



SECTION 42A REPORT

Hearing Stream 2 – Earthworks Report on submissions and further submissions on the Proposed Napier City District Plan

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Subject: Proposed Napier City District Plan
Hearing Stream 2, *Earthworks*

Executive Summary

- i. This report considers submissions received by Napier City Council in relation to the relevant objectives, policies, rules, standards, definitions, and appendices of the Proposed Napier City District Plan as they apply to the Earthworks chapters in the Proposed District Plan, namely the:
 - *Earthworks Chapter*
- ii. There were 89 submission points and 37 further submission points received in relation to these parts of the Proposed District Plan. The submissions received were varied and sought a range of outcomes.
- iii. The purpose of this report is to provide the Hearings Panel with a summary and an analysis of the submissions received on the relevant chapters and to recommend possible amendments to the Proposed Plan in response to those submissions.
- iv. The following are considered to be the key issues in contention with respect to the relevant chapters:
 - a. Submissions on Plan Structure;
 - b. Submissions on Introduction, Issues, Objectives & Policies; and
 - c. Submissions on Rule Framework, Notification, Activity Status and Permitted Standards.
- v. This report addresses these key issues, as well as any other relevant issues raised in the submissions. There are a number of matters not in contention or needing further consideration, for example where no submissions were received in relation to an objective, policy, rule or standard. It is recommended that these matters are adopted as notified and no further consideration of them is required, with the exception of any consequential changes that need to be made as a result of submissions.
- vi. **Appendix A** of this report sets out the recommended drafting amendments ('track changes') to the various relevant chapters in a consolidated manner. These recommendations take into account all of the relevant matters raised in submissions and relevant statutory and non-statutory documents. References to a submitter number, submission point and abbreviation for their title provide the scope for each recommended change (including consequential changes in response to recommended relief on primary submission points). Where no amendments are recommended to a provision, submission points that sought the retention of the provision without amendment are not referenced. Where it is considered that an amendment may be appropriate, but it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report.
- vii. **Appendix B** of this report sets out the recommended responses to submissions by way of a summary table of submissions for each of the particular relevant chapters.
- viii. This report is to be read in conjunction with the Section 42A Report Part 1 – Strategic Direction¹ and with the Section 42A – Overview Report.

¹ [Section-42A-Report-Strategic-Direction.pdf](#)

These reports provide background information including the review process undertaken, consultation carried out, statutory context, procedural, and administrative matters relating to the plan review to inform the Hearings Panel, submitters and general public of the steps taken to reach the hearings stage and to inform the strategic direction of the Proposed District Plan.

- ix. Where Proposed District Plan provisions are recommended for amendment as a result of submissions, the reasoning for the amendments is given in the hearing report, including the reasons outlined under Section 32AA to consider the appropriateness of the proposed provisions and the benefits and costs of any policies, rules or other methods.

Interpretation

Abbreviations used throughout this s42 report and supporting documents are as set out in *Tables 1 and 2* below.

Table 1: Abbreviations

Abbreviation	Means
GRZ	PDP General Residential Zone
HBRC	Hawkes Bay Regional Council
HNZPTA	Heritage New Zealand Pouhere Taonga Act 2014
HRZ	PDP High Density Residential Zone
LLRZ	PDP Large Lot Residential Zone
MDRS	Medium Density Residential Standards
MFE	Ministry for the Environment
MRZ	PDP Medium Density Residential Zone
NES	National Environmental Standard
NES-AQ	National Environmental Standards for Air Quality 2004
NES-CS	National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
NES-ETA	National Environmental Standards for Electricity Transmission Activities 2009
NES-FW	National Environmental Standards for Freshwater 2020
NESTF	National Environmental Standards for Telecommunication Facilities 2016
NPS	National Policy Statement or else National Planning Standards, MFE 2019 depending upon context
NPS-ET	National Policy Statement on Electricity Transmission 2008
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-HPL	National Policy Statement for Highly Productive Land 2022
NPSIB	National Policy Statement for Indigenous Biodiversity 2023
NZCPS	New Zealand Coastal Policy Statement 2010
NPS-UD	National Policy Statement on Urban Development 2020
RPS	Hawkes Bay Regional Policy Statement (contained in the RRMP)
RRMP	Hawkes Bay Regional Council Regional Resource Management Plan (2006)
SOSM	Site of Significance to Māori

S32	Section 32 of the Resource Management Act 1991
S32AA	Section 32AA of the Resource Management Act 1991
the Act / the RMA	Resource Management Act 1991
the Council / NCC	Napier City Council
the Operative Plan/ODP	Operative Napier City District Plan
the Proposed District Plan/PDP	Proposed Napier City District Plan

Table 2: Abbreviations of Submitters and Further Submitters Names addressed in this report

Abbreviation	Means
Dept of Corrections	Ara Poutama Aotearoa the Department of Corrections
DOC	Department of Conservation Te Papa Atawhai
Foodstuffs	Foodstuffs North Island Limited
Forest and Bird	Royal Forest and Bird Protection Society
HBRC	Hawkes Bay Regional Council
Heritage NZ	Heritage New Zealand Pouhere Taonga
House Movers Association	House Movers section of the New Zealand Heavy Haulage Association Inc
KiwiRail	KiwiRail Holdings Limited
NZDF	New Zealand Defence Force
Fuel companies	Z Energy, BP Oil NZ Ltd and Mobil Oil NZ Limited
RNZ	Radio New Zealand
Telco	Spark New Zealand Trading Limited, Chorus New Zealand Limited, VodafoneNew Zealand Limited
Transpower	Transpower New Zealand Ltd
Waka Kotahi	Waka Kotahi NZ Transport Agency

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APPENDIX B - *Summary of Recommended Responses to Submissions and Further Submissions*

1. Introduction

1.1 Purpose of the Section 42A Report

1. This report has been prepared under section 42A of the Resource Management Act 1991 ("RMA"). It discusses the various issues raised by submissions and makes recommendations on either retaining the Proposed District Plan ("PDP") provisions without amendment or making amendments to the PDP in response to those submissions in order to assist the Hearings Panel in drafting the Council's decisions on the Earthworks Chapter.
2. It considers submissions received by Napier City Council in relation to the objectives, policies, rules, definitions, and appendices as they apply to the Earthworks chapter in the PDP. The report outlines recommendations in response to the key issues that have emerged from these submissions.
3. This report discusses general issues or topics arising, the original and further submissions received following notification of the PDP, makes recommendations as to whether or not those submissions should be accepted or rejected, and concludes with a recommendation for changes to the PDP provisions based on the preceding assessment and evaluation contained in the report. Where necessary, other parts of the PDP have been addressed in this report.
4. The conclusions reached and recommendations made in this report are not binding on the Hearings Panel. It should not be assumed that the Hearings Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

1.2 Author, Code of Conduct and Supporting Evidence

5. My name is Lilly Lawson. I am employed as an Associate / planner at Barker & Associates. My qualifications include a Bachelor of Urban Planning from the University of Auckland.
6. I have over 8 years' experience working as a resource management planner, with this work including various resource management positions in local government, levy organisations, as well as for private companies. I am familiar with, and experienced in, the processing of resource consents, plan changes, Council Hearings and Environment Court Hearings, and the Resource Management 1991 ("RMA")
7. Although this is a Council Hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court in 2023. I have complied with that Code when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.
8. The scope of my evidence relates to the Earthworks Chapter. Other than when I state that I am relying on the evidence or advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
9. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in part of the evidence in which I express my opinions. Where I

have set out opinions in my evidence, I have given the reasons for those opinions.

10. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

1.3 Procedural Matters

11. At the time of writing this report there has not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on the Earthworks Chapter.

2. Statutory Considerations and Planning Framework

2.1 Overview

12. As set out in the Section 42A Report Part 1 Strategic Direction and Overview Report, there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP, including in relation to this topic. This report details all relevant consultation and includes a comprehensive assessment of the statutory considerations considered prior to public notification of the PDP, as well as changes to the planning framework in the intervening period. For efficiencies in reporting, this has not been repeated within this topic specific report. Where higher order documents are specifically relevant to the analysis on submissions, this has been addressed in the assessment of submissions by issue/theme in this report.
13. In addition to the Part 1 Strategic Direction report, the following Section 32 Evaluations Reports are relevant to the relevant provisions that will be addressed in this S42A report:

[Section-32-Report-Part-2-Earthworks.pdf \(napier.govt.nz\)](#)

2.2 Section 32AA

14. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the RMA, and the provisions (policies, rules, standards or other methods) of the proposal are to be examined for their efficiency, effectiveness and risk. The effects of new policies and rules on the community, the economy, cultural, historic heritage matters and the environment needs to be clearly identified and assessed as part of this examination.
15. Where changes are proposed to the notified provisions, a further assessment needs to be undertaken to confirm that the new provisions are appropriate at a level of detail that corresponds to the scale and significance of the changes.
16. Where there is significant departure from the notified PDP provisions, I have undertaken a S32AA evaluation in respect to the recommended amendments in my assessment on a topic basis within the analysis of submissions.
17. Where recommended amendments primarily clarify the intent of the provisions, it is considered that an evaluation for the recommended amendments under Section 32AA is required and is therefore not included in the report.

2.3 Strategic Objectives

18. The strategic objectives of the Proposed District Plan provide a framework for ensuring a consistent policy direction for all chapters. The strategic objectives

particularly relevant to this topic are:

- Historic and Cultural Heritage - SD-HH-O1: Character, culture, heritage, and landscapes
- Sustainability, Resilience, and Climate Change - SD-SRCC-O1: Risk and vulnerability; SD-SRCC-O5: Coastal environment
- Transport and Infrastructure - SD-TI-O1: Enabling infrastructure; SD-TI-O3: Managing adverse effects of infrastructure; SD-TI-O4: Significant infrastructure and reverse sensitivity
- Urban Form and Development – all objectives, in so far as earthworks are a necessary activity to support Urban Development.

19. The above strategic objectives have been considered alongside the higher order planning documents and legislation when informing the analysis of submissions in this report, including the s32AA assessments.

2.4 Trade Competition

20. There are no known trade competition issues raised within the submissions.

3. Consideration of Submissions and Further Submissions

3.1 Overview

21. In total, there were 89 submission points and 37 further submission points.
22. Submissions on the provisions relevant to this topic raised a number of issues which have been grouped into sub-themes within the applicable parts of this S42A report. Some of the submissions are addressed under a number of headings based on the topics contained in the submission. I have considered substantive commentary on primary submissions contained in further submissions as part of my consideration of the primary submission(s) to which they relate.
23. In accordance with Clause 10(3) of the First Schedule of the RMA, I have undertaken the following evaluation on both an issues and provisions-based approach, as opposed to a submission-by-submission approach. I have organised the evaluation in accordance with common themes that appear on the residential chapters in the PDP as notified.
24. In some cases, the evaluation is generic only and may not contain specific recommendations on each submission point, but instead discusses the issues generally. Specific recommendations on each submission / further submission are contained in **Appendix B**.
25. The following evaluation should be read in conjunction with the summaries of submissions and the submissions themselves, the applicable S32 Reports, and the overlays and maps on the ePlan. Where I agree with the relief sought and the rationale for that relief, I have noted my agreement, and my recommendation is provided in the summary of submission table in **Appendix B**. Where I have undertaken further evaluation of the relief sought in a submission / s, the evaluation and recommendation are set out in the body of this report. I have provided a marked-up version of the earthworks chapter with recommended amendments in response to submissions as **Appendix A**.
26. My recommendations in relation to further submissions reflect the recommendations on the relevant primary submission. In general, further submissions may not be specifically mentioned.

27. This report only addresses definitions that are specific to the Earthworks provisions in the PDP. Where Definitions relate to more than one topic, they will be addressed in the Definitions Hearings Report and Hearing Stream.
28. For each identified topic, the consideration of submissions has been undertaken in the following format:
 - Matters raised by submitters;
 - Assessment; and
 - Summary of recommendations and consequential amendments in Appendix A.

3.2 Late submissions

29. One submission on this topic was received after the close of submissions date of 15th December 2023. These are listed in the table below.

Submitter Number	Submitter name	Date submission received
289	Royal Forest and Bird Protection Society	19 th December 2023

30. I recommend these late submissions be accepted as they were received sufficiently in advance of preparing this report so as to not impact on the analysis undertaken.

4. Submissions on Plan Structure

4.1 Overview

31. There were two submissions from Network Utility providers which requested that the earthwork provisions relating to Network Utilities be located in the Network Utilities Chapter instead of the Earthworks chapter.
32. Similar submissions requesting changes to the Plan Structure were made in other chapters and have been addressed in the relevant S42A Reports. I address those made in reference to the Earthworks chapter in this report but note that other S42A reports will address similar submissions.

Matters raised by submitters

33. Transpower (99.74) and Telco (151.68) seek that earthworks provisions relating to Network Utilities be located in the Network Utilities Chapter. Specifically, they seek the centralisation of all network utilities provisions into the Network Utilities chapter rather than being scattered through the Proposed Plan. Transpower’s submission refers to Standard 7(30) of the National Planning Standards.
34. This submission was supported by Hawke’s Bay Airport Limited (“HBAL”) (345.151.68) provided the new relief aligns with relief sought in HBAL’s original submission regarding the effective management and prompt remediation of earthworks.
35. Powerco Limited submission (172.49) supports the Earthworks Rules Table on the basis that it is appropriate that there is a network utilities rule provided within the Earthworks Chapter.

Assessment

36. I have reviewed the National Planning Standards as part of my assessment. Part 7 District-wide Matters Standard, sub-heading *General district-wide matters* number

(30) states:

The Earthworks chapter must include cross-reference to any relevant earthworks provisions under the Energy, Infrastructure, and transport heading.

37. Part 7 District-wide Matters Standard, sub-heading *Energy, infrastructure and transport* number (5) requires:
that provisions relating to energy, infrastructure and transport that are not specific to the Special purpose zones chapter or sections must be located in one or more chapters under the Energy, Infrastructure and transport heading. These provisions include:
- *statement about the status of transport corridors e.g. the adjoining zoning applies to the centre line of mapped roads.*
 - *Noise-related metrics and noise measurement methods relating to energy, infrastructure and transport, which must be consistent with the 15. Noise and vibration metrics standard.*
 - *The management of reverse sensitivity effects between infrastructure and other activities.*

Number (6) of the same sub-heading requires:

The chapters under the Energy, Infrastructure and transport heading must include cross references to any energy, infrastructure and transport provisions in a Special purpose zones chapter or sections.

Number (7) of the same sub-heading requires

Zone chapters must include cross-references to relevant provisions under the Energy, infrastructure and transport heading.

38. My interpretation of 7(30), (5), (6), (7) above is that the National Planning Standards do not explicitly require that earthworks provisions relating to Network Utilities be located in the Network Utilities chapter.
39. Turning to where the earthworks provisions relating to network utilities are most appropriately located in Proposed Plan, I have reviewed the structure and content of the Chapter in its entirety. There is an explanatory note included under the Earthworks Rule Table heading which confirms with Plan users that *the Sites of Significance to Māori chapter, The Natural Features and Landscapes chapter and The Notable Trees chapter includes provisions for earthworks.* The note confirms that *where there is a conflict between the Earthworks chapter and these Chapters that the more restrictive provision applies.*
40. Unlike the National Planning Standards for Energy, infrastructure and transport and General district-wide matters, the standards for *Sites of Significance to Māori, Natural Features and Landscapes* and *Notable Trees* Chapters explicitly require that *provisions to manage sites and areas of significance to Māori, protect and manage outstanding natural features and landscapes and manage trees or groups of trees, must be located within the Sites of Significance to Māori, Natural features and landscapes or Notable Trees Chapters respectively.* I consider that due to the potential adverse effects earthworks have on sites of significance to Māori and Natural Features and Landscapes earthworks provisions qualify as managing and protecting these sites, features and landscapes and therefore must be located within these chapters in accordance with the National Planning Standards.
41. Further, the Earthworks Chapter includes rules for earthworks relating to the coastal environment (EW-R5) rather than being located in the Coastal Environment Chapter and therefore if the relief sought was accepted, there would be an inconsistency within the Plan as to where earthworks provisions are located.
42. It is my opinion that the earthworks provisions relating to network utilities are most appropriately located in the Earthworks Chapter due to it not explicitly being required under the National Planning Standards and for general Plan consistency.

Summary of recommendations

43. I recommend that submissions 99.74 and 151.68 and further submission 351.99.74 be rejected.
44. That submission 172.49 be accepted.

5. Submissions on Introduction, Issues, Objectives & Policies

5.1 Overview

45. Submissions points on these provisions were received by parties with a range of interests. The submission requests have been grouped into separate headings related to the parties' general interests.
46. There were a number of submissions of support for the issues, objectives and policies which sought to retain them as notified. They are summarised as follows:
 - Royal Forest and Bird Support EW-O3 (289.167)
 - Fuel Companies support EW-O1, EW-O3 (215.98, 99)
 - Ravensdown support EW-O1, EW- O3 (246.58, 59).
 - Heritage New Zealand supports the Introduction as notified (273.158) and support objective EW-O2 (273.160)
 - Fuel Companies support EW-P1, EW-P2, EW-P6 (215.100, 101, 102)
 - Ravensdown support EW-P1, EW-P2, EW-P5 (246.60, 61, 62)
 - Royal Forest and Bird support EW-P1, EW-P4, EW-P5 (289.169, 172, 173.).
 - KiwiRail Holdings support EW-P1(168.79)
47. These submitters and others also sought a range of amendments to the issues, objectives and policies as detailed below.

5.2 Requests for amendments to Issues and Introduction

Matters raised by submitters

48. Royal Forest and Bird (289.164) seek amendments to the Introduction to include indigenous biodiversity to the matters which earthworks can have an adverse effect on.
49. Te Taiwhenua o te Whanganui a Orotu (63.3) seeks amendments to EW-I1 to recognise the impacts of network utility operators clearing waterways on eels and seeks provisions within the Earthworks chapter that address this issue. This submission was supported by Sera Chambers (FS 113.63.3)
50. Heritage New Zealand support EW-I3 (273.159) and seek that it is retained but request that rules are included relating to the effects of earthworks on heritage values. I consider this submission point later in the report.

Assessment

51. With regard to Royal Forest and Bird's requested amendment, Napier City Council did not notify the Ecosystems and Indigenous Biodiversity Chapter due to the timing and release of the new National Policy Statement for Indigenous Biodiversity, published July 2023. I understand that the Council will be notifying a variation to the Proposed Plan shortly that will address indigenous biodiversity.

52. I do not consider that it would be effective or efficient to include indigenous biodiversity as a matter to which earthworks can have an adverse effect on, when the Chapter which protect and manage effects on indigenous biodiversity, has not been notified. When the Council notifies its Ecosystems and Indigenous Biodiversity Chapter, consequential changes may be required to the Earthworks Chapter in order to give effect to the National Policy Statement for Indigenous Biodiversity and achieve the objective and policies of the Ecosystems and Indigenous Biodiversity Chapter. I anticipate that a reference to the Ecosystems and Indigenous Biodiversity Chapter would be required but again consider this best implemented as a consequential amendment required when the chapter is notified.
53. In response to Te Taiwhenua o te Whanganui a Orotu submission to amend the EW-13 to recognise the impacts of network utility operators clearing waterways on eels, I consider that it is more effective and efficient to retain the wording as notified as it is broad enough to encompass these matters.

Summary of recommendations

54. That submission by Te Taiwhenua o te Whanganui a Orotu 63.3 be rejected or deferred to the Hearing of the Ecosystems and Indigenous Biodiversity Chapter.
55. That submission 289.164 be rejected.

5.3 Request for Changes to Earthworks Objectives

5.3.1 Environmental Interests

Matters raised by submitters

56. Royal Forest and Bird (289.165) requested a change to EW-O1 from the term *reasonable development opportunities* to appropriate development as they consider the term *reasonable development opportunities* to be unclear.
57. Royal Forest and Bird (289.166) seeks that EW-O2 is amended to refer to all areas of natural and other sensitive environments that need protection from the effects of earthworks. They also consider that reference to *significant landscapes* does not correspond with the terms used in the Proposed Plan. The specific relief sought was:

EW-O2 - Landscapes and features, the coastal environment, significant natural areas, cultural and heritage values

Earthworks are managed so that ~~significant outstanding and special character~~ landscapes and features, significant natural areas, the coastal environment including areas of natural character, and cultural and heritage values are protected.

KiwiRail (236.289.166) opposes this submission, in particular the relief sought to include *the coastal environment* due to concerns the inclusion would compromise the ability of KiwiRail to manage its rail network in an efficient and effective manner.

58. Royal Forest and Bird (289.168) seeks amendments to EW-O4 to give direction to decision makers and give effect to Policy 7 NPSFM. The specific relief sought was:

EW-O4 River control and drainage works

Earthworks related to river control and drainage works and renourishment of material along the coast by a local authority should be provided for where appropriate are necessary to ensure flood protection duties can be exercised and risks of erosion mitigated, while avoiding the loss of river extent and values to the extent practicable.

