

OFFICER'S REPORT FOR:

Independent Hearing Commissioners:

Robert Schofield (Chair)

Loretta Lovell

Roger Maaka

Tim Aitken

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TOPIC:

Earthworks, Mining & Quarrying

PREPARED BY:

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REPORT DATED:

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Appendix A – Recommended Amendments to Plan Provisions

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

List of Submitters and Further Submitters addressed in this Report

Submitter Name	Submission Number(s)
Aggregate and Quarry Association	S82
Centralines Limited	S90
Chorus New Zealand Limited	S117
Federated Farmers of New Zealand	S121
Hatuma Lime Co Ltd	S98
Hawke's Bay District Health Board	S126
Hawke's Bay Regional Council	S11
Heritage New Zealand Pouhere Taonga	S55
Horticulture New Zealand	S81
Kairakau Lands Trust	S84
Kathryn Bayliss	S39
Kāinga Ora - Homes and Communities (Kainga Ora)	S129
New Zealand Pork Industry Board	S42
Powerco Limited	S56
Rayonier Matariki Forests	S85
Royal Forest and Bird Protection Society NZ (Forest & Bird)	S75
Spark New Zealand Trading Limited	S118
Te Mata Mushrooms Land Company Limited	S102
The Surveying Company (HB) Ltd	S50
Transpower New Zealand Ltd	S79
Vodafone New Zealand Limited	S119
Waka Kotahi NZ Transport Agency	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 of New Zealand	FS25
First Gas Limited	FS3
Horticulture New Zealand	FS17
Kāinga Ora - Homes and Communities	FS23
Ngā hapū me ngā marae o Tamatea	FS5
New Zealand Pork Industry Board	FS6
Penny Nelson, Director-General of Conservation (DOC)	FS19
Royal Forest and Bird Protection Society NZ (Forest & Bird)	FS9
Silver Fern Farms Limited	FS8
Transpower New Zealand Ltd	FS18
Waka Kotahi NZ Transport Agency	FS16

1.0 Introduction

1.1 Qualifications and Experience

- 1.1.1 My full name is Rowena Clare Macdonald. I am a Principal Planner and Director of Sage Planning (HB) Limited, a planning consultancy comprising three Principal Planners/Directors established in 2015.
- 1.1.2 I hold a Bachelors degree in Resource and Environmental Planning (Honours) and am a full member of the New Zealand Planning Institute.
- 1.1.3 I have been a practicing planner for the past 25+ years. Prior to establishing Sage Planning, I was a planner with Works Consultancy Services/Opus International Consultants.
- 1.1.4 Sage Planning has been engaged by Central Hawke's Bay District Council as the lead planning consultants to assist with the full District Plan Review since August 2017.

1.2 Code of Conduct

- 1.2.1 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014, and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- 1.2.2 I am authorised to give this evidence on the Council's behalf to the Proposed District Plan Hearings Commissioners.

1.3 Conflict of Interest

- 1.3.1 I confirm that I have no real or perceived conflict of interest.

1.4 Involvement with the Proposed Plan

- 1.4.1 I was involved in scoping issues and preparing discussion documents for Council's District Plan Review Committee, engagement with the community, preparation of the Draft District Plan (notified in April 2019), reporting on informal submissions to the Committee and recommending amendments to the Draft Plan, and subsequent completion of the Proposed District Plan including preparation of the accompanying Section 32 Evaluation Reports.
- 1.4.2 I was the lead author of various discussion documents and draft plan provisions relating to earthworks, mining and quarrying, and the reporting officer on informal submissions to the Draft District Plan on this topic. I also contributed to the associated Section 32 Remaining District Wide Chapters etc Topic Report accompanying notification of the Proposed District Plan (PDP).

1.5 Preparation of this Report

- 1.5.1 My role in the preparation of this report has been to review, provide analysis on, and make recommendations on the submissions and further submissions received in relation to the contents of General District Wide Matters - Earthworks chapter in the PDP.
- 1.5.2 The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2.0 Scope of Report

2.1 Matters addressed by this Report

- 2.1.1 This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA). This report considers submissions that were received by the Council in relation to the provisions on the earthworks (including mining and quarrying) provisions of the PDP.

2.2 Overview of the Topic

- 2.2.1 Earthworks are an integral part of land 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. They are also often an essential part of rural farm activities for building tracks, fences, offal pits etc.
- 2.2.2 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 the District Plans to address. Therefore, it is appropriate for the PDP to cover the broader effects of earthworks associated with land use.
- 2.2.3 Earthworks are not currently addressed in the Operative District Plan, 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.
- 2.2.4 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.
- 2.2.5 The Earthworks chapter also includes provisions relating to mining, quarries, and gravel extraction.

2.3 Statutory Requirements

- 2.3.1 The PDP has been prepared in accordance with the RMA and in particular the requirements of section 74 (Matters to be considered by territorial authority) and section 75 (Contents of district plans).
- 2.3.2 As set out in the Section 32 Remaining District Wide Chapters and Relocated Building Provisions Topic Report, there are a number of higher order planning documents that provide direction and guidance for the preparation and content of the PDP, including the New Zealand Coastal Policy Statement (2010), the Hawke's Bay Regional Resource Management Plan including the Regional Policy Statement (2006), and the Hawke's Bay Regional Coastal Environment Plan (2014). These documents are discussed in detail within the Section 32 Topic Report.

2.4 Procedural Matters

- 2.4.1 There were no pre-hearing meetings or meetings undertaken in accordance with clause 8AA of Schedule 1, undertaken on the submissions relating to the Earthworks, Mining & Quarrying topic prior to the finalisation of this section 42A report.
- 2.4.2 No further consultation with any parties regarding the Earthworks, Mining & Quarrying topic has been undertaken since notification of the provisions.

3.0 Consideration of Submissions Received

3.1 Overview of Submissions

- 3.1.1 As stated, this topic report addresses submissions received on district-wide 'EW – Earthworks' and associated provisions, including those relating to mining and quarrying activities.
- 3.1.2 There are twenty-three (23) submitters and 11 further submitters across the whole 'Earthworks, Mining & Quarrying' topic.
- 3.1.3 One hundred & eighteen (118) original submission points, and 82 further submission points were received on the provisions relating to this topic.
- 3.1.4 Of the 118 original submission points, 46 submission points are in support.

3.2 Structure of this Report

3.2.1 Given the number, nature and extent of the submissions and further submissions received, I have split out the matters pertaining to earthworks from those pertaining to mining and quarrying, and have structured the section 42A report as follows:

- 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
- Key Issue 8 – Mining Hydrocarbons and Fossil Fuels

4.0 Key Issue 1 – Earthworks – General Definitions, Objectives & Policies

4.1 Submissions / Further Submissions Addressed

Submission Point	Submitter (S) / Further Submitter (FS)	Provision	Position	Summary of Decision Requested	Summary Recommendation
S50.034	The Surveying Company (HB) Ltd	EW - Earthworks	Support	Retain EW - Earthworks chapter.	Accept
.					
S11.029	Hawke's Bay Regional Council	EW - Earthworks	Amend	General support of the Earthworks chapter, subject to amendment sought on EW-R1.	Accept <i>(insofar as the chapter is retained and amendment to EW-R1 is partially accepted)</i>
.					
S82.006	Aggregate and Quarry Association	EW - Earthworks	Amend	Retain standalone 'EW - Earthworks' chapter with differentiated provisions relating to quarrying activities within it.	Accept
.					
S129.237	Kāinga Ora - Homes and Communities (Kainga Ora)	EW - Earthworks	Amend	Amendments sought to 'EW - Earthworks' chapter.	Accept <i>(insofar as the chapter is retained and some amendments are made)</i>
.					
S85.020	Rayonier Matariki Forests	CULTIVATION (Definition)	Amend	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. '	Accept in part
.					
S79.003	Transpower New Zealand Ltd	EARTHWORKS (Definition)	Support	Retain the definition of 'Earthworks'.	Accept
FS3.001	First Gas Limited		Support		Accept
FS5.017	Ngā hapū me ngā marae o Tamatea		Support		Accept
S121.233	Federated Farmers of New Zealand	EARTHWORKS (Definition)	Support	Retain the definition of 'Earthworks' as proposed.	Accept
FS9.233	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
FS3.002	First Gas Limited		Support		Accept
S84.014	Kairakau Lands Trust	EW - Earthworks	Oppose	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	Accept in part <i>(insofar as there are specific objectives and policies to protect cultural sites in other parts of the PDP)</i>

				recognising sites of significance to Maori.	
FS25.78	Federated Farmers of New Zealand		Oppose		Accept in part
FS23.82	Kāinga Ora - Homes and Communities		Support in part		Accept in part
S75.080	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-O1	Support	Retain EW-O1 as proposed.	Accept in part
FS19.12	Penny Nelson, Director-General of Conservation (DOC)		Support		Accept in part
S121.072	Federated Farmers of New Zealand	EW-O1	Oppose	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.'	Accept in part
FS9.72	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S75.082	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P1	Support	Retain EW-P1 as proposed.	Accept
FS19.14	Penny Nelson, Director-General of Conservation (DOC)		Support		Accept
S79.091	Transpower New Zealand Ltd	EW-P1	Support	Retain EW-P1.	Accept
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S75.083	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P2	Support	Retain EW-P2 as proposed.	Accept in part
FS19.15	Penny Nelson, Director-General of Conservation (DOC)		Support		Accept in part
S121.074	Federated Farmers of New Zealand	EW-P2	Amend	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 adverse amenity effects inconsistent with the zoning and existing land uses on neighbouring sites or any Council reticulated stormwater system.'	Reject
FS17.64	Horticulture New Zealand		Support		Reject
FS9.74	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept

S11.031	Hawke's Bay Regional Council	EW-P2	Amend	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; and 3. controlling the effects of urban development on the health and well-being of water bodies, freshwater ecosystems and receiving environments.'	Accept
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S75.084	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P3	Support	Retain EW-P3 as proposed.	Accept
FS19.16	Penny Nelson, Director-General of Conservation (DOC)		Support		Accept
S121.075	Federated Farmers of New Zealand	EW-P3	Amend	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.'	Reject
FS9.75	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
S75.085	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P4	Support	Retain EW-P4 as proposed.	Accept in part
FS19.17	Penny Nelson, Director-General of Conservation (DOC)		Support		Accept in part
S121.076	Federated Farmers of New Zealand	EW-P4	Amend	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.'	Accept in part
FS9.76	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S121.077	Federated Farmers of New Zealand	EW-P5	Support	Retain EW-P5 as proposed.	Accept
FS9.77	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject

S75.086	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P5	Support	Retain EW-P5 as proposed.	Accept
.					
S121.078	Federated Farmers of New Zealand	EW-P6	Support	Retain EW-P6 as proposed.	Accept
FS9.78	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S55.065	Heritage New Zealand Pouhere Taonga	EW-P7	Oppose	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.'	Accept in part
FS25.80	Federated Farmers of New Zealand		Oppose		Reject
S79.092	Transpower New Zealand Ltd	EW-P7	Support	Retain EW-P7.	Accept in part
.					

4.1.1 In summary, these 24 submissions and 19 further submissions support retention of, or seek amendments to, the earthworks-specific objectives and policies in the EW – Earthworks chapter.

4.2 Matters Raised by Submitters

General

- 4.2.1 The Surveying Co (S50.034) supports the EW – Earthworks chapter on the basis that *'it is long overdue to have earthwork standards to protect the natural environment'*.
- 4.2.2 HBRC (S11.029) generally supports the EW – Earthworks chapter, subject to an amendment sought to Rule EW-R1 (addressed in Key Issue 2 of this report).
- 4.2.3 Kāinga Ora (S129.237) generally supports the EW – Earthworks, *'however requests minor amendments as set out in subsequent submission points'*.
- 4.2.4 The Aggregate and Quarry Assoc (S82.006) supports retention of the standalone EW – Earthworks chapter with differentiated provisions relating to quarrying activities within it. They submit as follows:
'In general, the Proposed District Plan recognises the importance of quarrying and its provisions are conducive to it. In general, we support the objectives, policies, rules and standards of the Draft Plan as they relate to quarrying although we have some comments as provided in the table below.

Earthworks

We note there is a standalone chapter on Earthworks in the Proposed Plan with provisions and quarrying located within it. These provisions are differentiated from general earthworks which is important as quarrying activities are typically significantly different activities from general earthworks.

Quarry and quarrying activities have their own specific definitions in the Proposed Plan distinct from Earthworks. All of these are taken from the National Planning Standards.

To avoid potential confusion between earthworks and quarrying, further measures are needed in places as specified in the table.'

Definitions*‘Cultivation’*

- 4.2.5 Rayonier Matariki Forests (S85.020) submit that *‘This definition relates to farming and it has been found can include mechanical land preparation as set out under the NES-PF’*, and seeks an amendment to the definition of ‘Cultivation’ in the PDP, as follows:

CULTIVATION	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. <u>Does not include mechanical land preparation as provided for under the NES-PF.</u>
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‘Earthworks’

- 4.2.6 Transpower (S79.003), supported by First Gas Limited (FS3.001) and Ngā hapū me ngā marae o Tamatea (FS5.017), supports retention of the definition of ‘Earthworks’ in the PDP as notified, as it *‘reflects the mandatory direction definition provided in the National Planning Standards’*.
- 4.2.7 Federated Farmers (S121.233) supports retention of the definition of ‘Earthworks’ as notified, given it is *‘consistent with the National Planning Standards, and exclusion of cultivation and fence post holes’*.

EARTHWORKS	means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.
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Protection of Cultural Sites

- 4.2.8 Kairakau Lands Trust (S84.014) submits that *‘The Plan states that ‘whilst integral to development, earthworks can have adverse effects on the environment if not appropriately managed’. Earthworks are the greatest threat to cultural sites. However, there are no specific objectives or policies that relate to ensuring that cultural sites are protected in this Section of the Plan. We would like to see Council employ earthworks contractors who have had sufficient training or a certain level of competency in regards to recognising sites of significance to Māori’*.
- 4.2.9 Kāinga Ora (FS23.82) supports this submission in part, *‘to the extent it is consistent with its primary submission’*.
- 4.2.10 Federated Farmers (FS25.78) opposes this submission on the basis that *‘the submitter’s concerns are already addressed by the Historic Heritage and Sites and Areas of Significance to Maori chapters’*.

Objectives*Objective EW-01*

- 4.2.11 Forest & Bird (S75.080), supported by the Director General of Conservation (FS19.12), supports retention of Objective EW-01 as notified.
- 4.2.12 Federated Farmers (S121.072) seeks amendment of Objective EW-01 as follows:

EW-01	<u>Protect the safety of Enable</u> people and <u>communities to carry out earthworks, while</u> avoiding, remedying or <u>mitigating</u> the adverse environmental effects of earthworks.
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- 4.2.13 They give the following reasons:

‘The objective needs amending to enable people and communities to carry out earthworks, while managing adverse effects. This is what the district plan does – it enables earthworks through permitted rules, and the standards ensure that adverse effects are managed. As a comparison, objective EW-02 references the needs of the district to undertake an activity (being mining and quarrying) and earthworks are just as important a need.

As notified, we are not sure if the protection is the protection of people from earthworks, or whether it is an incorrect paraphrasing of Section 5(2) of the RMA for health and safety.’

Policies*Policy EW-P1*

- 4.2.14 Forest & Bird (S75.082), supported by the Director General of Conservation (FS19.14), and Transpower (S79.091), all support retention of Policy EW-P1 as notified.

EW-P1	To avoid, remedy or mitigate the adverse effects of earthworks which: <ol style="list-style-type: none"> 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.
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- 4.2.15 Transpower *'supports the policy recognition of avoiding or mitigating the adverse effects of earthworks which result in adverse effects on the stability of land, structures or buildings, noting the policy is not specific to the National Grid'*.

Policy EW-P2

- 4.2.16 Forest & Bird (S75.083), supported by the Director General of Conservation (FS19.15), supports retention of Policy EW-P2 as notified.

- 4.2.17 HBRC (S11.031) seeks amendment of 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: <ol style="list-style-type: none"> 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. <u>controlling the effects of urban development on the health and well-being of water bodies, freshwater ecosystems and receiving environments.</u>
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- 4.2.18 HBRC submits that *'this update to EW-P2 is to give effect to the NPS-FM (2020) that requires district plans to include objectives, policies and methods to control the impact of urban development on waterways. The management of earthworks is integral to ensuring waterways and receiving environments are protected. District councils play a key role in this through their involvement in the building process'*.

- 4.2.19 They refer elsewhere in their submission to giving effect to clause 3.5(4) of the NPS-FM, which states:

'Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.'

- 4.2.20 Federated Farmers (S121.074), supported by Hort NZ (FS17.64), seeks amendment of Policy EW-P2 as follows:

EW-P2	To ensure earthworks are appropriately located and designed to avoid, remedy or mitigate adverse effects by: <ol style="list-style-type: none"> 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 adverse amenity effects inconsistent with the zoning and existing land uses on neighbouring sites or any Council reticulated stormwater system.
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- 4.2.21 Federated Farmers submits that *'Support is given for recognising the role (purpose) and character of a zone and the earthworks within it. This will mean farming related earthworks in the rural zone should be considered appropriate and acceptable'*.

- 4.2.22 Hort NZ supports Federated Farmers' submission on the basis that *'The changes seek to recognise existing land use in the zone which is appropriate'*.

Policy EW-P3

- 4.2.23 Forest & Bird (S75.084), supported by the Director General of Conservation (FS19.16), supports retention of Policy EW-P3 as notified.

- 4.2.24 Federated Farmers (S121.075) seeks amendment of Policy EW-P3 as follows:

EW-P3 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.

- 4.2.25 Federated Farmers submits that *'While being in character with the surrounding land, the functionality of the earthworks is also important. Earthworks for farm tracking needs to be functional to allow safe passage across steep terrain. Visual effects must not take precedence over functionality'*.

Policy EW-P4

- 4.2.26 Forest & Bird (S75.085), supported by the Director General of Conservation (FS19.17), supports retention of Policy EW-P4 as notified.

- 4.2.27 Federated Farmers (S121.076) seeks amendment of Policy EW-P4 as follows:

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

- 4.2.28 Federated Farmers submits that *'Re-vegetation or re-pasture will only be needed for some earthworks, some functional purposes will preclude the ability to meet this policy direction'*.

Policy EW-P5

- 4.2.29 Forest & Bird (S75.086) and Federated Farmers (S121.077) both support retention of Policy EW-P5 as notified.

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.

- 4.2.30 Federated Farmers states that *'Support is given for ensuring land can support a range of primary production activities'*.

Policy EW-P6

- 4.2.31 Federated Farmers (S121.078) supports retention of Policy EW-P6 as notified, as they *'agree that duplication is best avoided'*.

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.

Policy EW-P7

- 4.2.32 Transpower (S79.092) *'supports the policy recognition of the need to control earthworks, noting the policy is not specific to the National Grid'*, and seeks retention of Policy EW-P7 as notified.

- 4.2.33 Heritage NZ (S55.065) submits that *'The earthworks chapter needs to include a policy which addresses potential effects of earthworks on SASM and HH. Potential effects on HH and SASM are referred to in the chapter introduction and in EW-P11, but this is not reflected in the other policies for earthworks. EW-P7 refers to 'culturally sensitive sites', however explicit reference to scheduled sites should also be included in this policy'*. They seek amendment of Policy EW-P7, 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, **Historic Heritage and Sites and Areas of Significance to Māori**, and culturally sensitive sites are avoided, remedied or mitigated.

- 4.2.34 Federated Farmers (FS25.80) opposes the submission of Heritage NZ because *'the submitter's concerns are already addressed by the Historic Heritage and Sites and Areas of Significance to Maori chapters'*.

Forest & Bird

- 4.2.35 Forest & Bird (FS9.72, FS9.74, FS9.75, FS9.76, FS9.77, FS9.78, FS9.233) opposes all the submissions of Federated Farmers, as *'The amendments and decisions sought would result in continued loss of indigenous biodiversity in Hawkes Bay, would not give effect to the RPS, NZCPS and NPSFM or would not achieve the purpose of the RMA'*.

4.3 Analysis

General

- 4.3.1 There is 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*'Cultivation' / 'Earthworks'*

- 4.3.2 Submissions on the definition of 'Earthworks' are all in support, on the basis that it is consistent with the definition in the National Planning Standards. No further analysis is considered necessary.
- 4.3.3 I note that both 'cultivation' and 'earthworks' are terms used in the PDP, and both are terms defined in the National Planning Standards. Both terms are 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 are used in a plan and are used in the same context, local authorities must use the definition as defined in that list. Therefore, I consider the relief sought by Rayonier Matariki Forests to alter the definition of 'cultivation' is not available.
- 4.3.4 I understand the concern of Rayonier Matariki Forests is that the definition of 'cultivation' may capture mechanical land preparation as set out under the NES-PF. The definition of 'cultivation' refers to the *'disturbance of land... for the purpose of sowing, growing or harvesting of pasture or crops'*. In that sense, I can see that the definition could be seen as capturing mechanical land preparation for the purpose of sowing, growing or harvesting a plantation forest.
- 4.3.5 Mechanical land preparation is a regulated activity under the NES-PF, however clause 73 of the NES-PF provides for 'mechanical land preparation' as a permitted activity without limitations in terms of territorial authority (district council) functions (it is treated as a permitted activity in specified areas subject to conditions in terms of regional council functions). Therefore, it is appropriate to ensure that the PDP does not conflict with the NES-PF.
- 4.3.6 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'.
- 4.3.7 To avoid multiple references to the NES-PF in relation to each relevant definition and each rule in respect of earthworks, 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 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'*. In my view, this note makes it clear that the provisions in the EW - Earthworks chapter don't apply to plantation forestry activities, and no further clarification is considered necessary.
- 4.3.8 In any case, the definition of 'earthworks' in the PDP (as per the National Planning Standards) specifically excludes 'cultivation' as follows: *'...but excludes gardening, cultivation, and...'*. Therefore, in my view, even if mechanical land preparation was deemed 'cultivation', it would be excluded from the definition of 'earthworks' and would not be captured by the earthworks provisions in the PDP.

