

Proposed Plan Change 4: Tara-Ika Growth Area

Reporting Officer Right of Reply – 10th December 2021

1. In this document I seek to assist the hearing panel by providing responses to specific questions the panel have directed to me during the hearing and to consider the evidence of submitters and provide my right of reply to the hearing panel.
2. My qualifications and experience are set out in the s42A report.
3. I have grouped these matters according to the outstanding issues raised in the Panel’s Minute 5, with some re-aggregating to allow for efficient assessment:
 - I. *O2NL*
 - a. *Consideration of whether O2NL is “infrastructure or physical resource” under the RPS and if so, to how the RPS provisions apply?*
 - b. *Consideration of the provisions proposed by WKNZTA in their evidence against s32 of the Act*
 - c. *If O2NL is not “infrastructure or physical resource” under the RPS, do the PC4 provisions address O2NL appropriately?*
 - d. *Was the correct statutory framework for plan making applied?*
 - II. *Structure Plan matters*
 - a. *Compliance and activity status for Structure Plan (including the process for determining activity status).*
 - b. *Level of flexibility in the manner in which Structure Plan features are provided.*
 - c. *Use of zoning on the Structure Plan (Open Space and Commercial).*
 - d. *General layout matters.*
 - i. *Commercial zone location;*
 - ii. *East/West Arterial road location;*
 - iii. *General roading alignments;*
 - e. *Clarification of residential overlays.*
 - III. *Overall density and yield*
 - a. *Additional increases to residential zoning being sought;*
 - b. *Additional density provision;*
 - c. *Redwood Grove submission;*
 - d. *Overall yield;*
 - e. *Impact of Electra lines.*
 - IV. *Arapaepae Special Treatment Overlay*
 - a. *Range of activities provided for;*
 - b. *Suitability for residential development.*
 - V. *Stormwater*
 - a. *The need for a ‘site wide’ integrated plan;*
 - b. *Integration of O2NL and Tara-Ika Stormwater Management;*
 - c. *Should stormwater features be shown on the Structure Plan;*
 - i. *Blue layer;*
 - ii. *Is more flexibility needed in regard to the location of ‘green spaces’ to allow for dual stormwater management and recreation functionality;*
 - d. *Provision for pre-development flows;*
 - e. *Minor amendments to wording of provisions.*

- VI. *Access Matters*
 - a. *The need for staging to manage safety and efficiency of existing State Highway intersections;*
 - b. *East/West Arterial;*
 - i. *Certainty of this being provided across O2NL;*
 - ii. *Functionality if “left in left out” only.*
- VII. *Maunu Wahine*
- VIII. *Cycleways and rear access lanes*
- IX. *Prouse Property – Habitats of culturally significant species*

- 4. For all other submissions not addressed in this response, I maintain the position set out in the s42A report.
- 5. For the avoidance of doubt, I wish to clarify that where there is conflict between the underlying zone provisions and the Tara-Ika Multi-Zone precinct provisions, the Tara-Ika Multi-Zone precinct provisions override. This interpretation direction is specified in the introductory paragraphs in both Chapter 6A and Chapter 15A. I note that National Planning Standards make it clear that precinct provisions override zone provisions¹.
- 6. In order to distinguish between the recommendations made in the original s42A report and my revised recommendations contained in Appendix 2 of this document:
 - a. Original s42A recommendations are shown in **red text** (with **red underline** for new text and **strikethrough** for deleted text); and
 - b. Recommendations from this report are shown in **blue text** (with **blue underline** for new text and **strikethrough** for deleted text).
- 7. A s32AA assessment for all changes recommended in addition to the s42A report is included at the end of this right of reply.

1.1 O2NL - Summary of Evidence Presented and Key Points in Contention

- 8. WKNZTA presented the following evidence:
 - a. Planning, Ms Ainsley McLeod
 - b. Traffic, Mr Phillip Peet
 - c. Stormwater, Dr John McConchie
 - d. Noise, Dr Stephen Chiles
 - e. Urban Design, Mr Gavin Lister
 - f. Legal submissions, Mr David Allen and Mr Thaddeus Ryan

The planning evidence refers to the other expert evidence referenced in ‘b’-‘e’ above and recommends amendments to the provisions of PC4 accordingly.

¹ <https://environment.govt.nz/assets/Publications/Files/national-planning-standards-november-2019.pdf>

9. As a first point, I acknowledge the importance of the Ō2NL project. In the original drafting of PC4, the s32 report and in my s42A report I was very careful to consider the appropriate response to the project, and how it ought to be addressed in the context of PC4. Council and WKNZTA also of course seek to work together outside of PC4 to advance both Ō2NL and PC4 in a sensible manner. Unavoidably however, PC4 is more advanced than Ō2NL. This has required assessment of the relevant planning documents at each point, and careful consideration of what the higher order documents in particular provide for the project. I have now also carefully considered the material presented by WKNZTA at the hearing. While the WKNZTA case was referred to as being one about ‘integration’ between Tara-Ika and Ō2NL, the actual provisions sought do not seek to achieve integration (e.g. they do not address key issues such as severance). Rather, they seek to mitigate assumed future adverse effects arising from the proposed highway – effects that have not yet been fully described, and which have not yet been assessed or approved under any RMA process. Ultimately, my view on the appropriate response to Ō2NL under PC4 has not changed.
10. Ms McLeod disagrees with the conclusions reached in the s32 and s42A reports that Ōtaki to North Levin (Ō2NL) has limited legal status under the RMA and therefore disagrees that it should not feature significantly in the PC4 provisions.
11. Instead, Ms McLeod considers that Ō2NL is “infrastructure or other physical resource of regional or national importance” and therefore, the Regional Policy Statement (RPS)² requires Ō2NL to be provided for to a greater extent in the PC4 provisions. The WKNZTA legal submission supports this view. The specific RPS provisions referred to are listed below and attached to this right of reply as Appendix 1.
- a. Objective 3-1
 - b. Objective 3-3
 - c. Policy 3-1
 - d. Policy 3-2
 - e. Policy 3-3
12. When referring to the RPS provisions Ms McLeod’s evidence uses the terminology “State Highways (including Ō2NL)”. I note that the RPS provisions do not refer to State Highways (or Ō2NL) explicitly. Instead, the RPS provisions refer to:
- a. Infrastructure;
 - b. Other physical resources of regional/national importance;
 - c. Road networks mapped in the Regional Land Transport Strategy.
13. I will consider the terms set out in the RPS more fulsomely later in this right of reply. The WKNZTA position in my view requires careful assessment of what the RPS actually directs, including a careful reading of policies 3-1 to 3-3 in particular rather than assertions about what the RPS ought to direct, and reference to the required definitions under the RPS.
14. The need for Ō2NL to be integrated with Tara-Ika (and Levin generally) and for adverse effects arising from Ō2NL, such as noise and vibration and stormwater, to be managed effectively is not in dispute, nor are the apparent benefits associated with Ō2NL. I agree that integration is needed.

² <https://www.horizons.govt.nz/data/one-plan>

15. In my opinion, what sits at the heart of the difference in view is the appropriate planning tool or tools for achieving this outcome i.e. whether this should be done by a notice of requirement (NOR) or via this PC4 and, therefore, whether PC4 should provide for Ō2NL.
16. Based on the material presented in Ms McLeod’s evidence, this largely hinges on whether the identified RPS provisions apply (i.e. whether Ō2NL is ‘infrastructure or other physical resource of regional or national importance’).
17. This is the key matter in contention and I will consider this below.
18. Additionally, I have also considered
 - a. To what extent the PC4 provisions should provide for Ō2NL *if* it is infrastructure or other physical resource of regional or national importance, to what extent should the PC4 provisions provide for it and;
 - b. *If* Ō2NL is infrastructure or other physical resource of regional or national importance, whether the provisions recommended by WKNZTA are the most appropriate way of achieving the purpose of the RMA, objectives of PC4 and addressing the issue in question.

1.2 Ō2NL – Pre-Hearing Meeting Agreement and Other Procedural Matters

19. I note that there were numerous conversations and meetings between Council and WKNZTA regarding Tara-Ika and Ō2NL in advance of the plan change being notified (including Council’s input into assessment of Ō2NL corridor options) in which the intent to see Tara-Ika develop at a residential density was identified, as well as the need to work collaboratively to ensure a mutually appropriate outcome for both Ō2NL and PC4.
20. There were also numerous meetings and conversations between Council and WKNZTA regarding the most appropriate planning tools to address the matters raised in WKNZTA’s submission on PC4, which sought to ‘downzone’ the corridor and land 100m either side of it for the purposes of ensuring integration between the two projects could be achieved.
21. Following these meetings, two formal pre-hearing meetings were held involving WKNZTA and other submitters. In advance of the second of these meetings, WKNZTA advised:

“Waka Kotahi no longer wish to proceed with that part of the Waka Kotahi submission that requested a change in zoning for the indicative Ō2NL corridor or that looked to restrict development rights within the indicative Ō2NL corridor. The management of activities within the Ō2NL corridor will be addressed through the separate designation and approval process for the corridor. It is expected that the Notice of Requirement for the Ō2NL corridor will be lodged with the councils mid-2022

By separating out these two processes more explicitly we hope to further clarify that the submission was not an attempt to impact property prices in the corridor proximity but was to ensure that the corridor was properly integrated into this growth area. However, we now accept that this objective can be met through the designation process and as such will no longer pursue that aspect of the Waka Kotahi submission or the concept of an overlay that was circulated earlier this week.”

22. The detail of this statement was discussed at the second pre-hearing meeting and the following agreement was reached and later circulated to all parties:
- a. That the Structure Plan will show the most update version of the Ō2NL corridor.
 - b. That the District Plan would include no restrictions on land use as a result of the corridor being shown on the Structure Plan.
 - c. That a note be included on the Structure Plan that the corridor location is for information purposes only.
 - d. That the depiction of the Ō2NL corridor will be removed within 5 years (1/7/2026) in the event that Waka Kotahi have not designated this corridor.
23. There was no discussion at these meetings regarding the use of a ‘State Highway Overlay’, additional rules or resource consent requirements for development in this area, or requirement for noise walls to be constructed, as now sought in Ms McLeod’s evidence. At the hearing in response to questions from the Hearing Panel, WKNZTA’s legal advisors commented this sequence of events and wording was “unfortunate”. I agree with Mr Cook’s³ comment at the hearing that I was surprised by the relief sought in evidence from WKNZTA given the discussions and undertakings from WKNZTA at the pre-hearing meetings. Similar to the concerns expressed by submitters, this changing position has created challenges in evaluating and responding to the relief sought. Notwithstanding these challenges, in this right of reply I have evaluated and responded to the latest relief sought in evidence from WKNZTA.

1.3 Is Ō2NL “infrastructure or other physical resources of regional/national importance” and do the Regional Policy Statement provisions addressing these need to be ‘given effect to’ in the PC4 provisions?

24. I consider it to be critically important that the actual text of the RPS is considered and applied rather than what it ought to apply, or what we would like it to contain. This requires a careful reading and application of the provisions, rather than broad generalisations.
25. Policy 3-1(a) of the RPS sets out what infrastructure must be recognised as a physical resource of regional or national importance. The relevant point is 3-1(a)(iv) which is replicated below:
- “the road and rail networks as mapped in the Regional Land Transport Strategy”*
26. From discussions with Horizons Regional Council, I understand the Regional Land Transport Strategy (RLTS) has been replaced by the Regional Land Transport Plan (RLTP). I also understand that the ‘mapped’ networks of the RLTS has been replaced by the ‘prioritisation’ set out in the RLTP. However, the RPS has not been updated to reflect this change. I have accepted for present purposes the suggestion that the reference to the RLTS can be read to now refer to the RLTP, and that mapping can be replaced by prioritisation, though I note some discomfort with this approach given that the RLTS and RLTPs are not subject to the same public participatory processes as RMA planning documents.
27. As previously referenced, Ms McLeod refers to the RPS requiring PC4 to have regard to and provide for “State Highways (including Ō2NL)” in a range of ways. However, as the RPS does not refer to State Highways I assume Ms McLeod’s view is that as Ō2NL is identified as a priority project in the RLTP, it meets the

³ Planner for Brendan McDonnell

definition of a 'road network' mapped in the RLTS noting my previous comments regarding 'mapping' and RLTS being replaced, but with the RPS not being updated to reflect this.

28. I also note that Ms McLeod has referred to the 2021-2031 RLTP⁴. This was adopted in June 2021, eight months after the notification of PC4. As such, I note it would not have been possible for PC4 *as notified* to consider the key transport initiatives shown in this document.
29. As such, I have considered Ms McLeod's points in respect of both the 2015-2025 (2018 Review) RLTP⁵, being the version that existed at the time PC4 was notified and the 2021-2031 RLTP, being the version in effect today.
30. To determine whether Ō2NL is "infrastructure or other physical resource of regional/national importance" I consider it necessary to assess the RMA (and other linked legislation) definitions of the following terms from the RPS. I will then undertake a detailed assessment of the RPS objectives and policies and to the extent to which they apply to PC4 (in my opinion).

Infrastructure (RMA) means:

...

(g) structures for transport on land by cycleways, rail, roads, walkways, or any other means:

...

Structure (RMA) means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft

Road (RMA) has the same meaning as in section 315 of the Local Government Act 1974; and includes a motorway as defined in section 2(1) of the Government Roading Powers Act 1989)

Road (s315 LGA 1974) -

means the whole of any land which is within a district, and which—

(a) immediately before the commencement of this Part was a road or street or public highway; or

(b) immediately before the inclusion of any area in the district was a public highway within that area; or

(c) is laid out by the council as a road or street after the commencement of this Part; or

(d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or

(e) is vested in the council as a road or street pursuant to any other enactment;—

and includes—

(f) except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or

⁴ <https://www.horizons.govt.nz/HRC/media/Media/2021-31-Regional-Land-Transport-Plan.pdf?ext=.pdf>

⁵ [https://www.horizons.govt.nz/HRC/media/Media/Publication/Regional-Land-Transport-Plan-\(2015-2025\)-2018-Review.pdf?ext=.pdf](https://www.horizons.govt.nz/HRC/media/Media/Publication/Regional-Land-Transport-Plan-(2015-2025)-2018-Review.pdf?ext=.pdf)

vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988:

(g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;—

but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roding Powers Act 1989

Motorway (s2(1) Government Roding Powers Act 1989) –

(a) means a motorway declared as such by the Governor-General in Council under section 138 of the Public Works Act 1981 or under section 71 of this Act; and

(b) includes all bridges, drains, culverts, or other structures or works forming part of any motorway so declared; but

(c) does not include any local road, access way, or service lane (or the supports of any such road, way, or lane) that crosses over or under a motorway on a different level.

31. Based on the above, I do not consider Ō2NL, as currently proposed by WKNZTA, to meet the above definitions such that it can, or ought to be, considered 'infrastructure'. The reasons for this are summarised below:
- a. Infrastructure, refers to 'structures' for transport by road;
 - b. 'Structure' means a building, equipment, device, or other facility made by people and which is fixed to land, of which Ō2NL is not;
 - c. That Ō2NL is not a 'road' given it does not meet any of the criteria set out above.
32. In addition to the above, I now consider Ō2NL specifically in light of the RPS in its reference to the RLTS (noting that the RLTS has been replaced by the RLTP). I consider this is important given the RPS objectives and policies do specifically refer to projects that are yet to be implemented through (emphasis added):
- a. Objective 3-1 which refers to providing for the establishment, operation, maintenance and upgrading of infrastructure or other physical resources of regional or national importance;
 - b. Policy 3-2(b) which requires that Regional Council and Territorial Authorities ensure that any new activities that would adversely affect the operation, maintenance, or upgrading, of infrastructure and other physical resources of regional or national importance are not located near existing such resources or such resources allowed by unimplemented resource consents or other RMA authorisations;
 - c. Policy 3-3 which refers to the matters arising from the establishment, operation, maintenance and upgrading of infrastructure or other physical resources of regional or national importance.
33. I will assess these policies in detail at a later stage. They are summarised above for the purposes of setting out a basis for my assessment of whether Ō2NL is identified in the RLTP in a manner than would in turn have weight under the RPS.
34. In considering this, I have referred to both the 2015-2025 (2018 Review) RLTP and the 2021-2031 RLTP.

35. Within the 2015-2025 (2018 Review) RLTP, Ō2NL is referred to as a key project of ‘Accessing Central New Zealand’ and depicted in the following ways:

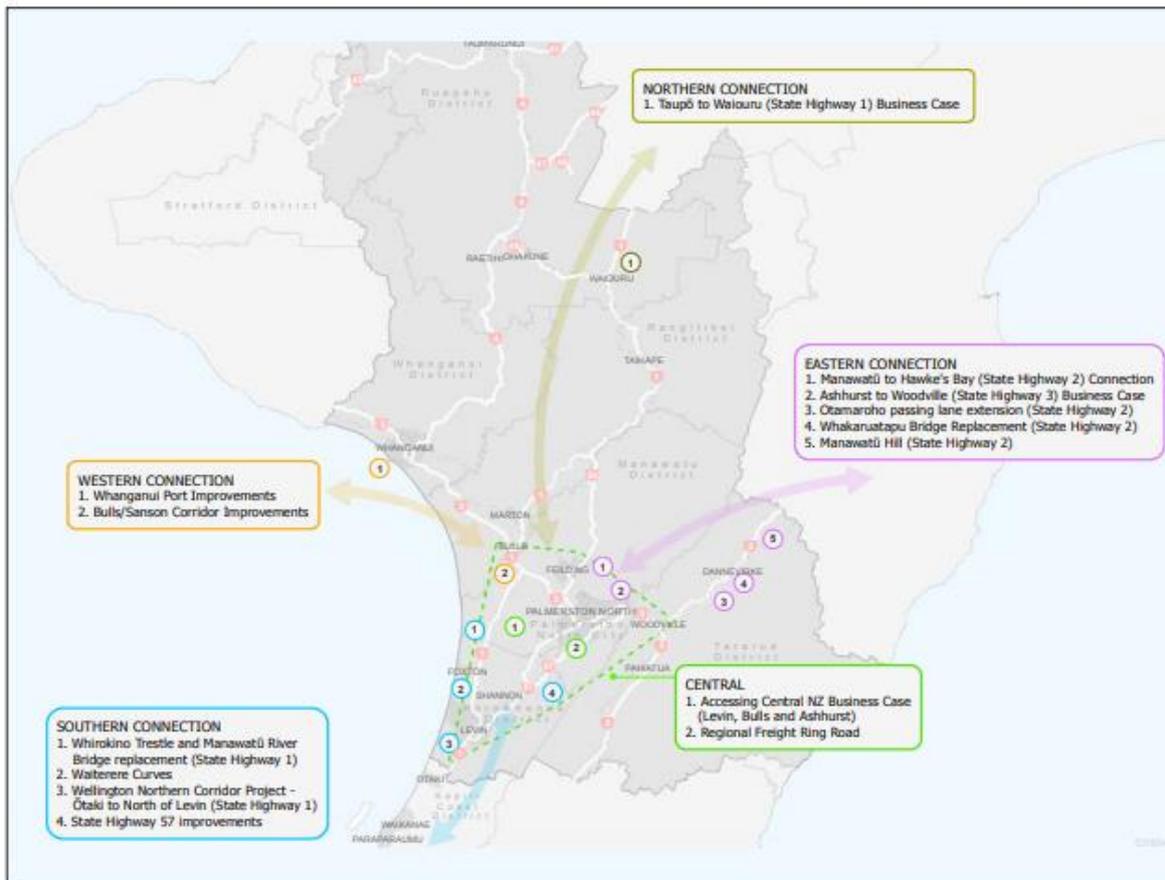


FIGURE 1: ACCESSING CENTRAL NEW ZEALAND KEY PROJECTS.

