

GWRC REGIONAL POLICY STATEMENT: PROPOSED CHANGE #1

HEARING STREAM 6: INDIGENOUS BIODIVERSITY

MERIDIAN ENERGY LTD RESPONSE TO S. 42A AUTHORS' REBUTTAL EVIDENCE

SPEAKING NOTES OF CHRISTINE FOSTER (MERIDIAN PLANNING WITNESS)

Overarching issues:

- The extent of change proposed through rebuttal evidence is large and complex;
- It is not entirely clear which submission points provide scope for some of the proposed amendments (e.g. Policies 24C and IE.2A);
- There has been no opportunity for discussion with the s. 42A authors while they drafted their proposed amendments;
- Given the complexity of the provisions and the proposed amendments, it is very difficult to comprehensively describe the issues arising or explore solutions through the limited opportunity of oral presentations to the hearing;
- Crafting provisions by way of exchange of evidence and oral responses is generally not optimal;
- The process would benefit from some discussion between the experts to test thinking on the issues and alternative solutions;
- These speaking notes were drafted prior to the commencement of the hearing and may need to be amended to respond to any further elaboration or amendment proposed in the presentations of the reporting officers.

The following are the provisions at issue in the submissions and evidence of Meridian Energy Limited (Hearing Stream 6) showing the amendments proposed by s. 42A authors and suggested alternative wording proposed by Meridian, where there remains dispute:

S. 42A Report recommended amendments are shown in **red underlined and struck-out**

Rebuttal evidence further recommended amendments are shown in **blue underlined and struck-out**

Meridian preferred wording is shown in **black underlined and struck-out with grey shading**

1. RPS Chapter 3.6: Introductory Text - Natural Wetlands

Meridian Submission Point:	S100.009
S. 42A Report 3.7.1:	Paragraphs 144, 157 and 158 (pages 35 and 36)
GWRC Rebuttal:	Pam Guest 13.02.24 Rebuttal paragraphs 18 to 20

1.1 Pam Guest agrees that RPS regulatory provisions that refer to wetlands should specify that they apply to 'natural wetlands' and agrees that, where used in Policies 23 and 47, the expression should be 'natural wetland'. I support her proposed rebuttal amendments in this respect.

1.2 Ms Guest does not agree that the introductory descriptive text should also be amended to refer to 'natural wetlands'. I take Ms Guest's point (that the issues affecting wetlands historically have been widespread and affected wetlands in the broadest sense). In the context in which the word 'wetland' is used in the introductory text, I agree it is appropriate there to not include the word 'natural'.

2. Objective 16

Meridian Submission Points:	S100.010 FS26.013 and FS26.019 on SWDC S79.009 FS26.014 on Waka Kotahi S129.021 FS26.015 on Powerco S134.003 FS26.016 on WIAL S148.039 FS26.017 on DairyNZ S136.006 FS26.020 on RFBPS S165.021
S. 42A Report 3.8:	Paragraphs 165 to 190 (pages 41 to 46)
GWRC Rebuttal:	Pam Guest 13.02.24 Rebuttal paragraphs 34 to 36 and 43

2.1 Pam Guest has accepted Meridian's request to amend Objective 16 and recommends inserting 'where appropriate':

Objective 16

Indigenous ecosystems and habitats with significant ~~ecosystem functions and services and/or indigenous~~ biodiversity values, ~~other significant habitats of indigenous fauna, and the ecosystem processes functions that support these ecosystems and habitats,~~ are ~~maintained~~ protected ~~and, where appropriate, enhanced,~~ and restored to a healthy functioning state.

3. Objective 16A

Meridian Submission Points:	S100.011 FS26.018 on Powerco S134.004 FS26.021 on DairyNZ S136.007
S. 42A Report 3.9:	Paragraphs 192 to 208 (pages 46 to 50)
GWRC Rebuttal:	Pam Guest 13.02.24 Rebuttal paragraphs 47 and 52

3.1 Pam Guest recommends insertion of 'where appropriate' as requested by Meridian:

The region's indigenous biodiversity is ~~ecosystems are~~ maintained and, where appropriate is enhanced, and restored to a healthy functioning state,

improving ~~its~~ ~~their~~ resilience to increasing environmental pressures, particularly climate change, and giving effect to the Te Rito o te Haraheke.

