



Summary of submissions

**Proposed District
Plan Change 65**

**& Proposed District
Plan Variation 6**

**Amendments to Proposed District Plan Change 33
(Ridgelines and Hilltops [Visual Amenity]
and Rural Area)**

Earthworks

30 October 2008

Absolutely

POSITIVELY

ME HEKE KI PŌNEKE
WELLINGTON CITY COUNCIL

Wellington

Summary of Submissions

District Plan Change 65 – Earthworks

- Submitters -

The list below contains the names and contact information for submitters on Plan Change 65.

	Name	Address 1	Address 2	Address 3	Address 4	Wish to be heard
1	Mike Fleming	9 Standen Street	Karori	Wellington 6012		Not indicated
2	Duffill Watts Consulting Group	PO Box 6643	Wellington 6141		Attn: Pip McLane	Yes
3	NZ Forestry Group Ltd	PO Box 24 475	Royal Oak	Auckland 1345	Attn: Wesley Garratt	Yes
4	Transpower, c/- Burton Consultants	PO Box 33 817	Takapuna	Auckland 0740	Attn: Jenna Fincham	Yes
5	Chris Clarke	141 Karori Road	Karori	Wellington 6012		No
6	FRST Developments Ltd	48 Ashton Fitchett Drive	Brooklyn	Wellington 6021	Attn: Stephen Watson	Yes
7	Ngaio Progressive Association	14 Patna Street	Ngaio	Wellington 6035	Attn: Frank McGuire	Yes
8	Te Kamaru Station Ltd	9 Roscoe Terrace	Wadestown	Wellington 6012	Attn: Joanna and Michael Grace	Yes
9	Te Marama Ltd	9 Roscoe Terrace	Wadestown	Wellington 6012	Attn: Joanna and Michael Grace	Yes
10	Terawhiti Farming Company Ltd	9 Roscoe Terrace	Wadestown	Wellington 6012	Attn: William Grace	Yes
11	Trelissick Park Group	35A Trelissick Crescent	Ngaio	Wellington 6035	Attn: Malcolm McDonald	No
12	WIAL (Wellington International Airport Ltd)	PO Box 14 175	Wellington 6241		Attn: Chris Dillon	Yes
13	NZHPT (New Zealand Historic Places Trust / Pouhere Taonga)	PO Box 19 173	Wellington		Attn: Rakesh Mistry	May wish to be heard
14	Tony Flynn	73 Nicholson Road	Khandallah	Wellington 6035		Yes
15	Meridian Energy	PO Box 2454	Christchurch		Attn: Richard Turner	Yes
16	Greater Wellington	PO Box 11 646	Wellington 6142		Attn: Ling Phang	Yes
17	Cardno TCB	PO Box 13 142	Johnsonville	Wellington 6440	Attn: Dave Gibson	Yes
18	Department of Conservation	PO Box 5086	Wellington 6145		Attn: Kris Ericksen	No
19	Access Automation Ltd	PO Box 39 448	Wellington Mail Centre		Attn: Mark Galvin	Yes
20	Jennifer Jorgensen	405 Makara Road	Makara	Wellington 6972		Yes
21	King and Dawson Ltd	PO Box 887	Wellington		Attn: Stuart Wardle	Yes
22	Southern Environmental Association	PO Box 14 214	Kilbirnie	Wellington 6022	Attn: Robert Logan	Not clear
23	Jim Stuck c/- RMA Solutions Ltd	PO Box 11 680	Wellington			Yes
24	Elizabeth Stuck c/- RMA Solutions Ltd	PO Box 11 680	Wellington			Yes
25	Holmes Koomen trustee Ltd	11 Pitt Street	Wadestown	Wellington 6012		Yes
26	Wellington City Council	PO Box 2199	Wellington		Attn: Jason Jones	No

District Plan Variation 6 – Amendments to Proposed District Plan Change 33 (Ridgelines and Hilltops [Visual Amenity] and Rural Area) – Earthworks

- Submitters -

The list below contains the names and contact information for submitters on Variation 6.

	Name	Address 1	Address 2	Address 3	Address 4	Wish to be heard
6	FRST Developments Ltd	48 Ashton Fitchett Drive	Brooklyn	Wellington 6021	Attn: Stephen Watson	Yes
8	Te Kamaru Station Ltd	9 Roscoe Terrace	Wadestown	Wellington 6012	Attn: Joanna and Michael Grace	Yes
9	Te Marama Ltd	9 Roscoe Terrace	Wadestown	Wellington 6012	Attn: Joanna and Michael Grace	Yes
10	Terawhiti Farming Company Ltd	9 Roscoe Terrace	Wadestown	Wellington 6012	Attn: William Grace	Yes
15	Meridian Energy	PO Box 2454	Christchurch		Attn: Richard Turner	Yes
17	Cardno TCB	PO Box 13 142	Johnsonville	Wellington 6440	Attn: Dave Gibson	Yes
20	Jennifer Jorgensen	405 Makara Road	Makara	Wellington 6972		Yes
25	Holmes Koomen trustee Ltd	11 Pitt Street	Wadestown	Wellington 6012		Yes

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1. General Submissions

1.1. General support for the plan change

Submission 11

The submitter supports all the provisions. The concern to address the cumulative effect of many small projects on sediment levels in natural waters is wonderful, if belated as witnessed by the state of the Korimako and Kaiwharawhara streambeds today.

Decision Requested:

Adoption of the plan change as publicly notified on 1 July 2008.

1.2. Consultation and legal issues

Submission 1

The submitter has provided a detailed discussion of geotechnical issues and earthworks regulation under the subject headings of affirmation, stability, excavations, fills, erosion, retaining walls, engineering geology, conflict of interest, natural and manmade hazards, environmental hazard control, compliance removed, essential conditions, de minimis, tracks, approved practitioner – engineering geologist.

Decision Requested:

That Section 106 of the Resource Management Act requires that the Council implement appropriate consent management to avoid harmful effects of earthworks.

Submission 8 and 9

The submitter is unhappy with the lack of consultation throughout the draft's formulation process. Reference is made to the Section 32 report.

Decision Requested:

That all rules that relate specifically to the Rural Area are:

- a) formulated with rural objectives in mind and;
- b) are located in a stand-alone chapter in Plan Change 65.

Submission 17

The plan change lowers considerably the threshold for permitted earthworks. The submitter is concerned that the lower threshold will be used by Council when considering developments on sloping sites. For example, if a residential site (or part of the site) is steeper than 1.5H to 1V, then no earthworks are permitted meaning that there is no permitted baseline for development of the site.

Decision Requested:

That the introduction section 19A.1 includes a statement of Council's general intent that the earthworks provision will not typically be included as part of the permitted baseline.

Submission 19

The submitter considers there was no logic, transparency, adequate consultation with affected parties or proper process in the manner in which the Council has decided which 'holes' it considers will trigger a resource consent in coastal areas. The Council demands 'rigorous control of earthworks' and 'strong justification for earthworks' for cable cars. In this regard, the proposed plan change fails to meet basic standards of transparency and fairness and so is bad law.

Decision Requested:

The submitter requests the following:

- To discriminate between undeveloped and developed coastal land and amend Map 56 and Rule 19B.1.1.7.
- Where access is required to an existing and approved development site, that new and more restrictive rules are not imposed to prevent such access.
- Introduce minimum thresholds, as detailed in the 'Earthworks' section of the submission.
- Revise the definitions of 'hole' and 'earthworks', especially to review the current ad hoc list of exclusions. A decision on what is 'structural' must be made on structural considerations and not functional considerations.
- For structures that require a building consent, the structural analysis, including ground stability check, should form part of the building consent and not a separate resource consent. For many small projects this will substantially reduce compliance costs and prevent duplications of forms and effort.

Submission 20

The submitter believes there was insufficient consultation in respect of the changes; it was implied by Council that 'earthworks' were to be moved to a different section of the District Plan; there was no indication that there would be any substantive change in the way the Council treated earthworks that required consents.

Decision Requested:

That the Council should remove the word 'public' from the amendment of Rule 15.1.7; and not adopt an increase in distance from waterbodies within which earthworks may be carried out as a Permitted Activity from 5 metres to 20 metres.

Submission 25

Statutory effect of plan changes

The plan changes have the effect of removing the customary and existing rights of rural landowners to responsibly maintain and upgrade many of their access ways without Council hindrance and the levying of fees and associated costs.

Benefit to community

Roading and tracking is essential for physical access to much of the rural area. It falls to a relatively small number of landowners to pay for their upkeep and improvement of the vast majority of these tracks to ensure the sustainable management of land and the rural character of the Region. Whilst, these access ways may not be public, the community benefit from them in many ways.

Existing property rights

The proposed changes have the direct effect of taking away existing land use rights that have been exercised by rural land owners since land in New Zealand has been farmed. The submitter refers to Section 28 of the Bill of Rights Act and the provisions of the Bill of Rights (Private Property Rights) Amendment Bill.

Landslips and freedom of movement under NZ law

Where there is a substantial landslip on a private vehicular access way the rural landowner will not, under the proposed plan changes cited above be able to clear this slip to enter or leave his/her land without first seeking and paying for a resource consent. The submitter believes such a restriction is illegal under New Zealand law and refers to the New Zealand Bill of Rights Act 1990 (BORA) and common law.

Section 18 BORA

The submitter refers to matters to be taken into account when formulating the plan change provisions. Reference

is made to Ministry of Justice Guidelines and New Zealand Bill of Rights Act 1990 (BORA). The submitter considers proper consultation has not been undertaken and that the section 32 Resource Management Act consultation must be incomplete because of this.

Fair Trading Act

The submitter considers the letter they received contained misleading information and that the Council could be found liable for making misleading of false statements under the Fair Trading Act

The rule changes may be Ultra Vires for the reasons given in the submission.

Decision Requested:

The Council should leave Plan Change 33 as it is in relation to earthworks in the Rural Area. This is in relation to Rule 15.1.7 and the proposal under Plan Change 65 to increase in the distance from waterbodies, within which earthworks may be carried out as a permitted activity, from 5 metres to 20 metres.

Council Note: This request is about Rule 15.1.7. While it appears in the Plan Change 33 documents it was not amended by that plan change. The change proposed under Plan Change 65 is a change to the rule in the Operative District Plan.

1.3. Engineering and geotechnical / Regulatory process issues

Submission 1

The submitter has provided a detailed discussion of geotechnical issues and earthworks regulation under the subject headings of affirmation, stability, excavations, fills, erosion, retaining walls, engineering geology, conflict of interest, natural and manmade hazards, environmental hazard control, compliance removed, essential conditions, de minimis, tracks, approved practitioner – engineering geologist. Numbered submissions are made on the following:

Appropriate processing procedures of earthworks consents will avoid damage to private property and the environment.

Inappropriate administration of earthworks consents by Wellington City Council will result in uncontrolled earthworks and unsound/unstable excavations and fills, which would cause considerable damage to neighbouring properties because of slips and silt laden storm water runoff, dust pollution, ugly unwanted landscapes, formation of dangerous waste dumps, silt runoff choking fish life and stream habitats, and clogging Council stormwater pipes.

Inappropriate processing of earthworks consents by Wellington City Council would lead to considerable damage to developments because of harmful effects of natural and manmade hazards.

Inappropriate processing of earthworks consents would in the long term cause millions of dollars in repair costs.

Decision Requested:

The submitter requested the following:

Appropriate processing procedures should include obtaining essential engineering geology information at the earthworks consent application stage to confirm that the harmful effects of earthworks and natural and manmade hazards have been properly investigated and assessed.

An 'appropriate' study of natural and manmade hazards should be undertaken by suitably experienced engineering geologists.

Written reports on relevant natural and manmade hazards pertaining to all earthworks consent applications must be provided to the Council prior to Council issuing earthworks consent documents.

The definition of 'appropriate' natural and manmade hazard study must be defined accurately and stated in the District Plan.

A check list should be included in the District Plan, which constrains a list of fundamental site investigations and testing that are essential to prove that an appropriate study of natural and manmade hazards has been carried

out.

Requirements to avoid, remedy and/or mitigate slippage of excavations and fills should be specifically detailed in the District Plan.

Appropriate engineering geology site investigations and slope stability analysis information must be required by the Council to verify stability of excavations and fills before it issues consent of earthworks or site works to commence or progress.

The definition of 'appropriate' engineering geology study must be defined accurately and stated in the District Plan.

A check list of basic engineering geology investigations that are essential to provide engineering proof of excavation and fill stability should be included in the District Plan. The submitter provides a definition of 'appropriate' engineering geology and a check list of investigations as a statement.

The statement should be written into the District Plan and written in to essential information requirements for all earthworks consents.

Conditions of consent are essential to ensure the responsibilities of landowners and developers are detailed in writing and earthworks are carried out properly and appropriate standards of engineering are met in order to remedy effects of harmful earthworks activities.

Conditions of consent are essential so the City Council compliance team may instruct property owners and developers to remedy hazardous earthworks activities or improve site work in accordance with standards set out in conditions of consent.

Wellington City Council must include appropriate conditions within earthworks resource consent approval documents. The submitter provides a list of 21 conditions to be placed in all earthworks resource consent documents.

The above consent conditions must be written into all earthworks resource consent documents as prerequisites for and to control all 'de minimis' earthworks situations.

The Council, at its discretion, shall have any information provided to it reviewed and/or require further assessment carried out, at the land owners and developers expense.

The Council should accept geotechnical reports provided by suitably experienced and qualified engineering geologists and/or 'approved practitioners'.

The Council should only be satisfied if geotechnical reports do not contain disclaimers to avoid liability for consequences of slips caused by overly steep excavations or unsound fills or unverified foundation assumptions.

Engineering standards specified in consent conditions should not be able to be adjusted or changed by developers or their representatives (i.e. engineers or planners) and/or by Council staff once consents have been issued.

The Council should not pass or give away its compliance authority to landowners and/or developers or their engineering representatives. Further it is submitted that conditions on consent should not empower landowners and/or developers private engineers to determine or dictate standards of earthworks practices and environmental controls on the Council's behalf.

Unsound developments are to be remedied at the resource consent stage, which would avoid major changes to the scope of earthworks, necessary to make developments sound. More importantly, remedying unsound developments at the resource consent stage would avoid the necessity to reassess any additional processing of resource consents to avoid the adverse effects of changes in scope of earthworks operations need to make development sound.

The definition of an unsound development is to be a development where substantial earthworks are required to shore up or make good building foundations and/or retaining walls prone to failure.

Unsound developments would be remedied by the Council simply by requiring performance criteria be met by developments as part of the Council's processing of earthworks consents.

The submitter provides performance criteria for sound developments , foundations and retaining walls, to be written into the District Plan and into information requirements for all earthworks consents.

Submission 7

The submitter generally supports the plan change as it is an improvement on the previous bylaw method. It considers there is a need for the policy and rules to define a requirement that earthworks and associated structures (e.g. retaining walls) be sound in 100 years time and are able to withstand the loads and environment for that period. The policy or rules should define a way of assessing the quality of an applicant's proposal. There is also scope for the Council to specify more clearly the requirements for satisfying public risk and design criteria. Section E of the submission recommends that the policies and rules adopt the philosophy inherent in the NZ Standards for design and construction.

