IN THE MATTER OF: the Resource Management Act 1991

AND

IN THE MATTER OF: an application by Grenadier Limited to the Manawatū-Whanganui Regional Council (reference **APP-2020203164.01**) for land use consents (for earthworks, land disturbance and vegetation clearance), consents for treated domestic wastewater discharges and a groundwater abstraction consent (required by the One Plan) and a discharge consent required under Regulation 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, associated with the construction and development of a proposed eighteen hole links golf course and ancillary activities on land at 765 Muhunoa West Road, Ōhau.

DECISION OF INDEPENDENT HEARING PANEL
APPOINTED BY MANAWATŪ-WHANGANUI REGIONAL COUNCIL

SUMMARY OF DECISION

Consents for earthworks, land disturbance and vegetation clearance within the coastal foredune are declined for the reasons explained in the following decision report. Consents for groundwater abstraction and the discharge of water and treated domestic wastewater are granted, subject to the conditions contained in Attachment 2 to this decision report, for the reasons explained in the following decision report.

TABLE OF CONTENTS

1. INTRODUCTION

1.1 The Applicant proposes to establish an eighteen-hole links golf course and associated clubhouse and accommodation facilities on the site. The site is located at 765 Muhunoa West Road, Ōhau. It comprises approximately 107 hectares of privately owned farmland (Lots 1 and 2 DP 51446) and part of a coastal esplanade reserve administered by Horowhenua District Council (part Lot 4 DP44581). The Applicant has the District Council's permission to use the esplanade reserve for the golf course development.

1.2 The Applicant applied to Manawatū-Whanganui Regional Council (known as '*Horizons*') and to the Horowhenua District Council on 21 December 2020 for consents under the District Plan and the Regional Plan (the '*One Plan'*) to enable the development. The applications to each consent authority were supported by a combined assessment of environmental effects. The Applicant re-submitted the application to Horizons on 2 July 2021, together with an updated assessment of environmental effects and supporting information.

1.3 The Horowhenua District Council land use consent for the golf course was transacted separately and granted without notification under delegated authority on 5 October 2021 (reference LUC/501/2020/229). The consents required under the One Plan are for earthworks, land disturbance, vegetation clearance, groundwater abstraction and discharge activities necessary to construct and operate the proposed golf course. The District Council's decision report records the following on (unnumbered) page 20:

'…the application notes that resource consents have been sought from Horizons Regional Council. The environmental effects associated with these aspects of the proposal will be assessed by the Regional Council. It is considered appropriate to processed [sic] *these separately, given irrigation of the golf course is not considered to overlap with the effects relating to the buildings being developed. The Applicant has noted that water tanks will be installed to collect water from the buildings which does not require a water take consent.*

Effects relating to the potential discharge of contaminants to land or water will be assessed against the One Plan. In addition, vegetation and Schedule F habitat will also be assessed by the Regional Council to ensure it meets the One Plan requirements. In terms of waste water servicing on the site, the application states that a discharge permit will be sought from the regional council. This resource consent will also be needed prior to building consent stage.'

1.4 Interestingly, the District Council decision report does not comment on the extent to which the ability to exercise the District Council land use consent relies on the Regional Council consents for earthworks and vegetation removal.

1.5 The proposal is for the development of a 'links' golf course. In answer to our questions at the hearing, the Applicant provided (with its reply statement) a brief summary of the origins and purpose of 'links' golf. This is relevant to the Applicant's reasons for seeking to develop within the coastal foredune, so we reproduce the summary here:

'Links golf first started in the 15th century in St Andrews, Scotland. 'Links' land was originally described as the rough sandy area, mostly dunes, that connected the sea and the arable land, this "linked" the land to the sea. The links land was considered not suitable for farming because of the lack of decent topsoil and conditions that are needed to grow good stock feed for animals. Thus 'Links' are found to be ideal land to play the sport of golf on.

The land formations and dunes that are naturally created by mother nature, provide interesting targets, obstacles and playing options to hit the ball in the air and along the ground that challenge golfers endlessly. The best and most natural links golf courses navigate the land in such a way that there has been minimal disturbance in the creation of them by man, because most of them were built before the invention of a steam shovel – a great links golf course usually has most of the golf holes already formed by nature.

The 'Links' sandy profile, although not good for arable farming– provides a fantastic environment for grass species like Fescues and Browntops, that prefers low fertility and a well-drained profile. This resulted in the firm turf associated with links courses and the 'running' game. The unique nature of links courses necessitates a distinct style of play. The challenges links golf presents include – uneven fairways, thick rough, small deep bunkers and windy conditions created by their coastal location and lack of trees.
Links golf courses pride themselves on a more browned out dry look, and not as much on a soft, emerald green appearance that you would usually see on TV – i.e. a highly engineered environment. Links playing conditions are achieved through sandy soil type, low fertility and careful turf management.'

1.6 The golf course proposal was described in detail in Section 4 of the assessment of environmental effects that accompanied the application. A description of the proposed vegetation clearance, earthworks and construction activities was provided in Volume 2 of the application and reproduced in Section 4.5 of the assessment of effects as follows:

1. ***Vegetation clearance***
    a. *Remove all undesirable trees and shrubs.*
    b. *Spray out any undesirable grasses and vegetation e.g. couch and lupin. This process will be ongoing due to the seed bed in the sandy/soil.*
    c. *Harvest any useable timbers.*
    d. *Mulch and/or burn remaining vegetative piles. Slash piles to be buried.*
    e. *Strip the topsoil, if any, to stockpile for re-use*
2. ***Bulk Earthworks***
    a. *Undertake the cut to fill earthworks programme in accordance with the golf designers plans*
3. ***Rough Shaping***
    a. *Sculpt and shape the material in accordance with the designers plans and site instruction, to create natural patterns and landforms, so that it appears that nothing has actually been done to the landscape at all.*
    b. *Ensure that general overland drainage patterns are functioning. Adjust as required to ensure positive drainage.*
4. ***Final Shaping***
    a. *Create the detail shapes and features that bring the course 'alive' for the designer and golfer.*

5. ***Irrigation***
    a. *Install pump delivery system.*
    b. *Install the irrigation system on a hole by hole basis.*
    c. *The irrigation install follows in behind the golf course construction team so that 'sow out' can occur shortly after install, to stabilise the ground.*
6. ***Drainage***
    a. *Install subsurface drainage, if required. A sandy subgrade will require little drainage due the 'free draining' natural of the land.*
7. ***Final Preparation & Sow Out of Golf Hole***
    a. *Undertake final preparation of the finished sandy surface after drainage and irrigation has been installed.*
    b. *Sow out and hydro-mulch the golf hole.*
    c. *Irrigate little and often to ensure an early grass strike.*
    d. *Establish for a period of 5pprox.. 16 weeks.*
8. ***Grow In***
    a. *Grow- In: Post establishment. The process of taking the newly grown turf, from the 16 week timeframe through to maturity, to the point when golf will be playable. A period of approx. 12- 18 months.'*

1.7 The design of the proposed golf course has been an iterative process involving Mr Hamish Edwards (director of the Applicant company), Mr Philip Tataurangi (PGA golfer and golf course designer), Mr Darius Oliver (golf course designer), Mr Alec McKay (project manager) and Mr Brendan Allen (golf course design and construction advisor). We heard from each of these design and construction specialists at the hearing.

1.8 The extent of proposed earthworks was shown on the 'Earthworks Management Plan' set of plans attached to the application (drawings numbered J709-ENG-140 to 145 Revision A), the 'Final Indicative Contours' plan set (drawings numbered J709-ENG-146 to 149 Revision A) and on the 'ESCP Plan Northwest Corner' (drawing numbered J709-ENG-150 Revision A dated 15/06/21). In its reply statement, the Applicant amended the layout (and therefore the extent of earthworks) proposed for Hole 14 (shifting it northward so as to avoid the active dune area)[1]. The Applicant also included a plan with its reply that clarified the actual extent of earthworks proposed for proposed Hole 7 (which was unclear in other illustrations).

1.9 The Applicant has secured consents for an exploration bore (APP-2020202949.00) and for two supply bores within the site (APP2020203002.00). Copies of these consents were included with the application. The proposed groundwater abstractions, via those bores, for irrigation and for supply to the golf club facilities are described in sections 4.7.1 and 4.7.2 of the assessment of environmental effects accompanying the application. In summary, the proposed irrigation bore is intended to supply an estimated 168,060m³ to 224,806m³ of water per year for irrigation of the golf course (comprising 18 greens, 36 tees and a practice tee) during establishment of vegetation cover, with a reduced rate once vegetation is established. The domestic supply bore is intended to supply potable water for the proposed clubhouse and

[1] This amendment is shown in Document number 16 of the Supplementary Materials supplied with the Applicant's reply (Document 16: Muhunoa Golf Links Hole 14 Options). The amended layout altered the potential for ecological effects and these are assessed in the supplementary evidence of Dr Keesing dated 25 May 2022 (Document number 9)

other potable water needs, in combination with rainwater collection from building roofs. Groundwater abstraction for domestic potable supply will not exceed 50m³ per day and will be stored in multiple storage tanks close to the end uses at the proposed clubhouse, accommodation units and other facilities.

1.10 The proposed wastewater collection, treatment and disposal method (including details of the proposed location of treated wastewater discharge effluent fields, calculations of wastewater loads and an engineering assessment) were included in Appendix 5 to the application. Additional assessment information was included in the Applicant's 14 September 2021 response to Horizons' s. 92 further information request.

2 PROCEDURAL DETAILS

2.1 After requesting and receiving further information, Horizons publicly notified the re-submitted application on 21 January 2022. Submissions closed on 21 February 2022. Eighteen submissions were received before the closing date (seventeen in support and one opposed to the application). A late submission, opposing the application, was received on 9 March 2022. The Applicant did not oppose an extension of time to allow the late submission to be considered.

2.2 The Hearing Panel was appointed pursuant to section 34A of the Act by decision dated 22 February 2022. The appointment order delegated to the Hearing Panel the necessary authority to hear and determine the application and to make decisions on associated procedural matters (including any extension of time limits).

2.3 Notice of the hearing was issued in the Hearing Panel's Minute Number 1 dated 24 March 2022. Minute Number 1 recorded directions for the exchange of expert evidence ahead of the hearing. The Hearing Panel also recorded in Minute Number 1 its decision to extend the time period for receipt of submissions to allow the submission by Muaūpoko Tribal Authority Incorporated to be received and considered.

2.4 Section 42A reports were commissioned by Horizons, prepared by the following experts, and were circulated prior to the hearing in accordance with the timetable set out in Minute Number 1:

(a) Ms Fiona Morton (consultant planner) and we note that Ms Morton helpfully suggested a suite of suggested conditions but was unable to recommend granting consent, primarily due to concerns about potential impacts on Māori cultural values;
(b) Tom Garden (consultant hydrogeologist);
(c) Graeme Ridley (consultant erosion and sediment control specialist);
(d) Connor Whiteley (consultant ecologist);
(e) Trisha Simonsen (consultant engineering geologist specialising in land disposal of wastewater).

2.5 The Hearing Panel conducted a site visit on Monday 2 May 2022. The hearing was held on Tuesday 3 May and Wednesday 4 May 2022 at a meeting room within the Levin Public Library (Te Takere), 10 Bath Street, Levin. The persons who attended and presented evidence or submissions to the hearing are listed in Attachment 1 to this decision report. The hearing was adjourned at 3.30 pm on Wednesday 4 May 2022 to allow the Applicant an opportunity to

reflect on the values and issues presented by submitters at the hearing and to continue the discussions with submitters that had commenced prior to the hearing. The timeframe for and purpose of the adjournment were detailed in the Hearing Panel's Minute Number 2 dated 5 May 2022. The Applicant forwarded its closing statement in reply, together with supporting information responding to questions raised at the hearing, by email dated 3 June 2022. The Hearing Panel closed the hearing on 17 June 2022 (recorded in its Minute Number 3 dated 21 June 2022). The Hearing Panel sought, and was granted, an extension of time to allow determination of this decision.

