 13-14[b].

hierarchy of avoidance, remediation and mitigation where resource consents are assessed to have more than minor adverse effects on significant indigenous vegetation or a significant habitat. Where this cannot be reasonably achieved, more than minor adverse effects are to be offset to result in a net indigenous biological diversity gain.

- 6.9. The high ecological values of the site combined with the inability of the Project to avoid, remedy and mitigate all the adverse effects, has prompted NZTA to propose a designation condition that requires, in consultation with DOC and tangata whenua, to determine the extent of any further offsetting to achieve a net indigenous biological diversity gain⁸.
- 6.10. However, Dr Lloyd and Dr Martin have identified a lack of quantitative information to demonstrate that the Project will achieve a 'net gain' or even 'no net loss'⁹. Dr Lloyd and Dr Martin consider the current ecological effects package does not demonstrate where and how gains will be made, or the magnitude of gains, as the package does not include confirmed restoration sites or confirmed ECRs¹⁰. Dr Lloyd considers that a 'net gain' could only result from compensation if the adverse effect was small and the positive effect overwhelmingly large¹¹.

Section 6

- 6.11. I consider that the following matters of national importance, which must be recognised and provided for, are particularly relevant to the matters addressed in DOC's submission:

"In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

...

(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna..."

⁸ NOR, Volume 2 (AEE and Supporting Material), Part H, Section 39, Condition 17.

⁹ Lloyd EIC at [6.11] and Martin EIC at [3.11].

¹⁰ Lloyd EIC at [6.11] and Martin EIC at [10.5].

¹¹ Lloyd EIC at [6.7].

- 6.12. In terms of section 6(c), Horizons Regional Council (“**HRC**”) has established criteria for significance under the Regional Plan. Under Policy 13-5 of the Regional Plan, ‘rare habitats’ are areas of significant indigenous vegetation or significant habitats of indigenous fauna that support an indigenous species or community that was originally uncommon within New Zealand and supports an indigenous species or community of indigenous species. ‘Threatened habitats’ under Policy 13-5 are areas of significant indigenous vegetation or significant habitats of indigenous fauna which comprises of indigenous habitat type that is under-represented (20% or less of known or likely former cover). An ‘at-risk’ habitat may be assessed as an area of significant indigenous vegetation or a significant habitat of indigenous fauna if it meets one or more of the criteria under Policy 13-5.

Section 7

- 6.13. I consider that the following other matters, to which regard must be had, are particularly relevant to the matters addressed in DOC’s submission:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

...

(d) intrinsic values of ecosystems:

...

(f) maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:..”

- 6.14. Suitable measures to mitigate, offset and/or compensate for adverse effects are important in relation to conclusions drawn with respect to each of these matters.

Section 8

- 6.15. All persons exercising functions and powers under the Act must take into account the principles of the Treaty of Waitangi. I am aware that consultation is being undertaken with mana whenua groups. I

acknowledge the importance of this issue, but I will not address these matters in my evidence as they were not part of the DOC submission.

Section 171

- 6.16. The corresponding requirements for consideration of NORs for designations are contained in section 171(1) of the Act. Section 171(1) requires that a territorial authority must consider the effects on the environment of allowing the requirement.
- 6.17. Under section 171(1)(a) the territorial authority must have particular regard to any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement and a plan or proposed plan.
- 6.18. Sections 171(1)(b) and (1)(c) require that the territorial authority must have particular regard to whether adequate consideration has been given to alternative sites, routes, or methods for undertaking the work and whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority.
- 6.19. Section 171(1)(d) requires that the territorial authority must have particular regard to any other matter that it determines is reasonably necessary in order to make a recommendation on the requirement.
- 6.20. Section 171(1B) is particularly relevant to the Project as it relates to offset or compensation measures. It states (my emphasis):

“The effects to be considered under subsection (1) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority.”

Relevant Statutory Documents

- 6.21. In my opinion, the key statutory documents that are relevant to the Project in terms of sections 104(1)(b) and 171(1)(a) are as follows:
 - a. National Policy Statement for Freshwater Management (2014).
 - b. Operative Horizons Regional Policy Statement (2014).
 - c. Operative Horizons Regional Plan (2014).

- d. Operative Palmerston North City District Plan (2018).
 - e. Operative Manawatu District Plan (2002)
 - f. Operative Tararua District Plan (2012).
- 6.22. I have undertaken a broad review of these statutory documents in relation to the proposed activities. I have also reviewed NZTA's objectives and policies assessment contained in the NOR¹² and the EIC of Ainsley McLeod. The provisions of these statutory documents which I have identified as being inconsistent with DOC's submission are attached as Appendix 1 of my evidence.
- 6.23. I have recognised a number of consistent themes across the objectives and policies in these documents. These themes are:
- a. Managing adverse environmental effects arising from the establishment, operation, maintenance and upgrading of infrastructure.
 - b. Avoiding, remedying or mitigating accelerated erosion and increased sedimentation in water bodies.
 - c. Managing surface water bodies to safeguard their life supporting capacity and values.
 - d. Protecting significant indigenous vegetation and significant habitats of indigenous fauna.
 - e. Maintain indigenous biological diversity and enhance where possible.
 - f. Avoiding, remedying or mitigating effects on outstanding natural features and landscapes, and natural character of wetlands and rivers.
 - g. Avoiding, remedying or mitigating adverse earthworks effects.
 - h. Mitigating the adverse effects of road and vehicles on amenity values.
 - i. Maintaining or enhancing the quality and natural character of the rural environment.
 - j. Ensuring the safe, efficient and effective operation of transportation networks, while avoiding, remedying or mitigating adverse environmental effects.

¹² NOR, Volume 2 (AEE and Supporting Material), Part I.

7. ECOLOGICAL VALUES, SIGNIFICANCE, EFFECTS, MITIGATION, OFFSETS AND COMPENSATION

- 7.1. The NOR and evidence submitted on behalf of NZTA propose offsetting measures to achieve a net indigenous biological gain as a result of the Project. While I support the aim of this approach, the DOC ecological experts have raised concerns with the proposed offsetting measures due to the lack of measurable conservation outcomes that use currencies and accounting models to determine the quantum of positive actions required to address residual adverse effects.
- 7.2. I summarise DOC's expert evidence below in relation to ecological values, significance and effects. I identify where the experts consider that additional information, mitigation or compensation effort is necessary in respect of each matter.
- 7.3. I also provide an assessment of the adequacy of the proposed mitigation, offset and compensation package and conditions later, in section 10 of my EIC.

