
Decision Report of Independent Commissioner

Proposed Eastern Hills Reservoir

Notice of requirement for designation by Hutt City Council for the construction, operation and maintenance of the Eastern Hills Reservoir including various associated activities

20 February 2025

CONTENTS

1.0	Introduction.....	2
2.0	Hearing sequence	9
3.0	Statutory considerations.....	16
4.0	Evaluation of environmental effects.....	25
	Overview & index of effect topics	25
	Conditions.....	26
	Positive effects	36
	Effects on cultural values.....	37
	Landscape, visual amenity and natural character	38
	Ecological effects	40
	Construction noise and vibration.....	45
	Traffic and transportation	48
	Recreational amenity, access to & along rivers	53
	Earthworks and geotechnical stability	53
	Other matters.....	57
	Summary conclusion on effects	58
5.0	Consideration of alternatives	59
6.0	Consideration of reasonable necessity	63
7.0	Other matters.....	64
8.0	Overall Evaluation	65
9.0	Decision	67

SCHEDULE OF APPENDICES

- **APPENDIX 1:** Designation conditions

INTERPRETATION

This report uses the following abbreviations and acronyms.

TERM	MEANS
AEE	The assessment of environmental effects appended to the Notice of Requirement
BMP	Bird Management Plan
the Authority	Hutt City Council in its role as Requiring Authority
CEMP	Construction Environmental Management Plan
CIA	Cultural Impact Assessment
CNVMP	Construction Noise and Vibration Management Plan
Council	Hutt City Council (in its regulatory capacity)
CTMP	Construction Traffic Management Plan
ESCP	Erosion and Sediment Control Plan
GWRC	Greater Wellington Regional Council
LCP	Landscape Concept Plan
LMP	Lizard Management Plan
Ministry	The Ministry of Education
NoR	Notice of Requirement
NPS-FM	National Policy Statement on Freshwater Management 2020
NPS-IB	National Policy Statement on Indigenous Biodiversity 2023
NPS-UD	National Policy Statement on Urban Development 2020
Plan	Hutt City District Plan
Proposal	The NoR for the Eastern Hills Reservoir
RMA	Resource Management Act 1991
RPS	Regional Policy Statement for the Wellington Region 2013
Site	The properties to which the proposal relates as described in the NoR
SNR	Significant Natural Resource Area (per Hutt City District Plan)
VMP	Vegetation Management Plan

Hutt City Council

Decision of Independent Commissioner

Eastern Hills Reservoir Notice of Requirement

Proposal Description:

Notice of requirement for designation by Hutt City Council for the construction, operation and maintenance of the Eastern Hills Reservoir including various associated activities

Requiring Authority:

Hutt City Council

Site Details:

Eastern Hills reserve at the end of Summit Road, Fairfield, Lower Hutt; legally described as Lot 14 DP 59678 and Lot 35 DP 31233 and as shown on the plans attached as Appendix A to the AEE

Zoning:

Medium Density Residential; Passive Recreation

Overlays & map notations:

Significant Natural Resource Area (SNR 12): Eastern Hills Bush

Date of Hearing:

Thursday 28 November 2024 (closed 19 December 2024)

Independent Commissioner:

Jason Jones

Summary of Decision:

Having considered all relevant matters under the RMA, and based on the evidence and submissions presented, I find that:

- the Proposal will result in positive effects, and any actual and potential adverse environmental effects will be sufficiently managed by conditions such that the effects are acceptable;
- adequate consideration has been given by the Authority to alternative sites, routes, or methods of undertaking the work;
- the work and designation are reasonably necessary to achieve the Authority's stated objectives; and
- the effects of the Proposal are aligned with the sustainable management purpose of the RMA.

Accordingly, the requirement is **confirmed** subject to the conditions set out in **Appendix 1**.

1.0 Introduction

Report purpose, requirements & outline

- 1.1 The purpose of this report is to outline my decision on the NoR from the Authority to designate land at Fairfield for the purposes of a new 15ML reservoir, including associated construction, operation and maintenance activities.
- 1.2 As the relevant Authority in this case is a Territorial Authority, Section 168A of the RMA provides the framework for my consideration of the Proposal. Among other matters, it requires that I consider the environmental effects of allowing the requirement, having particular regard to:
- a. any relevant provisions of the applicable national, regional and local policy statements and plans¹;
 - b. whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work *if* I find that it is likely that the work will have a significant effect on the environment or if the Authority does not have sufficient interest in the land for undertaking the work²;
 - c. whether the work and designation are reasonably necessary for achieving the Authority's objectives expressed in the NoR³; and
 - d. any other matter reasonably necessary to make a decision on the NoR⁴.
- 1.3 In considering the effects of the Proposal, the RMA makes it clear that those effects may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the requirement, as long as those effects result from measures proposed or agreed to by the requiring authority⁵.
- 1.4 My consideration in the above respects is "subject to Part 2" of the RMA.
- 1.5 Having carried out my evaluation of the above matters, I may decide that the requirement be confirmed, modified or withdrawn. If confirmed or modified, the requirement may also be subject to conditions⁶.
- 1.6 The remainder of this report is organised as follows:

Section 1: Introduction

Section 1 provides a factual basis for the report, including a description of the Site and existing environment, the Proposal, submissions received and my role.

¹ s168A(3)(a)

² s168A(3)(b)

³ s168A(3)(c)

⁴ s168A(3)(d)

⁵ s168A(3A)

⁶ s168A(4)

Section 2: Account of pre-hearing & hearing sequence

Section 2 provides a factual summary of the process leading to this decision report, including notification, submissions and subsequent exchanges between the parties.

Section 3: Outline of statutory considerations

This part of the report is the first limb of my evaluation and identifies the relevant provisions of the applicable national, regional and local policies and plans that I must have particular regard to.

Section 4: Evaluation of environmental effects

Section 4 includes my consideration and evaluation of the adverse and positive effects of the requirement on the environment, informed by the relevant provisions of Part 2, and the relevant statutory and non-statutory matters outlined in Section 3.

Section 5: Consideration of alternatives

This section of the decision considers the matters in s168A(3)(b) as to whether adequate consideration has been given to alternative sites, routes or methods.

Section 6: Consideration of reasonable necessity

This section considers and evaluates the matters in s168A(3)(c) as to whether the works are reasonably necessary to meet the Authority's objectives.

Section 7: Other Matters

This section addresses other matters reasonably necessary to determine the NoR.

Section 8: Overall evaluation

This final substantive section of the decision contains my overall evaluation of the Proposal, subject to the RMA's purpose and principles in Part 2.

Section 8: Decision

Finally, I briefly record my decision and summarise my reasons, having regard to the evaluative sections of the report.

Site and existing environment

- 1.7 The Site and surrounding environment are comprehensively described in Section 5 of the NoR application document lodged by the Authority.
- 1.8 I adopt that description and distil the salient aspects into the following summary to provide context for evaluative sections that follow:
 - a. the land to be designated comprises two parcels owned by the Authority and legally described as Lot 14 DP 59678 and Lot 35 DP 31233 (respectively);

- b. access to the Site where the reservoir is to be constructed is via a track that links to the top of Summit Road;
- c. the Site also links to Balgownie Grove, a small residential cul-de-sac to the north and east of the proposed reservoir and on the northern side of Waiwhetū Stream;
- d. the land is steeply sloping up a ridgeline from Summit Road to the south and east, and the slope falls away sharply towards Waiwhetū Stream on one side and towards existing residential areas off Tilbury Street, Parnell Street, and Woodvale Grove on the other;
- e. adjacent to the proposed reservoir, and within the proposed designation extent, is an existing 11.3ML reservoir constructed in 1946 – known as the Naenae reservoir, the structure is not currently designated;
- f. the existing reservoir is serviced by the Waterloo Treatment Plant, with a bulk watermain running up Summit Road;
- g. overflow and stormwater from the existing reservoir currently discharge to a nearby gully at the top of Summit Road and eventually to Waiwhetū Stream via overland flow;
- h. the Site comprises ‘Medium Density Residential’ and ‘Passive Recreation’ zonings under the Plan;
- i. the Site is also subject to a ‘Significant Natural Resource’ overlay with the classification ‘SNR 12: Eastern Hills Bush’ – described in the Plan as lowland forest on hill country, containing fire-induced regionally representative regenerating mosaic, including pre-European Podocarps and Hard Beech and a variety of plant and bird species;
- j. the character of the surrounding environment is suburban to the west and north, with the eastern and southern environs comprising the Eastern Hills Reserve, part of a network of public open space serviced by various tracks that support active and passive recreational needs for the community;
- k. relevantly, the local track network includes an existing connection to Summit Road which doubles as a firebreak;
- l. the Site is predominantly underlain by Wellington Greywacke sandstone and siltstone – geotechnical investigations show the substrate has relatively deep weather profile with the upper 12-16m comprising very weak to extremely weak rock;
- m. the Site has been assessed as having moderate overall value for avifauna, high value for herpetofauna, and moderate value for invertebrate species;
- n. four natural inland wetlands have been identified within the Waiwhetū Stream floodplain at the northern extent of the Site; and

- o. the Waiwhetū Stream itself is a highly-modified, permanent, low-gradient, third-order headwater stream that runs through the northern extent of the Site – existing riparian planting in the area provides little to no shading and includes a range of vegetation and grass.

The proposed designation

Project objectives

- 1.9 The Authority's objectives for this proposed designation are set out in Section 2.3 of the NoR as follows:

1. *To address the current storage shortfall and ensure sufficient storage for future growth in the Lower Hutt Central and Taita Water Storage Areas (WSA) by:*
 - *To improve [sic] disaster resilience of the Lower Hutt Central and Taita WSAs by providing a seismically resilient water supply capable of meeting Wellington Water's target level of service; and*
 - *To ensure [sic] the Lower Hutt Central and Taita WSAs are operationally resilient by providing sufficient secure, safe and reliable water storage to supply 48 hours of water to residents, businesses and critical water users (including Fire and Emergency NZ) under normal operating conditions, based on projected demand with appropriate consideration of population growth.*
2. *To deliver a secure, safe and reliable water storage solution that has a 100-year design life.*
3. *To integrate the chose solution into the Lower Hutt Central WSA network in a cost-effective manner.*

Proposed form of the designation

- 1.10 A description of the Proposal is comprehensively set out at section 3 of the NoR. I adopt that description and again provide a high-level precis of the Proposal for context purposes here.
- 1.11 The proposed reservoir itself is to be 15,000m³ (15ML) in volume, with a 55m diameter and 7.5m wall height. It is to be circular in shape and constructed of precast post-tensioned reinforced concrete.
- 1.12 The reservoir is to be constructed on top of a flat platform, which will be cut into the existing slope along the firebreak track via earthworks of some 80,000m³. It will be separated from the existing Naenae reservoir by approximately 20m.
- 1.13 The NoR notes that the reservoir will be designed and constructed with a 100-year lifespan to an importance level of 4 (out of 5) as defined in the New Zealand Seismic Loadings Standard NZS1170.5.
- 1.14 A small structure is to be constructed adjacent to the new reservoir which will act as a valve house.

- 1.15 New pipework is required to connect the reservoir to the water supply network, and for overflow and scour purposes. Earthworks necessary to install the various pipes will be in the order of 7,000 m³.
- 1.16 The new inlet pipe is to connect to the existing supply main in Summit Road. The delivery pipe from the reservoir is proposed down the northern slope and across the Waiwhetū Stream, where it connects to the existing reticulated network via Balgownie Grove.
- 1.17 Stream works will be required to embed the delivery pipeline in Waiwhetū Stream, which will be subject to parallel authorisation from GWRC. A temporary bridge will also be placed across the stream for a period of 4-5 months to enable ready access between the Site and Balgownie Grove when works are scheduled there.
- 1.18 The pipework for overflow and scour purposes associated with the operation and maintenance of the reservoir follow the same path as the delivery pipeline, but ultimately outflow via a bubble-up chamber, swale and rip-rap lined channel before discharging to Waiwhetū Stream. Gabion Baskets will be installed in the stream bank at the discharge point to protect the banks from erosion.
- 1.19 It is estimated that more than 1.6ha of vegetation will need to be cleared to make ready the Site for earthworks and construction activities. Around 70% of that area is anticipated to be subject to remediation planting as discussed further in section 4 of this report. While this amounts to an overall reduction in vegetative cover, the proportion of cover in indigenous species relative to the status quo is expected to be increased.
- 1.20 Construction of the project is anticipated to take 2-3 years overall. Working hours will be 7am – 6pm Monday to Saturday; however, the NoR anticipates that overnight works will be required on approximately four days over the construction programme to allow for continuous pouring of the reservoir slab and roof and associated works.

Volunteered conditions

- 1.21 The Authority volunteered conditions with the NoR spanning a range of matters. Primarily, the volunteered conditions address actual and potential effects of construction activities – though a small proportion also relate to general and operational matters.
- 1.22 While the NoR description includes ongoing ‘maintenance’ of the proposed reservoir, none of the original conditions related to maintenance activities.
- 1.23 The conditions were subsequently amended by the Authority at various junctures in response to matters raised by submitters, the Council’s experts and me. I discuss the evolution of the conditions and their efficacy in further detail shortly.

Submissions

- 1.24 The NoR was publicly notified on 28 March 2024.
- 1.25 Six submissions were received before the closing date of 3 May 2024. Two of those submissions were neutral about the Proposal overall, with the balance of submissions being opposed to it. A brief summary of each submission follows.
- 1.26 **Mr Jeremy Foster's** submission did not express an overall view as to the outcome of the Proposal but commented on the potential name of the reservoir. Mr Foster also questioned whether the Proposal would affect: an existing trig in the vicinity; a potential future roading connection between Naenae and Wainuiomata; and/or the wider track network in the Eastern Hills.
- 1.27 **Ms Christine Burt** expressed concerns about native vegetation clearance and the recreational and public safety effects that may arise from the proposed temporary access restrictions to the firebreak track. She sought for the Site and track to be reinstated and any damage made good following construction activities.
- 1.28 In his submission, **Mr Colin Holt** expressed concerns about the volume of water to be stored in the proposed reservoir upgradient from his property in Balgownie Grove and the associated safety impacts in the event of slope instability. He noted existing regular flooding issues in Waiwhetū Stream adjacent to his home, and expressed concern that installing pipework across the stream would weaken the stream banks and reduce carrying capacity.
- 1.29 **Mr Richard Parry's** submission raised four main issues of concern:
- a. firstly, Mr Parry did not support the installation of new water supply infrastructure given existing network conditions – in his view, much-needed repairs to the existing network should be prioritised over new infrastructure;
 - b. Mr Parry questioned the ability of the Proposal to meet its stated aim of increased resilience, given the proposed reservoir's immediate proximity to the existing Naenae Reservoir;
 - c. he also noted that the construction phase of the project would introduce high levels of noise for 2-3 years; and
 - d. like Mr Holt, Mr Parry noted the existing flooding issues with Waiwhetū Stream and the potential increase in downstream effects where floodwaters combine with discharges from the reservoir overflow/scour pipeline.
- 1.30 **Mr Forde Clarke and Ms Pamela Clarke's** submission firstly expressed concern that the project would reduce the value of their property in Balgownie Grove. They cited potential threats from slips, earthquakes and flooding in this regard. Mr and Ms Clarke also noted the visual impact of the Proposal and the disruption to the local road network from construction traffic. Should the Proposal be confirmed, Mr and Ms Clarke requested the re-routing of the outlet pipes from the reservoir to the reserve adjoining 20 Waddington Drive.

- 1.31 In its submission, **the Ministry of Education** expressed concern about the large influx of heavy vehicle traffic along Daysh Street, along which Belmont School and the combined site containing Naenae Intermediate, Naenae College and Kimi Ora School are located. The Ministry was particularly concerned that the vehicles would increase safety risks for students walking to school and/or getting in and out of vehicles at drop off and pick up times. The submission also identified the potential for cumulative safety effects to arise from the construction vehicle movements in combination with heavy vehicles involved in the construction phase of the “River Link” project. The Ministry requested an additional condition be imposed to avoid heavy vehicle movements during pick up and drop off times for the various schools identified.
- 1.32 I return to all the above issues raised by the submitters subsequently.

Role of the Commissioner

- 1.33 I was appointed⁷ by the Council to hear, consider and determine the requirement on the Council’s behalf pursuant under s168A the RMA.
- 1.34 I record that it was not my role to introduce evidence about the requirement, but to hear the submissions and evidence of others and to make a determination on the basis of that information.

Note on participation

- 1.35 As a final introductory matter, I wish to record my gratitude to all parties for the constructive and positive manner in which they participated in the hearing proceedings.
- 1.36 I note my particular thanks to Ms Saritha Shetty and Ms Heather Clegg for their administrative support before, during and after the hearing.