Assessment

59. A word search of the term *reasonable development opportunities* confirms that is only referred to in EW-O1 and is not defined in the Proposed Plan². I therefore agree with the sentiment of Forest and Bird that it is ambiguous and not particularly clear or helpful to use this term in EW-O1. However, I consider that the proposed alternative of *appropriate* is unnecessary in achieving the intent of the objective which is to enable *necessary earthworks for development opportunities while ensuring that the life-supporting capacity of soils, ecosystems, and waterways are protected*.
60. I consider that the inclusion of the term *necessary* appropriately sets the parameter for the nature of earthworks which are intended to be enabled. The nature and scale of development will be managed by the underlying zone provisions and will determine whether it is suitable for the location. EW-O1 is concerned with enabling the earthworks necessary to support development while ensuring the protection of the life-supporting capacity of soils, ecosystem, and waterways. Therefore, I agree that the word *reasonable* should be deleted but I do not agree that it is necessary to replace it with the term *appropriate*.
61. Regarding the changes to EW-O2, I support the amendments sought to ensure consistent use of terms throughout the Proposed Plan.
62. Regarding the inclusion of the *coastal environment including areas of natural character*, Policies 11, 13 and 15 of the New Zealand Coastal Policy Statement (NZCPS) requires indigenous biological diversity, natural character and natural features and landscapes of the coastal environment are protected from inappropriate subdivision, use and development by avoiding adverse effects of activities.
63. I consider that Earthworks have the potential to have adverse effects on the Coastal Environment and therefore it is effective and efficient to include provisions within the Earthworks chapter which manage these effects. I therefore support the inclusion of *Coastal Environment* within EW-O2.
64. I do not however support the inclusion of *including areas of natural character*. The Notified Planning Maps include a Coastal Environment Overlay. This overlay maps the extent of the Coastal Environment and in doing so defines where the area specific provisions apply. I consider it would be both inefficient and ineffective to include *areas of natural character* as this could confuse where the provisions apply. I consider that the Coastal Environment Overlay would encompass those areas of natural character that are required to be protected under Policy 13 of the NZCPS.
65. With consideration of the above assessment, I recommend the following changes to EW-O2:
- EW-O2 - Landscapes and features, significant natural areas, cultural and heritage values**
- Earthworks are managed so that ~~significant-outstanding and special character~~ landscapes and features, significant natural areas, the coastal environment and cultural and heritage values are protected.
66. I acknowledge KiwiRails FS236.289.166 and the concerns raised regarding the implications for managing its rail network in an efficient and effective manner, however consider that the changes to EW-O2 are necessary to give effect to the NZCPS.

² The term development is defined: means the erection or placement of buildings and structures, and/or the resurfacing of land.

67. I also note that the Earthworks chapter as notified does not include rules to manage earthworks within the Coastal Environment, with the exception of EW – R6. Forest & Bird have sought the inclusion of a rule which I have discussed in Section 5 below.
68. With regard to Forest and Bird's submission seeking amendments to EW-O4, I consider this relief is more concerned with river control/reclamation and drainage of rivers which is managed in the Hawke's Bay Regional Councils Regional Resource Management Plan, Chapter 6.8.3 *River Control & Drainage Works & Structures*. The District Council's jurisdiction for river control and drainage works is outlined in EW-R2 and includes *The removal, stockpiling, and processing of river berm silt, gravel, or other river control or drainage works carried out by a local authority exercising its powers, functions, and duties under any enabling legislation, including the Soil Conservation and Rivers Control Act 1941 or the Land Drainage Act 1908* as a permitted activity. I do not consider it appropriate or necessary to further restrict or manage these works as it is already restricted to those works provided for under the relevant legislation.
69. I do however consider that as notified the objective does not read as an objective, rather a statement and consider changes are necessary to make it more explicit. I consider the following wording is a more effective objective and better reflects the intent of EW-O4 and related provisions.

EW-O4: River control and drainage works

Earthworks ~~related to~~ for river control and drainage works and renourishment of material along the coast by a local authority are ~~necessary to ensure flood protection duties can be exercised~~ enabled where necessary to ensure floor protection duties can be exercised, and risks of erosion can be mitigated.

S32AA on Proposed Changes to EW-O2

70. Effectiveness and efficiency
- The recommended amendments are more appropriate in achieving the purpose of the RMA and the objectives and policies of NZCPS.
 - The recommended amendments appropriately recognise earthworks have the potential to cause adverse effects on the Coastal Environment and require management.
71. Costs/Benefits
- The recommended amendments strike an appropriate balance of managing the effects of earthworks within the Coastal Environment.
72. Risk of acting or not acting
- There is no risk in accepting the recommended amendments as there is sufficient information to act on the submission 289.165.
73. Decision about most appropriate option
- For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the Proposed District Plan.

Summary of recommendations

74. I recommend that submission 289.165 is accepted in part.
75. I recommend that Submission 289.166 is rejected.
76. I recommend that submission 289.168 is accepted in part and the Objective is

reworded as proposed in Attachment A.

5.4 Submissions to the Earthworks Policy Framework

Overview

5.4.1 Network Utility, Infrastructure and Development Interests

Matters raised by submitters

77. Horticulture New Zealand (257.45) seek a policy that recognises the beneficial outcomes of earthworks (including ancillary rural earthworks) as follows: EW-PX - Enable earthworks to provide for people and communities social, economic and cultural well-being, and their health and safety, including ancillary rural earthworks, where adverse effects are appropriately managed.
78. This is supported by Ravensdown (FS.26.257.45).
79. Heritage New Zealand seeks amendments to EW-P6 (273.161). They support the reference to cultural and heritage values but seek the inclusion of a clause to address heritage values of scheduled places. Specifically, (d) controlling earthworks on sites containing scheduled heritage items.

Assessment

80. In terms of Horticulture New Zealand's submission (257.45) supported by Ravensdown, I consider there are two aspects of the submission that need assessment. The first matter is regarding an enabling policy and recognition of earthworks as an activity that can provide for people and communities social, economic and cultural well-being, and their health and safety. The second matter is specifying ancillary rural earthworks.
81. EW-P1 allows for earthworks as a permitted activity provided the scale, volume and effects are appropriately managed. The wording of this policy is general and applies to all earthworks and would therefore encompass ancillary rural earthworks. In my view, it is more efficient to retain this general approach, rather than specifying individual activities as this creates an exhaustive list that could inadvertently exclude other activities.
82. With regard to the wording suggested *to recognise that earthworks can provide for people and communities social, economic and cultural well-being and their health and safety*, EW-O1 sets an objective that enables earthworks necessary to support development. The definition of development is not limited to the built environment and includes the resurfacing of land³. EW-P1 gives effect to this Objective by allowing earthworks as a permitted activity.
83. With regard to Heritage New Zealand's submission (273.161) seeking the inclusion of (d) to EW-P6; I do not support the relief sought and the inclusion of (d) controlling earthworks on sites containing scheduled heritage items in EW-P6. This is because as notified there are no rules or standards which manage earthworks on sites containing scheduled items. I note that Heritage New Zealand's has requested an amendment to EW-R1 which I assess further below.

³ Development Definition – *means the erection or placement and structures, and/or the resurfacing of land.*

Summary of recommendations

84. That submission points 257.45 and FS26.257.45 be rejected.
85. That 273.161 is rejected.

5.4.2 Environmental Interests

Matters raised by submitters

86. Royal Forest and Bird (289.170) seek a number of amendments to the policy framework. They seek the inclusion of natural waterbodies to EW-P2 (e) when controlling the movement of dust and sediment beyond the area of development and entering stormwater systems. They also seek the inclusion of SNA's, areas of natural character in the coastal environment, and natural environment to (c) which provides for adequate setbacks from site boundaries or structures.
87. Royal Forest and Bird (289.171) seek more directive language in EW-P3 by replacing consider with 'avoid'. This is opposed in further submissions by KiwiRail (236.289.171) and Transpower NZ (415.289.171).
88. Royal Forest and Bird (289.174) oppose the enabling directive in Policy 7, and seek amendments to replace enable with provide for and include where appropriate, and while avoiding the loss of river extent and values to the extent practicable.

Assessment

89. I agree in part with Royal Forest and Birds' submission on EW-P2. The proposed changes to (e) are more effective at achieving EW-O1 which seeks to enable earthworks *while ensuring that the life-supporting capacity of soils, ecosystems, and waterways are protected*. Policy EW-P2 is the policy which most directly sets the course of action to achieve EW-O1. I note that EW-O1 refers to waterways rather than natural waterbodies. Further, EW-S2 includes a standard requiring a 10m setback from streams.
90. Stream is undefined in the Proposed District Plan, as is waterways. Waterways is referred to in the Matters of Discretion for rules and standards.
91. Waterbody is defined in the Proposed District Plan and refers to the RMA definition. This states that a **waterbody** means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.
92. River is defined in the Proposed District Plan and refers to the RMA definition. This states that a **river** means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)
93. I support changes to EW-P2(e) to reference natural waterbodies. In my opinion, this amendment more efficiently gives effect to EW-O1, which refers to waterways, and better aligns with defined terms in the Proposed District Plan.
94. I do not consider it is necessary or efficient to refer to SNA's, areas of natural character in the coastal environment and natural environment in (c) as sought by Royal Forest and Bird. The relevant chapters manage the effects on these areas and there is no evidence to suggest that a setback is required for earthworks from these

areas.

95. I recommend the following changes to EW-P2:

EW-P2: Environment

Ensure earthworks and any associated retaining structures and infrastructure are designed to manage adverse effects on the environment by:

- a) restricting unretained cut depth and fill height;
- b) limiting maximum volume of earthworks;
- c) providing adequate setbacks from site boundaries or structures;
- d) demonstrating that the site will be stabilised, reinstated, revegetated, and/or recontoured in a timely manner consistent with the surrounding land, and
- e) controlling the movement of dust and sediment beyond the area of development, particularly to avoid nuisance effects on neighbouring sites, silt and sediment entering stormwater systems and natural waterbodies or impacting on overland flow paths and/or roads.

96. I have considered Royal Forest and Bird's submission (289.171) seeking an 'avoid' directive in EW-P3. I do not consider that replacing consider with avoid is appropriate because of the wording of matters (a) – (c) which begin with 'impact' or 'changes.' Thus, if the policy chapter was changed to avoid, this would require that earthworks avoid:

- a) impact on existing natural landforms, features, and indigenous vegetation are avoided and
- b) changes in natural landform that will lead to instability
- c) impacts on natural drainage patterns and secondary flow paths.

97. In my opinion, it is inefficient to have a policy requiring these effects to be avoided given that earthworks by their nature will involve some change to natural landforms, whether permanent or temporary.

98. I do however agree that 'consider' does not provide enough direction. '*Avoid or mitigate effects on*' is more efficient and effective in achieving EW-01 and its reference to protecting the life-supporting capacity of soils, ecosystems, and waterways. Subsequent changes to the body of the policy are required to ensure what is being avoided or mitigated is appropriate. I also note that if the earthworks were to occur within the coastal environment, then the Coastal Environment chapter would also provide policy direction to addressing adverse effects. I therefore recommend the following amendments to EW-P3:

EW-P3: Natural landforms, features, drainage patterns, indigenous vegetation

Ensure that earthworks are of an appropriate type, scale, and form that ~~consider~~ avoid or mitigate adverse effects on:

- a) ~~impact on~~ existing natural landforms, features, and indigenous vegetation;
- b) ~~changes in~~ natural landforms that will lead to instability, erosion, and scarring, and
- c) ~~impacts on~~ natural drainage patterns and secondary flow paths.

99. Royal Forest and Bird's submission to EW-P7 (289.174) is related to the submission on EW-O4 which has been assessed in section 5.2 above and concerns implementing Policy 7 of the NPSFM. The assessment I have undertaken in section 5.2.1 above is applicable to the relief sought for EW-P7 and as I have recommended the relief sought is rejected, changes to the EW-P7 which implements EW-O4 are not required.

Section 32AA Analysis on EW-P2

100. Effectiveness and Efficiency
- The recommended amendments are more appropriate in achieving the objectives and policies of the RMA by managing adverse effects cause by earthworks.
101. Costs/Benefits
- The amendments recommended more appropriately manage adverse effects associated with Earthworks while still being provided for under EW-P1.
102. Risk of acting or not acting
- There is no risk in accepting the recommended amendments as there is sufficient information to act on the submissions.
103. Decision about most appropriate option
- For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the Proposed District Plan.

Summary of recommendations

104. That Royal Forest and Bird's submission 289.170 & 171 be accepted in part.
105. That Royal Forest and Bird's submission 289.174 be rejected.

6. Submissions on Rule Framework, Notification, Activity Status and Permitted Activity Standards

6.1 Overview

106. There were a number of submissions and further submission points relating to the Rule Framework, Notification, Activity Status and Permitted Activity Standards for the Earthworks chapter. Submissions on these topics were received by parties with a range of interests.

Support for Rules

107. Some parties supported the Rules as notified, which are as follows:
- HBAL (198.47) generally supports the Earthworks Chapter and the Rules table and in particular provisions which require the management of dust effects across all zones.
 - Fuel Companies (215.106, 107) supports the restricted discretionary activity status for EW-R5 and R7 where compliance is not achieved.
 - KiwiRail Holdings (168.80 and 168.81) supports the permitted activity status of earthworks for building activities EW-R1 subject to standards and EW-R3 earthworks for network utilities, including access tracks.
 - Hawke's Bay Regional Council (264.2) supports in principle the proposed approach to the maximum volume thresholds as opposed to a permitted activity with a percentage value. This submission was opposed by Kainga Ora (FS 510.264.2) due to their opposition to the maximum permitted thresholds.
 - New Zealand Transport Agency (277.76) supports EW-R1.
 - Powerco Limited (172.49) supports EW – Earthworks Rules Table and EW-R5 on the basis that it is appropriate that there is a network utilities rule

- provided within the Earthworks chapter.
- Telco (151.68) supported EW-R5 but requested it be moved to the NU Chapter (this aspect of the submission was considered above). This submission was supported by Transpower (406.151.68).

108. Submissions opposing or seeking changes to the rule framework are addressed below.

6.1.1 Activity Status

Matters raised by submitters

109. Hawke's Bay Regional Council (264.3) oppose EW-R6 and the permitted activity status for earthworks associated with the renourishment of the coastal environment. They seek a controlled activity status. These changes are sought due to concerns with the permissive activity status as well as the type of material that could be used for the renourishment.
110. Royal Forest and Bird (289.176) seek the exclusion from all Permitted activities for EW in SCLs, ONFs, SCFs, SNAs and the Coastal Environment and requests new rule to make earthworks within these areas a non-complying activity. KiwiRail Holdings, Transpower and Fuel Companies oppose this submission (FS236.289.176, FS415.289.176, FS475.289.176).

Assessment

111. With regard to Hawke's Bay Regional Councils submission point 264.3, I understand that the Earthworks associated with the renourishment of the coastal environment are required for Napier City Council to manage effects associated with Natural Hazards. I note the rule is permitted in the Operative Plan and I do not have sufficient evidence that this has resulted in adverse effects in relation to the concerns raised by Hawkes Bay Regional Council.
112. Royal Forest and Bird's submission (289.176) seeks an exclusion for earthworks in SCL's, ONF's, SCFs, SNA's and the Coastal Environment and a new rule to make earthworks within these areas a non-complying activity. The Earthworks chapter includes a note that *the Natural Features and Landscapes Chapter contains rules for earthworks within an outstanding natural feature, significant feature, and special character landscape. Where there is a conflict between the Earthworks chapter and the Natural Features and Landscapes chapter, the note clarifies that the more restrictive provision applies.*
113. Considering the assessment in Section 4 about the Plan Structure and the requirement for provisions to protect and manage outstanding natural features and landscapes within the Natural features and landscapes chapter, I do not agree with Forest and Bird that the Earthworks Chapter is the appropriate location to include rules relating to Earthworks within SCL's, ONF's, SCF's and SNA's. Therefore, the submitter's specific request in relation to activity status is best addressed in the hearing for the Natural Features and Landscape Chapter. I also consider that the note is appropriate and provides adequate cross reference to direct plan users to read the Natural Features and Landscapes Chapter for earthworks rules within these landscapes.

114. With regard to the non-complying activity status sought for Earthworks in the Coastal Environment by Forest & Bird, the submitter highlights that there are no rules managing earthworks within the Coastal Environment Chapter and therefore we rely on the provisions of the Earthworks Chapter. The Earthworks Chapter includes Policy EW-P3 as well as matters of discretion including effects on visual impacts and landscape values and ecological values. The Plan also includes EW-R6 which manages the effects of earthworks associated with the renourishment of the coastal environment and includes additional matters of discretion such as the effects on natural coastal processes and the natural environment, among others. I acknowledge that these provisions, while they assist in managing the effects of earthworks within the Coastal Environment, they have not been notified in the context of the changes I have recommended to EW-O2 which I consider necessary to manage adverse effects on the Coastal Environment as required by the NZCPS.

115. Turning to the specific relief sought by Forest & Bird and the non-complying activity status for earthworks within the Coastal Environment, I do not support this specific relief. Objective 6 of the NZCPS seeks to:

Enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use and development, recognizing that:

- *The protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits.*

...

116. Thus, I consider that the relief sought by Forest & Bird is inconsistent with Objective 6 of the NZCPS. Further, I note that the Coastal Environment includes a variety of land uses including General Residential Zone, Port Zone, Natural Open Space Zone and Open Space Zone which results in a varied character.

117. Activity status aside, I do not consider that a rule requiring automatic resource consent for earthworks within the Coastal Environment is the most effective and efficient way to achieve EW-O2 (as recommended). This is due to the likely variety in earthworks activities that may occur within the Coastal Environment as a result of the range of existing land uses within it.

118. I consider that this matter is one that would benefit from evidence and discussions in Hearing. To assist the discussion, I note that I am supportive in principle of provisions which better manage the potential adverse effects of Earthworks within the Coastal Environment, however consider this needs to be balanced by recognising the existing activities established within the overlay.

Recommendation

119. That Royal Forest and Bird's submission 289.176 be deferred to the Natural Features and Landscapes Chapter and that the relief sought specific to the rule sought for Earthworks within the Coastal Environment is discussed at Hearing.

120. That a revised and confirmed position on 264.3 be made after evidence is received from the Hawke's Bay Regional Council.

6.1.2 New Rules

Matters raised by submitters

121. Transpower NZ (99.72) seek a specific rule within the Network Utilities chapter specific to managing earthwork activities within the National Grid Yard. If this submission point is rejected, they seek it within the Earthworks Chapter.
122. This submission point was supported by Horticulture NZ and HBAL with the following provisos:
 - a) As long as there is specific reference to exclusion for cultivation activities (Hort NZ, FS44.99.72)
 - b) Provided the relief aligns with HBAL's original submission regarding the effective management and prompt remediation of earthworks (HBAL, FS351.99.72)
123. This submission point was opposed by Kainga Ora (FS373.99.72) on the basis that provisions relating to Earthworks within the National Grid Yard should not be located in the Network Utilities Chapter.
124. The specific rule that Transpower seeks to introduce is as follows:

NU – REW Earthworks and vertical holes within the National Grid Yard

Activity Status: Permitted

Where:

1. Earthworks and vertical holes do not:
 - a. Exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure;
 - b. Exceed 3m in depth between 6m and 12m of the outer visible edge of a National Grid support structure;
 - c. Compromise the stability of any National Grid support structures;
 - d. Result in the loss of vehicular access to a National Grid support structure; and
 - e. Result in a reduction of the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001;
2. Earthworks and vertical holes for the following activities are exempt from compliance with EW-RX.1(a) to (d):
 - a. Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991;
 - b. Agricultural or domestic cultivation;
 - c. The repair, sealing or resealing of a vehicle access or farm track, footpath or driveway
 - d. Vertical holes not exceeding 500mm in diameter that are a post hole for a farm fence or horticulture structure more than 6m from the visible outer edge of a National Grid tower foundation; and
 - e. Earthworks and vertical holes:
 - i. Subject to a dispensation from Transpower under New Zealand NZECP 34:2001, or
 - ii. In relation to rule NU-EWX 1(d), written approval is provided by Transpower.

Activity Status where compliance not achieved: non-complying

Notification

1. An application under this rule is precluded from being publicly notified in accordance with Section 95A of the RMA. When deciding whether any person is

affected in relation to this rule for the purposes of section 95E of the RMA, the Council will give specific considerations to any adverse effects on Transpower New Zealand Limited.

125. Horticulture NZ (257.46) seeks a permitted activity rule for ancillary rural earthworks to provide for rural activities. This submission was supported by Ravensdown New Zealand (FS 26.257.46). I note that they also sought a definition of Ancillary rural earthworks which provides context for the sought rule in the Earthworks Chapter. The definition sought was:

Ancillary rural earthworks, means:

- a) Normal agricultural and horticultural practices, such as ploughing, planting trees, root ripping, digging post holes, maintenance of drains, troughs and installation of their associated pipe networks, and realignment of fencelines, drilling bores and offal pits, burying of dead stock and plant waste;
- b) Land preparation and vegetation clearance undertaken as part of horticultural plantings; and
- c) Maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways within the same formation width.