Ecological Values

- 7.4. I rely on the EIC by Dr Martin in relation to ecology values of the designation area and I summarise my understanding of the key points in his evidence¹³ as:
- a. Except for old growth forests, the NOR provided little or no information on the composition or condition of the ecosystem types. Written descriptions, with accompanying photographs wherever possible, are needed for the ecosystem types to be able to assess the appropriateness of the ecological value assigned to it. Descriptions with accompanying photographs have since been provided for most ecosystem types, but information gaps remain with regards to wetlands, and, for all ecosystem types, habitat condition.
 - b. No weight can be given to the non-detection of lizards as the NOR ecological values assessment did not adequately survey for or consider herpetofauna habitats.

¹³ Martin EIC at [Section 7].

- c. The Applicant should justify how “avoidance” was not feasible for shrubland habitats of High value for herpetofauna.
- d. Several habitats have been under-ranked in relation to the EIANZ assessment and some habitats are not considered to be “significant” under section 6(c) of the Act where they meet the Regional Plan criteria for significance.
- e. The NOR has not adequately considered the location and values of mānuka, kānuka shrublands or divaricating shrublands within the designation area.
- f. Relying on existing terrestrial invertebrates information/habitat proxys is very dependent on either knowing which species are present, or which habitat types support Threatened or At Risk species.
- g. No terrestrial invertebrate surveys have been undertaken by the Applicant.
- h. *Olearia* species are present in the shrublands, and on the basis of this genera being the host for At Risk moth species, ecological values should be assigned using a precautionary approach. This would result in the divaricating shrublands being ranked as being significant and lift the ecological value from High to Very High.
- i. If bat surveys confirm the presence of long-tailed bats within the designation, further investigations will be needed to determine the effects of the construction and operation of the road, and map and assess the habitat value of exotic vegetation that may provide bat roost sites.

Ecological Significance

- 7.5. I have summarised my understanding of the key points of Dr Martin’s EIC¹⁴ as:
- a. The Applicant has not consistently applied a precautionary approach to the presence of Threatened or At Risk herpetofauna.
 - b. The NOR has incorrectly applied the Ecological Context criterion to the ecosystem types, as there is connectivity of many of the habitats to forest within the Manawatu Gorge Scenic Reserve.

¹⁴ Martin EIC at [Section 8].

- c. If the above errors were corrected, the NOR would assess all of the indigenous vegetation mapped to be significant under the Regional Plan criteria.

Potential Ecological Effects

7.6. Again, I rely on the EIC of Dr Martin in relation to potential ecological effects of the Project and I summarise my understanding of the key points in his evidence¹⁵ below:

- a. The NOR should acknowledge that the extent of loss identified is the area of direct removal and quantify the indirect effects that will extend beyond the limits of vegetation removal.
- b. Most of the 32.02 hectares of habitat loss will be Acutely or Chronically Threatened indigenous forest and scrub with hydrological and or ecological connectivity to the Manawatu Gorge Scenic Reserve, within an otherwise pastoral landscape.
- c. The NOR correctly identifies the very high ecological value and irreplaceability of old growth forest (alluvial) and seepage wetlands with raupō and swamp maire.
- d. The NOR does not confirm whether the restoration package includes the protection of the remainder of the forested gully within which these high value habitats occur.
- e. Hillslope seepages are a rare ecosystem type, and the loss of these cannot be fully addressed by replacement planting. Dr Martin considers that the Project does not fully comply with the mitigation hierarchy as the selection of spoil sites did not consider any opportunities to avoid the seepages.
- f. The Applicant has not provided an assessment of ecological effects for closure of the existing SH3 alignment. Any change to the status of the existing section of SH3 needs to consider how pest plants in this area will be controlled.

8. FRESHWATER ECOLOGY EFFECTS

8.1. I summarise DOC's expert evidence below in relation to freshwater ecological values and effects. I identify where the experts consider that

¹⁵ Martin EIC at [Section 9].

additional information, mitigation or compensation effort is necessary in respect of each matter.

Freshwater Values

- 8.2. I rely on the EIC of Dr Goldwater in relation to freshwater ecology values and I summarise my understanding of the key matters in his evidence as follows:
- a. The NOR recognises the high ecological values of the streams that flow through the steep bush-clad gullies within the Manawatū Gorge Scenic Reserve.
 - b. Dr Goldwater considers that most if not all streams within Manawatū Gorge Scenic Reserve would be in a relatively unmodified state and would have high ecological values.

Freshwater Effects

- 8.3. I rely on the EIC of Dr Goldwater¹⁶ in relation to freshwater ecology effects and I summarise my understanding of the key matters in his evidence as follows:
- a. Dr Goldwater considers that the NOR underestimates the length of stream loss (c.4,000 metres) and he estimates approximately 7,000 metres of streams could be lost.
 - b. The NOR does not identify the location of any potential offset sites and these would be required outside the boundaries of the designation (also acknowledged by the Applicant's freshwater ecologist Mr Miller).
 - c. Dr Goldwater considers sedimentation to be a key issue.
 - d. Dr Goldwater does not agree with the NOR approach to only mitigate moderate or higher level effects.
 - e. The magnitude and level of effects from stream loss need to be re-assessed to account for the proposed spoil sites.
 - f. In Dr Goldwater's opinion, the EIANZ guidelines have the potential to underestimate the significance of stream loss.
 - g. The flow regimes of new culverts need to be considered, as moderate velocities can prevent fish migration and/or result in scour and erosion in downstream.

¹⁶ Goldwater EIC at [4.1-4.8].

9. MANAWATU GORGE SCENIC RESERVE EFFECTS

- 9.1. I summarise NZTA's expert assessment below in relation to the potential effects on the Manawatu Gorge Scenic Reserve car park and visitor area.
- 9.2. Unless the potential effects are appropriately avoided, remedied or mitigated by the proposed NOR conditions, the Project could result in adverse effects on the car park and wider Manawatu Gorge Scenic Reserve area. DOC will request changes at the hearing to conditions proposed by NZTA.

