

Hearing Stream 3 – Day 5 – Part 1**Greater Wellington Regional Council****HEARING STREAM 3****Rural land use activities, Forestry and Vegetation Clearance,
And Earthworks**Date: Friday, 30th May 2025

Time: 8.45am

Hearing Stream: Three

Venue: Greater Wellington Regional Council Chamber
100 Cuba Street, Te Aro, WellingtonHearing Panel: Dhilum Nightingale (Chair)
Sharon McGarry (Deputy Chair)
Puāwai Kake
Gillian Wratt
Sarah Stevenson

1 [NRP PC1 HS3 Day 5 – Part 1]

[Begins 00.47.13]

2 Nightingale: Kia ora everyone. Welcome to day five of Hearing Stream Three, the final day
3 of submitter presentations. We will begin, Mr Ruddock, with karakia.4
5 Ruddock: Thank you, Commissioner.6
7 *Whakataka te hau ki te uru,*
8 *Whakataka te hau ki te tonga.*
9 *Kia mākinakina ki uta,*
10 *Kia mātaratara ki tai.*
11 *E hī ake ana te atakura.*
12 *He tio, he huka, he hau hū*
13 *Haumi e, hui e, taiki e!*
1415 Nightingale: Kia ora. We're the panel that are hearing submitters and making
16 recommendations on the PC1 provisions. My name is Dhilum Nightingale. I am
17 a barrister based in Wellington. I've been practicing as a lawyer for some 25
18 years and chairing the Freshwater Panel and the Part 1 Schedule 1 Panel. Pass
19 over to Commissioner McGarry.
20

- 21 McGarry: Mōrena. My name's Sharon McGarry. I'm an independent commissioner based
22 out of Ōtautahi, Christchurch.
23
- 24 Kake: Ata mārie. Ko Puāwai Kake tōku ingoa. I'm a planner and commissioner from
25 Northland, Te Tai Tokerau.
26
- 27 Wratt: Kia ora. Mōrena. Gillian Wratt. I'm an independent commissioner based in
28 Whakatū, Nelson.
29
- 30 Stevenson: Ngā mihi nui kia koutou. Ko Sarah Stevenson tōku ingoa. An independent
31 planner and commissioner based here in Te-Whanganui-a-Tara, Wellington.
32
- 33 Nightingale: And the council officers and staff in the room, if they can introduce themselves.
34
- 35 Ruddock: Tēnā koutou katoa. Ko Josh Ruddock ahau. Ko hearings advisor for Greater
36 Wellington.
37
- 38 Vivian: Mōrena koutou. Alisha Vivian, reporting officer for the earthworks topic and
39 senior policy advisor here at Greater Wellington.
40
- 41 Watson: Kia ora koutou. Shannon Watson. I'm the reporting officer for the forestry and
42 vegetation clearance topic, and I'm an independent consultant from GHD.
43
- 44 Nightingale: Thank you. Mr Ruddock, did you want to go through any messages before we
45 begin?
46
- 47 Ruddock: Thank you, Commissioner. Regarding the health and safety brief. I believe we're
48 all online for the morning, so we'll skip that part. For everyone joining online,
49 can speakers please introduce themselves by name before each instance of
50 speaking for transcription purposes.
51 [00.50.03]
- 52 Online viewers, you'll have your camera and microphone unlocked when it's
53 your scheduled speaking slot. We have Ms McLeod online with her camera and
54 mic enabled currently. There is a timing bell to indicate certain time points. One
55 ring means that there's 10 minutes left. Two rings indicates that the submitter's
56 timeslot has finished, however the panel may choose to continue with questions
57 following the two rings, if suitable. Thank you.
58
- 59 Nightingale: Thank you. We welcome New Zealand Carbon Farming Group. Is it Ms
60 McLeod, Mr Casey and Ms Westman? I think you're all online.
61
- 62 McLeod: Good morning. Ainsley McLeod. I'm an independent.
63
- 64 Nightingale: You're there but I don't know if your camera is working. There you are.
65 Morning.
66
- 67 McLeod: Good morning. Ainsley McLeod here.
68 Nightingale: No sound, sorry. Sorry, Ms McLeod. Sorry, a few technical issues here but we
69 are getting them sorted.
70
- 71 Ruddock: Kia ora, Ms McLeod. If you could say something we'll test if it's working.
72

73 McLeod: Okay. Hi there. Me again.

74
75 Nightingale: Yes, that's working. Thank you very much. Welcome. We have pre-read your
76 submission, and good morning Mr Casey and Ms Westman. We do know that
77 you presented on a lot of these matters in Hearing Stream 1, so we are aware of
78 that, and Ms McLeod, we have your planning evidence statement so over to you.
79 We've got a good amount of time with you, which is really good, till 10 o'clock.
80 So we'll leave you to present but obviously leave lots of time for questions.
81 Thank you.

82
83 **New Zealand Carbon Farming Group – Peter Casey, Ainsley McLeod and**
84 **Tayla Westman**

85
86 Casey: I'll lead off. My name is Peter Casey. I'm the chief executive officer of New
87 Zealand Carbon Farming Group, and I've been with the company for eight years.
88 I'm joined today by my colleague, Tayla Westman, and also Ainsley on the other
89 screen. And as you flagged, we presented to the Hearing 1 Stream in November
90 last year.

91
92 Just in terms of New Zealand Carbon Farming Group, it's the largest New
93 Zealand owner of plant and managed forests. 80,000 hectare estate, which
94 includes 68,000 hectares of permanent forests carefully managed to regenerate
95 and transition to native forest over time. A managed regime is intensive with
96 nurse crop establishment, intensive pest animal control, thinning and canopy
97 management, enrichment native planting, fire mitigation, forest health, and
98 working towards a really resilient, long-term, permanent forest.

99
100 Our commercial objectives and our ecological objectives are very much aligned.
101 The focus of the business is two things. First of all is to sequest carbon to make
102 a difference in mitigating climate change. We're buying time, we're not actually
103 solving the source problem. But also to provide a really long-term, lasting legacy
104 of resilient permanent forest, biodiverse native forest. So a long-term length
105 stewardship is really important to us, both from a values perspective but also
106 commercially.

107
108 Myself, my qualifications and professional background. I have a Bachelor of
109 Forestry Science with Honours, a post-graduate Diploma of Accounting, a
110 Master of Business Administration. I'm also a chartered accountant. I'm chair
111 of the Registration Board of the New Zealand Institute of Forestry. I've been a
112 member of that institute since 1983 and I'm currently also a registered forest
113 professional and have a current Certificate of Practising for Registration.

114 [00.54.59]

115 I have 23 years of experience in the forestry sector as a professional across
116 forestation, forest resource planning, forest regulation, forest harvesting and
117 forest management. I've also held senior roles in the transport property
118 investment at [55.14] sectors, and my experience spans both public sector and
119 private sector.

120
121 The key focus in our submission was highlighting the plan's aversion to
122 including the prohibition of the role of planted trees and a continuous carbon
123 forestry on steep land country, in particular LEC [55.33] 7 and 8. Also, the plan

124 change did not cater and recognise the important role or functionality of the more
125 recent NES-CF versus the former NES-PF.

126
127 I have significant experience in the forestation of steep land country, its ongoing
128 maintenance, and its benefit to good land stewardship. Mostly helpfully, [55.58]
129 expert advice has highlighted the benefits of continuous-cover forestry. The
130 evidence from James Mitchell was quite enlightening and very positive. The
131 permanent forestry managed will not be harvested, so Mr Blythe's comments are
132 very appropriate. Some comments, Mr Blythe, which I think are helpful just to
133 focus on where his report clearly outlines from a water quality sediment yield
134 and long-term stewardship perspective, there's very significant benefits of
135 permanent, continuous-cover of forest.

136
137 Just some comments from Mr Blythe. He stated, 'If permanent, continuous-
138 cover forests are unlikely to be harvested they are considered to have similar
139 long-term sediment generation rates as native forests once matured. Native
140 forests, mature plantation of forests and shrubland can reduce erosion by up to
141 90% when compared to pasture. Estimates of erosion rates of North Island hill
142 country for pastureland were 8 to 17 times greater than native forest. Mature,
143 closed canopy indigenous or plantation forestry also typically reduced sediment
144 yield by up to 90% compared to pasture catchments. And also, he even proved
145 the impact of good forest cover in terms of mitigating peak flow flooding.
146 Plantation forests under canopy closure has the potential to reduce streambank
147 erosion of the long-term driven by climate geographical [57.33] changes, but this
148 also reduces peak flows by up to 50% out of the catchment over the non-harvest
149 cycle, and therefore the erosive nature of the floods were reduced.'

150
151 I hand over Ainsley with her evidence produced in our submission and we look
152 forward to any questions and how we can help you with your queries. Thank you
153 very much.

154
155 McLeod: Thank you, Peter. I'm Ainsley McLeod. I'm an independent planning consultant
156 assistant assisting New Zealand Carbon Farming. My evidence considers the
157 relief sought by New Zealand Carbon Farming and addresses the relevant
158 Section 42A Report recommendations. New Zealand Carbon Farming's
159 submission is primarily concerned with the relationship between the proposed
160 plan change and the NES-CF, along with its predecessor, the NES-PF, and
161 consequently how the provisions of the proposed plan change impact on
162 permanent forest for carbons sequestration purposes.

163
164 My evidence gives consideration to the consequences of the Section 42A Report
165 recommendation to reference the NES-CF in the proposed plan change, rather
166 than as notified the NES-PF. My evidence concludes that reference in the NES-
167 CF materially changes the scope and regulatory impact of the proposed plan
168 change in respect of permanent forests. My evidence goes on to conclude that
169 the resulting regulation of permanent forest is not supported by evidence nor
170 rigorously tested in terms of section 32AA.

171
172 I have reviewed Mr Watson's rebuttal evidence and acknowledge his agreements
173 that afforestation and replanting of exotic continuous-cover forests are not within
174 the scope of the plan change as notified. To address this, Mr Watson
175 recommends amendments to the explanatory notes to provide direction that

176 afforestation and replanting for exotic continuous-cover forestry, is not covered
 177 by the plan change and is managed solely by the NES-CF.

178
 179 I have reviewed the 26th of May rebuttal evidence version of the plan change
 180 provisions, and consistent with my opinion expressed in my evidence, confirm
 181 my support for the following: The inclusion of a definition of exotic continuous-
 182 cover forest or exotic continuous-cover forestry. The inclusion of a definition of
 183 indigenous forest.

184 [00.59.59]

185 The amendment to the note that accompanies Rule WH.R20 and P.R19 that
 186 confirms that the rules do not apply to exotic continuous-cover forestry. And
 187 finally, the amendment to Rules WH.R20 and P.R19 that further confirms that
 188 the rules do not apply to exotic continuous-cover forestry.

189
 190 I consider that these rebuttal evidence amendments achieve New Zealand
 191 Carbon Farming's primary relief in its submission, and I describe that
 192 submission and address it in my evidence. As such, I am of a view that the
 193 alternate relief set out in my evidence is not necessary to achieve the outcome
 194 sought in New Zealand Carbon Farming's submission.

195
 196 My evidence also addresses policy WH.P28 and P26. I don't suggest any
 197 amendments to the policy in my evidence beyond those recommended in the
 198 Section 42A Report, with the exception of a suggestion that the policies would
 199 benefit from the inclusion of a clause encouraging continuous-cover forestry.

200
 201 Mr Watson's rebuttal evidence responds to my observation that the policies are
 202 framed as a direction for the subsequent management and do not add value in
 203 the consideration of any future application for resource consent by
 204 recommending amendments to the policies. I have reviewed the recommended
 205 amendments and note that the amendments are substantial.

206
 207 In this regard, consistent with my evidence, I acknowledge and support
 208 recommended new clause (f), that directs promoting and supporting indigenous
 209 forests and exotic continuous-cover forests. For the same reasons, I also support
 210 the recommended amendment to Method M44A. That said, as a final matter, I
 211 note that the amendments recommended in the rebuttal evidence also include a
 212 new clause (c) that directs the avoidance of significant adverse effects. Having
 213 reviewed the rebuttal evidence, the rationale for this change is not clear. In my
 214 view, the introduction of an absolute avoid direction for significant adverse
 215 effects is a very substantial change to the outcome directed by the policies when
 216 compared to the notified and Section 42A versions. I consider that such a change
 217 necessitates a fulsome and transparent consideration under section 32AA and
 218 including in respect of the relevant operative higher order planning provisions.

219
 220 I am happy to take any questions from here.