4. Policy 24 and Appendix 1A

Meridian Submission Points:	S100.016 and S100.027 FS26.032 on Transpower NZ S10.002 FS26.038 on UHCC S34.075 FS26.039 on Office of the Māori Trustee S102.056 FS26.034 on HCC S115.048 FS26.035 on Powerco S134.011 FS26.031 on GWRC S137.019 FS26.040 on WIAL S148.041 FS26.033 on RFBPS S165.057 FS26.037 on Taranaki Whānui S167.088 FS26.036 on Rangitāne O Wairarapa S168.073 FS26.082 on KCDC S16.0105 FS26.081 on Genesis S99.007 FS26.012 on WWL S113.006 FS26.011 on HCC S115.014 FS26.083 on UHCC S34.0112
S. 42A Report 3.13: GWRC Rebuttal:	Paragraphs 262 to 208 (pages 59 to 50) Jerome Wyeth 13.02.24 Rebuttal paragraphs 28 to 50

4.1 I addressed Policy 24 and Appendix 1A in Section 8 of my statement of evidence dated 30 January 2024. The discussion of Policy 24 in Mr Wyeth's Rebuttal Statement does not acknowledge my evidence on these provisions, although arrives at the same conclusion as me that there should be a specific and separate policy addressing renewable electricity generation (**REG**) activities. This recognises the clear direction of the higher order NPS-IB and indicative direction in draft replacement NPSs for REG and electricity transmission (**ET**) activities that a more enabling approach should be included in plans for REG and ET. Mr Wyeth proposes a new Policy 24D (very similar to the REG-specific Policy 24B I proposed in my evidence but expands it to also address ET).

4.2 In Mr Wyeth's rebuttal version, Policy 24 is now to be an 'umbrella' policy from which 'hang' three new policies directing that regional and district plans include provisions to protect indigenous biodiversity:

- Policy 24B to manage adverse effects on significant indigenous biodiversity values in the terrestrial environment;
- Policy 24C to manage adverse effects on indigenous biodiversity values in the coastal environment; and

- Policy 24D to manage the adverse effects of REG and ET on significant indigenous biodiversity values.

4.3 Policy 24 has now become somewhat redundant (as proposed by Mr Wyeth) because the policy directions to regional and district plans to include provision ‘as soon as reasonably practicable, and by no later than 4 August 2028’ are repeated in the ‘chapeau’ of each of Policies 24B, 24C and 24D. Policy 24 itself offers no specific policy direction in addition to this. It has, in effect, been replaced by 24B, 24C and 24D. Policy 24 could be deleted in my view, if the Policy 24B, 24C and 24D approach is adopted. If Policy 24 is retained, it should be amended to clarify that the only Policy direction applicable for REG and ET is Policy 24D (not Policy 24B). This is the stated intention in clause (c) of proposed Policy 24, but it would be useful to make this clear in Policy 24B.

4.4 Proposed Policy 24A sets out the principles to apply to biodiversity offsetting and compensation. Mr Wyeth proposes that his new Policy 24D for REG and ET includes its own principles for biodiversity offsetting and compensation (with specific reference to his proposed Appendices 1C and 1D which are Appendices 3 and 4 of the NPS-IB and Appendices 6 and 7 of the NPS-FM, as suggested in my evidence). Policy 24D does not refer to Policy 24A and that is appropriate in my view. For the reasons I explained in Section 8 of my evidence, it remains my opinion that REG and ET should have their own set of principles as intended by the NPS-IB. Although the intention appears to be to apply only the Appendix 1C and 1D principles to REG and ET, it is not crystal clear in the wording and could be made clearer in Policy 24A.

4.5 If Policy 24 is deleted, as proposed by Meridian, it may be more logical for proposed Policy 24A to be placed after proposed Policies 24B, 24C and 24D.