The submitter considers the Council should have as its policy, and state it in the district plan document, that it will have adequate staff or independent consultants with sound technical skills to assess applicant's proposals. That includes ready access to independent geotechnical, geological and engineering expert advice.

Decision Requested:

That the comments in items A to E of the submission be considered and the Plan Change 65 be amended to give effect.

There is a need for the policy and rules to define a requirement that earthworks and associated structures (e.g. retaining walls) integral with the stability and durability be sound in 100 years time and are able to withstand the loads and environment for that periods. This particularly applies to residential subdivision and other situations where properties and life may be involved in the collapse or lack of serviceability and durability of the earthworks and associated structures.

The policy or rules should define a way of assessing the quality of an applicant's proposal. Criteria should be developed as basic input for the design of any proposal. Design working life, importance levels, performance criteria for earthworks, associated structures and retaining wall performance etc, should be defined by the Council as mandatory requirements for the spectra of plans applicants may put for Council approval.

It should be Council policy and stated in the document, that the Council will resource and have wither within its staff or independent consultants the facility to be a sound technically informed organisation capable of assessing applicant's proposals independent of the applicant and its technical advisors. That includes ready access to independent geotechnical, geological and engineering expert advice.

There is scope for the Council to specify more clearly the requirements for satisfying public risk and design criteria. Section E of the submission provides details.

Submission 14

The submitter opposes the blanket mentality (one size fits all) of the soil types, when different soil types are capable of safety standing at different angles of repose.

Decision Requested:

That submitter seeks that all soil types be defined in an inserted table giving different gradients for each type that can be safely worked without resource consent.

1.4. Need for provisions / complexity / cost of applications

Submission 2

The submitter supports the intent of the plan change to the extent that it provides a comprehensive chapter to address the district wide concerns regarding earthworks activities. However, it believes that the provisions are too onerous and will add significant compliance costs to parties undertaking minor earthworks that will have not actual or potential significant adverse effect on the environment.

The plan change is against the policies of central government, who in March 2008 released new initiatives to improve the building process and reduce compliance costs.

The plan change should align with the provisions of the Building Act with regard to the depth of cut and fill and the construction of retaining walls.

Decision Requested:

Amendment of 19B.1.1.1.1 for permitted earthworks cuts and 19B.1.1.1.3 for permitted earthworks fills. That the maximum depth of cut in the table for 'Steeper Slopes' be changed to 1.5 metres and maximum depth of fill in the table for 'Permitted earthworks fills' be changed to 1.5 metres.

If the changes are not made to provisions 19B.1.1.1 (earthworks stability) as requested, provision 3.2.2.4a needs to be amended so that the requirements for drawings, calculations and a written report by an appropriately qualified and experienced person should reflect the scale and potential impact of the proposed earthworks.

Submission 14

The submitter opposes having to obtain resource consent for underground earthworks that is not visible to public and only visible to worms who have no objection, so I believe!

Decision Requested:

That Council increase the scope of work to a more practical level that does not require resource consent reducing the number of neighbourhood wars and conflicts in the city.

Submission 17

The submitter is concerned with the level of complexity of the new rules, which are extreme. It doubts whether a layperson from the general public would be able to understand them. The level of public 'ignorance' of the rules and high cost of obtaining consents is likely to lead to more earthworks being undertaken without resource consents. It will lead to more work for Council's compliance and enforcement officers and lead to added cost for the community in general.

Decision Requested:

The submitter does not request a change in relation to this issue. It is assumed to be a request for a general simplification of the rules.

Submission 19

The proposed plan change appears to have an underlying agenda that hillside development is bad for the city and somehow against its character. The submitter argues that hillside development defines Wellington's character. Of particular concern is how the plan makes specific reference to 'cable cars and garages' as impacting on visual amenity. Well designed cable cars offer the ability to provide hillside access with less impact than traditional methods of drives and steps.

The submitter is also concerned that the plan change will greatly increase compliance costs and prevent some potential clients from proceeding with projects. Many of its clients are elderly or have limited mobility and cable cars are a vital link that may be pushed beyond their reach by the proposed extra costs. The submitter provides an estimate of a cost of a resource consent for a typical cable car installation.

Council's own estimates are that the plan change will only generate 500 extra consents per year is too low and cannot be relied on without a rigorous and independent cost benefit analysis. Sensible thresholds are needed, rather than the alternative of people who carry out minor earthworks, simply ignoring the Council to avoid the thousands of dollars of bureaucratic costs.

Decision Requested:

The submitter requests the following:

- To discriminate between undeveloped and developed coastal land and amend Map 56 and Rule 19B.1.1.7.
- Where access is required to an existing and approved development site, that new and more restrictive rules are not imposed to prevent such access.
- Introduce minimum thresholds, as detailed in the 'Earthworks' section of the submission.
- Revise the definitions of 'hole' and 'earthworks', especially to review the current ad hoc list of exclusions. A decision on what is 'structural' must be made on structural considerations and not functional considerations.

- For structures that require a building consent, the structural analysis, including ground stability check, should form part of the building consent and not a separate resource consent. For many small projects this will substantially reduce compliance costs and prevent duplications of forms and effort.

Submission 25

The cost of maintenance and upkeep of rural access ways is already met by rural landowners with no rate payer assistance. The costs and delays what would be associated with having to go 'cap in hand' to the Council whenever we need to clear a land slide or try to increase the viability of our farms in harsh country by maintaining or upgrading our tracks would be such that it may well make our traditional rural activities uneconomic. Annexed to the submission is a breakdown of the actual costs incurred in relation to one new roading project.

Much maintenance and upgrading will probably not now get done as a result of the costs of Council consents which add significantly to the costs of road maintenance and upgrades.

Decision Requested:

The Council should leave Plan Change 33 as it is in relation to earthworks in the Rural Area.

Council Note: This request is about Rule 15.1.7. While it appears in the Plan Change 33 documents it was not amended by that plan change. The change proposed under Plan Change 65 is a change to the rule in the Operative District Plan.

2. Objectives and Policies

2.1. General submissions

General submissions

Submission 21

This is very general, some of this is very subjective stuff which can only be viewed as the opinion of the author and not necessarily that of individual property owners.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

2.2. Introduction 19A.1

19A.1

Introduction

Submission 15

Meridian consider it appropriate and necessary that Plan Change 65 and Variation 6 should each include a statement that earthworks associated with wind energy facilities in the Rural Area will be managed via the provisions of Plan Change 32 and exempt from the rules of Plan Change 65 and Variation 6.

Decision Requested:

Following the last paragraph of the 19A introduction insert the following (new words underlined):

Note: The rules of Chapter 26 (Renewable Energy) will take precedence with respect to the control of earthworks and buildings and structures associated with the development of wind energy facilities in the Rural Area.

Submission 21

The submitter considers the introduction is unfairly biased by concentrating on all the negative aspects that poorly designed and implemented earthworks can give rise to as justification for the plan change. A more balanced perspective needs to be established that takes consideration of the fact that not all earthworks are bad for the landscape or environment.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

Submission 26

Plan Change 65 has brought the consideration of issues forward in the project planning and design process. Some applicants have expressed concern that it has added to the cost of applications and to the uncertainty of gaining approval.

It is sometimes appropriate to consider the earthworks stability issue at an early stage. Other situations are less risky and it is unnecessary to have a full geotechnical assessment with the application. An initial appraisal from an

appropriate specialist would be sufficient to satisfy the Council that the risk is minimal or that it can be addressed through conditions of the resource consent.

The same issue exists with the rules for erosion, dust and sediment control and the transport of material. To provide greater flexibility changes are required to the policies that guide the acceptance and assessment of applications.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. This submission seeks changes to the text, to allow greater flexibility in the information the Council requires in applications, would entail changes to Policy 19A.2.1.1, 19A.2.1.2, 19A.2.1.3 and 19A.2.1.9, and Chapter 3.2, Information to be submitted with an application for a resource consent. Consequential changes may also be needed to 19A.1 the introduction to the objectives and policies chapter.

Submission 26

One of the functions of the earthworks plan change is to minimise the risk of landslips and other instability. In preparing the plan change the Council decided to follow the model of the previously earthworks bylaw, which operated alongside and in parallel with building consent approval. This was because of the difficulties and risks of clearly defining earthworks associated with buildings and structures, from earthworks not associated with them.

However, there are discrete areas where some earthworks can be approved through the building consent process without the need for a resource consent. Examples are earthworks associated with some retaining walls and the foundations for buildings. Other areas where technical changes to the district plan rules may allow earthworks to be permitted activities are the excavation of basements and the demolition of some buildings and structures.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to the text, to allow for specific earthworks as permitted activities would entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Consequential changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

A distinction needs to be made between the treatment of some ground surfaces and any earthworks beneath them. The distinction is problematic for tracks and driveways where the surface can be loose gravel similar to the coarser material used to construct the base of the track or drive.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to distinguish surfaces from earthworks. It may entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

2.3. Objective 19A.2.1

Objective 19A.2.1

To provide for earthworks for the use development and protection of land throughout the city while avoiding,

remediating or mitigating any adverse effects of earthworks, landslips and associated structures on the environment
<p><u>Submission 6</u></p> <p>The submitter supports the literal meaning of the objective but opposes Plan Change 65 in its current form and wording as it does not best meet the objectives of Wellington’s rural landowners. It seeks to add barriers and removes the existing rights to maintain rural roads and accessways currently outlined in Plan Change 33.</p> <p>Decision Requested:</p> <p>The submitter opposes the proposed changes to Permitted Activity Rule 15.1.7</p>
<p><u>Submission 15</u></p> <p>Meridian considers the general objective has unnecessarily narrowed its focus by referring to land. Earthworks can also be necessary for the use, development and protection of physical resources (i.e. earthworks to protect buildings or infrastructure from erosion).</p> <p>Decision Requested:</p> <p>Amend Objective 19A.2.1 as follows (new words underlined):</p> <p>To provide for earthworks for the use, development and protection of land <u>and physical resources</u> throughout the city while avoiding, remediating or mitigating any adverse effects of earthworks, landslips and associated structures on the environment</p>

2.4. Policies

Policy 19A.2.1.1	Ensure earthworks and associated structures are designed to reflect appropriate land development and subdivision by considering future development of the land
<p><u>Submission 4</u></p> <p>The Wellington City District Plan should provide an appropriate and consistent planning framework, which provides for the ongoing operation, maintenance and upgrading of the National Grid, such that it can continue to meet the electricity needs of the Wellington district and beyond. This includes ensuring that the objectives, policies and rules address all the relevant issues, and recognise and incorporate the strategic needs of the Grid.</p> <p>Decision Requested:</p> <p>Add the following to the second paragraph of the explanatory text (new words underlined):</p> <p><i><u>It is also important to consider and manage any potential adverse effects of earthworks on the electricity transmission National Grid.</u></i></p> <p>Also:</p> <p><i><u>Matters to consider in assessing applications that do not comply with the permitted activity conditions include:</u></i></p> <ul style="list-style-type: none"> • <i><u>Effects on the National Grid.</u></i> 	
<p><u>Submission 17</u></p> <p>It is not appropriate that the explanatory statement to the policy should refer to additional information or additional applications.</p> <p>Decision Requested:</p>	

That the second paragraph of the explanatory statement to Policy 19A.2.1.1 should be amended as follows (new word underline, words to be deleted struck out):

On occasions applications are made for earthworks in advance of infill or greenfield subdivisions that do not fully describe the nature of the proposed land use. ~~Depending on the of scale and type of the future development Council may require further information, or an additional application under section 91 of the Act, to allow it to better understand the nature of the whole proposal.~~ Council is concerned that the design of the earthworks and associated structures ~~does~~ should not predetermine the sustainability or urban form of the later subdivision. Depending on the scale and type of the future development Council will give consideration to the future options for development of the land. ~~Council will use relevant objectives, policies, rules and guidelines to assess whether further information or applications are required.~~

Submission 21

The submitter considers this section doubles-up on the Building Act for which there is already adequate provision for retaining structures.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

Submission 26

Plan Change 65 has brought the consideration of issues forward in the project planning and design process. Some applicants have expressed concern that it has added to the cost of applications and to the uncertainty of gaining approval.

It is sometimes appropriate to consider the earthworks stability issue at an early stage. Other situations are less risky and it is unnecessary to have a full geotechnical assessment with the application. An initial appraisal from an appropriate specialist would be sufficient to satisfy the Council that the risk is minimal or that it can be addressed through conditions of the resource consent.

The same issue exists with the rules for erosion, dust and sediment control and the transport of material. To provide greater flexibility changes are required to the policies that guide the acceptance and assessment of applications.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. This submission seeks changes to the text, to allow greater flexibility in the information the Council requires in applications, would entail changes to Policy 19A.2.1.1, 19A.2.1.2, 19A.2.1.3 and 19A.2.1.9, and Chapter 3.2, Information to be submitted with an application for a resource consent. Consequential changes may also be needed to 19A.1 the introduction to the objectives and policies chapter.

Policy 19A.2.1.2

Require earthworks to be designed to minimise the risk of instability

Submission 4

The Wellington City District Plan should provide an appropriate and consistent planning framework, which provides for the ongoing operation, maintenance and upgrading of the National Grid, such that it can continue to meet the electricity needs of the Wellington district and beyond. This includes ensuring that the objectives, policies and rules address all the relevant issues, and recognise and incorporate the strategic needs of the Grid.

Decision Requested:

Add the following to the second paragraph of the explanatory text (new words underlined):

Earthworks may also directly or indirectly undermine or affect the structural and system integrity and stability of

existing transmission line support structures, which can create safety hazards or result in power outages to certain areas.

Add to *Matters to considered* ...

- *Effects on the National Grid.*

Submission 26

Plan Change 65 has brought the consideration of issues forward in the project planning and design process. Some applicants have expressed concern that it has added to the cost of applications and to the uncertainty of gaining approval.

It is sometimes appropriate to consider the earthworks stability issue at an early stage. Other situations are less risky and it is unnecessary to have a full geotechnical assessment with the application. An initial appraisal from an appropriate specialist would be sufficient to satisfy the Council that the risk is minimal or that it can be addressed through conditions of the resource consent.

The same issue exists with the rules for erosion, dust and sediment control and the transport of material. To provide greater flexibility changes are required to the policies that guide the acceptance and assessment of applications.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. This submission seeks changes to the text, to allow greater flexibility in the information the Council requires in applications, would entail changes to Policy 19A.2.1.1, 19A.2.1.2, 19A.2.1.3 and 19A.2.1.9, and Chapter 3.2, Information to be submitted with an application for a resource consent. Consequential changes may also be needed to 19A.1 the introduction to the objectives and policies chapter.

Submission 26

One of the functions of the earthworks plan change is to minimise the risk of landslips and other instability. In preparing the plan change the Council decided to follow the model of the previously earthworks bylaw, which operated alongside and in parallel with building consent approval. This was because of the difficulties and risks of clearly defining earthworks associated with buildings and structures, from earthworks not associated with them.