Car Park and Visitor Area

Noise

- 9.3. Dr Chiles technical assessment¹⁷ identifies that (my emphasis):

“Around the Manawatu Gorge car park and visitor area, road-traffic from the wider area is still audible in the distance, along with natural sounds from the river and vegetation”

- 9.4. While Dr Chiles considers that the adverse road-traffic noise effects will have a minor effect on the Manawatu Gorge Scenic Reserve car park and visitor area¹⁸, there is no explanation of how he reached his opinion. I consider that proposed conditions 21 (Construction Noise and Vibration Management Plan) and PN2 (Manawatu Gorge Scenic Reserve Car Park) should be amended to include a requirement of mitigating noise levels to below pre-closure of SH3 noise levels. NZTA has indicated during consultation the pre-closure noise levels were in the order of 65 dB L_{Aeq(24h)}.

Social

- 9.5. I rely on the technical assessment by Ms Linzey in relation to the potential social impacts of the Project. Ms Linzey identifies that there is potential for temporary closures and disruptions of the Manawatu Gorge Scenic Reserve car park and visitor area, which will have a minor effect on people's way of life and recreation opportunities¹⁹. Accordingly, I consider that the proposed NOR conditions should contain specific

¹⁷ NOR, Volume 3.2 (Noise & Vibration Technical Assessment) at [47].

¹⁸ NOR, Volume 3.2 (Noise & Vibration Technical Assessment) at [109].

¹⁹ NOR, Volume 3.3 (Social Impact Assessment) at [99].

requirements in relation managing the effects on users of the Manawatu Gorge Scenic Reserve car park and visitor area (i.e. maximum number of days the car park and visitor can be closed consecutively).

- 9.6. To mitigate the Project's construction effects and reinstatement of the carpark and visitor area, Ms Linzey recommends a Manawatu Gorge Carpark Reinstatement Plan²⁰ in consultation with DOC and community representatives. I agree that proposed condition PN2 should require consultation with DOC, but should also require separate management and reinstatement plans to appropriately address the potential effects of the Project at different stages.

Landscape, Natural Character and Visual

- 9.7. I rely on the technical assessment by Mr Evans. In his assessment of landscape and natural character effects, he identifies that²¹:

“The introduction of the bridge spanning the river and associated traffic will significantly change the character of the river corridor. Its elevation and form, together with the introduction of traffic activity will change the spatial, remote and quiet quality of the river environment, particularly... people using the Gorge carpark”.

And²²:

“Effects on landscape character will be heightened during construction of the bridge given the presence and activity of machinery, construction workers and storage of construction materials and plant, but there will be temporary”.

- 9.8. Mr Evans is of the opinion that the Manawatu Gorge Scenic Reserve car park and visitor area is *“sensitive to change due to the shared and recognised values held by the community...”*²³ and rates the landscape and natural character effects on the area from moderate to high²⁴.
- 9.9. In relation to the visual effects on the Manawatu Gorge Scenic Reserve car park and visitor area, Mr Evans identifies that²⁵:

²⁰ NOR, Volume 3.3 (Social Impact Assessment) at [157-161].

²¹ NOR, Volume 3.4 (Landscape Character & Visual Assessment) at [186].

²² NOR, Volume 3.4 (Landscape Character & Visual Assessment) at [187].

²³ NOR, Volume 3.4 (Landscape Character & Visual Assessment) at [188].

²⁴ NOR, Volume 3.4 (Landscape Character & Visual Assessment) Table 4.12.

²⁵ NOR, Volume 3.4 (Landscape Character & Visual Assessment) at [299].

“...the bridge will be a predominant feature, crossing over the carpark against the backdrop of dense forest of Manawatu Gorge Scenic Reserve...”

And:

“...the view would still be dominated by the bridge”.

And:

“The design of the bridge, treatment of earthworks and mitigation planting would help to integrate the bridge into its landscape setting. However, the bridge, because of its scale and its contrast with the largely natural setting, would dominate this area of the Manawatu River environment”.

- 9.10. Overall, Mr Evans considers that the visual effects of the Project at the approach to the New Manawatu Bridge would be high²⁶ and recommends measures to mitigate them²⁷.

10. ADEQUACY OF PROPOSED MITIGATION, OFFSETS, COMPENSATION AND CONDITIONS

- 10.1. I support the net indigenous biological diversity gain target sought by the Project and required by proposed condition 13 of the NOR, as the proposed target aligns with Policy 13-4 of the Regional Plan. However, I consider that the Hearing Panel needs to determine:
- (a) Whether the Project adequately demonstrates that a net indigenous biological diversity gain will be achieved by the proposed mitigation, offset and compensation package.
 - (b) Whether NZTA has appropriate access and security to the proposed mitigation, offset and compensation areas to ensure that the measures required to achieve a net indigenous biological diversity gain can be implemented and protected in perpetuity.
- 10.2. In relation to NZTA’s mitigation hierarchy approach²⁸ (i.e. avoid, remedy, mitigate and offset the actual or potential effects of the Project), I consider that more than minor residual adverse effects must be

²⁶ NOR, Volume 3.4 (Landscape Character & Visual Assessment) at [300].

²⁷ NOR, Volume 3.4 (Landscape Character & Visual Assessment) Table 4.18.

²⁸ NOR, Volume 2 (AEE and Supporting Material), Part H, Section 37.

compensated if they cannot be first avoided, remedied, mitigated or offset. Otherwise residual adverse effects would remain unaddressed.

- 10.3. In accordance with section 171(1B) of the Act, all compensation would need to be agreed to and be proposed by NZTA.
- 10.4. NZTA has filed updated draft conditions which are included with Ms McLeod's EIC. While I consider that some of the conditions have been generally improved on from the NOR, I cannot confirm the appropriateness of the updated draft conditions due to the required additional information identified in Dr Lloyd and Dr Martin EIC's. (DOC intends to provide further comment on the updated draft conditions at the hearing).

Ecological Offsets and Compensation

- 10.5. Given the information provided, and the replacement and offset planting required by proposed NOR condition 13, it is important to differentiate between offsetting and compensation. As identified Dr Lloyd's EIC²⁹, biodiversity offset is (my emphasis):

"Measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development after appropriate prevention and mitigation measures have been undertaken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground".

And³⁰:

"...generally requires a currency (i.e. the units being traded) and an accounting model which determines the size of the offset required. The accounting model generally incorporates a discount rate which is used to take risk and uncertainty into account".

And³¹:

"must be on a like-for-like basis, is undertaken close to where the adverse effects occur, and is measurable"

²⁹ Lloyd EIC at [3.3].

³⁰ Lloyd EIC at [3.6].