~~Policy 24: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans~~

~~As soon as reasonably practicable and by no later than 4 August 2028~~~~By 30 June 2025, D~~~~district and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development, including by applying:~~

~~(a) Policy 24B Clause 3.10 and Clause 3.11 of the National Policy Statement for Indigenous Biodiversity 2023 to manage adverse effects on significant indigenous biodiversity values in the terrestrial environment;~~

~~(b) Policy 24C 11 of the New Zealand Coastal Policy Statement 2010 to manage adverse effects on indigenous biodiversity values in the coastal environment; and~~

~~(c) Policy 24D to manage the adverse effects of REG activities and ET activities on significant indigenous biodiversity values (these activities are not subject to Policy 24A and Policy~~

~~24B). Policies 18A and 18B in this Regional Policy Statement to manage adverse effects on the values and extent of natural inland wetlands and rivers.~~

... [and delete the explanation that follows]

Policy 24A: Principles for biodiversity offsetting and biodiversity compensation (except for REG activities and ET activities)

- (a) Where district and regional plans provide for biodiversity offsetting or aquatic offsetting or biodiversity compensation or aquatic compensation as part of an effects management hierarchy for indigenous biodiversity and/or for aquatic values and extent, they shall include policies and methods to:
- (i) ensure this meets the requirements of the full suite of principles for biodiversity offsetting and/or aquatic offsetting and/or biodiversity compensation set out in Appendix 1C Appendix 3 and 4 of the National Policy Statement for Indigenous Biodiversity 2023 and/or biodiversity compensation and/or for aquatic offsetting and/or aquatic compensation set out in Appendix 1D 6 and 7 of the National Policy Statement for Freshwater Management 2020;
 - (ii) provide further direction on where biodiversity offsetting, aquatic offsetting, biodiversity compensation, and aquatic compensation are not-inappropriate, in accordance with clauses (b) to (d) and (e) below;
 - (iii) provide further direction on required outcomes from biodiversity offsetting, aquatic offsetting, biodiversity compensation, and aquatic compensation, in accordance with clauses (de) and (ef) below; and
- (b) In evaluating whether biodiversity offsetting or aquatic offsetting is inappropriate because of irreplaceability or vulnerability of the indigenous biodiversity, extent, or values affected, the feasibility to offset residual adverse effects on any threatened or naturally uncommon ecosystem or threatened species must be considered, including those listed in Appendix 1A must be considered as a minimum; and
- (c) In evaluating whether biodiversity compensation or aquatic compensation is inappropriate because of the irreplaceability or vulnerability of the indigenous biodiversity, extent, or values affected, recognise that it is inappropriate to use biodiversity compensation or aquatic compensation where residual adverse effects affect an ecosystem or species that is listed in Appendix 1A as a threatened or naturally uncommon ecosystem or threatened species, including those listed in Appendix 1A as a minimum; and
- (d) In evaluating whether biodiversity offsetting or aquatic offsetting is inappropriate because there are no technically feasible methods to secure gains in acceptable timeframes, recognise that this is likely to be inappropriate for those species and ecosystems listed in column Policy 24A(d) in Appendix 1A; and
- (e) District and regional plans shall include policies and methods that require biodiversity offsetting or aquatic offsetting to achieve at least a net gain, and preferably a 10% net gain or greater, in indigenous biodiversity outcomes to address residual adverse effects on indigenous biodiversity, extent, or values. This requires demonstrating, and then achieving,

Commented [C1]: The relevant principles are specified for REG and ET in proposed Policy 24D.

Commented [C2]: Mr Wyeth's recommended wording confuses the Appendices: his proposed 1C addresses biodiversity and aquatic offsetting and 1D addresses biodiversity and aquatic compensation.

net gains in the type, amount, and condition of the indigenous biodiversity, extent, or values impacted. Calculating net gain requires a like-for-like quantitative loss/ gain calculation of the indigenous biodiversity values (type, amount, and condition) affected by the proposed activity; and

- (f) District and regional plans shall include policies and method to require *biodiversity compensation* or *aquatic compensation* to achieve positive effects in indigenous biodiversity, extent, or values that outweigh residual adverse effects on affected indigenous biodiversity, extent, or values.