3 THE CONSENTS REQUIRED FROM HORIZONS

3.1 As already noted, consents are required from Horizons for a suite of activities necessary to enable the construction and operation of the proposed golf course. The Applicant applied for the following consents, as detailed on page 9 of the section 42A report of Horizons' reporting planner (Ms Morton):

Proposed Activity:	**One Plan Rule and Activity Status:**	**Application Reference Number:**	**Consent Duration Sought:**
Abstraction of groundwater for irrigation and domestic supply	Rule 16-9 Discretionary Activity (water permit)	ATH-2022205141.00	35 years
Discharge to ground of treated domestic wastewater[2]	Rule 14-30 Discretionary Activity (discharge permit)	ATH-2022205142.00	35 years
Land disturbance and vegetation clearance within identified (Schedule F) rare habitats	Rule 13-9 Non-Complying Activity (land use consent)	ATH-2022205143.00	10 years
Land disturbance and vegetation clearance within identified (Schedule F) at-risk habitats (subject to the clarification provided below)	Rule 13-8 Discretionary Activity (land use consent)	ATH-2022205144.00	10 years
Land disturbance and vegetation clearance within the defined coastal foredune (but outside any identified at-risk or rare habitat)	Rule 13-7 Discretionary Activity (land use consent)	ATH-2022205145.00	10 years
Land disturbance not within the coastal foredune and not within any identified at-risk or rare habitat	Rule 13-2 Controlled Activity (land use consent)	ATH-2022205146.00	10 years
Taking, use, damming, diversion or discharge of water within, or within 100m of, a	Regulation 54 of the NES-Freshwater Non-Complying Activity	ATH-2022205149.00	10 years

[2] The application sought consent for the discharge of wastewater from composting toilets positioned within the proposed golf course. The Applicant subsequently deleted the composting toilets from the proposal. This was not at first clear from the documentation, including the further information supplied by the Applicant on 14 September 2021. Trisha Simonsen is a consultant Engineering Geologist, engaged by Horizons to prepare a section 42A report on the wastewater discharges proposed. Ms Simonsen's section 42A report is dated 6 April 2022. In an addendum to that report, dated 27 April 2022, Ms Simonsen advised that the Applicant had confirmed that the composting toilets were deleted from the proposal. Consent is no longer sought for this activity.

Proposed Activity:	One Plan Rule and Activity Status:	Application Reference Number:	Consent Duration Sought:
natural wetland (the saltmarsh wetland associated with the Ōhau River)			

3.2 On this last matter, the application did not include an explicit application under Regulation 54 of the NES-Freshwater. However, the Applicant confirmed in an email dated 12 January 2022 that consent was sought under the NES-Freshwater[3].

3.3 Mr Connor Whiteley is a consultant ecologist who was commissioned by Horizons to undertake a review of ecological effects and prepare a section 42A report on the effects of the proposal on Schedule F habitats. Mr Whiteley clarified at the hearing that the affected Schedule F habitats are all 'rare', rather than 'at-risk'. On that basis, consent is not required under Rule 13-8 (consent reference ATH-2022205144.00).

3.4 The planning advisors for the Applicant (Mr Tom Bland) and Horizons (Ms Morton) agreed that the Regional Council consents should be considered, on a 'bundled' basis, as a non-complying activity. We agree with the Applicant's Counsel, Mr John Maassen, that this 'bundling' approach should not undermine the One Plan's discrete treatment of the constitutive elements of the proposal in its planning framework[4]. For example, we do not consider the 'bundling' approach means that the activity status of the groundwater abstraction or the treated wastewater discharge is 'upgraded' from discretionary activity to non-complying activity.

3.5 The consents required under the One Plan pertain to specific resources or to specific geographic areas within the site. For example, the land use consents required for land disturbance, earthworks and vegetation clearance pertain only to the identified rare habitats and to the coastal foredune. While there was some dispute between the ecologists for the Applicant and Horizons about the physical extent of (rare) stable duneland habitat, there was broad agreement that the rules requiring consent for land disturbance, earthworks and vegetation clearance apply only to the parts of proposed Holes 3, 4, 11, 12, 14, 15, 16 and 17 that are within the coastal foredune. We highlight this fact here because it defines the limited jurisdiction we have.

3.6 Our jurisdiction is limited to the functions of the Regional Council which, Mr Maassen in his closing legal submissions reminded us, are limited to the matters set out in section 30 of the Act:

[3] Paragraph 21 of the s. 42A report dated 6 April 2022 prepared by Fiona Morton
[4] Paragraph 5 of the Applicant's opening legal submissions

30 Functions of Regional Councils under this Act

(a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:

(b) …

(c) the control of the use of land for the purpose of—

(i) soil conservation:

(ii) the maintenance and enhancement of the quality of water in water bodies and coastal water:

(iii) the maintenance of the quantity of water in water bodies and coastal water:

(iv) the maintenance and enhancement of ecosystems in water bodies and coastal water:

(v) the avoidance or mitigation of natural hazards:

…

(f) the control of discharges of contaminants into or onto land, air, or water and discharges of water into water:

…

(ga) the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity: …

3.7 Our jurisdiction, in relation to the land disturbance and vegetation clearance activities that fall within the Regional Council's s. 30 functions, does not extend to the effects of the future use of the land as a golf course.

3.8 For completeness, we note that consent is not required from Horizons for the naming of any golf course on the land (this being a matter of concern raised by some submitters).

4 ISSUES RAISED IN SUBMISSIONS

4.1 As already noted, seventeen of the nineteen submissions were supportive of the golf course proposal and supported granting the Regional Council consents. Some of the supporting submissions highlighted the potential economic benefits for the district and region that would flow from development of the golf course. Some of these submissions also highlighted the benefits that would derive from the proposed restoration planting the Applicant proposes to undertake.

4.2 The submission of Heritage New Zealand Pouhere Taonga supported a grant of consent subject to appropriate conditions to manage the potential for discovery of archaeological material (in accordance with recommendations made by the Applicant's archaeologist, Ms Mary O'Keeffe).

4.3 The two opposing submissions raised site-specific concerns. The submission by Te Iwi o Ngāti Tukorehe and other Tukorehe Mandated Authorities presented the history of association of

the Iwi with the site and other ancestral land in the locality. The submission identified Tirotiro-Whetū as a place of historical settlement that Ngāti Tukorehe classify as a wāhi tapu that represents the uninterrupted connection of the Iwi with the area. The submission expressed concerns about:

a) The absence in the application documentation, and particularly in the cultural values assessment accompanying the application, of any reference to the connection of Ngāti Tukorehe with the site (past or present);
b) The placement of at least three proposed holes and the potential to erase the remaining culturally significant wāhi tapu there (including the former pā and middens), failing to recognise or protect the spirituality of Tirotiro-Whetū;
c) The lack of engagement by the Applicant with Ngāti Tukorehe;
d) Potential pollution by stray golf balls and other rubbish within the site and in the surrounding environment (including on the neighbouring Tahamata farmland);
e) The positioning of proposed holes 4, 5, 10, 13, 14, 15 and 17 within an outstanding coastal dune feature;
f) The absence of a Māori world view (or any acknowledgement of Ngāti Tukorehe ancestry and tikanga) in the archaeological assessment that accompanied the application;
g) The misnaming of places and landmarks; and
h) Potential impacts of climate change, sea level rise and storm surges on site development.

4.4 The submission sought the removal of all proposed holes within the coastal dune zone and reduction from eighteen to nine holes overall, set within a coastal 'eco park arrangement'.

4.5 The submission by the Muaūpoko Tribal Authority stated that the site has significance to Muaūpoko and opposed the application, seeking full consultation with the Authority before a decision on the application is made. Inherent in that request was a concern that there had been no consultation with the Authority to that point. It is relevant to note that, following discussions between the Applicant and the Authority during the hearing adjournment, the Authority wrote to Horizons[5] and advised that:

'Following on from the recent consent hearing where M.T.A advised cultural impacts were significant, we now report that both M.T.A and D.L.G.C have fully considered the cultural impacts of the proposed property development and these cultural impacts have been mitigated to a less than minor effect. Further, that there are now aspects of the mitigation proposal that, through agreements, will enable M.T.A's connection to the area to be appropriately sustained and thus will be beneficial to M.T.A. M.T.A have no requirement for consent conditions.'

4.6 The Authority's letter did not detail what the aspects of the mitigation are that have satisfied the Authority's concerns. The Authority's submission remains (the 1 June 2022 letter did not withdraw the submission) but we accept that the Authority's original concerns no longer prevail.

[5] By letter dated 1 June 2022

5 PRINCIPAL ISSUES IN CONTENTION

5.1 The principal issues in contention at the hearing were:

(a) The impact of proposed vegetation clearance, land disturbance and earthworks on the relationship of iwi and hapū with land, water, sites, wāhi tapu, wāhi tūpuna and other taonga;
(b) Effects of vegetation clearance, land disturbance and earthworks on Schedule F rare habitats;
(c) Potential effects on threatened species (lizard species, katipō spiders, sand daphne (*Pimelea villosa*));
(d) Potential effects on the values of an outstanding natural landscape and area of high natural character in the coastal environment;
(e) Potential adverse effects of stray golf balls.

5.2 We discuss each of these issues, and present our findings on the evidence, in Sections 8 to 13 of this decision report.

6 RELEVANT STATUTORY PROVISIONS AND RMA PLANNING INSTRUMENTS

Section 104D:

6.1 Section 104D of the Act sets out the requirements for considering applications for non-complying activities:

> *(1) Despite any decision made for the purpose of notification 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 an 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* [i.e. the One Plan in this case]

Written Approvals:

6.2 The reference in s. 104D (1) (a) to s. 104 (3) (a) (ii) is relevant for this application. It states that:

> *'(3) A consent authority must not, -*
> *(a) when considering an application, have regard to –*
> *i. trade competition or the effects of trade competition; or*
> *ii. any effect on a person who has given written approval to the application.'*

6.3 This means that, for the purposes of the 'threshold test' in s. 104D (1) (a), the determination of whether effects on the environment are more than minor cannot consider effects on persons who have given their written approval. The application documents included the written approvals of the following people:

(a) Christopher and Gwendoline Bossley (of 617 Muhunoa West Road, Ōhau) – this was signed on a standard Horowhenua District Council written approval form and explicitly listed the earthworks, vegetation clearance and groundwater abstraction activities for which Regional Council consents are required (but didn't list the discharge activities) and the plans attached to the form bear the Bossleys' signatures.
(b) Andrew and Mavis Porteous (of 723 Muhunoa West Road, Ōhau) – also signed on a standard Horowhenua District Council written approval form with signatures on attached plans.
(c) Nicola Koptisch (Project Manager) on behalf of Vincero Holdings Limited (a company developing the Ōhau Sands development on adjacent Muhunoa West Road land) – also signed on a standard Horowhenua District Council written approval form with Ms Koptisch's signature on attached plans.
(d) Campbell and Jo Andrews (owners of the site) – although this is in the form of an email, without signatures and with no signed plans attached.

6.4 We record that we have not considered the effects of the proposed earthworks, land disturbance, vegetation clearance, groundwater abstraction or discharge activities on the above listed persons. No evidence suggested there is any adverse effect on those persons.

6.5 Also included as a written approval was an undated letter from the Chairperson of the Ngāti Kikopiri Māori Marae Committee Incorporated Society to Grenadier Limited (the Applicant). The letter does not, however, record the Society's written approval explicitly. Rather, it expresses the Society's intention to work together with the Applicant on a Memorandum of Understanding to seek mutually beneficial outcomes for both the Society and the Applicant in relation to the site. The application documentation also includes a copy of the Memorandum of Understanding agreed between the Society (on behalf of the descendants of Ngāti Kikopiri) and the Applicant dated 13 December 2020.

Section 104:

6.6 Section 104 of the Act requires that:

(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

(ab) any measure proposed or agreed to by the Applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(b) any relevant provisions of –

i. a national environmental standard (the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 are relevant for this application (a consent is required under Regulation 54))*:*

ii. other regulations (there are no applicable other regulations for this application):

iii. a national policy statement (the National Policy Statement for Freshwater Management 2020 (*NPS-FM*) is relevant for this application)*:*

iv. A New Zealand Coastal Policy Statement (the *NZCPS* 2010 is relevant because the site is part of the coastal environment)*:*

v. A regional policy statement or proposed regional policy statement (the provisions of Part 1 of the One Plan, the '*RPS*'):

vi. Plan or proposed plan (Parts 2 and 3 of the One Plan, the 'Regional Plan')*: and*

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application (no other matters were drawn to our attention as being necessary for our determination of 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 if a national environmental standard or the plan permits an activity with that effect.'

6.7 The relevant provisions of the relevant planning instruments (the NZCPS, NPS-FM, RPS and Regional Plan) were considered in detail in Section 9 of the assessment of environmental effects that accompanied the application and in Sections L, M, N and O of Ms Morton's section 42A report. The evidence presented to the hearing leads us to draw different conclusions to some of the conclusions presented in Section 9 of the Applicant's assessment of environmental effects and we discuss our reasons for this in the following sections of this decision report.

Offsetting and Compensation Measures:

6.8 The Applicant proposes to undertake extensive restoration and enhancement planting within the site. Mr Whitely and Dr Vaughn Keesing[6] could not agree on whether this should be considered as 'mitigation' or 'compensation' or 'biodiversity offsetting'. However, their evidence confirmed that the proposed planting is intended to, and will, achieve positive environmental outcomes. The restoration and enhancement planting, and the measures proposed to ensure the survival of the proposed planting, set out in the draft Restoration Plan (Version 'F' 20 March 2022, included as Addendum 2 to the evidence of Dr Keesing dated 12 April 2022) is a relevant matter for the purposes of s. 104 (1) (ab).

District Plan:

6.9 Under s. 104 (1) (b) (vi), the operative Horowhenua District Plan is also potentially relevant. However, the provisions of the District Plan have already been considered in the District Council's decision on the (district) land use consent. We do not identify any District Plan provisions that have particular relevance for the proposed earthworks, land disturbance, vegetation clearance, groundwater abstraction or discharge activities or warrant reconsideration in our evaluation.