221
 222 Nightingale: Thank you very much. Just a very quick, it's almost admin in nature really. Ms
 223 McLeod. Sorry, Commissioner Nightingale here. You noted your support for the
 224 definition of indigenous forest that in the officer's rebuttal version that refers to
 225 plantation forestry, but Mr Watson confirmed on either Monday or Tuesday this
 226 week that that was an error and it would be commercial forestry. So just pointing

- 227 that out. I think that's the only time that a plantation forestry has accidentally
 228 crept in. So just noting that.
- 229
- 230 McLeod: Yes.
- 231
- 232 Nightingale: We did look at this WH.P28(c), the provision you raised, the avoiding significant
 233 adverse effects and otherwise minimising. Ms McLeod, would this still, given
 234 the, I don't know if you call it an exemption, but now that afforestation is to be
 235 regulated solely under the NES-PF, this policy P28 could still provide policy
 236 support, isn't it, for permanent exotic forest. Is that right?
- 237
- 238 McLeod: Yes. Looking at the rebuttal version of that policy, I think it still has a role to
 239 play for permanent forests, because if a resource consent were triggered under
 240 the NES-CF for a permanent forest, then the objectives and policies of the plan
 241 would become relevant to the consideration of that resource consent. When I was
 242 considering this policy I was thinking about the interplay between new clause
 243 (f), the, "promoting and supporting" with the, "avoid significant adverse
 244 effects," and how those two clauses might interact with each other. I haven't
 245 gone so far as to recommend any deletion, because my main point is I haven't
 246 been able to follow the rationale for the introduction of the avoid clause, and
 247 depending on where that comes from, I do think probably clause (f) provides a
 248 pathway through that policy for permanent forest.
- 249 [01.05.17]
- 250 Watson: Mr Watson. Can I answer that question?
- 251
- 252 Nightingale: Yes.
- 253
- 254 Watson: I guess the avoidance direction comes in to give support to the RPS Policy CC6,
 255 which is under appeal, and a pretty strong avoid directive for plantation forestry,
 256 not permanent forestry, just to kind of make that clear. So that's where that
 257 avoidance and that significant adverse effects policy lens comes in. I guess, it's
 258 to try and support Policy CC6 recognising that it's under appeal and so rules
 259 which give effect to CC6 are probably a little bit premature.
- 260
- 261 McLeod: Yes, I understand that, and probably I was clear in my summary statement before
 262 around the operative nature of the provisions versus those that are subject to
 263 appeal. I wonder if that clause is targeted particularly at plantation forestry,
 264 whether there is perhaps the ability to be more specific in clause (c) around that
 265 so there's not that kind of friction between clause (c) and clause (f).
- 266
- 267 McGarry: Commissioner McGarry. Isn't clause (c) though also giving effect to section 107,
 268 which is an environmental bottom line?
- 269
- 270 McLeod: Is that a question for me?
- 271
- 272 McGarry: I'm interested to hear from both you and Mr Watson on that.
- 273
- 274 McLeod: Yes, I do appreciate and acknowledge that, and I think, when thinking about
 275 permanent forests, the potential for a significant adverse effect is probably quite
 276 low.
- 277

- 278 Watson: Mr Watson. Yes, I agree. The clause is more related to plantation forestry and
 279 providing Greater Wellington with a mechanism to, I guess encourage or not
 280 require, but push plantation forestry where it's been shown to have significant
 281 adverse effects more towards alternative forestry types, such as permanent
 282 forestry or native forestry, and also to require bigger setbacks and things like
 283 that. It's focussed on right tree, right place ultimately.
 284
- 285 Nightingale: Commissioner Nightingale. This question's a little bit, not directly relevant to
 286 the PC1 provisions other than perhaps just helping me understand the
 287 implications of that policy P28 that we were looking at, and the equivalent in
 288 Porirua. The NES-CF has a discretionary activity rule for exotic continuous-
 289 cover forests for harvesting, other than low intensity harvesting in Erosion
 290 Susceptibility Classification zones. And Mr Casey, it might be something you
 291 might want to comment on, but I'm trying to think back to your presentation in
 292 Hearing Stream 1. Are you able to talk about when it is that your members, just
 293 could you comment a bit about when it is that your members do harvest, and also
 294 low intensity harvesting? Just to give me some context around that.
 295
- 296 Casey: I'm not sure what the question is. If it's about our particular estate or about the
 297 general term of continuous-cover forestry from a wider industry perspective.
 298 Can you clarify the question?
 299
- 300 Nightingale: Yes, sorry. Just some context around, so there's a discretionary activity rule in
 301 the NES-CF for exotic continuous forestry. I've just lost it.
 302 [01.10.00]
 303 It's 71C and it says, "Harvesting, other than low intensity harvesting in all
 304 Erosion Susceptibility Classification zones is a discretionary activity." So just a
 305 little bit of context around when. I appreciate these are permanent forests but at
 306 some point there would be harvesting, wouldn't there?
 307
- 308 Casey: No. There's two potential scenarios. Our forests that we manage will never be
 309 harvested. There is going to be management, which is thinning of the trees, but
 310 also you get natural senescence of the trees, and they thin themselves. The nurse
 311 crop grows out and will thin itself over time, it's a pioneer species, and then other
 312 forest types will come through now, the forest types. So that's one scenario of a
 313 continuous-cover forest.
 314
- 315 There are other smaller scale in the Wellington region. For example, there are
 316 people who manage native beech forests on a continuous-cover basis. They
 317 manage trees within there with continuous-cover, and they cut down [01.11.09]
 318 harvest individual trees over time but they still maintain the canopy. So that's an
 319 example of a low impact continuous-cover forest with timber extraction. In our
 320 forest we don't extract timber. Have I answered the question? I think it's because
 321 there's a broad spectrum. Continuous-cover forestry covers a broad spectrum of
 322 forest types, and also how those forests are actually managed as well.
 323
- 324 The key thing about continuous-cover is actually you have a continuous-cover
 325 of a canopy, which going back to Mr Blyth's evidence is a critical part in terms
 326 of managing stewardship of the land from a sediment yield and from a flooding,
 327 a water flood. I acknowledge earthworks are a big driver often of sediment yield,
 328 so how that's managed perhaps would be covered by the NES-CF anyway, so
 329 that's the earthwork. Is that helpful?

- 330
331 Nightingale: Yes, thank you. So the earthworks provisions in the NES-CF, they apply to all
332 commercial forestry activity, so I don't think they differentiate between
333 plantation and exotic continuous-cover.
334
- 335 Casey: Yes, so we do tracks because we need access into our forests, and we do
336 Earthwork Management Plans as required under the NES-CF, which is quite
337 different from harvest and extraction.
338
- 339 Nightingale: Okay, thank you. And of course these provisions, both in PC1 and NES-CF
340 apply, as you say, to broader types of forests. It's not just those that are managed
341 by NZCEF in terms of the exotic continuous-cover. I'm just trying to better
342 understand the appropriateness of the policy provisions as they would apply to
343 exotic forests.
344
- 345 Casey: Just to add to that, our forest become a mixed-species forest from age 40-50. We
346 have actually got exotic species and native species together.
347
- 348 Nightingale: Commissioner Nightingale again. The PC1 provisions, they move towards
349 classification based on what's been mapped as potential erosion risk land, which
350 is the mapping that Mr Nation and Mr Blyth have worked on. Have I got it right
351 that that land that's been identified in those maps, that applies to all commercial
352 forestry, doesn't it? Yes. Sorry, I was just checking I understand the exclusion.
353 [01.14.59]
- 354 So the NES-CF provisions apply to afforestation for exotic continuous-cover
355 forestry but the potential erosion risk land identification in PC1 continues to
356 apply to exotic continuous-cover forestry? Have I got that right? Sorry, Mr
357 Watson is able to comment. Thanks.
358
- 359 Watson: Mr Watson. No. The exotic continuous-cover forestry is not covered by PC1 in
360 terms of afforestation. It's only managed by the NES.
361
- 362 Nightingale: Only managed. Right. So then it's the Erosion Susceptibility Classification zones
363 as defined in the NES-CF that apply to exotic continuous-cover forestry?
364
- 365 Watson: From the erosion perspective. Like from an erosion classification perspective,
366 yes. Basically, what the NES requires is afforestation for all exotic continuous-
367 cover forestry to meet whatever regulations are in the NES in terms of permitted
368 activity standards. Regardless of whether it's continuous-cover or plantation
369 forestry, the same standards apply to afforestation.
370
- 371 Nightingale: I think I understand on the standards but it's more the mapping, the identification
372 of the areas where erosion risk needs to be managed.
373
- 374 Watson: There's no differentiation for erosion risk management under the NES for
375 afforestation as far as I'm aware. It's all treated the same, other than earthworks.
376 So, in the context of afforestation there's no differentiation between the erosion
377 risk classification from memory. I would have to doublecheck that, but I don't
378 think there is. But earthworks and things would be managed differently
379 depending on the Erosion Susceptibility Classification that appears in the NES.
380

- 381 Nightingale: Okay. Is that potentially confusing for forest operators? Is there a chance that
 382 they could actually have different rules applying to them? Different standards
 383 depending on whether the mapping's done under PC1 or under the NES
 384 classification zones, or is that?
 385
- 386 Watson: Mr Watson. I wouldn't think there's any conflict or confusion because the PC1
 387 rules only apply where you're not meeting TAS and you've got a default
 388 restricted discretionary activity status anyway, if you're an activity that's
 389 regulated under PC1. So it's not tied to the erosion risk classification in any kind
 390 of way in terms of a rule trigger. If that makes sense.
 391
- 392 Nightingale: Can I ask Ms McLeod, any comment or is that your understanding of how the
 393 provisions would work as well?
 394
- 395 McLeod: Yes, I think that was a very good explanation.
 396
- 397 Watson: Mr Watson. Sorry, just confirming. On red zone the NES only allows
 398 afforestation up to two hectares on red zone land, so there is a kind of a difference
 399 So there is a different Erosion Susceptibility Classification trigger for
 400 afforestation but only on red zone land.
 401
- 402 Nightingale: And there is no red zone land, right?
 403
- 404 Watson: There's red zone land but there's no forestry on red zone land in the whitua. It's
 405 at the top of the Tararua's.
 406
- 407 Nightingale: Yes. So then if someone wanted to plant on red zone they would need to go
 408 through the consenting process in the NES-CF?
 409
- 410 Watson: Yes.
 411 [01.20.00]
- 412 Nightingale: Commissioner Nightingale again. Do the vegetation clearance provisions... So,
 413 Mr Casey you were talking about, sorry I can't remember the exact words you
 414 used, but where there's basically maintenance type work. I know that's not term
 415 you used, but for the forest that you manage, would that trimming and so forth,
 416 would that be covered also under the NES-CF or would the vegetation clearance
 417 provisions apply?
 418
- 419 McLeod: Ms McLeod here. I can possibly answer that. I think I set it out in my evidence,
 420 but the NES-CF is confined where the NES-CF regulates vegetation clearance,
 421 and it otherwise defers to the Regional Plan. So there are situations where the
 422 Regional Plan's vegetation clearance rules would apply to exotic continuous-
 423 cover forestry.
 424
- 425 Nightingale: Thank you Ainsley. That's also another instance where the forests, if they were
 426 on erosion prone land as defined in PC1, there may be a rule trigger there under
 427 PC1, otherwise-
 428
- 429 Watson: Mr Watson. To jump in again there's no rule trigger for whether or not you're
 430 on erosion prone land. Sorry, are you talking about the vegetation clearance?
 431 Sorry, okay.
 432

- 433 Again, Mr Watson. There's two vegetation clearance kind of differences, I guess.
 434 There's vegetation clearance associated with forestry, which is undertaken to
 435 create access tracks, harvesting tracks, all those sorts of things which, where
 436 associated with forestry would be covered by the forestry rules. If it's vegetation
 437 clearance in advance of afforestation it's covered by the vegetation clearance
 438 rules, so there's a bit of a difference there because vegetation clearance before
 439 afforestation activities is specifically excluded from the NES.
 440
- 441 Nightingale: Commissioner Nightingale. Then, as I think we were just talking about,
 442 earthworks in preparation for afforestation of exotic continuous-cover forestry,
 443 that's also covered by the NES-CF, isn't it? If it's for exotic?
 444
- 445 Watson: Correct, but it would also be covered by the PC1 where TAS aren't being met.
 446
- 447 McGarry: Commissioner McGarry. Not a question for the submitter but I just notice at the
 448 moment Mr Watson, just looking at the rule 17 and the equivalent of WH.R17
 449 and the equivalent of WH.R17. There's just some words missing in what's
 450 reflecting section 107. So four is missing the word, "farm animal," and five is
 451 missing, "any significant adverse effect," that should be. So I just note that for
 452 you, for your updating of the provisions. Obviously both provisions have that
 453 same error.
 454
- 455 Watson: Mr Watson. Again, that would be a hangover from the existing NRP, so it would
 456 come down to how far we take amendments to existing rules under the NRP as
 457 part of PC1, which is the advice we asked DLA on Tuesday from memory.
 458
- 459 McGarry: Commissioner McGarry. I think the genesis of that is section 107, and I think
 460 the wording probably should reflect them but I'm happy for you to talk to legal
 461 counsel about that. But the NRP I think is out of step.
 462 [01.25.00]
- 463 Nightingale: Commissioner Nightingale. I think probably the last thing I just wanted to ask
 464 about is the stringency test in the section 32(4) test. Provisions in PC1 can be
 465 more stringent where it is justified really by the Wellington region issues that
 466 are particular to Wellington region. I want to just doublecheck where we are at
 467 now on the stringency test in terms of exotic continuous-cover forest. Sorry, Mr
 468 Watson, to put you on the spot. What have we got, just so I'm very clear, what
 469 are we saying, if anything, justifies more stringent provisions in PC1 compared
 470 the NES-CF for exotic continuous-cover forest?
 471
- 472 Watson: Mr Watson. If you're talking about afforestation and replanting of exotic
 473 continuous-cover forest there's nothing. PC1 excludes both activities so there's
 474 no... The stringency argument is redundant for this. Vegetation clearance and
 475 earthworks, the disturbance activities associates with exotic continuous-cover
 476 forest would be treated the same as any other forestry activity. It does have the
 477 same effect and that's also in the scope of the PC1.
 478
- 479 Nightingale: Thank you. Ms McLeod, just checking that that's your understanding, and if I
 480 can also just confirm, is NZCF comfortable with where that's landed?
 481
- 482 McLeod: Ms McLeod. Yes, that's my understanding as well. The fact that afforestation
 483 and replanting now defers entirely, exotic continuous-cover forestry, it defers
 484 entirely to the NES-CF. It means that there's no question around stringency.