³¹ Lloyd EIC at [6.1].

- 10.6. Whereas, Dr Lloyd considers that compensation can include (my emphasis)³²:

“like-for-unlike transactions, be more remote from where the adverse effects are experienced, and is generally assessed subjectively”.

And³³:

“trade certain loss of one feature of biodiversity in exchange for improvement in a different feature of biodiversity, and cannot achieve no net loss”

- 10.7. Given the above, Dr Lloyd considers that the current package of positive actions does not constitute a biodiversity offset, as net gain has not been demonstrated. Instead, the proposed positive actions are consistent with the concept of environmental compensation.
- 10.8. I consider that NZTA needs to review and amend the current package of positive actions to:
- (a) Differentiate between offset and compensation measures.
 - (b) Ensure that the package demonstrates a net indigenous biological gain.

Ecological

- 10.9. I rely and summarise Dr Martin’s evidence below in relation to the current proposed positive ecological effects package. I identify where he considers that additional information, mitigation or compensation effort is necessary in respect of each matter.

Mitigation

- 10.10. While the NOR proposes planting of edge buffers and linkages between existing habitats, Dr Martin considers that the following information is needed to assess their likely effectiveness³⁴:
- a. Extent of planting proposed to mitigate crossing forested gullies vs. planting proposed for direct habitat loss.

³² Lloyd EIC at [6.1].

³³ Lloyd EIC at [6.2].

³⁴ Martin EIC at [10.1-10.3].

- b. Detailed location plans, widths, species composition, and management of the proposed edge buffer and linkage plantings.

Ecological Offsets and Compensation

- 10.11. The current positive effects package proposed does not include details of confirmed restoration sites or demonstrate where and how the biodiversity gains would be made to achieve a no-net-loss³⁵. Accordingly, Dr Martin considers that the proposed package does not demonstrate whether a net indigenous biodiversity gain or even a no-net-loss or a will be achieved³⁶.
- 10.12. Given the absence of the information in Paragraph 10.11, Dr Martin considers that the current proposed positive effects package consists of compensation.
- 10.13. I consider that there is a risk that the current NOR applications could result in designations that do not appropriately provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, for the following reasons:
 - (a) NZTA may be unable to access enough land area to implement the measures required to ensure a net indigenous biological gain.
 - (b) NZTA may be unable to protect the mitigation, offset and compensation areas required (in perpetuity).
- 10.14. Whereas the Applicant appears to state that this would mean it cannot give effect to the designation, it may also be the case that the Applicant gives effect to the designation following a difference of opinion whether the requirements of condition 17 are met, during consultation with DOC and/or in the context of the Outline Plan procedure. For example, I refer current differences between Dr Forbes and Dr Lloyd, expressed in their EIC, as to what is necessary to demonstrate 'net indigenous biological diversity gain'.
- 10.15. While there is certainty for land acquisition for constructing the road by virtue of the provisions of the Public Works Act, the designation would

³⁵ Martin EIC at [10.6].

³⁶ Martin EIC at [10.04-10.6].

not provide the same certainty for offset/compensation sites because the designation does not extent over those areas (or identify them).

Habitat Restoration

- 10.16. Based on the advice from Dr Martin below, I consider that NZTA needs to provide additional information on the proposed restoration areas to enable their appropriate assessment and confirmation of their additionality.
- 10.17. Dr Martin considers that justification of the proposed 32 hectares of retirement, protection, and canopy gap planting is required, as the rationale for the proposed restoration area is not clear³⁷.
- 10.18. In addition, as the NOR does not confirm the current condition or existing management of the proposed restoration sites, Dr Martin considers that the additionality of the areas is not certain.

Wetland Restoration

- 10.19. Although five potential wetland restoration areas are proposed, Dr Martin has serious concerns regarding the ability of the areas to address the adverse effects on wetland habitats, or meet the requirements for equivalence, additionality, or permanence. Of the five potential wetland restoration areas, Dr Martin considers that only one (e) has the potential to be a restoration area³⁸.

Environmental Compensation Ratios (ECRs)

- 10.20. Dr Martin considers that the proposed ECRs are based on professional judgement, rather than quantitative analysis that takes account of ecological values, time lag, and restoration risk.
- 10.21. Dr Martin and Dr Forbes agreed during their expert caucusing on 22 February 2019 that the ECRs need to consider the value of habitat being lost, time lag for replacement, and the risk of failure. Dr Martin is of the opinion that the current ERCs proposed for forest ecosystem types need to be increased in order to consider the above.
- 10.22. Given the time lag, value and significance of ecosystem types, Dr Martin considers that NZTA should re-assess and increase the ECRs.

³⁷ Martin EIC at [10.9].

³⁸ Martin EIC at [10.14].

10.23. I consider that NZTA needs to provide the qualitative data to demonstrate that their proposed ECRs will result in a net indigenous biological diversity gain for the Project, or increase the proposed ECRs to a level which there can be confidence that a net indigenous biological diversity gain will be achieved.

Freshwater Ecology

10.24. As will be identified in Ms Ongley's legal submissions, Horizons Regional Council has responsibility for indigenous biological diversity objectives, policies and methods, as well as developing rules controlling the use of land to protect significant natural areas and to maintain indigenous biodiversity. However, there are overlaps in relation to freshwater effects as they are governed by district plans as well as the Regional Plan rules.³⁹

10.25. I rely and summarise Dr Goldwater's evidence⁴⁰ below in relation to the appropriateness of the proposed positive freshwater ecological effects package. I identify where he considers that additional information, mitigation or compensation effort is necessary in respect of each matter.

10.26. While Dr Goldwater acknowledges the additional costs involved, he considers that there are opportunities to avoid adverse effects on some streams by constructing bridges rather than culverts.

10.27. As identified under paragraph 8.3 above, Dr Goldwater estimates approximately 7,000 metres of streams could be lost as a result of the Project. Based on a potential offsetting ratio of 1:5, approximately 35,000 metres of stream restoration may be required to offset the freshwater effects of the proposal. If this proves to be the case, Dr Goldwater considers the designation area to be insufficient to offset all likely stream loss and off-site options would need to be investigated. Mr Miller agrees that offset or compensation for this effect would need to occur outside the boundaries of the designation.

10.28. Dr Goldwater considers that the issues sediment and erosion control, stormwater management, and fauna salvage will need to be addressed

³⁹ For example: Section 6.3.7 of the Palmerston North City District Plan, 3D.4.2- 3D.4.5 Manawatu District Plan and section 5.1.5 of the Tararua District Plan (rules 5.1.5.2 & 5.1.5.3).