[6] Dr Keesing is a consultant ecologist engaged by the Applicant, who prepared a report assessing the ecological effects of the proposal and presented evidence to the hearing

Permitted Baseline:

6.10 The consideration in section 104 (2) is referred to as the 'permitted baseline'. Mr Bland discussed uses of the site including farming, grazing and plantation forestry that could be undertaken as a permitted activity under the relevant district and regional plans. Mr Bland noted that these are all activities that have occurred on the property in the last ten years. Mr Bland's point, we think, is that the proposal including the restoration and enhancement planting would represent a lighter touch on the land and a superior environmental outcome compared with these permitted activities.

6.11 The relevant question for our purposes is what activities are permitted by the Regional Plan and what 'permitted baseline' of effects would these create. Mr Bland noted that, with the exception of the coastal foredune, the site is within an area in which plantation forestry activities could be undertaken as a permitted activity and without the need for Regional Council consent. The exception relating to the coastal foredune is relevant because that is essentially the part of the site to which the Regional Council consents for earthworks, land disturbance and vegetation clearance relate. As we understand it, there is no relevant 'permitted baseline' for the Regional Council activities applied for within the coastal foredune because all such activities there would require consent under the Regional Plan rules.

Part 2:

6.12 Consideration of an application under section 104 is subject to Part 2. It was Ms Morton's evidence[7] that, following the 'Davidson Decision'[8], there is an ability to refer to Part 2 when it is appropriate to do so. It was Ms Morton's view that recourse to Part 2 is not required in this case because, in her view, there is no illegality, uncertainty or incompleteness in the relevant One Plan provisions. Her view is that recourse to Part 2 would not provide any further guidance than does the One Plan.

6.13 We note that section 6 (within Part 2 of the Act) is discussed in Section 8.2.2 of the assessment of environmental effects that accompanied the application. It is notable that the conclusions drawn there about section 6 (e) were informed only by discussions with Ngāti Kikopiri[9]. The hearing was informed by additional evidence from Ngāti Tukorehe that was not available to the author of the assessment of environmental effects when forming the conclusion about section 6 (e) expressed in the assessment of effects. We consider that additional Ngāti Tukorehe evidence later in this decision.

7 THE EXISTING ENVIRONMENT

7.1 The environment of the site and surrounding area were comprehensively described in Section 3 of the assessment of environmental effects accompanying the application and summarised in Section C of Ms Morton's section 42A report. We adopt those descriptions of the environment by reference here and do not intend to reiterate or further summarise them.

[7] Paragraph 148 of her s. 42A report
[8] RJ Davidson Family Trust v Marlborough District Councils [2018] NZCA 316
[9] The text on pages 67 and 68 reads: *'The Applicant has worked with Ngāti Kikopiri to better understand and appreciate their relationship to the land and water, sites, waahi tapu and other taonga and to ensure these relationships are not hindered by the proposed development'.*

7.2 We have acknowledged the Horowhenua District Council consent for the golf course development of the site, including development of the Tirotiro-Whetū lands and the 200m strip within which parts or all of the tees, fairways and greens of proposed holes 3, 4, 11, 12, 14, 15, 16, 17 and 18 are proposed. Ngāti Tukorehe consider that the District Council made errors and has let all parties down by the granting of that consent. This Panel makes no comment on the process that resulted in the District Council consent. We cannot, however, overlook the District Council consent as a relevant consideration in defining the existing environment. The District Council consent has not been overturned or, to the best or our knowledge, challenged in any proceedings and it authorises the golf course development of which Ngāti Tukorehe disapproves.

7.3 However, the District Council consent cannot be implemented within the coastal foredune area without the Regional Council consents that we are tasked with determining. In this sense, the District Council consent cannot reasonably be considered to be part of the authorised existing environment within the coastal foredune area, because the consented activities there rely on earthworks and vegetation removal and cannot proceed without the Regional Council consents. The District Council consent, authorising the golf course development must, we think, be considered to form part of the existing environment in the other parts of the site (landward of the coastal foredune area).

8 IMPACT OF PROPOSED VEGETATION CLEARANCE AND EARTHWORKS ON THE RELATIONSHIP OF IWI AND HAPŪ WITH LAND, WATER, SITES, WĀHI TAPU, WĀHI TŪPUNA AND OTHER TAONGA

8A: The Relationship of Iwi and Hapū with the Site and Surrounding Area

8.1 The application included a draft cultural values assessment, prepared by Philip Tataurangi in association with the Ngāti Kikopiri Māori Marae Committee Incorporated Society. Mr Tataurangi has whakapapa connection to Ngāti Kikopiri and had been facilitating discussions between the Applicant and Ngāti Kikopiri since July 2020. The cultural values assessment asserted that Ngāti Kikopiri holds mana whenua and is kaitiaki of the area between Ōhau River and the Waiwiri Stream (to the north of the site). The stated purpose of the cultural values assessment was to identify the values that are of priority to Ngāti Kikopiri[10]. The document sets out the principles by which Ngāti Kikopiri operate and expresses a commitment to an ongoing partnership relationship with the Applicant. The cultural values assessment states the support of Ngāti Kikopiri for the process of lodging resource consent for the proposed golf course. The document also briefly describes the whakapapa and associations of Ngāti Kikopiri with the site and Ōhau River and surrounding area. The cultural values assessment did not address the whakapapa and associations of other hapū and iwi with this site and surrounding area.

8.2 The submissions and presentations to the hearing by representatives of Te Iwi o Ngāti Tukorehe Trust and other Tukorehe Mandated Authorities and of the Muaūpoko Tribal Authority Incorporated explained their whakapapa and association with the Ōhau River and Ōhau area generally (including the site). The evidence clarified that all three iwi have roles as

[10] Taken from the Introduction of the Cultural Values Assessment dated 1 December 2020.

kaitiaki over the Ōhau River and surrounding land, including the site. Their evidence explained the tikanga and kawa framing their respective kaitiaki roles. The Ōhau River's full name is 'Te Awa Iti Ōhau nui a Nanaia' (a reference to a common ancestor). The iwi representatives who spoke acknowledged the inter-connectedness of their individual hapū and iwi associations with this whenua (land) and awa (Ōhau River) arising from their connected ancestry.

8.3 The site is part of a larger area that has been the shared ancestral home of these iwi continuously since their arrival. Occupation has included papakāinga, in various locations close to the naturally occurring mahinga kai and kai moana, food growing sites and seasonal food harvesting kainga (and the archaeological record of middens presented in the archaeological assessment that accompanied the application, prepared by Ms O'Keeffe, confirms this). The sites of occupation changed over time, in response to changes in river mouth alignment, fluctuations in seasonal food and resource availability, seismic activity and changes in transport (including the development of the railway and road further inland in the 19th century which resulted in a significant shift of settlement inland). It is highly likely that ancestors will have been buried in sand hills along the coast, including along the coastal edge of this site.

8B: The Positions of Iwi and Hapū

8.4 The Applicant had initiated dialogue with Ngāti Kikopiri in developing plans for the proposed golf course, assisted by Mr Tataurangi. Mr Tataurangi explained in his evidence that he had relied on his own personal Ngāti Kikopiri whakapapa and on information provided by the Ngāti Kikopiri Māori Marae Committee in preparing the draft cultural values assessment. He explained, in answer to our questions, that the assessment report represents his understanding of the Ngāti Kikopiri Māori Marae Committee's view of the golf course proposal.

8.5 In addition, the Applicant and Ngāti Kikopiri Māori Marae Committee have signed the memorandum of understanding ('*MOU*') dated 13 December 2020 that sets out an intention to continue consultation in good faith and in the spirit of manāaitanga to seek mutually beneficial outcomes for Ngāti Kikopiri and the Applicant. This MOU was included with the application documentation and was included in the electronic file supplied to us both as an 'MOU' and as a 'written approval'. We refer to our view expressed earlier in paragraph 6.5 of this decision report that this MOU is not an explicit written approval. Mr Robert Kuiti[11] and Mr Denis Paku, who attended the hearing on behalf of the Ngāti Kikopiri Māori Marae, clarified that the draft MOU represents Ngāti Kikopiri's position of broad support for the Applicant's proposal at the time the letter was written, subject to the detail that has yet to emerge from the continuing discussions with the Applicant.

8.6 The submission by Te Iwi o Ngāti Tukorehe Trust and other Tukorehe Mandated Authorities, and Ngāti Tukorehe witnesses at the hearing, expressed genuine dismay and distress that they had not been involved in early discussion about the golf course proposal. The evidence of Ngāti Tukorehe witnesses to the hearing reiterated the concern raised in the submission that the proposal would obliterate all that remains of the former Tirotiro-Whetū pā site. Mr Lindsay Poutama is of Ngāti Tukorehe descent and is the Chair of Tū Te Manawaroa Treaty

[11] Mr Kuiti is the sole Ngāti Kikopiri signatory of the MOU.

Claimant Group, Kaimahi for the Ōtaki-to-Levin roading project, cultural advisor to Hapai Hauora, UniServices (Auckland University), the Immunisation Advisory Centre and a member of the Māori Leadership Teams of the Department of Corrections, Manawatū Prison, Rimutaka Prison and Community Probation. It was Mr Poutama's evidence that Māori Land Court records, tribal narratives and historical accounts all refer to Tirotiro-Whetū as a Ngāti Tukorehe settlement and Pā site. It was Mr Poutama's opinion that the shell middens which are recorded in numerous references indicate heavy levels of occupation and use. Mr Poutama explained that Tirotiro-Whetū was a Pā site in its own right and that Ngāti Tukorehe moved to two further sites before settling at Tukorehe Marae (further inland) in 1894. According to Mr Poutama, there were a number of Pā sites pre and post the 1855 earthquake. The 1855 earthquake created a new Ōhau River mouth which split Tirotiro-Whetū from the surrounding land and forced occupation of areas south of the new river mouth (Pā Ōhau, Te Whanake and, finally, settlement at Tukorehe Marae). Paragraphs 1.5 to 1.9 of Mr Poutama's evidence detail the history of settlement of the Ōhau River vicinity and Tirotiro-Whetū.

8.7 Mr Poutama stated that Tirotiro-Whetū has always fallen under the tikanga of Ngāti Tukorehe and that it 'has never been separate from our thinking'[12]. Mr Poutama also stated that ancestors are buried in the vicinity of the site in individual graves and some burials were noted by 'marker trees'. Mr Poutama explained that Tirotiro-Whetū is bounded by Māori-owned land (Te Rauawa and Tahamata lands, both managed by the Ngāti Tukorehe owned Tahamata Farm Incorporation). Mr Poutama explained that there were Ngāti Tukorehe kāinga in the surrounding area, but many of these individual land interests have been amalgamated to form the Tahamata Farm Incorporation. Mr Poutama also stated that Ngāti Tukorehe are recognised by other local hapū and iwi as having mana whenua status (with overlapping areas of interest with other hapū) and that there is no dispute as to the boundaries of Ngāti Tukorehe territory.

8.8 Dr Huhana Smith is a descendant of Ngāti Tukorehe ki Kuku. Dr Smith's doctoral thesis was on the topic of effective ecosystem restoration within valued cultural landscape. Dr Smith and other speakers on behalf of Ngāti Tukorehe underscored the importance of Tirotiro-Whetū as an important customary mahinga maitai, a place of mauri, which combines in significance with adjacent known kaitiaki or spiritual entities within natural areas, including the Ōhau River. Ngāti Tukorehe witnesses confirmed the Iwi's opposition to the proposed golf course and the proposed earthworks and vegetation clearance for which Regional Council consents are sought, and confirmed the request made in the submission that the proposal be reduced to a nine-hole golf course.

8.9 As earlier noted, the Applicant has held discussions with representatives of Muaūpoko Tribal Authority Incorporated since the lodgement of the Authority's submission. Mr Dean Wilson and Mr Robert Warrington, who gave evidence for the Authority at the hearing, advised that discussions were 'in a good place' and that they were finalising the details of a memorandum of understanding with the Applicant that would recognise and provide for the relationship of Muaūpoko with the site. The Authority's 1 June 2022 letter, received during the adjournment, confirmed that any outstanding matters had been resolved by agreement.

[12] Oral interpolation at Section 4 (page 3) of Mr Poutama's statement of evidence presented on 4 May 2022

8C: Tirotiro-Whetū

8.10 The evidence of Te Iwi o Ngāti Tukorehe Trust and other Tukorehe Mandated Authorities and of the Muaūpoko Tribal Authority Incorporated identified two ancestral kāinga (or places of occupation) within the site: one in the vicinity of the Ōhau River mouth at the southwestern corner of the site (an ancestral kāinga described as 'wāhi tapu' by Te Iwi o Ngāti Tukorehe); and one on or in the vicinity of the large sand dune at proposed Hole 7 (an ancestral kāinga of Muaūpoko). Both of these were described as 'Tirotiro-Whetū'.

