

Chapter 3
Part B
VOLUME 2

Statutory Approvals Sought under the Resource Management Act 1991

Overview

This chapter outlines the requirements for obtaining the RMA statutory approvals for the Project and assessing the Project as a proposal of national significance. The NoRs and resource consents required for the Project have been lodged with the EPA.

3 Statutory Approvals Sought under the RMA

3.1 Introduction

The RMA outlines a number of relevant considerations for the determination of NoRs and applications for resource consent. NoRs have been put forward by both the NZTA and KiwiRail for their respective aspects of the Project seeking designations in the KCDP.

In this chapter the key statutory matters under the RMA and their relevance to the Project are set out. The focus is on:

- The purpose and principles of the RMA (Part 2);
- Proposals of national significance (Part 6AA);
- Notices of requirement for designations, outline plans, and review of designation (Part 8); and
- Applications for resource consent (Part 6).

This section only seeks to set out the statutory matters. The assessment of the Project in relation to these matters is provided in Part I of this AEE report. This chapter also details the NoRs for designations, and the applications for resource consent, sought for the Project.

3.2 Purpose and Principles of the RMA

The consideration of the environmental effects of the Project is subject to Part 2 of the RMA (Purpose and Principles), which is made up of sections 5 to 8.

Section 5 states that:

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while-

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Matters of national importance are set out in section 6. Of particular relevance to the Project are the matters in section 6(a), (b), (c), (d), (e), and (f).

Section 6 states that:

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

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) the protection of recognised customary activities.*

'Other matters' to which particular regard shall be given are set out in section 7. Of particular relevance to the Project are the matters in section 7(a), (aa), (b), (c), (d), (f), and (i).

Section 7 states that:

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

- (a) kaitiakitanga;*
- (aa) the ethic of stewardship;*
- (b) the efficient use and development of natural and physical resources;*
- (ba) the efficiency of the end use of energy;*
- (c) the maintenance and enhancement of amenity values;*
- (d) intrinsic values of ecosystems;*
- (e) [Repealed]*
- (f) maintenance and enhancement of the quality of the environment;*
- (g) any finite characteristics of natural and physical resources;*
- (h) the protection of the habitat of trout and salmon;*
- (i) the effects of climate change;*
- (j) the benefits to be derived from the use and development of renewable energy.*

Section 8 directs that:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

3.3 Proposals of National Significance

Part 6AA of the RMA provides for the consideration of matters which, singularly or collectively, constitute a proposal of national significance. Section 145 allows certain matters to be lodged directly with the EPA. These include:

- An application for a resource consent (s145(1)(a)); and
- A notice of requirement for a designation or to alter a designation (s145(3)).

As has been outlined in Part A, Chapter 1 of the AEE report, the NZTA and KiwiRail are lodging NoRs and the NZTA is lodging applications for resource consent with the EPA in respect of the Project, in accordance with section 145.

Where the matter lodged with the EPA is a resource consent application, section 145(5) directs that:

... section 88 applies, except that -

- (a) every reference in that section to a consent authority must be read as a reference to the EPA; and*
- (b) the applicant has no right of objection under section 88(5) if the EPA determines that the application is incomplete under section 88(3).*

Where the matter lodged with the EPA is a notice of requirement for a new designation, section 145(7) directs that:

... section 168 applies, except that every reference in that section to a territorial authority must be read as a reference to the EPA.

Concurrent with the lodgement of the NZTA and KiwiRail NoRs and the consent applications with the EPA, the NoRs and consent applications have also been served on KCDC, and provided to GWRC, in accordance with section 145(10) of the RMA.

Where a matter is lodged with the EPA under section 145 of the RMA, the EPA must make a recommendation to the Minister in accordance with section 146. The Minister then makes a direction on how the matter will be heard.

Under section 147(1) the Minister has three options to choose from after receiving the EPA recommendation:

- (a) refer the matter to a board of inquiry for decision; or*
- (b) refer the matter to the Environment Court for decision; or*
- (c) refer the matter to the local authority.*

Under section 147(6) the Minister may make a direction that differs from the direction recommended by the EPA.

Section 147(2) directs that:

The Minister may make a direction under subsection (1)(a) or (b) only if he or she considers that the matter is or is part of a proposal of national significance.

In accordance with section 147(3), in making a direction the Minister is to apply section 142(3), which provides guidance in determining whether a matter is, or is part of, a proposal of national significance. This section provides a non-exclusive list of the matters to which the Minister may have regard when coming to a decision. These include whether the matter:

- (a) has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment); or*
- (b) involves or is likely to involve significant use of natural and physical resources;*
or

- (c) affects or is likely to affect a structure, feature, place, or area of national significance; or*
- (d) affects or is likely to affect or is relevant to New Zealand's international obligations to the global environment; or*
- (e) results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment); or*
- (f) involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment; or*
- (g) is or is likely to be significant in terms of section 8; or*
- (h) will assist the Crown in fulfilling its public health, welfare, security, or safety obligations or functions; or*
- (i) affects or is likely to affect more than 1 region or district; or*
- (j) relates to a network utility operation that extends or is proposed to extend to more than 1 district or region.*

In addition to the requirements of section 142(3), section 147(4) states that in deciding whether a proposal is a matter of national significance, the Minister must have regard to:

- (a) the views of the applicant and the local authority; and*
- (b) the capacity of the local authority to process the matter; and*
- (c) the recommendations of the EPA.*

As discussed in Part A, Chapter 1 of this AEE report, the NZTA and KiwiRail consider that the NoRs and resource consent applications for this Project should be determined by a Bol, as the Project fulfils the criteria for a proposal of national significance. These reasons are set out in a letter to the EPA.

