

**Before the Greater Wellington Regional Council Proposed Change 1 to the
Regional Policy Statement for the Wellington Region
Hearings Panel**

Under the Resource Management Act 1991 (the Act)

In the matter of Proposed Plan Change 1 to the Natural Resources
Plan for the Wellington Region

**Hearing Stream Three -
Rural land use activities, Forestry including
vegetation clearance and Earthworks**

Between **Greater Wellington Regional Council**
Local authority

And **Transpower New Zealand Limited**
Submitter 177 and Further Submitter FS020

**Speaking notes of Pauline Mary Whitney for Transpower New Zealand
Limited** Dated 28 May 2025

Good morning Panel.

- 1.1. Thank you for the opportunity to speak to the Transpower submission. My name is Pauline Whitney, an independent planning expert with Boffa Miskell Ltd.
- 1.2. You have my evidence and I will take it as read. I have read the evidence of other experts and concur with many of the sentiments raised and relief sought in relation to regionally significant infrastructure and network utilities.
- 1.3. I have also read the officer (including supplementary) rebuttal evidence of Ms Vivian and I while I concur with elements of her updated recommendations, there are some matters that I still consider outstanding.
- 1.4. If agreeable to the panel, I will use my speaking time to respond to the officer rebuttal evidence of Ms Vivian and confirm my position on the six points raised in my evidence.
- 1.5. Attached as Appendix A is an updated suite of amendments I recommend which reflect that sought in my evidence and respond to the rebuttal evidence of Ms Vivian.
- 1.6. The focus of my lodged evidence was on the new permitted infrastructure earthworks rules WH.R23A and P.R22A, and a confined amendment was also sought to clause 3 within policies WH.P29 and P.P27 in terms of reference to a 'close down' period.

Policies WH.P29 and P.P27

- In terms of the sought recommended change in my evidence to clause (e) within policies WH.P29 and P.P27 (being removal of the reference to a 'close down' period), I remain supportive of the relief sought in my evidence. However, as an alternative, on the basis the officer supplementary rebuttal recommends an exemption for quarrying, if reference to electricity transmission activities is inserted into clause (e), the concerns outlined in my evidence would be addressed.

Rules WH.R23A and P.R22A

- In terms of the permitted infrastructure earthworks rules WH.R23A and P.R22A (the 'A' rules), the officer rebuttal recommendation to insert a new clause d) within the notified permitted rules WH.R23 and P.R22 has in my opinion complicated the application of the two permitted rules to the National Grid. While previously it could

be argued¹ the more specific 'A' rules applied to the National Grid and WH.R23 and P.R22 did not apply to infrastructure listed in the A rule, the inclusion of clause (d) for earthworks for network titles operators now means both sets of rules apply to the National Grid. Even if Transpower were permitted under the new clause (d), it would still have to comply with the 'A' rules. I understand there may still be concerns with the 3000m² limit as framed and therefore Transpower supports reliance on the 'A' rules.

- Given both rules will apply to some infrastructure, I do wonder if the rules could be merged so that the 'A' rules are instead inserted as a new clause (e) within R23 and P.R22. An alternative approach would be to amend WH.R23 and P.R22 condition (d) to clarify the rule only applies where the activity is not provided for under WH.R23A and P.R22A. The above clarification would negate the issue of having two permitted rules apply to the same activity. The two options to address the issue are outlined in Appendix A.

