

**Before the Joint Freshwater Hearing Panel and Part 1 Schedule 1  
Hearing Panel Appointed by Wellington Regional Council  
to Hear Submissions on Proposed Change 1 to the Natural Resources  
Plan for the Wellington Region (PC1)**

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In the matter of: **the Resource Management Act 1991**

And: **Further Submissions Lodged on PC1  
by Meridian Energy Limited**

**HEARING STREAM 3  
RURAL, VEGETATION CLEARANCE, EARTHWORKS**

**SPEAKING NOTES OF CHRISTINE FOSTER  
(PLANNING WITNESS FOR MERIDIAN)**

**26 May 2025**

## 1. Introduction

1.1. My name is Christine Anne Foster. I prepared a statement of evidence dated 4 May 2025 for Hearing Stream 3. Since then, I have read the statements of rebuttal evidence of Mr Willis, Mr Watson and Ms Vivian (including Appendix 1 to the rebuttal evidence of Ms Vivian). I have also read the statements of evidence and suggested amendments to provisions proposed by planning witnesses for other submitters, notably:

- Pauline Whitney (for Transpower and Horokiwi Quarries Limited)
- Kirsty O’Sullivan (for Wellington International Airport Limited)
- Charles Horrell (for Winstone Aggregates)
- Cath Heppelthwaite (for NZTA)
- Caroline Horrox (for Wellington Water Limited)

1.2. I reiterate my commitment, stated in my statements of evidence to Hearing Streams 1, 2 and 3 to comply with the Code of Conduct for expert witnesses.

### **Rural Land Use and Vegetation Clearance Topics**

1.3. I note that Mr Willis and Mr Watson have recommended further amendments to provisions for the management of rural land use and vegetation clearance. None of their proposed further (blue text) amendments raise new issues of concern for Meridian’s submission points.

### **Earthworks Topic**

1.4. I acknowledge the further (blue text) amendments proposed by Ms Vivian, in response to submitters’ evidence. Many of Ms Vivian’s proposed amendments go a long way towards resolving Meridian’s concerns. In some respects, however, while Ms Vivian appears to agree on the principle of the issue raised by Meridian, the specific wording she proposes may need some refinement to completely address the issue. There remain one or two matters on which Ms Vivian does not accept the amendments I proposed in my statement of evidence.

1.5. I set out in the table attached to these speaking notes the remaining matters of difference between Ms Vivian and myself, together with some commentary on those differences. In the table, text shown in black font represents the publicly notified PC1 provisions. Text shown in **red font** represents the amendments Ms Vivian proposed in her s. 42A Report. The left-hand

column in the table sets out the amendments I proposed in my statement of evidence (shown in **green text**). The right-hand column sets out the **blue text** further amendments Ms Vivian proposes in her rebuttal statement.

**Proposed Policies WH.P29, WH.P31 and P.P27, P.P29:**

- 1.6. Publicly notified Policies WH.P31 and P.P29 specified a 1 June to 30 September ‘shutdown’ period during which earthworks would not be allowed. Meridian and other parties opposed these two policies. In her s. 42A, Ms Vivian recommended deleting these policies. I support deletion of this pair of policies for the reasons explained in my statement of evidence.
- 1.7. The accompanying pair of Policies WH.P29 and P.P27 set out how the adverse effects of sediment discharges from earthworks are to be managed, including during the period 1 June to 30 September. Ms Vivian has recommended some additional (blue text) amendments. These further blue text amendments do not, in my opinion, address the point I was making in my evidence and my suggested amendments – that earthworks activities need to be set up and implemented in a way that manages and minimises the adverse sedimentation effects caused by rainfall in all events and at all times.
- 1.8. Ms Vivian’s solution is to require that the *earthworks* are minimised. My solution is to ensure appropriate management and mitigation measures are in place to manage the risks of adverse effects so as to minimise sedimentation, including in heavy rainfall events and including during winter periods (1 June to 30 September), for all scales of earthworks. An aspect of that may be to minimise exposed areas as part of a suite of measures on a large construction site. It is not necessarily as simple as shrinking the area of works (and, for large projects, minimising the project area may not even be achievable). It is not clear what ‘minimising works’ means in this context.

**Proposed Rules WH.R24 and P.R23:**

- 1.9. The restricted discretionary activity rules for earthworks activities that do not meet prescribed standards (RDA Rules WH.R24 and P.R23) continue the ‘no winter works’ approach of Policies WH.P29, WH.P31 and P.P27, P.P29. Ms Vivian has recommended an exception for quarrying and renewable energy (*REG*) shown in blue text. While I support the exception for REG, I do not understand why this exception is limited to REG and quarrying. REG is, by definition, regionally significant infrastructure. There are other forms of regionally significant infrastructure that

similarly have national benefits, the constraints associated with large project areas and the need to continue construction work through winter. In my evidence, I proposed an amendment to the listed discretionary matters to ensure that the requirements for and effects of 'winter works' can be addressed in detail through the consent process. My proposal would apply to all construction projects (without the need to nominate exceptions such as quarrying and REG). I remain of the view that my proposed approach is a more appropriate response to the issues associated with winter works.