126. This submission was opposed by Transpower New Zealand on the basis that it would result in such earthworks not being subject to the National Grid Yard earthworks Rule which is sought by Transpower New Zealand (FS413.257.46).

127. Horticulture NZ seeks a permitted activity rule for earthworks associated with a biosecurity response (257.47). The specific relief sought is:

EW-RX The burying of material infected by unwanted organisms as declared by the Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.

All Zones

Activity Status: Permitted

128. Heritage New Zealand (273.159) sought to include rules relating to the effects of earthworks on heritage values in either the earthworks or heritage section of the District Plan.

Assessment

129. I set out below my opinion on Transpower's submission (99.72) seeking a specific rule for managing earthwork activities within the National Grid Yard.
130. Transpower's submission on this matter includes detail on the reasons why the relief sought is necessary. This includes the risk of earthworks undermining the stability of the structure foundations which could result in power outages, compromise access for maintenance and reducing clearance between the ground and conductors. The submission also highlights that EW-S8 is specific to earthworks in proximity of a gas transmission line, but no such rule is included for earthworks within proximity of the National Grid, the operation, maintenance, upgrade and development and protection of which, is recognised as a matter of national significance in the National Policy Statement for Electricity Transmission (NPSET).

131. I note that National Grid Yard⁴ is a defined term in the PDP:

National Grid Yard means the area located within:

- a. 12 metres in any direction from the outer visible edge of a “National Grid” support structure foundation; and or
- b. the area located within 10m either side of the centreline of an overhead 110kV National Grid line on single poles; and or
- c. the area located within 12 metres either side of the centreline of any overhead “National Grid” transmission line on towers (including tubular steel towers where these replace steel lattice towers).

The National Grid Yard does not apply to underground cables or any transmission lines (or sections of line) that are designated. The measurement of setback distances from National Grid lines shall be taken from the centre line of the transmission line and the outer edge of any support structure. The centre line at any point is a straight line between the centre points of the two support structures at each end.

Note – the definition in the Plan also includes a diagram.

132. I support the relief proposed for the following reasons:

- it is more effective and efficient in giving effect to Policy 2 and 10 of the NPSET.
- It is more effective and efficient at implementing EW-O3 and EW-P1 by more appropriately managing the potential adverse effects on the National Grid.

133. I consider that the relief sought is not contrary to the further submissions received on this submission. In particular, it provides for Horticulture NZ’s requested exception for cultivation activities (44.99.72) and is located within the Earthworks Chapter which is consistent with Kainga Ora’s further submission raising concern if the provision was located in the Network Utilities Chapter.

134. With regard to the new rule requested by Horticulture NZ and supported by Ravensdown for ancillary rural earthworks, EW-S1 is a rule that applies maximum volume limits for earthworks that are not associated with a Building Activity. The rules include a maximum threshold for Rural Zones of 100m³ on a per hectare of site for any 12-month period. The rule is therefore general in nature and would apply to ancillary rural earthworks. I do not consider it is necessary to have a specific rule for ancillary rural earthworks when they would fall under EW-S1. I note that the appropriateness of the notified thresholds is discussed further below in this report. I am however open to consider further evidence from Horticulture New Zealand on this matter to better understand the need for the relief sought.

135. I understand the relief sought by Horticulture New Zealand (257.47) regarding earthworks associated with a biosecurity response. However, I would like to consider further information from Horticulture New Zealand during the Hearing process with regard to the obstacles which exist for such a response to occur under existing legislation and the scale of earthworks required for such an activity.

⁴ Transpower have submitted on the definition of National Grid Yard and generally support the definition but request some changes to reflect that there are no poles in the district, amendments to make is clear that clauses a) and b) apply, and amendments to remove repetitive wording within the clauses. The have also sought the replacement of the proposed diagram with an alternative. The changes sought will be considered in the S42A report on Definitions or other relevant Chapters.

136. Heritage New Zealand (273.159) has not detailed the new rules it is seeking to manage heritage values (with the exception of the changes sought to EW-R1 discussed below). It is therefore difficult to understand the nature and extent of rules being sought. I would consider any evidence presented by Heritage New Zealand on this matter, and would make recommendations on any necessary changes required to the policy framework to support such rules should I recommend acceptance.

Section 32AA for changes recommended for NU – REW Earthworks and vertical holes within the National Grid Yard

137. Effectiveness and efficiency
- The recommended new rule is more appropriate at achieving the purpose of the RMA and the objectives and policies of the National Policy Statement for Electricity Transmission (NPSET).
 - The recommended new rule more appropriately recognises the National Grid as a matter of national importance while providing for appropriate earthworks activities within the National Grid Yard.
138. Costs/Benefits
- The recommended new rule balances protecting a matter of national importance while still providing for earthworks activities within the national grid yard which will not compromise or result in an adverse effect.
139. Risk of acting or not acting
- There is no risk in accepting the recommended amendments as there is sufficient information to act on the submission 99.72
140. Decision about most appropriate option
- For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the Proposed District Plan.

Summary of Recommendations

141. That further information is required to provide a recommendation on Horticulture New Zealand's submission 257.46 and 257.47.
142. That Transpower New Zealand's submission (99.72) is accepted.
143. Note that further information is required to provide a recommendation on Heritage New Zealand's submission (273.159).

6.1.3 Notification

144. Sera Chambers opposes the preclusion of notification for EW-R1. They seek amendments to require notification to adjoining landowners (150.116). This is opposed by HBAL (FS569.150.116) and supported by Sera Chambers (FS559.150.116 and FS559.150.307)
145. Sera Chambers submitted that all standards should be amended to require that landowners are notified of earthworks occurring on neighbouring properties (150.117, 150.37).

Assessment

146. I do not agree that adjoining land owners should be automatically notified of earthworks occurring on properties adjacent to their own. The Rules and Standards are in place to manage the effects of earthworks and the very nature of them is temporary therefore I consider the preclusion of notification for activities that do not meet the permitted activity standards stated in EW-R1B is appropriate. Where the standards are infringed and notification is not precluded, a notification assessment would be required to determine whether neighbouring properties should be notified.

Summary of Recommendations

147. That 150.116 be rejected.
148. That FS 569.150.116 be accepted.
149. That Transpower's submission 99.72 is accepted.
150. That further submission 44.99.72 and 351.99.72 is accepted.
151. That further submission 373.99.72 is rejected.

6.1.4 Underlying Zone Rules

152. Telco (151.67) seek amendments to the Rules Table to specify that zone rules (Sites of Significance to Māori, Natural Features and Landscapes and Notable Trees) do not apply to district-wide matters. This was opposed by Department of Conservation (FS396.151.67).

Assessment

153. The relief sought by Telco relates to the pre-ample to the Earthworks Rules Table. The text outlines that the Sites of Significance to Māori, Natural Features and Landscapes and Notable Trees Chapters includes provisions for Earthworks and where there is a conflict between these chapters and the Earthworks Chapter, the more restrictive provision applies. I do not support the relief requested by Telco as these Chapters contain provisions relating to Earthworks specific to these sites, features and landscapes and trees. The efficiency and effectiveness of these provisions are best assessed in the relevant Chapters Hearing.

Summary of Recommendations

154. That submission 151.67 is rejected.
155. That 396.151.67 be accepted.

6.1.5 Rules

Rule R1 Earthworks for Building Activities

Matters raised by Submitters

Overview of changes sought to Rule R1

156. There were a number of changes sought to Rule R1. The changes sought included minor changes, changes to the maximum permitted thresholds for the Industrial, Commercial and Residential zones and applicable thresholds for the Settlement and Ahuriri Estuary Special Zone. The specific submissions are listed below and assessment of these submissions has been broken down into the relevant subheadings.
157. Napier City Council (196.39) seek amendments to EW-R1 and requests that Open Space zones refer to Open Space and Recreation Zones for consistency.
158. Napier City Council (196.78) seeks amendments to EW-R1(2) - earthworks for building activities thresholds, and requests that they be on a per hectare per site for rural zones, and per site for the urban zones. The submission states that this will meet the intent of being more enabling for building activities than the general zone thresholds, however will recognise that for smaller sites a per hectare ratio does not work. The submission also seeks reconsideration of the application of thresholds for the Settlement and Ahuriri Estuary Special Zones to ensure they are consistent with the nature of development anticipated in the zone. The specific relief sought was:
2. The extent of earthworks for building activities for any 12-month period (per hectare per site) is:
 - a. Rural Production Zone, Rural Lifestyle, Airport Zone, Mission Precincts (all), Settlement Zone, Jervoistown Precinct, Rural Special Control Area, Tertiary Education Zone, and Wastewater Treatment Specific Control Area – 200 m³ per hectare per site.
 - b. All Residential Zones and Precincts, the Settlement Zone, all Development Areas, all Commercial and Mixed Use Zones and Precincts, all Industrial Zones and Precincts, Boat Harbour Zone, Maori Purpose Zone, Port Zone, and Ahuriri Estuary Special Zone – 100 m³ per site.
 - c. Open Space Zones and Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone – 2000 m³ per hectare per site.
159. HBAL oppose submission 196.78 (FS.353.196.78) and specifically the 2000m³ per hectare of earthworks in the Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone as a permitted activity. They believe the Zone appears to comprise a single title of some 298ha which would allow approximately 578,000m³ of earthworks to be undertaken without consent and poses a significant risk of bird-strike to the airport and compromise passenger safety.
160. Kainga Ora supports submission 196.78 to relate to a site regardless of its size and without having to apply a per hectare rate, however they consider that the thresholds for residential zones are too restrictive and seek a minimum 250m³ for EW-R1(b).
161. KiwiRail Holdings (168.80) supported the Permitted activity status EW-R1. Kainga Ora 488.168.80 and 82) oppose this submission point on the basis that there is an inconsistency between the permitted thresholds set out under R1 and S1 and seek a permitted volume of 250m³ across all residential zones. Kainga Ora consider that the rule should relate to general earthworks and not be differentiated

according to building activities.

162. Ravensdown (246.63) considers the volume restrictions for EW-R1 building activities are too restrictive and seek to amend the volume limit that applies to all industrial zones from 100m³ to 2,500m³. Ravensdown consider the proposed threshold for the industrial zone does not reflect the nature of large-scale building developments that can establish in the zone and that the 100m³ restriction could only provide for a small building of around 10m by 10m with 1m depth of earthworks. Ravensdown also consider the limit does not adequately recognize the controls that will be placed through compliance with the standards.
163. Heritage New Zealand (273.162) oppose EW-R1 on the basis that it is not considered to provide for the appropriate protection and management of heritage values on sites containing scheduled heritage items or archaeological items, as referred to in EW-O2. They seek the inclusion of an additional matter for the permitted activity standards 3. the site does not include a heritage item identified in Sched-O3. This is opposed by Kainga Ora (FS513.273.162) who are concerned about the consenting ramifications the amendment sought could have on small-scale earthworks on a heritage site.
164. New Zealand Frost Fans (165.30) oppose the inclusion of the note in EW-R1 on the basis that it is unclear. They seek the deletion of the note and clarification that the provisions for supplying earthworks details is not required for buildings and structures that do not require building consents. Exempt the installation of fencing, machinery and equipment for land based primary production activities from the provisions of the Earthworks chapter follows or alternative and any consequential relief required to address the matters raised in the submission. Hawkes Bay Regional Council oppose this submission (FS22.165.30) Earthworks which do not meet the standards set warrant closer consideration, while works are being undertaken. The matters of discretion identify the main areas of concern with respect to ongoing environment effects.

Assessment

Minor changes

165. I agree with Napier City Council submission 196.39 which seeks consistent use of language in EW-R1 and seeks that Open Space Zones should be replaced with Open Space and Recreation Zones. This amendment will provide greater consistency and clarity to Plan users.

Settlement and Ahuriri Estuary Special Zones

166. I agree with Napier City Council's submission point 196.78, in particular the submission highlighting that EW-R1A(2) errs in using a per hectare, per site ratio for urban zones as the site sizes are typically smaller than rural and open space zones and the ratio is not practicable for these sites. The submission also requests that the application of thresholds for the Settlement and Ahuriri Estuary Special Zones be reconsidered. HBAL's further submission (FS353.196.78), opposes the 2000m³ maximum threshold being applied on a per-hectare per site basis to the Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone. I agree with their concerns that this does not seem an appropriate level of earthworks to enable as a permitted activity each year, particularly with consideration of AESZ-O2 *Protection and enhancement of ecological values* and AESZ-O6 *Efficient operation of the Hawkes Bay airport*.

Permitted Thresholds

167. Ravensdown (246.63) and Kainga Ora (FS488.168.80 and 82) have requested significant increases to maximum permitted thresholds for earthworks for building activities in the Industrial and Residential Zones respectively. Part of the justification included in for an increased threshold was that the notified maximum thresholds are not commensurate to the scale of development anticipated in the Proposed District Plan. Ravensdown also consider that the limit does not recognise the controls that will be in place through compliance with standards.
168. EW-R1 relates specifically to Earthworks for building activities. The rule permits a greater volume of earthworks than that of EW-S1 which applies maximum volume thresholds for all other earthworks. I understand that the greater permitted volume for earthworks for building activities is in part due to the fact that effects will be managed by the Building Consent process.
169. With consideration of the above, I therefore do not agree with NZ Frost Fans submission (165.30) that EW-R1 is intended to apply to Building Activities that do not require Building Consent.
170. The Napier City Operative District Plan includes a Permitted Activity rule that exempts Earthworks associated with a Building Consent from Earthworks Provisions as follows:
- Earthworks in association with a Building Consent, where the area of earthworks includes no more than 150% of the area of the associated building footprint.
Note - Rules and Conditions are applied once the 150% threshold is exceeded.
171. I have reviewed the S32 Evaluation Report on the Earthworks Chapter and there is no specific reference to the change in approach to earthworks associated with building activities (changing from a % based threshold to a maximum permitted volume). I consider the Operative provision significantly more permissive for the following reasons:
- The area of earthworks permitted is proportionate to the scale of building activity occurring onsite; and
 - Earthworks permitted under this provision do not have to comply with the standards and rules
172. I also consider that the operative % based threshold would address the nature of concerns raised by submitters with regard to the maximum permitted areas not being commensurate to the scale of development anticipated or provided for by the Proposed District Plan.
173. I consider that the notified provisions would likely result in an increase in resource consent applications for earthworks associated with Building Activities, particularly with consideration of the current operative provision. This results in an increase in the likelihood of requiring resource consent for the same activity when comparing the operative and proposed plans.
174. However, on balance, there is insufficient evidence to form a position on the specific changes requested and the subject would benefit from further discussion during the Hearings process.

175. To assist with this discussion, I make the following comments:
- In principle I support the intent of a Permitted activity rule specific to Earthworks associated with Building Activities.
 - I support the inclusion of a permitted activity standard which limits the volume or extent of Earthworks associated with Building Activities.
 - I consider this is consistent with the intent of EW-O1 and EW-P1 and necessary to manage potential adverse effects on stormwater and wastewater networks as well as transport effects among others.
176. With regard to the request by Heritage New Zealand for the permitted activity standards for EW-R1 I do not support the relief sought. The changes sought would mean that where earthworks occur on a site where there is an item identified in Sched-3, a Restricted Discretionary Resource Consent would be required irrespective of the scale of earthworks and proximity to the Heritage item. As notified, where a Resource Consent is required, the matters of discretion include Heritage and Cultural Values and EW-AC1 includes an Accidental Discovery Protocol which is required to be undertaken in the event of the discover of sensitive material. I consider that these notified provisions are the most effective and efficient way of managing earthworks on sites with Scheduled items without causing unnecessary consenting ramifications.

Summary of Recommendations

177. That submission 196.39 be accepted.
178. That submission 196.78 is accepted in part and the maximum thresholds for zones listed in EW-R1A (2)(b) is amended to apply on a per site basis.
179. Further submissions 353.196.78 is accepted.
180. That submission 246.63 and 488.168.80 and 82 is deferred until more information is received.
181. That submission 276.162 is rejected.
182. That further submission 513.273.162 is accepted.
183. That submission 165.30 is rejected.

6.1.6 Matters of Discretion

Matters raised by submitters

184. Fuel Companies (215.104) generally support the intent of EW-R1B but seek a new matter of discretion, 'benefits associated with earthworks'. This is supported by KiwiRail (FS 264.215.104).

Assessment

185. This matter has also been raised in relation to the Earthworks Standards, I have addressed these together in Section 5 below.

6.1.7 Other Rules

186. Transpower (99.74) seeks removal of reference to S2 and S4 in EW-R5. The reasoning included for the amendment sought is:
- a) *S2 The cut and fill requirements may unintentionally apply to underground infrastructure when the focus should be on the finished ground level, not the depth of cut or fill which is undertaken in the process of undergrounding. As underground infrastructure spans multiple titles, S2(2) which required setbacks from boundaries is not relevant for network utilities.*
 - b) *S4 For network utility projects it is likely that earthworks will be removed offsite, and this is an unreasonably small limit.*

Assessment

187. EW-R5 concerns earthworks or land disturbance for network utilities by a network utility operator, including vehicle access for network utilities. S2 is a standard relating to cut and fill, while S4 manages removal off site.
188. I support in principle changes to the notified provisions which better recognise and provide for the operation, maintenance, upgrade and development and protection of the National Grid is a matter of national significance. However, in order to make a determination on the relief sought, I consider the matter would benefit from further detail received through evidence and discussions at Hearing.
189. Transpower's submission on this matter includes detail on the reasons why the relief sought is necessary. This includes the risk of earthworks undermining the stability of the structure foundations which could result in power outages, compromise access for maintenance and reducing clearance between the ground and conductors. The submission also highlights that EW-S8 is specific to earthworks in proximity of a gas transmission line, but no such rule is included for earthworks within proximity of the National Grid, the operation, maintenance, upgrade and development and protection of which, is recognised as a matter of national significance in the National Policy Statement for Electricity Transmission (NPSET).

Recommendation

190. That 99.74 is accepted in part and further information through evidence is provided in relation to the relief sought.

6.1.7 Development Standards

Submissions in Support

191. Ravensdown (246.66, 68, 70) support provision EW-S2, EW-S5, EW-S7.
192. Powerco Limited (172.50) supports EW-S8 and its reference to gas distribution
193. Fuel Companies support (215.116) EW-AC1 information requirements.
194. KiwiRail Holdings (168.82, 83, 84, 86) support standards EW-S1, EW-S2, EW-S6 for earthworks extent in different zones and cut/fill requirements.

Submissions seeking amendments to Standards

195. Telco (151.69) seeks that earthworks which do not alter then ground level, such as trenching should not require the same setbacks from streams and overland flow areas. This is opposed by Hawke’s Bay Regional Council (FS20.151.69).
196. KiwiRail Holdings (168.85) seek amendments to EW-S5 *Control of silt and sediment* to include *the rail corridor in (1)* in addition to stormwater system and overland flow paths and roads. Kainga Ora (FS488.168.85) opposes this submission the inclusion of rail corridor and consider adjacent site or allotment would be more appropriate.
197. Fuel Companies seek amendments to EW-S5 (215.112) to amend the standard to replace ‘prevent silt or sediment from entering the stormwater system, overland flow paths, or roads’ to ‘reduce the risk of and require implementation of best practice silt and sediment control measures’. This was supported by KiwiRail (FS264.215.112).
198. HBAL (198.48) seeks amendments to EW-S6 Site Reinstatement to remediate any standing pools of water.
199. Foodstuffs New Zealand (238.4) seek a greater maximum permitted threshold for business and industrial zones in EW-S1. They seek amendments from 50m³ maximum to 2,500m³ per site, per 12-month period.
200. Kainga Ora opposes EW-S1 and seeks that the maximum threshold is increased from 50m³ to 250m³ across all residential zones to be consistent with the level of development anticipated through the PDP and is provided for as a permitted activity (285.22). This was opposed by HBAL who considers that EW-R1 sufficiently provides for earthworks volumes associated with building activities (FS348.285.22).
201. New Zealand Transport Agency submits that they acknowledge that Council seeks to balance the adverse effects of earthworks with the need to undertake construction however they seek an increase to the permitted volumes of earthworks to reflect the scale of construction and maintenance requirements of network utilities outside of their corridor designations to 700m³ (277.74, 75). This submission point is supported by KiwiRail Holdings Limited (FS 233.277.75) and by Kainga Ora who seek that the thresholds are increased across the board and not just for network utilities. (FS514.277.75)
202. Foodstuffs North Island (238.5) oppose the inclusion of site stability as a standard to be complied with within EW-S3 and consider it more appropriate for potential stability effects to be assessed as a matter of discretion for earthworks with a slope greater than 22 degrees.
203. Ravensdown (246.67) oppose EW-S4 *Removal off Site* on the basis that the thresholds will need to be revised to be consistent with the relief sought in relation to maximum permitted volume in EW-R1. This would result in a change from 100m³ per 12-month period to 2,500m³ per 12-month period.
204. Ravensdown (246.69) oppose EW-S6 on the basis that it is impractical to require site reinstatement *no later than six months from the commencement.* Ravensdown seek an amendment to require that site reinstatement works are completed no later than six months after the completion of earthworks.

