

# OFFICER'S HEARING INTRODUCTION

## SUMMARY STATEMENT

### *Earthworks Chapter*

**Reporting Officer:** Lilly Lawson

**Hearing Date:** 2 & 3 December 2024

#### **Introduction**

1. My name is Lilly Lawson and I am employed as an Associate Planner at Barker & Associates and as a Consultant Planner to Napier City Council and the Reporting Officer for the Earthworks Chapter of the PDP. My qualifications include a Bachelor of Urban Planning with Honours.
2. I have over 8 years' experience working as a resource management planner, including various resource management positions in local government, levy organisations, and private consultancy.
3. I was not involved in the drafting of the Earthworks Chapter but prepared the Section 42A Report for the matters relating to all Earthworks Provisions. In preparation for the reporting, I reviewed the Section 32 Report and the Napier City Operative Plan Earthworks Chapter.
4. No pre-hearing meetings with submitters were held in relation to submissions on this chapter
5. I would be happy to take any questions you may have at the end of my statement.

#### **Overview of Earthworks Topic**

6. A range of interests and issues were raised by parties in the submissions on most provisions of the Earthworks Chapter. In total, there were 89 submission points and 37 further submission points.
7. These were grouped under the following headings in my Hearings Report:
  - Submissions on Plan Structure
  - Submissions on Introduction, Issues, Objectives and Policies
  - Submissions on Rule Framework, Notification, Activity Status and Permitted Activity Standards
  - General and Miscellaneous Submissions

8. I expand on the key themes of submissions below and comment on whether the matter has been pursued in evidence.
9. I am aware that evidence has been received by the following parties:
  - HBAL
  - Horticulture New Zealand
  - Hawkes Bay Regional Council
  - The Fuel Companies
  - Kiwi Rail Holdings
  - NZTA
  - Ravensdown
  - Telco
  - Transpower
  - Heritage New Zealand
10. I have reviewed this evidence and will consider that presented here today to inform a revised position to be circulated after the Hearing.
11. My opening statement concludes by listing those matters of contention that remain.

## **Plan Structure**

12. The location of the earthwork's provisions relating to network utilities was an issue raised by Network Utility Provisions Transpower and Telco. They sought the centralisation of all network utilities provisions into the Network Utilities chapter, including relevant earthworks provisions.
13. This matter has been pursued by Telco in evidence, with their preference remaining that earthworks provisions relating to network utilities be located in the NU chapter.
14. Kiwi Rail accept the approach to address rules relating to earthworks within CNLs, SCFs, ONFs, and SNAs in the Network Utilities chapter but reserves the right to comment on the cross-referencing between chapters as required by Regulation 30 of the National Planning Standards.
15. On the basis that the Earthworks provisions relating to network utilities remain in the Earthworks Chapter, Transpower have provided suggested changes to the NU chapter to address the relationships between chapters.

## Objectives

16. Changes were sought to the objectives primarily from environmental interests' groups seeking expansion of the areas and features included in EW-O2 and protection of river extent and values.
17. The majority of submitters who sought changes to the objectives have either accepted my recommendations or have not pursued their submission through evidence.
18. KiwiRail opposed the relief sought by Forest & Bird to broaden the areas in which EW-O2 applied. In particular, they opposed the inclusion of the coastal environment which I considered necessary to give effect to the NZCPS.
19. KiwiRail continue to pursue the relief sought in its further submission *to provide for earthworks in or near the existing rail corridor in the coastal environment that are necessary to provide for rail-related activities.*

## Policies

20. A new Policy was sought by Horticulture New Zealand *that recognises the beneficial outcomes of earthworks in providing for people and communities social, economic and cultural well-being, including ancillary earthworks, where adverse effects are appropriately managed.* They have pursued this matter in evidence.
21. Changes were sought by Heritage New Zealand to EW-P6 to specifically reference the control of earthworks on sites containing scheduled heritage items. Heritage New Zealand have accepted my recommendations and have not pursued this matter.
22. Changes were sought by Forest & Bird to EW-P2, P3 and P7. These changes sought to broaden the areas in which the policy applied as well as a change in policy directive from 'enabling' to 'provide for' with additional caveats. I recommended changes to EW-P2 and P3.
23. KiwiRail consider a 'manage' directive for EW-P3 instead of the 'avoid or mitigate' directive as recommended in the S42A report would provide a more appropriate balance.