485
486 Stevenson: Commissioner Stevenson. Thanks Ms McLeod. I just wanted to check, in your
487 evidence you've mentioned concerns about the addition of a definition of
488 commercial forestry. Are your concerns in that regard satisfied or do they remain
489 outstanding? I note in the most recent iteration of the tracked changes those
490 definitions remain, but the date has been corrected from 2023 to 2017.
491
492 McLeod: Ms McLeod. Yes, I support changing the date. I think that's the correct date to
493 use in the NRP. My concerns around the inclusion of the definition fall away
494 because of the exclusion now included in the rules for exotic continuous-cover
495 forestry. My concerns around the definition were because, my virtue of
496 introducing the definition, it was expanding the scope of the rules to include
497 exotic continuous-cover forestry.
498
499 Stevenson: Thank you.
500
501 McGarry: Commissioner McGarry. Ms McLeod, just picking up on your point about
502 wanting to reflect encouraging continuous-cover forests in the policy guide and
503 just looking at the wording of (f) at the moment, "promoting and supporting."
504 [01.30.01]
505 Are you looking to have some words in there or are you thinking more along the
506 lines of a new clause?
507
508 McLeod: My evidence would be that I support new clause (f), along with the amendments
509 to the Method M44A. I think both of those provisions reflect the encouragement
510 and the good environmental outcomes that are set out in the evidence from
511 Greater Wellington.
512
513 McGarry: Commissioner McGarry. So you're not looking for an extra word to go in there,
514 you're happy with 'promoting and supporting' as it is?
515
516 McLeod: Yes.
517
518 McGarry: I'm just looking at the Emissions Reduction Plan, and the word 'encourage' is
519 specific to native forest, isn't it? It doesn't extend to exotic continuous-cover
520 forest?
521
522 McLeod: I don't have it in front of me, but I accept that.
523
524 McGarry: Thank you.
525
526 Nightingale: Commissioner Nightingale. Mr Casey, and this follows on from that policy we
527 were looking at about promoting and supporting exotic continuous-cover forest.
528 I guess, your company's plans, aspirations for the Wellington region, is there
529 much more afforestation land available for afforestation? Your plans to develop
530 much more or is it more about keeping going with the space as it is?
531
532 Casey: I'm aware we have limited forest inside Greater Wellington Regional Council
533 boundary. In the last three years the bulk of our, actually all of our new
534 afforestation has been on other people's land. Farmers who have been planting
535 part of their property in terms of, I don't police the overall productivity of their
536 business and also manage the land for the best land use for that particular

- 537 property. So in terms of the outlook in Wellington, we don't have any
 538 arrangement with farmers or landowners in Wellington going forward at this
 539 time.
 540
- 541 Nightingale: Thank you for that. I was wondering about working with farmers. We have been
 542 talking, looking at the rural land use provisions and the new requirements around
 543 Farm Environment Plans, and this might be one of those interface issues. I'm not
 544 sure if Mr Willis is online, the reporting officer for rural land use, but if a farmer
 545 did want to plant exotic continuous-cover forest on their land and approached
 546 you for assistance with that, say, is it a one hectare trigger to get to come into
 547 the NES, I think?
 548
- 549 Casey: Into the Emissions Trading Scheme. It's a minimum forestry of one hectare for
 550 the Emissions Trading Scheme.
 551
- 552 Nightingale: I'm just wondering how the Farm Environment Plan would then potentially work
 553 with the Forest Management Plan in that situation? I don't know.
 554 [01.35.03]
 555 I don't know. So obviously we've been talking about where there is erosion
 556 prone land that's been identified on the farm. Any comments on how the two
 557 might be managed together? Would it come under a Farm Environment Plan?
 558
- 559 Casey: I mean we've got significant work in relation with Horizon, [01.35.32] and their
 560 farm plans, and also their [01.35.37] initiative as well. So [01.35.38] initiatives.
 561 In those plans we recognise quite clearly how the farmer may best want to long-
 562 term manage their farm, but I don't have specific details of what you're talking
 563 about.
 564
- 565 Watson: Mr Watson. In the case of PC1 there wouldn't be any conflict, because it's not a
 566 continuous-cover forestry it's not covered by PC1, so if that was an action that
 567 was identified by a farmer that they wanted to progress as part of a Farm
 568 Environment Plan, then it would sit solely under the Farm Environment Plan
 569 regime, unless it also triggered the NES consent requirements.
 570
- 571 Nightingale: So then probably just managed through the NES-CF, the afforestation aspect
 572 would be managed through the NES-CF. Earthworks required for it would be
 573 managed under the PC1?
 574
- 575 Watson: If the TAS were not being met. Correct. Depending on where you aimed your
 576 scale. If we included some sort of rolling scale in the PC1 rules then you still
 577 might be a permitted activity under PC1. So all that stuff is still to be ironed out,
 578 I guess.
 579
- 580 Nightingale: Sorry, Mr Watson. You lost me on the last point.
 581
- 582 Watson: I mean over the last few days, I guess we've heard from submitters, and I also
 583 raised on Tuesday that there's a scale question that kind of needs to be resolved
 584 as part of the rules in terms of allowing small areas of disturbance to fit within
 585 permitted activity rules that will be managed under the NES alone. It's just kind
 586 of working out what that magic number is as part of this process, I guess. So
 587 that's what I was referring to.
 588

- 589 Kake: Kia ora. Commissioner Kake here. Mr Casey, I just wanted to... Interested in
 590 the discussion that you had around the diversification of the forestry and the
 591 definition under the NES for indigenous forest means a forest that consists of
 592 50% indigenous forest species by basal area. We talked a little bit about, earlier
 593 on in the week, how that might happen in practice and having maturer pine for
 594 instance. The species that might be planted to diversify on that land. I just
 595 wondered if you would talk a little bit about how that might happen with respect
 596 to your guys' carbon forestry land holdings in the whaitua. Thank you.
 597
- 598 Casey: Peter Casey. Bit of a forestry technical discussion here. Radiata pine is a pioneer
 599 species, and it lasts a long time. There's 150 year old radiata pine, there's 103
 600 year old radiata pine in Bay of Plenty that's still putting on positive increment.
 601 There aren't many older trees around because they get cut down, harvested. So
 602 in terms of the process of forest succession, there in Wellington, I grew up in
 603 Wellington, the Remutaka's and the hills above the Hutt Valley when I was
 604 young were always yellow in summer. We used to ride bikes up the firebreaks
 605 and they used to burn quite regularly. You look at those hills now, they're
 606 covered in a range of native forest. So that's just happened naturally, and that's
 607 a process.
 608
- 609 So our forests, I touched on before, are under a management regime, so that's
 610 where I talked about the canopy management of our forests and other initiatives,
 611 and also the pest control is quite critical. Radiata pine is a pioneer species. It will
 612 be replaced by something over time. We're very focussed on what that
 613 something is.
 614 [01.40.01]
- 615 It varies very much on what part of the country you're in. A lot of our forests,
 616 we're quite remote locations with existing indigenous forest there, which is
 617 great, it's a seed source. In some areas where there's been significant clearing of
 618 forest we have to reintroduce the right species early so we're putting seed on it
 619 as young as age two and three in our nurse crop radiata, and also older age plants
 620 as well. So that's to kind of address the question generally. So you will have a
 621 mixed species forest, as I touched in earlier, over time, but if you come back in
 622 150 years' time it will be a different forest type. Has that helped address the
 623 query?
 624
- 625 Kake: Yes. I suppose it just gives us an understanding of some of the practice that's
 626 happening on the ground. Just a real quick one then. Do the forests, I suppose
 627 you have Forestry Management Plans in place that just end up getting used to
 628 manage these potential effects on areas, and I'm thinking environmental effects
 629 obviously on the waterways. Hopefully, that's a simple question.
 630
- 631 Casey: I think Mr Blyth's evidence was really quite compelling on the benefits of
 632 afforestation and canopy cover on water yield and water quality. Any forest is a
 633 good forest. I'm a forester so I would say that. But I think the key thing here in
 634 New Zealand is how we manage our forests. Our native forests unfortunately are
 635 poorly managed. That's not a criticism of other people, it's just often they don't
 636 have the money to do that.
 637
- 638 So what we have, is through the carbon sequestration we have the money to
 639 reinvest in our forest, to look after them, to ensure that we have permanent
 640 forests, high quality and resilient and productive forests over the long-term.

641 That's our business model. So we need the exotics to sequester carbon rapidly
 642 and also so we've got the cashflow to actually look after the forests and know
 643 that the cashflow will go for a very long time.
 644

645 I touched on those forests in the Bay of Plenty, it's still growing strongly at age
 646 103. That's pine. But over time. There are good examples of forests which have
 647 got that transition of native and pine, and they haven't been managed, so once
 648 you start managing it, like anything, you get a much better result. A more certain
 649 result and a more timely result.
 650

651 Nightingale: Commissioner Nightingale. Mr. Casey, I'm interested in your views as opposed
 652 to, I mean Mr. Blythe, while he did say that permanent forest which is unlikely
 653 to be harvested is considered to have similar long-term sediment generation rates
 654 as native forests, he did also talk about what I think he described as 'noticeable
 655 risk periods,' and I think he's talking specifically about plantation forestry. But
 656 he's saying that there are land use activities associated with plantation forestry
 657 that do generate sediment, mainly for the establishment of roads and
 658 infrastructure and harvesting.
 659

660 We have had concerns raised by other organisations, saying that the provisions
 661 in PC1, even for forestry earthworks, are too restrictive, too stringent, I guess,
 662 and they'd prefer that the provisions all be managed under the NES-CF. Would
 663 you agree that forestry related earthworks activities can, in the Wellington
 664 region, justify a more stringent approach in order to protect water quality?
 665

[01.45.03]

666 Casey: I can only speak for what we do. I mean, as an example we were lodging with
 667 Regional Council and District Councils equivalent to the NES-CF seven years
 668 before the NES-CF came in place, so we're very focused on high quality
 669 management. It was a voluntary process we undertook. So for us, the long-term
 670 stewardship of the land is really important. To the earthworks, which essentially
 671 is tracking, we've always been very focused on minimising impact and
 672 minimised sediment yield. That's always been our internal practice. I suppose
 673 I'm talking to a regulator here and we think we're quite good. Perhaps there are
 674 other folk out there who aren't quite as good as us, so you as the regulator have
 675 to decide where that cutoff point is.
 676

677 We think we're the good guys. Actually, we know we're the good guys, but you
 678 have to deal with the wider population in terms of your role. So to answer your
 679 question directly, the NES-CF for us is appropriate because we were doing it
 680 anyway. It was a practice prior to the NES-CF coming in place. So for us it was
 681 actually no change, apart from having to actually go through the process with
 682 the Council submitting that plan.
 683

684 Nightingale: Thank you. Mr Pepperell and Mr Reardon, they talked in their evidence, that
 685 they obviously presented for the Council, talked about some deficiencies in the
 686 NES-CF in terms of being able to appropriately manage sediment discharges.
 687 One of the examples, is that while plans have to be submitted to Council, if the
 688 plans are actually not completely up to scratch or it's quite difficult to get
 689 improvements on the ground, because simply the requirements are to have a plan
 690 or to have a settlement trap, the adequacy of the measures are very difficult to
 691 enforce under the NES-CF. But it sounds like you're saying your organisation
 692 adopts best practice techniques.

693
694 Casey: Peter Casey here. I listened to Kevin Reardon's evidence, and I heard what he
695 said, but from what we do...I mean, the tracking he was referring to was around
696 harvesting, which by default has potential to generate quite significant sediment,
697 which is usually quite different from tracking for access. Tracking for harvesting
698 and tracking for access are quite two different functions, usually, but I heard
699 what Kevin said and he's an experienced forest professional, knows your region
700 really well, and so his evidence will be of significant standing.
701

702 Nightingale: Great. Thank you.
703

704 Westman: Sorry, if I may, Tayla Westman. Hi. I just wanted to add, because I work closely
705 with our Land Management Team who are responsible for submitting
706 Earthworks Management Plans, Afforestation Management Plans, and I think
707 why it's difficult perhaps for us to answer some of your more recent questions,
708 is because we basically only function at that committed activity status. So all of
709 our track work, the majority, vast majority, is maintenance. It's track
710 maintenance. It's not new tracks. It's not that very heavy work on the land.
711
712 Same with afforestation. We seldom ever require anything other than
713 functioning within a permitted activity status. I just wanted to add that to what
714 you were saying. And we like to function that way. We like to operate that way.
715 We also always make an effort of, when we notify Councils for earthworks and
716 afforestation, we automatically provide them with our Management Plans on
717 notification. We don't expect them to come and ask for it, which I believe is what
718 the NES-CF says, is that Regional Councils or District Councils may request it.
719 But we like to take that initiative and show that whenever we do earthworks or
720 afforestation, it's already been well thought out and planned for. So I just wanted
721 to add that on top of what Peter had said.
722

723 Casey: Thanks, Tayla.
724 [01.50.00]

725 Nightingale: Yes, thanks very much. Sorry, I've just lost internet connection because I just
726 wanted to quickly, just bear with me, just have a quick look at, there's a provision
727 in the NE-CF. Sorry, this is the very last question. I know we're at time. Yes,
728 connection is restored. Just a sec. Ms Westman, it was about just your comment
729 about permitted activity conditions. I can just find the one I'm thinking of. Sorry,
730 I've just found it now.
731
732 I think this is an example of where, so as you know, the NES-CF allows the
733 Regional Council to include more rules stringent in order to give effect to
734 freshwater objectives. The one on permitted activity, it's a Regulation 31, which
735 is about sediment and stormwater control measures, I just think that that is an
736 example of this operational issue that we've heard a bit about this week from the
737 Council.
738
739 One of the conditions there is, to be a permitted activity stormwater, water runoff
740 and sediment control measures must be installed and maintained. So as long as
741 they're installed and maintained you meet the permitted activity standards. And
742 look, I'm not at all talking about your organisation and members, but as I
743 understand it, that's the, what's the word? There's no sort of inbuilt minimum
744 standards really built into that provision. So it doesn't say that the sediment

745 control measures actually have to be doing their job properly, just that they have
 746 to be maintained.
 747
 748 So where the Council is saying in these certain TAS in particular, visual clarity
 749 is an issue and more needs to be done, and forestry also needs to play its part
 750 even if sediment isn't as big of an issue compared to pastoral land use, it still has
 751 to play its part, and so they're saying that some tightening up is justified in those
 752 circumstances because of deficiencies like this in the NES-CF. Ms McLeod.
 753
 754 McLeod: Ms McLeod here. I raised my hand. I'd just like to highlight Regulation 26 as
 755 well. That does have some of those visual clarity, it effectively mirrors the RMA
 756 to some extent. But there is that standard, if you like, as well.
 757
 758 Nightingale: Thank you very much. It's been good talking with you, and we really appreciate
 759 your presentation. I feel like things have moved on quite some way since Hearing
 760 Stream 1. We really appreciate you coming and talking to us, and Ms McLeod,
 761 thank you very much for your planning evidence as well.
 762
 763 McLeod: Thank you.
 764
 765 Nightingale: We'll wish you a good day and a good long weekend.
 766 McLeod: Thank you very much.
 767
 768 Westman: Thank you.
 769
 770 Casey: Thank you.
 771
 772 **Environmental Defence Society – John Commissaris**
 773
 774 Nightingale: We welcome EDS and Mr Commissaris. Are you online?
 775
 776 Commissaris: Good morning. Can you hear me in the room okay?
 777
 778 Nightingale: Sound issues are okay for you?
 779
 780 Commissaris: Yes, all loud and clear. Thank you.
 781
 782 Nightingale: Mr Commissaris, would you like us to do some introductions or are you
 783 comfortable [inaudible 01.54.30]. We can quickly run through some intros. I
 784 know you presented before.
 785
 786 Commissaris: Sure, that would be great.
 787
 788 Nightingale: Great. Dhilum Nightingale chairing [inaudible 01.54.45-01.54.55].
 789
 790 Commissaris: Sorry, I am actually just having some slight difficulties. It's coming through a
 791 little bit crackly.
 792 [01.54.59]
 793 I was listening in to the previous presentation and it was quite clear, so I don't
 794 know what's just happened.
 795
 796 Kake: Mōrena, Puāwai Kake. Planner and independent commissioner.

