

BEFORE THE INDEPENDENT HEARING PANEL AND FRESHWATER HEARING  
PANEL OF GREATER WELLINGTON REGIONAL COUNCIL

**IN THE MATTER OF** of the Resource Management Act 1991

**AND**

**IN THE MATTER OF** of Proposed Plan Change 1 to the Greater Wellington  
Natural Resources Plan

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**HEARING STATEMENT OF EVIDENCE BY KIRSTY O'SULLIVAN ON BEHALF OF  
WELLINGTON INTERNATIONAL AIRPORT LIMITED**

29 MAY 2025

Hearing Stream 3 - Earthworks

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- 1.1 My name is Kirsty O’Sullivan. My experience, qualifications and commitment to comply with the Environment Court’s Code of Conduct for Expert Witnesses (2023) is set out in my Evidence in Chief.
- 1.2 I want to acknowledge the effort Ms Vivian has made to try and resolve the matters raised by submitters. To assist the Panel, attached as **Appendix A** is a table comparing the relief set out in my Evidence in Chief and Ms Vivian’s position as of 27<sup>th</sup> May 2025. I have also made brief bullet point notes regarding where our key points of difference remain. In summary, they relate to:
  - 1.2.1 The consenting pathway for Regionally Significant Infrastructure (“RSI”);
  - 1.2.2 The “winter works” provisions; and
  - 1.2.3 The management of discharges to the coastal environment.
- 1.3 While there is general alignment in principle with the remaining matters raised in my Evidence in Chief, there are differences in the drafting approach. I also understand, having listened to parts of the Council’s opening on Tuesday afternoon, that there are likely to be further recommended changes to a number of provisions in light of questions raised by the Panel.
- 1.4 As the Panel is aware, when drafting policies and rules, words matter as do shades of meaning. I would therefore welcome the opportunity to provide further comment on any changes put forward by Ms Vivian and/or potentially conference on them, so the Panel has a clearly documented position statement from all the planning experts on the final drafting put forward.

## Appendix A

Changes Recommended
New provisions included in Plan Change 1 to the Natural Resources Plan as notified shown as black text.
Recommended amendments by Ms Vivian in her section 42A report shown as <u>red underlines</u> for additions and <del>red strike through</del> for deletions.
Recommended amendments by Ms Vivian in her rebuttal evidence (dated 16 <sup>th</sup> May) shown as <u>blue underlines</u> for additions and <del>blue strike through</del> for deletions.
Recommended amendments by Ms Vivian in her further rebuttal evidence (uploaded to Council website on the 21 <sup>st</sup> and 27 <sup>th</sup> May) shown as <u>green underlines</u> for additions and <del>green strike through</del> for deletions.
Recommended amendments by Ms O’Sullivan in her Evidence in Chief shown as <u>purple underline</u> for additions and <del>purple strike through</del> for deletions.