⁷ Under delegation dated 21 November 2024

2.0 Hearing sequence

Pre-hearing procedural matters

- 2.1 Upon my appointment, I issued an initial minute to the parties to set out some preliminary matters in preparation for the hearing. Specifically, the minute:
- a. provided detail about the hearing;
 - b. described the sequence for expert evidence exchange and pre-circulation of legal submissions;
 - c. set out my expectations for hearing presentations; and
 - d. clarified that I did not intend to direct expert conferencing or pre-hearing meetings, but that the parties were welcome to initiate such efforts if they deemed appropriate; and
 - e. invited parties to suggest any specific sites or localities that I should visit to inform my understanding of the Proposal and the local environment.

s42A report

- 2.2 The Council's planner, **Mr Dan Kellow**, circulated his s42A Report on 7 November 2024. Mr Kellow is an independent planning consultant with 25 years' professional experience. The contents of Mr Kellow's report included:
- a. factual context about the Proposal, the Site and local environment, relevant zoning and other statutory planning information;
 - b. a summary of the notification and submission processes for the Proposal;
 - c. an assessment of environmental effects focussed on matters relevant to the Proposal;
 - d. an assessment of relevant objectives and policies in applicable national, regional and district planning instruments, and of the Proposal's alignment with Part 2 of the RMA;
 - e. consideration of alternatives and the necessity of the works; and
 - f. conclusions and recommendations.
- 2.3 Attached to Mr Kellow's report were the following:
- a. recommended conditions, should the Proposal be confirmed;
 - b. expert transportation evidence from Ms Harriet Fraser;
 - c. expert ecological evidence from Ms Tessa Roberts;
 - d. expert noise and vibration evidence from Mr Stephen Arden;

- e. expert landscape and visual effects evidence from Ms Linda Kerkmeester; and
 - f. expert geotechnical evidence from Mr Adam Smith.
- 2.4 **Ms Fraser** is an independent transportation planning and traffic engineering specialist with 30 years' professional experience. Her evidence included a summary of her involvement with the Proposal, responses to submissions received and recommendations to proposed conditions.
- 2.5 I discuss Ms Fraser's evidence further at junctures below but note her overall conclusion that there are no obvious transportation issues that would preclude the traffic effects associated with the requested NoR from being appropriately managed and mitigated. Her conclusion in this respect was contingent on her recommended amendments to conditions being implemented.⁸
- 2.6 **Ms Roberts** is a senior ecologist with Wildland Consultants Ltd. She has 16 years' professional experience in ecology, restoration and conservation practice, including advisory roles for local and central government. Her evidence summarised her involvement in the Proposal, which included a review of the corresponding ecological assessment attached to the NoR. Ms Roberts' evidence also included comments and recommendations on the proposed conditions, and in relation to the submissions received.
- 2.7 Ms Roberts concluded that the Proposal will result in a net loss of 0.71ha of indigenous vegetation and that threatened fauna habitat was not sufficiently accounted for by the Authority. She added that there is an opportunity for this net loss to be compensated through enhancement of surrounding habitat via removal of pest plant species and enrichment planting of appropriate indigenous species. Subject to those measures being implemented at an appropriate scale, Ms Roberts considered the loss of vegetation and habitat arising from the Proposal would be suitably managed through the NPS-IB effects hierarchy⁹.
- 2.8 **Mr Arden** has worked as an acoustic consultant for over 17 years. His evidence included a summary of his involvement and review of the Proposal, consideration of the submissions received and confirmation of his support for the conditions proposed by the Authority. Mr Arden concluded that there are no obvious noise or vibration matters which would preclude the Proposal from being confirmed¹⁰.
- 2.9 **Ms Kerkmeester** is an independent landscape architect with over 30 years' professional experience. Her evidence included a summary of her review of the landscape and visual effects assessment included with the NoR, comments on the relevant conditions and consideration of matters raised in submissions. Ms Kerkmeester recommended a further amendment to the proposed conditions, but

⁸ Evidence of H Fraser (28 November 2024), para 30

⁹ Evidence of T Roberts (21 October 2024), para 40

¹⁰ Evidence of S Arden (1 November 2024), para 25

otherwise concluded that they were sufficient to address the matters raised in her review¹¹.

- 2.10 **Mr Smith** is a consultant engineering geologist with 16 years' professional experience. In his evidence, Mr Smith commented on relevant submissions received and on the proposed conditions. He recommended additions to the conditions to provide for further analysis and peer review to be conducted at outline plan stage, and concluded that the Site can be developed provided that good engineering industry standard practices are followed¹².
- 2.11 Having drawn on the information in the NoR bundle along the views expressed in the reports of the Council's other experts, Mr Kellow concluded that the Proposal:
- a. is consistent with the purpose and principles of the RMA;
 - b. will result in temporary adverse environmental effects that can be appropriately managed through conditions;
 - c. will have some longer-term effects that will diminish over time but are generally limited in scale, localised and acceptable when the overall benefits of the Proposal are factored in; and
 - d. is consistent with the objectives and policies of the relevant planning documents.¹³
- 2.12 It was Mr Kellow's recommendation that the requirement be confirmed provided that the conditions recommended in his report are imposed.¹⁴

Requiring Authority's evidence

- 2.13 The week after the s42A Report was provided, the Authority circulated its expert evidence.
- 2.14 This included statements from:
- a. Mr Laurence Edwards, on behalf of Wellington Water Limited;
 - b. Mr Paul Carran, regarding overall project design and Site selection;
 - c. Mr Mark Hansen, regarding ecological effects;
 - d. Ms Hillary Fowler, regarding transportation effects;
 - e. Dr Wendy Hoddinott, regarding landscape and visual effects;
 - f. Mr Leonard Terry, regarding noise and vibration effects;
 - g. Mr Campbell Keepa, regarding geotechnical matters; and

¹¹ Evidence of L Kerkmeester (31 October 2024), para 33

¹² Evidence of A Smith (7 November 2024), para 12-13

¹³ s42A Report, para 181-182

¹⁴ Ibid, para 184

h. Ms Catherine Crooks, regarding planning matters.

- 2.15 **Mr Edwards** is the Chief Advisor for Drinking Water at Wellington Water Limited. He has 23 years' professional experience in the water industry including various reservoir, pumping station and pipeline projects. His evidence included an overview of Wellington Water's strategic drivers for the project and the overall project objectives.
- 2.16 **Mr Carran** is a principal water engineering consultant with 24 year's professional experience. His evidence described the process adopted by the Authority to select the application Site from an initial list of 28 potential locations and described the overall design approach for the reservoir and associated works. Mr Carran also addressed matters raised by submitters and the Council's expert team of relevance to his topic area.
- 2.17 **Mr Hansen** is a consultant ecologist with 20 years' professional experience in ecological assessments, surveys and environmental auditing. In his evidence, Mr Hansen described the assessment methodology he applied before providing a summary of his assessment of ecological impacts. His evidence included recommended mitigation measures and conditions, and also commented on submissions and the Council's evidence as relates to ecological matters.
- 2.18 Mr Hansen concluded that effects of the Proposal on flora and fauna would be addressed through proposed management plans such that the effects are no more than minor. In his view no biodiversity offsetting or compensation would be required as a result.¹⁵
- 2.19 **Ms Fowler** has 15 years' experience as a transportation engineer. Her evidence adopted a similar format to Mr Hansen's. Ms Fowler's overall conclusion was that there will be temporary adverse effects due to construction traffic which will be an inconvenience for people living in the area, however, those effects will be no more than minor with the implementation of a construction traffic management plan.¹⁶
- 2.20 **Dr Hoddinott** is a landscape architect with 18 years' professional experience. Her evidence also adopted a similar format to Mr Hansen and Ms Fowler's. Dr Hoddinott concluded that there will be temporary adverse landscape, natural character and visual effects from the Proposal but that those effects will not be significant in the long term given the proposed form and location of the reservoir and provided that effective screen planting is established.¹⁷
- 2.21 **Mr Terry** is a senior acoustic engineer with 8 years of professional experience on environmental and building acoustics projects. His overall conclusions were that (in summary):

¹⁵ Evidence of M Hansen (14 November 2024), para 13.1

¹⁶ Evidence of H Fowler (14 November 2024), para 13.1

¹⁷ Evidence of W Hoddinott (14 November 2024), para 14.1-14.2

- a. once operational, the proposed reservoir is expected to produce negligible levels of noise;
- b. adverse noise effects are predicted for certain receptors of noise from piling activities and night-time works even with mitigation measures implemented;
- c. night-time noise effects are anticipated on two of four nights where night works are planned, with dwellings along Tilbury Street and Summit Road being the most affected – noise levels are predicted to be readily perceptible and may cause sleep disturbance;
- d. no dwellings fall within nominated ‘stand-off’ distances in terms of vibration effects – however, amenity effects from vibration may be arising and affected parties will need to be notified in advance;
- e. adverse effects can be reasonably mitigated with the implementation of a management plan and other mitigation, including a 3m-high noise barrier, communications and complaints procedures and staff education/training.¹⁸

2.22 **Mr Keepa** is a geotechnical engineering consultant with 25 years of experience. His evidence summarised the ground investigations carried out by the Authority to date and an assessment of resilience, stability and risk. Based on the information available to him at time, Mr Keepa concluded that the Site can be engineered to reduce any slope instability hazard and the reservoir can be designed to achieve importance level 4 as anticipated in the NoR.¹⁹

2.23 **Ms Crooks** is a principal planning consultant with 24 years’ professional experience. Her evidence included summary assessments of relevant statutory provisions and the environmental effects assessment as detailed in the NoR. Ms Crooks also addressed the assessment of alternatives completed by the Authority and whether the NoR is reasonably necessary to achieve the project objectives. She also responded to matters raised in submissions and in Council’s evidence and discussed proposed mitigation measures and conditions.

2.24 Drawing on the Authority’s other experts, Ms Crooks concluded that the Proposal will have a range of positive effects and any adverse effects of the Proposal are able to be appropriately avoided, remedied or mitigated. In her view, the Proposal is consistent with the sustainable management purpose of the RMA and with the relevant objectives and policies in the applicable national, regional and district planning instruments.²⁰

¹⁸ Evidence of L Terry (14 November 2024), para 12.1–12.5

¹⁹ Evidence of C Keepa (14 November 2024), para 11.1

²⁰ Evidence of C Crooks (14 November 2024), para 18.1-18.4

Submitter expert evidence

- 2.25 No submitters called any expert evidence. Several submitters did take the opportunity to present at the hearing, and I expand upon those presentations shortly.

Minute 2

- 2.26 Upon reviewing the expert evidence provided by the Council and the Authority, I identified various issues with the proposed conditions. Being aware also that only one day had been set down for the hearing, I took the decision to identify the issues with the conditions in a minute and to request that the Authority and Council address those issues in advance of the hearing.
- 2.27 I indexed the issues by topic – ecology, landscape, noise & vibration, geotechnical stability and other matters – and set out a series of issue statements and associated questions for the Authority to respond to.

Legal submissions and response to Minute 2

- 2.28 As sought in Minute 1, the Authority filed opening legal submissions on 26 November 2024. I discuss the substance of the opening submissions at junctures below.
- 2.29 The Authority also provided its responses to each matter raised in Minute 2 on 26 November. In some respects, those responses included further refinements to the proposed conditions.

Hearing Proceedings

- 2.30 The hearing was convened at 9:30am on Thursday 28 November 2024 at the Council Chambers.
- 2.31 After I set out some introductory and procedural matters, counsel for the Authority – Mr Ezekial Hudspith – began with a summary of the Authority’s opening legal submissions. Mr Hudspith and his colleague, Mr Ben Attwood, then called the Authority’s expert witnesses whose evidence was pre-circulated as summarised above.
- 2.32 I then heard from Mr Parry, Mr Holt and Mr & Mrs Clarke in relation to their respective submissions.
- 2.33 Following submitter presentations, I heard from each of the Council’s expert contributors to the s42A Report.
- 2.34 I asked questions of all presenters throughout the day, including on certain matters which I acknowledged would require additional time to compile a response to.
- 2.35 Prior to adjourning the hearing, the Authority and the Council agreed to provide responses to relevant outstanding matters, including a final set of conditions following joint witness conferencing between the planning experts. An indicative

timetable was set down for the further information exchange; however, I granted leave in advance for the various milestone dates to be extended as needed to ensure parties had sufficient time to address all remaining matters.

- 2.36 The hearing was then adjourned, pending receipt of the further information requested and the Authority's right of reply.

Post-hearing sequence & hearing closure

- 2.37 The week following the hearing, I received word from the Authority via Ms Shetty that additional time was required to compile responses to my information requests from the hearing. I recorded this, and my granting of an extension, in Minute 3. I also provided a general indication of the likely timetable to follow for the benefit of all parties.

- 2.38 Around this time, I also conducted my second visit to the application Site and locality.

- 2.39 The Authority ultimately provided the following material on Tuesday 17 December:

- a. joint witness statement of the planning experts including a summary of unresolved matters and respective recommendations as to final conditions;
- b. a technical memo from the Authority's stormwater engineering advisor regarding a question I asked at the hearing regarding the contribution of the existing Naenae reservoir to the Authority's stormwater calculations;
- c. a memo from Ms Fowler regarding crash history along Daysh Street;
- d. a memo from Mr Hansen addressing various ecological matters raised at the hearing; and
- e. the Authority's submissions in reply from Mr Hudspith and Mr Attwood.

- 2.40 Having reviewed all the material provided after the hearing adjournment, I was satisfied that I had sufficient information to deliver my decision on the NoR. I accordingly issued Minute 4 on 19 December 2024, formally closing the hearing.

3.0 Statutory considerations

Overview

- 3.1 Here I identify the relevant provisions of the main RMA statutory instruments that I must have particular regard to under s168A(3)(a).
- 3.2 I record that neither the applicability of various statutory instruments, nor the alignment of the Proposal with their relevant provisions were in contest. Mr Kellow and Ms Crooks were fully aligned in this regard. I have carefully considered their collective appraisal of the relevant statutory direction and adopt their shared conclusion that the Proposal is consistent with all relevant objectives and policies of all relevant planning instruments²¹.
- 3.3 Given the above, I do not feel the need to set out an exhaustive examination of *all* relevant provisions – though I highlight certain matters of particular relevance to key issues arising in submissions and at the hearing. I have organised this discussion to sequentially consider:
- a. National Policy Statements;
 - b. the RPS & Proposed Change 1 to the RPS (**Change 1**); and
 - c. the Hutt City District Plan.
- 3.4 The effects assessment at Section 4 below considers relevant aspects of the Natural Resources Plan administered by GWRC (**Regional Plan**) where such matters overlap with issues relevant to the Council’s jurisdiction. Other than that subsequent discussion, there is no need to consider the Regional Plan in any detail here.

National Policy Statements

- 3.5 There are three National Policy Statements relevant to the Proposal: the NPS-FM the NPS-IB, and the NPS-UD. I discuss each in turn below. My evaluation is commensurate with the relevance of each instrument to the Proposal and the evidence I have received.
- 3.6 Before that discussion, however, I record that it was common ground between Mr Kellow and Ms Crooks that the National Policy Statements for Electricity Transmission, Renewable Electricity Generation, Greenhouse Gas Emissions from Industrial Process Heat, and Highly Productive Land are not relevant to the Proposal. They agreed that the same could be said for the New Zealand Coastal Policy Statement. I adopt their shared view in these respects.

²¹ s42A Report, para 182 & Evidence of C Crooks (14 November 2024), para 13.1 – 13.31

National Policy Statement for Freshwater Management

- 3.7 Mr Hudspith helpfully clarified that the application of the NPS-FM is unaffected by changes to the resource management system adopted by Government in October 2024.²² I have accordingly considered it ‘at face value.’
- 3.8 At the heart of the NPS-FM is the fundamental concept of *Te Mana o te Wai*, which prioritises the importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment – it protects the mauri of the wai. *Te Mana o te Wai* is also about restoring and preserving the balance between the water, the wider environment, and the community.²³
- 3.9 *Te Mana o te Wai* encompasses six principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater, and these principles inform the NPS-FM and its implementation.²⁴
- 3.10 *Te Mana o te Wai* also comprises a hierarchy of obligations, which prioritises (in decreasing order): the health and well-being of waterbodies and associated ecosystem health; the health needs of people; and the ability of people and communities to provide for their current and future well-being.²⁵
- 3.11 The NPS-FM contains one objective – which echoes the hierarchy of obligations under *Te Mana o te Wai* – supported by 15 policies.
- 3.12 The NoR includes an assessment of the proposal against these provisions²⁶, and Ms Crooks reinforced that assessment in her evidence²⁷. In the main, I share those assessments that the NPS-FM is primarily within GWRC’s domain as relates to this Proposal and the associated consent applications required under the Regional Plan and the National Environmental Standards for Freshwater.
- 3.13 To the extent that the NPS-FM is relevant to Council’s jurisdiction and this NoR, I also share Ms Crooks’ conclusion that the Proposal adopts appropriate measures to ensure it is consistent with the NPS and responds positive to *Te Mana o te Wai* for the reasons she expressed. While the Proposal will rely upon mitigation and remedial measures which are outside Council’s jurisdiction to positively relate to the NPS-FM, that is not unusual for projects of this nature and (rather) is anticipated by the integrated nature of the NPS.