Turning to specific relief recommended in my evidence on the "A" rules:

- In my evidence I recommended deletion of the reference to 'minor' in the 'A' rule title. Given there is no area limits in the rule itself and that 'minor' is not defined, I remain of the opinion the word 'minor' should not be within the rule.
- I support the rebuttal evidence recommendation of Ms Vivian to replace the 'and's after clauses (a) and (b) with 'or's.
- I accept the officer rebuttal recommendation to change to condition (d) to reword the sediment discharge condition.
- A further point in my evidence related to the 5m setback from waterbodies for any earthworks. The rebuttal evidence of Ms Vivian has rejected the relief sought in my evidence on the basis "*a 5m setback from surface water bodies is appropriate. The 5-metre setback is the same as that required for earthworks to be able to meet permitted activity requirements under the operative Natural Resources Plan, I am unaware of any consents sought by Transpower in the past 12months, required due to non-compliance with condition (a) of this rule.*" While I accept the 5m is in the operative NPR, the rule did not apply previously to the Grid given the definition

¹ This interpretation was shared by the reporting officer in their Rebuttal on Page 18 where they comment "*Earthworks associated with infrastructure not listed in the rule (being the A rules), are subject to permitted activity rules WH.R23 and P.R22*".

of earthworks excluded National Grid activities. In terms of earthwork activities in the last 12 months under PC1 of the NPR, I am aware Transpower currently has an application in progress for earthworks that exceed 3000m² per property (as well as tower painting).

For the reasons outlined in para 9.8.9 and 9.8.10 of my primary evidence I remain of the opinion that satisfactory measures can be applied to appropriately manage the effects of earthworks within the 5m. The three additional conditions I recommend to the permitted activity require: the earthworks not create instability or erosion issues, use of erosion and sediment control measures, and that written notice be provided to the Council prior to the works commencing.

- The last point in my evidence related to clarification as to the default activity status should the conditions in the new permitted 'A' rules WH.R23A and P.R22A. not be complied with. Ms Vivian has amended the provisions to provide a default restricted discretionary activity status under WH.R24 and P.R23, I accept the recommendation subject to one amendment. Ms Vivian has recommended condition (b) be amended so the winter close down period where a TAS is not met, not apply to quarries and the renewable energy production². I recommend electricity transmission activities also be inserted into the exclusion to give effect to the NPSET and reflect the essential nature of the work all year round, should the permitted activity rules not be complied with. For the same reasons I would support reference to electricity transmission activities be inserted as an exemption to Matters of Discretion 8. (which relates to the winter close down period), reflecting the officer supplementary rebuttal recommended exemption for quarrying.
- As a final point, consistency is needed in relation to the reference to 'coastal marine area' noting the officer has recommended the reference be deleted from rules WH.R23A and P.R22A renumbered condition (e) but not in other condition.

In summary I remain supportive of:

(b) except for those associated with quarrying and the use, development, operation, maintenance of renewable energy production, earthworks shall not occur between 1st June and 30th September in any year where works are located within a Part Freshwater Management Unit where the target attribute state for suspended fine sediment in Table 8.4 is not met,

- Amendment to the 'close down' clause (e) within policies WH.P29 and P.P27
- Deletion of the reference to 'minor' in the rule title of WH.R23A and P.R22A
- Amendment to the framework and relationship of the permitted rules to clarify WH.R23A and P.R22A are the applicable rules for the National Grid (and WH.R23 and P.R22 do not apply)
- Amendment to the 5m setback standard within WH.R23A and P.R22A
- Insertion of reference to 'electricity transmission activities' within the restricted discretionary rules WH.R24 and P.R23 clause (b), and Matters of discretion 8.

The concerns outlined in my evidence are confined and I believe can be resolved.

I am cognisant that various experts have put forward proposed wording to address the above issues. To refine and reach agreement (as far as possible) on potential wording, I would support and would be available to participate in expert conferencing.