8.11 The large sand dune at proposed Hole 7 is outside the jurisdiction of this hearing. In any event, the Muaūpoko Tribal Authority's letter of 1 June 2022 confirms that the Authority has no residual issues in terms of the area they consider to be 'Tirotiro-Whetū'.

8.12 The evidence of Ngāti Tukorehe is that 'Tirotiro-Whetū' is a region and not a 'spot' on a plan. Several speakers for Ngāti Tukorehe emphasised the cultural and spiritual significance of Tirotiro-Whetū. Mr Poutama explained that, in all of Ngāti Tukorehe's environmental relationships, projects and documents, Tirotiro-Whetū has always played a pivotal part of the Iwi's descriptors, outcomes and impacts. However, nowhere in any of the documents provided in support of the application has any reference been made to the connection of Ngāti Tukorehe with Tirotiro-Whetū. Mr Poutama observed that there are layers of interest within the landscape of this site, each connected by its own whakapapa (genealogy) and each with its own story and type of connection, but recognition (of that whakapapa) has been 'selective to the point of exclusion'[13].

8.13 The only plans depicting the location of Tirotiro-Whetū presented to the hearing were historical maps presented in the archaeological assessment and evidence prepared by Ms O'Keeffe. Figures 27 and 28 of Ms O'Keeffe's archaeological assessment are extracts from a 1948 ('Adkins') map which shows a 'Tirotirowhetū Pa' located on the true right (northern) bank of the Ōhau River. Figure 29 of Ms O'Keeffe's assessment report presents a 'geo-referenced' version of the same map extract, overlain onto the current aerial photograph of the locality. This 'geo-referenced' image shows 'Tirotirowhetū Pa' located south of the site and on what is currently the true left (southern) bank of the Ōhau River. The Applicant asserted (in closing legal submissions page 25) that none of the historical map information shows 'Tirotiro-Whetū' as a region but rather as a specific place. The Applicant also asserts that Ngāti Tukorehe could not correlate the 'Tirotiro-Whetū' pa site to any particular feature or place.

8.14 The evidence of Ngāti Tukorehe that we heard correlated the 'Tirotiro-Whetū' Pā site and associated kāinga to the northern side of the Ōhau River. We do not consider the 'georeferenced' image provided by Ms O'Keeffe disproves the presence historically of a 'Tirotiro-Whetū' Pā or kāinga (village or settlement area) on the northern bank of the Ōhau River. The georeferencing process overlays an historical record of settlement location (which places 'Tirotiro-Whetū' pā on the northern bank of the Ōhau) onto present-day geography, without accounting for adaptation and adjustments in occupation that may have taken place as the Ōhau River mouth shifted over time. These historical shifts in settlement were helpfully explained by Mr Poutama. The Applicant's evidence did not definitively refute the historical

[13] Last paragraph, page 5 of the statement of evidence of Lindsay Poutama presented on 4 May 2022

presence of a 'Tirotiro-Whetū' Pā or kāinga associated with settlement by Ngāti Tukorehe ancestors on the northern side of the Ōhau River. Nor did the evidence refute the wāhi tapu nature of 'Tirotiro-Whetū' to Ngāti Tukorehe. The Applicant's evidence did not address the cultural associations of Ngāti Tukorehe with this site and surrounding area at all. Ms O'Keeffe's archaeological assessment identifies evidence of historical settlement by iwi and hapū including Ngāti Tukorehe but is confined to archaeology. Ms O'Keeffe's report explicitly states that it 'does not constitute an assessment of Māori values'[14]. We note that Mr Maassen in his legal submissions detailed the recent discussions held with Ngāti Tukorehe and acknowledged the ancestral occupation of Tirotiro-Whetū by Ngāti Tukorehe[15]. Mr Maassen also noted the Applicant's position that Ngāti Tukorehe is entitled to assert a mana whenua relationship with the land[16].

8.15 Ngāti Tukorehe presented oblique aerial photographs illustrating the wider area of interest of the iwi, from Pukeatua (kilometres inland) to Tirotiro-Whetū. This encompasses a large area, including and beyond the site, and the aerial photograph information did not particularise the geographic extent of Tirotiro-Whetū.

8.16 The planners for the Applicant (Mr Bland) and Horizons (Ms Morton) agreed that the values and associations described by the iwi submitters are matters that we are required to recognise and provide for under s. 6 (e) of the Act. Mr Maassen's legal submissions provided useful guidance on how the identification and description of Māori values should be approached. At paragraph 45 of his reply for Grenadier Limited, Mr Maassen quoted from the 'Ngāti Hokopu decision'[17] which says this at paragraph [39]:

'Section 6(e) - Relationship with established waahi tapu

[39] As Mr Lane pointed out in his thorough submissions, section 6(e) is not concerned with Maori's ancestral lands, water, sites, waahi tapu, and other taonga in themselves, but with the relationship of Maori and their culture and traditions with those things. The Maori word for relationship is 'whanaungatanga'. So the use of the word 'relationship' in section 6(e) is very important, for:

Of all of the values of tikanga Maori, whanaungatanga is the most pervasive. It denotes the fact that in traditional Maori thinking relationships are everything - between people; between people and the physical world; and between people and the atua (spiritual entities). The glue that holds the Maori world together is whakapapa identifying the nature of relationships between all things.'

8.17 Then in paragraphs [43] to [45] the decision provides the following commentary:

'[43] In our view there can be some meeting of the two worlds. We start with the proposition that the meaning and sense of a Maori value should primarily be given by Maori. We can try to ascertain what a concept is (by seeing how it is used by Maori) and how disputes over its application are resolved according to tikanga Ngati Awa. Thus in the case of an alleged waahi tapu we can accept a Maori definition as to what

[14] Paragraph 1.3 of the Archaeological Assessment prepared by Mary O'Keeffe (Heritage Solutions) dated December 2020
[15] Paragraph 20 (a) of the 'Reply for Grenadier Limited' dated 3 June 2022.
[16] Paragraph 38 of the 'Reply for Grenadier Limited' dated 3 June 2022.
[17] Ngati Hokopu Ki Hokowhitu v Whakatane District Council C168/02

that is (unless Maori witnesses or records disagree amongst themselves). A second set of questions then relates to the application of that value to the physical world.

[44] So in this case we have to examine concepts such as "ancestral land" and "waahi tapu" to see how they have been used historically and are used in practice in relation to the 100 acre block and its surrounds. The RMA gives some assistance by including these definitions:
"Mana whenua" means customary authority exercised by an iwi or hapu in an identified area:
"Tangata whenua" in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area;

The use of the definite article 'the' in the second definition tends to suggest that Parliament contemplated that only one iwi or hapu could have mana whenua over any particular area. Since that interpretation is not inevitable and since the Waitangi Commission has stated that understanding is a fallacy, we proceed on the assumption that more than one hapu may hold mana whenua.

[45] Summarising on section 6(e) - it can be expressed in terms that may assist Maori readers as that local authorities have to recognise and provide for the whanaungatanga between hapu (and other tribal groupings) and their land, water, sites, waahi tapu and other taonga. Three important aspects of this expression of section 6(e) are: first we can avoid reference to culture and traditions because the use of the Maori word 'whanaungatanga' incorporates the cultural and traditional dimensions; secondly it emphasizes that it is not the relationships of individual Maori to their taonga that is important, but those of their hapu (or sometimes their whanau - the smaller, family grouping, or, moving upwards, their iwi); thirdly, although section 6 suggests that these relationships must be provided for, it is inherent in the concept that the weaker the relationship, the less it needs to be provided for.'

8.18 We found Mr Poutama's discussion of 'whanaungatanga' and his, and other Ngāti Tukorehe witnesses' discussion of wāhi tapu and relationship, to be helpful in this regard.

8.19 After hearing the evidence of the iwi submitters, neither Mr Bland nor Ms Morton considered they had sufficient information to conclude that the proposal as presented would recognise and provide for the relationship of iwi and hapū as intended by s. 6 of the Act. Their agreed evidence was that proceedings should be paused to allow the Applicant to explore further with the representatives of all three iwi the matters raised in evidence to the hearing. After hearing the evidence of the submitters, the Applicant proposed a four-week adjournment of proceedings to allow discussions with iwi to continue, so that the Applicant could better understand the values and issues raised.

8.20 The further discussions held with Muaūpoko Tribal Authority resolved matters of concern to the Authority. Further discussions between the Applicant and Ngāti Tukorehe were held during the adjournment, via two zoom meetings. Ngāti Tukorehe recorded those zoom meetings and provided those recordings to the Panel. We have viewed those recordings. They were accompanied by a letter from the Chair of Te Iwi o Ngāti Tukorehe Trust to the Hearing Panel dated 1 June 2022 which expresses the view that those discussions produced a

'poor standard of engagement by the Applicant'. The zoom recordings and the material received post-hearing from Ngāti Tukorehe and the Applicant reveal an irreconcilable difference between Ngāti Tukorehe and the Applicant about the engagement process and about the proposed golf course design outcome.

8.21 The difference of view about the engagement process arises partly from a difference in expectations about how development of this land should be designed and partly about who has mana whenua over this land. Dr Smith's and Mr Poutama's opinion, on behalf of Ngāti Tukorehe (expressed in evidence to the hearing) is that the Applicant has been consulting with the wrong people and should have been engaging with Ngāti Tukorehe from the outset. Also, Ngāti Tukorehe expect that development design must be on the basis of co-design, whereby Ngāti Tukorehe is given an opportunity to allow Ngāti Tukorehe values and kaitiaki responsibilities to influence the design at an early stage and before any design commitments have been confirmed. A view was expressed by Ngāti Tukorehe that, if the Applicant had engaged with Ngāti Tukorehe at the outset, the parties would not have reached the impasse they now face. The Applicant has settled on a design and is not willing to go back to the start and commence its design process afresh.

8.22 The difference in view about design outcome lies in the Ngāti Tukorehe view that development of a golf course on the Tirotiro-Whetū land conflicts with the wāhi tapu values of that land, will do irreparable harm to the relationship between Ngāti Tukorehe and the land, and should not proceed. Ngāti Tukorehe's aspiration is that the Tirotiro-Whetū land should be restored to its hau ora state, in the same way that the hapū is restoring its other Tahamata landholdings to the south of the site.

8.23 The Applicant, respectfully, does not share that view. The Applicant's perspective is that the qualities of the land, including Tirotiro-Whetū, lend themselves ideally to development of a links golf course and the proposal achieves an appropriate balance between values. The Applicant is not prepared to exclude the Tirotiro-Whetū land area from the proposed golf course. Mr Maassen expressed the view, in his written reply on behalf of the Applicant, that '*there is nothing intrinsically inappropriate about the use of the land as a recreational facility given that:*

- *The modifications to the landscape are slight.*
- *The impacts on the natural character are less significant than other long-standing pastoral permitted uses.*
- *The enjoyment of land by the public is consistent with the ethic of manaakitanga.'*

8.24 The precise extent of Tirotiro-Whetū as a 'region' has not been specified by Ngāti Tukorehe except in a broad cultural landscape sense. It is clear from the evidence though that the area extends inland beyond the coastal foredune (being a strip of land 200m from the active dune) within which the earthworks and vegetation clearance activities within the Regional Council jurisdiction are proposed. A golf course development is now authorised on the parts of the site landward of the coastal foredune. Our decision on the application for Regional Council consents does not alter that reality. Mr Bland also made the valid point[18], that earthworks

[18] Paragraph 8 of the statement of evidence in reply of Thomas Bland dated1 June 2022 (also referenced in p Paragraph 41 of the 'Reply for Grenadier Limited' dated 3 June 2022). Also included in the Applicant's Reply Supplementary Materials is a table detailing the One Plan permitted activity rules for land disturbance (Document number 21)

and land disturbance inland of the 200m-wide coastal foredune are permitted activities under the One Plan, provided the area does not exceed 2,500m² per year per property.

8.25 Mr Maassen directed us to the guidance provided in the 'Ngāti Hokopu' decision on the factors to be assessed in ascertaining Māori values and traditions for the purpose of understanding the relationship of Māori with their values and traditions. He summarised this[19] as:

(a) Whether the values correlate with physical features of the world (places, people);
(b) People's explanation of their values and their traditions;
(c) Whether there is external evidence (e.g. Māori Land Court Minutes) or corroborating information (e.g. waiata or whakatauaki) about the values;
(d) The internal consistency of people's explanations (whether there are contradictions);
(e) The coherence of those values with others;
(f) How widely the beliefs are expressed and held.

8.26 Mr Maassen's submission, based on the expert basis for Grenadier's application and according to Ngāti Kikopiri and Muaūpoko mātauranga Māori, was that the application 'enjoys considerable support from tangata whenua'[20] and should be granted.

8.27 Mr Pat Seymour is the Chairman of the Ngāti Tukorehe Trust Lands entity who described himself as an active kaitiaki on behalf of Ngāti Tukorehe. Mr Seymour described in his evidence to the hearing the spiritual values associated with the Tirotiro-Whetū area. He recounted incidents from his growing up in this area when he and others had disturbed taonga within the Tirotiro-Whetū area. He urged the Applicant to avoid disturbing the area lest this result in dire spiritual outcomes for those involved.