Protection of Cultural Sites

- 4.3.9 I concur with the concerns raised by Kairakau Lands Trust around the potential for earthworks to threaten cultural sites in the vicinity. This issue is 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.
- 4.3.10 The Introduction to the SASM chapter states:
- 'A small number of sites have historically been identified in the schedules of former District Plans. However, Council acknowledges that there are a great number of sites that have not been identified. Further research, evaluation and engagement between Council and tangata whenua is necessary to accurately identify, understand, document and map this resource. SASM-SCHED3 is not currently representative of these sites, therefore effective engagement with tangata whenua is necessary to ensure the ongoing protection and security of sites of significance that are not listed in the District Plan. In some cases there is a reluctance by tangata whenua to identify the exact location of some Wāhi Tapu sites because of the need to protect their sacredness. Accordingly, it is only those sites that have been identified which are protected by the provisions of the District Plan.'*
- 4.3.11 This SASM chapter encompasses a new set of provisions proposed for the Central Hawke's Bay District Plan, and are being addressed comprehensively as part of the specific process underway for Hearing Stream 4 as set out in the 'Eleventh Memorandum and Direction of the Hearings Panel', as follows:

'The Panel observed during Hearing One that matters raised in the s42A reports relating to submissions by Tangata Whenua were broader than a single section of the PDP, and that their concerns were interrelated, making the hearing of all Tangata Whenua matters across the PDP complex. Given this, and following engagement between tangata whenua submitters and representatives of the Council, the Panel has determined that a bespoke hearing process for these matters is appropriate. As set out in further detail below, the intention is that the Tangata Whenua topic will follow a three-step process:

- 1) An initial hearing (in mid-August 2022) where overarching issues and key concerns will be discussed and clarification of matters to be addressed through wānanga;*
- 2) Wānanga to discuss and work through issues identified during the preliminary hearing; and*
- 3) A second hearing (in late 2022), where the outcomes of the wānanga will be presented and any unresolved issues can be addressed through evidence and presentations to the Panel.*

By adopting this process, the Panel's intention is that all submitters on this topic have the opportunity to speak to their submissions, but also to explore, in a collaborative manner, whether agreed solutions can be identified which will address the submitters' concerns, including through the District Plan or through other methods.'

- 4.3.12 In terms of the relief sought by Kairakau Lands Trust, I am of the view that specific objectives or policies that relate to ensuring that cultural sites are protected are already contained within the SASM chapter of the PDP, as follows (as notified):

SASM-O1	Recognise and provide for wāhi tapu, wāhi taonga, and sites of significance in the District as being of cultural significance to tangata whenua through whakapapa, and ensure their protection from damage, modification or destruction from land use or other activities.
SASM-O2	Recognise the customary practices of tangata whenua in support of the protection of wāhi tapu, wāhi taonga, and sites of significance.
SASM-O3	Develop partnership between the Council, landowners and tangata whenua in the management of wāhi tapu, wāhi taonga, and sites of significance.
SASM-P1	To continue to identify, in partnership with tangata whenua, land within the District which contains wāhi tapu, wāhi taonga, and sites of significance.
SASM-P2	To avoid, remedy or mitigate any adverse effects of activities on the values of wāhi tapu, wāhi taonga, and sites of significance.
SASM-P3	To promote a greater awareness and understanding of wāhi tapu, wāhi taonga, and sites of significance of importance to tangata whenua.
SASM-P4	To consult with tangata whenua on applications received by the Council for subdivision consents and resource consents relating to proposals affecting or potentially affecting a wāhi tapu, wāhi taonga or site(s) of significance identified in SASM-SCHED3 and shown on the Planning Maps.
SASM-P5	To establish a schedule of key hapū / tangata whenua representatives who will be notified of, or consulted on, applications received for subdivision consents or resource consents relating to proposals affecting or potentially affecting wāhi tapu, wāhi taonga, or site(s) of significance.

- 4.3.13 There are 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, as follows (as notified):

TW-P9	To control land development, subdivision, earthworks or other disturbance activities so as to avoid, remedy or mitigate any adverse effects on wāhi tapu and other taonga.
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- 4.3.14 Further, I also note that Policy EW-P7 in the EW – Earthworks chapter also refers to the potential for earthworks to impact on culturally sensitive sites, 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 and culturally sensitive sites are avoided, remedied or mitigated.
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- 4.3.15 In that sense, I consider 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 these will be largely considered as part of the specific process underway for Hearing Stream 4, mentioned above.

- 4.3.16 In terms of the submitter's request that Council employ earthworks contractors who have had sufficient training or a certain level of competency in recognising sites of significance to Māori, this is a matter of operational policy for Council, and not something that can be achieved through the provisions of the District Plan.

4.3.17 For the above reasons, I make no recommendations for specific amendments to the policy or rules framework of the EW – Earthworks chapter in response to this submission.

Objectives

Objective EW-O1

4.3.18 Whilst there is support for retention of Objective EW-O1 as notified, I concur with Federated Farmers that amendment of the objective would be more appropriate 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.

4.3.19 Therefore, I recommend amendment of Objective EW-O1 as follows:

EW-O1	Protect the safety of Enable people and communities to carry out earthworks, while avoiding, remedying or mitigate mitigating the adverse environmental effects of earthworks, including on the health and safety of people.
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4.3.20 This 'enabling' phraseology would also align with the sentiment in the Introduction to the EW – Earthworks chapter of the PDP, that *'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'*.

Policies

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

4.3.21 Submissions on Policies EW-P1, EW-P5 & EW-P6 are all in support, and no further analysis is considered necessary.

Policy EW-P2

4.3.22 There is considerable support for Policy EW-P2, however I concur with HBRC that clause 3.5(4) of the NPS-FM (2020) requires 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 – recognising that 'managing' earthworks is integral to ensuring waterways, freshwater ecosystems and receiving environments are protected.

4.3.23 Controlling the effects of urban development on the health and wellbeing of water bodies is a valid consideration when locating and designing earthworks, as earthworks associated with urban development can (and in some cases, has) lead to excess sediment runoff into water bodies, with subsequent negative impacts on water quality and aquatic ecosystems.

4.3.24 However, I do not concur with the amendments sought by Federated Farmers. 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 are to be carried out in. In my 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 is not in keeping with the objective or the purpose of the RMA.

4.3.25 Based on the above, I recommend that Policy EW-P2 be amended as follows:

EW-P2	To ensure earthworks are appropriately located, and designed and managed to avoid, remedy or mitigate adverse effects by: <ol style="list-style-type: none"> 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. <u>controlling the effects of urban development on the health and well-being of water bodies, freshwater ecosystems and receiving environments.</u>
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Policy EW-P3

4.3.26 I do not support amendment of Policy EW-P3 as sought by Federated Farmers (to ensure that earthworks 'meet functional needs').

4.3.27 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. It is unclear how you can measure and assess ensuring earthworks 'meet functional needs'. In my view, 'functional needs' do not trump 'visual effects'. Again, in my 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.

4.3.28 For these reasons, I recommend retention of Policy EW-P3 as notified.

Policy EW-P4

4.3.29 I consider the amendment sought by Federated Farmers, is appropriate. In my view, 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 some cases, the subsequent use of the cleared land may preclude the ability to meet this policy direction. For example, the resultant landform may not be the same as what was there before, and the 'appropriate' re-vegetation may involve stabilizing with different species or may involve stabilizing with something other than vegetative species. It is not the intention of the PDP to necessarily require restoration exactly to the same state as before.

4.3.30 For these reasons, I recommend Policy EW-P4 be amended, as follows:

EW-P4	Where appropriate, 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

4.3.31 I concur with Heritage NZ that Policy EW-P7 would benefit from specifically referring to 'historic heritage' and 'sites and areas of significance to Māori'. I consider it appropriate to apply consistent terminology as used elsewhere in the PDP, and the proposed words should replace reference to 'culturally sensitive sites' which is not a term that is currently defined in the PDP (and keeping that term could be potentially confusing).

4.3.32 Therefore, I recommend 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.
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4.4 Recommendations

4.4.1 For the reasons outlined above, I recommend that Objective EW-O1 and Policies EW-P1, EW-P3, EW-P5 & EW-P6 be retained, and that Policies EW-P2, EW-P4 & EW-P7 be amended (as outlined in Recommended Amendments below).

4.4.2 I recommend that the following submission(s) be **accepted**:

- HBRC, S11.029, S11.031
- The Surveying Co, S50.034
- Forest & Bird, S75.082, S75.084, S75.086
- Transpower, S79.003, S79.091
- Aggregate & Quarry Assoc, S82.006
- Federated Farmers, S121.077, S121.078, S121.233
- Kāinga Ora, S129.237

4.4.3 I recommend that the following submission(s) be **accepted in part**:

- Heritage NZ, S55.065
- Forest & Bird, S75.080, S75.083, S75.085
- Transpower, S79.092
- Kairakau Lands Trust, S84.014
- Rayonier Matariki Forests, S85.020
- Federated Farmers, S121.072, S121.076

4.4.4 I recommend that the following submission(s) be **rejected**:

- Federated Farmers, S121.074, S121.075

4.4.5 My recommendation in relation to further submissions reflect the recommendation on the relevant primary submission.

4.5 Recommended Amendments

4.5.1 I recommend the following amendments are made:

EW-O1	Protect the safety of Enable people and communities to carry out earthworks, while avoiding, remedying or mitigate mitigating the adverse environmental effects of earthworks, <u>including on the health and safety of people.</u>
EW-P2	To ensure earthworks are appropriately located, and designed and managed to avoid, remedy or mitigate adverse effects by: <ol style="list-style-type: none"> 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.
EW-P4	Where appropriate, to To require the re-pasture or re-vegetation of land where vegetation is cleared as a consequence of earthworks.
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.

4.6 Section 32AA Evaluation

4.6.1 The changes proposed, in isolation, are not considered to be a significant departure from the Proposed District Plan as notified, where the changes would improve the effectiveness of provisions and give effect to a higher order document (NPS-FM). Therefore, S32AA re-evaluation is not warranted.

5.0 Key Issue 2 – Earthworks - General Rules, Standards & Assessment Matters

5.1 Submissions / Further Submissions Addressed

Submission Point	Submitter (S) / Further Submitter (FS)	Provision	Position	Summary of Decision Requested	Summary Recommendation
S126.004	Hawke's Bay District Health Board	EW - Rules	Amend	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.	Accept in part
FS25.79	Federated Farmers of New Zealand		Oppose		Accept in part
S110.017	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	EW-RXX (new rule)	Amend	Add a Permitted Activity pathway for 'land disturbance activities' (as defined in the Proposed Plan).	Accept in part
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S129.127	Kāinga Ora - Homes and Communities (Kainga Ora)	EW-RXX (new rule)	Amend	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.	Accept in part
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S119.066	Vodafone New Zealand Limited	EW-R1	Support	Retain EW-R1 as notified.	Accept in part
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S118.066	Spark New Zealand Trading Limited	EW-R1	Support	Retain EW-R1 as notified.	Accept in part
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S110.016	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	EW-R1	Amend	Amend EW-R1 as follows: '1. Activity Status: PER Where the following conditions are met: 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.'	Reject
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S56.024	Powerco Limited	EW-R1	Support	Retain EW-R1 as notified.	Accept in part
FS9.277	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject

S11.030	Hawke's Bay Regional Council	EW-R1	Amend	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...'	Accept in part
FS16.34	Waka Kotahi NZ Transport Agency		Oppose	Retain EW-R1 as notified	Reject
S121.084	Federated Farmers of New Zealand	EW-R1	Support	Retain EW-R1 as proposed.	Accept in part
FS9.84	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S117.066	Chorus New Zealand Limited	EW-R1	Support	Retain EW-R1 as notified.	Accept in part
FS9.494	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S90.038	Centralines Limited	EW-R1	Support	Retain EW-R1 as notified.	Accept in part
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S82.003	Aggregate and Quarry Association	EW-R1	Support	Retain EW-R1(d) as proposed.	Accept
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S78.006	Waka Kotahi NZ Transport Agency	EW-R1	Support	Retain EW-R1 as written.	Accept in part
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S121.087	Federated Farmers of New Zealand	EW-R5	Oppose	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	Reject

				<p>support structure foundation, except under the following circumstances:</p> <p>i. ...</p> <p>ii. ...</p> <p>iii. vertical holes not exceeding 500mm in diameter, provided they:</p> <p>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</p> <p>b. are a post hole for a farm fence or artificial crop protection or crop support structures and are more than 6m5m from the visible outer edge of a tower support structure foundation.</p> <p>...'</p>	
FS18.23	Transpower New Zealand Limited		Oppose		Accept
FS9.87	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
FS17.66	Horticulture New Zealand		Support		Reject
S79.093	Transpower New Zealand Ltd	EW-R5	Amend	Retain EW-R5, and relocate to 'NU - Network Utilities' chapter.	Accept in part
FS25.83	Federated Farmers of New Zealand		Oppose		Reject
S129.126	Kāinga Ora - Homes and Communities (Kainga Ora)	EW-R5	Amend	<p>Amend EW-R5 as follows:</p> <p>'Earthworks and vertical holes within the National Grid Yard</p> <p>All Zones</p> <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 642m of the outer visible edge of any National Grid support structure foundation, except under the following circumstances:</p> <p>...'</p>	Reject
FS18.24	Transpower New Zealand Limited		Oppose		Accept
S121.088	Federated Farmers of New Zealand	EW-R6	Oppose	Delete EW-R6 (and all provisions for the Gas Transmission Network).	Reject
FS3.019	First Gas Limited		Oppose		Accept
FS9.88	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
S90.039	Centralines Limited	EW-R7	Amend	<p>Retain EW-R7(1) as notified.</p> <p>Amend EW-R7(2) as follows:</p> <p>'2. Activity status where compliance not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a. EW-AM1.</p> <p>...</p> <p>g. EW-AM7.</p> <p>h. Impacts on the operation, maintenance, upgrading and development of the electricity network.</p>	Accept in part

				<p>i. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</p> <p>j. The risk to the structural integrity of any support structures associated with the electricity network.</p> <p>k. Technical advice provided by the National Grid owner (Transpower) or electricity distribution network provider Centralines Limited.'</p>	
FS25.84	Federated Farmers of New Zealand		Oppose		Reject
FS17.67	Horticulture New Zealand		Oppose in part	If Matters of discretion are included for EW-S8 they should relate to the specific non-compliance with NZECP34:2001.	Accept in part
S50.017	The Surveying Company (HB) Ltd	EW-S2	Amend	Amend to separate the five Zones listed together under EW-S2(12) and assign more appropriate values for each zone. For example, 50m ³ is insufficient for the [General?] Industrial Zone given the likely size of buildings in this area.	Reject <i>(Note: other submissions relating to Standard EW-S2 in Key Issues 3 & 5 below)</i>
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S56.026	Powerco Limited	EW-S3	Support	Retain EW-S3 as notified.	Accept
FS9.279	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S121.094	Federated Farmers of New Zealand	EW-S3	Oppose	<p>Amend EW-S3 as follows:</p> <p>'Vertical Extent of Excavation</p> <p>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)</p> <p>1. 2.3 metres</p> <p>HNC2 / HNC6 ONF5 / ONF6 / ONF7 / ONF9 / ONF10</p> <p>2. 4.3 metres</p> <p>General Rural Zone / ONL1</p> <p>3. 5 metres</p> <p>All Other Zones</p> <p>4. 2.5 metres'</p>	Reject
FS9.94	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
S56.027	Powerco Limited	EW-S4	Support	Retain EW-S4 as notified.	Accept
FS9.280	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S82.004	Aggregate and Quarry Association	EW-S4	Amend	Amend EW-S4 to include an exception for quarries.	Reject
.					
S56.028	Powerco Limited	EW-S5	Support	Retain EW-S5 as notified.	Accept
FS9.281	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject

S121.097	Federated Farmers of New Zealand	EW-S6	Oppose	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.'	Reject
FS18.27	Transpower New Zealand Limited		Oppose		Accept
FS17.68	Horticulture New Zealand		Support		Reject
FS9.97	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
S79.094	Transpower New Zealand Ltd	EW-S6	Amend	Retain EW-S6, and relocate to 'NU - Network Utilities' chapter.	Accept in part
FS25.86	Federated Farmers of New Zealand		Oppose		Accept
S121.099	Federated Farmers of New Zealand	EW-S8	Support	Retain EW-S8 as proposed.	Accept
FS9.99	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S90.040	Centralines Limited	EW-S8	Support	Retain EW-S8 as notified.	Accept
.					
S55.072	Heritage New Zealand Pouhere Taonga	EW-AM1	Support	Retain EW-AM1 as notified.	Accept
.					
S78.007	Waka Kotahi NZ Transport Agency	EW-AM5	Support	Retain EW-AM5 as written.	Accept
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5.1.1 In summary, these 30 submissions and 23 further submissions support retention of, or seek amendments to, the earthworks-specific rules, standards, and assessment matters in the EW – Earthworks chapter.

5.2 Matters Raised by Submitters

Rule EW-R1 Specified Earthworks

- 5.2.1 Powerco (S56.024), Waka Kotahi (S78.006), Centralines (S90.038), Chorus (S117.066), Spark (S118.066), Vodafone (S119.066), and Federated Farmers (S121.084), all support retention of Rule EW-R1 as notified.
- 5.2.2 Aggregate & Quarry Assoc (S82.003) supports *‘the permitted activity status of “Gravel extraction within the bed of a river” subject to rules administered by the Hawkes Bay Regional Council’* in Rule EW-R1(1)(d).

5.2.3 HBRC (S11.030) seeks amendment to Rule EW-R1 as follows:

EW-R1 Specified Earthworks		
All Zones	<p>1. Activity Status: PER 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, <u>EW-S2, EW-S3, EW-S4 and EW-S5</u> Slope; 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 and EW-S5</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-S4 and EW-S5</u> or</p> <p>d. The earthworks are associated with gravel extraction within the bed of a river. 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>

5.2.4 HBRC provides the following reasons:

‘The way rule EW-R1 is currently drafted, landowners undertaking site preparation for buildings of less than 150% of net site area, earthworks associated with any network utilities, and the replacement and removal of fuel systems do not have to comply with conditions for site reinstatement, and control of silt and sediment. These earthworks activities, like all others, pose a risk to the environment and nearby waterways unless carefully managed. HBRC see no reason why these earthwork activities should be exempt from standards that have been designed to protect the environment. This amendment will ensure the rules give effect to policies EW-P2 that states sediment will be controlled and EW-P4 that requires re-vegetation after earthworks.

This change, and the proposed amendments to EW-P2 will also give effect to NPS-FM (2020) that states at clause 3.5 (4):

Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.

HBRC also consider that standards EW-S2 and EW-S3 should apply to site preparation works for buildings. The vertical extent standard is important to deter landowners from inappropriately locating houses where extensive ‘cut and fill’ will be required. The overall extent of earthworks should also apply in addition to again deter landowners from locating buildings on land where extensive earthworks is required.’

5.2.5 Waka Kotahi (FS16.34) opposes HBRC’s submission, as they consider ‘Adding the references to earthworks standards within the rule table is not necessary as all activities are assessed against the standards as a matter of course’.

5.2.6 The Oil Companies (S110.016) supports Rule EW-R1 in part, in terms of the permitted pathway for earthworks associated with the removal and replacement of fuel storage systems, but seeks amendment to Rule EW-R1 to clarify that activities provided for in Rule EW-R1 are not required to comply with other permitted activity standards, with the addition of a note, as follows:

EW-R1 Specified Earthworks		
All Zones	<p>1. Activity Status: PER Where the following conditions are met:</p> <ul style="list-style-type: none"> 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; or b. The earthworks are associated with any network utilities, including the upgrade or maintenance of existing public roads; 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); or d. The earthworks are associated with gravel extraction within the bed of a river. <p>Note: <u>1.</u> Gravel extraction within the bed of a river is subject to rules administered by the Hawke’s Bay Regional Council. <u>2. Specified activities are exempt from complying with the standards in EW-S1 to EW-S9.</u></p>	<p>2. Activity status where compliance not achieved: EW-R2 to EW-R7 apply</p>

Rule EW-R5 Earthworks and Vertical Holes within the National Grid Yard

- 5.2.7 Transpower (S79.093) supports retention of Rule EW-R5, but seeks that it be relocated to the NU – Network Utilities chapter.
- 5.2.8 Federated Farmers (FS25.83) opposes the submitter ‘seeking National Grid Yard earthworks rules that are that are inconsistent with NZECP34, specifically Section 2.2 of the Code. The National Grid occurs overwhelmingly on private land such as farms, often without easement agreements or compensation, and any district plan regulation must not exceed established standards in NZECP34’.
- 5.2.9 Conversely, Federated Farmers (S121.087), supported by Hort NZ (FS17.66), seeks amendments to Rule EW-R5 as follows:

EW-R5 Earthworks and vertical holes within the National Grid Yard		
All Zones	<p>1. Activity Status: PER Where the following conditions are met:</p> <ul style="list-style-type: none"> a. <u>From National Grid poles, the earthworks must be no deeper (measured vertically) than 300mm within 2.2m of the pole; and 750mm between 2.2m and 5m of the pole, or</u> b. <u>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,</u> except under the following circumstances: <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 	<p>2. Activity status where compliance with conditions EW-R5(1)(a) and/or EW-R5(1)(b) is not achieved: RDIS 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. 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.

	<p>the Resource Management Act 1991, or</p> <p>ii. earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track.</p> <p>iii. vertical holes not exceeding 500mm in diameter, provided they:</p> <p>a. are not exceeding 500mm diameter and are more than 1.5m from the outer edge of the pole support structure or stay wire, or</p> <p>b. are a post hole for a farm fence or artificial crop protection or crop support structures and are more than 6m5m from the visible outer edge of a tower support structure foundation.</p> <p>c. 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-S7;</p> <p>vii. EW-S8; and</p> <p>viii. EW-S9.</p> <p>d. Compliance with EW-S6.</p>	<p>k. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</p> <p>l. Technical advice provided by the National Grid owner (Transpower).</p> <p>m. Any effects on National Grid support structures including the creation of an unstable batter.</p> <p>3. Activity status where compliance with condition EW-R5(1)(c) is not achieved: NC</p>
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5.2.10 They give the following reasons:

'Federated Farmers seeks rules for earthworks within the National Grid Yard that are consistent with NZECP34, specifically Section 2.2 of the Code. Standard EW-R5 is not consistent and unnecessarily onerous compared to the Code, and needs amendment. Landowners who host the National Grid will be needlessly restricted by the District Plan, when the same activity will be permitted under the Code.

