



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

**REPORT OF HEARING
PANEL**

Independent Hearing Commissioners:

Robert Schofield (Chair)
Loretta Lovell
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TOPIC 5B

Earthworks, Mining & Quarrying

REPORT DATED

4 May 2023

DATE OF HEARING

7 and 8 September 2022

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List of Submitters and Further Submitters addressed in this Report

Submitter Name	Submission Number(s)
Aggregate and Quarry Association	S82
Centralines Limited (Centralines)	S90
Chorus New Zealand Limited (Chorus)	S117
Federated Farmers of New Zealand (Federated Farmers)	S121
Hatuma Lime Co Ltd (Hatuma Lime)	S98
Hawke's Bay District Health Board (HBDHB)	S126
Hawke's Bay Regional Council (HBRC)	S11
Heritage New Zealand Pouhere Taonga (HNZPT)	S55
Horticulture New Zealand (Hort NZ)	S81
Kairakau Lands Trust (KLT)	S84
Kathryn Bayliss	S39
Kāinga Ora - Homes and Communities (Kainga Ora)	S129
New Zealand Pork Industry Board (Pork Industry Board)	S42
Powerco Limited (Powerco)	S56
Rayonier Matariki Forests (Rayonier)	S85
Royal Forest and Bird Protection Society NZ (Forest & Bird)	S75
Spark New Zealand Trading Limited (Spark)	S118
Te Mata Mushrooms Land Company Limited (Te Mata Mushrooms)	S102
The Surveying Company (HB) Ltd (The Surveying Company)	S50
Transpower New Zealand Ltd (Transpower)	S79
Vodafone New Zealand Limited (Vodafone)	S119
Waka Kotahi NZ Transport Agency (Waka Kotahi)	S78
Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	S110

Further Submitter Name	Further Submission Number(s)
Federated Farmers	FS25
First Gas Limited (First Gas)	FS3
Hort NZ	FS17
Kāinga Ora	FS23
Ngā hapū me ngā marae o Tamatea (NHMT)	FS5
Pork Industry Board	FS6

Further Submitter Name	Further Submission Number(s)
Penny Nelson, Director-General of Conservation (DOC)	FS19
Forest & Bird	FS9
Silver Fern Farms Limited (Silver Fern Farms)	FS8
Transpower	FS18
Waka Kotahi	FS16

PART A – PRELIMINARY MATTERS

1 Introduction

1.1 Scope of this report

- 1.1.1 This document details the evaluation and recommended decisions of the Proposed CHBD Plan Hearings Panel on the submissions and evidence on Earthworks, Mining and Quarrying considered at the Hazards and Risks, Earthworks and Subdivision topic hearing, held on 7 and 8 September 2022 at the CHBDC Chambers, Waipawa.
- 1.1.2 The recommendations in this report, together with all of the other recommendations of the Hearing Panel (“the Panel”) on submissions on the PDP, will all go before the full Council following the end of the hearings, who will make the formal decisions.
- 1.1.3 Our report focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, we have adopted the s42A report’s recommendations and the underlying evaluation behind such changes.

1.2 Statutory considerations

- 1.2.1 The Panel’s Preliminary Report sets out the statutory framework and requirements for preparing a PDP, as well as case law guidance for our consideration and recommendations. This framework shall not be repeated in this report. This report should be read in conjunction with our Report on Preliminary Matters and Statutory Requirements.
- 1.2.2 This report will refer to the Section 42A Report ‘Officer’s Report: Earthworks, Mining & Quarrying’ prepared by Rowena MacDonald.
- 1.2.3 Earthworks, Mining & Quarrying is covered in the ‘Remaining Chapters Report – Section 32 Topic Report.
- 1.2.4 As submissions on particular aspects of the PDP are considered through hearing reports, officers are required to consider any alternative provisions put forward in the context of what s 32 requires, and when changes are recommended, a further assessment under s 32AA will be provided if the change is a material departure from what was notified. That same obligation to make a further assessment under s 32AA also applies to the Panel if it decides to recommend changes as a result of submissions which materially depart from the notified version.
- 1.2.5 Through Minute #5, the Panel urged submitters to provide the hearings with a further assessment under s 32AA for any changes to the PDP they were seeking. No s32AA assessments were provided with evidence on the topic the subject of this report.
- 1.2.6 Where the Panel has made amendments to the PDP that are consistent with the recommendations contained within Council officers’ s42A and / or right-of-reply reports (and where there are relevant joint witness statements) we have adopted the s32AA analysis contained within those reports (unless expressly stated otherwise). Those reports are part of the public record and are available on the CHBDC website.
- 1.2.7 Where we have made amendments to the PDP that are not contained within Council officers’ recommendations, we have undertaken the required s32AA analysis and have incorporated it into the body of our report with the required assessment forming part of our evaluation. We are satisfied that the required substantive assessment has been undertaken.

1.3 Submissions

- 1.3.1 There were 23 submitters and 11 further submitters across the whole 'Earthworks, Mining & Quarrying' topic.
- 1.3.2 The submissions contained 118 original submission points, and 82 further submission points on the provisions relating to this topic. Of the 118 original submission points, 46 submission points were in support.

1.4 Procedural matters

- 1.4.1 There were no pre-hearing meetings or meetings undertaken in accordance with cl8AA of Schedule 1 on the submissions relating to the Earthworks, Mining & Quarrying provisions prior to the finalisation of this s42A report. No further consultation or meetings with any parties regarding Earthworks, Mining & Quarrying has been undertaken since circulation of the s42A report.
- 1.4.2 No procedural matters were raised in respect of hearing this topic.
- 1.4.3 No matters of Trade Competition were raised.
- 1.4.4 The Chair of the Hearing Panel, Robert Schofield, recused himself from hearing and deliberating on any submission relating to the National Grid.

1.5 Hearing

- 1.5.1 The Hazards and Risks, Earthworks and Subdivision topic hearing was held on 7 and 8 September 2022 at the CHBDC Chambers, Waipawa.
- 1.5.2 Submitters who appeared at the hearing in relation to the Earthworks, Mining & Quarrying topics are shown below in Table 1. All evidence can be found on the PDP Hearing Schedule webpage under the relevant Hearing Topic [[Hearing Stream 5 | Central Hawke's Bay District Council \(chbdc.govt.nz\)](#)].

Table 1. Submitters who appeared at Hearing Stream 5: Hazards and Risks, Earthworks and Subdivision in relation to Earthworks, Mining & Quarrying

Submitter (Submitter Number)	Represented by/ experts called	Nature of evidence	Topics under which evidence is discussed
Hort NZ	Jordyn Landers (Planning) – attended in person	Statement of evidence	Key Issue 1, 2, 3, 4, 5
Federated Farmers	Rhea Dasent (Planning)	Statement of evidence	Key Issue 1, 2, 3, 4, 5
First Gas	Graeme Roberts (Planning)	Statement of evidence	Key Issue 1, 2, 3, 4, 5
Transpower	Pauline Whitney (Planning) Benjamin Cartwright	Statement of evidence	Key Issue 1, 2, 3, 4, 5
Kāinga Ora	Michael Campbell (Planning)	Statement of evidence	Key Issue 1, 2
The Oil Companies	Megan Barr	Written Statement	Key Issue 1, 2
HNZPT	Dean Raymond (Planning)	Statement of evidence	Key Issue 4
Hatuma Lime	Claire Price (Planning)	Statement of evidence	Key Issue 6, 7

- 1.5.3 Ms Rowena MacDonald, Reporting Officer, appeared for the CHBDC.
- 1.5.4 Evidence provided by Ms MacDonald included:
- Officer’s Report on the Earthworks, Mining & Quarrying (“the s42A Report), and Opening statement (verbal).
- 1.5.5 Following the adjournment of the hearing on 8 September 2022, a written right-of-reply from the Council’s reporting planner was received and circulated on 27 October 2022.

1.6 Structure of this report

- 1.6.1 Given the number, nature and extent of the submissions and further submissions received, we have structured this report according to the key issues identified in the s42A report, rather than present a submission point by submission point evaluation. Many of the submissions addressed the same or related issues and thus a key issue approach avoids undue repetition. There are 8 key issues addressed in this report:
- Key Issue 1 – Earthworks – General Definitions, Objectives & Policies;
 - Key Issue 2 – Earthworks – General Rules, Standards & Assessment Matters;
 - Key Issue 3 – Rural Earthworks;
 - Key Issue 4 – Earthworks within Heritage Sites and Sites & Areas of Significance to Māori;
 - Key Issue 5 – Earthworks Provisions and the National Environmental Standards for Plantation Forestry;
 - Key Issue 6 – Mining & Quarrying – Definitions, Objectives & Policies;
 - Key Issue 7 – Mining & Quarrying – Rules and Standards; and
 - Key Issue 8 – Mining Hydrocarbons and Fossil Fuels.
- 1.6.2 We have structured our evaluation and recommendations on a hierarchical basis, firstly reviewing the overarching issues relating to the topic and those submissions that made general points about the topic, including those seeking a binary relief such as complete withdrawal of relevant PDP provisions. This includes definitions.
- 1.6.3 We then turn our evaluation to the higher-level provisions of the PDP relating to the topic: the objectives and policies and associated matters.
- 1.6.4 Thereafter we consider the associated rules and standards, and, if relevant, methods and anticipated environmental results.
- 1.6.5 Finally, we consider whether there are any minor errors that should be rectified or consequential amendments that may be needed as a result of our recommendations.
- 1.6.6 The Panel’s recommendations for each submission point are listed in the table in Appendix B.

PART B – EVALUATION

2 Overview

- 2.1.1 Earthworks are an integral part of land development, as the activity prepares land (including the formation of building platforms) to be used for living, business and recreation, and are often essential to the construction of foundations, buildings, and structures, as well as roads and accessways. Earthworks are also often an essential part of rural farm activities for building tracks, fences, offal pits etc.
- 2.1.2 The Hawke's Bay Regional Resource Management Plan (RRMP) and Regional Coastal Environment Plan (RCEP) generally do not address earthworks broadly associated with land use, with the only rules applying being Rules 7 & 8 Vegetation Clearance & Soil Disturbance in the RRMP/RCEP, which are specifically directed at soil and debris entering water bodies, deposition of soil across a property boundary, and risk of soil loss. The Regional Plans largely leave the matter of earthworks for District Plans to address. Therefore, it is appropriate for the PDP to cover the broader effects of earthworks associated with land use.
- 2.1.3 Earthworks are not currently addressed in the ODP, and the inclusion of earthworks provisions in the PDP brings it in line with the approach to earthworks in the Hastings District and City of Napier District Plans within the Hawke's Bay Region.
- 2.1.4 The PDP earthworks provisions have been developed to ensure earthworks are managed appropriately to avoid, remedy or mitigate potential adverse environmental effects. Whilst most earthworks related provisions are found in the Earthworks chapter, there are also provisions in the zone chapters and other Part 2: District-Wide Matters chapters, including Coastal Environment, Natural Features and Landscapes, Ecosystems and Indigenous Biodiversity, Historic Heritage, and Sites and Areas of Significance to Māori.
- 2.1.5 The Earthworks chapter also includes provisions relating to mining, quarries, and gravel extraction.

3 Key Issue 1 – Earthworks – General definitions, objectives & policies

3.1 Proposed plan provisions

- 3.1.1 This key issue addresses the earthworks' specific definitions, objectives and policies.

3.2 Submissions

- 3.2.1 There were 24 original submission points with 19 further submission points. Refer to Appendix B for a table of submission points.

3.3 Reporting planner's recommendations (s42A report)

- 3.3.1 The planner's recommendations against each submission point are listed in the table in Appendix B. The following section provides a summary of the key points covered in the s42A report.

General

- 3.3.2 There was considerable support for the introduction of earthworks provisions in the PDP (subject to minor amendments), and support for retention of the standalone EW – Earthworks chapter with differentiated provisions relating to quarrying activities within it.

Definitions

- 3.3.3 Submissions on the definitions of ‘Earthworks’ were all in support, on the basis that they were consistent with the National Planning Standards. No further analysis was therefore considered necessary.
- 3.3.4 The reporting planner noted that both ‘cultivation’ and ‘earthworks’ were terms used in the PDP, and both were terms defined in the National Planning Standards. Both terms were included in the Definitions List in the National Planning Standards. The mandatory directions in the National Planning Standards require that, where terms defined in the Definitions List were used in a plan and were used in the same context, local authorities must use the definition as defined in that list. Therefore, the reporting planner considered the relief sought by Rayonier to alter the definition of ‘cultivation’ was not available.

Protection of cultural sites

- 3.3.5 The reporting planner agreed with the concerns raised by KLT around the potential for earthworks to threaten cultural sites in the vicinity. This issue was most notably addressed in the SASM – Sites and Areas of Significance to Māori chapter of the PDP – but in other chapters of the PDP also.
- 3.3.6 In terms of the relief sought by KLT, the reporting planner was of the view that specific objectives or policies that relate to ensuring that cultural sites are protected were already contained within the SASM chapter of the PDP. There were also objectives and policies relating to potential effects of earthworks on cultural sites in the TW – Tangata Whenua chapter in the Strategic Direction section of the PDP.
- 3.3.7 Further, the reporting planner also noted that Policy EW-P7 in the EW – Earthworks chapter also refers to the potential for earthworks to impact on culturally sensitive sites.
- 3.3.8 The reporting planner considered that PDP as notified already provided specific objectives and policies for the protection of cultural sites in various places within the PDP. The suitability of these would be largely considered as part of the specific process underway for Hearing Stream 4.

Objectives

Objective EW-O1

- 3.3.9 While there was overall support for the retention of Objective EW-O1 as notified, the reporting planner agreed with Federated Farmers that its recommended amendments would better align the objective in terms of achieving the purpose of the RMA, through enabling people and communities to carry out earthworks, while avoiding, remedying or mitigating the adverse effects of those earthworks, including for the health and safety of people.
- 3.3.10 The reporting planner recommended the following amendments to EW-O1:

EW-O1 ~~Protect the safety of~~ Enable people and communities to carry out earthworks, while ~~avoiding, remedying or mitigating~~ mitigating the adverse environmental effects of earthworks, including on the health and safety of people.

Policies

Policies EW-P1, EW-P5 & EW-P6

- 3.3.11 The submissions on Policies EW-P1, EW-P5 & EW-P6 were all in support, and no further analysis is considered necessary.

Policy EW-P2

- 3.3.12 While there was considerable support for Policy EW-P2 by submitters, the reporting planner agreed with HBRC that cl3.5(4) of the NPS-FM (2020) required district plans to include provisions addressing the effects of urban development on the health and well-being of water bodies and receiving environments, and that updating the wording as they propose would help give effect to this direction – recognising that ‘managing’ earthworks is integral to ensuring waterways, freshwater ecosystems and receiving environments are protected.
- 3.3.13 The reporting planner did not agree with the amendments sought by Federated Farmers to include reference to existing uses. Policy EW-P2 seeks to give effect to Objective EW-O1, which focuses on avoiding, remedying or mitigating the effects of earthworks, and provides the policy framework for differentiating permitted earthworks based on the role, function and predominant character of the zone in which they were to be carried out in. In the reporting planner’s view, the amendments sought by Federated Farmers would have the effect of elevating existing land uses and affording a level of consideration in terms of earthworks that was not in keeping with the objective or the purpose of the RMA.
- 3.3.14 Based on the above, the reporting planner recommended that Policy EW-P2 be amended as follows:

EW-P2	To ensure earthworks are appropriately located, and designed <u>and managed</u> to avoid, remedy or mitigate adverse effects by:
1.	controlling volume and vertical extent of earthworks, to maintain the role, function and predominant character of each zone and reduce effects on neighbouring properties and the environment; and
2.	controlling the movement of dust and sediment beyond the area of development, particularly to avoid nuisance effects and/or adverse amenity effects on neighbouring sites or any Council reticulated stormwater system; <u>and</u>
3.	<u>controlling the effects of urban development on the health and well-being of water bodies, freshwater ecosystems and receiving environments.</u>

Policy EW-P3

- 3.3.15 The reporting planner did not support amendment of Policy EW-P3 as sought by Federated Farmers, to ensure that earthworks ‘meet functional needs’.
- 3.3.16 Policy EW-P3 is about designing earthworks to reflect natural landforms and reducing and softening visual impact, to give effect to Objective EW-O1. Therefore, it is about remedying or mitigating adverse visual effects of earthworks on the surrounding area. The reporting planner considered it unclear how you could measure and assess ensuring earthworks ‘meet functional needs’. In the reporting planner’s view, ‘functional needs’ should not trump ‘visual effects’. Again, in the reporting planner’s view, the inclusion of ‘land use’ in the amendments sought to Policy EW-P3 would have the effect of elevating existing land uses and affording a level of consideration in terms of earthworks that is not in keeping with the purpose of the RMA.

Policy EW-P4

- 3.3.17 The reporting planner considered that it would be appropriate to include “where appropriate” into Policy EW-P4 as sought by Federated Farmers. She considered that the inclusion of the word ‘appropriate’ in Policy EW-P4 gave a degree of flexibility in applying the requirement to re-pasture or re-vegetate land that had been cleared as a consequence of earthworks.
- 3.3.18 The reporting planner recommended the following amendments to Policy EW-P4:

W-P4	<u>Where appropriate, to</u> To require the re-pasture or re-vegetation of land where vegetation is cleared as a consequence of earthworks.
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Policy EW-P7

- 3.3.19 The reporting planner agreed with HNZPT that Policy EW-P7 would benefit from specifically referring to ‘historic heritage’ and ‘sites and areas of significance to Māori’. The reporting planner considered it appropriate to apply consistent terminology as used elsewhere in the PDP, and the proposed words should replace reference to ‘culturally sensitive sites’ which was not a term that was defined in the PDP (and keeping that term could be potentially confusing).
- 3.3.20 Therefore, the reporting planner recommended Policy EW-P7 be amended, as follows:

EW-P7 To control earthworks, exploration and mining activities to ensure that any adverse effects on the natural and physical environment, and the amenity of the community, adjoining land uses, **heritage items, and sites and areas of significance to Māori**, and culturally sensitive sites are avoided, remedied or mitigated.

3.4 Evidence to the hearing

- 3.4.1 Jordyn Landers presented evidence for Hort NZ at the hearing. Ms Landers generally supported the S42A recommendations and particularly noted support for the recommended amendments to the ancillary rural earthworks definition to specifically exclude cultivation.
- 3.4.2 Rhea Dasent presented evidence for Federated Farmers at the hearing. Mr Dasent’s evidence suggested amendments to objectives and policies.
- 3.4.3 Pauline Whitney and Benjamin Cartwright provided evidence for Transpower at the hearing. The evidence generally supported or accepted all the officer recommendations.
- 3.4.4 Graeme Roberts provided evidence for First Gas at the hearing, in which he generally supported the s42A recommendations.
- 3.4.5 Michael Campbell provided evidence for Kāinga Ora, generally supporting the reporting planner’s proposed changes to the Earthworks section of the PDP to address a number of the submissions by Kāinga Ora. He noted a concern with respect to whether the proposed earthworks provisions address effects on Natural Hazards arising from earthworks.

3.5 Post hearing information

- 3.5.1 The reporting planner’s right-of-reply did not address any matters relating to Earthworks, and no additional information was provided.

3.6 Evaluation and findings

Definitions

- 3.6.1 The Panel agrees with the reporting planner that ‘cultivation’ is defined in the National Planning Standards and therefore cannot be altered.

Protection of cultural sites

- 3.6.2 The Panel agrees with the reporting planner that the PDP as notified already provides specific objectives and policies for the protection of cultural sites in various places within the PDP. The suitability of the PDP provisions in recognising and protecting these sites is considered as part of our report on Hearing Stream 4, Tangata Whenua.

Objectives

Objective EW-O1

- 3.6.3 The Panel agrees with the reporting planner (and Federated Farmers) that amending this objective would better address the purpose of the RMA in respect of earthworks. Accordingly, the Panel recommends the following amendments to EW-O1:

EW-O1 ~~Protect the safety of~~ Enable people and communities to carry out earthworks, while avoiding, remedying or ~~mitigating~~ mitigating the adverse environmental effects of earthworks, including on the health and safety of people.

Policies

Policy EW-P2

- 3.6.4 The Panel agrees with the reporting planner that this policy should include provisions addressing the effects of urban development on the health and well-being of water bodies and receiving environments.
- 3.6.5 The Panel therefore agrees with the reporting planner's recommended amendment to Policy EW-P2 as follows:

EW-P2 To ensure earthworks are appropriately located, ~~and~~ designed and managed to avoid, remedy or mitigate adverse effects by:

1. controlling volume and vertical extent of earthworks, to maintain the role, function and predominant character of each zone and reduce effects on neighbouring properties and the environment; and
2. controlling the movement of dust and sediment beyond the area of development, particularly to avoid nuisance effects and/or adverse amenity effects on neighbouring sites or any Council reticulated stormwater system; and
3. controlling the effects of urban development on the health and well-being of water bodies, freshwater ecosystems and receiving environments.

Policy EW-P3

- 3.6.6 The Panel agrees with the reporting planner that Policy EW-P3 should be retained as notified, and therefore to reject Federated Farmers' request to add 'functional needs'. The Panel considers that it would be difficult to measure and assess how earthworks would 'meet functional needs' and that 'functional needs' should not trump 'visual effects'.

Policy EW-P4

- 3.6.7 The Panel agrees with the reporting planner that the inclusion of the word 'appropriate' in Policy EW-P4 gives a degree of flexibility in applying the requirement to re-pasture or re-vegetate land that has been cleared as a consequence of earthworks, in that it may not always be practicable or necessary to revegetate disturbed land. Consequently, the Panel recommends the following amendment to Policy EW-P4:

EW-P4 ~~Where appropriate, to~~ To require the re-pasture or re-vegetation of land where vegetation is cleared as a consequence of earthworks.

Policy EW-P7

- 3.6.8 The Panel agrees with the reporting planner's right-of-reply in amending this policy to explicitly refer to 'historic heritage' and 'sites and areas of significance to Māori' rather than 'culturally sensitive sites', a term not defined in the PDP.
- 3.6.9 Accordingly, the Panel recommends Policy EW-P7 be amended as follows:

EW-P7 To control earthworks, exploration and mining activities to ensure that any adverse effects on the natural and physical environment, and the amenity of the community, adjoining land uses, heritage items, wāhi tapu, wāhi taonga and sites and areas of significance to Māori, ~~and culturally sensitive sites~~ are avoided, remedied or mitigated.

4 Key Issue 2 – Earthworks - General rules, standards & assessment matters

4.1 Proposed plan provisions

- 4.1.1 This key issue addresses the general rules, standards and assessment matters relating to earthworks.

4.2 Submissions

- 4.2.1 There were 30 original submission points with 23 further submission points on this issue: refer to Appendix B for a table of submission points.

