

PART B: STATUTORY CONTEXT

3. Resource Management Act 1991

Overview

The RMA prescribes a number of relevant considerations for the determination of NoRs and applications for resource consent. NoRs have been lodged by the NZTA and PCC for their respective components (i.e. the NZTA Project and the PCC Project) of the Project across the four districts. Applications for resource consent have also been lodged. The Project is a proposal of national significance and the matters have been lodged with the EPA.

3.1 Introduction

In this chapter the key statutory matters (under the RMA) of relevance to the Project are set out, namely:

- the purpose and principles of the RMA (Part 2);
- consideration of proposals of national significance (Part 6AA);
- NoRs for designations (Part 8); and
- applications for resource consent (Part 6).

In this chapter the relevant statutory matters are set out but are not assessed. The assessment of the Project in relation to these matters is provided in Part I of this report. This chapter also contains details of 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 effects of the Project is subject to Part 2 of the RMA (purpose and principles).

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:

“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 Maori 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’ are set out in section 7:

“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 explained elsewhere, the NZTA and PCC are lodging their applications for resource consent and NoRs for the Project with the EPA, in accordance with these sections of the RMA.

Concurrent to the lodgement of the NZTA and PCC's matters with the EPA, they have also been served on the relevant local authorities (Wellington City Council, Porirua City Council, Upper Hutt City Council, Kapiti Coast District Council and Greater Wellington Regional Council), in accordance with section 145(10) of the RMA.

As discussed in Section 1.7 of this report, the Minister has confirmed that the Project is a proposal of national significance. The NZTA and PCC consider that the NoRs and application for resource consent for the Project should be heard by a Board of Inquiry made up of the same people as the Board of Inquiry which has been assigned to determine the NZTA's Freshwater Plan Change Request.

The Minister's direction on the matter (under section 147(1)) cannot be appealed. If the Minister makes a direction that the matter be heard by a board of inquiry or the Environment Court, the process to be followed is set out in sections 149A to 149U. If the matter is referred to a Bol, the board must release its final decision on the matter within nine months of the matter being publically notified by the EPA (section 149R(2)). The Minister may extend this time period if he or she sees fit (under section 149S).

Section 149V directs that the decision of a Bol or of the Environment Court can only be appealed on a question of law.

3.4 Notices of Requirement by the NZTA and PCC

The NZTA is lodging four (4) notices for the designation of land required for the construction, operation and maintenance of the Main Alignment in the following district plans:

- the Kapiti Coast District Plan (NoR 1);
- the Upper Hutt City District Plan (NoR 2);
- the Porirua City District Plan (NoR 3); and
- the Wellington City District Plan (NoR 4).

The NZTA is lodging two (2) notices for the designation of land required for the construction, operation and maintenance of the Kenepuru Link Road in the following district plans:

- the Porirua City District Plan (NoR 5); and
- the Wellington City District Plan (NoR 6).

PCC is lodging two (2) notices for the designation of land in the Porirua City District Plan for the construction, operation and maintenance of:

- the Whitby Link Road (NoR 7); and
- the Waitangirua Link Road (NoR 8).

These eight 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.

Section 168(2) applies to the notices lodged by the NZTA:

"A requiring authority for the purposes approved under section 167 may at any time give notice in the prescribed form to a territorial authority 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."

Section 168(1) applies to the notices lodged by PCC:

“A Minister of the Crown who, or a local authority which, has financial responsibility for a public work, may at any time give notice in the prescribed form to a territorial authority of its requirement for a designation—

(a) for a public work; or

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

The prescribed form for a NoR is set out in Form 18 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003. The notices (contained in Volume 2) have been prepared in accordance with these regulations.

If the matters are directed to a BoI, all of the NoRs will be considered under section 149P. Section 149P(4) directs that a board:

“(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 matters set out in section 171(1A) and (1) are:

“(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 a Bol, the Bol, rather than the NZTA and PCC as the requiring authorities, will make the final decision on the NoRs.

