BEFORE THE INDEPENDENT HEARINGS PANELS APPOINTED TO HEAR AND MAKE RECOMMENDATIONS ON SUBMISSIONS AND FURTHER SUBMISSIONS ON PROPOSED PLAN CHANGE 1 TO THE NATURAL RESOURCES PLAN FOR THE WELLINGTON REGION

UNDER	the Resource Management Act 1991 (the Act)
AND	
IN THE MATTER	of Hearing of Submissions and Further Submissions on Proposed Plan Change 1 to the Natural Resources Plan for the Wellington Region under Schedule 1 of the Act

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STATEMENT OF REBUTTAL EVIDENCE OF ALISHA VIVIAN

ON BEHALF OF GREATER WELLINGTON REGIONAL COUNCIL

HEARING STREAM 3 – EARTHWORKS

16 MAY 2025

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INTRODUCTION

1 My full name is name is Alisha Catherine Vivian, and I am employed by the Council as Senior Resource Advisor in the Environmental Regulation team. I hold a Bachelor of Science (Geography and Environmental Management) from the University of Otago.

2 I have read the respective planning evidence and legal submissions of:

2.1 Wellington International Airport – Statement of Evidence from Jo Lester

2.2 Welington International Airport – Kirsty O'Sullivan

2.3 Horokiwi Quarries Limited – Pauline Whitney

2.4 Wellington Water Limited – Caroline Horrox

2.5 Transpower – Pauline Whitney

2.6 Rosco Ice Cream Limited– David Gibson

2.7 Wellington City Council – Marcella Freeman

2.8 Upper Hutt City Council – Gabriela Nes

2.9 Porirua City Council – Vanessa Rogers

2.10 NZTA Waka Kotahi – Catherine Heppelthwaite

2.11 Meridian Energy – Christine Foster

2.12 Forest & Bird – legal submissions

3 I have provided responses to the above statements, other than where issues are already addressed in my section 42A reports, where the author agrees with my recommendations, or where the issue is intended to be dealt with in a future hearing stream

QUALIFICATIONS AND EXPERIENCE

4 My qualifications and experience are set out in paragraph 1.3 of my section 42A report for this topic, dated 15 April 2025. I repeat the confirmation given in that report that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

RESPONSES TO EXPERT EVIDENCE

5 This section responds to submitter evidence in relation to the provisions in this topic. The recommended amendments to the Change 1 provisions in my section 42A report are shown in red underlined ~~marked out~~ below and further recommended amendments in this rebuttal evidence are shown in blue underlined ~~marked out~~. These amendments are shown below where applicable and in full in Appendix 1 of this evidence.

6 I note that several of the submitter statements and planning evidence filed for this hearing are supportive of specific amendments to PC1 which I outlined in my section 42A reports. I have not responded to these in my rebuttal statement. The tables below set out my responses to remaining planning issues that I have identified within the submitter evidence.

Table 1 Response to evidence from Wellington International Airport (Kirsty O'Sullivan)

Row number	Provision	Summary of evidence from Wellington International Airport	Response
1	WH.R23A and P.R22A	Ms O'Sullivan has sought for the chapeau of rules WH.R23A/P.R22A to refer to *"Earthworks associated with infrastructure"* in place of *"minor earthworks"*.	I am of the opinion that works associated with activities listed in this rule are minor in scale and nature and therefore "minor" is appropriate to be included in the rule title. I do not support the amendment sought.
2	WH.R23A and P.R22A	Ms O'Sullivan has sought changes to Condition a) to remove reference to the *coastal marine area* to only restrict earthworks within a 5m setback of (freshwater) surface waterbodies, in accordance with the operative NRP requirements.	I agree that there is no reason to enforce a 5m setback between earthworks and the coastal marine area. Any earthworks and disturbance within the coastal marine will be managed in accordance with the Coastal Management Rules in Chapter 5.7 of the NRP, as such these rules will not apply to works within the coastal marine area. I am of the opinion that clause (d) of these rules will ensure that discharges of sediment are minimised. I have recommended amendments to WH.R23A and P.R22A to reflect this.
3	WH.R23A and P.R22A	Ms O'Sullivan has sought amendments to Condition c) of rules WH.R23A/P.R22A to clarify that the maintenance provisions include works associated with the seawalls that support the existing roads and runways at the Airport.	The repair and maintenance of structures within the coastal marine area, including any associated disturbance of the foreshore or seabed are provided for by rules within the Coastal Management Chapter of the NRP, as such these rules will not apply to works within the coastal marine area. Any works associated with repair and maintenance outside of the coastal marine area should be subject to permitted activity earthworks rules P.R22/WH.R22. I am of the opinion that works associated with seawall maintenance unable to meet the requirements of these rules pose a higher risk to the environment and therefore should be subject to a resource consent process.