If the Minister makes a direction that the Project is a matter of national significance to be considered by a Bol, the process set out in sections 149A to 149L, 149P to 149S and 149V must be followed. In addition, the Bol must release its final decision on the matter within nine months of the Minister's direction being publicly notified by the EPA (section 149R(2)).

If the matters are referred to a Bol, in considering those matters the Bol must have regard to the Minister's reasons for making the direction and consider any information provided to it by the EPA.

The EPA is required to provide the Bol reports prepared by relevant local authorities on the key issues in relation to the matters. Under section 149G(3), those reports would need to include:

- (a) any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, and a plan or proposed plan; and*
- (b) a statement on whether all required resource consents in relation to the proposal to which the matter relates have been applied for; and*
- (c) if applicable, the activity status of all proposed activities in relation to the matter.*

Section 149V provides that the decision of a Bol can only be appealed on a question of law.

3.4 Notices of Requirement for Designation

Both NZTA and KiwiRail have requiring authority status and are seeking designations for their relevant aspects of the Project as part of undertaking their legislative functions (as outlined in para 1.1 above). As previously noted, the NZTA is lodging a NoR for the designation of land in the KCDP for the construction, operation and maintenance of the Expressway.

KiwiRail is lodging a NoR for the designation of land in the KCDP for the construction, operation and maintenance of a re-aligned section of the NIMT through Ōtaki.

These notices are being lodged under section 145(3) of the RMA. Section 145(7) directs that where a notice is lodged with the EPA, section 168 applies except that every reference in that section to a territorial authority must be read as a reference to the EPA.

Under section 145(3) when a NoR is lodged with the EPA section 168(2) applies, which stipulates that:

A requiring authority for the purposes approved under section 167 may at any time give notice in the prescribed form to a territorial authority [in this case, the EPA] of its requirement for a designation -

(a) for a project or work; or

(b) in respect of any land, water, subsoil, or airspace where a restriction is reasonably necessary for the safe or efficient functioning or operation of such a project or work.

The prescribed form for a NoR is set out in Form 18 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003. The NoRs for the Project (contained in Volume 1 of this set of documents) have been prepared in accordance with these regulations.

If the matters are directed to a Bol, the NoRs will be considered under section 149P. Section 149P directs that a Bol considering a notice of requirement:

(a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and

(b) may -

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit; and

(c) may waive the requirement for an outline plan to be submitted under section 176A.

The Bol must have regard to matters set out in section 171(1A) and 171(1). These provisions state that:

(1A) When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.

(1) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to -

(a) any relevant provisions of -

(i) a national policy statement:

(ii) a New Zealand coastal policy statement:

- (iii) a regional policy statement or proposed regional policy statement;*
- (iv) a plan or proposed plan; and*
- (b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if -*
 - (i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) it is likely that the work will have a significant adverse effect on the environment; and*
- (c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
- (d) any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

If the Minister directs the NoRs to be referred to a Bol, the Bol will make the final decisions on the NoRs, rather than the local authority (KCDC in this instance) making recommendations to the requiring authorities.

3.4.1 Outline Plans

Section 176A provides that an outline plan must be submitted to a territorial authority before commencing construction of a project or work under a designation unless certain circumstances apply (which are not relevant to the Project). In accordance with section 176A(3):

An outline plan must show -

- (a) the height, shape, and bulk of the public work, project, or work; and*
- (b) the location on the site of the public work, project, or work; and*
- (c) the likely finished contour of the site; and*
- (d) the vehicular access, circulation, and the provision for parking; and*
- (e) the landscaping proposed; and*
- (f) any other matters to avoid, remedy, or mitigate any adverse effects on the environment.*

Upon receiving an outline plan, a territorial authority has 20 working days to request any changes to the outline plan. The requiring authority may accept or reject the requested changes.

Under section 176A(2) the submission of an outline plan is not required if:

- (a) the proposed public work, project, or work has been otherwise approved under this Act; or*
- (b) the details of the proposed public work, project, or work, as referred to in subsection (3), are incorporated into the designation; or*
- (c) the territorial authority waives the requirement for an outline plan.*

The Bol has the ability to waive the requirement for an outline plan under section 149P(4)(c).

In this instance, the NZTA and KiwiRail are not seeking that requirement to be waived. Rather, if the NoRs are approved, the NZTA and KiwiRail will finalise the Project's design and submit outline plans to KCDC prior to the commencement of works onsite, for all

relevant aspects of the Project (in conjunction with addressing various matters via management plans).

3.5 Applications for Resource Consent

Applications by the NZTA for resource consents have been lodged with the EPA under section 145(1)(a) and in accordance with section 88, as provided by section 145(5).

Under section 88(2):

An application must -

- (a) be made in the prescribed form and manner; and*
- (b) include, in accordance with Schedule 4, an assessment of environmental effects in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.*

Section 145(5) provides that:

If the matter is an application for a resource consent, section 88 applies, except that-

Every reference in that section to a consent authority must be read as a reference to the EPA; and

The applicant has no right of objection under section 88(5) if the EPA determines that the application is incomplete under section 88(3).

The applications have been prepared in accordance with Form 9 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

The matters that should be included in an assessment of effects on the environment are set out in clause 1 of Schedule 4 of the RMA:

Subject to the provisions of any policy statement or plan, an assessment of effects on the environment for the purposes of section 88 should include -

- (a) a description of the proposal:*
- (b) where it is likely that an activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:*
- (c) [Repealed]*
- (d) an assessment of the actual or potential effect on the environment of the proposed activity:*
- (e) where the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment which are likely to arise from such use:*
- (f) where the activity includes the discharge of any contaminant, a description of -*
 - (i) the nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects; and*
 - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:*
- (g) a description of the mitigation measures (safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect:*
- (h) identification of the persons affected by the proposal, the consultation undertaken, if any, and any response to the views of any person consulted:*

(i) where the scale or significance of the activity's effect are such that monitoring is required, a description of how, once the proposal is approved, effects will be monitored and by whom.