⁴⁰ Goldwater EIC at [Section 5].

through the ecological management plans required by the proposed NOR conditions.

10.29. In my opinion, the above sediment and erosion control, stormwater management, and fauna salvage could be addressed through conditions, but they would need to be well drafted to ensure they cover all aspects and have a certification element by Council as to their appropriateness. DOC will provide comments once detailed design has been provided.

Manawatu Gorge Scenic Reserve

10.30. As identified in the DOC submission and section 9 above, the Project has the potential to result in adverse noise, social, landscape, natural character and visual effects on the Manawatu Gorge Scenic Reserve car park and visitor area.

10.31. I consider that the following proposed NOR conditions, as they are currently worded, are not specific enough to appropriately avoid, remedy or mitigate the potential effects identified in section 9 above:

- 6 (Community Liaison Person).
- 7 (Communications Plan).
- 8 (Community Liaison Group).
- 9 (Complaints Management).
- 10 (Construction Environmental Management Plan).
- 11 (Environmental and Cultural Design Framework).
- 12 (Landscape Management Plan).
- 21 (Construction Noise and Vibration Management Plan)
- 22 (Construction Traffic Management Plan).
- PN2 (Manawatu Gorge Scenic Reserve Car Park Management and Reinstatement Plan).

10.32. I consider that the potential adverse effects of the Project on the Manawatu Gorge Scenic Reserve will be appropriately avoided, remedied or mitigated provided the conditions above are updated to clearly identify the outcomes sought and DOC will provide further comment on this matter at the Hearing.

11. STATUTORY ASSESSMENT

11.1. I have considered the positive effects, potential adverse effects, and the proposed mitigation, offset and compensation package of the Project in relation my assessment below.

Part 2 of the Act

11.2. Although I have recognised the positive benefits of the Project, I do not consider that a recommendation should be made to confirm the NOR, on consideration of the purpose and principles in Part 2 of the Act.

Section 5

11.3. I agree that the Project would have positive benefits for people and communities to provide for their social, economic, and cultural well-being and for their health and safety.

11.4. Relying on evidence from Dr Lloyd, Dr Martin and Dr Goldwater referred to in my statement above, I consider that the current proposal does not provide for the matters in sections 5(2)(b) and (c) of the Act. The Project in its current form does not provide certainty that the potential adverse ecological effects will be avoided, remedied, or mitigated, or that life-supporting ecosystems will be safeguarded.

Section 6

11.5. I consider that the NOR does not recognise or provide for the matters in sections 6(a) and 6(c) of the Act, unless the concerns of Dr Lloyd, Dr Martin and Dr Goldwater, I have set out above can be addressed.

11.6. Dr Martin considers that all the indigenous vegetation mapped with the designation area meet the significance criteria under the Regional Plan⁴¹. Therefore, in relation to the NOR, all persons exercising functions and powers under the Act are required to recognise and provide for significant indigenous vegetation and significant habitats of indigenous fauna.

11.7. Relying on evidence from Dr Lloyd, Dr Martin and Dr Goldwater referred to previously, I consider that the Project will not preserve or protect the natural character of wetlands, rivers and their margins, or areas of

⁴¹ Martin EIC at [8.10].

significant indigenous vegetation and habitats of indigenous fauna. As I stated in Section 5 previously, I consider that the current proposed mitigation, offset and compensation package does not adequately demonstrate that the potential adverse effects will be avoided, remedied, or mitigated.

Relevant Statutory Documents

11.8. I have undertaken a broad review of the statutory documents in relation to the Project. I have also reviewed NZTA's objectives and policies assessment contained in the NOR. While I acknowledge that the Project would result in positive effects for the Region and meets several provisions of the statutory documents, I consider that the Project does not adequately consider the provisions below in relation to the DOC submission.

Horizons Regional Policy Statement 2014

11.9. In my opinion, the Project does not meet the Regional Policy Statement objectives and policies identified in Appendix 1. Based on the advice above from the DOC experts, the current proposed mitigation, offset and compensation package does not adequately demonstrate the protection of significant indigenous vegetation and habitats of indigenous fauna, the management of water values or that the Project will maintain indigenous biological.

Horizons Regional Plan 2014

11.10. I consider that the Project does not meet the Objective 13-2, and policies 13-4 and 13-5 of the Regional Plan, as the current proposed mitigation, offset and compensation package does not adequately demonstrate that significant habitat and significant indigenous vegetation will be avoided, remedied or mitigated, or offset to result in a net indigenous biological diversity gain.

District Plans

11.11. I consider that the current Project does not meet the objectives and policies of the following district plan sections identified in Appendix 1, as it does not adequately demonstrate that the potential adverse effects will be avoided, remedied or mitigated:

- a. PNCC District Plan
 - i. Section 2.5 – The City View Objectives
 - ii. Section 9 – Rural Zone
 - iii. Section 20 – Land Transport.
- b. MDC District Plan
 - i. Section 4 – Managing Land Use Effects.
- a. TDC District Plan
 - i. Chapter 2.3.4 – Environmental Quality and Amenity.
 - ii. Chapter 2.6.4 – Protection of Natural Features and Landscapes, Significant Trees and Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna.
 - iii. Chapter 2.6.6 – Water Bodies and their Margins
 - iv. Chapter 2.8.3 – Transportation Networks and Adjacent Activities.

12. CONCLUSION

- 12.1. The ecological values that will be affected by the Project works have been found to be high. I consider that NZTA has followed a good approach in terms of the goal to achieve a net indigenous biological diversity gain. I also consider that the consultation that NZTA has undertaken with DOC has generally been appropriate.
- 12.2. Nevertheless, based on the information that is available to me at present, I consider that the NOR should be withdrawn unless several key issues, which are outlined in my evidence, are addressed. The main issues are the quantum, location and certainty of the mitigation, offset and compensation package to address adverse effects on significant indigenous vegetation and habitats of indigenous fauna. Accordingly, the current Project does not give certainty that the matters in section 6 of the Act would be protected or that it would meet the meaning of sustainable management under section 5(2) of the Act.
- 12.3. In the alternative, if the NOR is accepted, then DOC will request changes at the hearing to conditions proposed by NZTA.