Row number	Provision	Summary of evidence from Wellington International Airport	Response
4	WH.R23A/P.R22A	Ms O'Sullivan also seeks changes to Condition d) of rules WH.R23A/P.R22A. As drafted it requires there to be no discharge of any sediment whatsoever, which is a practical impossibility.	Clause "D" was mistakenly included in the recommended amendments in my s42A report. This clause should have instead read *"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."* . I have made recommended amendments to rules WH.R23A/P.R22A to reflect this which I consider to be consistent with the position put forward by Ms O'Sullivan.
5	WH.R23A/P.R22A	Include a new condition f) of rules WH.R23A/P.R22A to account for situations where the discharges are in accordance with an existing stormwater discharge permit, avoiding inefficient and ineffective consent requirements for global consent holders.	The global resource consent for stormwater discharges provides for the discharge of stormwater , not treated sediment laden water from earthworks activities. In my opinion the addition of this clause would not provide any clarity for Consent Holders of a global consent. In the event that existing infrastructure associated with a global resource consent is used to ultimately discharge treated water from the site, the applicant should still be required to meet the other requirements of this rule. I do not support the amendment sought.
6	WH.R24 and P.R23	Ms O'Sullivan also raises concerns that there is no clear consenting pathway should the conditions of WH.R23A not be met, and suggests changes to have a RDA status apply through amendment to WH.R24.	I agree that the changes sought to WH.R24 and P.R23 will provide further clarity regarding the consenting pathway for those unable to undertake works in accordance with WH.R23A and P.R22A. I had made recommended amendments to rules WH.R24 and P.R23 accordingly.
7	Policy WH.P29 and P.P28	Ms O'Sullivan seeks for a number of amendments to be made to Policy WH.P29 and P.P28 as she considers	I am of the opinion that earthworks associated with RSI pose no lesser risk to the environment than other project of similar scale and complexity and therefore should be subject to the

Row number	Provision	Summary of evidence from Wellington International Airport	Response
		that the policies do not recognise the scale and complexity of RSI Projects.	same policy/rule framework. I do not support the amendment sought.
8	WH.P29 and P.P27	Ms O'Sullivan seeks for amendments to clause (a) of policies WH.P29 and P.P27 to read "*Maximising the retention of disturbed soil"* as opposed to "*The retention uncontrolled soil"*.	I am of the opinion that this amendment would provide more clarity for plan users, particularly the reference to '"disturbed soil" and opposed to "Uncontrolled soil". I have recommended changes to reflect this.
9	WH.P29 and P.P27	Ms O'Sullivan seeks for amendments to clause (b) of policies WH.P29 and P.P27 to limit the amount of land disturbed at any time "*to the extent practicable*"	I am of the opinion that the inclusion of "where practicable" acknowledges that in some instances, particularly when dealing with infrastructure, limiting the extent of land disturbance is not always practicable. I have recommended changes to WH.P29 and P.P27 to reflect this.
10	WH.P29 and P.P27	Ms O'Sullivan seeks amendments to (d) in policies WH.P29 and P.P29 to refer to "all necessary" erosion and sediment control measures.	I am of the opinion that unnecessary control measures are unlikely to be imposed on earthworks sites and therefore disagree with this statement.
11	WH.P29 and P.P27	Ms O'Sullivan considers the concept of "minimising" works during the winter, as per clause e) of policies WH.P29 and P.P29 is unqualified and one interpretation of the policy is that the works could be said to be minimised by not undertaking them, or imposing very restrictive constraints on works	I am of the opinion that the wording of clause (d) in policies WH.P29 and P.P29 as recommended in my section 42A report is satisfactory. The policy directs works during this period to be minimised and the associated rule framework provides a clear pathway for large infrastructure projects to undertake works associated with infrastructure as a permitted activity, subject to specific requirements. "Large construction projects" as referred in Ms O'Sullivan's should be subject to the same rule framework as other earthworks