Furthermore, clause 1AA of Schedule 4 directs that:

To avoid doubt, clause 1(h) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not -

(a) oblige the applicant to consult with any person; or

(b) create any ground for expecting that the applicant will consult with any person.

Clause 2 of Schedule 4 provides direction on further matters that should be considered when preparing an assessment of effects on the environment:

Subject to the provisions of any policy statement or plan, any person preparing an assessment of the effects on the environment should consider the following matters:

(a) any effect on those in the neighbourhood and, where relevant, the wider community including any socio-economic and cultural effects;

(b) any physical effect on the locality, including any landscape and visual effects:

(c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity;

(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural, or other special value for present or future generations;

(e) any discharge of contaminants into the environment, including any unreasonable emission of noise and options for the treatment and disposal of contaminants;

(f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.

The AEE process has been undertaken in accordance with Schedule 4 and can be found in Part G, Chapters 11-29 of this AEE report. That assessment also fulfils the requirements of the assessment of effects on the environment required in support of the NoRs.

3.6 Activities Requiring Resource Consents

The Project involves activities which require resource consents under Wellington regional plans and the NESCS. The NZTA is applying for all the Regional resource consents for the construction and operation of the Expressway, and for those required to facilitate the realignment of the NIMT through Ōtaki. There are no resource consents sought in this application by KiwiRail in relation to the Project.

As above at para 1.7.3, consents are not being sought under the NESCS, and any associated regional consents, as the land is not within the NZTA ownership to facilitate access and delays between approval and construction can impact on the validity of assessments undertaken at this time.

The current application seeks all Regional resource consents for the Project (except for those related to contaminated soils). Finalisation of the Project design may identify that other resource consents are required for construction, such as additional culverts. Such activities, if any, will be the subject of future resource consent applications in conjunction with the outline plan approval process, in order to ensure that all necessary approvals are in place to facilitate the Project.

Section 87 of the RMA lists the different types of resource consents, of which the following types of consent are relevant to this Project:

- Land use consent;
- Water permit; and
- Discharge permit.

These are described in further detail below.

3.6.1 Land Use Consents

Section 9 imposes the following restrictions of the use of land.

No person may use land in a manner that contravenes a national environmental standard unless the use is expressly allowed by a resource consent; or

(2) No person may use land in a manner that contravenes a regional rule unless the use -

(a) is expressly allowed by a resource consent; or...

Activities requiring Regional resource consent (land use consent) in relation to the use of land for this Project are:

- Roading and tracking activities, in the form of bulk earthworks;
- Vegetation clearance; and
- The construction of bores.

Section 9(3) also imposes a restriction on the use of land in relation to rules in district plans. Under section 176(1)(a), however *Section 9(3) does not apply to a public work or project or work undertaken by a requiring authority under the designation, if a designation is included in a District Plan.*

Section 13 of the RMA imposes the following restrictions on certain uses of beds of lakes and rivers:

(1) No person may, in relation to the bed of any lake or river, -

(a) use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or

(b) excavate, drill, tunnel, or otherwise disturb the bed; or

(c) introduce or plant any plant or any part of any plant (whether exotic or indigenous) in, on, or under the bed; or

(d) deposit any substance in, on, or under the bed; or

(e) reclaim or drain the bed -

unless expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent.

(2) No person may do an activity described in subsection (2A) in a manner that contravenes a national environmental standard or a regional rule unless the activity -

(a) is expressly allowed by a resource consent; or...

(2A) The activities are -

(a) to enter onto or pass across the bed of a lake or river;

(b) to damage, destroy, disturb, or remove a plant or a part of a plant, whether exotic or indigenous, in, on, or under the bed of a lake or river;

(c) to damage, destroy, disturb, or remove the habitats of plants or parts of plants, whether exotic or indigenous, in, on, or under the bed of a lake or river;

(d) to damage, destroy, disturb, or remove the habitats of animals in, on, or under the bed of a lake or river.

Activities requiring Regional resource consent (land use consent) in relation to the use of beds of rivers for this Project are:

- The disturbance of river beds and the bed of a wetland;
- The placement of structures and rip rap in river beds;
- The reclamation of river beds and a wetland;
- Removal of structures (culverts in river beds); and
- Removal of vegetation in river beds and a wetland.

3.6.2 Water Permits

Section 14 imposes restrictions in relation to water. Under section 14(2):

No person may take, use, dam, or divert any of the following, unless the taking, using, damming, or diverting is allowed by subsection (3):

(a) water other than open coastal water; or ...

Under subsection 14(3):

A person is not prohibited by subsection (2) from taking, using, damming, or diverting any water, heat, or energy if -

(a) the taking, using, damming, or diverting is expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent; ...

Activities forming part of the Project that require Regional resource consent (water permit) in relation to water include:

- Temporary damming and diversion of water during construction works (surface water and groundwater);
- Permanent damming and diversion of water (surface water and groundwater); and
- The take and use of water for construction activities.

3.6.3 Discharge Permits

Section 15 of the RMA places restrictions on the discharge of contaminants into the environment. As defined in section 2 "contaminant" includes:

Any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat -

(a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or

(b) when discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged.