4.3 Reporting planner's recommendations (s42A report)

Rule EW-R1 Specified Earthworks

- 4.3.1 There was considerable support by submitters for the retention of Rule EW-R1 as notified.
- 4.3.2 The reporting planner advised the hearing that specified earthworks were purposely provided for as permitted activities on the basis that they should not be subject to the full list of earthworks standards (the further submission of Waka Kotahi was incorrect on this point), as such earthworks were either of a low volume, deemed low risk in terms of adverse effects on the environment, or were dealt with through other methods.
- 4.3.3 The reporting planner considered that imposing the standards across the board, as requested by HBRC, particularly the requirement to meet Standard EW-S2, which limits volume of earthworks in the various zones, would negate the value of having a specified earthworks rule, as the rule would then effectively duplicate Rule EW-R7. Conversely, she considered that exempting 'specified earthworks' from having to comply with any of the standards (Standards EW-S1 to EW-S9) as requested by the Oil Companies, would also be inappropriate as such exemptions may lead to adverse effects.
- 4.3.4 The reporting planner, however, was of the view that a nuanced approach was warranted in respect of the more universal requirements: for example, site reinstatement (Standard EW-S4) and sediment control requirements (Standard EW-S5)) should be matters that applied to some of these 'specified earthworks' in order to appropriately avoid, remedy or mitigate potentially significant adverse effects on significant landscape values, on limiting erosion and land instability, and on preventing sediment-laden runoff from entering into water bodies which could impact on downstream water quality and the health of aquatic ecosystems.
- 4.3.5 On this basis, the reporting planner recommended adding compliance with particular standards, depending on the specified earthworks concerned in Rule EW-R1, and their sensitivity to such effects. Therefore, the reporting planner recommended amending Rule EW-R1, as follows:

EW-R1 Specified Earthworks		
All Zones	1. Activity Status: PER Where the following conditions are met: a. The earthworks are associated with site preparation works for a building, the area (m ²) of earthworks is no more than 150% of the area of the associated building footprint, and complies with	2. Activity status where compliance not achieved: EW-R2 to EW-R7 apply

	<p>EW-S1 Slope, <u>and EW-S5 Control of Silt and Sediment</u>; or</p> <p>b. The earthworks are associated with any network utilities, including the upgrade or maintenance of existing public roads, <u>and complies with EW-S4 Site Reinstatement and EW-S5 Control of Silt and Sediment</u>; or</p> <p>c. The earthworks are associated with replacement and/or removal of a fuel storage system defined as permitted by the Resource Management Regulations (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health), <u>and complies with EW-S5 Control of Silt and Sediment</u> or</p> <p>d. The earthworks are associated with gravel extraction within the bed of a river.</p> <p>Note: Gravel extraction within the bed of a river is subject to rules administered by the Hawke's Bay Regional Council.</p>	
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Rule EW-R5 Earthworks and vertical holes within the National Grid Yard

- 4.3.6 Federated Farmers sought amendments to Rule EW-R5 so that it aligned with NZECP34, specifically Section 2.2 of the Code, as they considered the rule was inconsistent with the Code and unnecessarily onerous. They considered it would create a regulatory anomaly where an activity was permitted by the Code but not by the PDP, and that there was no reason why the Council should require or decline consent when the Code permits the activity and the National Grid operator could not refuse permission.
- 4.3.7 The reporting planner referred to a similar discussion with reference to Standard GRUZ-S13 / RPROZ-S15 Setback from National Grid Yard and National Grid Substation as part of Hearing 3 on the Rural Environment topic. For the same reason, the reporting planner accepted Transpower's position that the minimum safety requirements in the Code alone did not seek to protect the integrity of the National Grid from the effects of earthworks, and recommended retention of Rule EW-R5 as notified, for the following reasons:
- *Uncontrolled earthworks can undermine the support structures or generate dust, that can result in the build-up of material on the National Grid lines and increase the wear on the equipment reducing its reusable lifespan;*
 - *Excavations or mounding mid-span can increase risks by reducing the clearance between the ground and conductors;*
 - *Excavated areas or piles of earthworks soil can also restrict ability to access and locate the heavy machinery required to maintain support structures around the lines, and may lead to potential tower failure and significant constraints on the operation of the lines, such as power outages;*
 - *The NZECP34 applies to all electricity lines and is not specific to the National Grid and, as such, does not recognise the significance of the National Grid; and*
 - *The scope and purpose of NZECP34 is confined to safety - setting minimum safe distances to primarily protect persons, property, vehicles and mobile plant from harm or damage from*

electrical hazards and is focused only on minimum safety standards, and alone do not protect the integrity of the National Grid from the effects of earthworks.

- 4.3.8 Kāinga Ora generally supported Rule EW-R5 but considered that 6m was a more appropriate buffer from the National Grid support structure foundation (clause 1(a)), than the 12m buffer currently specified within the rule as notified. The reporting planner concurred with Transpower in its further submission, that there was no justification provided by Kāinga Ora for reducing the buffer, nor any reasoning for choosing a 6m buffer over a 12m one. For these reasons, and the reasons above for retaining the rule as notified, the reporting planner did not support the relief sought by this submitter either.

Rule EW-R6 Earthworks within 20m of the Gas Transmission Network

- 4.3.9 Federated Farmers sought the deletion of Rule EW-R6 (and all provisions for the Gas Transmission Network). However, the reporting planner considered that earthworks in the vicinity of the gas transmission network was potentially dangerous – being a potential effect of low probability which has a high potential impact. Similar to the 20m setback standard from the gas transmission network for residential activities applying in the rural zones (refer to discussion with respect to GRUZ-S12 / RPROZ-S14 Setback from Gas Transmission Network as part of Hearing 3 on the Rural Environment topic), the reporting planner considered it appropriate to enable scrutiny of earthworks where they were proposed to take place within 20m of the gas transmission pipeline, from a safety perspective and from the perspective of the protection of regionally significant infrastructure.
- 4.3.10 The reporting planner therefore did not support deletion of Rule EW-R6.

Rule EW-R7 All other Earthworks not otherwise provided for

- 4.3.11 In response to submission points made by Centralines' on equivalent Electricity Safety Distance Standards in the Urban Environment chapters and the Rural Environment chapters of the PDP, the recommendation was that the additional matters of discretion be included as a new Assessment Matter in the Settlement Zone, General Industrial Zone, General Rural Zone, Rural Production Zone and Rural Lifestyle Zone, and that the new Assessment Matter be referenced as a matter of discretion under the relevant rules of the zones. For consistency, the reporting planner considered that the same response was appropriate for the EW – Earthworks chapter.
- 4.3.12 Therefore, the reporting planner recommended that the following new Assessment Matter be added, as follows:

EW-AMX	Electricity Safety Distances
1.	<u>Impacts on the operation, maintenance, upgrading and development of the electricity network.</u>
2.	<u>The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</u>
3.	<u>The risk to the structural integrity of any support structures associated with the electricity network.</u>
4.	<u>Technical advice provided by the National Grid owner (Transpower) or electricity distribution network operator (Centralines Limited).</u>

- 4.3.13 As a clause 16 minor amendment for consistency across the PDP, the reporting planner also similarly recommended that reference be made to the above new Assessment Matter in all other relevant rules of the EW – Earthworks chapter, accordingly (being Rules EW-R2, EW-R3 & EW-R6) – as for Rule EW-R7 below:

EW-R7 All Other Earthworks not otherwise provided for

All Zones	1. Activity Status: PER Where the following conditions are met: a. Compliance with: i. EW-S1; ii. EW-S2; iii. EW-S3; iv. EW-S4; v. EW-S5; vi. EW-S6; vii. EW-S7; and viii. EW-S8.	2. Activity status where compliance not achieved: RDIS Matters over which discretion is restricted: a. EW-AM1. b. EW-AM2. c. EW-AM3. d. EW-AM4. e. EW-AM5. f. EW-AM6. g. EW-AM7. h. <u>EW-AMX.</u>
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Earthworks Rules – Requirement for erosion & sediment control plans

- 4.3.14 While the reporting planner concurred with the HBDHB that ‘poorly controlled erosion and discharge of sediment into waterways significantly affected ecosystem health and can lead to degraded water quality that has the potential to impact on human health’, the reporting planner did not consider the earthworks provisions in the PDP require further strengthening through additional rules, as sought.
- 4.3.15 In the reporting planner’s view, Standard EW-S4 already imposes site reinstatement requirements and Standard EW-S5 requires control of silt and sediment via erosion and sediment control measures (with the HBRC Waterway Guidelines noted as an acceptable means of compliance).
- 4.3.16 In addition, Assessment Method EW-AM1(2)(e) and (f) refers to consideration of ‘sediment control measures’ and ‘rehabilitation of the site (including backfilling, re-spreading of subsoil and topsoil, contouring, re-pasturing and revegetation)’, and Method EW-M2 refers to the HBRC Erosion and Sediment Control Guidelines.
- 4.3.17 Erosion and sediment control plans were therefore generally expected as part of resource consent documentation and/or form the basis for resource consent conditions for those land use activities involving earthworks that triggered a resource consent. In that sense, the reporting planner considered the PDP provisions already adequately covered erosion and sediment control matters.

New rule – land disturbance activities

- 4.3.18 The Oil Companies sought a permitted activity pathway for ‘land disturbance activities’ (defined in the PDP as ‘the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) that did not permanently alter the profile, contour or height of the land’) rather than defaulting to Rule EW-R7 with corresponding conditions. They proposed such earthworks be treated similar to the permitted activity pathway for land disturbance activities provided for network utilities.
- 4.3.19 The Oil Companies were concerned that the PDP not duplicate matters which were appropriately addressed under the NESCS or which had limited potential for adverse effects, namely temporary land disturbance activities which reinstate existing ground levels.
- 4.3.20 The reporting planner noted that earthworks associated with replacement and/or removal of fuel storage systems were already provided for as a permitted activity in Rule EW-R1 Specified Earthworks. She considered it was unclear what other land disturbance situations the Oil Companies were concerned about (i.e. what other ‘intrusive works on sites to operate, maintain and upgrade refuelling facilities’ involve?).
- 4.3.21 In the case of any other earthworks, Rule EW-R7 already provides a permitted activity pathway, subject to compliance with the various EW-Standards and, where these were not met, the activity defaults to a restricted discretionary activity. The reporting planner did not consider this to be an onerous consenting process.

- 4.3.22 Therefore, based on the information provided with the submission, the reporting planner was of the opinion that a separate rule providing for land disturbance activities was not warranted and may lead to adverse effects that deserve consideration and that should be avoided, remedied, or mitigated.

New Rule – Earthworks in natural hazard areas

- 4.3.23 Kāinga Ora sought the addition of a new rule in the EW – Earthworks chapter providing for earthworks within natural hazard areas, subject to conditions, and a discretionary or non-complying activity status if there was non-compliance with those conditions.
- 4.3.24 In the reporting planner’s view, earthworks were already provided for as a permitted activity subject to various conditions as set out in Rule EW-R7 (irrespective of whether the earthworks were in a natural hazard area or not), and non-compliance with the standards defaults to a restricted discretionary activity. Further, Assessment Matter EW-AM1 already provides for consideration of the effects of land disturbance and earthworks in respect of erosion and stability (EW-AM1(1)(c)), consideration of the potential or increased risk of hazards from the activity, including potential risk to people or the community (EW-AM1(2)(d)), sediment control measures (EW-AM1(2)(e)), rehabilitation (EW-AM1(2)(f)), and effects on flow paths and floodway’s (EW-AM1(2)(j)). The reporting planner considered this framework provides adequate opportunity to consider implications of earthworks within natural hazard areas where a requirement for resource consent was triggered as a restricted discretionary activity.
- 4.3.25 The reporting planner also did not consider that a discretionary or non-complying activity status was necessary in respect of earthworks. She noted that buildings and alterations to existing buildings within natural hazard areas were themselves subject to rules in the NH chapter based on building importance, as well as vulnerable activities in the Tsunami Hazard Area.
- 4.3.26 For these reasons, the reporting planner considered the addition of a new rule as sought by this submitter was unnecessary.

Standards & assessment matters

Standard EW-S2 Extent of earthworks

- 4.3.27 The Surveying Company sought that the zones listed together under Standard EW-S2(12) should be separated and more appropriate values assigned for each zone, as they considered the permitted volume was too low and will result in a number of resource consent applications for earthworks. The submitter gave the example of the industrial zone, stating that 50m³ was insufficient given the likely size of buildings in this area.
- 4.3.28 The reporting planner noted that Rule EW-R1 already provides a permitted activity pathway for earthworks associated with site preparation works for a building, where the area of earthworks was up to 150% of the building footprint and complies with Standard EW-S1 Slope. This type of ‘specified earthworks’ was not required to comply with Standard EW-S2. Therefore, earthworks associated with site preparation for a building in the General Industrial Zone was generally permitted (subject to slope, and silt/sediment control standards), irrespective of the size of the building footprint concerned.
- 4.3.29 Given the above, the reporting planner considered the relief sought by the submitter was unnecessary.

Standard EW-S3 vertical extent of excavation

- 4.3.30 Federated Farmers supported the different vertical limits for different landscape features, to recognise they had varied ability to absorb the effects of earthworks, but the reporting planner did not concur with Federated Farmers that the permitted vertical heights for excavation in Standard

EW-S3 relating to the identified areas of 'High Natural Character' (HNC), 'Outstanding Natural Features and Landscapes' (ONF/ONL) and 'Significant Natural Areas' (SNA) in the PDP, were too small. Federated Farmers also sought deletion of all references to areas of High Natural Character.

- 4.3.31 In response, the reporting planner noted that Policy 13 of the NZCPS requires 'assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character' (Policy 13(1)(d)). Therefore, she considered that inclusion of HNC areas in the PDP was appropriate and consistent with the NZCPS. In 'avoiding significant adverse effects and avoiding, remedying or mitigating other adverse effects of activities on natural character in all other areas of the coastal environment' (Policy 13(1)(b)), the reporting planner noted the approach taken in the PDP was to apply special recognition of the mapped and identified HNCA in the District.
- 4.3.32 The reporting planner noted the cut/fill face for ONFLs in the Hastings District Plan provides for a 2m vertical extent (other than for ONFL-7 Kaweka and Ruahine Ranges, where a 5m vertical extent was provided). In the reporting planner's view, the 2m permitted vertical extent (and 5m for ONL1 Ruahine Range) was consistent with this, for the most part. The difference was in relation to the areas of HNC and ONFs specified in Standard EW-S3(2), which had a 1m permitted vertical extent.
- 4.3.33 The reporting planner advised that a 1m vertical extent was selected for areas considered by Council's expert landscape architect as less able to absorb the effects of earthworks – being those outstanding natural features with a potential threat ranking of 'discourage' (as opposed to 'restrict' or 'limit') with respect to earthworks as outlined in the 2019 'Central Hawke's Bay District Outstanding Natural Landscape Assessment' report; and those areas of HNC where earthworks or landform modifications were identified as a specific threat in the 2019 'Natural Character Assessment of the Central Hawke's Bay Coastal Environment' report. Rather than imposing a more restrictive activity status of discretionary or non-complying for the more sensitive landscapes as indicated in the Landscape Assessment report, the PDP imposes a lesser vertical threshold but defaults to a restricted discretionary activity for non-compliance.
- 4.3.34 Therefore, the reporting planner did not support amending the vertical limits for the identified areas of HNC or ONL/ONFs as sought, and also did not support removal of HNC areas from the application of Standard EW-S2.

Standard EW-S4 site reinstatement

- 4.3.35 The Aggregate and Quarry Assoc sought the exclusion of quarrying from the site reinstatement requirements in Standard EW-S4, as the timeframes for quarrying were longer than the standard envisages and 6 months after disturbance ceases may not be enough time.
- 4.3.36 The reporting planner noted that mining and quarrying (apart from farm quarries) were discretionary or non-complying activities under Rule EW-R4. She noted that reinstatement requirements would be site-specific and imposed through specific conditions of the applicable resource consent. Therefore, the reporting planner did not support an exemption for quarrying from Standard EW-S4, as this would be irrelevant and unnecessary.

Standard EW-S6 Earthworks and vertical holes within the National Grid Yard

- 4.3.37 Transpower supported Standard EW-S6 in support of Rule EW-R5, but sought that the standard be relocated to the NU – Network Utilities chapter of the PDP. The reporting planner did not support moving the standard, as the planner considered retaining this rule in the EW chapter was more appropriate as it relates to earthworks which happen to be in the vicinity of network utilities, whereas the Network Utilities chapter exclusively relates to the activities of the Network Utility Operators themselves.

- 4.3.38 Federated Farmers sought to amend Standard EW-S6 to require earthworks regulation within the National Grid to be consistent with the NZECP34:2001 Code of Practice for Electrical Safe Distances, specifically Table 4.
- 4.3.39 The reporting planner considered a metric measurement was likely to be more readily understood and applied than the table in the NZECP, and the reporting planner concurred with Transpower that, on the basis that ‘ancillary rural earthworks’ such as cultivation and road and track maintenance meet the standards, the activity should be permitted. In the reporting planner’s view, Standard EW-S6 was appropriate and was not overly onerous. Therefore, the planner did not support the amendments to Standard EW-S6 sought by Federated Farmers.

4.4 Evidence to the hearing

- 4.4.1 Jordyn Landers presented evidence for Hort NZ at the hearing. Ms Landers generally supported the S42A recommendations and particularly supported for the recommended amendments to the ancillary rural earthworks definition to specifically exclude cultivation.
- 4.4.2 Rhea Dasent presented evidence for Federated Farmers at the hearing. Mr Dasent evidence covered the earthworks within the National Grid Yard and earthworks within 20m of the Gas Transmission Network.
- 4.4.3 Pauline Whitney and Benjamin Cartwright provided evidence for Transpower at the hearing. The evidence generally supported or accepted all the officer’s recommendations.
- 4.4.4 Graeme Roberts provided evidence for First Gas at the hearing and his evidence generally supported the s42A recommendations.
- 4.4.5 Michael Campbell provided evidence for Kāinga Ora the evidence, generally supporting the proposed changes to the Earthworks section of the PDP that addressed a number of the submission points made by Kāinga Ora. He did, however, note a concern with respect to whether the proposed earthworks provisions address effects on Natural Hazards arising from earthworks.
- 4.4.6 Megan Barr presented evidence on behalf of The Oil Companies and requested a new rule for temporary land disturbance activities.

4.5 Post hearing information

- 4.5.1 The reporting planner’s right-of-reply did not address any matters relating to Earthworks, and no additional information was provided.

4.6 Evaluation and findings

Rules

Rule EW-R1 Specified Earthworks

- 4.6.1 The Panel agrees with the reporting planner’s right-of-reply and her recommendation to add additional compliance with particular standards depending on the specified earthworks concerned in Rule EW-R1, and their sensitivity to such effects.
- 4.6.2 The Panel therefore recommends amending Rule EW-R1 as follows:

EW-R1 Specified Earthworks

All Zones	<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. The earthworks are associated with site preparation works for a building, the area (m²) of earthworks is no more than 150% of the area of the associated building footprint, and complies with <u>EW-S1 Slope, and EW-S5 Control of Silt and Sediment, and EW-SX Earthworks within a scheduled Wāhi Tapu Place in HH SCHED2</u>; or</p> <p>b. The earthworks are associated with any network utilities, including the upgrade or maintenance of existing public roads, <u>and complies with EW-S4 Site Reinstatement and EW-S5 Control of Silt and Sediment, and EW-SX Earthworks within a scheduled Wāhi Tapu Place in HH-SCHED2</u>; or</p> <p>c. The earthworks are associated with replacement and/or removal of a fuel storage system defined as permitted by the Resource Management Regulations (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health), <u>and complies with EW-S5 Control of Silt and Sediment, and EW-SX Earthworks within a scheduled Wāhi Tapu Place in HH-SCHED2</u>, or</p> <p>d. The earthworks are associated with gravel extraction within the bed of a river.</p> <p>Note: Gravel extraction within the bed of a river is subject to rules administered by the Hawke's Bay Regional Council.</p>	<p>2. Activity status where compliance not achieved: EW-R2 to EW-R7 apply</p>
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Rule EW-R5 Earthworks and vertical holes within the National Grid Yard

4.6.3 The Panel agrees with the reporting planner's right of reply that a 6m buffer from National Grid support structure foundations is appropriate as this aligns with NZECP34.

4.6.4 The Panel recommends that the rule is amended as follows:

EW-R5 Earthworks and vertical holes within the National Grid Yard		
All Zones	<p>3. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. The earthworks must be no deeper (measured vertically) than 300mm within 6m12m of the outer visible edge of any National Grid support-structure foundation, <u>and no deeper than 3 metres between 6 metres and 12 metres from the outer visible edge of a foundation of a National Grid</u></p>	<p>4. Activity status where compliance with conditions EW-R5(1)(a) and/or EW-R5(1)(b) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a. EW-AM1. b. EW-AM2. c. EW-AM3. d. EW-AM4.</p>

	support-structure foundation, except under the following circumstances:	e. EW-AM5. f. EW-AM6.
	i. earthworks that are undertaken by a network utility operator (other than for the reticulation and storage of water for irrigation purposes) as defined by the Resource Management Act 1991, or	g. EW-AM7. h. Impacts on the operation, maintenance, upgrading and development of the National Grid.
	ii. earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track.	i. The risk to the structural integrity of the affected National Grid support structure.
	iii. vertical holes not exceeding 500mm in diameter, provided they:	j. Any impact on the ability of the National Grid owner (Transpower) to access the National Grid.
	a. are more than 1.5m from the outer edge of the pole support structure or stay wire, or	k. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.
	b. are a post hole for a farm fence or artificial crop protection or crop support structures and are more than 6m from the visible outer edge of a tower support structure foundation.	l. Technical advice provided by the National Grid owner (Transpower).
	b. Compliance with:	m. Any effects on National Grid support structures including the creation of an unstable batter.
	i. EW-S1;	
	ii. EW-S2;	
	iii. EW-S3;	
	iv. EW-S4;	
	v. EW-S5;	
	vi. EW-S7;	
	vii. EW-S8; and	
	viii. EW-S9.	
	c. Compliance with EW-S6.	3. Activity status where compliance with condition EW-R5(1)(c) is not achieved: NC

Rule EW-R6 Earthworks within 20m of the Gas Transmission Network

- 4.6.1 The Panel agrees with the reporting planner's right-of reply, and does not support the deletion of Rule EW-R6. It is appropriate to manage earthworks within close proximity to gas pipelines.