Row number	Provision	Summary of evidence from Wellington International Airport	Response
		during that period that fail to recognise that large construction projects cannot be stopped and started in the same way that digging a farm drain, or excavating a building pad can be.	activities unable to meet the permitted requirements and plan their work programme accordingly to minimise earthworks during this period. . I do not support the amendment sought.
12	WH.R24 and P.R23	Ms O'Sullivan also seeks for an amendment to Matter of discretion (8) in rules WH.R24 and P.R23.	I do not agree with the amendment sought. While earthworks within part FMU's where TAS are being met are not excluded from being undertaken between 1st June to 30th September under this rule, this does not mean they will continue to operate over the close-down period. Activities of this nature will still be subject to the existing Winter works process operating under the Natural Resource Plan and be subject to winter works conditions which require sites to be stabilised over the close-down period, unless a site-specific winter works ESCP has been certified. The existing matter of discretion being "Preparation required for the close down period (from 1st June to 30th September each year) is therefore appropriate.
13	WH.R24 and P.R23	Ms O'Sullivan seeks for a new clause to be inserted into Rules WH.R24 and P.R23 as follows: "in the case of earthworks associated with the construction, operation, maintenance and upgrading of Regionally Significant Infrastructure, recognising the logistical and timing constraints	I am of the opinion 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. . I do not support the amendment sought.

Row number	Provision	Summary of evidence from Wellington International Airport	Response
		associated with their scale and complexity".	
14	WH.R24 and P.R23	Ms O'Sullivan seeks changes to the Permitted activity earthworks rules to provide an exclusion for works undertaken in accordance with WH.R23A from contributing to the total cumulative area permitted under rule WH.R23.	I agree that works undertaken in accordance with WH.R23A and P.R22A should not form part of the cumulative total area of earthworks able to be undertaken as a permitted activity. I have recommended changes in WH.R23 and P.R22 to reflect this.
15	WH.R24 and P.R23	Ms O'Sullivan seeks for reference to the CMA to be removed from Clause (d) of rules WH.R24 and P.R23.	Clause "D" was mistakenly included in the recommended amendments in my s42A report. This Clause should have instead read *"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."*. I have made recommended amendments to rules WH.R23A and P.R22A to reflect this. I am of the opinion that the inclusion of reference to the coastal marine area is appropriate here in the amended version of this clause.
16	Policy P.P28 and WH.P30	Ms O'Sullivan seeks for the reference to coastal water to be removed from policy P.R28 and WH.P30.	I disagree with this. A significant number of piped streams within the Wellington Region discharge directly to coastal waters and, therefore having a discharge standard relevant to coastal waters is required. However, I acknowledge that turbidity is not an appropriate measure to be used in coastal waters. I have therefore recommended changes to the discharge standard and policies to reflect the coastal environment.

Row number	Provision	Summary of evidence from Wellington International Airport	Response
			I have recommended changes to Policy P.P28 and WH.P30 which acknowledge the nature of coastal waters, compared to rivers.
17	Policy P.P28 and WH.P30	Ms O'Sullivan has sought for the discharge standard in Policy P.P28 and WH.P30 to not apply to discharges resulting from works associated with the construction, operation, maintenance or upgrading of Regionally Significant infrastructure.	I disagree with this and believe that works of this nature are no different than other works similar in scale and therefore should be subject to the same discharge standard. Discharges to coastal waters which have high sediment concentrations can contribute to decreases in visual clarity.
18	Rules WH.R24 and P.R23	Ms O'Sullivan has sought a number of amendments to the restricted discretionary earthworks rule, including the exclusion of works associated with the construction, operation, maintenance or upgrading of Regionally Significant infrastructure from the winter close down period.	I am of the opinion that Rules WH.R23A and P.R22A provide for a number of works associated with the construction, operation, maintenance or upgrading of Regionally Significant infrastructure the flexibility to operate during the winter close down period when required, while planning their work programme for major works outside of this period and do not agree with the amendment sought by Ms O'Sullivan for this reason.
19	Rules WH.R24 and P.R23	Ms O'Sullivan has requested an additional clause is inserted into rules WH.R24 and P.R23 reading "In the case of earthworks associated with the construction, operation, maintenance and upgrading of Regionally Significant Infrastructure, consideration of the	I do not agree with this amendment and do not consider it is appropriate to be included as a matter of discretion.