797
798 Commissaris: That's significantly better for some reason.
799
800 Wratt: Mōrena, Gillian Wratt. Independent commissioner based [inaudible 01.55.30].
801
802 Stevenson: Ata mārie. Sarah Stevenson. Independent planner and commissioner based here
803 in Te-Whanganui-a-Tara [inaudible 01.55.41].
804
805 Commissaris: Kia ora.
806
807 Nightingale: So you know, we have the reporting officers in the room. Ms Vivian on the
808 earthworks topic, Mr Watson on forestry, which I know you're particularly
809 interested in. Mr Willis who may be online. So great, thank you. We've read your
810 legal submissions. Thanks very much for those. We've got 45 minutes so a good
811 amount of time, so over to you for your presentation and then I expect questions.
812 Thanks.
813
814 Commissaris: Kia ora. Ko John Commissaris tōku ingoa. I am the inhouse solicitor for
815 Environmental Defence Society. Just a little bit of background. EDS is a public
816 interest environmental group. It's focused on achieving positive environmental
817 outcomes by improving the quality of New Zealand's legal and policy
818 frameworks. I refer to EDS's strong interest in forestry management, and it has
819 a long history in this area in vegetation clearance and associated sedimentation
820 issues. It has devoted significant resources to research plantation forestry and
821 commercial forestry in and around the country, particularly in the Marlborough
822 Region, and it is well attuned to the regulatory landscape with respect to
823 commercial forestry.
824
825 EDS was, and is, largely supportive of the notified PC1. While it sought some
826 amendments, it considered Council's approach to managing sediment, from
827 commercial forestry and vegetation clearance, was both appropriate and
828 refreshingly ambitious. Through the submission process several important
829 aspects were subsequently recommended to be rolled back, and EDS filed legal
830 submissions opposing those recommendations. It submitted that there was
831 sufficient evidence in the Wellington context to justify a more stringent approach
832 to managing commercial forestry so that the sediment TAS will be achieved, and
833 that's the requirement in the NPS-FM.
834
835 It said that, "Additional management was also necessary in part FMUs where
836 TAS are being achieved in order to ensure that those TAS are maintained and
837 improved," and that's a requirement in Policy 5 of the NPS-FM. And crucially,
838 "Management rather than minimisation was required." I understand Forest &
839 Bird has raised similar points in relation to the earthworks and rural land use
840 subtopics.
841
842 EDS said that, "The management should be tied to the erosion risk of the land
843 and that the mapping undertaken by Council represented the best available
844 information on erosion risk." It also submitted that, "Opportunities exist to adopt
845 better forest management practices, including larger setbacks, alternative
846 harvesting methods, etc," and that, "This was supported by evidence, in
847 particular from Mr Reardon."
848

849 EDS acknowledges the updated recommendations provided by Mr Watson in
 850 rebuttal, and these go a significant way to resolving many of EDS's concerns
 851 expressed in the legal submissions. So today, I'll touch on the key issues for EDS
 852 that remain unaddressed or that have arisen out of some of those latest
 853 recommendations and amendments, and I've listened to some of the
 854 presentations made by other submitters over the last few days and I'll endeavour
 855 to respond to some of the points made by them. I'm also happy to take guidance
 856 from the panel on key areas of EDS's relief that may need clarification. But I
 857 note that the legal submissions on behalf of EDS do not cover rural land use or
 858 earthworks, and those subtopics are covered in the legal submissions of Forest
 859 & Bird, which EDS adopts to the extent that they are consistent with EDS's
 860 original submission.

861 [01.59.57]

862 I want to frame the discussion today by reiterating Council's obligation to give
 863 effect to the NPS-FM, and this week we've heard discussion on sort of how best
 864 to strike a balance between NPS-FM obligations and costs for affected parties.
 865 EDS submits that effectiveness and efficiency are important considerations but
 866 it's not open for Council to rely on costs as a reason for not giving effect to the
 867 NPS-FM, and this issue was canvassed in detail in the legal submissions for
 868 Council in relation to Hearing Stream 2, and I refer the panel to those legal
 869 submissions. In Council's legal submissions in relation to Hearing Stream 3,
 870 Council reiterates that the setting of water quality objectives, including Target
 871 Attribute States, is subject to significant direction in the NPS-FM and it does not
 872 anticipate that the process of choosing TAS will be simple or cheap.

873
 874 The legal submissions on behalf of EDS outlined key statutory and policy
 875 requirements, and it's critical for the panel to have those at the front of your
 876 minds when considering the best way to improve freshwater outcomes and
 877 maintain and improve outcomes where the target states are achieved. PC1 must
 878 do a lot more than hold the line. In the context of the two whaitua we're
 879 discussing today, which will see substantial forestry harvest in the immediate
 880 future, Council needs to take a proactive approach that manages the risks in the
 881 immediate term, while not precluding better long-term outcomes.

882
 883 EDS also acknowledged that there was some degree of uncertainty in some of
 884 the mapping and cap, but importantly Council presented clear evidence of the
 885 contribution of forestry to sedimentation in the Wellington context, and that
 886 meets the stringency test. I put it to you that Council is unlikely to ever be able
 887 to determine definitively the exact level of intervention that is needed to meet
 888 the targets while also ensuring that the intervention is the minimum necessary.
 889 That's an aspirational goal. But Mr Watson has acknowledged the difficulties he
 890 has faced in trying to do this, and I reiterate that it is not appropriate. It is not
 891 appropriate a reason for failing to proactively manage activities that the NPS-
 892 FM quite clearly requires Council to act.

893
 894 Before I go through into some of the more detail in terms of the latest
 895 recommendations, I wondered if the panel had any questions at this stage that
 896 I'm happy to answer that sort of are more general, and happy to answer as I go
 897 on as questions come up.

898
 899 Nightingale: Thank you. [inaudible 02.03.06] on the stringency test in 32(4)?
 900

- 901 Commissaris: Sorry, I think I might have lost you there.
902
- 903 Nightingale: Sorry?
904
- 905 Commissaris: I heard something about stringency test in section 32(4), and I didn't quite catch
906 the question, sorry.
907
- 908 Nightingale: So the section 32(4) test, and thank you, appreciate your legal submissions on
909 this and going through the [02.03.51] decision. Where the reporting officer has
910 landed is that where the TAS are not being met, and in particular part FMU, then
911 a more stringent approach than what's in the NES-CF is justified. The High Court
912 in that case said it's very important to think about region specific issues.
913 [02.04.57]
914 Do you think that there is clear justification for why in the Wellington Region a
915 more stringent approach is needed throughout the region, or would EDS be
916 satisfied that a more stringent approach is justified and needed where the TAS
917 have failed?
918
- 919 Commissaris: Firstly, in relation to where TAS have been failed, I think the position of EDS is
920 set out in its legal submissions. I also refer to the legal submissions of Council
921 in relation to Hearing Stream 3, that I think quite clearly set out the legal tests
922 that need to be applied and the justification test would be met. Where EDS
923 differs, is that EDS also considers the justification test is met where the TAS are
924 being met. Now, that was the position in notified Plan Change 1, so it was a
925 controlled activity regime that applied where TAS were being met, and the
926 reason why it sort of shifted, as far as I can gather, is Mr Watson has said that
927 the approach now represents a sort of no harm, no foul approach. Because
928 forestry is not harming the environment because we don't have TAS that are
929 being exceeded, there's no need to manage it within the regional planning
930 context.
931
- 932 That approach assumes that because TAS are currently being maintained, they
933 will be maintained into the future, and with respect, EDS considers this approach
934 is flawed in the context of commercial forestry. That's for three reasons, I think.
935 First, we have evidence of the role of forestry activities regarding sediment
936 discharge. This is particularly pronounced, as we've heard, during the window
937 of vulnerability. Meanwhile, during the mature forest life stage there may be no
938 discernible effects. In fact, Mr Blyth has said that exotic forest can perform not
939 quite as well, but nearly as well as indigenous forest during its mature life stages,
940 and that's the fundamental point. It means that where a TAS is met may not
941 indicate a functioning forestry management regime as assumed by the Council,
942 it may instead indicate that no risky forestry activities have actually occurred in
943 recent history.
944
- 945 The second point is that TAS achievement may not reflect adverse effects
946 occurring at a more granular scale. As we've heard over the last couple of days,
947 achieving TAS does not necessarily equal healthy waterways in the upper
948 tributaries. These waterways cannot be ignored and may require intervention to
949 ensure maintenance and improvement in accordance with the NPS-FM.
950
- 951 Thirdly, it cannot be said that a part FMU that currently meets TAS, and
952 potentially after some harvesting or forestry activity on the land, you know, after

953 five years no longer meets the Target Attribute State, it cannot be said that that
 954 part FMU will necessarily return to its Target Attribute State during a mature,
 955 you know, after replanting and during the mature stage of the forest, and even
 956 if it does, EDS's fundamental point is that the obligation is on Council to
 957 maintain Target Attribute States continuously rather than intermittently. I see
 958 you've lost power in the room. I might just pause there.
 959

960 Nightingale: Sorry to interrupt you. We're under control in here. No, we're not. Sorry. We
 961 heard you, but if you're able to continue.
 962

963 Ruddock: Sorry, Mr Commissaris. A quick admin thing. We're getting a lot of background
 964 noise from your feed and there's been some reports from the vid, it's muffling
 965 the commissioners a little bit. Could we ask, is it possible for you to mute your
 966 video, your mic whilst you're not speaking, because we can hear you fine, but I
 967 think it's the background noises are going over the commissioners recording.
 968

969 Commissaris: Yes, that's fine.
 970

971 Ruddock: Awesome. Thank you so much.
 972

973 Commissaris: Thank you.
 974

975 Nightingale: Sorry.
 976 [02.09.57]

977 Commissaris: So I'll continue, and where I left off is, I think that the key thing for EDS is that
 978 the obligation on Council is to maintain Target Attribute States continuously
 979 rather than intermittently. So Council can't justify exceedance or degradation in
 980 TAS over the five year window of risk on the basis that for the remaining 20
 981 years of the forestry life cycle the TAS is likely to, or may improve, which is a
 982 question mark in itself.
 983

984 EDS submits that the recommended approach, which doesn't manage forestry in
 985 part FMUs where TAS are met, is reactive rather than proactive, and with this
 986 approach there could be significant lag times in reacting. First, the Council
 987 would need to publish a report that the TAS are no longer being met, Council
 988 would need to establish a causal link between the land use activities like forestry,
 989 and any reactive measures that can be implemented will be too late because
 990 maintenance will already have been not achieved.
 991

992 For those reasons, EDS submits that a level of control needs to be retained over
 993 commercial forestry activities, and that control could be restricted to forestry that
 994 occurs in high erosion risk, for instance, but subject to some of the issues we've
 995 heard in relation to the mapping. But the key for EDS is, is that notified position
 996 of control of commercial forestry and TAS, and part FMUs where TAS is
 997 achieved needs to be retained, and that's particularly in light of the significant
 998 harvest that we're going to see in the next five years. So hopefully that answers
 999 your question. That was quite a long winded answer.
 1000

1001 Nightingale: That was very helpful. Thank you. That takes me to, Commissioner Nightingale,
 1002 and it really is that the point that that the court made in the Rayonier decision.
 1003 There needs to be something that justifies a departure from the NES provisions.
 1004 Now, as I understand it, the decision says there needs to be something particular

- 1005 to the Wellington context to justify that departure. So is it enough that there may
 1006 be potentially just an inherent deficiency in the NES-CF? I mean, wouldn't that
 1007 apply nationwide? Is there particular justification in your view to why more
 1008 stringent approach is needed in Wellington?
 1009
- 1010 Commissaris: Yes, I think it's a mix. So there are some inherent deficiencies with the NES-CF,
 1011 and we've heard evidence on that, particularly around management plans and
 1012 being able to implement conditions and monitor those. But there is also a factual
 1013 reason, and that's because Wellington is going to see significant harvest of
 1014 forestry in the next five years, and we have evidence of the impact of forestry
 1015 harvest in terms of sedimentation in the Wellington region, and the influence
 1016 that that can, and may well have. I think that's probably where I'll leave it on
 1017 that, but to answer the question, I think there is justification, and EDS and notes
 1018 that.
 1019
- 1020 Nightingale: Thanks very much. Would EDS support a regionwide controlled activity rule as
 1021 was notified? Oh goodness. Sorry, Mr Commissaris. We'll keep going, it's just a
 1022 bit distracting with the lights going on and off. Sorry. The question was...
 1023 What's the question? Yes, sorry. EDS supports the notified controlled rural
 1024 regionwide not dependent on whether the TAS wasn't being met?
 1025
- 1026 Commissaris: Yes, that's correct. But I think there was some nuance there around the erosion
 1027 risk of the land, and EDS would like to see that tied in in some way, if possible.
 1028 Especially, well I'll come to some of those reasons in a moment, but I think, yes
 1029 EDS would support a controlled rule in terms of in part FMUs where TAS are
 1030 met.
 1031
- 1032 Nightingale: Thank you, and as I understand it, the main reason Mr Watson has moved to an
 1033 RDA rule is because there's no ability to decline a controlled consent.
 1034 [02.15.07]
 1035 But would you say that... You obviously think that a controlled status is
 1036 appropriate with the right conditions and maybe additional requirements around
 1037 forest management plans etc?
 1038
- 1039 Commissaris: Just to be clear, EDS would support control in relation to part FMUs where TAS
 1040 *are* met. Certainly not in relation to part FMUs where TAS are *not* met.
 1041
- 1042 Nightingale: So that RDA is appropriate there. Is that where TAS are met?
 1043
- 1044 Commissaris: Yes. That would be the minimum for EDS, subject to some further amendments
 1045 that EDS would like to see in terms of the management plans and a bit more
 1046 specificity in terms of the control conditions that can be implemented, and
 1047 ensuring the discretion is appropriately covering all the necessary aspects. At
 1048 this stage EDS would prefer discretionary because it doesn't think that all the
 1049 necessary factors are currently covered within the restricted discretionary policy
 1050 and rule framework.
 1051
- 1052 Nightingale: Thank you, Sir. I'll let you continue with your, I think you're coming to the
 1053 provisions. Thanks.
 1054
- 1055 Commissaris: Thank you. I'll start with the forestry policies. So just sort of lumping in for the
 1056 two whitua, and I don't really want to get into too much granular detail. But just

1057 first in relation to the need to avoid significant adverse effects, EDS submits that
 1058 that threshold is too high given the nature of the effects we're trying to manage
 1059 are often cumulative.