8.28 Ms O'Keeffe stated in oral evidence that it is likely the proposed earthworks activities would qualify for an authority from Heritage New Zealand and suggested that a standard accidental discovery protocol imposed as a condition would be appropriate. Dr Smith, for Ngāti Tukorehe considered this would not address or overcome the harm of disturbance – rather, would facilitate it.

8D: One Plan Objective and Policies

8.29 The application identified Objective 2-1, Policy 2-1 and Policy 2-2 in Chapter 2 of the One Plan (Te Ao Māori) as being relevant for this application. Objective 2-1 is:

Objective 2-1: Resource management

a. To have regard to the mauri of natural and physical resources to enable hapū and iwi to provide for their social, economic and cultural wellbeing.
b. Kaitiakitanga must be given particular regard and the relationship of hapū and iwi with their ancestral lands, water, sites, wāhi tapu and other taonga (including wāhi tūpuna) must be recognised and provided for through resource management processes.

[19] Paragraph 47 of the 'Reply for Grenadier Limited' dated 3 June 2022
[20] Paragraphs 48 and 51 of the 'Reply for Grenadier Limited' dated 3 June 2022

8.30 The commentary on page 103 of the assessment of environmental effects states that '*the Applicant has been in discussions, and will continue to establish a relationship, with hapū and iwi to ensure the relationship they have with their ancestral lands and resources is recognised and protected*'. The evidence and the 1 June 2022 letter from Ngāti Tukorehe confirm that the proposal presented in the application does not recognise or provide for the relationship of Ngāti Tukorehe with their ancestral lands and wāhi tapu. The commentary on Objective 2-1 was written before the presence and values of Tirotiro-Whetū became known and is not informed by the evidence of the people who presented evidence to the hearing who are singularly qualified to describe the impact on their relationship with that land and wāhi tapu.

8.31 One Plan Policy 2-1 is mostly directed at matters Horizons must action but includes the following direction:

'The Regional Council must enable and foster kaitiakitanga and the relationship between hapū and iwi and their ancestral lands, water, sites, wāhi tapu and other taonga (including wāhi tūpuna) through increased involvement of hapū and iwi in resource management processes including:

…..

h. involvement of hapū or iwi in resource consent decision-making and planning processes in the ways agreed in the memoranda of partnership and joint management agreements developed under (a) and (f) above, and

i. the Regional Council advising and encouraging resource consent Applicants to consult directly with hapū or iwi where it is necessary to identify:

i. the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga (including wāhi tūpuna), and

ii. the actual and potential adverse effects of proposed activities on those relationships.'

8.32 The commentary on page 103 of the assessment of environmental effects states: '*The Applicant is keen to involve hapū and iwi in the on-going development decisions, including those made during the resource management process in recognition of the role hapū and iwi play in the management of land and resources.*' Again, that commentary was not informed by the evidence of Ngāti Tukorehe about wāhi tapu values and whanaungatanga.

8.33 One Policy 2-2 addresses wāhi tapu, wāhi tupuna and other sites of significance and states:

(a) Wāhi tapu, wāhi tūpuna and other sites of significance to Māori identified:

(i) In the Regional Coastal Plan and district plans^,
(ii) as historic reserves under the Reserves Act 1977,
(iii) as Māori reserves under the Te Ture Whenua Māori Act 1993,
(iv) as sites recorded in the New Zealand Archaeological Association's Site Recording Scheme, and
(v) as registered sites under the Historic Places Act 1993

must be protected from inappropriate subdivision, use or development that would cause adverse effects on the qualities and features which contribute to the values of these sites.

(b) *The Regional Council must facilitate hapū and iwi recording the locations of wāhi tapu, wāhi tūpuna and other sites of significance to Māori in an appropriate publicly-available database.*

(c) *Potential damage or disturbance (including that caused by inappropriate subdivision, use or development) to wāhi tapu, wāhi tūpuna and other sites of significance to Māori not identified (for confidentiality and sensitivity reasons) by hapū or iwi under (a), above, must be minimised by the Regional Council facilitating the compilation of databases by hapū and iwi to record locations which need to remain confidential.*

(d) *The Regional Council must ensure that resource users and contractors have clear procedures in the event wāhi tapu or wāhi tupuna are discovered.*

8.34 The commentary on page 104 of the assessment of effects states that '*No identified wāhi tapu, wāhi tūpuna or other sites of significance to Māori will be affected by the proposal'.* It appears to be correct that Tirotiro-Whetū is not identified in the Regional Plan or District Plan as a wāhi tapu or wāhi tupuna. Ms O'Keeffe's archaeological assessment did not identify Tirotiro-Whetū as a site recorded in the New Zealand Archaeological Association's Site Recording Scheme. The evidence did not identify Tirotiro-Whetū as being recorded in any publicly available database. The evidence did not, either, confirm that the non-identification of Tirotiro-Whetū in a publicly available database was for 'confidentiality or sensitivity reasons'. The Applicant did not suggest that recognition and provision of the relationship of Ngāti Tukorehe with its ancestral lands and wāhi tapu is conditional on those lands and wāhi tapu being identified in a publicly available data base. We think that is appropriate because section 6 (e) is not limited to wāhi tapu that are identified on publicly available data bases. Section 6 (e) requires us to recognise and provide for the relationship of relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, where those are identified on an evidential basis. Although Mr Maassen raised doubts about the validity of Tirotiro-Whetū as a place of significance to Ngāti Tukorehe[21], the Applicant did not present any evidence on cultural or archaeological matters that refuted the evidence of the speakers for Ngāti Tukorehe about the presence of and significance of Tirotiro-Whetū to Ngāti Tukorehe and their relationship with that significant ancestral land.

8.35 The One Plan policies are not as directive as section 6 (e) of the Act and Objective 2-1. For example, for sites that are not identified in any publicly available database, Policy 2-2 (c) directs that damage or disturbance must be 'minimised' by a particular method, and that method involves compiling a database. The policy doesn't provide any guidance on what should be done where information about such sites is compiled in a database. Section 6 (e) and Objective 2-1 are more demanding. They seek the recognition and protection, not of sites themselves, but of the relationship of Māori with ancestral lands and wāhi tapu.

Finding:

8.36 The evidence on behalf of Ngāti Tukorehe identifies Tirotiro-Whetū as a broad wāhi tapu area that is of fundamental importance to Ngāti Tukorehe. The evidence confirms that earthworks to form the tee platforms, fairways, greens and connecting pathways for proposed holes 3, 4, 11, 12, 14, 15, 16, 17 and 18 located within the defined coastal foredune will have potentially

[21] Paragraph 64 of the Applicant's opening legal submissions dated 2 May 2022 and paragraphs 20 and 47 of the Applicant's 'Reply for Grenadier Limited' dated 3 June 2022

significant adverse effects on the wāhi tapu values associated with the ancestral pā site and kāinga known to Ngāti Tukorehe as Tirotiro-Whetū.

8.37 We do not accept that the proposal would 'obliterate' the former pā or kāinga area as some Ngāti Tukorehe witnesses assert. The land within the farm property, including Tirotiro-Whetū, has been substantially physically altered by earthworks (including earthworks to flatten sandhills), farming and plantation forestry since the time the Tirotiro-Whetū pā and kāinga were occupied. It is relevant that the District Council consent authorises further earthworks and landscape change within the site, landward of the coastal foredune. It is also relevant that earthworks landward of the 200m-wide coastal foredune could proceed as a permitted activity. We agree with the Applicant that, compared with historical changes for farming and forestry, the earthworks proposed by the application represent a relatively 'light touch' on the land. However, the unrefuted evidence is that even this 'light touch' will have a potentially significant adverse effect on the relationship of Ngāti Tukorehe with this ancestral land. In this respect, a grant of consent to the earthworks, land disturbance and vegetation clearance activities within the coastal foredune would not recognise or provide for the relationship of Ngāti Tukorehe and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga as intended by section 6 (e) of the Act and Objective 2-1 of the One Plan.

8.38 In coming to this finding, we have considered the six 'Ngāti Hokopu decision' factors highlighted by Mr Maassen:

(a) The values correlate with physical features of the world acknowledged on historical maps and with oral tradition shared in evidence at the hearing.

(b) Speakers for Ngāti Tukorehe provided consistent explanations of their values and traditions, based on oral history. The fact that these explanations differed from the Ngāti Kikopiri and Muaūpoko perspectives (as understood by the Applicant) does not invalidate those Ngāti Tukorehe values and traditions.

(c) Mr Poutama's evidence was that the settlement history and traditions is corroborated by Māori Land Court records. We did not receive or interrogate those records at or following the hearing. Mr Poutama is a Justice of the Peace and a former Chair of the wider Ngāti Raukawa Iwi Authority. We have no reason to question his evidence on this point and note that the Applicant did not refute his evidence on this point.

(d) The evidence was that there is shared ancestry and shared settlement patterns between hapū and iwi in this locality. That is evidence of complexity, rather than contradiction, in the explanation of values and traditions associated with this land.

(e) The evidence for Ngāti Tukorehe was coherent and presented by the leaders of the iwi, as representatives of the widely held beliefs of the hapū and iwi associated with Ngāti Tukorehe. The views expressed were not the views, for example, of a minority voice within the wider Ngāti Tukorehe iwi.

8.39 Our finding applies only to the land within the jurisdiction of this hearing. That is, broadly, within the coastal foredune.

8.40 Our task is not to revisit the HDC consent. We are unable to grant the relief that Ngāti Tukorehe seek, which is that '*the whole Tirotiro-Whetū area should be left alone'*[22]. It is beyond our jurisdiction to consider the effects of, or merits of, the golf course development other than in respect of the specific vegetation clearance, land disturbance and earthworks proposed in the limited parts of the site to which the Horizons application relates. It is beyond our jurisdiction to direct the Applicant to convert its golf course proposal into a restoration plan for the Tirotiro-Whetū 'region'. It is also beyond our jurisdiction to direct the Applicant to abandon its proposal or to engage in any consultation or 'co-design' engagement process.

8.41 Our finding on this matter does not rely on the evidence of Mr Seymour. Mr Seymour's presence at the hearing confirms that transgressions of the kind he described are capable of remedy. We note Mr Seymour's clarification to the hearing that he was not seeking to create fear. We accept that his intention was to protect people from the consequences of their own ill-informed actions.

9 ENGAGEMENT WITH NGĀTI TUKOREHE

9.1 Witnesses for Ngāti Tukorehe were critical of the Applicant's engagement with the Iwi. The Applicant does not accept that it excluded Ngāti Tukorehe from engagement at an early stage. Mr Tataurangi, facilitated meetings with Ngāti Tukorehe, Tahamata Incorporated whānau and with Muaūpoko Tribal Authority during 2021[23] (para. 12 EIC).

9.2 Te Iwi o Ngāti Tukorehe have several governance entities and businesses to represent their interests. These were listed in section 4.6 of the evidence of Tina Wilson and include Te Iwi o Ngāti Tukorehe Trust and Tahamata Incorporation. Mrs Wilson is the Chair of Te Iwi o Ngāti Tukorehe Trust.

9.3 Whānau members of Te Iwi o Ngāti Tukorehe own land that is farmed collectively by the Tahamata Incorporation. Mrs Cathy Tait-Jamieson is the current chair of Tahamata Incorporated. Mrs Tait-Jamieson acknowledged in evidence that meetings were held in 2020 between the Applicant and the then Chair (Troy Hobson) and Board members of Tahamata Incorporated (James Mackie and Paul Beckett). Mrs Tait-Jamieson stated that the Applicant was advised by the Tahamata Incorporated representatives at that time that engagement over the proposed golf course should be directed to Ngāti Tukorehe (as distinct from Tahamata Incorporated). Mrs Tait-Jamieson's evidence was that Tahamata Incorporation had been exploring options to diversify its farming operations, at about the same time that Grenadier was exploring sites for a proposed golf course and the discussions held in 2020 were focused on potential business opportunities[24]. Ngāti Tukorehe do not recognise those discussions as being engagement about the proposed golf course for the purposes of any resource consent process.

9.4 The Applicant recalls things differently and understood that it was speaking to the right people. We note the explanation given by Mr Maassen[25] that the Applicant's consultation

[22] Paragraph 5 on the third page of the 1 June 2022 letter from Ngāti Tukorehe
[23] Paragraph 12 of the evidence of Philip Tataurangi dated 13 April 2022
[24] Paragraphs 3.9 and 3.10 of the statement of evidence of Cathy Tait-Jamieson to the hearing
[25] Paragraph 28 (a) of the 'Reply for Grenadier Limited' dated 3 June 2022

with iwi was informed by advice from Horowhenua District Council and Horizons Regional Council as to which hapū to consult.

9.5 In any event, it appears that the discussions held at that time with Tamahata Incorporation representatives did not yield any information about the presence or significance of Tirotiro-Whetū to Ngāti Tukorehe.

9.6 Covid 19 and other events prevented in-depth discussions between the Applicant and Te Iwi o Ngāti Tukorehe Trust through 2021. However, the Applicant and Te Iwi o Ngāti Tukorehe representatives held a hui at Tukorehe Marae on 12 April 2022 and held further discussions during the hearing adjournment.