APPENDIX 1

RELEVANT EXTRACTS FROM STATUTORY DOCUMENTS

Michael Briggs Appendix 1 – Statutory Documents

I have undertaken a broad review of the statutory documents below in relation to the Project. I have also reviewed NZTA's objectives and policies assessment contained in the NOR. While I accept that the Project would result in positive effects for the region and meets several provisions of the statutory documents in that regard, in the interests of brevity I only list those provisions that I consider the Project is inconsistent with, within the scope of DOC's submission.

| <u>Horizons Regional Policy Statement 2014</u> | |
|--|---|
| Objective/Policy | Comment |
| <u>Chapter 3.3 Infrastructure, Energy, Waste, Hazardous Substances and Contaminated Land</u> | |
| <p><i><u>Policy 3-3: Adverse effects of infrastructure and other physical resources of regional or national importance on the environment</u></i></p> <p>In managing any adverse environmental effects arising from the establishment, operation, maintenance and upgrading of infrastructure or other physical resources of regional or national importance, the Regional Council and Territorial Authorities must:</p> <ul style="list-style-type: none"> b. allow minor adverse effects arising from the establishment of new infrastructure and physical resources of regional or national importance, and c. avoid, remedy or mitigate more than minor adverse effects arising from the establishment of new infrastructure and other physical resources of regional or national importance, taking into account: <ul style="list-style-type: none"> d. the need for the infrastructure or other physical resources of regional or national importance, e. any functional, operational or technical constraints that require infrastructure or other physical resources of regional or national importance to be located or designed in the manner proposed, f. whether there are any reasonably practicable alternative locations or designs, and g. whether any more than minor adverse effects that cannot be adequately avoided, remedied or mitigated by services or works can be appropriately offset, including through the use of financial contributions. | <p>Dr Lloyd and Dr Martin consider that the current Project does not adequately demonstrate that the effects on significant habitat and significant indigenous vegetation will be avoided, remedied, mitigated or offset.</p> |
| <u>Chapter 5.3 Water Objectives</u> | |
| <p><i><u>Objective 5-1: Water management Values</u></i></p> <p>Surface water bodies and their beds are managed in a manner which safeguards their life supporting capacity and recognises and provides for the Values in Schedule B1.</p> | <p>Dr Goldwater considers that the NOR under estimates the length of stream loss and considers sedimentation to be a key issue.</p> |
| <p><i><u>Objective 5-2: Water quality</u></i></p> <p>a. Surface water quality is managed to ensure that:</p> <ul style="list-style-type: none"> i. water quality is maintained in those rivers and lakes where the existing water quality is at a level sufficient to support the Values in Schedule B. ii. water quality is enhanced in those rivers and lakes where the existing water quality is not at a level sufficient to support the Values in Schedule B. | <p>Dr Goldwater considers sedimentation to be a key issue.</p> |
| <u>Chapter 6.3 Indigenous Biological Diversity, Landscape and Historic Heritage Objectives</u> | |
| <p><i><u>Objective 6-1: Indigenous biological diversity</u></i></p> | <p>Dr Lloyd and Dr Martin consider that the current Project does not</p> |

Michael Briggs Appendix 1 – Statutory Documents

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| <p>Protect areas of significant indigenous vegetation and significant habitats of indigenous fauna and maintain indigenous biological diversity, including enhancement where appropriate.</p> | <p>adequately demonstrate that the effects on significant habitat and significant indigenous vegetation will be avoided, remedied, mitigated or offset.</p> |
| <p><u>Objective 6-2: Outstanding natural features and landscapes, and natural character</u></p> <p>a. The characteristics and values of:</p> <ul style="list-style-type: none"> i. the Region’s outstanding natural features and landscapes, including those identified in Schedule G, and ii. the natural character of the coastal environment, wetlands, rivers and lakes and their margins are protected from inappropriate subdivision, use and development. <p>b. Adverse effects, including cumulative adverse effects, on the natural character of the coastal environment, wetlands, rivers and lakes and their margins, are:</p> <ul style="list-style-type: none"> i. avoided in areas with outstanding natural character, and ii. avoided where they would significantly diminish the attributes and qualities of areas that have high natural character, and iii. avoided, remedied or mitigated in other areas. <p>c. Promote the rehabilitation or restoration of the natural character of the coastal environment, wetlands, rivers and lakes and their margins.</p> | <p>Dr Lloyd and Dr Martin consider that the current Project does not adequately demonstrate that the effects on significant habitat and significant indigenous vegetation will be avoided, remedied, mitigated or offset.</p> |
| <p><u>Chapter 6.4 Indigenous Biological Diversity, Landscape and Historic Heritage Policies</u></p> | |
| <p><u>Policy 6-1: Responsibilities for maintaining indigenous biological diversity</u></p> <p>In accordance with s62(1)(i) RMA, local authority responsibilities for controlling land use activities for the purpose of managing indigenous biological diversity in the Region are apportioned as follows:</p> <p>c. Both the Regional Council and Territorial Authorities must be responsible for:</p> <ul style="list-style-type: none"> 1. recognising and providing for matters described in s6(c) RMA and having particular regard to matters identified in s7(d) RMA when exercising functions and powers under the RMA, outside the specific responsibilities allocated above, including when making decisions on resource consent^ applications. | <p>Dr Lloyd and Dr Martin consider that the current Project does not adequately demonstrate that a no net loss in indigenous biological diversity will be achieved.</p> |
| <p><u>Policy 6-5: Pest plants and pest animals</u></p> <p>b. When exercising functions and powers as set out in Policy 6-1, Territorial Authorities must take into account the risks of introducing pest plants or pest animals into rare habitats, threatened habitats, at-risk habitats and nearby areas.</p> | <p>The Applicant has not provided an assessment of ecological effects for closure of the existing SH3 alignment and Dr Martin considers any change to the status of the existing section of SH3 needs to consider how pest plants in this area will be controlled.</p> |
| <p><u>Policy 6-8: Natural character</u></p> <p>a. The natural character of the coastal environment, wetlands, rivers and lakes and their margins must be preserved and these areas must be protected from inappropriate subdivision, use and development.</p> <p>b. The natural character of these areas must be restored and rehabilitated where this is appropriate and practicable.</p> | <p>Currently the proposed conditions do not provide adequate certainty to ensure the Project will preserve and protect the natural character of the margin of the Manawatu River in the proximity of the Manawatu Gorge Scenic Reserve car park and visitor area.</p> |

