

Before an Independent Hearings Panel of Greater Wellington Regional Council

<b>Under the</b>	Schedule 1 of the Resource Management Act 1991 ( <b>RMA</b> )
<b>In the matter</b>	Proposed change 1 to the Natural Resources Plan for the Wellington Region
<b>Hearing Topic</b>	Hearing Stream 3 – Rural land use activities, Forestry and Vegetation Clearance, and Earthworks

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**STATEMENT OF EVIDENCE OF VANESSA ALISON RODGERS ON BEHALF OF  
PORIRUA CITY COUNCIL**

**PLANNING**

**05 May 2025**

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## **1. INTRODUCTION AND QUALIFICATIONS**

**1.1** My full name is Vanessa Alison Rodgers.

**1.2** I am employed by the Porirua City Council (**PCC**) as a Senior Policy Planner. I hold the qualifications of Bachelor of Science with Honours in Physical Geography from Victoria University of Wellington and a Master in Resource and Environmental Planning with First Class Honours from Massey University.

**1.3** I have been employed by PCC since June 2024. In my current role, I provide expert advice on a range of resource management matters affecting Porirua City, including submissions on national policy reform proposals, the appeals to proposed Plan Change 1 to the Wellington Regional Policy Statement, research and policy development for district plan policy issue, and policy advice to resource consent planners. I provided expert evidence and appeared at Hearing Stream 2 for the Natural Resources Plan, Plan Change 1. I am very familiar with Porirua City, its environment, and the policy context for land use, development and subdivision in Porirua.

**1.4** Prior to my current role with PCC, and since 2003, I have held other planning roles with local authorities in the United Kingdom and New Zealand. In these roles, my primary focus was policy related planning work, for district plan processes in particular.

**1.5** I have prepared this statement of evidence on behalf of PCC to provide planning evidence in support of its submission to Greater Wellington Regional Council's (the **Council**) Proposed Change 1 (**Change 1** or **PC1**) to the Natural Resources Plan for the Wellington Region (**NRP**).

**1.6** This statement of evidence relates to the matters for consideration as part of Hearing Stream 3 – Rural land use activities, Earthworks, and Forestry and Vegetation Clearance (**HS3**).

- 1.7** I am authorised to provide the evidence on behalf of PCC. While I am an employee of PCC, I am giving this evidence as a planning expert, and the views I express in this evidence are my own.

**Code of conduct**

- 1.8** While this hearing is not before the Environment Court, I confirm that I have read the Code of Conduct for Expert Witnesses set out in the Environment's Court Practice Note 2023 and I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. PCC, as my employer, has authorised that I give this evidence on its behalf.

**2. SCOPE OF EVIDENCE**

- 2.1** I have been asked to provide expert planning evidence in relation to PCC's submission on Change 1 (Submission number 240), specifically the provisions being considered as part of Hearing Stream 3:

- (i) Policies P.P20 – P.P29
- (ii) Rules P.R16 – P.R25
- (iii) Method 44

- 2.2** In relation to the above provisions, PCC's submission overall sought to retain many of the provisions as notified. However, PCC's submission did oppose Policy P.P29 requiring the winter shut down of earthworks and also sought amendments to the earthworks permitted activity rule.

**3. STRUCTURE OF EVIDENCE**

- 3.1** My evidence addresses policies and rules across all three topics as follows:

Rural land use

- (i) Policy P.P20
- (ii) Policy P.P21

(iii) Policy P.P23

Earthworks

(iv) Definition

(v) Policy P.P27

(vi) Policy P.P28

(vii) Rule P.R22

(viii) Rule P.R22A

(ix) Rule P.R23

Forestry and vegetation clearance

(x) Policy P.P26

(xi) Rule P.R19

**3.2** In preparing my evidence I have reviewed:

(i) The Section 32 Evaluation of Provisions for Proposed Change 1 to the Natural Resources Plan for the Wellington Region (**s32 Report**);

(ii) Section 42A Hearing Report - Hearing Stream 3 Rural Landuse (**s42A Report No.1**);

(iii) Section 42A Hearing Report - Hearing Stream 3 Earthworks (**s42A Report No.2**);

(iv) Section 42A Hearing Report - Hearing Stream 3 Forestry and Vegetation (**s42A Report No.3**)

**4. SUMMARY OF EVIDENCE**

**4.1** I support the s42A recommendation to delete Policy P.P29 on the winter shut down of earthworks.

**4.2** The section 42A author has recommended a new Rule P.R22A Minor earthworks associated with infrastructure which provides for certain earthworks as a permitted activity. I consider that this is a useful addition to NRP Change 1. However, I consider this rule can be further improved to enable situations that require local authorities to undertake their statutory functions without the need to obtain unnecessary resource consents. These include enabling earthworks associated with coastal restoration, conservation and management activities; the construction of paths and trackways within reserves and other publicly owned land; and the repair and maintenance of footpaths or driveways.

**4.3** I have provided my recommendations to further enhance clarity for policies and rules as set out in Appendix 1 to this evidence.