Thank you

Pauline Whitney

APPENDIX A

Text recommended through the S42A Report is shown as red text; with that recommended through the officer rebuttal evidence shown as blue text, those recommended through the officer supplementary rebuttal shown as green text, and the relief I recommend through my evidence and speaking notes is shown as purple text:

Policy WH.P29 and P.P27 Management of Earthworks

The ~~risk adverse effects~~ of sediment discharges from earthworks shall be managed by:

- (a) ~~requiring maximising~~ retention of ~~uncontrolled-disturbed~~ soil and sediment on the land using good management practices for erosion and sediment control measures that are appropriate to the scale and nature of the activity, and in accordance with the GWRC Erosion and Sediment Control Guideline for the Wellington Region (2021), for the duration of the land disturbance, and
- (b) limiting, ~~the extent practicable~~, the amount of land disturbed at any time, and
- (c) designing and implementing earthworks with knowledge of the existing environmental site constraints, specific engineering requirements and implementation of controls to limit the discharge of sediment to receiving environments, and
- (d) requiring erosion and sediment control measures to be installed prior to, and during earthworks and ensuring those controls remain in place and are maintained until the land is stabilised against erosion., ~~and~~
- (e) ~~minimising works required during the close down period (from 1st June to 30th September each year)~~ ~~except where the earthworks are required for quarrying activities, renewable electricity generation activities or electricity transmission activities.~~

Or alternately

- (e) Managing earthworks during 1st June to 30th September in accordance with the GWRC Erosion and Sediment Control Guideline for the Wellington Region (2021).

Rules WH.R23 and P.R22 Earthworks – Permitted Activity

Earthworks ~~and the associated discharge of sediment and/or flocculant into a surface water body or coastal water or onto or into land where it may enter a surface water body or coastal water, including via a stormwater network~~, is a permitted activity, provided the following conditions are met:

- (a) the earthworks are to implement an action in the erosion risk treatment plan for the farm, or
- (b) the earthworks are to implement an action in the farm environment plan for the farm, or
- (c) the area of earthworks does not exceed 3,000m² per property in any consecutive 12-month period, and

- (i) the earthworks shall not occur within 5m of a surface water body or the coastal marine area, except for earthworks undertaken in association with Rules R122, R124, R130, R131, R134, R135, and R137, and
 - (ii) soil or debris from earthworks is not placed where it can enter a surface water body or the coastal marine area, including via a stormwater network, and
 - (iii) the area of earthworks must be stabilised within six months after completion of the earthworks, and
 - ~~(iv) there is no the discharge of sediment from earthworks and/or flocculant into a surface water body, the coastal marine area, or onto land that may enter a surface water body or the coastal marine area, including via a stormwater network, and~~
 - (v) erosion and sediment control measures shall be used to prevent a discharge of sediment where a preferential flow path connects with a surface water body or the coastal marine area, including via a stormwater network; or
- (d) for network utility operators, the area of earthworks does not exceed 3000m² for work being undertaken at any particular location or work site in any consecutive 12-month period.

Note: Rule WH.R23 (and P.R22) Earthworks only applies where the activity is not provided for under WH.R23A (and P.R22A).

Or Merge Rule WH.R23A with WH.R23 as follows:

.....

- (d) for network utility operators, the area of earthworks does not exceed 3000m² for work being undertaken at any particular location or work site in any consecutive 12-month period' or
- (e) earthworks associated with infrastructure associated with:
 - a. thrusting, boring, trenching or mole ploughing associated with cable or pipe laying and maintenance, and
 - b. the construction, repair, upgrade or maintenance of:
 -

Rule WH.R23A and P.R22- Permitted Activity

Rule WH.R23A – ~~Minor~~ earthworks associated with infrastructure and Rule P.R22A ~~Minor~~ earthworks associated with infrastructure

Earthworks and the associated discharge of sediment and/or flocculant into a surface water body or coastal water or onto or into land where it may enter a surface water body or coastal water, including via a stormwater network, associated with:

- (a) thrusting, boring, trenching or mole ploughing associated with cable or pipe laying and maintenance, ~~and-or~~
- (b) the construction, repair, upgrade or maintenance of:
 - (i) pipelines, and
 - (ii) electricity lines and their support structures, including the National Grid and associated access, and