Michael Briggs Appendix 1 – Statutory Documents

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| <p>c. Natural character of these areas may include such attributes and characteristics as:</p> <ul style="list-style-type: none"> i. Natural elements, processes and patterns, ii. Biophysical, ecological, geological, geomorphological and morphological aspects, iii. Natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks, iv. The natural movement of water and sediment including hydrological and fluvial processes, v. The natural darkness of the night sky, vi. Places or areas that are wild and scenic, vii. A range of natural character from pristine to modified, and <p>Experiential attributes, including the sounds and smell of the sea; and their content or setting.</p> | |
| <p><u>Policy 6-9: Managing natural character</u></p> <p>In relation to the natural character of:</p> <p>b. wetlands, rivers and lakes and their margins subdivision, use or development must generally (but without limitation) be considered appropriate if it:</p> <ul style="list-style-type: none"> c. is compatible with the existing level of modification to the environment, d. has a functional necessity to be located in or near the component of the coastal environment which is not coastal marine area (CMA), wetland, river or lake and no reasonably practicable alternative locations exist, e. is of an appropriate form, scale and design to be compatible with the existing landforms, geological features and vegetation, f. will not, by itself or in combination with effects of other activities, significantly disrupt natural processes or existing ecosystems, and g. will provide for the restoration and rehabilitation of natural character where that is appropriate and practicable. | <p>As Mr Evans considers that the visual effects of the Project at the approach to the New Manawatu Bridge would be high, I consider that the conditions must ensure an appropriate form, scale and design compatible with the existing landforms, geological features and vegetation in the proximity of the Manawatu Gorge Scenic Reserve car park and visitor area.</p> |

| <u>Horizons Regional Plan 2014</u> | |
|---|--|
| Objective/Policy | Comment |
| <u>Chapter 13 Land Use Activities and Indigenous Biological Diversity</u> | |
| <p><u>Objective 13-2: Regulation of activities affecting indigenous biological diversity</u></p> <p>The regulation of resource use activities to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna or to maintain indigenous biological diversity, including enhancement where appropriate.</p> | |
| <p><u>Policy 13-4: Consent decision-making for activities in rare habitats, threatened habitats and at-risk habitats</u></p> <p>b. Consent must generally not be granted for resource use activities in a rare habitat, threatened habitat or at-risk habitat assessed to be an area of significant indigenous vegetation or a significant habitat of indigenous fauna under Policy 13-5, unless:</p> <ul style="list-style-type: none"> i. any more than minor adverse effects on that habitat's representativeness, rarity and distinctiveness, or ecological context assessed under Policy 13-5 are avoided. ii. where any more than minor adverse effects cannot reasonably be avoided, they are remedied or mitigated at the point where the adverse effect occurs. iii. where any more than minor adverse effects cannot reasonably be avoided, remedied or mitigated in accordance with (b)(i) and (ii), they are offset to result in a net indigenous biological diversity gain. <p>c. Consent may be granted for resource use activities in an at-risk habitat assessed not to be an area of significant indigenous vegetation or a significant habitat of indigenous fauna under Policy 13-5 when:</p> <ul style="list-style-type: none"> i. there will be no significant adverse effects on that habitat's representativeness, rarity and distinctiveness, or ecological context as assessed in accordance with Policy 13-5, or ii. any significant adverse effects are avoided. iii. where any significant adverse effects cannot reasonably be avoided, they are remedied or mitigated at the point where the adverse effect occurs. iv. where significant adverse effects cannot reasonably be avoided, remedied or mitigated in accordance with (c)(ii) and (iii), they are offset to result in a net indigenous biological diversity gain. <p>d. An offset assessed in accordance with b(iii) or (c)(iv), must:</p> <ul style="list-style-type: none"> i. provide for a net indigenous biological diversity gain within the same habitat type, or where that habitat is not an area of significant indigenous vegetation or a significant habitat of indigenous fauna, provide for that gain in a rare habitat or threatened habitat type, and ii. reasonably demonstrate that a net indigenous biological diversity gain has been achieved using methodology that is appropriate and commensurate to the scale and intensity of the residual adverse effect, and iii. generally be in the same ecologically relevant locality as the affected habitat, and iv. not be allowed where inappropriate for the ecosystem or habitat type by reason of its rarity, vulnerability or irreplaceability, and v. have a significant likelihood of being achieved and maintained in the long term and preferably in perpetuity, and | <p>Dr Lloyd and Dr Martin consider that the current Project does not adequately demonstrate that indigenous biological diversity will be maintained or enhanced.</p> <p>Dr Lloyd and Dr Martin also consider that the current Project does not demonstrate that the effects on significant habitat and significant indigenous vegetation will be avoided, remedied or mitigated, or offset to result in a net indigenous biological diversity gain.</p> <p>Dr Martin considers that all indigenous vegetation mapped to be significant under the Regional Plan criteria.</p> |

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

Policy 13-5: Criteria for assessing the significance of, and the effects of activities on, an area of habitat

- a. Rare habitats are areas of significant indigenous vegetation or significant habitats of indigenous fauna under criterion (ii)(E) below. Threatened habitats are areas of significant indigenous vegetation or significant habitats of indigenous fauna under criterion (i)(A) below. An area of rare habitat or threatened habitat may also be an area of significant indigenous vegetation or significant habitat of indigenous fauna under one or more of the other criteria below. An at-risk habitat may be recognised as being an area of significant indigenous vegetation or a significant habitat of indigenous fauna if one or more of the following criteria are met:
- i. in terms of representativeness, that habitat:
 - a. comprises indigenous habitat type that is under-represented (20% or less of known or likely former cover), or
 - b. is an area of indigenous vegetation that is typical of the habitat type in terms of species composition, structure and diversity, or that is large relative to other areas of the same habitat type in the Ecological District or Ecological Region, or has functioning ecosystem processes. or
 - ii. in terms of rarity and distinctiveness, that habitat supports an indigenous species or community that:
 - a. is classified as threatened (as determined by the New Zealand Threat Classification System and Lists*), or
 - b. is distinctive to the Region, or
 - c. is at a natural distributional limit, or
 - d. has a naturally disjunct distribution that defines a floristic gap, or
 - e. was originally (ie., prehuman) uncommon within New Zealand, and supports an indigenous species or community of indigenous species. or
 - iii. in terms of ecological context, that habitat provides:
 - a. connectivity (physical or process connections) between two or more areas of indigenous habitat, or
 - b. an ecological buffer (provides protection) to an adjacent area of indigenous habitat (terrestrial or aquatic) that is ecologically significant, or
 - c. part of an indigenous ecological sequence or connectivity between different habitat types across a gradient (e.g. altitudinal or hydrological), or
 - d. important breeding areas, seasonal food sources, or an important component of a migration path for indigenous species, or
 - e. habitat for indigenous species that are dependent on large and contiguous habitats.
- b. The potential adverse effects of an activity on a rare habitat, threatened habitat or at-risk habitat must be determined by the degree to which the proposed activity will diminish any of the above characteristics of the habitat that make it significant, while also having regard to any additional ecological values and to the ecological sustainability of that habitat.