1060
 1061 In terms of (d)(iii), I think it is. Let me just bring up the clause here. I'm looking
 1062 at WHP.28, subclause (d)(iii). Well, actually all of (d). EDS generally supports
 1063 that subclause (d), well the intent behind it and what Mr Watson said about that,
 1064 but I think it just needs some finetuning just to make sure that the intent is
 1065 actually what we're looking at. In particular, EDS highlights whether clause
 1066 (d)(iii) should be brought outside of that chapeau of (d), because as EDS
 1067 understands it, that would allow, well the intent of that is to allow consent to be
 1068 declined rather than for afforestation or replanting, and whether that would be
 1069 better to come outside of that chapeau of (d), I just think some thought needs to
 1070 be put into that rather than it simply being managed through conditions.

1071
 1072 Onto the rules.

1073
 1074 Nightingale: Sorry, Mr Commissaris to interrupt you. Could you just explain that a bit more?
 1075 (c) is currently set too high in your view. Do you mind just elaborating a bit more
 1076 on that?

1077
 1078 Commissaris: I think it was mentioned over the last couple of days, and EDS agrees that the
 1079 effects that we're trying to manage aren't necessarily just the significant adverse
 1080 effects. We're also trying to deal with cumulative adverse effects, and so
 1081 restricting the avoidance directive to significant adverse effects might actually
 1082 miss the mark, and there might need to be something in between the avoidance
 1083 and then otherwise minimising adverse effects. Just because of the need to
 1084 manage cumulative adverse effects in the context of commercial forestry and in
 1085 the context of the need to achieve Target Attribute States, particularly in part
 1086 FMUs where TAS are not being achieved. So EDS submits that requiring
 1087 avoidance of significant adverse effects might not be enough to do that, and there
 1088 is a bit of a gap between that avoiding significant adverse effects and then
 1089 minimising the other adverse effects. There needs to be some, I think some
 1090 nuance in there.

1091
 1092 Nightingale: Commissioner Nightingale. Yes, thank you. I noticed that in your legal
 1093 submissions, and I think that you preferred the word 'managing' but minimising
 1094 [inaudible 02.20.05] is reduced to the smallest extent possible or something like
 1095 that, I think.

1096 [02.20.11]
 1097 So to me, I read that requirement as really quite restrictive, but you would prefer
 1098 that said, "Managing adverse environmental effects"? Have you got some
 1099 alternative wording for (c)?

1100
 1101 Commissaris: No, not any like alternative wording that I've put any significant thought into,
 1102 but I think that the issue around 'managing' versus 'minimising' is that
 1103 management allows the consent to be declined, and I think the issue here is that
 1104 you might be able to, you might undertake all the minimisation effort possible
 1105 and reasonably practicable, but the effects will still be such that they need to be
 1106 avoided or managed in some other way.

1107

1108 I think we've heard quite clearly from some of the submitters over the last couple
 1109 of days that there will be times when it's going to be very difficult to achieve
 1110 some of the standards in terms of sediment control, and that's particularly
 1111 pronounced on higher erosion risk land. So in those cases, to achieve the Target
 1112 Attribute States, which is what the NPS-FM requires, you need to do more than,
 1113 well minimisation might not be enough. So, I take the point that minimisation is
 1114 a strong requirement in terms of, if you're going to allow the activity to occur
 1115 minimisation is probably one of the strongest words you can use, but there might
 1116 be times when the activity itself should not occur and that needs to be recognised,
 1117 and that's the basis for the point in EDS's legal submission in terms of
 1118 management versus minimisation. And I think Forest & Bird makes a similar
 1119 point in relation to the rural land use and earthworks provisions.
 1120

1121 McGarry: Commissioner McGarry. Just picking up on your comment about taking clause
 1122 (iii) out of (d), so would you be wanting clause (iii) to just be a standalone?
 1123 Instead of a subclause its own clause?
 1124

1125 Commissaris: Yes, I think so. I would like to see consideration of that at least in Mr Watson's
 1126 reply, and just whether that would better achieve the intent of what that clause is
 1127 trying to achieve. Just the way I read it, and that might not be the correct
 1128 interpretation, but the way that I read it is that, "The conditions we'd manage
 1129 future afforestation, replanting." Look, not too sure. I think that needs further
 1130 consideration, and just wanting to make sure that that allows more than... I
 1131 guess, the intent is to allow for the consent to be declined where it has been
 1132 identified that significant adverse effects on water quality have been identified
 1133 during previous earthwork and harvesting activity. So just wanting to hear Mr
 1134 Watson's thoughts on that again or see what he has to say in terms of that in
 1135 reply.
 1136

1137 Watson: Mr Watson. Sorry, can I jump in? The thought process behind that, was that in a
 1138 sense they're already likely to be in play in that situation, rather than kind of an
 1139 ability to decline consent. Or the activities are already well advanced and so it's
 1140 a case of additional conditions of consents, or conditions of consent for the
 1141 activity for the next stage of that activity being able to better control that activity.
 1142 So conditions which would kind of direct where replanting has to occur or what
 1143 sort of replanting it might be, in terms of direct to certain types of species, so
 1144 you can't replant plantation forestry species and that sort of thing.
 1145

1145 [02.25.07]

1146 That was the intent behind that condition because I would imagine it's probably
 1147 going to be pretty unlikely that Council would be declining consent. Not to say
 1148 that they won't, but that's a really, really high bar, particularly without the RPS
 1149 being fully in effect at the moment. So it was just supporting the RPS without
 1150 kind of jumping too far ahead.
 1151

1152 Commissaris: Thanks. I appreciate that. I guess a little bit of concern in relation to those
 1153 previous comments, and I think the bar can't be set too high. You've already got,
 1154 "Avoiding significant adverse effects," so if you had significant adverse effects
 1155 that would require a decline of consent, and that is a high bar, but really the
 1156 whole purpose of having restricted discretionary is to allow the consent to be
 1157 declined in those situations where the activity itself is not appropriate and the
 1158 effects can't be, well even where the effects are minimised, they aren't reduced

1159 to a level that will achieve the TAS, and that's fundamental because that's the
1160 requirement in the NPS-FM.

1161
1162 The concern is potentially that clause (iii), I don't know if you could set a
1163 condition that says, "Based on the earthworks and harvesting and the forestry
1164 activities that have occurred or are occurring..." If you have significant adverse
1165 effects, I don't think you could set a condition, or I'm not sure, I question whether
1166 you could set a condition that says, "You won't be able to replant in this location
1167 if you have significant adverse effects," and I think that's something that should
1168 be provided for in this policy. Because that's what we're fundamentally trying to
1169 achieve, and EDS would argue that that would actually incentivise forestry
1170 practice to actually minimise and to actually do the best that they can and adopt
1171 different methods and practices to ensure that they are not precluding themselves
1172 from being able to undertake those practices in the future.

1173
1174 Nightingale: Thank you. Free to move to the next point.

1175
1176 Commissaris: Thank you. I'm just looking at my time and noticing I'm getting a bit far, so I'll
1177 try and whiz through a couple of things. I just want to move onto the rules and
1178 just quickly touch on a couple of points. The matters of discretion, in particular
1179 avoidance where practicable and otherwise minimise. Not sure that gives effect
1180 to the policy we were just talking about, and nor is it necessarily sufficient to
1181 give effect to section 107 and the right tree by place sort of objective that we're
1182 trying to go for here under the RPS and PC1.

1183
1184 The Matters of Discretion, if we go to them. Currently, so I'm looking at Matter
1185 of Discretion 1 for Rule WHR.20, and that says, "The content and
1186 implementation of Forestry Management Plans, including actions to manage
1187 management practices etc so that sediment will be managed to avoid where
1188 practical and otherwise minimise sediment impacts on water quality." I wonder
1189 if that could be more clearly framed so that it requires or it provides the discretion
1190 for council to ensure that the measures that are presented in that Management
1191 Plan actually demonstrate the avoidance of significant adverse effects, and
1192 making sure that that's covered.

1193
1194 Moving on through that rule. I think with reference to section 105 of the RMA,
1195 some of those management methods that we're looking at here could be brought
1196 out into potential, or more explicitly outlined as potential methods as conditions
1197 of consent, and that should include examples of what they might look like. For
1198 instance, greater setbacks, alternative harvesting methods where appropriate.

1199 [02.30.01]

1200 EDS submits that that is quite clearly required, well quite clearly justified, on the
1201 basis of the evidence of Mr Reardon. And I note he sees that the sites in the
1202 Wellington region are commonly harvested at the lowest cost where other
1203 options are available, and Council needs to have the ability to say that based on
1204 slope and terrain and the erosion risk, that will hopefully be confirmed through
1205 the management plans, that Council doesn't think you should be logging via
1206 method X and you should be doing method Y instead. So that needs to be quite
1207 clearly set out as available to Council. That's the management framework
1208 recommended for commercial forestry where TAS are not being achieved. I've
1209 spoken about what EDS thinks the approach should be where TAS is achieved.

1210

1211 I'll move onto the Management Plans, and EDS generally supports the additions
1212 to the Management Plans recommended by Mr Watson in rebuttal, as requested
1213 in EDS's legal submissions, but there's still a couple of aspects that EDS
1214 considers needs addressing. Again, following on from the previous point, more
1215 specificity could be provided as the types of conditions or controls that could be
1216 implemented. The types of methods that should be utilised to demonstrate that
1217 the erosion risk will not be higher than if it was on a low erosion risk site.
1218

1219 I also note some of the concerns raised by the panel over the last couple of days
1220 in relation to parts of the schedules in the NES-CF that may or may not be
1221 brought across by other provisions in PC1, and just think there can be some more
1222 clarity there. The definition of the Forestry Management Plan in PC1 could
1223 probably make it clear that it relates to provisions that manage commercial
1224 forestry in the context of sedimentation, so that would just quite clearly, well
1225 that may quite clearly link, that actually there are other considerations in the
1226 NES-CF that arise in relation to other things that you're trying to manage, for
1227 instance, biodiversity etc.
1228

1229 It is unclear whether the NES-CF requirements are pulled across, where they're
1230 not explicitly pulled across in the definition. So EDS does think that it would be
1231 much clearer to pull across by reference what's in the Management Plans, what's
1232 required in the Management Plans in totality under the NES-CF with those
1233 additions that we've spoken about.
1234

1235 I think another fundamental issue with the Management Plan, or one thing that's
1236 lacking, is this promotion of revegetation of the site as soon as possible after
1237 harvest, and that was identified again by Mr Reardon as a key deficiency in the
1238 NES-CF as per the notified version that was provided for in, I think it was
1239 Schedule 34, I believe, or 33, that that revegetation should be promoted ASAP.
1240

1241 The management plans and the additional information that's required in them
1242 should be required as a permitted activity standard if we're going to say that we're
1243 going to manage Target Attribute States. If we're gonna manage part FMU
1244 forestry and part FMUs where Target Attribute States are being met as permitted,
1245 those Management Plans as per PC1 should be required, and it should include a
1246 requirement to sign off from Council.
1247

1248 I'm also wondering, having heard the previous presentation, whether that should
1249 be required for afforestation of continuous-cover forestry as well. Just so that
1250 there is a better mapping of erosion risk. As we've heard, the ESC in the NES-
1251 CF is deficient. I also note some of the concerns raised by Fish & Game
1252 yesterday around industry capture, and reiterate the importance of providing for
1253 Council and forest control and sign off to minimise this.
1254

[02.35.00]

1255 I just want touch briefly on the two new methods that have been proposed.
1256 Generally supportive. A little bit concerned about the equal treatment of
1257 continuous-cover exotic forestry with indigenous forestry. We know that
1258 continuous-cover exotic forestry is good from a sedimentation perspective, but
1259 it's not as good as indigenous forests, and in accordance with the ERP, the RPS
1260 Change 1, for instance Objective CC.5 and Policy CC.18, we should be
1261 encouraging native indigenous forestry where possible alongside exotic but
1262 prioritising that native forestry. So we need to make sure also, that for those

1263 permanent forestry areas, that they are managed in perpetuity and managed in
 1264 accordance with best practice, and that's why EDS submits that the Management
 1265 Plan framework that applies to plantation forestry might also be beneficial in
 1266 relation to, or a modified version might be beneficial to continuous carbon
 1267 forestry so that Council has that control.

1268
 1269 With respect to Method 44B, there is an opportunity to improve scientific
 1270 understanding and monitoring over the next five years, considering the level of
 1271 harvest anticipated, and really stress that Council should be taking that
 1272 opportunity, and this might be a Method that could be tinkered to recognise this.
 1273 I'm conscious that I'm running through time quite quickly. I wanted to respond
 1274 to some of the points raised by submitters, but I thought I'd just check in to see,
 1275 if the panel has a lot of questions it might be best to just answer those as best as
 1276 I can now so that we don't run out of time.

1277
 1278 Nightingale: Thank you. We've been sort of asking questions as we go. Is there anything? I
 1279 think actually we're happy for you to keep going. The response to submitters,
 1280 your comments there would be useful.

1281
 1282 Commissaris: Thank you. First I want to talk to some of the submissions that have raised
 1283 whether we should be using control versus restricted discretionary in the context
 1284 of part FMUs where TAS are not met. Some of the submitters have
 1285 acknowledged the need for Council to be able to impose conditions, methods
 1286 and Control Management Plans, and EDS agrees that that's important, but again,
 1287 crucially what can't be overlooked is the need for Council to be able to decline
 1288 consent. We've heard quite clearly from some submitters that it can be nearly
 1289 impossible to meet some standards in some cases, and that's again particularly
 1290 pronounced in high risk areas. So in those cases, minimisation of effects and
 1291 grant of consent is not going to be sufficient to achieve TAS, and that's the
 1292 requirement in the NPS-FM.