However, there are discrete areas where some earthworks can be approved through the building consent process without the need for a resource consent. Examples are earthworks associated with some retaining walls and the foundations for buildings. Other areas where technical changes to the district plan rules may allow earthworks to be permitted activities are the excavation of basements and the demolition of some buildings and structures.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to the text, to allow for specific earthworks as permitted activities would entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Consequential changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

A distinction needs to be made between the treatment of some ground surfaces and any earthworks beneath them. The distinction is problematic for tracks and driveways where the surface can be loose gravel similar to the coarser material used to construct the base of the track or drive.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to distinguish surfaces from earthworks. It may entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

The submission seeks to a change to the last bullet pointed item to include the year of a New Zealand Standard.

Decision Requested:

After NZS 4431, insert the number, 1989.

Policy 19A.2.1.3

Require earthworks to be designed and managed to minimise erosion, and the movement of dust and sediment beyond the area of the work, particularly to streams, wetlands and coastal waters

Submission 4

The Wellington City District Plan should provide an appropriate and consistent planning framework, which provides for the ongoing operation, maintenance and upgrading of the National Grid, such that it can continue to meet the electricity needs of the Wellington district and beyond. This includes ensuring that the objectives, policies and rules address all the relevant issues, and recognise and incorporate the strategic needs of the Grid.

Decision Requested:

Add to '*Matters to considered ...*' (new words underlined):

- *Effects on the National Grid.*

Submission 6

The submitter opposes the increase from 5 to 20 metres in Policy 19A.2.1.3. The submitter has kilometres of access ways which need to be maintained and upgraded. By requiring the land owner to get consent every time they want to maintain and upgrade their accessways an unreasonable and unnecessary burden is placed upon them. The main track on the property goes down to Weta Creek and other tracks are within 20 metres of a waterway.

Decision Requested:

The reference in the policy to earthworks in the Rural Area being restricted within 20 metres of a stream, be changed to within 5 metres of a stream.

Submission 11

The submitter supports all the provisions. The concern to address the cumulative effect of many small projects on sediment levels in natural waters is wonderful, if belated as witnessed by the state of the Korimako and Kaiwharawhara streambeds today.

Decision Requested:

Adoption of the plan change as publicly notified on 1 July 2008.

Submission 15

Meridian is concerned about unnecessary overlap of District and Regional policies. It considers that Greater Wellington Regional Council plans provide efficient and effective management of the adverse effects of erosion, dust and sediment and there is no need for additional and overlapping policies and rules on these issues at the territorial level. Policy 19A.2.1.3 and the associated Methods and explanation should be amended to exclude reference to the management of dust and sedimentation.

Decision Requested:

Amend Policy 19A.2.1.3 as follows (new words underlined):

Requiring earthworks to be designed and managed to minimise erosion beyond the area of the work.

Make consequential amendments to the associated Methods and explanation to reflect the amendment to Policy 19A.2.1.3.

Submission 15

Meridian considers Greater Wellington's policies and rules provide the most efficient and effective management of the adverse effects of earthworks on the character and amenity of streams and wetlands.

Decision Requested:

Delete Policy 19A.2.1.5 and associated Methods and explanations.

Submission 16

Greater Wellington supports Policy 19A.2.1.3.

Decision Requested:

Greater Wellington recommends a new (fifth) method to be included as follows (new words underlined):

- Advocacy by disseminating information on best practice on river/stream management when undertaking earthworks. The best practice measures contained in Greater Wellington Regional Council's 'Mind the stream – A guide to looking after urban streams in the Wellington Region 2004', should be used.

Submission 22

The submitter considers that generally the objectives and policies should be amended to provide for the protection of natural landforms and features, including ridges, hilltops, knolls, cliffs' escarpments, streams and wetlands from significant alteration, especially in prominent and sensitive situations.

Decision Requested:

That the Council amend the third sentence, of the third paragraph, of the explanation to Policy 19A.2.1.3, as follows (or another alternative amendment to similar effect):

... The effectiveness of streamside areas (particularly in the Rural Area where earthworks are restricted within ~~20~~ 10 metres) is dependant on a range of factors. ...

Submission 25

The submitter is concerned about the increase in the distance under Rule 19A.2.1.3, from 5 metres to 20 metres, within which earthworks may be carried out as a permitted activity. Under the definition of 'waterbody' in the Resource Management Act, it would include any gully through which water may flow following rain etc. Track maintenance within 20m of the smallest rivulet would, if these changes are made require resource consent.

Decision Requested:

The Council should leave Plan Change 33 as it is in relation to earthworks in the Rural Area – in particular refer to Rule 15.1.10.4.

Submission 26

Plan Change 65 has brought the consideration of issues forward in the project planning and design process. Some applicants have expressed concern that it has added to the cost of applications and to the uncertainty of gaining approval.

It is sometimes appropriate to consider the earthworks stability issue at an early stage. Other situations are less risky and it is unnecessary to have a full geotechnical assessment with the application. An initial appraisal from an appropriate specialist would be sufficient to satisfy the Council that the risk is minimal or that it can be addressed through conditions of the resource consent.

The same issue exists with the rules for erosion, dust and sediment control and the transport of material. To

provide greater flexibility changes are required to the policies that guide the acceptance and assessment of applications.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. This submission seeks changes to the text, to allow greater flexibility in the information the Council requires in applications, would entail changes to Policy 19A.2.1.1, 19A.2.1.2, 19A.2.1.3 and 19A.2.1.9, and Chapter 3.2, Information to be submitted with an application for a resource consent. Consequential changes may also be needed to 19A.1 the introduction to the objectives and policies chapter.

Submission 26

No minimum size is specified for a stream. As the rules presently stand a stream equates to a 'river' under the Act and 'means a continually or intermittently flowing body of fresh water ...' A lower limit is desirable for the size of streams. It would prevent the 'sediment rule' and the 'stream rule' from being applied so widely that the focus of the rules is lost and they become effectively unworkable.

Decision Requested:

No detailed amendments are proposed to the wording of the Plan Change 65. The submission seeks changes to delimit the minimum size of streams. It may entail changes to Policies 19A.2.1.3 and 19A.2.1.5; and Rules 19B.1.1.2 and 19B.1.1.3. The issue could also be addressed through a change or changes to the definition of 'stream, waterbody and/or wetland'.

Policy 19A.2.1.4

Ensure that earthworks and associated structures do not exacerbate flood events in Hazard (Flooding) Areas

Submission 16

Greater Wellington supports the policy but recommends that it be expanded

Decision Requested:

Amend the first paragraph of the explanatory text as follows (new words underlined):

Developments involving earthworks will be controlled to ensure that they do not increase the risk of flooding by blocking flood water flow paths and culverts and diverting flood water to other sites. Situations such as a structure filling in an existing channel or overflow path must be carefully managed to avoid the risk of flooding. The extent and scale of the earthworks may necessitate the creation of an adequate 'secondary flow path' in the event that a primary flow path/channel is blocked. Any control measures used to address this issue must be effective in avoiding significant impacts.

Policy 19A.2.1.5

Protect and enhance the character and amenity of streams and wetlands by:

- discouraging earthworks and associated structures, which are part of developments that pipe, drain or otherwise modify, streams or wetlands
- encouraging earthworks and associated structures, which are part of developments that minimise changes to the flow of water in streams or wetlands

- encouraging earthworks and associated structures, which are part of developments that restore streams or wetlands to a more natural state.

Submission 15

Meridian considers Greater Wellington's policies and rules provide the most efficient and effective management of the adverse effects of earthworks on the character and amenity of streams and wetlands.

Decision Requested:

Delete Policy 19A.2.1.5 and associated Methods and explanations.

Submission 16

Greater Wellington recommends that the environmental integrity of streams and wetlands be reflected in the policy.

Decision Requested:

Amend the policy as follows (new words underlined, words for deletion struck through):

19A2.1.5 Protect and enhance the character and amenity of streams and wetlands by:

- discouraging earthworks and associated structures, which are part of developments that pipe, drain or otherwise modify, streams or wetlands
- ~~encouraging earthworks and associated structures, which are part of developments that minimise changes to the flow of water in streams or wetlands~~
- ~~encouraging earthworks and associated structures, which are part of developments that restore streams or wetlands to a more natural state.~~
- encouraging earthworks and associated structures, that minimise changes to the flow of water in rivers and wetlands, or restore them to a more natural state.
- encouraging riparian management as part of earthworks management to ensure that the river and wetlands stay healthy.

METHODS

- Design Guides (Subdivision, Residential, Rural Area)
- Code of Practice for Land Development
- Advocacy by disseminating information on best practice on river/stream management when undertaking earthworks. The best practice measures contained in Greater Wellington Regional Council's 'Mind the stream – A guide to looking after urban streams in the Wellington Region 2004', should be used.

Also, add the following paragraph to the policy explanation:

Riparian management is a stream management solution that works over the long term. The condition of a stream is directly affected by the condition of its margin. There are some benefits from fencing and planting urban and rural stream margins such as reduced bank erosion and stream maintenance over the long term.

Submission 26

The policy indicates:

The policy will be implemented by using related policies and guidelines and the guidelines of the Subdivision, Residential and Rural Area design guide to assess earthworks applications.

While this statement is partially correct the policy is also implemented through Rules 19B.1.1.3 and 19B.1.2.3.

Decision Requested:

That the policy is amended to refer to Rules 19B.1.1.3 and 19B.1.2.3, which set the thresholds for resource consent.

Also, the submission seeks that the word 'Rules' be added to the list of 'Methods' for achieving the policy.

Submission 26

No minimum size is specified for a stream. As the rules presently stand a stream equates to a 'river' under the Act and 'means a continually or intermittently flowing body of fresh water ...' A lower limit is desirable for the size of streams. It would prevent the 'sediment rule' and the 'stream rule' from being applied so widely that the focus of the rules is lost and they become effectively unworkable.

Decision Requested:

No detailed amendments are proposed to the wording of the Plan Change 65. The submission seeks changes to delimit the minimum size of streams. It may entail changes to Policies 19A.2.1.3 and 19A.2.1.5; and Rules 19B.1.1.2 and 19B.1.1.3. The issue could also be addressed through a change or changes to the definition of 'stream, waterbody and/or wetland'.

Policy 19A.2.1.6

Ensure that the design of earthworks and associated structures reflect the character and visual amenity of the local area

Submission 13

The submitter opposes the plan change as it has been notified. The NZHPT considers that insufficient attention has been paid to avoiding potential adverse effects of earthworks on Wellington City's historic heritage. Specifically, the NZHPT is concerned with the potential for earthworks in the District to adversely affect historic places and areas, and archaeological sites.

Decision Requested:

That the following addition is made to the policy (new words underlined):

Ensuring that the design of earthworks and associated structures reflect the character and visual amenity of the local area. Where listed heritage items are concerned, ensure that the design of earthworks and associated structures reflect the setting of the historical place.

Submission 21

Earthworks in a built-up urban area cannot be compared with a sub-division or rural space. We live in a geographically challenging city which will inevitably become more dense. Earthworks are essential to that.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

Submission 22

The submitter considers that generally the objectives and policies should be amended to provide for the protection of natural landforms and features, including ridges, hilltops, knolls, cliffs' escarpments, streams and wetlands from significant alteration, especially in prominent and sensitive situations.

Decision Requested:

That the Council amend the second sentence, of the first paragraph, of the explanation to Policy 19A.2.1.6, as follows (new words underlined):

... Large scale earthworks should be engineered to avoid significant alterations to, or reflect, natural landforms. ...

And, the amend the first sentence of the third bullet point, to read (or words to similar effect), (new words underlined):

- *The extent that the earthworks are designed and engineered to avoid significant alteration to, or reflect, natural landforms and natural features such as cliffs, escarpments, natural ridges and hills, knolls, streams and wetlands. ...*

Policy 19A.2.1.7

Protect the character and visual amenity of suburban coastal areas by controlling the effects of earthworks and associated structures, particularly where they are located on steep coastal escarpments and headlands

Submission 14

The submitter supports the rezoning, subject to amendments to the proposed rules. The submitter states that the invaluable indigenous bush in the area is under threat.

Decision Requested:

That Council approve DPC61 subject to an amendment to condition 5.1.13.4 to allow for no bush clearance in the area affected by the plan change.

Submission 17

The explanatory statements are not consistent with effects based assessment of resource consents. An explanation of a policy should not indicate the situations when consent should be refused.

Decision Requested:

The third paragraph of the explanatory statement to Policy 19A.2.1.7 should be amended as follows (new words underlined, deleted words struck out):

The criteria for assessment are designed to rigorously ~~control~~ earthworks and associated structures in the coastal environment. The Plan requires comprehensive and effective mitigation measures ~~strong justification~~ for earthworks and any associated structures.

The last bullet point of the matters to be considered in the explanatory statement to Policy 19A.2.1.7 should be deleted:

~~Where the proposed earthworks and associated structures will facilitate the location of a building on a steep coastal escarpment or headland; an existing slope that is steeper than 1.5 horizontal to 1 vertical (approximately 34°); whether the earthworks and associated structures should be declined consent (the building itself cannot be declined under this policy but the earthworks and any associated structures that make its construction possible can be).~~

Submission 19

The submitter agrees that Wellington's coastal suburban areas are highly distinctive and forms part of the character of the city. It however disagrees with the character description in the proposed plan change, particularly that there has been little development of steep slopes. It presents an alternative view that Wellington's history is based on its hillside development and argues strongly that a cable car installation in many parts of the city is in keeping with the visual amenity and reflect the character of its local area.

The plan change fails to make a distinction between the highly developed suburban coastal areas and the undeveloped tracts of coastal land. Without such a distinction the current plan is in danger of not providing robust protection to the visual amenity of pristine coastal areas.

The areas with established suburban development should not be regulated as strictly as the areas that are free of development. Where cable cars are installed to service existing homes new and more restrictive visual amenity rules should not be imposed to prevent such installations.

Decision Requested:

The submitter requests the following:

- To discriminate between undeveloped and developed coastal land and amend Map 56 and Rule 19B.1.1.7.
- Where access is required to an existing and approved development site, that new and more restrictive rules are not imposed to prevent such access.
- Introduce minimum thresholds, as detailed in the 'Earthworks' section of the submission.
- Revise the definitions of 'hole' and 'earthworks', especially to review the current ad hoc list of exclusions. A decision on what is 'structural' must be made on structural considerations and not functional considerations.
- For structures that require a building consent, the structural analysis, including ground stability check, should form part of the building consent and not a separate resource consent. For many small projects this will substantially reduce compliance costs and prevent duplications of forms and effort.

Submission 22

The submitter considers that generally the objectives and policies should be amended to provide for the protection of natural landforms and features, including ridges, hilltops, knolls, cliffs' escarpments, streams and wetlands from significant alteration, especially in prominent and sensitive situations.

Decision Requested:

That Policy 19A.2.1.7 should be amended by inserting another 'matter to be considered', namely the natural character of the proposed site for the earthworks, and the extent to which that natural character would be altered by the earthworks.