Under section 15(1):

No person may discharge any -

(a) contaminant or water into water; or

- (b) contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or*
- (c) contaminant from any industrial or trade premises into air; or*
- (d) contaminant from any industrial or trade premises onto or into land - unless the discharge is expressly allowed by a national environmental standard or other regulations, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent.*

Under section 15(2):

No person may discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a national environmental standard unless the discharge -

- (a) is expressly allowed by other regulations; or*
- (b) is expressly allowed by a resource consent; ...*

Under section 15(2A):

No person may discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a regional rule unless the discharge -

- (a) is expressly allowed by a national environmental standard or other regulations; or*
- (b) is expressly allowed by a resource consent; or ...*

Section 105 sets out further matters which are specifically relevant to discharge permits:

- (1) If an application is for a discharge permit or coastal permit to do something that would contravene section 15 or section 15B, the consent authority must, in addition to the matters in section 104(1), have regard to -*
 - (a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and*
 - (b) the applicant's reasons for the proposed choice; and*
 - (c) any possible alternative methods of discharge, including discharge into any other receiving environment.*

Furthermore, under section 107:

- (1) Except as provided in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A allowing -*
 - (a) the discharge of a contaminant or water into water; or*
 - (b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; ... if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:*
 - (c) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:*
 - (d) any conspicuous change in the colour or visual clarity:*

(e) any emission of objectionable odour:

(f) the rendering of freshwater unsuitable for consumption by farm animals:

(g) any significant adverse effects on aquatic life.

(2) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied -

(a) that exceptional circumstances justify the granting of the permit; or

(b) that the discharge is of a temporary nature; or

(c) that the discharge is associated with necessary maintenance work - and that it is consistent with the purpose of this Act to do so.

Activities forming part of the Project that require Regional resource consent (discharge permit) in relation to the discharge of contaminants include:

- Discharge of sediment and chemical flocculants (during construction) in treated stormwater to water and land where it may enter water; and
- Discharge of treated cement water to water, and to land where it may enter water.

3.7 Classes of Activities

Regional and District Plans set out different classes of activities in accordance with section 87A of the RMA. These classes of activities are:

- Permitted activities;
- Controlled activities;
- Restricted discretionary activities;
- Discretionary activities;
- Non-complying activities; and
- Prohibited activities.

The applications for resource consent for the Project relate to controlled, restricted discretionary, and discretionary activities.

The requirements for the determination of each activity class are set out in sections 104A – 104D as described in the following.

3.7.1 Controlled Activities

Under section 104A:

After considering an application for a resource consent for a controlled activity, a consent authority -

(a) must grant the resource consent, unless it has insufficient information to determine whether or not the activity is a controlled activity; and

(b) may impose conditions on the consent under section 108 only for those matters-

(i) over which control is reserved in national environmental standards or other regulations; or

(ii) over which it has reserved its control in its plan or proposed plan.

3.7.2 Restricted Discretionary Activities

Under section 104C there are particular restrictions for restricted discretionary activities:

- (1) *When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which -*
- (a) *a discretion is restricted in national environmental standards or other regulations;*
 - (b) *it has restricted the exercise of its discretion in its plan or proposed plan.*
- (2) *The consent authority may grant or refuse the application.*
- (3) *However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which -*
- (a) *a discretion is restricted in national environmental standards or other regulations;*
 - (b) *it has restricted the exercise of its discretion in its plan or proposed plan.*

3.7.3 Discretionary Activities

Under section 104B:

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority -

- (a) *may grant or refuse the application; and*
- (b) *if it grants the application, may impose conditions under section 108.*

3.7.4 Bundling of Activities

The principle of bundling was established by case law under the RMA. According to the "bundling" principle, where there is a group of activities on one site which are closely associated to each other, or are directed towards one dominant use or purpose, they should be assessed holistically as a single bundle, according to the most stringent activity class.

3.8 Resource Consents Sought

The NZTA has also lodged applications for resource consents with the EPA under section 145(1)(a) and in accordance with section 88 of the RMA (as required by section 145(5)). The applications are for regional resource consents under the GWRC regional plans. The approach to consenting has been to group activities on the basis of how they are likely to be undertaken and, consequently, how the potential environmental effects associated with them will be managed.

As such, the NZTA is applying for resource consents as discretionary activities, for the following broad groups of activities:

- Bulk earthworks (associated with the Expressway alignment and the NIMT realignment);
- The discharge of sediment-laden water, and chemically-treated sediment-laden water, from construction;
- Stream crossings (the placement of structures in stream);
- Stream realignment (diversions and reclamations, temporary and permanent); and
- The discharge of cement-laden water.

On this basis, activities have been grouped as set out in Table 3-1. Table 3-1 also lists the forms that the NZTA has completed (in addition to GWRC Form 1). Some forms (such as those relating to culverts and bridges) relate to multiple resource consent applications. The application forms are contained in Volume 1.

The detail of the resource consents sought, in the form of the List of Matters, is contained in Table 3-2.

Conditions are proposed for the approvals sought, as contained in Part H of the AEE report.

The relevant Regional Plans applicable to this Project are:

- The Regional Soil Plan (RSP);
- The Regional Discharges to Land Plan (RDLP); and
- The Regional Freshwater Plan (RFP).

3.9 Lapse Period

Pursuant to section 125 of the Act, a 15 year lapse period is sought for both the NoR and the Resource consent applications. This will accommodate any uncertainties in funding that may arise. It will also provide the flexibility necessary to ensure that the construction of the Project can efficiently align with the construction of the other stages of the Wellington Northern Corridor (including Transmission Gully and the M2PP Expressway). These stages are all significant construction projects and their development is integrally connected to the Project.