Amendments recommended in my EIC (to section 42A report)	Further amendments recommended by Ms Vivian via rebuttal evidence	Comments
<p><b>Policy WH.P29 Management of earthwork sites</b></p> <p>The <del>risk</del> <u>adverse effects</u> of sediment discharges from earthworks shall be managed by:</p> <p>(a) <u>requiring maximising</u> the retention of <del>uncontrolled disturbed</del> soil and sediment on the land <u>where, and to the extent, it is practicable to do so, by</u> 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 <i>GWRC Erosion and Sediment Control Guideline for the Wellington Region (2021)</i>, for the duration of the land disturbance, and</p> <p>(b) limiting <u>to the extent practicable</u>, the amount of land disturbed at any time, and</p> <p>(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</p> <p>(d) requiring <u>all necessary</u> 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, <u>and</u></p> <p>(e) <u>minimising, where, and to the extent, it is practicable to do so, works required during the close-down period (from 1st June to 30th September each year) and.</u></p> <p>(f) <u>in the case of earthworks associated with the construction, operation, maintenance and upgrading of Regionally Significant Infrastructure, recognising the logistical and timing constraints associated with their scale and complexity.</u></p>	<p><b>Policy WH.P29 management of earthwork sites</b></p> <p>The <del>risk</del> <u>adverse effects</u> of sediment discharges from earthworks shall be managed by:</p> <p>(a) <u>requiring maximising</u> the retention of <del>uncontrolled disturbed</del> 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 <i>GWRC Erosion and Sediment Control Guideline for the Wellington Region (2021)</i>, for the duration of the land disturbance, and</p> <p>(b) limiting <u>to the extent practicable</u>, the amount of land disturbed at any time, and</p> <p>(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</p> <p>(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, <u>and</u></p> <p>(e) <u>minimizing works required during the close down period from 1st June to 30th September each year, except where the earthworks are required for quarrying activities.</u></p>	<ul style="list-style-type: none"> <li>Ms Vivian has recommended adopting some of my recommendations with respect to (a) and (b).</li> <li>Ms Vivian does not recommend accepting my recommended amendments to (d), (e) and (f) and broadly notes that earthworks associated with RSI pose no lesser risk to the environment than other projects of similar scale and complexity and therefore should be subject to the same policy/rule framework.</li> <li>With respect to <b>clause (d)</b>, Ms Vivian is of the view that “unnecessary control measures are unlikely to be imposed on earthworks sites....”. While that may be the intent, clause (d) reads like erosion and sediment control measures are an absolute requirement. In my experience, when it comes to consenting, policies are read as they are written – any shades of meaning can be lost if not expressly stated. Based on limb (a), which seeks for erosion and sediment control measures to be commensurate with the nature and scale of the activity, it is feasible that there will be some circumstances where no erosion and sediment control measures are necessary. My recommended inclusion of the term “all necessary” is therefore trying to address any potential conflict between clause (a) and clause (d), should there be a scenario where erosion and sediment controls measures are not required.</li> <li>With respect to <b>clause (e)</b>, I maintain the position in my Evidence in Chief that the limb has the potential to unduly constrain RSI, which due to the nature and scale of the works, cannot practicably avoid winter earthworks. I understand that Ms Vivan considers that a clear consenting pathway is provided for large infrastructure activities to undertake winter earthworks, and that earthworks associated with RSI pose no lesser risk than other activities. In response to this, I make two key points:</li> <li>RSI and their associated activities are provided with an entirely different policy context in the RPS and NRP when compared to other forms of development, including recognition of social, economic, cultural and</li> </ul>