The 110kv FHL-WDV-A and B lines overwhelmingly consist of single circuit poles, with towers only where the line crosses over a river. This means the 300mm depth 12m around any structure is far in excess what is in the Code, and what actually needed for engineering safety. Section 2.2.1 of the Code determines that poles only need the 300mm depth limit to 2.2m distance, and can increase to 750mm depth from 2.2m to 5. Beyond 5m there is no engineering need to limit earthworks unless an unstable batter is created. Towers have the 300mm depth to within 6m of the tower foot, so half the distance that the District Plan rule has.

The reason Rule EW-R5 must be consistent with, and not more onerous than, the Code, is because otherwise it will create a regulatory anomaly where an activity is permitted by the Code but not by the District Plan. This is untenable, as there is no reason why the Council should require or decline consent when the Code permits the activity and the National Grid operator cannot refuse permission.

Article iii) recognises that poles and towers will have different distance requirements for safety, so part a) needs to address this too.

Support is given for Article ii) for normal agricultural cultivation, roads, footpaths, driveways and farm tracks as exemptions from the 300mm depth limit, as per Section 2.2.4 of the Code.

Article iii)b) for fence post holes needs to be consistent with Section 2.3.3 of the Code, which allows a fence within 5m of a tower, and no depth. Because the fence post hole is integral to the fence post, they both must be allowed within 5m. Support is given for Article iii)a) as the 1.5m distance from a pole is consistent with Section 2.2.2 of the Code.'

5.2.11 Hort NZ considers the amended provisions sought 'are more consistent with NZECP34:2001'.

5.2.12 Transpower (FS18.23) opposes Federated Farmers' submission on the basis that:

'The submitter seeks amendment to the rule on the basis of consistency with NZECP34 (specifically Section 2.2 of the Code). While Transpower understands the concerns of the submitter as to

consistency between the code and the district plan, Transpower does not support amendment to Rule EW-R5 based solely on NZECP34.

At a general level, Transpower supports the provision of standards specific to earthworks on the basis such activities can compromise the National Grid and are a form of development contemplated by the NPSET.

Specifically, uncontrolled earthworks can undermine the support structures or generate dust. This can result in the build-up of material on the National Grid lines and increase the wear on the equipment reducing its useable 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 Transpower’s 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. For these reasons, Transpower seeks control on earthworks near the National Grid. The provision of a rule framework achieves Policies 2 and 10 of the NPSET in that it protects the integrity of the National Grid and the ability to operate it.

With respect to the NZECP34, it applies to all electricity lines and is not specific to the National Grid. As such it does not recognise the significance of the National Grid.

Furthermore, the scope and purpose of NZECP34 is confined to safety. It is the Code of Practice that sets 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. It is Transpower’s position that the minimum safety requirements in the Code alone do not protect the integrity of the National Grid from the effects of earthworks.’

- 5.2.13 Kāinga Ora (S129.126) generally supports Rule EW-R5, ‘however considers that 6m is a more appropriate buffer from the national grid support structure foundation within which earthworks limitations apply’, and the following amendment:

EW-R5 Earthworks and vertical holes within the National Grid Yard		
All Zones	<p>1. Activity Status: PER 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, except under the following circumstances:</p> <p>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</p> <p>ii. earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or resealing of a road, footpath, driveway or farm track.</p> <p>iii. vertical holes not exceeding 500mm in diameter, provided they:</p> <p>a. are more than 1.5m from the outer edge of the pole support structure or stay wire, or</p> <p>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.</p>	<p>2. Activity status where compliance with conditions EW-R5(1)(a) and/or EW-R5(1)(b) is not achieved: RDIS Matters over which discretion is restricted:</p> <p>a. EW-AM1. b. EW-AM2. 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> <p>3. Activity status where compliance with condition EW-R5(1)(c) is not achieved: NC</p>

	<ul style="list-style-type: none"> c. 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. d. Compliance with EW-S6. 	
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5.2.14 Transpower (FS18.24) opposes Kāinga Ora's submission on the basis that:

'The submitter seeks amendment to the rule without any justification or explanation other than "6 metres is a more appropriate buffer from the national grid support structure foundation within which earthworks limitations apply".'

Based on the information provided, Transpower does not accept this reasoning, or the relief sought.

At a general level, Transpower supports the provision of standards specific to earthworks on the basis such activities can compromise the National Grid and are a form of development contemplated by the NPSET.

Specifically, uncontrolled earthworks can undermine the support structures or generate dust. This can result in the build-up of material on the National Grid lines and increase the wear on the equipment reducing its useable 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 Transpower's 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. For these reasons, Transpower seeks control on earthworks near the National Grid. The provision of a rule framework achieves Policies 2 and 10 of the NPSET in that it protects the integrity of the National Grid and the ability to operate it.

It is not clear why the submitter proposes 6m. If it is based on NZECP34 applies to all electricity lines and is not specific to the National Grid. As such it does not recognise the significance of the National Grid. Furthermore, the scope and purpose of NZECP34 is confined to safety. It is the Code of Practice that sets 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. It is Transpower's position that the minimum safety requirements in the Code alone do not seek to protect the integrity of the National Grid from the effects of earthworks. In determining appropriate setback distances for earthworks from National Grid support structures, a common assumption made is that compliance with NZECP is sufficient to ensure the Grid is not compromised. This is not the case.'

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

5.2.15 Federated Farmers (S121.088) seeks the deletion of Rule EW-R6 (and all provisions for the Gas Transmission Network), for the following reasons:

'Federated Farmers opposes any earthworks regulation of landowners for the protection of the gas transmission network. This is because gas pipelines have 100% easement agreement coverage where they cross over private land, and district plan regulation is completely unnecessary. District Plan provisions must not undermine legal easement agreements.

A landowner needs a Pipeline Easement Permit from First Gas if they ever want to do work on or near an easement, this includes works like excavation, landscaping, and even deep cultivation. There is no need for the Council to also monitor and enforce, or require a resource consent, for the same activities when First Gas already have a strong legal mechanism to manage such activities. First Gas are entirely capable of managing activities and protecting their infrastructure themselves.

Easement agreements are clearly indicated on a Certificate of Title, and First Gas should mark them on the land with signs and white posts, have a direct relationship with landowners, and even provide a free service to locate the actual pipeline within the easement. There is no excuse for a district council to manage this activity, any deficiencies of safety are beholden to First Gas to rectify.

We accept that the Gas Transmission Network could be indicated on the maps, and as is a matter during subdivision to ensure easements are carried over, but earthworks are a matter best left to the legal easement agreement mechanism to manage.’

- 5.2.16 First Gas (FS3.019) *‘opposes the submission which seeks to delete the rule relating to setbacks for earthworks from the Gas Transmission Network. District Plan rules are an appropriate mechanism to address actual or potential reverse sensitivity effects resulting from earthworks on the Gas Transmission Network’.*

Rule EW-R7 All Other Earthworks not otherwise provided for

- 5.2.17 Centralines (S90.039) supports this catch-all rule and, in particular, supports Rule EW-R7(1), but notes that *‘the matters of discretion listed at Rule EW-R7(2) do not include effects that would be considered if there is a breach to EW-S8’.* Centralines seeks that additional matter(s) of discretion are included to enable effects to be considered in relation to any non-compliance with this standard, as follows:

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>Impacts on the operation, maintenance, upgrading and development of the electricity network.</u> i. <u>The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</u> j. <u>The risk to the structural integrity of any support structures associated with the electricity network.</u> k. <u>Technical advice provided by the National Grid owner (Transpower) or electricity distribution network provider Centralines Limited.</u>

- 5.2.18 Federated Farmers (FS25.84) opposes the submitter *‘seeking extra matters of discretion for effects on electricity transmission and distribution. Only the national grid (owned by Transpower) is protected under the NPS-ET, electricity distribution lines owned by Centralines do not enjoy this same national statutory status, so do not need to be afforded the same protection in the District Plan as the national grid. Earthworks near electricity distribution and effects such as structural integrity and personal safety are already well-managed by the NZECP34 and easement agreements. If Centralines has neglected to negotiate easement agreements with landowners or carry out education, these failings are not for the District Plan to remedy with regulation’.*
- 5.2.19 Hort NZ (FS17.67) opposes Centralines’ submission, in part, and seeks that *‘If Matters of discretion are included for EW-S8 they should relate to the specific non-compliance with NZECP34:2001’.*

Earthworks Rules – Requirement for Erosion & Sediment Control Plans

- 5.2.20 Hawke’s Bay DHB (S126.004) supports Council’s inclusion of sediment control provisions when earthworks are undertaken... *‘However we believe the District Plan could be strengthened by requiring sites to develop and have available erosion and sediment control plans in place for whenever earthworks are being undertaken. These plans should include basic information such as methods for sediment and erosion control both in the immediate term i.e. trenching, sediment traps, bunding etc, through until the medium to long term i.e. re-establishment of grassed areas etc’.*
- 5.2.21 Their rationale is that *‘Poorly controlled erosion and discharge of sediment into waterways significantly affects ecosystem health and can lead to degraded water quality that has the potential to impact on human health. For example from the proliferation of algal blooms, to the increased survivability of pathogens in recreational water such as Lakes and Rivers’.*
- 5.2.22 The DHB seeks *‘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’.

- 5.2.23 Federated Farmers (FS25.79) opposes the DHB ‘seeking erosion and sediment control plans for permitted activities, because standards are sufficient to meet the submitter’s concerns’.

New Rule – Land Disturbance Activities

- 5.2.24 The Oil Companies (S110.017) seek a Permitted Activity pathway for ‘land disturbance activities’ as defined in the Proposed Plan, for the following reasons:

‘The Oil Companies undertake a range of intrusive works on sites to operate, maintain and upgrade refuelling facilities and seek to ensure that the district earthwork controls do not duplicate matters which are appropriately addressed under the NESCS or which have limited potential for adverse effects, namely temporary land disturbance activities which reinstate existing ground levels.

...

‘In terms of the balance of intrusive works undertaken by the Oil Companies, which typically involve reinstatement of existing levels, the Oil Companies seek clarity that these would be considered land disturbance (as defined) and would not default to Rule EW-R7 and the corresponding permitted conditions (relating to (inter alia) cut depths, volumes etc). This would be consistent with the permitted pathway for land disturbance activities provided for network utilities. A consistent approach is appropriate having regard to the potential effects of land disturbance activities, irrespective of their purpose.’

New Rule – Earthworks in Natural Hazard Areas

- 5.2.25 Kāinga Ora (S129.127) seeks the addition of a new rule in the EW – Earthworks chapter, ‘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’.

Standards

Standard EW-S2 Extent of Earthworks

- 5.2.26 The Surveying Co (S50.017) considers ‘the 50m³ maximum earthwork volume for the zones listed in EW-S2(12) to be too low and will result in a number of resource consent applications for earthworks’. They seek ‘That the 5 zones listed together under EW-S2(12) be separated and more appropriate values assigned for each zone. For example, 50m³ is insufficient for the industrial zone given the likely size of buildings in this area’.

- 5.2.27 Note: other submissions on Standard EW-S2 are also addressed in Key Issue 3 of this report.

Standard EW-S3 Vertical Extent of Excavation

- 5.2.28 Powerco (S56.026) supports retention of Standard EW-S3 as notified.
- 5.2.29 Federated Farmers (S121.094) supports ‘the different vertical limits for different landscape features, to recognise they have varied ability to absorb the effects of the earthworks’, but consider the heights in clause (1) & (2) are ‘much too small and will not enable farm tracks on ONFLs, HNCs and SNAs, which are necessary for farmers to provide for their own and worker safe passage across farm, as per Section 5(2) of the RMA. As a comparison, Hastings allows a cut/fill face of 2m for ONFLs in Standard 27.1.6D’.
- 5.2.30 They seek the following amendments to Standard EW-S3 (including deletion of references to High Natural Character):

EW-S3 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. 32 metres
HNC2 (Waimoana-Kairakau)	2. 24 metre

HNC6 (Porangahau) ONF5 (Northern end of Nga Kaihinaki-a-Whata & Te Whata Kokako) ONF6 (Silver Range) ONF7 (Kairakau Coastline) ONF9 (Parimahu) ONF10 (Porangahau Foredune & Estuary)	
General Rural Zone ONL1 (Ruahine Range)	3. 5 metres
All Other Zones	4. 2.5 metres

Standard EW-S4 Site Reinstatement

5.2.31 Powerco (S56.027) supports retention of Standard EW-S4 as notified.

EW-S4 Site Reinstatement	
All Zones	<ol style="list-style-type: none"> 1. Areas disturbed by exploration, prospecting or earthworks will be stabilised, filled and/or recontoured in a manner consistent with the surrounding land as soon as practicable, but no later than 6 months of the disturbance activity ceasing; and 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><i>Note: Vegetation clearance and soil disturbance may also be subject to rules administered by the Hawkes Bay Regional Council</i></p>

5.2.32 The Aggregate and Quarry Assoc (S82.004) submit that ‘Site reinstatement is normal practice for quarries at the end of their life. However, the timeframes for quarrying are longer than this clause envisages. Six months after disturbance ceases may not be enough time. We ask that quarrying be added to the list of exceptions’.

Standard EW-S5 Control of Silt and Sediment

5.2.33 Powerco (S56.028) supports retention of Standard EW-S5 as notified.

EW-S5 Control of Silt and Sediment	
All Zones	<ol style="list-style-type: none"> 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. 2. Notes: <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> <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>

Standard EW-S6

5.2.34 Transpower (S79.094) supports the provision of standards to support Rule EW-R5, on the basis that ‘Earthworks restrictions are supported as earthworks have the potential to undermine transmission line structures, generate dust, reduce the clearances between the ground and conductors. They also have the potential to restrict Transpower’s ability to access the line 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 line’. They seek that the standard be retained but that it be relocated to the NU – Network Utilities chapter (and the provisions renumbered accordingly).

5.2.35 Federated Farmers (S121.097), supported by Hort NZ (FS17.68), seeks amendments to Standard EW-S6 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, 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.

5.2.36 They give the following reasons:

‘Any earthworks regulation within the National Grid Yard must be consistent with NZECP34 Code of Practice for Electrical Safe Distances, specifically Table 4.

There is no need for vehicular access to be a matter or standard. The Network Utility Operator will just have to travel to the structure using a different route. Access is a matter for the landowner and Transpower to negotiate.’

5.2.37 Transpower (FS18.27) opposes Federated Farmers’ submission in this regard, stating:

‘Transpower acknowledge the concerns of the submitter that ancillary rural earthworks such as cultivation and road and track maintenance should be provided for as permitted activity consistent with NZECP:2001. However, notwithstanding cultivation is excluded from the definition of earthworks under the PDP, such activities are permitted where they comply with the standards within Rule EW-R5. Specifically Rule EW-R5.1(a)(ii) provides for such activities where the standards within EW-S6 are met.

The standards within EW-S6 are as follows:

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 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.*

On the basis ancillary rural earthworks such as cultivation and road and track maintenance meet the standards, the activity is permitted.

Based on the above and the current definition of ‘earthworks’ no amendment is considered necessary to Rule EW-R5.’

Standard EW-S8 Electricity Safety Distances

5.2.38 Federated Farmers (S121.099) and Centralines (S90.040) both support retention of Standard EW-S8 as notified, in terms of being consistent with NZECP34 and compliance with the Code is mandatory under the Electricity Act 1992.

EW-S8 Electricity Safety Distances	
All Zones	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).

Assessment Matters

Assessment Matter EW-AM1 Land Disturbance and Vegetation Clearance

5.2.39 Heritage NZ (S55.072) supports retention of Assessment Matter EW-AM1 as notified, as they note *‘that assessment matters include considering the effects on SASM and HH. HNZPT also supports the reference to the archaeological authority process under HNZPTA’.*

Assessment Matter EW-AM5 Effects on Roding Network

5.2.40 Waka Kotahi (S78.007) supports retention of Assessment Matter EW-AM5 as notified.

Forest & Bird

- 5.2.41 Forest & Bird (FS9.84, FS9.87, FS9.88, FS9.94, FS9.97, FS9.99) opposes all the submissions of Federated Farmers, as *‘The amendments and decisions sought would result in continued loss of indigenous biodiversity in Hawkes Bay, would not give effect to the RPS, NZCPS and NPSFM or would not achieve the purpose of the RMA’*.
- 5.2.42 Forest & Bird (FS9.277, FS9.279, FS9.280, FS9.281) opposes the submissions of Powerco, as *‘The amendments and decisions sought would result in continued loss of indigenous biodiversity in Hawkes Bay, would not give effect to the RPS, NZCPS and NPSFM or would not achieve the purpose of the RMA’*.
- 5.2.43 Forest & Bird (FS9.494) opposes the submissions of Chorus, as *‘The amendments and decisions sought would result in continued loss of indigenous biodiversity in Hawkes Bay, would not give effect to the RPS, NZCPS and NPSFM or would not achieve the purpose of the RMA’*.

5.3 Analysis

Rule EW-R1 Specified Earthworks

- 5.3.1 There is considerable support for retention of Rule EW-R1 as notified.
- 5.3.2 The specified earthworks are purposely provided for as permitted activities on the basis that they are not subject to the full list of earthworks standards (the further submission of Waka Kotahi is incorrect on this point), as they are either of a specified low volume, deemed low risk in terms of adverse effects on the environment, or are dealt with through other methods.
- 5.3.3 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 etc, would negate the value of having a specified earthworks rule, as the rule would then effectively duplicate Rule EW-R7. Conversely, exempting ‘specified earthworks’ from having to comply with any of the standards (Standards EW-S1 to EW-S9) as requested by the Oil Companies, is also inappropriate.
- 5.3.4 I am of the view that a nuanced approach is warranted in respect of the more universal requirements (i.e. site reinstatement (Standard EW-S4) and sediment control requirements (Standard EW-S5)) as being matters that should apply 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.
- 5.3.5 On this basis, I recommend adding compliance with particular standards depending on the specified earthworks concerned in Rule EW-R1, and their sensitivity to such effects. I note this would not align with the approach in the Hastings District Plan though, where Rule 27.1.5 specifically excludes similar earthworks from having to comply with similar General Performance Standards in 27.1.6.
- 5.3.6 Therefore, I recommend 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 EW-S1 Slope, and EW-S5 Control of Silt and Sediment ; or 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 ; or c. The earthworks are associated with replacement and/or removal of a fuel storage system defined as permitted by the Resource Management Regulations	2. Activity status where compliance not achieved: EW-R2 to EW-R7 apply

	<p>(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

- 5.3.7 Federated Farmers seeks amendments to Rule EW-R5 so that it aligns with NZECP34, specifically Section 2.2 of the Code, as they consider the rule is inconsistent with the Code and unnecessarily onerous. They consider it will create a regulatory anomaly where an activity is permitted by the Code but not by the District Plan, and that there is no reason why the Council should require or decline consent when the Code permits the activity and the National Grid operator cannot refuse permission.
- 5.3.8 I refer to similar discussion on this 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. Similarly, I accept Transpower's position that the minimum safety requirements in the Code alone do not seek to protect the integrity of the National Grid from the effects of earthworks, and recommend 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.*
- 5.3.9 Kāinga Ora generally supports Rule EW-R5 but considers that 6m is 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. I concur with Transpower in their further submission, that there is no justification provided by the submitter 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, I do not support the relief sought by this submitter either.

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

- 5.3.10 I note the submission of Federated Farmers seeking the deletion of Rule EW-R6 (and all provisions for the Gas Transmission Network). However, I am of the view that earthworks in the vicinity of the gas transmission network is 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 (I 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), I consider it appropriate to enable scrutiny of earthworks where they are 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.
- 5.3.11 Therefore, I do not support deletion of Rule EW-R6.

Rule EW-R7 All Other Earthworks not otherwise provided for

- 5.3.12 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. I concur with those recommendations and, for consistency, I consider that the same response is appropriate for the EW – Earthworks chapter.
- 5.3.13 Therefore, I recommend that the following new Assessment Matter be added, as follows:

EW-AMX	Electricity Safety Distances
	<ol style="list-style-type: none"> <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>

- 5.3.14 As a clause 16 minor amendment for consistency across the PDP, I also similarly recommend 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	<ol style="list-style-type: none"> 1. Activity Status: PER Where the following conditions are met: <ol style="list-style-type: none"> a. Compliance with: <ol 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. 	<ol style="list-style-type: none"> 2. Activity status where compliance not achieved: RDIS Matters over which discretion is restricted: <ol 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. <u>h. EW-AMX.</u>

Earthworks Rules – Requirement for Erosion & Sediment Control Plans

- 5.3.15 Whilst I concur with the Hawke’s Bay DHB that ‘poorly controlled erosion and discharge of sediment into waterways significantly affects ecosystem health and can lead to degraded water quality that has the potential to impact on human health’, I do not consider the earthworks provisions in the PDP require further strengthening through additional rules, as sought.
- 5.3.16 In my 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).
- 5.3.17 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.
- 5.3.18 Erosion and sediment control plans are 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 trigger a resource consent. In that sense, I consider the PDP provisions already adequately cover erosion and sediment control matters.

New Rule – Land Disturbance Activities

- 5.3.19 The Oil Companies seek 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 does not permanently alter the profile, contour or height of the land’) rather than defaulting to Rule EW-R7 with corresponding conditions. They propose such earthworks be treated similar to the Permitted Activity pathway for land disturbance activities provided for network utilities.

- 5.3.20 They are concerned that the PDP not duplicate matters which are appropriately addressed under the NESCS or which have limited potential for adverse effects, namely temporary land disturbance activities which reinstate existing ground levels.
- 5.3.21 I note that earthworks associated with replacement and/or removal of fuel storage systems are already provided for as a Permitted Activity in Rule EW-R1 Specified Earthworks. It is unclear what other land disturbance situations the Oil Companies are concerned about (i.e. what other 'intrusive works on sites to operate, maintain and upgrade refuelling facilities' involve)?
- 5.3.22 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 are not met, the activity defaults to a Restricted Discretionary Activity. I do not consider this to be an onerous consenting process.
- 5.3.23 Therefore, based on the information provided with the submission, I am of the opinion that a separate rule providing for land disturbance activities is not warranted and may lead to adverse effects that deserve consideration and that should be avoided, remedied, or mitigated. Having said that, perhaps the submitter can supply further details at the Hearing for the Hearings Commissioners to consider.