Rule EW-R7 All other Earthworks not otherwise provided for

- 4.6.2 The Panel agrees with the reporting planner that a new Assessment Matter be added to address electricity safety distances for earthworks, as follows:

EW-AMX	Electricity Safety Distances
	<u>1. Impacts on the operation, maintenance, upgrading and development of the electricity network.</u>
	<u>2. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</u>
	<u>3. The risk to the structural integrity of any support structures associated with the electricity network.</u>
	<u>4. Technical advice provided by the National Grid owner (Transpower) or electricity distribution network operator (Centralines Limited).</u>

- 4.6.3 As a clause 16 minor amendment for consistency across the PDP, the Panel also agrees with the reporting planner and recommends that reference be made to the above new Assessment Matter in all other relevant rules of the EW – Earthworks chapter, accordingly (being Rules EW-R2, EW-R3 & EW-R6) – as for Rule EW-R7 below:

EW-R7 All Other Earthworks not otherwise provided for		
All Zones	<p>3. Activity Status: PER Where the following conditions are met:</p> <p>b. Compliance with:</p> <ul style="list-style-type: none"> ix. EW-S1; x. EW-S2; xi. EW-S3; xii. EW-S4; xiii. EW-S5; xiv. EW-S6; xv. EW-S7; and xvi. EW-S8. 	<p>4. Activity status where compliance not achieved: RDIS Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> i. EW-AM1. j. EW-AM2. k. EW-AM3. l. EW-AM4. m. EW-AM5. n. EW-AM6. o. EW-AM7. p. <u>EW-AMX.</u>

Earthworks Rules – Requirement for erosion & sediment control plans

- 4.6.4 The Panel agrees with the reporting planner that Standard EW-S4 already imposes site reinstatement requirements and Standard EW-S5 requires control of silt and sediment via erosion and sediment control measures (with the HBRC Waterway Guidelines noted as an acceptable means of compliance) and no amendments are required.

New Rule – Land Disturbance Activities

- 4.6.5 The Panel agrees with the reporting planner that a separate rule providing for land disturbance activities is not warranted.

New Rule – Earthworks in Natural Hazard Areas

- 4.6.6 The Panel agrees with the reporting planner that the addition of a new rule in the EW – Earthworks chapter providing for earthworks within natural hazard areas, subject to conditions, and a Discretionary or Non-Complying activity status if there is non-compliance with those conditions is unnecessary.

Standards & assessment matters

Standard EW-S2 Extent of Earthworks

- 4.6.7 The Panel agrees with the reporting planner that the earthwork volumes in the standard are appropriate and no amendments are required.

Standard EW-S3 Vertical Extent of Excavation

- 4.6.8 The Panel agrees with the reporting planner and does not support amending the vertical limits for the identified areas of HNC or ONL/ONFs as sought as these thresholds are based on expert landscape advice. The Panel also does not support removal of HNC areas from the application of Standard EW-S2.

Standard EW-S4 Site Reinstatement

- 4.6.9 The Panel agrees with the reporting planner and does not support an exemption for quarrying from Standard EW-S4.

Standard EW-S6 Earthworks and Vertical Holes within the National Grid Yard

- 4.6.10 The Panel agrees with the reporting planner's right-of-reply that Standard EW-S6 be amended to require earthworks within the National Grid corridor to be consistent with the NZECP34:2001 Code of Practice for Electrical Safe Distances, specifically Table 4.
- 4.6.11 Accordingly, the Panel recommends that the standard is amended as follows:

EW-S6 Earthworks and Vertical Holes within the National Grid Yard	
All Zones	<ol style="list-style-type: none">1. The earthworks must not compromise the stability of a National Grid support structure, and2. The earthworks must not result in a reduction in ground-to-conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001) of less than: 6.5m (measured vertically) from a 110kV National Grid transmission line, and3. The earthworks must not result in the permanent loss of vehicular access to any National Grid support structure.

5 Key Issue 3 – Rural Earthworks

5.1 Proposed plan provisions

- 5.1.1 This key issue addresses the rural earthworks provisions.

5.2 Submissions

- 5.2.1 There were 21 submissions and 20 further submissions address rules and standards relating more specifically to ancillary rural earthworks and standards relating to earthworks in the rural zones.

5.3 Reporting planner's recommendations (s42A report)

EW – Introduction

- 5.3.1 The reporting planner considered that inserting the wording sought by Pork Industry Board into the Introduction of the Earthworks chapter of the PDP would appropriately acknowledge that earthworks were also an integral part of primary production. The reporting planner noted that the definition of earthworks (taken from the National Planning Standards) specifically excluded 'gardening, cultivation, and disturbance of land for the installation of fence posts', and that other 'ancillary rural earthworks' were anticipated as part of normal agricultural and horticultural practices.
- 5.3.2 Therefore, the reporting planner recommended the amendment to the EW – Introduction, as follows:

Introduction

Earthworks are an integral part of development, as they prepare land (including the formation of building platforms) to be used for living, business and recreation, and are often essential to the construction of foundations, buildings, and structures. **Earthworks also form part of normal agricultural and horticultural practices in the rural environment.**

This chapter also includes provisions relating to mining, quarries, and gravel extraction.

In terms of mineral, aggregate and hydrocarbon extraction, there are significant aggregate deposits in the District and there is potential for discovery of minerals and hydrocarbon deposits in the future. Buildings, roads, and many surfaces used for business, land based primary production, education and recreation depend on a continuing supply of aggregates of various kinds. Most gravel extracted in the District is from river sources. Gravel extraction from riverbeds is controlled by the Hawke's Bay Regional Council.

Whilst integral to development, earthworks can have adverse effects on the environment if not appropriately managed.

When land contours are disturbed or altered through earthworks, mineral, aggregate and hydrocarbon extraction, this can have significant environmental effects on:

- The surface drainage patterns of land;
- Visual amenity values;
- Soil erosion potential;
- The life-sustaining capacity of soils;
- The disturbance of ecosystems, watercourses, and waterbodies;
- The disturbance of areas of natural, cultural and heritage values; and
- The safety of people and the community where earthworks could cause subsidence, slippage, or inundation of land.

The earthworks provisions have been developed to ensure earthworks and minerals extraction are managed appropriately to avoid, remedy, or mitigate potential adverse effects.

Definition of 'Ancillary Rural Earthworks (Primary Production)'

- 5.3.3 There was overall support for the PDP specifically defining 'ancillary rural earthworks' and providing for it, as distinct from general 'earthworks', to enable a regulatory approach that recognised 'ancillary rural earthworks' as integral to the purpose of the rural zones.

- 5.3.4 There were, however, a number of submissions that sought various amendments to the definition of ‘ancillary rural earthworks’ as follows (in summary):
- to delete those aspects of the definition that were excluded from the definition of ‘Earthworks’ i.e. *‘gardening, cultivation and disturbance of land for the installation of fence posts’*
 - to incorporate the burying of infected material under the Biosecurity Act, and
 - to incorporate construction of new, as well as maintenance of existing, tracks, accessways and roads etc., and irrespective of whether they were within the same formation width.
- 5.3.5 The reporting planner concurred with Hort NZ that gardening, cultivation (where ‘cultivation’ was defined in the PDP as ‘the alteration or disturbance of land...for the purpose of sowing, growing or harvesting of pasture or crops’), and disturbance of land for the installation of fence posts, were excluded from the definition of ‘Earthworks’ and therefore should similarly be removed from the definition of ‘Ancillary Rural Earthworks’ to avoid confusion. However, the reporting planner did not accept that this was reasonably achieved by deleting clauses (a) and (b) in their entirety. The reporting planner recommended deletion of clause (b) as it fell within the definition of ‘cultivation’, but retain those aspects of clause (a) that did not constitute ‘gardening, cultivation or disturbance of land for the installation of fence posts’, and by inserting a ‘Note’ to clarify the application of the definition in line with those aspects excluded from the definition of ‘Earthworks’.
- 5.3.6 The reporting planner also concurred with Hort NZ and the Pork Industry Board that it was reasonable to include the burying of biosecurity material under MPI obligations as legitimate ancillary earthworks in a primary production setting, and that this should be included within the definition. With regard to the further submission of NHMT further submission that “any such earthworks would be covered as part of the emergency provisions of the Act”, the reporting planner accepted the submission of the Pork Industry Board that ‘not all biosecurity incursions would constitute a biosecurity emergency that would trigger provisions in the RMA or Biosecurity Act to override consenting requirements’, and that –
- ...Any biosecurity incursions within the industry must be able to be managed quickly and efficiently to contain spread. The intersect with the District Plan may well be in a response that requires burial of animal carcasses. The Regional Plan is in place to manage discharges from such activities but [District Plan] constraints on earthwork activity (volume and area) may inhibit a timely, efficient, and effective response.
- 5.3.7 The reporting planner, however, did not support amendments to expand the definition to include ‘construction’ of farm tracks and roads, as sought by Federated Farmers, and instead concurred with the further submitter, NHMT, that construction of new farm tracks and roads should continue to be managed through the earthwork’s rules due to the scale of their potential adverse effects. The reporting planner recommended that ‘ancillary rural earthworks’ continue to be limited to maintenance of existing tracks and roads.
- 5.3.8 Notwithstanding that position, the reporting planner noted that constraints on ancillary rural earthworks associated with the construction and maintenance of tracks etc, and the requirement for tracks etc to be ‘within the same formation width’, were provided for through the rules (Rule EW-R2) and standards (e.g. Standard EW-S2, and Standard EW-S7 (within identified areas of HNC, ONFs/ONL & SNAs)).
- 5.3.9 The reporting planner noted that, while application of Standard EW-S7 Ancillary Rural Earthworks requires maintenance of existing tracks etc to be within the same formation width, this requirement was confined to ancillary rural earthworks within identified areas of HNC ONFs/ONL & SNAs only. In the reporting planner’s view, this was where the intent lies – in recognising that earthworks outside of the existing formation width may have significant adverse effects on those identified values that warrant consideration through a resource consent process – and, therefore,

it was not necessary to duplicate this aspect within clause (c) of the definition. In the reporting planner's view, use of the term 'maintenance' in clause (c) already inferred sufficient limitation on the extent of works outside of those identified areas, and the reporting planner was comfortable removing the words 'within the same formation width' from the definition would not open the floodgates.

- 5.3.10 On the basis of the above, the reporting planner recommended the definition of 'Ancillary Rural Earthworks' be amended as follows:

<p>ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION)</p>	<p>means <u>earthworks associated with normal agricultural and horticultural practices, such as:</u></p> <p>a. Normal agricultural and horticultural practices, such as cultivating and harvesting crops, 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, <u>and burying of dead stock and plant waste (including material infected by unwanted organisms as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993);</u></p> <p>b. Land preparation and vegetation clearance undertaken as part of horticultural plantings, and</p> <p>c. Maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways within the same formation width.</p> <p><u>Note: for clarification purposes, the alteration or disturbance of land associated with 'gardening, cultivation, and disturbance of land for the installation of fence posts' is excluded from the definition of 'earthworks'.</u></p>
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New EW Policy

- 5.3.11 The Pork Industry Board, Hort NZ and Federated Farmers each sought inclusion of a new policy in the Earthworks chapter of the PDP to recognise and support ancillary rural earthworks.
- 5.3.12 The reporting planner did not consider that the PDP lacked policy support for the methods adopted to enable and manage the effects of ancillary rural earthworks, as suggested by the Pork Industry Board and, therefore, did not consider inclusion policy, sought by the submitter, was necessary. In the reporting planner's view, 'ancillary rural earthworks' were a subset of 'earthworks' generally, therefore such earthworks were already appropriately covered by the existing policies in the EW – Earthworks chapter. For the same reasons, the reporting planner did not support inclusion of a similar policy sought by Hort NZ.
- 5.3.13 In terms of the additional policy sought by Federated Farmers, for the reasons already stated above, the reporting planner did not support extending unlimited ancillary rural earthworks into identified areas of HNC, ONF/ONL & SNAs, nor any policy wording that promoted ancillary rural earthworks as having 'de minimus effects'. Therefore, the reporting planner considered inclusion of the additional policy sought by Federated Farmers was neither appropriate, nor necessary.

Rule EW-R2 Ancillary Rural Earthworks

- 5.3.14 Submitters generally supported the retention of Rule EW-R2, given that 'cultivation' was specifically excluded from the definition of 'earthworks', and the definition of 'ancillary rural earthworks' was recommended to include earthworks associated with burying infected material for biosecurity purposes.
- 5.3.15 However, Federated Farmers opposed any limitation on ancillary rural earthworks, and sought deletion of requirements to comply with any of the earthwork's standards. While the reporting

planner accepted that ancillary rural earthworks were generally more able to be absorbed within the rural environment, she considered that they were not always benign as they can be of considerable size and length and can involve a considerable volume or vertical extent of earthworks that may have significant adverse effects (visual impacts, amenity impacts, silt and sediment runoff etc) on the environment that warrant management. Therefore, in the reporting planner's view, it was entirely appropriate that there remain some permitted activity parameters beyond which a resource consent was triggered, to enable Council to assess any effects.

- 5.3.16 First Gas opposed Federated Farmers' submission to remove the requirement to comply with the Permitted Activity standards... 'in particular separation distance from the Gas Transmission Network'. The reporting planner noted that there was no Permitted Activity standard applying a separation distance from the Gas Transmission Network for 'ancillary rural earthworks' in Rule EW-R2. However, there was a separate Permitted Activity rule (Rule EW-R6) that applies to earthworks within 20m of the Gas Transmission Network, subject to complying with the standards. For clarity, the reporting planner recommended that the words '(including ancillary rural earthworks)' be inserted in the rule heading for Rule EW-R6 – the reporting planner considered this was a minor amendment pursuant to cl16 of Schedule 1 to the RMA.

Standard EW-S2 Extent of Earthworks

- 5.3.17 There was considerable support in the submissions for the permitted volumes applying in Standards EW-S2, particularly in the General Rural Zone and Rural Production Zone (Standard EW-S2(4), (8) & (9)), and, in particular, support for the unlimited volume applying to 'ancillary rural earthworks' in the General Rural Zone and Rural Production Zone (Standard EW-S2(3), (5) & (7)).
- 5.3.18 However, Federated Farmers considered the permitted activity threshold limit of 500m³ was too small to provide for farm activities like track maintenance and cultivation in the identified areas of 'High Natural Character', 'Outstanding Natural Features and Landscapes', and 'Significant Natural Areas' (Standard EW-S2(1) & (2)). The reporting planner noted that 'cultivation' and fence post holes were excluded from the definition of 'earthworks' and therefore were not subject to this permitted volume limit.
- 5.3.19 As already outlined, the reporting planner did not support deletion of the areas of High Natural Character (HNC), as these were mapped and appropriately provided for in giving effect to Policy 13 of the NZCPS.
- 5.3.20 However, whilst the reporting planner did not support unlimited ancillary rural earthworks (or an undefined and unlimited provision for 'maintenance earthworks') in the specific areas/features identified, as sought by Federated Farmers, the reporting planner did consider that the permitted volume limit should be amended to apply 'within the identified feature', rather than 'per site'. The reporting planner believed this would address the potential interpretation of the 500m³/200m³ limits in Standard EW-S2(1) & (2) as applying to the whole site such as a farm (including those parts of the site that were not subject to the identified areas/features). She noted that, beyond the identified areas/features themselves, the General Rural Zone and/or Rural Production Zone limits were intended to apply to the rest of the site: i.e., ancillary rural earthworks would be unlimited, all other earthworks would be provided for up to the nominated 'per hectare of site in any 12-month period' limit for the zone concerned. The reporting planner considered this appropriate, and better reflects what was intended.
- 5.3.21 The reporting planner acknowledged that the scale and size of an SNA can be significantly different to an ONL, it was considered that it was not the size of the feature, but the extent of earthworks that was the appropriate consideration. Therefore, the reporting planner was comfortable with the limits applying similarly across all identified areas/features and did not consider there was sufficient evidence supporting the setting and application of a separate volume limit for earthworks within SNAs.

- 5.3.22 Federated Farmers also queried the separate earthworks volume limit proposed for the 'Coastal Environment' (Standard EW-S2(6)). In the reporting planner's view, with identification of areas of HNC, ONFs and SNAs in the coastal environment, and the earthworks standards applying to those areas, the PDP arguably already gives effect to the NZCPS in terms of protecting the natural character of the coastal environment from inappropriate use and development (Policy 13 of the NZCPS); protecting outstanding natural features (Policy 15 NZCPS); and ensuring activities do not result in a significant increase in sedimentation in the coastal marine area or other coastal water (Policy 22 NZCPS). Outside of those identified areas/features, the reporting planner accepts that there was little need for a separate volume limit applying to the coastal environment, and that it was reasonable to apply the underlying zone provisions for earthworks – in this case, those applying in the General Rural Zone.
- 5.3.23 On that basis, the reporting planner recommended deleting the separate provisions applying to the coastal environment, being Standard EW-S2(5) & (6), with consequential amendment to the title for the General Rural Zone within Standard EW-S2.
- 5.3.24 Given the above, the reporting planner recommended that Standard EW-S2 be amended as follows:

EW-S2 Extent of Earthworks	
Identified areas of: <ul style="list-style-type: none"> High Natural Character (HNCs) Outstanding Natural Features and Landscapes (ONFs/ONL) Significant Natural Areas (SNAs) 	<ol style="list-style-type: none"> Ancillary rural earthworks – maximum of 500m³ per site <u>within the identified area/feature</u> in any 12-month period. Refer also Standard EW-S7. All other earthworks – maximum of 200m³ per site <u>within the identified area/feature</u> in any 12-month period.
General Rural Zone (except Coastal Environment, and any identified HNC, ONF/ONL or SNA areas)	<ol style="list-style-type: none"> Ancillary rural earthworks – unlimited. All other earthworks – maximum of 2,000m³ per hectare of site in any 12-month period.
Coastal Environment (except any identified HNC, ONF/ONL or SNA areas)	<ol style="list-style-type: none"> Ancillary rural earthworks – unlimited. All other earthworks – maximum of 200m³ per hectare of site in any 12-month period.
Rural Production Zone (except any identified HNC, ONF/ONL or SNA areas)	<ol style="list-style-type: none"> Ancillary rural earthworks – unlimited. All other earthworks – maximum of 1,000m³ per hectare of site in any 12-month period. Removal offsite of topsoil, sand, gravel, or earth – maximum of 25m³ per site in any 12-month period.
Rural Lifestyle Zone (except any identified HNC, ONF/ONL or SNA areas)	<ol style="list-style-type: none"> Maintenance of existing tracks, driveways, roads and accessways, existing drains and existing fence lines within the same formation width – maximum of 500m³ per site in any 12-month period. All other earthworks – maximum of 100m³ per hectare of site in any 12-month period.
Settlement Zone Large Lot Residential Zone (Coastal) General Residential Zone Commercial Zone General Industrial Zone	<ol style="list-style-type: none"> Maximum of 50m³ per site in any 12-month period.
	<p>Notes:</p> <ol style="list-style-type: none"> For the purpose of assessing the total volume of earthworks allowed as a Permitted Activity for sites where a per-hectare rule applies, the volume will be calculated by multiplying the volume threshold by the total area of the subject site in hectares over any 12-month period. For the importation of fill or removal of cut to or from an offsite location, the volumes of earthworks specified will be reduced by 50% in determining the volume permitted in any 12-month period.

Standard EW-S5 Control of Silt and Sediment

- 5.3.25 In response to the submission from Hort NZ, the reporting planner did not support amending Standard EW-S5 to add reference in the 'Notes' to 'Hort NZ Erosion and Sediment Control Guidelines for Vegetable Production'.
- 5.3.26 The HBRC Waterway Guidelines are a well-understood and accepted set of guidelines specific to the Hawke's Bay region, and are applicable to any type of earthworks activities across all sectors. The Hort NZ guidelines for vegetable production are focused on cultivated land compared to earthworks generally, and was focused more on minimising soil erosion and loss as opposed to protecting waterways. Further, given that 'cultivation' was excluded from the definition of 'earthworks', there was little point in referencing erosion and sediment control guidelines for vegetable production in the Earthworks chapter.

Standard EW-S6 Earthworks and Vertical Holes within the National Grid

- 5.3.27 In response to the submission from Hort NZ, the reporting planner did not support the amendment of Standard EW-S6 to state that 'ancillary rural earthworks' were a permitted activity, as this would be inaccurate. Hort NZ sought to have cultivation and road and track maintenance provided for as a permitted activity.
- 5.3.28 The reporting planner noted that, as identified by Transpower (as a further submitter on this matter), 'cultivation' was excluded from the definition of 'earthworks'. Further, the reporting planner noted that 'earthworks and vertical holes within the National Grid Yard' were a permitted activity under Rule EW-R5 subject to complying with the specified standards (including compliance with Standard EW-S6 Earthworks and Vertical Holes within the National Grid Yard). Such earthworks revert to restricted discretionary activity status if they did not meet the standards.
- 5.3.29 The reporting planner concurred with Transpower that, based on the above and the definition of 'earthworks', the amendment sought was unnecessary.

Standard EW-S7 Ancillary Rural Earthworks

- 5.3.30 Federated Farmers sought the deletion of Standard EW-S7, as they oppose any limitation on ancillary rural earthworks. As outlined above, the reporting planner considered that, while 'ancillary rural earthworks' were generally appropriate for the rural zones and generally able to be absorbed within the rural environment, they were not always benign, and can be significant and had significant adverse effects within identified areas of HNC, ONF/ONL and SNAs.
- 5.3.31 The reporting planner also disagreed that managing ancillary rural earthworks in the should be for soil and water quality purposes. The matters in Standard EW-S7 were about managing adverse effects of ancillary rural earthworks on natural character, landscape, and ecosystem and indigenous biodiversity values, which were appropriate to the functions of territorial authorities under the RMA.
- 5.3.32 The reporting planner remained firmly of the view that there needed to be some permitted activity parameters applying to ancillary rural earthworks, beyond which a resource consent was triggered to enable Council to assess the effects (such as limiting to maintenance of existing tracks within the same formation width, and limiting volume to 500m³ in any 12-month period).
- 5.3.33 Given the above, the reporting planner did not support deletion of Standard EW-S7.

5.4 Evidence to the hearing

- 5.4.1 Jordyn Landers presented evidence for Hort NZ at the hearing. Ms Landers generally supported the S42A recommendations and particularly noted her support for the recommended amendments to the ancillary rural earthworks definition to specifically exclude cultivation.
- 5.4.2 Rhea Dasent presented evidence for Federated Farmers at the hearing. Ms Dasent's evidence covered the definition of ancillary rural earthworks, new policy and rule for rural ancillary earthworks.
- 5.4.3 Pauline Whitney and Benjamin Cartwright provided evidence for Transpower at the hearing. The evidence generally supported or accepted all of the officer's recommendations.
- 5.4.4 Graeme Roberts provided evidence for First Gas at the hearing, generally supporting the s42A report's recommendations.

5.5 Post hearing information

- 5.5.1 The reporting planner's right-of-reply did not address any matters relating to Earthworks, and no additional information was provided.