## Activity Status

24. HBRC and Forest & Bird both sought more restrictive activity statuses for earthwork activities within the Coastal Environment. HBRC sought this in regard to EW-R6 *earthworks associated with the renourishment of the coastal environment.* Forest & Bird sought a non-

complying activity status for *earthworks in SCLs, ONFs, SCFs, SNA's and the Coastal Environment*.

25. My S42 recommendations did not include any changes to activity status but that I would consider evidence put forward by the respective parties.
26. Forest & Bird have not pursued the matter through evidence. HBRC have provided evidence on this matter and consider that as notified, EW-R6 is inconsistent with the RCEP.

### **New Rules**

27. Three new rules were sought relating to:
- a. ancillary rural earthworks,
  - b. burial of unwanted organisms by Horticulture New Zealand and
  - c. earthworks within the National Grid Yard.
28. As I recommended a new rule for earthworks within the national grid yard in accordance with that put forward by Transpower, the submitter has accepted my recommendation and therefore has not addressed it further in evidence.
29. Regarding the new rules sought by Horticulture New Zealand, they have submitted detailed evidence on this matter.

### **Rules – R1**

30. There were a number of changes sought to EW-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.
31. I did not form a recommendation on an amended volume limit as there was insufficient evidence to recommend a specific volume threshold. However, following an assessment of the operative provisions I concluded that the Proposed District Plan provision was more stringent than the Operative provisions for earthworks relating to building activities.
32. Ravensdown have pursued this matter (as well as for EW-S1) in evidence. I note that Ravensdown have sought 500m<sup>3</sup>, which is a revised volume from that sought in the submission.

### **Matters of Discretion**

33. Fuel companies sought an additional matter of discretion to recognise the benefits associated with earthworks. They have accepted my recommendations and have not pursued the matter further in evidence.

## Standards

34. A number of submissions were received on the Earthworks Standards, these were generally from parties with development or network utility interests and primarily were sought for practicality reasons or consistency with national policy statements.
35. Ravensdown have pursued their relief regarding the maximum permitted volume in EW-S1 and seek a revised limit of 500m<sup>3</sup>.
36. Telco have revised the relief sought regarding EW-S2 and in particular the setbacks required from streams or floor protection works for cut or fill. They agree with my assessment that trenching could result in adverse effects but consider that exceptions for infrastructure installed by a trenchless method is appropriate and will not result in such effects.

## General Submissions

37. General submissions primarily related to the timing of the notification of the ECO, Sites of Significance to Māori and Natural Hazards Chapter and their relationship with the Earthworks Chapter.
38. These general submissions have not been pursued through evidence.

## Remaining Issues of Contention

39. The following matters are considered to be remaining issues of Contention:
  - The location of earthwork provisions relating to Network Utilities within the Plan, pursued by Telco;
  - A policy and rule framework which provides for ancillary rural earthworks and the burial of unwanted organisms as a permitted activity pursued by Horticulture NZ;
  - EW-O2 pursued by KiwiRail seeking provision of earthworks within the coastal environment for network utilities, specifically the oppose the inclusion of coastal environment and natural character;
  - Policy directive to EW-P3 pursued by KiwiRail;
  - Threshold limits for EW-R1 and S1 pursued by Ravensdown;
  - EW-R6, Earthworks in the Coastal Environment pursued by Hawkes Bay Regional Council; and
  - EW-S2 pursued by Telco seeking exceptions to setbacks for infrastructure installation.