Assessment

Standard EW-S1

205. With regard to thresholds increase requests, Foodstuffs have requested a significant increase to S1 from 50m³ for business and industrial zones to 2500m³ per site, per 12-month period. (238.4). I note that Foodstuffs did not submit on R1 and thus I do not know if they are aware that an increased threshold exists for earthworks associated with building activities. Regardless the request sought to S1 is greater than that proposed in R1A.
206. Kainga Ora also sought an increase in maximum threshold from 50m³ to 250m³ in all residential zones (285.22). I note that the notified threshold is taken from the Operative District Plan.
207. New Zealand Transport Agency also seeks an increase in permitted volumes of earthworks to reflect the scale of construction and maintenance requirements of network utilities outside of their corridor designations to 700m³.
208. Unlike EW-R1 where the approach to maximum permitted thresholds for building activities has changed significantly from the Operative District Plan, the permitted volumes in EW-S1 are the same as those in the Operative District Plan. The increases sought by Foodstuffs, NZTA, Kainga Ora are significant and I do not consider there to be sufficient evidence to warrant such significant increases.

Standard EW-S2

209. Regarding Telco submission 151.69, I do not support the relief sought on the basis that there is insufficient evidence to indicate that trenching does not result in potential effects that render a setback from streams unnecessary. I consider that the potential environmental effects including sediment runoff mean that a setback from streams and overland flow areas is appropriate.

Standard EW-S3

210. With regard to Foodstuffs submission regarding EW-S3 (238.5) I rely on the memo from Napier City Councils Development Engineer considers that effects on slope stability can occur with earthworks below 22 degrees and therefore it is necessary and appropriate that such earthworks do not result in instability to surrounding land, I therefore do not support the changes sought.

Standard EW-S4

211. Turning to Ravensdowns submission (246.67) I do not support the relief sought for EW-S4. The Standards 'Purpose' which states the provisions' purpose is '*to manage soil quantities and retain productive land for productive purposes; to enable redevelopment of sites where the soil is not relied on for productive purposes.* This is consistent with EW-O1 which seeks to ensure that the life-supporting capacity of soils is protected. I consider that the standard is not intended to be consistent with the maximum permitted volumes of earthworks that can occur on site as not all earthworks require the removal of earth. This Standard is intended to manage the effects of removing earth that can't remain on site.

Standard EW-S5

212. Regarding KiwiRail Holdings submission 168.82 amendments to EW-S5 *Control of silt and sediment* to include *the rail corridor in (1)*. I support the intent of the

changes sought but consider that Kainga Ora's suggestion to include adjacent site or allotment is more effective and efficient as it extends to all adjacent sites and allotments but would cover rail corridor. This change would give effect to EW-O1 which requires earthworks to consider the health and safety of people and property and EW-P1 in allowing for earthworks as a permitted activity provided that the scale, volume, and effects are appropriately managed. I consider the changes to (1) would require consequential changes to the purpose statement of the rule and have recommended changes to this effect.

213. With regard to submission 215.112 by Fuel Companies to EW-S5, I agree with the submission that it is too strenuous to control of silt and sediment to prevent silt or sediment from entering the stormwater system, overland flow paths or roads and that the requirement to implement best practice silt and sediment control measure to reduce the risk is more appropriate. I do not consider it is efficient to have a permitted activity standard that is impossible to comply with and consider that the intent of the standard can be achieved with the proposed revised language and has the added efficiency of a permitted activity standard that is able to be complied with.

214. With consideration of above, I recommend the following changes to EW-S5:

EW-S5: Control of silt and sediment

Purpose: to ensure silt and sediment generated for land disturbance and earthworks do not enter waterways ~~and~~ Council's stormwater networks and adjacent sites and allotments.

1. For the duration of earthworks, measures in line with best industry practice silt and sediment control measures must be implemented to ~~prevent~~ reduce to the lowest extent practicable silt or sediment from entering the stormwater system, overland flow paths, ~~or~~ roads or adjacent sites and allotments.

Standard EW-S6

215. With regard to HBALs submission 198.48, EW-S6 I understand that the amendments sought to remediate any standing pools of water by HBAL is so as to avoid creating environments where birds could land and thus create a bird strike risk. I consider in the context of requiring this amongst other remedial works within the timeframe specified in 1, that this is appropriate.

216. With regard to Ravensdown submission 246.69 to amend EW-S6 from *the commencement* to *after the completion*, I agree that there is an impracticality aspect to this rule as it inadvertently puts a restriction on the time in which earthworks can occur. I consider that the changes sought are reasonable and are a more efficient and effective way of achieving the intent of the standard. I do however recommend further changes and that (b) regarding replacement vegetation is tied to the next planting season. This is to avoid situations where the planting seasons falls outside the 6-month period. I consider this is a more effective way of achieving the rule as it ensures re-vegetation occurs at a time which provides the best chance of their survival.

217. With consideration of the submissions sought to EW-S6 I recommend the following changes:

EW-S6 Site Reinstatement

1. As soon as practicable, but no later than six months ~~from the commencement~~ after the completion of earthworks:

- a. The earthworks area shall be stabilised, filled and/or recontoured in a manner consistent with the surrounding land;
- b. Shall be replanted with vegetation which is the same as, or of similar species to, that which existed on the site prior to the earthworks taking place (if any), except that where the site was vegetated with any plant pest, the site may be replanted with indigenous vegetation, and preference should be given to local genetic stock, ~~or~~
- a. (i) except that (b) can be planted in the next planting season (September – May) after the completion of earthworks, or
- c. sealed, paved, metalled, or built over.

Section 32AA on Standards EW-S5 and EW-S6

218. Effectiveness and Efficiency
- The recommended changes are more appropriate in achieving the purpose of the RMA
 - The recommended changes more appropriately manage the potential adverse effects of earthworks and are more likely to achieve the Objectives of the Earthworks Chapter.
219. Costs/Benefits
- The recommended changes more appropriately manage the potential adverse effects of Earthworks while still allowing earthworks activities to occur.
220. Risk of acting or not acting
- There is no risk in accepting the recommended amendments as there is sufficient information to act on the submissions.
221. Decision about most appropriate option
- For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the Proposed District Plan.

Summary of Recommendations

222. That Chorus NZ submission (151.69) is rejected.
223. That Hawkes Bay Regional Council's submission (20.151.69) is accepted.
224. That Kiwi Rails submission 168.85 is accepted in part.
225. That Kainga Ora's further submission (488.168.85) is accepted.
226. That BP Oil 215.112 is accepted.
227. That Hawkes Bay Airports submission 198.48 is accepted.
228. That KiwiRail (264.215.112) is accepted.
229. That Foodstuffs submission 238.5 is rejected.
230. That NZTA's 277.74 and 75 is rejected.
231. That Foodstuffs submission 238.4 is rejected.
232. That Kainga Ora's submission 285.22 is rejected.

233. That the recommendation on HBAL's further submission FS348.285.22 and Kainga Ora's FS514.277.75 is deferred until the Hearings process.
234. That Ravensdowns submission 246.67 is rejected.

6.1.8 Matters of Discretion

235. Fuel Companies support EW-S1 – S8, generally but seek an additional matter of discretion to include benefits associated with the earthworks (215.108, 109, 110, 112, 113, 114, 115). They also seek this in relation to EW-S4 as well as an amendment to include and exemption for activities which are regulated under the NESCS (215.111) (covered below).
236. Fuel Companies also sought this matter of discretion in relation to EW-R1B (215.104). This is supported by KiwiRail (FS 264.215.104).

Assessment

237. I have considered this submission in the context of EW-O1 and EW-P1 which are enabling provisions for Earthworks. In the context of a Restricted Discretionary Activity Status, I think it is appropriate to include a matter of discretion that includes the benefits associated with the earthworks as this will enable the effects of the activity that the standard or rule is trying to manage to be assessed while also giving more effectively implementing EW-P1 and EW-O1. I therefore recommend amending the assessment criteria for EW-S1 – S8 and EW-R1B Matters of discretion to include:

Benefits associated with the earthworks

Summary of Recommendations

238. That Submissions 215.108 – 115 are accepted.

6.1.9 Conflicts with NESCS

239. Fuel Companies generally support EW-R1A and EW-R3 provided the changes sought to the Earthworks standards that seek to avoid conflict with the NESCS. Seeking to amend EW-R3 to remove the requirements for replacement or removal of a fuel storage system to comply with standards EW-S4 and instead only comply with EW-S3 and EW-S5 – S8 (215.105).
240. Fuel Companies (215.111) also raise this matter in relation to EW-S4 and seek exclusions to EW-S4 as follows:
(ii) except that this standard does not apply to activities regulated under the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health and Regulations 2011.

Assessment

241. With regard to BP's submission 215.105, I have reviewed the NES-CS provisions related to removing or replacing fuel storage systems. When removing or replacing fuel storage systems, to qualify as a permitted activity under the NES-CS, the following requirements in relation to volume of soil apply:
- The volume of soil disturbed must be no more than 30 m³ for each tank in the system;
 - The volume of soil taken away in the course of the activity must be no more than 30 m³ for each tank in the system.

242. Turning to EW-S4, I refer to my earlier discussion regarding the purpose of the rule being *'to manage soil quantities and retain productive land for productive purposes; to enable redevelopment of sites where the soil is not relied on for productive purposes*. In the context of fuel storage systems, the preservation of soil does not have the same significance or relevance given that it has been subject to an activity on HAIL. The effects management system of such soil is concerned with safely managing soil that may potentially be contaminated, rather than preserving soil.

243. The assessment therefore turns to the efficiency of having a requirement to comply with standards whose purpose is not relevant to the activity. The changes sought will also avoid conflicts with the NESCS, which allows for 5m³ per 500m² to be taken away per year and soil to be taken for the purpose of laboratory analysis as a permitted activity. I consider that as drafted, and having EW-R3 required to comply with EW-S4 is both inefficient and ineffective. I therefore recommend adopting the relief sought:

EW-R3A

Activity Status: Permitted

Where:

Compliance with the Earthworks effects standards EW-S3 and EW-S5 – EW-S8

EW-S4 Removal off site

Rural Productive Zone

1. Earthworks result in the removal off site of no more than 25 m³ of earth materials per 12-month period.

All other zones

2. Earthworks result in the removal off site of no more than 100 m³ of earth materials per 12-month period.

Except that this standard does not apply to activities regulated under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011.

Recommendation

244. That submission 215.105 be accepted.

245. That submission 215.111 is accepted.

6.1.10 Assessment Criteria

246. Heritage New Zealand seek amendments to EW-AC1 for all earthworks not meeting permitted activity standards or rules conditions. Under the Notes section *Inform the relevant authorities and parties immediately of the discover* they seek clarification to matter (c) and request the insertion of post-1900 recorded archaeological sites. This is because these sites are not covered by the Heritage New Zealand Pouhere Act 2014. They also seek a separate heading for Accidental Discovery Protocol (273.163).

Assessment

247. Having reviewed EW-AC1, I agree with the submitter's suggestion for a separate heading for Accidental Discovery Protocol, as proposed it is referred to under a heading 'Note'. I do not consider this is the most efficient or effective way of giving effect to EW-P6 which aims to manage the potential impact of earthworks on mana whenua cultural values and heritage values by (a) *requiring a protocol for the accidental discovery of kōiwi, artefacts of Māori origin, and other archaeology*. As proposed, the purpose of the text, being to notify plan users of the protocol, is buried in the body of a text under the Note heading. The sought relief would make the text more noticeable, and generally more user friendly, leading to increased efficiencies in terms of implementation of the protocol.
248. Turning to the amendments sought to (c) and the inclusion of post 1900 recorded archaeological sites, I support the clarification sought and have recommended adopting the requested relief as follows:
- ...
- (c) There are no requirements in the case of archaeological sites that are not of Māori origin and not covered by the Heritage New Zealand Pouhere Taonga Act 2014 (post 1900 recorded archaeological sites).

Summary of Recommendations

249. That submission 273.163 be accepted.

7. General & Miscellaneous Submissions

250. Royal Forest and Bird (289.175) opposes the whole chapter on the basis of the late notification of the Ecosystems Chapter.
251. Royal Forest and Bird (289.177) seek that the ECO chapter is also listed as a relevant chapter, and a statement that where there is a conflict, the more restrictive provisions apply.
252. Sera Chambers opposes any section of the PDP that reference Sites of Significant to Māori, Indigenous Biodiversity, or Natural Hazards, need to be consulted on again as the notified version of the PDP may not be fit for purpose based on the Plan Variation (150.115).
253. Sera Chambers FS559.150.307 is a further submission supporting the submission sought by the same submitter.
254. HBAL generally support the Earthworks Chapter (198.46).

Assessment

255. Regarding Forest and Birds submission 289.175 and 177, I consider that consequential amendments to the Earthworks Chapter can be made after the notification of the ECO chapter as necessary.
256. Regarding Sera Chambers submission 150.115, I consider that consequential amendments can be made to provisions once the ECO and Natural Hazards Chapters have been notified to address any inconsistencies and that it is not necessary to remove all reference to these provisions until such time as those chapters are notified. I do not support Forest and Birds submission 289.175 and 178 for the same reason.

Recommendation

- 257. That submission 165.30 is accepted in part.
- 258. That further submission 22.165.30 is accepted.
- 259. That submission 198.46 is accepted.
- 260. That submission 150.115 is rejected.
- 261. That 559.150.307 is rejected on the basis that it supports their own submission.
- 262. That submission 289.175 is rejected.

8. Minor and Inconsequential Amendments

- 263. Pursuant to Schedule 1, Clause 16(2) of the RMA, a local authority may make an amendment, without using the process in this schedule, to its proposed plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors.
- 264. One minor change is required which has come to my attention as a result of Heritage New Zealand's Submission 273.159. In reviewing EW-13 I have identified an error in that it incorrectly states that provisions that control earthworks within areas of built and natural heritage, and cultural and archaeological significance are found within these area-specific chapters. This is incorrect because the Earthworks Chapter contains some provisions including objectives and policies, matters of discretion and an accidental discovery protocol. This can be easily resolved by a minor amendment as follows:

EW-13: Cultural, natural, heritage values

The development process can have a major influence on the heritage of a city. The plan identifies known areas of built and natural heritage, and cultural and archaeological significance. Provisions that control earthworks within these areas are also found within these area-specific chapters.
- 265. The recommended amendments are set out in the 'track changes' versions of the applicable chapters, which are provided at **Appendix A**.

9. Conclusion

266. As discussed further within Parts 2 to 5 of this S42A Report, a wide range of submissions and further submissions have been received with respect to the Earthworks provisions within the PDP. Submissions have been analysed, with my recommendations set out at **Appendix A** and **B**.
267. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the PDP should be amended as set out in Appendix A of this report.
268. For the reasons set out in the S32AA evaluation included throughout this report, I consider that the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:
- Achieve the purpose of the Resource Management Act 1991 (“RMA”) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives, and
 - Achieve the relevant objectives of the Proposed Plan, in respect to the proposed provisions.

Recommendations:

269. I recommend that:
- The Independent Hearings Panel accept, accept in part, or reject submissions (and associated further submissions) as outlined in **Appendix B** of this report; and
 - The PDP is amended in accordance with the changes recommended in **Appendix A** of this report.

APPENDIX A – Recommended Amendments to Plan Provisions

This section has rules that have legal effect. Please check the ePlan to see what the legal effect is or subject to appeal.

EW - Earthworks

Introduction

Earthworks are essential for supporting land use activities including the construction of foundations and buildings to enable land to be developed for living, business, and recreation. However, when not properly managed, earthworks can have adverse effects, including:

- the discharge of soil and contaminants into stormwater networks and waterways as well as into the air;
- an increased risk from natural hazards;
- an increased risk to people and property;
- soil and land stability issues, and
- adverse effects on natural features and landscapes, and amenity and cultural values.

This section of the plan is intended to set minimum standards and controls on earthworks so that sediment run-off and dust created during the process is minimised, that revegetation of the earthworked area occurs in a timely manner, and the visual impact following the work does not significantly detract from the amenity and values of the area.

Earthworks have the potential to destroy, damage, or modify unidentified archaeological sites or wāhi tapu sites that are not managed by the Historic Heritage and/or Sites of Significance to Māori chapters. These sites associated with human activity that occurred before 1900 are protected under the Heritage New Zealand Pouhere Taonga Act 2014.

Issues

EW-11: Disturbance of ecosystems, waterways, and productive soils

Poorly managed earthworks can have significant environmental effects on waterways and ecosystems. Sediment from earthworks can enter waterways, productive soil can be lost, and existing vegetation damaged. Any disturbance to land throughout the city but particularly land that borders a stream, estuary, or any other natural ecosystem has the potential to adversely affect water quality and the biodiversity of those areas.

EW-12: Inappropriate earthworks can negatively impact on visual amenity

Large-scale earthworks have the potential to irrevocably scar the landscape if undertaken without the necessary controls to mitigate adverse effects. Without the ability to re-establish vegetation on or over modified land, the visual effects can be a dominant feature on the landscape for many years resulting in a degradation of amenity.

EW-13: Cultural, natural, heritage values

The development process can have a major influence on the heritage of a city. The plan identifies known areas of built and natural heritage, and cultural and archaeological significance. Provisions that control earthworks within these areas also are found within these area-specific chapters.

APPENDIX A – Recommended Amendments to Plan Provisions

EW-14: Earthworks could increase risks associated with natural hazards

While Napier City comprises a large proportion of relatively flat land, it is surrounded by the Taradale, Poraiti and Esk hills as well as Napier Hill. Earthworks on these hill areas have the potential to cause subsidence, slippage, or inundation of land if undertaken without proper methods or controls. This could compromise the safety of people, the community, and property. Napier Hill is particularly vulnerable with its historical pattern of urban development, including its infrastructure, steep gullies, narrow roading pattern, and more recent intensification of housing density.

The disturbance of land through re-contouring or re-shaping of natural ground levels alters the natural flow path of water. Earthworks in the wrong places have the potential to undermine land stability, increase the risk of flooding or make the effects of flooding worse.

Objectives

EW-01: Environment (soils, ecosystems, waterways)

Enable earthworks necessary to support reasonable development opportunities while ensuring that the life-supporting capacity of soils, ecosystems, and waterways are protected.

Relates to EW-11

EW-02: Landscapes and features, significant natural areas, cultural and heritage values

Earthworks are managed so that ~~significant-outstanding and special character~~ landscapes and features, significant natural areas, the coastal environment and cultural and heritage values are protected.

Relates to EW-12, EW-13

EW-03: Hazards and health and safety

Earthworks activities must consider natural hazard risks and the health and safety of people and property.

EW-04: River control and drainage works

Earthworks ~~related to~~ for river control and drainage works and renourishment of material along the coast by a local authority are ~~necessary to ensure flood protection duties can be exercised~~ enabled where necessary to ensure floor protection duties can be exercised, and risks of erosion can be mitigated.

Commented [LL1]: Royal Forest and Bird (289.166)

Commented [LL2]: Royal Forest and Bird (289.168)

Policies

EW-P1: Allow for earthworks

Allow earthworks as a permitted activity providing that the scale, volume, and effects are appropriately managed.

EW-P2: Environment

Ensure earthworks and any associated retaining structures and infrastructure are designed to manage adverse effects on the environment by:

- a. restricting unretained cut depth and fill height;
- b. limiting maximum volume of earthworks;
- c. providing adequate setbacks from site boundaries or structures;

APPENDIX A – Recommended Amendments to Plan Provisions

- d. demonstrating that the site will be stabilised, reinstated, revegetated, and/or recontoured in a timely manner consistent with the surrounding land, and
- e. controlling the movement of dust and sediment beyond the area of development, particularly to avoid nuisance effects on neighbouring sites, silt and sediment entering stormwater systems and natural waterbodies or impacting on overland flow paths and/or roads.

Commented [LL3]: Royal Forest and Bird (289.170)

EW-P3: Natural landforms, features, drainage patterns, indigenous vegetation

Ensure that earthworks are of an appropriate type, scale, and form that consider avoid or mitigate adverse effects on:

- a. impact on existing natural landforms, features, and indigenous vegetation;
- b. changes in natural landform that will lead to instability, erosion, and scarring, and
- c. impacts on natural drainage patterns and secondary flow paths.

Commented [LL4]: Royal Forest and Bird (289.171)

EW-P4: Visual amenity

Ensure the visual amenity impacts of any exposed cut faces or retaining structures are mitigated through screening, revegetation, landscaping, and/or planting.

EW-P5: Natural hazards

Require that earthworks are designed and undertaken in a manner that:

- a. provides for the stability and safety of surrounding land, buildings, and structures, and
- b. avoids the risk of exacerbating hazards and adverse effects on adjoining property owners.