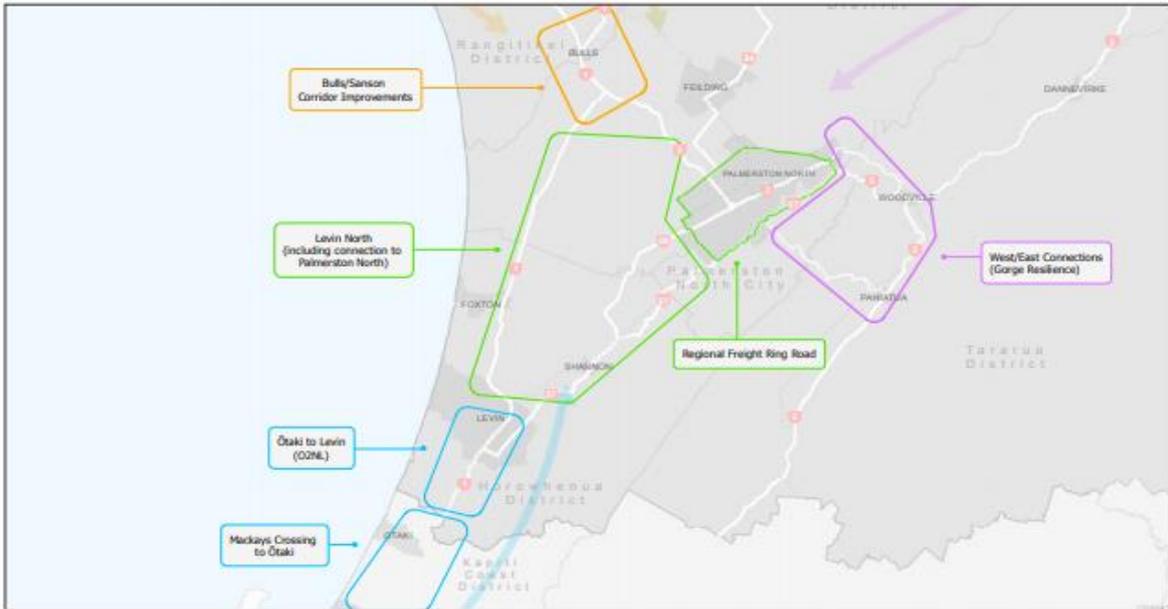


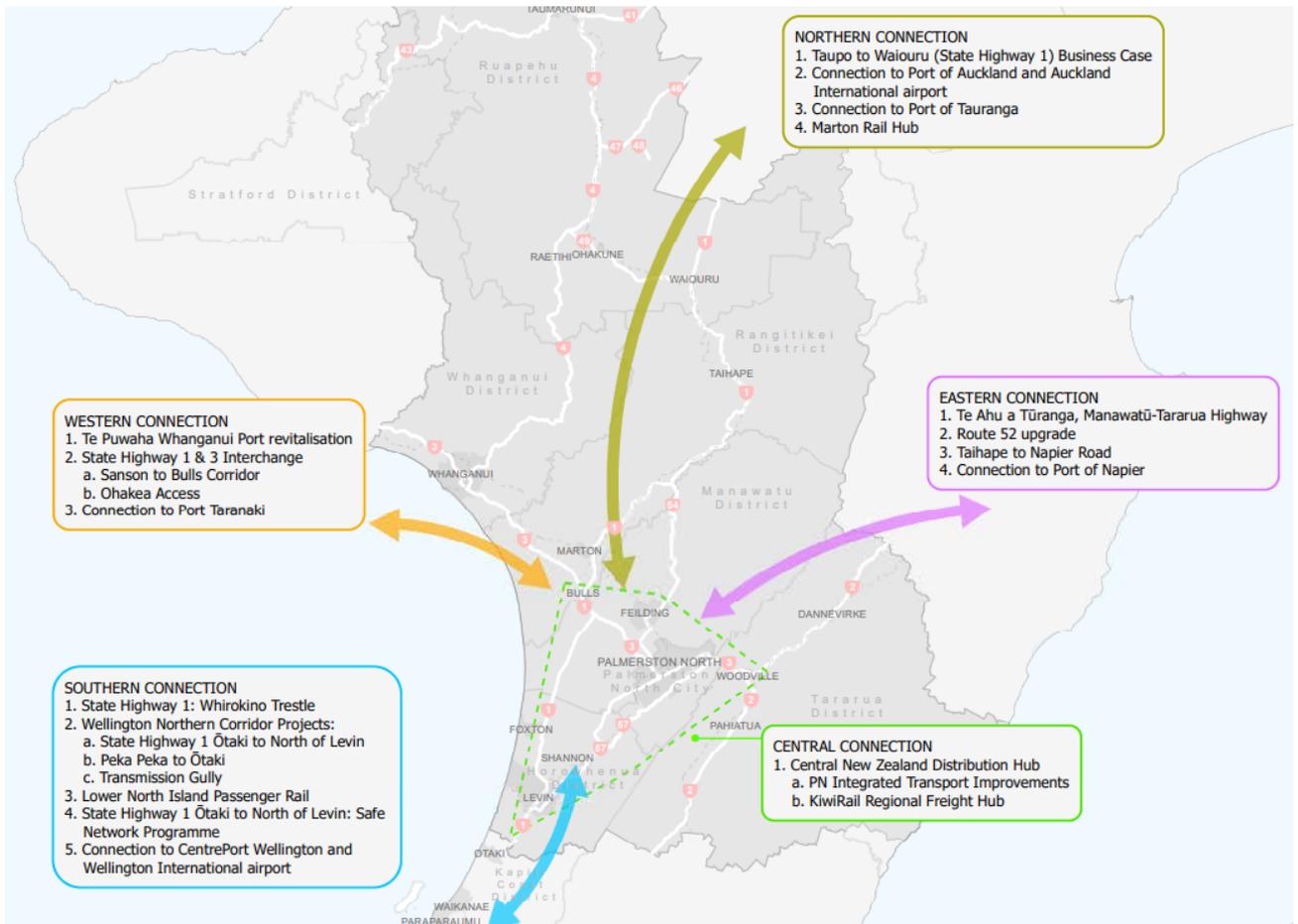
FIGURE 2: ACCESSING CENTRAL NEW ZEALAND KEY NORTH-SOUTH AND EAST-WEST CONNECTIONS FOR THE HORIZONS REGION

- 36. The RLTP specifies that at the time of preparing the 2015-2025 (2018 Review) RLTP, consultation on the preferred alignments for this section of the Ō2NL project was underway and construction was expected to commence in 2021 with completion in 2026. As stated in the WKNZTA PC4 legal submissions, WKNZTA currently intends to lodge an NOR in the third quarter of 2022, with construction anticipated to start in 2026.
- 37. I note that Ō2NL is not listed as a 'committed project' in the full list of activities set out in Table 4 of the 2015-2025 (2018 Review) RLTP. This is in contrast to projects such as Whirokino Trestle and Manawatū River Bridge.
- 38. In the 2021-2031 RLTP, Ō2NL is listed as a project on the 'our shared vision' graphic on page 18. The shared pathway (but not the highway itself) is depicted on page 23 (see below).



Figure 11: Regional Cycle network and Te Araroa Trail

39. The project is generally identified on the 'Transport Initiatives in the Horizons Region' as shown below:



40. The 2021-2031 RLTP also identifies **local road** upgrades associated with Ō2NL as the second priority transport project in the region, and identifies it on the graphic associated with the priority list as follows:

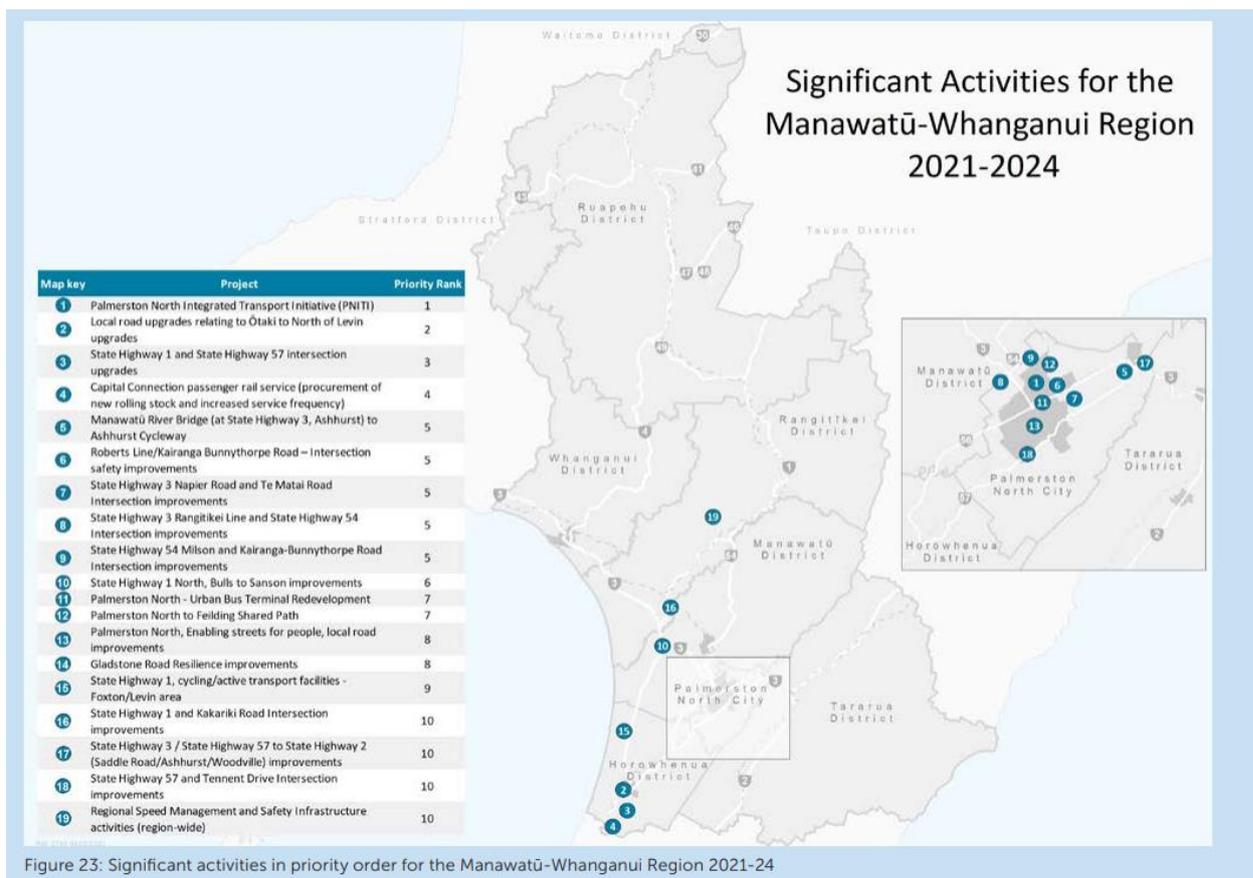


Figure 23: Significant activities in priority order for the Manawatū-Whanganui Region 2021-24

41. In my view, none of these references or images contain enough information to be considered ‘mapped’, nor enough detail to inform plan provisions.
42. I note that Ō2NL is still not listed as a ‘committed project’ in the 2021-2031 RLTP (in contrast to projects such as Te Ahu a Turanga – Manawatū Gorge Replacement).
43. The terminology used in the RLTP clearly identifies the uncertainty regarding Ō2NL and categorises it differently to projects which have proceeded through detailed design and which have received RMA authorisations.
44. The images depicting Ō2NL in both RLTPs highlight the uncertainty that existed at the time, showing that the highway could occur almost anywhere in the Horowhenua District (2015-2025 (2018 Review)) or just broadly identifying it as a project occurring to the east of Levin (2021-2031 RLTP). In either case, I do not consider this to represent a ‘mapped’ road network (on the basis that Ō2NL is not a road and that the above images cannot be considered a ‘mapped network’ given the level of detail), nor that the RPS requires District Plans to provide for Ō2NL based on this level of information.
45. The below table sets out my assessment of the RPS provisions and their applicability to the PC4 provisions. I note that for the sake of being concise I have omitted parts of the objectives and policies that are, in my opinion, not relevant to PC4 proceeding. A full copy of the objectives and policies is attached as Appendix 1.

RPS Objectives/Policies	Reporting Officer Assessment
<p>Objective 3-1: Infrastructure and other physical resources of regional or national importance</p> <p>Have regard to the benefits of infrastructure and other physical resources of regional or national importance by recognising and providing for their establishment, operation, maintenance and upgrading.</p>	<p>Operation, maintenance and upgrading (of infrastructure) are all defined in the RPS and relate to existing infrastructure (and are therefore not of relevance to PC4).</p> <p>Establishment (of infrastructure) is not defined in the RPS, but I consider this to mean achieving recognition of and/or constructing infrastructure on a long term or permanent basis.</p> <p>As such, I understand this objective to direct that regard be had to the benefits of establishing infrastructure (and other physical resources) of regional or national importance. This would be relevant to considering the establishment of Ō2NL, via a NOR application for example.</p> <p>However, given PC4 does not seek to establish Ō2NL (in the sense it does not establish a consenting pathway for Ō2NL) nor approve it to be built, this objective is of limited relevance to the Plan Change in my view.</p> <p>Later in this right of reply, I will comment on how PC4 provides for integrated land use and infrastructure planning, in that the Structure Plan recognises the potential future transport infrastructure, in a way that is commensurate with the future benefits and uncertainty given the stage of investigations and planning for Ō2NL. I also note that the Operative District Plan contains provisions relating to maintaining and development the land transport network, namely Objective 10.1.1, Policy 10.1.3, and Policy 10.1.4 in Chapter 10 (Land Transport) of the District Plan⁶.</p>
<p>Policy 3-1: Benefits of infrastructure and other physical resources of regional or national importance</p>	<p>Firstly, I disagree with the evidence of WKNZTA that Ō2NL is covered by Policy 3-1, as in my view Ō2NL is not a physical resource</p>

⁶ <https://www.horowhenua.govt.nz/files/assets/public/districtplan2015/horowhenua-district-plan-2015-chapter-10-land-transport.pdf>

<p>a. The Regional Council and Territorial Authorities must recognise the following infrastructure as being physical resources of regional or national importance:</p> <p style="padding-left: 40px;">iv. the road and rail networks as mapped in the Regional Land Transport Strategy</p> <p>c. The Regional Council and Territorial Authorities must, in relation to the establishment, operation, maintenance, or upgrading of infrastructure and other physical resources of regional or national importance, listed in (a) and (b), have regard to the benefits derived from those activities.</p> <p>d. The Regional Council and Territorial Authorities must achieve as much consistency across local authority boundaries as is reasonably possible with respect to policy and plan provisions and decision-making for existing and future infrastructure.</p>	<p>of regional or national importance. The RPS has been very carefully drafted to be clear when future, or consented but not implemented, infrastructure is addressed.</p> <p>3-1(a)</p> <p>Notwithstanding the comment above, the RLTP identifies Ō2NL as a project to occur somewhere in the Horowhenua District. This reference to Ō2NL as a project is not sufficient detail to be deemed a ‘mapped’ network. However, PC4 does recognise the presence of Ō2NL on the associated Structure Plan and considered it in the overall urban form and layout that was notified. As such, I consider this policy to have been ‘given effect to’ to the extent commensurate with the status and stage of the Ō2NL project at this time (i.e. investigation but un-consented stage).</p> <p>3-1(c)</p> <p>In my view, for Ō2NL this policy relates to the ‘establishment’ (and operation, maintenance, and upgrading) of infrastructure. An example of this policy being implemented would be an NOR or consent application for Ō2NL. As such, it is of limited relevance to PC4. The NOR or application process would be the time at which the ‘benefits’ of such infrastructure would be considered.</p> <p>Policy 10.1.3 of the Operative District Plan also gives effect to this RPS policy, providing a policy basis for proposed new roads and the matters that required consideration. This would apply to both development in Tara-Ika and the future NOR for Ō2NL.</p> <p>3-1(d)</p> <p>I agree that Ō2NL would be future infrastructure, so under Policy 3-1(d) there is a need to achieve as much consistency across local authority boundaries as is reasonably possible with respect to policy and plan</p>
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	<p>provisions and decision-making for Ō2NL. I Do not consider that any issues relevant to this policy are raised by PC4.</p>
<p>Policy 3-2: Adverse effects of other activities on infrastructure and other physical resources of regional or national importance</p> <p>The Regional Council and Territorial Authorities must ensure that adverse effects on infrastructure and other physical resources of regional or national importance from other activities are avoided as far as reasonably practicable, including by using the following mechanisms:</p> <ul style="list-style-type: none"> a. ensuring that current infrastructure, infrastructure corridors and other physical resources of regional or national importance, are identified and had regard to in all resource management decision-making, and any development that would adversely affect the operation, maintenance or upgrading of those activities is avoided as far as reasonably practicable, b. ensuring that any new activities that would adversely affect the operation, maintenance or upgrading of infrastructure and other physical resources of regional or national importance are not located near existing such resources or such resources allowed by unimplemented resource consents or other RMA authorisations h. ensuring effective integration of transport and land use planning and protecting the function of the strategic road and rail network as mapped in the Regional Land Transport Strategy. 	<p>3-2(a)</p> <p>As Ō2NL is not ‘current’ infrastructure for the reasons previously set out, this part of the policy is not relevant to PC4 in my view.</p> <p>3-2(b)</p> <p>This part of the policy provides clear recognition of yet to be constructed infrastructure that is allowed by unimplemented resource consents or other RMA authorisations. In my view, this is a sound and practical planning approach given the benefits associated with such projects, the potential for residual adverse effects, and the relative certainty associated with projects that have been through an RMA authorisation process in respect of passing the relevant statutory tests and in regard to the nature, scale and intensity of adverse effects and as a result, the additional plan provisions necessary to avoid, remedy, or mitigate adverse effects.</p> <p>In my view, this policy means that new activities that would adversely affect the operation, maintenance, upgrading (but note the absence of the word establishment) of Ō2NL can only be prevented from being located near it where Ō2NL holds some form of RMA authorisation. Until such infrastructure is established or authorised, in my view, there is uncertainty as to the effects to be addressed.</p> <p>In respect of (h) specifically, I consider there is a continuum of responses depending on how certain a proposed, future piece of infrastructure is.</p>

	<p>In my view, it is neither appropriate nor the purpose or objective of PC4 to manage the adverse effects that might arise from Ō2NL.</p> <p>As Ō2NL does not have any RMA authorisation and, with investigations and detailed design still to be completed, and lodgement of an NOR some months away, giving effect to this policy does not in my view require any amendments to PC4.</p>
<p>Policy 3-3: Adverse effects of infrastructure and other physical resources of regional or national importance on the environment</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> <ol style="list-style-type: none"> a. recognise and provide for the operation, maintenance and upgrading of all such activities once they have been established, 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: <ol style="list-style-type: none"> i. the need for the infrastructure or other physical resources of regional or national importance, ii. any functional, operational or technical constraints that require infrastructure or other physical resources of regional or national importance to be located or designed in the manner proposed, iii. whether there are any reasonably practicable alternative locations or designs, and 	<p>In my view, this policy largely exists to acknowledge that infrastructure (and other physical resources) of regional or national importance will likely have some residual adverse environmental effects but that these effects are ‘offset’ by the benefits these projects offer. I agree with and support this general approach. I have already provided an assessment of what I consider to be the ‘establishment’ of such infrastructure. I will not repeat that assessment here.</p> <p>In my view this policy is of most relevance when considering applications (for resource consent or designation, for example) that seek to establish (or operate, maintain or upgrade) such infrastructure. In my view this is appropriate, as it allows the careful weighing of adverse effects against benefits to determine what is acceptable. This (often) provides opportunity for affected parties to provide submissions, based on access to particular information about the nature, scale and intensity of expected environmental effects, on how such proposals will affect them and for the appropriate RMA tests to be applied.</p> <p>As such, I do not consider PC4 needs to give effect to Policy 3-3.</p>

<p>iv. whether any more than minor adverse effects that cannot be adequately avoided, remedied or mitigated by services or works can be appropriately offset, including through the use of financial contributions.</p> <p>i. ensuring effective integration of transport and land use planning and protecting the function of the strategic road and rail network as mapped in the Regional Land Transport Strategy.</p>	
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46. Based on the above, it is my opinion that at the current time Ō2NL is not ‘infrastructure’ and therefore the RPS policies addressing infrastructure do not need to be given effect to.
47. While I note that the RPS policies are forward looking, I consider it important that they be interpreted as drafted. In particular, I note that the RPS policies give clear direction that the Regional Council and Territorial Authorities must provide for infrastructure that is allowed through an unimplemented resource consent and other RMA authorisation. From this it can be inferred that proposals (such as Ō2NL) which do not have resource consent or other RMA authorisation do not need to be provided for in the same way.
48. The Environment Court case WKNZTA referenced at the hearing in respect of future infrastructure being considered under the RPS provision was in fact a case about establishing the specific infrastructure (Te Aha a Turanga/Manawatū Gorge replacement). I agree that in those circumstances parts of policies 3-1 to 3-3 are relevant, as indicated in my assessment above. This hearing is not however about the establishment of Ō2NL. It is a plan change that may have, indeed probably will have, Ō2NL established within it but neither the PC nor the changes sought by WKNZTA seek to establish it.
49. While it is my view that the PC4 provisions do not need to give effect to the above outlined RPS provisions, I do note for the sake of completeness that the non-statutory master planning process that preceded PC4 (and led to the development of the PC4 Structure Plan) did consider the location of Ō2NL, as previously outlined.

