

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

5 MAY 2025

Hearing Stream 3 - Earthworks

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## **1. INTRODUCTION**

### **QUALIFICATIONS AND EXPERIENCE**

- 1.1 My name is Kirsty O’Sullivan. I am a Partner at Mitchell Daysh Limited (“**Mitchell Daysh**”), which is a planning and environmental consultancy firm that operates throughout New Zealand. I have been employed by Mitchell Daysh since May 2013 and have held the position of Partner since 2024.
- 1.2 I appeared before the Hearing Panel with respect to Hearing Stream 2 of the Proposed Natural Resources Plan Change 1 (“**PC1**”) on behalf of Wellington International Airport Limited (“**WIAL**”). I set out my qualifications and experience in my previous evidence. I do not repeat that here.

### **CODE OF CONDUCT**

- 1.3 While this is not an Environment Court hearing, I nonetheless confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I agree to comply with the Code, and I am satisfied that the matters which I address in my evidence are within my field of expertise. I am not aware of any material facts that I have omitted which might alter or detract from the opinions I express in my evidence.

## **2. SCOPE OF EVIDENCE**

- 2.1 This statement of evidence relates to Hearing Stream 3 of PC1, insofar as it relates to “earthworks” in Whaitua Te Whanganui-a-Tara, as set out in Chapter 8 of PC1 (but noting that because the provisions for Te Awarua-o-Porirua Whaitua in Chapter 9 of PC1 mirror those in Chapter 8, this evidence also applies to Chapter 9).
- 2.2 For Hearing Stream 3, Ms Lester has also provided evidence outlining:
- 2.2.1 Background information about the maintenance, upgrade and development of the Airport in the context of the Greater Wellington Natural Resources Plan (“**NRP**”) and PC1; and

- 2.2.2 Implementation issues associated with proposed earthworks provisions.
- 2.3 My evidence for Hearing Stream 3 is informed by Ms Lester's. In preparing my evidence, I have also read and considered:
- 2.3.1 The section 32 evaluation relating to the earthworks provisions of PC1;
- 2.3.2 Te Whanganui-a-Tara Implementation Programme (2021);
- 2.3.3 Te Mahere Wai o Te Kāhui Taiao (A Mana Whenua Whaitua implementation plan to return mana to our freshwater bodies) prepared for GWRC;
- 2.3.4 WIAL's submission and further submission; and,
- 2.3.5 The Section 42A Hearing Report Hearing Stream 3 Topic: Earthworks (dated 15 April 2025).
- 2.4 At the outset, I wish to acknowledge the section 42A report prepared by Ms Vivian, which I consider to be a thoughtful and thorough response to the submissions and further submissions lodged by WIAL and other providers of infrastructure, particularly, Regionally Significant Infrastructure (“**RSI**”).
- 2.5 Because I support a number of the recommendation made by Ms Vivian, my evidence is focussed on:
- a) Confirming the recommended changes that I support; and
- b) Identifying, with reasons, those matters that I consider need further refinement or amendment
- 2.6 An important issue is, as the Panel will be well aware, that the policies in PC1 must implement the objectives, and the rules must implement the policies. In plain terms, this means that the provisions in the various layers of PC1 need to be internally consistent.

2.7 Because the section 42A report for Hearing Stream 2 recommended that WIAL’s requested relief be rejected in relation to the relevant Objectives, if the Panel accepts the changes recommended by Ms Vivian for Hearing Stream 3, there is the very real potential for there to be a disconnect between the objectives and other provisions of PC1 insofar as they relate to RSI. For that reason, I remain of the opinion that the relief sought in Hearing Stream 2 is necessary, despite the section 42A report for that hearing recommending that they be rejected.

2.8 As such, this statement of evidence needs to be read in conjunction with my evidence for Hearing Stream 2, which, to assist the Panel, is also appended to this statement as **Appendix 1**.

### **3. CONTEXT**

3.1 WIAL operates the regionally and nationally significant Airport. Ms Lester, the Planning Manager at WIAL, provided some background context about WIAL and its important role in supporting the social, economic and cultural wellbeing of the city, region and country in her evidence for Hearing Stream 2 (also appended to her Hearing Stream 3 evidence).

3.2 By way of summary, my evidence for Hearing Stream 2 outlined the planning context applicable to Wellington International Airport (“**Airport**”), including:<sup>1</sup>

3.2.0 Identification of WIAL as a network utility operator and a requiring authority under section 166 of the Resource Management Act 1991 (“**the RMA** or “**the Act**”);

3.2.1 Identification of the Airport as nationally and regionally significant infrastructure <sup>2</sup> and ‘specified infrastructure’;<sup>3</sup>

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<sup>1</sup> Evidence in chief of K O’Sullivan for Hearing Stream 2, 14 March 2025, Sections 3 and 4.

<sup>2</sup> As defined by the Operative Regional Policy Statement for the Wellington Region 2013, the Decisions version of Proposed Plan Change 1 and Variation 1 to the Regional Policy Statement for the Wellington Region, and the National Policy Statement for Urban Development.

<sup>3</sup> As as defined by the NPSFM and the National Policy Statement for Indigenous Biodiversity 2024.

- 3.2.2 Relevant overlays under the operative NRP – that recognise the important role that the Airport plays in promoting the social and economic well-being of Wellington and the country as a whole;
- 3.2.3 Relevant overlays under PC1 that in many cases derogate from the recognition that the NRP affords the Airport;
- 3.2.4 Zoning and designations under the Operative and Proposed Wellington City Plans that provide for and protect the Airport; and,
- 3.2.5 Identification of the key relevant provisions of the New Zealand Coastal Policy Statement (“**NZCPS**”), National Policy Statement for Freshwater Management (“**NPSFM**”), National Policy Statement for Urban Development (“**NPSUD**”), the Operative Regional Policy Statement for the Wellington Region 2013 (“**Operative RPS**”) and the Decisions version of Proposed Plan Change 1 and Variation 1 to the Regional Policy Statement for the Wellington Region (“**Decisions version RPS**”), insofar as they relate to WIAL’s submission on PC1.

3.3 As noted above, that evidence is attached as **Appendix 1**.

#### **4. KEY ISSUES**

4.1 The section 42A report, helpfully, assesses the issues relevant to Hearing Stream 3 under 5 headings, as follows:

*Issue 1   Categorisation of Provisions to the Freshwater Planning Process*

*Issue 2   Earthworks definition*

*Issue 3   Management of earthworks – particularly the practicality of retaining all soil on site during earthworks activities*

*Issue 4   The Discharge Standard*

*Issue 5   Winter Shutdown of Earthworks*

4.2 WIAL made a general submission about the categorisation of the new policies as freshwater provisions with the concern that they also refer to the Coastal Marine Area (“CMA”) and in a manner that is inconsistent with the NZCPS. However, as this is more of a legal issue, I will leave it for Ms Dewar to address this issue in her legal submissions. Accordingly, my evidence is confined to addressing Issues 2 – 5 to the extent they are relevant to WIAL and the Airport, as set out below.

4.3 For ease of reference, I have also included, as **Appendix 2**, a marked up copy of the amendments I am recommending in my statement of evidence.

## **5. ISSUE 2 - EARTHWORKS DEFINITION**

5.1 WIAL’s submissions sought that the definition of earthworks in PC1 be amended so that the definition in the NRP, that exempted the repair or maintenance of existing roads and tracks, airfield runways, taxiways and parking aprons for aircraft, was retained.

5.2 Ms Vivian has recommended that this submission be rejected, however, she has proposed new Rule WH.R23A that would make the repair or maintenance of existing roads and tracks, airfield runways, taxiways and parking aprons for aircraft permitted activities, subject to compliance with various conditions.

5.3 The wording of Rule WH.R23A recommended by Ms Vivian is as follows:

*Rule WH.R23A 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:*

*....*

*(c) repair or maintenance of existing roads and tracks and airfield runways, taxiways, and parking aprons for aircraft;*

*is a permitted activity provided the following conditions are met:*

*(a) the earthworks shall not occur within 5m of a surface water body or the coastal marine area, and*

- (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*
- (c) the area of earthworks must be stabilised within six months after completion of the earthworks, and*
- (d) there is no discharge of sediment from earthworks and/or flocculant into a surface water body, the coastal marine area, or onto land that may enter a surface water body or the coastal marine area, including via a stormwater network, and erosion and sediment control measures shall be used to prevent a discharge of sediment where a preferential flow path connects with a surface water body or the coastal marine area, including via a stormwater network*

5.4 Those amendments are supported but I consider that some further minor amendments should be made to:

- a) The chapeau, so that the rule refers to “*earthworks associated with infrastructure*” and not “*minor earthworks*”;
- b) Condition a) to ensure should only restrict earthworks within a 5m setback of (freshwater) surface waterbodies, as per the operative NRP requirements;
- c) Condition c) to clarify that the maintenance provisions includes works associated with the seawalls that support the existing roads and runways at the Airport;
- d) Condition d) to ensure it reads “*there is no uncontrolled discharge of sediment ...*”, simply because the condition, as drafted, requires there to be no discharge of any sediment whatsoever, which is a practical impossibility; and that “*erosion and sediment control measures shall be used to the extent practicable*”; and
- e) Include a new condition f) 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, as follows:

or

f the discharge is in accordance with an existing stormwater discharge permit.

- 5.5 Refer to **Appendix 2** for a fully marked up version of my recommended amendments.
- 5.6 A more fundamental issue is that if a proposal does not meet the conditions of new Rule WH.R23A and therefore is not permitted, there is no explicit consenting pathway provided for the repair or maintenance of existing roads and tracks, and airfield runways, taxiways, and parking aprons for aircraft, or minor earthworks associated with the maintenance of the existing seawall.
- 5.7 The simplest solution is to make consequential amendments to Rule WH.R24 (the general restricted activity rule) such that routine maintenance of existing roads and tracks, airfield runways, taxiways and parking aprons for aircraft, or earthworks associated with existing seawall maintenance that are not permitted become a restricted discretionary activity, in the same way that activities that do not meet the conditions of permitted activity Rule WH.R23 are treated. The revised rule would be worded as follows (my amendment shown in blue):

**Rule WH.R24: Earthworks – restricted discretionary activity**

**Earthworks** and the associated discharge of sediment and/or flocculant into a **surface water body** or coastal water, or onto or into land where it may enter a **surface water body** or coastal water, including via a **stormwater network**, that does not comply with Rule WH.R23 or Rule WH.R23A is a restricted discretionary activity, provided the following conditions are met: .....