3.5 Outline plans

Section 176A sets out the circumstances when an outline plan must be submitted to a territorial authority before commencing construction of a project or work under a designation. 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 may not be 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 BoI have the ability to waive the requirement for an outline plan under section 149P(4)(c). However, the NZTA and PCC intend to submit outline plans to the relevant territorial authorities prior to the commencement of works onsite, for relevant aspects of the Project (in conjunction with addressing various matters via management plans).

3.6 Land subject to existing designations

Some of the land to be designated for the Project is already subject to existing designations, as outlined in Table 3.1.

Table 3.1: Existing designations over land to which the NoRs relate

Designation name	District plan [identifier]	Requiring authority	Proposed new designation for the Project
North Island Main Truck railway line	PCDP [K0101]	NZ Railways Corporation	NoR 5 for the Kenepuru Link Road (NZTA)
Battle Hill Regional Park	PCDP [K0703]	Wellington Regional Council	NoR 3 for the Main Alignment (NZTA)
Akatarawa and Whakatiki Water Catchment	UHCDP [WRC6]	Wellington Regional Council	NoR 2 for the Main Alignment (NZTA)
Takapu Road Substation	WCDP [F4]	Transpower New Zealand Ltd	NoR 4 for the Main Alignment (NZTA)

Section 177 applies where an area of land is subject to two designations:

“(1) Subject to sections 9(2) and 11 to 15, where a designation is included in a district plan, and the land that is the subject of the designation is already the subject of an earlier designation or heritage order, -

(a) The requiring authority responsible for the later designation may do anything that is in accordance with that designation only if that authority has first obtained the written consent of the authority responsible for the earlier designation or order; and

(b) The authority responsible for the earlier designation or order may, notwithstanding section 176(1)(b) and without obtaining the prior written consent of the later requiring authority, do anything that is in accordance with the earlier designation or order.”

In order to undertake work in accordance with a designation on land where there is an existing (earlier) designation in place, the written consent of the requiring authority for the earlier designation is required under section 177(1)(a).

As such, approval under section 177(1)(a) will be required from:

- the NZ Railways Corporation;
- the Wellington Regional Council; and
- Transpower New Zealand Ltd.

This written consent is required in order to be able to undertake works in accordance with the later designation, rather than to designate the land itself for those later works. For this reason, written consent under section 177(1)(a) has not yet been obtained. Approval from these requiring authorities will be obtained by the NZTA at the same time as outline plans are submitted to the relevant territorial authorities, once the detailed design phase of the Project has been completed. This requirement does not apply to PCC as none of the land proposed to be designated for the PCC Project is subject to existing designations.

3.7 Project designations to be reviewed after construction

Once the Project has been constructed and is operational, the area of land required for the on-going operation and maintenance of the Project is likely to reduce (i.e. some of the designated land will be surplus to requirements as it will only be required for the construction of the Project).

It is intended that once construction has been completed, the NZTA and PCC will review their designations and determine whether or not to uplift any part(s) of the designation(s) on the grounds that they are no longer required. Review of the Project designations is included as a proposed condition of the designations.

3.8 Applications for resource consent

Applications by the NZTA and PCC for resource consents are being lodged under section 145(1)(a) and in accordance with section 88 (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."

The prescribed form for an application for resource consent is set out in Form 9 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003. The forms (Volume 2) have been prepared in accordance with these regulations.

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 assessment of environmental effects process (as documented in this report) has been undertaken in accordance with Schedule 4. It also fulfils the requirements of the assessment of effects on the environment required in support of the NoRs⁴².

3.9 Activities requiring resource consent

The Project involves activities which require resource consents under Wellington regional plans. The NZTA is applying for resource consents for the construction and operation of the Main Alignment and the Kenepuru Link Road. PCC is applying for resource consents required under Wellington regional plans for the construction and operation of the Porirua Link Roads.

