

18 July 2023

Wellington City Council Proposed District Plan  
Wellington City Proposed District Plan Hearings Panel

Email: District.Plan@wcc.govt.nz

Boffa Miskell



Dear Sir/Madam

## Wellington City Proposed District Plan 2022: Hearing Stream 5 – General District Wide Matters

### Hearing Statement for Horokiwi Quarries Limited (Submitter reference 271)

Horokiwi Quarries Limited (“Horokiwi”) writes in relation to Hearing Stream 5 - General District Wide Matters that is scheduled to commence on 1 August 2023.

There are a limited number (12 original<sup>1</sup>) of submission points of relevance to Horokiwi that are being considered as part of Hearing Stream 5. Of the 12 points, three relate to Natural Hazards, seven relate to Earthworks, and two relate to Noise. Given the nature of and limited number of points, Horokiwi has not requested to be heard or filed evidence. That said, Horokiwi is available to respond to any questions the Hearings Panel may have.

In response to submission point 271.57 seeking the retention of EW-R7, Horokiwi accepts the recommendation noting the application and relevance of SNA’s and the Coastal Environment to the Horokiwi site is to be addressed at later hearings. A minor amendment is sought within clause 2.b. of policy EW-R7 to include reference to the ‘Coastal Environment’, to make it clear where the standard is applied. I.e. amend clause 2.b. as follows:

*b. The significant natural area located in the Coastal Environment, does not include matters identified in policy 11 of the NZ Coastal Policy Statement.*

In response to submission point 271.55 supporting policy EW-P10, the recommendation to amend the policy cross references within the policy is accepted. However, it is noted the policy applies to ‘earthworks of more than a minor scale’ within a SNA, with consent being required under the corresponding rule ER-R78 for ‘any earthworks which involves the removal of any indigenous vegetation or habitat of indigenous fauna’. The link between the rule and policy is tenuous in that the scale of the earthworks is not relevant in the rule. As such the appropriateness of the officer recommended directive wording “Only allow’ within the policy requires careful consideration and is opposed.

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<sup>1</sup> Appendix B Recommended Decisions on Submissions – Earthworks, identifies submission point 271.56 on policy EW-P14, will be addressed in the Coastal Environment s42A Report.

For completeness Horokiwi records its position in respect of the relevant matters in the attached table.

Horokiwi respectfully requests that this letter be tabled for the Panel's consideration, to confirm its position in relation to its submission points and the Section 42A Report recommendations.

Should you require clarification of any matter, please contact Pauline Whitney at Boffa Miskell Ltd (04 901 4290), or on the following email: [pauline.whitney@boffamiskell.co.nz](mailto:pauline.whitney@boffamiskell.co.nz)

Yours faithfully

A handwritten signature in dark ink, appearing to read 'P. Whitney', written in a cursive style.