5.6 Evaluation and findings

EW – Introduction

- 5.6.1 The Panel agrees with the reporting planner, considering the changes sought by Pork Industry Board into the Introduction of the Earthworks chapter of the PDP appropriately acknowledges that earthworks are also an integral part of primary production.
- 5.6.2 Accordingly, the Panel agrees with the reporting planner's recommended amendments to the EW – Introduction, as follows:

Introduction

Earthworks are an integral part of development, as they prepare land (including the formation of building platforms) to be used for living, business and recreation, and are often essential to the construction of foundations, buildings, and structures. **Earthworks also form part of normal agricultural and horticultural practices in the rural environment.**

This chapter also includes provisions relating to mining, quarries, and gravel extraction.

In terms of mineral, aggregate and hydrocarbon extraction, there are significant aggregate deposits in the District and there is potential for discovery of minerals and hydrocarbon deposits in the future. Buildings, roads, and many surfaces used for business, land based primary production, education and recreation depend on a continuing supply of aggregates of various kinds. Most gravel extracted in the District is from river sources. Gravel extraction from riverbeds is controlled by the Hawke's Bay Regional Council.

Whilst integral to development, earthworks can have adverse effects on the environment if not appropriately managed.

When land contours are disturbed or altered through earthworks, mineral, aggregate and hydrocarbon extraction, this can have significant environmental effects on:

- The surface drainage patterns of land;
- Visual amenity values;
- Soil erosion potential;
- The life-sustaining capacity of soils;
- The disturbance of ecosystems, watercourses, and waterbodies;
- The disturbance of areas of natural, cultural and heritage values; and
- The safety of people and the community where earthworks could cause subsidence, slippage, or inundation of land.

The earthworks provisions have been developed to ensure earthworks and minerals extraction are managed appropriately to avoid, remedy, or mitigate potential adverse effects.

Definition of 'Ancillary Rural Earthworks (Primary Production)'

- 5.6.3 The Panel agrees with the reporting planner for the reasons she provided, and recommends that the definition of 'Ancillary Rural Earthworks' be amended as follows:

ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION)	<p>means <u>earthworks associated with normal agricultural and horticultural practices, such as:</u></p> <p>a. Normal agricultural and horticultural practices, such as cultivating and harvesting crops, 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, <u>and burying of dead stock and plant waste (including material infected by unwanted organisms as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993);</u></p> <p>b. Land preparation and vegetation clearance undertaken as part of horticultural plantings; and</p> <p>c. Maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways within the same formation width.</p> <p><u>Note: for clarification purposes, the alteration or disturbance of land associated with 'gardening, cultivation, and disturbance of land for the installation of fence posts' is excluded from the definition of 'earthworks'.</u></p>
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New EW Policy

- 5.6.4 The Panel agrees with the reporting planner that the new policies sought by Pork Industry Board, Hort NZ and Federated Farmers are not necessary.

Rule EW-R2 Ancillary Rural Earthworks

- 5.6.5 The Panel agrees with the reporting planner that it is entirely appropriate there be some permitted activity parameters for earthworks, beyond which a resource consent is triggered, to enable Council to assess any effects.
- 5.6.6 The Panel also agrees with the reporting planner that the words '(including ancillary rural earthworks)' be inserted in the rule heading for Rule EW-R6: this a minor amendment pursuant to cl16 of Schedule 1 to the RMA.

Standard EW-S2 Extent of Earthworks

- 5.6.7 The Panel agrees with the reporting planner and recommends deleting the separate earthworks provisions applying to the coastal environment, being Standard EW-S2(5) & (6), with consequential amendment to the title for the General Rural Zone within Standard EW-S2.
- 5.6.8 Given the above, the Panel recommended that Standard EW-S2 be amended as follows:

EW-S2 Extent of Earthworks	
<p>Identified areas of:</p> <ul style="list-style-type: none"> • High Natural Character (HNCs) • Outstanding Natural Features and Landscapes (ONFs/ONL) • Significant Natural Areas (SNAs) 	<p>3. Ancillary rural earthworks – maximum of 500m³ per site <u>within the identified area/feature</u> in any 12-month period. Refer also Standard EW-S7.</p> <p>4. All other earthworks – maximum of 200m³ per site <u>within the identified area/feature</u> in any 12-month period.</p>
<p>General Rural Zone (except Coastal Environment, and any identified HNC, ONF/ONL or SNA areas)</p>	<p>13. Ancillary rural earthworks – unlimited.</p> <p>14. All other earthworks – maximum of 2,000m³ per hectare of site in any 12-month period.</p>

Coastal Environment (except any identified HNC, ONF/ONL or SNA areas)	15. Ancillary rural earthworks – unlimited. 16. All other earthworks – maximum of 200m³ per hectare of site in any 12-month period.
Rural Production Zone (except any identified HNC, ONF/ONL or SNA areas)	17. Ancillary rural earthworks – unlimited. 18. All other earthworks – maximum of 1,000m ³ per hectare of site in any 12-month period. 19. Removal offsite of topsoil, sand, gravel, or earth – maximum of 25m ³ per site in any 12-month period.
Rural Lifestyle Zone (except any identified HNC, ONF/ONL or SNA areas)	20. Maintenance of existing tracks, driveways, roads and accessways, existing drains and existing fence lines within the same formation width – maximum of 500m ³ per site in any 12-month period. 21. All other earthworks – maximum of 100m ³ per hectare of site in any 12-month period.
Settlement Zone Large Lot Residential Zone (Coastal) General Residential Zone Commercial Zone General Industrial Zone	22. Maximum of 50m ³ per site in any 12-month period.
	Notes: 1. For the purpose of assessing the total volume of earthworks allowed as a Permitted Activity for sites where a per-hectare rule applies, the volume will be calculated by multiplying the volume threshold by the total area of the subject site in hectares over any 12-month period. 2. For the importation of fill or removal of cut to or from an offsite location, the volumes of earthworks specified will be reduced by 50% in determining the volume permitted in any 12-month period.

Standard EW-S5 Control of Silt and Sediment

- 5.6.9 The Panel agrees with the reporting planner and does not support amending Standard EW-S5 to add reference in the 'Notes' to 'Hort NZ Erosion and Sediment Control Guidelines for Vegetable Production'.

Standard EW-S6 Earthworks and Vertical Holes within the National Grid

- 5.6.10 The Panel agrees with the reporting planner and does not support the amendment of Standard EW-S6 to state that 'ancillary rural earthworks' are a permitted activity, as this would be inaccurate.

Standard EW-S7 Ancillary Rural Earthworks

- 5.6.11 The Panel agrees with the reporting planner that there needs to be some permitted activity parameters applying to ancillary rural earthworks, beyond which a resource consent is triggered to enable Council to assess the effects (such as limiting to maintenance of existing tracks within the same formation width, and limiting volume to 500m³ in any 12-month period).
- 5.6.12 The Panel therefore does not support deletion of Standard EW-S7.

6 Key Issue 4 – Earthworks within heritage sites and sites & areas of significance to Māori

6.1 Proposed plan provisions

- 6.1.1 This key issue addresses the earthworks provision within Heritage Site and Sites and Areas of Significance to Māori.

6.2 Submissions

- 6.2.1 There were 5 submission points from HNZPT seeking insertion of an additional standard in the EW – Earthworks chapter of the PDP, and application of that standard in a number of the EW – Rules. There were 5 further submissions (1 in support, and 4 in opposition) to HNZPT’s proposal.

6.3 Reporting planner’s recommendations (s42A report)

- 6.3.1 In the reporting planner’s view, to include a permitted activity standard in the Earthworks chapter, as sought by HNZPT, would create unnecessary duplication with the rules in the HH – Historic Heritage and SASM – Sites of Significance to Māori chapters in the PDP. She noted that Method EW-M1 identified these chapters of the PDP (amongst others) as containing additional rules and standards applying to earthworks near identified HH – Historic Heritage and SASM – Sites of Significance to Māori.
- 6.3.2 The reporting planner noted that the permitted activity conditions applying in the SASM Rules required that no activity destroy, damage, or modify a site identified in Schedule SASM-SCHED3, noting that ‘no activity’ would include earthworks. Rule SASM-R2 provided for earthworks associated with burials within existing urupā identified in Schedule SASM-SCHED3. Rule SASM-R5 provides for any other activity not otherwise provided for in the SASM Rules, and has an additional Permitted Activity condition that the activity must not involve offal pits, burial of dead stock or plant waste, or effluent storage or disposal fields – all of which would likely involve earthworks, to some degree.
- 6.3.3 In terms of the rules in the Historic Heritage chapter, the reporting planner noted that a resource consent was generally required as soon as an activity involves external alterations, relocation, or demolition of heritage items identified in Schedule HH-SCHED2 – enabling consideration of the effects of the activity including associated earthworks. Rule HH-R2 provides for new underground electricity, gas or telecommunications customer (service) connections affecting heritage items identified in Schedule HH-SCHED2 as a permitted activity.
- 6.3.4 In addition, where a heritage item (HH) or site of significance to Māori (SASM) was also an archaeological site, the HNZPT Act applies to any activity that may destroy, damage or modify the archaeological site.
- 6.3.5 Where an activity requires resource consent under the EW – Earthworks Rules, the reporting planner noted that Assessment Matter EW-AM1(2)(k) would come into play, requiring consideration of ‘measures to avoid the disturbance of wāhi tapu, wāhi taonga and sites of significance and archaeological sites (noting that any disturbance of an archaeological site will require separate approval under the HNZPT Act)’.
- 6.3.6 Therefore, the reporting planner did not support inclusion of the additional standard as sought, insofar as earthworks in the vicinity of heritage items and SASMs were already covered appropriately addressed, including in the rules in the HH and SASM chapters.

6.4 Evidence to the hearing

- 6.4.1 Jordyn Landers presented evidence for Hort NZ at the hearing. Ms Landers generally supported the S42A recommendations and particularly note support for the recommended amendments to the ancillary rural earthworks definition to specifically exclude cultivation.
- 6.4.2 Rhea Dasent presented evidence for Federated Farmers at the hearing. Ms Dasent's evidence addressed the reasons she considered there should be a definition of ancillary rural earthworks, and a new policy and rule for rural ancillary earthworks.
- 6.4.3 Pauline Whitney and Benjamin Cartwright provided evidence for Transpower at the hearing. Their evidence generally supported or accepted all the officer recommendations.
- 6.4.4 Graeme Roberts provided evidence for First Gas at the hearing: his evidence generally supported the s42A recommendations.
- 6.4.5 Dean Raymond provided evidence on behalf of HNZPT and recommended new standards to control earthworks on the site of scheduled historic heritage and sites and areas of significance to Māori.

6.5 Post hearing information

- 6.5.1 The reporting planner's right-of-reply did not address any matters relating to Earthworks, and no additional information was provided.

6.6 Evaluation and findings

- 6.6.1 The Panel agrees with the reporting planner and does not support inclusion of the additional standards as earthworks in the vicinity of heritage items and SASMs, and we consider that earthworks' effects are already appropriately addressed by other PDP requirements, including in the rules in the HH and SASM chapters.

7 Key Issue 5 – Earthworks provisions and the National Environmental Standards for Plantation Forestry

7.1 Proposed plan provisions

- 7.1.1 This key issue addresses the earthworks provisions and National Environmental Standards for Plantation Forestry.

7.2 Submissions

- 7.2.1 There were 8 submission points from Rayonier on this issue, and 1 further submission from Transpower, regarding the interrelationship between the earthwork's rules and standards in the PDP and the regulations in the National Environmental Standards for Plantation Forestry (NES-PF).

7.3 Reporting planner's recommendations (s42A report)

- 7.3.1 The reporting planner noted that mechanical land preparation was a regulated activity under the NES-PF, with cl73 of the NES-PF providing for 'mechanical land preparation' as a permitted activity without limitations in terms of territorial authority (district council) functions. It was treated as a permitted activity in specified areas subject to conditions in terms of regional council functions. Therefore, she considered it was appropriate to ensure that the PDP did not conflict with the NES-PF or regional council requirements.
- 7.3.2 The NES-PF includes a definition for 'earthworks' which specifically excludes 'soil disturbance by... mechanical land preparation', and defines 'mechanical land preparation' as 'using machinery to prepare land for replanting trees...' and specifically excludes 'earthworks or forestry quarrying'.
- 7.3.3 To avoid multiple references to the NES-PF in relation to each relevant definition and each rule in respect of earthworks, the reporting planner noted that the PDP includes an all-encompassing 'Note' at the beginning of the 'EW – Rules' section stating 'Note 1: The provisions of this chapter do not apply to plantation forestry. Plantation forestry was regulated separately under the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 which specifically addresses fill, spoil, sediment, stabilisation etc associated with plantation forest activities'.
- 7.3.4 In the reporting planner's view, this advice note makes it clear that the provisions in the Earthworks chapter do not apply to plantation forestry activities regulated under the NES-PF, and that no further clarification was considered necessary.

7.4 Evidence to the hearing

- 7.4.1 Jordyn Landers presented evidence for Horticulture NZ at the hearing. Ms Landers generally supported the s42A recommendations.
- 7.4.2 Rhea Dasent presented evidence for Federated Farmers at the hearing. Ms Dasent's evidence covered the definition of ancillary rural earthworks, new policy and rule for rural ancillary earthworks.
- 7.4.3 Pauline Whitney and Benjamin Cartwright provided evidence for Transpower at the hearing. Their evidence generally supported or accepted all the officer recommendations.
- 7.4.4 Graeme Roberts provided evidence for First Gas at the hearing and his evidence generally support the s42A recommendations.

7.5 Post hearing information

- 7.5.1 The reporting planner's right-of-reply did not address any matters relating to Earthworks, and no additional information was provided.

7.6 Evaluation and findings

- 7.6.1 The Panel agrees with the reporting planner that the provisions in the Earthworks chapter do not apply to plantation forestry activities regulated under the NES-PF, and that no further clarification is considered necessary.

8 Key Issue 6 – Mining & quarrying – definitions, objectives & policies

8.1 Proposed plan provisions

8.1.1 This key issue addresses the Mining & Quarrying – Definitions, Objectives and Policies.

8.2 Submissions

8.2.1 There were 17 submissions and 13 further submissions support retention of, or seek amendments to, the mining and quarrying-specific objectives and policies in the EW – Earthworks chapter.

8.3 Reporting planner’s recommendations (s42A report)

Definitions

Quarry’ & Quarrying Activities

8.3.1 There was support for retention of the definitions for ‘Quarry’ and ‘Quarrying Activities’ in the PDP, as notified, although Federated Farmers sought to alter the definitions to specify that ‘farm quarries’ were excluded from these definitions.

8.3.2 The reporting planner noted that both terms were included in the Definitions List in the National Planning Standards. The mandatory directions in the National Planning Standards require that, where terms defined in the Definitions List were used in a plan and the terms were used in the same context, local authorities must use the definition as defined in that list. Therefore, the reporting planner considered the relief sought by Federated Farmers to alter the definitions of ‘quarry’ and ‘quarrying’ was not available.

Plantation Forestry Quarry

8.3.3 Rayonier sought inclusion of provisions for ‘forestry quarrying’, including a definition taken from the NES-PF. The reporting planner noted that this term was not used anywhere in the PDP, and therefore did not require defining. However, the reporting planner did note the only reference in the PDP to forestry-related quarrying was in Policy EW-P9, which refers to ‘quarries ancillary to farming and forestry activities’. She considered that it may be more appropriate to replace this with ‘farm quarries and forestry quarrying’, which was effectively the same thing and would bring it in line with the terminology used in the rules (i.e., Rule EW-R4) around ‘farm quarries’ (which was already defined in the PDP) and also relevant NES-PF terminology. This would then make for inclusion of the definition for ‘Forestry Quarrying’, as sought by the Rayonier.

8.3.4 On this basis, the reporting planner recommended amendment of the terminology in Policy EW-P9 (refer below commentary on Policy EW-P9 in the relevant section of this report below) and inclusion of a definition for ‘Forestry Quarrying’ adopting the definition from clause 3 of the NES-PF, as follows:

<u>FORESTRY QUARRYING</u>	<u>has the same meaning as in clause 3 of the NES-PF (as set out in the box below)</u> <u>a. means the extraction of rock, sand, or gravel for the formation of forestry roads and construction of other plantation forestry infrastructure, including landings, river crossing approaches, abutments, and forestry tracks, —</u> <u>i. within a plantation forest; or</u>
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	<p>ii. <u>required for the operation of a plantation forest on adjacent land owned or managed by the owner of the plantation forest; and</u></p> <p>b. <u>includes the extraction of alluvial gravels outside the bed of a river, extraction of minerals from borrow pits, and the processing and stockpiling of material at the forest quarry site; but</u></p> <p>c. <u>does not include earthworks, mechanical land preparation, or gravel extraction from the bed of a river, lake, or other water body.</u></p>
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Objectives

Objective EW-O2

- 8.3.5 Submissions generally supported Objective EW-O2; however, Forest & Bird were concerned that the last part of the objective could be seen as pre-empting use of minerals in the District. The Aggregate & Quarry Assoc sought to include 'offsetting' and 'compensation' options in relation to addressing adverse effects from mining, quarrying and hydrocarbon extraction activities. Federated Farmers also sought to amend the objective out of concern that the definition of quarrying could capture farm quarries, which they considered should be excluded from that definition.
- 8.3.6 The reporting planner concurred with Forest & Bird that the wording of Objective EW-O2 could be seen to pre-empt use of minerals in the District. She noted that s5(2)(a) of the RMA specifically excludes minerals in addressing the sustaining of the potential of natural and physical resources to meet the needs of future generations. The reporting planner, therefore, considered the last part of the objective was not valid and should be deleted.
- 8.3.7 With respect to the Aggregate & Quarry Assoc submission, when considering an application for a resource consent, the reporting planner noted that s104(1) of the RMA provides for consent authorities to have regard to '(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity'. The reporting planner understood that offsetting should be a last resort: where adverse effects could not be reasonably avoided, remedied, or mitigated, and where offsetting could not fully mitigate the residual impacts because of the irreplaceability or vulnerability of the biodiversity affected. She noted that compensation can only be considered on a case-by-case basis where an applicant or requiring authority proposes it. Given this, the reporting planner did not consider offsetting and compensation were appropriate as standard options to apply in all instances, and therefore did not support the amendment to incorporate these options within Objective EW-O2.
- 8.3.8 In terms of the Federated Farmers' submission, there was no ability to amend the definition of 'quarrying' to exclude 'farm quarries' as this term was mandatory under the National Planning Standards. The reporting planner considered it unclear why the submitter considered Objective EW-O2 was problematic in terms of farm quarries. In terms of the amendment sought, when considering mining and quarrying activities, the reporting planner was of the view that safeguarding the life-supporting capacity of air, water, soil, and ecosystems was a legitimate matter for consideration, reflecting s5(2)(b) of the RMA, and should remain. Therefore, the reporting planner did not support the amendment sought by Federated Farmers.
- 8.3.9 On the basis of the above, the reporting planner recommended Objective EW-O2 be amended as follows:

EW-O2 Ensure that the life-supporting capacity of air, water, soil and ecosystems is safeguarded and that adverse effects of mining, quarrying and hydrocarbon extraction activities on the environment are avoided, remedied or mitigated, ~~while meeting the needs of the District (and wider Region) for minerals.~~

Policies

Policy EW-P8

- 8.3.10 Federated Farmers supported retention of Policy EW-P8, on the condition that farm quarries were clearly excluded from the definition of quarrying. As the reporting planner already noted above, there was no ability to amend the definition of 'quarrying' to exclude 'farm quarries', as it was a term defined in the National Planning Standards.
- 8.3.11 The reporting planner concurred with Forest & Bird that use of the term 'enable' for Policy EW-P8 was too permissive and inconsistent with the NZCPS and RMA, and that it was more appropriate that the policy be constructed around the premise that effects should be avoided, remedied or mitigated. Therefore, the reporting planner recommended Policy EW-P8 be amended as follows:

EW-P8 To ~~provide for the enable~~ prospecting and exploration of minerals where the adverse effects on the environment ~~are avoided, remedied or mitigated will be minor.~~

Policy EW-P9

- 8.3.12 The reporting planner concurred with Federated Farmers to use the term 'farm quarries' in Policy EW-P9, as 'farm quarry' was the term defined in the PDP and was used in Rule EW-R4, and it was therefore appropriate to have consistent terminology. The reporting planner recommended the policy be amended to refer to 'farm quarry', accordingly.
- 8.3.13 In terms of Forest & Bird's submission, the reporting planner concurred that the policy as written was not appropriate without reference to environmental limits or avoiding/remedying/mitigating effects. However, the planner did not consider that Policy EW-P9 should be deleted entirely, as minor quarrying activities were anticipated in the rural environment. The reporting planner recommended utilising defined terms ('farm quarries' and 'forestry quarrying') and constructing the policy around avoiding, remedying or mitigating effects, which will bring the policy more in line with giving effect to Objective EW-O2, as follows:

EW-P9 To ~~provide for enable farm~~ quarries ~~and ancillary to farming and~~ forestry ~~quarrying activities~~ to be established in rural areas ~~where the adverse effects on the environment are avoided, remedied or mitigated.~~

Policy EW-P10

- 8.3.14 Federated Farmers supported retention of Policy EW-P10, but on the condition that farm quarries were clearly excluded from the definition of quarrying. As already noted above, there was no ability to amend the definition of 'quarrying' to exclude 'farm quarries', as it was a term defined in the National Planning Standards. Therefore, the reporting planner recommended retention of Policy EW-P10 as notified.

Policy EW-P11

- 8.3.15 Submissions generally supported retaining Policy EW-P11, although some submitters sought amendments.
- 8.3.16 Federated Farmers supported retaining Policy EW-P11 on the condition that farm quarries were clearly excluded from the definition of quarrying.
- 8.3.17 The reporting planner concurred with Forest & Bird that Policy that EW-P11 should also reference 'SNA's (in a similar way that ONFLs were referred to in the policy), and that the 'coastal environment' should also be referred to for protection. Mining and quarrying can have potential adverse effects on significant indigenous vegetation and significant habitats of indigenous fauna if they involve vegetation clearance, so it was appropriate to include SNAs to ensure adequate measures to protect these areas were considered as part of assessing proposed mining and quarrying activities. Similarly, in giving effect to Policy 13 of the NZCPS, the reporting planner

considered it was appropriate to also include preservation of the natural character of the coastal environment and its protection in the context of assessing mining and quarrying activities. The reporting planner recommended amendments to Policy EW-P11 accordingly.