EW-P6: Cultural and heritage values

Manage the potential impact of earthworks on mana whenua cultural values and heritage values by:

- a. requiring a protocol for the accidental discovery of kōiwi, artefacts of Māori origin, and other archaeology;
- b. undertaking appropriate actions in accordance with mātauranga and tikanga Māori, and
- c. considering cultural and spiritual values of mana whenua in terms of land and water quality, preservation of wāhi tapu, and kaimoana gathering.

EW-P7: River control and drainage works

Enable earthworks activities associated with river control and drainage works to be carried out by local authorities.

EW - Earthworks - Rules Table

Zone rules apply in addition to the activities below. Earthworks rules are also found in the following chapters:

The **Sites of Significance to Māori** chapter includes provisions for earthworks. Where there is a conflict between the Earthworks chapter and the Sites of Significance to Māori chapter, the more restrictive provision applies.

The **Natural Features and Landscapes** chapter contains rules for earthworks within an outstanding natural feature, significant feature, and special character landscape. Where there is a conflict between the Earthworks chapter and the Natural Features and Landscapes chapter, the more restrictive provision applies.

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The **Notable Trees** chapter contains rules for earthworks within the dropline of notable trees. Where there is a conflict between the Earthworks chapter and the Notable Trees chapter, the more restrictive provision applies.

EW-R1: Earthworks for building activities		
All zones	<p>EW-R1A</p> <p>Activity Status: Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> 1. Compliance with the Earthworks effects standards EW-S2 — EW-S8. <i>Note: Compliance with EW-S1 is not required for earthworks for building activities.</i> 2. The extent of earthworks for building activities for any 12-month period (per hectare per site) is: <ol style="list-style-type: none"> a. Rural Production Zone, Rural Lifestyle, Airport Zone, Mission Precincts (all), Settlement Zone, Jeroivstown Precinct, Rural Special Control Area, Tertiary Education Zone, and Wastewater Treatment Specific Control Area — 200 m³ per hectare per site b. All Residential Zones and Precincts, the Settlement Zone all Development Areas, all Commercial and Mixed Use Zones and Precincts, all Industrial Zones and Precincts, Boat Harbour Zone, Maori Purpose Zone, Port Zone, and Ahuriri Estuary Special Zone — 100 m³ per site c. Open Space and Recreation Zones — 2000 m³ per hectare per site d. Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone — 2000 m³ per site. <p>Note:</p> <ol style="list-style-type: none"> 1. The details of earthworks required must be submitted as part of a building consent application. 	<p>EW-R1B</p> <p>Activity Status where activity conditions are not met: Restricted Discretionary</p> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> 1. The matters of discretion of the effects standard infringed; 2. Sediment control for the protection of waterways; 3. Visual impacts and landscape values; 4. Heritage and cultural values; 5. Ecological values; 6. Natural hazards, and 7. Health and safety, and 8. The benefits associated with the earthworks. <p>Notification: Any application under this rule is precluded from public and limited notification.</p>

Commented [LL6]: Fuel Companies (215.104)

Commented [LL5]: Napier City Council (198.39) (196.78)

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EW-R2: River control and/or drainage works		
All zones	<p>EW-R2A</p> <p>Activity status: Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> The removal, stockpiling, and processing of river berm silt, gravel, or other river control or drainage works carried out by a local authority exercising its powers, functions, and duties under any enabling legislation, including the Soil Conservation and Rivers Control Act 1941 or the Land Drainage Act 1908. <p>Note: The Regional Resource Management Plan also manages soil disturbance for water quality, and river control and drainage works in accordance with flood protection legislation.</p>	<p>EW-R2B</p> <p>Activity Status where activity conditions are not met: Non-complying</p>
EW-R3: Earthworks associated with the replacement and/or removal of a fuel storage system as defined in the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011		
All zones	<p>EW-R3A</p> <p>Activity status: Permitted</p> <p>Where:</p> <p>Compliance with the Earthworks effects standards EW-S3 — EW-S8.</p>	<p>EW-R3B</p> <p>Activity Status where activity conditions are not met: Restricted Discretionary</p> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> The matters of discretion of the effects standard infringed.
EW-R4: Earthworks for the maintenance, repair, upgrade, and construction of roads, cycleways, or walkways for network utilities by a network utility operator		
	<p>EW-R4A</p> <p>Activity Status: Permitted</p> <p>Where:</p> <p>Compliance with the Earthworks effects standards EW-S2 — EW-S8</p>	<p>EW-R4B</p> <p>Activity Status where activity conditions are not met: Restricted Discretionary</p> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> The matters of discretion of the effects standard infringed.

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EW-R5: Earthworks or land disturbance for network utilities by a network utility operator, including vehicle access tracks for network utilities		
All zones	<p>EW-R5A</p> <p>Activity Status: Permitted</p> <p>Where:</p> <p>1. Compliance with the Earthworks effects standards EW-S2 <u>and EW-S5</u>— EW-S8.</p>	<p>EW-R5B</p> <p>Activity Status where activity conditions are not met: Restricted Discretionary</p> <p>Matters of discretion are:</p> <p>1. The matters of discretion of the effects standard infringed.</p>
EW-RXXX Earthworks and vertical holes within the National Grid Yard		
All Zones	<p>EW-RXA</p> <p>Activity Status: Permitted</p> <p>Where:</p> <p>1. <u>Earthworks and vertical holes do not:</u></p> <p>a. <u>Exceed 300mm in depth within 6m of the outer visible edge of a National Grid support structure; Exceed 3m in depth between 6m and 12m of the outer visible edge of a National Grid support structure;</u></p> <p>b. <u>Compromise the stability of any National Grid support structures;</u></p> <p>c. <u>Result in the loss of vehicular access to a National Grid support structure; and</u></p> <p>d. <u>Result in a reduction of the ground to conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001;</u></p> <p>2. <u>Earthworks and vertical holes for the following activities are exempt from compliance with EW-RX.1(a) to (d):</u></p> <p>a. <u>Earthworks or vertical holes, excluding mining and quarrying, that are undertaken by a network utility operator as defined by the Resource Management Act 1991;</u></p> <p>b. <u>Agricultural or domestic cultivation;</u></p> <p>c. <u>The repair, sealing or resealing of a vehicle access or farm track, footpath or driveway</u></p>	<p>EW-RxB</p> <p>Activity Status where compliance not achieved: <u>Non-Complying</u></p> <p><i><u>Notification 1. An application under this rule is precluded from being publicly notified in accordance with Section 95A of the RMA. When deciding whether any person is affected in relation to this rule for the purposes of section 95E of the RMA, the Council will give specific considerations to any adverse effects on Transpower New Zealand Limited.</u></i></p>

Commented [LL7]: Transpower (99.74)

Commented [LL8]: Transpower (99.72)

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	<p>d. <u>Vertical holes not exceeding 500mm in diameter that are a post hole for a farm fence or horticulture structure more than 6m from the visible outer edge of a National Grid tower foundation; and</u></p> <p>e. <u>Earthworks and vertical holes:</u></p> <p>i. <u>Subject to a dispensation from Transpower under New Zealand NZECP 34:2001, or</u></p> <p>ii. <u>In relation to rule NU-EWX 1(d), written approval is provided by Transpower.</u></p>	
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EW-R6: Earthworks associated with the renourishment of the coastal environment to mitigate the effects of coastal erosion		
	<p>EW-R6A</p> <p>Activity Status: Permitted</p> <p>Where:</p> <p>The removal and/or deposition of sediment and/or shingle above the mean high water springs mark, including the transportation of it, is a permitted activity provided that:</p> <p>a. The removal or deposition of sediment and/or beach shingle must be undertaken by a local authority or a duly authorised person thereof. This condition shall not apply to the non-mechanical removal of sediment and/or beach shingle in quantities less than 1 m³ per day by any person.</p> <p>b. In any 12-month period:</p> <p>i. The volume of sediment removed or deposited must not exceed 50,000 m³, and</p> <p>ii. The sediment must be used for renourishment purposes to mitigate the effects of coastal erosion.</p> <p>Note: Sediment and shingle removal, deposition, and the associated occupation of space within the Coastal Marine Area (below M.H.W.S mark) is subject to the provisions of the Hawke's Bay Regional Council's Regional Coastal Environment Plan.</p>	<p>EW-R6B</p> <p>Activity Status where activity conditions are not met: Restricted Discretionary</p> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> 1. The effects on the natural environment of the foreshore; 2. The effects on natural coastal processes; 3. The effects on existing hazard control works; 4. The impacts on ecology within the vicinity, and 5. The effects on the maintenance and enhancement of public access to and along the foreshore.

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EW-R7: Earthworks not otherwise provided for in this table		
All zones	<p>EW-R7A</p> <p>Activity Status: Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> Compliance with Earthworks effects standards EW-S1 — EW-S8. 	<p>EW-R7B</p> <p>Activity Status where activity conditions are not met: Restricted Discretionary</p> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> The matters of discretion of the effects standard infringed.
	<p>Note: The Regional Resource Management Plan also manages soil disturbance for water quality, river control, and drainage works in accordance with flood protection legislation.</p>	

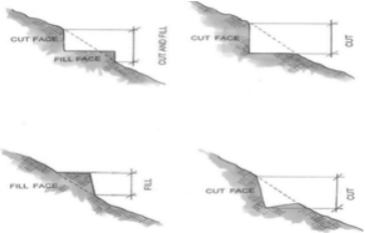
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EW - Earthworks - Standards Table

EW-S1: Extent of earthworks				
<p>Purpose: to enable earthworks to occur within extent limits and to manage adverse effects when large earthworks are proposed.</p>	Zone	Volume	Criteria (for any 12-month period)	<p>Matters of discretion:</p> <ol style="list-style-type: none"> 1. Sediment control for the protection of waterways; 2. Visual impacts and landscape values; 3. Heritage and cultural values; 4. Ecological values; 5. Natural hazards, <u>and</u> 6. Health and safety <u>and</u> 7. <u>The benefits associated with the earthworks.</u>
	Rural Production, Rural Lifestyle, Airport, Settlement, Tertiary Education Zones, Mission (all), Jervoisstown Precincts, Rural and Wastewater Special Control Areas	100 m ³	Per hectare of site	
	All Residential Zones and Precincts, all Development Areas, all Commercial and Mixed Use Zones and Precincts, all Industrial Zones and Precincts, Boat Harbour Zone, Maori Purpose Zone, Port Zone, and Ahuriri Estuary Special Zone	50 m ³	Per site	
	Open Space Zones	1000 m ³	Per hectare site	
	<p>Notes:</p> <ol style="list-style-type: none"> 1. To calculate the volume of earthworks per hectare of site, multiply the volume threshold (listed in the above table) by the total area of the subject site in hectares over any 12-month period. 			

Commented [LL9]: Fuel Companies (215.108)

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EW-S2: Earthworks - cut and fill		
<p>All zones</p> <p>Purpose: to manage hazard risks and visual effects on site and on adjoining properties associated with earthworks cut and fill practices.</p>	<ol style="list-style-type: none"> Cut and fill does not exceed 2.5 m vertically. The cut and fill depth does not exceed the distance from the nearest site boundary as measured on a horizontal plane. The cut and fill depth does not exceed 1 m vertically where the top of the excavation is within 10 m of buildings or surcharge loads. The cut or fill is no closer than (measured on a horizontal plane): <ul style="list-style-type: none"> Stream: 10 m Flood protection works: river control structure or overland flow paths: 50 m  <p>Notes:</p> <ol style="list-style-type: none"> Building consent may be required for retaining walls under 1.5 m if subject to a surcharge (load). Refer to the Building Act 2004, Schedule 1. 	<p>Matters of discretion are:</p> <ol style="list-style-type: none"> Purpose of the standard; Sediment control for the protection of waterways; Visual impacts and landscape values; Heritage and cultural values; Ecological values; Natural hazards, and Health and safety, and The benefits associated with the earthworks.
EW-S3: Slope stability		
<p>All zones</p> <p>Purpose: to ensure earthworks do not occur on steep slopes to avoid natural hazard risks and adverse impacts on visual amenity and landscape values.</p>	<ol style="list-style-type: none"> Earthworks shall not be undertaken on land with a slope greater than 22 degrees. Earthworks must not result in any instability of land or structures at or beyond the boundary of the site where earthworks occur. 	<p>Matters of discretion are:</p> <ol style="list-style-type: none"> Purpose of the standard; Sediment control for the protection of waterways; Visual impacts and landscape values; Heritage and cultural values; Ecological values; Natural hazards, and Health and safety, and The benefits associated with the earthworks.

Commented [LL10]: Fuel Companies (215.109)

Commented [LL11]: Fuel Companies (215.110)

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EW-S4: Removal off site		
<p>Rural Productive Zone</p> <p>All other zones</p> <p>Purpose: to manage soil quantities and retain productive land for productive purposes; to enable redevelopment of sites where the soil is not relied on for productive purposes.</p>	<p>1. Earthworks result in the removal off site of no more than 25 m³ of earth materials per 12 month period.</p> <p>2. Earthworks result in the removal off site of no more than 100 m³ of earth materials per 12 month period.</p> <p>Notes</p> <p>1. <u>Except that this standard does not apply to activities regulated under the National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011.</u></p>	<p>Matters of discretion are:</p> <p>1. The purpose of the standard, and</p> <p>2. Protection of productive soils, and</p> <p>3. <u>The benefits associated with the earthworks.</u></p>
EW-S5: Control of silt and sediment		
<p>All zones</p> <p>Purpose: to ensure silt and sediment generated for land disturbance and earthworks do not enter waterways and Council's stormwater networks and adjacent sites and allotments.</p>	<p>1. For the duration of earthworks, <u>measures in line with best industry practice silt and sediment control measures</u> must be implemented to prevent <u>reduce to the lowest extent practicable</u> silt or sediment from entering the stormwater system, overland flow paths, or roads or adjacent sites and allotments.</p>	<p>Matters of discretion are:</p> <p>1. Purpose of the standard;</p> <p>2. Sediment control for the protection of waterways;</p> <p>3. Natural hazards, and</p> <p>4. Health and safety, and</p> <p>5. <u>The benefits associated with the earthworks.</u></p>

Commented [LL12]: Fuel Companies (215.111)

Commented [LL14]: Fuel Companies (215.112)

Commented [LL13]: KiwiRail Holdings (168.82)

Commented [LL15]: Fuel Companies (215.112)

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EW-S6: Site reinstatement		
<p>All zones</p> <p>Purpose: to manage any adverse visual impacts of earthworks.</p>	<p>1. As soon as practicable, but no later than six months <u>from the commencement after the completion</u> of earthworks:</p> <p>a. The earthworks area shall be stabilised, filled and/or recontoured in a manner consistent with the surrounding land <u>and remediate any standing pools of water;</u></p> <p>b. Shall be replanted with vegetation which is the same as, or of similar species to, that which existed on the site prior to the earthworks taking place (if any), except that where the site was vegetated with any plant pest, the site may be replanted with indigenous vegetation, and preference should be given to local genetic stock, <u>or</u></p> <p>i. <u>except that (b) can be planted in the next planting season (September – May) after the completion of earthworks, or</u></p> <p>c. sealed, paved, metalled, or built over.</p>	<p>Matters of discretion are:</p> <ol style="list-style-type: none"> 1. Purpose of the standard; 2. Sediment control for the protection of waterways; 3. Visual impacts and landscape values; 4. Ecological values; 5. Natural hazards, <u>and</u> 6. Health and safety, <u>and</u> 7. <u>The benefits associated with the earthworks.</u>
<p>EW-S7: Control of dust</p>		
<p>All zones</p> <p>Purpose: to avoid health hazards and nuisance problems associated with the disturbance of soil.</p>	<p>1. For the duration of earthworks, measures must be implemented to ensure that any discharge of dust does not occur beyond the site boundary and/or is minimised so as not to cause nuisance.</p>	<p>Activity Status where standards are not met: Restricted Discretionary</p> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> 1. Purpose of the standard; 2. Sediment control for the protection of waterways; 3. Ecological values; 4. Natural hazards, <u>and</u> 5. Health and safety, <u>and</u> 6. <u>The benefits associated with the earthworks.</u>

Commented [LL16]: Ravensdown (246.69)

Commented [LL17]: HBAL (198.48)

Commented [LL19]: Fuel Companies (215.113)

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Commented [LL20]: Fuel Companies (215.114)

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EW-S8: Proximity to gas lines		
<p>All zones</p> <p>Purpose: to ensure the safety and functioning of network utilities is not compromised.</p>	<ol style="list-style-type: none"> 1. All earthworks must not be within 20 m of a gas transmission pipeline (unless earthworks are related to network utilities associated with gas transmission or distribution). 2. All earthworks must not involve explosives within 60 m of a gas transmission pipeline. 	<p>Activity Status where standards are not met: Restricted Discretionary</p> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> 1. Purpose of the standard, and 2. Health and safety, and 3. <u>The benefits associated with the earthworks.</u>

Commented [LL21]: Fuel Companies (215.115)

General Information Requirements

Any application for a resource consent for a restricted discretionary activity must include a management plan describing the scope and nature of the operation including methods to control the effects of the activity. Any application for a resource consent must include an assessment of the effects of the proposed activity as well as compliance with all relevant matters within the Code of Practice for Land Development and Subdivision Infrastructure. Applications must address the matters listed below:

- a. An assessment of the actual or potential effects of the proposed activity on the environment in accordance with the Fourth Schedule to the RMA.
- b. Site layout including:
 - i. A programme for any staged development, and
 - ii. Areas for stockpiling and topsoil storage.
- c. Proposals to avoid, remedy, or mitigate adverse effects of the activities, particularly in regard to noise, ground vibration, traffic, dust, visual impact, and land stability.
- d. Impact on the city roading network.
- e. Description of permits and consents required from Hawke's Bay Regional Council and other relevant local authorities.
- f. Proposals for the clearance of vegetation, including the location (maps and plans may be required).
- g. Proposals and time frames for restoration of the area subject to earthworks to a reasonably natural state, or appropriate modified state, including levelling and backfilling, planting of grass, trees, or other vegetation.

Council may require applicants to provide more detailed investigations of potential effects on the environment by way of environmental impact reports (prepared at the expense of the applicant). The level of detail required will depend on the scale and nature of the proposal as well as the magnitude and extent of anticipated effects on the environment.

- h. Any effects on historic heritage values (including archaeological sites).

Note: A geotech assessment is required when standards EW-S1, EW-S2, and EW-S3 are not able to be met.

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Assessment criteria

When considering an application, the Council will have regard to the relevant objectives and policies of this plan, the purpose of the relevant rules and standards, and regard will also be had to the relevant assessment criteria set out below.

EW-AC1: All earthworks not meeting permitted activity standards or rule conditions

Standards specify the matters of discretion for any earthworks activity not meeting one or more standards. Where relevant, earthworks consents will be assessed in terms of their effects on:

Sediment control for the protection of waterways

- a. The extent to which sediment control measures are in place, including through an erosion and sediment control plan that details measures to prevent sediment and soil run-off into waterways, natural watercourses, and Council's stormwater network.

Visual impacts and landscape values

- b. The extent to which earthworks are minimised and, where necessary, are designed to complement and protect natural landforms and contours.
- c. Earthworks within landscape overlays shall be designed to ensure all adverse visual effects are mitigated. Any developments shall demonstrate the extent to which the earthworks:
 - i. Avoid the location of large-scale earthworks on prominent rural ridgelines, hill faces, and spurs;
 - ii. Be designed to minimise cuttings across hill faces and spurs;
 - iii. Avoid a finished contour that is out of character with the natural contour, and
 - iv. Demonstrate what visual mitigation is proposed to minimise the visual intrusion of the work, including proposals to ensure the successful establishment of any plantings.

Heritage and cultural values

- d. The extent to which heritage and cultural values are recognised and provided for through measures to avoid the disturbance of cultural and historic heritage sites (noting that any disturbance of an archaeological site will require separate approval under the Heritage New Zealand Pouhere Taonga Act 2014).
- e. The extent to which earthworks adversely affect the cultural values of whenua, and what mitigation measures are proposed to address this.

Ecological values

- f. The extent to which existing vegetation is protected or, if unable to be protected, the extent to which vegetation is reinstated through appropriate landscaping and rehabilitation of the site (including backfilling, re-spreading of subsoil and topsoil, and contouring followed by re-pasturing and/or revegetation).

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Natural hazards

- g. The extent to which overland flow paths are protected.
- h. Whether soil erosion and land stability issues are addressed.
- i. The overall potential for increased hazard risks has been factored in.

Health and safety

- j. The extent to which the earthworks are managed to avoid soil erosion and stability, the control of dust, and the potential for increased hazard risks.

Protection of productive soils

- k. The effects of land disturbance on the life-supporting capacity of the productive soils of the Heretaunga Plains.
- l. Whether methods to separate soil horizons during stripping have been adopted. Land capability and potential end uses of the site. Measures to safeguard the life-supporting capacity of stockpiled soils.