- 5.8 Subject to the additional amendments set out in paragraph 5.2 - 5.7 above being made, I am satisfied that these are sufficient to mean that amendments to the definition of earthworks, as sought in WIAL's submission need not be made.
- 5.9 For completeness, I note here that I have also proposed additional changes to these rules to address Issue 3 - that I discuss in Section 6 below – to remove

some inconsistencies and ensure that earthworks for RSI remain restricted discretionary activities, even if they do not meet the standards in the rule.

#### Section 32AA Evaluation

- 5.10 In my view, my further amendments recommended above will ensure that routine earthworks undertaken by WIAL can reasonably meet the permitted activity conditions, giving effect to those provisions in the NRP that recognise and provide for RSI. The amendments will also avoid the need for inefficient and costly consenting processes, for what are otherwise routine earthworks with little if any environmental effects.

### **6. ISSUE 3 - MANAGEMENT OF EARTHWORKS – THE PRACTICALITY OF RETAINING ALL SOIL ON SITE DURING EARTHWORKS ACTIVITIES**

- 6.1 The key issues of concern to WIAL under the “earthworks management” heading are that:

- a) Policy WH.P29, as notified:
  - (i) Refers to the “risks” associated with sediment discharges from earthworks, rather than their “adverse effects”;
  - (ii) Requires “retention of soil and sediment on the land”; and
  - (iii) Gives inadequate consideration to practical constraints and, unhelpfully in my opinion, takes a one size fits all approach to earthworks management.
- b) Permitted activity Rule WH.R23, as notified, requires, amongst other things that [my emphasis] ***“there is no the (sic) 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”***.
- c) There is no recognition of the scale and significance of RSI in any of the policies and rules.

- 6.2 The policy and rule referred to in paragraphs a) and b) above relate to discharges into both freshwater and the CMA. In the Airport context, earthworks associated with, for example, a seawall construction / maintenance can be expected to be undertaken either in or immediately adjacent to the CMA, meaning that such earthworks would never be able to be permitted activities, irrespective of how well they were managed, because the “standards” relate to earthworks on land, where there is space to install earthwork control measures and the like in order to manage erosion and runoff. That is not in itself a problem for new works that WIAL undertakes at the interface of the CMA, because the scale of these types of works would likely be such that WIAL does not expect them to be permitted activities.
- 6.3 It is an issue however, for otherwise permitted maintenance works, particularly those associated with the seawall<sup>4</sup>– where the relevant rule and associated coastal management conditions already manage the discharge of sediment to the coast. My recommended amendments to WH.R23A discussed above will address my concerns with respect to this matter.
- 6.4 The important residual issue arising however is that the associated restricted discretionary activity rule that would apply (Rule WH.R24) is likewise not able to be complied with by activities immediately adjacent to or in the CMA so they would unnecessarily default to being non-complying activities under Rule WH.R25.
- 6.5 I address each of these points (set out in paragraph 6.1) in turn.

**Policy WH.P29**

- 6.6 The section 42A report goes some way to address the concern regarding Policy WH.P29, in that it recommends that it be redrafted as follows:

**Policy WH.P29**

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

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<sup>4</sup> Rule R169, NRP.

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

6.7 Whilst Ms Vivian’s proposed amendments are helpful, and I support the replacement of “risks” with “adverse effects” in the chapeau, I consider that the policy needs further refinement, because:

- a) It is unclear what “retention of uncontrolled soil and sediment” in clause a) means, and that I do not understand how something that is “uncontrolled” could be subject to “good management practices”;
- b) When working in the CMA or immediately adjacent to it, sediment retention becomes practically impossible in many situations; and
- c) The concept of “minimising” works during the winter, as per clause e) 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 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.

6.8 I remain of the view that Policy WH.P29 reads as being directed to small, simple proposals, and particularly to farming scale operations, and that a

more nuanced and bespoke framework for earthworks associated with RSI is needed – not to give them a “free ride” but rather to ensure high quality outcomes are achieved via a relatively straight forward process that recognises the scale and complexity of RSI projects.

6.9 My proposed amendments to Policy WH.P29 are set out below and shown in blue.

#### **Policy WH.P29**

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 where, and to the extent it is practicable to do so, by 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 all necessary 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, 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~~
- (f) 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.

#### **Rule WH.R23**

6.10 Rule WH.R23 implements Policy WH.P29.

6.11 Again, helpfully, Ms Vivian has recommended some amendments to Rule WH.R23, as follows:

**Rule WH.R23**

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
- (d) 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
- (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
- (f) the area of earthworks must be stabilised within six months after completion of the earthworks, and
- ~~(g) 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~~
- (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.

6.12 I generally support Ms Vivian's recommendations above, however I consider that routine maintenance undertaken by RSI should not form part of the calculation under Condition c). Ms Lester has described the new consenting requirements imposed on WIAL since the PC1 rules were notified on 30 October 2023. In short, WIAL has been required to obtain consent for routine earthworks that are currently permitted under the operative NRP and in accordance with WIAL's site

wide stormwater consent which includes a comprehensive management plan. The management response imposed by these latest consents have been no different to what WIAL would ordinarily implement, resulting in no net environmental benefit. Conversely, the new rules have resulted in additional costs and time delays for WIAL.

6.13 I therefore recommend the following amendment to Condition c) to ensure that any routine earthworks undertaken by RSI in accordance with WH. R23A should not form part of the 12 month cumulative total, as shown below:

- (a) *the area of earthworks does not exceed 3,000m<sup>2</sup> per property in any consecutive 12-month period (except earthworks permitted by WH. R23A shall not be included in this calculation), and*

6.14 I also note that Condition d) imposes a restriction on earthworks within 5m of the CMA. Other conditions within the rule require soil or debris to be located such that cannot enter the CMA and that erosion and sediment controls must be put in place. Given these controls, it is unnecessary to also require a 5m setback from the CMA. I therefore recommend removing reference to the CMA from within Condition d).

#### **Non-complying activities**

6.15 As currently drafted, the earthworks rules in PC1 provide for certain types and scale of earthworks as permitted activities, while those that are not permitted become restricted discretionary, and those that don't meet the restricted discretionary standards default to non-complying activities.

6.16 That cascade is logical in principle, particularly for smaller scale, discrete activities, including farming, but, in my opinion, it is not appropriate for larger scale, and potentially complex earthworks associated with RSI to face the very real prospect of being unnecessarily classified as non-complying activities. That is problematic, not just for the earthworks activities in isolation, but also because an entire proposal might be "bundled" as one overall non-complying activity.

- 6.17 Providing a realistic consenting pathway for RSI is relatively straight-forward and can be achieved by making a simple amendment to the restricted discretionary activity rule, to provide that earthworks associated with RSI that are not permitted become restricted discretionary activities, irrespective of their scale.
- 6.18 This requires some amendment to Policy WH.P30 and some additional amendments to Rule WH.R24, as follows, with the changes proposed by Ms Vivian shown in red, my recommended changes discussed in Section 5 above shown in blue and the additional changes I consider necessary shown in green:

#### **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:

- (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~~ **(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:
- (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,
- 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
- (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 person, and the results reported to the Wellington Regional Council.

#### **Rule WH.R24: Earthworks – restricted discretionary activity**

Earthworks and the associated discharge of sediment and/or flocculant into a surface water body or coastal water or onto or into land where it may enter a surface water body or coastal water, including via a stormwater network, that does not comply with Rule WH.R23 [or Rule](#)

[WH.R23A](#) [similarly for Rule P.R22 or [Rule 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 **into a surface water body** shall not exceed **170 Nephelometric Turbidity Units (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:
  - (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) 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.; or**
- (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.**

*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
  - (v) 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
  - (vi) the natural character of lakes, rivers, natural wetlands and their margins and the coastal environment
  - (vii) natural hazards, land stability, soil erosion, sedimentation and flood hazard management including the use of natural buffers
7. Duration of consent
8. 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~~
9. Monitoring and reporting requirements.
- 10 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.

6.19 Regarding the above, I note that:

- (a) I am not qualified to address the numerical NTU limit that is proposed to replace the reference to suspended solids concentrations of 100 g/m<sup>3</sup>;
- (b) I wonder if the reference to suspended solids concentrations of 100 g/m<sup>3</sup> later in the policy should be amended to also refer to an NTU value;

- (c) Insofar as it relates to coastal water, the policy and rule are inconsistent with the NZCPS as it does not provide for a reasonable mixing zone for discharges to the coast in accordance with Policy 23 of the NZCPS; and
- (d) the change to “Matter of discretion” number 8 in the rules is a consequential change arising from Ms Vivian’s recommendation to remove the “blanket ban” on winter earthworks that was included in the notified version of PC1, and which I support.
- (e) Consistent with my earlier recommendations, it is appropriate to consider the complexity and duration of earthworks associated with RSI which may mean that some of the ordinary controls imposed on small scale earthworks (such as winter work restrictions) are not practicable.

#### Section 32AA Evaluation

6.20 A number of policies within the NRP seek to recognise and provide for RSI, such as Wellington International Airport. I have also sought further recognition of this within my Hearing Stream 2 evidence in the context of the fresh and coastal water objectives and policies.

6.21 In my view, my recommended amendments to the provisions discussed in section 6 of my evidence (in relation to the practical realities of retaining all soil on site) are the most appropriate at achieving the objectives of the NRP, as they ensure the effects of earthwork are suitably managed while also provide a consenting pathway which suitably recognises the regional and national benefits of RSI. For this reason, my recommended amendments are also efficient and effective at achieving the Objectives (including my suggested amendments to some of the relevant Objectives).

## **7. ISSUE 4 - THE DISCHARGE STANDARD**

7.1 As noted above, I am not qualified to address the numerical standard recommended by Ms Vivian in Policy WH.P30 and Rule WH.R24. However, the amendments I have proposed above also address Issue 4.

## **8. ISSUE 5 – WINTER SHUTDOWN OF EARTHWORKS**

- 8.1 Ms Vivian has recommended deleting Policy WH.P31 which mandated the cessation of earthworks during the period 1 June – 30 September.
- 8.2 I agree with that recommendation, for the reasons set out in the section 42A report and Ms Lester’s evidence.