Relevant activities that are restricted under the RMA are as follows.

3.9.1 Land use consents

Section 9 imposes restrictions of the use of land. Under section 9(2):

“No person may use land in a manner that contravenes a regional rule unless the use -

42. An NoR must include details of the effects that the project will have on the environment and the ways in which any adverse effects will be mitigated (Form 18 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003. The effects are then assessed by the Board under section 171(1) of the RMA.

(a) is expressly allowed by a resource consent”

Activities requiring resource consent (land use consent) under a regional rule in relation to the use of land are:

- earthworks (soil disturbance and associated vegetation clearance).

Section 9(3) also imposes 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”.

Section 13 imposes restrictions on certain uses of beds of lakes and rivers. Under section 13(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.”

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

- the disturbance of river beds;
- the placement of structures in river beds; and
- the reclamation of river beds.

3.9.2 Water permits

Section 14 imposes restriction 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 (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; or...”

Activities requiring resource consent (water permit) in relation to water are:

- the diversion of water (surface water).

3.9.3 Discharge permits

Section 15 places restrictions on the discharge of contaminants. Contaminant is defined in section 2 as:

“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; or”.

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...”.

Activities requiring resource consent (discharge permit) in relation to the discharge of contaminants are:

- the discharge of chemically treated sediment laden water from erosion and sediment control devices to land and to water during construction; and
- the discharge of contaminants to air and to land from concrete batching.

3.10 Resource consents sought for the Project

The NZTA and PCC are applying for resource consents for their respective components of the Project:

- the NZTA is applying for 16 resource consents under Wellington regional plans for the NZTA Project; and
- PCC is applying for four (4) resource consents under Wellington regional plans for the PCC Project.

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 and PCC are applying for resource consents for the following broad groups of activities for their respective projects:

- bulk earthworks;
- the discharge of chemically treated sediment laden water from construction;
- stream crossings (the placement of structures in stream);

- stream realignment (diversions and reclamations) (NZTA Project only); and
- discharge from the concrete batching plant (NZTA Project only).

For activities in and around streams, a catchment-based approach to the grouping of applications has been used. This is appropriate because:

- the assessment of effects of works in streams has been undertaken on a catchment basis;
- the management of effects of works in streams will be undertaken on a catchment basis; and
- the activity status differs between some catchments.

On this basis, activities have been grouped as set out in Table 3.2. This table also lists what forms the NZTA and PCC have 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 2.

Table 3.2: Groups of activities resource consent is being sought for

Group	General activity	Application ref #	Relevant GWRC form(s)
Resource consents sought by the NZTA for the construction and operation of the Main Alignment and the Kenepuru Link Road			
A	Bulk earthworks and construction erosion and sediment control	RC 1 – RC 3	6E (Soil disturbance) 3A (Discharge to land) 4A (Discharge to water)
B	Crossing, occupation and realignment of streams	RC 4 – RC 14	6A (Works in the bed of stream) 6C (Bridges) 6D (Culverts) 2A (Diversion of water)
C	Concrete batching	RC 15 – RC 16	5A (Discharge to air) 3A (Discharge to land)
Resource consents sought by PCC for the construction and operation of the Porirua Link Roads			
D	Bulk earthworks and construction erosion and sediment control	RC 17 – RC 19	6E (Soil disturbance) 3A (Discharge to land) 4A (Discharge to water)
E	Occupation of Duck Creek and its tributaries	RC 20	6A (Works in the bed of stream) 6C (Bridges) 6D (Culverts)

The specific resource consents which the NZTA and PCC are seeking for the Project are listed in Table 3.3.