New Rule – Earthworks in Natural Hazard Areas

- 5.3.24 Kāinga Ora seeks 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.
- 5.3.25 In my view, earthworks are already provided for as a Permitted Activity subject to various conditions as set out in Rule EW-R7 (irrespective of whether the earthworks are 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 ((2)(e)) and rehabilitation ((2)(f)), and effects on flow paths and floodways ((2)(j)), which provides adequate opportunity to consider implications of earthworks within natural hazard areas where a requirement for resource consent is triggered as a Restricted Discretionary Activity.
- 5.3.26 A Discretionary or Non-Complying activity status is not considered necessary in respect of earthworks. Buildings and alterations to existing buildings within natural hazard areas are themselves subject to rules in the NH chapter based on building importance, as well as vulnerable activities in the Tsunami Hazard Area.
- 5.3.27 For these reasons, I consider the addition of a new rule as sought by this submitter is unnecessary.

Standards & Assessment Matters

Standards EW-S5 & EW-S8 and Assessment Matters EW-AM1 & EW-AM5

- 5.3.28 Submissions on Standards EW-S5 & EW-S8 and Assessment Matters EW-AM1 & EW-AM5 are all in support, and no further analysis is considered necessary.

Standard EW-S2 Extent of Earthworks

- 5.3.29 The Surveying Co seeks that the zones listed together under Standard EW-S2(12) should be separated and more appropriate values assigned for each zone, as they consider the volume too low and will result in a number of resource consent applications for earthworks. They give the example of the industrial zone, stating that 50m³ is insufficient given the likely size of buildings in this area.
- 5.3.30 I note 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 is up to 150% of the building footprint and complies with Standard EW-S1 Slope. This type of 'specified earthworks' is not required to comply with Standard EW-S2. Therefore, earthworks associated with site preparation for a building in the General Industrial Zone is generally Permitted (subject to slope, and silt/sediment control standards), irrespective of the size of the building footprint concerned.
- 5.3.31 I also note that this allowance for site preparation works for a building, as well as the maximum volumes applying in the particular zones covered in Standard EW-S2(12), aligns closely with the approach and volumes applying to comparable zones in the adjoining Hastings District Plan.
- 5.3.32 Given the above, I consider the relief sought by the submitter is unnecessary.

Standard EW-S3 Vertical Extent of Excavation

- 5.3.33 Federated Farmers support the different vertical limits for different landscape features, to recognise they have varied ability to absorb the effects of earthworks, but I do 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, are too small. Federated Farmers also seeks deletion of all references to areas of High Natural Character.
- 5.3.34 Firstly, 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, inclusion of HNC areas in the PDP is 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 approach taken in the PDP is to apply special recognition of the mapped and identified HNCs in the District.
- 5.3.35 I note 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 is provided). Therefore, in my view, the 2m permitted vertical extent (and 5m for ONL1 Ruahine Range) is consistent with this, for the most part. The difference is in relation to the HNCs and ONFs specified in Standard EW-S3(2), which have a 1m permitted vertical extent.
- 5.3.36 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 high natural character areas 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.
- 5.3.37 Therefore, I do not support amending the vertical limits for the identified HNCs or ONL/ONFs as sought, and I also do not support removal of HNC areas from the application of Standard EW-S2.

Standard EW-S4 Site Reinstatement

- 5.3.38 The Aggregate and Quarry Assoc seeks exclusion of quarrying from the site reinstatement requirements in Standard EW-S4, as the timeframes for quarrying are longer than the standard envisages and 6 months after disturbance ceases may not be enough time.
- 5.3.39 I note that mining and quarrying (apart from farm quarries) are Discretionary or Non-complying Activities under Rule EW-R4. Site reinstatement requirements will be site-specific and imposed through specific conditions of the applicable resource consent. Therefore, I do 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

- 5.3.40 Transpower supports Standard EW-S6 in support of Rule EW-R5, but seeks that the standard be relocated to the NU – Network Utilities chapter of the PDP. I do not support moving the standard, as I consider retaining this rule in the EW chapter is 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.
- 5.3.41 Federated Farmers seeks that Standard EW-S6 be amended 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.
- 5.3.42 I consider a metric measurement is likely more readily understood and applied than the table in the NZECP, and I concur with Transpower that, on the basis that 'ancillary rural earthworks' such as cultivation and road and track maintenance meet the standards, the activity is permitted. In my view, Standard EW-S6 is appropriate and is not overly onerous. Therefore, I do not support the amendments to Standard EW-S6 sought.

5.4 Recommendations

5.4.1 For the reasons outlined above, I recommend that Rules EW-R2 to EW-R7, Standards EW-S1 to EW-S8, and Assessment Matters EW-AM1 & EW-AM5 be retained as notified, that Rule EW-R1 be amended, and a new Assessment Matter be included with consequential amendments (as outlined in Recommended Amendments below).

5.4.2 I recommend that the following submission(s) be **accepted**:

- Heritage NZ, S55.072
- Powerco, S56.026, S56.027, S56.028
- Waka Kotahi, S78.007
- Aggregate & Quarry Assoc, S82.003
- Centralines, S90.040
- Federated Farmers, S121.099

5.4.3 I recommend that the following submission(s) be **accepted in part**:

- HBRC, S11.030
- Powerco, S56.024
- Waka Kotahi, S78.006
- Transpower, S79.093, S79.094
- Centralines, S90.038, S90.039
- The Oil Companies, S110.017
- Chorus, S117.066
- Vodafone, S118.066
- Spark, S119.066
- Federated Farmers, S121.084
- Hawke’s Bay DHB, S126.004
- Kāinga Ora, S129.127

5.4.4 I recommend that the following submission(s) be **rejected**:

- The Surveying Co, S50.017
- Aggregate & Quarry Assoc, S82.004
- The Oil Companies, S110.016
- Federated Farmers, S121.087, S121.088, S121.094, S121.097
- Kāinga Ora, S129.126

5.4.5 My recommendation in relation to further submissions reflect the recommendation on the relevant primary submission.

5.5 Recommended Amendments

5.5.1 I recommend the following amendment(s) is made:

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 EW-S1 Slope, and EW-S5 Control of Silt and Sediment ; or b. The earthworks are associated with any network utilities, including the upgrade or maintenance of existing public roads, and complies with EW-S4 Site	2. Activity status where compliance not achieved: EW-R2 to EW-R7 apply

	<p><u>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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And add the following new Assessment Matter:

EW-AMX	<p><u>Electricity Safety Distances</u></p> <p><u>1. Impacts on the operation, maintenance, upgrading and development of the electricity network.</u></p> <p><u>2. The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</u></p> <p><u>3. The risk to the structural integrity of any support structures associated with the electricity network.</u></p> <p><u>4. Technical advice provided by the National Grid owner (Transpower) or electricity distribution network operator (Centralines Limited).</u></p>
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And amend Rules EW-R2(2) to EW-R7(2) to reference the above new Assessment Matter, where compliance with Standard EW-S8 is not achieved, for example:

EW-R7 All Other Earthworks not otherwise provided for		
All Zones	<p>1. Activity Status: PER 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 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. <u>EW-AMX.</u>

5.6 Section 32AA Evaluation

- 5.6.1 The changes proposed, in isolation, are not considered to be a significant departure from the Proposed District Plan as notified.
- 5.6.2 The above recommendations are considered minor, where the changes would improve the effectiveness of provisions without changing the policy approach, therefore S32AA re-evaluation is not warranted.

6.0 Key Issue 3 – Rural Earthworks

6.1 Submissions / Further Submissions Addressed

Submission Point	Submitter (S) / Further Submitter (FS)	Provision	Position	Summary of Decision Requested	Summary Recommendation
S81.007	Horticulture New Zealand	ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION) (Definition)	Support	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 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.'	Accept in part
FS6.1	NZ Pork Industry Board		Support		Accept in part
S42.002	New Zealand Pork Industry Board	ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION) (Definition)	Amend	Amend the definition of 'Ancillary Rural Earthworks' to include provisions for biosecurity related activity as a permitted activity. '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'	Accept
FS8.018	Silver Fern Farms Limited		Support		Accept
FS5.018	Ngā hapū me ngā marae o Tamatea		Oppose		Reject
S121.231	Federated Farmers of New Zealand	ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION) (Definition)	Amend	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	Reject

				c. Maintenance and construction of existing walking tracks, farm and forestry tracks, driveways, roads and accessways within the same formation width.'	
FS9.231	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
FS5.019	Ngā hapū me ngā marae o Tamatea		Oppose		Accept
FS6.2	NZ Pork Industry Board		Support		Reject
S42.028	New Zealand Pork Industry Board	EW - Introduction	Amend	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. '	Accept in part
FS17.63	Horticulture New Zealand		Support		Accept in part
S121.079	Federated Farmers of New Zealand	EW-PXX (new policy)	Amend	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.'	Reject
FS9.79	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
S81.086	Horticulture New Zealand	EW-PXX (new policy)	Amend	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.'	Reject
FS6.7	NZ Pork Industry Board		Support		Reject
S42.029	New Zealand Pork Industry Board	EW-PXX (new policy)	Amend	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.'	Reject
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S121.085	Federated Farmers of New Zealand	EW-R2	Amend	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;	Reject

				ii. EW-S3; iii. EW-S4; iv. EW-S5; v. EW-S6; vi. EW-S7; and vii. EW-S8.'	
FS3.018	First Gas Limited		Oppose		Accept
FS9.85	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
FS17.65	Horticulture New Zealand		Support		Reject
S42.030	New Zealand Pork Industry Board	EW-R2	Support	Retain EW-R2 as proposed.	Accept
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S81.088	Horticulture New Zealand	EW-R2	Support	Retain EW-R2 (subject to exclusion sought in definition for 'Cultivation', or other consequential amendment).	Accept
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S121.089	Federated Farmers of New Zealand	EW-S1	Support	Retain EW-S1(1) as proposed.	Accept
FS9.89	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S81.089	Horticulture New Zealand	EW-S2	Support	Retain EW-S2.	Accept
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S42.031	New Zealand Pork Industry Board	EW-S2	Support	Retain EW-S2 as proposed.	Accept in part
.					
S56.025	Powerco Limited	EW-S2	Support	Retain EW-S2(3) & (4) as notified.	Accept
FS9.278	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S121.091	Federated Farmers of New Zealand	EW-S2	Support	Retain EW-S2(3) & (4).	Accept
FS9.91	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S121.090	Federated Farmers of New Zealand	EW-S2	Oppose	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 500m3 per site in any 12-month period. Refer also Standard EW-S7. 2. Maintenance earthworks. 3. All other earthworks - maximum of 200m3 per site in any 12-month period.'	Accept in part

FS9.90	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S121.092	Federated Farmers of New Zealand	EW-S2	Amend	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 200m³ per hectare of site in any 12-month period.	Accept in part
FS9.92	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S121.093	Federated Farmers of New Zealand	EW-S2	Support	Retain EW-S2(7), (8) & (9) as proposed.	Accept
FS9.93	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S81.090	Horticulture New Zealand	EW-S5	Amend	Amend EW-S5 to add reference in the 'Notes' to 'HortNZ Erosion and Sediment Control Guidelines for Vegetable Production'.	Reject
S81.091	Horticulture New Zealand	EW-S6	Amend	Amend EW-S6 to clearly state that 'ancillary rural earthworks' are a permitted activity.	Reject
FS18.25	Transpower New Zealand Limited		Oppose		Accept
S121.098	Federated Farmers of New Zealand	EW-S7	Oppose	Delete EW-S7.	Reject
FS9.98	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept

6.1.1 In summary, these 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.

6.2 Matters Raised by Submitters

EW - Introduction

6.2.1 NZ Pork (S42.028), supported by Hort NZ (FS17.63), consider that *'To support the provisions relating to Ancillary Rural Earthworks the proposed plan would be improved by noting in the introduction that earthworks are an integral part of primary production activity rather than focusing on development and extractive activity only'*, and seeks to amend 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 are also part of normal agricultural and horticultural practices.**

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)’

6.2.2 Hort NZ (S81.007) ‘support the approach of specifically defining ancillary rural earthworks, and providing for this activity’ but, supported by NZ Pork (FS6.1), seeks amendment of the definition of ‘Ancillary Rural Earthworks (Primary Production)’ in the PDP to remove (a) and (b) ‘as cultivation and harvesting is excluded from the earthworks definition’ and to recognise a biosecurity response, as follows:

<p>ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION)</p>	<p>means:</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, burying of dead stock and plant waste;</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; and</p> <p>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.</p>
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6.2.3 They give the following overarching reasons:

‘3.4.3 Earthworks

HortNZ support the approach of specifically defining ancillary rural earthworks, and providing for this activity

This submission seeks minor amendments to how this activity is reflected in the Proposed Plan – as detailed in the table below.

HortNZ has developed a code of practice for erosion and sediment control to provide guidance at an industry level for cultivation of vegetables crops (Horticulture New Zealand Code of Practice ‘Erosion and Sediment Control Guidelines for Vegetable Production’ (June 2014)).

We also note that Farm Environment Plans also assist in managing day-to-day activity, and are requirements at a regional level in some catchments and coming through at a national level – this lessens the need for regulation at a District Plan level.

3.4.4 Biosecurity Response Provisions

It is important to have rules that enable a rapid biosecurity response should the need arise. Vegetation removal, burial, burning and spraying of material are methods that may be used. It is therefore important that the Plan adequately provides for these activities to be undertaken.

Only when a biosecurity emergency is declared by the Governor-General on the recommendation of a Minister (s144 BA), can the emergency provisions in the Biosecurity Act 1993 override the RMA provisions. Such a declaration has never been made.

In other situations, a Chief Technical Officer can notify the MPI Director-General about an unwanted organism but the biosecurity response mechanisms are still subject to RMA plan controls. With such a declaration the regional and district plan rules still need to be met regarding the disposal of infected

material. Given the urgency required in such a situation, it is not practical to have to obtain resource consent.

For example, in the 2010 PSA incursion, only a Chief Technical Officer declaration was made, so regional and district plan requirements still needed to be met. This presented challenges in terms of timely and appropriate destruction of material which is what resulted in the rapid spread of and destruction from the disease.

If an incursion of an unwanted organism was unable to be appropriately managed due to regulatory barriers, it could have a significant impact on the region and the rural economy.'

- 6.2.4 Similarly, NZ Pork (S42.002), supported by Silver Fern Farms (FS8.018), seeks an amendment to the definition of 'Ancillary Rural Earthworks (Primary Production)' in the PDP to include *'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'*. They consider this would allow farmers to undertake earthworks related to burying material in the event of a biosecurity incident as a permitted activity, and give the following reasons:

'NZPork seeks an amendment to this definition to include 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'. This would allow farmers to undertake earthworks related to burying material in the event of a biosecurity incident as a permitted activity.

Not all biosecurity incursions would constitute a biosecurity emergency that would trigger provisions in the RMA or the Biosecurity Act to override consenting requirements. The level of response required will depend entirely on the nature and scale of the incident. To date, the biosecurity emergency powers under the Biosecurity Act have never been used. In addition, any exemption granted under the Act will be short-term only in nature. After the exemption ends, the provisions of the RMA apply to the same extent as those provisions would have applied but for the exemption. This creates uncertainty as to whether resource consent would retrospectively be required for the activity, and as such may still limit the scope of the response for the landowner to what is provided for under the district plan.

Biosecurity incidences which do not result in a declared emergency must therefore be managed to regional and district council plan requirements, including limitations on earthworks which may hinder any urgent response activity required to adequately address the incursion.

This is not a new matter and other District Plans recognise the issue and provide an appropriate resource management response. The viability of the New Zealand pork industry is dependent on the benefits conveyed upon it from the absence of many viral pathogens which are common in much of the rest of the world (porcine reproductive and respiratory syndrome virus, transmissible gastroenteritis, classical swine fever, African swine fever, swine influenza). Any incursion of new pathogens into the industry potentially jeopardises pork export marketing opportunities as well as directly creating financial and welfare hardships on New Zealand farms from the production consequences of these diseases. In addition, pigs have been proven to be important 'amplifier' hosts for foot-and-mouth disease (FMD), which has never occurred in New Zealand. If FMD did occur, it would have very serious consequences for the country's major dairy and meat export industries.

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 constraints on earthwork activity (volume and area) may inhibit a timely, efficient, and effective response.

As such, NZPork seeks that the definition of Ancillary Rural Earthworks include provisions for biosecurity related activity.'

- 6.2.5 Ngā hapū me ngā marae o Tamatea (FS5.018) opposes the NZ Pork submission in this regard, on the basis that *'Any such earthworks would be covered as part of the emergency provisions of the Act. The environmental effects of such earthworks should still be considered and managed'*.
- 6.2.6 Federated Farmers (S121.231), supported by NZ Pork (FS6.2), supports *'clearly differentiating ancillary rural earthworks from the definition of earthworks, to enable a regulatory approach that recognises ancillary rural earthworks as integral to the purpose of the rural zones, and must be permitted without limits'*, and seeks amendment of the definition in the PDP, as follows:

<p>ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION)</p>	<p>means:</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 offtal pits, burying of dead stock and plant waste;</p> <p>b. Land preparation and vegetation clearance undertaken as part of horticultural plantings; and</p> <p>c. Maintenance and construction of existing walking tracks, farm and forestry tracks, driveways, roads and accessways within the same formation width.</p>
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6.2.7 Ngā hapū me ngā marae o Tamatea (FS5.019) opposes Federated Farmers’ submission in this regard, on the basis that ‘Construction of new farm tracks and roads should be managed through the earthworks rules due to the scale of their potential adverse effects’.

New EW Policy

6.2.8 NZ Pork (S42.029) consider ‘The plan lacks policy support for the methods adopted to enable and manage the effects of Ancillary Rural Earthworks’, and seeks inclusion of the following policy in the EW – Earthworks chapter of the PDP, as follows:

EW-PX 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.

6.2.9 Similarly, Hort NZ (S81.086), supported by NZ Pork (FS6.7), seeks inclusion of a new policy in the EW – Earthworks chapter of the PDP, as follows:

EW-PX Enable earthworks to provide for people and communities social, economic and cultural well-being, and their health and safety, including ancillary rural earthworks, where adverse effects are appropriately managed.

6.2.10 Federated Farmers (S121.079) seeks inclusion of a new policy in the EW – Earthworks chapter of the PDP, as follows:

EW-PX Provide for ancillary rural earthworks as unlimited, to recognise that they normal and anticipated within the rural zones, with de minimus effects.

6.2.11 Their submission is on the basis of the following:

‘Ancillary earthworks must be unlimited. The permitted status with no limit for the General Rural and Rural Production zones must extend throughout those entire zones and even where overlain with ONFL or HNC status. The district council does not have functions over soil and water quality, and activities like cultivation do not create an adverse amenity effect, so there is no reason to limit ancillary rural earthworks.’

Rule EW-R2 Ancillary Rural Earthworks

6.2.12 Hort NZ (S81.088) supports ‘providing for Ancillary rural earthworks through a specific permitted activity rule. Earthworks undertaken as part of permitted primary production activities in the rural zone(s) for part of the character of rural areas. Providing for these activities aligns with the purpose of the rural zones’, and seeks retention of Rule EW-R2 as notified, accordingly. Hort NZ’s submission is subject to exclusion sought in the definition of ‘Cultivation’ (or other consequential amendments).

6.2.13 NZ Pork (S42.030) also supports a permitted activity status and associated standards for ancillary rural earthworks ‘with amendments to the definition of ancillary rural earthworks to exclude works required for biosecurity purposes’, and seeks retention of Rule EW-R2 as notified, on that basis.

6.2.14 Federated Farmers (S121.085), supported by Hort NZ (FS17.65), opposes any limitation of ancillary rural earthworks on the basis that ‘It does not serve people, their communities, nor the Council to monitor and enforce limits on activities like cultivation and harvesting’, and seeks amendment of Rule EW-R2 as follows:

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 Rural Lifestyle Zone	<p>a. Compliance with:</p> <p>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>	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.
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6.2.15 Federated Farmers considers ‘Ancillary rural earthworks must be considered appropriate for the rural zones and recognised as not adversely impacting amenity. Nor is it a district council function to manage ancillary rural earthworks for soil and water quality purposes, because the regional council already does this. Ancillary rural earthworks are integral to the purpose of the rural zones, and must be permitted without limits’.

6.2.16 First Gas (FS3.018) opposes Federated Farmers’ submission, on the basis that it ‘seeks to amend EW-R2 to provide for ancillary earthworks to be a permitted activity with the removal of the performance standards, in particular separation distance from the Gas Transmission Network’.

Standard EW-S1(1) Slope in the General Rural Zone

6.2.17 Federated Farmers (S121.089) supported retention of Standard EW-S1(1) as notified, on the basis that ‘Support is given for a more generous slope limit for the general rural zone, to recognise this zone will have steeper terrain. We see that much of CHB is classified strongly rolling 16-20°, moderately steep 21-25°, and steep 26-35°, so the 45° limit should allow for farm tracks to prevent farm vehicle accidents on hillsides’.

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. ...

Standard EW-S2 Extent of Earthworks

6.2.18 Powerco (S56.025) supports the standard applicable to earthworks in the General Rural Zone (Standard EW-S2(3) & (4)), and seeks retention of Standard EW-S2 as notified.

6.2.19 Hort NZ (S81.089), and NZ Pork (S42.031) both support the unlimited volume proposed for ancillary rural earthworks in the General Rural Zone and Rural Production Zone in Standard EW-S2(3), (5) & (7).

6.2.20 Federated Farmers (S121.091, S121.092, S121.093) also supports the unlimited volume for ancillary rural earthworks in the General Rural Zone and Rural Production Zone. They also support the limit of 2000m³/ha over 12 months applying in the General Rural Zone (Standard EW-S2(4)) and the limit of 1000m³/ha over 12 months applying in the Rural Production Zone (Standard EW-S2(8)). Federated Farmers, therefore, supports retention of Standard EW-S2(3), (4), (5), (7), (8) & (9) as notified.