1293
 1294 The next point is the idea of the long-term versus the short-term, and we've heard
 1295 extensively that over the long-term exotic plantation forestry, in terms of
 1296 sedimentation, is probably better than pastoral land use. I think that lacks a bit
 1297 of nuance. What we really need to manage is that window of vulnerability, and
 1298 I refer to Mr Blyth's evidence in Table 1. I think it offers primary evidence in
 1299 relation to this Hearing Stream, that forestry post-harvest can deliver around four
 1300 times the amount of sediment than from pasture, and so the argument that
 1301 forestry should face less stringent controls because it contributes less sediment
 1302 than pastoral land use overlooks that nuance of what we're actually trying to
 1303 manage.

1304
 1305 So the best option in the long-term, there needs to be solid management of the
 1306 immediate term risk with a long-term view, and again, and as articulated in
 1307 EDS's legal submission, the long-term view is not just out to 2040, the long-term
 1308 view is far further into the future, and that's what Wai Ora [02.39.41] requires,
 1309 and the evidence is that the best option out of all of them is native revegetation.
 1310 That goes back to the need to prioritise that rather than relying on exotic forestry.

1311 [02.40.03]

1312 The next point I want to respond to is the idea that perhaps low risk forestry
 1313 activities could be exempt from additional stringency. EDS has acknowledged
 1314 some of the deficiencies in the erosion risk mapping in Plan Change 1. That's

1315 fine, but we need to take a consistent approach on how we're going to treat that
 1316 erosion risk mapping. So to rely on some of those deficiencies to say that high
 1317 risk areas shouldn't be managed because we don't know that it's high risk, the
 1318 same can be said for the low risk areas, and we don't necessarily know that those
 1319 low risk areas are in fact low risk areas. So a consistent approach needs to be
 1320 taken.

1321
 1322 We have heard evidence that small scale does not necessarily mean no adverse
 1323 effects. Quite to the contrary, and Mr Watson has acknowledged this. EDS is
 1324 concerned by some of the comments made recently, that small scale forestry
 1325 could be permitted or managed under the NES-CF, and we would strongly
 1326 caution against that in light of the evidence.

1327
 1328 Finally to wrap up, EDS is seriously concerned about some of the comments on
 1329 the recommended changes to the Management Plan definition, where some of
 1330 the submitters have submitted that they might not be practically achievable. In
 1331 particular, that requiring commercial forestry on erosion risk land should be
 1332 managed so that the risk is reduced as if it was on low erosion risk land, would
 1333 be difficult to achieve practically, and that is the exact reason why forestry needs
 1334 to be managed on high risk land. The same limits apply irrespective of the risk,
 1335 and that's in section 107. And the various methodologies that can be
 1336 implemented through the Management Plan need to be shown to achieve those
 1337 limits irrespective of the risk. So it is not enough to say that the effects will be
 1338 minimised on high erosion risk land in all cases, because sometimes
 1339 management is required in order to achieve the NPS-FM, and sometimes
 1340 replanting, afforestation, etc, should not be occurring on that land.

1341
 1342 That's where I'll leave it and happy to take any further questions.

1343
 1344 Nightingale: Great. Thank you.

1345
 1346 McGarry: Thank you very much. You've been very clear this morning. Commissioner.
 1347 McGarry. I'm just interested in, and it came up with the last submitter to, that
 1348 there is a difference there obviously in the adaptation plan to the distinction
 1349 you've made between indigenous and exotic. If we were to entertain what you're
 1350 saying in terms of B, I'm just wondering what your suggestion there is. Would
 1351 exotic continuous-cover forest have its own clause, which would be more about
 1352 supporting... Are you suggesting that the financial driver should really be
 1353 targeted at indigenous forests?

1354
 1355 Commissaris: Yes, I'm suggesting that wherever the Method lands up, and generally supportive
 1356 of where it is, save for the fact that the prioritisation should be given to
 1357 indigenous and that should be articulated clearly in the Method. EDS is not
 1358 overly phased on the specific wording so long as that is recognised, and in
 1359 particular the direction in RPS Change 1, which is in some of the objectives and
 1360 policies and it's quite clear that indigenous revegetation should be prioritised.
 1361 That needs to be quite clear in this Method in order to be compliant with it.

1362
 1363 McGarry: Commissioner McGarry. I guess I'm looking for some help for the officer in
 1364 reply as to what you think that prioritisation would look like. I mean, are you
 1365 suggesting that the prioritisation would be through the investigating financial

- 1366 support and rates relief options for indigenous forest, and excluding exotic from
 1367 that clause? Is that how you prioritise?
 1368
- 1369 Commissaris Are you looking at M.44B or M.44A?
 1370
- 1371 McGarry: Commissioner McGarry. I was looking at A.
 1372 [02.45.00]
 1373 Because I'm thinking the real driver here is, for somebody thinking, investigating
 1374 financial support from what you're saying, and from what is in the direction, may
 1375 be more appropriate? I'm just really interested in how you'd achieve this
 1376 prioritisation.
 1377
- 1378 Commissaris: It could be, as you've suggested, taking exotic continuous-cover forest out of
 1379 there, but perhaps simpler to just include the word 'prioritising,' 'prioritising
 1380 indigenous forest,' so you have the same thing on areas greatest risk from forest
 1381 activities. I'm not a planner and I won't be able to wordsmith it, but it might just
 1382 be as simple as making it clear in that clause that you should be prioritising the
 1383 indigenous forests when you're going through that process, rather than the exotic.
 1384
- 1385 Nightingale: Commissioner Nightingale. There might be some wording in the RPS. There
 1386 might have been some wording around about prioritising indigenous forestry in
 1387 the relevant policy that might be useful.
 1388
- 1389 Commissaris: Yes. There was Objective CC.5, Policy CC.6, which is of course under appeal,
 1390 but then also policy CC.18. But if that's something that would benefit from me
 1391 coming back to the panel or Mr Watson on, I'm happy to do that. Apologies, I
 1392 can't provide any beautifully wordsmithed Method just now.
 1393
- 1394 Nightingale: I think that, yes that would be helpful if you're able to do that, and there's no
 1395 particular rush. Mr Commissaris, with the mapping, your comment about the
 1396 deficiencies in the notified plan erosion mapping, you acknowledged those.
 1397 Where we're currently at is that we have the potential erosion risk land identified
 1398 and then it's ground truthed and confirmed through the Forestry Management
 1399 Plan itself, and there's also a requirement to have contour lines shown at closer
 1400 intervals which is going to give more specificity and precision as to areas where
 1401 erosion is an issue. Is EDS now comfortable with that approach but wants that
 1402 to be applied regionwide, not just where the TAS is deficient? Where are you at
 1403 with where the Council officer has landed on the mapping?
 1404
- 1405 Commissaris: I think it was in some of the original documents supporting the mapping that
 1406 perhaps wasn't intended to drive a prohibited rule as notified, and EDS can
 1407 acknowledge that, although it is a shame that there are such deficiencies with the
 1408 evidence. So generally satisfied with where that's landed, subject to the
 1409 comments I've made already around the additions that are needed to the
 1410 Management Plans, the additions that are needed to the policies and the rule
 1411 framework. That's kind of a minimum for EDS, and specifically in relation to
 1412 confirming erosion risk through the plans.
 1413
- 1414 Again, just making sure. I'm just having a quick read through them now, but
 1415 subclause (4) there is important too.
 1416 [02.50.01]

- 1417 Council needs to be able to review the methodology and the outcomes, but it also
 1418 needs to be able to have an input and say into them. The ground truthing needs
 1419 to be robust, otherwise the value of those potential erosion risk land will be
 1420 undermined, and all that work will have been undermined. It really almost could
 1421 be worded in a way that it is assumed to be erosion risk unless the applicant or
 1422 the forest owner can demonstrate that it is not actually erosion risk. That might
 1423 be a better way to go about it, just to make sure that we're actually using the
 1424 information as robustly as we can, because that's what clause 1.6 of the NPS-FM
 1425 requires.
 1426
- 1427 McGarry: Just a quick comment, just to acknowledge the achieving the Wilder [02.51.08]
 1428 status by 2014 that you mentioned, and the need to go through multiple different
 1429 management practices to achieve that state. Really just a comment to say that
 1430 that's something that we're considering very carefully as a panel and
 1431 acknowledging that meeting TAS's by 2040 is not the be all and end all.
 1432 Anyway, kia ora.
 1433
- 1434 Commissaris: Kia ora.
 1435
- 1436 Nightingale: Great, thank you. I think that was all that we had, but I really appreciate your
 1437 legal submissions and talking with us today. Thank you very much and have a
 1438 good long weekend.
 1439
- 1440 Commissaris: Thank you all.
 1441
- 1442 Nightingale: We'll just take a 15 minute break. We'll be back. Good, I see Transpower in the
 1443 room. Just very slightly after 11:15. Great, thank you.
 1444
- 1445 **[Break taken – 02.52.08 – 03.08.53]**
 1446
- 1447 **Transpower – Julia Kennedy and Pauline Whitney**
 1448
- 1449 Nightingale: Ki ora. Welcome. We'll just do some quick introductions. Ko Dhilum
 1450 Nightingale tōku ingoa. Barrister, independent commissioner and chairing both
 1451 panels.
 1452
- 1453 McGarry: Mōrena. Sharon McGarry, independent hearings commissioner based at
 1454 Ōtautahi, Christchurch.
 1455
- 1456 Kake: Mōrena. Puāwai Kake, planner, independent commissioner based out of
 1457 Northland, Tai Tokerau.
 1458
- 1459 Wratt: Mōrena. Gillian Wratt, independent commissioner based in Whakatū, Nelson.
 1460 Stevenson: Ata mārie. I'm Sarah Stevenson, independent planner and commissioner based
 1461 here in Te-Whanganui-a-Tara, Wellington.
 1462
- 1463 Nightingale: Kia ora. Ms Kennedy, Ms Whitney, we have your planning evidence statements,
 1464 and have you caught up there. It was tabled, I think, on the 28th. Was that
 1465 Wednesday? A slightly revised version of the earthworks provisions.
 1466 **[03.09.59]**
 1467 Kennedy: Yes, I think so. That was in green. Is that correct?
 1468

- 1469 Nightingale: Yes.
1470
- 1471 Kennedy: Great.
1472
- 1473 Nightingale: Okay. I think then we're up to date, so we'll pass over to you. Thank you.
1474
- 1475 Kennedy: Tēnā koutou. Good morning panel. My name is Julia Kennedy, and I am the
1476 environmental consents and compliance team leader at Transpower New
1477 Zealand. I'm joined today by Transpower's expert planner, Ms Whitney, and also
1478 to my left Rachel Blackburn, here for experience but could be available if able
1479 to answer some questions that may arise.
1480
- 1481 I understand that my evidence in relation to the proposed Plan Change 1 of the
1482 NRP dated 5th of May, has been read prior. The purpose today is to provide a
1483 summary of that evidence and answer any questions, particularly around the
1484 activities carried out on the National Grid and its access. Then we propose that
1485 Ms Whitney will follow with her presentation.
1486
- 1487 The National Grid is nationally significant infrastructure. It is infrastructure that
1488 is critical to the livelihoods of New Zealanders and should be appropriately
1489 provided for, whether that is the maintenance, upgrading and operation of the
1490 existing assets, or creation of new including access to them. Appendix A of my
1491 evidence lists and shows a map of National Grid assets in the Wellington region,
1492 of which there are many. Those include substations, transmission lines,
1493 communication sites, an electrode sites, access tracks amongst others. Many of
1494 these are critical to the security of electricity supply, not just for Wellington, but
1495 for all of Aotearoa. That includes the submarine Cook Strait cable that links
1496 electricity supply between the North and South Islands.
1497
- 1498 Some of these assets or access to them are located near water bodies or the
1499 coastal marine area, or otherwise traverse them. Transpower's submission, as
1500 explained by Ms Whitney, seeks appropriate recognition and consenting
1501 pathways proportionate to the importance of the National Grid. That is, provision
1502 of access to and activities to maintain and upgrade National Grid assets as well
1503 as to build new if so required, so that security of supply is not compromised.
1504 This includes having appropriate enabling regional rules which do not unduly
1505 restrict essential work to be carried out.
1506
- 1507 I'll now go through some key points of my evidence, which I thought would be
1508 useful to provide context to the relief sought by Transpower in so far as these
1509 relate to topics of relevance within Hearing Stream 3, being earthworks and
1510 vegetation.
1511
- 1512 In relation to earthworks, paragraphs 32 to 39 of my evidence provide an
1513 overview of the typical earthworks and activities that Transpower undertakes,
1514 including how these activities are managed. These are activities that need to be
1515 carried out anywhere on the National Grid, including where these are near or
1516 within freshwater, and include earthworks required for both existing and new
1517 assets.
1518
- 1519 Typical earthworks are associated with development and maintenance at
1520 substations and transmission line support structure, installation, foundation

1521 strengthening, upgrades and replacement works. The photos provided in
 1522 Appendix B of my evidence show some examples of transmission assets in close
 1523 proximity to water bodies, as well as provide context to the scale of typical
 1524 routine work that is carried out day-to-day to ensure the grid is fit for purpose in
 1525 its role of providing a secure electricity supply.

1526
 1527 As well as work carried out on assets themselves, having the ability to safely
 1528 access all parts of transmission infrastructure is crucial. Having land access
 1529 where possible is preferred, and the ability to carry out work on access tracks is
 1530 a routine activity on the National Grid. I have included the need for access in my
 1531 evidence, but in summary it is often activities involving access work that are
 1532 located in or near freshwater bodies, so while structures themselves may not be
 1533 located in water bodies, the access to them might cross them or be located next
 1534 to them.