Table 3-1: Groups of Activities for which Consent is being Sought:

Group	General Activity	Application ref #	Relevant form(s)
Resource consents sought by the NZTA for the construction and operation of Project.			
A	Bulk earthworks and construction erosion and sediment control	##	6E (Soil disturbance) 3A (Discharge to land) 4A (Discharge to water) 2A (Damming of water) 2A (Diversion of water) 6B (Bore construction)
B	Crossing, occupation, reclamation and realignment of streams	##	2A (Diversion of water, temporary and permanent) 2A (Damming of water) 3A (Discharge to land) 4A (Discharge to water) 6A (Works in beds of rivers and streams) 6B (Bore construction) 6C (Bridges) 6D (Culverts)
C	Construction of bores and take of groundwater	##	6B (Construct or alter bore) 2C (Take and use groundwater)
D	Reclamation and diversion of wetlands	##	6A (Works in beds of rivers and streams) 6B (Bore construction) 2A (Damming of water) 2A (Diversion of water)

Table 3-2 Resource Consents Sought for the Project:

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
Group A: Bulk earthworks and construction erosion and sediment control					
1	Land use consent – s9(2)	Roading and tracking activities.	RSP Rules 1 and 4	Restricted Discretionary	Application for bulk earthworks for the formation of the Project.
2	Land use consent – s9(2)	Vegetation clearance and disturbing of soil identified as being erosion prone.	RSP Rules 1 and 4	Restricted Discretionary	Application for vegetation disturbance activities to construct the Project. Application for vegetation clearance over 10,000m ² in erosion-prone land.
3(a)	Land use consent – s9(2)	Bore construction.	RFPW Rule 15	Discretionary	Application for bores as a result of earthworks that may encounter groundwater.
4	Water permit – s14(2)(a)	Damming and diversion of freshwater.	RFPW Rule 16	Discretionary	Application dam and divert surface water as a result of the embankments and containment bunds.
5	Water permit – s14(2)(a)	Damming and diversion of groundwater.	RFPW Rule 16	Discretionary	Application for the damming and diversion of groundwater as a result of earthworks and from de-watering during earthworks.

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
6(a)	Discharge permit – s15 (1)(a)	Discharge of sediment-laden (including chemically-treated) water to water.	RFWP Rule 5	Discretionary	<p>Application for the discharge of sediment in treated stormwater (including chemical flocculant) from erosion and sediment control devices to water.</p> <p>Application for the discharge of sediment from de-watering where earthworks may encounter groundwater to water.</p>
6(b)	Discharge permit – s15 (1)(b)	Discharge of sediment-laden (including chemically-treated) water to land that may enter water.	RDLP Rule 2	Discretionary	<p>Application for the discharge of sediment in treated stormwater (including chemical flocculant) from erosion and sediment control devices to land that may enter water.</p> <p>Application for the discharge of sediment in treated stormwater (including chemical flocculant) to land where it may enter water from de-watering where earthworks may encounter groundwater.</p>

The earthworks required as part of the Project includes approximately 800,000m³ of cut to fill, with 45,000m³ of fill imported. There is not expected to be any cut to waste as all unsuitable material is to be used in forming the landscaping bunds which occur at specific locations along the length of the Project. There are anticipated to be concentrations of earthworks in some areas, such as in the sand dune area to the north of Ōtaki. In this area the maximum height of the cut is approximately 20m.

While undertaking earthworks it is possible to encounter groundwater. For the construction of this Project, it is anticipated that groundwater will be encountered for a short section south of the Ōtaki River. Groundwater will also be encountered where excavation is undertaken to undercut and remove soft deposits prior to the construction of the embankment. Refer to Technical Report 4 – Geotechnical Report for further details. Where earthworks occur and groundwater is encountered, the GWRC has identified this as technically a bore, irrespective of the earthworks being a cutting and not drilled, and that the purpose is for the construction of the Project and not in relation to geotechnical investigations or water supply/investigations (as is most common when bores are undertaken).

Embankments are proposed along the Project length, and once constructed, these embankments will alter the over-land flows of flood waters, in particular having a damming effect. Consent is required to permit that effect. There will be specific measures constructed, such as containment bunds, along the route where these are required to manage the effects of the altered flood flow patterns.

As large earthworks are proposed along the Project length, consideration of how to manage stormwater and groundwater while the works are being undertaken is required. The Project has conditions requiring the implementation of Erosion Sediment Control Plan (ESCP) measures, with these determined for each site nearer to construction and detailed in the Site Specific Environmental Management Plans (SSEMP). Water will be required to be discharged to either land or water and, without appropriate management, there will be a higher level of sediment in the water than would naturally occur.

Application ref #	Consent type	Activity	Regional Rule	Activity class	Scope of application
Group B: Crossing, occupation and realignment of streams					
Ōtaki River					
3(b)	Land use consent – s9(2)	Construction of boreholes (bores for bridge piles where they intercept groundwater).	RFWP Rule 15	Discretionary	Application for construction of bores for bridge piles.
7	Land use consents – s13(1)(a) & s13(1)(e)	Use, placement and erection of structures (bridges and stormwater outlets), the placement of rip rap, deposition of material, and the	RFWP Rule 49	Discretionary	Application for using, erecting and placing structures in and over the bed of the Ōtaki River. Application for the disturbance and deposition of material on the bed of the Ōtaki River to facilitate