- 8.3.18 Similarly, dust generated by mining and quarrying activities can have potential adverse effects not just on amenity, but on horticultural produce etc, the reporting planner concurred with Hort NZ that it was appropriate to also include reference to this in Policy EW-P11. The reporting planner noted that Assessment Matter EW-AM3 specifically addressed effects on other land uses and adjoining properties, such as dust on fruit, particularly during harvesting season. The reporting planner recommended amendment to Policy EW-P11 accordingly.
- 8.3.19 On the basis of the above, the reporting planner recommended Policy EW-P11 be amended as follows:

EW-P11	To require proposals for new mining, quarrying or hydrocarbon extraction activities to provide adequate information on the establishment and operation of the activity and demonstrate:
1.	the size and scale of extraction activities and the expected length of operation of the extraction site;
2.	the design and layout of the site, the access roads and supporting facilities;
3.	that adequate measures will be used to:
a.	manage noise, vibration, dust and illumination to maintain amenity values of the surrounding land uses, particularly at night-time;
xx.	<u>manage the potential effects of dust on any nearby primary production activities including, for horticultural land use, the effects of dust on produce;</u>
b.	manage adverse effects of traffic generation and maintain safety to all road users, particularly measures to manage heavy vehicles entering or exiting the site;
c.	avoid, remedy or mitigate adverse effects on soil and water quality, including impacts on watercourses within the extraction site and the effects of discharges from the site into the neighbouring environment;
d.	maintain land stability;
e.	protect identified Outstanding Natural Landscapes and Features, and avoid or mitigate adverse effects on visual and landscape values;
xx.	<u>protect identified Significant Natural Areas, and avoid or mitigate adverse effects on indigenous biodiversity;</u>
xx.	<u>protect the natural character of the coastal environment;</u>
f.	protect historic heritage; and
g.	protect wāhi tapu, wāhi taonga and sites of significance to tangata whenua.
4.	options anticipated for the rehabilitation of the site, either by a staged process or at the end of the economic life of the quarry, having regard to the expected life of the extraction site.

8.4 Evidence to the hearing

- 8.4.1 Claire Price provided planning evidence on behalf of Hatuma Lime in relation to earthworks matters and Maharakeke Road quarry.

8.5 Post hearing information

- 8.5.1 The reporting planner's right-of-reply did not address any matters relating to Earthworks, and no additional information was provided.

8.6 Evaluation and findings

Definitions

Quarry' & Quarrying Activities

- 8.6.1 The Panel agrees with the reporting planner that the relief sought by Federated Farmers to alter the definitions of 'quarry' and 'quarrying' is not available.

Plantation Forestry Quarry

- 8.6.2 The Panel agrees with the reporting planner that the inclusion of a definition for 'Forestry Quarrying' from the NES-PF is appropriate and should be defined as follows:

FORESTRY QUARRYING	<p>has the same meaning as in clause 3 of the NES-PF (as set out in the box below)</p> <ul style="list-style-type: none"> d. <u>means the extraction of rock, sand, or gravel for the formation of forestry roads and construction of other plantation forestry infrastructure, including landings, river crossing approaches, abutments, and forestry tracks, —</u> iii. <u>within a plantation forest; or</u> iv. <u>required for the operation of a plantation forest on adjacent land owned or managed by the owner of the plantation forest; and</u> e. <u>includes the extraction of alluvial gravels outside the bed of a river, extraction of minerals from borrow pits, and the processing and stockpiling of material at the forest quarry site; but</u> f. <u>does not include earthworks, mechanical land preparation, or gravel extraction from the bed of a river, lake, or other water body.</u>
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Objectives

Objective EW-O2

- 8.6.3 The Panel agrees with the reporting planner that the current wording of Objective EW-O2 could be seen to pre-empt the use of minerals in the District and recommends Objective EW-O2 be amended as follows:

EW-O2 Ensure that the life-supporting capacity of air, water, soil and ecosystems is safeguarded and that adverse effects of mining, quarrying and hydrocarbon extraction activities on the environment are avoided, remedied or mitigated, ~~while meeting the needs of the District (and wider Region) for minerals.~~

Policies

Policy EW-P8

- 8.6.4 The Panel agrees that the use of the term 'enable' for Policy EW-P8 is too permissive and inconsistent with the NZCPS and RMA, and that it is more appropriate that the policy be constructed around the premise that effects will be avoided, remedied or mitigated. The Panel recommends Policy EW-P8 be amended as follows:

EW-P8 To ~~provide for the enable~~ prospecting and exploration of minerals where the adverse effects on the environment are avoided, remedied or mitigated ~~will be minor.~~

Policy EW-P9

- 8.6.5 The Panel agrees with the reporting planner that the policy should reference 'farm quarry' which is defined in the PDP. The Panel also agrees that constructing the policy around avoiding, remedying or mitigating effects, which will bring the policy more in line with giving effect to Objective EW-O2, as follows:

EW-P9 To ~~provide for enable farm~~ quarries ~~and ancillary to farming and forestry quarrying activities~~ to be established in rural areas where the adverse effects on the environment are avoided, remedied or mitigated.

Policy EW-P10

- 8.6.6 The Panel agrees with the reporting planner and recommends retention of Policy EW-P10 as notified.

Policy EW-P11

- 8.6.7 Submissions generally supported retaining Policy EW-P11, although a few amendments were sought by some submitters.
- 8.6.8 Federated Farmers supported retention of Policy EW-P11, but on the condition that farm quarries are clearly excluded from the definition of quarrying. As already noted above, the Panel consider there is no ability to amend the definition of 'quarry/quarrying' to exclude 'farm quarries', as they are terms defined in the National Planning Standards.
- 8.6.9 The Panel agrees with the reporting planner that that Policy EW-P11 should also reference 'significant natural areas' (in a similar way that ONFLs are referred to in the policy), and that the 'coastal environment' should also be referred to for protection.
- 8.6.10 Similarly, dust generated by mining and quarrying activities can have potential adverse effects not just on amenity, but on horticultural produce etc, and therefore the Panel agrees with the reporting planner that it is appropriate to also include reference to this in Policy EW-P11.
- 8.6.11 On the basis of the above, the Panel recommends Policy EW-P11 be amended, as follows:

EW-P11	<p>To require proposals for new mining, quarrying or hydrocarbon extraction activities to provide adequate information on the establishment and operation of the activity and demonstrate:</p> <ol style="list-style-type: none">1. the size and scale of extraction activities and the expected length of operation of the extraction site;2. the design and layout of the site, the access roads and supporting facilities;3. that adequate measures will be used to:<ol style="list-style-type: none">h. manage noise, vibration, dust and illumination to maintain amenity values of the surrounding land uses, particularly at night-time;xx. <u>manage the potential effects of dust on any nearby primary production activities including, for horticultural land use, the effects of dust on produce;</u>i. manage adverse effects of traffic generation and maintain safety to all road users, particularly measures to manage heavy vehicles entering or exiting the site;j. avoid, remedy or mitigate adverse effects on soil and water quality, including impacts on watercourses within the extraction site and the effects of discharges from the site into the neighbouring environment;k. maintain land stability;l. protect identified Outstanding Natural Landscapes and Features, and avoid or mitigate adverse effects on visual and landscape values;xx. <u>protect identified Significant Natural Areas, and avoid or mitigate adverse effects on indigenous biodiversity;</u>xx. <u>protect the natural character of the coastal environment;</u>m. protect historic heritage; andn. protect wāhi tapu, wāhi taonga and sites of significance to tangata whenua.4. options anticipated for the rehabilitation of the site, either by a staged process or at the end of the economic life of the quarry, having regard to the expected life of the extraction site.
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9 Key Issue 7 – Mining & quarrying – rules and standards

9.1 Proposed plan provisions

9.1.1 This key issue addresses the mining and quarrying rules and standards.

9.2 Submissions

9.2.1 There were 7 submission points and 1 further submission point which address the rules and standards applying specifically to mining and quarrying in the EW – Earthworks chapter of the PDP, that seek either:

- a new rule to provide for new buildings ancillary to lawfully established quarries in the General Rural Zone;
- a new rule to provide for gravel storage and processing, and
- a new standard requiring a setback for sensitive activities from quarrying activities and areas identified for future extraction.

9.3 Reporting planner's recommendations (s42A report)

New Rule for 'New buildings ancillary to lawfully established quarries' in General Rural Zone

9.3.1 Hatuma Lime sought the introduction of a new rule in the GRUZ – General Rural Zone chapter to specifically provide for new buildings associated with lawfully established quarries. The reporting planner did not support such a rule as the definition of 'quarrying' includes 'the use of land and accessory buildings for offices, workshops and car parking areas associated with the quarry'.

9.3.2 She considered that such a rule would effectively treat buildings ancillary to mining and quarrying much the same as buildings and structures ancillary to primary production activities. However, primary production activities were themselves permitted activities, subject to conditions (as per Rule GRUZ-R3), whereas mining and quarrying (other than farm quarries) was either discretionary or non-complying activity as per Rule EW-R4, which would capture buildings and structures. In the reporting planner's view, the requested new rule would effectively enable new buildings to be erected that would not have been foreseen or considered at the time the resource consent for the original mining/quarrying application was considered. Under normal circumstances, such additional buildings would be the subject of an application to change the conditions of the original consent, or require a new resource consent application, whereby the adverse effects of the additional building(s) could be considered in their entirety. To circumvent that could, in the reporting planner's view, lead to quarrying applications focusing only on quarrying, and relying on the permitted status for any ancillary buildings (and, by virtue, any activity within that building) after the fact.

9.3.3 The ancillary buildings associated with quarrying could be related to further screening, processing, storage, or sales activities, which can often create quite significant adverse effects of themselves, such as traffic, noise, visual, and cumulative effects (such as crushing facilities). If just an office or a small garage shed, the reporting planner considered it may be environmentally innocuous, but if it was an additional processing plant (i.e., more of an industrial activity) then the offsite effects may be adverse.

9.3.4 In the reporting planner's view, it was appropriate for any alteration to the established quarrying activity to be considered on a case-by-case basis through a resource consent process with the same level of consideration as the original consent. The same activity status should apply as applies to

the land use activity that the new structure or the addition or alteration was designed to accommodate/be used for.

- 9.3.5 For these reasons, the reporting planner did not support inclusion of a new rule in the General Rural Zone to provide for new buildings ancillary to lawfully established quarries as a permitted activity (albeit subject to compliance with the zone standards).

New Rule for 'Gravel storage and processing yards'

- 9.3.6 Te Mata Mushrooms sought a new rule to provide for gravel storage and processing yards, as distinct from 'quarrying', as a controlled activity in the General Rural and Rural Production Zones, subject to compliance with the performance standards applying in the respective zones. The submitter suggested this new rule could be in the relevant zone chapters or in the Earthworks chapter.
- 9.3.7 In the reporting planner's view, the definition of 'quarrying' includes storage and processing components. Quarrying, and all its component activities, was treated collectively in Rule EW-R4 'Mining and Quarrying' where a 'farm quarry' was a permitted activity, and other quarrying activities were a discretionary activity in the PDP.
- 9.3.8 In the reporting planner's view, where gravel storage and processing was not occurring on the same site as part of/ancillary to the extraction operation, then the storage and processing would not be deemed to fall within the definition of 'quarrying', and would instead fall within the definition of 'industrial activity' (as being 'an activity that... processes,... stores,... materials (including raw, processed, or partly processed materials)...'). Industrial activities (other than post-harvest facilities and rural industry) were a Non-Complying activity in the General Rural and Rural Production Zones in the PDP (Rules GRUZ-R19 & RPROZ-R19).
- 9.3.9 Without further information/evidence as to why a different activity status to this should apply specifically for gravel storage and processing yards in the General Rural and Rural Production Zones, the reporting planner did not support inclusion of such a rule.

New Standard for 'Setback for Sensitive Activities'

- 9.3.10 The Aggregate & Quarry Assoc sought the introduction of a new performance standard in the EW – Earthworks chapter, requiring a setback for sensitive activities 'from quarrying activities (either legally operating or consented for future use)' to avoid potential reverse sensitivity effects, and 'from areas identified by Council as containing significant mineral resources for future extraction' as a way to safeguard future access to mineral resources in the District.
- 9.3.11 In the reporting planner's view, it was not appropriate or feasible to impose a setback from areas containing significant mineral resources for future extraction, as such areas had not been identified and it would be inappropriate to apply without such areas either mapped or otherwise identified in the PDP – and this was not something Council was required to do.
- 9.3.12 In terms of applying a setback for sensitive activities from established and/or consented quarrying activities, the reporting planner was of the view that quarrying activities should internalise their effects within the site.
- 9.3.13 On the basis of the above, the reporting planner did not support inclusion of a new setback standard as sought by the Aggregate & Quarry Assoc.

9.4 Evidence to the hearing

- 9.4.1 Claire Price provided planning evidence on behalf of Hatuma Lime in relation to earthworks matters and Maharakeke Road quarry.

9.5 Post Hearing information

- 9.5.1 The reporting planner's right-of-reply did not address any matters relating to Earthworks, and no additional information was provided.

9.6 Evaluation and findings

New Rule for 'New buildings ancillary to lawfully established quarries' in General Rural Zone

- 9.6.1 The Panel agrees with the reporting planner and does not support inclusion of a new rule in the General Rural Zone to provide for new buildings ancillary to lawfully established quarries as a permitted activity (albeit subject to compliance with the zone standards). Many of the types of buildings and structures in quarries are essentially industrial in nature and therefore should have their potential for adverse offsite effects addressed through the resource consent process. If the building or structure is of a minor environmentally innocuous nature, then the resource consent should be a relatively simple one to obtain.

New Rule for 'Gravel storage and processing yards'

- 9.6.2 The Panel agrees with the reporting planner and does not support a new rule for gravel storage and processing yards. The Panel agrees that, where gravel storage and processing is not occurring on the same site as part of/ancillary to the extraction operation, then the storage and processing would not be deemed to fall within the definition of 'quarrying', and would instead fall within the definition of 'industrial activity' (as being 'an activity that... processes,... stores,... materials (including raw, processed, or partly processed materials)...'). Industrial activities (other than post-harvest facilities and rural industry) are a Non-Complying activity in the General Rural and Rural Production Zones in the PDP (Rules GRUZ-R19 & RPROZ-R19).

New Standard for 'Setback for Sensitive Activities'

- 9.6.3 The Panel agrees with the reporting planner that it would be inappropriate to impose setback requirements on the land adjoining the quarries operated by Hatuma. Activities such as quarries should, as a first principle, be seeking to internalise as much of their effects as practicable. However, the Panel acknowledges that, notwithstanding the best efforts of quarries, it will not always be possible to contain all adverse effects, and some effects such as dust and noise may occur on occasion, sufficient to raise potential reverse sensitivity issues.
- 9.6.4 At the Hearing, the submitter resiled from seeking this relief at the hearing, and instead sought that some form of advisory information be established to inform adjoining purchasers of the presence of the quarry. The Panel considers this would be an appropriate method for alerting persons who may be potentially affected by quarry activities. We therefore recommend that the extent of the Maharakeke Road quarry should be included in the Council's GIS data as an information layer. This information is recommended to include the full consented extent of the quarry operations, both existing and future stages. This inclusion of this information layer will help ensure that any person proposed to either develop or subdivide within close proximity to a quarry is made aware of the existing quarry and its current and future extent.
- 9.6.5 More broadly, the Panel has determined that such alert information should be established in the Council's GIS to support the PDP policies in managing the potential for reverse sensitivity in the District.

10 Key Issue 8 – Mining hydrocarbons and fossil fuels

10.1 Proposed plan provisions

- 10.1.1 This key issue addresses mining hydrocarbons and fossil fuels.

10.2 Submissions

- 10.2.1 There were 6 submission points in the submission from Kathryn Bayliss that relate specifically to the mining of hydrocarbon and fossil fuels.

10.3 Reporting planner's recommendations (s42A report)

- 10.3.1 The reporting planner outlined that the PDP makes 'mineral prospecting and exploration activities' a permitted activity subject to conditions (Rule EW-R3) and, beyond that, hydrocarbon, fossil fuels and oil mining activities would fall to be assessed as a discretionary activity in the General Rural & Rural Production Zones, and as a non-complying activity in the Rural Lifestyle, Settlement, and remaining urban zones pursuant to Rule EW-R4(2) and (3).
- 10.3.2 The reporting planner clarified that prohibited activity status, as sought by Ms Bayliss, would mean that a resource consent application could not be made under any circumstances, and there was no discretion to even consider it. She considered that there was insufficient justification provided by the submitter to impose a blanket 'prohibited activity' status on all such activities across the whole District. Therefore, in the reporting planner's opinion, it would be inappropriate to amend the policies and rules as sought.

10.4 Evidence to the hearing

- 10.4.1 No evidence was presented at the hearing was relation to this key issue.

10.5 Post hearing information

- 10.5.1 The reporting planner's right-of-reply did not address any matters relating to this issue, and no additional information was provided.

10.6 Evaluation and findings

- 10.6.1 The Panel agrees with the reporting planner that a 'prohibited activity' status on all mineral prospecting and exploration activities would be inappropriate, and there is no information or evidence to support such a status.

PART C – SUMMARY OF RECOMMENDATIONS

11 Summary of recommendations

- 11.1.1 A summary table of recommended decisions against each submission point is included as Appendix B.

- 11.1.2 A tracked changes version of recommended amendments is included as Appendix A.

12 Consequential amendments and minor errors

- 12.1.1 Schedule 1, cl16(2), allows minor and inconsequential amendments to be made to the PDP.
- 12.1.2 Consequential amendments or minor errors have been identified and addressed within the analysis above.

Appendix A – Chapter as Amended

EW – Earthworks

Introduction

Earthworks are an integral part of development, as they prepare land (including the formation of building platforms) to be used for living, business and recreation, and are often essential to the construction of foundations, buildings, and structures. Earthworks also form part of normal agricultural and horticultural practices in the rural environment.

Commented [A1]: S42.028 NZ Pork - Earthworks Report 5B, Key Issue 3

This chapter also includes provisions relating to mining, quarries, and gravel extraction.

In terms of mineral, aggregate and hydrocarbon extraction, there are significant aggregate deposits in the District and there is potential for discovery of minerals and hydrocarbon deposits in the future. Buildings, roads, and many surfaces used for business, land based primary production, education and recreation depend on a continuing supply of aggregates of various kinds. Most gravel extracted in the District is from river sources. Gravel extraction from riverbeds is controlled by the Hawke's Bay Regional Council.

Whilst integral to development, earthworks can have adverse effects on the environment if not appropriately managed.

When land contours are disturbed or altered through earthworks, mineral, aggregate and hydrocarbon extraction, this can have significant environmental effects on:

- The surface drainage patterns of land;
- Visual amenity values;
- Soil erosion potential;
- The life-sustaining capacity of soils;
- The disturbance of ecosystems, watercourses, and waterbodies;
- The disturbance of areas of natural, cultural and heritage values; and
- The safety of people and the community where earthworks could cause subsidence, slippage, or inundation of land.

The earthworks provisions have been developed to ensure earthworks and minerals extraction are managed appropriately to avoid, remedy, or mitigate potential adverse effects.

Objectives

- EW-01** Protect the safety of Enable people and communities to carry out earthworks, while and avoiding, remedying or mitigating the adverse environmental effects of earthworks, including on the health and safety of people.
- EW-02** Ensure that the life-supporting capacity of air, water, soil and ecosystems is safeguarded and that adverse effects of mining, quarrying and hydrocarbon extraction activities on the environment

Commented [A2]: S121.072 Fed Farmers - Earthworks Report 5B, Key Issue 1

are avoided, remedied or mitigated, while meeting the needs of the District (and wider Region) for minerals.

Commented [A3]: S75.081 Forest & Bird - Earthworks Report 5B, Key Issue 6

Policies

Earthworks

EW-P13X To enable earthworks to provide for people and communities' social, economic and cultural well-being, and their health and safety, where adverse effects are avoided, remedied or mitigated.

Commented [A4]: Hort NZ S81.086 and S42.029 NZ Pork - Report 5B Earthworks - Key Issue 3

EW-P1 To avoid, remedy or mitigate the adverse effects of earthworks which:

1. create new or exacerbate existing natural hazards, particularly flood events, or cause adverse effects on natural coastal processes; and
2. result in adverse effects on the stability of land, structures or buildings.

EW-P2 To ensure earthworks are appropriately located, and designed and managed to avoid, remedy or mitigate adverse effects by:

1. controlling volume and vertical extent of earthworks, to maintain the role, function and predominant character of each zone and reduce effects on neighbouring properties and the environment; and
2. controlling the movement of dust and sediment beyond the area of development, particularly to avoid nuisance effects and/or adverse amenity effects on neighbouring sites or any Council reticulated stormwater system; and
3. controlling the effects of urban development on the health and well-being of water bodies, freshwater ecosystems and receiving environments.

Commented [A5]: S11.031 HBRC - Earthworks Report 5B, Key Issue 1

EW-P3 To ensure that earthworks are designed to reflect natural landforms, and where appropriate, landscaped to reduce and soften their visual impact having regard to the character and visual amenity of the surrounding area.

EW-P4 Where appropriate, to require the re-pasture or re-vegetation of land where vegetation is cleared as a consequence of earthworks.

Commented [A6]: S121.076 Fed Farmers - Earthworks Report 5B, Key Issue 1

EW-P5 To protect the highly productive land of Central Hawke's Bay from large-scale stripping, stockpiling, and removal to ensure the land can still support a range of primary production activities.

EW-P6 To avoid duplication in regulation by District Plan rules and standards where earthworks activities are already subject to regulatory

assessment, such as through subdivision provisions and Building Act 2004 controls.

EW-P7

To control earthworks, exploration and mining activities to ensure that any adverse effects on the natural and physical environment, and the amenity of the community, adjoining land uses, heritage items, and wāhi tapu, wāhi taonga and sites of significance to Māori, and culturally sensitive sites are avoided, remedied or mitigated.

Refer also the policies in the SASM chapter in relation to wāhi tapu, wāhi taonga and sites of significance to Māori.

Commented [A7]: S55.065 Heritage NZ - Earthworks Report 5B, Key Issue 1

Commented [A8]: S84.014 Kairakau Lands Trust Earthworks Report 5B, Key Issue 1

Mining, Quarrying and Hydrocarbon Extraction

EW-P8

To provide for the enable prospecting and exploration of minerals where the adverse effects on the environment are avoided, remedied or mitigated will be minor.

Commented [A9]: S75.087 Forest & Bird - Earthworks Report 5B, Key Issue 6

EW-P9

To provide for farm enable quarries ancillary to farming and forestry quarrying activities to be established in rural areas where the adverse effects on the environment are avoided, remedied or mitigated.

Commented [A10]: S121.081 Fed Farmers - Earthworks Report 5B, Key Issue 6

EW-P10

To avoid, remedy or mitigate adverse effects on the environment associated with mining, quarrying and hydrocarbon extraction activities.

