

**Before the Independent Hearings Panel
At Wellington City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing submissions and further submissions on the
Proposed Wellington City District Plan – Hearing Stream 5

**Statement of supplementary planning evidence of Hannah van Haren-Giles
on behalf of Wellington City Council**

Date: 25 July 2023

INTRODUCTION:

1 My name is Hannah van Haren-Giles. I am employed as a Senior Planning Advisor in the District Planning Team at Wellington City Council.

2 I have read the respective evidence of:

Greater Wellington Regional Council ID 351 and FS84

- a. Richard Sheild

Heritage New Zealand Pouhere Taonga ID 70 & FS9

- a. Dean Raymond

BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies) ID 372

- a. Jarrod Dixon

Woolworths New Zealand Limited ID 359

- a. Kay Panther Knight

Horokiwi Quarries Limited ID 271 and FS28

- a. Pauline Mary Whitney

Transpower Limited ID 315 and FS29

- a. Roy John Clement Noble
- b. Pauline Mary Whitney

Firstgas Limited ID 304 and FS97

- a. Graeme John Roberts

Wellington International Airport Limited ID 406 and FS36

- a. John Kyle – Planning
- b. Kirsty O’Sullivan – Planning

Kāinga Ora - Homes and Communities ID 391 and FS89

- a. Brendon Scott Liggett – Corporate
- b. Victoria Emily Jane Woodbridge – Planning

3 I have prepared this statement of evidence in response to expert evidence submitted by the people listed above to support the submissions and further submissions on the Proposed Wellington City District Plan (the Plan / PDP).

4 Specifically, this statement of evidence relates to the matters of [Hearing Stream 5 - Section 42A Report - Earthworks](#).

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

5 My [section 42A report](#) sets out my qualifications and experience as an expert in planning.

6 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

SCOPE OF EVIDENCE

7 My statement of evidence:

- a. Addresses the expert evidence of those listed above; and
- b. Identifies errors and omissions from my s42A report that I wish to address.

RESPONSES TO EXPERT EVIDENCE

Greater Wellington Regional Council ID 351 and FS84 – Richard Sheild

- 8 Mr Sheild supports my recommendations in response to GWRC’s submission, noting that the chapter goes a long way towards giving effect to the NPS-FM, as well as to aligning with proposed RPS Change 1. There are no outstanding matters to be addressed.

Heritage New Zealand Pouhere Taonga ID 70 & FS9 – Dean Raymond

- 9 Mr Raymond does not agree with my recommendations for EW-O1. I continue to recommend that EW-O1 be retained as notified for the reasons set out in paras 149-151 of my s42A Report.
- 10 I reiterate that the PDP is to be read as a whole. This is a fundamental principle of the PDP’s structure – that relevant district-wide objectives will be brought to bear in those instances where, for example, historic heritage values are present, at which point HH-O2 would be a relevant consideration.
- 11 I disagree with Mr Raymond at para 12 of his evidence, and instead consider that reference to 'the environment' would broaden the scope of EW-O1 to the point at which it would fail to provide meaningful direction to decision-makers. By way of another example, the requested amendment would diminish the outcomes sought in NATC-O1 *‘The natural characteristics and qualities that contribute to the natural character within riparian margins are preserved and protected from inappropriate subdivision, use and development, and maintained or enhanced where appropriate.’* Duplicating, recasting and/or expressing potentially conflicting direction/outcomes in the Earthworks chapter is unnecessary and inefficient in my view.
- 12 I disagree with Mr Raymond at para 14 of his evidence that the amended objective would provide a better fit with the range of policies in the Earthworks chapter. This disregards that, as an example EW-P7 is directly correlated and derived from the outcomes expressed in the historic heritage objectives. The approach of the PDP allows for catered outcomes to be expressed for area-specific and district-wide matters.

- 13 Mr Raymond supports several of my recommendations as follows:
- a. HS5-EW-Rec60, HS5-EW-Rec64, and HS5-EW-Rec70: To not amend EW-P7, EW-R8, and EW-S10 to include scheduled archaeological sites and/or Sites of Significance to Māori.
 - b. HS5-EW-Rec57: To include in the introduction to the chapter reference to the Heritage New Zealand Pouhere Taonga Act 2014 and the need for an archaeological authority.

14 With respect to b. above, Mr Raymond at para 20 sets out that the wording needs to be slightly amended to be more consistent with standard archaeological practice and understanding – I accept his revised wording in replacement of my recommended HS5-EW-Rec57, as follows:

In accordance with the Heritage New Zealand Pouhere Taonga Act 2014, where an archaeological site is recorded or discovered ~~present (or uncovered)~~, an authority from Heritage New Zealand is required if the site is to be modified in any way.

BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies) ID 372 – Jarrod Dixon

15 Mr Dixon tabled a statement of evidence on behalf of the Fuel Companies. Mr Dixon supports my recommendations, and there are no outstanding matters to be addressed.

Woolworths New Zealand Limited ID 359 – Kay Panther Knight

16 Ms Knight tabled a statement of evidence on behalf of Woolworths. Ms Knight is satisfied that the changes or most recently proposed provisions on earthworks are acceptable, and there are no outstanding matters to be addressed.

Horokiwi Quarries Limited ID 271 and FS28 – Pauline Mary Whitney

17 Ms Whitney tabled a statement of evidence on behalf of Horokiwi Quarries. Ms Whitney is generally supportive of the Earthworks s42A recommendations, however raises two matters.

18 The first relates to HS5-EW-Rec84 to amend EW-R7. Ms Whitney has sought a minor amendment to include reference to the 'Coastal Environment' in EW-R7.2.b. I agree with Ms Whitney that this amendment would improve clarity, particularly given the phrasing of EW-R7.3 which is phrased '... where located within the Coastal Environment'. For the same reasons set out in para 423 of my s42A Report, I consider that EW-R7.2.b should be amended in a manner that is consistent with the relevant 'sister' rule ECO-R1.4.b. I therefore recommend EW-R7.2.b be amended as follows:

2. Activity status: Restricted Discretionary

Where:

- a. Compliance with any of the requirements of EW-R7.1 cannot be achieved-~~And~~
- b. The significant natural area does not include matters identified in policy 11 of the NZ Coastal Policy Statement. contain any matters identified in Policy 11(a) of the New Zealand Coastal Policy Statement 2010 where located within the coastal environment.

Matters of discretion are:

1. The matters in EW-P10.

19 The second matter relates to HS5-EW-Rec76 to amend EW-P10. Ms Whitney acknowledges that the recommendation to replace 'Provide' with 'Only allow' reflects the wording within other policies. However, she considers that 'the link between the rule and policy is tenuous in that the scale of the earthworks is not relevant in the rule' and questions the appropriateness of my recommended directive wording 'Only allow' for EW-P10.

20 I disagree with Ms Whitney's interpretation of the provision framework. For clarity I set out that:

- a. EW-P9 (Minor earthworks within significant natural areas) is the relevant policy for 'minor earthworks' within an SNA – i.e. permitted activity rule EW-R7.1.
- b. EW-P10 (Earthworks within significant natural areas) is the relevant policy for 'earthworks of a more than minor scale' within an SNA - i.e. EW-R7.2 as a matter of discretion and non-complying rule EW-R7.3.

21 The phrasing 'Provide for' is not conducive to a restricted discretionary or non-complying activity status. I have not changed my view and continue to recommend per paras 395 and 398 of my s42A Report where I recommend that EW-P10 is amended to 'Only allow'.

Transpower Limited ID 315 and FS29 – Pauline Mary Whitney and Roy John Clement Noble

22 Ms Whitney is generally supportive of the Earthworks s42A recommendations, and at para 1.6 of her evidence identifies there is only one outstanding matter – relating to Rule EW-R2218.

23 I acknowledge the examples presented in Mr Nobles evidence that highlight the risks earthworks can have on the stability, safe clearances, and access to the national grid.

24 However, for the reasons set out in paras 610-614 of my s42A Report I continue to recommend retaining restricted discretionary activity status, and am of the view that non-complying would create a very onerous pathway for minor earthworks. By way of example, if a residential fence relying on posts with vertical hole depths of 320mm were proposed 5.5m from the outer visible edge of a support structure foundation, the amendment suggested by Ms Whitney would result in these earthworks being a non-complying activity due to non-compliance with EW-R18.1.a.i. Another example of minor earthworks assuming non-complying activity status would be where a proposal to install a set of five steps involving a partial cut of 330mm within 5.9m of a support structure foundation is concerned. As I understand it, dispensation from Transpower under the New Zealand Electrical Code of Practice for Safe Electrical Distances 2001 ISSN 01140663 (NZECP 34) would not be applicable in either of these examples.

25 In my view EW-R18.2 provides comprehensive matters of discretion to assess the effects of earthworks within the national grid yard. To that extent I disagree with para 6.24 of Ms Whitney's evidence where she says *'the matters of discretion are incredibly wide and in effect meaningless, and the resulting effects from earthworks within the National Grid Yard are such that consent would only be granted in exceptional circumstances'*. Those matters of discretion include but are not limited to the following: (2.) *Impacts on the operation, maintenance, upgrading and development of the National Grid;* (3.) *The risk to the structural*

integrity of the affected National Grid support structure(s); (5.) The risk of electrical hazards affecting public or individual safety, and the risk of property; and (6.) Technical advice provided by Transpower; and (7.) Any effects on National Grid support structures including the creation of an unstable batter.