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		<p>environmental benefits that RSI provides to the wider community (Objective 10 and Policy 7 of the RPS and Objectives 9 and 10 and Policies 11 and 13 of the NRP); and,</p> <ul style="list-style-type: none"> <li>• There are complex timing and cost considerations that need to be taken into consideration for large scale infrastructure projects, regardless of whether they relate to new or existing earthworks. In the particular context of the Airport winter works are simply unavoidable. Refer to Ms Lester’s evidence for examples of this, particularly the Southern Seawall Renewal project for example.</li> <li>• While I am not suggesting that RSI should be given a “free ride”, the policy and consenting pathway needs to reflect the practical realities of undertaking large scale infrastructure projects that need to balance various constraints (and hence my recommended paragraph (f)). Furthermore, in the WIAL context, due to the need to manage bird strike, biosecurity risks and FOD risks (all described by Ms Lester in her Evidence in Chief), WIAL applies stringent sediment and erosion control measures year-round. They do not differentiate between seasons.</li> </ul>
<p><b>Policy WH.P30: Discharge Standard for earthworks sites</b></p> <p>The discharge of sediment from earthworks over an area greater than 3,000m<sup>2</sup> shall:</p> <p>(a) <del>other than when associated with the construction, operation, maintenance or upgrading of Regionally Significant Infrastructure, not exceed 100g/m<sup>3</sup> 170 Nephelometric Turbidity Units (NTU) at the point of discharge where the discharge is to a surface water body, coastal water, (including via a stormwater network) or to an artificial watercourse, except that when the discharge is to a river with background total suspended solids that exceed 100g/m<sup>3</sup>, the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:</del></p> <p>(i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or</p> <p>(ii) 30% in any other river, and</p> <p><del>Except that this clause shall not apply to the discharge of sediment from earthworks to coastal water associated with the construction, operation, maintenance or upgrading of Regionally Significant Infrastructure; and,</del></p> <p>(b) be managed using good management practices in accordance with the <i>GWRC Erosion and Sediment Control Guidelines for the Wellington Region (2021)</i>, <del>to achieve the discharge standard in (a)</del>, and</p>	<p><b>Policy WH.P30: Discharge Standard for earthworks sites</b></p> <p><del>The discharge of sediment from earthworks over an area greater than 3,000m<sup>2</sup> shall:</del></p> <p><del>To minimise the effects of discharges of sediment from earthworks over an area of more than 3000m<sup>2</sup> per property in any consecutive 12-month period, the discharge shall:</del></p> <p>(a) not exceed 100g/m<sup>3</sup> 170 Nephelometric Turbidity Units (NTU) at the point of discharge where the discharge is to a surface water body, coastal water, <del>or to an artificial watercourse, (including via a stormwater network) or to an artificial watercourse,</del> except that when the discharge is to:</p> <p>(i) a river with background total suspended solids that exceed 100g/m<sup>3</sup>, the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:</p> <p>(1) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or</p> <p>(2) 30% in any other river, and</p> <p><del>(ii) in coastal waters with background total suspended solids that exceed 100g/m<sup>3</sup>, not result in any conspicuous change in colour or visual clarity, after the zone of reasonable mixing.</del></p>	<ul style="list-style-type: none"> <li>• Ms Vivian has recommending rejecting my amendments to Policy WH.P30, however she has acknowledged in her rebuttal that turbidity is not an appropriate measure to be used in coastal waters. I understand that this was discussed further during the Council opening and there was some acknowledgement of the difficulty that even a TSS measure presents (as recommended in Ms Vivan’s rebuttal). I was not clear where the Council landed on this matter.</li> <li>• I am not qualified to speak to the acceptability of the measures used in the policy. What do wish to note is that the NRP includes a number of general coastal management conditions (refer to section 5.6.2 of the NRP) that apply to all activities within the CMA. This includes discharges. I note that clause 5.6.2(e) which states: <ul style="list-style-type: none"> <li>(e) <i>The discharge of sediment to water from an activity in, on, over or under the foreshore or seabed in the coastal marine area shall meet the following:</i> <ul style="list-style-type: none"> <li>(i) <i>the release of sediment associated with the activity shall not be undertaken for more than five consecutive days, and for more than 12 hours per day, and</i></li> <li>(ii) <i>it shall not, after reasonable mixing, cause any conspicuous change in the colour of the water in the receiving water or any change in horizontal visibility greater than 30% more than 24 hours after the completion of the activity, and</i></li> </ul> </li> </ul> </li> <li>• The types of maintenance works being undertaken by WIAL within the CMA are likely to meet these thresholds and would thus be a permitted activity. The measures also allow a visual inspection to be made, without the need</li> </ul>

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<p>(c) be monitored by a suitably qualified person, and the results reported to the Wellington Regional Council.</p>	<p>(b) be managed using good management practices in accordance with the <i>GWRC Erosion and Sediment Control Guidelines for the Wellington Region (2021)</i>, to achieve the discharge standard in (a), and</p> <p>(c) be monitored by a suitably qualified <u>or trained</u> person, and the results reported to the Wellington Regional Council.</p>	<p>for water sampling and analysis. If such effects are acceptable within the CMA (being the receiving environment), it seems somewhat unusual that the landward portion of any works would apply a different standard to those that apply for works within the CMA itself (as the receiving environment).</p> <ul style="list-style-type: none"> <li>I question if there is merit seeking to align the existing elements that apply within 5.6.2(e) to the coastal water matters, as an alternative to the relief that I originally sought within my evidence in chief.</li> </ul>
<p><b>Rule WH.P23</b></p> <p>Earthworks <u>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</u>, is a permitted activity, provided the following conditions are met:</p> <p>(a) the earthworks are to implement an action in the erosion risk treatment plan for the farm, or</p> <p>(b) the earthworks are to implement an action in the farm environment plan for the farm, or</p> <p>(c) the area of earthworks does not exceed 3,000m<sup>2</sup> per property in any consecutive 12-month period (<u>except earthworks permitted by WH.R.23A shall not be included in this calculation</u>), and</p> <p>(d) the earthworks shall not occur within 5m of a surface water body <del>or the coastal marine area</del>, except for earthworks undertaken in association with Rules R122, R124, R130, R131, R134, R135, and R137, and</p> <p>(e) 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</p> <p>(f) the area of earthworks must be stabilised within six months after completion of the earthworks, and</p> <p>(g) <del>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</del></p> <p>(h) 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.</p>	<p><b>Rule WH.P23</b></p> <p>Earthworks <u>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</u>, is a permitted activity, provided the following conditions are met:</p> <p>(a) the earthworks are to implement an action in the erosion risk treatment plan for the farm, or</p> <p>(b) the earthworks are to implement an action in the farm environment plan for the farm, or</p> <p>(c) the area of earthworks does not exceed 3,000m<sup>2</sup> per property in any consecutive 12-month period and:</p> <p>(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</p> <p>(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</p> <p>(iii) the area of earthworks must be stabilised within six months after completion of the earthworks, and</p> <p>(iv) <del>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</del></p> <p>(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.</p> <p>(d) <u>for network utility operators, the area of earthworks does not exceed 3000m<sup>2</sup> for work being undertaken at any particular location or work site in any consecutive 12-month period</u></p>	<ul style="list-style-type: none"> <li>I support the intent of Ms Vivan’s amendment that seeks to address the issue raised by a number of RSI providers around the cumulative effective of the 3000m<sup>3</sup> earthworks coverage standard.</li> <li>In the context of seawall maintenance (if this rule is applied), Ms Vivian’s proposed new clause (d) is important as the seawalls are located within Wellington City Council owned land. Without this clause, if Wellington City Council has undertaken any earthworks within its surrounding coastal landholdings which collectively exceed 3000m<sup>2</sup>, resource consent would be required for otherwise reasonably minor and discrete earthworks associated with seawall maintenance. Administratively, it would also be difficult to maintain oversight of when the Council has reached the 3000m<sup>2</sup> threshold.</li> <li>Notwithstanding the above, I have reviewed the evidence of Ms Heppelthwaite and prefer her drafting of clause (d) as it provides for progressive closure and stabilisation of earthworks as an appropriate management response. Her drafting is as follows: <ul style="list-style-type: none"> <li><i>“... for network utility, a 3000m<sup>2</sup> threshold applies to the individual area of work being undertaken at any one time at a particular location such that, progressive closure and stabilisation of works could be adopted to maintain the activity within the threshold;...”</i></li> </ul> </li> </ul>