Commented [A11]: S75.088 Forest & Bird - Earthworks Report 5B, Key Issue 6

EW-P11

To require proposals for new mining, quarrying or hydrocarbon extraction activities to provide adequate information on the establishment and operation of the activity and demonstrate:

1. the size and scale of extraction activities and the expected length of operation of the extraction site;
2. the design and layout of the site, the access roads and supporting facilities;
3. that adequate measures will be used to:
 - a. manage noise, vibration, dust and illumination to maintain amenity values of the surrounding land uses, particularly at night-time;
 - b. xx.manage the potential effects of dust on any nearby primary production activities including, for horticultural land use, the effects of dust on produce;
 - b.c. manage adverse effects of traffic generation and maintain safety to all road users, particularly measures to manage heavy vehicles entering or exiting the site;
 - c.d. avoid, remedy or mitigate adverse effects on soil and water quality, including impacts on watercourses within the extraction site and the effects of discharges from the site into the neighbouring environment;

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- d.e. maintain land stability;
 - e.f. protect identified Outstanding Natural Landscapes and Features, and avoid or mitigate adverse effects on visual and landscape values;
 - g. ~~xx.~~ protect identified Significant Natural Areas, and avoid or mitigate adverse effects on indigenous biodiversity;
 - h. ~~xx.~~ protect the natural character of the coastal environment;
 - f.i. protect historic heritage; and
 - g.i. protect wāhi tapu, wāhi taonga and sites of significance to tangata whenua.
4. options anticipated for the rehabilitation of the site, either by a staged process or at the end of the economic life of the quarry, having regard to the expected life of the extraction site.

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EW-P12 To require a quarry management plan to be prepared to address operational matters associated with the activities on the extraction site, including management of adverse effects and actions to avoid, remedy, mitigate these effects.

Rule Overview Table

Use/activity	Rule Number
Specified Earthworks	EW-R1
Ancillary rural earthworks	EW-R2
Mineral prospecting and exploration activities	EW-R3
Mining and quarrying activities	EW-R4
Earthworks and vertical holes within the National Grid Yard	EW-R5
Earthworks within 20 metres of the Gas Transmission Network	EW-R6
All other earthworks not otherwise provided for	EW-R7

Rules

Note 1: The provisions of this chapter do not apply to plantation forestry. Plantation forestry is regulated separately under the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 which specifically addresses fill, spoil, sediment, stabilisation etc associated with plantation forest activities.

Note 2: The provisions of this chapter also apply to earthworks associated with subdivision e.g. earthworks to facilitate formation of vehicle access and building platforms.

It is important to note that in addition to the provisions in this chapter, zone chapters and a number of other Part 2: District-Wide Matters chapters also contain provisions that may be relevant for activities involving earthworks or land disturbance.

EW-R1 Specified Earthworks		
All Zones	1. Activity Status: PER	2. Activity status where compliance not achieved: EW-R2 to EW-R7 apply
	<p>Where the following conditions are met:</p> <p>a. The earthworks are associated with site preparation works for a building, the area (m²) of earthworks is no more than 150% of the area of the associated building footprint, and complies with EW-S1 Slope, and EW-S5 Control of Silt and Sediment, and EW-S10X Earthworks within a scheduled Wāhi Tapu Place in HH-SCHED2; or</p> <p>b. The earthworks are associated with any network utilities, including the upgrade or maintenance of existing public roads, and complies with EW-S4 Site Reinstatement and EW-S5 Control of Silt and Sediment, and EW-S10X Earthworks within a scheduled Wāhi Tapu Place in HH-SCHED2; or</p> <p>c. The earthworks are associated with replacement and/or removal of a fuel storage system defined as permitted by the Resource Management Regulations (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health), and complies with EW-S5 Control of Silt and Sediment, and EW-S10X Earthworks within a scheduled Wāhi Tapu Place in HH-SCHED2; or</p> <p>d. The earthworks are associated with gravel extraction within the bed of a river.</p>	

Commented [A14]: S11.030 HBRC - Earthworks Report 5B, Key Issue 2

	<i>Note: Gravel extraction within the bed of a river is subject to rules administered by the Hawke's Bay Regional Council.</i>	
EW-R2 Ancillary rural earthworks		
General Rural Zone	1. Activity Status: PER Where the following conditions are met:	2. Activity status where compliance not achieved: RDIS
Rural Production Zone	a. Compliance with:	Matters over which discretion is restricted:
Rural Lifestyle Zone	i. EW-S2; ii. EW-S3; iii. EW-S4; iv. EW-S5; v. EW-S6; vi. EW-S7; and vii. EW-S8.	a. EW-AM1. b. EW-AM2. c. EW-AM3. d. EW-AM4. e. EW-AM5. f. EW-AM6. g. EW-AM7. h. EW-AM9X.
EW-R3 Mineral prospecting and exploration activities		
All Zones	1. Activity Status: PER Where the following conditions are met:	2. Activity status where compliance with condition EW-R3(1)(a) is not achieved: RDIS
	a. Compliance with:	Matters over which discretion is restricted:
	i. EW-S1; ii. EW-S2; iii. EW-S3; iv. EW-S4; v. EW-S5; vi. EW-S6; vii. EW-S7; viii. EW-S8; ix. EW-S10X.	a. EW-AM1. b. EW-AM2. c. EW-AM3. d. EW-AM4. e. EW-AM5. f. EW-AM6. g. EW-AM7.
	b. Compliance with EW-S9.	h. EW-AM8. i. EW-AM9X.
		3. Activity status where compliance with condition EW-R3(1)(b) is not achieved: DIS
EW-R4 Mining and quarrying		

Commented [A15]: consequential amendment in response to S90.039 Centralines - Earthworks Report 5B, Key Issue 2

Commented [A16]: S55.068 Heritage NZ - Earthworks Report 5B - Key Issue 4

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General Rural Zone	1. Activity Status: PER	2. Activity status where compliance with conditions EW-R4(1)(a) and/or EW-R4(1)(b) is not achieved: DIS
Rural Production Zone	<p>Where the following conditions are met:</p> <p>a. The activity is for a farm quarry.</p> <p>b. Compliance with:</p> <p>i. EW-S1;</p> <p>ii. EW-S2;</p> <p>iii. EW-S3;</p> <p>iv. EW-S4;</p> <p>v. EW-S5;</p> <p>vi. EW-S6;</p> <p>vii. EW-S7; and</p> <p>viii. EW-S8; and</p> <p>ix. EW-S10X.</p>	
Rural Lifestyle Zone	3. Activity Status: NC	4. Activity status where compliance not achieved: N/A
Settlement Zone	Where the following conditions are met: N/A	
Large Lot Residential Zone (Coastal)		
General Residential Zone		
Commercial Town Centre Zone		
General Industrial Zone		
EW-R5 Earthworks and vertical holes within the National Grid Yard		
All Zones	<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. The earthworks must be no deeper (measured vertically) than 300mm within 6m-12m of the outer visible edge of any National Grid support-structure foundation, and no deeper than 3 metres between 6 metres and 12 metres from the outer visible</p>	<p>2. Activity status where compliance with conditions EW-R5(1)(a) and/or EW-R5(1)(b) is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a. EW-AM1.</p> <p>b. EW-AM2.</p>

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Commented [A19]: Kāinga Ora (S129.241) - Urban Environment Report 2A - key issue 8

	<p><u>edge of a foundation of a National Grid support-structure foundation.</u></p> <p>except under the following circumstances:</p> <ul style="list-style-type: none"> i. earthworks that are undertaken by a network utility operator (other than for the reticulation and storage of water for irrigation purposes) as defined by the Resource Management Act 1991, or ii. earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track. iii. vertical holes not exceeding 500mm in diameter, provided they: <ul style="list-style-type: none"> a. are more than 1.5m from the outer edge of the pole support structure or stay wire, or b. are a post hole for a farm fence or artificial crop protection or crop support structures and are more than 6m from the visible outer edge of a tower support structure foundation. b. Compliance with: <ul style="list-style-type: none"> i. EW-S1; ii. EW-S2; iii. EW-S3; iv. EW-S4; v. EW-S5; vi. EW-S7; vii. EW-S8; and viii. EW-S9. c. Compliance with EW-S6. 	<ul style="list-style-type: none"> c. EW-AM3. d. EW-AM4. e. EW-AM5. f. EW-AM6. g. EW-AM7. h. Impacts on the operation, maintenance, upgrading and development of the National Grid. i. The risk to the structural integrity of the affected National Grid support structure. j. Any impact on the ability of the National Grid owner (Transpower) to access the National Grid. k. The risk of electrical hazards affecting public or individual safety, and the risk of property damage. l. Technical advice provided by the National Grid owner (Transpower). m. Any effects on National Grid support structures including the creation of an unstable batter. <p>3. Activity status where compliance with condition EW-R5(1)(c) is not achieved: NC</p>
EW-R6 Earthworks within 20m of the Gas Transmission Network <u>(including ancillary rural earthworks)</u>		
All Zones	<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p>	<p>2. Activity status where compliance not achieved: RDIS</p>

Commented [A20]: S121.087 Federated Farmers Earthworks Report 5B, Key Issue 2

Commented [A21]: minor clause 16 amendment for clarification (FS3.018 First Gas) - Earthworks Report 5B, Key Issue 3

	<p>a. Compliance with:</p> <ul style="list-style-type: none"> i. EW-S1; ii. EW-S2; iii. EW-S3; iv. EW-S4; v. EW-S5; vi. EW-S6; vii. EW-S7; and viii. EW-S8; and ix. EW-S10X. 	<p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> a. EW-AM1. b. EW-AM2. c. EW-AM3. d. EW-AM4. e. EW-AM5. f. EW-AM6. g. EW-AM7. h. ga EW-AM9X. <p>h.i. The risk of hazards affecting public or individual safety, and the risk of property damage.</p> <p>i.j. Measures proposed to avoid or mitigate potential adverse effects on the gas transmission pipeline.</p> <p>j.k. Technical advice, including an assessment of the level of risk.</p> <p>k.l. The outcome of any consultation with the owner and operator of the gas transmission pipeline</p>
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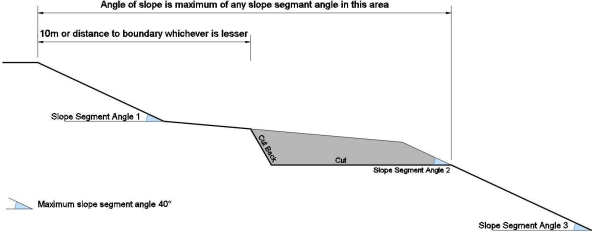
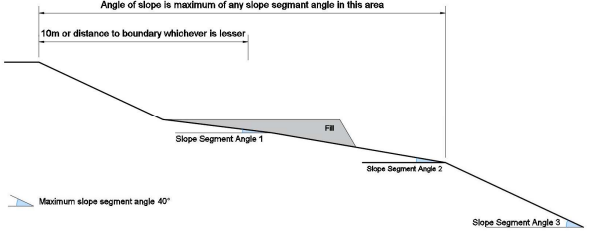
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EW-R7 All Other Earthworks not otherwise provided for

All Zones	<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. Compliance with:</p> <ul style="list-style-type: none"> i. EW-S1; ii. EW-S2; iii. EW-S3; iv. EW-S4; v. EW-S5; vi. EW-S6; vii. EW-S7; and viii. EW-S8. 	<p>2. Activity status where compliance not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> a. EW-AM1. b. EW-AM2. c. EW-AM3. d. EW-AM4. e. EW-AM5. f. EW-AM6. g. EW-AM7. h. EW-AM9X.
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Standards

EW-S1 Slope	
General Rural Zone	1. Earthworks must be undertaken on land with a slope less than 45° above horizontal.
All Other Zones	2. Earthworks must be undertaken on land with a slope less than 22° above horizontal.
<div><div>Figure 7 – Maximum existing slope angle (excavation)</div><div><p>Angle of slope is maximum of any slope segment angle in this area</p><p>10m or distance to boundary whichever is lesser</p></div><div><div>Figure 8 – Maximum existing slope angle (filling)</div><div><p>Angle of slope is maximum of any slope segment angle in this area</p><p>10m or distance to boundary whichever is lesser</p></div></div></div>	
EW-S2 Extent of Earthworks	
<div>Identified areas of:</div> <ul style="list-style-type: none">- High Natural Character (HNCs)- Outstanding Natural Features and Landscapes (ONFs/ONL)- Significant Natural Areas (SNAs)	<div><div>1. Ancillary rural earthworks – maximum of 500m³ per site <u>within the identified area/feature</u> in any 12-month period. Refer also Standard EW-S7.</div><div>2. All other earthworks – maximum of 200m³ per site <u>within the identified area/feature</u> in any 12-month period.</div></div>

Commented [A25]: S121.090 Fed Farmers - Earthworks Report 5B, Key Issue 3

General Rural Zone (except Coastal Environment, and any identified HNC, ONF/ONL or SNA areas)	<p>3. Ancillary rural earthworks – unlimited.</p> <p>4. All other earthworks – maximum of 2,000m³ per hectare of site in any 12-month period.</p>
Coastal Environment (except any identified HNC, ONF/ONL or SNA areas)	<p>5. Ancillary rural earthworks – unlimited.</p> <p>6. All other earthworks – maximum of 200m³ per hectare of site in any 12-month period.</p>
Rural Production Zone (except any identified HNC, ONF/ONL or SNA areas)	<p>6.5. Ancillary rural earthworks – unlimited.</p> <p>7.6. All other earthworks – maximum of 1,000m³ per hectare of site in any 12-month period.</p> <p>8.7. Removal of site of topsoil, sand, gravel, or earth – maximum of 25m³ per site in any 12-month period.</p>
Rural Lifestyle Zone (except any identified HNC, ONF/ONL or SNA areas)	<p>9.8. Maintenance of existing tracks, driveways, roads and accessways, existing drains and existing fence lines within the same formation width – maximum of 500m³ per site in any 12-month period.</p> <p>10.9. All other earthworks – maximum of 100m³ per hectare of site in any 12-month period.</p>
Settlement Zone	11.10. Maximum of 50m ³ per site in any 12-month period.
Large Lot Residential Zone (Coastal)	
General Residential Zone	
Commercial Town Centre Zone	
General Industrial Zone	
	<p>Notes:</p> <p>1. For the purpose of assessing the total volume of earthworks allowed as a Permitted Activity for sites where a per-hectare rule applies, the volume will be calculated by multiplying the volume threshold by the total area of the subject site in hectares over any 12-month period.</p> <p>2. For the importation of fill or removal of cut to or from an offsite location, the volumes of earthworks specified will</p>

Commented [A26]: S121.092 Fed Farmers - Earthworks Report 5B, Key Issue 3

	<i>be reduced by 50% in determining the volume permitted in any 12-month period.</i>
EW-S3 Vertical Extent of Excavation	
Identified areas of: <ul style="list-style-type: none"> - High Natural Character (HNCs) - Outstanding Natural Features and Landscapes (ONFs/ONL) - Significant Natural Areas (SNAs) (except for HNC2, HNC6, ONL1, ONF5, ONF5A , ONF6, ONF7, ONF9 and ONF10)	1. 2 metres
HNC2 (Waimoana-Kairakau) HNC6 (Porangahau) ONF5 & ONF5A (Northern end of Nga Kaihinaki-a-Whata & Te Whata Kokako) ONF6 (Silver Range) ONF7 (Kairakau Coastline) ONF9 (Parimahu) ONF10 (Porangahau Foredune & Estuary)	2. 1 metre
General Rural Zone ONL1 (Ruahine Range)	3. 5 metres
All Other Zones	4. 2.5 metres
EW-S4 Site Reinstatement	
All Zones	1. Areas disturbed by exploration, prospecting or earthworks will be stabilised, filled and/or recontoured in a manner

Commented [A27]: Correction under Schedule 1, cl16(2) of the RMA

Commented [A28]: Correction under Schedule 1, cl16(2) of the RMA

	<p>consistent with the surrounding land as soon as practicable, but no later than 6 months of the disturbance activity ceasing; and</p> <p>2. Where vegetation clearance occurs as a result of land disturbance (except where it is associated with the operation, maintenance or upgrading of lawfully established roads, tracks, network utility operations and drainage channels), disturbed areas must be re-pastured or re-vegetated as soon as practicable within 18 months of the disturbance activity ceasing.</p> <p><i>Note: Vegetation clearance and soil disturbance may also be subject to rules administered by the Hawkes Bay Regional Council.</i></p>
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EW-S5 Control of Silt and Sediment

All Zones	<p>1. Erosion and sediment control measures must be put in place to avoid sediment run-off from earthworks, mining, quarrying and hydrocarbon extraction activities entering a Council reticulated network or into waterbodies.</p> <p><i>Notes:</i></p> <p>1. <i>The Hawke's Bay Regional Council's 'Hawke's Bay Waterway Guidelines – Erosion and Sediment Control, (2009, HBRC Plan Number 4109)' outlines an acceptable means of compliance with this standard.</i></p> <p>2. <i>All other stormwater runoff across property boundaries or sediment entering waterbodies may be subject to rules administered by the Hawkes Bay Regional Council.</i></p>
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EW-S6 Earthworks and Vertical Holes within the National Grid Yard

All Zones	<p>1. The earthworks must not compromise the stability of a National Grid support structure, and</p> <p>2. The earthworks must not result in a reduction in ground-to-conductor clearance distances <u>as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001) of less than: 6.5m (measured vertically) from a 110kV National Grid transmission line, and</u></p> <p>3. The earthworks must not result in the permanent loss of vehicular access to any National Grid support structure.</p>
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EW-S7 Ancillary Rural Earthworks

Identified areas of: <ul style="list-style-type: none"> - High Natural Character (HNCs) - Outstanding Natural Features and Landscapes (ONFs/ONL) - Significant Natural Areas (SNAs) 	<ol style="list-style-type: none"> 1. For the maintenance of existing tracks, driveways, roads and accessways only, ancillary rural earthworks must be within the same formation width, and the landowner must take, and provide to Council on request, photos of the location of the earthworks before and after completion, sufficient to show the formation width. 2. Exposed vertical cuts or batter faces must not exceed 2m in vertical height or take place on slopes of greater than 45 degrees above horizontal. 3. All remaining slopes must be remediated to marry in with the surrounding landform and be replanted with either grass or planting to match the surrounding vegetation cover (excluding weed species).
EW-S8 Electrical Safety Distances	
All Zones	<ol style="list-style-type: none"> 1. Any earthworks within the vicinity of overhead electric lines must comply with the New Zealand Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001).
EW-S9 Mineral Prospecting and Exploration	
All Zones	<ol style="list-style-type: none"> 1. Mineral prospecting and exploration: <ol style="list-style-type: none"> a. must not involve blasting; and b. must not be undertaken outside the hours of 0700 to 2200 hours on any day.
EW-S10X Earthworks within a scheduled Wāhi Tapu place in HH-SCHED2	
All Zones	<ol style="list-style-type: none"> 1. <u>Earthworks are not within 100m of the location on the Planning Maps of a scheduled Wāhi Tapu place in HH-SCHED2, unless the earthworks are limited to interments in existing cemeteries or urupā.</u> <p><u>Note: for activities (including earthworks) within, or within 100m of, a site or area of significance to Māori identified in SASM-SCHED3 refer SASM chapter of the PDP.</u></p>

Commented [A30]: S55.071 Heritage NZ - Earthworks Report 5B Key Issue 4

Assessment Matters

For Discretionary Activities, Council's assessment is not restricted to these matters, but it may consider them (among other factors).

EW-AM1 Land Disturbance and Vegetation Clearance

1. The effects of land disturbance and vegetation clearance will be assessed in terms of their effects on:

- a. The life-supporting capacity of soils.
- b. Soil erosion and stability.
- c. Soil runoff and sedimentation.
- d. Natural landforms and contours.
- e. Flora and fauna.
- f. Significant cultural sites (wāhi tapu, wāhi taonga and sites of significance), historic heritage sites (including archaeological sites) and ecological sites.
- g. Composition and characteristics of any fill used.

2. In making an assessment, the following factors will be considered:

- a. The extent of removal of vegetation, topsoil, and subsoils at any one time.
- b. Methods to separate soil horizons during stripping.
- c. Measures to safeguard the life supporting capacity of stockpiled soils.
- d. The potential or increased risk of hazards from the activity, including potential risk to people or the community.
- e. Sediment control measures, including measures to prevent sediment run-off into Council's reticulated network.
- f. Rehabilitation of site (including backfilling, re-spreading of subsoil and topsoil, contouring, re-pasturing and revegetation).
- g. Land capability and potential end uses of the site.
- h. Information on any relocation of fill on or offsite.
- i. Siting, construction, and maintenance of internal access roads.
- j. Effect on flow paths and floodways.
- k. Measures to avoid the disturbance of wāhi tapu, wāhi taonga and sites of significance and archaeological sites (noting that any disturbance of an archaeological site will require separate approval under the Heritage New Zealand *Pouhere Taonga* Act 2014).

EW-AM2 Visual Impact

- 1. The visual effects of the activity will be assessed in terms of its potential effect on:
 - a. The residential or recreational (including tourism) use of land in the vicinity of the activity.
 - b. The existing character of the locality and amenity values.
- 2. In making that assessment, the following factors will be considered:
 - a. Planting, screening, and other amenity treatment to minimise visual impact.
 - b. Site location including locality, topography, geographical features, adjoining land uses.
 - c. Height of soil stockpiles and cuttings.
 - d. Rehabilitation of the site, including contouring, landscaping, and re-vegetation.
 - e. Duration, rate, and extent of extraction.
 - f. Lighting – intensity, direction, and positioning of lighting in relation to the effects of glare on the surrounding environment and adjacent land uses.

EW-AM3 Effects on Other Land Uses and Adjoining Properties

1. The extent to which the activity will interfere with, or adversely affect, the current use of the land on which the activity is sited, or adjoining land uses.

Consideration will be given to any potential effects of the proposed activity on adjoining properties and land uses, such as effects on surface drainage patterns, dust nuisance, or adverse effects on adjoining buildings. Permanent effects will be given more weight than temporary effects.

Consideration will also be given to methods to avoid adverse effects on land use activities which are allowed in the zone where the activity is located, such as the distance of activities from boundaries, and methods to avoid disturbance to adjoining properties, including livestock, particularly during birthing, and dust on fruit, particularly during harvesting season.

EW-AM4 Noise

1. In assessing the impact of noise, Council will consider the noise sensitivity of the receiving environment, including land uses on sites adjacent to where the activity is proposed to be undertaken. Consideration will also be given to hours of operation of the activity.

EW-AM5 Effects on Rooding Network

1. The extent to which the transport of cut and/or fill material resulting from or required for the earthworks (including earth, soil, clay, sand, and rock) off or onto the site will interfere with, or adversely affect the safe and efficient operation of the rooding network.