National Policy Statement for Indigenous Biodiversity

- 3.14 The NPS-IB prioritises the mauri and intrinsic value of indigenous biodiversity and recognises people’s connections and relationships with indigenous biodiversity. It has a single objective, being to maintain indigenous biodiversity across Aotearoa

²² Opening legal submissions for the Authority (26 November 2024), para 9.9

²³ NPS-FM, Clause 1.3(1)

²⁴ NPS-FM, Clause 1.3(3)

²⁵ NPS-FM, Clause 1.3(5)

²⁶ Refer NoR, page 91

²⁷ Evidence of C Crooks (14 November 2024), para 13.3-13.5

New Zealand so that there is at least no overall loss in indigenous biodiversity. This aim is to be achieved by:

- a. recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
- b. recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
- c. protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; while
- d. providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

3.15 The objective is implemented by 17 policies which comprise an array of directions relating to indigenous biodiversity in the terrestrial environment, both within and outside significant natural areas.

3.16 Ms Crooks²⁸ and Mr Kellow²⁹ shared the view that SNR 12 has the status of a significant natural area under the transitional provisions of the NPS-IB. Both planning experts also provided a summary of their appraisal of the Proposal against the relevant provisions of the NPS-IB.

3.17 There was no difference in opinion between Mr Kellow and Ms Crooks as to the Proposal's fit with the NPS-IB, though they framed their respective assessments in different ways. I have ultimately relied upon Ms Crooks' assessment in finding the Proposal to be consistent with the NPS-IB to the extent relevant. In summary:

- a. mana whenua have been engaged with and been invited to prepare an assessment of effects on cultural values, which has in turn influenced the Authority's site selection process and the overall management approach adopted, consistent with Policies 1 and 2 of the NPS-IB³⁰;
- b. the Proposal has been informed by extensive ecological survey work and peer review such that the likely and actual effects on indigenous biodiversity are well understood, and an appropriately precautionary approach has been adopted to manage such effects, consistent with Policy 3,³¹ and
- c. the Proposal is sufficiently well-aligned with Policies 7, 10, 13 and 14 of the NPS-IB, with the anticipated environmental result over the medium- to long-term being the maintenance and enhancement of indigenous biodiversity within and adjacent to SNR 12;³² and

²⁸ Evidence of C Crooks (14 November 2024), para 13.6

²⁹ s42A Report, para 88

³⁰ Evidence of C Crooks (14 November 2024), para 13.9

³¹ Evidence of C Crooks (14 November 2024), para 13.10

³² Evidence of C Crooks (14 November 2024), para 13.11 – 13.13

- 3.18 My assessment in the above respects has been informed by Clauses 3.10 and 3.11 of the NPS-IB, and I am satisfied that the proposal is appropriate in that context.
- 3.19 I note also that I have considered the relationship between this Proposal and the parallel authorisations required from GWRC. I am satisfied that the integrated management direction of the NPS-IB has been sufficiently addressed by the Authority, consistent with Policy 5.
- 3.20 My findings in all the above respects are reliant upon the NoR conditions, inclusive of amendments I have adopted at Appendix 1 as discussed shortly. They have also been informed by the expert evidence of Mr Hansen and Ms Roberts as I discuss further in section 4 below.

National Policy Statement for Urban Development

- 3.21 The NPS-UD sets out the objectives and policies for planning for well-functioning urban environments under the RMA. It is addressed in the NoR as follows:

The NPS on Urban Development recognises the national significance of well-functioning urban environments. The proposed reservoir will improve HCC's water supply network with the benefits set out in Section 2. This contributes to the provision of available water supply within the WSA that will in turn support the well-functioning of the Hutt Valley urban environment including future development as provided through the District Plan. Overall, the proposal is consistent with the objectives and policies of the NPS Urban Development and will support future urban growth.³³

- 3.22 I consider the above is a fair appraisal of the proposal against the NPS-UD and note there were no views expressed to the contrary by any party to these proceedings.

Regional Policy Statement & Change 1

- 3.23 The RPS became operative in 2013. Over the intervening period, there have been several changes to the RMA and the suite of national policy instruments that the RPS is to implement. Partly in recognition of those wider changes to the resource management system, and for a variety of other reasons, GWRC notified a comprehensive change to the RPS in 2022 (**Change 1**).
- 3.24 Following submissions and hearing processes, GWRC's decisions on Change 1 were notified in early October 2024, and several appeals have been received including from the Council. Mr Kellow's view was that limited weight should accordingly be afforded to Change 1.³⁴
- 3.25 I note there are clear differences between the operative RPS provisions and those in the decisions version of Change 1; however, I do not consider that the differences are of such significance that – in the context of this specific application – a weighting exercise is required. Suffice it to say that the operative provisions and the Change 1

³³ Refer NoR, page 91

³⁴ HCC comments in response to proposed conditions provided 5.12.2024 and RPS-PC1 Policy 1 analysis (13 December 2024), para 1

provisions have informed my consideration of the Proposal, and I am satisfied that there is no direction in either respect which would weigh against the confirmation of the requirement.

- 3.26 I have reviewed the assessment of the operative RPS provisions at section 12.4 of the NoR and found it to be a fair appraisal, with one notable omission which I return to shortly.
- 3.27 Mr Kellow also helpfully identified relevant provisions in Change 1, which I have also taken into consideration³⁵. Again, Mr Kellow³⁶ and Ms Crooks³⁷ agreed that the Proposal is consistent with the relevant provisions of the RPS and Change 1.
- 3.28 Drawing on Mr Kellow and Ms Crooks' respective assessments, I share their conclusion as to the Proposal's alignment with the RPS and Change 1, including as:
- a. the social, economic, cultural and environmental benefits of the Proposal as new 'Regionally Significant Infrastructure' has been duly considered³⁸;
 - b. the Proposal will contribute towards the RPS' aims for water quantity to meet the range of uses and values required, and to meet the needs of future generations, whilst also aligning with relevant direction for water quality and associated ecosystem health to the extent relevant³⁹;
 - c. while amendments have been adopted in Change 1 to the water quality and quantity provisions in the RPS, those are largely aligned with NPS-FM implementation and the Proposal is accordingly aligned with those provisions to the extent relevant as summarised above;
 - d. consistent with the discussion above regarding the NPS-IB, the proposal is aligned with the operative direction for the maintenance and restoration aims for indigenous biodiversity in the RPS⁴⁰, and the associated amendments to those provisions in Change 1⁴¹;
 - e. to the extent that the landscape values of the Site contribute to the quality of the environment and associated amenity values for the community, those values can be said to be maintained or enhanced by the Proposal following remedial works required in the conditions⁴²;
 - f. the Proposal has been informed by engagement with mana whenua and a subsequent CIA, and has adopted various measures in response consistent with the operative aims relating to tangata whenua⁴³ and the extensive amendments and additions in Change 1 relating to mana whenua in the

³⁵ s42A Report, para 101-104, 157

³⁶ s42A Report, para 182

³⁷ Evidence of C Crooks (14 November 2024), para 13.15-13.16

³⁸ Per RPS Objective 10 & Policy 39

³⁹ Per RPS Objectives 12 & 13, Policies 40-44

⁴⁰ Per RPS Objective 16 & Policy 47

⁴¹ Per RPS Change 1, Objectives 16, 16A & 16B, Policies 47, IE.2. & IE.2A

⁴² Per RPS Objective 18

⁴³ Per RPS Objectives 23-28 & Policies 48 & 49

context of integrated management, climate change, indigenous biodiversity and freshwater management⁴⁴; and

- g. the Proposal, in conjunction with parallel authorisations required from GWRC, includes measures to ensure the effects of earthworks are minimised, consistent with the relevant aims in the operative RPS⁴⁵.

3.29 In reviewing the Authority's assessment of RPS provisions, and Mr Kellow's assessment in his report, I identified an apparent omission of a relevant consideration policy regarding natural hazards – being Policy 51. Mr Kellow and Ms Crooks helpfully assisted me in conferencing and addressed that provision in both its operative form and as proposed to be amended by Change 1.⁴⁶

3.30 I adopt the planning experts' view that the Proposal is consistent with both versions of the policy, and emphasise the following points in that regard:

- a. the most notable hazard risk based on the evidence before me is associated with slope instability and seismic events;
- b. due consideration has been given to the frequency, magnitude, likelihood and consequences of relevant hazard events, and the Proposal has adopted appropriately conservative design and performance requirements for the new reservoir to minimise risks – this will be subject to further rigour at outline plan and building consent stages;
- c. related to that and based on the evidence of Mr Keepa, the potential for injury, loss of life, social or economic disruption are deemed to be very low and largely mitigated by the reservoir being constructed to importance level 4 standard able to withstand a 1-in-2,500-year seismic event with minimal damage; and
- d. potential exacerbation of relevant hazard effects from climate change have been duly considered.

3.31 For the above reasons, I am also satisfied that the proposal is generally well-aligned with the relevant RPS aims regarding natural hazards, including as they are proposed to be amended by Change 1.⁴⁷

Hutt City District Plan

3.32 As with the higher order statutory instruments discussed above, Mr Kellow⁴⁸ and Ms Crooks⁴⁹ shared the view that the Proposal is consistent with the relevant direction

⁴⁴ For example, Change 1 Objectives A, CC.8, 12 & 16B and supporting consideration policies.

⁴⁵ Per RPS Objective 29 & Policy 41

⁴⁶ Refer Appendix B to Joint witness statement (17 December 2024)

⁴⁷ Including Objectives 19 & 21

⁴⁸ s42A Report, para 182

⁴⁹ Evidence of C Crooks (14 November 2024), para 13.23-13.31 & NoR, section 12.5.1

of the Plan. Their views are not contested in that regard, and I find no reason not to adopt their analysis.

3.33 The provisions the planning experts have identified as relevant have duly informed my consideration of the Proposal, and I make a handful of observations here in that respect.

3.34 Firstly, I note the Plan's directions regarding regionally significant network utilities of this nature. Objective 13.1.3 and supporting Policy 13.1.3 are worth emphasising here, including given the directive language they utilise (**emphasis** added):

Objective 13.1.3

To recognise and provide for the sustainable, secure and efficient use, operation and development of network utilities within the city.

Policy 13.1.3

(a) **To recognise and provide for** the:

- **Need for new and the maintenance and upgrading of existing network utilities**
- **Technical and operational requirements and constraints of network utilities in assessing their location, design, development, construction and appearance and**
- **Benefits that network utilities provide** to the economic, social and cultural functioning of the city.

(b) **To enable** the efficient **construction, installation, operation, upgrading and maintenance** of network utilities.

(c) **To ensure** that the provision and operation of utilities that cross jurisdictional boundaries is managed in an integrated manner.

(d) **To encourage the appropriate use of designations** for new network utilities and extensions

3.35 While appropriate weight is to be given to these provisions in light of their directive language, they must also be read in context with other relevant provisions, including Objective 13.1.4 and Policy 13.1.4. Those additional provisions speak to the need for network utilities to manage adverse effects on the environment and peoples' health and safety. Policy 13.1.4 also enables co-location of multiple utilities where this assists with the management of effects and is efficient, technically feasible and practicable.

3.36 For reasons that I discuss shortly, I consider the Proposal is well aligned with these provisions and should accordingly be enabled through the confirmation of the NoR.

3.37 The Plan's direction regarding noise has also informed my consideration of the proposal, including Objective 14C1.1 and Policy 14C1.1. These provisions seek the maintenance or enhancement of local amenity values by ensuring excessive noise is avoided or mitigated. Relevantly, the Plan acknowledges that construction noise levels may be distinguishable and that management plans may be appropriate for matters beyond those otherwise addressed in the Plan.

- 3.38 The Plan's aims for significant natural resources⁵⁰ are also relevant, including the related direction regarding the cultural, landscape and ecological values for SNR 12.
- 3.39 I also note the relevance of the following direction in the Plan regarding amenity values:
- a. in implementing the NPS-UD, the Plan anticipates that amenity values within the urban environment will develop and change over time to support a well-functioning urban environment and meet the diverse and changing needs of people, communities, and future generations;⁵¹
 - b. residential activities are to be the dominant activity in the Medium Density Residential Zone, and any non-residential activities are to be compatible with residential amenity values;⁵²
 - c. non-residential activities are to be provided for where they support the community's social, cultural and economic well-being and manage effects on residential amenity;⁵³ and
 - d. the conservation and amenity values of the Eastern Hills are to be conserved and protected, including through consideration of the number, size, scale location and appearance of structures.⁵⁴
- 3.40 I have considered also the Plan's aims for the provision and maintenance of a range of open spaces which meet the needs of the community, including the associated direction to restrict the development of structures to ensure that open space characteristics and public amenity values are maintained and enhanced.⁵⁵
- 3.41 Relevant direction regarding natural hazards has also been considered. That includes the overall aim for risks to people, property and infrastructure from natural hazards to be avoided or reduced.⁵⁶
- 3.42 Transport-related direction has also been taken into account, including the aims for the transport network to be safe and efficient, and for associated adverse effects from land use and development which generates high volumes of traffic to be managed.⁵⁷

Findings on Statutory Matters

- 3.43 Following my assessment of relevant statutory provisions, I find that at a broad level the NoR is consistent with all relevant statutory documents as outlined above.

⁵⁰ Including Objective 14E1.1 and Policy 14E1.1

⁵¹ Section 1.10.2, Objective 1

⁵² Objective 4F2.1

⁵³ Policy 4F3.1

⁵⁴ Section 7D 1.1.1, Objective & Policy a.; Section 7D 1.2.1, Objective & Policies a. and b.

⁵⁵ Section 1.10.6, Objective 1, Policy e

⁵⁶ Section 1.10.11, Objective 1

⁵⁷ Section 14A 3, Objectives 14A 3.1 & 3.4, Policy 14A 4.2

3.44 As required by Section 168A of the RMA I have had particular regard to the above when considering the environmental effects of allowing the NoR.

4.0 Evaluation of environmental effects

Overview & index of effect topics

- 4.1 An important starting point for my assessment of effects is to emphasise that there is no expert evidence before me to suggest that the effects of the NoR cannot be sufficiently managed by the proposed conditions. While there was some residual difference in opinion amongst experts about the full breadth of matters that should be stipulated in conditions, those were few in number and narrow in scope.
- 4.2 This is not to ignore or downplay the opposition to the Proposal expressed by submitters or to suggest that there were no matters in contention; rather it is simply to record that there was a very high level of agreement between the various experts on substantive matters of relevance to their respective areas of expertise.
- 4.3 Notwithstanding that broad expert consensus, I found that the volunteered conditions themselves were inadequate in multiple respects and/or did not marry with the conclusions of various experts as to the anticipated impact the conditions would have in the overall avoidance, remediation or mitigation of actual and potential adverse effects. I signalled this in Minute 2 and through my questioning of experts, counsel and submitters at the hearing.
- 4.4 While some of my concerns in that respect were addressed by amendments to the conditions or through explanation by certain experts, the final conditions tabled in the Authority's reply did not resolve all my concerns. I have accordingly taken some time to discuss the conditions as a precursor to my effects assessment immediately below.
- 4.5 The balance of the assessment is then organised to discuss in turn:
 - a. positive effects;
 - b. effects on cultural values;
 - c. landscape, visual amenity and natural character effects;
 - d. ecological effects;
 - e. effects from construction noise and vibration;
 - f. traffic and transportation effects;
 - g. effects on recreational amenity and public access to and along rivers;
 - h. earthworks effects and geotechnical stability; and
 - i. other matters.

Conditions

- 4.6 The issues I identified with the proposed conditions can be summarised as follows:
- a. over-reliance on management plans without ‘objective’ management measures;
 - b. disconnects between experts’ assertions of what certain conditions require versus what the conditions state – particularly as relates to management plans;
 - c. related to the above, difficulty reconciling certain experts’ conclusions as to effects with the lack of certainty in conditions;
 - d. conditions that allow for ‘deemed’ certification of future management plans are not sufficiently justified, particularly given the high level of dependence placed on management plans to address the actual and potential effects of the Proposal; and
 - e. minor drafting changes needed to improve consistency and clear administration of the conditions.
- 4.7 I expand upon each of these below before concluding with a summary of amendments to the conditions I consider necessary to address the issues identified. The breadth of analysis is wider than I would have preferred; however, it is commensurate with the nature and scale of refinements to the conditions I have adopted.
- 4.8 Where there is residual disagreement between the Council and Authority as to the proposed conditions, I address those matters in the relevant effects section subsequently.