Table 3.3: 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					
RC 1	Land use consent – s9(2)	Roading and tracking in Area 2 of the RSP having a continuous length of new upslope batter extending for greater than 200 metres, with a height of greater than 2 metres measured vertically.	RSP Rule 1	Restricted discretionary	Application for bulk earthworks and vegetation disturbance activities (including plantation forestry) for the construction of the Main Alignment and the Kenepuru Link Road (and associated access tracks and fill sites) as a restricted discretionary activity .
	Land use consent – s9(2)	Large scale vegetation disturbance on erosion prone land.	RSP Rule 4	Restricted discretionary	
RC 2	Discharge permit – s15(1)(b)	Discharge of chemically treated sediment laden water to land that may enter water.	RDLP Rule 2	Discretionary	Application for the discharge of chemically treated sediment laden water from erosion and sediment control devices to land in such a way that it may enter water as a discretionary activity .
RC 3	Discharge permit – s15(1)(a)	Discharge of chemically treated sediment laden water to water.	RFWP Rule 5	Discretionary	Application for the discharge of chemically treated sediment laden water from erosion and sediment control devices to water as a discretionary activity .
GROUP B: Crossing, occupation and realignment of streams					
RC 4	Land use consent – s13(1)(a)	Use, placement and erection of structures in the bed of Wainui Stream and its tributaries for the purposes of a river crossing (pipe culverts and associated erosion protection control structures and stormwater outlet structures listed in Schedule A).	RFWP Rule 49	Discretionary	Application for the placement of structures in Wainui Stream and its tributaries and the realignment of part of the river bed in this catchment as a discretionary activity .
	Land use consent – s13(1)(e)	Realignment of approximately 91m of Wainui Stream and its tributaries (reclamation and diversion).	RFWP Rule 49	Discretionary	
	Water permit – s14(1)		RFWP Rule 16	Discretionary	

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
RC 5	Land use consent - s13(1)(a)	Use, placement and erection of structures in the bed of Te Puka Stream and its tributaries for the purposes of a river crossing (pipe culverts, bridges and associated erosion protection control structures and stormwater outlet structures listed in Schedule A (culverts) and Schedule B (bridges).	RFWP Rule 49	Discretionary	Application for the placement of structures in Te Puka Stream and its tributaries and the diversion and reclamation of part of the river bed in this catchment as a discretionary activity .
	Land use consent - s13(1)(e)	Realignment of approximately 1,867m of Te Puka Stream and its tributaries (reclamation and diversion).	RFWP Rule 49	Discretionary	
	Water permit - s14(1)		RFWP Rule 16	Discretionary	
RC 6	Land use consent - s13(1)(a)	Structures in the bed of Horokiri Stream and its tributaries for the purposes of a river crossing (pipe culverts, bridges and associated erosion protection control structures and stormwater outlet structures listed in Schedule A (culverts) and Schedule B (bridges).	RFWP Rule 49	Discretionary	Application for the placement of structures in the Horokiri Stream and its tributaries and the associated diversion and reclamation of part of the river bed in this catchment as a non-complying activity .
	Land use consent - s13(1)(e)	Realignment of approximately 1,013m of Horokiri Stream and its tributaries (reclamation and diversion).	RFWP Rule 50	Non-complying	
	Water permit - s14(1)		RFWP Rule 16	Discretionary	
RC 7	Land use consent - s13(1)(a)	Structures in the bed of Ration Stream and its tributaries for the purposes of a river crossing (pipe culverts, bridges and associated erosion protection control structures and stormwater outlet structures listed in Schedule A (culverts) and Schedule B (bridges).	RFWP Rule 49	Discretionary	Application for the placement of structures in Ration Stream and its tributaries and the associated diversion and reclamation of part of the river bed in this catchment as a non-complying activity .