EW-AM6 Effects on Watercourses, Waterbodies and on Recreation, Conservation or Significant Natural Areas

1. The extent to which the activity will interfere with, or adversely affect:
 - a. Access to and along watercourses and waterbodies.
 - b. Outstanding waterbodies.
 - c. Recreation, conservation, or significant natural areas.

EW-AM7 Effects within High Natural Character Areas, Outstanding Natural Landscapes and Features, and Significant Amenity Features

1. The extent to which earthworks have been designed and located to minimise adverse visual effects and effects on the particular landscape values and characteristics of the identified natural character areas and landscapes. In particular, the extent to which any such proposal:
 - a. Minimises the location of large-scale earthworks on prominent rural ridgelines, hill faces and spurs, where practicable.
 - b. Minimises cuttings across hill faces and spurs.
 - c. Minimises the number of finished contours that are out of character with the natural contour, where practicable.

- d. Can adequately mitigate the adverse visual effects through restoration or reinstatement of the site following the earthworks.
- 2. The extent to which earthworks will compromise values relating to cultural and historic elements, geological features and matters of cultural and spiritual value to tangata whenua.
- 3. Any cumulative adverse effects (for example, the modification to the existing area or landscape feature and its sensitivity or vulnerability to further change).

EW-AM8 Additional Specific Assessment Matters for Mining, Quarrying and Exploration Activities Only

- 1. Rehabilitation
 - a. The potential to rehabilitate the site after mining operations have been completed so that:
 - i. long term stability of the site is ensured;
 - ii. landforms or vegetation on finished areas are visually integrated into the landscape;
 - iii. land is returned to its original productive capacity, where appropriate;
 - iv. water and soil values are protected.
- 2. Vibration
 - a. The extent of the effects of vibration from the activity, particularly in respect of the use of explosives.
- 3. Roothing and Transportation
 - a. The effects of transportation related to the activity will be assessed in terms of its potential effect on the sustainable management of the roading network including:
 - i. Disruption to traffic in the area.
 - ii. Traffic safety.
 - iii. Impact on the District roading network.
 - b. In making the assessment, to the following factors will be considered:
 - i. Design of access.
 - ii. On-site parking and turning.
 - iii. The siting and construction standards of on-site roads and tracks.
 - iv. Maintenance or upgrading of roads or intersections in the vicinity of the activity.
 - v. Use of speed limits.
 - vi. Timing of work shifts.
- 4. Fire Hazard Mitigation
 - a. The ability of the activity to meet fire safety requirements including the possession of public liability insurance to cover the risk of fire.
- 5. Oil and Gas Exploration, Extraction and Production Activities
 - a. The following criteria relates to specific assessment involved with oil and gas exploration, extraction, and production. Assessment must be provided on the following:

- i. The cumulative effects of multiple oil and gas wells and platforms.
- ii. Lighting and flaring and the extent to which alternative methods have been considered for controlling the adverse effects of these activities.
- iii. The location of oil and gas wells and platforms and their associated accesses, in relation to:
 - Residential activities on adjoining properties.
 - Sensitive activities.
 - Areas of cultural value, including wāhi tapu, wāhi taonga and sites of significance identified in SASM-SCHED3.
- iv. The location of infrastructure associated with the transmission of oil and gas.
- v. Consideration as to the likely length of each different stage of the proposal, and details on the processes in place once the well site is abandoned.
- vi. The consideration of the different effects between the exploration and production stages for oil and gas extraction.
- vii. The ability to provide a bond or contingency plan to the Council for rehabilitating operation areas in the event of early closure.
- viii. The suitability and maintenance of access, including on public roads, to and from the oil and gas well or platform, for all stages of the exploration, production, and extraction process.

EW-AM9X Electricity Safety Distances

1. Impacts on the operation, maintenance, upgrading and development of the electricity network.
2. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.
3. The risk to the structural integrity of any support structures associated with the electricity network.
4. Technical advice provided by the National Grid owner (Transpower) or electricity distribution network operator (Centralines Limited).

Commented [A31]: S90.039 Centralines - Earthworks Report 5B, Key Issue 2

Methods

Methods, other than the above rules, for implementing the policies:

EW-M1 Other Provisions in the District Plan

Other sections of the District Plan contain additional rules and standards applying to earthworks:

1. HH – Historical Heritage and HH-SCHED2 – Schedule of Historical Heritage Items.
2. SASM – Sites and Areas of Significance to Māori and SASM-SCHED3 – Schedule of Sites and Areas of Significance to Māori – includes provisions relating to modification and disturbance of identified sites, including digging of offal pits and wastewater disposal and storage areas etc in close proximity to identified sites.

3. TREE – Notable Trees and TREE-SCHED4 – Schedule of Notable Trees – includes provisions around disturbance in the dripline of identified notable trees.
4. ECO – Ecosystems and Indigenous Biodiversity and ECO-SCHED5 – Schedule of Significant Natural Areas – includes provisions relating to trimming and modification of significant natural areas, including provisions for fencing and track maintenance works etc in these identified areas.
5. NFL – Natural Features and Landscapes and NFL-SCHED6 – Schedule of Outstanding Natural Features and Landscapes and Significant Amenity Features – includes provisions relating to construction of buildings in these identified landscape areas.
6. CE – Coastal Environment and CE-SCHED7 – Schedule of Areas of High Natural Character – includes policy provisions relating to identified areas of high natural character in the coastal environment.
7. NU – Network Utilities – includes provisions relating to the disturbance of land and vegetation associated with network utility operations.
8. SUB – Subdivision – includes assessment matters relating to earthworks associated with subdivisions.

EW-M2 Erosion and Sediment Control Guidelines

Hawke's Bay Regional Council's *Hawke's Bay Waterway Guidelines – Erosion and Sediment Control* (2009, HBRC Plan Number 4109), provides a range of on-site erosion and sediment control practices that can be implemented for a range of vegetation clearance and soil disturbance activities.

EW-M3 Building Act 2004

The Building Act prescribes additional controls regarding the quality and structural safety of soils when development under that Act is proposed. These controls provide measures to prevent slippage and subsidence.

EW-M4 National Environmental Standards for Plantation Forestry 2017

The National Environmental Standards for Plantation Forestry contains specific earthworks and forestry quarrying controls applying to plantation forestry.

EW-M5 Heritage New Zealand Pouhere Taonga Act

The Heritage New Zealand *Pouhere Taonga* Act makes it an offence to destroy or modify an archaeological site without first obtaining an 'archaeological authority' (applies to both recorded and unrecorded archaeological sites). Contact with Heritage New Zealand *Pouhere Taonga* is advised if any activity such as earthworks, fencing or landscaping, mining, quarrying or hydrocarbon extraction may modify, damage, or destroy any archaeological site.

Principal Reasons

The principal reasons for adopting the policies and methods:

The above provisions reflect the integral part earthworks and the mineral extraction industry play in the District's development but seek to control the design and location of such activities to ensure that any potential adverse effects are avoided, remedied, or mitigated.

Large scale earthworks, exploration and mining and quarrying activities are recognised as having the potential to cause significant adverse effects on the environment, including on the safety of people and property, the creation of new or exacerbating existing natural hazards, and on the visual amenity and character of the area where it occurs.

Where land disturbance or vegetation clearance occurs, disturbed areas will be required to be stabilised and revegetated to avoid the risk of soil erosion, and to ensure that the life-supporting capacity of the soil is safeguarded. This will also help to ensure that adverse effects on the character and visual amenity of the area are avoided or remedied.

The Rural Production Zone encompasses the identified concentration of highly productive land in Central Hawke's Bay. Where possible highly productive soils within this zone, particularly topsoils, should be protected from stripping, stockpile, and removal off-site.

The Building Act 2004 has its own requirements regarding the control and safety of earthworks. Such provisions are more specific for the associated activities. Therefore, the District Plan aims to avoid duplicating regulatory control in this respect.

Anticipated Environmental Results

The environmental results anticipated from the policies and methods:

EW-AER1	The risks of soil erosion, sediment runoff, subsidence or inundation on people and property, and waterbodies, are avoided.
EW-AER2	The life-supporting capacity of soils is safeguarded.
EW-AER3	The visual amenity and character of the District's landscape is not reduced or compromised by earthworks or mineral extraction activities.
EW-AER4	The amenity of the environment, including adjoining land uses, is not compromised by earthworks or mineral extraction.
EW-AER5	The District's economy is diversified and enhanced by the efficient and effective use of the District's mineral resources.

Appendix B – Summary of recommendations on submissions

Table: Summary of recommended decisions on submissions and further submissions

Earthworks

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S11.029	Hawke's Bay Regional Council	EW - Earthworks	General support of the Earthworks chapter, subject to amendment sought on EW-R1.	Key Issue 1	Accept	Accept	No
S11.030	Hawke's Bay Regional Council	EW-R1	Amend EW-R1 as follows: '1. Activity Status: PER Where the following conditions are met: a. The earthworks are associated with site preparation works for a building, the area (m2) of earthworks is no more than 150% of the area of the associated building footprint, and complies with EW-S1, EW-S2, EW-S3, EW-S4 and EW-S5 Slope ; or b. The earthworks are associated with any network utilities, including the upgrade or maintenance of existing public roads, and complies with EW-S4 and EW-S5 ; or c. The earthworks are associated with replacement and/or removal of a fuel storage system defined as permitted by the Resource Management Regulations (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) and complies with EW-S4 and EW-S5 ; or d. The earthworks are associated with gravel extraction within the bed of a river...'	Key Issue 2	Accept in part (as per ROR	Accept in part	Yes
FS16.34	Waka Kotahi NZ Transport Agency		Disallow Retain EW-R1 as notified	Key Issue 2	Reject	Reject	
S11.031	Hawke's Bay Regional Council	EW-P2	Amend EW-P2 as follows: 'To ensure earthworks are appropriately located, and designed and managed to avoid, remedy or mitigate adverse effects by: 1. controlling volume and vertical extent of earthworks, to maintain the role, function and predominant character of each zone and reduce effects on neighbouring properties and the environment; and 2. controlling the movement of dust and sediment beyond the area of development, particularly to avoid nuisance effects and/or adverse amenity effects on neighbouring sites or any Council reticulated stormwater system; and3. controlling. the effects of urban development on the health and well-being of water bodies, freshwater ecosystems and receiving environments.'	Key Issue 1	Accept	Accept	Yes
S42.002	New Zealand Pork Industry Board	ANCILLARY RURAL EARTHWOR	Amend the definition of 'Ancillary Rural Earthworks' to include provisions for biosecurity related activity as a permitted activity.	Key Issue 3	Accept	Accept	Yes

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
		KS (PRIMARY PRODUCTION) (Definition)	'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'				
FS8.018	Silver Fern Farms Limited		Allow	Key Issue 3	Accept	Accept	
FS5.018	Nga'hapu me nga marae o Tamatea		Disallow	Key Issue 3	Reject		
S42.028	New Zealand Pork Industry Board	EW - Introduction	Amend introduction as follows: 'Earthworks are an integral part of development, as they prepare land (including the formation of building platforms) to be used for living, business and recreation, and are often essential to the construction of foundations, buildings, and structures. Earthworks are also part of normal agricultural and horticultural practices.'	Key Issue 3	Accept in part	Accept in part	Yes
FS17.63	Horticulture New Zealand		Allow	Key Issue 3	Accept in part	Accept in part	
S42.029	New Zealand Pork Industry Board	EW-PXX (new policy)	Add new policy as follows: 'Enable land disturbance necessary for a range of activities undertaken to provide for people and communities social, economic and cultural well-being, and their health and safety.'	Key Issue 3	Accept in part	Accept in part	Yes
S42.030	New Zealand Pork Industry Board	EW-R2	Retain EW-R2 as proposed.	Key Issue 3	Accept	Accept	No
S42.031	New Zealand Pork Industry Board	EW-S2	Retain EW-S2 as proposed.	Key Issue 3	Accept in part	Accept in part	No
S50.017	The Surveying Company (HB) Ltd	EW-S2	Amend to separate the five Zones listed together under EW-S2(12) and assign more appropriate values for each zone. For example, 50m³ is insufficient for the [General?] Industrial Zone given the likely size of buildings in this area.	Key Issue 2	Reject	Reject	No
S50.034	The Surveying Company (HB) Ltd	EW - Earthworks	Retain EW - Earthworks chapter.	Key Issue 1	Accept	Accept	No
S55.065	Heritage New Zealand Pouhere Taonga	EW-P7	Amend EW-P7 as follows: 'To control earthworks, exploration and mining activities to ensure that any adverse effects on the natural and physical environment, and the amenity of the community, adjoining land uses, Historic Heritage and Sites and Areas of Significance to Māori , and culturally sensitive sites are avoided, remedied or mitigated.'	Key Issue 1	Accept in part	Accept in part	Yes