Finding:

9.7 This is not a situation where an Applicant has sought to avoid engaging with tangata whenua. The Applicant sought advice from the relevant councils about whom it should consult and followed the guidance received.

9.8 A potential dispute arose at the hearing about which hapū holds mana whenua over the land that is subject to the application. Nobody's mana would be enhanced by our stepping into a debate about mana whenua. We agree with Mr Maassen that such contentions should be addressed on the paepae.

9.9 We are required to consider the relationship of all relevant Māori with land, water, wāhi tapu, sites and other taonga. We accept that the hapū and iwi representatives who addressed the hearing have each their own values and relationships with the land, water, wāhi tapu, sites and other taonga within the site. The cultural values assessment included with the application was not comprehensive in this respect. Its author, Mr Tataurangi, did not present himself as an expert in cultural impact assessment. Rather, his role was to provide a conduit between the Applicant and, primarily, Ngāti Kikopiri. The Applicant may have been misdirected in this endeavour by advice from the Councils.

9.10 The assessment of effects would have benefited from a cultural impact assessment prepared by a suitably qualified expert in cultural matters with experience of the complexity of shared ancestry in this locality. However, we are satisfied that the evidence presented to the hearing and given in oral answers to our questions provides a sufficient basis for consideration of the relevant RMA matters, including section 6 (e) of the Act and the One Plan objectives and policies.

9.11 We make no finding on the adequacy of the process of engagement with individual iwi and hapū. We are not required to do so and we do not consider it would heal any of the 'hurt' expressed to us by Ngāti Tukorehe witnesses. There may be useful lessons to be learnt from the experience of this application. The relevant outcome, for our purposes, is that we have sufficient information to understand the relationship of Māori and their culture and traditions with this site and to understand the potential effects of the proposal on those relationships.

9.12 The further discussions held during the adjournment achieved some, but not full, resolution of all of the issues relating to effects on Tirotiro-Whetū. The further information supplied by

Ngāti Tukorehe following those further discussions was critical of the approach taken by the Applicant. It is not for us to evaluate the calibre of the dialogue that occurred. It is sufficient to state that the further dialogue occurred. We confine our determination to the matters arising from the evidence and the relevant resource management policy framework.

10 EFFECTS OF VEGETATION CLEARANCE AND EARTHWORKS ON SCHEDULE 'F' RARE HABITATS

10.1 The Applicant and Council agreed that consent is required under One Plan (earthworks and vegetation clearance) Rules 13-7 and 13-9 on the following basis:

(a) Rule 13-7 requires consent for land disturbance and vegetation clearance within the coastal foredune (but outside any identified at-risk or rare habitats). The Applicant and Council agree on the extent of the coastal foredune (and we understand it is as illustrated on the version of the earthworks plan supplied as Document 20 in the Applicant's reply supplementary materials);

(b) Rule 13-9 requires consent for land disturbance and vegetation clearance within an identified rare habitat. These are defined in the One Plan Glossary as '*an area determined to be a rare habitat in accordance with Schedule F and, for the avoidance of doubt, excludes any area in Table F.2(b)*'. Rare habitats are further defined in Tables F.1 and F.2 of Schedule F, and include 'active duneland', 'stable duneland' and vegetation types typically found on inland duneland, including kanuka. 'Active duneland' is defined in Table F.1 as '*indigenous grassland or sedgeland occurring on active duneland formed on raw coastal sand'*. 'Stable duneland' is defined in Table F.1 as '*indigenous grassland, tussockland, herbfield (including Pimelea actea and P. arenaria), or shrubland occurring on stable duneland formed on recent coastal sand'.*

10.2 The further description of 'active duneland' given in Table F.1 is: '*Active duneland is characterised by unstable sands. This continual instability of sand prevents the formation of soil and therefore the vegetation type that an active duneland can support is limited. Examples are Spinifex grassland and pingao sedgeland. Other indigenous species can also be present e.g., Sand convolvulus and sand Carex. Exotic species will also be present. The instability of the sand provides constant disturbance and therefore creates environments within which species can establish. Continual change of the mosaic of bare sand and vegetation is an important component of active duneland'.*

10.3 The further description of 'stable duneland' in Table F.1 is '*Vegetation types typically occurring on stable duneland include tussocks, low-growing or semi-woody herbs and shrubs. These vegetation types characteristically support, for example, toetoe, Selliera rotundifolia, sand Gunnera, native spinach, sand Coprosma, sand daphne, coastal tree daisy, pohuehue, tauhinu, Coprosma species and hangehange. Exotic invasive species are also a feature of stable duneland. The threatened species Pimelea actea is known from the Tura_1b, West_5, and Whau_4 Water Management Zones'.*

10.4 Mr Whiteley and Dr Keesing agreed that the areas of active and stable duneland within the site are Schedule F habitat types and are significant[26]. Mr Whiteley agreed with the Applicant's original ecological assessment[27] of the extent of rare habitat present within the site. Dr Keesing subsequently applied further evaluation, relating to the quality and dominance of indigenous vegetation, which reduced his estimate of area of rare habitat present. Mr Whiteley disagreed with Dr Keesing's approach and considered the original estimate more accurate. The essence of their disagreement is that Mr Whiteley considers both vegetation and physical substrate are relevant factors to be considered for the purposes of Schedule F. Dr Keesing's view is that the presence and quality of the vegetation is the primary consideration. This difference in approach resulted in them drawing different conclusions about the significance of the habitat loss. It also meant they had different baselines for quantification of offset or compensation habitat. Mr Whiteley disagreed with some of the scores Dr Keesing assigned to the values of representativeness, rarity, diversity and context in Table 3 of Dr Keesing's evidence but appeared to agree with the overall assessment of 'high' value of the active and stable duneland areas.

10A: Active Duneland:

10.5 Mr Whitely and Dr Keesing agreed that the only area of 'active duneland' is in the area of proposed Hole 14. They further agreed that only the dune on the river side of this area is 'active' and the dune area further inland is 'stable'. Dr Keesing considers that the habitat there is not dominated by indigenous vegetation types. Rather, he assesses it as being predominantly exotic (lupin, hairs tail and dandelion). Mr Whiteley disagrees (on the basis that he considers the underlying active dune substrate is important and that exotic vegetation can be considered to fall within the Schedule F definition). Dr Keesing also considered that the proposal would not involve any incursion into active duneland anyway and we note that the Applicant in its reply proposed an amendment to the Hole 14 layout to completely avoid all active duneland.

10B: Stable Duneland:

10.6 Dr Keesing estimates that the area of stable duneland that will be lost to earthworks and vegetation clearance within the site is approximately 0.9 ha (mostly in the vicinity of proposed Hole 4). Dr Keesing considered the impact of this loss in the context of the site, the local vicinity between Ōhau River mouth and the Waiwiri Stream mouth (0.9ha of 22 ha i.e. 4%) and the wider Otaki-to-Manawatu context (less than 1% loss). Mr Whiteley's estimate of stable duneland loss is slightly higher at 1.67ha. This represents 7.6% of the stable duneland in the local Ōhau-to-Waiwiri vicinity and likely still less than 1% loss on a wider Otaki-to-Manawatu scale. Dr Keesing's view was that this represents a low impact on a habitat of moderate value, which he says constitutes a low level of effect. Mr Whiteley agreed that the habitat has moderate value but considered the impact of greatest relevance is at the scale of the site. Dr Keesing's opinion was that the stable duneland system is valued on a regional scale and that the appropriate scale for assessment of effects is the local vicinity (between Ōhau River and Waiwiri Stream).

[26] Tables 2 and 3 and the discussion in paragraphs 87 to 98 of Dr Keesing's statement of evidence dated 12 April 2022 and Section D of Mr Whiteley's section 42A report dated April 2022.
[27] Undertaken by Dr Keesing and presented in the Boffa Miskell Ltd Ecological Assessment date 26 July 2021

10.7 Mr Whiteley expressed concern in his section 42A report that the Applicant had not proposed a measurable quantifiable method for evaluating the adequacy of proposed indigenous biodiversity offset. However, Mr Whiteley agreed with the Applicant that the location, type and area of proposed new habitat and restored habitat would be sufficient to compensate for the area of habitat lost.

10C: Kanuka Treeland:

10.8 There are two areas of remnant kanuka treeland within the site. One comprises thin trees of poor quality that do not qualify as Schedule F habitat (and this is agreed between the Applicant and Council). The Applicant proposes restoration and enhancement planting in this area. The other area, to the north of the site in the vicinity of proposed Hole 3, is agreed to qualify as rare habitat under Schedule F. The Applicant proposes no earthworks or vegetation clearance in this area but does propose to undertake restoration and enhancement planting there.

10D: Proposed Restoration Plan

10.9 In spite of their disagreements on the details, both ecologists agreed at the hearing that the area of habitat proposed to be created or restored is net positive and sufficient to compensate for the area of habitat proposed to be removed. Mr Whiteley would not go as far as saying the area is generous but was satisfied it is sufficient such that there would be no adverse residual effects. He was also satisfied that the proposed habitat removal and proposed restoration works represent a low environmental risk.

10.10 The areas of proposed planting are detailed in the draft restoration plan included in Attachment 2 to Mr Bland's evidence. The species, plant density and plant numbers are specified in Appendix 2 to the draft restoration plan attached as Addendum 2 to Dr Keesing's statement of evidence dated 12 April 2022.

10E: One Plan Objectives and Policies

10.11 Ms Morton considered that the application of One Plan Objective 13-2 and Policies 13-3, 13-4 and 13-5 are pivotal to this proposal[28]. The Applicant included an analysis of these provisions in Part 9 of the assessment of environmental effects accompanying the application.

10.12 Objective 13-2 reads: '*The regulation of resource use activities to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna or to maintain indigenous biological diversity, including enhancement where appropriate*'.

Policy 13-3 requires that '*The Regional Council must require resource consents to be obtained for vegetation clearance, land disturbance, cultivation, bores, discharges of contaminants into or onto land or water, taking, use, damming or diversion of water and activities in the beds of rivers or lakes within rare habitats, threatened habitats and at-risk habitats, and for forestry that does not minimise potential adverse effects on those habitats, through regional rules in*

[28] Paragraph 132 of the section 42A report of Fiona Morton dated 6 April 2022.

accordance with Objectives 12-1, 12-2 and 13-2 and Policies 12-1 to 12-8'. The application seeks consent in accordance with this requirement.

10.13 The Chapter 12 objective and policies address general requirements for the granting of consents (consent duration, reviews and common catchment expiry dates).

10.14 Policy 13-4 sets out the matters that must be considered in making decisions on applications under Rules 13-8 and 13-9[29]. Policy 13-5 lists the criteria for assessing the significance of, and effects on, rare habitats listed in Schedule F. Policy 13-4 (b) is particularly relevant and states:

> *(b) Consent must generally not be granted for resource use activities in a rare habitat, threatened habitat or at-risk habitat assessed to be an area of significant indigenous vegetation or a significant habitat of indigenous fauna under Policy 13-5, unless:*
>
> *(i) any more than minor adverse effects on that habitat's representativeness, rarity and distinctiveness, or ecological context assessed under Policy 13-5 are avoided.*
>
> *(ii) where any more than minor adverse effects cannot reasonably be avoided, they are remedied or mitigated at the point where the adverse effect occurs.*
>
> *(iii) where any more than minor adverse effects cannot reasonably be avoided, remedied or mitigated in accordance with (b)(i) and (ii), they are offset to result in a net indigenous biological diversity gain.*

10.15 Dr Keesing's opinion was that adverse effects on Schedule F habitat would be minor (at the local scale). On that basis, there is no requirement to step through clauses (ii) and (iii) of Policy 13-4 or to provide an indigenous biological diversity 'offset'. However, it was Dr Keesing's evidence that adverse effects should be managed through a mitigation hierarchy (avoid, mitigate, remedy, offset or compensation)[30]. Dr Keesing's view was that[31] '*an offset is actually an action to amend any residual effect to ecology after mitigation'.* He clarified, in oral evidence to the hearing, that he does not consider an offset to be avoidance or remediation. Rather, he considers it to be a response to residual adverse effects (after avoidance, remediation and mitigation have been considered). It was his evidence that offsetting is *'focused on returning a no net loss or a net gain. It is not a response to significant adverse effects or only applied to affects that are greater than minor. It is a normal response to a no net loss policy common in today's plans. However, the EIANZ (2018), many plans, and the RMA all accept a low level of loss of species and areas of indigenous vegetation and not all ecological effects are required to be brought to a net zero*'. Dr Keesing did not consider that the proposed restoration plan should be viewed as a biodiversity offset, but as a positive contribution to the environmental values of the site.

10.16 Mr Whitely was less definitive about the scale of residual adverse effects but Ms Morton considered that a biodiversity offset is required because there are residual adverse effects on

[29] We reiterate the clarification provided by Mr Whiteley in oral evidence to the hearing that none of the Schedule F habitats affected by the proposed vegetation clearance, land disturbance and earthworks is 'at-risk' (all are 'rare') and therefore no consent is required under Rule 13-8.