1.4 Ō2NL – If the RPS provisions do need to be given effect to, to what extent?

50. If the Panel determine that Ō2NL is “infrastructure or other physical resource or regional or national importance” under the RPS or parts of the RPS, I have considered the extent to which the RPS provisions would need to be ‘given effect to’ considering the current status of Ō2NL is:
- a. Undertaking investigations to confirm the final design, including preferred alignment;
 - b. Assessing the potential effects on people, property and the environment;
 - c. Design and construction details yet to be determined and;
 - d. Yet to be the subject of any RMA authorisation (or even application), such as an NOR.

51. Due to points 'a' to 'c', the exact location and design of Ō2NL and, as a result, the adverse effects arising from it, are not yet known. In the absence of such information it is very difficult to identify and evaluate the policies and methods to avoid as far as reasonably practicable, the adverse effects of other activities on Ō2NL and vice versa.
52. As such, it is my opinion that even if the RPS does intend to give 'weight' to projects (or, worded differently, to require district plans to respond in order to give effect to those provisions) that are not yet the subject of an RMA authorisation, the weight given or level of response provided would need to be reflective of the level of (un)certainly surrounding the project.
53. As such, it is my opinion that, based on the information currently available, it is not practical or appropriate to provide for Ō2NL in the plan change to a greater extent than was provided for in the notified version of PC4 and in the existing Operative District Plan Chapter 10 (Land Transport).
54. As previously identified, the non-statutory master planning process opted to consider Ō2NL and this flowed on to the PC4 provisions.

1.5. If Ō2NL is “infrastructure and other physical resources of regional regional/national importance” are the provisions proposed by WKNZTA the most appropriate way of achieving the objectives of PC4 in addressing the issue?

55. Putting aside my views in regard to the above matters, I now consider whether the provisions put forward by Ms McLeod in her evidence are the most appropriate way of achieving the objectives of PC4, in addressing the issue she has identified, being:

That Proposed PC4 may compromise WKNZTA’s statutory obligations and have impacts on the State Highway network, including SH57 and Ō2NL.

WKNZTA seeks a range of amendments to Proposed PC4 provisions to manage the effects of, and on, the state highway network and to achieve integration with the transport and stormwater networks associated with the Tara-Ika Multi-Zone Precinct.

56. The purpose and outcomes of PC4 are set out in Sections 3.5 and 5.1.1 in the s32 Report. The PC4 Objectives can be summarised as follows:
- a. To achieve an integrated and connected development that reflects cultural values and local identity, represents good urban design, is supported by a well connected roading network that supports a range of transport modes and has the facilities, social infrastructure, infrastructure, and amenities necessary to contribute to the health, safety, and wellbeing of residents (e.g. a well-functioning urban environment) (Objective 6A.1);
 - b. Efficient delivery of infrastructure (Objective 6A.2);
 - c. Environmentally sustainable and culturally sensitive stormwater management (Objective 6A.3);
 - d. High amenity, varied residential environment (Objective 6A.4);
 - e. Sustainable and attractive local commercial centre (Objective 6A.5);
 - f. To provide high quality public open space (Objective 6A.6).

57. Ms McLeod has recommended amendments to Objective 6A.1 as set out below (changes recommended in the s42A report shown in **green highlight**, changes sought by Ms McLeod shown in **yellow highlight**:

To achieve an integrated and well connected development that reflects cultural values and local identity, represents good urban design, is supported by a well connected safe and efficient roading network that supports a range of transport modes and has the facilities, social infrastructure, infrastructure, and amenities necessary to contribute to the health, safety, and wellbeing of residents. This includes:

- Encourage housing at a range of densities;
- Provision for a local-scale commercial centre;
- Access to quality public open space;
- A range of accessible transport modes, including safe and efficient walking and cycling options;
- Well connected, safe and efficient roading network;
- Design that reflects Muaūpoko cultural values and local history and identity;
- Protection of culturally significant sites;
- Environmentally sensitive design;
- Encouraging subdivision and development design to enable energy efficiency and reduced energy consumption;
- Within the Arapaepae Road Special Treatment Overlay, development that is appropriate for the site in terms of scale, access, and compatibility with surrounding land uses.

58. Within Ms McLeod’s evidence, the last point of the above list is replaced with:

Within the State Highway Overlay, development where the actual and potential adverse effects of, and on, the state highway network (including the Ō2NL Corridor) are avoided or mitigated.

59. I will evaluate whether these provisions better achieve the purpose of the RMA and give effect to higher order documents including the RPS direction and the NPS-UD. In respect of this I make the following comments:

- a. With the exception of the changes relating to the ‘State Highway Overlay’ I consider the changes proposed to be minor drafting changes which do not alter the intention or meaning of the objective. As such, I have no preference between the two sets of wording.
- b. In respect of the changes relating to the State Highway Overlay, I make the following comments:
 - i. The recommended amendments would continue to achieve the purpose of the Act in that it would still allow for strong, resilient and healthy neighbourhoods to establish;
 - ii. However, I do not believe this wording would give effect to the RPS in the manner intended for the reasons I have outlined above;
 - iii. I do not consider the amended objective would be efficient or effective in delivering strong, resilient and healthy neighbourhoods in that it would not enable the highway to be implemented or address integration issue such as severance;
 - iv. I do not consider the amended objective is reasonable in that it would impose significant restrictions on the affected land, in a context of relative uncertainty.
- c. In my view Ms McLeod has not considered the full range of relevant NPS-UD provisions in drafting the above objective. In particular, I note she relies upon the requirement that:
 - i. planning decisions contribute to well-functioning urban environments; and
 - ii. local authorities engage with providers of development infrastructure and additional infrastructure to achieve integrated land use and infrastructure planning

- d. I consider a range of other provisions of the NPS-UD relevant to determining appropriate plan change objectives, such as those relating to demand for housing and housing affordability, as outlined in the s32 and s42A reports.
 - e. For the sake of completeness I note that HDC has engaged extensively with WKNZTA on the Tara-Ika Master Plan and PC4, as outlined previously.
60. I will now evaluate the provisions recommended by Ms McLeod in respect of how they give effect to the PC4 objectives. In doing this, I will follow a similar 'issues based' structure to that contained in the s42A report, broken down and ordered as:
- a. Urban form (integration of land use and transportation infrastructure)
 - b. Stormwater management
 - c. Reverse sensitivity effects (primarily noise)
61. In this section, my assessment will focus primarily on provisions related to integration with and management of the potential effects of and on Ō2NL via the 'State Highway Overlay' recommended by Ms McLeod.
62. Remaining matters, such as how to effectively and efficiently ensure effects on existing transport networks, including SH57, will be assessed later as, in my view, this is a separate issue to the one regarding Ō2NL.
63. The plan provisions recommended by Ms McLeod in response to this issue are set out in detail in her evidence and summarised below:
- a. Introduction of a State Highway Overlay which extends from Arapaepae Road (existing SH57) to the far side of the Ō2NL corridor.
 - b. Introduction of a new 'Controlled Activity' status rule for subdivision and development within the State Highway Overlay.
 - i. Conditions for Controlled Activity (if not complied with activity becomes Restricted Discretionary, or Discretionary depending on activity).
 - That any development including a noise sensitive activity must construct a 3m high noise barrier
 - Indoor noise insulation standards
 - Access must not be via the State Highway network (including Ō2NL)
 - ii. Matters of Control include:
 - Compatibility with the State Highway (including Ō2NL)
 - The extent to which steps are taken to mitigate adverse noise or visual effects from the State Highway (including Ō2NL)
 - Adverse effects on the State Highway (including Ō2NL) including flooding and the extent to which mitigation measures enable the establishment, operation, maintenance and upgrading of the state highway network.
 - c. A range of new provisions (standards, matters of discretion for subdivision, rules and policies) referencing Ō2NL.
 - d. Requirement for an integrated approach to managing stormwater for Tara-Ika and Ō2NL in the PC4 provisions.
 - e. At the hearing Ms McLeod suggested a sunset clause could be added, stating that the State Highway Overlay would lapse two years from the Operative date of the Plan Change.

- f. At the hearing Ms McLeod also suggested the noise wall requirement could be replaced by an external noise standard (e.g. an outcome based standard).

- 64. The evidence of WKNZTA states that the changes they seek are for the purposes of achieving integration between Tara-Ika and Ō2NL. In my view, these provisions do not achieve or seek to achieve integration (e.g. they do not address key issues such as severance). Rather, they seek to mitigate assumed future adverse effects arising from the highway that have not yet been assessed under any RMA process.
- 65. At the hearing, WKNZTA's counsel referred to the issue in question as being essentially a 'short time disconnect'. It is not just a timing disconnection in my opinion. Describing it as a time disconnect reflects a core assumption that O2NL will be granted the NOR and resource consents it requires, and that key aspects will remain as WK currently intend (for example, the location of the centreline, possible location of stormwater infrastructure, etc.). There is a need for O2NL to go through the RMA processes before there can be certainty over these matters in my view, as the outcome of this process is not guaranteed.
- 66. *Urban Form (integration of land use and transportation infrastructure)*
- 67. I acknowledge that having a proposed highway passing through an urban growth area has the potential to create adverse effects, particularly as the urban growth area and the proposed highway are to be established under different processes which are proceeding on different time scales. While WKNZTA have identified a preferred corridor for the highway, detailed design (including exact location) is yet to be determined. As such, the exact nature and extent of effects likely to arise from the new highway are unknown.
- 68. In this case, PC4 is moving through the RMA process more quickly than the proposed highway (the proposed highway is yet to be the subject of any RMA application, such as an NOR). As such, if PC4 is approved, there will be significant development potential within the plan change area before there is any decision on an NOR. Given the uncertainty that remains surrounding Ō2NL and the planning considerations I have already presented I consider the NOR process is the appropriate means of quantifying these effects and determining appropriate mitigation.
- 69. Ms McLeod states in her evidence that the approach she recommends seeks to address the issues identified without imposing additional restrictions on the land. However, in my view this is not accurate given the approach requested requires both additional resource consents and the construction of noise walls. These requirements would incur significant costs for landowners/developers. I will assess the costs and benefits of this under 'Future Reverse Sensitivity Effects' below.
- 70. In essence, the nature of the restrictions sought by WKNZTA would have a similar effect to an NOR or approved designation.
- 71. It would limit how land (in this case privately owned land) could be used, for the primary purpose of protecting it for a future infrastructure project, but without that project having first gone through the appropriate NOR assessments (such as consideration of alternatives). I consider that this approach would result in an unreasonable constraint and cost on landowners and may not have any real benefits, given WKNZTA is required to mitigate effects arising from the proposed highway. I also note that this approach would still not enable the highway to be constructed, therefore limiting the effectiveness and/or associated benefits.

72. The relief sought by WKNZTA would also result in limitations being placed on a much greater area of land than would be required for the highway. The indicative corridor itself is approximately 300m wide, with a request for further restriction to apply either side of this, resulting in excess of a 500m wide strip of land being impacted.
73. Advice from WKNZTA is that the land area required for the highway itself is likely to be 80-100m wide. WKNZTA's Guide to the management of reverse sensitivity effects on the state highway network⁷ states that a 40m 'no build' zone should apply from the road edge of a State Highway, with noise mitigation requirements applying for up to 100m from the road edge of a State Highway. At present, the road edge is not known and the restrictions proposed by Ms McLeod are likely to be in excess of this.
74. For these reasons I consider WKZTA's request to be ineffective and to have limited benefits. The provisions requested would not enable the highway to be built. In my view, the additional costs of this Overlay and associated provisions (restrictions on use of land, resource consent costs, costs of noise walls and acoustic insulation) do not outweigh the benefits of addressing future, at this time unknown and uncertain effects of O2NL. If WKNZTA seeks greater certainty over the use and development of the land in question to protect the alignment of the future highway, in my view, the most appropriate RMA tool is an NOR.
75. In addition to this conclusion, integrating land use and transportation infrastructure is effectively achieved through the master planning process and details incorporated into the Structure Plan. As detailed in the Master Plan document, a collaborative approach between Council, Muaūpoko, landowners and WKNZTA was used in preparing the master plan to achieve this integration. This integration is reflected in the layout, land uses, density and infrastructure shown on the Master Plan and subsequent Structure Plan. Furthermore, the detailed design of O2NL will play a key role in integrating with development in Tara-Ika. In my view, these non-regulatory methods are more effective in achieving the objective of an urban form with integrated land use and transportation infrastructure.
76. *Stormwater Management*
77. I note Ms McLeod's evidence appears to support PC4's 'outcomes based' approach to managing stormwater. As such, the matter of contention primarily relates to the extent to which the outcome sought should seek to address securing an integrated approach between Tara-Ika and Ō2NL.
78. In regard to stormwater management, for the same reasons already set out, I do not consider it appropriate to use PC4 to secure stormwater management areas for Ō2NL.
79. While I agree integration is important, I do not consider that PC4 provisions are the most appropriate means of securing this. I accept stormwater associated with Tara-Ika developments should not cause adverse effects on existing state highways (or any other properties for that matter), but it is not currently possible to conclude whether a stormwater proposal will have an adverse effect on something that does not exist (e.g. a project whose exact stormwater management requirements are not currently known). Further, in the absence of an NOR I do not consider it appropriate to effectively 'reserve' land for uses associated with constructing a highway or managing its effects.
80. I will refer to Dr McConchie's evidence and Council's stormwater expert Mr Arseneau later in this right of reply.

⁷ <https://www.nzta.govt.nz/assets/resources/effects-on-noise-sensitive-land/effects-on-noise-sensitive-land-use.pdf>

81. *Management of Future Reverse Sensitivity Effects (primarily noise)*
82. I note the notified version of PC4 contains provisions to control noise effects from state highways where these effects are known and lawfully established (e.g. in relation to State Highway 57). The request in Ms McLeod's evidence seeks to extend this approach by introducing a State Highway Overlay, with associated provisions set out above and below.
83. The State Highway Overlay approach sought by Ms McLeod seeks to require individual developers to install a 3 metre high noise wall. If these provisions were incorporated into PC4 they would:
- a. Require the noise wall to be constructed regardless of if/when Ō2NL is constructed.
 - b. Result in the 'piece by piece' construction of a noise wall, which would not be efficient or effective at achieving the outcomes sought.
 - c. Would in essence be mitigation for an unknown effect which does not yet exist (and may never exist).
 - d. Require landowners to mitigate an effect which would otherwise be the responsibility of WKNZTA to mitigate, the manner of which would be determined by the NOR and associated consenting process;
 - e. Could result in poor urban design outcomes, as detailed in the right of reply of Mr Males and Mr McIndoe.
84. Ō2NL has not yet been the subject of an NOR application or any formal RMA assessment and, as a result, is not guaranteed. In my view, the approach requested by Ms McLeod approach would dis-incentivise development of the land impacted by the overlay and would require landowners to mitigate effects that are not yet known and are not lawfully established. Further, the approach requested would require landowners to mitigate effects that WKNZTA has an obligation to mitigate.
85. *Winstone Aggregates v Matamata-Piako District Council (2005)*⁸ examined the issue of 'reverse sensitivity' which it defined as:
- "the legal vulnerability of an established activity to complaint from a new land use"*
86. As Ō2NL does not presently exist (and does not have any RMA authorisation) I do not consider the issue at hand here to be reverse sensitivity. Reverse sensitivity would only arise once a designation for Ō2NL was confirmed, the road constructed, and then new dwellings (or other sensitive activity) subsequently constructed. I note Ms McLeod appears to acknowledge these provisions are not for reverse sensitivity reasons⁹, and Dr Chiles stated as such at the hearing.
87. Given this evidence, I consider this case is still worth consideration given its discussion of the obligation for effects emitting activities to avoid, remedy, or mitigate adverse effects.
88. In particular, I note that in the *Winstone Aggregates* case the Court determined that activities should internalise effects unless it is shown, on a case by case basis, that it cannot reasonably do so.¹⁰ The Court notes that this should not dilute the principle that effects should be avoided, remedied or mitigated to the

⁸ *Winstone Aggregates v Matamata-Piako District Council (2005)* 11 ELRNZ 48

⁹ Paragraph [82] Ms McLeod's evidence for WKNZTA

¹⁰ At [7].

greatest degree reasonably possible.¹¹ The Court further notes there is a greater expectation of internalisation of effects of new activities than older existing activities.¹²

89. A case by case assessment of the extent to which Ō2NL can reasonably mitigate its effects has not yet been carried out, as the final alignment and design has not been determined and the proposal has not been subject to an RMA assessment (e.g. NOR). At present, there are a range of options available to avoid, remedy, or mitigate adverse effects arising from Ō2NL such as:
- a. Designating a wider corridor
 - b. Physical works, such as constructing a noise wall or bund and road surface materials,
 - c. Exploring alternative locations for the highway.
90. As such, I consider it premature to make a determination on the extent to which Ō2NL can reasonably be expected to internalise its effects.
91. To justify imposing restrictions on the use of land adjoining an effects emitting activity, or in this case effects emitting from the use of infrastructure, must be of considerable economic or social significance regionally or nationally. While Ō2NL is expected to deliver benefits, the exact quantum of these benefits balanced against the associated adverse environmental effects has not yet been established or tested through the usual RMA processes set up established to do that.
92. In my view the above case clearly establishes a hierarchy that activities need to mitigate their effects to the extent reasonably practicable, even when such activities will have regional or national benefits or significance. In the case of Ō2NL, this means that Ō2NL will need to mitigate its adverse effects, including noise, stormwater management and severance effects to the extent practicable. Any residual effects that are not able to be internalised and are deemed appropriate through the relevant RMA authorisation process can be addressed through subsequent or parallel process such as a private plan change, as suggested in my s42A report.
93. *Relevant s32 Tests*
94. Ms McLeod's evidence does not include an assessment of the costs and benefits associated with the provisions she has recommended. In addition to the assessments undertaken above, I consider it necessary to explicitly assess the costs and benefits of the provisions suggested:

Benefits of State Highway Overlay Approach and Associated Provisions

- May help to manage environmental effects associated with the interface between Ō2NL and Tāra-Ika (noting my comments relating to efficiency and effectiveness presented below) although the quantum of this benefit is not known.
- Managing the environmental effects may have associated social benefits (such as benefits for human health);
- May have economic benefits in reducing mitigation costs for Ō2NL;
- Has no significant cultural benefits.