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
	Land use consent - s13(1)(e)	Realignment of approximately 896m of Ration Stream and its tributaries (reclamation and diversion).	RFWP Rule 50	Non-complying	
	Water permit - s14(1)		RFWP Rule 16	Discretionary	
RC 8	Land use consent - s13(1)(a)	Structure in the bed of Collins Stream and its tributaries for the purposes of a river crossing (pipe culverts and associated erosion protection control structures and stormwater outlet structures listed in Schedule A (culverts).	RFWP Rule 49	Discretionary	Application for the placement of a structure in Collins Stream as a discretionary activity .
RC 9	Land use consent - s13(1)(a)	Structures in the bed of Pauatahanui Stream and its tributaries for the purposes of a river crossing (pipe culverts, bridges and associated erosion protection control structures and stormwater outlet structures listed in Schedule A (culverts) and Schedule B (bridges).	RFWP Rule 49	Discretionary	Application for the placement of structures in Pauatahanui Stream and its tributaries and the associated diversion and reclamation of part of the river bed in this catchment as a non-complying activity .
	Land use consent - s13(1)(e)	Realignment of approximately 1,829m of Pauatahanui Stream and its tributaries (reclamation and diversion).	RFWP Rule 50	Non-complying	
	Water permit - s14(1)		RFWP Rule 16	Discretionary	
RC 10	Land use consent - s13(1)(a)	Structures in the bed of Duck Creek and its tributaries for the purposes of a river crossing (pipe culverts, bridges and associated erosion protection control structures and stormwater outlet structures listed in Schedule A (culverts) and Schedule B (bridges).	RFWP Rule 49	Discretionary	Application for the placement of structures in Duck Creek and its tributaries and the associated diversion and reclamation of part of the river bed in this catchment as a discretionary activity .
	Land use consent - s13(1)(e)	Realignment of approximately 221m of Duck Creek and its tributaries (reclamation and diversion).	RFWP Rule 49	Discretionary	

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
	Water permit - s14(1)		RFWP Rule 16	Discretionary	
RC 11	Land use consent - s13(1)(a)	Structures in the bed of Kenepuru Stream and its tributaries for the purposes of a river crossing (pipe culverts, bridges and associated erosion protection control structures and stormwater outlet structures listed in Schedule A (culverts) and Schedule B (bridges).	RFWP Rule 49	Discretionary	Application for the placement of structures in Kenepuru Stream and its tributaries and the associated diversion and reclamation of part of the river bed in this catchment as a discretionary activity .
	Land use consent - s13(1)(e)	Realignment of approximately 169m of Kenepuru Stream and its tributaries (reclamation and diversion).	RFWP Rule 49	Discretionary	
	Water permit - s14(1)	Installation of approximately 870m of subsoil drains in Kenepuru Stream and its tributaries (as reclamation).	RFWP Rule 16	Discretionary	
RC 12	Land use consent - s13(1)(a)	Structures in the bed of Porirua Stream and its tributaries for the purposes of a river crossing (pipe culverts, bridges and associated erosion protection control structures and stormwater outlet structures listed in Schedule A (culverts) and Schedule B (bridges).	RFWP Rule 49	Discretionary	Application for the placement of structures in Porirua Stream and its tributaries and the associated diversion and reclamation of part of the river bed in this catchment as a discretionary activity .
	Land use consent - s13(1)(e)	Realignment of approximately 474m of Porirua Stream and its tributaries (reclamation and diversion).	RFWP Rule 49	Discretionary	
	Water permit - s14(1)		RFWP Rule 16	Discretionary	
RC 13	Land use consent - s13(1)(a)	Use, placement and erection of structures (8 pipe culverts listed in Schedule A and associated erosion protection control structures and stormwater outlet structures) in the bed of Duck Creek for the purposes of a river crossing.	RFWP Rule 49	Discretionary	Application for the replacement of eight (8) existing perched culverts in Duck Creek with culverts providing fish passage as a discretionary activity .

