

**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

**REPORTING OFFICER RIGHT OF REPLY OF ALISHA VIVIAN
ON BEHALF OF GREATER WELLINGTON REGIONAL COUNCIL**

HEARING STREAM 3 EARTHWORKS

2 JULY 2025

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INTRODUCTION

- 1 My full name is Alisha Vivian. I am a Senior Policy Advisor at Greater Wellington Regional Council
- 2 I have prepared this Right of Reply in respect of the matters raised during the hearing of matters in Hearing Stream 3 – Earthworks.
- 3 I listened to submitters in Hearing Stream 3, read their evidence and tabled statements, and the written submissions and further submissions relevant to the Hearing Stream 3 topic.

QUALIFICATIONS AND EXPERIENCE

- 4 My qualifications and experience are set out in paragraph 16-18 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.

SCOPE OF REPLY

- 5 This reply follows Hearing Stream 3 of Plan Change 1 to the Natural Resources Plan for the Wellington Region (PC1) held on 19 May - 23 May 2025.
- 6 Minute 12 requested the Council and/or its experts submit a written Right of Reply in response to matters raised in the Minute by 2 July 2025.
- 7 This Right of Reply covers responses to questions raised directly by the Panel in Minute 12; and further comments to questions asked by the Panel during the hearing.

RESPONSES TO POINTS RAISED IN MINUTE 12

Permitted Activity rules

- 8 The Panel requested that, Rules WH.R23 and P.R22 are revised to ensure the relationship between these rules and infrastructure provisions (WH.R23A and P.R22A) is clear.
- 9 The chapeau of Rules WH.R23 and P.R22 has been amended to make it clear that works permitted by these rules exclude those activities undertaken in accordance with WH.R23A and P.R22A. Minor earthworks associated with infrastructure that meets the requirements of WH.R23A and P.R22A are not required to be assessed under Rules – WH.R23 and P.R22.

- 10 I have included a note (see below) to Rules WH.R23 and P.R22 (see Right of Reply Appendix 1) to make it clear that earthworks undertaken in accordance with WH.R23A and P.R22A does not contribute to the 3000m2 area limit of Rules WH.R23 and P.R22.

Note: Earthworks undertaken in accordance with WH.R23A or P.R22A do not contribute to the 3000m2 area of works permitted under this rule.

Policies for the management of earthworks sites

- 11 The Panel have asked that Policies WH.29(e) and P.P27(e) are revised to focus on the adverse effects of earthworks rather than minimising works during winter.
- 12 In response to this, I would first like to highlight to the Panel that I have amended clause (e) to address an issue that was raised following the S42A amendments that winter works close-down period is only intended to apply to bulk earthworks exceeding 3000m2.
- 13 In response to the Panels request, I am of the opinion that it is appropriate to retain the existing wording regarding “minimising works required during the close down period”. I have however, proposed changes to the chapeau of these policies to ensure they relate to avoiding direct discharges to freshwater from earthworks.
- 14 I acknowledge the requests from submitters and the Panel 3 to refer to the erosion sediment control guidelines to replace the close-down period throughout these provisions.
- 15 The erosion sediment control guidelines state that winter works require careful planning and management based on a number of key principles including the following:
- Plan the project to minimise earthworks and avoid stream works during winter
 - Stabilise the site by 31 May to minimise the works area over winter
 - Design to progressively stabilise areas to minimise the area exposed to erosion
 - Ensure winter works area will minimally impact receiving environments
- 16 The erosion sediment control guidelines is a 294-page document. I am of the opinion the specific reference to the close-down period is required to ensure these measures of managing discharges from earthworks sites is clear.
- 17 In addition to this, the reference to managing works during the close-down period is required to provide policy direction for the close-down period in the rule framework.

RESPONSES TO POINTS RAISED DURING HEARING STREAM 3

Discharge standard in coastal waters

- 18 Concerns were raised regarding the implementation of TSS/NTU as a discharged standard in coastal waters. I have proposed amendments to the discharge standard in relation to direct discharges to coastal waters, with the following wording:

.....except that when the discharge is to:

*coastal waters, the discharges shall not result in any conspicuous change in colour or visual clarity, after **the zone of reasonable mixing**"*

- 19 I note that the definition for zone of reasonable mixing for the purpose of permitted activity rules is identified as 15m from the point of discharge in relation to the coastal marine area. For the purpose of considering a resource consent application the zone of reasonable mixing is to be determined on a case by case basis in accordance with Policy P80 of the Natural Resources Plan.

Seawalls

- 20 During the hearing, Ms O'Sullivan on behalf of Wellington International Airport requested that earthworks on the landward side of seawalls was provided for as a permitted activity. I have recommended an amendment to WH.R23A and P.R22A to provide for earthworks relating to the maintenance or repair of existing seawalls as a permitted activity provided the conditions of the rule can be met, by including the following clause to the list of activities:

(e) repair or maintenance activities on the landward portion of existing seawalls

- 21 I note that the maintenance or repair of seawalls, including any disturbance, deposition and discharge of contaminants during works is a permitted activity under R169 of the Natural Resources Plan. This Rule however only applies to works within the coastal marine area.