- (iii) telecommunication structures or lines, and
- (iv) radio communication structures, and
- (v) firebreaks or fence lines, ~~and~~ or
- (c) repair or maintenance of existing roads and tracks, and airfield runways, taxiways, and parking aprons for aircraft; or
- (d) repair, sealing or resealing of a road, footpath, driveway

is a permitted activity provided the following conditions are met:

- ~~a.~~ (e) the earthworks shall not occur within 5m of a surface water body ~~or the coastal marine area~~, and except that condition a. shall not apply to existing National Grid assets (instead condition h. applies), and
- ~~b.~~ (f) soil or debris from earthworks is not placed where it can enter a surface water body ~~or the coastal marine area~~, including via a stormwater network, and
- ~~c.~~ (g) the area of earthworks must be stabilised within six months after completion of the earthworks, and
- ~~d.~~ there is no discharge of sediment from ~~earthworks~~ and/or flocculant into a ~~surface water body~~, the coastal marine area, or onto land that may enter a ~~surface water body~~ or the coastal marine area, including via a ~~stormwater network~~, and erosion and sediment control measures shall be used to prevent a discharge of sediment where a preferential flow path connects with a ~~surface water body~~ or the coastal marine area, including via a ~~stormwater network~~. (i) erosion and sediment control measures shall be used to minimise a discharge of sediment where a preferential flow path connects with a surface water body ~~or the coastal marine area~~, including via a stormwater network.; and
- ~~e.~~ (h) For earthworks associated with the operation, repair, upgrade or maintenance of existing National Grid assets (including existing and new access tracks) occurring within 5m of a surface water body ~~or the coastal marine area~~:
 - (i) the earthworks must not create or contribute to—
 - (a) instability or subsidence of a slope or another land surface; or
 - (b) erosion of the bed or bank of a water body; and
 - (ii) erosion sediment control must be maintained and applied at the site of the earthworks, to the extent appropriate for the scale and duration of works, during and after the earthworks, to avoid the adverse effects of sediment on surface water bodies ~~and the coastal marine area~~; and
 - (iii) the 1 or more persons responsible for undertaking the activity must, at least 10 working days before starting the activity, provide the relevant regional council with the following information in writing:
 - (a) a description of the activity to be undertaken; and
 - (b) a description of, and map showing, where the activity will be undertaken; and
 - (c) a statement of when the activity will start and when it is expected to end; and
 - (d) a description of the extent of the activity; and
 - (e) their contact details.

Rule WH.R24 and Rule P.R23: Earthworks – Restricted Discretionary Activity

Earthworks and the associated discharge of sediment and/or flocculant into a surface water body or coastal water, or onto or into land where it may enter a surface water body or coastal water,

including via a stormwater network, that does not comply with Rule ~~P.R22A~~ [WH.R23A or P.R22A] is a restricted discretionary activity, provided the following conditions are met:

- (a) the water quality concentration of total suspended solids in the discharge from the earthworks shall not exceed ~~and~~
- (b) except for those associated with quarrying, and the use, development, operation, maintenance of renewable energy production generation activities, or electricity transmission activities, earthworks shall not occur between 1st June and 30th September in any year where works are located within a Part Freshwater Management Unit where the target attribute state for suspended fine sediment in Table 9.2 is not met.

Matters for discretion

1. *The location, area, scale, volume, duration and staging and timing of works*
2. *The design and suitability of erosion of sediment control measures including consideration of hazard mitigation and the risk of accelerated soil erosion associated the staging of works and progressive stabilisation*
3. *The placement and treatment of stockpiled materials on the site, including requirements to remove material if it is not to be reused on the site*
- ~~4. *The proportion of unstabilised land in the catchment*~~
4. *The adequacy and efficiency of stabilisation devices for sediment control*
5. *.....*
8. *Preparation required for the close-down period (from 1st June to 30th September each year) and any maintenance activities required during this period, except where the earthworks are associated with quarrying activities, renewable electricity generation activities or electricity transmission activities.*