[30] Paragraph 141 of the statement of evidence of Vaughn Keesing dated 12 April 2022.

[31] Paragraph 147 of the statement of evidence of Vaughn Keesing dated 12 April 2022.

the stable sand dune habitat at the scale of the site[32]. Mr Whiteley and Ms Morton considered that the proposed restoration and enhancement planting could not be counted as biodiversity offset because it was not accompanied by a methodological quantification of the value of habitat lost and value of proposed planting in accordance with the specific requirements of Policy 13-4 (d) which states:

> *'(d) An offset assessed in accordance with b(iii) or (c)(iv), must:*
>
> *(i) provide for a net indigenous biological diversity^ gain within the same habitat type, or where that habitat is not an area of significant indigenous vegetation or a significant habitat of indigenous fauna, provide for that gain in a rare habitat* or threatened habitat* type, and*
>
> *(ii) reasonably demonstrate that a net indigenous biological diversity^ gain has been achieved using methodology that is appropriate and commensurate to the scale and intensity of the residual adverse effect^, and*
>
> *(iii) generally be in the same ecologically relevant locality as the affected habitat, and*
>
> *(iv) not be allowed where inappropriate for the ecosystem or habitat type by reason of its rarity, vulnerability or irreplaceability, and*
>
> *(v) have a significant likelihood of being achieved and maintained in the long term and preferably in perpetuity, and*
>
> *(vi) achieve conservation outcomes above and beyond that which would have been achieved if the offset had not taken place.'*

10.17 The Applicant tabled at the hearing the following table detailing the area of each type of Schedule F habitat and the area of proposed restoration and enhancement planting (and we note there appears to be an error in the total area which we have corrected below):

Description	Additional Description	Area (ha)	Total Area (ha)
Existing Schedule F area			14.8
Area of Schedule F to be removed			0.9
Area of Ecology Management additional planting	Kanuka support Dune slack wetland	2.5 1.5	4
Additional indigenous focused planting on golf course	Other dune slack Shrub and treeland Weed and pest management area	7.7 13 6.2	~~30.4~~ 30.9[33]

10.18 Mr Whiteley supported the proposed plant lists and areas proposed to be planted in Appendix 2 of the proposed restoration plan. It was Dr Keesing's evidence that the proposed

[32] Oral evidence of Fiona Morton in answer to questions from the Hearing Panel.

[33] The total of the three types listed (dune slack, shrub/treeland, weed and pest management) is 30.9 ha, not 30.4 ha.

30.4 hectares of restoration planting and enhancement work (including weed and pest management) would result in a net biodiversity gain[34]. Dr Keesing estimated that the proposed removal of stable dune ('knobby clubrush') habitat amounts to approximately a 4% loss at the Ōhau-to-Waiwiri scale. He considered this to be a low level of loss of habitat having moderate value and, therefore, a low adverse effect (Tables 3 and 4 of his 12 April 2022 evidence). Mr Whiteley considered the magnitude of effect (based on Dr Keesing's original assessment of Schedule F habitat present and lost) would be moderate[35]. Mr Whiteley also agreed with the scale of effect set out in Dr Keesing's Table 4. On that basis, the ecology experts consider the magnitude of effect would be 'low' (Dr Keesing) or 'moderate' (Mr Whiteley).

Finding:

10.19 We agree with the experts that the proposed restoration planting and enhancement work (including weed and pest management) represents a net environmental benefit and we accept their advice that implementation of it, as intended by the Applicant, will result in no more than minor residual adverse habitat effects. We are satisfied that the proposal will not result in significant adverse effects on indigenous biological diversity at the scale of the site or the locality. We are also satisfied that the proposal will achieve the Objective 13-2 outcome of maintaining and enhancing biological diversity.

11 NZCPS POLICY 11

11.1 The Applicant included commentary on NZCPS Policy 11 on page 84 of the assessment of effects that accompanied the application. The commentary does not consider the individual clauses of Policy 11. We asked the ecology experts at the hearing whether any of the Schedule F habitat qualifies as one of the types listed in NZCPS Policy 11. It was the Applicant's position[36] that the regime of the One Plan is the relevant well-constructed policy regime (endorsed by the Environment Court) to be applied, following the Davidson v Marlborough District Council decision. Mr Maassen considers that, with the One Plan in place, it makes no sense to go further up the hierarchy and examine NZCPS Policy 11 in detail.

11.2 There is a slight difference in the policy approach between NZCPS Policy 11 and the One Plan policies. NZCPS Policy 11 requires that, to protect indigenous biological diversity in the coastal environment:

(a) 'avoid adverse effects of activities on:

i. indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;

ii. taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;

iii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;

[34] Although we note that this is not supported by a numerical evaluation.
[35] Page 6 of the Ecological Effect Review undertaken by Conor Whiteley dated 20 December 2021 included in Appendix A to the statement of evidence of Conor Whiteley dated 6 April 2022.
[36] Paragraph 12 of the Reply for Grenadier Limited dated 3 June 2022.

iv. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;

v. areas containing nationally significant examples of indigenous community types; and

vi. areas set aside for full or partial protection of indigenous biological diversity under other legislation;....'

11.3 Dr Keesing did not consider any of the Schedule F habitat is captured by NZCPS Policy 11. Mr Whiteley's opinion was that the stable sand dune habitat and the 'knobby clubrush' it supports is an indigenous ecosystem captured by NZCPS Policy 11 (a) (iii) above. The policy direction is clear ('avoid') which differs slightly from the direction in One Plan Policy 13-4 (b) (effects more than minor are to be avoided, remedied or mitigated, or offset). The evidence is clear that adverse effects on part of the stable sand dune within the esplanade reserve will not be avoided by the proposal (particularly, in the vicinity of proposed Hole 4). Mr Maassen's submission was that 'avoid' does not mean 'avoid' in a regulatory sense, and it is inappropriate to read a policy in the NZCPS as 'absolutist rules'. Mr Maassen suggested that a more nuanced policy, that is reasonably specific, is anticipated. One Plan Policy 13-4 is, in this way, more nuanced than the absolute avoid approach of NZCPS Policy 11 (a).

Finding:

There is dispute between the ecological experts as to whether the stable duneland habitat falls within the NZCPS Policy 11 (a) (iii) type. We prefer the evidence of Mr Whiteley on this point. We cannot say that the proposal will avoid all adverse effects on the Schedule F sand dune habitat. However, we accept the evidence of the experts that a net indigenous biodiversity benefit will result from the proposal, including the proposed restoration and enhancement planting and weed management measures.

12 POTENTIAL EFFECTS ON THREATENED SPECIES

12A: Lizards

12.1 Mr Whiteley was concerned that the dunelands present within the site may provide habitat for lizards and that the proposed works could disturb lizard habitat. The Applicant's assessment was based on camera observations. No lizards were observed but mice and hedgehogs were. The Applicant's assessment was that, given the presence of predators, it is unlikely that a healthy population of lizards could persist within the site. If any are present, they are likely to be northern grass skink in low densities.

12.2 Mr Whiteley requested further site evaluation using artificial cover objects (*ACO*) survey. Once the results of that survey had been supplied, Mr Whiteley agreed with Dr Keesing that there is a low chance of lizards being present and that a lizard management plan is not required. We accept their agreed advice.

12B: Katipō Spiders

12.3 Dr Keesing and Mr Whiteley agree that katipō spiders are a threatened species that could occupy active duneland. Dr Keesing's evidence was that katipō are not expected to be present within the vegetated stable dune lands because that is not their natural habitat (they inhabit

active duneland). Mr Whiteley agreed and noted the potential for katipō to be found in the vicinity of proposed Hole 14. The ecologists agreed that a pre-works inspection, with relocation if any spiders were found, would address any potential adverse effects at proposed Hole 14. In the event, the Applicant has amended the golf course layout, shifting proposed Hole 14 to avoid areas of active duneland (and therefore avoiding potential katipō spider habitat).

12C: Sand Daphne

12.4 The Applicant's ecologists mapped the location of all vegetation present and found no individual *Sand daphne* within the area of the proposed works. Mr Whiteley agreed that the potential for loss or disturbance of *Sand daphne* is negligible. He highlighted the possibility that new *Sand daphne* plants could colonise the works area prior to construction, but he considered this could be managed by management measures (including a pre-construction inspection). Dr Keesing did not consider a pre-construction inspection is necessary. We agree. We also note that the Applicant has proposed to plant a substantial number of *Sand daphne* in its proposed restoration plan.

13 IMPACT OF STRAY GOLF BALLS

13.1 Mrs Tait-Jamieson, for Ngāti Tukorehe, described in detail the concern of the Iwi about the potentially adverse effects of stray golf balls on the environmental health and quality of the sensitive wetland and dune ecosystems into which they might stray. The Applicant presented evidence about likely golf ball trajectory and dispersal of stray golf balls. Our view is that the potential effect of golf balls landing where they are not intended is not a direct effect of the application for vegetation clearance, land disturbance, earthworks, groundwater abstraction or discharge activities that we have to determine. This effect is associated with the land use consent for the golf course activity already granted.

14 MATTERS NOT IN DISPUTE:

14.1 The following matters were discussed in evidence to the hearing but are no longer in dispute between the relevant experts:

14A: Effects on the Schedule F saltmarsh wetland:

14.2 The evidence of the ecology experts agrees that the proposed works that require consent from Horizons will have no adverse effect on the area of saltmarsh wetland associated with the Ōhau River.

14B Effects on Birds:

14.3 The vegetation to be removed is predominantly exotic species, comprising large old pine and macrocarpa trees, grasslands and some weed fields. Dr Keesing's evidence was that the primary habitat for observed threatened and at-risk bird species is the freshwater and saltmarsh wetlands. No vegetation removal from the natural wetland areas is proposed. Dr Keesing also noted that the macrocarpa trees along the dune edge may provide roosting and/or nesting habitat for shags. Ms Morton confirmed that no consents are required for removal of the macrocarpa trees.

14C: Edge Effects:

14.4 There is potential for disturbance of wildlife during earthworks construction. Dr Keesing's evidence was that this could affect less than 5% of Schedule F habitat, in patches and is not large scale. Dr Keesing also noted that these activities would be little different from many (permitted) farming activities and characterised the potential adverse effect as low. Mr Whiteley did not raise any concerns about edge effects in relation to the Schedule F habitats.

14D: Habitat Fragmentation:

14.5 It was Dr Keesing's evidence that the proposal, and primarily the proposed restoration and enhancement planting, would consolidate the indigenous vegetation habitats within the site. We agree.

14E: Effects of Groundwater Abstraction:

14.6 The evidence of Dr Tom Garden (consultant hydrogeologist for Horizons) and Ms Alexandra Johansen (consultant geologist for the Applicant) agreed that the proposed abstraction would not adversely affect aquifer water availability or induce saltwater intrusion or discernible stream depletion effects. They assessed the potential for drawdown effects on existing nearby bores as less than minor. The experts have recommended appropriate conditions to ensure the abstraction maintains the limits proposed in the application and supporting information. Ms Morton and Mr Bland agreed that the proposed groundwater abstraction aligns with the relevant One Plan objectives and policies and raises no issues in terms of the relevant provisions of the National Policy Statement for Freshwater Management 2020.

14F: Effects of the Discharge of Domestic Wastewater from Proposed Chalets and Clubhouse Facilities:

14.7 The Applicant confirmed at the hearing that it no longer proposed to install composting toilets at three locations within the proposed golf course. The discharge of wastewater is confined to wastewater from accommodation and clubhouse facilities. The agreed evidence of Dr Garden and Ms Johansen is that these discharges will have no adverse effect on the quality of groundwater or surface water (Ōhau River or water in the freshwater and saltmarsh wetlands) or on soil quality. The ecology experts also agreed that the proposed wastewater discharges would have no adverse effect on the natural wetlands or river receiving environments. Appropriate operating conditions were suggested which can appropriately manage potential effects.

14G: Erosion and Sediment Control:

14.8 The Applicant proposed an erosion and sediment control plan. Mr Graeme Ridley (consultant erosion and sediment control expert who prepared a section 42A report addressing the management of erosion and sediment risks) agreed in his evidence that implementation of standard erosion and sediment control measures (enforced by conditions of consent) are sufficient to appropriately manage any potential soil erosion, dust or sediment mobilisation effects.

14H: Natural Character and Landscape Values

14.9 The coastal edge of the site, together with a strip the length of the Horowhenua District coastline, is identified in the Horowhenua District Plan as an outstanding natural feature and

landscape and as an area of high natural character. Dr Frank Boffa is an experienced landscape architect (and Life Member and former President of the New Zealand Institute of Landscape Architects) who assisted the Applicant with the proposed golf course design and addressed the potential effects of the proposed vegetation removal and earthworks activities on the natural character and landscape values of the site.

14.10 Dr Boffa's assessment was that the inland boundary of the area of high natural character and outstanding landscape should be adjusted slightly but his adjusted boundary would capture the areas of vegetation clearance, land disturbance and earthworks for which Regional Council consents are required. In addition, Dr Boffa identified the coastal strip as having a high amenity value.