Note Accidental Discovery of Sensitive Material

Despite any other rule in this plan permitting earthworks or any activity associated with earthworks, in the event of the discovery of sensitive material (which is not expressly provided for by any resource consent or other statutory authority), the owner of the site or the consent holder must take the following steps:

Commented [LL22]: Heritage New Zealand (273.163)

Cease works and secure the area

- a. Immediately cease all works within 20 m of any part of the discovery, including shutting down all earth-disturbing machinery and stopping all earthmoving activities.
- b. Secure the area of the discovery, including a sufficient buffer area to ensure that all sensitive material remains undisturbed.

Inform the relevant authorities and parties immediately of the discovery

- a. The New Zealand Police if the discovery is of human remains or kōiwi.
- b. The Council in all cases.
- c. Heritage New Zealand Pouhere Taonga if the discovery is an archaeological site, Māori cultural artefact, human remains, or kōiwi.
- d. Mana whenua if the discovery is an archaeological site, Māori cultural artefact, or kōiwi.

Wait for and enable an inspection of the site

- a. Wait for and enable an inspection of the site by the relevant authority or agency.
- b. Following site inspection and consultation with all relevant parties (including owner and consent holder), the Council will determine the area within which work must cease and any changes to controls on discharges of contaminants.

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Recommencement of work

- a. Work within the area determined by Council in 3.b above must not recommence until all the following requirements, so far as relevant to the discovery, have been met:
 - i. Heritage New Zealand has confirmed that an archaeological authority has been granted for the work or that none is required.
 - ii. Any required notification under the Protected Objects Act 1975 has been made to the Ministry for Culture and Heritage.
 - iii. Any material of scientific or educational importance must be recorded and, if appropriate, recovered and preserved.
 - iv. Where the site is of Maori origin and an authority from Heritage New Zealand Pouhere Taonga is not required, the Council will confirm, in consultation with mana whenua, that:
 1. any kōiwi have either been retained where discovered or removed in accordance with the appropriate tikanga, and
 2. any agreed revisions to the planned works to be/have been made in order to address adverse effects on Māori cultural values.
- b. Resource consent has been granted to any alteration or amendment to the earthworks or land disturbance that may be necessary to avoid the sensitive materials and that is not otherwise permitted under the plan or allowed by existing resource consent.
- c. There are no requirements in the case of archaeological sites that are not of Māori origin and not covered by the Heritage New Zealand Pouhere Taonga Act 2014 (post 1900 recorded archaeological sites)

Commented [LL23]: Heritage New Zealand (273.163)

For the purpose of this standard 'sensitive material' means:

- a. Human remains and kōiwi;
- b. An archaeological site;
- c. A Māori cultural artefact/taonga tūturu, and
- d. A protected New Zealand object as defined in the Protected Objects Act 1975 (including any fossil or sub-fossil).

Appendix B – Summary of Recommended Responses to Submissions and Further Submissions

Section / Sub-section / Provision	Submitter Name	Submission number / Point Number	Position	Summary of Submission	Relief Summary	Link to Submission (click to open)	Officers Recommendations
EW - Earthworks /Issues / EW-I1: Disturbance of ecosystems, waterways, and productive soils	Te Taiwhenua o te Whanganui a Orotu	63.3	Amend	Considers that EW-I1 must recognise the impacts of network utility operators clearing waterways on eels, and that District Plan provisions must include provisions to protect taonga species (eels) in these circumstances.	Amend EW-I1 so that it acknowledges the impacts network utility operators can have on taonga species (eels) when clearing drains. It is inferred that the submitter also wishes to include provision within the Earthworks chapter that address this issue.	Open Submission	Reject or defer to ECO Chapter.
EW - Earthworks /Issues / EW-I1: Disturbance of ecosystems, waterways, and productive soils	Sera Chambers	FS 113.63.3	Support	Agree with submitter. Refer full submission 150 from Sera Chambers.	Allowed		Reject or defer to ECO Chapter.
EW - Earthworks / /	Transpower New Zealand Limited	99.72	Amend	Seeks a specific submission rule within the Network Utilities chapter to manage earthwork activities within the National Grid Yard. Should the submission point be rejected, Transpower seeks the rule within the Earthworks Chapter.	Seeks a specific submission rule within the Network Utilities chapter to manage earthwork activities within the National Grid Yard. Should the submission point be rejected, Transpower seeks the rule within the Earthworks Chapter. Appropriate cross reference would be required in the introduction to the Network Utilities Chapter to make the existence and linkage of the rule evident to plan users.	Open Submission	Accept
EW - Earthworks / /	Horticulture New Zealand	FS 44.99.72	Amend	Support relief sought as long as there is specific reference to exclusion of cultivation activities	Allow in part Support relief sought as long as there is specific reference to exclusion of cultivation activities		Accept
EW - Earthworks / /	Hawke's Bay Airport Limited ("HBAL") ("HBAL")	FS 351.99.72	Support	HBAL support the provision of earthworks rules specific to network utilities insofar as any new rule aligns with relief sought in HBAL's original submission regarding the effective management and prompt remediation of earthworks.	Allow in part		Accept
EW - Earthworks / /	Kainga Ora Home and Communities	FS 373.99.72	Oppose	Kāinga Ora are concerned with the rules/standards for earthworks within the National Grid Yard sitting in the Network Utilities chapter rather than the Earthworks chapter in terms of the logical placement of provisions for practitioners.	Disallowed		Reject
EW - Earthworks /EW - Earthworks - Rules Table /EW-R5: Earthworks or land disturbance for network utilities by a network utility operator, including vehicle access tracks for network utilities	Transpower New Zealand Limited	99.74	Amend	Transpower supports the centralisation of all network utilities provisions into the Network Utilities chapter rather than being scattered through the Proposed District Plan. Standard 7(30) of the National Planning Standards states that The Earthworks chapter must include cross-references to any relevant earthworks provisions under Energy, Infrastructure, and Transport heading.In addition to the above relocation issue, Rule EW-R5 requires compliance with Standards S2-S11 but not all are relevant to network utilities: - S2 The cut and fill requirements may unintentionally apply to underground infrastructure when the focus should be on the finished ground level, not the depth of cut or fill which is undertaken in the process of undergrounding. As underground infrastructure spans multiple titles, S2(2)which required setbacks from boundaries is not relevant for network utilities. - S4 For network utility projects it is likely that earthworks will be removed offsite, and this is an unreasonably small limit.	Relocate Rule EW-R5 and the relevant standards into the Network Utilities chapter, and amend remove reference to standards S2 and S4.	Open Submission	Further evidence required.
EW - Earthworks /EW - Earthworks - Rules Table /EW-R5: Earthworks or land disturbance for network utilities by a network utility operator, including vehicle access tracks for network utilities	Hawke's Bay Airport Limited ("HBAL") ("HBAL")	FS 351.99.74	Support	HBAL support the provision of earthworks rules specific to network utilities insofar as any new rule aligns with relief sought in HBAL's original submission regarding the effective management and prompt remediation of earthworks.	Allow in part		Accept.

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EW - Earthworks /EW - Earthworks - Rules Table	Sera Chambers	150.115	Oppose	Opposes on the basis that any sections of the PDP that reference Site of Significance to Māori, Indigenous Biodiversity, or Natural Hazards, will need to be consulted on again as the information in the current version of the PDP may not be fit for purpose based on the Plan Variation.	Seeks for any sections of the PDP that reference Site of Significance to Māori, Indigenous Biodiversity, or Natural Hazards, will need to be consulted on again as the information in the current version of the PDP may not be fit for purpose based on the Plan Variation.	Open Submission	Reject
EW - Earthworks/Rules/EW-R1: Earthworks for building activities	Sera Chambers	150.116	Amend	Considers that notification should not be precluded for applications under this rule. The adjoining landowner should be notified and be able to have their say on this, to allow their enjoyment of property rights as a guiding principle and the option to have the impact mitigated by the entity impacting the enjoyment.	Seeks to amend to require notification under this rule so that adjoining landowners are notified and able to have their say, and the option to have the impact mitigated by the entity impacting on the enjoyment.	Open Submission	Reject
EW - Earthworks/Rules/EW-R1: Earthworks for building activities	Hawke's Bay Airport Limited ("HBAL") (HBAL)	FS 569.150.116	Oppose	Schedule 1 of the RMA and submission and further submission process allows the public to be notified of pending changes to the Proposed Plan. As part of that process, submitters are provided with an opportunity to express any potential concerns, such as those raised by the submitter, which will materialise as controls on land use and development within the District. It is inappropriate to require all earthworks activities to be notified as requested by this submitter and runs counter to the well established notification tests contained within the RMA.	Disallowed.		Accept
EW - Earthworks/Rules/EW-R1: Earthworks for building activities	Sera Chambers	FS 559.150.116	Support	I support all of my further submissions. I oppose the Medium Density Housing Zone (MRZ) and seek to exclude Onekawa and Pirimai from this zone. I support all other submitters who oppose MRZ on their streets/areas and ask Council to exclude those submitters streets/areas from the proposed MRZ and the High Density Housing Zone (HDZ) where requested via formal PDP submissions. Adjoining landowners should be notified and able to have their say about impacts and mitigations within a designation or by an entity and the option to have any impacts mitigated by the entity e.g. by developers, NZTA, NCC, HBAL/Airways/aircraft, network utilities etc. This ensures that NCC are adhering to their vision of Enabling places and spaces where everybody wants to be. NCC needs to ensure that are fully open and transparent with their public and listen to their public. The Proposed District Plan is an important part of how NCC will move forward into the future. A lot of the community may not read or may not be aware of key changes that NCC intend to make, or the proposed submissions that submitters/entities have made, and they may not be aware of these changes until after NCC has made their decisions on the PDP. Napier ratepayers are trusting NCC to make the right choices, to be open and transparent and to put their interests first. Refer full submission from Sera Chambers 150 and further submission 549 and all further submissions provided to others and the submission attached.	Allowed		Reject
EW - Earthworks /EW - Earthworks - Standards Table /All zones	Sera Chambers	150.117	Amend	Considers that the rule should be amended to extend to adjoining buildings/land on the basis that adjoining landowners should be notified and be able to have their say on this, to allow their enjoyment of property rights as a guiding principle and the option to have the impact mitigated by the entity impacting the enjoyment. This includes being informed of the works and how long they will be going for.	Amend the rule to extend it to cover adjoining buildings/land on the basis that adjoining landowners should be notified and be able to have their say.	Open Submission	Reject

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EW - Earthworks/Standards/EW-S7: Control of dust	Sera Chambers	150.307 (Renotified Submission)	Amend	Considers that the standard should be amended to extend to adjoining buildings/land on the basis that adjoining landowners should be notified and be able to have their say on this, to allow their enjoyment of property rights as a guiding principle and the option to have the impact mitigated by the entity impacting the enjoyment. This includes being informed of the works and how long they will be going for.	Opposes designation on the basis that the enjoyment of property rights by affected landowners should be the guiding principle and that adjoining landowners should be notified and able to have their say about the impacts and mitigations within the designation.	Open Submission	Reject
EW - Earthworks/Standards/EW-S7: Control of dust	Hawke's Bay Airport Limited ("HBAL") (HBAL)	FS 569.150.307	Oppose	Schedule 1 of the RMA and submission and further submission process allows the public to be notified of pending changes to the Proposed Plan. As part of that process, submitters are provided with an opportunity to express any potential concerns, such as those raised by the submitter, which will materialise as controls on land use and development within the District. It is inappropriate to require all earthworks activities to be notified as requested by this submitter and runs counter to the well established notification tests contained within the RMA.	Disallowed.		Accept
EW - Earthworks/Standards/EW-S7: Control of dust	Sera Chambers	FS 559.150.307	Support	I support all of my further submissions. I oppose the Medium Density Housing Zone (MRZ) and seek to exclude Onekawa and Pirimai from this zone. I support all other submitters who oppose MRZ on their streets/areas and ask Council to exclude those submitters streets/areas from the proposed MRZ and the High Density Housing Zone (HDZ) where requested via formal PDP submissions. Adjoining landowners should be notified and able to have their say about impacts and mitigations within a designation or by an entity and the option to have any impacts mitigated by the entity e.g. by developers, NZTA, NCC, HBAL/Airways/aircraft, network utilities etc. This ensures that NCC are adhering to their vision of Enabling places and spaces where everybody wants to be. NCC needs to ensure that are fully open and transparent with their public and listen to their public. The Proposed District Plan is an important part of how NCC will move forward into the future. A lot of the community may not read or may not be aware of key changes that NCC intend to make, or the proposed submissions that submitters/entities have made, and they may not be aware of these changes until after NCC has made their decisions on the PDP. Napier ratepayers are trusting NCC to make the right choices, to be open and transparent and to put their interests first. Refer full submission from Sera Chambers 150 and further submission 549 and all further submissions provided to others and the submission attached.	Disallowed		Reject
EW - Earthworks /EW - Earthworks - Rules Table	Chorus New Zealand Limited, Connexa Limited, Aotearoa Tower Group (trading as FortySouth), One New Zealand Group Limited and Spark New Zealand Trading Limited	151.67	Amend	Considers that the zone rules should not apply to network utilities	Amend as follows Zone rules apply in addition to the activities below (<u>noting these do not apply to district-wide matters</u>). Earthworks rules are also found in the following chapters: ...	Open Submission	Reject

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EW - Earthworks /EW - Earthworks - Rules Table	Department of Conservation	FS 396.151.67	Oppose	Earthwork requirements for each zone should be required for network utilities considering the significant impacts earthworks can have on sensitive environments such as the Ahuriri Estuary - Te Whanganui-a-Orotū and outstanding natural features	Disallowed		Accept
EW - Earthworks /EW - Earthworks - Rules Table /EW-R5: Earthworks or land disturbance for network utilities by a network utility operator, including vehicle access tracks for network utilities	Chorus New Zealand Limited, Connexa Limited, Aotearoa Tower Group (trading as FortySouth), One New Zealand Group Limited and Spark New Zealand Trading Limited	151.68	Support	Supports specific earthworks rule for network utilities, but should be located in the NU Chapter.	Retain the rule as drafted but amend to locate it in the NU chapter.	Open Submission	Reject
EW - Earthworks /EW - Earthworks - Rules Table /EW-R5: Earthworks or land disturbance for network utilities by a network utility operator, including vehicle access tracks for network utilities	Hawke's Bay Airport Limited ("HBAL")	FS 345.151.68	Support	HBAL support the provision of earthworks rules specific to network utilities insofar as any new rule aligns with relief sought in HBAL's original submission regarding the effective management and prompt remediation of earthworks.	Allowed		Reject
EW - Earthworks /EW - Earthworks - Rules Table /EW-R5: Earthworks or land disturbance for network utilities by a network utility operator, including vehicle access tracks for network utilities	Transpower New Zealand Limited	FS 406.151.68	Support	Transpower supports the relocation of the rule noting the introduction to the NU – Network Utilities Chapter provides "... it is considered appropriate that a single set of rules be provided that apply across the District". The relocation of EW-R5 would be consistent with this approach.	Allowed		Reject
EW - Earthworks /EW - Earthworks - Standards Table /All zones	Chorus New Zealand Limited, Connexa Limited, Aotearoa Tower Group (trading as FortySouth), One New Zealand Group Limited and Spark New Zealand Trading Limited	151.69	Amend	Considers that earthworks which do not alter the ground level, such as trenching, should not require the same setbacks from streams and overland flow areas. Further, they should be located in the NU chapter.	Amend the standard as follows, and place it in the NU Chapter: ... 1. Cut and fill does not exceed 2.5 m vertically. 2. The cut and fill depth, <u>where at the completion of the earthworks result in a change to the ground level</u> , does not exceed the distance from the nearest site boundary as measured on a horizontal plane. 3. The cut and fill depth does not exceed 1 m vertically where the top of the excavation is within 10 m of buildings or surcharge loads. 4. The cut or fill, <u>where at the completion of the earthworks result in a change to the ground level</u> , is no closer than (measured on a horizontal plane):	Open Submission	Reject
EW - Earthworks /EW - Earthworks - Standards Table /All zones	Hawke's Bay Regional Council	FS 20.151.69	Oppose	Earthworks which do not meet the cut and fill standards warrant closer consideration while works are being undertaken. The matters of discretion identify the main areas of concern.This rule should apply even when the finished result returns the land to a neutral position	Disallowed		Accept

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EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	New Zealand Frost Fans Limited	165.30	Oppose	Opposes the inclusion of the note as it is unclear, particularly that not all building activities that require earthworks are required to obtain building consent and, whether regulatory compliance is required, and subsequently if non-compliance is enforceable by way of resource consent. Considers the installation of fences, equipment and machinery should be exempted as the effects of those day to day activities are less than minor. Considers that requiring these activities to comply does not meet the National Policy Statement for Highly Productive Land.	Delete note, clarify the provisions for supplying earthworks details is not required for buildings and structures that do not require building consents Exempt the installation of fencing, machinery and equipment for land based primary production activities from the provisions of the Earthworks chapter follows or alternative and any consequential relief required to address the matters raised in the submission	Open Submission	Reject.
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	Hawke's Bay Regional Council	FS 22.165.30	Oppose	Earthworks which do not meet the standards set warrant closer consideration,while works are being undertaken. The matters of discretion identify the main areas of concern with respect to ongoing environment effects.	Disallowed		Accept
EW - Earthworks /Policies /EW-P1: Allow for earthworks	KiwiRail Holdings Limited	168.79	Support	Supports policy that seeks to provide for earthworks if the scale, volume and effects are appropriately managed.	Retain as proposed.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Rules Table/EW-R1: Earthworks for building activities	KiwiRail Holdings Limited	168.80	Support	Supports the Permitted Activity status of earthworks for building activities, subject to standards.	Retain as proposed.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Rules Table/EW-R1: Earthworks for building activities	Kainga Ora - Homes and Communities	FS 488.168.80	Oppose	Kāinga Ora support the permitted earthworks but note there is inconsistency between the permitted thresholds set out under this Rule and those set out under Standard EW-S1 for the extent of earthworks permitted in all residential zones. Seek a permitted volume of 250m3 across all Residential Zones under EW-S1: Extent of Earthworks. Kainga Ora also consider that the earthworks rule should relate to general earthworks and not be differentiated according to building activities.	Disallowed		Reject
EW - Earthworks /EW - Earthworks - Rules Table/EW-R3:	KiwiRail Holdings Limited	168.81	Support	Supports the Permitted Activity status of earthworks for network utilities, including access tracks, by a network utility operator. Submitter requires access roads to maintain and upgrade the rail network.	Retain as proposed.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	KiwiRail Holdings Limited	168.82	Support	Supports these standards for earthworks extents in different zones and cut/fill requirements.	Retain as proposed.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	Kainga Ora - Homes and Communities	FS 488.168.82	Oppose	Kāinga Ora support the permitted earthworks but note there is inconsistency between the permitted thresholds set out under this Rule and those set out under Standard EW-S1 for the extent of earthworks permitted in all residential zones. Seek a permitted volume of 250m3 across all Residential Zones under EW-S1: Extent of Earthworks. Kainga Ora also consider that the earthworks rule should relate to general earthworks and not be differentiated according to building activities.	Disallowed		Reject
EW - Earthworks /EW - Earthworks - Standards Table /EW-S2: Earthworks - cut and fill	KiwiRail Holdings Limited	168.83	Support	Supports these standards for earthworks extents in different zones and cut/fill requirements.	Retain as proposed.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S3: Slope stability	KiwiRail Holdings Limited	168.84	Support	Support this standard to ensure earthworks don't result in land instability at or beyond a site.	Retain as proposed.	Open Submission	Accept