Submission 23

The submitter considers the policy for the Suburban Coastal Area is overly controlling and require unnecessary information to be submitted with an application. The submitter opposes the policy because there are adequate controls elsewhere in the plan change.

Decision Requested:

That Policy 19A.2.1.7 should be deleted.

Submission 24

The submitter considers the policy for the Suburban Coastal Area is overly controlling. The submitter opposes the policy because there are adequate controls elsewhere in the plan change and documents such as the Coastal Policy Statement.

Decision Requested:

That Policy 19A.2.1.7 should be deleted.

Policy 19A.2.1.8

Ensure the design of structures used to retain or stabilise landslips (where earthworks are not required after the event), reflect the character and visual amenity of the local area

Submission 15

Meridian considers that item 'transport of material' in Rule 19B.2.1 does not make it clear under what circumstances the item is to apply. It would be beneficial to plan users and council staff processing consent applications if it was made explicit that Rule 19B.2.1.8 related solely to the transport of material to or from the site.

Decision Requested:

Insert after the phrase 'transport of material' the words 'to or from the site'

Submission 21

Landslides are generally harrowing experiences for property owners. Being tied up with bureaucratic nonsense while your property is being threatened by an unstable bank is very frustrating.

The District Plan needs to make special provision to fast-track reinstatement works – not make it harder, or endanger personal safety and property.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

Policy 19A.2.1.9

Require the transport of earth or construction fill material, to and from a site, to be along a safe and does not detract from amenity

Submission 17

The reference to refusing consent is inappropriate in the explanatory statement, as it indicates that there is some predetermined point at which earthworks transporting proposals must be refused consent.

Decision Requested:

The policy should be amended as follows to make sense (new words underlined, deleted words struck out):

19A.2.1.9 Require the transport of earth or construction fill material, to and from a site, to be along a safe route and does not detract from amenity.

The third paragraph of the explanatory statement to Policy 19A.2.1.9 should be amended as follows:

The Council's general approach is to minimise the adverse effects of moving material by defining the route, hours of trucking and other matters through conditions of resource consent. ~~There will however be situations where there is no acceptable solution to moving material and Council may decline resource consent.~~

Submission 21

Roads are for driving on. This is an issue for enforcement.

There are already provisions in the District Plan for working hours and noise limits. There is also provisions under the Building Consent process. Why repeat this?

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

Submission 26

Plan Change 65 has brought the consideration of issues forward in the project planning and design process. Some applicants have expressed concern that it has added to the cost of applications and to the uncertainty of gaining approval.

It is sometimes appropriate to consider the earthworks stability issue at an early stage. Other situations are less risky and it is unnecessary to have a full geotechnical assessment with the application. An initial appraisal from an appropriate specialist would be sufficient to satisfy the Council that the risk is minimal or that it can be addressed through conditions of the resource consent.

The same issue exists with the rules for erosion, dust and sediment control and the transport of material. To provide greater flexibility changes are required to the policies that guide the acceptance and assessment of applications.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. This submission seeks changes to the text, to allow greater flexibility in the information the Council requires in applications, would entail changes to Policy 19A.2.1.1, 19A.2.1.2, 19A.2.1.3 and 19A.2.1.9, and Chapter 3.2, Information to be submitted with an application for a resource consent. Consequential changes may also be needed to 19A.1 the introduction to the objectives and policies chapter.

Submission 26

Words were left out of the primary policy statement and need to be included for the policy to be understood.

Decision Requested:

To amend the wording of the primary policy as follows (new words underlined):

Require the transport of earth or construction fill material, to and from a site, to be along a safe route and in a way that does not detract from amenity.

Policy 19A.2.1.10

Protect koiwi (human remains), taonga and Maori and Non-Maori material and archaeological sites, dated from before 1900, by advising applicants of their obligations under legislation and using enforcement powers where appropriate

Submission 13

The submitter opposes the plan change as it has been notified. The NZHPT considers that insufficient attention has been paid to avoiding potential adverse effects of earthworks on Wellington City's historic heritage. Specifically, the NZHPT is concerned with the potential for earthworks in the District to adversely affect historic places and areas, and archaeological sites.

Decision Requested:

That the first paragraph of the explanation be amended by deleting the 'may' and replacing it with 'will':

Maori and non-Maori archaeological sites from before 1900 are protected by the Historic Places Act 1993. An Archaeological Authority ~~may~~ will be required from the New Zealand Historic Places Trust to disturb these sites. ...

3. Rules

3.1. Permitted Activities

Rule 19B.1

Permitted Activities

Submission 17

The submitter considers that the proposed earthworks chapter should be self contained in respect of all earthworks activities. Having to read multiple chapters to determine compliance for earthworks is not efficient and poor plan drafting in our opinion.

Decision Requested:

The first paragraph under 19B.1 should be amended as follows (new words underlined):

The rules in this chapter apply in conjunction with the relevant area based rules in other chapters (for buildings, structures or other activities associated with the earthworks).

Correspondingly, the following statement should be added after the heading for each rule chapter (i.e. 5, 7, 9, 11, 13 [not 13B], 15, 17 and 19) and before the heading for permitted activities:

The rules in this chapter apply in conjunction with the rules for earthworks in chapter 19B.

Submission 26

One of the functions of the earthworks plan change is to minimise the risk of landslips and other instability. In preparing the plan change the Council decided to follow the model of the previously earthworks bylaw, which operated alongside and in parallel with building consent approval. This was because of the difficulties and risks of clearly defining earthworks associated with buildings and structures, from earthworks not associated with them.

However, there are discrete areas where some earthworks can be approved through the building consent process without the need for a resource consent. Examples are earthworks associated with some retaining walls and the foundations for buildings. Other areas where technical changes to the district plan rules may allow earthworks to be permitted activities are the excavation of basements and the demolition of some buildings and structures.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to the text, to allow for specific earthworks as permitted activities would entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Consequential changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

A distinction needs to be made between the treatment of some ground surfaces and any earthworks beneath them. The distinction is problematic for tracks and driveways where the surface can be loose gravel similar to the coarser material used to construct the base of the track or drive.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to distinguish surfaces from earthworks. It may entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

The introduction states:

The rules in this chapter apply in conjunction with the relevant area based rules in other chapters.

Since the plan change was notified a resolution has been negotiated to an appeal on Plan Change 60. This change is concerned with the rezoning of land at Churton Park to create a Suburban Centre. It has its own earthworks provisions and the use of the rules in the Earthworks Chapter would represent an unnecessary and cumbersome duplication.

Decision sought:

To amend the wording of the introduction as follows (new words are underlined and deleted words are struck out):

The rules in this chapter apply in conjunction with the relevant area based rules in other chapters-, except the rules do not apply to Appendix 9: Churton Park Village Concept Plan, of the Suburban Centres chapter.

3.2. Rules for all Areas (except Rural)

Rule 19B.1.1

Earthworks and associated structures subject to conditions

Submission 4

The Wellington City District Plan should provide an appropriate and consistent planning framework, which provides for the ongoing operation, maintenance and upgrading of the National Grid, such that it can continue to meet the electricity needs of the Wellington district and beyond. This includes ensuring that the objectives, policies and rules address all the relevant issues, and recognise and incorporate the strategic needs of the Grid.

Decision Requested:

Add the following conditions (new words underlined):

19B.1.1.9 Earthworks and the National Grid

- (i) All earthworks and associated structures must comply with the New Zealand Electricity Code for Practice for Electrical Safe Distances (NZECP 34:2001);
- (ii) Excavated or other materials must not be deposited under or near transmission lines so as to reduce the vertical distance from the ground to the conductors to a distance less than the safe distances in Schedule 4, Table 4 of the NZECP 34:2001;
- (iii) The discharge of dust and/or particulate matter in association with earthworks and associated structures must not create any dust hazard or nuisance to the National Grid.

Explanation

The operation, maintenance and future development of the National Grid electricity transmission network can be significantly constrained by the adverse environmental impact of encroaching third party development and associated activities (reverse sensitivity), such as earthworks.

Earthworks, and its associated structures, may directly or indirectly undermine or affect the structural and system integrity and stability of existing transmission line support structures, which can create safety hazards or result in a power outages to certain areas. Earthworks can also result in the emission of dust, which can result in the build up of material on the transmission lines and their equipment, adversely impacting on the operation of the network by increasing the risk of circuit tripping or flashovers.

It is important to ensure that any potential adverse effects of earthworks on the electricity transmission network are appropriately managed to ensure the ongoing operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.

Submission 13

The submitter opposes the plan change as it has been notified. The NZHPT considers that insufficient attention has been paid to avoiding potential adverse effects of earthworks on Wellington City's historic heritage. Specifically, the NZHPT is concerned with the potential for earthworks in the District to adversely affect historic places and areas, and archaeological sites.

Decision Requested:

That the marginal note adjacent to Rule 19B.1.1 be amended as follows (new words underlined, deleted words struck out):

... Archaeological sites are protected by the Historic Places Act 1993 and an Archaeological Authority ~~may~~ will be required from the New Zealand Historic Places Trust. ...

NZHPT suggests the following addition additions to 19B.1.1 :

Earthworks and associated structures in all Areas (except the Rural Area), are Permitted Activities provided that they comply with the following conditions, and subject to the following exclusion:

- Earthworks that may affect archaeological sites.

Submission 17

All existing slopes

The part of the rule for cuts should be renamed 'higher slopes' and relocated to be after the table for steeper slopes. Part of the rule is redundant and misleading as it is already covered by the rules for gentler slopes and steeper slopes. The rule really only applies for slopes over the steeper slope threshold.

Decision Requested:

The rule for cuts up to 0.3 metres should be renamed 'higher slopes' and relocated to be after the table for steeper slopes.

Gentler slopes and steeper slopes

The marginal diagrams are misleading in terms of depicting the maximum depth of cut. These diagrams show the maximum apparent batter height NOT a maximum vertical cut.

Decision Requested:

The marginal diagrams for gentler slopes and steeper slopes need to be amended.

19B.1.1.2 Minimum distances for cuts

Two bullet points are potentially fatal to the operation of the rule. The distance from slopes steeper than 2 horizontal to 1 vertical is mutually exclusive for slopes that are already steeper than that. Secondly, the distance from an existing or proposed bank or wall, has the effect of excluding all cuts on an existing bank. The term 'bank' is undefined and confusing as it's interchangeable with slope, while the term 'wall' is a structure, which is covered by a separate bullet point. The submitter is unsure how the rule would be applied in the situation where a benched cut is proposed.

Decision Requested:

The submitter suggest the following (new words underlined, deleted words struck out):

The top of the earthworks cut must be a minimum distance downhill from :

- a boundary
- an existing slope steeper than ~~2~~ 1.5 horizontal to 1 vertical (approximately ~~26°~~ 34°)
- a driveway
- a building, wall or other structure
- ~~an existing or proposed bank or wall, of any height (where it will not be removed by the earthworks cut or covered by an earthworks fill).~~

19B.1.1.1.2 Minimum distances for fills

The last bullet point requires amendment so as to be applied correctly. The reference is potentially fatal to the rule as the term 'bank' is undefined and can be confused with the slope that the earthworks are upon. The submitter also questions whether a new bullet point is required to refer to existing steep slopes over 2 horizontal to 1 vertical.

The bottom of the earthworks fill or the base of the retaining wall must be a minimum distance uphill from:

- a foundation or wall of a building or other structure
- ~~an existing or proposed bank or wall, greater than 0.3 metres (where it will not be removed by an earthworks cut or covered by the earthworks fill).~~
- an existing slope steeper than 2 horizontal to 1 vertical (approximately 26°)

Rule 19B.1.1.1

Earthworks stability

Submission 2

The submitter believes the provisions are too onerous and will add significant compliance costs to parties undertaking minor earthworks. It seeks amendments to the conditions for the maximum depth of cuts and the maximum depth of fills.

The submitter supports 19B.1.1.1.2 and 19B.1.1.1.4, which will ensure that earthworks are undertaken at an appropriate distance from property boundaries and other buildings or structures.

Decision Requested:

Amendment of 19B.1.1.1.1 for permitted earthworks cuts and 19B.1.1.1.3 for permitted earthworks fills. That the maximum depth of cut in the table for *Steeper Slopes* be changed to 1.5 metres and maximum depth of fill in the table for *Permitted earthworks fills* be changed to 1.5 metres.

Submission 5

Provision 19B.1.1.1.1 is not specific enough in its current form, which creates the need to apply it in some situations where the desired outcome of the provision are likely to have been met elsewhere e.g. the building consent process.

Decision Requested:

That 19B.1.1.1.1 be amended to include the following exception clause (new words underlined):

Earthworks that are to be completely covered by foundations and/or other permitted structures.

Where earthworks exceed the maximum height, depth or slope requirements as described in all other sections of Rule 19 but are solely for the purpose of providing a platform to be completely covered by a structure for which a Building Consent will be required, it is permissible to apply for a direction that such earthworks be considered as part of the building consent.

Where approved, environmental impacts relating to the construction phase will still be required to meet the Resource Management Act standards, but a full separate application will not be required. Additional costs for construction phase assessment, and specific covenants to ensure compliance, may still be required.

Submission 19

The submitter considers that cable cars and garages have been singled out in the plan change as the main threat to the visual amenity of natural coastal slopes. However, the Council has already given consent to build in established coastal areas and it should have anticipated that access to houses will be required. It is unfair and

illogical to capture cable car installations through the use of arbitrary and low thresholds for earthworks. The post holes for a cable car foundation will trigger resource consent while the same foundation hole for a low deck or low flight of stairs, which also carry live loads, will not trigger the same consent. The submitter presents diagrams and load calculations.

The submitter notes that the correctly designed cable car foundations are not destabilising to a slope and can in fact improve the local stability of the surrounding soil.

Decision Requested:

The submitter requests the following:

- To discriminate between undeveloped and developed coastal land and amend Map 56 and Rule 19B.1.1.7.
- Where access is required to an existing and approved development site, that new and more restrictive rules are not imposed to prevent such access.
- Introduce minimum thresholds, as detailed in the 'Earthworks' section of the submission.
- Revise the definitions of 'hole' and 'earthworks', especially to review the current ad hoc list of exclusions. A decision on what is 'structural' must be made on structural considerations and not functional considerations.
- For structures that require a building consent, the structural analysis, including ground stability check, should form part of the building consent and not a separate resource consent. For many small projects this will substantially reduce compliance costs and prevent duplications of forms and effort.

Submission 21

The 0.6m threshold is far too low, as is the 0.3m in 19B1.1.1.1. Some garden edging systems reach this puny height and are a long way from creating a hazard for anybody.

Fills of any depth beneath building structures and/or behind basewalls should be permitted and dealt with as previously by Building Act considerations.