Application ref #	Consent type	Activity	Regional Rule	Activity class	Scope of application
		associated disturbance of a section of the bed of waterways in the Ōtaki River Catchment.			construction of the structures.
8(a)	Land use consents – s13(1)(a) & s13(1)(e)	The reclamation of a section of the bed of waterways in the Ōtaki River Catchment.	RFPW Rule 49	Discretionary	Application for reclamation of an area of river bed to be occupied by piles for the bridges, and the associated rip rap and rock armouring of the embankments.
9(a)	Land use Consent - s13(2A)(b)	Removal of vegetation in the bed of the Ōtaki River, including associated disturbance of the beds.	RFPW Rule 49	Discretionary	Application for vegetation removal in the riverbed including associated disturbance of the bed.
10(a)	Water permit – s14(2)(a)	Diversion of surface water (temporary).	RFPW Rule 16	Discretionary	Application for a temporary diversion of the Ōtaki River to facilitate construction of the bridges in the riverbed.
11(a)	Water Permit – s14(2)(a)	Diversion of surface water (permanent)	RFPW Rules 16 and 49	Discretionary	Application for permanent diversion of the Ōtaki River associated with the area of the bed occupied by the bridge piles.
12	Water permit – s14(2)(a)	Damming and diversion of surface water	RFPW Rules 16 and 49	Discretionary	Application for the damming and diversion of surface water by the Expressway and a new containment bund to the north of the Ōtaki River

Application ref #	Consent type	Activity	Regional Rule	Activity class	Scope of application
					in the event of flooding.
13(a)	Discharge permit – s15 (1)(a)	Discharge of concrete-laden water to water.	RFWP 5	Discretionary	Application for the discharge of concrete-laden water from bridge pile construction to water.
14(a)	Discharge permit – s15 (1)(b)	Discharge of concrete-laden water to land that may enter water.	RDLP Rule 2	Discretionary	Application for the discharge of concrete-laden water from bridge pile construction to land in such a way that it may enter water.

At the Ōtaki River, two parallel bridges proposed to cross the River as part of the Project. These bridges are approximately 332m long, and each one is approximately 11.5m wide. They are to have a gap of approximately 3m between them. Each bridge is to have minimum spans of 30m. There will be 10 sets of piers in the riverbed, with approximately 6 of those located in the wetted channel. During flood events all of all of the piers may be located in the wetted channel.

The bridges will both have concrete piles to support the piers, and installing the piles requires disturbance to the riverbed. This disturbance will be limited in area to where the piles are located and the necessary works to gain access to the area where the piles are to be constructed. A temporary diversion will be installed to ensure that water does not enter the pile area.

Beneath each of the bridge abutments, an approximately 80m long rock rip rap layer will be installed (wrapped around the flanks and face of each abutment).

To the north of the Ōtaki River the existing Chrystall’s Bend extended stopbank is located around the outside of the basin containing the concrete factory. This stopbank would overtop in floods larger than a 1 in 100 annual exceedance probability (AEP) flood. Once the stopbank is over topped the natural flood path for these waters is parallel to the Ōtaki River and then back into the Ōtaki River close to the Ōtaki River mouth. The Expressway embankment would run at a right angle to the Ōtaki River and in conjunction with the height of the embankment would create a dam and also divert the waters away from the natural flood path. As such, a new containment bund is to be constructed to contain these flood waters. This is to be approximately 360m long, and at its highest point approximately 1.75m high. The Expressway embankment across the Ōtaki River floodplain on its own will act as a dam in certain flood events, this effect will be exacerbated by the new containment bund. Consent is therefore required for the containment bund and Expressway to dam flood waters in this area.

Stormwater outlet structures will be located on the Otaki River embankments, however exact locations are still to be determined through detailed design.

Application Ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
Group B: Crossing, occupation and realignment of streams					
Waitohu Stream					
3(c)	Land use consent – s9(2)	Construction of boreholes (bores for bridge piles where they intercept groundwater).	RFWP Rule 15	Discretionary	Application for construction of bores for bridge piles.
15	Land use consents – s13(1)(a) & s13(1)(e)	Use, placement and erection of structures (bridge and stormwater outlets), the placement of rip rap, the associated diversion, disturbance and reclamation of a section of the bed in the Waitohu Stream Catchment.	RFWP Rule 49	Discretionary	Application for using, erecting and placing structures in and over the bed of the Waitohu Stream. Application for the diversion, disturbance and deposition of material on the bed of the Waitohu Stream to facilitate construction of the structures. Application for reclamation of an area of river bed to be occupied by piles for the bridge and the associated rip rap and rock armouring of the embankments.
8(b)	Land use consents – s13(1)(a) &	The reclamation of a section of the bed in the Waitohu Stream	RFWP Rule 49	Discretionary	Application for reclamation of an area of river bed to be occupied by piles for the bridge, and the

Application Ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
	s13(1)(e)	Catchment.			associated rip rap and rock armouring of the embankments.
9(b)	Land use Consent - s13(2A)(b)	Removal of vegetation in the bed of the Waitohu Stream, including associated disturbance of the bed.	RFPW Rule 49	Discretionary	Application for vegetation removal in the stream bed.
10(b)	Water permit - s14(2)(a)	Diversion of surface water (temporary)	RFPW Rule 16	Discretionary	Application for a temporary diversion of the Waitohu Stream to facilitate construction of the bridge in the stream bed.
11(b)	Water permit - s14(2)(a)	Diversion of surface water (permanent)	RFPW Rules 16 and 49	Discretionary	Application for the permanent diversion of the Stream associated with the area of the bed occupied by the bridge piles.
13(b)	Discharge permit - s15 (1)(a)	Discharge of concrete-laden water to water.	RFPW Rule 5	Discretionary	Application for the discharge of concrete-laden water from bridge pile construction to water.
14(b)	Discharge permit - s15 (1)(b)	Discharge of concrete-laden water to land that may enter water.	RDLP Rule 2	Discretionary	Application for the discharge of concrete-laden water from bridge pile construction to land that may enter water.

The Waitohu Stream will have a single two lane bridge over it. This bridge is approximately 82m long, approximately 17m wide, and will have 2 piers in the stream bed.