General reliance on management plans

- 4.9 It is important to firstly record here my understanding that management plans are an accepted and widely used tool in resource consent and designation conditions under the RMA. That observation is not disputed by any party to these proceedings, and the Authority’s desire to utilise management plans is entirely appropriate in the context of this Proposal.
- 4.10 That said, the management plan conditions proposed – even with the amendments adopted by the Authority after the hearing adjournment – lack sufficient certainty in of themselves to be the sole method for avoiding, remediating or mitigating adverse effects from the Proposal.
- 4.11 In response to questions I put at the hearing, Mr Hudspith helpfully drew my attention to the consideration given to this matter by the Courts in recent years, including in an interim decision of the Environment Court from 2020 relating to a proposed retirement village in another area of Lower Hutt. Relevantly, that decision

provided the following general observation about the use of management plans in conditions (my **emphasis** added):

[156] ***As a general principle it is important that the conditions of a consent set out the outcomes required and how these outcomes are to be achieved. Management plans provide a way to identify what steps are to be taken to ensure that clear, certain and enforceable outcomes contained in conditions of consent are achieved. They are not a substitute for conditions locking in the standards that are to be met to ensure environmental effects are kept within an acceptable level.*** We ask that there be a thorough review of the evidence and the conditions to specify the outcome required and ensure the certainty of that outcome. A dust monitoring programme, the reporting of the results of that programme to neighbours and a requirement to stop work and take remedial action if the outcomes are not being achieved are also important elements to be included in conditions.⁵⁸

4.12 Mr Hudspith also referred me to a series of decisions by the Auckland division of the Court relating to a proposed mixed-use development in Mount Eden where management plan conditions were discussed in detail. In its interim decision, the Court expressed the following (where ‘CNVMP’ refers to Construction Noise and Vibration Management Plan, and again my **emphasis** added):

[304] *We question what the qualification 'as far as practicable' is intended to cover, given its lack of certainty and why it is needed. A vibration limit of 5 mm/s (if that is justified) should be in proposed condition 32 and not just in the CNVMP. We require further consideration of these points.*

[305] *We are not persuaded that the conditions proposed to deal with construction noise and vibration will mitigate them to an acceptable degree to avoid adverse effects on the neighbours, particularly those in the retirement village. This difficulty has arisen because consents are being sought by Panuku as landowner rather than as the developer of the project. If Panuku was the developer; the construction methodology is likely to have been more carefully thought through and we are likely to have received a more detailed plan about what could be achieved in terms of mitigation. Although it is always a matter for an applicant, in our view where, as in this case there are sensitive receivers very near to a proposed development, it may be preferable for a more detailed construction methodology to be presented with the application rather than leaving it to be determined at a later date through a CNVMP process.*

[306] ***By its nature a management plan is designed to be adaptive in its approach to meeting bottom line requirements. This is desirable given the need for a flexible and responsive approach to be taken during construction. The degree of flexibility provided is however always the issue and the question must also be asked, who does this flexibility benefit?***

[307] *As it was presented to us, **the CNVMP in this case, while containing reference to limits for noise and vibration, was short on what would be done if noise and vibration effects prove to be problematic for the neighbouring residents**, particularly those in the retirement village. For example, what if the ongoing effect of construction noise and vibration causes distress and impacts on the health and wellbeing of the retirement village residents? In our view, **the measures signaled as options in the CNVMP***

⁵⁸ *Summerset Villages (Lower Hutt) Limited v Hutt City Council*. [2020] NZEnvC31 (23 March 2020). Para [156]

were insufficiently detailed and certain to satisfy us that such measures would adequately deal with any adverse noise and vibration effects on residents.

...

[389] In reviewing the conditions and the Construction Noise and Vibration Management Plan we have concerns further to those we raised on specific conditions during the hearing. **We find the approach to conditions and the management plans not in line with good practice. In particular, we find that there are insufficient stand-alone conditions that set out requirements that must be achieved, with many such requirements buried in the list of items to be covered in a yet to be prepared management plan such as the Construction Traffic Management Plan or in the Construction Noise and Vibration Management Plan.**

[390] We are not prepared to sign off on the conditions as drafted. A full and considered review of those conditions is required to:

- (a) Ensure requirements are set out in stand-alone conditions;
- (b) Recognise that the proper function and purpose of management plans, to be certified by named Council officers, is to set out how the requirements of those conditions are to be met;
- (c) Redraft the Construction Noise and Vibration Management Plan referred to in the conditions to align with the above approach⁵⁹

4.13 Mr Hudspith also helpfully highlighted the Environment Court Practice Note regarding the drafting of conditions. As emphasised by Mr Hudspith, it notes that ‘there should be clarity, certainty and enforceability of all the conditions’ and ‘conditions which require expert certification or oversight of an activity must include clear parameters and specified standards’. I observe also that the Practice Note sets the expectation that ‘performance standards must be set out in the conditions of consent and not be left to be determined later.’⁶⁰

4.14 Importantly, the above references are all of a general nature as to the manner in which management plan conditions should be applied⁶¹. They are not proposal- or context-specific in that regard; however, context is important for any given application including for the purposes of defining the relevant information requirements for a given management plan and the associated conditions setting out the limits or standards to be met through application of certified management plans.

⁵⁹ *Panuku Developments Limited v Auckland Council*. [2020] NZEnvC24 (6 March 2020). Para [304]-[307] & [389]-[390]

⁶⁰ *Practice Note 2023*. Environment Court of New Zealand | Te Kōti Taiao o Aotearoa. Section 10.4

⁶¹ While not influential on my decision, I note that these principals have also been well summarised on the Quality Planning website, being a digital ‘good practice’ manual for resource management practitioners administered by the Ministry for the Environment, New Zealand Planning Institute, Resource Management Law Association, New Zealand Institute of Surveyors, Local Government New Zealand and New Zealand Institute of Architects. Refer *Conditions relating to existing and future management plans and certification* at <https://www.qualityplanning.org.nz/node/917> (retrieved 9 January 2025).

- 4.15 That point aside, the general observations provided by the Court in the two decisions referenced above echo the same principles which prompted me to issue minute 2 and to further explore through questions at the hearing how the proposed conditions could be made more certain and measurable.
- 4.16 The final version of the conditions proposed by both the Authority and the Council conflict with the above principals in some respects, which has prompted me to modify certain conditions, and add others, as further detailed shortly.

Disconnect between conditions and conclusions as to effects

- 4.17 There are multiple references made throughout expert evidence for both the Authority and the Council where the relevant expert asserts that certain measures or outcomes will be assured via conditions; however, upon reading the conditions related to those findings, one might reasonably question whether the condition delivers the anticipated outcome on plain reading. I summarise a few examples below for illustrative purposes but note this is not an exhaustive list.
- 4.18 To that end, there are two examples in Mr Terry's evidence worth illustrating. Firstly, Mr Terry expressed the view that the CNVMP *requires* advance notification to properties likely to be affected by vibration amenity effects⁶²; however, the relevant condition simply *requires* that the CNVMP must include (among other matters) a description of the procedures for maintaining contact with stakeholders, notifying of proposed construction activities in advance of works taking place and handling of complaints. Plainly, it is different for one to say that *prior notification will be required* than to commit to describing the process for how such prior notification will be given.
- 4.19 Mr Terry also clarified that his assessment indicates that specific measures are *required* for noise management, including physical mitigation measures in the form of 3m-high barriers and acoustic enclosures around pumps⁶³. In contrast, the conditions do not mention pump enclosures at all, and the 3m-high barriers must only be erected where topographical, ecological, landscape and construction phasing conditions make that 'practicable'.
- 4.20 Mr Terry relies upon these and other mitigation measures in reaching the view that effects from construction noise and vibration will be 'reasonable,' 'appropriate' and/or 'minor'.⁶⁴ Relevantly, Mr Arden's response to my questions about the conditions was that the 3m noise barrier should be *mandatory*, and that good, early and regular communication with neighbours affected by works is *essential*.
- 4.21 Dr Hoddinott's evidence provides another example worth noting. She clearly expresses that mitigation of natural character effects 'will include' revegetation of

⁶² Evidence of L Terry (14 November 2024), para 8.19 & 12.4

⁶³ Evidence of L Terry (14 November 2024), para 8.20

⁶⁴ Evidence of L Terry (14 November 2024), para 8.19 & 9.1

Waiwhetū Stream banks with native vegetation⁶⁵. Reference to the condition setting out the information requirements for the Landscape Concept Plan, however, indicates that the Authority must simply provide details of the proposed planting that is to occur within the riparian margin. There is no corresponding detail as to the species, the planting density or other details which might otherwise provide certainty as to environmental outcome post-mitigation/remediation, though the concept plan is to also *identify* the proposed species to be used and to set out the proposed maintenance and management of plantings for a minimum of 5 years or until canopy enclosure of 80% is achieved (whichever is longer).

- 4.22 While one can reasonably say what must be contained in a future Landscape Concept Plan based on the Authority's final conditions, there remains substantial ambiguity as to what the final content of that plan will be – and by extension, what the net environmental outcome will be. Put another way, one would have considerable difficulty predicting with any certainty what the net effect of the Proposal will be as to the establishment, maintenance and management of mitigation/remediation planting following site works.
- 4.23 I noted at the hearing that the Landscape Concept Plan included in the drawing set submitted with the NoR provides a high level of detail and certainty as to anticipated outcome. I noted also Condition 1, which requires the project to be undertaken in general accordance with those drawings. That said, it is clear on the 'Notes' to the Landscape Concept Plan that all of the detail prescribed is 'indicative only' and 'to be confirmed after vegetation losses have been assessed during the construction phase.' The response I received from the Authority's experts on that point were that:
- a. flexibility is needed in response to detailed design, contractors' construction methods and other factors; and
 - b. the Authority should not be required to fully plant out all the area shown on the current Concept Plan as much of the indicative area may not ultimately be disturbed or cleared.
- 4.24 To summarise, the above examples illustrate two main shortcomings of the conditions as they have been finally proposed by the Authority. Namely, if clear limits or outcomes are not established by the conditions and instead, the limits or outcomes are to be defined solely by some future management plan certification process, this:
- a. raises questions as to the efficacy and validity of the conditions; and
 - b. prompts one to question how an informed conclusion can be reached as to related effects.
- 4.25 To address this, I have made various amendments to the conditions to improve their clarity and certainty. Where experts have relied upon certain mitigation measures

⁶⁵ Evidence of W Hoddinott (14 November 2024), para 9.13

and/or outcomes being assured in the conditions, I have made changes to reflect that. I have also had particular regard to measures/outcomes which experts have emphasised as being of high importance in their evidence and/or in response to questions at the hearing. In many cases, such matters are relevant also to concerns expressed by submitters.

- 4.26 In the main, the amendments primarily involve the administrative ‘re-housing’ of various management plan requirements as standalone conditions, again echoing the Court’s view that management plans should not be a substitute for conditions setting the standards that are to be met to ensure environmental effects are kept within an acceptable level.

Deemed certification

- 4.27 The proposed conditions reflect good practice insofar as they ‘centralise’ the certification process to be followed for all management plans rather than repeat the process for each management plan. Both for the initial certification of any management plan, and through subsequent review, amendment and/or recertification of any management plan the proposed conditions allow for any given management plan to be ‘deemed’ certified if certain obligations on the Council (in its regulatory capacity) are not met in specified timeframes.
- 4.28 I asked Mr Hudspith if he could assist me by summarising any guidance provided by the Courts on deemed certification of this nature.
- 4.29 Mr Hudspith responded verbally on the matter, but did not address the issue further in his reply submissions. In summarising the cases he was able to review during the course of the hearing, Mr Hudspith described the Courts as taking a ‘dim view’ to deemed certification – though he clarified that the Authority sought to retain the relevant conditions nevertheless.
- 4.30 In seeking advice from Mr Hudspith, I noted my recollection that the Environment Court may have considered this issue in relation to various infrastructure projects in the lower north island. Mr Hudspith confirmed the two examples I cited – being the Otaki to North of Levin roading project and the Project Mill Creek windfarm – had considered deemed certification. I note that the Court’s decision on the former helpfully references the latter as follows (**emphasis added**):

[126] We do not agree with the general proposition and proposed approach advanced by NZTA. We see no reason to depart from our findings in Meridian Energy Ltd v Wellington City Council [footnote omitted]:

It is essential that there is no uncertainty about the approved proposal and what the consent conditions require, including the details to be approved as part of the certification process in the future. The conditions referred to the process for approval of management plans which were intended to provide environmental protections. **Meridian sought that if it did not hear back from the Council as to approval of a management plan within a specified time period then the management plan was deemed to be approved. This approach is not sound environmental**

management (or we suspect good project management), and we do not accept Meridian's approach.

[127] *The principle is the same for the approach advanced by NZTA for management plans and their amendment. **It is not the risk to NZTA that is of concern, it is the risk to the environment. Given the risk to the environment we find it better to require the independent check of the outline plan and related documents and the certification process before work commences.** We have a real concern about the persistence of NZTA that the Environment Court should authorise NZTA to proceed without that regulatory check.⁶⁶*

- 4.31 Mr Hudspith explained the justification for the deemed certification conditions stemmed from a desire from the Authority to avoid unnecessary hold-ups from the Council in its certification processes. The Authority presented no evidence, however, to suggest that the Council has a history of poor performance in that respect and/or that the need for the project to be delivered with an unimpeded level of efficiency is so great that deemed certification is justified.
- 4.32 In contrast, Mr Kellow's response to my questions about deemed certification suggests the opposite to be true. In his experience, Councils are generally effective in exercising management plan certification functions and he emphasised that Hutt City Council is no exception.
- 4.33 While not determinative on my consideration of this matter, it is worth noting also that there is no corresponding time-sensitive or performance-based obligations on the Authority when it comes to preparing or modifying any management plans. It can take as much time as it likes. The Authority, so empowered, may ultimately make sweeping refinements to a given management plan which might reasonably take time for a certifier to give the due consideration required.
- 4.34 For all of the above reasons, I have removed the deemed certification components of the management plan conditions.

Other general matters

- 4.35 There remained some typographical, format and other minor errors in the final set of conditions proposed by the Council and the Authority. These include errors in cross references to other conditions, inconsistent formatting in paragraph structure and incomplete detail, for example as to drawing references in Condition 1.
- 4.36 I have taken the opportunity to improve the clarity and consistency of the conditions by addressing such errors where possible.
- 4.37 Moreover, certain clauses in the conditions relating to management plans attempt to distinguish 'material' changes to management plans from other (presumably immaterial) changes. Such clauses require the exercise of a discretion as to what constitutes a material change and are void for certainty.

⁶⁶ *New Zealand Transport Agency – Waka Kotahi*. [2024] NZEnvC 133 (7 June 2024). Para [126]-[127]

- 4.38 Some unnecessary duplication can also be reduced through deletion. In particular, Condition 2 requires the Proposal to be undertaken in accordance with any relevant management plans. Where subsequent conditions proposed by the Authority require the same for the CEMP and CNVMP, those are redundant and have accordingly been deleted.
- 4.39 I have also taken the opportunity to 'standardise' the condition couplets that respectively relate to the various management plans such that:
- a. the first of each couplet requires the relevant plan to be certified in accordance with Condition 8 prior to works commencing; and
 - b. the second of each couplet sets out the management plan's purpose and the information requirements for achieving that purpose.
- 4.40 While the revisions proposed in the Authority's final condition set improved the consistent structure of the management plan condition couplets, I consider further refinements will avoid confusion in the future as to any apparent drafting differences – in turn, this should allow for greater clarity in administering the conditions.