1535
 1536 In relation to the proposed rules relating to earthworks, specifically with
 1537 reference to Ms Vivian's rebuttal evidence, I concur with Ms Whitney's opinion
 1538 that the rule framework has been complicated by having two rules that provide
 1539 for National Grid assets. Ms Whitney will go through any updates to that rule as
 1540 presented on Wednesday. The preference is to have one clear permitted activity
 1541 rule that sufficiently enables work on National Grid assets, including access, but
 1542 will equally have appropriate management provisions to avoid remedy and
 1543 mitigate any potential adverse effects.

[03.15.01]

1544
 1545 To provide context, as currently worded, rules WHR.23A and PR.22A do not
 1546 permit earthworks within five metres of a water. I consider this will unduly
 1547 restrict Transpower from being able to carry out even the most straightforward
 1548 of maintenance activities on structures and on access tracks and approaches to
 1549 waterway crossings without the need for a resource consent. This is work that is
 1550 essential. It must take place to ensure a sustainable and secure electricity
 1551 network, and without delay in many cases.

1552
 1553 Transpower has well established processes and procedures to manage earthwork
 1554 activities and either avoid or minimise the adverse effects. In my view, the
 1555 permitted activity conditions recommended by Ms Whitney, as set out in
 1556 Appendix A of her speaking notes, as well as the conditions under Regulation
 1557 30 of the Resource Management National Environmental Standard for
 1558 Electricity Transmission Activities, otherwise referred to as the NESETA, the
 1559 relevant conditions of the Resource Management National Environmental
 1560 Standard for Freshwater, both of which will apply in addition to the Regional
 1561 Plan Rules, as well as Transpower's internal environmental management
 1562 requirements, will address the objectives of Plan Change 1 in relation to
 1563 freshwater quality.

1564
 1565 I'm just going to add, expand a little bit in relation to some of the questioning
 1566 earlier in the week. While I was not able to listen to the questioning of Ms Vivian
 1567 by the panel, I am aware there was some discussions around the appropriateness
 1568 of a winter closedown period when applied to electricity transmission. In
 1569 response to this, the National Grid needs to be accessed all year round. In my
 1570 experience, winter [voice cuts out 03.16.48] relate more to very large, bulk scale
 1571 earthworks, but my understanding is that the closedown period would also
 1572 restrict low scale earthworks, and in particular where a Target Attribute State is

1573 not met. This would mean, in any situation we may need an ecologist to help us
1574 assess that. As well as that, in general I'll make a few comments on those more
1575 low scale day-to-day short duration earthworks, just to provide a bit more context
1576 around those.

1577
1578 Work on assets or on access to them cannot wait until outside the winter period
1579 where there is a reliance to keep a secure supply of electricity all year round. It
1580 is just not practical to do so. That would mean removing 25% of the year. We
1581 would potentially not be able to provide access if earthworks were required
1582 without the need for a resource consent. As I mentioned before, I believe there
1583 could be an appropriate permitted activity framework that sets out the
1584 appropriate standards for management during that period.

1585
1586 Condition assessments on National Grid infrastructure and scheduled work on
1587 assets is reliant on a complex national outage schedule which happen during all
1588 times of the year. Outages on some assets will only occur once a year. This may
1589 need to be during winter without exception. Cost implications and penalties for
1590 changing outages or missing work during these outage windows could be severe,
1591 especially when the security of supply is at risk.

1592
1593 There may be cases where work on assets may not require earthworks, but the
1594 access to then may require some maintenance work and a winter earthworks
1595 closedown would inappropriately restrict that critical work being carried out. I
1596 would also add that there are also times of the year where Transpower tries to
1597 avoid accessing properties due to landowner preferences, such as during spring
1598 lambing or summer autumn crop harvesting, and hence work may need to be
1599 scheduled during the winter closedown.

1600
1601 While there are areas and properties that are difficult to access in the winter and
1602 work will be avoided as best as possible on those particular properties, this is
1603 definitely not a reason to restrict work during the winter earthworks closedown
1604 period exclusively. In my view and experience, earthworks during winter can be
1605 managed through appropriate erosion and sediment control measures through
1606 those which I have set out in my evidence. I also understand there was a question
1607 around the condition relating to the stabilisation period from six months to a
1608 three month timeframe, and I can confirm Transpower is comfortable with a
1609 three month timeframe.

1610
1611 In relation to vegetation works, as explained in paragraphs 40 to 49 of my
1612 evidence, managing the effects of vegetation on the National Grid is a continuous
1613 task for Transpower. Vegetation growing too close to National Grid transmission
1614 lines, including across access tracks, can pose a potential hazard to life, property,
1615 and the environment, and a threat to security and reliability of the electricity
1616 supply system.

[03.20.04]

1617
1618 While not overriding RMA obligations and requirements, Transpower has a
1619 legal requirement to maintain its lines to minimise any tree related interruptions
1620 to the supply of electricity. I support the Section 42A Report recommendations
1621 pertaining to vegetation clearing and trimming provisions.

1622
1623 Just to conclude. My evidence as filed, and my summary today highlights the
1624 importance of an enabling framework to appropriately allow work to take place

1625 on the National Grid. Transpower supports the necessary management of
 1626 activities to ensure improvement in freshwater quality, and I believe this can be
 1627 done by good and robust permitted activity conditions, particularly where this
 1628 work must take place without unnecessary delay and unnecessary consenting
 1629 costs to ensure the ongoing security of supply to Wellington and Aotearoa.
 1630 Thank you.
 1631

1632 Nightingale: Ms Whitney, would you like to go next and then maybe we can have questions
 1633 for you after. Thanks.
 1634

1635 Whitney: Certainly. So just to confirm, you have my speaking notes which I think we
 1636 provided to Council on Wednesday. Yes. Are you happy for me if everyone's
 1637 ready? Thank you. Just to confirm for the record, my name is Pauline Whitney
 1638 and I'm an independent planning expert with Boffa Miskell Limited.
 1639

1640 You have my evidence, and I will take it as read. Just to confirm, I've also read
 1641 the evidence of other experts and concur with many of the sentiments raised and
 1642 relief sought in relation to RSI and network utilities. I've also read the officer,
 1643 including the supplementary rebuttal evidence of Ms Vivian, and while I concur
 1644 with elements of her updated recommendations, there's still a number of matters
 1645 that I consider outstanding. So if agreeable to the panel, I'll just take the next
 1646 five minutes just to respond to the rebuttal evidence and confirm my position on
 1647 the six points raised in my evidence. And I have attached to my speaking notes
 1648 in Appendix A, which includes a colour-coded version of the provisions. Have
 1649 you got that?
 1650

1651 Nightingale: I've definitely got your evidence statement, and I had thought we did. Sorry, Ms
 1652 Whitney.
 1653

1654 Whitney: That's alright.
 1655

1656 Nightingale: I had imagined that we had received it.
 1657

1658 Whitney: We also provided them for Ms Kennedy, so they are there. It will help as well.
 1659 You'll have a record of what we're saying today.
 1660

1661 Nightingale: Are they on the web page?
 1662

1663 Whitney: Ms Eng sent them through on Wednesday, I think, wasn't it?
 1664

1665 Kennedy: Yes.
 1666

1667 Nightingale: From Transpower.
 1668 [inaudible 03.23.06]
 1669
 1670

1671 Nightingale: That's okay. If you don't mind emailing them?
 1672 [inaudible 03.23.16]
 1673
 1674

1675 Whitney: That's okay. They might just be helpful because it does just record my updated
 1676 position.

1677
1678 [silence 03.23.30-03.24.21]
1679
1680 Whitney: Yeah, that's fine. I will be speaking to the bits I've coloured, so it might be more
1681 helpful if I do hold off.
1682
1683 Nightingale: Might be better if we just pause. Sorry about that.
1684
1685 Whitney: You have emailed them.
1686
1687 [inaudible 03.24.34]
1688
1689 Whitney: That will be great.
1690
1691 Nightingale: Sorry about that, Ms Whitney.
1692
1693 Whitney: That's fine. Thank you.
1694
1695 Nightingale: Right, we have them now. Thanks.
1696
1697 Whitney: That's good. So the speaking notes. I'm just basically reading through, so you
1698 will have a record of what I'm presenting today. No, it's dated the 28th of May.
1699 [03.25.02]
1700 It's one, two, three, four, five, six, eight pages. You'll have Ms Kennedy's and
1701 mine. It would have been either Rebecca Eng at Transpower or from
1702 Environment Policy at Transpower. I can send them through if you want now.
1703 Fine. I'll just open up my-
1704
1705 [inaudible 03.25.48]
1706
1707 Whitney: Yes, correct. That's right. I did confirm with Ms Eng, and she sent them. That's
1708 fine. That's all good. [laughter] It's fine. I usually bring paper copies with me as
1709 well, but I'm trying to get out of the habit. Thank you.
1710
1711 I've provided some text, and then you'll see as Appendix A, I've attached the
1712 provisions in my evidence that's still kind of outstanding and suggested and
1713 colour-coded purple now, some further amendments in light of the rebuttal and
1714 supplementary rebuttal from the reporting officer, Ms Vivian. So if agreeable to
1715 the panel, I'll just talk through those now and outline my current position.
1716
1717 I guess the focus of my lodged evidence was on the new permitted infrastructure
1718 earthworks rules WHR.23A and PR.22A, and maybe just for the sake of ease, I
1719 refer to these as the A rules as I'm talking to you today, rather than a page and a
1720 lot of numbers. And also a confined amendment was also sought to clause (e)
1721 within the policies WHP.29 and PP.27 in terms of the reference to the closedown
1722 period.
1723
1724 So first of all, if I can just talk to the policies P.29 and P.27. In terms of the
1725 sought recommended change in my evidence to clause (e), which is the shutdown
1726 period, I remain supportive of the relief sought in my evidence, however as an
1727 alternative, on the basis the officer supplementary rebuttal recommends an
1728 extension for quarrying, if reference to electricity transmission activities is

- 1729 inserted with that exception the concerns outlined in my evidence would also be
 1730 addressed. But I do qualify that, but I am aware that that would still leave an
 1731 issue for RSI and other... Sorry, for Transpower it may address their particular
 1732 issue, but I think there's still a wider issue that may need to be addressed. So I
 1733 certainly would support it being, include those other RSI activities.
 1734
- 1735 Nightingale: Commission Nightingale. Quick question, Ms Whitney. When several
 1736 contractors presented to us, they said that rather than minimising works, in their
 1737 view it would be more appropriate for that policy clause (e) to talk about, their
 1738 words were 'managing adverse effects from works' or wording similar to that.
 1739 But really focusing, rather than on minimising the works themselves, the
 1740 managing the effects.
 1741
- 1742 Whitney: Yes, I certainly remain supportive of the relief outlined in my evidence, which
 1743 was originally, and I do have it on page 6 of my speaking notes, to instead of
 1744 having the, "Minimising works required during the closedown period," have,
 1745 "Managing earthworks during the 1st of June to 30th September in accordance
 1746 with the Greater Wellington Regional Council Erosion and Sediment Control
 1747 Guideline for the Wellington Region."
 1748 [03.30.03]
 1749 So having that reference to that.
 1750
- 1751 Wratt: Commissioner Wratt. Have you seen there was a revised wording suggested by
 1752 Ms Foster from Meridian for that clause (e), which was deleting the current (e)
 1753 and replacing it with, "Ensuring appropriate management and mitigation
 1754 measures are in place to manage earthworks during heavy and prolonged rainfall
 1755 events, including during the period 1 June to 30 September each year."?
 1756
- 1757 Whitney: Yes, I'd be open to that as well. I guess, my preference would be just to, this is
 1758 obviously a policy, and that, "You shall manage the effects by the following," I
 1759 think I would prefer just to refer to the Erosion Sediment Control Guidelines
 1760 because that has all the relevant information and what you should be considering
 1761 and things like that. I think that would be the easiest way, and then that ties into
 1762 good practice as well.
 1763
- 1764 Wratt: Commissioner Wratt. You still like that reference to that period of 1st June to 30
 1765 September?
 1766
- 1767 Whitney: Not necessarily. Actually, from memory I can't recall what's in the Erosion
 1768 Sediment Control Guideline that makes reference to that. I can check that, but
 1769 certainly, recent experience is that the heavy rainfall events aren't confined to
 1770 that winter period, and while you generally have more rain in winter, they're not
 1771 necessarily the heavy rain events that are of concern. So maybe in these changing
 1772 times, a 25% period of the year maybe isn't so appropriate. Maybe we're best to
 1773 manage it all year round appropriately.
 1774
- 1775 Wratt: Commissioner Wratt. Yes, that point has been made by a few other submitters
 1776 as well, is that particularly with climate change impacts that we're seeing now,
 1777 it's not just... I mean, there are issues over that winter period, which one point
 1778 that's been raised is you, it's called the water level in the soil, it's higher. There
 1779 are some added risks over winter, but those heavy rainfall events can happen
 1780 anytime.