## **9. CONCLUDING COMMENTS**

- 9.1 Wellington Airport comprises regionally and nationally significant infrastructure which plays a critical role in providing for the wellbeing of the Wellington Region and its communities. The policies and rules discussed above play an important role in the ongoing maintenance and development operations of the Airport and in turn its ability to provide a safe environment for those operations.
- 9.2 As set out in my evidence, Ms Vivian has made a number of helpful recommendations to improve the workability of these PC1 provisions.
- 9.3 My evidence sets out a number of additional recommended amendments that I consider ought to be made, and which if adopted, would address the matters of concern regarding the earthworks provisions of PC1 that were made in WIAL’s submission and further submissions. In my view, these amendments are the most appropriate to achieve the objectives of the NRP, particularly those that relate to the provisions of RSI. They are also efficient and effective, as they ensure that RSI can continue to undertake routine maintenance activities without unnecessary resource consent requirements.
- 9.4 For ease of reference, I have also included as **Appendix 2**, a copy of the marked up amendments I have recommended in this statement of evidence.
- 9.5 I note that in preparing this statement of evidence, I have also had some informal discussions with Ms Christine Foster (assisting Meridian Energy Limited), Ms Catherine Heppelthwaite (assisting NZ Transport Agency), Ms Pauline Whitney (assisting Transpower NZ Limited) and Ms Caroline Horrex (Wellington Water). There is broad alignment between these experts as to the key issues relating to

the earthworks provisions, and the relief being sought generally seeks to achieve a similar outcome, albeit in slightly different way. I therefore consider there would be merit in conferencing with the relevant RSI providers and other submitters to try and resolve drafting of these provisions, if that would be of assistance to the Panel.

**Kirsty O’Sullivan**

**5 May 2025**

## **Appendix 1**

### **Evidence presented at Hearing Stream 2**

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

14 MARCH 2025

Hearing Stream 2

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## 1. INTRODUCTION

### QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is Kirsty O’Sullivan. I am a Partner at Mitchell Daysh Limited, which practices as a planning and environmental consultancy firm throughout New Zealand. I have been working for Mitchell Daysh Limited since May 2013 and have held the position of Partner since 2024.
- 1.2 I hold a degree in Physical Geography and Geographic Information Systems from the University of Otago, and a postgraduate (Masters with Distinction) degree in Planning from the University of Otago. I am based in the firm’s Dunedin office although my work has a national focus.
- 1.3 I have over 15 years' experience in environmental resource planning and management consultancy. My professional experience includes a mix of central government, local authority, and consultancy resource management work. Over the past 12 years, I have focused on providing consultancy advice with respect to regional and district plans, plan changes, resource consents, designations, and environment effects assessments. While I have experience providing resource planning and management advice to a broad range of clients, ranging from nationally significant infrastructure projects to smaller scale, individual residential developments, of particular relevance to this hearing is my experience with respect to the following projects / roles:
- 1.3.1 For the past ten years I have assisted Wellington International Airport Limited (“**WIAL**”) with a range of projects including:
- i. co-authoring the Wellington International Airport Runway Extension resource consent applications and the Wellington International Airport Notice of Requirement for a new aerodrome designation over part of the southern part of Miramar Golf Course;

- ii. co-authoring the Wellington International Airport Noise Management Plan;
- iii. assisting the preparation of submissions, further submissions and evidence on the Proposed Wellington District Plan Review; original submission and further submission;
- iv. project managing and co-ordinating the preparation of various approvals under the Resource Management Act 1991 (“RMA” or “the Act”) for various site specific developments at the Wellington International Airport (“**Airport**”); and,
- v. providing planning advice regarding the ongoing maintenance and repair of the southern and western sea walls surrounding Wellington International Airport.

1.3.2 For the past seven years, I have assisted Hawke's Bay Airport Limited regarding the Napier City Council District Plan Review and various resource consenting matters.

1.3.3 For the past 12 years, I have been the principal consultant planning advisor for Invercargill Airport Limited with respect to resource consenting, designation, plan change, District Plan and Regional Policy Statement matters at Invercargill Airport;

1.3.4 For the past two years, I have been assisting Christchurch International Airport Limited with a range of planning matters, from submissions through to strategic planning.

1.3.5 From 2013 until early 2023, I was the principal consultant planning advisor for the Queenstown Airport Corporation with respect to resource consenting, designations, plan changes and District Plan and Regional Policy Statement and Plan matters at Queenstown and Wanaka Airports.

## CODE OF CONDUCT

- 1.4 While this is not an Environment Court hearing, I nonetheless confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I agree to comply with the Code and I am satisfied that the matters which I address in my evidence are within my field of expertise. I am not aware of any material facts that I have omitted which might alter or detract from the opinions I express in my evidence.

## 2. SCOPE OF EVIDENCE

- 2.1 This statement of evidence relates to Hearing Stream 2 of Plan Change 1 of the Greater Wellington Regional Council Natural Resources Plan (“**PC1**”).
- 2.2 In this brief of evidence, I will:
- 2.2.1 Provide a brief overview of the planning context for Wellington Airport, including the key relevant provisions of the national and regional policy statements that are relevant to the provisions being heard as part of Hearing Stream 2;
  - 2.2.2 Provide an overview of WIAL’s submissions, as relevant to Hearing Stream 2;
  - 2.2.3 Consider the interaction between the National Policy Statement for Freshwater Management (“**NPSFM**”) and the New Zealand Coastal Policy Statement (“**NZCPS**”) and how it relates to coastal water and the Coastal Marine Area (“**CMA**”); and,
  - 2.2.4 Discuss the section 42A Reporting Officer’s (“**the Reporting Officer**”) recommendations with respect to the following topics / provisions:
  - 2.2.5 The long term environmental objective (WH.O1);
  - 2.2.6 The targets for freshwater to be achieved by 2040 (WH.O2);
  - 2.2.7 The targets for coastal waters to be achieved by 2040 (WH.O3);

- 2.2.8 The proposed ecological health and water quality policies (WH.P1 and WH.P2 );
  - 2.2.9 The application of Objective O2 of the Operative NRP; and
  - 2.2.10 The interpretation of ‘river’ under PC1 as it relates to the Airport Site.
- 2.3 I note that I do not address every submission point raised in WIAL’s submission or further submission in relating to Hearing Stream 2 matters. My evidence instead focuses on those key matters which will have the greatest bearing on WIAL’s existing and future operations and therefore warrant further discussion. An absence of discussion with respect to a particular submission point should not be taken as agreement (tacit or otherwise) with the recommendations set out in the section 42A evaluation.
- 2.4 In preparing this statement of evidence, I confirm that I have read the following documents:
- 2.4.1 WIAL’s submission and further submission;
  - 2.4.2 PC1 as notified and insofar is relevant to WIAL’s submission and further submission;
  - 2.4.3 The Hearing Stream 2 reports prepared under section 42A of the Resource Management Act 1991 (“the s42A reports”) for: Objectives (“the Objectives s42A Report”); and Ecosystem Health and Water Quality policies (“the Policies s42A Report”).
  - 2.4.4 The statement evidence of Ms J Lester (14 March 2025);
  - 2.4.5 WIAL’s site wide stormwater discharge consent and associated stormwater management plan; and,
  - 2.4.6 The Section 32 Evaluation Report relating to PC1 (“**the s32 Report**”).

### 3. WELLINGTON AIRPORT – PLANNING CONTEXT

- 3.1 WIAL operates the regionally and nationally significant Airport. Ms Lester, the Planning Manager at WIAL, has provided some background context about WIAL and its important role in supporting the social, economic and cultural wellbeing of the city, region and country.
- 3.2 WIAL is a network utility operator and a requiring authority under section 166 of the Resource Management Act 1991 (“the RMA or “the Act”).
- 3.3 Wellington Airport comprises nationally and regionally significant infrastructure (“RSI”) as defined by the Operative Regional Policy Statement for the Wellington Region 2013 (“Operative RPS”),<sup>1</sup> the Decisions version of Proposed Plan Change 1 and Variation 1 to the Regional Policy Statement for the Wellington Region (“Decisions version RPS”),<sup>2</sup> and the National Policy Statement for Urban Development (“NPSUD”).<sup>3</sup>
- 3.4 Wellington Airport also comprises ‘specified infrastructure’ as defined by the NPSFM and the National Policy Statement for Indigenous Biodiversity 2024 (“NPSIB”).
- 3.5 Under the operative Greater Wellington Natural Resource Plan (“NRP”):
- 3.5.1 Lyall Bay, located to the south and west of the Airport, and Evans Bay, located to the north of the Airport, are within the Ngā Taonga Nui a Kiwa<sup>4</sup> overlay. Associated provisions within the Operative NRP recognise and provide for mana whenua relationships with these spiritually and culturally important waterbodies and coastal areas.

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<sup>1</sup> Being listed under the definition of ‘Regionally significant infrastructure’.

<sup>2</sup> Being listed under the definition of ‘Regionally significant infrastructure’.

<sup>3</sup> Being an airport that regularly services aeroplanes capable of carrying more than 30 passengers.

<sup>4</sup> Chapter 2.2 of the Operative NRP defines Ngā Taonga Nui a Kiwa as “*Those large freshwater and coastal entities from which mana whenua derive cultural and spiritual identity, their status as mana whenua and the associated responsibilities that come with that including those of kaitiaki. These places are the larger rivers and harbours that have a long history of multiple and complex resource use associated with large populations. Ngā Taonga Nui a Kiwa emphasises the importance of mana whenua relationships with rivers, lakes, harbours and estuaries.*”

- 3.5.2 The “Wellington Airport Height Restriction Area” is mapped over the Airport and surrounds, protecting the airspace from permanent and temporary objects or structures that may pose a risk to aircraft safety;
- 3.5.3 There are no mapped “Schedule F ecosystems and habitats with significant indigenous biodiversity values” immediately adjacent to the Airport;
- 3.6 Under the PC1:
- 3.6.1 A series of so-called “rivers” are shown to be mapped over the Airport;<sup>5</sup>
- 3.6.2 The airport is located within the Wellington Urban Freshwater Management Unit and part of Whaitua Te Whanganui-a Tara;<sup>6</sup>
- 3.6.3 Evans Bay, located to the north of the Airport, is within the Te Whanganui-a-Tara Coastal Management Unit.<sup>7</sup> Lyall Bay, west of the Airport, is within the Wai Tai Coastal Management Unit;<sup>8</sup>
- 3.6.4 The Airport’s land holdings are all located within “Planned / Existing Urban Areas”;<sup>9</sup> and,
- 3.6.5 Areas surrounding the Airport, where significant assets critical to the protection and functioning of the Airport or the future development and expansion of the Airport, are located within surrounding “Unplanned Greenfield Areas”.<sup>10</sup>
- 3.7 At a District Council level, the Airport is the subject of a number of designations under the Operative and Proposed Wellington City Plans that provide for and protect the Airport, including:

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<sup>5</sup> Map 79.

<sup>6</sup> Map 79.

<sup>7</sup> Map 83.