6.2.21 However, in relation to the extent of earthworks in identified areas of ‘High Natural Character’, ‘Outstanding Natural Features and Landscapes’, and ‘Significant Natural Areas’ (Standard EW-S2(1) & (2)), Federated Farmers (S121.090) considers:

‘The limit of 500m³ is too small for farm activities like track maintenance, and preposterous for cultivation. Many of the district ONFLs are over existing farmland, and there is no reason why cultivation or fence post holes should be limited for amenity purposes where it occurs over farmland. How will this even be measured – it is a burden on the Council and farmers alike for no amenity benefit. Ancillary rural earthworks must have no limit, in the general rural zone, even where overlain with an ONFL classification.

It is unfair that farmers on ONLs are restricted to only 500m³ for ancillary rural earthworks, when farmers in the same general rural zone are allowed unlimited, despite both examples being in the general rural zone.

As per earlier submission points, we seek the category of High Natural Character be deleted.

As comparisons, Rotorua District Council permits track maintenance earthworks with no limit in Rule 86. Otorohanga District Council permits 1,000m³ of maintenance earthworks within ONFLs and the Coastal Policy Area in Rule 5E. Both of these councils are operating on the assumption that because it is only maintaining existing tracks there is no extra detrimental effect on the landscape, and that rural activities that are already occurring should be able to continue.

There should be separate and distinct standards for SNAs compared to ONFLs. The scale and size of an SNA compared to an ONL, and its vulnerability to adverse effects from earthworks are very different, so their regulation should be separate and address adverse effects distinct to each.'

- 6.2.22 In terms of the limit proposed for the 'Coastal Environment' (Standard EW-S2(6), Federated Farmers (S121.092) also considers 'The volume of earthworks considered appropriate will depend on which underlying zone it occurs in. The 200m³ limit is appropriate for the Coastal Settlement Zone, yet is much too small for the General Rural Zone. The existing farming land uses and large farm lot sizes will absorb any potential earthworks effects more readily than the settlement zones would'.
- 6.2.23 Federated Farmers, therefore, seeks amendment of Standards EW-S2(1) & (2) and EW-S2(6), 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 in any 12-month period. Refer also Standard EW-S7. Maintenance earthworks. All other earthworks – maximum of 200m³ per site 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 – must comply with the underlying zone provisions 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.

- 6.2.24 Note: other submissions relating to Standard EW-S2 are also addressed in Key Issue 2 of this report.

Standard EW-S5 Control of Silt and Sediment

- 6.2.25 Hort NZ (S81.090) seeks to amend Standard EW-S5 to add reference in the 'Notes' to 'HortNZ Erosion and Sediment Control Guidelines for Vegetable Production', which they consider also have relevant in some applications.

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

6.2.26 Hort NZ (S81.091) seeks amendment of Standard EW-S6 to clearly state that 'ancillary rural earthworks' are a permitted activity, as they consider *'The earthwork provisions within the National Grid yard are supported. However ancillary rural earthworks such as cultivation and road and track maintenance should be provided for as permitted activity consistent with NZECP:2001'*.

6.2.27 Transpower (FS18.25) opposes the submission of Hort NZ for the following reasons:

'Transpower acknowledge the concerns of the submitter that ancillary rural earthworks such as cultivation and road and track maintenance should be provided for as permitted activity consistent with NZECP:2001. However, notwithstanding cultivation is excluded from the definition of earthworks under the PDP, such activities are permitted where they comply with the standards within Rule EW-R5. Specifically Rule EW-R5.1(a)(ii) provides for such activities where the standards within EW-S6 are met.

The standards within EW-S6 are as follows:

- 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 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.*

On the basis ancillary rural earthworks such as cultivation and road and track maintenance meet the standards, the activity is permitted.

Based on the above and the current definition of 'earthworks' no amendment is considered necessary to Rule EW-R5.'

Standard EW-S7 Ancillary Rural Earthworks

6.2.28 Federated Farmers (S121.098) seeks deletion of Standard EW-S7, for the following reasons:

'We oppose any limitation of ancillary rural earthworks. It does not serve people, their communities, nor the Council to monitor and enforce limits on activities like cultivation and harvesting.

Ancillary rural earthworks must be considered appropriate for the rural zones and recognised as not adversely impacting amenity. Nor is it a district council function to manage ancillary rural earthworks for soil and water quality purposes, because the regional council already does this.

Ancillary rural earthworks are integral to the purpose of the rural zones, and must be permitted without limits.'

Forest & Bird

6.2.29 Forest & Bird (FS9.79, FS9.85, FS9.89, FS9.90, FS9.91, FS9.92, FS9.98, FS9.231) opposes all the submissions of Federated Farmers, as *'The amendments and decisions sought would result in continued loss of indigenous biodiversity in Hawkes Bay, would not give effect to the RPS, NZCPS and NPSFM or would not achieve the purpose of the RMA'*.

6.2.30 Forest & Bird (FS9.278) opposes the submission of Powerco, as *'The amendments and decisions sought would result in continued loss of indigenous biodiversity in Hawkes Bay, would not give effect to the RPS, NZCPS and NPSFM or would not achieve the purpose of the RMA'*.

6.3 AnalysisEW - Introduction

6.3.1 I consider inserting the wording sought by NZ Pork into the Introduction of the Earthworks chapter of the PDP appropriately acknowledges that earthworks are also an integral part of primary production – not just a development and extractive activity. Although, I note that the definition of earthworks (taken from the National Planning Standards) specifically excludes *'gardening, cultivation, and disturbance of land for the installation of fence posts'*, and that other 'ancillary rural earthworks' are anticipated as part of normal agricultural and horticultural practices.

6.3.2 Therefore, I recommend 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)'

- 6.3.3 There is overall support for specifically defining 'ancillary rural earthworks' and providing for it, as distinct from 'earthworks', to enable a regulatory approach that recognises 'ancillary rural earthworks' as integral to the purpose of the rural zones.
- 6.3.4 There are, however, a number of submissions seeking various amendments to the definition of 'ancillary rural earthworks' as follows (in summary):
- to delete those aspects of the definition that are 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 are within the same formation width.
- 6.3.5 I concur with Hort NZ that gardening, cultivation (where 'cultivation' is 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, are excluded from the definition of 'Earthworks' and therefore should similarly be removed from the definition of 'Ancillary Rural Earthworks' to avoid confusion. However, I do not accept that this is reasonably achieved by deleting clauses (a) and (b) in their entirety. I recommend deletion of clause (b) as it falls within the definition of 'cultivation', but retaining those aspects of clause (a) that do 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'.
- 6.3.6 I also concur with Hort NZ and NZ Pork that it is 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 Ngā hapū me ngā marae o Tamatea further submission that *'Any such earthworks would be covered as part of the emergency provisions of the Act'*, I accept the submission of NZ Pork 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 constraints on earthwork activity (volume and area) may inhibit a timely, efficient, and effective response'*.
- 6.3.7 However, I do not support amendments to expand the definition to include 'construction' of farm tracks and roads, as sought by Federated Farmers, and instead concur with the further submitter, Ngā hapū me ngā marae o Tamatea, that construction of new farm tracks and roads should continue to be managed

through the earthworks rules due to the scale of their potential adverse effects. I recommend that ‘ancillary rural earthworks’ continue to be limited to maintenance of existing tracks and roads.

- 6.3.8 Having said that, I note 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*’, are somewhat provided for through the rules (Rule EW-R2) and standards (e.g. Standard EW-S2, and Standard EW-S7 (within identified HNCs, ONFs/ONL & SNAs)).
- 6.3.9 Whilst application of Standard EW-S7 Ancillary Rural Earthworks requires maintenance of existing tracks etc to be within the same formation width, this requirement is confined to ancillary rural earthworks within identified HNCs, ONFs/ONL & SNAs only. In my view, this is 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 is not necessary to duplicate this aspect within clause (c) of the definition. In my view, use of the term ‘maintenance’ in clause (c) already infers sufficient limitation on the extent of works outside of those identified areas, and I am comfortable removing the words ‘*within the same formation width*’ from the definition will not open the floodgates.
- 6.3.10 On the basis of the above, I recommend 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 ofal pits, and burying of dead stock and plant waste <u>(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 <u>within the same formation width.</u></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

- 6.3.11 NZ Pork, Hort NZ and Federated Farmers each sought inclusion of a new policy in the Earthworks chapter of the PDP, shown below respectively:

EW-PX	<u>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.</u>
EW-PX	<u>Enable earthworks to provide for people and communities social, economic and cultural well-being, and their health and safety, including ancillary rural earthworks, where adverse effects are appropriately managed.</u>
EW-PX	<u>Provide for ancillary rural earthworks as unlimited, to recognise that they normal and anticipated within the rural zones, with de minimus effects.</u>

- 6.3.12 I do not consider that the plan lacks policy support for the methods adopted to enable and manage the effects of ancillary rural earthworks, as suggested by NZ Pork and, therefore, I do not consider inclusion of the first policy above, sought by the submitter, is necessary. In my view, ‘ancillary rural earthworks’ are a subset of ‘earthworks’ generally, therefore such earthworks are already appropriately covered by the existing policies in the EW – Earthworks chapter. For the same reasons, I do not support inclusion of the second and similar policy above, sought by Hort NZ.
- 6.3.13 In terms of the additional policy sought by Federated Farmers (third policy above), for the reasons already stated above in paragraph 6.3.9, I do not support extending unlimited ancillary rural earthworks into identified HNC, ONF/ONL & SNA areas, nor any policy wording that promotes ancillary rural earthworks as having ‘de minimus effects’. In my opinion, there are certain situations where ancillary rural earthworks can have adverse effects on the environment, particularly in areas of significant natural character,

landscape, and ecosystem and indigenous biodiversity values. Therefore, the policy sought is not supported. Also, as stated above, 'ancillary rural earthworks' are a subset of 'earthworks' generally, therefore such earthworks are already appropriately provided for in the existing policies in the EW – Earthworks chapter. Therefore, I consider inclusion of the additional policy sought by Federated Farmers is neither accurate, appropriate, nor necessary.

6.3.14 To conclude, I recommend rejecting all three policies above sought for the EW – Earthworks chapter of the PDP.

Rule EW-R2 Ancillary Rural Earthworks

6.3.15 In so far as 'cultivation' is specifically excluded from the definition of 'earthworks', and the definition of 'ancillary rural earthworks' is recommended to include earthworks associated with burying infected material for biosecurity purposes (refer paragraph 6.3.10 above), there appears to be considerable support for retaining Rule EW-R2.

6.3.16 However, Federated Farmers opposes any limitation on ancillary rural earthworks, and seeks deletion of requirements to comply with any of the earthworks standards. Whilst I accept that ancillary rural earthworks are generally more able to be absorbed within the rural environment, they are not 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 my view, it is entirely appropriate that there remain some Permitted Activity parameters beyond which a resource consent is triggered, to enable Council to assess any effects.

6.3.17 In the case of 'ancillary rural earthworks', the Permitted Activity standards do provide for an unlimited volume in the General Rural and Rural Production Zones (Standard EW-S2(3), (5) & (7)), but do apply specific requirements within the more sensitive Rural Lifestyle Zone and identified HNC, ONF/ONL and SNA areas (Standard EW-S2(1) & (10) and Standard EW-S7). In addition, the standards limit the vertical extent of excavations (Standard EW-S3) as large cut/fill faces can be seen for some distance and can have substantial visual amenity implications, and include reasonable requirements to reinstate the site (Standard EW-S4) and implement erosion and sediment control measures (Standard EW-S5), as well as requirements to manage earthworks in the vicinity of the National Grid (Standard EW-S6) and overhead electric lines (Standard EW-S8) from a safety and a network utility maintenance perspective. I consider these are all reasonable and appropriate standards to apply to ancillary rural earthworks, and I do not support removing the requirement to comply with them.

6.3.18 First Gas opposes Federated Farmers' submission to remove the requirement to comply with the Permitted Activity standards... *'in particular separation distance from the Gas Transmission Network'*. I note that there is no Permitted Activity standard applying a separation distance from the Gas Transmission Network for 'ancillary rural earthworks' in Rule EW-R2. However, there is 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, I recommend that the words **'(including ancillary rural earthworks)'** be inserted in the rule heading for Rule EW-R6 – I consider this a minor amendment pursuant to clause 16 of Schedule 1 to the RMA.

Standard EW-S1(1) Slope in the General Rural Zone

6.3.19 There is only one submission on Standard EW-S1 relating to the slope standard applying in the General Rural Zone (clause (1)), and it is in support. Therefore, no further analysis is considered necessary.

Standard EW-S2 Extent of Earthworks

6.3.20 There is considerable support in the submissions for the permitted volumes applying in Standard EW-S2, particularly in the General Rural Zone and Rural Production Zone (Standard EW-S2(4), (8) & (9)), and 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)). No further analysis is considered necessary in terms of these permitted volumes.

6.3.21 However, Federated Farmers consider 500m³ is 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)). Again, I note that 'cultivation' and fence post holes are excluded from the definition of 'earthworks' and therefore are not subject to this permitted volume limit. I also note that the 500m³ permitted volume limit aligns with Hastings

District Plan limit for sites within ‘outstanding natural features and landscapes’ (ONFLs) in the equivalent Rural Zone (Table 27.1.6A of the Hastings District Plan).

- 6.3.22 As already outlined, I do not support deletion of the areas of High Natural Character (HNCs), as these are mapped and appropriately provided for in giving effect to Policy 13 of the New Zealand Coastal Policy Statement.
- 6.3.23 However, whilst I do 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, I do consider that the permitted volume limit should be amended to apply ‘within the identified feature’, rather than ‘per site’.
- 6.3.24 I believe this would address the potential interpretation of the 500m³/200m³ limits in Standard EW-S2(1) & (2) as applying to the whole site (including those parts of the site that are not subject to the identified areas/features). Beyond the identified areas/features themselves, the General Rural Zone and/or Rural Production Zone limits are 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. I consider this appropriate, and better reflects what was intended.
- 6.3.25 Whilst I acknowledge that the scale and size of an SNA can be significantly different to an ONL, I consider that it is not the size of the feature, but the extent of earthworks that is the appropriate consideration. Therefore, I am comfortable with the limits applying similarly across all identified areas/features and I do not consider there is sufficient evidence supporting the setting and application of a separate volume limit for earthworks within SNAs.
- 6.3.26 Federated Farmers also query the separate earthworks volume limit proposed for the ‘Coastal Environment’ (Standard EW-S2(6)). In my view, with identification of HNCs, ONFs and SNAs in the coastal environment and the earthworks standards applying to those, the PDP arguably already gives effect to the New Zealand Coastal Policy Statement 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); and ensuring activities do not result in a significant increase in sedimentation in the coastal marine area or other coastal water (Policy 22). Outside of those identified areas/features, I accept that there is little need for a separate volume limit applying to the coastal environment, and that it is reasonable to apply the underlying zone provisions for earthworks – in this case, those applying in the General Rural Zone.
- 6.3.27 On that basis, I recommend 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.
- 6.3.28 Given the above, I recommend 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) 	1. Ancillary rural earthworks – maximum of 500m ³ per site <u>within the identified area/feature</u> in any 12-month period. Refer also Standard EW-S7. 2. All other earthworks – maximum of 200m ³ 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)	3. Ancillary rural earthworks – unlimited. 4. All other earthworks – maximum of 2,000m ³ per hectare of site in any 12-month period.
Coastal Environment (except any identified HNC, ONF/ONL or SNA areas)	5. Ancillary rural earthworks – unlimited. 6. 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)	7. Ancillary rural earthworks – unlimited. 8. All other earthworks – maximum of 1,000m ³ per hectare of site in any 12-month period. 9. 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)	10. 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. 11. 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	12. Maximum of 50m ³ per site in any 12-month period.
	Notes: 3. <i>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.</i> 4. <i>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.</i>

Standard EW-S5 Control of Silt and Sediment

- 6.3.29 I do not support amending Standard EW-S5 to add reference in the ‘Notes’ to ‘HortNZ Erosion and Sediment Control Guidelines for Vegetable Production’, as sought by Hort NZ.
- 6.3.30 In my view, 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 is focused more on minimising soil erosion and loss as opposed to protecting waterways. Further, given that ‘cultivation’ is excluded from the definition of ‘earthworks’, there is 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

- 6.3.31 I do not support amendment of Standard EW-S6 to state that ‘ancillary rural earthworks’ are a permitted activity, as this would be inaccurate. Hort NZ appear concerned that cultivation and road and track maintenance are provided for as a Permitted Activity.
- 6.3.32 As identified by Transpower, as further submitter, ‘cultivation’ is excluded from the definition of ‘earthworks’, and I refer to my recommendation above to similarly note this in the definition of ‘ancillary rural earthworks’ (refer paragraph 6.3.5 above). Further, ‘Earthworks and vertical holes within the National Grid Yard’ are 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 do not meet the standards.
- 6.3.33 Therefore, I concur with Transpower that, based on the above and the definition of ‘earthworks’, the amendment sought is unnecessary.

Standard EW-S7 Ancillary Rural Earthworks

- 6.3.34 Federated Farmers seeks deletion of Standard EW-S7, as they oppose any limitation on ancillary rural earthworks. As outlined above, whilst ‘ancillary rural earthworks’ are generally appropriate for the rural zones and generally able to be absorbed within the rural environment (evident in the separate provision for such earthworks in the PDP as set out in Rule EW-R5 and Standard EW-S2), they are not benign, and can be significant and have significant adverse effects within identified HNC, ONF/ONL and SNA areas.
- 6.3.35 I also disagree that managing ancillary rural earthworks in the PDP is for soil and water quality purposes. The matters in Standard EW-S7 are about managing adverse effects of ancillary rural earthworks on natural character, landscape, and ecosystem and indigenous biodiversity values, which are appropriate to the functions of territorial authorities under the RMA.
- 6.3.36 Therefore, I remain firmly of the view 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 (e.g. limiting to maintenance of existing tracks within the same formation width etc, and limiting volume to 500m³ in any 12-month period etc).

6.3.37 Given the above, I do not support deletion of Standard EW-S7.

6.4 Recommendations

6.4.1 For the reasons outlined above, I recommend that Rule EW-R2 and Standards EW-S1, EW-S5, EW-S6 & EW-S7 be retained as notified, and that the EW – Introduction, the definition of ‘Ancillary Rural Earthworks’ and Standard EW-S2 be amended (as outlined in Recommended Amendments below).

6.4.2 I recommend that the following submission(s) be **accepted**:

- NZ Pork, S42.002, S42.030
- Powerco, S56.025
- Hort NZ, S81.088, S81.089
- Federated Farmers, S121.089, S121.091, S121.093

6.4.3 I recommend that the following submission(s) be **accepted in part**:

- NZ Pork, S42.028, S42.031
- Hort NZ, S81.007
- Federated Farmers, S121.090, S121.092

6.4.4 I recommend that the following submission(s) be **rejected**:

- NZ Pork, S42.029
- Hort NZ, S81.086, S81.090, S81.091
- Federated Farmers, S121.079, S121.085, S121.098, S121.231

6.4.5 My recommendation in relation to further submissions reflect the recommendation on the relevant primary submission.

6.5 Recommended Amendments

6.5.1 I recommend the following amendments are made:

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.

And amend the definition of ‘Ancillary Rural Earthworks’:

<p>ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION)</p>	<p>means <u>earthworks associated with normal agricultural and horticultural practices, such as:</u></p> <p>a. <u>Normal agricultural and horticultural practices, such as cultivating and harvesting crops, ploughing, planting trees, root ripping, digging post holes,</u> maintenance of drains, troughs and installation of their associated pipe networks, <u>and realignment of fencelines,</u> drilling</p>
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	<p>bores and ofal pits, <u>and</u> burying of dead stock and plant waste <u>(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 style="padding-left: 40px;">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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And make minor amendment to the rule heading of Rule EW-R6:

EW-R6 Earthworks within 20m of the Gas Transmission Network <u>(including ancillary rural earthworks)</u>		
All Zones	<p>1. Activity Status: PER 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 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. The risk of hazards affecting public or individual safety, and the risk of property damage. i. Measures proposed to avoid or mitigate potential adverse effects on the gas transmission pipeline. j. Technical advice, including an assessment of the level of risk. k. The outcome of any consultation with the owner and operator of the gas transmission pipeline.

And amend Standard EW-S2:

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) 	<ul style="list-style-type: none"> 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. 2. All other earthworks – maximum of 200m³ per site <u>within the identified area/feature</u> in any 12-month period.
<p>General Rural Zone (except Coastal Environment, and any identified HNC, ONF/ONL or SNA areas)</p>	<ul style="list-style-type: none"> 3. Ancillary rural earthworks – unlimited. 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>	<ul style="list-style-type: none"> 5. Ancillary rural earthworks – unlimited. 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>	<ul style="list-style-type: none"> 7. Ancillary rural earthworks – unlimited. 8. All other earthworks – maximum of 1,000m³ per hectare of site in any 12-month period. 9. 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)	<p>10. 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>11. All other earthworks – maximum of 100m³ per hectare of site in any 12-month period.</p>
<p>Settlement Zone</p> <p>Large Lot Residential Zone (Coastal)</p> <p>General Residential Zone</p> <p>Commercial Zone</p> <p>General Industrial Zone</p>	<p>12. Maximum of 50m³ per site in any 12-month period.</p>
	<p>Notes:</p> <ol style="list-style-type: none"> 1. <i>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.</i> 2. <i>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.</i>

6.6 Section 32AA Evaluation

- 6.6.1 The changes proposed, in isolation, are not considered to be a significant departure from the Proposed District Plan as notified.
- 6.6.2 The above recommendations are considered minor, where the changes would improve the effectiveness of provisions without changing the policy approach, therefore S32AA re-evaluation is not warranted.

7.0 Key Issue 4 – Earthworks within Heritage Sites and Sites & Areas of Significance to Māori

7.1 Submissions / Further Submissions Addressed

Submission Point	Submitter (S) / Further Submitter (FS)	Provision	Position	Summary of Decision Requested	Summary Recommendation
S55.067	Heritage New Zealand Pouhere Taonga	EW-R1	Oppose	Add the following to EW-R1(1): '... e. Compliance with standards EW-S10.'	Reject
FS25.82	Federated Farmers of New Zealand		Oppose		Accept
FS16.35	Waka Kotahi NZ Transport Agency		Oppose	Retain EW-R1 as notified.	Accept
S55.068	Heritage New Zealand Pouhere Taonga	EW-R3	Oppose	Add the following to EW-R3(1)(a): '... ix. EW-S10.'	Reject
.					
S55.069	Heritage New Zealand Pouhere Taonga	EW-R4	Oppose	Add the following to EW-R4(1)(b): '... ix. EW-S10.'	Reject
.					
S55.070	Heritage New Zealand Pouhere Taonga	EW-R7	Oppose	Add the following to EW-R7(1)(a): '... ix. EW-S10.'	Reject
.					
S55.071	Heritage New Zealand Pouhere Taonga	EW-SXX (new standard)	Oppose	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.'	Reject
FS25.85	Federated Farmers of New Zealand		Oppose		Accept
FS23.73	Kāinga Ora - Homes and Communities		Oppose		Accept
FS5.091	Ngā hapū me ngā marae o Tamatea		Support		Reject

7.1.1 In summary, there are 5 submission points from Heritage NZ 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 are 5 further submissions (1 in support, and 4 in opposition) to Heritage NZ's proposal.