26 To my mind these matters are quite specific, provide ample opportunity for an activity to be assessed on its merits, and a clear basis for only granting consent in those circumstances where the stated effects and risks do not arise.

27 Further, EW-R18.2 includes a notification clause that any application under the rule must be served on Transpower, with the matters of discretion (as noted above) also including *'technical advice provided by Transpower'*.

28 Ms Whitney identifies amendments to clarify the permitted depth within EW-R18.1.a.ii. should include reference to 3 metres, and insertion of reference to vertical holes. I accept these minor corrections and clarifications, however have not changed my view with respect to my position on the activity status of EW-R18.

Firstgas Limited ID 304 and FS97 – Graeme John Roberts

29 Mr Roberts on behalf of Firstgas generally supports the relevant recommendations of my s42A Report.

30 Mr Roberts has raised concern with EW-S16, which as a permitted activity standard, is presently worded as a subjective standard and does not provide certainty. I concur.

31 Mr Roberts has offered an amendment to EW-S16 that earthworks within the Gas Transmission Pipeline must not exceed 400mm in depth. Mr Roberts does not provide any reasoning or rationale for this metric in his evidence, however I note that this depth is consistent with PCC PDP EW-R3.

32 While I agree with Mr Roberts that there needs to be a clear standard, I consider that the matters contained within the notified EW-S15 are important considerations and suggest these should be retained but as matters of discretion within EW-R19.2. These matters of

discretion could mirror the matters of control 1 and 5 in SUB-R29 (Subdivision of land containing a Gas Transmission Pipeline corridor): 'The extent to which the earthworks may compromise the ongoing efficient operation, maintenance and upgrading of the gas transmission pipeline, including the ability for continued reasonable access for inspections, maintenance and upgrading' and 'The nature and location of any vegetation to be planted in the vicinity of the gas transmission pipeline'.

- 33 In my view these amendments give better effect to the Objective 10 and relevant policies of the RPS in ensuring regionally significant infrastructure is protected. The amendments also improve the efficiency and effectiveness of the rule framework as it provides a measurable and assessable standard. I propose amendments to SUB-R19 and SUB-S16 as set out below and in Appendix A.

SUB-R19 Subdivision that creates building platforms for potentially hazard sensitive activities within the medium hazard area of the Coastal Hazard Overlays

2. Activity status: **Restricted Discretionary**

Where:

- a. Compliance with any of the requirements of EW-R2319.1 cannot be achieved.

Matters of discretion are:

1. The extent and effect of non-compliance with any relevant standard as specified in the associated assessment criteria for the infringed standard(s);
2. The extent to which the earthworks may compromise the ongoing efficient operation, maintenance and upgrading of the gas transmission pipeline, including the ability for continued reasonable access for inspections, maintenance and upgrading;
3. Effects on the stability or integrity of the gas transmission pipeline;
4. The risk of hazards affecting public or individual safety and the risk of property damage;
5. The nature and location of any vegetation to be planted in the vicinity of the gas transmission pipeline;
6. Measures proposed to avoid or mitigate potential adverse effects on the gas transmission pipeline; and
7. The outcome of any consultation with the owner and operator of the gas transmission pipeline.

SUB-S16 Earthworks in the Gas Transmission Pipeline Corridor

1. Earthworks within the gas transmission pipeline corridor must comply with the following:
 - a. The disturbance of earth within the gas transmission pipeline corridor shall not exceed 400mm in depth.
 - ~~a. The stability or integrity of the gas transmission pipeline is not compromised.~~
 - ~~b. The earthworks must not involve:~~
 - ~~i. Any permanent alteration to the profile, contour or height of the land within the corridor; or the planting of trees within 10 metres of the gas transmission pipeline.~~

34 Ms O'Sullivan highlights issues with the mechanics of EW-R17 and EW-S14 - particularly the matter she identifies in para 7.4(f) of her evidence. She is correct that the rules are intended to be reasonably narrow in their application, and that as identified in the s32 Report *'operative provisions are considered largely fit for purpose'* and *'many of the metrics and thresholds remain the same'*.

35 I agree entirely with Ms O'Sullivan that the rule framework for earthworks in the Airport Zone needs to be clarified. However, I disagree that the PDP provisions are significantly different to those in the ODP.

36 My understanding is that Ms O'Sullivan seeks that the rules of the PDP should reflect the ODP. Earthworks for the purposes of the 'upgrade or maintenance of existing formed roads and public accessways' and 'construction, upgrade, maintenance or repair of the Airport pavement (apron and taxiway surfaces)' should therefore be permitted as per ODP Rule 11.1.4.

37 I am then confused by para 7.4(c) where Ms O'Sullivan notes:

As a result, the standards in EW-S14 can never be engaged for roading, accessway or airport pavement purposes. Such activities, irrespective of their nature, scale or location will be permitted. I do not anticipate that this was the intention (nor would be appropriate) given the values ascribed to these features during the Airports designation hearings.