Pauline Whitney  
Senior Planner/Senior Principal  
**BOFFA MISKELL LTD**

Sub point	Plan Part / Sub-part / Chapter / Provision	Position	Summary of Submission	Decisions Requested	S42A Recommendation	Response to S42A
<b>Natural Hazards</b>						
271.18	Part 2 / Hazards and Risks / Natural Hazards / NH-P2	Support	Supports the risk-based approach within the policy.	Retain NH-P2 (Levels of risk) as notified.	<p><b>Recommendation: Reject</b></p> <p><b>Reasoning in S42A Report: Natural Hazards</b>  272. Horokiwi Quarries Ltd [271.18], and FENZ [273.61] seek that NH-P2 is retained as notified.  289. HS5-NH-P2-Rec30: That NH-P2 is amended as set out below and as detailed in Appendix A.</p> <div style="border: 1px solid black; padding: 5px;"> <p><i>NH-P2 Levels of risk</i>  Subdivision, use and development <del>reduce or do not increase the</del> <u>manages natural hazard</u> risk to people, property and infrastructure by:</p> <ol style="list-style-type: none"> <li>1. Allowing for those buildings and activities that have either low occupancy or low replacement value within the low, medium and high hazard areas of the Natural Hazard Overlays;</li> <li>2. Requiring buildings and activities to mitigate the <del>impacts</del> the risk <u>resulting from the development</u> from natural hazards to people, property and infrastructure <u>as far as reasonably practicable</u> in the low hazard, and medium hazard areas within the Natural Hazard Overlays; and</li> <li>3. Avoiding buildings and activities in the high hazard areas of the Natural Hazard Overlays unless there is an <u>operational need or functional need</u> <del>exceptional reason</del> for the building or activity to be located in this area and the <u>building or</u> activity mitigates the impacts from natural hazards to people, property and infrastructure.</li> </ol> </div>	The recommendation is supported. While Horokiwi sought the retention of the policy, the recommended amendments are supported.
271.19	Part 2 / Hazards and Risks / Natural Hazards / NH-P3	Support	Supports the risk-based approach within the policy NH-P3 (Less hazard sensitive activities).	Retain NH-P3 (Less hazard sensitive activities) as notified.	<p><b>Recommendation: Accept</b></p> <p><b>Reasoning in S42A Report: Natural Hazards</b>  294. HS5-NH-P3-Rec32: That NH-P3 is confirmed as notified. No change is recommended to the policy.</p>	The recommendation is supported and reflects that sought by Horokiwi in its submission.
271.20	Part 2 / Hazards and Risks / Natural Hazards / NH-R1	Support	Supports the provision of a permitted rule for activities within hazard areas.	Retain NH-R1 (Less hazard sensitive activities within all hazard areas) as notified.	<p><b>Recommendation: Reject</b></p> <p><b>Reasoning in S42A Report: Earthworks</b>  434. Horokiwi Quarries Ltd [271.20] seeks that NH-R1 is retained as notified.  436. I agree with WCC [266.68] as I consider that amending NH-R1 to refer to the defined term 'Natural Hazard Overlays' will act to improve clarity and consistency for plan users.  437. HS5-NH-R1-Rec61: That NH-R1 is amended as set out below and as detail in Appendix A.</p> <div style="border: 1px solid black; padding: 5px;"> <p><i>NH-R1 Less hazard sensitive activities within all <u>hazard areas</u> <u>Natural Hazard Overlays</u> [ . . . ]</i></p> </div>	The recommendation is supported. While Horokiwi sought the retention of the policy, the recommended amendment to the rule title is supported
<b>Earthworks</b>						
271.1	Part 1 / Interpretation Subpart / Definitions / EARTHWORKS	Support	Supports the definition on the basis it reflects the National Planning Standards. By default, the definition would cover quarrying activities, noting the Earthworks chapter in the PDP does not apply to quarrying activities provided for in the Quarry Zone.	Retain the definition of EARTHWORKS as notified.	<p><b>Recommendation: Accept</b></p> <p><b>Reasoning in S42A Report: Earthworks</b>  62. HS5-EW-Rec3: That the definition of 'earthworks' be retained as notified.</p>	The recommendation is supported and reflects that sought by Horokiwi in its submission. The definition reflects that in the National Planning Standards.
271.51	Part 2 / General District wide Matters / Earthworks / General EW	Support	Supports the clarification that the earthworks rules do not apply to quarrying activities provided for in the Quarry Zone on the basis it recognises the nature and scale of earthworks associated with quarry activities. The relevance of the Earthworks chapter to quarry activities is that technically a quarry activity would involve earthworks, and therefore outside the Quarry Zone, the earthworks chapter applies.	Retain the Earthworks Chapter Introduction as notified.	<p><b>Recommendation: Accept</b></p> <p><b>Reasoning in S42A Report: Earthworks</b>  81. Horokiwi Quarries [271.51] supports the clarification that the earthworks rules do not apply to quarrying activities provided for in the Quarry Zone, and seeks to retain the chapter as notified.</p>	The recommendation is supported. Horokiwi supports the retention of the introductory text "The provisions of this Chapter do not apply to quarrying activities provided for in the Quarry Zone."