Summary of amendments to conditions

- 4.41 For the reasons outlined above, I have made the amendments to the conditions summarised below. The numbering corresponds with the revised set of conditions at Appendix A unless otherwise specified:
- a. **Condition 1** – alter 'level 2' and 'level 3' bullet numbering format to align with all other conditions and update the placeholder reference to the application drawings at sub-clause c);
 - b. **Condition 2** – minor addition to clarify that the management plans to be adhered to are as certified;
 - c. **Condition 3** – amendments to:
 - i. correct cross reference to ongoing monitoring and management conditions; and
 - ii. clarify that there are now some conditions relating to maintenance activities that should endure beyond the construction stage.
 - d. **Conditions 4-6** – minor paragraph re-formatting for consistency and typographical corrections;
 - e. **Condition 8**:
 - i. deletion of the word 'certified' from clause b) in relation to the Lizard Management Plan, and including of an advice note at the end of the condition to clarify that the Lizard Management Plan relates

- to the Wildlife Act permit process distinct from the certification processes for other management plans under the NoR;
- ii. deletion of all clauses and references to deemed certification;
 - iii. minor amendment to clause c) to improve clarity as to the process to be followed should Council not certify a given management plan;
 - iv. deletion of the word 'material' from clause d)i) & d)ii) and corresponding simplification of the process for recertification of proposed amendments to management plans – the upshot being that all changes to a management plan may not be implemented until certified by HCC (not just so-called material changes⁶⁷); and
 - v. minor editorial and format changes to clause g) for clarity and consistency;
- f. **Condition 10** – amendment to clause c) regarding the hours of operation that 'should be' followed – now addressed by condition 22;
 - g. **Conditions 11 & 23** (Authority's final version) – deleted, duplicate Condition 2;
 - h. **Condition 11** – minor amendments to improve clarity;
 - i. **Condition 12** – new requirement to reinstate the firebreak track as anticipated in the application documents.
 - j. **Condition 18** – refined to adopt consistent drafting with Condition 9;
 - k. **Condition 19:**
 - i. 'chapeau' of the condition refined to adopt 'standardised' format, consistent with the drafting of Condition 9;
 - ii. deletion of text relating to the content of the CNVMP (final sentence of condition 19 in Authority's final version) which otherwise duplicates content set out in the information requirements;
 - iii. inclusion of the information requirements under the condition to adopt 'standardised' format, consistent with the structure of Condition 10;
 - iv. amendment to sub-clause d) to remove hours of operation detail (now under condition 22), and to require detail to be provided about night-time works required;
 - v. update cross references to other conditions;

⁶⁷ The corresponding definition for material change has been deleted from the table at the start of the conditions

- l. **Condition 20** – amendments to improve certainty, efficacy and enforceability of noise barrier requirement, consistent with the importance of the barrier as agreed by the acoustic experts;
- m. **Condition 21** – new requirement for noise enclosure to be used during night-time over-pumping & dewatering activities as described in the NoR and recommended by the acoustic experts;
- n. **Condition 22:**
 - i. text added to clarify that normal working hours are limited to 7:00am-6:00pm Monday-Saturday, with no noise generating activities allowed before 7:30am apart from the limited circumstances when night-time works are required or to accommodate oversize deliveries which must occur outside that period due to traffic restrictions;
 - ii. revisions to reframe CNVMP information requirements for night-time works as performance standards, reflecting the description of works in the NoR and the recommended mitigation measures by the acoustic experts – this includes limiting night time works to those necessary for the concrete pours (and ancillary activities) for the reservoir foundations and roof and establishing a firm consecutive night limit of 3 nights without respite;
- o. **Condition 23** – minor amendments to assist clarity, consistent with revised language used for the CEMP in Condition 11;
- p. **Conditions 26/27, 32/33, 36/37 & 40/41** – refer similar amendments described in relation to Conditions 18 & 19 above;
- q. **Condition 27** – addition of consideration in the CTMP for potential home businesses affected during works and any specific access requirements those businesses may have;
- r. **Condition 34** – reframe content proposed by the Authority in Condition 32k) requiring mitigation and remediation planting to be established within the first available growing season after works are completed as a performance standard;
- s. **Condition 35** – minor redrafting for clarity;
- t. **Condition 38** – reframe content proposed by the Authority in Condition 36i) ensuring pre-works checks of nesting cavities are conducted as a performance standard;
- u. **Condition 39** – reframe content proposed by the Authority in Condition 36j) ensuring pre-works checks for kārearea prior to any vegetation clearance during the associated active nesting season;
- v. **Condition 40** – amendments to integrate with new conditions 34, 42 and 43;

- w. **Condition 42** – new condition which reframes content proposed in the VMP in reflection of the evidence from Mr Hansen and the landscape experts regarding the importance of remedial planting being established following vegetation clearance (except where cleared areas will provide for the reservoir itself, signage, seating, paths or other above-ground structures;
 - x. **Condition 43** – new condition which reframes the monitoring and maintenance requirements of the VMP as a performance standard;
 - y. **Condition 46** – the two geotechnical conditions recommended by Mr Smith have been combined into a single condition, with amendments applied as volunteered by the Authority in its reply; and
 - z. **Condition 48** – amendments for improved efficacy and certainty.
- 4.42 Other minor editorial changes include consistent use of acronyms and abbreviations, formatting of notes etc.

Positive effects

- 4.43 The positive effects of the NoR were largely uncontested at the hearing. In the main, those benefits relate to the primary operational function of the proposed reservoir, though additional positive effects are also anticipated.
- 4.44 Mr Edwards' evidence outlined the core benefits arising from the Proposal as follows:

9.8 The proposed Eastern Hills Reservoir will significantly expand local water supply storage for the combined [Lower Hutt Central and Taitā Water Storage Areas (WSAs)]. The additional storage in this location will:

- a. Improve storage capacity to service and support continued residential and business growth and community well-being;*
- b. Enhance the operational and disaster resilience of the local water supply network, by improving the WSAs ability to meet local water supply needs in response to disruptions to the bulk water supply;*
- c. Support initial survival and subsequent recovery from significant supply disruption events, such as a large earthquake. In this respect it is important to have the storage facility as close as possible to the customers that will rely on it for survival following a natural disaster;*
- d. Enhance WWL's ability to be able to undertake necessary network management and maintenance activities (including for example taking other reservoirs offline for maintenance, strengthening, or replacement) with minimal or no disruption to local water supply.⁶⁸*

- 4.45 In general supply terms, the proposed storage capacity will meet the current short-term volume shortfall of 12ML forecast by Wellington Water; and, in combination

⁶⁸ Evidence of L Edwards (14 November 2024), para 9.8

- with other anticipated network upgrades, will assist with the meeting of anticipated demands over the medium- to long term.⁶⁹
- 4.46 Regarding resilience, Mr Edwards clarified the capacity helps to overcome the network's sensitivity to operational disruption events, such as bursts, contamination events, mechanical failures and the like. Currently, the local network resilience is assessed as low.⁷⁰
- 4.47 Mr Edwards also noted that the network is subject to significant risk from disruption due to seismic activity and associated effects. The Proposal is anticipated to enhance disaster resilience, providing a meaningful contribution towards the achievement of Wellington Water's target level of service for disaster response.⁷¹
- 4.48 The overall resilience benefits anticipated are nevertheless tempered to some degree by the Authority's assessment of alternative sites, routes and methods, which recognised that the co-location of the proposed reservoir with the existing Naenae reservoir presents a relative drawback in resilience terms. This was highlighted by Mr Parry in his presentation, who preferred expenditure being dedicated to on-site storage tanks for individual dwellings/businesses, and repair or upgrade of existing facilities.
- 4.49 Those relative resilience shortcomings aside, I otherwise adopt Mr Edwards' uncontested evidence that – overall – the Proposal will result in significant regional benefit.⁷²
- 4.50 Mr Kellow and Ms Crooks agreed also that the following positive effects would be delivered by the Proposal:
- a. recreational benefits from reinstatement and enhancement of the firebreak track, including signage and seating; and
 - b. enhanced composition of native vegetation in the area from remediation planting following site clearance and earthworks activities.⁷³
- 4.51 I adopt their shared view in that respect, noting that amendments I have made to the proposed conditions afford greater certainty that these benefits will be realised.

Effects on cultural values

- 4.52 The NoR was informed by a Cultural Impact Assessment prepared by Raukura Consultants in association with Port Nicholson Block Settlement Trust and Te Rūnanganui o Te Atiawa.
- 4.53 The CIA summarised the historical context for the Site and of tangata whenua in the wider Hutt Valley. It notes that there are no identified Māori sites of significance in

⁶⁹ Evidence of L Edwards (14 November 2024), para 9.5

⁷⁰ Evidence of L Edwards (14 November 2024), para 8.6-8.7

⁷¹ Evidence of L Edwards (14 November 2024), para 8.8-8.14

⁷² Evidence of L Edwards (14 November 2024), para 11.2

⁷³ s42A Report, para 40 and Evidence of C Crooks (14 November 2024), para 9.3-9.4

- the vicinity, nor any Pā, kainga, urupā or ngakinga. Waiwhetū Stream and its water quality are, however, identified in the CIA as being of high cultural significance.⁷⁴
- 4.54 The CIA states that pre-European Māori cultural material is unlikely to be found anywhere in the soil around the proposed water reservoir Site and considers that an archaeological survey of the area is not required prior to development; however, an accidental discovery protocol is recommended to address the possibility of any cultural discovery that may be unearthed through the re-development of the Site.⁷⁵
- 4.55 The CIA also recommends a Site blessing to be conducted by kaumatua prior to works commencing and suggests that – should the reservoir be named – *Waiwerowero* would be suitable to the historical context of the area.
- 4.56 In response to the above, the Authority has volunteered a condition requiring an accidental discovery protocol to be implemented in the event of unanticipated discovery of cultural or archaeological artifacts. I am satisfied that the condition appropriately responds to the CIA and its attendant recommendation.
- 4.57 I note that Mr Foster’s submission commented on the name of the reservoir as recommended in the CIA, expressing a preference for an alternative name. In my understanding, this is primarily a matter for the Authority and mana whenua to advance outside of the NoR process. It is not necessary or appropriate for me to act as arbiter on the appropriate name for the structure.
- 4.58 For the reasons above, I consider that the Proposal has been suitably informed as to relevant cultural values for the Site and wider area and to the appropriate mitigation to be adopted to address the potential for accidental discovery, which has been assessed as low risk in the CIA. The evidence before me suggests that any effects on cultural values will be suitably managed by the conditions and acceptable overall.

Landscape, visual amenity and natural character

- 4.59 For the reasons set out below, and with the imposition of conditions as set out in **Appendix 1**, I find that the potential effects on landscape, visual amenity and natural character will be acceptable.
- 4.60 In that regard, I adopt Dr Hoddinott’s assessment, which can be summarised as follows:
- a. the Site has capacity to accommodate change given the significant change that has already occurred to the landscape and the proximity to the Naenae reservoir⁷⁶;
 - b. potential *landscape* effects during the construction phase can be described as moderate adverse – however, once remediation planting is established, those effects are lessened to low-moderate adverse, and after remediation

⁷⁴ Refer NoR Appendix K, page 3-4

⁷⁵ Refer NoR Appendix K, page 11

⁷⁶ Evidence of W Hoddinott (14 November 2024), para 9.3

planting has grown and been well managed and maintained over 5-10 years, the effects can be said to be low adverse⁷⁷;

- c. potential *natural character* effects on Waiwhetū Stream during the construction phase can be described as low-moderate adverse – however, once remediation planting is established, those effects are lessened to low-adverse, and after remediation planting has grown and been well managed and maintained over 5-10 years, the effects can be said to be low positive⁷⁸;
- d. regarding visual effects from the five identified viewpoints in Dr Hoddinott’s landscape and visual effects assessment report:
 - i. effects of works without mitigation and remediation measures can be said to range from very low adverse to high adverse, with the latter being ascribed to viewpoint 5 at Balgownie Grove;
 - ii. following successful remediation, the visual effects of the Proposal range from low adverse to low-moderate adverse, with the most substantial effect resulting at viewpoint 4 from Naenae Park; and
 - iii. overall, the net environmental effect can be described as no more than minor in RMA terms⁷⁹.

4.61 Inherent in Dr Hoddinott’s assessment – and in Ms Kerkmeester’s review – is the importance of: firstly, establishing remedial planting following clearance and earthworks activities using appropriate species and in a manner to achieve good canopy cover within 5 years of works planting; and maintaining revegetated areas during that initial establishment period to manage invasive pests and replace any dead or dying remedial plantings.

4.62 In response to my question about the relative importance of good maintenance activities, Dr Hoddinott expressed the view that such works are ‘critical’, and Ms Kerkmeester echoed that same view.

4.63 As noted in my preamble regarding conditions above, the importance of those matters was not sufficiently reflected in the volunteered conditions; however, I have refined the conditions as set out in Appendix 1 to address that and to provide greater certainty that the environmental outcome anticipated by Dr Hoddinott will result.

4.64 I have also adopted Ms Kerkmeester’s recommendations that the conditions relating to landscape, ecological and vegetation management plans are integrated to the extent practicable. In the main, I find the volunteered conditions addressed those recommendations satisfactorily as well as Ms Kerkmeester’s recommendations regarding the reuse of salvaged material and the timing of revegetation activities.

⁷⁷ Evidence of W Hoddinott (14 November 2024), para 9.4 – 9.7

⁷⁸ Evidence of W Hoddinott (14 November 2024), para 9.9 – 9.11

⁷⁹ Evidence of W Hoddinott (14 November 2024), para 9.20 – 9.21

- 4.65 I record also that – in response to questions at the hearing – Ms Kerkmeester confirmed her alignment with Dr Hoddinott that the Site has reasonable capacity to absorb change. Again, this reflects the very high level of common ground between the two landscape experts.
- 4.66 I note also that the conditions were silent on recommendations from Dr Hoddinott’s original assessment relating to the management of lighting during nighttime works. I have accordingly added a further information requirement for the LCP to account for that recommendation and ensure that such effects are designed and installed in a manner that minimises potential glare and light spill effects on neighbours.
- 4.67 In their presentation at the hearing, Mr and Mrs Clarke noted that the short-term visual effects of the Proposal would affect them and other Balgownie Road residents until remediation is effectively completed. Their view is consistent with the assessment of the landscape experts, and there is no contention that the Clarkes and other viewers from Balgownie Grove will experience visual effects over the short term which are more than minor.
- 4.68 Equally, there is no evidence to suggest that this effect will be enduring. With effective remediation planting and maintenance as required by the conditions, I am satisfied that the net effect will be no more than minor.

Ecological effects

- 4.69 Similar to the preceding discussion, I am satisfied that the ecological effects of the Proposal will be appropriately managed by the conditions as amended in Appendix 1.
- 4.70 In the main, this issue was not substantively in contention at the hearing. While there was a high degree of agreement between the Authority’s experts and the Council’s on ecological conditions, there remained some residual disagreement at the closing of the hearing. I discuss those matters immediately below before addressing ecological effects more broadly.

Residual disagreement on conditions

- 4.71 The content of the BMP as expressed through the information requirements under the relevant condition was one of the few remaining matters in contention as at the close of the hearing.
- 4.72 Firstly, Mr Kellow proposed the deletion of clause c) under Condition 37 on the understanding that birds can nest anywhere in vegetation despite tendencies or observed preferences⁸⁰. Mr Hansen did not share this rationale, instead expressing the view that habitat suitability is ‘critical’ for nest development. In his opinion, clear

⁸⁰ Kellow: *Comments in response to proposed conditions provided 5.12.2024 and RPS-PC1 Policy 51 analysis* (13 December 2024) para 11

- demarcation of nesting habitat for protected birds likely to be on-site will in turn guide accurate pre-clearance surveys⁸¹.
- 4.73 Mr Kellow also proposed the deletion of clause using the undefined terms ‘zones of influence’ and ‘exclusion zones’ as they are vague⁸².
- 4.74 Mr Hansen noted that the terms were clearly identified in the ecological impact assessment. He clarified that the zone of influence is the area around proposed construction works within which a pre-works survey should be conducted. The exclusion zone ostensibly works in the reverse, where – should a pre-works survey identify an active nest – the zone is set around the active nest as the area within which clearance and construction activities will be excluded until chicks fledge or the nest naturally fails⁸³.
- 4.75 I have ultimately found Mr Hansen’s evidence to be more appropriate for the reasons he expressed. In my reading of the Authority’s preferred drafting of the BMP requirements, there is a clear logic in the interrelationships of the clauses that progressively relate to: defining the vegetation types which are likely to provide nesting habitat for protected species; defining the relevant nesting season for each relevant species; defining the zones of influence/exclusion accordingly; and setting out the method for re-survey to confirm when nest is no longer active.
- 4.76 As these matters are inherently adaptive and variable based on season, species and other factors, I am satisfied that they are appropriately administered through the management plan and its step-wise, adaptive structure summarised above. Mr Hansen’s helpful answers to my questions at the hearing were instrumental in reaching this finding.
- 4.77 There was also disagreement between the Council and the Authority about the reference to cavity-nesting species in the conditions, with Mr Kellow recommending the relevant clauses be limited to Ruru – being the lone species anticipated on the Site⁸⁴. Mr Hansen, in contrast, preferred that the clause be broadly cast for all cavity nesters⁸⁵.
- 4.78 Again, I find Mr Hansen’s view to be more appropriate for the reasons he expressed. That said, in reviewing the proposed drafting of the conditions preferred by the Authority, I observed the use of essential language as relates to both pre-works surveys for cavity nesters and for active kārearea nests. The relevant clauses were drafted as follows (**emphasis** added):

***Ensure** pre-works checks of any suitable nesting cavities within vegetation in the Project Footprint is undertaken, if vegetation removal and construction activities occur during*

⁸¹ Hansen memo: *Eastern Hills Reservoir Post Hearing Ecology Memorandum* (17 December 2024) page 5

⁸² Kellow: *Comments in response to proposed conditions provided 5.12.2024 and RPS-PC1 Policy 51 analysis* (13 December 2024) para 13

⁸³ Hansen memo: *Eastern Hills Reservoir Post Hearing Ecology Memorandum* (17 December 2024) page 5