38 Deleting the 'Except' clause from EW-S14 would, on my reading, remove the permitted activity status for roads, accessways, apron and taxiway surfaces.

39 Irrespective of the variance between the ODP and amendments requested by WIAL, Ms O'Sullivan's proposed amendments offer a simplified and clear rule framework that address the need to manage the effects of earthworks wherever they are undertaken within the

Airport Zone. On this basis, I accept Ms O'Sullivan's amendments to EW-R17 in full, as well as her amendments to the introduction and EW-S14 with slight tweaks as set out below.

Introduction

...

The provisions of this chapter ~~only do not~~ apply in relation to activities provided for in the Airport ~~Zone Chapter~~, to the extent specified in EW-R~~2017~~ and EW-S14.

EW-S14 Earthworks in the Airport Zone

1. In the Rongotai Ridge Precinct, or in relation to the Hillock at the south end of the Terminal precinct earthworks shall not:
 - a. Alter the existing ground level by more than 2.5 metres measured vertically.
 - b. Disturb more than 250m² of ground surface.
 - c. Be undertaken on slopes of more than 34°
2. In the Miramar South Precinct, earthworks must be undertaken in accordance with an Erosion and Sediment Control Plan prepared in accordance with the Erosion and Sediment Control Guidelines for the Wellington Region (or equivalent)
3. In all areas:
 - a. ~~Any~~ structure used to retain or stabilize a slope must be no higher than 2.5m measured vertically.
 - b. No earthwork shall create a dust nuisance; and
 - c. As soon practicable, but not later than three months after the completion of earthworks or stages of earthworks, the earthworks area must be stabilised with vegetation or sealed, paved, metalled or built over.

Except:

- a. ~~The construction, upgrade or maintenance of:~~
 - i. ~~Apron and taxiway surfaces.~~
 - ii. ~~Road and accessway surfaces.~~

40

For completeness I acknowledge the evidence of Mr Kyle who has noted his support for the evidence of Ms O'Sullivan.

41 Ms Woodbridge raises two outstanding matters relating to EW-P3 and EW-S2.

42 At para 7.1 of Ms Woodbridge’s evidence, she signals her support for the submission point of Kāinga Ora [391.273, 391.274] seeking that examples in EW-P3 be deleted to keep the focus on the effects associated with all natural hazards. I acknowledge and agree with Ms Woodbridge that the definition of natural hazards is hyperlinked in the e-plan and that on this basis there is no need to include the example of earthquakes, as this is encompassed within the defined term.

43 However, as I discuss in paras 178-179 of my s42A Report, the effects of climate change are a section 7 RMA matter (s7(i)), with EW-P3 directly responding to Strategic Objective SRCC-O3¹. On this basis I continue to recommend that the risk of slope failure associated with climate change is included within the policy.

EW-P3 Maintaining stability

Require earthworks to be designed and carried out in a manner that maintains slope stability and minimises the risk of slope failure associated with natural hazards ~~such as earthquakes~~ and ~~increased rainfall intensities arising from~~ climate change.

44 At para 7.3 of her evidence Ms Woodbridge reiterates the submission point of Kāinga Ora [391.282 & 391.283] seeking to delete the specifics of assessment criteria point 9 in EW-S2. My view is that the assessment criteria guidance is useful for applicants and decision makers, to which Ms Woodbridge agrees at para 7.4 of her evidence.

¹ Land use, subdivision, and development:

1. Effectively manages the risks associated with climate change and sea level rise;
2. Supports the City’s ability to adapt over time to the impacts of climate change and sea level rise; and
3. Supports natural functioning ecosystems and processes to help build resilience into the natural and built environments.

45 To the extent Ms Woodbridge considers that assessment criteria point 9 is overly prescriptive and onerous, I consider that the chapeau for EW-S2.9 and similar standards EW-S3.9 and EW-S8.7 (although not EW-S7.7 as this is a different context relating to the visual prominence of structures) could be amended as set out below:

EW-S2

...

9. The ~~need for, and~~ effectiveness of, ~~measures options~~ to reduce the visual prominence and particularly visual intrusiveness of the earthworks, and any buildings and other structures associated with or subsequently located on them, ~~potentially~~ including ~~(but not limited to):~~

MINOR AND INCONSEQUENTIAL AMENDMENTS

46 Reference is made to NZS 4431:1989 Code of Practice for Earth Fill for Residential Earthworks in assessment criterion 6.c of EW-S2 and EW-S3. This standard has since been superseded by NZS 4431:2022 Engineering Fill Construction for Lightweight Structures. I propose that this be updated in the PDP.

47 I recommend a minor correction to EW-S15.d: '~~N~~ot result in...'

25 July 2023

Hannah van Haren-Giles

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Wellington City Council