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EW - Earthworks /EW - Earthworks - Standards Table /EW-S5: Control of silt and sediment	KiwiRail Holdings Limited	168.85	Amend	Supports this standard however, seeks inclusion of the rail corridor. Considers that lineside development can result in uncontrolled silt and sediment entering the rail corridor which can compromise the rail network and threaten the safe operation of trains.	Amend as follows: 1. For the duration of earthworks, measures must be implemented to prevent silt or sediment from entering the stormwater system, overland flow paths, <u>rail corridor</u> or roads.	Open Submission	Accept in part.
EW - Earthworks /EW - Earthworks - Standards Table /EW-S5: Control of silt and sediment	Kainga Ora - Homes and Communities	FS 488.168.85	Amend	Kāinga Ora does not consider that the rail corridor needs to specifically be included within this standard and considers this could be better addressed by including the word 'adjacent site or allotment'.	Allow in part Disallowed in part		Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S6: Site reinstatement	KiwiRail Holdings Limited	168.86	Support	Supports site reinstatement following earthworks to control sediment.	Retain as proposed.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Rules Table /EW-R5: Earthworks or land disturbance for network utilities by a network utility operator, including vehicle access tracks for network utilities	Powerco Limited	172.49	Support	It is appropriate that there is a network utilities rule provided within the earthworks chapter.	Retain as drafted.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S8: Proximity to gas lines	Powerco Limited	172.50	Support	It is appropriate that this standard refers to gas distribution works.	Retain as drafted.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	Napier City Council	196.39	Amend	EW-R1A Open Space Zones in the PDP include Open Space and Recreation Zones. Consistent terminology should be used for clarity in plan implementation.	Change reference in clause (c) to 'Open Space Zones' to 'Open Space and Recreation Zones'.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	Napier City Council	196.78	Amend	EW-R1(2) Rule EW-R1(2) relates to earthworks over 12-month/per hectare rate for just building works (building platform, foundations). If you have a standard 800m ² residential site the rule allows less than 10m ³ which would trigger a resource consent for earthworks for most building activities. Standard EW-S1 (extent of earthworks) specifies a flat threshold of 50m ³ per site. It would therefore be beneficial to apply EW-R7 in most cases for building on residential sites as it is more permissive; however, EW-R7 does not apply to earthworks for building activities as that is already provided for in the table. The earthworks for building activities threshold (EW-R1(2)) is more restrictive than the general earthworks standard (EW-S1). The different thresholds do not appear to be effects-based nor supported by the policy direction. Consider amending the earthworks for building activities thresholds to be per hectare per site for rural zones, and just per site for the urban zones. This will meet the intent of being more enabling for building activities than the general zone thresholds, however will recognise that for smaller sites a per hectare ratio doesn't work. Also reconsider the application of thresholds for the Settlement and Ahuriri Estuary Special Zones to ensure they're consistent with the nature of development anticipated in the zone.	Amend as follows (or similar relief): The extent of earthworks for building activities for any 12-month period (per hectare per site) is: a) Rural Production Zone, Rural Lifestyle, Airport Zone, Mission Precincts (all), Settlement Zone , Jervoisstown Precinct, Rural Special Control Area, Tertiary Education Zone, and Wastewater Treatment Specific Control Area – 200 m ³ per hectare per site . b) All Residential Zones and Precincts, <u>the Settlement Zone</u> , all Development Areas, all Commercial and Mixed Use Zones and Precincts, all Industrial Zones and Precincts, Boat Harbour Zone, Maori Purpose Zone, Port Zone, and Ahuriri Estuary Special Zone – 100 m ³ per site . c) Open Space Zones and <u>Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone</u> – 2000 m ³ per hectare per site .	Open Submission	Accept in part

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EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	Hawke's Bay Airport Limited ("HBAL") (HBAL)	FS 353.196.78	Amend	HBAL oppose the provision of 2000m3 per hectare of earthworks in the Te Whanganui a Orotu (Ahuriri Estuary) Stormwater and Ecology Zone as a permitted activity. As the zone appears to comprise a single title of some 289ha, this would allow approximately 578,000m3 of earthworks to be undertaken without consent. The extent of earthworks poses a significant risk of bird-strike to the Airport and compromises passenger safety. HBAL support other proposed amendments insofar as they improve clarity of the rule.	Allow in part Disallow in part		Further evidence required.
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	Kainga Ora - Homes and Communities	FS 496.196.78	Amend	Kāinga Ora supports the amendments to the earthworks provisions for residential zones to relate to a site regardless of its size and without having to apply a per hectare rate, which would set a more restrictive maximum earthworks threshold for a standard site. Kainga Ora however consider that the thresholds are too restrictive and propose a minimum 250m3 for (b).	Allow in part		Further evidence required.
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	Sera Chambers	FS 551.496.78	Oppose	Opposes the submitter's submission. Refer full submission 150 from Sera Chambers and specifically opposition to EW-R1A and EW-R2A - adjoining landowners should be notified and able to have their say on this, to allow their enjoyment of property rights as a guiding principle and the option to have the impact mitigated by the entity impacting their enjoyment.	Disallowed		Reject
EW - Earthworks /General /General	Hawke's Bay Airport Limited ("HBAL") (HBAL)	198.46	Support	Generally supportive of the Earthworks chapter.	Retain as notified.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Rules Table /General	Hawke's Bay Airport Limited ("HBAL") (HBAL)	198.47	Support	Generally supportive of the Earthworks Chapter and supports provisions which require the management of dust effects across all zones. It is critical to the safety and operation of the Airport that earthworks are appropriately managed. This is due to the potential for earthworks to give rise to dust effects, which can reduce visibility for pilots, and can also be drawn into the engines causing gradual damage. Poorly managed earthworks that result in standing pools of water can also act as a bird attractant which can increase the potential for bird strike. Accordingly, HBAL submits that controls to this effect should be included in the Proposed Plan.	Retain as notified.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S6: Site reinstatement	Hawke's Bay Airport Limited ("HBAL") (HBAL)	198.48	Amend	Generally supportive of the Earthworks Chapter and supports provisions which require the management of dust effects across all zones. It is critical to the safety and operation of the Airport that earthworks are appropriately managed. This is due to the potential for earthworks to give rise to dust effects, which can reduce visibility for pilots, and can also be drawn into the engines causing gradual damage. Poorly managed earthworks that result in standing pools of water can also act as a bird attractant which can increase the potential for bird strike. Accordingly, HBAL submits that controls to this effect should be included in the Proposed Plan.	Amend EW-S6 as follows: As soon as practicable, but no later than six months from the commencement of earthworks: a) The earthworks area shall be stabilised, filled and/or recontoured in a manner consistent with the surrounding land <u>and to remediate any standing pools of water;</u>	Open Submission	Accept
EW - Earthworks /Objectives /EW-O1: Environment (soils, ecosystems, waterways)	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.98	Support	The Fuel Companies support EW-O1 as notified.	Retain EW-O1 as notified.	Open Submission	Accept

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EW - Earthworks /Objectives /EW-O3: Hazards and health and safety	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.99	Support	The Fuel Companies support EW-O3 as notified.	Retain EW-O3 as notified.	Open Submission	Accept
EW - Earthworks /Policies /EW-P1: Allow for earthworks	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.100	Support	The Fuel Companies particularly support earthworks being a permitted activity where effects are appropriately managed.	Retain EW-P1 as notified.	Open Submission	Accept
EW - Earthworks /Policies /EW-P2: Environment	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.101	Support	The Fuel Companies support EW-P2 as notified	Retain EW-P2 as notified.	Open Submission	Accept
EW - Earthworks /Policies /EW-P6: Cultural and heritage values	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.102	Support	The Fuel Companies support EW-P6 as notified.	Retain EW-P6 as notified	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.103	Support	The Fuel Companies support EW-R1A provided that the changes sought to the Earthworks standards that seek to avoid conflict with the NESCS, are accepted.	Retain EW-R1A as notified.	Open Submission	Accept in part.
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.104	Amend	The Fuel Companies generally support the intent of EW-R1B but seek a new matter of discretion that accounts for benefits associated with earthworks activities.	Amend EW-R1B as follows: Matters of discretion are: 1. The matters of discretion of the effects standard infringed; 2. 6. Natural hazards; and 7. Health and safety, and 8. Benefits associated with the earthworks.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	KiwiRail Holdings Limited	FS 264.215.104	Support	KiwiRail supports the consideration of the benefits of earthworks in the assessment of resource consent for any earthworks.	Allowed Accept submission		Accept
EW - Earthworks /EW - Earthworks - Rules Table /EW-R3:	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.105	Amend	Generally support, with the exception of the requirement for earthworks associated with fuel tank replacement and/or removal to comply with EW-S4 relating to the removal of soil from a site, as this matter is specifically controlled under the NESCS.	Amend EW-R3 to remove the requirement for replacement or removal of a fuel storage system to comply with standard EW-S4, as follows: EW-R3: Earthworks associated with the replacement and/or removal of a fuel storage system as defined in the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 All zones EW-R3A Activity status: Permitted Where: Compliance with the Earthworks effects standards EW- S3 and EW- S5- EW-S8.	Open Submission	Accept

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EW - Earthworks /EW - Earthworks - Rules Table /EW-R5: Earthworks or land disturbance for network utilities by a network utility operator, including vehicle access tracks for network utilities	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.106	Support	The Fuel Companies support the permitted activity status for network utilities. The Fuel Companies also support that EW-S1 is not required to be met under this rule.The default to RD status is also supported.	Retain EW-R5 as notified.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Rules Table / EW-R7: Earthworks not otherwise provided for in this table	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.107	Support	The Fuel Companies support the permissive approach to earthworks not otherwise provided for, together with the default to RD status where compliance with the earthworks standards is not achieved	Retain EW-R7 as notified.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.108	Amend	The intent of this standard is generally supported. However, the Fuel Companies seek an additional matter of discretion that accounts for any benefits associated with an earthwork activity.	Amend EW-S1 as follows: Matters of discretion are: 1. Sediment control for the protection of waterways; 2. ... 5. Natural hazards; and 6. Health and safety., <u>and</u> 7. <u>Benefits associated with the earthworks.</u>	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S2: Earthworks - cut and fill	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.109	Amend	The intent of this standard is generally supported. However, the Fuel Companies seek an additional matter of discretion that accounts for any benefits associated with an earthwork activity.	Amend EW-S2 as follows: Matters of discretion are: 1. Purpose of the standard; 2. ... 6. Natural hazards; and 7. Health and safety., <u>and</u> 8. <u>Benefits associated with the earthworks.</u>	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S3: Slope stability	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.110	Amend	The intent of this standard is generally supported. However, the Fuel Companies seek an additional matter of discretion that accounts for any benefits associated with an earthwork activity.	Amend EW-S3 as follows: Matters of discretion are: 1. Purpose of the standard; 2. ... 6. Natural hazards; and 7. Health and safety., <u>and</u> 8. <u>Benefits associated with the earthworks.</u>	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S4: Removal off site	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.111	Amend	The Fuel Companies seek that EW-S4 is amended to include an exemption for activities which are regulated under the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS). This will avoid conflict with the NESCS, which allows for 5m3 per 500m2 to be taken away per year and soil to be taken for the purpose of laboratory analysis as a permitted activity.The Fuel Companies also seek an additional matter of discretion that accounts for any benefits associated with the earthworks activity.	Amend EW-S4 as follows: Rural Productive Zone i. Earthworks result in the removal off site of no more than 25 m3 of earth materials per 12 month period. All other zones ii. Earthworks result in the removal off site of no more than 100 m3 of earth materials per 12 month period. <u>Except that this standard does not apply to activities regulated under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011.</u> Matters of discretion are: 1. The purpose of the standard, and 2. Protection of productive soils; and 3. <u>Benefits associated with the earthworks.</u>	Open Submission	Accept

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Section / Sub-section / Provision	Submitter Name	Submission number / Point Number	Position	Summary of Submission	Relief Summary	Link to Submission (click to open)	Officers Recommendations
EW - Earthworks /EW - Earthworks - Standards Table /EW-S5: Control of silt and sediment	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.112	Amend	The intent of this standard is generally supported. However, the requirement to entirely prevent silt or sediment from entering the stormwater system is considered too absolute and unlikely to be able to be achieved in all situations. As suggested approach would be to require implementation of best practice silt and sediment control measures to reduce the risk of silt and sediment becoming entrained in stormwater. Further, the Fuel Companies seek an additional matter of discretion that accounts for any benefits associated with an earthwork activity.	Amend EW-S5 as follows: EW-S5: Control of silt and sediment 1. For the duration of earthworks, <u>best practice silt and sediment control</u> measures must be implemented to <u>reduce the risk of prevent</u> silt or sediment from entering the stormwater system, overland f low paths, or roads. Matters of discretion are: 1. Purpose of the standard; 2. Sediment control for the protection of waterways; 3. Natural hazards; and 4. Health and Safety, <u>and</u> 5. <u>Benefits associated with the earthworks.</u>	Open Submission	Accept in part
EW - Earthworks /EW - Earthworks - Standards Table /EW-S5: Control of silt and sediment	KiwiRail Holdings Limited	FS 264.215.112	Support	KiwiRail agrees that it may not be possible to prevent all silt and sediment from accidentally leaving a site, even with the use of best practice measures. KiwiRail in its primary submission also sought a reference to minimising effects on the rail corridor from silt and sediment.	Allowed Accept submission		Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S6: Site reinstatement	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.113	Amend	The intent of this standard is generally supported. However, the Fuel Companies seek an additional matter of discretion that accounts for any benefits associated with an earthwork activity.	Amend EW-S6 as follows: Matters of discretion are: 1. Purpose of the standard; 2. ... 5. Natural hazards; and 6. Health and safety, <u>and</u> 7. <u>Benefits associated with the earthworks.</u>	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S7: Control of dust	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.114	Amend	The intent of this standard is generally supported. However, the Fuel Companies seek an additional matter of discretion that accounts for any benefits associated with an earthwork activity.	Amend EW-S6 as follows: Matters of discretion are: 1. Purpose of the standard; 2. ... 4. Natural hazards; and 5. Health and safety, <u>and</u> 6. <u>Benefits associated with the earthworks.</u>	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S8: Proximity to gas lines	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.115	Support	The intent of this standard is supported.The Fuel Companies also seek an additional matter of discretion that accounts for any benefits associated with an earthwork activity.	Retain EW-S8. Add a new assessment criteria that accounts for the benefits associated with earthworks.	Open Submission	Accept
EW - Earthworks /Assessment criteria /General	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (the Fuel Companies)	215.116	Support	The intent of the general information requirements and EW-AC1 are supported.	Retain the general information requirements and EW-AC1.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	Foodstuffs North Island Limited ("FSNI")	238.4	Oppose	Opposes the proposed maximum of 50m ³ of earthworks for business and industrial zones. Considers that this limit does not reflect the generally larger scale of sites and required earthworks to enable business and industrial activities	Amend to enable a larger volume of earthworks as a permitted activity within business and industrial zones, up to 2,500m ³ per site, per 12 month period.	Open Submission	Reject

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EW - Earthworks /EW - Earthworks - Standards Table /EW-S3: Slope stability	Foodstuffs North Island Limited ("FSNI")	238.5	Oppose	Opposes the inclusion of site stability as a standard to be complied with within EW – S3. It is considered more appropriate for potential stability effects to be assessed as a matter of discretion for earthworks with a slope greater than 22 degrees	Amend EW – S3 as below: 1. Earthworks shall not be undertaken on land with a slope greater than 22 degrees 2. Earthworks must not result in any instability of land or structures at or beyond the boundary of the site where earthworks occur. Matters of discretion are: 1. Purpose of the standard; 2. Sediment control for the protection of waterways; 3. Visual impacts and landscape values; 4. Heritage and cultural values; 5. Ecological values; 6. Natural hazards, and 7. Health and safety, and <u>8. Stability of surrounding land and structures</u>	Open Submission	Reject
EW - Earthworks /Objectives /EW-O1: Environment (soils, ecosystems, waterways)	Ravensdown Limited (Ravensdown)	246.58	Support	Supports EW - Earthworks Objective EW-O1: Environment (soils, ecosystems, waterways) as providing for, or enabling earthworks, given that they are more often than not associated with all development activities is supported. It is also agreed that earthworks should not put at risk the life-supporting capacity soils, nor the health and well-being of ecosystems and waterways.	Retain Objective EW-O1 as notified.	Open Submission	Accept
EW - Earthworks /Objectives /EW-O3: Hazards and health and safety	Ravensdown Limited (Ravensdown)	246.59	Support	Supports Objective EW-O3: Hazards and health and safety as it is appropriate to ensure that earthworks do not exacerbate any natural hazard risks or put the health and safety of people and property at risk.	Retain Objective EW-O3 as notified.	Open Submission	Accept
EW - Earthworks /Policies /EW-P1: Allow for earthworks	Ravensdown Limited (Ravensdown)	246.60	Support	Supports Policy EW-P1: Allow for earthworks as providing for, or allowing, earthworks provided appropriate controls are in place appropriately avoids unnecessary regulatory control of development activities.	Retain Policy EW-P1 as notified.	Open Submission	Accept
EW - Earthworks /Policies /EW-P2: Environment	Ravensdown Limited (Ravensdown)	246.61	Support	Supports EW-P2: Environment as although this policy restates and expands on aspects of Policy EW-P1, it is appropriate to ensure that the potential effects of earthworks are appropriately managed. It is considered that the management mechanisms identified within this policy reflect the matters to be considered when setting regulatory controls for earthworks.	Retain Policy EW-P2 as notified.	Open Submission	Accept
EW - Earthworks /Policies /EW-P5: Natural hazards	Ravensdown Limited (Ravensdown)	246.62	Support	Supports EW-P5: Natural hazards as it is appropriate to require earthworks to be designed and carried out in a manner that does not undermine the stability of land, buildings and structures, and does not exacerbate any natural hazard risks.	Retain Policy EW-P5 as notified.	Open Submission	Accept

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EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	Ravensdown Limited (Ravensdown)	246.63	Amend	Considers EW- Earthworks Rule EW-R1: Earthworks for building activities should be amended as the volume limits are too restrictive. The volume limit of 100m3 in industrial zones does not reflect the nature of large-scale building development that can establish in the industrial zones (i.e., 100m3 could only provide for a small building of around 10m by 10m, with 1m depth of earthworks for foundations). In addition, the limit does not recognise the controls that will be in place through compliance with the Standards.Given the issues associated with the volume limit that applies to industrial zones and following a review of volume limits in other district plans that have become operative relatively recently, a 2,500m3 volume limit is being requested by Ravensdown. This is consistent with the district level earthworks rules in industrial zones in the Auckland Unitary Plan Operative in part.	Amend Rule EW-R1A by increasing the volume limit, that applies to all industrial zones, from 100m3 to 2,500m3.	Open Submission	Further evidence required.
EW - Earthworks /EW - Earthworks - Rules Table / EW-R7: Earthworks not otherwise provided for in this table	Ravensdown Limited (Ravensdown)	246.64	Support	Supports Rule EW-R7: Earthworks not otherwise provided for in the table as providing a permitted activity pathway for all other earthworks, provided the controls contained in the standards are met (subject to the various amendments sought through this submission), is considered appropriate and is consistent with the relevant EW objectives and policies. Restricted discretionary activity is also appropriate in circumstances where the EW standards are not complied with.	Retain Rule EW-R7 as notified.	Open Submission	Accept in part
EW - Earthworks /EW - Earthworks - Rules Table / EW-R7: Earthworks not otherwise provided for in this table	Ravensdown Limited (Ravensdown)	246.65	Oppose	The volume limit of 50m3 in industrial zones, which is less than the 100m3 permitted for building activities under Rule EW-R1, does not reflect the nature of land development that can establish in the industrial zones. As an example, 50m3 could only provide for a car park area of around 5m by 10m, with an associated 1m depth of earthworks. In addition, the limit does not recognise the controls that will be in place through compliance with the other EW standards. For these reasons, and consistent with the amended volume limit requested for Rule EW-R1A, a 2,500m3 volume limit is being requested by Ravensdown for this standard.	Amend Standard EW-S1 by increasing the volume limit, that applies to all industrial zones, from 50m3 per site to 2,500m3 per site.	Open Submission	Further evidence required.
EW - Earthworks /EW - Earthworks - Standards Table /EW-S2: Earthworks - cut and fill	Ravensdown Limited (Ravensdown)	246.66	Support	Supports EW - Earthworks - Standards Table EW-S2: Earthworks - cut and fill as this standard specifies maximum vertical and horizontal cut and fill depth/heights and setbacks.These standards represent appropriate controls on earthworks cut and fill activities and are consistent with relevant EW objectives and policies.	Retain Standard EW-S2 as notified.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S4: Removal off site	Ravensdown Limited (Ravensdown)	246.67	Oppose	Opposes Standard EW-S1 4: Removal off site as discussed above in relation to Rule EW-R1 and Standard EW-S1, as it is considered that this volume is potentially too restrictive. A revised volume limit of 2,500m3 is requested, as this volume is consistent with the increased volume restrictions requested for Rule EW-R1 and Standard EW-S1.(Inferred relief requested)	Amend Standard EW-S4 by increasing the volume limit, that applies to all industrial zones, from 100m3 per 12-month period to 2,500m3 per 12-month period. (Inferred relief requested)	Open Submission	Reject.
EW - Earthworks /EW - Earthworks - Standards Table /EW-S5: Control of silt and sediment	Ravensdown Limited (Ravensdown)	246.68	Support	Supports EW - Earthworks Standard EW-S5: Control of silt and sediment as this standard, which applies to all zones, requires control measures to be put in place so silt and sediment does not enter stormwater systems, overland flow paths or roads.This standard represents best practice control measures for earthworks and is therefore supported.	Retain Standard EW-S5 as notified.	Open Submission	Accept

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EW - Earthworks /EW - Earthworks - Standards Table /EW-S6: Site reinstatement	Ravensdown Limited (Ravensdown)	246.69	Amend	Considers that Standard EW-S6: Site reinstatement should be amended as the requirement to reinstate the site six-months after commencement, rather than after completion, seems illogical. That is, the earthworks may not have been completed within six-months of the earthworks commencing, particularly for larger-scale developments. On this basis, it is considered that the standard should require reinstatement of earthwork sites within six- months of the completion of the earthworks.	Amend Standard EW-S6 as follows: 1. As soon as practicable, but no later than six months from the commencement <u>after the completion</u> of earthworks: ...	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table /EW-S7: Control of dust	Ravensdown Limited (Ravensdown)	246.70	Support	Supports Standard EW-S7: Control of dust as this standard, which applies to all zones, requires control measures to be put in place to manage and minimise potential dust generation.This standard represents best practice control measures for earthworks and is therefore supported.	Retain Standard EW-S7 as notified in its entirety.	Open Submission	Accept
EW - Earthworks /Policies /General	Horticulture New Zealand	257.45	Amend	Seeks that a policy, which recognises the beneficial outcomes of earthworks (including ancillary rural earthworks) is provided.	Seeks to include new policy: <u>EW-PX - Enable earthworks to provide for people and communities social, economic and cultural well-being, and their health and safety, including ancillary rural earthworks, where adverse effects are appropriately managed.</u>	Open Submission	Reject
EW - Earthworks /Policies /General	Ravensdown Limited	FS 26.257.45	Support	Ravensdown supports the new policy proposed by HortNZ, and agrees that the benefits of earthworks, including ancillary rural earthworks, should be provided for in the PDP.	Allowed Accept the submission		Reject
EW - Earthworks /EW - Earthworks - Rules Table /General	Horticulture New Zealand	257.46	Amend	Seek a permitted activity rule be included for ancillary rural earthworks to provide for rural activities.	Seeks to include new rule: <u>EW-RX Ancillary Rural Earthworks Rural Lifestyle Zone</u> <u>Rural Production Zone</u> <u>Activity Status: Permitted</u>	Open Submission	Further evidence required.
EW - Earthworks /EW - Earthworks - Rules Table /General	Ravensdown Limited	FS 26.257.46	Support	Ravensdown supports the new permitted activity rule proposed by HortNZ for ancillary rural earthworks.The proposed rule ensures that rural activities can be undertaken without unnecessary consenting constraints.	Allowed Accept the submission		Further evidence required from original submitter.
EW - Earthworks /EW - Earthworks - Rules Table /General	Transpower New Zealand Limited	FS 413.257.46	Oppose	While Transpower understands the intent of the submission point it has concerns that a permitted rule for 'Ancillary rural earthworks' will result in such earthworks not being subject to the sought National Grid Yard earthworks rule. While many of the earthworks listed in the sought definition are minor, it is noted clause a) is not an exhaustive list and could include a wide range of normal agricultural and horticultural practices that could either compromise the Grid or result in safety issues. If a definition and permitted rule is to be provided, Transpower seeks it be subject to the sought National Grid Yard earthworks rule noting that many of the listed activities would be permitted under the rule.	Disallowed The whole of the submission point be disallowed.		Further evidence required from original submitter.
EW - Earthworks /EW - Earthworks - Rules Table /General	Horticulture New Zealand	257.47	Amend	Seeks a permitted activity rule be included for earthworks associated with a biosecurity response.	Seeks to include new rule: <u>EW-RX The burying of material infected by unwanted organisms as declared by the Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993</u> <u>All zones</u> <u>Activity Status: Permitted</u>	Open Submission	Further evidence required.