⁸⁴ Kellow: *Comments in response to proposed conditions provided 5.12.2024 and RPS-PC1 Policy 51 analysis* (13 December 2024) para 16

⁸⁵ Hansen memo: *Eastern Hills Reservoir Post Hearing Ecology Memorandum* (17 December 2024) page 5

the active nest season for any cavity nester possible, likely or highly likely to nest on-site; and

Ensure *pre-works checks for kārearea shall also be undertaken if any vegetation clearance is to occur within the kārearea active next season (August to May inclusive).*

- 4.79 Further to the preamble discussion above regarding management plan conditions, combined with the relative importance of the species of interest, these clauses are clearly designed to be mandatory performance standards. I have accordingly recast them as such – Conditions 38 and 39 – with corresponding cross references provided in the information requirements under the BMP.
- 4.80 Lastly, there were divergent views between the Council and the Authority as to whether offsetting or compensation should be required given the expectation that the Proposal will result in a net permanent loss of total vegetation cover.
- 4.81 Mr Hansen clarified at the hearing that the quantum as estimated in his ecological impact assessment was in error – and his revised estimation was that 0.485ha of vegetation in total was likely to be permanently lost, with 0.14ha of that comprising *indigenous* vegetation. He clarified that the 0.485ha of total vegetation lost after remediation would amount to 0.07% of the 671ha comprising the wider Significant Natural Resource as defined on the planning maps. In Mr Hansen’s view, even if the entire 1.9ha project footprint was not subject to remediation planting, that would account for 0.28% of the Significant Natural Resource and the scale of effect could still be said to be less than minor – nor would it lead to a need for offset planting or compensation in the context of the NPS-IB. In qualitative terms, Mr Hansen emphasised that the suite of eco-sourced vegetation used for remediation planting would be an improvement on the exotic species to be cleared.⁸⁶
- 4.82 Mr Hansen advised also that he had shared those revised calculations with Ms Roberts in advance of the hearing, who did not express any disagreement with their accuracy.
- 4.83 It is important to record that Mr Hansen’s calculations are all approximations only. In response to questioning, Mr Hansen noted those calculations were based on a worst-case scenario; however, as advised in his summary statement⁸⁷, the construction methodology has not yet been developed and there is uncertainty around where and when vegetation clearance will occur on-site. He expanded further on this point in his contribution to the Authority’s reply:

For completeness, I do not believe a ratio for remediation is an appropriate condition. As we do not yet know the area of vegetation impact until it occurs (after detailed design has been completed the Contractor may not need to remove all vegetation within the Project boundary), simply remediating all available areas on-site (i.e. 100% of the area able to be remediated, consistent with my answer at the hearing) is sufficient to ensure effects are not more than minor, without the need for offsetting where a ratio would be

⁸⁶ Hansen supplement: *Additional clarification or edits following the summary statement and final review of evidence in Chief of Mark Hansen for Wellington Water Limited (Ecology)* (27 November 2024). Page 1

⁸⁷ Summary statement of evidence of M Hansen (28 November 2024), para 20

*appropriate. The revised conditions now more clearly require that all areas where vegetation is lost are required to be replanted, if remediation is able to occur in that location.*⁸⁸

- 4.84 In synthesising the salient aspects of Mr Hansen’s evidence in the above respects, there is little cause for concern as to the total quantum of vegetation ultimately cleared by the Proposal as:
- a. the likely worst case would not amount to more than a minor effect in RMA terms, even if there is nil remedial planting;
 - b. the intent of the Proposal is for all cleared areas to be replanted apart from the actual footprint of the reservoir and other discrete areas where it may otherwise – and reasonably – be impracticable; and
 - c. with that approach adopted, any net adverse effect would be negligible overall.
- 4.85 I adopt Mr Hansen’s assessment in the above respects and accordingly find there is no reasonable cause to require offset planting or compensation over and above the remediation proposed.
- 4.86 That said, I have added Condition 42 to establish, as essential performance standards, the key aspects of the remediation approach underpinning Mr Hansen’s evidence and the shared view of the landscape experts. Rather than leave such matters as unresolved information requirements in management plans, this condition now requires:
- a. remedial planting of all areas subject to clearance works which are able to be remediated as recommended by Mr Hansen (with exclusions expressly identified for the reservoir itself, tracks, seating and other identified elements of the Proposal);
 - b. species to be eco-sourced and selected from the scheduled in the LCP attached to the NoR unless otherwise recommended by the project herpetologist, ecologist or other a suitably qualified expert;
 - c. establishment of remedial planting at a density to achieve 80% canopy cover within 5 years of planting – a metric that was supported by all of the ecology and landscape experts.
- 4.87 I note the latter is further supported by the monitoring and maintenance requirements no included in Condition 43.
- 4.88 With these clarifications recorded, my wider consideration of ecological effects can be relatively brief.

⁸⁸ Hansen memo: *Eastern Hills Reservoir Post Hearing Ecology Memorandum* (17 December 2024) page 3

Ecological effects – generally

- 4.89 As noted above, there was no fundamental challenge in evidence or at the hearing to suggest the Proposal is unable to appropriately manage potential effects on ecology through conditions.
- 4.90 While Ms Burt did not attend the hearing, she expressed concern in her submission about the loss of vegetation and associated harm to the natural environment. She sought that reinstatement be required following clearance activities; and for the reasons I set out in the preceding discussion, I consider the conditions as amended in Appendix 1 will appropriately address the relief sought by Ms Burt.
- 4.91 Looking more broadly at ecological effects, I note that expert consideration has been given to potential effects on relevant flora and fauna in accordance with accepted national assessment guidelines⁸⁹.
- 4.92 Setting aside the few remaining points in contention on the ecological conditions, there is nothing arising from Ms Roberts' review of Mr Hansen's report to suggest the latter's assessment is in any way deficient. I accordingly adopt Mr Hansen's assessment, the key aspects of which can be summarised as follows:
- a. there are protected birds present in the area which may utilise the Site for nesting – the approach outlined in the BMP for avoiding active nesting seasons and/or ensuring protection through pre-clearance checks, buffers zones and the like will ensure effects are suitably managed⁹⁰ and this is bolstered by the more objective conditions I have included around cavity-nesters and kārearea as summarised above;
 - b. there are also protected lizards present in the area which will be managed through the parallel Wildlife Act permit process administered by the Department of Conservation, including through preparation and implementation of a lizard management plan⁹¹ – I rely on Mr Hansen's evidence and his experience with the permit process in finding that permit process is adequate to manage effects on lizards without additional duplication in the conditions of the NoR and note the amendments to the conditions volunteered by the Authority to prioritise the LMP in the suite of related management plans;
 - c. bat monitoring and site surveys confirmed that the Site has no values for bats⁹²;

⁸⁹ Roper-Lindsay, J., Fuller S.A., Hooson, S., Sanders, M.D., Ussher, G.T. 2018. *Ecological impact assessment. EIANZ guidelines for use in New Zealand: terrestrial and freshwater ecosystems*. 2nd edition.

⁹⁰ Summary statement of evidence of M Hansen (28 November 2024), para 6

⁹¹ Summary statement of evidence of M Hansen (28 November 2024), para 7

⁹² Refer NoR Appendix G, Section 7.4

- d. the Site vegetation to be cleared provides habitat for indigenous fauna, but impacts on those values will be sufficiently addressed by the requisite remediation planting⁹³;
- e. at-risk vegetation identified as potentially being present on-site by Ms Roberts will be subject to pre-clearance works checks and the VMP will provide details on how any relevant species are to be salvaged and transferred⁹⁴;
- f. effects on the ecological value of terrestrial invertebrates assessed on-site will be negligible⁹⁵;
- g. adverse effects on identified values of Waiwhetū Stream and its tributaries will be low, with proposed riparian planting able to result in a net positive effect⁹⁶; and
- h. adverse effects on identified natural inland wetlands will be low, provided recommended mitigation measures are adopted⁹⁷.

4.93 On the freshwater and wetland values, it was the shared view of Mr Kellow and Ms Crooks that those aspects of the project are principally the domain of the Regional Council and the parallel consent processes the Authority has advanced alongside the NoR. That extended also to erosion and sedimentation effects from earthworks, which I discuss further below. For the current purposes, I accept the planners' shared view that my focus should be on the balance of matters traversed in the ecological impact assessment – which again I find to be suitably addressed by the conditions.

Construction noise and vibration

4.94 It was common ground that construction noise and vibration effects are anticipated to be more than minor at times during the construction phase of the Proposal – in particular, noise from nighttime concrete pours and during the period where piling activities are required.

4.95 In his hearing presentation, Mr Parry spoke of his concerns regarding construction noise, emphasising that the effects will be endured for a period of 2-3 years. Acknowledging that the effects could be said to be temporary as a result, he nevertheless noted that the effects themselves would be large in scale and intensity. In his view, the low ambient noise levels comprising the existing environment exacerbate that scale and intensity of effect.

⁹³ Summary statement of evidence of M Hansen (28 November 2024), para 8-10

⁹⁴ Summary statement of evidence of M Hansen (28 November 2024), para 9

⁹⁵ Refer NoR Appendix G, Section 7.6

⁹⁶ Refer NoR Appendix G, Section 7.9 – 7.10

⁹⁷ Refer NoR Appendix G, Section 7.11

- 4.96 Mr and Mrs Clarke equally spoke of their concerns regarding construction noise, particularly of vehicles in the vicinity of Balgownie Grove. They noted such impacts would affect the amenity values they enjoy from their property and their lifestyle.
- 4.97 The general approach proposed to manage these effects – supported by both acoustic experts for the Authority and Council – can be summarised as follows:
- a. relevant New Zealand and international standards for construction noise and vibration will be complied with to the extent possible; and
 - b. where those standards are unable to be achieved, the best practicable alternative will need to be adopted to ensure noise does not reach unreasonable levels.
- 4.98 Integral to the above approach is the preparation, certification, implementation and revision of the CNVMP. In their respective briefs of evidence, both Mr Terry and Mr Arden considered the CNVMP and associated conditions would reasonably mitigate construction noise and vibration effects. They also agreed that no material adverse effects would be anticipated from the operational phase of the project.
- 4.99 As with the preceding effects topics, I found that the conditions managing construction noise and vibration were deficient as volunteered. With the reliance on management plans to deliver effective mitigation without corresponding limits or performance standards clearly expressed, I found that an informed conclusion as to effects could not be arrived at. By way of example:
- a. while the Proposal (and the acoustic and planning experts) impress that night-time works are planned for four nights only, the conditions do not impose that or any other temporal limit overall;
 - b. while the acoustic experts both rely on the understanding that the CNVMP will require advanced notification practices, they are not mandatory performance standards; and
 - c. as noted previously the conditions did not address (at all) the recommendation of Mr Terry that night-time over pumping activities required for dewatering be subject to mitigation via acoustic enclosures.
- 4.100 It is important to note that this is entirely a function of the conditions themselves, and not a challenge to the substance of Mr Terry’s assessment. On the latter point, I rely upon Mr Arden’s peer review in confirming that Mr Terry’s assessment has been appropriately framed and has reached reasonable conclusions. There is accordingly no criticism of the acoustic experts for any limitations of the conditions.
- 4.101 Nevertheless, there remained a need to ‘close the gap’ between the assumptions relied upon by the acoustic experts and the anticipated environmental results assured by the conditions. With the changes now adopted in Appendix 1, I am satisfied that the key measures relied upon by Mr Terry and Mr Arden are

appropriately engrained in the conditions such that the conclusions they have reached that the noise and vibration effects will be reasonable are well founded.

4.102 Firstly in that respect, both acoustic experts expressed the view in questioning that the noise barrier is of *critical* importance to the management of construction noise. The function of the corresponding condition has been amended to:

- a. require the barrier to be installed *at site establishment* as recommended in the original noise assessment accompanying the NoR⁹⁸;
- b. define the spatial catchment for the barrier as relied upon by Mr Terry in his assessment, with allowance for the barrier to be moved to account for the staging of works or to use appropriate alternative locations, provided that the advising acoustic expert confirms comparable or better performance; and
- c. require the advising acoustic expert to recommend the best practicable alternative where the 3m design height cannot be achieved for any span of the noise barrier.

4.103 Secondly, Condition 21 has been added to require all pumps and generators used during night-time over-pumping to be installed within an acoustic enclosure as recommended in the original acoustic assessment⁹⁹.

4.104 Thirdly, the information requirements for the CNVMP regarding normal operating hours was expressed more akin to a performance standard in the Authority's volunteered conditions; they have been accordingly recast as one under Condition 22. Exceptions have been provided for as anticipated in the NoR for the night-time works and where necessary to receive over-sized deliveries due to roading and access restrictions.

4.105 Lastly, and perhaps most importantly, limits are included under Condition 22 for night-time concrete pours and post-tensioning activities, including:

- a. limiting the overnight works to those purported in the NoR;
- b. setting, as a limit, the previously volunteered information requirement for the CNVMP to stipulate that overnight works should not exceed three consecutive nights without a stand-down period;
- c. setting, as a performance standard, a requirement for the Authority to adopt enhanced communication procedures with affected residents – this includes *prior* notification to affected parties which was omitted in the conditions despite being emphasised by both Mr Terry and Mr Arden as of high importance to the success of the CNVMP; and
- d. similar conversion of potential relocation of affected neighbours during works and adopting good practice measures to minimise intermittent

⁹⁸ Refer NoR Appendix H, Table 8.1, page 34

⁹⁹ Refer NoR Appendix H, section 8.2.2, page 37 – 38

sounds during night-time works from CNVMP information requirements to performance standards.

- 4.106 For the reasons expressed above, and relying on the shared view of Mr Terry and Mr Arden, I find the Proposal will appropriately manage construction noise and vibration effects.
- 4.107 For most day-to-day activities, I anticipate the works will comply with the relevant New Zealand and international standards referenced in Conditions 23 and 24. Where those limits are not able to be achieved, the requirement of the CNVMP to prompt application of the best practicable alternative is an appropriate response to minimise the potential for noise to become unreasonable.
- 4.108 I adopt the shared view of the acoustic experts that there will be times when noise generation is likely to be at a level for some receivers that could be said to be more than minor. With the conditions imposed as amended at Appendix 1, however, I do not consider those effects are likely to reach a level of effect that could be deemed significant adverse, nor will they be experienced for unreasonably sustained periods.

Traffic and transportation

- 4.109 As with noise and vibration effects, the main focus on potential transportation effects arising from the Proposal are limited to the construction phase. I briefly address the transport-related aspects of Mr Foster's submission before turning to: Mr Holt and the Clarkes' submissions; the Ministry of Education's submission and finally, wider consideration of network safety and efficiency effects.

Mr Foster's concern regarding a through route to Wainuiomata

- 4.110 Mr Foster's submission questioned whether the reservoir would have a strategic effect on the transport network, suggesting it would compromise a potential through route to Wainuiomata via Summit Road.
- 4.111 Ms Crooks addressed this in her evidence, outlining her understanding that there are no formal plans for such a route, including in the Plan or the Wellington Regional Growth Framework¹⁰⁰. Ms Fraser echoed Ms Crooks' evidence in this respect¹⁰¹.
- 4.112 Mr Foster did not appear in support of his submission so I was unable to gain any further clarification from him as to the route he referred to. In the absence of such clarification, I have relied on the evidence of Ms Fraser and Ms Crooks that the Proposal does not introduce any relevant effects on the transport network on this particular point.

¹⁰⁰ Evidence of C Crooks (14 November 2024), para 14.5

¹⁰¹ Evidence of H Fraser (28 November 2024), para 20

Mr Holt & the Clarkes' concerns regarding Balgownie Grove

- 4.113 Mr Holt and the Clarkes both voiced concern about construction traffic effects on Balgownie Grove. They expressed the view that the street is too narrow and will struggle to cope with large volumes of heavy vehicles. Safety, continuity of access and loss of kerbside parking were all elements highlighted by the submitters in this respect.
- 4.114 Mr Holt also noted that there are three home businesses operating out of Balgownie Grove, including some which rely on frequent delivery vehicle access. He noted omission from the transportation assessments or the volunteered conditions of any acknowledgement of those activities, their operational needs, or any need for the Proposal to address potential impacts on them.
- 4.115 Responding to Mr Holt's observation in her hearing presentation, Ms Fraser expressed the view that it would be appropriate for the CTMP to account for any particular access arrangements necessary for home businesses. I adopt Ms Fraser's view in that respect and have included a minor addition to the CTMP information requirements accordingly.
- 4.116 Ms Fraser's response at the hearing also addressed the capacity of Balgownie Grove to accommodate kerbside parking and through traffic generally. She noted that the 6.5m carriageway width is sufficient to accommodate one lane of through traffic with parking on one side, but not on the other. She noted this would require active management during the relevant construction phase, and this is squarely addressed in the CTMP.
- 4.117 Where there is a need to temporarily reduce the quantum of kerbside parks during a given phase of construction, Ms Fraser noted that the CTMP must provide details of where parking is temporarily removed and of alternative locations where on-street parking can be accessed.
- 4.118 Ms Fowler's evidence quantified the likely volume of traffic generated during the phase of work centred on Balgownie Grove. She estimated that the maximum daily number of large construction vehicle movements during the 1-2 months anticipated for the Balgownie Grove works would be five return trips. That volume amounts to a 20% increase on the current daily average trip generation, and to one large vehicle either arriving at or leaving the Site every 60-70 minutes¹⁰².
- 4.119 While there will likely be some disruption for residents and users of Balgownie Road during the phase of the project when works are targeted there, I adopt the shared view of Ms Fowler and Ms Fraser that the relevant effects will be short-lived and can be suitably managed by the conditions such that they are no more than minor.