Rule 19B.1.1.1 appears to apply to uncontrolled fill deposited on a site, and surcharges applied to fill which is either not compacted (or uncontrolled), uncontained or both. From an engineering perspective any designed structure should take into account any fills and/or surcharges – which really make it a building consent issue rather than a planning issue.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

Submission 26

One of the functions of the earthworks plan change is to minimise the risk of landslips and other instability. In preparing the plan change the Council decided to follow the model of the previously earthworks bylaw, which operated alongside and in parallel with building consent approval. This was because of the difficulties and risks of clearly defining earthworks associated with buildings and structures, from earthworks not associated with them.

However, there are discrete areas where some earthworks can be approved through the building consent process without the need for a resource consent. Examples are earthworks associated with some retaining walls and the foundations for buildings. Other areas where technical changes to the district plan rules may allow earthworks to be permitted activities are the excavation of basements and the demolition of some buildings and structures.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to the text, to allow for specific earthworks as permitted activities would entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Consequential changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

A distinction needs to be made between the treatment of some ground surfaces and any earthworks beneath them. The distinction is problematic for tracks and driveways where the surface can be loose gravel similar to the coarser material used to construct the base of the track or drive.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to distinguish surfaces from earthworks. It may entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

Rule 19B.1.1.1.5 concerns earthworks being able to extend beyond a private lot onto the legal road without requiring resource consent under 19B.1.1.1.2, the 'minimum distance for earthworks cuts'. People using the rule have found it confusing and it would benefit from rewording.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks a decision that includes changes to the text, which address the issue.

Submission 26

The definition of *hole* is linked to the definition of 'earthworks'. The definition of hole indicates that they can only be used for minor structures. Users of the definitions and rules are finding the concepts and relationships confusing.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks a decision from that includes changes to the text, which address the issue.

Possible changes are to the definitions of 'earthworks' and 'hole'. It may also be appropriate to address the issue of excavations for holes in the earthworks stability rules 19B.1.1.1 and 19B.1.2.1.

Rule 19B.1.1.2

Erosion, dust and sediment control

Submission 18

The submitter supports the overall intent of the plan change, but considers the wording of some of the clauses may be open to misinterpretation.

Decision Requested:

The submitter requests the following amendment (new words underlined):

19B.1.1.2.1 Earthworks must be no closer than 5 horizontal metres from a stream ... or wetland or the edge of the sea ...

Submission 26

No minimum size is specified for a stream. As the rules presently stand a stream equates to a *river* under the Act and *means a continually or intermittently flowing body of fresh water ...* A lower limit is desirable for the size of streams. It would prevent the 'sediment rule' and the 'stream rule' from being applied so widely that the focus of the rules is lost and they become effectively unworkable.

Decision Requested:

No detailed amendments are proposed to the wording of the Plan Change 65. The submission seeks changes to

delimit the minimum size of streams. It may entail changes to Policies 19A.2.1.3 and 19A.2.1.5; and Rules 19B.1.1.2 and 19B.1.1.3. The issue could also be addressed through a change or changes to the definition of *stream, waterbody and/or wetland*.

Rule 19B.1.1.3

Earthworks and structures associated with streams and wetlands

Submission 17

The submitter considers the rule is essentially a repeat of Rule 19B.1.1.2.1.

Decision Requested:

The submitter suggests that Rule 19B.1.1.3 is deleted and the text included within the heading for Rule 19B.1.1.2, as follows (new words underlined):

19B.1.1.2 Erosion, dust and sediment control / proximity to water bodies

19B.1.1.2.1 Earthworks and associated structures must be no closer than 5 metres from a stream (excluding any existing section of stream that is piped) or wetland or the edge of the sea (the coastal marine area).

19B.1.1.2.2 ...

Submission 18

The submitter supports the overall intent of the plan change, but considers the wording of some of the clauses may be open to misinterpretation.

Decision Requested:

The submitter requests the following amendment (new words underlined):

19B.1.1.3 Earthworks and associated structures must be no closer than 5 horizontal metres from a stream ... or wetland.

Submission 26

No minimum size is specified for a stream. As the rules presently stand a stream equates to a *river* under the Act and *means a continually or intermittently flowing body of fresh water ...* A lower limit is desirable for the size of streams. It would prevent the 'sediment rule' and the 'stream rule' from being applied so widely that the focus of the rules is lost and they become effectively unworkable.

Decision Requested:

No detailed amendments are proposed to the wording of the Plan Change 65. The submission seeks changes to delimit the minimum size of streams. It may entail changes to Policies 19A.2.1.3 and 19A.2.1.5; and Rules 19B.1.1.2 and 19B.1.1.3. The issue could also be addressed through a change or changes to the definition of *stream, waterbody and/or wetland*.

Rule 19B.1.1.5

Earthworks and structures for tracks

Submission 1

Forestry and farm vehicle access ways or 'tracks' typically involve formation of overly steep excavations and cut material dumped on hillsides with little regards for whether or not cut and sideling fills remain stable or not. Tracks are considered to be inherently dangerous to the general public as slips along tracks are common and safe access cannot be relied on. The submitter considers they are no longer sustainable or acceptable in residential, urban or semi-rural areas.

Decision Requested:

The submitter requested the following:

That Council accept that the definition of a 'track' is an unfinished or unsound or unreliable vehicle or pedestrian access way.

The Council should not issue consent for earthworks activities for 'track' or any other vehicle or pedestrian access way that is unsound, or unfinished or unsafe or at risk of failure.

Submission 21

This sounds like Council trying to cover its backside. Council should be encouraging people to take an active interest in the city, not deterring them with 'written contracts'.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

Rule 19B.1.1.6

Visual amenity - general

Submission 21

Any earthworks that form part of a building structure and are not visible externally should be permitted.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

Submission 22

The submitter considers that the extent of vertical cut is not a sufficient indicator of potential environmental effect.

Decision Requested:

Condition 19B.1.1.6 should be amended to state that is also does not apply in the overlay of ridgelines and hilltops. In addition, consider inserting a parameter as to the extent of ground disturbance; and if the disturbance exceeds that parameter then the earthworks will not be permitted activities.

Submission 26

This rule is concerned with *Visual Amenity – General*. There is the potential for it to overlap with rules for earthworks in *identified ridgelines and hilltops* in the Open Space Area and Conservation Sites under Variation 6 – *Amendments to Proposed District Plan Change 33 (Ridgelines and Hilltops [Visual Amenity] and Rural Area)*.

Decision Requested:

To amend the wording of Rules 19B.1.1.6 as follows (new words underlined and deleted words struck out):

...

This condition does not apply in the Central Area or Suburban Coastal Area identified on Map 56 or 57-~~7~~, or within identified ridgelines and hilltops in the Open Space Area or Conservation Sites.

Rule 19B.1.1.7

Visual amenity – suburban coastal areas

Submission 22

The submitter is concerned that earthworks on all escarpments regardless of what part of the City they are in should be subject to an adequate planning regime.

Decision Requested:

Condition 19B.1.1.7 should be amended to cover the remainder of the coastal escarpments outside the suburban area with consequential amendments (additions) to the maps and other provisions in the Plan Change; this would entail that the word 'suburban' should be deleted from Condition 19B.1.1.7.

Condition 19B.1.1.7 should also be amended so that it also covers the overlay of ridgelines and hilltops; or a similar amendment should be made.

In addition, Council should consider reinserting a parameter as to the extent of ground disturbance; and if the disturbance exceeds that parameter then the earthworks will not be permitted.

Submission 23

The submitter considers Rule 19B.1.1.7 for the Suburban Coastal Area is overly controlling and requires unnecessary information to be submitted with an application. The submitter opposes the policy because there are adequate controls elsewhere in the plan change.

Decision Requested:

That Rule 19B.1.1.7 should be deleted.

Submission 24

The submitter considers Rule 19B.1.1.7 for the Suburban Coastal Area is overly controlling. The submitter opposes the policy because there are adequate controls elsewhere in the plan change and documents such as the Coastal Policy Statement.

Decision Requested:

That Rule 19B.1.1.7 should be deleted.

Rule 19B.1.1.8

Transport of materials

Submission 21

The transport of material restrictions appear to be unnecessary, and far too limiting for many types of development such as subdivision work, or larger industrial complexes for which 200m³ is 'draconian'.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

3.3. Rules for the Rural Area

Rule 19B.1.2

Earthworks and associated structures subject to conditions

Submission 13

The submitter opposes the plan change as it has been notified. The NZHPT considers that insufficient attention has been paid to avoiding potential adverse effects of earthworks on Wellington City's historic heritage. Specifically, the NZHPT is concerned with the potential for earthworks in the District to adversely affect historic places and areas, and archaeological sites.

Decision Requested:

NZHPT suggests the following addition additions to 19B.1.2 (new words underlined):

Earthworks and associated structures in the Rural Area, are Permitted Activities provided that they comply with the following conditions, and subject to the following exclusion:

- Earthworks that may affect archaeological sites.

Rule 19B.1.2.1

Earthworks stability

Submission 17

Makara Village and Makara Beach settlements

The first bullet point is confusing as to why the lots under 1200m² in Makara Village and Makara Beach settlements are specifically identified. Do the earthworks stability rules only apply to these lots?

Decision Requested:

If the earthworks stability rules do not only apply to Makara Village and Makara Beach, the rules should not identify these areas separately.

Subdivision

The third bullet point covering earthworks associated with a subdivision is confusing. It is unknown as to what the earthworks associated with a subdivision might be.

Decision Requested:

That the Council clarify the earthworks it is trying to control with a subdivision. Is it trying to control all earthworks (regardless of how small) for access to a new lot only? Or is the aim to control all earthworks (regardless of how small) for internal tracks and house sites for new lots?

Submission 26

One of the functions of the earthworks plan change is to minimise the risk of landslips and other instability. In preparing the plan change the Council decided to follow the model of the previously earthworks bylaw, which operated alongside and in parallel with building consent approval. This was because of the difficulties and risks of clearly defining earthworks associated with buildings and structures, from earthworks not associated with them.

However, there are discrete areas where some earthworks can be approved through the building consent process without the need for a resource consent. Examples are earthworks associated with some retaining walls and the foundations for buildings. Other areas where technical changes to the district plan rules may allow earthworks to be permitted activities are the excavation of basements and the demolition of some buildings and structures.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to the text, to allow for specific earthworks as permitted activities would entail changes to Policy 19A.2.1.2 and Rules

19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Consequential changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

A distinction needs to be made between the treatment of some ground surfaces and any earthworks beneath them. The distinction is problematic for tracks and driveways where the surface can be loose gravel similar to the coarser material used to construct the base of the track or drive.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to distinguish surfaces from earthworks. It may entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

The definition of *hole* is linked to the definition of *earthworks*. The definition of hole indicates that they can only be used for minor structures. Users of the definitions and rules are finding the concepts and relationships confusing.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks a decision from that includes changes to the text, which address the issue.

Possible changes are to the definitions of 'earthworks' and 'hole'. It may also be appropriate to address the issue of excavations for holes in the earthworks stability rules 19B.1.1.1 and 19B.1.2.1.

Rule 19B.1.2.2

Erosion, dust and sediment control

Submission 8 and 9

The submitter opposes the proposed parameters of Rule 19B.1.2, especially 19B.1.2.2.2 and 19B.1.2.3. Under existing rules earthworks and associated structures are permitted activities up to, but no closer than, five metres from a water body.

Decision Requested:

That 19B.1.2.2.2 and 19B.1.2.3 are not adopted and that Rule 15.1.10 and sub-rules 15.1.10.1 – 15.1.10.5 located in Variation 6 remain unchanged and are transferred to Plan Change 65.

Submission 15

Meridian is concerned about unnecessary overlap of District and Regional policies. It considers that Greater Wellington Regional Council plans provide efficient and effective management of the adverse effects of erosion, dust and sediment and there is no need for additional and overlapping policies and rules on these issues at the territorial level.

Decision Requested:

Delete Rule 19B.1.2.2.2 and Rule 19B.1.2.3; and items 19B.2.1.2 and 19B.2.1.3, in Rule 19B.2.1; to focus solely on erosion control as a consequential amendment to the deletion of Policy 19A.2.1.3.

Submission 18

The submitter supports the overall intent of the plan change, but considers the wording of some of the clauses

may be open to misinterpretation.

Decision Requested:

The submitter requests the following amendment (new words underlined):

19B.1.2.2.2 Earthworks must be no closer than 20 horizontal metres from a stream ... or wetland or the edge of the sea ...

Submission 20

The submitter believes that the proposed changes will result in unwarranted and unreasonable additional costs for landowners, and as such are ultra vires. In addition there was insufficient consultation in respect of these changes.

Decision Requested:

That the Council not adopt an increase in distance from waterbodies within which earthworks may be carried out as a Permitted Activity from 5 metres to 20 metres.

Submission 26

No minimum size is specified for a stream. As the rules presently stand a stream equates to a 'river' under the Act and 'means a continually or intermittently flowing body of fresh water ...' A lower limit is desirable for the size of streams. It would prevent the 'sediment rule' and the 'stream rule' from being applied so widely that the focus of the rules is lost and they become effectively unworkable.

Decision Requested:

No detailed amendments are proposed to the wording of the Plan Change 65. The submission seeks changes to delimit the minimum size of streams. It may entail changes to Policies 19A.2.1.3 and 19A.2.1.5; and Rules 19B.1.2.2 and 19B.1.2.3. The issue could also be addressed through a change or changes to the definition of 'stream, waterbody and/or wetland'.

Rule 19B.1.2.3

Earthworks and structures associated with streams and wetlands

Submission 8 and 9

The submitter opposes the proposed parameters of Rule 19B.1.2, especially 19B.1.2.2.2 and 19B.1.2.3. Under existing rules earthworks and associated structures are permitted activities up to, but no closer than, five metres from a water body.

Decision Requested:

The submitter seeks that 19B.1.2.2.2 and 19B.1.2.3 are not adopted and that Rule 15.1.10 and sub-rules 15.1.10.1 – 15.1.10.5 located in Variation 6 remain unchanged and are transferred to Plan Change 65.

Submission 15

Meridian considers Greater Wellington's policies and rules provide the most efficient and effective management of the adverse effects of earthworks on the character and amenity of streams and wetlands.

Decision Requested:

Delete Rule 19A.1.2.3 as a consequential amendment arising from the deletion of Policy 19A.2.1.5.

Submission 17

The rule is essentially a repeat of 19B1.2.2.2.

Decision Requested:

The submitter suggests that Rule 19B1.2.3 is deleted and the text included within the heading for rule 19B.1.2.2, as follows (new words underlined):

19B.1.2.2 Erosion, dust and sediment control / proximity to water bodies

...

19B.1.2.2.2 Earthworks and associated structures must be no closer than 20 metres from a stream (excluding any section of stream that is piped) or wetland, or the edge of the sea (the coastal marine area), except for earthworks that require resource consent under a regional plan, in which case this condition does not apply.

This condition does not apply to allotments under 1200m², in Makara Village and Makara Beach settlements, as identified in Appendix 1.

Submission 20

The submitter believes that the proposed changes will result in unwarranted and unreasonable additional costs for landowners, and as such are ultra vires. In addition there was insufficient consultation in respect of these changes.