Costs of State Highway Overlay Approach and Associated Provisions

¹¹ At [7].

¹² At [8].

- May impact a greater area of land that will ultimately be effected by Ō2NL, potentially resulting in poorer integration outcomes and resulting in areas of residential land being unused;
- Significant economic costs for landowners associated with potentially discouraging residential subdivision and development and higher construction costs for noise walls and other mitigation measures;
- No significant cultural costs.

Efficiency and Effectiveness of State Highway Overlay Approach and Associated Provisions

- Would result in a piecemeal approach to constructing a noise wall, which would not be effective or efficient at mitigating the adverse effects;
- May result in developers doing something to mitigate an effect that WKNZTA would otherwise be required to mitigate anyway (e.g. 'doubling up' of mitigation), or mitigating an effect which does not exist as has been internalised in O2NL (i.e. inefficient as costs incurred for no/limited benefit);
- Inefficient in that it effects a larger area of land than will likely be impacted by either Ō2NL or State Highway 57;
- May result in developers mitigating an effect (and incurring associated costs) that may not eventuate (or may eventuate to a lesser extent than anticipated by WKNZTA recommended plan provisions).

95. In my opinion, the benefits of the above approach do not outweigh the costs particularly considering the identified efficiency and effectiveness limitations.

96. I further note that Ms McLeod has not evaluated the risks of acting or not acting where there is uncertain or insufficient information about the subject matter of the provisions. In this respect I note:

- a. There is a risk that effects arising from Ō2NL could cause adverse impacts on Tara-Ika, without plan provisions to address this. These effects are set out in the WKNZTA evidence and in themselves, are not in dispute.
- b. However, at this time, there is uncertainty and insufficient information about the location, nature and magnitude of these adverse effects from Ō2NL given Ō2NL does not have the necessary authorisation.
- c. There is a subsequent RMA process to address the adverse effects expected to arise from Ō2NL and to determine appropriate mitigation. This is the NOR process.
- d. As a result, the risk of acting through the inclusion of plan provisions may end up with requirements which are either appropriate or inappropriate.
- e. The risk of not acting relies on a range of non-regulatory tools to address the issues identified that have not yet been explored.
- f. As such, I consider the risks of not acting (to introduce plan provisions) at the current time to be low.

97. Based on the above, it is my opinion that the provisions recommended by WKNZTA are not the most appropriate way of achieving the Plan Change objectives.

98. *Changes Suggested by WKNZTA at the Hearing*

99. At the hearing, Ms McLeod suggested two key amendments to the provisions recommended in her evidence. This included the introduction of a 'sunset' clause in relation to the State Highway Overlay mechanisms (after which time the provisions relating to Ō2NL would cease to apply, unless an NOR had been applied for) and altering the recommended provision requiring a noise wall/bund to an 'outdoor noise' standard based on Ō2NL noise modelling (e.g. the activity has to be designed to achieve X outdoor noise) rather than specifying a particular mitigation method.

100. Ms McLeod and I have discussed this further and I have viewed a draft version of her amended recommendations.
101. In relation to the addition of a sunset clause, this does not change my opinion regarding the State Highway Overlay approach. I remain of the opinion that this approach is not an efficient, effective or appropriate means of achieving the plan change objectives for the reasons detailed above.
102. In respect of Ms McLeod's amended recommendation that activities within the State Highway Overlay be subjected to an outdoor noise standard, rather than be required to construct a bund I make the following comments (in addition to the assessments already made in respect of the extent to which PC4 should provide for $\bar{O}2NL$):
- It is not clear whether the modelled $\bar{O}2NL$ noise information is publically available or the level of confidence around it (for example, whether it is subject to change as the design detail progresses);
 - It is not clear how would someone go about proving compliance with such a standard before the NOR is lodged and/or before the noise emitted from $\bar{O}2NL$ was known;
 - It is not clear what range options exist to achieve this standard. Without knowing the possible means of compliance, it is difficult to assess to costs and benefits;
 - It is not clear how this approach differs from 'standard' approach suggested in WKNZTA Reverse Sensitivity Guidance¹³ of having standards apply to up to 40m from the road edge. I am not clear whether the recommended provision is more restrictive, less restrictive, or the same as this approach and, if different from the standard approach, the reasons for this.
103. As such, the amendments suggested by Ms McLeod at the hearing do not alter my recommendations.
104. *Other Tools Available to Achieve the Objective and Address the Issue*
105. In my view, the most appropriate methods to achieve integrated land use development and transportation infrastructure as well as address the actual and potential adverse effects of, and on, the state highway network is a combination of PC4 (as recommended in this right of reply), the future NOR for $\bar{O}2NL$, and non-regulatory methods such as physical works or agreements with landowners.
106. As outlined earlier, it is my opinion that the RPS policies identified by Ms McLeod will have most relevance when it comes time to assess the NOR.
107. I also note that other non-regulatory methods also exist to achieve the PC4 objectives and address the issues raised by WKNZTA. For example, WKNZTA purchasing the affected land or entering into private agreements with landowners, or integration and active transport achieved through investment by WKNZTA or Council. I note there are a relatively small number of landowners within the State Highway Overlay sought by WKNZTA. However, no other methods were covered in the WKNZTA evidence or material presented at the hearing.
108. If the primary driver is achieving integration, I note that WKNZTA has a much higher degree of influence over this than the Council, given WKNZTA are actually constructing a piece of infrastructure and can therefore determine the quality it wants to construct to (for example, provide the E/W link across $\bar{O}2NL$ to address severance). While Council has a varied role (for example infrastructure and open space provider, community advocate and supporter) its role in PC4 is as a policy maker and regulator. By initiating the plan change

¹³ <https://www.nzta.govt.nz/assets/resources/effects-on-noise-sensitive-land/effects-on-noise-sensitive-land-use.pdf>

process, Council is simply creating an opportunity for others and is therefore limited to what can be justified under the RMA.

1.6 If Ō2NL is not “infrastructure or other physical resources of regional or national importance” are the PC4 provisions the most appropriate way of achieving the objectives of PC4 in addressing the issues associated Ō2NL?

109. As per my above assessments, it is my opinion that Ō2NL is not “infrastructure or other physical resource of regional or national importance”.
110. In light of this conclusion, I consider it necessary to assess the extent to which the PC4 provisions addressing the issues associated with Ō2NL are the most appropriate way of achieving PC4 objectives.
111. As I have previously stated:
- a. The non-statutory master planning process considered the Ō2NL corridor in its urban form. In my view, this approach represented good planning practice in terms of seeking to achieve a positive and integrated outcome.
 - b. The PC4 provisions as recommended in my s42A report do not seek to limit development opportunities, but rather note the Ō2NL corridor for information purposes to make developers and future residents aware of the likelihood a highway will be constructed in this location.
112. In my view this is appropriate for the same reasons as detailed in my s42A report.

1.7 Ō2NL – Was the Correct Statutory Framework for Plan Making Applied?

113. I do not agree with Ms McLeod that PC4 failed to address the correct statutory tests for plan making. The s32 report addressed each of the tests, including the hierarchy of documents and consideration of alternatives and specified the rationale for how Ō2NL was or was not provided for in the notified PC 4 provisions.
114. I note that uncertainty regarding Ō2NL remains, given final alignment and design is yet to be determined. In particular, the recent ‘east of Levin’ Multi Criteria Analysis workshop¹⁴ which focused on this part of the corridor identified a number of unresolved issues.
115. As indicated in the s32 report and earlier in this right of reply, the Ō2NL corridor location was considered in the master planning process and this influenced the urban form proposed (in particular, the location of the central commercial area). As such, I do not agree that an ‘existing environment’ test was applied.
116. By considering the corridor in the master planning process, identifying Ō2NL in the ‘issue discussion’ sections of Chapter 6A, providing scope for the assessment of traffic effects (including on State Highways) in the subdivision matter of discretion, and identifying the Ō2NL corridor on Structure Plan 013 in an information only manner, all give effect to the relevant RPS policies, reflective of the level of certainty/uncertainty regarding Ō2NL.

¹⁴ MCA East of Levin Workshop, held on 13th October 2021 to discuss the highway options relating to the part of the highway running to the East of Levin. Attended by WKNZTA Ō2NL project team and Horowhenua District Council staff and advisors.

117. As such, I am of the view that the correct statutory tests for plan making were followed.

1.8 O2NL Matters – Summary and Other Submission Points Raised and Evidence Presented by WKNZTA

118. State Highway Overlay

119. As previously identified, I do not consider the WKNZTA proposed 'State Highway Overlay' approach is an efficient or effective tool given there is no guarantee O2NL will be consented, let alone built, therefore provisions could be imposed for effects that will never eventuate to be mitigated.

120. As such, I recommend all provisions relating to this overlay be rejected.

121. Notification

122. The evidence of Ms McLeod requests the removal of the preclusion on limited notification for complying subdivision.

123. Ms McLeod states that this will allow Council to notify WKNZTA in the 'usual way' in situations where there are adverse effects on the State Highway network. Ms McLeod states that this is appropriate given the importance of the State Highway network, as recognised in statutory planning documents.

124. This point was not directly raised in the WKNZTA submission.

125. I note that the notification preclusion (as notified) only applies to 'complying' subdivision. Therefore, it only applies to subdivisions of a scale that are anticipated by PC4 and therefore there should be no affected parties.

126. The PC4 provisions for subdivision direct the assessment of traffic effects, including effects on State Highways (provision 15A.8.2.2(a)(vii)) in Appendix 2 of the s42A report). Where deemed necessary, this may occur through a Traffic Impact Assessment prepared by a suitably qualified and independent traffic expert. I would expect that such an assessment would use information from WKNZTA regarding State Highway performance in order to quantify effects. In my view, this provides adequate scope to ensure effects on State Highways are appropriately assessed in the consenting process.

127. I note that notification remains an option for subdivisions that do not comply with the provisions set out in PC4. The notification decision for any proposal which does not comply would be made under the relevant sections of the RMA.

128. The costs and benefits of non-notification for complying subdivision are set out in the s32 report. I agree with this assessment and consequently recommend that this submission point be rejected.

129. Existing (Operative) Structure Plan

130. The evidence of Ms McLeod refers to the existing Structure Plan in the Operative District Plan (Structure Plan 13) which notes a corridor for 'highway upgrades' parallel to SH57. This notation was clearly intended to provide for 'upgrades'. The establishment of a new, additional 4-lane highway is, in my view, well in excess

of what could be considered an 'upgrade' and therefore does not establish a basis in the District Plan that provided for Ō2NL.

131. I also note there are no District Plan rules associated with this corridor resulting from the existing structure plan notation. Therefore, the approach to provide for these historically expected upgrades is very similar to what I have recommended in PC4.

132. *Commercial Activities*

133. I remain of the view that Discretionary Activity status is appropriate for Commercial Activities proposing access from the State Highway. This activity status allows a full assessment of effects.

134. *Traffic*

135. Mr Peet states in his evidence that he considers it favourable from a traffic perspective for growth to occur in Tara-Ika than to spread this development across Levin. However, he goes on to state that he considers it artificial to assume growth would occur elsewhere in the District without the PC4. I disagree with this statement. It is clear that growth is happening in Horowhenua and Council needs to respond to the NPS-UD. As such, it is my view that if PC4 was not approved, significant development opportunity would need to be provided for elsewhere in the District.

136. Mr Peet's evidence sets out a range of matters related to transport. He seems to accept that once Ō2NL is operational, traffic effects are likely to be acceptable and his concern seems to be primarily in regard to the interim period or, in the event of Ō2NL not going ahead.

137. Mr Peet's evidence identifies that, without Ō2NL, many State Highway intersections could be seriously constrained by the year 2039 and that PC4 does not adequately address this.

138. I note WKNZTA evidence as a package is therefore simultaneously stating that Ō2NL is so certain that PC4 must provide for it effectively 'as if' it were approved already, while on the other hand it is saying that PC4 needs to anticipate a scenario where Ō2NL does not happen (and that there are no other alternative upgrades).

139. Given the established basis and need for Ō2NL, I do not think it is reasonable to suggest that in the event Ō2NL did not occur, no other upgrades would happen. In any case, Mr Peet identifies that this issue would arise in the year 2039, some 18 years away, by which time traffic effects and transport behaviours could have changed significantly. Given WKNZTA's role is to provide a safe and efficient State Highway network, and the acknowledged safety and efficiency issues with the existing State Highways in the Horowhenua, future upgrades to fulfil this function are assumed. I do not consider it necessary for the full range of transport interventions needed to address a potential issue in the year 2039 to be known at the current time. I note that it is common for the infrastructure needed to support greenfield development to be implemented in stages. In addition, I do not consider that District Plan provisions are the most appropriate methods to address this issue.

140. The evidence of Mr Peet identifies that the notified matters of discretion for subdivision allow consideration of traffic effects, including effects on State Highways. However, Mr Peet requests that the requirement to assess effects on State Highways be made more explicit. Consequently, amended wording is suggested by Ms McLeod in her evidence. This wording is set out below (WKNZTA changes identified in yellow highlight):

The management of traffic generated and potential adverse effects on the safety and efficiency of the street network, including:

- impacts on the level of service provided by state highways as a result of delays on the state highway network or on side roads approaching the state highway network, measured using the US Highways Capacity Manual Level of Service criteria; and
- impacts on the safety of travel on the state highway network, including at intersections, measured with reference to Waka Kotahi NZ Transport Agency guidance.

Note: The adverse effects on the state highway network listed above are not likely to be significant once Ō2NL is constructed and operational

141. The evidence of Mr Peet and Ms McLeod does not clearly set out why, in their view, this change is needed, given the acknowledgement that the existing matters of discretion provide scope to allow this effects assessment to occur. In my view, the specificity of the provision proposed appears to assume that a Traffic Impact Assessment would be provided for every application. This assumption is not correct. The need for a Traffic Impact Assessment would be determined on a case by case basis, taking into account the location, nature and scale of the proposal.
142. Mr Kelly's right of reply states that the provisions (as notified) signal a clear intent to review the potential traffic impacts of each application, in the context of the most up-to-date information regarding the status of upgrades to the roading network which is available at the time which would achieve the objective of staging the development. The only disagreement between WK and HDC relates to the degree to which this provision needs to more explicitly define the aspects to be considered.
143. While I am not convinced that any change to provision wording is required to address the issue identified by WKNZTA if the Panel were minded to make such a change, I recommend the following wording, which Mr Kelly supports:

The management of traffic generated and potential adverse effects on the safety and efficiency of the street network, including state highways:

- impacts on the level of service provided by state highways as a result of delays on the state highway network or on side roads approaching the state highway network, measured using the US Highways Capacity Manual Level of Service criteria; and
- impacts on the safety of travel on the state highway network, including at intersections, measured with reference to Waka Kotahi NZ Transport Agency guidance.

Note: The adverse effects on the state highway network listed above are not likely to be significant once Ō2NL is constructed and operational

144. I also note that upgrades to the Queen Street/State Highway 57 intersection are currently underway and that funding has been allocated to upgrading of the Tararua Road/State Highway 57 highway intersection.
145. In my view, the existing provisions for subdivision (Restricted Discretionary Activity status and matters of discretion) would effectively and efficiently manage traffic effects, including on state highways (for example,

if development occurs more quickly than expected and future identified upgrades have not yet occurred).

146. Lastly, I wish to note that I agree philosophically with Mr Peet's comments regarding the importance of integrating land use and transport infrastructure. In this respect I note that WKNZTA is proposing to construct transport infrastructure (Ō2NL), and therefore has the ability to make this happen through non-regulatory means, such as project design.
147. *Stormwater*
148. Dr McConchie highlights the benefits associated with an integrated stormwater solution for Ō2NL and Tara-Ika. This approach and outcome is not in contention. However, the mechanism for achieving it is.
149. I note Dr McConchie's evidence uses terms such as 'Ō2NL will' when discussing stormwater management. I question the extent to which this outcome or view is actually known, given the final alignment and detailed design for Ō2NL is not yet complete. This is relevant, given WKNZTA are seeking for PC4 provisions to be drafted on this basis.
150. Dr McConchie states that it is important that the PC4 provisions put the onus on developers to manage their stormwater. I agree and consider the provisions recommended in my s42A report are effective and efficient to achieve this, for the reasons set out in my s42A report.
151. The on-site management and zero-discharge strategy means the discharge from any subdivision/development is to be managed on-site irrespective of what happens downstream, regardless of whether the land is rural, urbanised, or Ō2NL.
152. The detailed design of stormwater management facilities, including the exact dimensions, location, construction and management of these facilities will be determined at the resource consent stage, based on the particulars of development and site specific features.
153. Dr McConchie raises the concern that on-site soakage could be less effective than anticipated and that HDC need a 'Plan B' should this occur in Tara-Ika.
154. Mr Arseneau has commented on technical matters such as the efficacy of the proposed stormwater management approach in his right of reply, but in respect of the need for a 'Plan B' he states that this matter is addressed in the stormwater joint witness statement (items 10(k) and 10(l)) which clarifies the performance standard for stormwater management areas and requires consideration of soakage failure.
155. In a planning sense I note:
- a. The plan provisions recommended in the s42A report require stormwater management plans to be submitted with relevant consent applications (e.g. subdivisions). This requires a site specific assessment and for an approach to be designed accordingly;
 - b. The plan provisions provide scope for applications that cannot adequately deal with stormwater to be declined.
156. *Noise*
157. As previously stated, the need to mitigate noise effects arising from Ō2NL is not in contention. However, the mechanism for achieving this is.