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EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	Hawke's Bay Regional Council	264.2	Support	Supports in principle the proposed approach to the maximum volume thresholds as opposed to a permitted activity with a percentage value.	No relief sought. Retain standard as notified (Inferred).	Open Submission	Accept.
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	Kainga Ora - Homes and Communities	FS 510.264.2	Oppose	Kāinga Ora do not support the notified maximum thresholds for earthworks - particularly the 50m3 for all residential zones and consider it to be too conservative a value that would be triggered for minimal topsoil scrapping exercises.	Disallowed		Further evidence required.
EW - Earthworks /EW - Earthworks - Rules Table /EW-R6: Earthworks associated with the renourishment of the coastal environment to mitigate the effects of coastal erosion	Hawke's Bay Regional Council	264.3	Oppose	HBRC opposes this rule, specifically in relation to the permitted activity status for earthworks associated with the renourishment of the coastal environment. These concerns arise firstly around the potential for permitted earthworks within the coastal margin, and the type of material that could be used for the renourishment. HBRC would expect that both of these at minimum would be a controlled activity.	The submitter wishes to seek clarification. Change activity status to controlled activity as a minimum (Inferred).	Open Submission	Further evidence required.
EW - Earthworks /Introduction /General	Heritage New Zealand Pouhere Taonga	273.158	Support	Supports EW - Earthworks Introduction mention of archaeological sites and the Heritage New Zealand Pouhere Taonga Act 2014.	Retain EW - Earthworks Introduction as notified.	Open Submission	Accept
EW - Earthworks /Issues /EW-I3: Cultural, natural, heritage values	Heritage New Zealand Pouhere Taonga	273.159	Oppose	Opposes Issues EW-I3: Cultural, natural, heritage values as text under this issue refers to 'provisions that control earthworks' in areas containing cultural, natural and heritage values, as being found in area specific chapters. This is incorrect in relation to earthworks within sites containing scheduled heritage items, archaeological items or heritage precincts. Earthworks have the potential to create adverse effects on heritage values and district plan should contain rules to control earthworks in these areas. The provisions can be included either in earthworks chapter or heritage section at present such provisions are lacking from PDP.	Seeks to retain EW-I3: Cultural, natural, heritage values but include rules relating to the effects of earthworks on heritage values in either the earthworks or heritage section of the district plan.	Open Submission	Further evidence required.
EW - Earthworks /Objectives /EW-O2: Landscapes, significant natural areas, cultural and heritage value	Heritage New Zealand Pouhere Taonga	273.160	Support	Supports Objective EW-O2: Landscapes, significant natural areas, cultural and heritage values as it refers to protecting heritage values.	Retain Objective EW-O2: Landscapes, significant natural areas, cultural and heritage values as notified.	Open Submission	Accept
EW - Earthworks /Policies /EW-P6: Cultural and heritage values	Heritage New Zealand Pouhere Taonga	273.161	Amend	Considers Policy EW-P6: Cultural and heritage values is supported and should also include a clause to address heritage values of scheduled places.	Amend Policy EW-P6: Cultural and heritage values as follows: <u>d. controlling earthworks on sites containing scheduled heritage items.</u>	Open Submission	Reject
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	Heritage New Zealand Pouhere Taonga	273.162	Oppose	Opposes EW-R1: Earthworks for building activities as this Rule is not considered to provide for the appropriate protection and management of heritage values on sites containing scheduled heritage items or archaeological sites, as referred to in EW-O2. It is possible that earthworks could directly or indirectly have an effect on scheduled heritage items. Earthworks near heritage items containing buildings / structures pre-dating 1900 have higher potential of encountering archaeology.	Seeks to amend EW-R1: Earthworks for building activities Permitted Activity as follows: <u>3. the site does not include a heritage item identified in SCHED-03</u>	Open Submission	Reject
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	Kainga Ora - Homes and Communities	FS 513.273.162	Oppose	Kāinga Ora are concerned with the consenting ramifications this provision could have on small-scale earthworks on a heritage site.	Disallowed		Accept

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EW - Earthworks /Assessment criteria / EW-AC1: All earthworks not meeting permitted activity standards or rule conditions	Heritage New Zealand Pouhere Taonga	273.163	Amend	HNZPT considers implicit consideration of an Accidental Discovery Protocol is supported with an amendment preferable to highlight this provision through a heading titled: Accidental Discovery of Sensitive Material. Regarding point (c) under Recommencement of work, the only archaeological sites that are not covered by the Heritage New Zealand Pouhere Act 2014 are post-1900 sites which have been recorded in the New Zealand Archaeological Association database, except for those for which a declaration was made pursuant to s43(1) of the HNZPTA. This should be clarified in this clause. Including the definition of archaeological sites in the District Plan would also serve to clarify the meanings in this section.	Amend EW-AC1: All earthworks not meeting permitted activity standards or rule conditions Recommencement of Work as follows: Highlight this provision through a heading titled: <u>Accidental Discovery of Sensitive Material</u> Amend point c. to read: There are no requirements in the case of <u>post-1900 recorded</u> archaeological sites that are ...	Open Submission	Accept
EW - Earthworks /General /General	NZ Transport Agency Waka Kotahi (NZTA)	277.74	Amend	Acknowledges that Council seeks to balance the adverse effects of earthworks with the need to undertake construction however, considers the permitted volumes are too low for construction and maintenance works.	Increase the permitted volumes of earthworks to reflect the scale of construction and maintenance requirements of network utilities outside of their corridor designations to 700m3.	Open Submission	Reject
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	NZ Transport Agency Waka Kotahi (NZTA)	277.75	Amend	Acknowledges that Council seeks to balance the adverse effects of earthworks with the need to undertake construction, however considers that the permitted volumes are too low for construction and maintenance works.	Increase the permitted volumes of earthworks to reflect the scale of construction and maintenance requirements of network utilities outside of their corridor designations to 700m3	Open Submission	Reject
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	KiwiRail Holdings Limited	FS 233.277.75	Support	KiwiRail acknowledges that network utilities may need to carry out earthworks beyond their designated corridors in excess of the notified permitted development volume limits.	Allowed Accept submission		Reject
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	Kāinga Ora - Homes and Communities	FS 514.277.75	Amend	Kāinga Ora support the sentiment held by NZTA concerning the permitted earthworks volumes for construction works being too low and recommend that they be increased across the board and not just for network utilities as NZTA have sought.	Allow in part		Further evidence required.
EW - Earthworks /EW - Earthworks - Rules Table /EW-R1: Earthworks for building activities	NZ Transport Agency Waka Kotahi (NZTA)	277.76	Support	Supports R1 as it allows for earthworks as a permitted activity where the scale, volume and effects are appropriately managed. Considers that this would allow us to undertake earthworks in accordance with our designation.	Retain as notified.	Open Submission	Accept
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	Kāinga Ora – Homes and Communities	285.22	Oppose	Opposes the proposed Earthworks standards limiting the permitted volume of earthworks to 50m3 per site, for any 12-month period, across all residential zones and precincts (EW-S1). Submitter acknowledges this is reflective of the operative provisions, however seeks that this be increased to 250m3, to ensure that a level of land disturbance, consistent with the level of development anticipated through the PDP, is provided for as a permitted activity.	Increase to 250m3, to ensure that a level of land disturbance, consistent with the level of development anticipated through the PDP, is provided for as a permitted activity.	Open Submission	Reject
EW - Earthworks /EW - Earthworks - Standards Table / EW-S1: Extent of Earthworks	Hawke's Bay Airport Limited ("HBAL") ("HBAL")	FS 348.285.22	Oppose	HBAL considers that EW-R1 as proposed sufficiently provides for earthworks volumes associated with building activities.	Disallowed		Further evidence required by original submitter in relation to EW-R1
EW - Earthworks /Introduction /	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.164 (Late Submission)	Amend	Considers earthworks can also have impacts on indigenous biodiversity.This chapter lacks a section in the Introduction alerting the plan user to other relevant chapters.	Amend as follows: - Adverse effects on natural features and landscapes, <u>indigenous biodiversity</u> , and amenity and cultural values Amend to include reference to all other relevant chapters that may apply.	Open Submission	Reject

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EW - Earthworks /Objectives /EW-O1: Environment (soils, ecosystems, waterways)	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.165 (Late Submission)	Amend	Considers the reference to 'reasonable development opportunities' is unclear.	Amend as follows: Enable earthworks necessary to support appropriate reasonable development opportunities while ensuring that the life-supporting capacity of soils, ecosystems, and waterways are protected.	Open Submission	Accept in part
EW - Earthworks /Objectives /EW-O2: Landscapes, significant natural areas, cultural and heritage values	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.166 (Late Submission)	Amend	Considers the objective refers to significant landscapes, which does not correspond with the terms used in the plan.The objective should refer to all sensitive environments that need protection from the effects of earthworks.	Amend to include all areas of natural and other value that need protection, e.g.: Landscapes and features, the <u>coastal environment</u> , significant natural areas, cultural and heritage values Earthworks are managed so that significant outstanding and special character landscapes and features, significant natural areas, <u>the coastal environment including areas of natural character</u> ,and cultural and heritage values are protected.	Open Submission	Accept in part.
EW - Earthworks /Objectives /EW-O2: Landscapes, significant natural areas, cultural and heritage values	KiwiRail Holdings Limited	FS 236.289.166	Oppose	KiwiRail is concerned that an objective which refers to the protection of the coastal environment from earthworks, would compromise the ability of KiwiRail to manage its rail network in an efficient and effective manner. In the future, it is highly likely that earthworks will be needed in or near the existing rail corridor, to provide for rail-related activities.	Disallowed Reject submission		Reject.
EW - Earthworks /Objectives /EW-O3: Hazards and health and safety	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.167 (Late Submission)	Support	Support	Retain	Open Submission	Support
EW - Earthworks /Objectives /EW-O4: River control and drainage works	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.168 (Late Submission)	Amend	Considers this objective is not worded in a way that gives direction to decision makers.This objective should also give effect to Policy 7 NPSFM	Amend as follows: Earthworks related to river control and drainage works and renourishment of material along the coast by a local authority <u>should be provided for where appropriate</u> are necessary to ensure flood protection duties can be exercised and risks of erosion mitigated, while avoiding the loss of river extent and values to the extent practicable.	Open Submission	Accept in part
EW - Earthworks /Policies /EW-P1: Allow for earthworks	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.169 (Late Submission)	Support	Support	Retain	Open Submission	Support
EW - Earthworks /Policies /EW-P2: Environment	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.170 (Late Submission)	Amend	Considers effects on natural waterbodies should be specifically managed.The policy should also recognise that certain natural areas will need to be avoided, in order to protect their values.	Amend c: "providing adequate setbacks from site boundaries, or structures, <u>SNAs, areas of natural character in the coastal environment, and natural waterbodies</u> "; Amend e: "controlling the movement of dust and sediment beyond the area of development, particularly to avoid nuisance effects on neighbouring sites, silt and sediment entering stormwater systems <u>or natural waterbodies</u> , or impacting on overland flow paths and/or roads."	Open Submission	Accept in part
EW - Earthworks /Policies /EW-P3: Natural landforms, features, drainage patterns, indigenous vegetation	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.171 (Late Submission)	Amend	The policy needs to avoid the listed impacts, not simply 'consider' them.	Amend by replacing 'that consider' with <u>'that avoid'</u> .	Open Submission	Accept in part

Appendix B – Summary of Recommended Responses to Submissions and Further Submissions

Section / Sub-section / Provision	Submitter Name	Submission number / Point Number	Position	Summary of Submission	Relief Summary	Link to Submission (click to open)	Officers Recommendations
EW - Earthworks /Policies /EW-P3: Natural landforms, features, drainage patterns, indigenous vegetation	KiwiRail Holdings Limited	FS 236.289.171	Oppose	<p>The requested relief has the ability to prevent KiwiRail from efficiently and effectively carrying out rail related activities in the existing rail corridor. It is not possible for KiwiRail to avoid all potential adverse effects. It is appropriate to provide for a management hierarchy to manage the effects of regionally significant infrastructure on sensitive features.</p> <p>Concern is raised as to potential consequential effects because of changes to this policy. KiwiRail would object to any change in rules which would require all earthworks, or any removal of indigenous vegetation to require resource consent.</p> <p>The suggested change is considered inconsistent with the notified set of policies for the Network Utilities Chapter. Issues in this chapter appropriate recognises that network utilities have an “essential role”, and that sometimes the adverse effect of network utilities “have to be balanced alongside recognising any functional need or constraints that may limit where a network utility can be sited.”</p>	<p>Disallowed</p> <p>Reject submission.</p>		Accept in part
EW - Earthworks /Policies /EW-P3: Natural landforms, features, drainage patterns, indigenous vegetation	Transpower New Zealand Limited	FS 415.289.171	Oppose	<p>Transpower opposes the relief sought. An absolute ‘avoid’ directive does not provide any consideration of the scale or nature of the effects and does not give effect to the NPSET.</p>	<p>Disallowed</p> <p>The whole of the submission point be disallowed.</p>		Accept in part
EW - Earthworks /Policies /EW-P4: Visual amenity	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.172 (Late Submission)	Support	Support	Retain	Open Submission	Accept
EW - Earthworks /Policies /EW-P5: Natural hazards	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.173 (Late Submission)	Support	Support	Retain	Open Submission	Accept
EW - Earthworks /Policies /EW-P7: River control and drainage works	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.174 (Late Submission)	Amend	<p>Considers this policy should give effect to Policy 7 NPSFM, and should reflect that there may be other adverse effects that need consideration. A simple ‘enable’ direction is opposed.</p>	<p>Amend as follows: <u>Enable Provide for</u> earthworks activities associated with river control and drainage works to be carried out by local authorities <u>where appropriate, and while avoiding the loss of river extent and values to the extent practicable.</u></p>	Open Submission	Reject
EW - Earthworks /General /General	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.175 (Late Submission)	Oppose	<p>Whole chapter, including Introduction, Objectives, Policies and Rules Arising from late notification of ECO-chapter</p>	<p>Seeks to add: “The Ecosystems and Indigenous Biodiversity chapter includes provisions which relate to earthworks. Where there is a conflict between the Earthworks chapter and the Ecosystems and Indigenous Biodiversity chapter, the provisions that place greater or additional restrictions on activities with adverse effects on the natural environment will apply.”</p>	Open Submission	Reject
EW - Earthworks /EW - Earthworks - Rules Table /General	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.176 (Late Submission)	Amend	<p>Seek exclusion from all Permitted activities for EW in SCLs, ONFs, SCFs, SNAs and the Coastal Environment. We note again that the CE chapter relies on the other chapters in the plan to give effect to the objectives and policies of the CE chapter, but the EW rules do not provide for specific management in the coastal environment.</p>	<p>Seek new rules making all earthworks in SCLs, SCFs, ONF, SNAs and the Coastal Environment non-complying. Notification should not be precluded for any activity in these areas. Should any earthworks remain as restricted discretionary, ensure that the matters of discretion include natural character in the coastal environment.</p>	Open Submission	Further evidence required.

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Section / Sub-section / Provision	Submitter Name	Submission number / Point Number	Position	Summary of Submission	Relief Summary	Link to Submission (click to open)	Officers Recommendations
EW - Earthworks /EW - Earthworks - Rules Table /General	KiwiRail Holdings Limited	FS 236.289.176	Oppose	<p>KiwiRail considers it is inappropriate to identify earthworks in or adjacent the existing rail corridor (which runs through coastal areas and landscape overlay areas) for the purpose of providing for the safe and efficient operation of the rail network, such a new access tracks, a Non-Complying Activity.</p> <p>Policies need to consider that parts of the coastal environment and landscape overlays have been heavily modified and contain existing infrastructure of regional significance. Provision needs to be made for the efficient management of this infrastructure and recognise that it is not possible for infrastructure to avoid all adverse effects.</p> <p>KiwiRail supported the permitted activity status of earthworks as notified in EWR1 and EW-R3 in its original submission. KiwiRail requires access roads to maintain and upgrade the rail network.</p> <p>Requirements on network utilities in relation to indigenous biodiversity, particularly significant natural areas, need to be considered as part of a future variation of the District Plan.</p>	<p>Disallowed</p> <p>Reject submission.</p>		Accept in part.
EW - Earthworks /EW - Earthworks - Rules Table /General	Transpower New Zealand Limited	FS 415.289.176	Oppose	<p>Transpower opposes the relief sought. No specifics have been provided in the submission and therefore a blanket non complying activity status is undemonstrated as to being the most efficient and effective approach. There is no recognition of the scale of the earthworks or the effects.</p> <p>Specific to the National Grid, a non-complying activity status does not give effect to the NPSET.</p>	<p>Disallowed</p> <p>The whole of the submission point be disallowed.</p>		Accept
EW - Earthworks /EW - Earthworks - Rules Table /General	bp Oil New Zealand Limited, Mobil Oil New Zealand Limited, Z Energy Limited	FS 475.289.176	Oppose	<p>A non-complying activity status for all earthworks in the Coastal Environment is opposed as unduly onerous, particularly in relation to earthworks associated with the maintenance, repair, and upgrade of existing network utilities and activities in the Port Zone, where there is a functional and operational need to located in the coastal environment. Reject the submission and do not make the changes sought.</p>	Disallowed		Accept
EW - Earthworks /EW - Earthworks - Rules Table /General	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	289.177 (Late Submission)	Amend	<p>We seek that the ECO chapter is also listed as a relevant chapter, and a statement that where there is a conflict, the more restrictive provisions applies.</p>	Amend in line with submission point.	Open Submission	Reject
EW - Earthworks /EW - Earthworks - Standards Table /All zones	Sera Chambers	FS 549.150	Support	<p>Agree with submitter.</p> <p>Refer full submission 150 from Sera Chambers and submission on these sections that were put through later as a plan variation.</p>	<p>Allowed</p> <p>Refer full submission 150 from Sera Chambers</p> <p>Relates to Further Submission points 117, 115, 116, 307</p>		Reject.