Decision Requested:

That the Council not adopt an increase in distance from waterbodies within which earthworks may be carried out as a Permitted Activity from 5 metres to 20 metres.

Submission 22

The submitter considers that generally the objectives and policies should be amended to provide for the protection of natural landforms and features, including ridges, hilltops, knolls, cliffs' escarpments, streams and wetlands from significant alteration, especially in prominent and sensitive situations.

Decision Requested:

The submitter requests the following amendment:

19B.1.2.2.2 Earthworks must be no closer than ~~20~~ 10 metres from a stream ... or wetland or the edge of the sea ...

And any consequential amendments elsewhere in the plan change that also need to be made.

Submission 26

No minimum size is specified for a stream. As the rules presently stand a stream equates to a 'river' under the Act and 'means a continually or intermittently flowing body of fresh water ...' A lower limit is desirable for the size of streams. It would prevent the 'sediment rule' and the 'stream rule' from being applied so widely that the focus of the rules is lost and they become effectively unworkable.

Decision Requested:

No detailed amendments are proposed to the wording of the Plan Change 65. The submission seeks changes to delimit the minimum size of streams. It may entail changes to Policies 19A.2.1.3 and 19A.2.1.5; and Rules 19B.1.2.2 and 19B.1.2.3. The issue could also be addressed through a change or changes to the definition of 'stream, waterbody and/or wetland'.

Rule 19B.1.2.5

Visual amenity – general

Submission 22

The submitter is concerned that the values of ridgelines and hilltops are not yet adequately recognised in the plan change.

Decision Requested:

Condition 19B.1.2.5 should be amended to provide that within the overlay for ridgelines and hilltops the existing ground level should not be altered by more than 1.5 metres measured vertically (and then such earthworks shall only be permitted activities in the event that they are in respect of farm tracks or other purposes ancillary to farming operations, provided that the earthworks have no effect on the ridgeline and hilltop profile, or an amendment of similar effect; or a parameter relating to the extent of ground disturbance should be included).

Submission 17

The submitter considers the rule needs to be amended to include a rule for earthworks within identified ridgelines and hilltops from Plan Change 33. The submitter refers to its submission on Variation 6.

Decision Requested:

All relevant earthworks rules should be within the proposed chapters 19A and 19B. Then the earthworks provisions under Plan Change 33 can be deleted by Variation 6.

Submission 26

This rule is concerned with 'Visual Amenity – General'. There is the potential for it to overlap with rules for earthworks in identified ridgelines and hilltops in the Rural Area under Variation 6 – 'Amendments to Proposed District Plan Change 33 (Ridgelines and Hilltops [Visual Amenity] and Rural Area)'.

Decision Requested:

It is proposed to amend the wording of 19B.1.2.5 by adding after 'visible from the outside of the building' , the sentence(new words underlined):

This condition does not apply within identified ridgelines and hilltops.

Rule 19B.1.2.6

Transport of material

Submission 8 and 9

There is a lack of understanding as to the complexities and on-going challenges faced by non-residential landowners. Rule 19B1.2.6 needs to be altered.

Decision Requested:

That Rule 19B1.2.6 be rejected in its current form but adopted as follows (new words underlined):

19B1.2.6 The volume of earth and / or construction fill material transported to, or from, but not within, a site must not exceed 100 cubic metres per hectare (m³/h), over the duration of the project.

Submission 10

The submitter seeks a modification to the proposed rule 19B1.2.6. It should be amended to a clearer and more workable wording:

Decision Requested:

That Rule 19B1.2.6 be amended to (new words underlined, deleted words struck out):

19B1.2.6 The volume of earth and / or construction fill material transported to, or from, but not within, a site

must not exceed 100 cubic metres per hectare (m³/h), over the duration of the project clean up.

Submission 17

The limit of 100m³ needs to be increased. The equivalent rule in the Residential Area allows 200m³. The submitter considers that 200m³ (or more) of transported material should be allowed in the Rural Area given the lower density rural environment and lower use of rural road network.

Decision Requested:

Increase the limit of transported material to 200m³ (or more).

3.4. Rule for structures to retain or stabilise landslips

Rule 19B.1.3

Submission 8 and 9

The submitter is concerned that works to clean up after a landslip are earthworks. The submission quotes the following from the explanation to Rule 19B.1.3 (submitter's emphasis in bold).

*Landslips that are not caused by excavation or other human activities are not 'earthworks'. **However, work to clean up or reshape ground after a landslip are 'earthworks'** and Rule 19B1.1 or Rule 19B1.2 apply. This rule applies where no earthworks are needed to stabilise a landslip.*

Decision Requested:

Work to clean up after landslips in the Rural Area should be a permitted activity.

Submission 10

The submitter seeks the deletion of Rule 19B1.3. It is not necessary to impose this limitation on farming activities. Terawhiti farm opposes the definition that works to clean up after a landslip are considered *earthworks*. They are remedial actions to ensure safe and functional properties.

Decision Requested:

That Rule 19B1.3 be deleted.

Submission 21

Stabilising landslides should be a permitted activity in the interests of life safety, and the stability of neighbouring properties.

Decision Requested:

Withdraw Plan Change 65 and maintain status quo.

Submission 26

This rule is concerned with structures to retain or stabilise landslips, which don't require any earthworks. There are two difficulties with the rule. Firstly, it needs to be extended to include banks and other ground that haven't slipped but require spraying with concrete to ensure their stability. Secondly, people have found the marginal explanation confusing. It needs to be amended or removed.

Decision Requested:

No detailed amendments are proposed to the wording of Rule 19B.1.3. This submission seeks a decision that

includes changes to the text, which address the above two issues.

3.5. Rule for Discretionary Activities

Rule 19B.2.1

Submission 13

The submitter opposes the plan change as it has been notified. The NZHPT considers that insufficient attention has been paid to avoiding potential adverse effects of earthworks on Wellington City's historic heritage. Specifically, the NZHPT is concerned with the potential for earthworks in the District to adversely affect historic places and areas, and archaeological sites.

Decision Requested:

The NZHPT suggest the following additions to Rule 19B.2.1 (new words underlined):

19B.2.1 In all Areas, including the Rural Area:

- ...
- ...
- earthwork that may affect archaeological sites

are a Discretionary Activity Restricted) in respect of the following items:

...

19B2.1.6 potential effects on archaeological sites

...

Submission 15

Meridian acknowledges that Council has a role in the management of the effects of earthworks; and due to the potential scale of earthworks associated with renewable energy developments Meridian accepts that resource consent will be required for this.

However, Meridian also consider it appropriate and necessary that Plan Change 65 and Variation 6 should each include a statement that earthworks associated with wind energy facilities in the Rural Area will be managed via the provisions of Plan Change 32 and exempt from the rules of Plan Change 65 and Variation 6.

Decision Requested:

In regard to the earthworks activity status under Plan Change 65 and Variation 6, that the Council retain the restricted discretionary activity status in Rule 19B.2.1 for earthworks that do not meet the permitted activity conditions.

Submission 17

The submitter supports the discretionary restricted category for earthworks that do not comply with the permitted standards. It also supports the inclusion of an expressed statement of non-notification and no service requirements for discretionary activity earthworks under rule 19B.2.1.

Decision Requested:

Retain the discretionary restricted category for earthworks that do not comply with the permitted standards, and retained the expressed statement of non-notification and no service requirements under rule 19B.2.1.

Correct the incorrect references in Rule 19B.2.1 to 3B.1.1, 3B.1.2 and 3B.1.3, by changing the references to 19B.1.1, 19B.1.2 and 19B.1.3.

Submission 26

An error in the reference to permitted activity conditions needs to be corrected. The submission seeks a decision that amends the text as follows:

Decision Requested:

The submission seeks a decision that amends the text as follows (new numbers underlined, deleted numbers struck out):

In all Areas, including the Rural Area:

earthworks and associated structures that do not comply with the conditions
for Permitted Activities under Rule ~~3~~ 19B.1.1 or Rule ~~3~~ 19B.1.2

structures to retain or stabilise landslips that do not comply with the condition
for Permitted Activities under Rule ~~3~~ 19B.1.

...

4. Amendments to other Chapters

4.1. Chapter 3 – Information to be submitted

Chapter 3	Information to be submitted
<p><u>Submission 2</u></p>	<p>The requirement for information from a chartered engineer practicing in the field of civil or geotechnical engineering, is unwarranted and onerous for many earthworks under 1.5m.</p> <p>Decision Requested:</p> <p>If the changes are not made to provisions 19B.1.1.1 (earthworks stability) as requested, provision 3.2.2.4a needs to be amended so that the requirements for drawings, calculations and a written report by an appropriately qualified and experienced person should reflect the scale and potential impact of the proposed earthworks.</p>
<p><u>Submission 13</u></p>	<p>The submitter opposes the plan change as it has been notified. The NZHPT considers that insufficient attention has been paid to avoiding potential adverse effects of earthworks on Wellington City's historic heritage. Specifically, the NZHPT is concerned with the potential for earthworks in the District to adversely affect historic places and areas, and archaeological sites.</p> <p>Decision Requested:</p> <p>That the following is included in Section 3.2 (new words underlined):</p> <p>3.2.2.7.1 The applicant must provide a site plan detailing where relevant the existing situation including:</p> <ul style="list-style-type: none">• <u>The location of any listed heritage items or recorded archaeological sites</u> <p>3.2.2.7.2 The applicant must provide a site plan detailing where relevant the proposed development including:</p> <ul style="list-style-type: none">• <u>The location of any listed heritage items or recorded archaeological sites</u>
<p><u>Submission 18</u></p>	<p>The submitter supports the overall intent of the plan change, but considers the wording of some of the clauses may be open to misinterpretation.</p> <p>Decision Requested:</p> <p>The submitter requests the following bullet points (or wording that achieves the same outcome) be added to 3.2.2.7.1 and 3.2.2.7.2 (new words underlined):</p> <ul style="list-style-type: none">• <u>Streams, wetlands and waterbodies located within the site.</u>• <u>Streams, wetlands and waterbodies located outside the site where these are within 20 horizontal metres of the proposed development in the Rural Area or 5 horizontal metres in all other areas.</u>
<p><u>Submission 21</u></p>	<p>A3 drawings are not a practical drawing size. The accepted norm in the building industry is A1 or A2.</p> <p>Decision Requested:</p> <p>Withdraw Plan Change 65 and maintain status quo.</p>

Submission 26

Plan Change 65 has brought the consideration of issues forward in the project planning and design process. Some applicants have expressed concern that it has added to the cost of applications and to the uncertainty of gaining approval.

It is sometimes appropriate to consider the earthworks stability issue at an early stage. Other situations are less risky and it is unnecessary to have a full geotechnical assessment with the application. An initial appraisal from an appropriate specialist would be sufficient to satisfy the Council that the risk is minimal or that it can be addressed through conditions of the resource consent.

The same issue exists with the rules for erosion, dust and sediment control and the transport of material. To provide greater flexibility changes are required to the policies that guide the acceptance and assessment of applications.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. This submission seeks changes to the text, to allow greater flexibility in the information the Council requires in applications, would entail changes to Policy 19A.2.1.1, 19A.2.1.2, 19A.2.1.3 and 19A.2.1.9, and Chapter 3.2, Information to be submitted with an application for a resource consent. Consequential changes may also be needed to 19A.1 the introduction to the objectives and policies chapter.

Submission 26

One of the functions of the earthworks plan change is to minimise the risk of landslips and other instability. In preparing the plan change the Council decided to follow the model of the previously earthworks bylaw, which operated alongside and in parallel with building consent approval. This was because of the difficulties and risks of clearly defining earthworks associated with buildings and structures, from earthworks not associated with them.

However, there are discrete areas where some earthworks can be approved through the building consent process without the need for a resource consent. Examples are earthworks associated with some retaining walls and the foundations for buildings. Other areas where technical changes to the district plan rules may allow earthworks to be permitted activities are the excavation of basements and the demolition of some buildings and structures.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to the text, to allow for specific earthworks as permitted activities would entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Consequential changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

A distinction needs to be made between the treatment of some ground surfaces and any earthworks beneath them. The distinction is problematic for tracks and driveways where the surface can be loose gravel similar to the coarser material used to construct the base of the track or drive.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to distinguish surfaces from earthworks. It may entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

No minimum size is specified for a stream. As the rules presently stand a stream equates to a 'river' under the Act and 'means a continually or intermittently flowing body of fresh water ...' A lower limit is desirable for the size of streams. It would prevent the 'sediment rule' and the 'stream rule' from being applied so widely that the focus of

the rules is lost and they become effectively unworkable.

Decision Requested:

No detailed amendments are proposed to the wording of the Plan Change 65. The submission seeks changes to delimit the minimum size of streams. It may entail changes to Policies 19A.2.1.3 and 19A.2.1.5; and Rules 19B.1.1.2 and 19B.1.1.3. The issue could also be addressed through a change or changes to the definition of 'stream, waterbody and/or wetland'.

4.2. Chapter 3 – Definitions

Chapter 3.10

Definitions

Submission 12

WIAL's submission is that the plan change's present wording of the definition of earthworks could result in a range of projects and activities undertaken at the Airport unnecessarily requiring resource consent.

Decision Requested:

That the definition be amended to read (new words underlined):

EARTHWORKS: means the removal, relocation or deposit of earth (which includes any substance constituting the land such as soil, clay and rock) from a natural or constructed land formation. Topsoil mining, turf farming, ground cultivation, gardening, grave digging, maintenance of sports fields, cleanfills, landfills, quarrying, maintenance activity at Wellington Airport except on Rongotai Ridge (including pavement resurfacing, expansion and removal of pavement and hardstand to less than 1m in depth, and the formation and removal of carparking areas), and archaeological excavations are excluded from the definitions of earthworks, as are the digging and filling of holes and trenches.

Submission 19

The submitter considers the definition of 'hole' is woefully inadequate. It is based around the function of the hole but fails to provide workable guidelines and standards around what constitutes a 'minor structure'. The submission proposes criteria for considering structural considerations to discriminate between minor structures and non-minor structures.

The submitter examines the definition of 'trench' and observes that the plan is providing approval based on function or purpose of the excavation activity rather than its environmental or structural impact. No reference is made to volume of earth removed or cut depths. A long trench cut across a steep slope has the potential to be far more destabilising than a small cable car foundation hole, which is not a permitted activity.

The submitter also considers the definition of 'earthworks'. Again the definition provides for exclusions based on the purpose or function of the excavation rather than the scale. Gardening is a permitted activity but no attempt has been made to define gardening or discriminate it from landscaping activities. The difficulties would be solved by a simple minimum volume for earthworks. The submitter suggests an alternative definition of 'earthworks' and 'minor structures'.

Decision Requested:

The submitter requests the following:

- Introduce minimum thresholds, as detailed in the 'Earthworks' section of the submission.
- Revise the definitions of 'hole' and 'earthworks', especially to review the current ad hoc list of exclusions. A decision on what is 'structural' must be made on structural considerations and not functional considerations.
- For structures that require a building consent, the structural analysis, including ground stability check,

should form part of the building consent and not a separate resource consent. For many small projects this will substantially reduce compliance costs and prevent duplications of forms and effort.