271.52	Part 2 / General District wide Matters / Earthworks / EW-P5	Not specified	Neutral on the policy directive to minimise adverse effects on natural landforms.	Not specified.	<p><b>Recommendation: Reject</b></p> <p><b>Reasoning in S42A Report: Earthworks</b> 196. In response to Horokiwi Quarries [271.52 and 271.53] I acknowledge that ridgelines and hilltops are addressed in NFL-P2, however note that the approach of the PDP is that each parent chapter includes overarching policies specific to each of the relevant chapters' district-wide matter/overlay – in this case NFL. This approach allows for catered outcomes to be expressed for each district-wide matter and/or overlay, particularly where there is a need to implement relevant higher order direction from Part 2, NPSs, and/or the RPS. The approach of the PDP is then that there are specific provisions for each district-wide matter and/or overlay as it relates to earthworks contained within the Earthworks chapter. This is consistent across all the Natural Environment Value chapters, for example EW-P9 and EW-P10 relate to SNAs, EW-P14 relates to SAL's, EW-P15 relates to ONFL – all of which have corresponding use and development policies in their parent chapter.</p>	The recommendation is accepted noting no specific relief was sought in this specific submission point.
271.53	Part 2 / General District wide Matters / Earthworks / EW-P5	Amend	Opposes the reference to hilltops and ridgelines, noting the Hilltops and Ridgelines are specifically addressed in NFL-P2 .	<p>Amend EW-P5 (Effects on earthworks on landform and visual amenity) as follows:</p> <p><i>Require earthworks and associated structures, including structures used to retain or stabilise landslips, to be designed and constructed to minimise adverse effects on natural landforms and visual amenity <del>and where located within identified ridgelines and hilltops ensure the effects are mitigated or remedied.</del></i></p>	<p><b>Recommendation: Reject</b></p> <p><b>Reasoning in S42A Report: Earthworks</b> 196. In response to Horokiwi Quarries [271.52 and 271.53] I acknowledge that ridgelines and hilltops are addressed in NFL-P2, however note that the approach of the PDP is that each parent chapter includes overarching policies specific to each of the relevant chapters' district-wide matter/overlay – in this case NFL. This approach allows for catered outcomes to be expressed for each district-wide matter and/or overlay, particularly where there is a need to implement relevant higher order direction from Part 2, NPSs, and/or the RPS. The approach of the PDP is then that there are specific provisions for each district-wide matter and/or overlay as it relates to earthworks contained within the Earthworks chapter. This is consistent across all the Natural Environment Value chapters, for example EW-P9 and EW-P10 relate to SNAs, EW-P14 relates to SAL's, EW-P15 relates to ONFL – all of which have corresponding use and development policies in their parent chapter.</p>	While Horokiwi remains opposed to the reference, the submission point is not being addressed through this evidence, noting the broader topic of Hilltops and Ridgelines is to be addressed at Hearing stream 8.
271.54	Part 2 / General District wide Matters / Earthworks / EW-P10	Not specified	Considers that the ECO policy cross references should be clarified as to whether they are correct.	<p>Seeks that the ECO policy cross references in EW-P10 (Earthworks within significant natural areas) should be clarified as to whether they are correct.</p> <p>[Inferred decision requested]</p>	<p><b>Recommendation: Accept in part</b></p> <p><b>Reasoning in S42A Report: Earthworks</b> 397. Turning to the Director-General of Conservation [385.71, 385.72, and 385.73] and Horokiwi Quarries [271.54 and 271.55] as to whether the correct ECO policies are referenced, I acknowledge that these need to be updated, and have made recommendations to this effect, noting further that these may again change following the ECO hearing process. Any changes to the outcomes and direction as applicable to the Environmental and Natural Values chapter at Hearing Stream 8 can be consequentially updated as relevant to the Earthworks chapter to ensure consistency with the parent ECO chapter.</p> <p>Amend EW-P10 as follows:</p> <div style="border: 1px solid black; padding: 5px;"> <p><i>EW-P10 Earthworks within significant natural areas</i> <i>Only allow <del>Provide</del> for earthworks of a more than minor scale within Significant Natural Areas only where it can be demonstrated that any adverse effects on indigenous biodiversity values are addressed in accordance with ECO-P21 and the matters in ECO-P43 and ECO-P75.</i></p> </div>	The recommendation to amend the policy references is accepted.

