

# APPENDIX 1: Further Recommended Amendments to Earthworks provisions

## Earthworks definition:

For **Whaitua** Te Whanganui-a-Tara and Te Awarua-o-Porirua **Whaitua** only: The alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, **cultivation**, and disturbance of land for the installation of fence posts. Except that, for the purposes of Rules WH.R20, ~~WH.R21~~ and P.R19, ~~P.R20~~, forestry-related 'earthworks' has the same meaning as given in [Regulation section 3](#) of the *Resource Management (National Environmental Standards for ~~Plantation Forestry Commercial Forestry~~) Regulations 202317*.

For all other whaitua:

The disturbance of a land surface from the time soil is first disturbed on a site until the time the site is **stabilised**. **Earthworks** includes blading, contouring, ripping, moving, removing, placing or replacing soil or earth, by excavation, or by cutting or filling operations, or by root raking. **Earthworks** do not include:

- (a) **cultivation** of the soil for the establishment of crops or pasture, and
- (b) the harvesting of crops, and
- (c) thrusting, boring, trenching or mole ploughing associated with cable or pipe laying and maintenance, and
- (d) the construction, repair, **upgrade** or maintenance of:
  - (i) pipelines, and
  - (ii) electricity lines and their support structures, including the **National Grid**, and
  - (iii) telecommunication structures or lines, and
  - (iv) radio communication structures, and
  - (v) firebreaks or fence lines, and
  - (vi) a **bore** or geotechnical investigation **bore**, and
- (e) repair or maintenance of existing roads and tracks, and airfield runways, taxiways, and parking aprons for aircraft, and
- (f) maintenance of orchards and shelterbelts, and
- (g) domestic gardening, and
- (h) repair, sealing or resealing of a road, footpath, driveway, and
- (i) discharge of **cleanfill material** to a cleanfill area

## Policies WH.P29 and P.P27: Management of earthworks sites

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

- (a) **requiring maximising** the 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, **to 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 1<sup>st</sup> June to 30<sup>th</sup> September each year).**

## Policy WH.P30: Discharge Standard for earthworks sites

**The discharge of sediment from earthworks over an area greater than 3,000m<sup>2</sup> shall:**

**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**

- (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, **or an artificial watercourse (including via a stormwater network) or to an artificial watercourse**, except that when the discharge is to:
  - (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:**
    - (1) **20% in River class 1** and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or
    - (2) **30% in any other river, and**
  - (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.**
- (b) **be managed using good management practices** in accordance with the *GWRC Erosion and Sediment Control Guidelines for the Wellington Region (2021)*, to achieve the discharge standard in (a), and
- (c) **be monitored by a suitably qualified or trained person, and the results reported to the Wellington Regional Council**

## Policy P.P28: Discharge Standard for earthworks sites

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

~~The discharge of sediment from earthworks over an area greater than 3,000m<sup>2</sup> shall:~~

- (a) ~~not exceed a discharge standard of 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, or an artificial watercourse (including via a stormwater network) or to an artificial watercourse,~~ except that when the discharge is to:
- (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:~~
    - (1) ~~20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or~~
    - (2) ~~30% in any other river, and~~
  - (ii) ~~Coastal waters with background total suspended solids that exceed 100g/m<sup>3</sup>, the discharge shall not result in any conspicuous change in colour or visual clarity, after the zone of reasonable mixing.~~
- (b) ~~be managed using good management practices in accordance with the GWRC Erosion and Sediment Control Guidelines for the Wellington Region (2021), to achieve the discharge standard in (a), and~~
- (c) ~~be monitored by a suitably qualified or trained person, and the results reported to the Wellington Regional Council.~~

## 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 3,000m<sup>2</sup> 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 3000m<sup>2</sup> for work being undertaken at any particular location or work site in any consecutive 12-month period

### Rules WH.R23A 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
  - (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:

- (ea) the **earthworks** shall not occur within 5m of a **surface water body** or the coastal marine area, and
- (fb) 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
- (ge) the area of **earthworks** must be **stabilised** within six months after completion of the **earthworks**, and
- (d)(h) 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.

## **Rule WH.R24: Earthworks – Restricted Discretionary**

**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 ~~P-R22~~ [Rule WH.R23 or WH.R23A](#) 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 **170 Nephelometric Turbidity Units (NTU)** ~~100g/m<sup>3</sup>~~ 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/m<sup>3</sup>~~ **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:
- (i) 20% in **River class 1** and in any river identified as having high macroinvertebrate community health in Schedule F1(rivers/lakes), or
- (ii) 30% in any other river, and
- (b) ~~except for those associated with quarrying and the use, development, operation, maintenance of renewable energy production,~~ **earthworks** shall not occur between 1<sup>st</sup> June and 30<sup>th</sup> 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,~~

### *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~~
5. The adequacy and efficiency of stabilisation devices for sediment control
6. Any adverse effects on:
  - (i) 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)
  - (ii) **group drinking water supplies** and **community drinking water supplies**
  - (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
  - (iv) the **natural character** of lakes, rivers, **natural wetlands** and their margins and the coastal environment
  - (v) natural hazards, land stability, soil erosion, sedimentation and flood hazard management including the use of natural buffers
7. Duration of consent
8. Preparation required for the close-down period (from 1<sup>st</sup> June to 30<sup>th</sup> September each year) and any maintenance activities required during this period
9. Monitoring and reporting requirements

### **Rule P.R23: Earthworks – Restricted Discretionary**

**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 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 **170 Nephelometric Turbidity Units (NTU)** ~~100g/m<sup>3</sup>~~ 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/m<sup>3</sup>~~ **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:
- (i) 20% in **River class 1** and in any river identified as having high macroinvertebrate community health in Schedule F1(rivers/lakes), or
- (ii) 30% in any other river, and
- (b) except for those associated with quarrying and the use, development, operation, maintenance of renewable energy production, **earthworks** shall not occur between 1<sup>st</sup> June and 30<sup>th</sup> 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~~
5. The adequacy and efficiency of stabilisation devices for sediment control
6. Any adverse effects on:
  - (i) 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)
  - (ii) **group drinking water supplies** and **community drinking water supplies**
  - (vi) **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
  - (vii) the **natural character** of lakes, rivers, **natural wetlands** and their margins and the coastal environment
  - (viii) natural hazards, land stability, soil erosion, sedimentation and flood hazard management including the use of natural buffers
7. Duration of consent
8. Preparation required for the close-down period (from 1st June to 30<sup>th</sup> September each year) and any maintenance activities required during this period
9. Monitoring and reporting requirements

### **Rule WH.R25 and P.R24**

**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 WH.R23, WH.R23A, Rule R.P22, R.P22A, WH.R24, or P.R23](#) is a ~~non-complying activity~~ discretionary activity.