Explanation:

Policy 24A recognises that the outcomes achievable through the use of biodiversity or aquatic offsetting and compensation are different. A 'net gain' outcome from offsetting is expected to achieve an objectively verifiable increase in the target values, while a compensation outcome is more subjective and less preferable. This policy applies to the use of biodiversity offsetting and biodiversity compensation to address the residual adverse effects on indigenous biodiversity in the terrestrial and coastal environments and aquatic offsetting and compensation to address the loss of extent or values of natural inland wetlands and rivers.

Policy 24A is to be read with Policy 24C(1) which sets out adverse effects on indigenous biodiversity in the coastal environment that need to be avoided, meaning that applications for biodiversity offsetting or biodiversity compensation cannot be considered. These ecosystems and species are also listed in Table 17 and Appendix 1A.

Policy 24B: Managing adverse effects on significant indigenous biodiversity values in the terrestrial environment (except for REG activities and ET activities) – district and regional plans

As soon as reasonably practicable, and by no later than 4 August 2028, district **and regional plans** shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values in the terrestrial environment by:

- 1) Except as provided for by clause (2) and (3), avoiding the following adverse effects:
 - (a) loss of ecosystem representation and extent;
 - (b) disruption to sequences, mosaics, or *ecosystem function*;
 - (c) fragmentation of indigenous ecosystems and habitats with significant indigenous biodiversity values or the loss of **buffers** or connections within these ecosystems and habitats;
 - (d) a reduction in the function of indigenous ecosystems and habitats with significant indigenous biodiversity values as a *buffer* or connection to other important habitats or ecosystems;
 - (e) a reduction in the population size or occupancy of *Threatened or At Risk* species that use a habitat with significant indigenous biodiversity values for any part of their life.

Commented [C3]: This appears to be an omission - the Policy heading suggests the intention is to apply also to regional plans.

Commented [C4]: 'Buffer' is a defined term - so the word should be italicised.

- 2) Applying the *effects management hierarchy* to adverse effects not referred to in clause (1) and to the following new activities, which are exempt from clause (1):
- (a) the development, operation, maintenance or upgrade of *specified infrastructure* (excluding *REG activities* and *ET activities*) if;
 - (i) it provides significant national or regional public benefit; and
 - (ii) there is a functional need or operational need to be in that particular location; and
 - (iii) there are no practicable alternative locations for the activity.
 - (b) the development, operation and maintenance of mineral extraction activities if:
 - (i) it provides a significant national public benefit that could not otherwise be achieved using resources within New Zealand; and
 - (ii) there is functional need or operational need to be in that particular location; and
 - (iii) there are no practicable alternative locations for the activity.
 - (c) The development, operation and maintenance of aggregate extraction activities if:
 - (i) it provides a significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand; and
 - (ii) there is functional need or operational need to be in that particular location; and
 - (iii) there are no practicable alternative locations for the activity.
 - (d) The operation or expansion of any coal mine that was lawfully established before August 2023 (except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal) if;
 - (i) there is functional need or operational need to be in that particular location; and
 - (ii) there are no practicable alternative locations for the activity.
 - (e) Activities to develop a single residential dwelling on an allotment that was created before 4 August 2023 and where there is no practicable location within the allotment where a single residential dwelling and essential associated on-site infrastructure can be constructed without avoiding the adverse effects referred to in clause (1).
 - (f) Activities that are for the purpose of maintaining or restoring ecosystems and habitats provided it does not involve the permanent destruction of significant habitat of indigenous biodiversity (or an alternative management approach established to restore indigenous biodiversity).
 - (g) Activities in an area of indigenous vegetation or habitat of indigenous fauna (other than an area managed under the Forests Act 1949) that was established and is managed primarily for a purpose other than the maintenance or restoration of that indigenous biodiversity and the loss of indigenous biodiversity values is necessary to meet that purpose.
 - (h) Activities associated with the harvest of indigenous tree species, such as track clearance or timber storage (but not the harvest itself managed under clause (3)(d)), from within an ecosystem or habitat with significant indigenous biodiversity values