## **5. RELEVANT BACKGROUND CONTEXT**

### **PCC's key submission points**

**5.1** In relation to the provisions being considered in Hearing Stream 3, PCC's submission on Change 1 as notified was generally supportive and sought to retain many of the relevant provisions as notified.

**5.2** The substantive concerns relevant to Hearing Stream 3 included:

- (i) the proposed 'winter shutdown' for earthworks;
- (ii) that earthworks associated with coastal restoration, conservation, and management activities by a statutory authority or their nominated contractor, should be enabled as a permitted activity;
- (iii) that earthworks for the repair or maintenance of existing roads, or repair, sealing or resealing of a road, footpath or driveway undertaken by a statutory authority or their nominated contractor, should be enabled as a permitted activity; and
- (iv) that vegetation clearance for the creation or maintenance of a firebreak should be enabled as a permitted activity.

## Section 42A reports

- 5.3 Overall, I am generally supportive of the s42A Report recommendations. There are, however, further amendments that I consider necessary to ensure that the provisions are effective, efficient, and the most appropriate to achieve the Objectives. These are discussed below and shown in [blue text](#).
- 5.4 Appendix 1 to my evidence sets out PCC's submission points, the s42A recommendations in response to those submission points, and my recommended amendments in response to those s42A recommendations.

### Section 42A Report Rural land use

- 5.5 Policy P.P20 clause (d) seeks to exclude stock from water bodies as a limit on land use. The section 42A Report recommends that this be amended to include 'greater than 1m wide'. While I agree that greater specificity on the scale of the water bodies from which stock is to be excluded is useful for plan users, I consider that it is unclear from the proposed wording how the width of the water bodies will be measured. For example, it is not clear whether the relevant waterbodies will be mapped by Greater Wellington, or whether a plan user will need to determine whether a water body is captured by the rule on a case-by-case basis. Additionally, it is not clear whether the one metre width threshold will be based on the average width of the water body and apply to the full length of the water body, or whether the rule will only apply to those parts of the water body one metre wide or more.
- 5.6 Policy P.P21 clause (d) is recommended to be added to the policy in the section 42A Report. The clause appears to compliment clause (c) in applying to land not covered by that clause. However, the recommended wording is somewhat confused by the inclusion of the words 'or more'. Accordingly, I consider that clause (d) should be amended as follows:
- (d)The effect of pastoral land use or arable land use on less than 20 hectares of land, or horticultural land use on less than 5 hectares ~~or~~ [more](#) of land on water quality is further investigated and methods applied as necessary to reduce any significant effects identified.

- 5.7 In relation to Policy P.P23, I consider that it is unclear if the date for farm environment plans should be 31 March 2029 as included in Appendix 4 of the section 42A Report by Mr Gerrard Willis, or 30 June 2029 as suggested in paragraph 363 of the body of the report.

#### Section 42A Report - Earthworks

- 5.8 In its submission, PCC sought amendments to the earthworks definition so that it referenced the updated Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2023. The submission point was accepted in part. However, I consider that the definition should in fact refer to the primary Regulations, ie those dated 2017, not the Amendment Regulations of 2023 which amended the primary regulations. In addition, the reference to the definitions should refer to those contained in 'Regulation 3' rather than 'section 3'. Therefore, I consider the definition should be amended as follows:

For Whaitua Te Whanganui-a-Tara and Te Awarua-o-Porirua **Whaitua** only: The alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, **cultivation**, and disturbance of land for the installation of fence posts. Except that, for the purposes of Rules WH.R20, ~~WH.R21~~ and P.R19, ~~P.R20~~, forestry-related 'earthworks' has the same meaning as given in section-Regulation 3 of the *Resource Management (National Environmental Standards for ~~Plantation Forestry Commercial Forestry~~) Regulations 20~~23~~17*.

- 5.9 In its submission PCC sought to delete Policy P.P29: Winter shut down of earthworks. The s42A report author has accepted this submission point and recommends that the policy be deleted. I support this recommendation. Policy P.P27: Management of earthworks sites is recommended to be amended with the addition of a new clause (e) as follows:

(e) minimising works required during the closedown period (from 1<sup>st</sup> June to 30<sup>th</sup> September each year).

- 5.10 I consider the term 'closedown period' is unclear, unnecessary and potentially conflicts with the policy wording of 'minimise'. As such, I recommend clause (e) is amended as follows:

~~(e) minimising works required during the closedown period (from 1<sup>st</sup> June to 30<sup>th</sup> September each year).~~

5.11 In relation to Policy P.P28 the s42A report author recommends amending the policy to provide a discharge standard with Nephelometric Turbidity Units (NTU) as the unit of measure. I agree that the use of NTU as the unit of measure is more practical when undertaking earthworks and support the recommendation of the section 42A Report. However, I also consider that discharges via a stormwater network should be captured by the rule irrespective of where it discharges to, rather than just to coastal water (which is the implication of the wording recommended in the section 42A Report). Accordingly, I consider clause (a) should be amended as follows:

(a) ~~not exceed a discharge standard of 100g/m<sup>3</sup>~~ 170 Nephelometric Turbidity Units (NTU) at the point of discharge where the discharge is to a surface water body, coastal water, ~~(including via a stormwater network)~~ or to an artificial watercourse, ~~(including via a stormwater network)~~, 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: ...