271.55	Part 2 / General District wide Matters / Earthworks / EW-P10	Support	Supports that EW-10 defers to policies within the ECO Chapter.	Retain EW-P10 (Earthworks within significant natural areas) as notified.	<p><b>Recommendation: Accept in part</b></p> <p><b>Reasoning in S42A Report: Earthworks</b> 395. In response to Forest &amp; Bird [345.365] in my view 'Consider enabling' is not helpful to decisionmaking and the PDP seeks to avoid the use of such phraseology. However, I agree with GWRC [351.236] that the addition of 'Only allow for' would be appropriate given the limitations imposed by the associated rule (EW-R7). The wording of policies within the Plan is consistent based on the provisions that flow from the policy. The phrase 'only allow' is used for policies that provide for activities but only in the right circumstances where it is demonstrated through a consent process that effects can be adequately avoided, remedied or mitigated, and where key outcomes can be achieved; 'provide for' is used for policies that set up what is generally provided for or encouraged. On this basis I agree in part with Forest &amp; Bird.</p> <p>Amend EW-P10 as follows:</p> <div style="border: 1px solid black; padding: 5px;"> <p><i>EW-P10 Earthworks within significant natural areas</i> <i>Only allow</i><del>Provide</del> for earthworks of a more than minor scale within Significant Natural Areas only where it can be demonstrated that any adverse effects on indigenous biodiversity values are addressed in accordance with <u>ECO-P21</u> and the matters in <u>ECO-P43</u> and <u>ECO-P75</u>.</p> </div>	The recommendation to amend the policy cross references is supported. In response to the recommendation to replace 'Provide' with "Only allow", it is acknowledged this reflects the wording within other policies. However, it is noted the policy applies to 'earthworks of more than a minor scale' within a SNA, with consent being required under the corresponding rule ER-R78 for 'any earthworks which involves the removal of any indigenous vegetation or habitat of indigenous fauna'. The link between the rule and policy is tenuous in that the scale of the earthworks is not relevant in the rule and the wording is opposed.
271.57	Part 2 / General District wide Matters / Earthworks / EW-R7	Support	Supports rule EW-R7 and in particular the default restricted discretionary activity status.	Retain EW-R7 (Earthworks within a significant natural area) as notified.	<p><b>Recommendation: Reject</b></p> <p><b>Reasoning in S42A Report: Earthworks</b> 424. H55-EW-Rec84: That EW-R7 is amended as set out below and detailed in Appendix A, subject to any amendments arising from Hearing 8. Refer para 418-423.</p> <p><i>EW-R78 Earthworks within a significant natural area</i></p> <ol style="list-style-type: none"> <li>1. Activity status: Permitted Where: a. The earthworks: <ul style="list-style-type: none"> <li>i. do not involve the removal of any indigenous vegetation <i>or habitat of indigenous fauna</i>; or</li> <li>ii. <del>are for the maintenance of existing public walking or cycling tracks, as carried out the Council, GWRC, or their approved contractor; or</del></li> <li>iii. <del>are associated with permitted activities provided for in ECO-R1.1. ECO-R1.2, ECO-R2.1 or ECO-R3.1 are required for the purpose of ECO-R1.1.a.iv; or</del></li> <li>iv. <del>required for the purpose of ECO-R1.a.viii (installation of services); or</del></li> <li>v. <del>associated with the fencing, farm drainage creating farm access tracks in accordance with ECO-R1.2.a.i or ECOR1.2.a.ii or ECO-R1.2.a.iv</del></li> </ul> </li> <li>2. Activity status: Restricted Discretionary Where: <ul style="list-style-type: none"> <li>a. Compliance with any of the requirements of EW-R7.1 cannot be achieved. <u>and</u></li> <li>b. <u>The significant natural area does not include matters identified in policy 11 of the NZ Coastal Policy Statement.</u></li> </ul> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> <li>1. The matters in EW-P10.</li> </ol> </li> <li>3. <u>Activity status: Non-complying</u> Where: <ol style="list-style-type: none"> <li>1. <u>The significant natural area includes matters identified in Policy 11(a) of the New Zealand Coastal Policy Statement 2010 where located within the Coastal Environment.</u></li> </ol> <p><u>Section 88 requirements:</u> <u>Applications for activities within an identified significant natural area must provide, in addition to the standard information requirements, an ecological assessment in accordance with APP15:</u></p> <ol style="list-style-type: none"> <li>1. <u>Identifying the indigenous biodiversity values and potential impacts from the proposal; and</u></li> <li>2. <u>Demonstrating that ECO P5 has first been met, and the effects management hierarchy at ECO-P2 has been applied to other adverse effects.</u></li> </ol> </li> </ol>	The recommendation is accepted noting the application and relevance of SNA's and the Coastal Environment to the Horokiwi quarry operation is addressed at later hearings. A minor amendment is sought within clause 2.b. to refer to the Coastal Environment, to make it clear the standard applies to SNA's within the Coastal Environment. I.e. amend clause 2.b. as follows:  <i>b. The significant natural area <u>located in the Coastal Environment</u>, does not include matters identified in policy 11 of the NZ Coastal Policy Statement.</i>