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<p><b>Rule WH.R23A Minor Earthworks associated with infrastructure</b></p> <p>Earthworks associated with infrastructure 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:</p> <p>....</p> <p>(c) repair or maintenance of existing roads and tracks (including associated seawalls), and airfield runways, taxiways, and parking aprons for aircraft; is a permitted activity provided the following conditions are met:</p> <p>(a) the earthworks shall not occur within 5m of a surface water body or the coastal marine area, and</p> <p>(b) 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</p> <p>(c) the area of earthworks must be stabilised within six months after completion of the earthworks, and</p> <p>(d) there is no uncontrolled 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 the extent practicable 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,</p> <p>(f) the discharge is in accordance with an existing stormwater discharge permit.</p>	<p><b>Rule WH.R23A Minor earthworks associated with infrastructure</b></p> <p>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:</p> <p>....</p> <p>(c) repair or maintenance of existing roads and tracks, and airfield runways, taxiways, and parking aprons for aircraft; or</p> <p>... is a permitted activity provided the following conditions are met:</p> <p>(a) the earthworks shall not occur within 5m of a surface water body or the coastal marine area, and</p> <p>(b) 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</p> <p>(c) the area of earthworks must be stabilised within six months after completion of the earthworks, and</p> <p>(d) there is no uncontrolled 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 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.</p>	<ul style="list-style-type: none"> <li>I support the inclusion of new infrastructure specific rule and acknowledge Ms Vivian’s effort to address the issues arising from the use of the NZ Planning Standard definition for earthworks and the unintended consequences for submitters like WIAL, who regularly undertake earthworks associated with maintenance and repair of existing assets and infrastructure.</li> <li>Based on her rebuttal evidence, the only outstanding point of difference relates to reasonably discrete and minor matters including the rule heading and reference to maintenance of the seawall.</li> <li>In my view, use of the work “minor” within the rule heading creates a disconnect between the “title” and the chapeau itself. Reference to minor is also subjective – pavement replacement works are for example, minor in their effect but not necessarily minor in their scale.</li> <li>With respect to the inclusion of the seawall within Rule WH.R23A, I am fairly agnostic as to where any ability to maintain the seawall sits within the rules, noting that Rule WH.R23 and 23A are almost identical.</li> <li>With respect to clause (d), I support the trajectory of Ms Vivian’s amendments, however the “to the extent practicable” qualification is still necessary given the wave and wind environment surrounding Wellington International Airport’s seawalls. I acknowledge that my drafting could potentially “open the flood gates”, therefore would be happy to consider some additional wording specific to the Wellington Airport seawalls that seek to appropriately refine this. I note that this change will need to be made to Rule WH.R23 above is that is where seawall maintenance is ultimately captured.</li> <li>I understand, based on GWRC’s opening, that Ms Vivian is going to reconsider the chapeau of some of the policies that this rule seeks to give effect to. I note that the moment there is a disconnect between the policy and rule chapeau. Careful consideration of the chapeau of both the policies and rules is necessary in my view to ensure consistent use of terminology and that the rules are seeking to achieve the policy directive.</li> </ul>
<p><b>Rule WH.R24: Earthworks – restricted discretionary activity</b></p> <p>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 WH.R23 or Rule WH.R23A is a restricted discretionary activity, provided the following conditions are met: .....</p> <p>(a) the water quality concentration of total suspended solids in the discharge from the earthworks shall not exceed 170 Nephelometric Turbidity Units</p>	<p><b>Rule WH.R24: Earthworks – restricted discretionary activity</b></p> <p>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-R22 Rule WH.R23 or WH.R23A is a restricted discretionary activity, provided the following conditions are met: .....</p> <p>(a) the water quality concentration of total suspended solids in the discharge from the earthworks shall not exceed 170 Nephelometric Turbidity Units</p>	<ul style="list-style-type: none"> <li>Similar to the issues raised above, the key point of difference between Ms Vivian and I relates to whether RSI should be given its own consenting pathway, and the drafting of the “winter works” provisions.</li> <li>As previously noted, Ms Vivian is generally of the view that that earthworks associated with RSI pose no lesser risk to the environment than other projects of similar scale and complexity and therefore should be subject to the same policy/rule framework. Accordingly, she does not support my recommended amendments.</li> <li>While I agree that the effects of earthworks undertaken by RSI are no different, RSI has specific policy recognition within the NRP that sets it apart</li> </ul>