7.2 Matters Raised by Submitters

7.2.1 Heritage NZ (S55.071), supported by Ngā hapū me ngā marae o Tamatea (FS5.091), seeks the inclusion of an additional standard in the EW – Earthworks chapter of the PDP, to address earthworks on the site of heritage items identified in HH-SCHED2 and sites of significance to Māori in SASM-SCHED3, as follows:

EW-SX 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.**

- 7.2.2 Heritage NZ (S55.067, S55.068, S55.069, S55.070) seeks to apply the proposed standard to Rules EW-R1 (Specified Earthworks), EW-R3 (Mineral prospecting and exploration activities), EW-R4 (Mining and quarrying activities) & EW-R7 (All other earthworks not otherwise provided for), as a further condition for achieving Permitted Activity status.
- 7.2.3 Waka Kotahi (FS16.35) opposes inclusion of the proposed standard as a Permitted Activity condition for Rule EW-R1 on the basis that *‘Adding the references to earthworks standards within the rule table is not necessary as all activities are assessed against the standards as a matter of course’*.
- 7.2.4 Federated Farmers (FS25.85) opposes Heritage NZ’s submission in this regard, on the basis that *‘the submitter’s concern is already addressed by the Historic Heritage and Sites and Areas of Significance to Maori chapters’*.
- 7.2.5 Kāinga Ora (FS23.73) also opposes Heritage NZ’s submission in this regard, *‘to the extent it is inconsistent with its primary submission’*.

7.3 Analysis

- 7.3.1 In my view, there is considerable overlap with rules in the HH – Historic Heritage and SASM – Sites of Significance to Māori chapters in the PDP, and to include the Permitted Activity standard in the Earthworks chapter, as sought by Heritage NZ, would create unnecessary duplication. Method EW-M1 identifies these chapters of the PDP (amongst others) as containing additional rules and standards applying to earthworks.
- 7.3.2 The Permitted Activity conditions applying in the SASM Rules require that no activity destroy, damage, or modify a site identified in Schedule SASM-SCHED3. ‘No activity’ would include earthworks. Rule SASM-R2 provides for earthworks associated with burials within existing urupa 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 ofal pits, burial of dead stock or plant waste, or effluent storage or disposal fields – all of which would likely involve earthworks, to some degree.
- 7.3.3 In terms of the rules in the Historic Heritage chapter, a resource consent is 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.
- 7.3.4 In addition, where a heritage item (HH) or site of significance to Māori (SASM) is also an archaeological site, the Heritage New Zealand Pouhere Taonga Act applies to any activity that may destroy, damage or modify the archaeological site.
- 7.3.5 Where an activity requires resource consent under the EW – Earthworks Rules, I note that Assessment Matter EW-AM1(2)(k) comes into play, which requires consideration of *‘Measures to avoid the disturbance of wahi tapu, wahi 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)’*.
- 7.3.6 Therefore, I do not support inclusion of the additional standard as sought, insofar as earthworks in the vicinity of heritage items and SASMs are already covered appropriately addressed, including in the rules in the HH and SASM chapters.

7.4 Recommendations

- 7.4.1 For the reasons outlined above, I recommend that no amendments be made to the EW-Rules and EW-Standards in response to the submissions above.

7.4.2 I recommend that the following submission(s) be **rejected**:

- Heritage NZ, S55.067, S55.068, S55.069, S55.070, S55.071

7.4.3 My recommendation in relation to further submissions reflect the recommendation on the relevant primary submission.

7.5 Recommended Amendments

7.5.1 No specific amendments to the PDP are recommended in response to the above submission points.

7.6 Section 32AA Evaluation

7.6.1 Not applicable.

8.0 Key Issue 5 – Earthworks Provisions and the National Environmental Standards for Plantation Forestry

8.1 Submissions / Further Submissions Addressed

Submission Point	Submitter (S) / Further Submitter (FS)	Provision	Position	Summary of Decision Requested	Summary Recommendation
S85.010	Rayonier Matariki Forests	EW-R2	Oppose	Amend EW-R2 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part
.					
S85.011	Rayonier Matariki Forests	EW-R3	Oppose	Amend EW-R3 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part
.					
S85.012	Rayonier Matariki Forests	EW-S2	Oppose	Amend EW-S2 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part
.					
S85.013	Rayonier Matariki Forests	EW-S3	Oppose	Amend EW-S3 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part
.					
S85.014	Rayonier Matariki Forests	EW-S4	Oppose	Amend EW-S4 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part
.					
S85.015	Rayonier Matariki Forests	EW-S5	Oppose	Amend EW-S5 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part
.					
S85.016	Rayonier Matariki Forests	EW-S6	Oppose	Amend EW-S6 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part
FS18.26	Transpower New Zealand Limited		Support		Accept in part
S85.017	Rayonier Matariki Forests	EW-S7	Oppose	Amend EW-S7 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part
.					

8.1.1 In summary, the above are 8 submission points from Rayonier Matariki Forests (Rayonier), and 1 further submission from Transpower, regarding the interrelationship between the earthworks rules and standards in the PDP and the regulations in the National Environmental Standards for Plantation Forestry (NES-PF).

8.2 Matters Raised by Submitters

8.2.1 Rayonier (S85.010, S85.011, S85.012, S85.013, S85.014, S85.015, S85.016, S85.017) seeks to exclude earthworks and land disturbance activities that relate to the NES-PF from Rules EW-R2, EW-R3 and Standards EW-S2, EW-S3, EW-S4, EW-S5, EW-S6 & EW-S7, as they consider *'It is not clear if earthworks in plantation forestry fall within the scope of these and provisions. For quarries they only include farm quarries and not forestry ones. Hawkes Bay Regional Council is enforcing the provisions relating to earthworks and land disturbance under the NESPF'*.

- 8.2.2 Transpower (FS18.26) have further submitted in support, in relation to Standard EW-S6, stating 'Given there are no existing established forests within the Central Hawke's Bay, existing underneath transmission lines, Transpower has no objection to the relief sought'.

8.3 Analysis

- 8.3.1 Mechanical land preparation is a regulated activity under the NES-PF, however clause 73 of the NES-PF provides for 'mechanical land preparation' as a permitted activity without limitations in terms of territorial authority (district council) functions. It is treated as a permitted activity in specified areas subject to conditions in terms of regional council functions. Therefore, it is appropriate to ensure that the PDP does not conflict with the NES-PF.
- 8.3.2 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*'.
- 8.3.3 To avoid multiple references to the NES-PF in relation to each relevant definition and each rule in respect of earthworks, 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 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*'.
- 8.3.4 In my view, this Note makes it clear that the provisions in the Earthworks chapter do not apply to plantation forestry activities regulated under the NES-PF. No further clarification is considered necessary.

8.4 Recommendations

- 8.4.1 For the reasons outlined above, I recommend that no amendments be made to the EW-Rules and EW-Standards in response to the submissions above.
- 8.4.2 I recommend that the following submission(s) be **accepted in part**:
- Rayonier Matariki Forests, S85.010, S85.011, S85.012, S85.013, S85.014, S85.015, S85.016, S85.017
- 8.4.3 My recommendation in relation to further submissions reflect the recommendation on the relevant primary submission.

8.5 Recommended Amendments

- 8.5.1 No specific amendments to the PDP are recommended in response to the above submission points.

8.6 Section 32AA Evaluation

- 8.6.1 Not applicable.

9.0 Key Issue 6 – Mining & Quarrying – Definitions, Objectives & Policies

9.1 Submissions / Further Submissions Addressed

Submission Point	Submitter (S) / Further Submitter (FS)	Provision	Position	Summary of Decision Requested	Summary Recommendation
S85.019	Rayonier Matariki Forests	Definitions	Amend	Add a new definition for 'Forestry Quarry' as defined in the NES-PF. [clause 3 of the NES-PF defines as follows: ' 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.']	Accept
S121.245	Federated Farmers of New Zealand	QUARRY (Definition)	Amend	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. '	Reject
FS9.245	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
S98.002	Hatuma Lime Co Ltd	QUARRY (Definition)	Support	Retain the definition of 'Quarry' as proposed.	Accept
S121.246	Federated Farmers of New Zealand	QUARRYING ACTIVITIES (Definition)	Amend	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 cleanfilling 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. '	Reject
FS9.246	Royal Forest and Bird Protection Society of		Oppose		Accept

	New Zealand Incorporated				
S98.003	Hatuma Lime Co Ltd	QUARRYING ACTIVITIES (Definition)	Support	Retain the definition of 'Quarrying Activities' as proposed.	Accept
.					
S75.081	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-O2	Oppose	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.'	Accept
FS19.13	Penny Nelson, Director-General of Conservation (DOC)		Support		Accept
S82.001	Aggregate and Quarry Association	EW-O2	Amend	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.'	Reject
FS9.498	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
S121.073	Federated Farmers of New Zealand	EW-O2	Oppose	Amend EW-O2 as follows: ' Ensure that the life-supporting capacity of air, water, soil and ecosystems is safeguarded and that a 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.	Reject
FS9.73	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Accept
S75.087	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P8	Oppose	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.'	Accept in part
FS19.18	Penny Nelson, Director-General of Conservation (DOC)		Support		Accept in part
S121.080	Federated Farmers of New Zealand	EW-P8	Support	Retain EW-P8, on the condition that farm quarries are clearly excluded from the definition of quarrying.	Accept in part
FS9.80	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject

S75.088	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P9	Oppose	Delete EW-P9.	Reject
FS25.81	Federated Farmers of New Zealand		Oppose		Accept
FS19.19	Penny Nelson, Director-General of Conservation (DOC)		Support		Reject
S121.081	Federated Farmers of New Zealand	EW-P9	Amend	Amend EW-P9 as follows: 'To enable farm quarries and quarries ancillary to farming and forestry activities to be established in rural areas.'	Accept in part
FS9.81	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S121.082	Federated Farmers of New Zealand	EW-P10	Support	Retain EW-P10, on the condition that farm quarries are clearly excluded from the definition of quarrying.	Accept in part
FS9.82	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S121.083	Federated Farmers of New Zealand	EW-P11	Support	Retain EW-P11, on the condition that farm quarries are clearly excluded from the definition of quarrying.	Accept in part
FS9.83	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S75.089	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P11	Oppose	Amend EW-P11 to reference SNAs (in a similar way that ONFLs are referred to in the policy), and to reference the 'coastal environment'.	Accept
FS19.20	Penny Nelson, Director-General of Conservation (DOC)		Support		Accept
S55.066	Heritage New Zealand Pouhere Taonga	EW-P11	Support	Retain EW-P11 as notified.	Accept in part
.					
S81.087	Horticulture New Zealand	EW-P11	Oppose	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. ...'	Accept
.					

9.1.1 In summary, these 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.

9.2 Matters Raised by Submitters

Definitions

‘Quarry’ & ‘Quarrying Activities’

9.2.1 Hatuma Lime Co (S98.002, S98.003) supports retention of the definitions for ‘Quarry’ and ‘Quarrying Activities’ in the PDP, as notified.

9.2.2 Federated Farmers (S121.245, S121.246) seek to exclude farm quarries from these two definitions, as follows:

QUARRY	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. <u>This excludes farm quarries.</u>
QUARRYING ACTIVITIES	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 cleanfilling 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. <u>This excludes farm quarries.</u>

9.2.3 Federated Farmers give the following reasons:

‘Farm quarries need to be clearly differentiated from industrial extractive quarries. Although there is a separate definition for farm quarries, they need to be clearly excluded from this definition.

Farm quarries are: small scale; the winnings are used on the property; the winnings not for sale but for personal use; used intermittently when needed; ancillary to existing farm land use; effects are contained within the property. This is in contrast to industrial quarries that are: large scale; winnings are for sale; winnings are transported off the property using roads; used daily/weekly; permanent presence of equipment and employees; a commercial enterprise in own right; and effects can extend beyond the site/property. A definition that does not exclude farm quarries will behold them to the same level of regulation as a commercial quarry like Winstone Aggregates as if they have the same level of effects, which is inequitable and onerous.’

‘Plantation Forestry Quarry’

9.2.4 Rayonier Matariki Forests (S85.019) notes that *‘There is provision for a farm quarry but not for one in plantation forests. There is no reason to restrict such provisions’*, and seeks that the definition as contained in the NES-PF be included in the PDP.

9.2.5 The applicable definition contained in clause 3 of the NES-PF is ‘Forestry Quarrying’, defined as follows:

<u>FORESTRY QUARRYING</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> <u>(ii) required for the operation of a plantation forest on adjacent land owned or managed by the owner of the plantation forest; and</u> <u>(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</u> <u>(c) 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*

- 9.2.6 Forest & Bird (S75.081), supported by the Director General of Conservation (FS19.13), considers *'The objective should not pre-empt use'*, and seeks amendment of Objective EW-O2 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.**

- 9.2.7 The Aggregate & Quarry Assoc (S82.001) support Objective EW-O2 *'but it would be improved if, for the avoidance of doubt, offsetting and compensation were included as well as "avoid, remedy and mitigate"'*, and seeks the following amendment, accordingly:

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, **offset or compensated,** while meeting the needs of the District (and wider Region) for minerals.

- 9.2.8 Forest & Bird (FS9.498) opposes the Aggregate & Quarry Assoc submission in this regard, on the basis that *'The amendments and decisions sought would result in continued loss of indigenous biodiversity in Hawkes Bay, would not give effect to the RPS, NZCPS and NPSFM or would not achieve the purpose of the RMA'*.

- 9.2.9 Federated Farmers (S121.073) interest in this objective *'is limited to the possibility that farm quarries are captured by the definition of quarrying. Farm quarries must be excluded from the definition, because they are of much smaller scale and level of adverse effect than an industrial quarry'*. They seek the following amendment of Objective EW-O2, and to clearly exclude farm quarries from the definition of 'quarrying':

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*

- 9.2.10 Federated Farmers (S121.080) supports retention of Policy EW-P8, on the condition that farm quarries are clearly excluded from the definition of quarrying.
- 9.2.11 Forest & Bird (S75.087), supported by the Director General of Conservation (FS19.18), seeks amendment of Policy EW-P8, for example, as follows:

EW-P8 **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.

- 9.2.12 They consider the *'Policy should not begin with "enable". This is much too permissive and inconsistent with NZCPS and RMA. It should be constructed around the premise that effects will be "avoided, remedied, or mitigated" (or a similar approach)'*.

Policy EW-P9

- 9.2.13 Federated Farmers (S121.081) supports enabling farm quarries but *'Given there is a separate definition, the phrase farm quarries needs to be included in the policy so the plan user can make the link'*, and seeks amendment of Policy EW-P9 as follows:

EW-P9 To enable **farm** quarries **and** ancillary to **farming and** forestry activities to be established in rural areas.

- 9.2.14 Forest & Bird (S75.088), supported by the Director General of Conservation (FS19.19), considers *'An enable policy is not appropriate, particularly without reference to environmental limits or avoiding/remediating/mitigating effects'* and seeks that Policy EW-P9 be deleted entirely.

Policy EW-P10

- 9.2.15 Federated Farmers (S121.082) interest in this policy *'is limited to the possibility that farm quarries are captured by the definition of quarrying'* and supports retention of Policy EW-P10 on the condition that farm quarries are clearly excluded from the definition of quarrying.

EW-P10 To avoid, remedy or mitigate adverse effects on the environment associated with mining, quarrying and hydrocarbon extraction activities.

Policy EW-P11

- 9.2.16 Heritage NZ (S55.066) supports retention of Policy EW-P11 as notified.
- 9.2.17 Federated Farmers (S121.083) interest in this policy *'is limited to the possibility that farm quarries are captured by the definition of quarrying'* and therefore supports retention of Policy EW-P11 on the condition that farm quarries are clearly excluded from the definition of quarrying.
- 9.2.18 Forest & Bird (S75.089), supported by the Director General of Conservation (FS19.20), seeks amendment of Policy EW-P11 to reference 'significant natural areas' (in a similar way that ONFLs are referred to in the policy), and consider the 'coastal environment' should also be referred to for protection.
- 9.2.19 Hort NZ (S81.087) submits that *'The effects of dust can be broader than just amenity – for example, mineral extraction/quarry activities can have effects on the surrounding horticultural productivity, due to effects of dust on the quality of produce; this should be included in the management approach'*, and seeks amendment of Policy EW-P11 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: <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"> a. manage noise, vibration, dust and illumination to maintain amenity values of the surrounding land uses, particularly at night-time; 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; f. protect historic heritage; and g. protect wahi tapu, wahi taonga and sites of significance to tangata whenua. h. <u>manage the potential effects of dust on any nearby rural production activities, including for horticultural land use the effects of dust on produce.</u> 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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Forest & Bird

- 9.2.20 Forest & Bird (FS9.73, FS9.80, FS9.081, FS9.82, FS9.83, FS9.245, FS9.246) opposes the submissions of Federated Farmers, as *'The amendments and decisions sought would result in continued loss of indigenous biodiversity in Hawkes Bay, would not give effect to the RPS, NZCPS and NPSFM or would not achieve the purpose of the RMA'*.

9.3 AnalysisDefinitions*'Quarry' & 'Quarrying Activities'*

- 9.3.1 There is support for retention of the definitions for 'Quarry' and 'Quarrying Activities' in the PDP, as notified, although Federated Farmers seeks to alter the definitions to specify that 'farm quarries' are excluded from these definitions.
- 9.3.2 Both terms are 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 are used in a plan and the terms are used in the same context, local authorities must use the definition as defined in that list. Therefore, I consider the relief sought by Federated Farmers to alter the definitions of 'quarry' and 'quarrying' is not available.
- 9.3.3 In any case, I consider the respective policies, rules and standards are the more appropriate place in the PDP to differentiate 'farm quarries' from other quarries, based on scale and significance of adverse effects.

‘Plantation Forestry Quarry’

- 9.3.4 Rayonier Matariki Forests seeks inclusion of provisions for ‘forestry quarrying’, including a definition taken from the NES-PF. This term is not used anywhere in the PDP, and therefore does not require defining.
- 9.3.5 However, I do note the only reference in the PDP to forestry-related quarrying is in Policy EW-P9, which refers to *‘quarries ancillary to farming and forestry activities’*. It may be more appropriate to replace this with *‘farm quarries and forestry quarrying’*, which is 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 is 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 Matariki Forests.
- 9.3.6 On this basis, I recommend 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>	<p><u>has the same meaning as in clause 3 of the NES-PF (as set out in the box below)</u></p> <p><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></p> <ul style="list-style-type: none"> <u>i. within a plantation forest; or</u> <u>ii. required for the operation of a plantation forest on adjacent land owned or managed by the owner of the plantation forest; and</u> <p><u>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</u></p> <p><u>c. 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

- 9.3.7 Submissions are generally supportive of Objective EW-O2, however, Forest & Bird are concerned that the last part of the objective could be seen as pre-empting use of minerals in the District. The Aggregate & Quarry Assoc seeks to include ‘offsetting’ and ‘compensation’ options in relation to addressing adverse effects from mining, quarrying and hydrocarbon extraction activities. Federated Farmers also seeks amendment of the objective out of concern that the definition of quarrying could capture farm quarries, which they consider should be excluded from that definition.
- 9.3.8 I concur with Forest & Bird that the wording of Objective EW-O2 could be seen to pre-empt use of minerals in the District or wider region. I note that section 5(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. I, therefore, consider the last part of the objective is not valid and should be deleted.
- 9.3.9 With respect to the Aggregate & Quarry Assoc submission, when considering an application for a resource consent, section 104(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’*. It is my understanding that offsetting is a last resort... where adverse effects cannot be reasonably avoided, remedied, or mitigated... and that there are limits to offsets (e.g. situations where residual impacts cannot be fully compensated for by a biodiversity offset because of the irreplaceability or vulnerability of the biodiversity affected) and this can only be considered on a case-by-case basis. Given this, I do not consider offsetting and compensation are appropriate as standard options to apply in all instances, and therefore I do not support the amendment to incorporate these options within Objective EW-O2.
- 9.3.10 In terms of the Federated Farmers submission, as discussed above in paragraph 9.3.1 of this report, there is no ability to amend the definition of ‘quarrying’ to exclude ‘farm quarries’. In any case, I am unclear why the submitter considers Objective EW-O2 is problematic in terms of farm quarries. In terms of the amendment sought, when considering mining and quarrying activities, I am of the view that safeguarding the life-supporting capacity of air, water, soil, and ecosystems is a legitimate matter for consideration,

reflecting section 5(2)(b) of the RMA, and should remain. Therefore, I do not support the amendment sought by Federated Farmers.

9.3.11 On the basis of the above, I recommend 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.
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Policies

Policy EW-P8

9.3.12 Federated Farmers supports retention of Policy EW-P8, on the condition that farm quarries are clearly excluded from the definition of quarrying. As already noted above, there is no ability to amend the definition of 'quarrying' to exclude 'farm quarries', as they are terms defined in the National Planning Standards.

9.3.13 I concur with Forest & Bird that 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. Therefore, I recommend 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.
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Policy EW-P9

9.3.14 I concur with Federated Farmers to use the term 'farm quarries' in Policy EW-P9, as 'farm quarry' is the term is defined in the PDP and is used in Rule EW-R4, and it is therefore appropriate to have consistent terminology. I recommend the policy be amended to refer to 'farm quarry', accordingly.