1.10. I also note that Ms Vivian uses the expression 'renewable energy production' in her proposed exception clause (b). The relevant operative Natural Resources Plan definition is: 'renewable energy generation activities'. This differs slightly from the NPS-IB and from RPS Change 1 which contain the definition 'renewable electricity generation activities'. Perhaps, for the Natural Resources Plan, it would be administratively simplest to use the defined term 'renewable energy generation activities' if an exception for REG is to be included as proposed by Ms Vivian.

**Proposed Rules WH.R23A and P.R22A:**

1.11. I highlighted in my evidence the omission of bores, including geotechnical bores, from the listed permitted earthworks activities in Rules WH.R23A and P.R22A. Ms Vivian's reason is (as explained on page 22 of the table attached to her rebuttal statement) that the construction of bores and or geotechnical bores should be undertaken in a manner that complies with the permitted activity requirements of Rules WH.R23 and P.R22. Rules WH.R23 and P.R22 are the permitted activity rules for all earthworks. Rules WH.R23A and P.R22A are the permitted activity rules for minor earthworks associated with infrastructure. I agree that bores, including geotechnical bores, are not necessarily confined to infrastructure projects. I take Ms Vivian's point about meeting minimum standards, but note that the permitted activity standards are identical in both sets of rules:

- (i) no earthworks within 5m of a surface water body or coastal marine area
- (ii) soil or debris is not placed where it can enter a surface water body or coastal marine area, including via a stormwater network
- (iii) earthworks must be stabilised within six months
- (iv) there is no discharge of sediment to surface water or the coastal marine area
- (v) erosion and sediment control measures are used to prevent sediment discharge

- 1.12. I accept that bores are not only required for infrastructure projects and do not particularly need to be included only in the minor infrastructure earthworks rules. In my experience, they are, by their nature, usually minor components of a much larger earthworks project and, for infrastructure, sit naturally within the listed 'minor' activities.
- 1.13. I raise issues with the five permitted activity standards, in the context of the minor infrastructure earthwork rules (WH.R23A and P.R22A). For some infrastructure construction activities (e.g. building or repairing stormwater outlets, culverts, bridges) being within 5m of a surface water body will be unavoidable. The point made in my evidence is that the standard requiring the implementation of erosion and sediment control measures is the more important, to prevent and manage sediment discharges. It remains my view that the other four listed conditions could be replaced by the fifth – the requirement for sediment control measures.
- 1.14. Listed condition (i) will, in my opinion, trigger the need for many unnecessary applications for consent. The result of those applications is likely to be a consent with a condition requiring implementation of erosion and sediment control measures to prevent and manage sediment discharges. In my opinion, the Plan should grapple with this reality by replacing the five-item list with one – worded as I suggested in my evidence or similar.
- 1.15. I support Ms Vivian's recommendation to delete condition (d) which required 'no discharge of sediment' because I consider this to be unrealistic. Again, I consider the single condition I propose can achieve minimisation of sedimentation. I note that the expression 'minimise' I use in my suggested wording is defined in the operative Natural Resources Plan and means: 'Reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning'. I also agree with Ms Vivian that the 'and' at the end of each listed earthworks activity should be 'or'.

#### **Default Rules WH.R25 and P.R24**

- 1.16. Meridian opposed the non-complying activity status of the ultimate default rule for earthworks not provided for by other permitted activity and restricted discretionary activity rules. Ms Vivian has proposed amending the non-complying activity status to discretionary activity. In

my evidence I supported a restricted discretionary activity status as being sufficient to consider all of the relevant matters for all earthworks for all activities (not just REG).

1.17. Ms Vivian's recommendation fixes a gap in the rule framework - in that there was no clear pathway for earthworks that did not meet the standards of Rules WH.R23, WH.R23A, R.P22A, WH.R24 or P.R23. Ms Vivian has referenced these in her proposed discretionary activity default rules.

1.18. Given that some of the precursor rules restricted discretionary activities, with listed standards, I can accept that discretionary activity is logical as the ultimate default. This framework aligns with the framework of Rules R106 and R107 of the operative Natural Resources Plan that Meridian supported through mediation of appeals. Also, importantly, Ms Vivian's recommended exception from the winter 'shutdown' limit for REG and deletion of proposed Policies WH.P31 and P.P29 create a more workable discretionary activity framework.

## **Conclusion**

1.19. I note that other planning witnesses have suggested alternative wording for the provisions I discuss in the foregoing sections and that some have suggested conferencing of planning witnesses. I agree that conferencing may be the most efficient way of exploring and settling the most appropriate wording.

**Christine Anne Foster**

**26 May 2025**