¹⁰² Evidence of H Fowler (14 November 2024), para 7.1 & 8.3

Ministry of Education submission

- 4.120 In its submission and subsequent statement tabled in advance of the hearing, the Ministry of Education expressed concern about increased heavy vehicle traffic accessing the project Site via Daysh Street on which the combined school site for Naenae Intermediate School, Naenae College and Kimi Ora School is located. The Ministry noted also that Belmont School is located off the northern end of Fairway Drive adjacent to where heavy vehicles would pass between the Site and State Highway 2.
- 4.121 The Ministry expressed that the potential high volume of heavy vehicle movements passing the combined school site on Daysh Street would increase the safety risk for students walking and cycling to school, or students getting out of cars at peak pick-up and drop-off times. The submission noted also that larger trucks reduce the visibility of students to other drivers on the road.
- 4.122 The Ministry clarified it is not concerned for pedestrian safety at Belmont School as there are pedestrian underpasses that students use to cross Fairway Drive and State Highway 2; however, the submission noted that the intersection outside the school gets very congested at peak pick-up and drop-off times, and the intersection does have a number of reported crash incidents.
- 4.123 The Ministry noted that the construction phase might coincide with the same for the River Link project, with potential cumulative effects arising from the collective volume of heavy vehicle traffic.
- 4.124 While the Ministry supported the proposed CTMP and associated conditions, the submission sought that conditions be added to clarify how heavy vehicles would avoid travelling past the relevant schools during peak school pick-up and drop-off times. It sought also that heavy vehicle drivers are briefed on maintaining safe speeds in the vicinity of schools.
- 4.125 This latter point was supported by Ms Fraser¹⁰³ and Ms Fowler¹⁰⁴, and has subsequently been addressed in an addition to the information requirements for the CTMP under Condition 27. Apart from that, neither Ms Fraser nor Ms Fowler considered that the further relief requested by the Ministry would be warranted.
- 4.126 In her evidence, Ms Fraser noted that Naenae Road, Daysh Street and Fairway Drive are all arterial roads anticipated to accommodate heavy vehicle movements. She explained also that there is an existing signalised pedestrian crossing on Daysh Street to assist with the safe access to the combined school site. Ms Fraser added that vehicle speeds in the vicinity are typically low during peak times due to elevated levels of congestion¹⁰⁵.

¹⁰³ Evidence of H Fraser (28 November 2024), para 28

¹⁰⁴ Evidence of H Fowler (14 November 2024), 11.12

¹⁰⁵ Evidence of H Fraser (28 November 2024), para 26

- 4.127 Ms Fraser also clarified in her hearing presentation that restrictions on heavy vehicles may be an appropriate tool to use *if* the receiving environment comprises a collector or local road – but reiterated the point made in evidence that the relevant schools in this case are all located on arterial roads.
- 4.128 Ms Fowler noted in evidence that the proposed route for heavy vehicles has been deliberately chosen to avoid the Hutt City Centre. She added that the route along Daysh Street passes the rear of the school site, well away from any main entrances¹⁰⁶.
- 4.129 Ms Fowler assisted me further by illustrating how the proposed volume of traffic compares with existing levels:
- 11.9 Daysh Street is an arterial road with over 8,000 vehicles per day, 3% (or over 240) of which are HCVs. At the busiest stage of the project for construction traffic there will be an additional 120 HCV movements, which represents a 1.3% increase in daily traffic volumes, or a 45% increase in HCVs.*
- 11.10 During school pick-up and drop-off times (assumed to be 8:30-9 am and 3-3:30pm, therefore an hour total), there could be expected to be up to 14 extra heavy movements (a maximum of one every five minutes).*
- 11.11 I consider that this will impose only negligible additional risk relative to the risk that already exists on an arterial road with a 50 kmph speed limit.¹⁰⁷*
- 4.130 Ms Fowler also gave the view that the traffic patterns for heavy vehicles associated with the River Link project would be distinct from the reservoir project and unlikely to lead to any cumulative safety impact.
- 4.131 At the hearing, I asked Ms Fowler whether she had consulted the relevant crash database maintained by NZTA to gauge whether there are any known safety issues with the road network in the environs of the schools. Ms Fowler helpfully reported back to me on this point in the Authority’s reply.
- 4.132 In the period 2014-2023, Ms Fowler advised that the crash database indicated that:
- a. 26 crashes were reported in total, seven of which resulted in injury (one serious);
 - b. three of the reported crashes occurred at school pick-up and drop-off times, with all being non-injury crashes;
 - c. trucks were not involved in any of the crashes; and
 - d. two of the reported crashes involved a pedestrian or cyclist, one of which was likely to have been school-related and involved a teenager being struck by a light vehicle running a red light – the event was a ‘non-injury’ event.¹⁰⁸

¹⁰⁶ Evidence of H Fowler (14 November 2024), para 11.8

¹⁰⁷ Evidence of H Fowler (14 November 2024), 11.9-11.11

¹⁰⁸ Fowler memo: *Daysh Street crash history* (2 December 2024) page 1

- 4.133 Ms Fowler concluded that the crash data does not raise any particular concern compared to the rest of the network, nor does it change her assessment overall that heavy vehicle traffic from the Proposal poses negligible additional safety risk.¹⁰⁹
- 4.134 Mr Fowler also advised that by 1 July 2026, the 2026 Setting of Speed Limits Rule administered by NZTA directs the Council to implement a 30km/h variable speed limit operating outside school gates during school travel periods. While the final detail on the implementation of that rule along Daysh street will not be known until the Council works through the associated process, Ms Fowler's view is that the introduction of the variable speed limit would further improve safety during school travel times.¹¹⁰
- 4.135 In the absence of any expert transportation analysis from the Ministry to the contrary, I rely on the shared view of Ms Fowler and Ms Fraser that the Proposal will not exacerbate safety effects for any of the school sites identified in the Ministry submission. The Ministry has not presented any compelling information to suggest that the relevant arterial roads are incapable of functioning safely without imposing a prohibition on heavy vehicle traffic during school travel times – nor has the Ministry considered flow on effects that may result, including protracted construction timeframes and associated local effects around the project Site.

Transportation effects generally

- 4.136 Turning from the detailed matters discussed above to more general effects, there is no evidence before me to suggest that transportation effects from the Proposal will be unacceptable with the imposition of the CTMP and additional transportation conditions volunteered.
- 4.137 I find that the CTMP conditions are improved with reference to relevant NZTA guidance on temporary traffic management as agreed in the planning experts' joint witness statement. This will bring a degree of clarity and objectivity to the CTMP for certification and implementation purposes.
- 4.138 I adopt the shared view of Ms Fowler and Ms Fraser that the CTMP and Condition 31 will provide for the appropriate management of temporary construction traffic effects. The conditions also appropriately prompt any damage to the roads and footpaths from project traffic to be remediated at the Authority's cost following completion of works.
- 4.139 While there will be some disruption to local road users during the construction programme, I am satisfied the effects will be temporary and no more than minor overall.

¹⁰⁹ Fowler memo: *Daysh Street crash history* (2 December 2024) page 1-2

¹¹⁰ Fowler memo: *Daysh Street crash history* (2 December 2024) page 2

Recreational amenity, access to & along rivers

- 4.140 As noted in the submissions by Mr Foster and Ms Burt, the Proposal will result in temporary access restrictions to the firebreak track and to Waiwhetū Stream. These restrictions are necessary to maintain health and safety during construction activities.
- 4.141 Both Ms Crooks¹¹¹ and Mr Kellow¹¹² noted that while the new reservoir would be located atop the existing firebreak track, the track will be reinstated once works on the reservoir are completed. Mr Kellow recorded his understanding of the NoR that the reinstated track will be constructed to a higher standard than the current dirt track.
- 4.142 Notwithstanding Ms Crooks and Mr Kellow's shared view, I observed there was no corresponding requirement in the conditions to expressly assure that outcome. While Condition 1 arguably provides scope for the track to be reinstated, I have made the anticipated outcome more express in Condition 12 along with a requirement to restore public access to provide greater clarity and certainty in this regard.
- 4.143 With that change made to the conditions, and with the future application of the CEMP, I adopt the evidence of Mr Kellow and Ms Crooks that the effects on recreational values will be minor.
- 4.144 While the Summit Road access to the track network will be inaccessible for a period of years, there are other access points in the vicinity. Signage as required in the CEMP will advise of those access restrictions, which will offer appropriate mitigation.
- 4.145 The access restrictions to Waiwhetū Stream will be considerably shorter in duration, being only a matter of a couple of months. Again, alternative access arrangements to the Stream will remain available upstream and downstream of Balgownie Grove, and I am accordingly satisfied the overall impact will be less than minor.
- 4.146 Longer term, access and associated recreational values associated with the track and Stream will be enhanced through the remedial planting, new passive recreational furniture and upgraded tracks around the reservoir itself.

Earthworks and geotechnical stability

- 4.147 Here, I consider geotechnical stability first before wider consideration of earthworks effects.

Geotechnical stability

- 4.148 This matter was of some significance to Mr Holt and Mr and Ms Clarke.

¹¹¹ Evidence of C Crooks (14 November 2024), para 14.10

¹¹² s42A Report, para 166

- 4.149 Mr Holt spoke of his observations since moving to Balgownie Grove in 2004, including a major slip that occurred in 2005 and the visible siltation of the stream coinciding with seismic activity. He circulated photos of the like in support of his presentation.
- 4.150 Mr Holt also expressed his overall sense of anxiety from the prospect of 15ML of water perched above his property and the possibility of structural failure leading to catastrophic flooding downstream. He drew my attention to such an event in the United States in 2023.
- 4.151 Mr and Mrs Clarke echoed Mr Holt's concerns in this respect.
- 4.152 Mr Keepa's view was that the risks of concern to the submitters would be principally addressed by the very high level of resilience the reservoir would be designed to. He noted that buildings and structures are classified under the New Zealand Seismic Loadings Standard¹¹³ based on their importance, with higher importance structures designed to be more seismically resilient.¹¹⁴
- 4.153 Mr Keepa echoed the Proposal description in the NoR that the reservoir will be classified a high importance facility, meeting an importance level of 4 under the Standard. When I asked him at the hearing whether there was any potential that it could be designed to a lower importance level, Mr Keepa gave the view that such an outcome could not be justifiable – it is a critical response structure and therefore requires the corresponding high design standard.
- 4.154 Mr Keepa added that seismic demands used for design of new code compliance buildings are typically calculated using simplified methods in the Standard; whereas the assessment methodology used for the reservoir design assumes seismic loads are in the order of twice the loads calculated using the simplified method. In his view, the reservoir will accordingly be designed for much larger seismic demands than most existing buildings in the Hutt Valley.¹¹⁵
- 4.155 Mr Keepa expanded upon this point in his hearing presentation, noting that a typical office building would be designed to preserve life in a 1-in-500 year seismic event; whereas the design event used for the reservoir is 1-in-2,500 years.
- 4.156 In response to my question as to whether Mr Keepa had turned his mind to the potential consequences that could be expected for such a large-scale event, he responded as follows:
- a. firstly, Mr Keepa noted the extreme rarity of such an event, reflecting the return period which spans more than two millennia;
 - b. in physical terms, Mr Keepa anticipated such an event would lead to some movement of the ground beneath the reservoir, but that – overall – the tank would contain the water in storage at the time;

¹¹³ NZS1170.5:2004. *Structural design actions - Part 5: Earthquake actions - New Zealand*

¹¹⁴ Evidence of C Keepa (14 November 2024), para 7.2

¹¹⁵ Evidence of C Keepa (14 November 2024), para 7.3

- c. he noted that there could be some cracking or leaking, but anticipated that the drainage facilities installed in conjunction with the Proposal would address that;
 - d. for more frequent events, Mr Keepa anticipated no impact for a 100-year return period event and no more than minor damage in a 1-in-500-year event; and
 - e. Mr Keepa also expressed the view that the more frequent events might coincide with a loss of access to the Site, but again such events are not expected to result in tank rupture or loss of water.
- 4.157 Mr Keepa also noted there are no known active faults nor any evidence of previous deep seated slope instability at the Site. He added that the reservoir will be founded on rock and residual soils that are not susceptible to liquefaction. In Mr Keepa's view, the shallow slip at the head of the gully referred to by Mr Holt was likely caused by a combination of erosion from water channelised into the gully and increased groundwater levels from prolonged wet weather.¹¹⁶
- 4.158 Mr Keepa also considered that the Proposal would reduce the risk of future slope instability from storm events due to the proposed collection and control of surface water flows. By cutting the platform for the reservoir down as proposed, Mr Keepa noted that the weight driving potential landslides at the top of the ridge – and therefore the risk of future instability below the reservoir – would be reduced.¹¹⁷
- 4.159 I tested with Mr Keepa whether the conditions could be improved by reference to an objective performance standard or guideline, in order to provide greater clarity as to what is expected for a seismically resilient design. Mr Keepa agreed it would be helpful for the Importance Level 4 classification and the 2,500-year return period events to be reference points for future assessment required under the conditions. He underscored also the importance of the assessment being carried out, and peer reviewed, by qualified persons.
- 4.160 Mr Smith shared Mr Keepa's view regarding the need for expert assessment and peer review. He also signalled his satisfaction that the volunteered conditions, as amended following his original peer review, are acceptable to ensure slope stability risks are suitably addressed and an overall resilient design is delivered.
- 4.161 Taking account of Mr Keepa's view that the site stability conditions would be improved with reference to more objective language, the planning experts agreed amendments in the final conditions set. The relevant condition now references the Regional Specification for Water Services; and, consistent with Mr Keepa's

¹¹⁶ Evidence of C Keepa (14 November 2024), para 8.1 & 8.2

¹¹⁷ Evidence of C Keepa (14 November 2024), para 8.4 & 8.5

recommendations, the relevant guidance on seismic resilience for new structures is to Importance Level 4 and with an ultimate limit state design of 2,500 years¹¹⁸.

- 4.162 Relying on the shared view of Mr Keepa and Mr Smith, and with the adoption of the final condition amendments, I am satisfied that the risks from slope instability have been suitably addressed by the Proposal. The proposed reservoir will adopt a seismically resilient design with a high degree of conservatism applied to minimise the potential for adverse effects over the design life of the structure.

General earthworks effects

- 4.163 Stability issues aside, earthworks at the scale proposed have the potential to result in erosion and sedimentation effects.
- 4.164 Both Mr Kellow and Ms Crooks noted that earthworks of this scale are subject to consent requirements under the applicable Regional Plan administered by GWRC, and that corresponding applications to authorise the works have been lodged and are in-process at the date of the hearing.
- 4.165 Ms Crooks' evidence on this matter was that erosion and sedimentation effects will be no more than minor and appropriately managed, including through adoption of management measures set out in the relevant regional guidelines administered by GWRC and the core principles and measures in the draft ESCP plan attached to the NoR.¹¹⁹
- 4.166 I queried in Minute 2 the lack of volunteered conditions to assure the outcomes anticipated by Ms Crooks. In the Authority's response to Minute 2, it noted that GWRC is the appropriate consenting authority to assess the erosion and sediment control requirements against the regional guidelines and to certify the corresponding management plan. It is sufficient in the Authority's view that the certified plan is provided to Council as an information requirement, rather than the certification to be duplicated under the NoR conditions.
- 4.167 I tested this further with Ms Crooks at the hearing, and she expressed her confidence that all relevant erosion and sedimentation effects will be managed through the parallel GWRC consenting process.
- 4.168 Ms Crooks' view was not contested by Mr Kellow or any other party, and I accordingly adopt the shared view of the planning experts that the conditions are appropriate in light of the Authority's compliance obligations under the Regional Plan.
- 4.169 I further note that the NoR conditions include performance standards to stabilise worked surfaces as soon as possible, to avoid causing any dust nuisance and to avoid tracking dirt and other material onto the road network.

¹¹⁸ Table 3-2 Design Criteria for New Structures. Wellington Water. *Regional Standards for Water Services*. December 2021. Version 3

¹¹⁹ Evidence of C Crooks (14 November 2024), para 9.11-9.13

- 4.170 For the above reasons, I am satisfied that the potential effects from earthworks will be appropriate.