158. My previous assessments respond to the planning aspects of this, so I do not repeat that here.

159. *Urban Design*

160. I have no particular comments to make in respect of the evidence of Mr Lister beyond what I have already detailed.

1.9 O2NL Matters – Conclusion

161. To summarise, the fundamental point of difference is whether O2NL is, in an RMA sense, infrastructure of regional or national importance and as a result, whether the RPS objectives and policies relevant to infrastructure of regional or national importance need to be given effect to.

162. It is my opinion that at this time O2NL is not infrastructure of regional or national importance for the reasons set out above. As a result, the RPS provisions do not need to be given effect to. However, I note that the non-statutory master planning process opted to consider the O2NL corridor in any case which achieves a degree of integrated land use and transportation planning.

163. In the event the Panel reach a different conclusion regarding O2NL as infrastructure of regional or national importance, I have considered what weight should be given to the RPS provisions in respect of O2NL given the level of certainty that existed at the time PC4 was notified.

164. I have also evaluated whether the provisions recommended in the WKNZTA are appropriate.

165. In the main, the provisions suggested by WKNZTA seem to be recommended on the basis of O2NL being 'infrastructure of regional or national importance'. However, regardless of the decision reached on this point I do not consider the provisions contained within the WKNZTA evidence are the most appropriate approach (with the exception previously noted) for achieving the objectives of PC4 for the reasons outlined above.

166. In particular, I recommended requests relating to the introduction of a State Highway Overlay and associated provisions be rejected.

167. Further, I recommended provisions requiring developers/consent applicants to account for O2NL in advance of any RMA authorisation (noise, stormwater management, and land use restrictions) be rejected.

168. It is my view that the most appropriate method for addressing these issues and achieving the outcomes sought by WKNZTA is the O2NL NOR and consenting processes.

2.1 Structure Plan Matters

169. A number of matters related to the Structure Plan were raised. These are addressed in turn below.

2.2 Compliance and Activity Status for Structure Plan

170. Both the Hearing Panel and Mr Cook on behalf of JML Limited questioned how 'compliance' with the Structure Plan was determined noting that this determination dictated the activity status for subdivision and/or development, being Restricted Discretionary (for proposals that comply with the Structure Plan) or Non-Complying (for proposals that do not comply with the Structure Plan).

171. The Hearing Panel questioned whether a non-complying activity status for proposals not in accordance with the Structure Plan is an appropriate, efficient and effective way of achieving the objectives of PC4.
172. Mr Cook stated that in his opinion, non-complying activity status was not appropriate given that non-complying status generally provides a signal that from a planning policy perspective, that such an activity is not contemplated. In this case of PC4, Mr Cook states that some inconsistency with the Structure Plan will almost certainly arise. Mr Cook highlights the consenting risk and uncertainty associated with non-complying activity status. Mr Cook states that in his view, Restricted Discretionary Activity status supported by additional matters of discretion is more appropriate where proposals do not comply with the Structure Plan.
173. In my view, Structure Plan 013 is a robustly designed and detailed structure plan, and as a result, is intentionally directive. In particular, the preceding master plan carefully considered where to locate key features such as the commercial core, future education site, and as a result, the transport connections that would enable this in order to achieve a well-functioning urban environment. Major departures from this, which would not achieve the same quality of outcome, are not contemplated by PC4. For example, not providing for the education site and/or commercial core, would have the risk of significantly undermining the outcomes sought by PC4. The use of non-complying activity status for non-compliance with the Structure Plan was specifically considered in the s32 report.
174. While I acknowledge minor departures from the Structure Plan will almost certainly occur, significant departures could result in development not contemplated for PC4. As such, I maintain the view that non-complying activity status is appropriate for significant departures from the Structure Plan, but agree that some flexibility needs to be provided, as well as clear guidance as to when a proposal will be treated as 'Non-Complying' vs 'Restricted Discretionary'.
175. To achieve this, I recommended that Structure Plan 013 differentiates between 'Primary Structure Plan Features' (most 'fixed') and 'Secondary Structure Plan Features' (most 'flexible'). Primary structure plan features would include:
- a. Arterial roads
 - b. Collector roads
 - c. Strategic cycleways
 - d. Central open space (including education overlay)
 - e. Maunu Wahine
176. The remaining features (local roads and other open spaces) would be secondary features.
177. I recommended that this differentiation be supported by changes to Rule 15A.3 Restricted Discretionary Activities and Rule 15A.5 Non-Complying Activities as follows:

15A.3.1 All Zones (Restricted Discretionary Activities)

- (a) *The subdivision of land that [provides primary structure plan features in the manner shown on Structure Plan 013.](#)*

15A.5.1 All Zones (Non-Complying Activities)

- (e) *Subdivision or land use activities that do not provide primary features in the manner shown on-are-not-consistent-with Structure Plan 013.*

178. This differentiation and direction would be supported by a policy detailing what is meant by 'providing primary structure plan features in the manner provided' to assist with determining whether a proposal is a Restricted Discretionary or Non-Complying Activity. For example:

Policy 6A.1.X

Achieve a well-connected and integrated urban environment by specifying the manner in which primary structure plan features indicated on Structure Plan 013 need to be provided. The manner in which these features should be provided is set out below:

North/South Arterial

- Should be provided in a location generally central to the Tara-Ika growth area.
- Should be located to provide road frontage to the commercial zone and central open space (including education overlay).

(Similar direction to be provided for all other 'primary' features, shown in Appendix 2 of this document).

179. A further policy would explicitly state that secondary features are flexible. For example:

Policy 6A.1.XX

Achieve a well-connected and integrated urban environment by enabling flexibility in the manner in which secondary features are provided, so long as the following outcomes are delivered:

- Local roads provide the level of connectivity indicated on the structure plan, but with flexibility in respect of location;
- Open spaces are provided in a manner that provide an equal recreation outcome to what is indicated on the structure in respect of size, shape, and access.

180. I consider this approach provides the ability for minor changes to Primary Structure Plan Features to be assessed as a Restricted Discretionary Activity. For example, variation in the exact alignment of the primary north south arterial road would be assessed as a Restricted Discretionary Activity so long as it was still broadly central to the growth area and provided road frontage to the commercial core and education site.

181. If a proposal seeks to not provide a primary structure plan feature in the manner shown, such as shifting the north south arterial so it does not provide frontage to the commercial core, or to where it no longer provided a central access point, it would be assessed as a non-complying activity and be subject to the Section 104D tests. The policy below outlines key matters for consideration in such circumstances.

Policy 6A.1.XX

Subdivision, infrastructure and land development in ~~Taraika~~ Tara-Ika must be consistent with the outcomes sought by Structure Plan 013. Subdivision and land development that does not provide primary structure plan features in the manner shown on Structure Plan 013 ~~deviates from the current or future implementation of the Structure Plan~~ will only be considered where an alternative is proposed that will achieve the following:

- *The same or similar level of connectivity within ~~Taraika~~ Tara-Ika;*

- *The same or similar level of connectivity between the ~~Taraika~~Tara-Ika and the existing urban area of Levin;*
- *Protection of opportunities for land adjacent to ~~Taraika~~Tara-Ika to be connected to ~~Taraika~~Tara-Ika in the future;*
- *Public recreation space of an equivalent functionality as that shown on the Structure Plan and that is within walking distance of a similar number of properties as shown on the Structure Plan;*

A streetscape that maintains an appropriate expression of street hierarchy and consistency of treatment along any Arterial or Collector street Road;

182. I consider this approach an effective balance between providing flexibility, while still ensuring the objectives of PC4 are met.
183. In respect of the use non-complying activity status for not providing primary structure plan features in the manner shown on the Structure Plan I comment as follows:
- a. Non-complying activity status does not, in itself, make consenting difficult. Rather, proposals that have inappropriate adverse effects and/or are contrary to plan objectives and policies are difficult to consent.
 - b. So long as adverse effects of a proposal are no more than minor or the proposal is not contrary to the objectives and policies of the plan, the proposal will pass the 'gateway' test.
 - c. The use of non-complying activity status for proposals that are inconsistent with the Structure Plan was assessed in Section 6.5.3.1 of the s32 report. The reasons are summarised below:
 - i. The structure plan has been robustly designed to achieve the outcomes sought for the area. The structure plan is the key method for achieving the outcomes sought for the Tara-Ika area, including school site, movement networks, and civic assets.
 - ii. Non-complying activity status adds further layer of assessment when compared with other activity status (e.g. gateway test). This activity status is an efficient and effective way of upholding the Structure Plan and plan change objectives, both achieving the outcomes sought for the area and realising the investment made into developing the master plan and provides the most appropriate approach in upholding Structure Plan and plan change objectives.
 - iii. Ensures good urban form by securing suitable land provision for activities that support a well-functioning urban environment (school, commercial) which would typically establish in the later stages of development and may therefore be relegated to less desirable locations.
 - iv. This approach provides certainty to developers, Horowhenua District Council, key stakeholders and the wider public about the intended development outcome.
 - v. Provides a clear signal non-compliance is generally not appropriate, unless the alternative proposal achieves the same/similar outcome.

184. On a related matter, I have considered the request in Mr Cook's evidence that Policy 6A.6.1 and 6A.6.2 be amended as follows (Mr Cook's request indicated in yellow highlight):

Policy 6A.6.1

*Ensure public parks or reserves are distributed through ~~Taraika~~ Tara-Ika to be easily accessible to all residential lots by requiring all subdivision and development ~~to comply with~~ **be guided by** Structure Plan 013.*

Policy 6A.6.1

*Ensure public parks and reserves are of a size, shape and type that enables a functional and, recreational uses by requiring all subdivision and development to ~~comply with~~ **be guided by** Structure Plan 013.*

185. I consider the change requested would weaken the policy intent and may not ensure the outcomes sought by the PC4 objectives are achieved. I also consider the word 'guided by' is ambiguous and may cause implementation issues.
186. Mr Cook's evidence also requests changes to the subdivision matters of discretion as they apply to all zones – in particular, he seeks (Mr Cook's changes indicated in yellow highlight).
- Consistency with Structure Plan 013.** (seeks deletion of this matter).
187. In respect of the above request I make the following assessments:
- a. Given the criticality of the Structure Plan to the outcomes sought by the plan change objectives and the changes recommended above, I consider assessment of all proposals against the Structure Plan is necessary to effectively achieve the plan change objective of an integrated and connected development area.
 - b. This point was not previously raised in submissions and may therefore be out of scope for consideration.
188. As such, I do not recommend making the changes requested by Mr Cook in relation to activity status for subdivisions that are not consistent with the structure plan, or the requested changes to subdivision matters of discretion or the wording of Policies 6A.6.1 or 6A.6.2 (with the exception of those previously noted).
189. Further in relation to the use of a detailed, directive structure plan combined with non-complying activity status for departures (as opposed to Restricted Discretionary or Discretionary), I note that Council has had difficulties implementing its existing structure plans, which are less detailed and less directive than that proposed as part of PC4. In Appendix 3 I have included a current example of a subdivision consent application that seeks to depart from the Structure Plan (application lodged October 2020). This proposal demonstrates a far reduced level of connectivity than was anticipated by the Structure Plan. PC4 seeks to make clear that this proposal would be a non-compliance with the Structure Plan and the type of outcome that would be unlikely to be considered appropriate in the Tara-Ika growth area.
190. For the avoidance of doubt, I note that the decision as to whether a proposal provides primary structure plan features in the manner shown on the Structure Plan would ultimately be made by the Council.
191. I do not consider Restricted Discretionary Activity status for major departures from the Structure Plan an effective way of achieving the outcomes sought, because this would be the same activity status as would apply to 'complying' subdivision, meaning developers would be likely to pursue lower cost options, potentially at the expense of the outcomes sought by PC4.

2.3 Flexibility within Structure Plan

192. The Hearing Panel and Mr Cook both raised the need for the Structure Plan to provide flexibility in how features are delivered.

193. I consider the recommendations above outlines a clear hierarchy of structure plan features and the extent to which features can be varied under 'Restricted Discretionary' Activity status. The extent of variation is linked to the importance of the feature.
194. I consider the changes recommended above address the 'flexibility' issue in respect of these features.
195. I will further consider the use of 'zones' particular for the commercial core and open space below.

2.4 Use of Zoning on the Structure Plan

196. The Structure Plan also shows the zoning imposed by the underlying planning maps. This zoning from the corresponding planning maps provides a contextual basis for the rationale behind key Structure Plan features such as the roading network. Further, I note that Council's online maps would show the Structure Plan features and the planning maps at the same time. As such, the manner in which the paper copies have been drawn is consistent with how the online version would be viewed.
197. In addition to Residential zoning, this approach imposes Open Space zoning (parks and reserves) and Commercial zoning.
198. Several submitters questioned the use of Open Space zoning, stating it was likely the actual location of parks and reserves will likely be different to what is shown on the Structure Plan. Submitters identified that this approach would result in misalignment between zone boundaries and land uses, necessitating the need for a future 'tidy up' plan change, which would be an inefficient approach. Instead, submitters asked that open spaces be zoned residential, with open spaces identified as features only on the structure plan, with a later plan change to rezone these areas to open space once vested with Council.
199. Additionally, the Hearing Panel posed a question about whether using zoning to determine the location of the commercial core is the most efficient and effective approach, questioning whether this enables sufficient flexibility.
200. Identifying the most appropriate location for the commercial core was a key part of the master planning process. The master plan considered matters such as the influence of the O2NL corridor on urban form and sought to co-locate the commercial core with the central open space and educational overlay (which, to meet the Ministry of Education's requirements, should have road frontage on two sides). The importance of achieving these specific and interrelated outcomes sought is a justification for taking a zone based approach.
201. Given the commercial centre is likely to develop in the later stages of the development (as it will need a resident population to be viable) and the importance of an optimally located commercial core, I consider it important to protect the commercial zone from being 'used up' by residential activity. Zoning provides a high level of certainty over achieving this outcome.
202. Additionally, zoning the commercial core means that the activities that ultimately establish can benefit from the more permissive bulk and location standards of the Commercial Zone (compared to residential) and provides opportunity to specific expected design outcomes to achieve an attractive and pedestrian environment in the commercial zone. This aligns with the objectives and policies of PC4.
203. Turning to open space, I consider the Maunu Wahine and the central open space to have more significance and a higher degree of certainty as to location than the other open spaces in the plan change area.

204. The central open space was specifically located at the core, alongside the commercial zone and contains the future education site which was specifically designed to meet Ministry of Education needs. As such, its location and size, along with its important role in achieving a well-functioning urban environment, is relatively defined.
205. The Maunu Wahine site has been located to recognise a historic site of significance for Muaūpoko and to provide an ecological buffer to the Waiopēhu Reserve. As such, there is a relatively high degree of certainty as to the location and the associated cultural values mean it is likely not appropriate for residential development.
206. In respect of the remaining reserve spaces, I note that these have been carefully sized and located to deliver a quality recreational outcome by allocating reserve space in a manner that is consistent with Council's Open Space Strategy.
207. For these reasons I am of the opinion that Open Space zoning is the most effective way of achieving the objective of PC4.
208. However, if the Panel come to a different view an alternate option could be that the remaining open spaces be zoned residential and identified as a structure plan feature. However, I consider this provides less certainty that the intended outcome will be achieved as developers may seek to allocate the land to reserve in poor or sub-optimal locations or nature, potentially at the expense of the desired amenity and recreation outcome. Further, this approach may result in extensive and repeated re-litigation of the master and structure planning at consent stage.
209. Finally, I note that the approach sought by submitters (zone residentially first, then rezone to Open Space later) would still necessitate a future plan change so may not deliver the efficiency benefits suggested.

2.5 General Layout Matters

210. Commercial Zone Location

211. As previously stated, the location of the commercial zone was a key part of the Master Planning process. I refer to the evidence in chief and right of reply of Mr McIndoe, Mr Males, and Mr Cullen in respect of this matter. In summary:

- From an urban design perspective the centre must be where it is readily accessible from the wider neighbourhood.
- Other locations were tested, such as somewhere along the south side of Queen Street, but such a centre would have only half a catchment and future growth on the north side of Queen Street is considered unlikely.
- The area and location of the commercial centre were calibrated to take into account the expected commercial demand and the potential layout of streets around. Location primarily on the south side of the street allows for a high amenity north facing street and retail edge.

212. In light of this evidence, I am of the view that the commercial zone is appropriately located.

213. East/West Arterial Road Location

214. The east/west arterial provides a central connection through the growth area and connects directly to the commercial core. As assessed above, I consider the commercial core to be appropriately located and on this

basis equally consider this road appropriately located from a layout perspective. I will consider the traffic related elements based on the evidence in chief and right of reply of Mr Kelly further below.

215. *Other Potential Rooding Connections*

216. In respect of other requests relating to Arterial and Collector roads, including the north-south arterial road connecting Queen Street East to Tararua Road and the collector road on the Prouse property remain a point of contention. The evidence of Mr Anderson on behalf of Redwood Grove properties (04/31) stated that they seek for the 'kink' in the road to be shifted further south, nearer the open space, so the road is further from Redwood Grove.

217. The Prouse Trust Partnership (04/38) state that the collector status of the road on their property will adversely affect the heritage value of their property. In their letter to the Panel dated 1st November 2021, they also comment that the location of this road is not compatible with the identification of a habitat for culturally significant species.

218. In response I comment:

- a. The exact locations of any road will be determined at subdivision consent stage, when the exact dimensions of lots are known. As such, it is possible there will be slight variation in the exact layout and design of the road without making any changes to the structure plan.
- b. I have discussed the road location in respect of these points with Council's expert team on these matters, Mr McIndoe (McIndoe Urban) and Mr Males (Local Landscape Architecture Collective), who have advised that the roads were drawn in to provide efficiency benefits, based on landowner discussions regarding expected lot design and to provide a more regular intersection design. In light of the above, I do not consider it necessary to make further changes in respect of the submission 04/31. Mr McIndoe and Mr Males will provide further comment on this in their right of reply.
- c. The need for the 'Prouse Road' road as a collector road is set out in my s42A report and draws upon the traffic evidence of Mr Kelly. Mr Kelly confirms in his right of reply the need for a collector road in this location, stating that designation of a road as a 'collector' or 'local' primarily relates to its intended functionality in the network, in particular the extent to which the road is expected to carry through traffic or service a high level of adjacent development. In this case, the road will be the primary connection between Queen Street East and the development area, and its intended status as a 'collector' road is appropriate. While a 'local' road would have a narrower cross-section, the level of traffic activity attracted to the road will be primarily governed by its location and potential convenience to users.
- d. For the reasons set out in the s42A report and those listed above, I do not recommend further changes in this respect.

219. I note that the Structure Plan does not preclude additional rooding connections being provided. Where a site has road frontage, the District Plan does not prevent this from being used to provide access to other properties, in a manner appropriate for the particular location. Mr and Mrs Thomas (Submitter 04/08) questioned whether they could use a lot in their ownership which fronts Pohutukawa Drive to provide road access to adjoining properties. The District Plan does not prevent this, but the number of properties that could be accessed from this site would likely to be limited by the amount of additional traffic that Pohutukawa Drive could accommodate. This would be the case regardless of whether the Structure Plan showed a road in this location. As such, I do not consider any changes necessary in this regard.

220. At the hearing, the Panel commented that there appears to be a disconnect between landowner boundaries and the Structure Plan features. In response I refer to the rights of reply of Mr Males and Mr McIndoe, but note that the roads were positioned so that each property owner would be able to commence development, without having to wait for their neighbours to provide access.