Submission 26

One of the functions of the earthworks plan change is to minimise the risk of landslips and other instability. In preparing the plan change the Council decided to follow the model of the previously earthworks bylaw, which operated alongside and in parallel with building consent approval. This was because of the difficulties and risks of clearly defining earthworks associated with buildings and structures, from earthworks not associated with them.

However, there are discrete areas where some earthworks can be approved through the building consent process without the need for a resource consent. Examples are earthworks associated with some retaining walls and the foundations for buildings. Other areas where technical changes to the district plan rules may allow earthworks to be permitted activities are the excavation of basements and the demolition of some buildings and structures.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to the text, to allow for specific earthworks as permitted activities would entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Consequential changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

A distinction needs to be made between the treatment of some ground surfaces and any earthworks beneath them. The distinction is problematic for tracks and driveways where the surface can be loose gravel similar to the coarser material used to construct the base of the track or drive.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks changes to distinguish surfaces from earthworks. It may entail changes to Policy 19A.2.1.2 and Rules 19B.1.1.1 and 19B.1.2.1, and consequential changes to 19A.1 the introduction to the objectives and policies, and 19B.1 the introduction to the rule chapter. Changes may also be required for Chapter 3.2, Information to be submitted with an application for a resource consent and Chapter 3.10, Definitions.

Submission 26

The definition of 'hole' is linked to the definition of 'earthworks'. The definition of hole indicates that they can only be used for minor structures. Users of the definitions and rules are finding the concepts and relationships confusing.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. The submission seeks a decision from that includes changes to the text, which address the issue.

Possible changes are to the definitions of 'earthworks' and 'hole'. It may also be appropriate to address the issue of excavations for holes in the earthworks stability rules 19B.1.1.1 and 19B.1.2.1.

Submission 26

The definition of 'trench' does not limit the width or the depth of a trench. For engineering stability reasons it may prudent to include some dimensions in the definition.

Decision Requested:

No detailed amendments are proposed to the wording of Plan Change 65. This submission seeks a decision from that includes changes to the text, which address the issue.

4.3. Other Chapters including Rural

Chapter 4 – Residential Area

Objectives and Policies

Submission 17

The submitter considers the policy is mostly a repeat of proposed policy 19A.2.1.4, particularly in terms of earthworks. If all the earthworks provisions are being removed from the residential chapters, there is no need to retain the references to earthworks in Policy 4.2.7.4 as these will be covered in chapters 19A and 19B.

Decision Requested:

Policy 4.2.7.4 should be retained in its present format (the Operative District Plan) with the reference to earthworks removed as follows (deleted words struck out):

4.2.7.4 Ensure that ~~earthworks and~~ structures in Residential Areas do not exacerbate natural hazards, particularly flood events.

METHOD

- Rules

~~Earthworks and~~ Large structures have the potential to increase the degree of risk associated with flooding. Where they are proposed for flood-prone areas they will be controlled to ensure that they do not increase the flood hazard.

~~Matters to consider in assessing applications for earthworks and associated structures include:~~

- ~~• Whether earthworks in a Hazard (Flooding) Area increase the risk of flooding, by such effects as blocking flood water flow paths and culverts, and diverting flood waters to other properties~~
- ~~• Whether the earthworks in a Hazard (Flooding) Area reduce the risk or effects of flooding~~
- ~~• The extent that the proposed earthworks and associated structures will be designed to use 'soft engineering' practices, which are visually unobtrusive and minimise or enhance the ecology of the stream and flood-prone area.~~

The environmental result will be the minimisation of hazard risks on flood plains or flood-prone areas.

Submission 22

The submitter is concerned that there is a policy of ensuring that where possible any approved earthworks are designed and engineered to reflect natural landforms.

Decision Requested:

That existing Policy 4.2.5.3 should not be deleted, or a similar objective should be adopted.

Chapter 5 – Residential Area

Rule 5.2.5

Submission 17

Controlled Activity Rule 5.2.5 – Criteria 5.2.5.11

The submitter supports the inclusion of the exception for compliance with the earthworks stability rules from the assessment of whether a proposed lot can contain a permitted activity.

Decision Requested:

That the change to Rule 5.2.5, in Plan Change 65, is not amended.

Chapter 7 – Suburban Centres Rules

Submission 17

Rules 7.2.5, 7.3.7, 7.3.8 and 7.4.7:

It is confusing to have rules pertaining to earthworks in multiple chapters so that one has to refer to the proposed earthworks chapter as well as the area based chapter to determine if any earthworks proposed are permitted.

Decision Requested:

That Rules 7.2.5, 7.3.7, 7.3.8 and 7.4.7 are amended to remove the earthworks aspects of the rules and the equivalent rule added to Chapter 19B.

Chapter 14 – Rural Area Objectives and Policies

Submission 15

Meridian notes that Policy 14.2.2.2 and its explanation are currently subject to appeals by various parties under Proposed Plan Change 33. While it is noted that the Wellington City Council do not consider Policy 14.2.2.2 and its explanation to be part of Proposed Variation 6, to the extent that this position may not be correct Meridian has concerns with the wording of the Policy 14.2.2.2. In this regard, the wording of Policy 14.2.2.2 and its explanation in Variation 6 does not represent the Council's final position in relation to the mediation of appeals and is potentially subject to change via the Environment Court.

Decision Requested:

On the basis that Policy 14.2.2.2 and its explanation are deemed to be part of Proposed Variation 6, amend Policy 14.2.2.2 and its explanation to reflect the outcome of the decisions on appeals to Proposed Plan Change 33.

Submission 17

Policy 14.2.7.4 is mostly a repeat of proposed Policy 19A.2.1.4, particularly in terms of earthworks. If all the earthworks provisions are to be removed from the rural chapters (as the submitter maintains they should be), there is no need to retain the references to earthworks in Policy 14.2.7.4 as these will be covered by chapters 19A and 19B.

Decision Requested:

Policy 14.2.7.4 should be retained in its present format (the Operative District Plan) with the reference to earthworks removed as follows (deleted words struck out):

14.2.7.4 Ensure that ~~earthworks and~~ structures in the Rural Area do not exacerbate natural hazards, particularly flood events.

METHOD

- Rules

~~Earthworks and~~ Large structures have the potential to increase the degree of risk associated with flooding. Where

they are proposed for flood-prone areas they will be controlled to ensure that they do not increase the flood hazard.

Matters to consider in assessing applications for earthworks and associated structures include:

- ~~Whether earthworks in a Hazard (Flooding) Area will impede the flow of flood waters~~
- Whether the earthworks in a Hazard (Flooding) Area will reduce the risk or effects of flooding
- ~~Whether earthworks in a Hazard (Flooding) Area will accelerate, worsen or result in erosion or inundation of the site, or any other site or building~~
- ~~In a Hazard (Flooding) Area, whether the potential threat to the health and safety of people, property or the environment from flooding is avoided, remedied or mitigated~~
- ~~The extent that the proposed earthworks and associated structures will be designed to use 'soft engineering' practices, which are visually unobtrusive and minimise or enhance the ecology of the stream and the flood-prone area.~~

The environmental result will be the minimisation of hazard risks on flood plains or flood-prone areas.

Submission 26

Policy 14.2.5.3 is concerned with the general form of earthworks in the Rural Area, under the Operative District Plan. It has been replaced with the Visual Amenity – General policy in Plan Change 65. For this change to operate as intended, the policy needs to be deleted.

Decision Requested:

The deletion of all of Policy 14.2.5.3, as follows (deleted words struck out):

~~14.2.5.3 Ensure that any approved earthworks are designed and engineered to reflect natural landforms.~~

METHODS

- ~~Rules~~
- ~~Design Guide (Subdivision)~~
- ~~Other mechanisms (WCC Bylaw No.15)~~

Excavations or earthfills can leave unnatural forms or unsightly scars which detract from the amenities of an area. The city bylaws control earthworks to ensure that they are properly engineered, but the District Plan enables amenity considerations to be assessed. The Council aims to ensure that approved earthworks, when completed, are not unsightly.

The environmental result will be to ensure that earthworks, when completed, reflect natural landforms in the area.

Chapter 15 – Rural Area

Rule 15.1.7

Submission 3

The submitter opposes the insertion of the word 'public' in 15.1.7 under the Rural Area permitted activities. The reason is Kinnoull Station has kilometres of access ways, which it has maintained over the years as a permitted activity.

Decision Requested:

The submitter requests the status quo should be maintained and 15.1.7 remain unchanged (i.e. make the following deletion from the notified plan change) (deleted words struck out):

15.1.7 Any activity relating to the upgrade and maintenance of existing formed ~~public~~ roads and accessways including associated earthworks except the construction of new legal road is a Permitted Activity.

Submission 6

The submitter opposes the insertion of the word 'public' in 15.1.7 under the Rural Area permitted activities.

Decision Requested:

The status quo should be maintained and 15.1.7 remain unchanged (i.e. make the following deletion from the notified plan change) (deleted words struck out):

15.1.7 Any activity relating to the upgrade and maintenance of existing formed ~~public~~ roads and accessways including associated earthworks except the construction of new legal road is a Permitted Activity.

Submission 8 and 9

The submitter seek that Rule 15.1.7 is rejected and it is replaced with the current wording found under Rule 15.1.7 in Proposed Plan Change 33, namely remove the term *public*.

Decision Requested:

That Rule 15.1.7 under Plan Change 65 is amended as follows (deleted words struck out)::

15.1.7 Any activity relating to the upgrade and maintenance of existing formed ~~public~~ roads and accessways including associated earthworks except the construction of new legal road is a Permitted Activity.

Submission 10

The submitter opposes the insertion of the word *public* into Rule 15.1.7. Private roadways and access ways far exceed public ones in rural areas. Terawhiti farm alone has in excess of 50 kilometres of roading and access ways. Additionally, Terawhiti and other rural properties have roads that are essential for the maintenance of the national electricity grid.

Decision Requested:

That the status quo should be maintained and 15.1.7 remains unchanged. Also, that 15.1.7 has the word public removed to reflect consistent treatment of all rural roading and access ways.

Submission 20

The submitter believes that the proposed changes will result in unwarranted and unreasonable additional costs for landowners, and as such are ultra vires. In addition there was insufficient consultation in respect of these changes.

Decision Requested:

The submitter requests the following deletion (deleted words struck out):

15.1.7 Any activity relating to the upgrade and maintenance of existing formed ~~public~~ roads and accessways including associated earthworks except the construction of new legal road is a Permitted Activity.

Submission 22

The submitter is concerned about earthworks associated with the upgrading and maintenance of roads and accessways.

Decision Requested:

That Rule 15.1.7 should be amended to provide for only earthworks associated with road/access maintenance/upgrade work involving a vertical cut of no more than 2.5 metres are permitted activities, except that within the overlay of ridgelines and hilltops the earthworks will not be 'permitted activities unless they involve a cut of no more than 1.5 metres and have no effect on the ridgeline profile or the hilltops profile.

The Council should also consider whether there are also circumstances in which earthworks associated with the upgrade of an existing formed road or access way may have significant adverse environmental effects that they should not be 'permitted activities that should perhaps be discretionary activities.

Submission 25

The Council should leave Plan Change 33 as it is in relation to earthworks in the Rural Area.

Council Note: This submission is about Rule 15.1.7. While it appears in the Plan Change 33 documents it was not amended by that plan change. The change proposed under Plan Change 65 is a change to the rule in the Operative District Plan.

Decision Requested:

That the word 'public' should be removed from the amendment of 15.1.7 - i.e. to read (deleted words struck out):

15.1.7 Any activity relating to the upgrade and maintenance of existing formed ~~public~~ roads and accessways including associated earthworks except the construction of new legal road is a Permitted Activity.

Chapter 15 – Rural Area

Rule 15.1.10

Submission 26

15.1.10 is the permitted activity rule for earthworks in the Rural Area in the Operative District Plan. For Plan Change 65 to operate as intended it needs to be deleted.

Decision Requested:

The deletion of all of Rule 15.1.10, as follows (deleted words struck out):

15.1.10 ~~Earthworks involving relocation of earth within the site are Permitted Activities provided that they comply with the following conditions:~~

For Woodridge Estate, Newlands refer to Appendix 3

~~15.1.10.1 That the existing ground level is not altered by more than 2.5 metres measured vertically.~~

~~15.1.10.2 That earthworks are not undertaken on ridgelines or hilltops.~~

~~15.1.10.3 That earthworks do not take place in Hazard (Flooding) Area.~~

~~15.1.10.4 That earthworks are not undertaken on slopes of more than 45 degrees.~~

~~15.1.10.5 That no earthworks are undertaken within 5 metres of a waterbody or the coastal marine area.~~

~~15.1.10.6 That no contamination, including siltation, of any waterbody or the coastal marine area occurs.~~

Chapter 15 – Rural Area

Rule 15.3.7

Submission 26

15.3.7 is the discretionary activity rule for earthworks in the Rural Area in the Operative District Plan. For Plan Change 65 to operate as intended it needs to be deleted.

Decision Requested:

The deletion of all of Rule 15.3.7 as follows (deleted words struck out):

15.3.7 Earthworks (except for earthworks on ridgelines and hilltops) that do not comply with the conditions for Permitted Activities are Discretionary Activities (Restricted) in respect of:

15.3.7.1 the alteration or disturbance of the ground

15.3.7.2 the degree of slope

15.3.7.3 the undertaking of earthworks in a Hazard (Flooding) Area

15.3.7.4 the undertaking of earthworks within 5 metres of a waterbody or the coastal marine area.

Non-notification

~~The written approval of affected persons will not be necessary in respect of items 15.3.7.1 to 15.3.7.4. [Notice of applications need not be served on affected persons]^{PC28} and applications need not be notified.~~

Standards and Terms

~~The conditions for the removal, relocation or deposit of earth in rule 15.1.10 may be waived totally.~~

~~A soil rehabilitation plan must be produced where, as a result of the activity, soils will or are likely to be eroded, removed, disturbed, or otherwise rendered unable to sustain their life supporting capacity or meet the needs of the local community.~~

Assessment Criteria

~~In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:~~

~~15.3.7.5 The extent to which any earth cut or fill will remove existing vegetation, alter existing landforms, affect water quality, or affect existing natural features, such as waterbodies.~~

~~15.3.7.6 The extent to which any cut or fill can be restored or treated to resemble natural landforms. Council will seek to avoid the creation of unnatural scar faces.~~

~~15.3.7.7 The extent to which any earthworks may impact on prominent or visually sensitive situations, including the coastal marine area, ridgelines, cliffs, escarpments and waterbodies.~~

~~15.3.7.8 The necessity for carrying out the works.~~

~~15.3.7.9 Whether the earthworks proposed increase or decrease flood hazards.~~

~~15.3.7.10 Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.~~

~~15.3.7.11 The effects on any water body or the coastal marine area arising from the contaminants associated with earthworks.~~

~~Council's Earthworks Bylaw (Part 8) is designed to ensure that any earthworks are properly engineered and will be safe. Council is concerned that earthworks should not adversely affect existing landforms or detract from the~~

~~amenities of an area. Discretionary control has been imposed so that any proposal may be evaluated.~~

Chapter 15 – Rural Area

Appendices

Submission 26

Appendix 3 of the Rural Area

Under the heading Subdivision, rule 15.4.5 is shown deleted and replaced with 15.4.7.