There will be the same activities as required for the Ōtaki River bridges undertaken to install the bridge, however as it is only one bridge there will be less disturbance of the riverbed, and less temporary diversion required to facilitate the construction. This disturbance will be limited in area to where the piles are located and the necessary works to gain access to the area where the piles are to be constructed. A temporary diversion will be installed to ensure that water does not enter the pile area.

Stormwater outlet structures will be located on the banks of the Waitohu Stream; exact locations will be determined through detailed design.

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
Group B: Crossing, occupation and realignment of streams					
Mangapouri Stream					
16	Land use consents – s13(1)(a) & s13(1)(e)	Use, placement and erection of structures (culvert inlet and outlet structures, and stormwater outlets), the placement of rip rap, and associated diversion, disturbance, deposition of material and reclamation of a section of the bed of the Mangapouri Stream.	RFWP Rule 49	Discretionary	Application for using erecting and placing structures in and over the bed of the Mangapouri Stream. Application for the diversion, disturbance and deposition of material on, and the reclamation of a section of the stream bed as a result of the culverts and associated structures being installed.
8(c)	Land use consents – s13(1)(a) & s13(1)(e)	The reclamation of a section of the bed in the Mangapouri Stream.	RFWP Rule 49	Discretionary	Application for reclamation of an area of river bed to be occupied by structures, and the associated rip rap and rock armouring of the

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
					embankments.
9(c)	Land use Consent - s13(2A)(b)	Removal of vegetation in the bed of the Mangapouri Stream, including associated disturbance of the beds.	RFPW Rule 49	Discretionary	Application for vegetation removal in the streambed.
10(c)	Water permit - s14(2)(a)	Diversion of surface water (temporary).	RFPW Rule 16	Discretionary	Application for the temporary diversion of surface water to facilitate construction of the culverts.
11(c)	Water permit - s14(2)(a)	Diversion of surface water (permanent).	RFPW Rule 16	Discretionary	Application for the permanent diversion of surface water through the culverts once installed.

The Mangapouri Stream is to have new culverts installed under the Expressway and NIMT realignment. The existing culvert under the existing railway embankment in this area will be retained in its current form. The culvert under the Expressway is 60m in length, with a disturbed waterway length of 100m to enable its installation. The culvert under the NIMT is 20m long, and its installation will involve 60m of disturbance to the watercourse.

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
Group B: Crossing, occupation and realignment of streams					

Mangaone Stream					
17	Land use Consents – s13(1)(a) & s13(1)(e)	Use, placement and erection of structures (culverts, bridge, inlet and outlet structures, and stormwater outlets), the placement of rip rap, associated diversion, disturbance and deposition of material and reclamation of a section of the bed of the Mangaone Stream.	RFWP Rule 49	Discretionary	Application for using, erecting and placing structures in and over the bed of the Mangaone Stream. Application for the diversion, disturbance and deposition of material on, and the reclamation of, a section of the stream bed as a result of the culvert and associated structures being installed.
8(d)	Land use consents – s13(1)(a) & s13(1)(e)	The reclamation of a section of the bed in the Mangaone Stream.	RFWP Rule 49	Discretionary	Application for reclamation of an area of river bed to be occupied by structures, and the associated rip rap and rock armouring of the embankments.
9(d)	Land use Consent - s13(2A)(b)	Removal of vegetation in the bed of the Mangaone Stream, including associated disturbance of the beds.	RFWP Rule 49	Discretionary	Application for vegetation removal in the streambed.
10(d)	Water permit – s14(2)(a)	Diversion of surface water (temporary)	RFWP Rule 16	Discretionary	Application for the temporary diversion of surface water to facilitate construction of the culverts.

11(d)	Water permit – s14(2)(a)	Diversion of surface water (permanent)	RFWP Rule 16	Discretionary	Application for the permanent diversion of surface water through the culverts once installed.
18	Water permit – s14(2)(a)	Damming and diversion of surface water	RFWP Rule 16 and 49	Discretionary	Application for the installation of a bund that will dam and divert the flow of the Mangaone Stream during flood events.

At the Mangaone Stream there will be culverts installed under the Expressway and also under the local roads that cross the watercourse as part of the ramps leading to the bridge over the Expressway at Te Horo. These culverts will be approximately 50m in length under the Expressway and 16m under the Mangaone link road (east). The Mangaone link road (west) bridge will be a single span bridge of 8m span.

New channels are to be formed to control the flow of the Mangaone Stream between the new link roads and the Expressway as a means of managing flood flows. These new channels will require the existing channels to be dammed and the flow diverted into them.

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
Group B: Crossing, occupation and realignment of streams					
Greenwood, School, Gear, Settlement Heights, Avatar, Jewell, Cavallo, Awatea, Kumototo, Hadfield and Racecourse Catchments					
19	Land use consents – s13(1)(a) & s13(1)(e)	Use, placement and erection of structures (culverts, inlet and outlet structures, and stormwater outlets); the placement of rip rap; the removal of an existing culvert; and associated	RFWP Rule 49	Discretionary	Application for using erecting and placing structures in and over the bed of the unnamed watercourses along the Project length. This includes permanently flowing watercourses, and intermittently flowing watercourses within catchments over 50ha as depicted

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
		diversion, disturbance, deposition of material and reclamations of sections of the bed of waterways along the Project length.			on Sheet GA07 in Volume 5. The details for the culverts are listed in Table 11 of the Stormwater Report, Technical Report 10 in Volume 2. Application for the diversion, disturbance and deposition of material on and the reclamation of, sections of the stream bed as a result of the culverts and associated structures being installed. Application for the removal of a culvert from the Racecourse Stream.
8(e)	Land use consents – s13(1)(a) & s13(1)(e)	The reclamation of a section of the bed of waterways along the Project length.	RFWP Rule 49	Discretionary	Application for reclamation of an area of river bed to be occupied by structures, and the associated rip rap and rock armouring of the embankments.
9(e)	Land use Consent - s13(2A)(b)	Removal of vegetation in the beds of various watercourses, including associated disturbance of the beds.	RFWP Rule 49	Discretionary	Application for vegetation removal in the beds of the water courses.
10(e)	Water permit – s14(2)(a)	Diversion of surface water (temporary)	RFWP Rule 16	Discretionary	Application for the temporary diversion of surface water to facilitate construction of the