2.6 Clarification of Residential Overlays

221. To clarify point 4(d) of the Panel's Minute 5, I can advise that the medium density and low density notations are overlays, with the underlying zoning being residential. This is the same structure to that of the Operative Horowhenua District Plan with the overlay provisions applying as well as the underlying zone provisions. All other standards and rules (e.g. bulk and location) are the same across the different residential densities.

3.1 Overall Density and Yield

222. A number of submitters sought for the PC4 to make provision for additional residential development, through both zoning changes and through making provision for higher density development within residential zones.

223. For clarification sake, I note that the provisions as they currently stand provide additional density opportunities compared to the Operative District Plan, including:

- a. Reduced minimum site size in Medium Density Residential Overlay
- b. Removal of the requirement for 'greenfield subdivision' to achieve an average site area of 600m² (instead just requiring a minimum site area of 330m²).

224. Additionally I note that development within Tara-Ika would be able to utilise the 'Integrated Residential Development' provisions of the Operative District Plan, which have no density limits (requires Restricted Discretionary Activity resource consent).

225. I also note that Council is intending to shortly commence a review of residential development provisions generally (which will include Tara-Ika) with the view of providing more varied and intensive development opportunities.

226. I note that submitters Mr and Mrs Thomas (04/08) and Mr and Mrs Brown (04/11) sought for additional zoning changes to those recommended in the s42A report, which would remove all Greenbelt or Low Density Residential zoning from their properties and replace it with Standard Residential zoning. In making this request, both submitters reiterated statements made in their submissions and at the pre-hearing meetings.

227. The topic of zoning was considered extensively in the s42A report, including consideration of the written submissions of submitters who did not speak at the hearing. No new information or additional points were made at the hearing that I have not previously considered. Therefore, I do not consider any further zoning changes are appropriate for the reasons set out in the s42A report.

228. I note the agreed position outlined in the Planning Joint Witness Statement in respect of the zoning of Redwood Grove. I do not consider any further comment on this matter is necessary.

229. In response to questions from the Panel about the impact that Ō2NL and the recommendation regarding Redwood Grove will have on overall lot yield I note that these will not impact the expected lot yields in anyway. This is because both the Ō2NL corridor and Redwood Grove were excluded from the original lot

calculations and estimates, due to the challenges and constraints associated with developing these areas. While the presence of the Electra transmission lines will remove some land from development, the expectation is that this would be temporary as the anticipated outcome is that these lines would be undergrounded or relocated at some point. However, I note that the presences of the lines would temporarily remove approximately 6ha of land from development, or approximately 60-70 lots as detailed in the right of Reply of Mr Males and Mr McIndoe.

230. Taking into account the above, the expected lot yield remains at approximately 3,500.

231. I do not consider there to be a need to introduce provisions to the Plan to control development near the Electra lines. Built development near these lines is controlled through other legislation, as identified in the s42A report. Landowners/developers have a responsibility to undertake appropriate due diligence before commencing development, such as checking for the presence of gas lines. I consider the power lines fall into a similar category.

4.1 Arapaepae Road Special Treatment Overlay

232. Issue 4(e) of the Panel's fifth minute questions whether the intention for the Arapaepae Road Special Treatment Overlay is to enable all activities as a Restricted Discretionary Activity. I can advise that the intention was to provide a high degree of flexibility to provide the market opportunity to deliver appropriate land uses that respond to the unique characteristics of this area of land. This intention is expressed in the s32 report.

233. However, this intention was not for large format retailing or industrial activities to be Restricted Discretionary as these are specified as a Non-Complying Activity within the Tara-Ika Multi-Zone Precinct by rules 15A.5(h) and (i). I recommend amending these rules as follows for clarification:

15A.5.1 All Zones (Non-Complying Activities)

(h) Industrial Activities [\(for the avoidance of doubt, this includes activities in the Arapaepae Road Special Treatment Overlay\).](#)

(i) Large Format Retailing [\(for the avoidance of doubt, this includes activities in the Arapaepae Road Special Treatment Overlay\).](#)

234. Additionally, the Panel questioned whether residential was the most appropriate use for this land and/or whether a higher density residential environment would overcome some of the issues identified.

235. This matter was canvassed at the hearing, with Mr Lister and Mr Cook both being asked this question. Both concluded that while there were challenges, it would be possible to deliver an appropriate residential outcome. This view is also shared by Mr Males and Mr McIndoe, as detailed in their right of reply.

236. I share this view, but recommend an additional matter of discretion as set out below to ensure that the amenity outcome of this piece of land is appropriately considered:

(iii) [The measures proposed to achieve an acceptable level of amenity for the proposed activity.](#)

237. I note that a 'higher density' residential environmental would be able to be delivered under the Restricted Discretionary Activity rule framework.

5.1 Stormwater

238. A range of matters relating to stormwater were discussed at the hearing. In my view, all parties are generally aligned in terms of the outcome sought (effective stormwater management) and the proposal to retain stormwater within the growth area. Equally, there is shared recognition that an integrated approach across the site (including consideration of Ō2NL) is the most effective. Where there is remaining disagreement is the extent to which these outcomes should be achieved through District Plan or non-District Plan mechanisms.

5.2 Need for a 'Site Wide' Integrated Plan

239. In issue 4(f)(iv) of the Fifth Minute, the Panel have questioned whether there should be constraints on the amount of subdivision and development enabled as a restricted discretionary activity until such time as an overall Stormwater Management Plan for the entire PC4 area has been developed.

240. I note from the evidence of Mr Arseneau, Mr Brittliff and Dr McConchie that an integrated approach is being explored through non-District Plan avenues. However, I have directly considered the evidence of these experts and Mr Arseneau's right of reply in respect of supporting this outcome with a plan-based provision.

241. Based on the evidence presented and the right of reply of Mr Arseneau, I have considered introducing a provision that states that no more than 200 allotments can be created within Tara-Ika before a site wide stormwater management plan is approved by Council. This provision would be worded so any landowner, or the Council, could prepare this plan. The Subdivision Design Principles and Requirements document would then require that this Plan would be followed, specifically Section 10.1 of this document on stormwater refers to developments being accordance with 'as otherwise specifically approved by the Council' which would apply in these circumstances.

242. Introducing this provision to the plan would have the following benefits:

- Provides certainty that the overall outcome sought will be achieved;
- Allows the first 200 lots, for which a higher degree of stormwater planning has already been undertaken to progress;
- Provides more opportunity for Muaūpoko involvement in the plan assessing the plan;
- Allows time for other matters, such as the Ō2NL stormwater approach to be identified, including opportunities for integration.

243. Introducing this provision has the following costs:

- Could result in one landowner bearing the costs of preparing the plan for the whole area;
- Reduces flexibility for other landowners;
- May slow development if no landowner is prepared to take the lead in preparing the plan (or require Council to take the lead)

244. Relying on non-regulatory mechanisms has the following benefits:

- More flexibility for individual landowners to progress at their own pace and in their own manner
- Provide for a more iterative process.

245. Relying on non-regulatory mechanisms has the following cost:

- Greater risk that intended stormwater outcomes will not be achieved.

246. In light of this, I recommend introducing a plan provision that states that no more than 200 allotments can be created before a site wide stormwater management plan is approved. Partial wording is set out below, with full wording in Appendix 2 of this document.

(ii) Stormwater Management (the application that seeks to create 200th additional allotment/housing unit in the Tara-Ika Growth Area after PC4 become operative)

In addition to the above requirements, the 200th additional allotment/housing unit may not proceed until Council has approved integrated stormwater management plan for the whole Tara-Ika Growth area that achieves the outcomes listed above and that takes into account any stormwater management facilities associated with infrastructure projects of regional or national significance that have received RMA approvals.

5.3 Stormwater Features and Structure Plan 013

247. I have considered the Panel's question in item 4(f)(ii) of the Fifth Minute, as to whether the Structure Plan should include a 'blue' layer (stormwater management features).

248. I note that this approach is not preferred by Mr Arseneau or Mr Brittliff due to the difficulty in defining these areas at the current time, as evaluated in the s42A report.

249. However, I recognise the benefits of taking an integrated approach. The approach recommended above will ensure that an integrated approach is taken, once there is more certainty regarding the future development pattern, site characteristics, and Ō2NL. I consider this an efficient and effective way of ensuring an integrated stormwater management approach in the absence of precise/detailed information. I do not recommend introducing 'blue' features to the Structure Plan due to the challenges identified by Mr Arseneau and Mr Brittliff.

5.4 Provision for Pre-Development Flows

250. In regard to making an allowance for pre-development flow in the stormwater management plan, as requested by Mr Brittliff, I refer to the evidence in chief and right of reply of Mr Arseneau which says:

- Allowing pre-development peak flows to continue to be discharged from a development site is not considered due to the nature of the two potential receiving systems downstream of the PC4, being Lake Horowhenua to the northwest and the Koputaroa Stream to the north/northeast.
- Discharge of stormwater to Lake Horowhenua is a non-complying activity under Rule 13-9 of the Horizons Regional Council One Plan.
- The need to continue baseflows is low for PC4.

5.5 Minor Amendments to Wording of Provisions

251. I generally support the wording amendments to stormwater provisions set out in the evidence of Ms McLeod (on behalf of WKNZTA) and Mr Bennion (on behalf of MTA). The exception to this is explicit reference to the need to consider effects on Ō2NL for the same reasons already outlined.

252. Beyond this, I consider the changes sought to more clearly articulate the intended outcome.

6.1 Access Matters

253. The Panel have requested that Council Officers comment on the certainty of getting access across Ō2NL for the east/west arterial connection. While nothing has been confirmed, Council have made the importance of this connection very clear to WKNZTA since before they selected the N4 route for Ō2NL. The expectation of this connection is made clear by Structure Plan 013. WKNZTA experts have also acknowledged the

importance of this connection at the PC4 hearing. As such, I understand that WKNZTA will work with Council to facilitate this outcome. I also note that Council has funding for this in its Long Term Plan. Given both WKNZTA and Council experts are agreed on the importance of this connection, it is identified on the structure plan for PC4, and Council has funding identified to construct it, I consider it likely that this outcome would be achieved.

254. I refer to the evidence in chief and right of reply of Mr Males, Mr McIndoe, and Mr Kelly in regard to the functionality if no link is provided directly to the rest of Levin (e.g. via Liverpool Street or similar). This is summarised below:
- A connection via Liverpool Street would be beneficial in transportation terms, because this would offer a more direct and appropriate route for traffic when compared to the alternative utilising Meadowvale Drive.
 - However Tara-Ika is not dependant on this and there are other options which could provide a suitable alternative, as explored in the right of reply of Mr Males and Mr McIndoe.
255. Additionally, the Panel have requested that the Council Officers consider whether PC4 should include staging provisions to manage potential capacity issues on State Highway intersections. Both WKNZTA's traffic expert Mr Peet and Council's traffic expert Mr Kelly are in agreement that these issues can be adequately managed without a specific staging provision. A minor provision amended is recommended in paragraph 140, which is supported by Mr Kelly.
256. I also note a variety of non-regulatory mechanisms, such as WKNZTA's safer networks programme or speed limit reviews.
257. The Panel also requested consideration on the functionality of the east/west arterial if it were to function as a "left in/left out". Mr Kelly's right of reply address this, stating that he would not consider a 'left-in/left-out' acceptable and indicating a roundabout as the preferred option.
258. Mr Kelly also addresses the potential effects of PC4 on traffic if Ō2NL did not proceed in right of reply. This remains a point of contention between Mr Kelly and Mr Peet. Mr Kelly advises:
- That although there would be some traffic delays, these can be accommodated;
 - The extent of the delays set out in Mr Peet's evidence may be overstated because SATURN model is unable to account for a number of behavioural responses by drivers to congestion (primarily changing the time, frequency, destination or even mode of travel) and because the model has included allowance for development in nearby growth areas (for example, on the southern side of Tararua Road) which would be subject to their own plan change processes and so which should not be included within the assessment.

7.1 Maunu Wahine

259. Council, MTA and the landowner are committed to working together on an outcome for Maunu Wahine. In general, I am of the opinion that there is a need to ensure appropriate protection of the Maunu Wahine site through the plan change.
260. Non-regulatory mechanisms will need to be utilised to both develop the site in accordance with Muaūpoko values and to appropriately compensate the land owner.

261. An update on the outcome sought and the need for plan-based mechanisms will be provided at the reconvened hearing. If the matter is not fully resolved at this time, Council would welcome the opportunity for further expert conferencing in relation to this matter.

8.1 Cycleways and Rear Access

262. The provisions stating that vehicle access into a strategic cycleway is a non-complying activity remains a point in contention. At the hearing some submitters referred to this matter as being 'prohibited'. I wish to make it clear that this is not a prohibited activity.

263. Mr Cook presented evidence on this point of behalf of Brendan McDonnell, seeking that this situation instead be a Restricted Discretionary Activity.

264. I have discussed the purpose and importance of the strategic cycleways with Mr Kelly, Mr McIndoe and Mr Males and consider the appropriate planning tools to achieve the outcome sought. In this respect I respond:

- a. The strategic cycleways are the primary means of providing safe and effective active transport between residential areas and key facilities including the future school site and commercial centre.
- b. The plan change sought to avoid creating car dependence within the plan change area, by providing an alternative transport option that is both safe and attractive. This transport mode and integration with the density of residential development is particularly important when considering the recommended zoning changes that seek to establish urban density further from the commercial and community centre than previously anticipated.
- c. Avoiding vehicle crossings in the strategic cycleways minimises conflict points between cyclists and vehicle users. Minimising this conflict is particularly important given they link residential areas to the future school site.
- d. Even a perception of a safety issue can discourage cycling uptake and for a new development, the opportunity to implement design solutions to achieve a cycle-friendly environment to maximise the uptake of alternatives to private car use is supported.
- e. These facilities remain very important to achieving the outcomes sought.

265. Taking into account the above, I have considered whether a Restricted Discretionary Activity status would be an appropriate means of ensuring this outcome was achieved.

266. If just one application for a vehicle crossing into a strategic cycleway were approved, the purpose of this rule would be undermined. Having a very small number of vehicle crossings in these cycleways may even be more dangerous than having many, as cycleway users may not be expecting them. For this reason I consider a non-complying activity status appropriate to preserve the policy intent and to avoid creating inappropriate adverse effects.

267. Non-complying activity status still allows for alternatives to be approved through the consenting stage where the effects and outcomes are appropriate (for example, a network wide alternative).

9.1 Prouse Property – Habitats of Culturally Significance Species

268. The means of protecting the habitats of culturally significant species recommended in my s42A report remains a point in contention, as evidenced in the letter from Karen and Stephen Prouse dated 1st November 2021 and the evidence provided by Muaūpoko Tribal Authority (including ecological report prepared by Wildlands).

269. The approach recommended for managing these sites and the rationale supporting doing this is set out in the s42A report. In summary:
- a. The need for assessing ecological effects is made more explicit in the matters of discretion for subdivision consent application;
 - b. Allows for a site-specific assessment and bespoke approach to managing effects to be determined at the subdivision consent, based on the actual and potential effects.
270. Mr and Mrs Prouse opposed the identification and protection of these habitats, citing issues of fairness (particularly in respect of the timing of information received) and the degraded quality of the vegetation.
271. I note that the issue in discussion is not whether the vegetation should be protected, but whether the habitat should be protected. As such, the issue is not whether the vegetation is of sufficient quality to justify protection, but whether the habitat is of sufficient significance to justify protection. The ecological report and the evidence of Ms Karaitiana addresses this point and concludes that protection is warranted. I support this view for the reasons contained within the evidence. However, I note that proposed protection does not preclude development. Rather, it requires the assessment of effects and appropriate mitigation to be provided (for example, translocation of species).
272. In regard to the comments raised by Mr and Mrs Prouse on behalf of Prouse Trust Partnership (submitter 04/38) regarding the proximity of an arterial road in relation to the potential habitat, I consider a site specific ecological assessment and specific subdivision design an appropriate means of determining the scale and significance of this effect and how these effects should be avoided, remedied or mitigation.
273. The ecological report prepared by Wildlands on behalf of Muaūpoko Tribal Authority sets out more detail regarding the potential ecological effects and how these can be addressed. I note that this report incorrectly identifies that the Arapaepae Bush remnants will not be developed. While the westernmost remnant is protected under the One Plan, the easternmost part is not and therefore is able to be developed residentially (subject to the resource consent process, which requires assessment of ecological effects).
274. The table below sets out key comments and/or recommendations from the ecological report and my response to these:

Ecological Report Comment/Recommendation	Reporting Officer Comment
Notes that a permit under Wildlife Act (from Department of Conservation) is required to disturb habitats of indigenous lizards, bats, birds, or snails.	This provides protection for these species. Identifying habitats on the structure plan helps to ensure the effects on this habitat is not missed at the consent stage.
Ecological effects can be addressed through consent conditions (such as restriction on the planting of pest species)	I consider this to be appropriately addressed by the approach recommended in the s42A report.
Use pest management to control pest species in Waiopahu Reserve and Arapaepae Bush remnants. The report notes the potential for Ō2NL to impact the Arapaepae remnants and that a management plan may be required to support this.	Waiopahu Reserve is owned by Council and maintained by Department of Conservation. No further changes are necessary. In relation to Arapaepae Bush remnants, the recommended site-specific assessment approach would allow this to happen, if required (taking into

	account any works done as part of the Ō2NL project).
That Waiopahu Reserve and Arapaepae Bush remnants be protected using a 10m buffer of windproof species.	<p>This buffer is provided around Waiopahu Reserve as a function of the recommended zoning plan.</p> <p>For the reasons previously mentioned, I consider a site-specific assessment be done at the consent stage to determine whether this is required in relation to the Arapaepae remnants as this will allow as assessment of the quality at the time and/or any works done as part of the Ō2NL project.</p>

275. In conclusion, I confirm the recommendation in the s42A report that:

- a. The bush remnants be identified as habitats of culturally significant species on the Structure Plan;
- b. That the matters of discretion provide a prompt for site-specific assessment and mitigation at consent stage
- c. On the basis that this would be an efficient and effective way of achieving the objectives of PC4 and that this aligns with Section 6 matters of the RMA.