<sup>8</sup> Map 83.

<sup>9</sup> Map 87.

<sup>10</sup> Map 87.

- 3.7.1 A designation to protect the airspace in the vicinity of the Airport;
  - 3.7.2 An Airport Purposes designation over the former Miramar School site;
  - 3.7.3 An Airport Purposes designation over the main Airport site; and,
  - 3.7.4 An Airport Purposes designation over the southern portion of the Miramar Golf Club site.
- 3.8 The Airport is also zoned for Airport Purposes under the Operative and Proposed Wellington District Plans, with the Proposed Wellington District Plan also containing a number of airport specific provisions that apply outside of the Airport Zone, in recognition of the assets and infrastructure located outside of the primary Airport zone and to protect the airport from reverse sensitivity effects.

#### **REGIONAL CONSENTS HELD BY WIAL**

- 3.9 WIAL holds a number of regional council consents. While for the most part these relate to project specific consents, of particular note to PC1 hearings is WIAL's site wide stormwater discharge permit.
- 3.10 Granted in March 2023, the site wide land use and stormwater discharge permit provides for operational stormwater discharges from the range of activities undertaken at the Airport site, including construction and earthwork activities, as well as 45 hectares of the adjacent Strathmore Park residential area.
- 3.11 As shown in **Figure 1** below, WIAL's operational stormwater discharges are directly to the CMA, with two small areas (Catchments 2 and 3 in the figure) discharging to the public network prior to discharging to the CMA.
- 3.12 The discharge permit includes a site wide, comprehensive stormwater management plan ("**SMP**"). The overall objective of the SMP is to minimise the adverse effects from stormwater discharges and for the discharge quality from WIAL's stormwater assets to progressively improve over time. The SMP sets out

several actions that will be taken to achieve this outcome, including (but not limited to):

- 3.12.1 The various approaches WIAL and its contractors will undertake to minimise actual and potential adverse effects of stormwater discharges;
- 3.12.2 Interim triggers (during baseline monitoring) and contingency actions to be implemented in the event triggers are met or exceeded;
- 3.12.3 WIAL's monitoring requirements, and notification and reporting requirements if adverse monitoring results are found;
- 3.12.4 Mechanisms for review of the SMP if redevelopment or changes to activities on site change the risk profile of discharges from the site; and
- 3.12.5 Feedback and information sharing mechanisms with key stakeholders Wellington Water Limited and mana whenua.

3.13 Based on the monitoring that has occurred to date, the discharges are within the acceptable ranges identified in the consent. Furthermore, it appears, based on the revisions to Table 8.1 and the proposed new Table 8.1A (both discussed later in Section 9), that the receiving water of WIAL's stormwater discharges are already within the target parameters set for the coastal management units.



Figure 1: High level overview of the WIAL Stormwater Management Network.

#### **4. RELEVANT NATIONAL AND REGIONAL POLICY**

4.1 As the Panel will be aware, section 67 of the RMA states that a regional plan must give effect to, among other things, any NPS, the NZCPS, and any RPS.

4.2 The following paragraphs set out the key relevant provisions of the NZCPS, NPSFM, NPSUD, and RPS, insofar as they relate to WIAL's submission on PC1.

##### **NEW ZEALAND COASTAL POLICY STATEMENT**

4.3 The NZCPS is the key national policy statement under the RMA relating to the management of the coastal environment in New Zealand. While not addressing freshwater management, the NZCPS is relevant to this hearing as it provides policy guidance regarding a range of matters, including the use of the coast and discharges to it.

4.4 The key outcomes sought by the NZCPS, as relevant to this hearing stream, includes (my paraphrasing and emphasis):

4.4.1 **Objective 1** seeks to safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems by:

- Maintaining coastal water quality, and enhancing it where discharges associated with human activity have deteriorated its natural condition and caused significant adverse effects on ecology and habitat.

4.4.2 **Objective 2** aims to preserve the natural character of the coastal environment through:

- Identifying areas where various forms of subdivisions, use and development would be inappropriate and protecting them from such activities, and;
- encouraging restoration of the coastal environment.

4.4.3 **Objective 3** seeks to take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment.

4.4.4 **Objective 6** seeks to enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that, among other matters:

- the protection of coastal values does not preclude use and development in appropriate places and forms, and within appropriate limits;
- the use of natural and physical resources is necessary to meet the social, economic and cultural wellbeing of people and communities; and,
- some activities have a functional need to be located in the coastal marine area.

4.5 It is clear from these objectives that there is a recognition of the presence and importance of appropriate infrastructure within the coastal environment particularly with the specific reference to a “functional need”, which will more often than not relate to infrastructure.

4.6 Several policies also recognise the presence and importance of infrastructure in the coastal environment as well as the protection of the natural environment. For example (my paraphrasing):

4.6.1 **Policy 1** acknowledges that the extent and characteristics of the coastal environment has been modified by physical resources and built facilities, including infrastructure.

4.6.2 **Policy 4** provides for integrated management, requiring collaboration with bodies and agencies with responsibilities and functions relevant to

resource management and particular consideration of situations where land use activities may affect water quality.

4.6.3 **Policy 6** recognises that the provision of infrastructure is important to the social, economic and cultural well-being of people and communities, and that development will need to be enabled to provide for the reasonably foreseeable needs of population growth.

4.6.4 **Policy 14** promotes restoration or rehabilitation of the natural character of the coastal environment;

4.6.5 **Policy 21** seeks to ensure that where water quality in the coastal environment has deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats or water based recreation activities or is restricting its use, priority is given to improving water quality in such areas.

4.6.6 **Policy 23(4)** requires steps to be taken when discharge stormwater to the coastal environment, by reducing contaminant and sediment loadings and the source, promoting integrated management of catchments and networks.

4.7 In my view, the policy directives of the NZCPS are a relevant consideration for this hearing as a broader policy lens needs to be applied when managing activities in the CMA compared to other relevant NPS (such the NPSFM), that have a narrower focus or lens.

#### **NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT 2020**

4.8 The NPSFM sets out the objectives and policies for freshwater management under the RMA. Importantly, the NPSFM only applies to the wider coastal marine area to the extent it is affected by freshwater.<sup>11</sup>

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<sup>11</sup> Clause 1.5 Application sub clause (1) NPSFM.

4.9 The NPSFM includes requirements that seek to provide for the management of freshwater resources in accordance with Te Mana o te Wai, and to facilitate (as relevant to this hearing) a greater focus on:

4.9.1 Prioritising the health and wellbeing of waterbodies;<sup>12</sup>

4.9.2 Improving degraded water bodies; and,

4.9.3 Involving tangata whenua in the management of freshwater.<sup>13</sup>

4.10 The overall objective of the NPSFM is to ensure that natural and physical resources are managed in a way that prioritises:

4.10.1 First, the health and well-being of water bodies and freshwater ecosystems;

4.10.2 Second, the health needs of people (such as drinking water); and,

4.10.3 Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

4.11 Policy 15 requires that communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with the NPSFM.

4.12 While the above provisions are all relevant to this hearing stream, it is important to remain cognisant of the scope and application of the NPSFM to coastal waters and the CMA. That is, care needs to be taken to ensure the policy directives of the prescriptive NPSFM are not conflated with the more broadly framed NZCPS directives.

#### **NATIONAL POLICY STATEMENT ON URBAN DEVELOPMENT 2020**

4.13 The NPSUD recognises the national significance of:

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<sup>12</sup> Under the RMA, a water body means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.

<sup>13</sup> Under the RMA, freshwater or fresh water means all water except coastal water and geothermal water.

- 4.13.1 Having well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future; and
- 4.13.2 Providing sufficient development capacity to meet the different needs of people and communities.
- 4.14 The NPSUD recognises airports such as Wellington Airport as nationally significant infrastructure, and identifies that such infrastructure has operational and functional requirements that may impact the ability of other urban development outcomes to be achieved.<sup>14</sup>

#### **RPS FOR THE WELLINGTON REGION**

- 4.15 The Regional Policy Statement for the Wellington region (“**RPS**”) was made operative on 24 April 2013 (“**the Operative RPS**”).
- 4.16 Plan Change 1 and Variation 1 to the Wellington RPS was publicly notified in August 2022. The Greater Wellington Regional Council notified its decisions on Plan Change 1 and Variation 1 to the RPS in October 2024 (**Decisions version RPS**). 13 appeals have been filed in the Environment Court.<sup>15</sup>
- 4.17 As the Decisions version of the RPS remains subject to appeal, it is not yet operative and the two versions need to be read alongside each other.
- 4.18 Insofar as relevant to this hearing, three of the key provisions of the RPS that the PC1 needs to give effect to includes Objective 10 and Policy 7. Objective 10 has not been modified by Plan Change 1 and Variation 1 to the RPS, and is shown in full below. The relevant excerpt of Policy 7, as modified by the Decisions version of the RPS is also provided below.

**Objective 10:** *The social, economic, cultural, and environmental, benefits of regionally significant infrastructure are recognised and protected.*

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<sup>14</sup> As a qualifying matter under clause 3.32.

<sup>15</sup> Excluding one appeal which has been withdrawn.

**Policy 7:** District and regional plans shall include objectives, policies, rules and/or other methods that recognise:

- (a) recognise the social, economic, cultural and environmental benefits of regionally significant infrastructure including:
- (i) people and goods can travel to, from and around the region efficiently and safely and in ways that support the transition to low or zero-carbon multi-modal transport modes;
  - (ii) public health and safety is maintained through the provision of essential services: - supply of potable water, the collection and transfer of sewage and stormwater, and the provision of emergency services;
  - (iii) people have access to energy, and preferably renewable energy, so as to meet their needs; and
  - (iv) people have access to telecommunication services; and...

4.19 The Decisions version of the RPS also inserts additional objectives which recognise and support RSI and other activities that provide for the economic and social well-being of Wellington’s communities:

4.19.1 Integrated Management Objective A requires that the integrated management of the region’s natural and physical resources recognises the role of both natural and physical resources, including regionally significant infrastructure, in providing for well-functioning urban and rural areas.

4.19.2 Objective 12 seeks that the mana of the Region’s waterbodies and freshwater ecosystems is restored and protected by ongoing management of land and water that supports the reasonable, sustainable and efficient use of water for activities that benefit the Region’s economy.

4.20 The Decisions version of the RPS also includes a long term freshwater vision for the Te Whanganu-a-Tara (Objective TWT), which aims for wai ora<sup>16</sup> to be

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<sup>16</sup> Which is not defined in the Decisions version of the RPS.

achieved and fresh and coastal waters are healthy, accessible and sustainable for future generations.