that is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

- 3) Allowing the following activities without being subject to clause (1) and (2):
 - 1) Activities required to address a high risk to public health or safety;
 - 2) The sustainable customary use of indigenous biodiversity conducted in accordance with tikanga;
 - 3) (c) Work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than land held for administrative purposes), provided that the work or activity:
 - (i) Is undertaken in a way that is consistent with any applicable conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987, or any other Act specified in Schedule 1 of that Act; and
 - (ii) Does not have a significant adverse effect beyond the boundary of the land.
- 4) The harvest of indigenous tree species that is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

Explanation

Policy 24B applies to indigenous ecosystems and habitats with significant indigenous biodiversity values in the terrestrial environment. Clause (1) sets out a list of adverse effects that need to be avoided to ensure the protection of these ecosystems and habitats, their *ecosystem function* and values. Clause (2) sets out a list of activities that are exempt from clause (1) and instead adverse effects are to be managed in accordance with the *effects management hierarchy* and other relevant requirements are met (e.g. there is an operational need or functional need for the activity to be in that particular location). Clause (3) sets out a list of essential activities, customary activities, or activities undertaken in accordance with conservation management plan or forest management plan that are exempt from clause (1) and (2). **Policy 24D addresses the management of the effects of REG activities and ET activities on indigenous ecosystems and habitats with significant indigenous biodiversity values in the terrestrial environment.**

Commented [C5]: To remove any ambiguity.

Policy 24C: Managing adverse effects on indigenous biodiversity values in the coastal environment – district and regional plans

As soon as reasonably practicable, and ~~by~~ no later than 4 August 2028, district and regional plans shall include policies, rules and methods to manage adverse effects on indigenous biodiversity values in the coastal environment to:

Commented [C6]: While accepting that proposed Policy 24C follows from the direction in Policy 11 of the NZCPS, it is not clear where the scope is for insertion of Policy 24C.

- (1) Avoid adverse effects of activities on the following ecosystems, habitats and species with significant indigenous biodiversity values:
 - (a) indigenous taxa that are listed as *Threatened or At-Risk* species in the New Zealand Threat Classification System lists;
 - (b) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
 - (c) *threatened indigenous ecosystems* and vegetation types that are threatened in the coastal environment, or are *naturally rare*;
 - (d) habitats of indigenous species where the species are at the limit of their natural range, or are *naturally rare*;
 - (e) areas containing nationally significant examples of indigenous community types; and
 - (f) areas set aside for full or partial protection of indigenous biological diversity under other legislation; and
- (2) Avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on the following indigenous ecosystems and habitats:
 - (a) areas of predominantly indigenous vegetation in the coastal environment;
 - (b) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
 - (c) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
 - (d) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
 - (e) habitats, including areas and routes, important to migratory species; and
 - (f) ecological corridors, and areas important for linking or maintaining biological values.

Explanation:

This policy applies to provisions in district and regional plans. This requires district and regional plans to manage adverse effects on indigenous biodiversity in the coastal environment by applying a hierarchy approach based on the values of the indigenous species, ecosystem or habitat. Policy 24C is to be read together with Policy 24B in relation to the coastal environment above mean high water springs, with Policy 24C to prevail where there is conflict between these policies that cannot be resolved.