Row number	Provision	Summary of evidence from Wellington International Airport	Response
		logistical and timing constraints associated with the scale and complexity of the works and the overall benefits of enabling the works".	

Table 2 Horokiwi Quarries Limited – Pauline Whitney

Row number	Provision	Summary of evidence from	Response
1	Policy WH.P29	Ms Whitney does not support the recommended new clause (e) in Policy WH.29 which refers to 'close down period' as that terminology is carried over from the notified provisions and infers an automatic shutdown period which is not appropriate in context of the officer S42A recommended rule and policy framework.	Activities of this nature will still be subject to the existing Winter works process operating under the Natural Resource Plan and be subject to winter works conditions which require sites to be stabilised over the close-down period, unless a site-specific winter works ESCP has been certified. I therefore consider the existing wording to be appropriate.
2	Policy WH.P30 and P.P28	Ms Whitney remains of the opinion that policy WH.P30 / P.P28 is worded as a standard which is not appropriate within a policy.	I agree with Ms Whitney that policies WH.P30 / P.P28 have been worded in a manner which is similar to that of a rule. I have recommended changes to language used in the policies to ensure it provides direction, as opposed to a standard to be assessed against.

Row number	Provision	Summary of evidence from	Response
	Policy WH.P30 and P.P28	Ms Whitney has also sought an amendment to clause (c) of Policy WH.P30 and P.P28 to reference a "suitably qualified or trained person" in place of a "suitably quailed person as currently worded.	I am of the opinion that the addition of the word "trained" would provide the same level of assurance as the term qualified. I have recommended amendments to Policy WH.P30 and P.P28 to reflect this.
	WH.R24 and P.R23	Ms Whitney has requested the wording "except for quarrying activities" is added into clause (b) of Rule WH.R24 to allow Quarry Operators to apply for resource consent as a restricted discretionary activity, with the possibility of operating over the close down period in all part FMU's.	I agree with the amendment sought. It would be impracticable for quarrying activities to be closed down for a significant portion of the year and is generally accepted that these operations continue year round, with appropriate erosion sediment control measures in place.

Table 3 Wellington Water Limited – Caroline Horrox

Row number	Provision	Summary of evidence from	Response
1	Earthworks definition	Ms Horrox considers that there are policy requirements to recognise and enable Regionally Significant Infrastructure through regional plan provisions and as such further modifications are required to the PC1 earthworks provisions to ensure policy imperatives relating to	I am of the opinion that the earthworks provisions enable earthworks associated with regionally significant infrastructure while ensuring appropriate measures are in place to protect the environment from adverse effects associated with earthworks. The recommended new rule (WH.R23A and P.R22A) provide for and enable earthworks associated with a variety of

Row number	Provision	Summary of evidence from	Response
		recognising and enabling regionally significant infrastructure are adequately given effect to.	infrastructure to be undertaken as permitted activity provided a number of requirements are met. I do not consider further amendments are required in response to this submission point.
2	WH.R23A and P.R22A	Ms Horrox considers that Clause (a) of Rules WH.23A and P.R22A requires no earthworks to occur within 5m of waterbodies. Ms Horrox states that meeting this requirement presents several challenges for linear infrastructure and states that the condition necessitates a thorough evaluation of the proximity of works on linear infrastructure to waterways for any planned maintenance or upgrades. Conducting such assessments would require significant time and resources.	I am of the opinion that 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, and it is my understanding that over the past 12 months, WWL has only sought 1 consent for works within 5m to surface water body. I therefore disagree with Ms Horrox's statement regarding the significant time and resourcing required to comply with this condition.
3	WH.R23A and P.R22A	Ms Horrox raises concerns regarding Clause (d) of rule WH.R23A and P.R22A requiring no discharges.	As set out above in response to Ms O'Sullivan's evidence, clause "D" was mistakenly included in the recommended amendments in my s42A report. This clause should have instead read *"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*

Row number	Provision	Summary of evidence from	Response
			network.”. I have made recommended amendments to rules WH.R23A/P.R22A to reflect this.
4	WH.R23 and P.R22	Ms Horrox seeks changes to clause (c) in rules WH.R23 and P.R22 to ensure that RSI related earthworks on the same property that are spatially or temporally distinct do not combine to materially impact on the overall effect, do not trigger the need for consent. Suggested amendments to the permitted activity rule to provide for works being undertaken at separate locations within one property in any consecutive 12-month period.	I agree that the 3,000m2 limit per property can be problematic for linear infrastructure and infrastructure contained within one property over a significantly large area. I have recommended an additional clause (d) is added to rules WH.R23 and P.R22 to specify that 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.