9.3.15 In terms of Forest & Bird's submission, I concur that the policy as written is not appropriate without reference to environmental limits or avoiding/remediating/mitigating effects. However, I do not consider that Policy EW-P9 should be deleted entirely, as such minor quarry activities are anticipated in the rural environment. I recommend utilising defined terms ('farm quarries' and 'forestry quarrying') and constructing the policy around avoiding, remediating or mitigating effects, which will bring the policy more in line with giving effect to Objective EW-O2, as follows:

EW-P9	To provide foreenable 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.
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Policy EW-P10

9.3.16 Again, Federated Farmers supports retention of Policy EW-P10, but on the condition that farm quarries are clearly excluded from the definition of quarrying. As already noted above, there is no ability to amend the definition of 'quarrying' to exclude 'farm quarries', as they are terms defined in the National Planning Standards. Therefore, I recommend retention of Policy EW-P10 as notified.

Policy EW-P11

9.3.17 Submissions are generally supportive of retaining Policy EW-P11, however amendments are sought by some submitters. Again, Federated Farmers supports retention of Policy EW-P11, but on the condition that farm quarries are clearly excluded from the definition of quarrying. As already noted above, there is no ability to amend the definition of 'quarrying' to exclude 'farm quarries', as they are terms defined in the National Planning Standards.

9.3.18 I concur with Forest & Bird 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. 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 is appropriate to include SNAs in terms of ensuring adequate measures to protect these areas as part of assessing mining and quarrying activities. Similarly, in giving effect to Policy 13 of the NZCPS, it is 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. I recommend amendments to Policy EW-P11 accordingly.

9.3.19 Similarly, dust generated by mining and quarrying activities can have potential adverse effects not just on amenity, but on horticultural produce etc, so I concur with Hort NZ that it is appropriate to also include reference to this in Policy EW-P11. I note that Assessment Matter EW-AM3 specifically addresses effects on other land uses and adjoining properties, such as dust on fruit, particularly during harvesting season. I recommend amendment to Policy EW-P11 accordingly.

9.3.20 On the basis of the above, I recommend 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"> a. manage noise, vibration, dust and illumination to maintain amenity values of the surrounding land uses, particularly at night-time; <u>xx. 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; <u>xx. protect identified Significant Natural Areas, and avoid or mitigate adverse effects on indigenous biodiversity;</u> <u>xx. protect the natural character of the coastal environment;</u> f. protect historic heritage; and g. protect wahi tapu, wahi 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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9.4 Recommendations

9.4.1 For the reasons outlined above, I recommend that the definitions of 'Quarry' & 'Quarrying' and Policy EW-P10 be retained as notified, that a definition for 'Forestry Quarrying' be included, and that Objective EW-O2 and Policies EW-P8, EW-P9 & EW-P11 be amended (as outlined in Recommended Amendments below).

9.4.2 I recommend that the following submission(s) be **accepted**:

- Forest & Bird, S75.081, S75.089
- Hort NZ, S81.087
- Rayonier Matariki Forests, S85.019
- Hatuma Lime, S98.002, S98.003

9.4.3 I recommend that the following submission(s) be **accepted in part**:

- Heritage NZ, S55.066
- Forest & Bird, S75.087
- Federated Farmers, S121.080, S121.081, S121.082, S121.083

9.4.4 I recommend that the following submission(s) be **rejected**:

- Forest & Bird, S75.088
- Aggregate & Quarry Assoc, S82.001
- Federated Farmers, S121.073, S121.245, S121.246

9.4.5 My recommendation in relation to further submissions reflect the recommendation on the relevant primary submission.

9.5 Recommended Amendments

9.5.1 I recommend the following amendments are made:

<u>FORESTRY QUARRYING</u>	<p><u>has the same meaning as in clause 3 of the NES-PF) (as set out in the box below)</u></p> <p><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></p> <p><u>i. within a plantation forest; or</u></p> <p><u>ii. 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><u>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</u></p> <p><u>c. 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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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, <u>while meeting the needs of the District (and wider Region) for minerals.</u>
EW-P8	To <u>provide for the enable</u> prospecting and exploration of minerals where the adverse effects on the environment <u>are avoided, remedied or mitigated will be minor.</u>
EW-P9	To <u>provide for enable farm</u> quarries <u>and ancillary to farming and</u> forestry <u>quarrying activities</u> to be established in rural areas <u>where the adverse effects on the environment are avoided, remedied or mitigated.</u>
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"> a. manage noise, vibration, dust and illumination to maintain amenity values of the surrounding land uses, particularly at night-time; <u>xx. 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; <u>xx. protect identified Significant Natural Areas, and avoid or mitigate adverse effects on indigenous biodiversity;</u> <u>xx. protect the natural character of the coastal environment;</u> f. protect historic heritage; and g. protect wahi tapu, wahi 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.

9.6 Section 32AA Evaluation

9.6.1 The changes proposed, in isolation, are not considered to be a significant departure from the Proposed District Plan as notified.

9.6.2 The above recommendations are considered minor, where the changes would improve the effectiveness of provisions without changing the policy approach, therefore S32AA re-evaluation is not warranted.

10.0 Key Issue 7 – Mining & Quarrying – Rules and Standards

10.1 Submissions / Further Submissions Addressed

Submission Point	Submitter (S) / Further Submitter (FS)	Provision	Position	Summary of Decision Requested	Summary Recommendation
S121.086	Federated Farmers of New Zealand	EW-R4	Support	Retain EW-R4 as proposed.	Accept
FS9.86	Royal Forest and Bird Protection Society of New Zealand Incorporated		Oppose		Reject
S82.002	Aggregate and Quarry Association	EW-R4	Support	Retain EW-R4 as proposed.	Accept
.					
S102.033	Te Mata Mushrooms Land Company Limited	EW-R4	Support	Retain EW-R4.	Accept
.					
S98.018	Hatuma Lime Co Ltd	GRUZ-RXX (new rule)	Amend	<p>Add a new rule in the 'General Rural Zone' as follows:</p> <p>'GRUZ-R20 New Buildings ancillary to lawfully established quarries</p> <p>1. Activity Status: Permitted</p> <p>Where the following conditions are met:</p> <p>a. Compliance with:</p> <p>i. GRUZ-S2 (Height of Buildings);</p> <p>ii. GRUZ-S3 (Height in Relation to Boundary);</p> <p>iii. GRUZ-S4 (Setback from Roads and Rail Network);</p> <p>iv. GRUZ-S5 (Setback from Neighbours);</p> <p>v. GRUZ-S6 (Shading of Land and Roads);</p> <p>vi. GRUZ-S7 (Electricity Safety Distances);</p> <p>vii. GRUZ-S8 (Transport);</p> <p>viii. GRUZ-S9 (Light); and</p> <p>ix. GRUZ-S10 (Noise).</p> <p>b. Compliance with GRUZ-S12 (setback from gas transmission network).</p> <p>c. Compliance with GRUZ-S13 (setbacks from National Grid).'</p> <p>And any consequential changes to demonstrate that this rule takes precedent over EW-R4 with respect to new buildings for lawfully established quarries.</p>	Reject
.					
S98.025	Hatuma Lime Co Ltd	EW-R4	Amend	<p>Amend EW-R4 as follows (as a consequential amendment to the new rule sought in the 'General Rural Zone'):</p> <p>'Mining and quarrying (except new buildings for lawfully established quarries as provided in Rule GRUZ-R20) ...'</p>	Reject
.					
S102.034	Te Mata Mushrooms Land Company Limited	EW-RXX (new rule)	Oppose	<p>Add in a new rule in the 'EW - Earthworks' chapter of the Proposed Plan (or respective zone chapters) as follows:</p> <p>'EW-RXX Gravel storage and processing yards</p>	Reject

				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.'	
.					
S82.005	Aggregate and Quarry Association	EW-SXX (new standard)	Amend	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.	Reject
.					

10.1.1 In summary, these 7 submission points and 1 further submission point address the rules and standards applying specifically to mining and quarrying in the EW – Earthworks chapter of the PDP, seeking a new rule to provide for new buildings ancillary to lawfully established quarries in the General Rural Zone, seeking 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.

10.2 Matters Raised by Submitters

Rule EW-R4 Mining and Quarrying Activities

10.2.1 Federated Farmers (S121.086), Te Mata Mushrooms (S102.033), and the Aggregate & Quarry Assoc (S82.002), all support retention of Rule EW-R4 as notified.

EW-R4 Mining and quarrying			
General Rural Zone Rural Production Zone	1. Activity Status: PER Where the following conditions are met: a. The activity is for a farm quarry. b. 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 with conditions EW-R4(1)(a) and/or EW-R4(1)(b) is not achieved: DIS	
Rural Lifestyle Zone Settlement Zone Large Lot Residential Zone (Coastal) General Residential Zone Commercial Zone General Industrial Zone	3. Activity Status: NC Where the following conditions are met: N/A	4. Activity status where compliance not achieved: N/A	

- 10.2.2 Federated Farmers support the permitted status of farm quarries but have made submissions on the associated standards.
- 10.2.3 The Aggregate & Quarry Assoc support the permitted activity status for quarrying in the General Rural Zone and Rural Production Zone subject to conditions and support the conditions (with the exception of Standard EW-S4 – addressed in Key Issue 2 of this report).

New Rule for ‘New buildings ancillary to lawfully established quarries’ in the General Rural Zone

- 10.2.4 Hatuma Lime (S98.018) considers that Rule GRUZ-R3 ‘Primary Production Activities (including ancillary buildings and structures, but excluding post-harvest facilities, mining and quarrying)’ as notified, specifically excludes quarrying, and therefore seeks the introduction of a new rule in the GRUZ – General Rural Zone chapter to provide for new buildings associated with lawfully established quarries, as follows:

<u>GRUZ-R20 New buildings ancillary to lawfully established quarries</u>	
<p>1. Activity Status: PER <u>Where the following conditions are met:</u> a. <u>Compliance with:</u> i. <u>GRUZ-S2 (Height of Buildings);</u> ii. <u>GRUZ-S3 (Height in Relation to Boundary);</u> iii. <u>GRUZ-S4 (Setback from Roads and Rail Network);</u> iv. <u>GRUZ-S5 (Setback from Neighbours);</u> v. <u>GRUZ-S6 (Shading of Land and Roads);</u> vi. <u>GRUZ-S7 (Electricity Safety Distances);</u> vii. <u>GRUZ-S8 (Transport);</u> viii. <u>GRUZ-S9 (Light); and</u> ix. <u>GRUZ-S10 (Noise).</u> b. <u>Compliance with GRUZ-S12 (setback from gas transmission network).</u> c. <u>Compliance with GRUZ-S13 (setbacks from National Grid).</u></p>	<p>2. ...</p>

- 10.2.5 Hatuma Lime (S98.025) also seeks any consequential amendments to demonstrate that this new rule takes precedence over Rule EW-R4 with respect to new buildings for lawfully established quarries.

New Rule for ‘Gravel storage and processing yards’

- 10.2.6 Te Mata Mushrooms (S102.034) submits that ‘*The storage and some processing (sorting) of gravel would be captured by the definition of ‘Quarrying’, even though the activity is not a quarry*’, and seeks a new rule to provide for gravel storage and processing yards to be established as a Controlled Activity in the General Rural Zone and Rural Production Zone, subject to compliance with performance standards in the two zones – ‘*This new rule could be in the zone or EW district wide chapters, depending on where it best fits*’.
- 10.2.7 The proposed new rule is as follows:

<u>EW-RX Gravel storage and processing yards</u>		
<p><u>General Rural Zone</u> <u>Rural Production Zone</u></p>	<p>1. Activity Status: CON <u>Where the following conditions are met:</u> a. <u>Compliance with:</u> i. <u>Setback from Roads and Rail network</u> ii. <u>Setback from Neighbours;</u> iii. <u>Electricity Safety Distances;</u> iv. <u>Transport (Access, Parking, Loading);</u> v. <u>Light;</u> vi. <u>Noise;</u> vii. <u>Setback from National Grid Yard and National Grid Substation.</u></p>	

New Standard for 'Setback for Sensitive Activities'

- 10.2.8 The Aggregate & Quarry Assoc (S82.005) seeks the introduction of a new performance 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.'*
- 10.2.9 Their submission is that *'AQA is proposing a policy framework to safeguard future access to mineral resources in the District. Consistent with this policy framework, appropriate setback performance standards are proposed to ensure that incompatible activities are not established in close proximity to existing or future mineral extraction activities to avoid potential reverse sensitivity effects'*.

10.3 AnalysisRule EW-R4 Mining and Quarrying Activities

- 10.3.1 All submissions relating to Rule EW-R4 support retention of the rule as notified (albeit subject to submissions on the associated standards). Therefore, no further analysis is considered necessary.

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

- 10.3.2 Hatuma Lime seeks the introduction of a new rule in the GRUZ – General Rural Zone chapter to specifically provide for new buildings associated with lawfully established quarries. I do not support such a rule. I note that the definition of 'quarrying' includes *'the use of land and accessory buildings for offices, workshops and car parking areas associated with the quarry'*.
- 10.3.3 The decision sought 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 are themselves Permitted Activities, subject to conditions (as per Rule GRUZ-R3), whereas mining and quarrying (other than farm quarries) is a Discretionary or Non-Complying Activity as per Rule EW-R4. In my 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 my view, lead to quarrying applications addressing the sole act of quarrying, and relying on the permitted status for any ancillary buildings (and, by virtue, any activity within that building) after the fact.
- 10.3.4 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 etc. If just an office or a small garage shed, then that might be considered innocuous, but if it was an additional processing plant (more of an industrial activity) then maybe not, so to accept such a rule as proposed would not differentiate the varying types of activities within those ancillary buildings and their varying scale and nature of effects.
- 10.3.5 In my view, it is 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 is designed to accommodate/be used for.
- 10.3.6 For these reasons, I do 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'

- 10.3.7 Te Mata Mushrooms seeks 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. They suggest this new rule could be in the respective zone chapters or in the Earthworks chapter.
- 10.3.8 In my view, the definition of 'quarrying' includes storage and processing components. Quarrying, and all its component activities, is treated collectively in Rule EW-R4 'Mining and Quarrying' where a 'farm quarry' is a Permitted Activity, and other quarrying activities are a Discretionary Activity in the PDP.

- 10.3.9 In my view, 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*¹) are a Non-Complying Activity in the General Rural and Rural Production Zones in the PDP (Rules GRUZ-R19 & RPROZ-R19).
- 10.3.10 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, I do not support inclusion of such a rule².

New Standard for 'Setback for Sensitive Activities'

- 10.3.11 The Aggregate & Quarry Assoc seeks 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.
- 10.3.12 In my view, it is not appropriate or feasible to impose a setback from areas containing significant mineral resources for future extraction, as such areas have not been identified and it would be inappropriate to apply without such areas either mapped or otherwise identified in the PDP – and this not something Council is required, or pre-disposed, to do.
- 10.3.13 In terms of applying a setback for sensitive activities from established and/or consented quarrying activities, I am of the view that quarrying activities should internalise their effects within the site.
- 10.3.14 On the basis of the above, I do not support inclusion of a new setback standard as sought by the Aggregate & Quarry Assoc.

10.4 Recommendations

- 10.4.1 For the reasons outlined above, I recommend that Rule EW-R4 be retained, and that no further amendments be made to the EW-Rules and EW-Standards in response to the submissions above.
- 10.4.2 I recommend that the following submission(s) be **accepted**:
- Aggregate & Quarry Assoc, S82.002
 - Te Mata Mushrooms, S102.033
 - Federated Farmers, S121.086
- 10.4.3 I recommend that the following submission(s) be **rejected**:
- Aggregate & Quarry Assoc, S82.005
 - Hatuma Lime, S98.018, S98.025
 - Te Mata Mushrooms, S102.034
- 10.4.4 My recommendation in relation to further submissions reflect the recommendation on the relevant primary submission.

10.5 Recommended Amendments

- 10.5.1 No specific amendments to the PDP are recommended in response to the above submission points.

10.6 Section 32AA Evaluation

- 10.6.1 Not applicable.

¹ separate rules providing for 'Rural Industry' within the General Rural and Rural Production Zones have been recommended by the Reporting Officer in response to submissions as part of Hearing Stream 3 – Rural Environment Topic.

² I note in their response to Minute 9 following the conclusion of Hearing 3, Te Mata Mushrooms has identified that they do not intend to actively follow up on this submission point.

11.0 Key Issue 8 – Mining Hydrocarbons and Fossil Fuels

11.1 Submissions / Further Submissions Addressed

Submission Point	Submitter (S) / Further Submitter (FS)	Provision	Position	Summary of Decision Requested	Summary Recommendation
S39.009	Kathryn Bayliss	EW - Earthworks	Amend	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Reject
.					
S39.010	Kathryn Bayliss	EW-P8	Amend	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Reject
.					
S39.011	Kathryn Bayliss	EW-P10	Amend	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Reject
.					
S39.012	Kathryn Bayliss	EW-P11	Amend	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Reject
.					
S39.014	Kathryn Bayliss	EW-R3	Amend	Make hydrocarbon, fossil fuels including coal, gas and oil mining activities prohibited.	Reject
.					
S39.015	Kathryn Bayliss	EW-R4	Amend	Make hydrocarbon, fossil fuels including coal, gas and oil mining activities prohibited.	Reject
.					

11.1.1 In summary, these 6 submission points from Kathryn Bayliss relate specifically to the mining of hydrocarbon and fossil fuels.

11.2 Matters Raised by Submitters

11.2.1 Kathryn Bayliss (S39.009, S39.010, S39.011, S39.012, S39.014, S39.015) seeks ‘to make hydrocarbons, fossil fuels including coal, gas and oil mining activities prohibited’ throughout the relevant provisions in the EW – Earthworks chapter of the PDP (including Policies EW-P8, EW-P10, & EW-P11). This is on the basis that:

‘These produce greenhouse gas emissions and contribute to climate change. Everyone is trying to reduce greenhouse gas emissions and stopping reliance on them. Oil, gas and coal can have huge negatives on our environment and pose a big risk to our water, soils and air. Extraction can increase earthquake risks. Prospecting, exploration, extraction and use of fossil fuels including hydrocarbons, gas, oil and coal can have a negative effect on human and animal health and wellbeing.’

11.3 Analysis

11.3.1 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).

11.3.2 Prohibited activity status means that a resource consent application cannot be made under any circumstances, and there is no discretion to even consider it. There is insufficient justification provided by

the submitter, to impose a blanket 'Prohibited Activity' status on all such activities across the whole District. Therefore, in my opinion, it would be inappropriate to alter the policies and rules as sought.

11.4 Recommendations

- 11.4.1 For the reasons outlined above, I recommend that no amendments be made in response to the submissions above.
- 11.4.2 I recommend that the following submission(s) be **rejected**:
- Kathryn Bayliss, S39.009, S39.010, S39.011, S39.012, S39.014, S39.015
- 11.4.3 My recommendation in relation to further submissions reflect the recommendation on the relevant primary submission.

11.5 Recommended Amendments

- 11.5.1 No specific amendments to the PDP are recommended in response to the above submission points.

11.6 Section 32AA Evaluation

- 11.6.1 Not applicable.

12.0 Conclusion

12.1 Topic Conclusions

- 12.1.1 Submissions have been received in support of, and in opposition to the Proposed District Plan.
- 12.1.2 Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the Proposed District Plan should be amended as set out in Appendix A of this report.
- 12.1.3 I consider that the proposed provisions will be the most appropriate means to achieve the purpose of the Resource Management Act 1991, and achieve the relevant objectives of the Proposed District Plan in respect to the proposed provisions.

12.2 Topic Recommendations

- 12.2.1 I recommend that:
 - 1. The Hearing Commissioners accept, accept in part, or reject submissions (and associated further submissions) as outlined in Appendix B of this report; and
 - 2. The Proposed Central Hawke's Bay District Plan is amended in accordance with the changes recommended in Appendix A of this report.

APPENDIX A

Recommended Amendments to Plan Provisions

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 [RM1]: S42.028 NZ Pork - Earthworks Topic, 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-O1 **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.**

Commented [RM2]: S121.072 Fed Farmers - Earthworks Topic, Key Issue 1

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.**

Commented [RM3]: S75.081 Forest & Bird - Earthworks Topic, Key Issue 6

Policies

Earthworks

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 [RM4]: S11.031 HBRC - Earthworks Topic, 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 [RM5]: S121.076 Fed Farmers - Earthworks Topic, 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 sites and areas of significance to Māori, and culturally sensitive sites** are avoided, remedied or mitigated.

Commented [RM6]: S55.065 Heritage NZ - Earthworks Topic, 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 [RM7]: S75.087 Forest & Bird - Earthworks Topic, 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 [RM8]: S121.081 Fed Farmers - Earthworks Topic, Key Issue 6

Commented [RM9]: S75.088 Forest & Bird - Earthworks Topic, Key Issue 6

EW-P10 To avoid, remedy or mitigate adverse effects on the environment associated with mining, quarrying and hydrocarbon extraction activities.

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. manage the potential effects of dust on any nearby primary production activities including, for horticultural land use, the effects of dust on produce;**
 - 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. protect identified Significant Natural Areas, and avoid or mitigate adverse effects on indigenous biodiversity;**

Commented [RM10]: S81.087 Hort NZ - Earthworks Topic, Key Issue 6

xx. protect the natural character of the coastal environment;

- 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.