Decision Requested:

Rule 15.4.5 is the correct rule and the submission seeks that it is restored.

Chapter 17 – Open Space

Rules

Submission 22

The submitter is concerned about earthworks associated with the upgrading and maintenance of roads and accessways.

Decision Requested:

That Rule 15.1.7 should be amended to provide for only earthworks associated with road/access maintenance/upgrade work involving a vertical cut of no more than 2.5 metres are permitted activities, except that within the overlay of ridgelines and hilltops the earthworks will not be 'permitted activities unless they involve a cut of no more than 1.5 metres and have no effect on the ridgeline profile or the hilltops profile.

The Council should also consider whether there are also circumstances in which earthworks associated with the upgrade of an existing formed road or access way may have significant adverse environmental effects that they should not be 'permitted activities that should perhaps be discretionary activities.

Chapter 19 – Conservation Sites

Rules

Submission 22

The submitter is concerned about earthworks associated with the upgrading and maintenance of roads and accessways.

Decision Requested:

That Rule 19.1.4 should be amended to provide for only earthworks associated with road/access maintenance/upgrade work involving a vertical cut of no more than 2.5 metres are permitted activities, except that within the overlay of ridgelines and hilltops the earthworks will not be 'permitted activities unless they involve a cut of no more than 1.5 metres and have no effect on the ridgeline profile or the hilltops profile.

The Council should also consider whether there are also circumstances in which earthworks associated with the

upgrade of and existing formed road or access way may have significant adverse environmental effects that they should not be permitted activities that should perhaps be discretionary activities.

Chapter 23 – Utilities

Rules

Submission 4

The Wellington City District Plan should provide an appropriate and consistent planning framework, which provides for the ongoing operation, maintenance and upgrading of the National Grid, such that it can continue to meet the electricity needs of the Wellington district and beyond. This includes ensuring that the objectives, policies and rules address all the relevant issues, and recognise and incorporate the strategic needs of the Grid.

Decision Requested:

Retain without further modification the amendment to the introductory paragraph of the Utilities Rules (i.e. the plan change 65 amendment)

Submission 17

Depending on the acceptance of the submitters suggested amendments in its submission the references to the earthworks rules may also have to be amended to reflect any changes to their numbering.

Decision Requested:

Amend the numbering of cross-references in the introduction to the Utility Rules, as appropriate to reflect any changes made in response to Submission 17.

Submission 26

The introduction to the Utility rules specifies the rules in other chapters of the district plan that apply to utility projects. Plan Change 65 inserted a list of both earthworks rule numbers and the titles given to these rules. The title for one set of rules was left out in error.

Decision Requested:

The submission seeks a decision that amends the wording of the introduction to the Utility Rules in Chapter 23 (new words underlined):

After the rule numbers, *19B.1.1.4 and 19B.1.2.4*, insert the words, *Flooding hazard*.

5. District Plan Maps

5.1. Map 56

Submission 14

The submitter opposes the new maps 56 and 57 that create new zones by default, diminishing property rights over visual effects, which are totally subjective and the WCC have failed to prove that it is a problem to the community. ...

Decision Requested:

That Council remove all references to the Suburban Coastal Area and delete maps 56 and 57 and/or remove the following properties: 85 & 87 Hutt Road, Pipitea along with 54 & 56 Sar Street, Pipitea from the Suburban Coastal Area on map 57 and align the end of the Coastal Zone Area where the Open Space B Zone meets the Suburban Centre Zone.

Submission 19

The submitter agrees that Wellington's coastal suburban areas are highly distinctive and forms part of the character of the city. It however disagrees with the character description in the proposed plan change, particularly that there has been little development of steep slopes. It presents an alternative view that Wellington's history is based on its hillside development and argues strongly that a cable car installation in many parts of the city is in keeping with the visual amenity and reflects the character of its local area.

The submitter indicates the plan change fails to make a distinction between the highly developed suburban coastal areas and the undeveloped tracts of coastal land. Without such a distinction the current plan is in danger of not providing robust protection to the visual amenity of pristine coastal areas. It will also penalise home owners who want to carry out even very modest projects in highly developed coastal areas.

Decision Requested:

The submitter requests the following:

- To discriminate between undeveloped and developed coastal land and amend Map 56 and Rule 19B.1.1.7.
- Where access is required to an existing and approved development site, that new and more restrictive rules are not imposed to prevent such access.
- Introduce minimum thresholds, as detailed in the 'Earthworks' section of the submission.
- Revise the definitions of 'hole' and 'earthworks', especially to review the current ad hoc list of exclusions. A decision on what is 'structural' must be made on structural considerations and not functional considerations.
- For structures that require a building consent, the structural analysis, including ground stability check, should form part of the building consent and not a separate resource consent. For many small projects this will substantially reduce compliance costs and prevent duplications of forms and effort.

5.2. Map 57

Submission 14

The submitter opposes the new maps 56 and 57 that create new zones by default, diminishing property rights over visual effects, which are totally subjective and the WCC have failed to prove that it is a problem to the community. ...

Decision Requested:

That Council remove all references to the Suburban Coastal Area and delete maps 56 and 57 and/or remove the following properties: 85 & 87 Hutt Road, Pipitea along with 54 & 56 Sar Street, Pipitea from the Suburban Coastal

Area on map 57 and align the end of the Coastal Zone Area where the Open Space B Zone meets the Suburban Centre Zone.

6. Variation 6

6.1. Consultation, notification and legal issues

Submission 6

Garry Poole's letter dated 26 July 2008 is misleading. Specifically:

'Proposed District Plan Variation 6 amends the provisions of Plan Change 33 to move the earthworks rules for the Rural Area to a separate earthworks chapter created by Plan Change 65. The assessment criteria for earthworks in the identified ridgelines and hilltops areas have been moved to the relevant policies. *The wording remains the same and they retain the same function in controlling earthworks in identified ridgelines and hilltops.*

The submitter considers this is incorrect because of the proposed change to Rule 15.1.7, the permitted activity rule for the upgrade and maintenance of roads and accessways.

Decision Requested:

The submitter opposes the proposed changes to Permitted Activity Rule 15.1.7

Submission 25

Statutory effect of plan changes

The plan changes have the effect of removing the customary and existing rights of rural landowners to responsibly maintain and upgrade many of their access ways without Council hindrance and the levying of fees and associated costs.

Benefit to community

Roading and tracking is essential for physical access to much of the rural area. It falls to a relatively small number of landowners to pay for their upkeep and improvement of the vast majority of these tracks to ensure the sustainable management of land and the rural character of the Region. Whilst, these access ways may not be public, the community benefit from them in many ways.

Existing property rights

The proposed changes have the direct effect of taking away existing land use rights that have been exercised by rural land owners since land in New Zealand has been farmed. The submitter refers to Section 28 of the Bill of Rights Act and the provisions of the Bill of Rights (Private Property Rights) Amendment Bill.

Landslips and freedom of movement under NZ law

Where there is a substantial landslip on a private vehicular access way the rural landowner will not, under the proposed plan changes cited above be able to clear this slip to enter or leave his/her land without first seeking and paying for a resource consent. The submitter believes such a restriction is illegal under New Zealand law and refers to the New Zealand Bill of Rights Act 1990 (BORA) and common law.

Section 18 BORA

The submitter refers to matters to be taken into account when formulating the plan change provisions. Reference is made to Ministry of Justice Guidelines and New Zealand Bill of Rights Act 1990 (BORA). The submitter considers proper consultation has not been undertaken and that the section 32 Resource Management Act consultation must be incomplete because of this.

Fair Trading Act

The submitter considers the letter they received contained misleading information and that the Council could be found liable for making misleading or false statements under the Fair Trading Act

The rule changes may be Ultra Vires for the reasons given in the submission.

Decision Requested:

The submitter seeks that the provisions of Variation 6 that delete the earthworks provisions of sections 15.1.10 be dropped such that these sections are left intact.

6.2. Separate earthworks rules

Submission 17

The submitter generally opposes the proposed variations. All the relevant earthworks rules should be removed from the area based chapters and included in the proposed Chapters 19A and 19B of Plan Change 65.

Decision Requested:

That Variation 6 is amended to accommodate the issues raised in this submission.

The variations required to Plan Change 33 are to delete all the objectives, policies and rules and other provisions that relate to earthworks. These deleted provisions should be incorporated into Plan Change 65.

Submission 25

The cost of maintenance and upkeep of rural access ways is already met by rural landowners with no rate payer assistance. The costs and delays what would be associated with having to go 'cap in hand' to the Council whenever we need to clear a land slide or try to increase the viability of our farms in harsh country by maintaining or upgrading our tracks would be such that it may well make our traditional rural activities uneconomic. Annexed to the submission is a breakdown of the actual costs incurred in relation to one new roading project.

Much maintenance and upgrading will probably not now get done as a result of the costs of Council consents which add significantly to the costs of road maintenance and upgrades.

Decision Requested:

The Council should leave Plan Change 33 as it is in relation to earthworks in the Rural Area.

Council Note: This request is about Rule 15.1.7. While it appears in the Plan Change 33 documents it was not amended by that plan change. The change proposed under Plan Change 65 is a change to the rule in the Operative District Plan.

6.3. Objectives and Policies

Chapter 14 – Rural Area

Objectives and Policies

Submission 15

Meridian consider it appropriate and necessary that Plan Change 65 and Variation 6 should each include a statement that earthworks associated with wind energy facilities in the Rural Area will be managed via the provisions of Plan Change 32 and exempt from the rules of Plan Change 65 and Variation 6.

Decision Requested:

Following the explanation to Rule 15.4.2 insert the following (new words underlined):

Note: The rules of Chapter 26 (Renewable Energy) will take precedence with respect to the control of earthworks and buildings and structures associated with the development of wind energy facilities in the Rural Area.

Submission 15

Meridian notes that Policy 14.2.2.2 and its explanation are currently subject to appeals by various parties under Proposed Plan Change 33. While it is noted that the Wellington City Council do not consider Policy 14.2.2.2 and its explanation to be part of Proposed Variation 6, to the extent that this position may not be correct Meridian has concerns with the wording of the Policy 14.2.2.2. In this regard, the wording of Policy 14.2.2.2 and its explanation in Variation 6 does not represent the Council's final position in relation to the mediation of appeals and is potentially subject to change via the Environment Court.

Decision Requested:

On the basis that Policy 14.2.2.2 and its explanation are deemed to be part of Proposed Variation 6, amend Policy 14.2.2.2 and its explanation to reflect the outcome of the decisions on appeals to Proposed Plan Change 33.

Chapter 16 – Open Space Objectives and Policies

Submission 15

Meridian notes that Policy 16.5.2.2 and its explanation are currently subject to appeals by various parties under Proposed Plan Change 33. While it is noted that the Wellington City Council do not consider Policy 16.5.2.2 and its explanation to be part of Proposed Variation 6, to the extent that this position may not be correct Meridian has concerns with the wording of the Policy 16.5.2.2. In this regard, the wording of Policy 16.5.2.2 and its explanation in Variation 6 does not represent the Council's final position in relation to the mediation of appeals and is potentially subject to change via the Environment Court.

Decision Requested:

On the basis that Policy 16.5.2.2 and its explanation are deemed to be part of Proposed Variation 6, amend Policy 16.5.2.2 and its explanation to reflect the outcome of the decisions on appeals to Proposed Plan Change 33.

6.4. Rules

Chapter 15 – Rural Area Rules

Submission 3

The submitter seeks the deletion of Rule 15.1.10.1 and 15.1.10.4. The reason is that the status quo should remain Farmers should be able to alter the ground level by not more than 2.5 metres measured vertically. Rural land and the activities on it are vastly different from urban land. Kinnoull Station has kilometres of access ways which need to be maintained and upgraded. By requiring the land owner to get consent every time they want to maintain and upgrade their accessways an unreasonable and unnecessary burden is placed upon them.

Decision Requested:

The submitter requests the status quo should be maintained and 15.1.10.1 and 15.1.10.4 remain unchanged (note: the status quo refers to the text of the Proposed Plan Change 33 Decision) i.e.:

- 15.1.10.1 That the existing ground level is not altered by more than 2.5 metres vertically, except within the identified ridgelines and hilltops where the existing ground level shall not be altered by more than 1.5 metres, measured vertically.
- 15.1.10.4 That no earthworks are undertaken within 5 metres of a waterbody or the coastal marine area.

Submission 6

The submitter opposes the deletion of the entire 15.1.10 provisions. The reason is that the status quo should remain. Farmers should be able to alter the ground level by not more than 2.5 metres measured vertically. Rural land and the activities on it are vastly different from urban land. The submitter has kilometres of access ways which need to be maintained and upgraded. By requiring the land owner to get consent every time they want to maintain and upgrade their accessways an unreasonable and unnecessary burden is placed upon them. The majority of general rural earthworks and roading and accessway maintenance is undertaken under the 2.5 metre provision.

Decision Requested:

The submitter requests the status quo should be maintained and the entire 15.1.10 provisions remain unchanged (note: the status quo refers to the text of the Proposed Plan Change 33 Decision).

Submission 8 and 9

The submitter opposes the deletion of Rule 15.1.10 and sub-rules 15.1.10.1 – 15.1.10.5.

Decision Requested:

The submitter seeks these rules remain unchanged but transferred into Plan Change 65.

Submission 10

The submitter opposes the deletion of Rule 15.1.10 provisions because the majority of general rural earthworks and roading and access way maintenance is undertaken under 2.5 metre provisions.

Decision Requested:

The submitter seeks that 15.1.10 remain unchanged.

Submission 20

The submitter believes that the proposed changes will result in unwarranted and unreasonable additional costs for landowners, and as such are ultra vires.

Decision Requested:

The submitter seeks that the Council not adopt the provisions of Variation 6 that delete the earthworks provisions of Rules 15.1.10.

Submission 25

The Council should leave Plan Change 33 as it is in relation to earthworks in the Rural Area.

Decision Requested:

That the provisions of Variation 6 that delete the earthworks provisions of Rule 15.1.10 be dropped such that these sections are left intact and cited below:

15.1.10 Earthworks involving the relocation of earth within the site are Permitted Activities provided that they comply with the following conditions:

15.1.10.1 That the existing ground level is not altered by more than 2.5 metres measured vertically, except within the identified ridgelines and hilltops where the existing ground level shall not be altered by more than 1.5 metres, measured vertically.

15.1.10.2 That earthworks do not take place in Hazard (Flooding) Area.

15.1.10.3 That earthworks are not undertaken on slopes of more than 45 degrees.

15.1.10.4 That no earthworks are undertaken within 5 metres of a waterbody or the coastal marine area.

15.1.10.5 That no contamination, including siltation, of any waterbody or the coastal marine area occurs.

End