Table 4 Transpower – Pauline Whitney

Row number	Provision	Summary of evidence from	Response
1	WH.P29 and P.P27	Ms Whitney considers new clause (e) in WH.P29 and P.P27 should not refer to ‘close down period’ as that terminology is carried over from the notified provisions and infers an automatic close down period which is not appropriate in context of the	Activities of this nature will still be subject to the existing Winter works process operating under the Natural Resource Plan and be subject to winter works conditions which require sites to be stabilised over the close-down period, unless a site-specific winter works ESCP has been certified. I therefore consider the existing wording appropriate.

Row number	Provision	Summary of evidence from	Response
		officer recommended rule and policy framework.	
2	Rule WH.23A and P.22A	Ms Whitney raises the issue of the conjunctive 'and' from the clauses within Rules WH.P23A and P.R22A as the listed activities should not be conjunctive.	This is an error as the clauses are not intended to be conjunctive. I agree with this suggested amendment and have recommended changes to rules Rule WH.23A and P.22A to reflect this.
3	Rule WH.23A and P.22A	Ms Whitney seeks deletion of the word 'Minor' from the rule title of Rule WH.R23A and P.R22A as that is not reflected in the rule itself.	As set out above, I am of the opinion that soil disturbance associated with activities listed in this rule are minor in scale and nature and therefore it is appropriate for the word minor to be included in the rule title. I do not support this amendment.
4	Rule WH.23A and P.22A	Ms Whitney seeks amendment to the 5m setback requirement within condition (a) of Rule WH.R23A and P.R22A, to allow for earthworks associated with existing National Grid assets, subject to additional conditions.	For the reasons discussed in table 3 Row 2, I disagree with this statement and amendments sought to condition (a). I am of the opinion that 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.
5	Rule WH.23A and P.22A	Ms Whitney seeks clarification as to the default activity status should the conditions of Rule WH.R23A and P.R22A not be complied with. Ms Whitney considers that clause (b) of WH.R24 and P.R23 should not apply	As set out above, I have recommended changes to WH.R24 and P.R23 and WH.R25 and P.R24 to provide further clarity regarding the consenting pathway for those unable to undertake works in accordance with WH.R23A and P.R22A. I also accept that works associated with the use, development, operation, maintenance and upgrade of

Row number	Provision	Summary of evidence from	Response
		to works associated with the National Grid, given the necessity for works and strong policy directive.	renewable energy generation maybe unavoidable during this period and have made changes to WH.R24 and P.R23 to reflect this.

Table 5 Rosco Ice Cream Limited – Dave Gibson

Row number	Provision	Summary of evidence from	Response
1	WH.R23A and P.R22A	The evidence of Mr Gibson raises the issue of the conjunctive 'and' from the clauses of Rules WH.R23A and P.R22A as the listed activities should not be conjunctive.	This is an error as the clauses are not intended to be conjunctive. I agree with this suggested amendment and have recommended changes to the earthworks definition to reflect this.
2	WH.R23 and P.R22	Mr Gibson seeks an amendment to (v) within rules WH.R23 and P.R22 as follows: *(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,*	I disagree with the further relief sought. The existing wording is clear that the discharge of sediment shall be prevented in the first instance.

Table 6 Wellington City Council – Marcella Freeman

Row number	Provision	Summary of evidence from	Response
1	WH.R23A and P.R22A	Ms Freeman supports the intent of the new rule WH.R23A and P.R22A, but seeks the deletion of (d) to be consistent with the removal of the equivalent clause from Rule WH.R23.	As set out above, clause "D" was mistakenly included in the recommended amendments in my s42A report. This Clause should have instead read *"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 have recommended amendments to WH.R23A and P.R22A to reflect this.
	WH.R23, WH.R23A, P.R22 and P.R22A	Ms Freeman notes that the Wellington City Council's 2024 Proposed District Plan rules for earthworks do not apply to activities involving less than 250m^2 of earthworks (ie, they apply to earthworks over 250m^2). Ms Freeman considers this approach results in the doubling up of resource consent requirements for the scale of earthworks, that is typically managed at a territorial authority level. Considers that duplication with the Wellington City 2024 District Plan creates inefficiencies, particularly through duplicated consent applications, overlapping consenting conditions, and increased costs for applicants and the public. This conflicts with	I disagree with the amendments sought and consider it appropriate for PC1 to apply to earthworks at any scale. Works less than 250m^2 in area should still have erosion sediment controls in place to prevent a discharge of sediment where a preferential flow path connects with a surface water body or coastal marine area. There is no evidence to suggest works of that scale pose significantly less risk to the environment. I do not see a risk of duplication of consent applications, given the scope of what is proposed as a permitted activity by PC1 if the appropriate measures are in place, and at such a small scale the implementation of those measures should not be costly, or complicated.