Policy 24D: Managing the effects of *REG activities* and *ET activities* on indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans

As soon as reasonably practicable, and ~~by~~ no later than 4 August 2028, district and regional plans shall include policies, rules and methods to manage the effects of *REG*

Commented [C7]: There is probably equally a case for noting that it is to be read alongside Policy 24D.

activities and *ET activities* on indigenous ecosystems and habitats with significant indigenous biodiversity values to:

- 1) Allow *REG activities* ~~and or~~ *ET activities* to locate in areas with significant indigenous biodiversity values if:
 - (a) there is an operational need or functional need for the *REG activities* or *ET activities* to be located in that area; and
 - (b) the *REG activities* or *ET activities* are nationally or regionally significant; and
 - (c) clause (2) is applied to manage adverse effects.
- 2) Manage adverse effects by applying the following hierarchy:
 - (a) adverse effects are avoided where practicable; then
 - (b) where adverse effects cannot be avoided, they are minimised where practicable; then
 - (c) where adverse effects cannot be minimised, they are remedied where practicable; then
 - (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, *biodiversity offsetting* is provided where practicable; then
 - (e) if *biodiversity offsetting* of more than minor adverse effects is not practicable, *biodiversity compensation* is provided; then
 - (f) if *biodiversity compensation* is not appropriate to address any residual adverse effects:
 - i. the *REG activities* or *ET activities* must be avoided if the residual adverse effects are significant; but
 - ii. if the residual adverse effects are not significant, the *REG activities* or *ET activities* must be enabled if the national significance and benefits of the activities outweigh the residual adverse effects.
- 3) When considering biodiversity offsetting and *biodiversity compensation*, have regard to the principles set out in Appendix 1C and Appendix 1D.

Explanation

Policy 24D applies to *REG activities* ~~activities~~ and *ET activities* and applies a specific pathway and effects ~~managemat~~ ~~management~~ framework for these activities to ensure adverse effects of these activities on ~~indiegnous~~ ~~indigenous~~ ecosystems and habitats with significant indigenous biodiversity values are appropriately managed.

Commented [C8]: Plans should allow both - not either or.

Commented [C9]: Spelling correction.

5. Policy 47

Meridian Submission Points:	S100.021 FS26.062 on UHCC S34.078 FS26.063 on WIAL S148.042 FS26.060 on RFBPS S165.074 FS26.061 on PCC S30.0127
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S. 42A Report 3.14:	Paragraphs 340 to 364 (pages 80 to 87)
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5.1 Meridian requested a new policy to set out an effects management hierarchy for REG and a specific reference to this separate REG hierarchy in the 'consideration' Policy 47. Pam Guest has agreed to this reference in Policy 47 (the new REG policy is Policy 24D). I understand Meridian supports the proposed amendments to Policy 47:

Policy 47: *Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values – consideration*

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, a determination shall be made as to whether an activity may affect indigenous ecosystems and habitats with significant indigenous biodiversity values, and in determining whether the proposed activity is inappropriate particular regard shall be given to:

- (a) maintaining connections within, or corridors between, habitats of indigenous flora and fauna, and/or enhancing the connectivity between fragmented indigenous habitats;*
- (b) providing adequate **buffering** around areas of significant indigenous ecosystems and habitats from other land uses;*
- (c) managing natural wetlands for the purpose of aquatic ecosystem health, recognising the wider benefits, such as for indigenous biodiversity, water quality and holding water in the landscape;*
- (d) avoiding the cumulative adverse effects of the incremental loss of indigenous ecosystems and habitats;*
- (e) providing seasonal or core habitat for indigenous species;*
- (f) protecting the life supporting capacity of indigenous ecosystems and habitats;*
- (g) ~~remediating or mitigating~~ minimising or remediating adverse effects on the indigenous biodiversity values where avoiding adverse effects is not practicably achievable; ~~and~~*

- (h) *the need for a precautionary approach to be adopted when assessing and managing the potential for adverse effects on indigenous ecosystems and habitats, where;*
 - (i) *the effects on indigenous biodiversity are uncertain, unknown, or little understood; and*
 - (ii) *those effects could cause significant or irreversible damage to indigenous biodiversity;*
 - (i) *~~the limits for biodiversity offsetting and biodiversity compensation set out in Appendix 1A~~ the provisions to protect significant biodiversity values in Policy 24, Policy 24B, and Policy 24C and the principles for biodiversity offsetting and biodiversity compensation in Policy 24A;*
 - (i) *the provisions to manage the adverse effects of REG and ET activities on significant biodiversity values in Policy 24D;*

Commented [C10]: This number should probably be (j).

