

Natural Resources Plan – Proposed Plan Change 1

**Hearing Stream 3 – Rural land use activities, Forestry and Vegetation
Clearance, and Earthworks
(Hearing Stream 3)**

Speaking Notes

Charles Horrell

on behalf of Winstone Aggregates

1. My name is Charles Horrell. I am a Planner at Boffa Miskell Limited. I provided a statement of planning evidence on Hearing Stream 3, on behalf of Winstone Aggregates. I understand that my statement evidence has been taken as read.
2. To begin, I would like to acknowledge the Section 42A Report Authors and their efforts in meaningfully responding to matters raised in Winstone's submission and my evidence. After reviewing the latest rebuttal evidence from the Reporting Officers, I note that many of the areas that remained in contention when preparing my evidence in chief have now been resolved.
3. Therefore, to assist the Panels today, I will largely limit my comments to the main outstanding matters in contention.

Freshwater Planning Process

4. Winstone had sought the provisions of Proposed Plan Change 1 are appropriately allocated, with the Freshwater Planning Process (**FPP**) only used where those provision meet the legal tests. In my evidence in chief, I have considered the allocation of provision in this hearing stream and largely agreed with the proposed allocation, with the exception of provisions relating to highest erosion risk land (woody vegetation), that I consider should be reallocated to a Part 1 Schedule 1 (P1S1) Process.

5. Mr Watson has considered my evidence, and his view remains that the allocation of those provisions is appropriate as FPP¹. While I acknowledge Mr Watson's view, I note that no further specific consideration of the tests for allocation provisions to FPP has been undertaken. In the absence of further reasons why the provisions remain FPP (including considering the legal tests set out in my evidence in chief) I retain my position that the provisions should be allocated to a P1S1 process for the reasons set out in paragraphs 5.5 – 5.11 of my evidence in chief.
6. Notwithstanding this difference of opinion for the allocation of the notified provisions, it would be useful if Mr Watson could further clarify his position on the allocation of the provisions recommended. As noted in my evidence in chief, if those provisions are now 'coastal provisions' – being that they relate to a potential discharge to coastal water – they must be reallocated to the P1S1 process. I may have interpreted Mr Watson's response incorrectly, but it would appear that he agrees that the updates to Rules WH.R17 – WH.R19 mean they are now 'coastal provisions' (given they adopt similar wording to R104 – R107 of the NRP)². This being the case, it's unclear why they would not be reallocated to a P1S1 process.

Definitions

7. Winstone had sought that exemptions are included in the definition of 'earthworks' similar to what is included in the same definition of the Operative Natural Resources Plan. In my evidence in chief, I supported Ms Vivian's recommendation to include those relevant exemptions from the Operative Earthworks definition as a new permitted rule (WH.R23A). However, I noted that the drafting indicated all of the exemptions as conjunctive (e.g. use of 'and' rather than 'or'). I see that Ms Vivian has now largely addressed this. While I would suggest also updating the 'and's to 'or's in clause (b) for further clarity, I consider that the

¹ Pont 1 of Table 1 of the Rebuttal Evidence for Forestry and Vegetation Clearance

² Paragraph 1 of the 'response' in Table 1 of the Rebuttal Evidence for Forestry and Vegetation Clearance

recommended changes ensure that the rule operates as intended (and would not be frustrated).

8. Winstone have sought the inclusion of 'significant mineral resources' as a defined term – and derived from the Wellington Regional Policy Statement. In my evidence in chief, I noted that Ms Vivian had indicated this rejection of Winstone's submission point seeking the definition in her s42A report. In Ms Vivian's rebuttal evidence, she has clarified that the inclusion was rejected as it already exists in the Operative Natural Resources Plan. Provided that definition can be relied upon for its reference to other consequential relief Winstone have sought (largely relating to stormwater provisions), I am satisfied that this matter does not need to be pursued further.