- 4.21 With regard to water quality, Objective 6 of the Operative RPS seeks to maintain or enhance coastal water quality. Objective 12 of the Operative RPS seeks to ensure the quality and quantity of freshwater meets the range of values and uses for which it is required, safeguards the life supporting capacity of water bodies, and meets the reasonably foreseeable needs of future generations. Objective 12 as amended by Decisions version of the RPS seeks that the mana of waterbodies and freshwater ecosystems is restored and protected and applies the hierarchy of obligations set out under the NPSFM, while supporting the reasonable, sustainable and efficient use of water for activities that benefit the region's economy.<sup>17</sup>
- 4.22 Policy 40, which gives effect to both Objective 6 and Objective 12, is amended by the Decisions version of the RPS to set out matters the regional council must have regard to when considering regional resource consent applications, including the maintenance and, where degraded, protection and enhancement of the health and well-being of coastal waterbodies and the health and wellbeing of marine ecosystems. Other amendments to Policy 40 insert additional considerations that primarily serve to give effect to the NPSFM.

## **5. OVERVIEW OF WIAL SUBMISSION ON PC1 OBJECTIVES AND ECOSYSTEM HEALTH AND WATER QUALITY POLICIES**

- 5.1 As an overarching submission point, WIAL raised concerns regarding provisions relating to the CMA and coastal environment. WIAL sought the deletion of any reference to the CMA from those provisions which seek to directly give effect to the NPSFM, on the basis it would result in the management of coastal resources in a way that is inconsistent with the NZCPS and sections of the Operative NRP which are not subject to PC1.

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<sup>17</sup> Note this objective does not apply to the coast as it applies to freshwater and waterbodies, but which exclude coastal waters.

- 5.2 WIAL also opposed, in part, three new objectives and two new policies regarding the target state of Whaitua Te Whanganui-a-Tara:
- 5.2.1 Objective WH.O1 which seeks that the health of all freshwater bodies and the coastal marine area within Whaitua Te Whanganui-a-Tara is progressively improved and is wai ora by 2100. An advice note describes the wai ora state.
  - 5.2.2 Objective WH.O2 which seeks that the health and wellbeing of Te Whanganui-a-Tara's groundwater, rivers and natural wetlands and their margins are on a trajectory of measurable improvement towards wai ora. Sub-clauses describe the desired state of various indicators of freshwater health to be achieved by 2040.
  - 5.2.3 Objective WH.O3 which seeks that the health and wellbeing of coastal water quality, ecosystems and habitats in Te Whanganui-a-Tara is maintained or improved, to achieve the coastal water objectives set out in Table 8.1. Sub-clauses describe the desired state of various indicators of the health of coastal waters to be achieved by 2040.
  - 5.2.4 Policy WH.P1 which sets out how aquatic ecosystem health will be improved.
  - 5.2.5 Policy WH.P2 which sets out how activities will be managed to achieve target attribute states and coastal water objectives.
- 5.3 WIAL supported proposed Table 8.1 and sought that the water objectives contained in this table be retained as notified.
- 5.4 WIAL also made further submissions opposing submissions which sought the inclusion of a new interim objective with a time period of 2030. While supporting the intent of submissions to give effect to the NPSFM, WIAL considers it imperative that all elements of the NPSFM are appropriately recognised, including the specific policy approach for specified infrastructure.
- 5.5 Most of these submission points are addressed in the following sections.

## **6. PROVISIONS RELATING TO THE CMA**

- 6.1 WIAL raised concerns regarding provisions relating to the CMA and coastal environment. WIAL sought the deletion of any reference to the CMA from those provisions which seek to directly give effect to the NPSFM, on the basis it would result in the management of coastal resources in a way that is inconsistent with the NZCPS and sections of the Operative NRP which are not subject to PC1.
- 6.2 The Reporting Officer recommends rejecting the submission on the basis that the WIAL submission did not identify provisions of concern.<sup>18</sup>
- 6.3 Having reviewed the section 32 evaluation, in my view, the analysis of the proposed new coastal related PC1 provisions against the NZCPS policy directives was completed at a fairly high level.<sup>19</sup> I therefore understand WIAL's concerns about the conflation of policy outcomes between the NZCPS and the NPSFM.
- 6.4 Having reviewed each objective and policy of PC1 against the NZCPS, and having compared and contrasted the objective and policy directives against one another, I consider the overall intent of PC1 generally aligns with the overall outcomes sought by the NZCPS. However, I consider there are instances where this not the case and these are discussed in the following sections.

## **7. LONG TERM ENVIRONMENTAL OBJECTIVE - WH.O1**

- 7.1 As notified, Objective WH.O1 seeks that the health of all freshwater bodies and the coastal marine area within Whaitua Te Whanganui-a-Tara is progressively improved and is wai ora by 2100. An advice note describes the wai ora state.
- 7.2 WIAL's opposed the objective in part, citing:

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<sup>18</sup> Objectives s42A Report, para 100.

<sup>19</sup> Section 32 Evaluation, section 3.1.4.

- 7.2.1 It supports the general intent of the proposed objective, however achieving “wai ora”, as expressed in the objective, cannot practicably be achieved at the Airport due to its operational and functional requirements;
  - 7.2.2 The higher order planning documents (such as the NPSFM) provide a path for specified infrastructure to undertake activities within freshwater bodies in accordance with the effects management hierarchy;
  - 7.2.3 The requirement for the objective to be wai ora by 2100 should be qualified rather than absolute; and,
  - 7.2.4 The extent to which the objective should apply to sites containing RSI should be further considered, as should whether such an objective is appropriate where it is also necessary to utilise natural and physical resources to meet the economic and social needs of Wellington’s communities.
- 7.3 The Reporting Officer has recommended a number of amendments to WH.O1 in response to submissions by WIAL and others. As is relevant to WIAL’s submission, the Reporting Officer:
- 7.3.1 Recommends that the reference to “Note” be deleted so the explanation of the wai ora state is part of the objective.<sup>20</sup>
  - 7.3.2 Recommends clarifying that the long term “vision” objective does not apply to individual resource consent applications. In doing so however, the Reporting Officer notes that it may be a useful guide to future plan responses.<sup>21</sup>

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<sup>20</sup> Objectives s42A Report, para 152.

<sup>21</sup> Objectives s42A Report, paras 120 and 148.

- 7.3.3 Recommends that reference to the wai ora state āhua (natural character) is qualified such that it should only be necessary for achieving wai ora where it is degraded.<sup>22</sup>
- 7.3.4 A qualification is placed on the wai ora reference to rivers, and lakes margins being planted “where applicable”,<sup>23</sup> noting that there is no statutory direction for planted margins everywhere in the whitua.
- 7.3.5 Recommends that an additional bullet is inserted to ensure that the long-term objective recognises the second and third priorities contained within Te Mana o te Wai in the NPSFM, and aligns with Objective TWT of the Decisions version of the RPS.<sup>24</sup>

7.4 Accordingly, the Reporting Officer recommends WH.O1 is amended as follows:

**Objective WH.O1**

*The health of ~~all freshwater bodies rivers and lakes and their margins, natural wetlands, groundwater~~ and the coastal marine area within Whaitua Te Whanganui-a-Tara is progressively improved and is wai ora by 2100.*

**Note**

*In the wai ora state:*

- > *Āhua (natural character) ~~where deteriorated~~ is restored and freshwater bodies exhibit their natural quality, rhythms, range of flows, form, hydrology and character*
- > *All ~~freshwater bodies rivers and lakes~~ have planted margins, where applicable*
- > *All ~~freshwater bodies rivers and lakes and their margins, natural wetlands, groundwater~~ and coastal waters have healthy functioning ecosystems and their water conditions and habitat support the presence, abundance, survival and recovery of At-risk and Threatened species and taonga species*

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<sup>22</sup> Objectives s42A Report, para 153.

<sup>23</sup> Objectives s42A Report, para 154.

<sup>24</sup> Objectives s42A Report, para 156.

- > *Mahinga kai and kaimoana species are healthy, plentiful enough for long term harvest and are safe to harvest and eat or use, including for manuhiri and to exercise manaakitanga*
- > *Mana whenua are able to undertake customary practices at a range of places throughout the catchment.*
- > *Water is able to be used for social and economic use benefits, provided that the health and wellbeing of waterbodies, freshwater ecosystems and coastal waters is not compromised.*

*Note: Objectives WH.O2 to WH.O9 set out what is needed to achieve progressive implementation of this long-term objective up to 2040. Therefore, resource consent applicants do not need to demonstrate their proposed activities align with this objective.*

7.5 In my experience, when promulgating planning provisions, careful interpretation of objectives and policies is important. Shades of meaning matter, particularly when provisions are attempting to reconcile important competing considerations.

7.6 While I understand and agree with the Reporting Officer that WH.O1 is a long term ‘vision’ objective for all fresh and coastal water in the Te Whanganui-a-Tara,<sup>25</sup> I do not consider that the various amendments, including the addition of the “note” regarding consideration of resource consents, address the matters set out in WIAL’s submission, particularly with respect to natural character and the creation of habitat for At-risk and Threatened species.

#### **NATURAL CHARACTER**

7.7 With respect to first bullet point regarding natural character, when you break the objective down to its component parts, it broadly requires that the health of the CMA is progressively improved and āhua (natural character) is restored, where deteriorated. In my view, this would likely capture artificial and highly

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<sup>25</sup> Objectives s42A Report, para 144.

modified coastlines, which are far removed (and thus deteriorated) from their natural state and character.

- 7.8 In WIAL's situation, for operational reasons, it is not practicable to restore the CMA back to its natural state. As identified by WIAL in its original submission, the environment surrounding the Western and Southern Seawalls located adjacent to the Airport, is highly modified. It comprises a large area of reclaimed land, surrounded by heavily engineered seawalls. These seawalls protect the Airport, and the various public utilities located within Moa Point Road (such as the main sewage line to the Moa Point Sewage Plant) from coastal processes.
- 7.9 As noted by Ms Lester, the Airport is both a significant contributor to the local and regional economy and has a significant role as a lifeline utility. If the objective were to be read in absolute terms and natural character achieved by 2100, this would have significant adverse effects on the operation and functioning of the Airport and as a result, significant ramifications for the social and economic wellbeing of the city, region and beyond. This is independent of any effects that could accrue from the loss of utilities within Moa Point Road.
- 7.10 I also note that the NZCPS policy direction with respect to natural character is to "promote" restoration and rehabilitation. It is not an absolute requirement, as the wai ora state objective currently reads.
- 7.11 While very few freshwater bodies exist within or adjacent to the Airport, requiring the restoration of such features where natural character is deteriorated also presents some practical difficulties for WIAL. As set out by Ms Lester, there are strict biosecurity requirements within 400m of international processing facilities meaning that the creation and enhancement of waterbodies that may provide mosquito/larval habitats must be avoided. The presence of standing waterbodies also increases the risk of bird strike, if the waterbodies are not appropriately designed (including any associated planting). Bird strike risk is a matter for which all Airports are required to manage under Civil Aviation Regulations.