Row number	Provision	Summary of evidence from	Response
		the general efficiency principles set out in section 18A of the RMA.	

Table 7 Upper Hutt City Council – Gabriela Nes

Row number	Provision	Summary of evidence from	Response
1	WH.R23A and P.R22A	Ms Nes considers that the term 'minor' in rules WH.R213A and P.R22A is concerning, given there is no exclusion for earthworks associated with infrastructure in WH.R23 and P.R24	As set out above, I am of the opinion that works associated with activities listed in this rule are minor in scale and nature and therefore it is appropriate for "minor" to be included in the rule title. The amendment to the chateau of rules WH.R24 and P.R23 illustrates a clear consenting pathway for instances where WH.R23A and P.R22A are not met ,providing clarity to plan users. Earthworks associated with Infrastructure not listed in the rule, are subject to permitted activity rules WH.R23 and P.R22.
	WH.R23A and P.R22A	Ms Nes seeks the deletion of clause (d) within rules WH.R23A and P.22A to be consistent with the removal of the equivalent clause from Rule WH.R23.	As set out above, clause "D" was mistakenly included in the recommended amendments in my s42A report. This Clause should have instead read *"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 have made recommended amendments to WH.R23A and P.R22A to reflect this.

Table 8 Porirua City Council – Vanessa Rogers

Row number	Provision	Summary of evidence from	Response
1	Earthworks definition	Considers the definition should refer to the primary Regulations for forestry, ie those dated 2017, not the Amendment Regulations of 2023 which amended the primary regulations. Also notes that the reference to the definitions should refer to those contained in 'Regulation 3' rather than 'section 3	I disagree with Ms Rogers in regard to the year referenced in the NES-CF regulations referred to in the Earthworks definition. I agree that the word "Section" should be replaced by the correct terminology "Regulation". I support this change sought by Ms Rogers and have recommended changes to the Earthworks Definition to reflect this.
	Policy P.P27 and WH.P29	Ms Rogers considers that the term 'closedown period' in Policy P.P27 and WH.P29 is unclear, unnecessary and potentially conflicts with the policy wording of 'minimise'.	Activities of this nature will still be subject to the existing Winter works process operating under the Natural Resource Plan and be subject to winter works conditions which require sites to be stabilised over the close-down period, unless a site-specific winter works ESCP has been certified. I therefore consider the existing wording appropriate.
	WH.R23A and P.R22A	Ms Rogers seeks the deletion of clause (d) from Rules WH.R23A and P.R22A to be consistent with the removal of the equivalent clause from Rule WH.R23.	As set out above, clause "D" was mistakenly included in the recommended amendments in my s42A report. This Clause should have instead read *"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 have recommended amendments to WH.R23A and P.R22A to reflect this.
	P.P28 and WH.P30	Ms Rogers considers that the policy P.P28 and WH.P30 should be amended to apply to discharges to all artificial water courses	I agree with the changes sought by Ms Rogers and have recommended changes to P.P28 and WH.P30 to reflect this.

Row number	Provision	Summary of evidence from	Response
		"Including via a stormwater network".	
	WH.R23A and P.R22A	Ms Rogers considers that "repair, sealing or resealing of a road, footpath and driveway" should have been included in the list minor infrastructure activities within rules WH.R23A and P.R22A able to be undertaken as permitted activities in accordance with this rule and these activities were previously excluded from earthworks consent requirements under the NRP.	I am of the opinion that the insertion of "repair, sealing or resealing of a road, footpath and driveway" should be included in the activities listed under this rule. The activity is largely linear in nature and limited disturbance to sediment is required for the activities to be carried out. I have recommended changes to WH.R23A and P.R22A to reflect this.
	WH.R23A and P.R22A	Ms Rogers considers that that earthworks associated with coastal restoration, conservation, and management activities (where undertaken by a local authority or their nominated contractor) should be permitted activities under Rule P.R22A	I am of the opinion that the works associated with "coastal restoration, conservation, and management activities" can vary greatly in scale and complexity, and the potential adverse effects are not widely understood. I disagree that these should be included in the list of activities in WH.R23A and P.R22A. I do not accept the amendment sought