Other matters

- 4.171 Here, I briefly address other effects issues raised before and during the hearing.
- 4.172 Firstly, I note the concern expressed by Ms Burt in her submission regarding the temporary access limitations to the firebreak track and the *associated fire risk* it may introduce. Ms Crooks noted in her evidence that the expectations expressed by Fire and Emergency New Zealand to the Authority is that the track is reinstated following construction. There is no corresponding expectation that the firebreak need be maintained during construction as other access points are available. It was also made clear that the role of the track is not to provide fire truck access.
- 4.173 Given the above and the requirements to reinstate the track now enshrined in the conditions, there is no evidence to suggest that the Proposal will adversely affect the efficacy of the fire break track over the medium- to long-term.
- 4.174 Secondly, Mr Holt and Mr Parry both expressed *concerns about the Proposal's impact on flooding* in and around the Waiwhetū Stream, both from increased runoff and the occasional operation of the scour pipeline.
- 4.175 In terms of additional stormwater runoff from increased hardstand area, the Authority's engineering advisors confirmed that the Proposal would contribute a further 60L/s volume during a 10-year rainfall event, compared to an estimated flow rate of 27,000 L/s in the stream during the same event. It was noted also that the time of concentration is less than 10 minutes and therefore that peak flows from the reservoir will occur considerably sooner than in the stream generally. On that basis, the increased flows from stormwater runoff can be said to be no more than minor. As noted by Ms Crooks, this is principally a matter for GWRC's jurisdiction in consideration of any discharges associated with the Proposal.
- 4.176 Mr Carran and Edwards also provided helpful clarifications for me on the likely operation of the scour pipeline in response to questions I put at the hearing. Mr Carran noted, for example, that drawdown events to maintain the reservoir are carefully planned and would not coincide with periods of high flow in the catchment. He added that the other function of the scour pipeline is to allow water to safely drain away if there is a malfunction and water continues to be fed into the reservoir after it is full. In Mr Carran's view, such overflow incidents are very infrequent.
- 4.177 Mr Edwards drew on his operational experience in support of Mr Carran's view. He noted that Wellington Water manages 130 reservoirs and only one overflow from malfunction has been recorded since 2015. Mr Edwards noted that faults are identified quickly with various control systems and alarms, and are attended to by staff with urgency.

- 4.178 Mr Edwards also noted that the typical frequency of drawdown activities for maintenance is in the order of every 10 years. He echoed Mr Carran's view that such events are carefully controlled, including management of outflow rates to avoid erosion effects and adverse flow rates.
- 4.179 For the reasons expressed by Mr Edwards and Mr Carran, and to the extent relevant to Council's jurisdiction, I am satisfied that the effects of increased runoff from the proposed reservoir and the function of the scour pipe will be acceptable. I also note associated discharges will be subject to authorisations from GWRC, including consideration of water quantity and quality effects.
- 4.180 Finally, I note that I have taken account of *potential effects arising from future maintenance activities* associated with the Proposal. As noted in the introductory section above, none of the original conditions volunteered grappled with potential future maintenance activities.
- 4.181 Of principal concern in that regard, Mr Edwards helpfully explained that – while repair, replacement or physical maintenance of the underground pipes is unlikely to be required – future vegetation clearance associated with such works may be required.
- 4.182 As agreed by Dr Hoddinott and Ms Crooks, such activities would have the potential to undermine the remedial gains achieved by revegetation planting following initial site clearance and installation works. This effect was subsequently addressed by way of additional condition agreed between Mr Kellow and Ms Crooks. With the minor drafting refinement I have adopted to that condition, I am satisfied that any native vegetation removed as a result of future maintenance activities will be replaced such that any effects are temporary no more than minor.

Summary conclusion on effects

- 4.183 For the reasons outlined above, and having regard to s168A (3) and 3(A), I find that the Proposal will result in positive effects and any adverse effects will be sufficiently managed by the design of the NoR, the proposed conditions and the future Outline Plan process such that they are acceptable.

5.0 Consideration of alternatives

Overall appraisal of the Authority's assessment

- 5.1 As noted at the outset of this report, my decision must have particular regard to whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work *if* I find that it is likely that the work will have a significant effect on the environment or if the Authority does not have sufficient interest in the land for undertaking the work.
- 5.2 It will be clear from the effects assessment above that I have concluded that there will be no actual or potential adverse effects arising from the Proposal that would be *significant*.
- 5.3 Furthermore, Mr Hudspith clarified in his opening submissions that the Authority owns the land subject to the NoR, and as such an assessment of alternatives is not strictly required¹²⁰. I adopt his interpretation in that regard and note this was not disputed by any party to these proceedings.
- 5.4 Nevertheless, and consistent with good resource management practice, the Authority has undertaken a multi-stage and multi-faceted assessment of potential alternative sites, routes and methods. This is well documented in the reports at Appendix C and M to the NoR and in the evidence of Mr Carran.
- 5.5 Having considered that material, I am satisfied that the Authority's consideration of potential alternatives is robust, well considered and supports the selection of this Proposal Site, route and method. The Authority is commended for the level of rigour demonstrated.
- 5.6 For completeness, I make some specific observations here in response to relevant matters raised in submissions or at the hearing, being:
- a. site selection and resilience;
 - b. route selection and social effect factors;
 - c. route selection adjacent to Balgownie Grove; and
 - d. new infrastructure versus repair and renewal of existing network.

Site selection and resilience

- 5.7 The Authority did not contest Mr Parry's view that the site selection of the new reservoir is not optimised for network resilience, relative to other options considered. As summarised by Mr Carran, the Proposal Site received a neutral score against the relevant assessment criterion – *degree of vulnerability to external*

¹²⁰ Opening legal submissions for the Authority (26 November 2024), para 7.4

*impacts and ability to withstand and recover from such impacts – with other options respectively scoring higher and lower.*¹²¹

- 5.8 Mr Carran signalled his agreement with Mr Parry that ‘all things being equal’, there would be resilience benefits from locating the new reservoir further from an existing reservoir in the network. That shortcoming was, in Mr Carran’s view, appropriately recognised in the multi-criteria analysis process, which ultimately resulted in the proposed Site being the highest rated option overall.¹²²
- 5.9 I adopt Mr Carran’s view in the above respect. Mr Parry’s criticisms of the Site location for resilience reasons are well-founded as accepted by Mr Carran; however, this is only one of several relevant factors that should reasonably inform the selection of the Authority’s preferred option. Again, I consider the structure and execution of the Authority’s assessment in this regard has been robust, including an appropriate acknowledgement that this Site option is not the most resilient compared to alternatives.

Route selection and social effect factors

- 5.10 Noise, traffic, access and recreation effects were all issues raised in submissions, and all issues grouped in the Authority’s multi-criteria analysis under the social effects criterion.
- 5.11 As explained by Mr Carran, the proposed Site was the highest scoring in four of five criteria groupings, but was the lowest scoring option in the social category:

*7.20 The Naenae 2 site received the highest score overall. It was also top ranked for four out of the five criteria ‘groups’ but scored lowest against the Social criteria group (noise, vibration and dust, traffic and access, recreation). Relatively poorer scoring (2.2, moderate negative) in this group reflects the proximity of the site to existing residential property and site access being via residential streets. While not a fatal flaw, this outcome indicated that consideration would need to be given to managing construction impacts on the local community if this site were to be selected. An alternative delivery main pipe route has been adopted (refer Section 8) which will alleviate some of the adverse social impacts on the Summit Road community. Review of the MCA scoring (refer 8.8) found that this does not change the overall MCA outcome.*¹²³

(footnote omitted)

- 5.12 Mr Carran also explained the sensitivity analysis undertaken as part of the multi-criteria analysis, and the impact various criteria adjustments had on the overall outcome:

7.21 A range of sensitivity testing scenarios were considered by adjusting criteria weightings. In all cases the relative rankings of the three site options remained unchanged, except in an extreme scenario where the Social group weighting was increased to 40% and the Financial criteria was excluded (i.e. given zero

¹²¹ Evidence of P Carran (14 November 2024), para 10.5

¹²² Evidence of P Carran (14 November 2024), para 10.7

¹²³ Evidence of P Carran (14 November 2024), para 7.20

weighting). This is an unrealistic scenario and in this case the Cambridge Terrace option scored slightly higher than Naenae 2.

7.22 Subsequent engagement with Mana Whenua (Taranaki Whānui) identified that two of the options had potential for higher adverse effects on mana whenua values, and one site, Naenae 2, had the lowest risk of significant impacts on mana whenua values out of the three shortlisted options. This position aligns with the MCA outcome and had it been scored it would have only reinforced Naenae 2 as the highest scoring option.

7.23 In conclusion, the MCA process identified Naenae 2 as the highest scoring option. Sensitivity analysis confirmed that the MCA outcome was not particularly sensitive to the adopted weightings (remaining constant in all but an extreme scenario).

(footnote omitted)

- 5.13 I adopt Mr Carran's analysis above. The Authority has appropriately recognised and accounted for the relative social impact of the preferred Site relative to alternatives, and confirmed the Proposal's suitability through sensitivity testing in conjunction with other relevant factors.

Route selection adjacent to Balgownie Grove

- 5.14 Among other matters, Mr and Mrs Clarke sought for the Authority to adopt an alternative route method for the proposed pipe infrastructure in the vicinity of Balgownie Grove. Rather than be embedded in the stream at Balgownie Grove and extend into the road's cul-de-sac head, they preferred that the pipes traverse the true left bank of the stream and cross the stream further to the west at the adjoining neighbourhood reserve off Waddington Road.
- 5.15 Mr Carran noted that this specific alternative was considered by the Authority and ultimately discounted due to higher levels of risk, cost and uncertainty. He noted in that respect that working along extended reaches of the stream would increase difficulty for machinery access, and increase the likelihood of potential adverse effect on the stream itself. In response to questions, Mr Carran also noted that the Clarke's preferred alternative would have a demonstrable effect on programme, and extend the overall duration of works in the vicinity of Balgownie Grove.
- 5.16 I adopt Mr Carran's view in finding that the proposed route selection is favourable to the alternative preferred by Mr and Mrs Clarke. I am sympathetic to the submitters' desire to minimise the impact of the Proposal on their amenity; however, adopting their preferred option would have drawbacks of its own as explained by Mr Carran – including by prolonging the construction activities and associated effects in the area.

New infrastructure versus repair & renewal of existing

- 5.17 Both Mr Parry and Mr and Mrs Clarke were critical of the Authority's decision to invest in the reservoir rather than in necessary repairs and renewals of the existing supply network.
- 5.18 Mr Parry suggested that the volume of water lost to leaks in the existing network every four days would equate to the reservoir's capacity. He observed that if the leaks were repaired, there would be no corresponding need for the reservoir.
- 5.19 Following Mr Parry and the Clarkes' presentations, Mr Edwards signalled his agreement that the amount of leakage across the Region is too great currently, and that repairs to the network would reduce reservoir requirements overall; however, he added that this is not a binary matter and that Wellington Water is committed to increased investment in water loss reduction *and* in new infrastructure necessary to meet the District's current and future needs. In his view, both steps are essential.
- 5.20 Mr Edwards explained further that Wellington Water's ability to implement repairs and improvements is limited by the funding available from each relevant Council. He added that the lineal length of the existing network is equivalent to the distance between Wellington and Brisbane and that greater investment and attention are needed to overcome the current levels of service shortcomings.
- 5.21 Mr Edwards clarified also that the funding mechanisms for new infrastructure are separate to repairs. The latter are funded in the year they occur, whereas new capital works are debt funded.
- 5.22 For the reasons expressed by Mr Edwards, I adopt his view that the reservoir should be seen more as conjunctive with, rather than an alternative to, repairs and renewals of the existing network.

6.0 Consideration of reasonable necessity

- 6.1 As required by the RMA, I have turned my mind to whether the works and designation are reasonably necessary for achieving the objectives of the Authority for which the designation is sought.
- 6.2 Relevantly, there is no evidence before me, nor any contention made by any party that the Proposal is not reasonably necessary to achieve the Authority's objectives.
- 6.3 The Authority addressed this requirement in section 12.2 of the NoR. I find no reason not to adopt that evaluation, noting also Mr Kellow signalling the same in his report¹²⁴.
- 6.4 I record also that I have relied upon Mr Hudspith's submissions and the guidance from the Courts he highlighted as to informing my consideration of reasonable necessity¹²⁵. In that regard:
- a. there is a clear nexus between the works and the achievement of all three of the Authority's objectives;
 - b. the corresponding spatial extent of land proposed for the works is justified; and
 - c. the land is able to be used for the purposes sought.
- 6.5 Related to the latter point, and further to the compelling evidence of Mr Edwards¹²⁶, the land resource in the District that is able to be used for the purposes sought is finite. That speaks further to a finding that the works and designation are reasonably necessary.

¹²⁴ s42A Report, para 177-179

¹²⁵ Opening legal submissions for the Authority (26 November 2024), para 8.3

¹²⁶ Evidence of L Edwards (14 November 2024), para 7.3, and 8.1-8.14

7.0 Other matters

7.1 The Authority identified three other matters as being reasonably necessary to consider in informing a decision on the Proposal, being:

- a. the Civil Defence Emergency Management Act 2002;
- b. the Council's 10-Year Plan (2021-2031); and
- c. Reserves Strategic Directions 2016 - 2026.

7.2 I adopt the Authority's assessment of these matters for the reasons expressed in the NoR, including:

- a. the Proposal will contribute to the Council's responsibilities under the Civil Defence Emergency Management Act to provide lifeline utilities following a natural disaster;
- b. the Proposal is anticipated in the 10-Year Plan with funding allocated;
- c. the Proposal will include pest plant and animal management, reserve signage and restoration planting, consistent with the Reserves Strategic Direction.

7.3 I rely on the shared view of Mr Kellow and Ms Crooks that there are no other relevant matters that I should consider.

8.0 Overall Evaluation

- 8.1 In the preceding report sections, I have identified the main RMA statutory instruments and other matters that I must have particular regard to under s168A(3)(a) - (d). Taking those matters into account, along with the proposed conditions, I have considered and evaluated the positive and adverse effects of allowing the proposed NoR.
- 8.2 In doing so, I have found that the Proposal will result in a range of benefits and any adverse effects will be acceptable.
- 8.3 Considering the above matters 'subject to Part 2' of the RMA, I am satisfied that the effects of the Proposal are also aligned with the RMA's sustainable management purpose. My finding in this respect is allied with Ms Crooks¹²⁷ and Mr Kellow¹²⁸. Drawing on his evaluation I note in particular that:
- a. the NoR:
 - i. has recognised and provided for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna¹²⁹;
 - ii. will manage significant risks from natural hazards associated with land stability¹³⁰;
 - iii. will provide for the efficient use and development of natural resources¹³¹;
 - iv. has taken account of, and provided an appropriate response to, the intrinsic values of ecosystems, the finite characteristics of relevant land and water resources and the effects of climate change¹³²;
 - v. will provide for the ongoing maintenance and enhancement of amenity values and of the quality of the environment¹³³; and
 - b. the principles of the Treaty of Waitangi have been taken into account consistent with section 8 – in particular the principle of consultation, which the Authority has carried out with mana whenua;
 - c. peoples' social and cultural well-being will be enhanced by the Proposal, whilst providing for their health and safety; and
 - d. adverse effects of the NoR will be avoided, remedied or mitigated.

¹²⁷ Evidence of C Crooks (14 November 2024), para 13.32-13.40

¹²⁸ s42A Report, para 180

¹²⁹ Per s6(c), RMA

¹³⁰ Per s6(h), RMA

¹³¹ Per s7(b), RMA

¹³² Per s7(d), (g) and (i), RMA

¹³³ Per s7(c) and (f), RMA

- 8.4 Overall, I find there are no aspects of Part 2 that weigh against a decision to confirm the NoR.

Lapse

- 8.5 The Authority has sought a lapse period of seven years for the NoR.
- 8.6 Mr Hudspith advised that the Authority is committed to progressing the project; however, that there are also externalities that may affect the ability for it to commence over the short-term.
- 8.7 I find no reason not to grant the modest extension to the five-year default lapse period otherwise anticipated under the RMA. The Authority's reasons are valid, the delay is not in any way excessive, and there has been no challenge to the seven-year period by any party to these proceedings.
- 8.8 Upon the NoR being added to the schedule of designations in Chapter 15 of the Plan, the conditions at Appendix 1 to this report will need to be added as a new Appendix to Chapter 15, and the seven year lapse period stipulated.

9.0 Decision

- 9.1 For the reasons set out above, and acting under delegated authority on behalf of the Hutt City Council, the requirement is hereby **confirmed**, subject to the conditions set out in Appendix 1.

Date of Decision: 20 February 2025



Jason Jones
Independent Commissioner

APPENDIX 1
Conditions

< Attached Separately >