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<p>(NTU) 100g/m3 except that, where the discharge is to freshwater, if at the time of the discharge the concentration of total suspended solid the water quality in the receiving water at or about the point of discharge exceeds 100g/m3 170 Nephelometric Turbidity Units (NTU), the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:</p> <p>(i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1(rivers/lakes), or</p> <p>(ii) 30% in any other river, and</p> <p>(b) 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.; or</p> <p>(c) The earthworks and associated discharges into coastal water, or onto land where it may enter coastal water, are associated with the construction, operation, maintenance or upgrading of Regionally Significant Infrastructure.</p> <p><i>Matters for Discretion:</i></p> <ol style="list-style-type: none"> <li>The location, area, scale, volume, duration and staging and timing of works</li> <li>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</li> <li>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</li> <li><del>The proportion of unstabilised land in the catchment</del></li> <li>The adequacy and efficiency of stabilisation devices for sediment control</li> <li>Any adverse effects on: <ol style="list-style-type: none"> <li>groundwater, surface water bodies and their margins, particularly surface water bodies within sites identified in Schedule A (outstanding water bodies), Schedule B (Ngā Taonga Nui a Kiwa), Schedule C (mana whenua), Schedule F (ecosystems and habitats with indigenous biodiversity), Schedule H (contact recreation and</li> </ol> </li> </ol>	<p>(NTU) 100g/m3 except that, where the discharge is to freshwater, if at the time of the discharge the concentration of total suspended solid the water quality in the receiving water at or about the point of discharge exceeds 100g/m3 170 Nephelometric Turbidity Units (NTU), the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:</p> <p>(i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1(rivers/lakes), or</p> <p>(ii) 30% in any other river, and</p> <p>(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.</p> <p><i>Matters for Discretion:</i></p> <ol style="list-style-type: none"> <li>The location, area, scale, volume, duration and staging and timing of works</li> <li>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</li> <li>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</li> <li><del>The proportion of unstabilised land in the catchment</del></li> <li>The adequacy and efficiency of stabilisation devices for sediment control</li> <li>Any adverse effects on: <ol style="list-style-type: none"> <li>groundwater, surface water bodies and their margins, particularly surface water bodies within sites identified in Schedule A (outstanding water bodies), Schedule B (Ngā Taonga Nui a Kiwa), Schedule C (mana whenua), Schedule F (ecosystems and habitats with indigenous biodiversity), Schedule H (contact recreation and Māori customary use) or Schedule I (important trout fishery rivers and spawning waters)</li> <li>group drinking water supplies and community drinking water supplies</li> <li>mauri, water quality (including water quality in the coastal marine area), aquatic and marine ecosystem health, aquatic and riparian habitat quality, indigenous biodiversity values, mahinga kai and critical life cycle periods for indigenous aquatic species</li> </ol> </li> </ol>	<p>from other forms of development. It is also for this reason that I consider my recommended matter of discretion 10 is necessary.</p> <ul style="list-style-type: none"> <li>My earlier comments regarding winter earthworks also apply to this rule – that is there are practical difficulties with restricting winter earthworks, and WIAL heavily controls earthworks irrespective of the season due to the risks such activities pose to the safe and efficient operation of the Airport. I understand that WIAL’s management response applies year round, which is not only protects the Airport’s operations, but also reflects that heavy rainfall events can occur year round.</li> <li>I also note that Ms Vivian has acknowledged the difficulties with using NTU and TSS as a measure within the coastal waters, however this is not reflected in the rule. In the absence of an appropriate standard for coastal waters, I maintain that my clause (c) is necessary.</li> <li>With respect to the matters of discretion, these are fairly prescriptive and address, in a fulsome way, the types of effects that need to be managed for larger scale earthworks. In my view, these matters are comprehensive and provide plenty of opportunity for a decision maker to decline consent and impose conditions. Given the need to recognise and provide for the ongoing operation of RSI, I do not know what additional matters Ms Vivian considers are necessary to manage through a discretionary activity status that are not already reasonably captured by the matters of discretion listed.</li> </ul>