Policies WH.P29 and Airport Operations

- 22 I acknowledge that during the hearing there was significant discussion regarding airport operations, and the desire to include activities of this nature in (e) of WH.P29 to exempt airport operations from the requirement to minimise works exceeding 3000m² during the close down period from 1st June to 30th September each year. The minor earthworks

associated with infrastructure rule, enables the airport to undertake a significant number of activities, including any repair or maintenance of airfield runways, taxiways, and parking aprons for aircraft, as well as the repair, sealing or resealing of any roads and footpaths as a permitted activity.

- 23 In my opinion any earthworks the airport is required to undertake which exceed 3000m² and is not permitted by the minor earthworks associated with infrastructure rule should be required to minimise works required during the close-down period. The nature of these works is often planned in advance and therefore can be programmed appropriately to minimise works during this period where practicable.

Reference to the Erosion Sediment control guidelines

- 24 Ms Nes on behalf of Upper Hutt City Council requested the permitted activity earthworks rules reference the requirements to comply with the GWRC Erosion and Sediment Control Guidelines for the Wellington Region (2021). I agree that this would assist plan users to understand what is meant by “appropriate erosion sediment control measures” and have proposed further amendments to the WH.R23 and P.R22 (c)(v) to reflect this.

Winter close-down period and matters of discretion

- 25 I clarified that earthworks located within a Part Freshwater Management Unit where the target attribute state for suspended fine sediment in Table 9.2 or 8.4 is met, may still be subject to the close-down period (from 1st June to 30th September each year). I have proposed further amendments (in bold) below to the matter of discretion (1) of Rules WH.R24 and P.R23 below to reinforce this.

*The location, area, scale, volume, duration and staging and timing of works, **including works to be undertaken during the close-down period (from 1st June to 30th September each year).***

Renewable Energy Generation Activities

- 26 It was identified that there was inconsistent use of terminology relating to renewable energy generation activities. I recommend amendments to ensure consistency by referencing ‘Renewable Energy Generation Activities’ where appropriate. This is defined in the NRP as:

The construction, operation and maintenance of structures and ancillary facilities (including internal access tracks and roads within the site) associated with renewable energy generation, including small and community-scale distributed renewable generation activities, and the system of electricity conveyance required to convey electricity to the distribution network and/or the National Grid and electricity storage technologies associated with renewable electricity.

- 27 In my opinion this reference is appropriate and clearly defines what is considered *Renewable Energy Generation Activities* in relation to the earthwork provisions.

Network Utility Operators and Rules WH.R23 and P.R22

- 28 Multiple network utility operators raised the issue of the 3000m² area limit per property creating issues, when their properties boundaries are expansive and often earthworks are required to be undertaken at multiple worksites within the same property boundary, sometime kilometres apart from each other, and often within different catchments.
- 29 In my rebuttal evidence, I recommended an additional clause in the permitted activity rules to provide for Network Utility Operators, to ensure they were not limited by the definition of ‘property’ in the Natural Resources Plan for the Wellington Region.
- 30 At the hearing network utility operators raised further concerns regarding the “12 month period” aspect of the rule, and the limit this would place on multiple separate projects occurring on a site within a 12-month period.
- 31 I recommended amendments to clause (d) of rules WH.R23 and P.R22 to provide for works to occur within a particular location or work site within a 12-month period if the site is completely stabilised prior to new works commencing.

Stabilisation

- 32 The panel raised concerns regarding clause C(iii) of Rules WH.R22 and WH.R23 that requires the area of earthworks to be stabilised within six months after completion of works. The concern was the length of time for this activity and whether it was too generous.
- 33 Earthworks undertaken as a permitted activity under these rules vary in nature, scale and occurrence, including property owners to maintain gardens, farm operations, and bulk earthworks associated with development projects.

- 34 In many instances, instant stabilisation methods will not be the preferred option, particularly for earthworks undertaken by small operators or farmers, where grass strike is will 'not take' over a three-month period, particularly the winter months.
- 35 In my opinion the six-month stabilisation period, in combination with the requirement of good management practices in accordance with the *GWRC Erosion and Sediment Control Guidelines for the Wellington Region (2021)*, is an appropriate time scale for this activity. If operators wish to use stabilisation methods that may be longer, erosion sediment control measures will be required to be installed and maintained until full stabilisation has been met.

Minor earthworks associated with infrastructure and the 5m setback requirements

- 36 Multiple network utility operators raised concerns regarding clause (X) of WH.R23A and P.R22A that requires no works to be undertaken within 5m of a surface water body and the coastal marine area. I accept that for linear infrastructure projects a 5m setback may not be practicable. I have proposed amendments to exclude earthworks associated with the repair or maintenance of existing roads and tracks, and airfield runways, taxiways, and parking aprons for aircraft, and the repair, sealing or resealing of a road, footpath or driveway to meet the 5m setback.

DATE: 02 July 2025

Alisha Vivian



Senior Policy Advisor, Policy

Greater Wellington Te Pane Matua Taiao