Commented [RM11]: S75.089 Forest & Bird - Earthworks Topic, Key Issue 6

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

<p>All Zones</p>	<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 EW-S1 Slope, and EW-S5 Control of Silt and Sediment; 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; 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; or</p> <p>d. The earthworks are associated with gravel extraction within the bed of a river.</p> <p><i>Note: Gravel extraction within the bed of a river is subject to rules administered by the Hawke's Bay Regional Council.</i></p>	<p>2. Activity status where compliance not achieved: EW-R2 to EW-R7 apply</p>
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Commented [RM12]: S11.030 HBRC - Earthworks Topic, Key Issue 2

EW-R2 Ancillary rural earthworks

<p>General Rural Zone</p> <p>Rural Production Zone</p> <p>Rural Lifestyle Zone</p>	<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. Compliance with:</p> <p>i. EW-S2;</p> <p>ii. EW-S3;</p> <p>iii. EW-S4;</p> <p>iv. EW-S5;</p> <p>v. EW-S6;</p> <p>vi. EW-S7; and</p>	<p>2. Activity status where compliance not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a. EW-AM1.</p> <p>b. EW-AM2.</p> <p>c. EW-AM3.</p> <p>d. EW-AM4.</p>
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	vii. EW-S8.	e. EW-AM5. f. EW-AM6. g. EW-AM7. h. EW-AMX.
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Commented [RM13]: consequential amendment in response to S90.039 Centralines - Earthworks Topic, Key Issue 2

EW-R3 Mineral prospecting and exploration activities

All Zones	<p>3. 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; viii. EW-S8. <p>b. Compliance with EW-S9.</p>	<p>2. Activity status where compliance with condition EW-R3(1)(a) is 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-AM8. i. EW-AMX. <p>3. Activity status where compliance with condition EW-R3(1)(b) is not achieved: DIS</p>
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Commented [RM14]: consequential amendment in response to S90.039 Centralines - Earthworks Topic, Key Issue 2

EW-R4 Mining and quarrying

<p>General Rural Zone</p> <p>Rural Production Zone</p>	<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. The activity is for a farm quarry.</p> <p>b. 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 with conditions EW-R4(1)(a) and/or EW-R4(1)(b) is not achieved: DIS</p>
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Rural Lifestyle Zone Settlement Zone Large Lot Residential Zone (Coastal) General Residential Zone Commercial Zone General Industrial Zone	<p>2. Activity Status: NC</p> <p>Where the following conditions are met: N/A</p>	<p>4. Activity status where compliance not achieved: N/A</p>
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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> <ul style="list-style-type: none"> a. The earthworks must be no deeper (measured vertically) than 300mm within 12m of the outer visible edge of any National Grid support-structure foundation, except under the following circumstances: <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 	<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> <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. 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.
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	<p>crop support structures and are more than 6m from the visible outer edge of a tower support structure foundation.</p> <p>b. 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-S7; vii. EW-S8; and viii. EW-S9. <p>c. Compliance with EW-S6.</p>	<ul style="list-style-type: none"> 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>
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EW-R6 Earthworks within 20m of the Gas Transmission Network (including ancillary rural earthworks)

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. ga. EW-AMX. h. The risk of hazards affecting public or individual safety, and
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Commented [RM15]: minor clause 16 amendment for clarification (FS3.018 First Gas) - Earthworks Topic, Key Issue 3

Commented [RM16]: consequential amendment in response to S90.039 Centralines - Earthworks Topic, Key Issue 2

		<p>the risk of property damage.</p> <ul style="list-style-type: none"> i. Measures proposed to avoid or mitigate potential adverse effects on the gas transmission pipeline. j. Technical advice, including an assessment of the level of risk. k. The outcome of any consultation with the owner and operator of the gas transmission pipeline
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> <ul style="list-style-type: none"> a. 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-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-AMX.

Commented [RM17]: S90.039 Centralines - Earthworks Topic, Key Issue 2

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.

Figure 7 – Maximum existing slope angle (excavation)

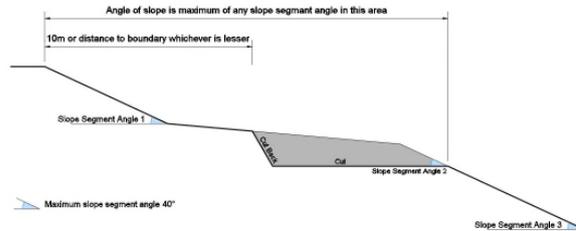
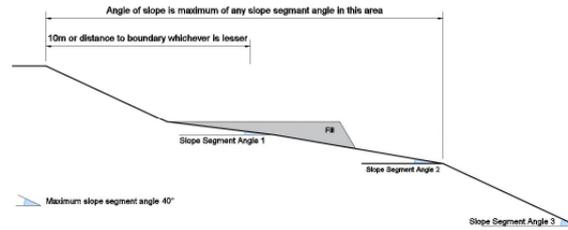


Figure 8 – Maximum existing slope angle (filling)



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) 	<ol style="list-style-type: none"> 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. 2. All other earthworks – maximum of 200m³ per site <u>within the identified area/feature</u> in any 12-month period.
<p>General Rural Zone (except Coastal Environment, and any identified HNC, ONF/ONL or SNA areas)</p>	<ol style="list-style-type: none"> 3. Ancillary rural earthworks – unlimited. 4. All other earthworks – maximum of 2,000m³ per hectare of site in any 12-month period.
<p>Coastal Environment (except any identified</p>	<ol style="list-style-type: none"> 5. <u>Ancillary rural earthworks – unlimited.</u> 6. <u>All other earthworks – maximum of 200m³ per hectare of site in any 12-month period.</u>

Commented [RM18]: S121.090 Fed Farmers - Earthworks Topic, Key Issue 3

Commented [RM19]: S121.092 Fed Farmers - Earthworks Topic, Key Issue 3

HNC, ONF/ONL or SNA areas)	
Rural Production Zone (except any identified HNC, ONF/ONL or SNA areas)	<p>7. Ancillary rural earthworks – unlimited.</p> <p>8. All other earthworks – maximum of 1,000m³ per hectare of site in any 12-month period.</p> <p>9. Removal offsite 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>10. 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>11. All other earthworks – maximum of 100m³ per hectare of site in any 12-month period.</p>
Settlement Zone Large Lot Residential Zone (Coastal) General Residential Zone Commercial Zone General Industrial Zone	<p>12. Maximum of 50m³ per site in any 12-month period.</p>
	<p>Notes:</p> <ol style="list-style-type: none"> 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.
EW-S3 Vertical Extent of Excavation	
Identified areas of: - High Natural Character (HNCs) - Outstanding Natural Features and	<p>1. 2 metres</p>

<p>Landscapes (ONFs/ONL)</p> <p>- Significant Natural Areas (SNAs)</p> <p>(except for HNC2, HNC6, ONL1, ONF5, ONF6, ONF7, ONF9 and ONF10)</p>	
<p>HNC2 (Waimoana-Kairakau)</p> <p>HNC6 (Porangahau)</p> <p>ONF5 (Northern end of Nga Kaihinaki-a-Whata & Te Whata Kokako)</p> <p>ONF6 (Silver Range)</p> <p>ONF7 (Kairakau Coastline)</p> <p>ONF9 (Parimahu)</p> <p>ONF10 (Porangahau Foredune & Estuary)</p>	2. 1 metre
<p>General Rural Zone</p> <p>ONL1 (Ruahine Range)</p>	3. 5 metres
<p>All Other Zones</p>	4. 2.5 metres
EW-S4 Site Reinstatement	
<p>All Zones</p>	<ol style="list-style-type: none"> 1. Areas disturbed by exploration, prospecting or earthworks will be stabilised, filled and/or recontoured in a manner consistent with the surrounding land as soon as practicable, but no later than 6 months of the disturbance activity ceasing; and 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-

	<p>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	<ol style="list-style-type: none"> 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><i>Notes:</i></p> <ol style="list-style-type: none"> 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> 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>
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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, and 2. The earthworks must not result in a reduction in ground-to-conductor clearance distances 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.
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EW-S7 Ancillary Rural 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) 	<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
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	or planting to match the surrounding vegetation cover (excluding weed species).
EW-S8 Electrical Safety Distances	
All Zones	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	1. Mineral prospecting and exploration: <ul 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.

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 Roading 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 roading 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. Rooding 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 rooding network including:
 - i. Disruption to traffic in the area.
 - ii. Traffic safety.
 - iii. Impact on the District rooding 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.

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 [RM20]: S90.039 Centralines - Earthworks Topic, 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 Recommended Responses to Submissions and Further Submissions

Table: Summary of Recommended Responses to Submissions and Further Submissions

Earthworks

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer 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.	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...'	Accept in part	Yes
FS16.34	Waka Kotahi NZ Transport Agency		Disallow Retain EW-R1 as notified	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; and 3. controlling the effects of urban development on the health and well-being of water bodies, freshwater ecosystems and receiving environments.'	Accept	Yes
S42.002	New Zealand Pork Industry Board	ANCILLARY RURAL EARTHWORKS (PRIMARY PRODUCTION) (Definition)	Amend the definition of 'Ancillary Rural Earthworks' to include provisions for biosecurity related activity as a permitted activity. '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'	Accept	Yes
FS8.018	Silver Fern Farms Limited		Allow	Accept	
FS5.018	Ngā hapū me ngā marae o Tamatea		Disallow	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.'	Accept in part	Yes

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
FS17.63	Horticulture New Zealand		Allow	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.'	Reject	No
S42.030	New Zealand Pork Industry Board	EW-R2	Retain EW-R2 as proposed.	Accept	No
S42.031	New Zealand Pork Industry Board	EW-S2	Retain EW-S2 as proposed.	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, 50m ² is insufficient for the [General?] Industrial Zone given the likely size of buildings in this area.	Reject	No
S50.034	The Surveying Company (HB) Ltd	EW - Earthworks	Retain EW - Earthworks chapter.	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.'	Accept in part	Yes
FS25.80	Federated Farmers of New Zealand		Disallow	Reject	
S55.067	Heritage New Zealand Pouhere Taonga	EW-R1	Add the following to EW-R1(1): ... e. Compliance with standards EW-S10.'	Reject	No
FS16.35	Waka Kotahi NZ Transport Agency		Disallow Retain EW-R1 as notified.	Accept	
FS25.82	Federated Farmers of New Zealand		Disallow	Accept	
S55.068	Heritage New Zealand Pouhere Taonga	EW-R3	Add the following to EW-R3(1)(a): ... ix. EW-S10.'	Reject	No
S55.069	Heritage New Zealand Pouhere Taonga	EW-R4	Add the following to EW-R4(1)(b): ... ix. EW-S10.'	Reject	No
S55.070	Heritage New Zealand Pouhere Taonga	EW-R7	Add the following to EW-R7(1)(a): ... ix. EW-S10.'	Reject	No
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:	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
			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.'		
FS5.091	Ngā hapū me ngā marae o Tamatea		Allow	Reject	
FS25.85	Federated Farmers of New Zealand		Disallow	Accept	
FS23.73	Kāinga Ora - Homes and Communities		Disallow	Accept	
S55.072	Heritage New Zealand Pouhere Taonga	EW-AM1	Retain EW-AM1 as notified.	Accept	No
S56.024	Powerco Limited	EW-R1	Retain EW-R1 as notified.	Accept in part	No
FS9.277	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S56.025	Powerco Limited	EW-S2	Retain EW-S2(3) & (4) as notified.	Accept	No
FS9.278	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S56.026	Powerco Limited	EW-S3	Retain EW-S3 as notified.	Accept	No
FS9.279	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S56.027	Powerco Limited	EW-S4	Retain EW-S4 as notified.	Accept	No
FS9.280	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S56.028	Powerco Limited	EW-S5	Retain EW-S5 as notified.	Accept	No
FS9.281	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S75.080	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-O1	Retain EW-O1 as proposed.	Accept in part	No
FS19.12	Penny Nelson, Director-General of Conservation (DOC)		Allow 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.'	Accept	Yes

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
FS19.13	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Accept	
S75.082	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P1	Retain EW-P1 as proposed.	Accept	No
FS19.14	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Accept	
S75.083	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P2	Retain EW-P2 as proposed.	Accept in part	No
FS19.15	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Accept in part	
S75.084	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P3	Retain EW-P3 as proposed.	Accept	No
FS19.16	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Accept	
S75.085	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P4	Retain EW-P4 as proposed.	Accept in part	No
FS19.17	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Accept in part	
S75.086	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P5	Retain EW-P5 as proposed.	Accept	No
S78.006	Waka Kotahi NZ Transport Agency	EW-R1	Retain EW-R1 as written.	Accept in part	No
S78.007	Waka Kotahi NZ Transport Agency	EW-AM5	Retain EW-AM5 as written.	Accept	No
S79.003	Transpower New Zealand Ltd	EARTHWORKS (Definition)	Retain the definition of 'Earthworks'.	Accept	No
FS3.001	First Gas Limited		Allow	Accept	
FS5.017	Ngā hapū me ngā marae o Tamatea		Allow	Accept	
S79.091	Transpower New Zealand Ltd	EW-P1	Retain EW-P1.	Accept	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
S79.092	Transpower New Zealand Ltd	EW-P7	Retain EW-P7.	Accept in part	No
S79.093	Transpower New Zealand Ltd	EW-R5	Retain EW-R5, and relocate to 'NU - Network Utilities' chapter.	Accept in part	No
FS25.83	Federated Farmers of New Zealand		Disallow	Reject	
S79.094	Transpower New Zealand Ltd	EW-S6	Retain EW-S6, and relocate to 'NU - Network Utilities' chapter.	Accept in part	No
FS25.86	Federated Farmers of New Zealand		Disallow	Accept	
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 fence lines, 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.'	Accept in part	Yes
FS6.1	NZ Pork Industry Board		Allow	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.'	Reject	No
FS6.7	NZ Pork Industry Board		Allow	Reject	
S81.088	Horticulture New Zealand	EW-R2	Retain EW-R2 (subject to exclusion sought in definition for 'Cultivation', or other consequential amendment).	Accept	No
S81.089	Horticulture New Zealand	EW-S2	Retain EW-S2.	Accept	No
S81.090	Horticulture New Zealand	EW-S5	Amend EW-S5 to add reference in the 'Notes' to 'HortNZ Erosion and Sediment Control Guidelines for Vegetable Production'.	Reject	No
S81.091	Horticulture New Zealand	EW-S6	Amend EW-S6 to clearly state that 'ancillary rural earthworks' are a permitted activity.	Reject	No
FS18.25	Transpower New Zealand Limited		Disallow	Accept	
S82.003	Aggregate and Quarry Association	EW-R1	Retain EW-R1(d) as proposed.	Accept	No
S82.004	Aggregate and Quarry Association	EW-S4	Amend EW-S4 to include an exception for quarries.	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
S82.006	Aggregate and Quarry Association	EW - Earthworks	Retain standalone 'EW - Earthworks' chapter with differentiated provisions relating to quarrying activities within it.	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 Maori.	Accept in part	No
FS25.78	Federated Farmers of New Zealand		Disallow	Accept in part	
FS23.82	Kāinga Ora - Homes and Communities		Allow in part	Accept in part	
S85.010	Rayonier Matarki Forests	EW-R2	Amend EW-R2 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part	No
S85.011	Rayonier Matarki Forests	EW-R3	Amend EW-R3 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part	No
S85.012	Rayonier Matarki Forests	EW-S2	Amend EW-S2 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part	No
S85.013	Rayonier Matarki Forests	EW-S3	Amend EW-S3 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part	No
S85.014	Rayonier Matarki Forests	EW-S4	Amend EW-S4 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part	No
S85.015	Rayonier Matarki Forests	EW-S5	Amend EW-S5 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part	No
S85.016	Rayonier Matarki Forests	EW-S6	Amend EW-S6 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part	No
FS18.26	Transpower New Zealand Limited		Allow	Accept in part	
S85.017	Rayonier Matarki Forests	EW-S7	Amend EW-S7 to exclude earthworks and land disturbance activities that relate to the NES-PF.	Accept in part	No
S85.020	Rayonier Matarki 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. '	Accept in part	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
S90.038	Centralines Limited	EW-R1	Retain EW-R1 as notified.	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: RDISMatters 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.'	Accept in part	Yes
FS25.84	Federated Farmers of New Zealand		Disallow	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.	Accept in part	
S90.040	Centralines Limited	EW-S8	Retain EW-S8 as notified.	Accept	No
S110.016	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	EW-R1	Amend EW-R1 as follows: '1. Activity Status: PER Where the following conditions are met: 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.'	Reject	No
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).	Accept in part	No
S117.066	Chorus New Zealand Limited	EW-R1	Retain EW-R1 as notified.	Accept in part	No
FS9.494	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S118.066	Spark New Zealand Trading Limited	EW-R1	Retain EW-R1 as notified.	Accept in part	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
S119.066	Vodafone New Zealand Limited	EW-R1	Retain EW-R1 as notified.	Accept in part	No
S121.072	Federated Farmers of New Zealand	EW-01	Amend EW-01 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.'	Accept in part	Yes
FS9.72	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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 adverse amenity effects inconsistent with the zoning and existing land uses on neighbouring sites or any Council reticulated stormwater system.'	Reject	No
FS9.74	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	
FS17.64	Horticulture New Zealand		Allow	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.'	Reject	No
FS9.75	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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.'	Accept in part	Yes
FS9.76	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S121.077	Federated Farmers of New Zealand	EW-P5	Retain EW-P5 as proposed.	Accept	No
FS9.77	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S121.078	Federated Farmers of New Zealand	EW-P6	Retain EW-P6 as proposed.	Accept	No
FS9.78	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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.'	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
FS9.79	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	
S121.084	Federated Farmers of New Zealand	EW-R1	Retain EW-R1 as proposed.	Accept in part	No
FS9.84	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
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.'	Reject	No
FS17.65	Horticulture New Zealand		Allow	Reject	
FS9.85	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	
FS3.018	First Gas Limited		Disallow	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 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. ...'	Reject	No
FS18.23	Transpower New Zealand Limited		Disallow	Accept	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
FS9.87	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	
FS17.66	Horticulture New Zealand		Allow	Reject	
S121.088	Federated Farmers of New Zealand	EW-R6	Delete EW-R6 (and all provisions for the Gas Transmission Network).	Reject	No
FS3.019	First Gas Limited		Disallow	Accept	
FS9.88	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	
S121.089	Federated Farmers of New Zealand	EW-S1	Retain EW-S1(1) as proposed.	Accept	No
FS9.89	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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.'	Accept in part	Yes
FS9.90	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S121.091	Federated Farmers of New Zealand	EW-S2	Retain EW-S2(3) & (4).	Accept	No
FS9.91	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
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.'	Accept in part	Yes
FS9.92	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S121.093	Federated Farmers of New Zealand	EW-S2	Retain EW-S2(7), (8) & (9) as proposed.	Accept	No
FS9.93	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S121.094	Federated Farmers of New Zealand	EW-S3	Amend EW-S3 as follows: 'Vertical Extent of Excavation	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
			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) 1.23 metres HNC2 / HNC6 ONF5 / ONF6 / ONF7 / ONF9 / ONF10 2.43 metres General Rural Zone / ONL1 3. 5 metres All Other Zones 4. 2.5 metres'		
FS9.94	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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.'	Reject	No
FS17.68	Horticulture New Zealand		Allow	Reject	
FS18.27	Transpower New Zealand Limited		Disallow	Accept	
FS9.97	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	
S121.098	Federated Farmers of New Zealand	EW-S7	Delete EW-S7.	Reject	No
FS9.98	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	
S121.099	Federated Farmers of New Zealand	EW-S8	Retain EW-S8 as proposed.	Accept	No
FS9.99	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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.'	Reject	Yes
FS9.231	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	
FS6.2	NZ Pork Industry Board		Allow	Reject	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
FS5.019	Ngā hapū me ngā marae o Tamatea		Disallow	Accept	
S121.233	Federated Farmers of New Zealand	EARTHWORKS (Definition)	Retain the definition of 'Earthworks' as proposed.	Accept	No
FS9.233	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
FS3.002	First Gas Limited		Allow	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.	Accept in part	No
FS25.79	Federated Farmers of New Zealand		Disallow	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: ...'	Reject	No
FS18.24	Transpower New Zealand Limited		Disallow	Accept	
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.	Accept in part	No
S129.237	Kāinga Ora - Homes and Communities (Kainga Ora)	EW - Earthworks	Amendments sought to 'EW - Earthworks' chapter.	Accept	No

Mining & Quarrying

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
S39.009	Kathryn Bayliss	EW - Earthworks	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Reject	No
S39.010	Kathryn Bayliss	EW-P8	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Reject	No
S39.011	Kathryn Bayliss	EW-P10	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Reject	No
S39.012	Kathryn Bayliss	EW-P11	Make hydrocarbon, fossil fuels including coal, gas, and oil mining activities prohibited.	Reject	No
S39.014	Kathryn Bayliss	EW-R3	Make hydrocarbon, fossil fuels including coal, gas and oil mining activities prohibited.	Reject	No
S39.015	Kathryn Bayliss	EW-R4	Make hydrocarbon, fossil fuels including coal, gas and oil mining activities prohibited.	Reject	No
S55.066	Heritage New Zealand Pouhere Taonga	EW-P11	Retain EW-P11 as notified.	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.'	Accept in part	Yes
FS19.18	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Accept in part	
S75.088	Royal Forest and Bird Protection Society NZ (Forest & Bird)	EW-P9	Delete EW-P9.	Reject	Yes
FS25.81	Federated Farmers of New Zealand		Disallow	Accept	
FS19.19	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Reject	
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'.	Accept	Yes
FS19.20	Penny Nelson, Director-General of Conservation (DOC)		Allow in part	Accept	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
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.'	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.'	Reject	No
FS9.498	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	
S82.002	Aggregate and Quarry Association	EW-R4	Retain EW-R4 as proposed.	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.	Reject	No
S85.019	Rayonier Matarki Forests	Definitions	Add a new definition for 'Forestry Quarry' as defined in the NES-PF. [clause 3 of the NES-PF defines as follows: ' 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.']	Accept	Yes
S98.002	Hatuma Lime Co Ltd	QUARRY (Definition)	Retain the definition of 'Quarry' as proposed.	Accept	No
S98.003	Hatuma Lime Co Ltd	QUARRYING ACTIVITIES (Definition)	Retain the definition of 'Quarrying Activities' as proposed.	Accept	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
S98.018	Hatuma Lime Co Ltd	GRUZ-RXX (new rule)	<p>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.</p>	Reject	No
S98.025	Hatuma Lime Co Ltd	EW-R4	<p>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) ...'</p>	Reject	No
S102.033	Te Mata Mushrooms Land Company Limited	EW-R4	Retain EW-R4.	Accept	No
S102.034	Te Mata Mushrooms Land Company Limited	EW-RXX (new rule)	<p>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 yardsGeneral Rural ZoneRural 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.'</p>	Reject	No
S121.073	Federated Farmers of New Zealand	EW-O2	<p>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.</p>	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer Recommendation	Amendments to Proposed Plan?
FS9.73	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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.	Accept in part	No
FS9.80	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
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.'	Accept in part	Yes
FS9.81	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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.	Accept in part	No
FS9.82	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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.	Accept in part	No
FS9.83	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Reject	
S121.086	Federated Farmers of New Zealand	EW-R4	Retain EW-R4 as proposed.	Accept	No
FS9.86	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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. '	Reject	No
FS9.245	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	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 cleanfilling 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. '	Reject	No
FS9.246	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Accept	