Amendments recommended in my EIC (to section 42A report)	Further amendments recommended by Ms Vivian via rebuttal evidence	Comments
<p>Māori customary use) or Schedule I (important trout fishery rivers and spawning waters)</p> <p>(ii) group drinking water supplies and community drinking water supplies</p> <p>(iii) mauri, water quality (including water quality in the coastal marine area), aquatic and marine ecosystem health, aquatic and riparian habitat quality, indigenous biodiversity values, mahinga kai and critical life cycle periods for indigenous aquatic species</p> <p>(v) the natural character of lakes, rivers, natural wetlands and their margins and the coastal environment</p> <p>(vi) natural hazards, land stability, soil erosion, sedimentation and flood hazard management including the use of natural buffers</p> <p>7. Duration of consent</p> <p>8. <del>Any specific management measures to be applied during the period Preparation required for the close-down period (from 1st June to 30th September each year) and any maintenance activities required during this period</del></p> <p>9. Monitoring and reporting requirements.</p> <p>10. <del>In the case of earthworks associated with the construction, operation, maintenance and upgrading of Regionally Significant Infrastructure, consideration of the logistical and timing constraints associated with the scale and complexity of the works and the overall benefits of enabling the works.</del></p>	<p>(vii) the natural character of lakes, rivers, natural wetlands and their margins and the coastal environment</p> <p>(viii) natural hazards, land stability, soil erosion, sedimentation and flood hazard management including the use of natural buffers</p> <p>7. Duration of consent</p> <p>8. Preparation required for the close-down period (from 1st June to 30th September each year) and any maintenance activities required during this period, <a href="#">except where the earthworks are associated with quarrying activities.</a></p> <p>9. Monitoring and reporting requirements.</p>	
<p><b>Rule WH.R25</b></p> <p>Earthworks, and the associated discharge of sediment 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.R23 is a <del>non-complying activity</del> discretionary activity.</p>	<p><b>Rule WH.R25</b></p> <p>Earthworks, and the associated discharge of sediment 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 <a href="#">Rule WH.R23, WHR23A, Rule P.R22, P22A, WH.R24 or R.R23</a> is a <del>non-complying activity</del> discretionary activity.</p>	<ul style="list-style-type: none"> <li>I support this amendment.</li> </ul>
<p><del><b>Rule WH.P31</b></del></p> <p><del>Earthworks over 3000m2 in area shall:</del></p> <p><del>(a) Be shutdown from 1 June to 30th September each year, and</del></p> <p><del>(b) Prior to shutdown, be stabilised against erosion and have sediment controls in place using good management practices in accordance with the GWRC Erosion Sediment Control Guideline for the Wellington Region.</del></p>		<ul style="list-style-type: none"> <li>I support this amendment.</li> </ul>