5.12 In its submission, PCC sought the following exclusions from Rule P.R22: Earthworks – permitted activity:

- (i) Coastal restoration, conservation, and management activities where undertaken by a statutory authority or their nominated contractor; and
- (ii) Repair or maintenance of existing roads, or repair, sealing or resealing of a road, footpath or driveway where undertaken by a statutory authority or their nominated contractor.

5.13 The s42A Report at paragraphs 68 and 69 recognises the activities set out in (ii) above. At paragraph 72 the s42A report author acknowledges the:

*...unintended impact on the ability for the above activities to be carried out as permitted activities. These activities are linear in nature and often expand over multiple properties, therefore are unlikely able to meet the permitted activity rule for earthworks within these Whaitua.*



- 5.14** In response to submissions, the report author states at paragraph 73:
- ...the result sought by these submissions can be addressed with the insertion of a new permitted activity rule to allow these activities to continue subject to conditions.*
- 5.15** Appendix 5 to the Earthworks s42A Report shows PCC's submission on P.R22 was accepted in part.
- 5.16** It is not clear from the section 42A Report analysis why repair, sealing, or resealing of a footpath or driveway, where undertaken by a local authority or their nominated contractor, has not been included in new Rule P.R22. I consider these activities to be necessary functions of PCC, and that earthworks associated with the repair and maintenance (including sealing or resealing) of a footpath or driveway by PCC should be a permitted activity.
- 5.17** Related to the above, I also consider it appropriate for the construction of paths and trackways within reserve land and other publicly owned land to be a permitted activity under Rule P.R22A.
- 5.18** PCC also submitted that earthworks associated with coastal restoration, conservation, and management activities (where undertaken by a local authority or their nominated contractor) should be permitted activities under Rule P.R22A. I agree with that submission point. This submission point does not appear to be addressed in the s42A report. In terms of coastal resilience and enhancement, I consider it appropriate that earthworks undertaken by a statutory agency that would result in increasing coastal resilience should be permitted, subject to the conditions set out in new Rule P.R22A.
- 5.19** Rule P.R22A clause (d), as recommended to be included by the section 42A Report, appears to contradict the chapeau of that rule as it seems to preclude the very activity that is being controlled by the rule (the discharge of sediment from earthworks) and it is unclear to me how this would work in practice.

5.20 Taking into account the matters discussed above in 5.12 – 5.19, I consider that new Rule P.R22A be amended as follows:

Earthworks and the associated discharge of sediment and/or flocculant into a surface water body or coastal water or onto or into land where it may enter a surface water body or coastal water, including via a stormwater network, associated with:

- (a) thrusting, boring, trenching or mole ploughing associated with cable or pipe laying and maintenance, and
- (b) the construction, repair, upgrade or maintenance of:
  - (i) pipelines, and
  - (ii) electricity lines and their support structures, including the National Grid, and
  - (iii) telecommunication structures or lines, and
  - (iv) radio communication structures, and
  - (v) firebreaks or fence lines, and
  - (vi) paths or trackways within reserves and other publicly owned land
- (c) repair or maintenance of existing roads, footpaths, driveways and tracks undertaken by a local authority or their nominated contractor, and airfield runways, taxiways, and parking aprons for aircraft;
- (d) coastal restoration, conservation, and management activities undertaken by a statutory authority or their nominated contractor

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.

5.21 Additionally, I consider that, Rule P.R23 needs to cross-reference new Rule P.R22A. I recommend the chapeau of Rule P.R23 is amended as follows:

Earthworks and the associated discharge of sediment and/or flocculant into a surface water body or coastal water or onto or into land where it may

enter a **surface water body** or coastal water including via a **stormwater network**, that does not comply with Rule P.R22 or P.R22A is a restricted discretionary activity, provided the following conditions are met:

#### Section 42A Report – Forestry and Vegetation Clearance

- 5.22** In relation to Policy P.P26, I consider that the reference to resource consent application is unnecessary. As such, I recommend amending the start of clause (a) as follows:

requiring the resource consent application to demonstrate that erosion and any discharge of sediment will to be minimised...

- 5.23** The amendments recommended to Rule P.R19 in the section 42A Report refers to Table 9.2 in relation to visual clarity. It is not clear to me where visual clarity is mentioned in Table 9.2. I note that Table 9.4 refers to visual clarity.

- 5.23** Additionally, the s42A report author has recommended Rule P.R19 include reference to ‘the *most recent* Wellington Regional Council monitoring record’ for visual clarity (emphasis added). I consider this may be problematic as it may not account for any statistical outlier in monitoring data. Taking the average over a specified timeframe may be more appropriate.

## **6. CONCLUSION**

- 6.1** The section 42A reports have recommended a number of changes, which I generally agree with. However, I consider further changes are needed to improve clarity and usability of the provisions. These changes have been discussed above and are also set out in Appendix 1 to my evidence.

**Vanessa Rodgers**

05 May 2025