Noise						
271.58	Part 2 / General District wide Matters / Noise / NOISE-R6	Support	Supports NOISE-R6 noting the standard NOISE-S7 defers to the noise limits set out in APP5 – Fixed Plant Standards.	Retain NOISE-R6 (Fixed plant noise) as notified.	<p><b>Recommendation:</b> ACCEPT submission point, except to the extent that modifications are introduced by decisions on other submissions</p> <p><b>Reasoning in S42A Report: Earthworks</b>  a. MoE [400.88] and Horokiwi [271.58] – support NOISE-R6 as notified.</p> <p>Amend the rule as follows:</p> <div style="border: 1px solid black; padding: 5px;"> <p><i>NOISE-R6 Fixed Plant Noise</i>  All Zones 1. Activity status: Permitted  Where:  <i>a. Compliance with NOISE-S7 and APP5 is achieved; or</i>  <i>b. The noise is generated by fixed plant used solely for emergency or civil defence purposes; or c</i>  <i>. The noise is generated by fixed plant in relation to Operational Port Activities, and:</i>  <i>i. Only operates for maintenance between 8:00am and 5:00pm weekdays; and</i>  <i>ii. Compliance with NOISE-S1 and APP5 is achieved.; or</i></p> <p><del><i>Compliance with NOISE-S7 is achieved.</i></del>  <del><i>Exemption: The noise limits set in standard NOISE-S7 do not apply to fixed plant located in the Special Purpose Port Zone, in relation to Operational Port Activities. Fixed plant is exempt from the noise limits provided that it: only operates for maintenance between 8:00am and 5:00pm weekdays, and can comply with NOISE-S1.</i></del>  .....</p> </div>	The recommendation is supported.
271.59	Part 2 / General District wide Matters / Noise / NOISE-R9	Support	Considers that given the importance and necessity of blasting to quarry activities, Horokiwi supports the recognition of blasting associated with quarry activities (clause 2.b), and the permitted activity status.	Retain NOISE-R9 (Blasting noise) as notified.	<p><b>Recommendation:</b> ACCEPT submission point, except to the extent that modifications are introduced by decisions on other submissions</p> <p><b>Reasoning in S42A Report: Earthworks</b>  c. Horokiwi [271.59] – support NOISE-R9 as notified.  The rule is retained as notified.</p>	The recommendation is supported and reflects that sought by Horokiwi in its submission.