| <u>Palmerston North City Council District Plan 2018</u> | |
|---|--|
| Objective/Policy | Comment |
| <u>Section 2.5 The City View Objectives</u> | |
| <i><u>Objective 17. The natural and cultural heritage features of the City are preserved and enhanced, including the margins of the Manawatu River and sites of significance to tangata whenua.</u></i> | Dr Lloyd and Dr Martin consider that the current Project does not adequately demonstrate that significant habitat and significant indigenous vegetation will be preserved and enhanced. |
| <u>Section 9: Rural Zone</u> | |
| <i><u>Objective 3: To maintain or enhance the quality and natural character of the rural environment.</u></i> | I consider that the conditions must ensure that the quality and natural character of the rural environment in the proximity of the Manawatu Gorge Scenic Reserve car park and visitor area are maintained by avoiding, remedying or mitigating adverse visual effects. |
| <p><u>Policies</u></p> <p>3.3 To control the adverse visual effects on the rural environment (including effects on rural dwellers) of activities that disturb the land surface, introduce buildings, remove and/or process natural material.</p> | |
| <u>Section 20: Land Transport</u> | |
| <i><u>Objective 2: The land transport network is safe, convenient and efficient while avoiding, remedying or mitigating adverse effects in a way that maintains the health and safety of people and communities, and the amenity values and character of the City's environment.</u></i> | The Project must maintain the amenity values and character of the Manawatu Gorge Scenic Reserve car park and visitor area by avoiding, remedying or mitigating the potential adverse effects through conditions. |
| <p><u>Policies</u></p> <p>2.2 To avoid, remedy or mitigate the impact of roads and parking areas on visual amenity values of the community by requiring the provision of landscaping.</p> <p>2.4 Avoid adverse effects on amenity and character by ensuring that new roads are well designed and visually complement the character of the surrounding areas</p> | |

| <u>Manawatu District Plan 2002</u> | |
|---|---|
| Objective/Policy | Comment |
| <u>Section 4 Managing Land Use Effects</u> | |
| <p><u>4.2 General Objectives</u></p> <p>LU 1) To recognise the potential adverse effects of activities upon the natural and physical environment, land and ecosystems and to avoid, remedy or mitigate these effects.</p> <p>LU 5) To maintain and enhance the amenity values which make the District a pleasant place to live in and visit. (Issues 3, 5 and 11)</p> | <p>Dr Lloyd and Dr Martin consider that the current Project does not adequately demonstrate that the adverse ecological effects will be avoided, remedied or mitigated.</p> <p>I consider that the conditions must ensure maintenance of the amenity values of the Manawatu Gorge Scenic Reserve car park and visitor area.</p> |
| <p><u>Policies</u></p> <p>a) To ensure that adverse effects of land use and surface water activities on the natural environment, land, water and ecosystems are avoided, remedied or mitigated.</p> | |

| <u>Tararua District Plan 2012</u> | |
|---|---|
| Objective/Policy | Comment |
| <u>Chapter 2.3.4 Environmental Quality and Amenity</u> | |
| <p><i><u>Objective 2.3.4.1: To ensure a high level of environmental quality and amenity throughout the rural areas of the District.</u></i></p> | <p>I consider that the current conditions do not adequately ensure the avoidance, remediation or mitigation of the potential adverse effects to ensure a high level of rural environmental quality and amenity.</p> |
| <p><i><u>Policy 2.3.4.2</u></i></p> <p>(a) To ensure that any actual or potential adverse environmental effects of activities.</p> <p>(b) To maintain and/or enhance the character, level of amenity and environmental quality of the District's rural areas.</p> | |
| <u>Chapter 2.6.4 Protection of Natural Features and Landscapes, Significant Trees and Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna</u> | |
| <p><i><u>Objective 2.6.4.1: To protect natural features and landscapes, trees and areas of indigenous vegetation and habitats of indigenous fauna that are of district, regional or national significance from inappropriate subdivision, use and development.</u></i></p> | <p>Dr Lloyd and Dr Martin consider that the current Project does not adequately demonstrate protection of significant habitat and significant indigenous vegetation.</p> |
| <p><i><u>Policy 2.6.4.2</u></i></p> <p>(c) To encourage the protection of significant trees, significant indigenous vegetation, significant habitats of indigenous fauna, and identified natural features and landscapes from inappropriate subdivision, development or use, and to promote public access where this will not adversely affect conservation or private property values.</p> | |
| <u>Chapter 2.6.6 Water Bodies and their Margins</u> | |
| <p><i><u>Objective 2.6.6.1: To protect the natural, scenic, ecological, cultural and amenity values of the District's lakes, rivers, and wetlands and maintain and/or enhance public access to and along their margins.</u></i></p> | <p>I consider that the current conditions do adequately ensure the protection or maintenance of natural, scenic, ecological and amenity values of the District's lakes, rivers, and wetlands.</p> |
| <p><i><u>Policy 2.6.6.2</u></i></p> <p>(a) To maintain, and enhance where appropriate, the natural character of the District's wetlands, lakes and rivers and their margins, and to protect them from inappropriate subdivision, use and development.</p> | |
| <u>Chapter 2.8.3 Transportation Networks and Adjacent Activities</u> | |
| <p><i><u>Objective 2.8.3.1: To ensure the safe, efficient and effective operation of the District's transportation networks while avoiding, remedying or mitigating adverse environmental effects.</u></i></p> | <p>Dr Lloyd and Dr Martin consider that the current Project does not adequately demonstrate that the adverse ecological effects will be avoided, remedied or mitigated.</p> |
| <p><i><u>Policy 2.8.3.2</u></i></p> <p>(h) To avoid, remedy or mitigate the adverse effects of transportation activities on the environment.</p> | |