- 7.12 While I acknowledge (and support) the Reporting Officer’s recommendation to clarify that the objective does not apply to resource consents, I note (as does the Reporting Officer) that the objective may inform future plan changes.<sup>26</sup> If an objective anticipates that wai ora will be achieved by 2100, in my view it sends a strong signal that future plan changes will have to work towards this outcome. While I acknowledge that Objectives 9 and 10 of the NRP (which are not part of PC1) recognise and enable RSI, and Policies such as P41 (relating to the Wellington Airport South Coast) and P146 (relating to seawalls) generally anticipate the ongoing presence of the seawalls, it is not clear how these competing interests would be resolved in future plan making exercises.
- 7.13 For the reasons identified above, complete restoration of the natural character by 2100 is not practicable in the Wellington Airport context. Based on a review of the NZCPS, there does not appear to be any requirement for such an outcome to be achieved insofar as it relates to the coastal marine area, nor does it appear to have been a priority value identified in the Whaitua Implementation Programme.<sup>27</sup> I therefore question the appropriateness of including natural character in this objective.
- 7.14 In addition, I anticipate that Clause 3.3(2)(b) of the NPSFM has influenced the inclusion of longer term, visionary objective in PC1. I note however that this directive requires regional councils to develop long-term visions for freshwater that are “*ambitious but reasonable (that is, difficult to achieve but not impossible)*”. Given this direction, and also given that its current application extends beyond freshwater management, any restoration of natural character must be qualified to ensure it does not establish an “impossible” long term outcome.

#### **AT RISK AND THREATENED SPECIES**

- 7.15 With respect to the requirement set by the third bullet point, while well intentioned, it appears to potentially set an outcome that may not be

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<sup>26</sup> Objectives s42A Report, para 120.

<sup>27</sup> Objectives s42A Report, Appendix 6.

practically achievable. That is, it requires all freshwater bodies and coastal waters to provide habitat that supports for At-risk, Threatened and taonga species. This appears to apply uniformly, without regard for whether those species may naturally occur within those environments. In my view, the addition of the words “where naturally present” would address this concern.

#### **PROPOSED NEW NOTE**

- 7.16 With respect to the proposed new note recommended by the Reporting Officer, I support its intent and agree with the Reporting Officer that it would be difficult (and inappropriate) for this to be demonstrated at a resource consent level.
- 7.17 I consider however, that the recommended “note” requires further amendment to also exclude Notices of Requirement for the same reasons as the Reporting Officer recommends excluding resource consent applications.<sup>28</sup> Given designations are a land use control contained within district plans, requiring the assessment of a Notice of Requirement against WH.O1 would also be an inappropriate test to apply.

#### **SOCIAL AND ECONOMIC BENEFITS**

- 7.18 The Reporting Officer is recommending including a new bullet point to the wai ora description which draws into consideration the social and economic benefits to be derived from the use of water. I understand the Reporting Officer’s rationale for this change is to ensure recognition of the second and third priorities of Te Mana o Te Wai and Objective TWT of the Decisions version of the RPS.<sup>29</sup> While I support this inclusion, providing express reference to RSI would also serve to address some of WIAL’s concerns around the lack of recognition of the role of infrastructure in PC1. It would also address WIAL’s concerns that PC1 is largely applying the NPSFM directives over those set out in the NZCPS, such as Policy 6 which recognises the importance of

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<sup>28</sup> Objectives s42A Report, paras 120 and 148.

<sup>29</sup> Objectives s42A Report, para 156.

infrastructure to the social, economic and cultural wellbeing of people and communities (in the wider context of the coastal environment).

## RECOMMENDED CHANGES TO WH.O1

7.19 In light of the above, I recommend amending bullets one and three of WH.O1 and the Note as follows (additions shown in blue underline and deletions shown in ~~blue strikethrough~~):

- > *Āhua (natural character) ~~where deteriorated~~ is restored and freshwater bodies exhibit their natural quality, rhythms, range of flows, form, hydrology and character to the extent practicable.*
- > *~~All freshwater bodies~~ Rivers and lakes and their margins, natural wetlands, groundwater and coastal waters have healthy functioning ecosystems and their water conditions and habitat support the presence, abundance, survival and recovery of At-risk and Threatened species and taonga species where naturally present in those environments.*
- > *Water is able to be used for social and economic use benefits, including by providing for the operational and functional requirements of Regionally Significant Infrastructure, provided that the health and wellbeing of the waterbodies, freshwater ecosystems and coastal waters is not compromised.*

*Note: Objectives WH.O2 to WH.O9 set out what is needed to achieve progressive implementation of this long-term objective up to 2040. Therefore, resource consents and Notice of Requirements ~~applicants~~ do not need to demonstrate their proposed activities align with this objective.*

7.20 Attached as **Appendix A** is a copy of the recommended amendments to the provisions referred to in this statement, as well as an associated s32AA evaluation.

## **8. FRESHWATER OBJECTIVE - WH.O2**

8.1 As notified, Objective WH.O2 seeks that the health and wellbeing of all Te Whanganui-a-Tara's groundwater, rivers, natural wetlands and their margins

are on a trajectory of measurable improvement towards wai ora, with a range of outcomes sought by 2040.

8.2 WIAL opposed the objective in part, citing reasons similar to those under WH.O1. Additionally, WIAL submitted that the objective should clarify that the reference to the health and wellbeing of Te Whanganui-a-Tara is at a broad, regional level, thus recognising that there may be localised effects arising as a result of some activities, such as specified infrastructure, undertaking activities in rivers and wetlands.

8.3 The Reporting Officer largely recommends rejecting WIAL’s submissions regarding WH.O2 on the basis that: <sup>30</sup>

8.3.1 The objectives do not set an absolute achievement of wai ora and are not highly directive for consent applicants;

8.3.2 WH.O2 is seeking progress in the right direction and in some cases there is the option of maintenance or improvement; and

8.3.3 There would be “plenty of opportunity to achieve maintenance or improvement” for a large established site like WIAL’s.

8.4 The Reporting Officer recommended amendments to WH.O2 are shown below:

*The health and wellbeing of Te Whanganui-a-Tara’s groundwater, rivers and natural wetlands and their margins are on a trajectory of measurable improvement towards wai ora, such that by 2040:*

(a) *Water quality, habitats, aquatic life, water quantity and ecological processes are at a level where the state of aquatic life ecosystem health is maintained, or meaningful progress has been made towards improvement where degraded in accordance with WH.09, and*

(b) *natural form and character is maintained, or where degraded, improvement has been made to the hydrology of rivers, and erosion processes, including bank stability, are improved and sources of sediment are reduced to a more*

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<sup>30</sup> Objectives s42A Report, paras 179.

- ~~natural level, and the extent and condition of indigenous riparian vegetation is increased and improved, supporting ecosystem health, and the extent and condition of indigenous riparian vegetation is increased and improved, and~~
- (c) ~~the extent and condition of indigenous riparian vegetation is increased and~~
- (d) the diversity, abundance, composition, structure and condition of mahinga kai species and communities are increased, and
- (e) ~~huanga of mahinga kai and Māori customary use for locations identified in Schedule B (Ngā Taonga Nui a Kiwa) are maintained or improved, and~~
- (f) mana whenua can more safely connect with freshwater and enjoy a wider range of customary and cultural practices, including mahinga kai gathering, and
- (g) mana whenua and communities can more safely connect with freshwater and enjoy a wider range of activities, including swimming and fishing, kayaking and rafting food gathering, and
- (h) freshwater of a suitable quality is available for the health needs of people, and
- (i) people and communities can provide for social and economic use benefits, provided that the health and well-being of waterbodies and ecosystems is not compromised.

8.5 I agree with the Reporting Officer that WH.O2 is less directive and generally seeks to achieve a trajectory of improvement, rather than an absolute direction. Furthermore, given the broad direction, the objective is more geared towards achieving a Whaitua or catchment wide improvement, such that resource consents will need to generally demonstrate that they are not precluding the overall outcome from being achieved. Coupled with any amendments to the description of “wai ora state”, as set out with respect to WH.O1 above, many of WIAL’s submissions with respect to this policy have been addressed.

8.6 While the Reporting Officer’s recommended addition of subclause (i) goes some way to addressing some of the concerns raised in WIAL’s submissions regarding the provision for RSI, in my view the more express reference to RSI within this limb would better address this matter. Similar to the amendment

proposed for WH.O1, I therefore recommend that limb (i) be amended as follows:

*(i) people and communities can provide for social and economic use benefits, including by providing for the operational and functional requirements of Regionally Significant Infrastructure, provided that the health and well-being of waterbodies and ecosystems is not compromised.*

## **9. COASTAL WATER OBJECTIVE - WH.O3 AND TABLES 8.1 AND 8.1A**

### **OBJECTIVE WH.O3**

9.1 As notified, Objective WH.O3 seeks that the health and wellbeing of coastal water quality, ecosystems and habitats in Te Whanganui-a-Tara is maintained or improved, to achieve the coastal water objectives set out in Table 8.1. Sub-clauses describe the desired state of various indicators of the health of coastal waters to be achieved by 2040.

9.2 WIAL opposed the objective in part, primarily citing concerns around potential health and safety implications of providing access to the coast and clarification around the chapeau of the policy.

9.3 The Reporting officer recommends adopting WIAL's suggested wording amendments to the chapeau of WH.O3 to improve clarity of the objective. I support the recommendation of the Reporting Officer for the reasons set out in the s42A Report.<sup>31</sup>

9.4 With regard to subclauses (g) and (h) of WH.O3, which relate to access to the coast, the Reporting Officer clarifies that in their view, that this objective should not relate to physical public access enablement, rather the suitability of coastal water and its 'use' by people, and that other provisions of the NRP relate to public access to the coastal marine area.<sup>32</sup> In addition, in relation to other submissions on PC1, the Reporting Officer considers (g) and (h) to be

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<sup>31</sup> Objectives s42A Report, paras 221-222.