Table 9 NZTA Waka Kotahi – Catherine Heppelthwaite

Row number	Provision	Summary of evidence from	Response
1	WH.R23A and P.R22A	Ms Heppelthwaite seeks the deletion of clause (d) from rules	As set out above, clause "D" was mistakenly included in the recommended amendments in my s42A report. This Clause

Row number	Provision	Summary of evidence from	Response
		WH.R23A and R.R22A to be consistent with the removal of the equivalent clause from Rule WH.R23.	should have instead read *"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 have recommended amendments to WH.R23A and P.R22A to reflect this.
	WH.R23A and P.R22A	Ms Heppelthwaite seeks the inclusion of "bores or geotechnical bores" in the list minor infrastructure activities in rules WH.R23A and P.R22A able to be undertaken as permitted activities in accordance with this rule and these activities were previously excluded from earthworks under the NRP.	In my opinion the construction of bores and or geotechnical bores should be undertaken in manner in which the permitted activity requirement of WH.R23 and P.R22 are met, therefore there it is unnecessary to include these activities within WH.R23A and P.R22A as they are already captured by a permitted activity rule.
	WH.P29 and P.P27	Ms Heppelthwaite seeks the insertion of wording "where practicable" into clause (*b)* of policy WH.R29 and R.R27 *limiting, "where practicable," the amount of land disturbed at any time, and*.	I am of the opinion that the inclusion of "where practicable" acknowledges that in some instances, particularly when dealing with infrastructure, limiting the extent of land disturbance is not always practicable. I have recommended changes to policies WH.P29 and P.P27 to reflect this.
	WH.R23 and P.R22	Ms Heppelthwaite raises the issue of "For NZTA (and likely other lineal networks / road controlling authorities) the manner in which 'title' for roads are held means that	I agree that the 3,000m2 limit per property can be problematic for linear infrastructure and infrastructure contained within one property over a significantly large area. I have recommended an additional clause (d) is added to rules WH.R23 and P.R22 to specify that *for network utility*

Row number	Provision	Summary of evidence from	Response
		they fall within the definition of a single 'property'. This effectively means that the 3,000m2 permitted activity trigger in rules WH.R23 and P.R22 is applied across the entire state highway network as a single property.	*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*
	WH.R24: Earthworks and P.R23:	Ms Heppelthwaite questions what extra 'benefits' (eg additional matters for consideration, ability to decline, consent conditions) a discretionary activity process provides GRWC relative to a restricted discretionary activity status where the requirements of these rules cannot be met.	In my opinion the default catch-all rule is appropriate to capture activities unable to meet the requirements of the restricted discretionary rule and therefore a different activity status is appropriate

Table 10 Meridian Energy – Christine Foster

Row number	Provision	Summary of evidence from	Response
1	WH.R23A and P.R22A	Ms Foster seeks the inclusion of "bores or geotechnical bores" in the list minor infrastructure activities able to be undertaken as a permitted activity in accordance with rule WH.R23A and P.R22A and these activities were previously	As set out above, in my opinion the construction of bores and or geotechnical bores can should be undertaken in manner in which the permitted activity requirement of WH.R23 and P.R22 are met, therefore there it is unnecessary to include these activities within WH.R23A and P.R22A as they are already captured by a permitted activity rule.