...

6. Chapter 4.1: Proposed New Policy IE.2A

Meridian Submission Points:	Consequential matter arising from s. 42A report recommendation
S. 42A Report 3.5.2: GWRC Rebuttal:	Paragraphs 82 to 102 (pages 20 to...) Jerome Wyeth 13.02.24 Rebuttal Evidence paragraphs 130

6.1 Mr Wyeth agrees the impact of Policy IE.2A could be ‘overly onerous’ for REG and ET. He does not agree with Meridian’s suggestion that REG (and ET) should have a blanket exemption from Policy IE.2A. Rather, that the management framework for effects on non-significant indigenous biodiversity should reflect the direction in Part 3.7 of the draft NPS-REG and NPS-ET. That is, to ‘avoid, remedy or mitigate to the extent practicable’.

6.2 It is notable that, in the Rebuttal Version of proposed Policy IE.2A Mr Wyeth proposes, clause (c) for REG and ET activities requires management of *all* adverse effects. Whereas, clause (a) for other activities applies only to *significant* adverse effects. The direction in clause (a) is to apply the *effects management hierarchy*. It is not clear how this is to work because the hierarchy is defined as only applying to significant indigenous biodiversity values. It may be necessary to pull out the key steps of the hierarchy that are to be applied to non-significant indigenous biodiversity for the purposes of Policy IE.2A (b) below. It appears that there is a different (more stringent) approach proposed for REG and ET (managing all adverse effects) compared with other activities (managing only significant adverse effects). The concern for non-significant indigenous biodiversity should

not be with all adverse effects, but with significant adverse effects. I propose below a refinement to create parity between the approaches for REG/ET and other activities, by referring to 'significant adverse effects' in my proposed clause (a) below.

6.3 I note that, for REG which has a less complex set of assets and activities than ET, the direction to avoid, remedy or mitigate 'to the extent practicable' is appropriate. For ET, there may be complexities in the location and distribution of ET assets and activities that make it unreasonable to require demonstration of practicability in all individual cases. Also, the policy would be less ambiguous about the special provision for REG and ET if the order of the clauses is slightly altered as follows:

Policy IE.2A: Maintaining indigenous biodiversity in the terrestrial environment – consideration

When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan or regional plan, indigenous biodiversity in the terrestrial environment that does not have significant indigenous biodiversity values as identified under Policy 23 and is not on Māori land, shall be maintained by:

- ~~(a) recognising and providing for the importance of maintaining indigenous biodiversity that does not have significant biodiversity values under Policy 23;~~
- (a) avoiding, remedying or mitigating the significant adverse effects of REG activities and ET activities on indigenous biodiversity to the extent practicable; and**
- (b) managing any significant adverse effects on indigenous biodiversity from any other proposed activity by applying the effects management hierarchy in the National Policy Statement for Indigenous Biodiversity 2023; and**
- (c) managing all other adverse effects on indigenous biodiversity from any proposed activity to achieve at least no overall loss in indigenous biodiversity within the region or district as applicable. and**
- ~~(d) avoiding, remedying or mitigating the adverse effects of REG activities and ET activities on indigenous biodiversity to the extent practicable.~~

Commented [C11]: Shifted to (a).

Explanation

Policy IE.2A recognises that it is important to maintain indigenous biodiversity that does not have significant indigenous biodiversity values to meet the requirements in section 30(1)(ga) and section 31(b)(iii) of the RMA. This policy applies to indigenous biodiversity that does not have significant values in the terrestrial environment and requires a more robust approach to managing any significant adverse effects on indigenous biodiversity from a proposed activity and to maintain indigenous biodiversity more generally.

7. RPS Definitions

7.1 Mr Wyeth has proposed new definitions for 'REG activities' and 'renewable electricity generation assets' (being a defined subset of 'REG activities'). His proposed wording captures the concepts of assets and activities from the draft NPS-REG and I understand Meridian supports those definitions.