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
RC 14	Land use consent – s13(1)(a)	Use, placement and erection of structures (temporary culverts, listed in Schedule C) in the bed of streams (and their tributaries) for the purposes of a river crossing.	RFWP Rule 49	Discretionary	Application for temporary stream crossings in streams required for temporary construction access tracks for the construction of the Main Alignment and the Kenepuru Link Road as a discretionary activity .
GROUP C: Concrete batching					
RC 15	Discharge permit – s15(1)(c)	Discharge of contaminants to air from concrete batching activities.	RAQMP Rule 23	Discretionary	Application for the discharge of contaminants to air from an industrial or trade premises as a discretionary activity .
RC 16	Discharge permit – s15(1)(b)	Discharge of contaminants in stormwater to water from concrete batching activities.	RDLP Rule 2	Discretionary	Application for the discharge of contaminants in stormwater to land from an industrial or trade premises as a discretionary activity .
GROUP D: Bulk earthworks and erosion and sediment control (Porirua Link Roads)					
RC 17	Land use consent – s9(2)	Roading and tracking in Area 2 of the RSP having a continuous length of new upslope batter extending for greater than 200 metres, with a height of greater than 2 metres measured vertically.	RSP Rule 1	Restricted discretionary	Application for bulk earthworks and vegetation disturbance activities for the construction of the Porirua Link Roads as a restricted discretionary activity .
	Land use consent – s9(2)	Large scale vegetation disturbance on erosion prone land.	RSP Rule 4	Restricted discretionary	
RC 18	Discharge permit – s15(1)(b)	Discharge of chemically treated sediment laden water to land that may enter water.	RDLP Rule 2	Discretionary	Application for the discharge of chemically treated sediment laden water from erosion and sediment control devices to land in such a way that it may enter water as a discretionary activity .
RC 19	Discharge permit – s15(1)(a)	Discharge of chemically treated sediment laden water to water.	RFWP Rule 5	Discretionary	Application for the discharge of chemically treated sediment laden water from erosion and sediment control devices to water as a discretionary activity .

Application ref #	Consent type	Activity	Regional rule	Activity class	Scope of the application
GROUP E: Occupation of Duck Creek and its tributaries (Porirua Link Roads)					
RC 20	Land use consent - s13(1)(a)	Structures in the bed of Duck Creek and its tributaries for the purposes of a river crossing (pipe culverts, bridges and associated erosion protection control structures and stormwater outlet structures listed in Schedule A (culverts) and Schedule B (bridges).	RFWP Rule 49	Discretionary	Application for the placement of structures in Duck Creek as a discretionary activity .

3.11 Consideration of applications for resource consent

If the Project is directed to a BoI, the BoI will consider the applications under sections 149P(1) and (2). Section 149P(2) provides that a BoI considering an application for resource consent must apply sections 104 to 112 and 138A as if it were a consent authority.

As set out in Table 3.2, the activities for which resource consents are sought fall into a variety of differing activity classes, ranging from controlled activities to non-complying activities. All applications must be considered under section 104 of the RMA but there are also additional considerations specific to certain classes of activity (Section 149P(2)).

Under section 104:

“(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to -

(a) any actual and potential effects on the environment of allowing the activity; and

(b) any relevant provisions of -

(i) a national environmental standard:

(ii) other regulations:

(iii) a national policy statement:

(iv) a New Zealand coastal policy statement:

(v) a regional policy statement or proposed regional policy statement:

(vi) a plan or proposed plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

(2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.”

In addition to consideration under section 104, there are further considerations for particular classes of activities:

- discretionary and non-complying activities, under section 104B;
- restricted discretionary activities, under section 104C;
- non-complying activities, under section 104D; and

- discharge permits, under section 105 and section 107.

3.11.1 Discretionary and non-complying 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.”

3.11.2 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.”

3.11.3 Non-complying activities

Under section 104D there are particular restrictions for non-complying activities:

“(1) Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either -

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of -

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.”

3.11.4 Discharge permits

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; or

(ba) the dumping in the coastal marine area from any ship, aircraft, or offshore installation of any waste or other matter that is a contaminant, -

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 fresh water 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."