10.1 s32AA Assessment

Recommended Change/Amendment	How recommended change is the most appropriate way of achieving the purpose of the Act/plan change objectives	Efficiency/Effectiveness	Costs	Benefits
Provisions (rules and policies) relating to activity status and implementation of the Structure Plan	The recommended approach balances the need to balance flexibility while also being directive about the most important outcomes and features. I consider this appropriate given the Structure Plan has been prepared in a robust and detailed manner. The Master Plan which informed the Structure Plan was the foundation of the PC4 objectives. As such, provisions that seek to uphold the Structure Plan have clear links to the PC4 objectives.	<p>Providing some degree of flexibility in how the Structure Plan is implemented was always the intention of PC4, as evidenced in the s32 report. These changes seek to make the 'acceptable' level of flexibility clearer, improving plan implementation and improving efficiency and effectiveness by avoiding unnecessary non-complying activity status.</p> <p>The approach of allowing minor variations from the Structure Plan as a Restricted Discretionary Activity with more significance departures being treated as a Non-Complying Activity provides flexibility while provide clear direction and certainty about the outcome sought.</p>	As the now recommended approach gives more flexibility and clarity than the notified version, I do not consider there to be additional costs not already assessed.	<p>In addition to the benefits already assessed in the original s32 report, the increased flexibility has the following benefits:</p> <p><i>Environmental</i></p> <ul style="list-style-type: none"> - Additional flexibility (will retain more focus on key features), will preserve the outcomes sought and may provide opportunity for better outcomes to be explored at the consent stage. <p><i>Cultural</i></p> <ul style="list-style-type: none"> - Nil <p><i>Economic</i></p> <ul style="list-style-type: none"> - Retaining non-complying activity status for significant departures from the

Recommended Change/Amendment	How recommended change is the most appropriate way of achieving the purpose of the Act/plan change objectives	Efficiency/Effectiveness	Costs	Benefits
		<p>The approach allows for flexibility commensurate to the significance of the feature and the scale of the departure sought, with minor variation to primary features or variation to secondary features able to be assessed as a Restricted Discretionary Activity, with more significant departures being assessed as a Non-Complying Activity.</p> <p>Retaining a non-complying activity status for significance departures from the structure plan is an efficient and effective approach given the structure plan is the primary method for ensuring:</p> <ul style="list-style-type: none"> - That key features (e.g. education site and commercial centre are sized/located appropriately; 		<p>structure plan both preserving the outcomes sought for the area and protecting the investment made into developing the Master Plan.</p> <ul style="list-style-type: none"> - Increased flexibility will reduce plan implementation costs (e.g. less complex/risky consenting process). <p><i>Social</i></p> <ul style="list-style-type: none"> - Nil

Recommended Change/Amendment	How recommended change is the most appropriate way of achieving the purpose of the Act/plan change objectives	Efficiency/Effectiveness	Costs	Benefits
		<ul style="list-style-type: none"> - Providing clarity as to the outcome that is expected; - Managing effects and demands of land development held in multiple ownership in an integrated way and in support of a well-functioning urban environment. 		
Requirement for an integrated stormwater management plan	<p>This requirement for an integrated stormwater management plan to be provided builds on the changes recommended and assessed in the s42A report, by providing a regulatory backstop to ensure that an integrated approach actually occurs. This achieves the purpose of the Act and the plan change objectives by:</p> <ul style="list-style-type: none"> • Avoiding adverse effects on groundwater, Lake Horowhenua, and 	<p>Allows the first 200 lots, for which a higher level of stormwater planning has already been done, to be delivered while an integrated approach is developed.</p> <p>Efficient and effective as it allows basins and wetlands to be designed, sized, and located based on the nature and scale of the activity, rather than identifying stormwater areas on the Structure Plan and</p>	<p>In addition to the costs identified in the s32AA assessment included in the s42A report:</p> <p><i>Environmental</i></p> <ul style="list-style-type: none"> • If plan is 'locked in' it may be less responsive to evolving information or development pattern. <p><i>Cultural</i></p> <ul style="list-style-type: none"> • The cultural costs of development have 	<p>In addition to the benefits identified in the s32AA assessment included in the s42A report:</p> <p><i>Environmental</i></p> <ul style="list-style-type: none"> - Better environmental outcomes by providing a regulatory backstop to complement work being done outside of the District Plan. <p><i>Social</i></p>

Recommended Change/Amendment	How recommended change is the most appropriate way of achieving the purpose of the Act/plan change objectives	Efficiency/Effectiveness	Costs	Benefits
	<p>downstream environments.</p> <ul style="list-style-type: none"> Protecting environmental resources for future generations and recognises the significance of water and environmental outcomes to Māori. Adequately managing stormwater flows. 	<p>potentially under or oversizing them.</p>	<p>already been considered in the s32 report. Therefore, the costs here are those associated with requiring a stormwater management plan that meets the requirements of the Plan. As this will deliver cultural benefits when compared to the status quo approach (as evidence in the technical report and evaluated earlier in this report), I do not consider there to be any costs associated with these matters.</p> <p><i>Economic</i></p> <ul style="list-style-type: none"> May result in one landowner bearing a disproportionate cost, or create a disincentive to 	<ul style="list-style-type: none"> Nil compared with what has already been assessed in the s32 and s42A reports. <p><i>Economic</i></p> <ul style="list-style-type: none"> Nil compared with what has already been assessed in the s32 and s42A reports. <p><i>Cultural</i></p> <ul style="list-style-type: none"> Cultural benefits in that a quality stormwater system will protect ground water and Lake Horowhenua and that this approach would provide greater opportunities for Muaūpoko to be involved in the assessment and the stormwater management plan.

Recommended Change/Amendment	How recommended change is the most appropriate way of achieving the purpose of the Act/plan change objectives	Efficiency/Effectiveness	Costs	Benefits
			<p>create the 200th allotment.</p> <ul style="list-style-type: none"> • May increase the costs on Council to prepare this management plan. • Reduces landowner flexibility to develop in their own manner and/or at their own pace. <p><i>Social</i></p> <ul style="list-style-type: none"> • Nil 	
Provisions (policies) to address matters raised by Muaūpoko in Cultural Impact Assessment and Evidence and Protection of Maunu Wahine	The changes recommended in respect of these matters are generally minor amendments to what was recommended in the s42A report. They seek to better reflect the outcomes sought by the Cultural Impact Assessment. As such, the s32AA assessment is as per the s42A report.			
Refinements to Arapaepae Road Special Treatment Overlay	Aligns with Objective 6A.1 in that it seeks to achieve high amenity urban environment and more clearly articulate the intended outcomes.	This change is to better support and more clearly explain the rule that was notified. Efficient and effective for the intent to be made clearer.	As this change is to better support existing provisions, costs are the same as in the original s32 report.	As this change is to better support existing provisions, costs are the same as in the original s32 report.
Minor wording changes	The minor drafting edits are for the purposes of correcting typing and grammar errors or more clearly articulating the outcomes sought. These changes do not change the intent of provisions assessed in the original s32 report. As such, the primary benefit of these changes is a clearer, more effective District Plan. No further assessment is considered necessary.			

11.1 Conclusion

276. In conclusion, Plan Change 4 seeks to rezone a 420ha piece of land located immediately east of Levin and bordered by State Highway 57 (Arapaepae Road), Queen Street East, Gladstone Road and Tararua Road.
277. The s42A report, statements made at the hearing and this right of reply evaluate submissions and evidence presented at the hearing.
278. Nothing I have heard has given me reason to amend my recommendations beyond what I have already detailed above.
279. Appendix 2 of this report, sets out the changes to the PC4 provisions that I recommended in light of the above.

Appendix 1 – Horizons One Plan – Relevant Regional Policy Statement Objectives and Policies

3 Infrastructure, Energy, Waste*, Hazardous Substances* and Contaminated Land

3.1 Scope and Background

This chapter deals with how activities involving infrastructure, renewable energy, waste*, hazardous substances*, versatile soils and contaminated land will be addressed. In general, this chapter provides broad policy guidance for managing these activities. Where appropriate, specific policy relating to these activities is integrated into the resource-based chapters of this Plan.

Infrastructure and other physical resources of regional or national importance

The Regional Council recognises that some infrastructure and other physical resources are regionally or nationally important. The establishment, *operation**, *maintenance** and *upgrading** of infrastructure and infrastructure corridors is critical to the economic wellbeing of the Region and the nation. However, infrastructure can have adverse effects on the environment and other activities can have reverse sensitivity adverse effects on infrastructure.

There can be logistical or technical constraints on where infrastructure must be located to serve communities and operate efficiently. Urban growth should be integrated with infrastructure provision. The Regional Council wants to ensure the benefits of infrastructure are recognised and appropriately weighed along with other matters in decision-making processes.

Energy

Access to reliable and sustainable energy supplies is essential to the way society functions. People and communities rely on energy for transportation, and electricity for everyday activities at home and at work. A reliable and secure supply of energy, including electricity, is fundamental for economic and social wellbeing. Furthermore, the demand for electricity is increasing.

Government has developed energy strategies and made changes to the RMA to encourage energy efficiency and greater uptake of renewable energy over use of non-renewable resources. Renewable energy means energy produced from solar, wind, hydro, geothermal, biomass, tidal, wave and ocean current sources.

The Government has made a commitment to reduce New Zealand's greenhouse gas emissions and to achieve increasingly sustainable energy use. This commitment is expressed by the inclusion of sections 7(ba), 7(i) and 7(j) in the RMA in 2004 and in national strategy and policy documents dealing with energy, renewable energy, energy efficiency and conservation, and electricity transmission.

The electricity transmission network is recognised by a national policy statement as a matter of national significance.

As at 2009, the Government's target is for 90% of New Zealand's electricity generation to be from renewable energy resources by 2025. Collectively these Government policy instruments seek to achieve economy-wide improvements in the efficiency of energy use and an increase in the supply of energy from renewable energy resources.



Given these national policy instruments and the presence of significant renewable energy resources with potential for development in the Region, the Regional Council recognises that it needs to provide for the development of renewable energy resources and the use of renewable energy.

The Region has potential for the development of renewable energy facilities, given the areas with high wind speeds, the potential to develop hydroelectricity resources, and some potential for the use of wave energy around the coastline.

The development and use of renewable electricity generation facilities face a number of barriers that include the difficulty in securing access to natural resources as well as functional, operational and technical factors that constrain the location, layout, design and generation potential of renewable energy facilities. The adverse environmental effects of renewable electricity generation facilities can also be a barrier, if they are not appropriately avoided, remedied or mitigated.

Urban growth and rural residential subdivision on versatile soils

Allowing urban expansion, and the development of rural residential “lifestyle blocks”, onto the more versatile soils may result in a reduction of options for their future productive use. This may adversely affect the ability of future generations to meet their reasonably foreseeable needs.

***Waste**, *hazardous substances** and contaminated land**

The Regional Council recognises the need to focus on the full life cycle of *waste** from generation to disposal, and that *waste** is a wasted resource.

The Regional Council and the Region’s Territorial Authorities have similar responsibilities for the control of adverse effects from the storage, transport, use and disposal of *hazardous substances**. These responsibilities need to be clarified to prevent overlaps, gaps and inconsistencies.

The Regional Council also has responsibilities for identifying and monitoring contaminated land and Territorial Authorities are responsible for the “prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land” (ss30(1)(ca) and 31(1)(b)(ia) RMA).

The New Zealand Waste Strategy (Ministry for the Environment, 2002) sets voluntary national targets for *waste** minimisation, organic *wastes**, special *wastes**, construction and demolition *wastes**, hazardous *wastes**, contaminated land, organochlorines, trade *wastes** and *waste** disposal.

3.2 Issues

Issue 3-1: Infrastructure and other physical resources of regional or national importance

There is potential for concerns about local adverse effects to prevail over recognition of the regional and national benefits of establishing infrastructure and other physical resources of regional or national importance. There is also potential for other activities to constrain the *operation**, *maintenance** or *upgrading** of infrastructure and other physical resources of regional or national importance.

Issue 3-2: Energy

Energy conservation and energy efficiency are important but on their own will not be sufficient to meet future energy demands. If consumption of non-renewable energy resources is to be reduced or avoided, there will need to be an increase in the use of renewable energy resources. However, there are functional,



operational and technical factors that constrain the location, layout, design and generation potential of renewable energy facilities.

Issue 3-3: The strategic integration of infrastructure with land use

Urban development that is not strategically planned can result in the piecemeal and inefficient provision of associated infrastructure.

Issue 3-4: Adverse effects from urban growth and rural residential subdivision on versatile soils

Urban growth and rural residential subdivision (“lifestyle blocks”), on versatile soils may result in those soils no longer being available for use as production land. These development pressures often occur on the fringes of some of the Region's urban areas, most notably Palmerston North.

Issue 3-5: Waste*, hazardous substances* and contaminated land

The increasing production of waste* and use of hazardous substances* in the Region has resulted in:

- (i) wasted resources and an increasing need for appropriate disposal
- (ii) potential for the unsafe use, storage, disposal and transportation of hazardous substances*
- (iii) potential for land becoming contaminated to the point it poses a risk to people and the environment.

3.3

Objectives

Objective 3-1: Infrastructure^ and other physical resources of regional or national importance

Have regard to the benefits of infrastructure^ and other physical resources of regional or national importance by recognising and providing for their establishment, operation*, maintenance* and upgrading*.

Whāinga 3-1: Ngā kaupapa o raro me ētahi atu rauemi ōkiko whakahirahira - rohe mai, motu mai rānei

Aro atu ki ngā painga o ngā kaupapa o raro me ētahi atu rauemi ōkiko whakahirahira – rohe mai, motu mai rānei mā te āhukahuka me te whakarato i te whakatū, te whakamahi, te tiaki me te whakapai ake i ērā.

Objective 3-2: Energy

An improvement in the efficiency of the end use of energy and an increase in the use of renewable energy^ resources within the Region.

Whāinga 3-2: Pūngao

He whakapai ake i te kaha o te putanga whakamutunga o te pūngao, he whakarahi ake i te whakamahi i ngā rauemi pūngao whakahou i roto i te Rohe.

Objective 3-3: The strategic integration of infrastructure^ with land^ use

Urban development occurs in a strategically planned manner which allows for the adequate and timely supply of land^ and associated infrastructure^.



Whāinga 3-3: Te kōmitimiti rautaki o ngā kaupapa o raro me te whakamahi whenua

Ka mahia te whakaahu tāone mā tētahi huarahi e whakamaheretia ā-rautaki kia nui ai, kia arotau ai hoki te ranea o te whenua me ngā kaupapa o raro whai pānga.

Objective 3-4: Urban growth and rural residential subdivision on versatile soils

To ensure that territorial authorities consider the benefits of retaining Class I and II¹ versatile soils² for use as *production land*[^] when providing for urban growth and rural residential subdivision.

Whāinga 3-4: Te tupu o ngā tāone me te whakaahu whenua hei nohoanga taiwhenua, I runga oneone whai pūkenga

Kia hua ai ka whakāroarotia ngā painga o te pupuri tonu i ngā oneone whai pūkenga o te Momo I me te Momo II kia whakamahia hei whenua whakaputa hua i ngā wā e whakarato ana mō te tupu tāone me te wawaetanga whenua nohoanga taiwhenua.

Objective 3-5: Waste*, hazardous substances* and contaminated land[^]

The Regional Council and *Territorial Authorities*[^] must work together in a regionally consistent way to:

- (i) minimise the quantity of *waste** generated in the Region and ensure it is disposed of appropriately,
- (ii) manage adverse *effects*[^] from the use, storage, disposal and transportation of *hazardous substances**, and
- (iii) manage adverse *effects*[^] from *contaminated land*[^].

Whāinga 3-5: Te para, ngā matū mōrearea, me ngā whenua tāhawahawa

Ka mahi tahi te Kaunihera ā-Rohe me ngā Mana Takiwā i runga i te tikanga rite huri noa i te rohe ki te:

- (i) *whakaiti i te rahi o te para ka puta mai huri noa i te Rohe, kia hua ai hoki ka tika te whakawātea*
- (ii) *whakahaere i ngā pānga kino nā te whakamahi, te putu, te whakawātea, me te kawē i ngā matū mōrearea, me te*
- (iii) *whakahaere i ngā pānga kino nō te whenua tāhawahawa.*

¹ As identified in the Land Use Capability Classification system.

² For general information purposes these soils largely comprise the following soil series: Egmont, Kiwitea, Westmere, Manawatu, Karapoti, Dannevirke, Ohakune, Kairanga, Opiki and Te Arakura.



3.4

Policies

3.4.1

Infrastructure[^] and other Physical Resources of Regional or National Importance

Policy 3-1: Benefits of infrastructure[^] and other physical resources of regional or national importance

- (a) The Regional Council and *Territorial Authorities[^]* must recognise the following *infrastructure[^]* as being physical resources of regional or national importance:
- (i) facilities for the generation of more than 1 MW of electricity and its supporting *infrastructure[^]* where the electricity generated is supplied to the electricity distribution and transmission networks
 - (ii) the National Grid and electricity distribution and transmission networks defined as the system of transmission lines, sub-transmission and distribution feeders (6.6kV and above) and all associated substations and other works to convey electricity
 - (iii) pipelines and gas facilities used for the transmission and distribution of natural and manufactured gas
 - (iv) the *road[^]* and rail networks as mapped in the Regional Land Transport Strategy
 - (v) the Palmerston North and Wanganui *airports[^]*
 - (vi) the RNZAF *airport[^]* at Ohakea
 - (vii) telecommunications and radiocommunications facilities
 - (viii) public or community sewage treatment plants and associated reticulation and disposal systems
 - (ix) *public water supply^{*}* intakes, treatment plants and distribution systems
 - (x) public or community drainage systems, including stormwater systems
 - (xi) the Port of Wanganui.
- (b) The Regional Council and *Territorial Authorities[^]* must recognise the following facilities and assets as being physical resources of regional or national importance:
- (i) solid *waste^{*}* facilities including *landfills^{*}*, transfer stations and resource recovery facilities that deal with municipal *waste^{*}*
 - (ii) existing flood protection schemes
 - (iii) New Zealand Defence Force facilities.
- (c) The Regional Council and *Territorial Authorities[^]* must, in relation to the establishment, *operation^{*}*, *maintenance^{*}*, or *upgrading^{*}* of *infrastructure[^]* and other physical resources of regional or national importance, listed in (a) and (b), have regard to the benefits derived from those activities.
- (d) The Regional Council and *Territorial Authorities[^]* must achieve as much consistency across *local authority[^]* boundaries as is reasonably possible with respect to policy and plan provisions and decision-making for existing and future *infrastructure[^]*.



Policy 3-2: Adverse effects[^] of other activities on *infrastructure*[^] and other physical resources of regional or national importance

The Regional Council and *Territorial Authorities*[^] must ensure that adverse effects[^] on *infrastructure*[^] and other physical resources of regional or national importance from other activities are avoided as far as reasonably practicable, including by using the following mechanisms:

- (a) ensuring that current *infrastructure*[^], *infrastructure*[^] corridors and other physical resources of regional or national importance, are identified and had regard to in all resource management decision-making, and any development that would adversely affect the *operation*^{*}, *maintenance*^{*} or *upgrading*^{*} of those activities is avoided as far as reasonably practicable,
- (b) ensuring that any new activities that would adversely affect the *operation*^{*}, *maintenance*^{*} or *upgrading*^{*} of *infrastructure*[^] and other physical resources of regional or national importance are not located near existing such resources or such resources allowed by unimplemented *resource consents*[^] or other RMA authorisations,
- (c) ensuring that there is no change to existing activities that increases their incompatibility with existing *infrastructure*[^] and other physical resources of regional or national importance, or such resources allowed by unimplemented *resource consents*[^] or other RMA authorisations,
- (d) notifying the owners or managers of *infrastructure*[^] and other physical resources of regional or national importance of consent applications that may adversely affect the resources that they own or manage,
- (e) ensuring safe separation distances are maintained when establishing *rules*[^] and considering applications for buildings, *structures*[^] and other activities near overhead electric lines and conductors eg., giving effect to the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001), prepared under the Electricity Act 1992, and the Electricity (Hazards from Trees) Regulations 2003 prepared under the Electricity Act 1992,
- (f) ensuring safe separation distances are maintained when establishing *rules*[^] and considering applications for buildings, *structures*[^] and other activities near transmission gas pipelines eg., giving effect to the Operating Code Standard for Pipelines - Gas and Liquid Petroleum (NZS/AS 2885) and the Gas Distribution Networks (NZS 5258:2003), the latter promulgated under the Gas Act 1992,
- (g) ensuring that any planting does not interfere with existing *infrastructure*[^], eg., giving effect to the Electricity (Hazards from Trees) Regulations 2003 promulgated under the Electricity Act 1992 and Section 6.4.4 External Interference Prevention of the Operating Code Standard for Pipelines - Gas and Liquid Petroleum (NZS/AS 2885), and
- (h) ensuring effective integration of transport and *land*[^] use planning and protecting the function of the strategic *road*[^] and rail network as mapped in the Regional Land Transport Strategy.