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
FS25.80	Federated Farmers of New Zealand		Disallow	Key Issue 1	Reject	Reject	
S55.067	Heritage New Zealand Pouhere Taonga	EW-R1	Add the following to EW-R1(1): '... e. Compliance with standards EW-S10.'	Key Issue 4	Accept	Accept	Yes
FS16.35	Waka Kotahi NZ Transport Agency		Disallow Retain EW-R1 as notified.	Key Issue 4	Accept in part	Accept in part	
FS25.82	Federated Farmers of New Zealand		Disallow	Key Issue 4	Accept in part	Accept in part	
S55.068	Heritage New Zealand Pouhere Taonga	EW-R3	Add the following to EW-R3(1)(a): '... ix. EW-S10.'	Key Issue 4	Accept	Accept	Yes
S55.069	Heritage New Zealand Pouhere Taonga	EW-R4	Add the following to EW-R4(1)(b): '... ix. EW-S10.'	Key Issue 4	Accept	Accept	Yes
S55.070	Heritage New Zealand Pouhere Taonga	EW-R7	Add the following to EW-R7(1)(a): '... ix. EW-S10.'	Key Issue 4	Accept	Accept	Yes
S55.071	Heritage New Zealand Pouhere Taonga	EW-SXX (new standard)	Insert a new Standard as follows: 'EW-S10 Earthworks with sites identified as Historic Heritage in SCHED2 or Sites and Areas of Significance to Māori in SCHED3 All Zones: 1. The earthworks are not within a site identified as Historic Heritage in SCHED2 or identified as a Site or Area of Significance to Māori in SCHED3, unless the earthworks are limited to trenching necessary for the installation of service connections or effluent disposal systems, or interments in existing cemeteries or urupā.'	Key Issue 4	Accept in part	Accept in part	Yes
FS5.091	Nga'hapu me nga marae o Tamatea		Allow	Key Issue 4	Accept in part	Accept in part	
FS25.85	Federated Farmers of New Zealand		Disallow	Key Issue 4	Accept in part	Accept in part	
FS23.73	Kāinga Ora - Homes and Communities		Disallow	Key Issue 4	Accept in part	Accept in part	
S55.072	Heritage New Zealand Pouhere Taonga	EW-AM1	Retain EW-AM1 as notified.	Key Issue 2	Accept	Accept	No
S56.024	Powerco Limited	EW-R1	Retain EW-R1 as notified.	Key Issue 2	Accept in part	Accept in part	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
FS9.277	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	
S56.025	Powerco Limited	EW-S2	Retain EW-S2(3) & (4) as notified.	Key Issue 3	Accept	Accept	No
FS9.278	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Reject	Reject	
S56.026	Powerco Limited	EW-S3	Retain EW-S3 as notified.	Key Issue 2	Accept	Accept	No
FS9.279	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	
S56.027	Powerco Limited	EW-S4	Retain EW-S4 as notified.	Key Issue 2	Accept	Accept	No
FS9.280	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	
S56.028	Powerco Limited	EW-S5	Retain EW-S5 as notified.	Key Issue 2	Accept	Accept	No
FS9.281	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	
S75.080	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-O1	Retain EW-O1 as proposed.	Key Issue 1	Accept in part	Accept in part	No
FS19.12	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Key Issue 1	Accept in part	Accept in part	
S75.081	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-O2	Amend EW-O2 to read: 'Ensure that the life-supporting capacity of air, water, soil and ecosystems is safeguarded and that adverse effects of mining, quarrying and hydrocarbon extraction activities on the environment are avoided, remedied or mitigated, while meeting the needs of the District (and wider Region) for minerals.'	Key Issue 6	Accept	Accept	Yes
FS19.13	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Key Issue 6	Accept	Accept	
S75.082	Royal Forest and Bird Protection	EW-P1	Retain EW-P1 as proposed.	Key Issue 1	Accept	Accept	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
	Society NZ (Forest & Bird)						
FS19.14	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Key Issue 1	Accept	Accept	
S75.083	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P2	Retain EW-P2 as proposed.	Key Issue 1	Accept in part	Accept in part	No
FS19.15	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Key Issue 1	Accept in part	Accept in part	
S75.084	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P3	Retain EW-P3 as proposed.	Key Issue 1	Accept	Accept	No
FS19.16	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Key Issue 1	Accept	Accept	
S75.085	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P4	Retain EW-P4 as proposed.	Key Issue 1	Accept in part	Accept in part	No
FS19.17	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Key Issue 1	Accept in part	Accept in part	
S75.086	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P5	Retain EW-P5 as proposed.	Key Issue 1	Accept	Accept	No
S78.006	Waka Kotahi NZ Transport Agency	EW-R1	Retain EW-R1 as written.	Key Issue 2	Accept in part	Accept in part	No
S78.007	Waka Kotahi NZ Transport Agency	EW-AM5	Retain EW-AM5 as written.	Key Issue 2	Accept	Accept	No
S79.003	Transpower New Zealand Ltd	EARTHWORKS (Definition)	Retain the definition of 'Earthworks'.	Key Issue 1	Accept	Accept	No
FS3.001	First Gas Limited		Allow	Key Issue 1	Accept	Accept	
FS5.017	Nga'hapu me nga marae o Tamatea		Allow	Key Issue 1	Accept	Accept	
S79.091	Transpower New Zealand Ltd	EW-P1	Retain EW-P1.	Key Issue 1	Accept	Accept	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S79.092	Transpower New Zealand Ltd	EW-P7	Retain EW-P7.	Key Issue 1	Accept in part	Accept in part	No
S79.093	Transpower New Zealand Ltd	EW-R5	Retain EW-R5, and relocate to 'NU - Network Utilities' chapter.	Key Issue 2	Accept in part	Accept in part	No
FS25.83	Federated Farmers of New Zealand		Disallow	Key Issue 2	Reject	Reject	
S79.094	Transpower New Zealand Ltd	EW-S6	Retain EW-S6, and relocate to 'NU - Network Utilities' chapter.	Key Issue 2	Accept in part	Accept in part	No
FS25.86	Federated Farmers of New Zealand		Disallow	Key Issue 2	Accept in part	Accept in part	
S81.007	Horticulture New Zealand	ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION) (Definition)	Amend the definition of 'Ancillary Rural Earthworks (Primary Production)' as follows: ' means: (a) Normal agricultural and horticultural practices, such as cultivating and harvesting crops, 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; and (d) 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.'	Key Issue 3	Accept in part	Accept in part	Yes
FS6.1	NZ Pork Industry Board		Allow	Key Issue 3	Accept in part	Accept in part	
S81.086	Horticulture New Zealand	EW-PXX (new policy)	Add a new policy in the 'EW - Earthworks' chapter as follows: '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.'	Key Issue 3	Accept in part	Accept in part	Yes
FS6.7	NZ Pork Industry Board		Allow	Key Issue 3	Accept in part	Accept in part	
S81.088	Horticulture New Zealand	EW-R2	Retain EW-R2 (subject to exclusion sought in definition for 'Cultivation', or other consequential amendment).	Key Issue 3	Accept	Accept	No
S81.089	Horticulture New Zealand	EW-S2	Retain EW-S2.	Key Issue 3	Accept	Accept	No
S81.090	Horticulture New Zealand	EW-S5	Amend EW-S5 to add reference in the 'Notes' to 'Hort NZ Erosion and Sediment Control Guidelines for Vegetable Production'.	Key Issue 3	Reject	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S81.091	Horticulture New Zealand	EW-S6	Amend EW-S6 to clearly state that 'ancillary rural earthworks' are a permitted activity.	Key Issue 3	Reject	Reject	No
FS18.25	Transpower New Zealand Limited		Disallow	Key Issue 3	Accept	Accept	
S82.003	Aggregate and Quarry Association	EW-R1	Retain EW-R1(d) as proposed.	Key Issue 2	Accept	Accept	No
S82.004	Aggregate and Quarry Association	EW-S4	Amend EW-S4 to include an exception for quarries.	Key Issue 2	Reject	Reject	No
S82.006	Aggregate and Quarry Association	EW – Earthworks	Retain standalone 'EW – Earthworks' chapter with differentiated provisions relating to quarrying activities within it.	Key Issue 1	Accept	Accept	No
S84.014	Kairakau Lands Trust	EW – Earthworks	Add specific objectives or policies in the 'EW – Earthworks' chapter that relate to ensuring that cultural sites are protected. Council should employ earthworks contractors who have had sufficient training or a certain level of competency in regards to recognising sites of significance to Māori.	Key Issue 1	Accept in part	Accept in part	Yes
FS25.78	Federated Farmers of New Zealand		Disallow	Key Issue 1	Accept in part	Accept in part	
FS23.82	Kāinga Ora – Homes and Communities		Allow in part	Key Issue 1	Accept in part	Accept in part	
S85.010	Rayonier Matariki Forests	EW-R2	Amend EW-R2 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Key Issue 5	Accept in part	Accept in part	No
S85.011	Rayonier Matariki Forests	EW-R3	Amend EW-R3 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Key Issue 5	Accept in part	Accept in part	No
S85.012	Rayonier Matariki Forests	EW-S2	Amend EW-S2 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Key Issue 5	Accept in part	Accept in part	No
S85.013	Rayonier Matariki Forests	EW-S3	Amend EW-S3 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Key Issue 5	Accept in part	Accept in part	No
S85.014	Rayonier Matariki Forests	EW-S4	Amend EW-S4 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Key Issue 5	Accept in part	Accept in part	No
S85.015	Rayonier Matariki Forests	EW-S5	Amend EW-S5 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Key Issue 5	Accept in part	Accept in part	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S85.016	Rayonier Matariki Forests	EW-S6	Amend EW-S6 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Key Issue 5	Accept in part	Accept in part	No
FS18.26	Transpower New Zealand Limited		Allow	Key Issue 5	Accept in part	Accept in part	
S85.017	Rayonier Matariki Forests	EW-S7	Amend EW-S7 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Key Issue 5	Accept in part	Accept in part	No
.							
S85.020	Rayonier Matariki Forests	CULTIVATION (Definition)	Amend the definition of 'Cultivation' as follows: 'means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) for the purpose of sowing, growing or harvesting of pasture or crops, does not include mechanical land preparation as provided for under the NES-PF.'	Key Issue 1	Accept in part	Accept in part	No
.							
S90.038	Centralines Limited	EW-R1	Retain EW-R1 as notified.	Key Issue 2	Accept in part	Accept in part	No
.							
S90.039	Centralines Limited	EW-R7	Retain EW-R7(1) as notified. Amend EW-R7(2) as follows: 2. Activity status where compliance not achieved: RDIS Matters over which discretion is restricted: a. EW-AM1 ... g. EW-AM7. h. Impacts on the operation, maintenance, upgrading and development of the electricity network. i. The risk of electrical hazards affecting public or individual safety, and the risk of property damage. j. The risk to the structural integrity of any support structures associated with the electricity network. k. Technical advice provided by the National Grid owner (Transpower) or electricity distribution network. provider Centralines Limited.'	Key Issue 2	Accept in part	Accept in part	Yes
FS25.84	Federated Farmers of New Zealand		Disallow	Key Issue 2	Reject	Reject	
FS17.67	Horticulture New Zealand		Allow in part If Matters of discretion are included for EW-S8 they should relate to the specific non-compliance with NZECP34:2001.	Key Issue 2	Accept in part	Accept in part	
S90.040	Centralines Limited	EW-S8	Retain EW-S8 as notified.	Key Issue 2	Accept	Accept	No
.							
S110.016	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ	EW-R1	Amend EW-R1 as follows: '1. Activity Status: PER Where the following conditions are met:	Key Issue 2	Reject	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
	Ltd (the Oil Companies)		a. ... b. ... c. ... d. ... Note: 1. Gravel extraction within the bed of a river is subject to rules administered by the Hawke's Bay Regional Council. 2. Specified activities are exempt from complying with the standards in EW-S1 to EW-S9.'				
S110.017	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	EW-RXX (new rule)	Add a Permitted Activity pathway for 'land disturbance activities' (as defined in the Proposed Plan).	Key Issue 2	Accept in part	Accept in part	No
S117.066	Chorus New Zealand Limited	EW-R1	Retain EW-R1 as notified.	Key Issue 2	Accept in part	Accept in part	No
FS9.494	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	
S118.066	Spark New Zealand Trading Limited	EW-R1	Retain EW-R1 as notified.	Key Issue 2	Accept in part	Accept in part	No
S119.066	Vodafone New Zealand Limited	EW-R1	Retain EW-R1 as notified.	Key Issue 2	Accept in part	Accept in part	No
S121.072	Federated Farmers of New Zealand	EW-O1	Amend EW-O1 as follows: 'Protect the safety of Enable people and communities to carry out earthworks, while avoiding, remedying or mitigating avoid, remedy or mitigate the adverse environmental effects of earthworks.'	Key Issue 1	Accept in part	Accept in part	Yes
FS9.72	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 1	Reject	Reject	
S121.074	Federated Farmers of New Zealand	EW-P2	Amend EW-P2 as follows: 'To ensure earthworks are appropriately located and designed to avoid, remedy or mitigate adverse effects by: 1. controlling volume and vertical extent of earthworks, to maintain the role, function and predominant character and existing land use of each zone and reduce effects on neighbouring properties and the environment; and 2. controlling the movement of dust and sediment beyond the area of development, particularly to avoid nuisance effects and/or	Key Issue 1	Reject	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
			adverse amenity effects inconsistent with the zoning and existing land uses on neighbouring sites or any Council reticulated stormwater system.'				
FS9.74	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 1	Accept	Accept	
FS17.64	Horticulture New Zealand		Allow	Key Issue 1	Reject	Reject	
S121.075	Federated Farmers of New Zealand	EW-P3	Amend EW-P3 as follows: 'To ensure that earthworks meet functional needs, and are designed to reflect natural landforms, and where appropriate, landscaped to reduce and soften their visual impact having regard to the character, land use and visual amenity of the surrounding area.'	Key Issue 1	Reject	Reject	No
FS9.75	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 1	Accept	Accept	
S121.076	Federated Farmers of New Zealand	EW-P4	Amend EW-P4 as follows: 'To require the appropriate re-pasture or re-vegetation of land where vegetation is cleared as a consequence of earthworks.'	Key Issue 1	Accept in part	Accept in part	Yes
FS9.76	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 1	Reject	Reject	
S121.077	Federated Farmers of New Zealand	EW-P5	Retain EW-P5 as proposed.	Key Issue 1	Accept	Accept	No
FS9.77	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 1	Reject	Reject	
S121.078	Federated Farmers of New Zealand	EW-P6	Retain EW-P6 as proposed.	Key Issue 1	Accept	Accept	No
FS9.78	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 1	Reject	Reject	
S121.079	Federated Farmers of New Zealand	EW-PXX (new policy)	Add a new policy in the 'EW - Earthworks' chapter in the Proposed Plan as follows: ' Provide for ancillary rural earthworks as unlimited, to recognise that they normal and anticipated within the rural zones, with de minimus effects. '	Key Issue 3	Reject	Reject	No
FS9.79	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Accept	Accept	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S121.084	Federated Farmers of New Zealand	EW-R1	Retain EW-R1 as proposed.	Key Issue 2	Accept in part	Accept in part	No
FS9.84	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Accept in part	
S121.085	Federated Farmers of New Zealand	EW-R2	Amend EW-R2 as follows: 'Ancillary rural earthworks General Rural Zone / Rural Production Zone / Rural Lifestyle Zone 1. Activity Status: PER Where the following conditions are met: a. Compliance with: i. EW-S2; ii. EW-S3; iii. EW-S4; iv. EW-S5; v. EW-S6; vi. EW-S7; and vii. EW-S8.'	Key Issue 3	Reject	Reject	No
FS17.65	Horticulture New Zealand		Allow	Key Issue 3	Reject	Reject	
FS9.85	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Accept	Accept	
FS3.018	First Gas Limited		Disallow	Key Issue 3	Accept	Accept	Yes
S121.087	Federated Farmers of New Zealand	EW-R5	Amend EW-R5 as follows: 'Earthworks and vertical holes within the National Grid Yard All Zones 1. Activity Status: PER Where the following conditions are met: a. From National Grid poles, the earthworks must be no deeper (measured vertically) than 300mm within 2.2m of the pole; and 750 mm between 2.2m and 5m of the pole, or b. From National Grid towers, the earthworks must be no deeper (measured vertically) than 300mm within 6m of a tower; and 3m between 6m and 12m of a tower 300mm within 12m of the outer visible edge of any National Grid support structure foundation, except under the following circumstances: i. ... ii. ... iii. vertical holes not exceeding 500mm in diameter, provided they: a. are not exceeding 500 mm diameter and are more than 1.5m from the outer edge of the pole support structure or stay wire, or	Key Issue 2	Accept in part	Accept in part	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
			b. are a post hole for a farm fence or artificial crop protection or crop support structures and are more than 6m from the visible outer edge of a tower support structure foundation. ...				
FS18.23	Transpower New Zealand Limited		Disallow	Key Issue 2	Accept in part	Accept in part	
FS9.87	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Accept in part	Accept in part	
FS17.66	Horticulture New Zealand		Allow	Key Issue 2	Accept in part	Accept in part	
S121.088	Federated Farmers of New Zealand	EW-R6	Delete EW-R6 (and all provisions for the Gas Transmission Network).	Key Issue 2	Reject	Reject	No
FS3.019	First Gas Limited		Disallow	Key Issue 2	Accept	Accept	
FS9.88	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Accept	Accept	
S121.089	Federated Farmers of New Zealand	EW-S1	Retain EW-S1(1) as proposed.	Key Issue 3	Accept	Accept	No
FS9.89	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Reject	Reject	
S121.090	Federated Farmers of New Zealand	EW-S2	Amend EW-S2(1) & (2) as follows: 'Extent of Earthworks Identified areas of: - High Natural Character (HNCs) - Outstanding Natural Features and Landscapes (ONFs/ONL) - Significant Natural Areas (SNAs) 1. Ancillary rural earthworks - maximum of 500m ³ per site in any 12-month period. Refer also Standard EW-S7. 2. Maintenance earthworks. 3. All other earthworks - maximum of 200m ³ per site in any 12-month period.'	Key Issue 3	Accept in part	Accept in part	Yes
FS9.90	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Reject	Reject	
S121.091	Federated Farmers of New Zealand	EW-S2	Retain EW-S2(3) & (4).	Key Issue 3	Accept	Accept	No
FS9.91	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Reject	Reject	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S121.092	Federated Farmers of New Zealand	EW-S2	Amend EW-S2(5) & (6) as follows: 'Coastal Environment (except any identified HNC, ONF/ONL or SNA areas) 5. Ancillary rural earthworks - unlimited. 6. All other earthworks - must comply with the underlying zone provisions. maximum of 200m ³ per hectare of site in any 12-month period.'	Key Issue 3	Accept in part	Accept in part	Yes
FS9.92	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Reject	Reject	
S121.093	Federated Farmers of New Zealand	EW-S2	Retain EW-S2(7), (8) & (9) as proposed.	Key Issue 3	Accept	Accept	No
FS9.93	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Reject	Reject	
S121.094	Federated Farmers of New Zealand	EW-S3	Amend EW-S3 as follows: 'Vertical Extent of Excavation Identified areas of: High Natural Character (HNCs) Outstanding Natural Features and Landscapes (ONFs/ONL) / Significant Natural Areas (SNAs) (except for HNC2, HNC6, ONL1, ONF5, ONF6, ONF7, ONF9 and ONF10) 1. 2.3 metres HNC2 / HNC6 ONF5 / ONF6 / ONF7 / ONF9 / ONF10 2. 4.3 metres General Rural Zone / ONL1 3. 5 metres All Other Zones 4. 2.5 metres'	Key Issue 2	Reject	Reject	No
FS9.94	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Accept	Accept	
S121.097	Federated Farmers of New Zealand	EW-S6	Amend EW-S6 as follows: 'Earthworks and Vertical Holes within the National Grid Yard All Zones 1. The earthworks must not compromise the stability of a National Grid support structure, and 2. The earthworks must not result in a reduction in ground-to-conductor clearance distances specified in Table 4 of NZECP34 of less than: 6.5m (measured vertically) from a 110kV National Grid transmission line, and 3. The earthworks must not result in the permanent loss of vehicular access to any National Grid support structure.'	Key Issue 2	Accept in part	Accept in part	Yes
FS17.68	Horticulture New Zealand		Allow	Key Issue 2	Accept in part	Accept in part	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
FS18.27	Transpower New Zealand Limited		Disallow	Key Issue 2	Accept in part	Accept in part	
FS9.97	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Accept in part	Accept in part	
S121.098	Federated Farmers of New Zealand	EW-S7	Delete EW-S7.	Key Issue 3	Reject	Reject	No
FS9.98	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Accept	Accept	
S121.099	Federated Farmers of New Zealand	EW-S8	Retain EW-S8 as proposed.	Key Issue 2	Accept	Accept	No
FS9.99	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	
S121.231	Federated Farmers of New Zealand	ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION) (Definition)	Amend the definition of 'Ancillary Rural Earthworks (Primary Production)' as follows: 'means a. Normal agricultural and horticultural practices, such as cultivating and harvesting crops, 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 ofal pits, burying of dead stock and plant waste; b. Land preparation and vegetation clearance undertaken as part of horticultural plantings; and c. Maintenance and construction of existing walking tracks, farm and forestry tracks, driveways, roads and accessways within the same formation width. '	Key Issue 3	Reject	Reject	Yes
FS9.231	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Accept	Accept	
FS6.2	NZ Pork Industry Board		Allow	Key Issue 3	Reject	Reject	
FS5.019	Nga'hapu me nga marae o Tamatea		Disallow	Key Issue 3	Accept	Accept	
S121.233	Federated Farmers of New Zealand	EARTHWORKS (Definition)	Retain the definition of 'Earthworks' as proposed.	Key Issue 1	Accept	Accept	No
FS9.233	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 1	Reject	Reject	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
FS3.002	First Gas Limited		Allow	Key Issue 1	Accept	Accept	
S126.004	Hawke's Bay District Health Board	EW - Rules	That the District Plan Rules require the site manager or person in control of the site has available erosion and sediment control plans in place for whenever earthworks are being undertaken. And that erosion and sediment control plans are included as part of the resource consent documentation requirements to Council when works under the Building Act or other legislation involving construction i.e. roading etc. is being undertaken.	Key Issue 2	Accept in part	Accept in part	No
FS25.79	Federated Farmers of New Zealand		Disallow	Key Issue 2	Accept in part	Accept in part	
S129.126	Kāinga Ora - Homes and Communities (Kainga Ora)	EW-R5	Amend EW-R5 as follows: 'Earthworks and vertical holes within the National Grid Yard All Zones 1. Activity Status: PER Where the following conditions are met: a. The earthworks must be no deeper (measured vertically) than 300mm within 642m of the outer visible edge of any National Grid support structure foundation, except under the following circumstances: ...'	Key Issue 2	Accept in part	Accept in part	Yes
FS18.24	Transpower New Zealand Limited		Disallow	Key Issue 2	Accept in part	Accept in part	
S129.127	Kāinga Ora - Homes and Communities (Kainga Ora)	EW-RXX (new rule)	Add a new rule in the 'EW - Earthworks' chapter in the Proposed Plan, which provides for earthworks within areas of natural hazards, and considers that where carried out in accordance with relevant conditions a permitted activity status would be appropriate. Where earthworks in areas of natural hazards are likely to exacerbate the risks associated with those natural hazards, a discretionary or non-complying activity status may be appropriate.	Key Issue 2	Accept in part	Accept in part	No
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S129.237	Kāinga Ora - Homes and Communities (Kainga Ora)	EW - Earthworks	Amendments sought to 'EW - Earthworks' chapter.	Key Issue 1	Accept	Accept	No
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Mining & Quarrying

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S39.009	Kathryn Bayliss	EW - Earthworks	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Key Issue 8	Reject	Reject	No
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S39.010	Kathryn Bayliss	EW-P8	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Key Issue 8	Reject	Reject	No
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S39.011	Kathryn Bayliss	EW-P10	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Key Issue 8	Reject	Reject	No
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S39.012	Kathryn Bayliss	EW-P11	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Key Issue 8	Reject	Reject	No
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S39.014	Kathryn Bayliss	EW-R3	Make hydrocarbon, fossil fuels including coal, gas and oil mining activities prohibited.	Key Issue 8	Reject	Reject	No
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S39.015	Kathryn Bayliss	EW-R4	Make hydrocarbon, fossil fuels including coal, gas and oil mining activities prohibited.	Key Issue 8	Reject	Reject	No
.							
S55.066	Heritage New Zealand Pouhere Taonga	EW-P11	Retain EW-P11 as notified.	Key Issue 6	Accept in part	Accept in part	No
.							
S75.087	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P8	Amend EW-P8 as follows (or a similar approach): 'To enable Avoid, remedy, or mitigate the adverse effects of prospecting and exploration of minerals where the adverse effects on the environment will be minor.'	Key Issue 6	Accept in part	Accept in part	Yes
FS19.18	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Key Issue 6	Accept in part	Accept in part	
S75.088	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P9	Delete EW-P9.	Key Issue 6	Reject	Reject	Yes
FS25.81	Federated Farmers of New Zealand		Disallow	Key Issue 6	Accept	Accept	
FS19.19	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Key Issue 6	Reject	Reject	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S75.089	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P11	Amend EW-P11 to reference SNAs (in a similar way that ONFLs are referred to in the policy), and to reference the 'coastal environment'.	Key Issue 6	Accept	Accept	Yes
FS19.20	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Key Issue 6	Accept	Accept	
S81.087	Horticulture New Zealand	EW-P11	Amend EW-P11 as follows: 'To require proposals for new mining, quarrying or hydrocarbon extraction activities to provide adequate information on the establishment and operation of the activity and demonstrate: 1. ... 2. ... 3. that adequate measures will be used to: a. h. manage the potential effects of dust on any nearby rural production activities, including for horticultural land use the effects of dust on produce. 4. ...'	Key Issue 6	Accept	Accept	Yes
S82.001	Aggregate and Quarry Association	EW-O2	Amend EW-O2 as follows: 'Ensure that the life-supporting capacity of air, water, soil and ecosystems is safeguarded and that adverse effects of mining, quarrying and hydrocarbon extraction activities on the environment are avoided, remedied, or mitigated, offset or compensated , while meeting the needs of the District (and wider Region) for minerals.'	Key Issue 6	Reject	Reject	No
FS9.498	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 6	Accept	Accept	
S82.002	Aggregate and Quarry Association	EW-R4	Retain EW-R4 as proposed.	Key Issue 7	Accept	Accept	No
S82.005	Aggregate and Quarry Association	EW-SXX (new standard)	Add a new standard in the 'EW- Earthworks' chapter requiring a setback for 'Sensitive Activities' in relation to: 1) quarrying activities (either legally operating or consented for future use); and 2) Any areas identified by Council as containing significant mineral resources for future extraction.	Key Issue 7	Reject	Reject	No
S85.019	Rayonier Matariki Forests	Definitions	Add a new definition for 'Forestry Quarry' as defined in the NES-PF. [clause 3 of the NES-PF defines as follows:	Key Issue 6	Accept	Accept	Yes

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
			' Forestry quarrying- (a) means the extraction of rock, sand, or gravel for the formation of forestry roads and construction of other plantation forestry infrastructure, including landings, river crossing approaches, abutments, and forestry tracks,- (i) within a plantation forest; or (ii) required for the operation of a plantation forest on adjacent land owned or managed by the owner of the plantation forest; and (b) includes the extraction of alluvial gravels outside the bed of a river, extraction of minerals from borrow pits, and the processing and stockpiling of material at the forest quarry site; but (c) does not include earthworks, mechanical land preparation, or gravel extraction from the bed of a river, lake, or other water body.']				
S98.002	Hatuma Lime Co Ltd	QUARRY (Definition)	Retain the definition of 'Quarry' as proposed.	Key Issue 6	Accept	Accept	No
S98.003	Hatuma Lime Co Ltd	QUARRYING ACTIVITIES (Definition)	Retain the definition of 'Quarrying Activities' as proposed.	Key Issue 6	Accept	Accept	No
S98.018	Hatuma Lime Co Ltd	GRUZ-RXX (new rule)	Add a new rule in the 'General Rural Zone' as follows: 'GRUZ-R20 New Buildings ancillary to lawfully established quarries 1. Activity Status: Permitted Where the following conditions are met: a. Compliance with: i. GRUZ-S2 (Height of Buildings); ii. GRUZ-S3 (Height in Relation to Boundary); iii. GRUZ-S4 (Setback from Roads and Rail Network); iv. GRUZ-S5 (Setback from Neighbours); v. GRUZ-S6 (Shading of Land and Roads); vi. GRUZ-S7 (Electricity Safety Distances); vii. GRUZ-S8 (Transport); viii. GRUZ-S9 (Light); and ix. GRUZ-S10 (Noise). b. Compliance with GRUZ-S12 (setback from gas transmission network). c. Compliance with GRUZ-S13 (setbacks from National Grid).' And any consequential changes to demonstrate that this rule takes precedent over EW-R4 with respect to new buildings for lawfully established quarries.	Key Issue 6	Reject	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S98.025	Hatuma Lime Co Ltd	EW-R4	Amend EW-R4 as follows (as a consequential amendment to the new rule sought in the 'General Rural Zone'): 'Mining and quarrying (except new buildings for lawfully established quarries as provided in Rule GRUZ-R20) ...		Reject		No
S102.033	Te Mata Mushrooms Land Company Limited	EW-R4	Retain EW-R4.	Key Issue 7	Accept	Accept	No
S102.034	Te Mata Mushrooms Land Company Limited	EW-RXX (new rule)	Add in a new rule in the 'EW - Earthworks' chapter of the Proposed Plan (or respective zone chapters) as follows: 'EW-RXX Gravel storage and processing yards General Rural Zone Rural Production Zone 1. Activity Status: CON Where the following conditions are met: a. Compliance with i. Setback from Roads and Rail Network [ii.?] Setback from Neighbours ii. Electricity Safety Distances iii. Transport (Access, Parking, Loading) iv. Light v. Noise vi. Setback from National Grid Yard and National Grid Substation.'	Key Issue 7	Reject	Reject	No
S121.073	Federated Farmers of New Zealand	EW-O2	Amend EW-O2 as follows: 'Ensure that the life-supporting capacity of air, water, soil and ecosystems is safeguarded and that adverse effects of mining, quarrying and hydrocarbon extraction activities on the environment are avoided, remedied or mitigated, while meeting the needs of the District (and wider Region) for minerals.' And clearly exclude farm quarries from the definition of quarrying.	Key Issue 6	Reject	Reject	No
FS9.73	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 6	Accept	Accept	
S121.080	Federated Farmers of New Zealand	EW-P8	Retain EW-P8, on the condition that farm quarries are clearly excluded from the definition of quarrying.	Key Issue 6	Accept in part	Accept in part	No
FS9.80	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 6	Reject		

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S121.081	Federated Farmers of New Zealand	EW-P9	Amend EW-P9 as follows: 'To enable farm quarries and quarries ancillary to farming and forestry activities to be established in rural areas.'	Key Issue 6	Accept in part	Accept in part	Yes
FS9.81	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 6	Reject	Reject	
S121.082	Federated Farmers of New Zealand	EW-P10	Retain EW-P10, on the condition that farm quarries are clearly excluded from the definition of quarrying.	Key Issue 6	Accept in part	Accept in part	No
FS9.82	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 6	Reject	Reject	
S121.083	Federated Farmers of New Zealand	EW-P11	Retain EW-P11, on the condition that farm quarries are clearly excluded from the definition of quarrying.	Key Issue 6	Accept in part	Accept in part	No
FS9.83	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 6	Reject	Reject	
S121.086	Federated Farmers of New Zealand	EW-R4	Retain EW-R4 as proposed.	Key Issue 7	Accept	Accept	No
FS9.86	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 7	Reject	Reject	
S121.245	Federated Farmers of New Zealand	QUARRY (Definition)	Amend the definition of 'Quarry' as follows: 'means a location or area used for the permanent removal and extraction of aggregates (clay, silt, rock or sand). It includes the area of aggregate resource and surrounding land associated with the operation of a quarry and which is used for quarrying activities. This excludes farm quarries. '	Key Issue 6	Reject	Reject	No
FS9.245	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 6	Accept	Accept	
S121.246	Federated Farmers of New Zealand	QUARRYING ACTIVITIES (Definition)	Amend the definition of 'Quarrying Activities' as follows: 'means the extraction, processing (including crushing, screening, washing, and blending), transport, storage, sale and recycling of aggregates (clay, silt, rock, sand), the deposition of overburden material, rehabilitation, landscaping and clean filling of the quarry, and the use of land and accessory buildings for offices, workshops and car parking areas associated with the operation of the quarry. This excludes farm quarries. '	Key Issue 6	Reject	Reject	No
FS9.246	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 6	Accept	Accept	