<sup>32</sup> Objectives s42A Report, para 226.

duplicative and has redrafted them as a single clause which refers to the safe 'use' of the coastal marine area, instead of 'connect with'.<sup>33</sup>

- 9.5 I note that with respect to WH.O1 and WH.O2, the Reporting Officer recommended the including of new limb to the policy that recognises that people and communities can provide for social and economic use benefits, provided the health and well-being of waterbodies and ecosystems is not compromised. The rationale for this change largely draws of the second and third priorities of Te Mana o Te Wai and Objective TWT of the Decisions version of the RPS.
- 9.6 As noted with respect to WH.O1, express reference to RSI within this new limb would go some way to addressing some of WIAL's concerns with respect to overall lack of recognition of RSI within PC1 and the broader interaction with the NZCPS policy directives. I recommend a similar sub-clause is inserted into WH.O3 as follows (shown in [blue underline](#)):

***Objective WH.O3***

*The health and wellbeing of Coastal water quality, and the health and wellbeing of ecosystems and habitats in Te Whanganui-a-Tara is maintained, or improved where deteriorated, to achieve the coastal water objectives set out in Table 8.1 and 8.1A, and by 2040:*

...

*(a) people and communities can provide for social and economic use benefits, including by providing for the operational and functional requirements of Regionally Significant Infrastructure, provided that the health and well-being of waterbodies and ecosystems is not compromised.*

**TABLE 8.1 AND 8.1A**

- 9.7 As notified, WH.O3 seeks the achievement of coastal water objective set out in Table 8.1. Table 8.1 identifies targets for a range of parameters to be achieved in each coastal management unit by 2040.

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<sup>33</sup> Objectives s42A Report, para 227.

- 9.8 WIAL supported Table 8.1 and sought the coastal water objectives contained within be retained as notified.
- 9.9 In response to submissions by others, the Reporting Officer recommends:
- 9.9.1 Deleting the ‘benthic marine invertebrate diversity’ and ‘phytoplankton’ parameters from Table 8.1 because there is no existing baseline data, they are not currently monitored by the Council, and are only relevant in some situations.<sup>34</sup> These are replaced with a narrative target in WH.O3.
- 9.9.2 Removing the Wai Tai (open coast) coastal management unit from Table 8.1 because the majority of parameters in Table 8.1 as notified were not considered helpful.<sup>35</sup>
- 9.9.3 Removing enterococci from Table 8.1 and creating new Table 8.1A with specific targets at specific locations that reflect established coastal recreational water quality monitoring sites to make the implementation of coastal objectives clearer.<sup>36</sup>
- 9.9.4 In developing Table 8.1A, the Reporting Officer recommends numeric targets that are suitable for swimming and achievable by 2040.<sup>37</sup>
- 9.9.5 Inserting current state data to Table 8.1 and new Table 8.1A where available, as the lack of baseline data renders the objectives uncertain and somewhat meaningless.<sup>38</sup>
- 9.10 In my view, the recommended amendments provide further clarity to plan users around the current state (at 2025) of the various target parameters, and thus whether the maintenance or improvement policy directive within WH.O3 applies.

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<sup>34</sup> Objectives s42A Report, para 210.

<sup>35</sup> Objectives s42A Report, para 210.

<sup>36</sup> Objectives s42A Report, paras 208-209.

<sup>37</sup> Objectives s42A Report, para 215.

<sup>38</sup> Objectives s42A Report, para 219.

9.11 I support the recommended amendments to Table 8.1 and insertion of Table 8.1A.

## **10. GENERAL ECOLOGICAL HEALTH AND WATER QUALITY WH.P1 AND WH.P2**

### **POLICY WH.P1**

10.1 As notified, Policy WH.P1 which sets out how aquatic ecosystem health will be improved.

10.2 WIAL opposed the policy in part, citing reasons similar to those under WH.O1. While generally supporting the intent of the policy to improve aquatic ecosystem health, WIAL considered that the policy as notified did not recognise the operational and functional requirements of significant infrastructure, and therefore the policy may not be practicable to apply to RSI.

10.3 The Reporting Officer recommends rejecting the relief sought by WIAL with regard to WH.P1 because:<sup>39</sup>

10.3.1 WH.P1 is a high-level scene setting policy and does not specifically direct an 'improve' approach. In response to other submissions, the Reporting officer recommends amendments to WH.P1 to make this more explicit to plan users;<sup>40</sup>

10.3.2 While the NPSFM does not recognise or exempt RSI from the obligations of the NOF process, and other objectives and policies of the NRP regarding regionally significant infrastructure can be considered alongside the PC1 provisions when assessing resource consent applications.

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<sup>39</sup> Policies s42A Report, para 53.

<sup>40</sup> Policies s42A Report, para 48.

10.4 I agree that the NPSFM does not exempt RSI from the NOF. However, as set out in Section 4 of this evidence, higher order documents recognise that RSI have unique operational and functional needs, and recognise that RSI use natural and physical resources to provide economic and social benefits for the communities they serve. I therefore consider it appropriate for the provisions of PC1 to also recognise and provide for the unique circumstances surrounding RSI.

10.5 With regard to WH.P1, I support the Officer's recommended amendments to clarify that improvement is only required where aquatic ecosystem health is deteriorated. I agree with the Reporting Officer's rationale that it is not effective to require waterbodies where target attribute states are already met to be improved (as is the case for the coastal water that WIAL discharges to).

#### **POLICY WH.P2**

10.6 The Reporting Officer recommends deleting WH.P2 in its entirety, citing that it is unnecessary and provided for by other provisions of PC1 and the Operative NRP. I support this recommendation and agree the policy is unnecessary and duplicates other provisions of PC1 or the NRP.

10.7 I will address other reasons for that support, which relate to the stormwater management and greenfield urban development rules, during a later hearing stream.

### **11. OBJECTIVE O2**

11.1 As notified by PC1, Objective O2 of the NRP was expressly removed from being applicable to Te Whanganui-a-Tara. In response to various submissions, the Reporting Officer has recommended that Objective O2 of the Operative NRP remains applicable to Whaitua te Whanganui-a-Tara and should therefore be reinstated.<sup>41</sup>

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<sup>41</sup> Hearings Stream 1: Officer's Right of Reply, para 17.

11.2 I support the retention of this Objective and consider its broad drafting has application beyond the management of water. It is therefore appropriate for the Objective to be retained for Whaitua Te Whanganui-a-Tara, and removes the risk of potentially creating a gap in the outcomes sought for the region and the Whaitua if it is removed.

## **12. GENERAL COMMENTS**

12.1 I note that many of the PC1 objectives and policies refer to rivers. It is not clear whether this reference is to rivers generally, as defined by section 2 of the RMA, or to rivers as identified on PC1 maps.

12.2 In the case of the Airport, Map 79 incorrectly identifies rivers over impervious areas of the Airport (refer to Figure 2) which have been historically reclaimed. These areas do not align with any rivers or the Airport's stormwater management system (refer to Figure 1).

12.3 I note that WIAL did not make a submission with respect to this map, however the map is clearly inaccurate. It would be more appropriate in my view, for the "rivers" over the Airport to be removed as a minor amendment and instead, reliance is placed on the RMA definition of a river.



Figure 2: Excerpt of Map 79: Rivers - Te Whanganui-a-Tara showing “rivers” (blue line) in the vicinity of Wellington Airport (source: GWRC Web Map Viewer).

### **13. CONCLUSION**

- 13.1 Wellington Airport comprises regionally and nationally significant infrastructure which plays a critical role in providing for the economic and social wellbeing of the Wellington Region.
- 13.2 The importance of regionally significant infrastructure, and the need to provide for the operational and functional needs of regionally significant infrastructure, is properly recognised through higher order documents, including the NZCPS, NPSFM, NPUD, the Operative RPS and the Decisions version of the RPS.
- 13.3 While I support a number of the Reporting Officer’s recommendations, in my view it is necessary and appropriate that further amendments be made to appropriately recognise RSI, and in particular Wellington Airport with its distinct operational and functional requirements.
- 13.4 With respect to each provision:

## **WH.O1**

13.5 I support the section 42A Report recommendations to:

13.5.1 Insert an additional bullet point to WH.O1 which recognises and enables the use of natural resources for the economic and social benefit of Wellington’s communities.; and

13.5.2 Insert a new “Note” to clarify that the long term “vision” objective does not apply to individual resource consent applications.

13.6 I recommend further amendments to:

13.6.1 Ensure the importance of RSI in providing for the social, economic and cultural well-being of communities is recognised in accordance with higher order documents identified in Section 4 of this evidence;

13.6.2 Ensure the new “Note” does not apply to Notices of Requirement; and

13.6.3 Ensure that the description of wai ora, particularly with regard to the restoration of natural character and creation of habitat for At Risk and Threatened species, is ambitious but reasonable in accordance with Clause 3.22(2)(b) of the NPSFM.

## **WH.O2**

13.7 I recommend further amendments to WH.O2 to ensure the objective recognises and enables RSI, as directed by higher order documents identified in Section 4 of this evidence.

## **WH.O3**

13.8 I support the Reporting Officer’s recommendations to:

13.8.1 Amend the chapeau of WH.O3. In my view, the recommended wording is clearer and more effective;

13.8.2 Amend subclauses (g) and (h) regarding use of the coastal marine area to clarify that these subclauses do not relate to public access; and

13.8.3 Amend Table 8.1 and insert new Table 8.1A. These amendments improve clarity and implementation of the objectives.

13.9 I recommend further amendment is made to WH.O3 to reflect amendments to WH.O2 which ensure the objective recognises and enables regionally significant infrastructure, as directed by higher order documents identified in Section 4 of this evidence.

#### **WH.P1**

13.10 I support the recommendation of the Reporting Officer to clarify that improvement is only required where aquatic ecosystem health is deteriorated. I agree that it is not effective to require waterbodies where target attribute states are already met to be improved.

#### **WH.P2**

13.11 I support the Reporting Officer's recommendation to delete WH.P2 in full. I agree that the policy is unnecessary and duplicates other provisions of PC1 or the NRP.

#### **OBJECTIVE O2**

13.12 I support the recommendation of the Reporting Officer that Objective O2 of the Operative NRP should remain applicable to Whaitua te Whanganui-a-Tara. I consider this appropriate given its broad drafting has application beyond the management of water.

#### **GENERAL COMMENTS**

13.13 I also highlight that it is not clear whether 'river' refers to rivers as generally defined by the RMA or as mapped in Map 79. It would be more appropriate in my view, for the "rivers" over the Airport to be removed as this is clearly in error and instead, reliance is placed on the RMA definition of a river.