14.11 It was Dr Boffa's evidence that the proposed activities, changing the landscape from stable duneland to a links golf course, would have no adverse effects on the environment that cannot be readily mitigated and will, in fact, enhance the landscape character and amenity values of the coastal landscape. Dr Boffa also considered that the proposal would restore and rehabilitate the degraded and vulnerable landscape and coastal vegetation and will protect and enhance natural character.

14.12 Dr Boffa's evidence was that the proposed golf course layout has taken into account the coastal outstanding natural feature and landscape classification and has had regard to amenity values and respects the landscape's ability to absorb and accommodate appropriate activities and development within the site. He observed that adverse effects on significant dune landforms have been avoided, remedied or mitigated. In terms of coastal environment considerations, Dr Boffa considered that the proposed development will:

(a) preserve the natural character of the coastal environment;
(b) increase and enhance the levels of natural character throughout the site;
(c) recognise and respect the sensitivities and dynamics of the coastal dune landscape;
(d) restore and rehabilitate the natural character of the site and its adjacent coastal edge; and
(e) restore and rehabilitate degraded and vulnerable landscapes and vegetation, particularly along the coastal margin.

14.13 One Plan Objective 6-2 requires that the characteristics and values of outstanding natural features and landscapes and the natural character of the coastal environment are protected from inappropriate use and development. Adverse effects are to be avoided in areas with outstanding natural character. Dr Boffa identifies the coastal strip as having high, but not outstanding, natural character (which coincides with the description in the Horowhenua District Plan). Objective 6-2 requires that adverse effects must be avoided where they would significantly diminish the attributes and qualities of areas that have high natural character. Based on Dr Boffa's assessment, we are satisfied that the proposed vegetation clearance, earthworks and land disturbance activities will not significantly diminish the attributes and qualities that contribute to the high natural character of this part of the coastal strip.

14.14 This part of the coastal edge is not an outstanding natural feature or landscape listed in Table G.1 of the One Plan. However, as already noted, Dr Boffa identified the coastal strip as an

outstanding natural feature and landscape (broadly the same area as the area he assessed as having high natural character). Dr Boffa's assessment was that the proposal:

(a) has taken into account the coastal outstanding natural landscape classification;
(b) has had regard to high amenity values;
(c) respects the landscape's ability to absorb and accommodate appropriate activities and development within the site;
(d) will not create adverse visual or amenity effects as viewed from locations within or beyond the site;
(e) will enhance the visual amenity of the landscape in the context of its coastal setting; will initiate, implement and maintain landscape restoration and biodiversity values throughout the site;
(f) avoids significant adverse effects on dune landforms; and
(g) will protect, expand and manage areas of significant indigenous vegetation and habitat.

14.15 Dr Boffa explained, in answers to our questions, that the proposal would result in natural elements being 'redistributed'. He said they may be different but will still be natural. For example, removal of the ageing macrocarpa trees would, in his opinion be an improvement in terms of naturalness. He also explained that the extent of modification of naturalness proposed is low and the overall qualities of this coastal strip would remain. No party presented any expert evidence that contradicted this assessment. Based on Dr Boffa's assessment and explanations, we are satisfied that the proposal will not adversely affect the characteristics and values that define this part of the coastal strip as an outstanding natural feature and landscape.

14I: Use of the Esplanade Reserve

14.16 We wanted to be sure that there were no outstanding consents required for the proposed activities within the public esplanade reserve. The Applicant provided evidence, with its 3 June 2022 reply, confirming the vesting of the reserve in Horowhenua District Council. The Applicant has secured the necessary permissions to allow the proposed vegetation clearance, land disturbance and earthworks within the reserve. No additional permissions are required (for example, from the Crown).

15 OVERALL FINDING

15.1 We reiterate here the point made earlier in this decision report – that our task is not to consider the effects or merits of the golf course proposal. Our task is limited to considering the actual and potential adverse effects of the vegetation clearance, land disturbance and earthworks activities on the identified Schedule F habitat and on the coastal foredune and the actual and potential adverse effects of the proposed groundwater abstraction and discharge activities.

15.2 We are satisfied that the conditions proposed by the experts for the groundwater abstraction and discharge activities are necessary and appropriate. We find that a grant of consent for the groundwater abstraction and the discharge activities (ATH-2022205141.00, ATH-2022205142.00 and ATH2022205149.00) subject to those conditions will not create adverse

environmental effects, will give effect to the relevant One Plan objectives and policies and will meet the sustainable management purpose of the Act.

15.3 For the reason explained in paragraph 3.3 of this decision report, we do not consider consent is required under Rule 13-8, so do not consider it necessary to grant or decline the consent numbered ATH-2022205144.00.

15.4 We accept the evidence of the Applicant and supporters of the application that granting all consents applied for would enable the social, economic, cultural well-being and environmental restoration outcomes they drew to our attention. We have concluded, in Section 8 of this decision report, that a grant of consent would fail to recognise and provide for the relationship of Ngāti Tukorehe and their culture and traditions with the ancestral lands known to them as Tirotiro-Whetū and that this would be contrary to section 6 (e) of the Act and the One Plan. This is not a matter that can be compensated for or cancelled out by the other benefits the proposed activities may yield. We are unable to support a grant of consent for the vegetation clearance, land disturbance and earthworks activities (ATH-2022205143.00, ATH-2022205145.00, ATH-2022205146.00). It is these activities in particular that would disturb and adversely affect the relationship with ancestral land described to us by speakers on behalf of Ngāti Tukorehe.

15.5 We appreciate that the information brought to the hearing about the significant values of Tirotiro-Whetū for Ngāti Tukorehe came relatively late in the Applicant's process of designing and seeking consents for its golf course proposal. We are aware that this information was not available to the District Council when it made its decision on the land use consent for the proposed golf course. The relatively recent timing of the information about Tirotiro-Whetū is not, though, a reason to disregard it. The Act gives particular prominence to the relationship of Māori and their culture and traditions with ancestral lands, water, sites, wāhi tapu and other taonga by including it in the listed matters of national importance. The Act requires that persons exercising functions and duties under it (i.e. this Hearing Panel) must recognise and provide for such relationships. The evidence we heard established that Tirotiro-Whetū is ancestral land and a wāhi tapu site to which section 6 (e) refers. The evidence established that there is a strong and valid relationship between Ngāti Tukorehe and that site of the kind addressed by section 6 (e) and that a grant of consent for the vegetation clearance, land disturbance and earthworks activities has the potential to significantly adversely affect that relationship. No evidence presented by any party to the hearing countered the evidence of Ngāti Tukorehe on this matter.

15.6 We have concluded that a grant of resource consent for the vegetation clearance, land disturbance and earthworks activities (ATH-2022205143.00, ATH-2022205145.00, ATH-2022205146.00) would result in adverse effects on the environment that are more than minor and potentially significant (noting that the environment includes cultural conditions) and would be contrary to the relevant objectives and policies of the One Plan. We find that, in this respect, the proposed activities fail both of the threshold tests of section 104D of the Act and do not qualify for consent. Also, a grant of consent for those activities would not recognise or provide for the relationship of Ngāti Tukorehe with the ancestral land and wāhi tapu values within the site, contrary to the intention of section 6 (e) of the Act.

15.7 The proposed restoration planting and enhancement plan (including weed and pest control) was associated with the vegetation clearance, land disturbance and earthworks activities. It was not proposed by the experts as being necessary for or associated with the groundwater abstraction or discharge activities. Accordingly, it is not appropriate for this plan to be required by consent conditions.

15.8 We record our thanks to Ms Morton, Mr Bland and the experts who provided advice on the wording of proposed conditions. It follows from our conclusion that we have further refined the draft conditions by deleting those that pertain only to the land use activities.

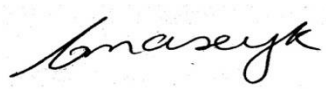
16 CONSENTS GRANTED AND DECLINED

16.1 Pursuant to sections 104 and 104D of the Act, and under the authority delegated by Manawatū-Whanganui Regional Council, we **decline consent** for land use consents numbered ATH-2022205143.00, ATH2022205145.00 and ATH-2022205146.00 for vegetation clearance, land disturbance and earthworks activities, for the reasons given in Section 8 and summarised in Section 15 of this decision report.

16.2 Pursuant to sections 104, 104B and 108 of the Act, and under the authority delegated by Manawatū-Whanganui Regional Council, we **grant consent** for water consent ATH-2022205141.00 subject to the conditions specified in Attachment 2 to this decision report, for the reasons given in Section 14 and summarised in Section 15 of this decision report. Consent ATH-2022205141.00 is granted for a duration expiring on 1 July 2042.

16.3 Pursuant to sections 104, 104B and 108 of the Act, and under the authority delegated by Manawatū-Whanganui Regional Council, we **grant consent** for discharge consent ATH-2022205142.00 subject to the conditions specified in Attachment 2 to this decision report, for the reasons given in Section 14 and summarised in Section 15 of this decision report. Consent ATH-2022205142.00 is granted for a duration expiring on 1 July 2042.

16.4 Pursuant to Clauses 52 and 54 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, and under the authority delegated by Manawatū-Whanganui Regional Council, we **grant consent** for discharge consent ATH-2022205149.00 subject to the conditions specified in Attachment 2 to this decision report, for the reasons given in Section 14 and summarised in Section 15 of this decision report. Consent ATH-2022205149.00 is granted for a duration expiring on 1 July 2042.



Dr Fleur Maseyk
(Independent Commissioner)

Reg Proffitt
(Independent Commissioner)

Christine Foster
(Independent Commissioner and
Chair of the Hearing Panel)

Decision Date: 25 July 2022

ATTACHMENT 1: HEARING ATTENDANCE

For the Applicant:

- Hamish Edwards (Director of Grenadier Limited)
- John Maassen (Legal Counsel)
- Darius Oliver (consultant Golf Course Designer who appeared by audio visual link)
- Dr Frank Boffa (consultant Landscape Architect who appeared by audio visual link)
- Mary O'Keeffe (consultant Archaeologist)
- Philip Tataurangi (Cultural Advisor)
- Dr Vaughan Keesing (consultant Ecologist)
- Jim Dahm (consultant Coastal Scientist who appeared by audio visual link)
- Tom Bland (consultant Planner)
- Alec McKay (Project Manager)
- Brendan Allen (golf course design and construction advisor)

Submitters in Support of the Application:

- Leo Barber (Chairman of Paraparaumu Beach Golf Club – Submission no. 1)
- Dave Mangin (on behalf of Golf New Zealand – Submission no. 16)
- Andrē White (on behalf of Professional Golfers' Association of New Zealand Incorporated – Submission no. 4)

Submitters Opposed to the Application:

- On behalf of Te iwi o Ngāti Tukorehe and other Tukorehe Mandated Authorities – Submission no. 17:
    i. Tipi Wehipeihana (who displayed and explained the significance of several taonga of special importance to Ngāti Tukorehe)
    ii. Lindsay Poutama (who has whakapapa connection to Ngāti Tukorehe and is Chair of Tū Te Manawaroa Treaty Claimant Group, Kaimahi for the Ōtaki-to-Levin roading project, cultural advisor to Hapai Hauora, UniServices (Auckland University), the Immunisation Advisory Centre and a member of the Māori Leadership Teams of the Department of Corrections, Manawatū Prison, Rimutaka Prison and Community Probation, and a Justice of the Peace)
    iii. Dr Huhana Smith (who has whakapapa connection to Ngāti Tukorehe and is Professor (Head) of Whiti o Rehua School of Art at Massey University (Wellington) and Co-Chair of the Climate Joint Action Committee for Horizons Regional Council and holds post-graduate degrees in Museum Studies, Māori Visual Art and a doctorate on effective ecosystem restoration within valued cultural landscape)
    iv. Pat Seymour (Chair of the Ngāti Tukorehe Trusts lands and an active Kaitiaki on behalf of Ngāti Tukorehe)
    v. Cathy Tait-Jamieson (who has whakapapa connection to Ngāti Tukorehe and is the Chairperson of Tahamata Incorporate (a collective of farming enterprises owned by Ngāti Tukorehe whanau)
    vi. Tina Wehipeihana-Wilson (who is a descendant of Ngāti Tukorehe and Chair of Tupu Toa (New Zealand's largest Māori and Pacific internship programme for professionals and Chair of Te Iwi o Ngāti Tukorehe Trust (the Iwi's governance and

commercial arm) and has specialism in Māori and indigenous business (globally), investment and financial management

- On behalf of Muaūpoko Tribal Authority:
  i. Dean Wilson
  ii. Robert Warrington

For Horizons Regional Council:

- Fiona Morton (consultant Planner)
- Tom Garden (consultant Hydrogeologist)
- Connor Whiteley (consultant Ecologist);

We note that we had no questions for Graeme Ridley and Trisha Simonsen who had prepared section 42A reports on erosion and sediment control and wastewater disposal effects respectively, so Mr Ridley and Ms Simonsen did not attend the hearing.