Policy WH.P25 and P.P24 “Managing rural land use change”

9. Winstone had sought changes to Policies WH.P25 and P.P24 to ensure the reference to 'rural land uses' did not capture quarrying activities. In my evidence in chief, I have supported Mr Willis's change to Policies WH.P25 and P.P24 to include reference to 'primary production' rather than 'rural land uses' in response to Winstone's submission points. Mr Willis has also helpfully clarified that those policies are not intended to capture quarrying activities. However, I note that the definition of primary production would still inadvertently capture quarrying activities as a form of primary production. To avoid misinterpretation and to ensure the policy meets the intent, I suggest that the reference is updated to 'land based primarily production' – a term derived from the National Policy Statement for Highly productive land and excluded quarrying activities. I have shown those changes below (additions in **red**):

Managing land based primary production land use change

Managing land based primary production land use change Manage the actual and potential adverse effects of changing land use from low to higher intensity rural primary production land use by:

- (a) controlling land based primary production land use change that is greater than 45ha and associated diffuse discharge where there is a risk the diffuse discharges of nitrogen, phosphorus, sediment or Escherichia coli may increase, and
- (b) only granting resource consent for such a change in land use when, in accordance with Policy P75, the diffuse discharge of nitrogen, phosphorus,

sediment and Escherichia coli of the more intensive activity is demonstrated to be the same or less than the activities being replaced.

Policy WH.P29 and P.P27 “Management of earthworks”

10. Winstone had sought changes to the policy direction to remove the winter earthworks close down period requirement, noting the practical constraints for quarrying which requires year round earthworks. In my evidence in chief, I have largely supported Ms Vivian’s recommended changes to Policies WH.P29 and P.P27 and supported her recommended deletion of Policies WH.P31 and P.P29 (winter earthworks). However, I did seek that the decision of clause (e) in policies WH.P29 and P.P27 which relates to a winter earthworks close down period, include an exemption for quarrying activities. Ms Vivian has responded to this in her rebuttal evidence and agreed that the clause should be amended to provide for the exemption. While an updated version of the Policy has not been provided yet, I support the changes indicated by Ms Vivian in her rebuttal evidence. Those changes being to amend clause (e) of Policies WH.P29 and P.P27 as shown below (additions in **red**):

(e) minimising works required during the close down period (from 1st June to 30th September each year), **except where the earthworks are required for quarrying activities.**

Policies WH.P30 and P.P28 “Discharge standard for earthworks”

11. Winstone had sought changes to Policies WH.P30 and P.P28 remove some of the prescription in the rule and to allow for practical implementation. In my evidence in chief, I have largely supported the changes recommended by Ms Vivian but had sought amendments to the policies to include reference to ‘suitably trained’ for the competency of the individual monitoring sediment discharges in clause (c), and general changes to the chapeau of the policy to ensure it reads more as a policy than a consent condition. Ms Vivian has responded to this in her rebuttal evidence and recommended changes that satisfy those matters. I therefore support the amended policies as drafted and consider it appropriately responds to Winstone’s relief.

Rules WH.R24 and P.R23 “Earthworks – restricted discretionary activity”

12. Winstone had sought changes to Rules WH.R24 and P.R23 to remove the limitation on earthworks undertaking during the winter months. In my evidence in chief, I have sought amendments to the rules to provide for Winstone’s relief by allowing an exemption to the winter earthworks period where the earthworks are associated with quarrying activities. Those amendments include an exemption in both condition (b) and matter of discretion (8).
13. Ms Vivian has considered those changes in her rebuttal evidence and agrees. While she has not provided updated wording, I understand that her intent is to adopt the similar wording proposed in my evidence.
14. To assist Ms Vivian and the Panel, I have shown suggested changes to condition (b) and matter of discretion (8) of Rules WH.R24 and P.R23 below that would capture Winstone’s relief, while also ensuring consistency with the other exemption proposed by Ms Vivian (additions in **red**):

(b) except for those associated with quarrying **activities and or** the use, development, operation, maintenance of renewable energy production, earthworks shall not occur between 1st June and 30th September in any year where works are located within a Part Freshwater Management Unit where the target attribute state for suspended fine sediment in Table 9.2 is not met.

8. Preparation required for the close-down period (from 1st June to 30th September each year) and any maintenance activities required during this period, **except for those earthworks associated with quarrying activities or the use, development, operation, maintenance of renewable energy production.**


Conclusion

15. Lastly, I would just like to note my ongoing support for recommendations by the Reporting Officers in their s42A Reports in response to Winstone’s relief, including:

- the deletion of the winter earthworks shut down policies (WH.P31 and P.P29),
- the change of the activity status from non-complying to discretionary in Rules WH.R25 and P.R24, and

- The amendments to the Erosion Prone Land Rules (WH.R17 – R19 and P.R16 – R18) to reflect the similar rules in the Operative NRP.

16. I would be happy to answer any questions the Panel has in relation to these notes or my evidence.



Charles Horrell

29 May 2025