Row number	Provision	Summary of evidence from	Response
		excluded from earthworks consent requirements under the NRP.	
2		Ms Foster raises concern regarding clause (b) (close-down period) in rules WH.R23A and P.R22A and the effect this may have on the use, development, operation, maintenance and upgrade of renewable energy generation.	I have suggested wording is added to clause (b) of these rules to provide for works associated with quarrying and the use, development, operation, maintenance of renewable energy production, recognising that earthworks associated with these activities is often unavoidable during the close down period.
	WH.R23A and P.R22A	Ms Foster seeks the deletion of (d) from rules WH.R23A and P.R22A to be consistent with the removal of the equivalent clause from Rule WH.R23.	As set out above, clause "D" was mistakenly included in the recommended amendments in my s42A report. This Clause should have instead read *"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 have recommended amendments to WH.R23A and P.R22A to reflect this.
		Ms Foster considers that the clause "(e) minimising works required during the close down period (from 1st June to 30th September each year)' in rules WH.R23A and P.R22A requires amendments following deletion of the winter close down period policies and considers there is no "Policy basis for the expression 'close-down period'.	I do not agree with the amendment sought. While earthworks within part FMU's where TAS are being met are not excluded from being undertaken between 1st June to 30th September under this rule, this does not mean they will continue to operate over the close-down period. Activities of this nature will still be subject to the existing Winter works process operating under the Natural Resource Plan and be subject to winter works conditions which require sites to be stabilised over the close-down period, unless a site-specific winter works ESCP has been certified. The existing terminology is therefore appropriate.

Table 11 Forest and Bird – legal submissions

Row number	Provision	Summary of evidence from	Response
1		Forest & Bird's original submission sought amendments to the rules controlling earthworks and vegetation clearance to increase restrictions around works in riparian and estuarine areas. The submission was that a 5-metre setback is not enough and that 10 metres is necessary. It continues to seek this position through its legal submissions	In addition to the reasons set out paragraphs 102 – 107 of my section 42A report, in my opinion, a 5m setback in combination the other requirements of the permitted activity rules, particularly (v) of rules WH.R23 and P.R22, and (d) of rules WH.R23A and P.R22A, which requires erosion sediment control measures to be used to prevent a discharge where a preferential flow path connects with a surface water body is sufficient in protecting surface water from earthworks related sediment discharges. Additionally, I believe by increasing the 10m setback would result in a significant increase in the number of consents received for small scale earthworks, unable to meet the 10m setback requirement for little environmental gain.

Table 12 Wairarapa Federated Farmers – Peter Matich

Row number	Provision	Summary of evidence from	Response
1	R102 and R103	WFF oppose un-coupling NRP rules R102 and R103 from the Porirua and Wellington Whaitua.	In my S42A report, I acknowledged the submissions from Wairarapa Federated Farmers [S193.008] [S193.041] and further submission from Horticulture New Zealand [FS23.997] which do not support R102 and R103 (Earthworks for the construction of new farm tracks) no longer applying in TAoP and TWT whaitua. The submitter questioned reasons

Row number	Provision	Summary of evidence from	Response
			for their removal and states that the rules in the operative NRP were prescriptive in terms of managing effects. I note that farm tracks constructed to implement an action in accordance with a Farm Environment Plan will be considered a permitted activity under WH.R23(b) and P.R22(b) of PC1. Earthworks required to construct new farm tracks which are not to implement a farm environment plan will have to meet the requirements of WH.23(c) and P.R22(c) to be undertaken as a permitted activity, limiting the area of works to 3000m2. I note this is a significant decrease from the 10,000m2 area provided for by Rule 102. In regard to Mr Bashers evidence, I note that in his rebuttal evidence, Mr Blyth disagrees with Mr Basher, and is of the opinion that surficial erosion is an issue within these Whaitua. Weathered greywacke has the potential to liberate large quantities of clay and silts during and after heavy rainfall, and therefore earthworks that is not managed appropriately will discharge clays to surface water bodies and contribute to suspended sediment loads. In his evidence, Mr Matich raises concerns regarding the winter-close down period if resource consent was required to be sought for the construction of farm tracks. I have recommended amendments to the restricted discretionary earthworks rules within my S42A to provide for earthworks within part FMU's where the TAS for total suspended sediment loads is met, to apply for resource consent as a restricted discretionary activity, subject to consent

Row number	Provision	Summary of evidence from	Response
			conditions. I also note the recommendation to change the activity status of WH.R25 and P.R24 from non-complying to discretionary, for works unable to meet the requirements of WH.R24 and P.R23. As stated in am S42A report, I am of the opinion that works required for the construction of farm racks do not pose any lesser risk to the environment than other earthworks of similar scale and therefore should limited in area, and subject to resource consent if unable to meet the permitted activity requirements.

DATE: 16 MAY 2025

[ELECTRONIC SIGNATURE]

ALISHA VIVIAN

GREATER WELLINGTON REGIONAL COUNCIL