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
					culverts.
11(e)	Water permit – s14(2)(a)	Diversion of surface water (permanent)	RFWP Rule 16	Discretionary	Application for the permanent diversion of surface water through the culverts once installed.
20	Water permit – s14(2)(a)	Diversion of surface water (permanent)	RFWP Rule 16	Discretionary	Application for the permanent diversion of surface water into new channels.
21	Water permit – s14(2)(a)	Damming and diversion of surface water	RFWP Rule 16 and 49	Discretionary	Application for the installation of an undersized culvert that will dam and divert surface water in times of flood.

There are additional culverts required along the Project route. These culverts do not however all require resource consent. Those that require consent are those in permanently flowing watercourses, and those in ephemeral watercourses where the catchment is over 50ha in area. The culverts that require consent are in the following catchments:

- Greenwood (162.0ha);
- Mangapouri (236.6ha);
- Mangaone (2277.7ha);
- School (175.0ha);
- Gear (176.0ha);
- Settlement Heights (308.0ha);

- Avatar (65.7ha);
- Jewell (360.0ha);
- Awatea (223.0ha);
- Kumototo (64.3ha); and
- Hadfield (111.0ha).

The total length of culverts in these catchments is approximately 690m. The total length of watercourse being diverted in these catchments is approximately 1580m, this being the approximately 690m length of culverts (with an allowance for wingwalls at each end) and the approximately 890m of diversion of the watercourses either into new channels or into the culverts. The total length of the watercourses being disturbed within these catchments is approximately 1735m. The detail for each individual culvert is located within Table 11 of Technical Report 10 – Assessment of Stormwater Effects, as is the length of reclamation within each watercourse. This detail is also outlined on the Plans in Volume 5 of this AEE report.

The culvert through which the Racecourse Stream passes under the current railway embankment will be removed. A new culvert will be placed here which will pass under both the Railway and Expressway embankments. This culvert will control floodwater through being undersized, ensuring that downstream flood effects are managed appropriately. Consent is required as during times of flood this will dam and divert water within the Racecourse Stream catchment. This culvert is 100m long, and there will be a 120m length of channel diversion to connect with the culvert, resulting in 220m of total disturbed channel in the Racecourse Stream

Stormwater outlet structures and temporary crossings will be located where required on these watercourses; however exact locations are still to be determined through detailed design.

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
Group C: Borehole construction and taking and diversion of groundwater					
22	Land use consent – s9(2)	Construction of boreholes (including bores for the purpose of abstracting groundwater).	RFWP Rule 15	Discretionary	Application for the construction of bores and the abstraction and diversion of groundwater as part of the construction of the Project.
23	Water permit –	The take and use of groundwater for bore testing, dust suppression	RFWP Rule 16	Discretionary	

	s14(2)(a)	and construction purposes.			
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As part of the construction of the Project, water will be required. This is generally required to assist with the physical works and for dust suppression purposes. The water that is required is approximately 300m³ per day.

This water is to be supplied from a number of sources, including groundwater where earthworks encounter groundwater, the water from the sediment ponds built as part of the Project, and water from four bores constructed specifically for that purpose. The four bores are proposed to be located in the vicinity of Mary Crest, the proposed Te Horo overbridge (near Mangaone Stream, opposite Te Horo Beach Road), north of the Ōtaki River and south of the Waitohu Stream. Meters will be installed on these bores to facilitate the recording of the volumes of water taken. All the bores are at least 250m away from the existing groundwater abstraction wells.

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of application
Group D: Reclamation, diversion of water from wetlands and the construction of new wetlands					
3(d)	Land use consent – s9(2)	Bore construction.	RFWP Rule 15	Discretionary	Application for the undertaking of earthworks in relation to wetlands where groundwater may be encountered.
24	Land use consent – s13(1)(e)	Reclamation of wetlands, including associated disturbance of the beds.	RFWP Rule 49	Discretionary	Application for reclamation of wetlands including the Railway Wetland area in Ōtaki and others throughout the Project extent.
25	Land use consent - s13(2A)(b)	Removal of vegetation in the bed of a wetland, including associated disturbance of the beds.	RFWP Rule 49	Discretionary	Application for the undertaking of earthworks and clearing vegetation in relation to wetlands.

26	Land use consent – s14(2)(a)	To dam groundwater and surface water via a new wetland.	RFWP Rule 49	Discretionary	Application for damming groundwater and surface waters for the creation of new wetland areas at Ōtaki and Mary Crest.
27	Water permit – s14(2)(a)	To permanently divert groundwater and surface water.	RFWP Rule 16	Discretionary	Application for the diversion of groundwater and surface water through a controlled means into and from wetlands at Ōtaki and Mary Crest.

As part of the Project, the existing Railway Wetland to the north of Ōtaki is to be altered in size. This requires that area of the wetland that is to be under the Expressway to be reclaimed. To achieve that, the water has to be diverted away from the wetland area.

New wetland areas are also to be created as part of the Project, one to the south of the Railway Wetland area and one at Mary Crest. These require earthworks, diversion of groundwater into the wetland areas that are created, and the revegetation of these areas. There is the possibility that in undertaking the earthworks to form the new wetlands, that groundwater will be encountered and therefore the earthworks are technically a bore, as with the land use consent element above.