Policy 3-3: Adverse effects[^] of infrastructure[^] and other physical resources of regional or national importance on the environment

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:

- (a) recognise and provide for the operation*, maintenance* and upgrading* of all such activities once they have been established,
- (b) allow minor adverse effects[^] arising from the establishment of new infrastructure[^] and physical resources of regional or national importance, and
- (c) avoid, remedy or mitigate more than minor adverse effects[^] arising from the establishment of new infrastructure[^] and other physical resources of regional or national importance, taking into account:
 - (i) the need for the infrastructure[^] or other physical resources of regional or national importance,
 - (ii) any functional, operational or technical constraints that require infrastructure[^] or other physical resources of regional or national importance to be located or designed in the manner proposed,
 - (iii) whether there are any reasonably practicable alternative locations or designs, and
 - (iv) whether any more than minor adverse effects[^] that cannot be adequately avoided, remedied or mitigated by services or works can be appropriately offset, including through the use of financial contributions.

Policy 3-4: The strategic integration of infrastructure[^] with land[^] use

Territorial Authorities[^] must proactively develop and implement appropriate land[^] use strategies to manage urban growth, and they should align their infrastructure[^] asset management planning with those strategies, to ensure the efficient and effective provision of associated infrastructure[^].

Policy 3-5: Urban growth and rural residential subdivision on versatile soils

In providing for urban growth (including implementing Policy 3-4), and controlling rural residential subdivision (“lifestyle blocks”), Territorial Authorities[^] must pay particular attention to the benefits of the retention of Class I and II versatile soils for use as production land[^] in their assessment of how best to achieve sustainable management.

3.4.2

Energy

Policy 3-6: Renewable energy[^]

- (a) The Regional Council and Territorial Authorities[^] must have particular regard to:
 - (i) the benefits of the use and development of renewable energy[^] resources including:
 - (A) contributing to reduction in greenhouse gases,
 - (B) reduced dependency on imported energy sources,



- (C) reduced exposure to fossil fuel price volatility, and
 - (D) security of supply for current and future generations,
 - (ii) the Region's potential for the use and development of *renewable energy*^ resources, and
 - (iii) the need for *renewable energy*^ activities to locate where the *renewable energy*^ resource is located, and
 - (iv) the benefits of enabling the increased generation capacity and efficiency of existing renewable electricity generation facilities, and
 - (v) the logistical or technical practicalities associated with developing, upgrading, operating or maintaining an established renewable electricity generation activity.
- (b) The Regional Council and *Territorial Authorities*^ must generally not restrict the use of small domestic-scale *renewable energy*^ production for individual domestic use.

Policy 3-7: Energy efficiency*

- (a) The Regional Council and *Territorial Authorities*^ must have particular regard to the efficient end use of energy in consent decision-making processes for large users of energy.
- (b) *Territorial Authority*^ decisions and controls on subdivision and housing, including layout of the *site*^ and layout of the lots in relation to other houses/subdivisions, must encourage energy-efficient house design and access to solar energy.
- (c) *Territorial Authority*^ decisions and controls on subdivision and *land*^ use must ensure that sustainable transport options such as public transport, walking and cycling can be integrated into *land*^ use development.

3.4.3

Waste*

Policy 3-8: Waste* policy hierarchy

Wastes^, including solid, liquid, gas and sludge *waste*^, must be managed in accordance with the following hierarchy:

- (a) reducing the amount of *waste*^ produced
- (b) reusing *waste*^
- (c) recycling *waste*^
- (d) recovering resources from *waste*^
- (e) appropriately disposing of residual *wastes*^.

Policy 3-9: Consent information requirements - waste* policy hierarchy and hazardous substances*

Where a proposal has the potential to give rise to significant adverse *effects*^ on the receiving *environment*^, an assessment must be required, as part of the consent information requirements for all *discharges*^ to air, *land*^, *water*^ and the *coastal marine area*^, of:

- (a) reduction, reuse, recycle and recovery options for the *discharge*^ in accordance with Policy 3-8, and



- (b) any *hazardous substances** that may be present in the *discharge^*, and alternatives to those *hazardous substances**.

Policy 3-10: *Cleanfills, *composting** and other *waste** reduction activities**

*Waste** reduction activities will be encouraged, in particular by generally allowing *cleanfills** and *composting** activities.

Policy 3-11: *Landfill management**

*Landfills** must generally be designed, constructed, managed, operated, remediated and monitored in line with appropriate guidelines and *national environmental standards^*. Taking into account the applicability of these guidelines and standards in relation to the type and scale of activity proposed, the following guidelines may be considered appropriate:

- (a) Centre for Advanced Engineering, Landfill Guidelines, April 2000
- (b) Ministry for the Environment, Module 1: Hazardous Waste Guidelines - Identification and Record Keeping, June 2002, ME637
- (c) Ministry for the Environment, Module 2: Hazardous Waste Guidelines. Landfill Waste Acceptance Criteria and Landfill Classification, May 2004, ME510
- (d) Ministry for the Environment, A Guide to the Management of Cleanfills, January 2002, ME418
- (e) Ministry for the Environment, A Guide to the Management of Closing and Closed Landfills in New Zealand, May 2001, ME390
- (f) Ministry for the Environment, Guide to Landfill Conditions, May 2001, ME389
- (g) Ministry for the Environment, Good Practice Guide for Assessing and Managing the Environmental Effects of Dust Emissions, September 2001
- (h) Landfill gas collection and destruction or reuse in accordance with the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins and Other Toxics) Regulations 2004.

3.4.4

Hazardous Substances*

Policy 3-12: Responsibilities for the management of *hazardous substances**

In accordance with s62(1)(i) RMA, *local authority^* responsibilities for the management of *hazardous substances** in the Region are as follows:

- (a) The Regional Council must be responsible for developing objectives, policies and methods to control the use of *land^* for the purpose of preventing or mitigating the adverse *effects^* of the disposal of *hazardous substances**
- (b) *Territorial Authorities^* must be responsible for developing objectives, policies and methods to control the use of *land^* for the purpose of preventing or mitigating the adverse *effects^* of the storage, use or transportation of *hazardous substances**.



Policy 3-13: Regulation of hazardous substances*

The Regional Council must not grant *resource consents*[^] for *discharges*[^] that contain or result in the production of environmentally persistent hazardous chemicals or hazardous chemicals that will bioaccumulate to a level that has acute or chronic toxic *effects*[^] on humans or other non-target species.

3.4.5

Contaminated Land[^]

Policy 3-14: Identification of priority contaminated land[^]

The Regional Council and *Territorial Authorities*[^] shall jointly identify priority *contaminated land*[^].

Priority *contaminated land*[^] is *land*[^] that:

- (a) is listed on a register of verified *contaminated land*[^] held by the Regional Council or a *Territorial Authority*[^], or
- (b) would have been the *site*^{*} of an activity identified on the Hazardous Activities and Industries List (Ministry for the Environment, 2004a), including horticulture and sheep dips, and *site*^{*} investigations have verified that the *land*[^] is contaminated, and
- (c) is expected to be subject to a change of *land*[^] use within the next 10 years that is likely to increase the risks to human health or the *environment*[^], including where *land*[^] is identified for future residential zoning or where a specific development is proposed.

Policy 3-15: Management of priority contaminated land[^]

Where *land*[^] use changes are likely to increase the risks to human health or the *environment*[^] from priority *contaminated land*[^] (as identified under Policy 3-14) the Regional Council and *Territorial Authorities*[^] must ensure that:

- (a) the landowner or *land*[^] developer fully investigates the extent and degree of contamination prior to the granting of consent allowing development (assistance with investigations may be provided by the Regional Council in some cases),
- (b) *land*[^] is made suitable for its intended use through an appropriate level of remediation or management (including engineering) controls, and
- (c) *land*[^] remains suitable for its intended use through appropriate monitoring of residual *contaminant*[^] levels and associated risks and through the use of management controls on the activities undertaken on the *land*[^].

3.5

Methods

Many of the policies in this chapter will be implemented by *Territorial Authorities* in district plans and in decisions on resource consents and designations. The policies in this chapter will also be implemented by methods in other chapters in this Plan.

Managing the environmental impacts of *waste*^{*}, *hazardous substances*^{*} and contaminated *sites*^{*} is a mix of regulatory and non-regulatory approaches. Part II of this Plan contains regional rules relating to the *waste*^{*} activities described in this chapter. The key non-regulatory methods the Regional Council will pursue are outlined below.



Method 3-1	Regional Territorial Authority Waste Forum
Description	<p>The aim of this method is to work with the Territorial Authorities to achieve a regionally consistent approach to waste* and to progress Region-wide waste* issues and implement agreed initiatives, including:</p> <ul style="list-style-type: none"> • hazardous waste* disposal facilities • recycling facilities • resource recovery network waste* exchange • public information • waste* education in schools • consistent waste* data collection and reporting • development of Region-wide waste* reduction targets in line with the New Zealand Waste Strategy 2002 • cleanfill* management and monitoring • waste* minimisation and cleaner production in business/trade sectors • economic instruments including incentives for waste* reduction.
Who	Regional Council and Territorial Authorities.
Links to Policy	This method implements Policies 3-8 to 3-12.
Targets	<ul style="list-style-type: none"> • Continue Regional Territorial Authority Waste Forum • Implement initiatives • Report to central Government on New Zealand Waste Strategy targets on a two-yearly basis.

Method 3-2	Public Information - Waste*
Description	<p>Easily accessible information will be developed and provided to increase public awareness on waste* issues generic to the Region, including:</p> <ul style="list-style-type: none"> • cleanfill* management and guidelines • waste* minimisation • availability of waste* disposal and recovery facilities (including for campervans) • fly tipping • hazardous substances* • burning of waste* • offal pits and farm dumps • septic tank discharges • composting*.
Who	Regional Council and Territorial Authorities.
Links to Policy	This method implements Policies 3-8 to 3-13.
Target	Information provided via website and available in paper form by 2008.



Method 3-3	Contaminated Land - Information System
Description	The Regional Council will seek to work with Territorial Authorities to develop and implement a regionally consistent recording and category system and a procedure for the consistent handling of information for registered contaminated land. Appropriate information will be supplied on land information memoranda (LIM). A regional register of contaminated land will be maintained and updated.
Who	Regional Council, Territorial Authorities and Ministry for the Environment.
Links to Policy	This method implements Policies 3-14 and 3-15.
Targets	<ul style="list-style-type: none"> Regionally consistent recording and category system implemented by all Territorial Authorities by 2010. Regional selected land use register linking to appropriate information held by Territorial Authorities by 2010.

Method 3-4	Contaminated Land - Identification of Priority Sites*
Description	The Regional Council, together with Territorial Authorities, will identify areas of land where pressure for residential development exists and those areas where there is potential for contaminated land issues according to land use activities listed on the Hazardous Activities and Industries List (Ministry for the Environment, 2004a), in particular horticultural sites* and sheep dip sites*.
Who	Regional Council, Territorial Authorities and Ministry for the Environment.
Links to Policy	This method implements Policy 3-14.
Target	Pressure areas identified by 2008.

3.6 Anticipated Environmental Results

Anticipated Environmental Result	Link to Policy	Indicator	Data Source
Increased efficiency of the end use of energy and increased generation of energy from renewable resources in the Region.	Policies 3-6 and 3-7	<ul style="list-style-type: none"> Efficient end use of energy in the Region Amount of energy generated from renewable energy resources in the Region 	<ul style="list-style-type: none"> Energy Efficiency and Conservation Authority (EECA) and Territorial Authority monitoring of building and resource consent applications to improve energy efficiency Monitoring of the quantity of installed generation capacity in the Region
Urban growth occurs in a strategically planned manner.	Policy 3-4	<ul style="list-style-type: none"> Urban growth 	<ul style="list-style-type: none"> District plan variations and changes
Class I and II versatile soils are retained, where appropriate for productive use.	Policy 3-5	<ul style="list-style-type: none"> Urban growth and rural residential subdivision 	<ul style="list-style-type: none"> District plan variations and changes
By 2017, the amount of residual waste* per capita generated in the Region will be less than prior to this Plan becoming operative.	Policies: 3-8, 3-9 and 3-10	<ul style="list-style-type: none"> Volume or weight of residual waste* per capita 	<ul style="list-style-type: none"> Territorial Authority monitoring of solid waste* strategies



Anticipated Environmental Result	Link to Policy	Indicator	Data Source
No "clean" sites* prior to this Plan becoming operative will become contaminated by 2017.	Policies: 3-9, 3-10, 3-11, 3-12, 3-13 and 3-14	<ul style="list-style-type: none"> Number of clean sites becoming contaminated 	<ul style="list-style-type: none"> Regional register of contaminated land Regional Council's incidents database
Priority contaminated sites* are remediated appropriately prior to change in land use.	Policies: 3-14 and 3-15	<ul style="list-style-type: none"> Number of remediated sites 	<ul style="list-style-type: none"> Regional register of contaminated land

3.7 Explanations and Principal Reasons

3.7.1 Infrastructure and energy

Objectives 3-1 to 3-4 and Policies 3-1 to 3-7 have been adopted to recognise the benefits of infrastructure and having it well integrated with other land uses, and to recognise and provide for renewable energy and energy efficiency measures. The policies on infrastructure aim to give guidance to decision-makers about how to weigh up the local adverse effects of infrastructure against the positive regional and national benefits. They also aim to provide guidance on how to avoid adverse effects on important infrastructure through the inappropriate use of land near or adjoining important infrastructure, and the importance of integrating urban growth with infrastructure provision and the retention of versatile soils for use as production land. The policies regarding energy efficiency and renewable energy seek to recognise the benefits to be derived from the use and development of renewable energy, and the efficient use of energy and resources (both of which are matters to be had in particular regard in Part II of the RMA).

In relation to the application of Policy 3-6(v) 'upgrading' has the ordinary meaning of the word, as used in the National Policy Statement on Renewable Electricity Generation 2011.

Parts of Policies 3-1, 3-2, 3-4 and 3-7 are included to give effect to parts of the Regional Land Transport Strategy, which seeks to protect the strategic transport network and create opportunity for the uptake of public transport options in the future.

3.7.2 Urban growth and rural residential subdivision on versatile soils

The RMA requires those with functions under it to have regard to resource costs and benefits of development. For example, directing urban growth and rural residential subdivision onto less versatile soils may increase travel distances, costs of service provision or other economic or environmental costs of land development. However, allowing urban expansion onto versatile soils adjacent to urban areas will result in a reduction of options for their future productive use, which is a cost to future generations. There are a range of factors required to enable land to be used for productive use. Territorial Authorities need to weigh all relevant matters when making land use decisions.

3.7.3 Waste*

Objective 3-5, Policies 3-8, 3-9, 3-10 and 3-11 and associated methods set up an overarching policy framework for reducing waste* generation and managing the environmental effects of waste* discharges to air, land and water.

The Stocktake on Waste Report (Horizons Regional Council, 2004) was a first regional attempt to assess the amount and type of waste* generated in the



Region, and the current level of existing *waste** reduction and reuse opportunities. The report indicated that approximately 22 years of *landfill** space remained in the Region, based on current disposal rates. Looking ahead, possible scenarios include:

- (a) the establishment of more *landfills** for both domestic and industrial *waste**, with associated environmental effects
- (b) increased costs associated with limited disposal space or transport and disposal outside the Region
- (c) reducing the amount of *waste** generated to enable remaining *landfill** space to last longer.

Policy 3-8 establishes a hierarchy of reducing, reusing, recycling, recovering and finally disposing of *waste**. Policies 3-8, 3-9 and 3-10 together encourage reduction, reuse and recycling activities by being less restrictive and discouraging *waste** disposal as a first option. This framework is encouraged at the national level by the New Zealand Waste Strategy (Ministry for the Environment, 2002). Policy 3-11 also sets high standards for *landfills**, reflecting the significant adverse effects that *waste** disposal can have on the environment.

Territorial Authorities are required to develop *waste** management strategies under the Local Government Act 2002 and, along with private operators, to provide and manage *waste** disposal services. It is appropriate that the Regional Council works with the Territorial Authorities on the Region's generic *waste** issues, to provide a consistent approach to *waste** management and *waste** minimisation where possible.

Public information on the appropriate disposal of *wastes** and opportunities for reduction, reuse and recycling are key to reducing *waste** to *landfill** into the future.

3.7.4

Hazardous Substances*

Objective 3-5, Policies 3-12 and 3-13 and the associated methods set up the policy framework for managing the effects of the storage, use, transport and disposal of *hazardous substances** in the Region as required under s62(1)(i) of the RMA.

The Hazardous Substances and New Organisms Act 1996 provides a definition of *hazardous substances**. These substances pose a significant threat to the environment if not stored, used, transported and disposed of safely and appropriately. The Regional Council considers that it is in an appropriate position to control the effects of the discharge of *hazardous substances** to the environment by means of the resource consenting process. This enables an assessment of the environmental effects of *hazardous substance** discharges to air, land and water on a case-by-case basis. Regional rules are an effective means of controlling the effects of these substances. Territorial Authorities are considered to be in an appropriate position to manage the storage, use and transport of *hazardous substances** through their district planning provisions.

The Stockholm Convention, to which New Zealand is a signatory, aims to rid the world of persistent organic pollutants. Many of these are *hazardous substances** previously used in old *agrichemicals**. Despite the Regional Council providing a comprehensive old *agrichemical** collection in 1996, there is likely to be a risk posed by old *agrichemicals** still stored on farms. The Regional Council and the Ministry for the Environment are committed to providing a further collection of old *agrichemicals**.



3.7.5

Contaminated Land

Objective 3-5, Policies 3-14 and 3-15, and the associated methods set up the policy framework for managing contaminated land in the Region, including an approach to determining priority contaminated land and a process to establish a consistent information system across the Region.

The consistent management and appropriate remediation of contaminated land is of national concern because of the significant threat these *sites** pose to the environment.

Contaminated land is any *site** where past (or present) activities have left a *hazardous substance** that has, or is reasonably likely to have, significant adverse effects. In order to adequately protect people and the environment, contaminated land needs to be located and remediated as necessary. A number of *sites** have been located in the Region already - mainly timber treatment yards, gasworks *sites**, and *landfills** - and because of this can be managed appropriately as land use changes. However, the increase in residential subdivision in rural areas in recent years means that other contaminated land such as horticulture and sheep dip *sites**, yet to be identified on the ground, pose a threat to people moving into those areas. These are considered priority *sites**, along with *sites** already identified. The Regional Council will work with Territorial Authorities to determine where pressure for residential development is expected in the next 10 years and to identify the risks associated with contaminated land.