Kirsty O'Sullivan

14 March 2025

**Recommended Ammendments (Tracked Changes) to the text of the Plan Change 1 to the Wellington Natural Resources Plan**

The changes are presented in the following ways:

<b>Changes Recommended</b>	<b>Shown</b>
New text recommended to be added to district plan as recommended by s42A report	<u>Red underline</u>
Text that is recommended to be deleted by s42A report	<del>Red strikethrough</del>
New text recommended to be added to district plan as recommended in the planning evidence in chief of K O’Sullivan	<u>Blue underline</u>
Text recommended to be deleted in the planning evidence in chief of K O’Sullivan	<del>Blue strike through</del>

<b>Recommended amendments to provision</b>	<b>S32AA evaluation / comments</b>
<p><b>Objective WH.O1</b></p> <p>The health of <del>all freshwater bodies rivers and lakes and their margins, natural wetlands, groundwater</del> and the coastal marine area within Whaitua Te Whanganui-a-Tara is progressively improved and is wai ora by 2100.</p> <p><b>Note</b></p> <p><u>In the wai ora state:</u></p> <ul style="list-style-type: none"> <li>&gt; Āhua (natural character) <del>where deteriorated</del> is restored and freshwater bodies exhibit their natural quality, <u>rhythms, range of flows, form, hydrology and character to the extent practicable.</u></li> <li>&gt; All <del>freshwater bodies rivers and lakes</del> have planted margins, <u>where applicable</u></li> <li>&gt; <del>All freshwater bodies r</del><u>Rivers and lakes and their margins, natural wetlands, groundwater</u> and coastal waters have healthy functioning ecosystems and their water conditions and habitat support the presence, abundance, survival and recovery of At-risk and Threatened species and taonga species <u>where naturally present in those environments.</u></li> </ul>	<p>Recommended further amendments to bullets 1 and 2 of the wai ora state description ensure that the long term objective remains ambitious but reasonable in accordance with Clause 3.3(2)(b) of the NPSFM. Also important for the first bullet point to be qualified given the objective also applies to the CMA, where the overarching policy directive within the NZCPS is to “promote”, rather than require restoration.</p> <p>Recommended further amendments to bullet three ensures recognition of the second and third priorities of Te Mana o Te Wai and Objective TWT of the Decisions version of the RPS. The specific recognition of RSI also aligns with relevant provisions of the Operative RPS and Decisions version RPS which recognise and provide for RSI. Also aligns with the NZCPS policy directives within Policy 6.</p>

Recommended amendments to provision	S32AA evaluation / comments
<p>&gt; <u>Mahinga kai and kaimoana species are healthy, plentiful enough for long term harvest and are safe to harvest and eat or use, including for manuhiri and to exercise manaakitanga</u></p> <p>&gt; <u>Mana whenua are able to undertake customary practices at a range of places throughout the catchment.</u></p> <p>&gt; <u>Water is able to be used for social and economic use benefits, including by providing for the operational and functional requirements of Regionally Significant Infrastructure, provided that the health and wellbeing of the waterbodies, freshwater ecosystems and coastal waters is not compromised.</u></p> <p><u>Note: Objectives WH.O2 to WH.O9 set out what is needed to achieve progressive implementation of this long-term objective up to 2040. Therefore, resource consents and Notice of Requirements applicants do not need to demonstrate their proposed activities align with this objective.</u></p>	<p>Recommended further amendment to the new “Note” is more efficient because they provide greater certainty to plan users, including potential resource consent applicants and Requiring Authorities, about how the objectives are intended to be implemented.</p>
<p><b>Objective WH.O2</b></p> <p>The health and wellbeing of Te Whanganui-a-Tara’s groundwater, rivers and natural wetlands and their margins are on a trajectory of <u>measurable</u> improvement towards wai ora, such that by 2040:</p> <p>(a) <u>Water quality, habitats, aquatic life, water quantity and ecological processes are at a level where the state of aquatic life ecosystem health is maintained, or meaningful progress has been made towards improvement where degraded in accordance with WH.09, and</u></p> <p>(b) <u>natural form and character is maintained, or where degraded, improvement has been made to the hydrology of rivers, and erosion processes, including bank stability, are improved and sources of sediment are reduced to a more natural level, and the extent and condition of indigenous riparian vegetation is increased and improved, supporting ecosystem health, and the extent and condition of indigenous riparian vegetation is increased and improved, and</u></p> <p>(c) <u>the extent and condition of indigenous riparian vegetation is increased and improved, and</u></p> <p>(d) <u>the diversity, abundance, composition, structure and condition of mahinga kai species and communities are increased, and</u></p>	<p>Recommended further amendments to WH.O2(i) ensures recognition of the second and third priorities of Te Mana o Te Wai and Objective TWT of the Decisions version of the RPS. The specific recognition of RSI also aligns with relevant provisions of the Operative RPS and Decisions version RPS which recognise and provide for RSI.</p>

Recommended amendments to provision	S32AA evaluation / comments
<p><del>(e) huanga of mahinga kai and Māori customary use for locations identified in Schedule B (Ngā Taonga Nui a Kiwa) are maintained or improved, and</del></p> <p>(f) mana whenua can <b>more</b> safely connect with freshwater and enjoy a wider range of customary and cultural practices, including mahinga kai gathering, and</p> <p>(g) mana whenua and communities can <b>more</b> safely connect with freshwater and enjoy a wider range of activities, including swimming <del>and fishing, kayaking and rafting food gathering, and</del></p> <p>(h) freshwater <del>of a suitable quality</del> is available for the health needs of people, and</p> <p>(i) <del>people and communities can provide for social and economic use benefits, including by providing for the operational and functional requirements of Regionally Significant Infrastructure, provided that the health and well-being of waterbodies and ecosystems is not compromised</del></p>	
<p><b>Objective WH.O3</b></p> <p><del>The health and wellbeing of c</del>Coastal water quality, and the health and wellbeing of ecosystems and habitats in Te Whanganui-a-Tara is maintained, or improved <del>where deteriorated</del>, to achieve the coastal water objectives set out in Table 8.1 and 8.1A, and by 2040:</p> <p>(a) <del>sediment inputs into Mākara Estuary are reduced, and</del></p> <p><del>(b) high contaminant concentrations, including around discharge points, are reduced, and</del></p> <p>(c) <del>diversity, abundance, composition, structure and condition of mahinga kai species and communities has increased, and</del></p> <p>(d) huanga of mahinga kai and Māori customary use for locations identified in Schedule B (Ngā Taonga Nui a Kiwa) are maintained or improved, and</p> <p>(e) <del>the extent and condition of estuarine seagrass, saltmarsh and brackish water submerged macrophytes are increased and improved to support abundant and diverse biota, and</del></p>	<p>Recommended insertion of WH.O3(j) ensures recognition of the second and third priorities of Te Mana o Te Wai and Objective TWT of the Decisions version of the RPS. The specific recognition of RSI also generally aligns with relevant provisions of the Operative RPS and Decisions version RPS which recognise and provide for RSI. Further amendments recognise the broader policy directives of the NZCPS Policy 6.</p>

Recommended amendments to provision

S32AA evaluation / comments

- (f) coastal areas support healthy functioning ecosystems, and their water conditions and habitats support the presence, abundance, survival, and recovery of At-risk and Threatened species and taonga species, and
- ~~(g) mana whenua can safely connect with the coastal marine area and enjoy a wider range of customary and cultural practices, including mahinga kai gathering and tauranga waka, and~~
- (h) mana whenua and communities can safely ~~connect with use~~ coastal marine area and enjoy a wider range of activities, including food gathering, ~~and swimming, paddling, Māori customary use and tikanga, and~~
- (i) for coastal areas not covered by Table 8.1, in addition to relevant matters in (a)-(h) above:
- fish and benthic invertebrate communities are resilient and their structure, composition and diversity are maintained, and
  - there is no increase in the frequency of nuisance macroalgal blooms, and
  - phytoplankton levels are maintained and monitored in applicable areas of point source discharges and locations that experience riverine mouth closures with limited water mixing
- (j) people and communities can provide for social and economic use benefits, including by providing for the operational and functional requirements of Regionally Significant Infrastructure, provided that the health and well-being of waterbodies and ecosystems is not compromised.
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## **Appendix 2**

### **Recommended Amendments (Tracked Changes) to the text of the Plan Change 1 to the Wellington Natural Resources Plan**

<b>Changes Recommended</b>
New provisions included in Plan Change 1 to the Natural Resources Plan as notified shown as black text.
Recommended amendments by the section 42A reporting officer shown as for <u>red underline</u> additions and <del>red strikethrough</del> for deletions.
Recommended amendments by Kirsty O’Sullivan shown as for <u>blue underline</u> additions and <del>blue strike through</del> for deletions.

**Recommended amendments to provision**

**Policy WH.P29**

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 where, and to the extent, it is practicable to do so, by 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 all necessary 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, 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,
- (f) 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.

**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:

- (a) 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

## Recommended amendments to provision

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

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,

- (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 person, and the results reported to the Wellington Regional Council.

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### Rule WH.P23

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 (~~except earthworks permitted by WH.R.23A shall not be included in this calculation~~), and
- (d) 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
- (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
- (f) the area of earthworks must be stabilised within six months after completion of the earthworks, and
- (g) ~~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~~
- (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.

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### ~~Rule WH.R23A~~ **Minor Earthworks associated with infrastructure**

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## Recommended amendments to provision

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:

....

(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:

(a) the earthworks shall not occur within 5m of a surface water body or the coastal marine area, and

(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

(c) the area of earthworks must be stabilised within six months after completion of the earthworks, and

(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.

(f) the discharge is in accordance with an existing stormwater discharge permit.

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### Rule WH.R24: Earthworks – restricted discretionary activity

Earthworks and the associated discharge of sediment and/or flocculant into a surface water body or coastal water, or onto or into land where it may enter a surface water body or coastal water, including via a stormwater network, that does not comply with Rule WH.R23 or Rule 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

## Recommended amendments to provision

- (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
- (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.

### *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
    - (viii) 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
    - (ix) the natural character of lakes, rivers, natural wetlands and their margins and the coastal environment
    - (x) natural hazards, land stability, soil erosion, sedimentation and flood hazard management including the use of natural buffers
  7. Duration of consent
  8. 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
  9. Monitoring and reporting requirements.
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## Recommended amendments to provision

10. 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.

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### **Rule WH.R25**

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 ~~non-complying activity~~ discretionary activity.

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### **~~Rule WH.P31~~**

~~Earthworks over 3000m<sup>2</sup> in area shall:~~

- ~~(a) — Be shutdown from 1 June to 30th September each year, and~~
  - ~~(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.~~
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