- 1781
1782 Whitney: Correct. And even in dry periods when the ground is obviously, as I understand,
1783 I'm not an ecologist, but when it's drier and harder a heavier rainfall event, that
1784 can even be worse sometimes because it just runs off and takes the soil with it.
1785 So there's a lot, it's very complex. Maybe having a shutdown period is quite an
1786 overly simplistic way to address the issue.
1787
- 1788 Wratt: Thank you.
1789
- 1790 Nightingale: Commission Nightingale. Can I just check. This policy in both whitua, it would
1791 apply, and the cascading rules would apply to earthworks for existing
1792 transmission lines, substations, access tracks, all of your earthworks, because
1793 these are regional rules and it would then supplant the NESET provision for
1794 earthworks.
1795
- 1796 Whitney: Correct. That is correct. Yes. So under Regulation 4 of the NESETA it excludes
1797 earthworks as regulated. I can find the exact quote. It's Regulation 42(f). 'The
1798 NESETA does not apply to earthworks to the extent that they are subject to a
1799 regional rule.' So correct. So the activity status and the actual rule trigger is
1800 determined by what's in the Regional Plan.
1801
- 1802 Nightingale: Commissioner Nightingale again. So even where there may be potentially
1803 contaminated land, which is also another provision in the NES, this would
1804 replace those provisions as well?
1805
- 1806 Whitney: You will still have the NES for certain activities. It's almost this is another layer
1807 of regulation as I understand, that would apply to Transpower's activities. So it
1808 doesn't do away with everything else in the NESETA but it's just another
1809 additional level of criteria or another rule that would need to be met.
1810
- 1811 Nightingale: So the potentially contaminated earthworks provisions would-
1812
- 1813 Whitney: Ms Kennedy might be able to clarify as well, given her experience on day-to-
1814 day with this.
1815
- 1816 Kennedy: Julia Kennedy. The contaminated land rules in the NESETA typically cascade
1817 back through to a district at District Council level. So we would also, any
1818 regional rule relating to contaminated land would apply under the regional
1819 provisions and their earthworks relating to that. But still subject to Regulation
1820 42(f) would still be regional requirement.
1821
- 1822 Nightingale: Commissioner Nightingale. Yes, and thanks for picking up the renewable
1823 electricity generation activities.
1824 **[03.35.02]**
1825 We did we did talk about this with Meridian, and the definition in the Operative
1826 Plan also includes transmission lines, so transmission line connections, but you
1827 obviously prefer to have a specific reference to electricity transmission activities
1828 as well.
1829
- 1830 Whitney: Ms Whitney. Correct. I guess because it wouldn't include things like access track
1831 works and so forth so there's a lot of wider scale works and also support
1832 structures which aren't connected necessarily to the REG activities. If I can just

1833 add something as well. I was trying to get my head around, I understand for
 1834 quarrying why that was included, and I was trying to understand why REG was
 1835 included but not ET, and where I landed, and I could be wrong, is I think it may
 1836 stem from the Operative Rule 106 in the NRP which provides an RDA activity
 1837 status for REG activities for vegetation and earthworks. They've got their own
 1838 rule. And I could be wrong, Ms Vivian may be able to maybe correct me in terms
 1839 of understanding where it's come from, but this is where I can see the connection.
 1840

1841 But obviously ET activities for a start, the activity status for vegetation works is
 1842 governed under the NESETA. It's very complex so they didn't need that Rule
 1843 106 in effect, and also earthworks up till the notification of Plan Change 1 for
 1844 electricity transmission were excluded. Electricity transmission activities were
 1845 excluded from the definition of earthworks, so they didn't trigger any rules in the
 1846 Regional Plan. That's all changed now with the change definition through NRP
 1847 1.
 1848

1849 So Rule 106, which was for REG, suited a point in time, but things have changed,
 1850 and I just wonder if that's why it's come through as another exception along with
 1851 quarrying.
 1852

1853 McGarry: Commissioner McGarry. I think it might just be an oversight, because on day
 1854 one I brought up RSI generally and then focused down on REG, and probably
 1855 didn't make it clear that of the two NPSs in the NES as well. So I think it might
 1856 just be an oversight on the officer's part. I'll let her confirm that before I carry
 1857 on my question.
 1858

1859 Vivian: Ms Vivian. Miss Whitney is actually correct. The wording has come from that
 1860 RDA, Restricted Discretionary Activity, in the NRP in the first place. That's kind
 1861 of where this drafting of this new restricted discretionary rule has come from. I
 1862 see no concerns with adding electricity lines into the policy. There's just a few
 1863 points I'd like to make in case you guys didn't get a chance to listen in yesterday,
 1864 but particularly (e) of that policy is supposed to be only applicable to bulk
 1865 earthworks exceeding 3,000 square metres. So the minimising works during that
 1866 closedown period is for bulk earthworks. It's not for those minor scale works.
 1867 So that's something that was mentioned yesterday.
 1868

1869 Upon drafting, I thought that by placing the construction, repair, upgrade and
 1870 maintenance of electricity lines and their support structures, including the grid,
 1871 into that permitted activity would provide for this. I guess, is the main issue here
 1872 that that permitted activity rule has that five metre boundary? Is that kind of the
 1873 basis for it, because that rule has no limitations for the winter period?
 1874

1875 Whitney: Thank you. That's helpful. That probably segues into a whole new discussion, I
 1876 think. Maybe that's a good point, and I'll answer that. Thank you, Ms Vivian. Ms
 1877 Whitney here as well. Yes, it's very complex. So thanks for clarifying maybe
 1878 where that reference to REG has come from. That's the conclusion I reached as
 1879 well, in terms of the logical pathway.
 1880

1881 In terms of that minimum 3,000, that closedown would only be triggered with
 1882 that exceeded. I don't read the rules as like that, as working like that at the
 1883 moment. That wasn't the conclusion I reached. I reached if Transpower was
 1884 doing some minor earthworks and they went within five metres of a water body,

1885 they would automatically click into the RDA rule. And if the Target State
 1886 Attribute for that water body has been exceeded, not through any actions they've
 1887 done, then they would then go to discretionary.
 1888

1889 That's how I see the rule cascade as working. And the 3,000, I think I go to this
 1890 later, the 3,000 which has been recommended, I think confuses things because
 1891 now we have two permitted rules for Transpower for electricity transmission
 1892 activities.

1893 [03.40.02]

1894 You've got the 3,000 plus you've got the A rules. Just as a segue, I think a lot of
 1895 this can be resolved through [03.40.12] conferencing as well. So just saying
 1896 Transpower's really happy for me to engage in that process, and I think we can
 1897 iron a lot of these out.
 1898

1899 Vivian: Ms Vivian. Just for clarification, and we spoke to this yesterday and I understand
 1900 it's obviously not clear because multiple people have raised it, is that the rule
 1901 framework would work, and when I was drafting it and the cascading effect, so
 1902 if Transpower had the authorisation to do works in accordance with 23A or 22A,
 1903 then they wouldn't be subject to that other permitted activity rule that has the
 1904 3,000 square metre threshold? But you are correct in that, as currently drafted,
 1905 they would be subject to that five metre setback. But it's not that someone has to
 1906 assess the activities listed in 23A and 22A and be in accordance with the other
 1907 permitted activity rule.
 1908

1909 So I think wording should be added to that rule to say, "Unless in accordance
 1910 with 22A and 23A." I agree with that. But as currently drafted, that setback
 1911 would still be there, and I am of the opinion that that still is the permitted activity
 1912 rule in the NRP is drafted as well. I'm not entirely sure. I guess if you could just
 1913 clarify the difference between the existing NRP provisions and the new
 1914 provisions with that setback.
 1915

1916 Whitney: Thank you. Ms Whitney. Thank you. There was a few in there. A few comments
 1917 to respond to. I guess, in my speaking notes I have suggested some wording to
 1918 address that dual rule issue, which probably maybe aligns, I think, with where
 1919 you're thinking as well, having an 'or' and then if you're not covered by the A
 1920 rules, then the 3,000 kicks in. So I think there's a way we can easily address that,
 1921 maybe through combining the rules into one rule. It would be a long one, but at
 1922 least it would be all the permitted activities would be in one place. So certainly
 1923 open to that option. In terms of-
 1924

1925
 1926 [End of recording 03.42.14]
 1927

1928 [NRP PC1 HS3 Day 5 – Part 2]
 1929

1930 Whitney: The five metres in the Operative Rule. Obviously, the key difference is that the
 1931 operative definition of earthworks excludes electricity transmission activities. So
 1932 that's the main difference. And that was the original relief sought in the
 1933 Transpower submission, was to continue with that operative definition. Fully
 1934 appreciate things have moved on. So Transpower had that in its submission, and
 1935 then through my evidence I've acknowledged that maybe times have moved on,

1936 so now it's a matter of providing the appropriate rule framework. Previously it
 1937 wasn't an issue because Transpower was excluded from that definition.
 1938

1939 Nightingale: Commissioner Nightingale. Just to confirm. For the remaining three whitua
 1940 there are no regional earthworks rules?
 1941

1942 Whitney: Ms Whitney. Correct is my understanding, based on the operative definition.
 1943 And I guess the concern for Transpower, and I am wary that what happens here
 1944 will be imposed in the other whitua. I know they're all different, but I anticipate
 1945 this will form the benchmark for what goes into the other whitua. Given the
 1946 linear nature of the assets, it's important Transpower has consistency. Also from
 1947 an administration operational point of view.
 1948

1949 Kake: Can I just ask. Commissioner Kake here. We've heard throughout the week
 1950 about, in some earlier hearings as well, some of the utility providers having
 1951 global consents, in particular around just maintenance upgrades, day-to-day
 1952 activities. I'm just wondering if Transpower have anything of the sort in the
 1953 Wellington region?
 1954

1955 Kennedy: Ms Kennedy. We do have some regional global consents within the Wellington
 1956 and nationally. Some will cover, and I believe we've actually [00.02.04]
 1957 compliance under the existing Operative Rule, which is no longer relevant
 1958 because the new rule took legal effect. We also have some abrasive blasting
 1959 global consents, and we also have another one in progress at the moment, which
 1960 I believe is going to cover some earthworks provisions for some activities. But I
 1961 think we may be holding off until we land a rule framework here, until we know
 1962 what we need to apply for, so we don't have to do it twice.
 1963

1964 Kake: The follow on question with that then, assuming that there's a pretty well set out
 1965 Erosion and Sediment Control Plan under that particular global consent?
 1966

1967 Kennedy: Yes. We will offer up an Erosion Sediment Control Plan in accordance with the
 1968 guidelines and other internal best practice as well.
 1969

1970 Kake: I suppose, I'm interested in the setback commentary and how that's currently
 1971 managed under the NRP, seeing as it's been there for a while. We've got the
 1972 photos and the examples that you've provided are really helpful. I suppose, I'm
 1973 looking at one that goes over the ford. There is the ford that goes over the river.
 1974 What Sediment and Erosion Control Plans might be put in place, or how all those
 1975 effects can be managed?
 1976

1977 Kennedy: Just in general, we have a suite of best practice guidance that we provide to our
 1978 service provider crews, and we support them in preparing appropriate Erosion
 1979 and Sediment Control Plans for the work that they do, particularly where there's
 1980 water bodies in close proximity. And actually, Ms Whitney may be able to
 1981 expand on the current regional rules for bridges as well.
 1982

1983 Whitney: Thank you. Ms Whitney. Just to clarify as well to reiterate, obviously the
 1984 operative five metre rule hasn't kicked in, so it hasn't been an issue to date. So
 1985 it's only just since this plan change was notified that it's become.
 1986

- 1987 Kennedy: If I could just speak. I think, also just important to note there that the previous
 1988 NRP definitions only excluded works associated with the electricity lines and
 1989 their support structures, but it was actually, I mean, in my view that doesn't
 1990 include tracks and whatnot, and on top of that the fords and stuff will actually be
 1991 covered under the other rules within the beds of lakes and rivers chapter, which
 1992 does has have permitted activity provisions for structures such as fords, I believe
 1993 off the top of my head.
- 1994 [00.05.08]
- 1995 I wouldn't be able to list them, but there definitely is permitted activity provisions
 1996 for those sorts of activities.
- 1997
- 1998 Whitney: Ms Whitney here. We might be going down a wee rabbit hole about what lines
 1999 are and things like that, but access track's activities are associated with the grid,
 2000 so they would be included, and that's certainly the approach from Transpower to
 2001 date. But maybe let's put that aside, what happened in the past, and work with
 2002 what's now.
- 2003
- 2004 I guess the main thing then is, in terms of my evidence the main change is
 2005 seeking some change to the five metre setback from a surface water body. The
 2006 changes are outlined on page 8 of my rebuttal, sorry my speaking notes, and they
 2007 are consistent with what I saw in my evidence, what is recommended, in terms
 2008 of recognising that, in my opinion, activities within the five metres of a surface
 2009 waterbody can be appropriately managed through the three conditions I've
 2010 suggested there. And as Ms Kennedy has outlined, Transpower does have its
 2011 operating procedures and so forth that it provides to those undertaking the works.
- 2012
- 2013 I guess just three points as outlined in my evidence. This is kind of consistent as
 2014 well with the, NES for freshwater has a similar approach for wetlands in terms
 2015 of providing a permitted activity rule where certain conditions are met. So it's
 2016 not a new concept and this would be particularly applicable to small scale
 2017 earthworks and so forth.
- 2018
- 2019 Just one final point that I guess all your activities in the waterbodies are still
 2020 regulated so you would still have rule framework for those. So your fords, your
 2021 culverts, everything like that would still be managed under those rules. So this
 2022 is just managing those earthworks adjoining or further afield. Thank you.
- 2023
- 2024 Nightingale: Thank you, Ms Whitney. Commissioner Nightingale. The wording that you're
 2025 proposing in clause (h) here of the AE [00.07.08] rules, is that taken from, is that
 2026 wording prepared earlier? No. Is that wording that's come from another plan or
 2027 is that-?
- 2028
- 2029 Whitney: It's actually come, it's on page 32 of my primary evidence but I can speak to it.
 2030 It's paragraph 9, 8.10. Condition 1 there, which relates to stability and erosion
 2031 basically, that reflects permitted Regulation 33.5 in the NESETA. So there is
 2032 alignment in summary between other documents, and I've outlined where. That
 2033 reflects the NESETA, so while it's not directly relevant to sediment, the effects
 2034 relate to water quality, and as a result of stability and erosion issues it provides
 2035 an additional control for land that is potentially more prone to sediment during
 2036 earthquakes.
- 2037

- 2038 Condition 2, which is about erosion sediment control, that reflects Regulation
 2039 33.3 of the NESETA again and provides an additional control that ESC be
 2040 undertaken. Then condition 3, the notice or just notification to Greater
 2041 Wellington of the works, that reflects the permitted Regulation 55.2 in the NES
 2042 for freshwater in relation to wetlands. So again, just a consistent approach with
 2043 what is out there in terms of practice.
 2044
- 2045 Again, that's page 32 of my evidence has the basis for those, and in determining
 2046 them, I kept coming back to what are the effects we're trying to address in terms
 2047 of this Regional Plan?
 2048
- 2049 Nightingale: Commissioner Nightingale again. Just checking as well that, "Operation repair,
 2050 upgrade, maintenance of existing assets, including existing and new access
 2051 tracks." Sorry, I'll go back. "Operation repair, upgrade, maintenance of existing
 2052 assets." That's wording from the NESETA?
 2053
- 2054 Whitney: Correct. I'll have to check that actually. Sorry, Ms Whitney here. I'll just have to
 2055 check that. I try to cover the field for the activities, so it may be a mixture of the
 2056 NESETA and the NPS-ET, but it's kind of common activities that Transpower
 2057 does in terms of operation maintenance and upgrade. Just to clarify, your note
 2058 that within that (h) I haven't included new assets so I accept that consent should
 2059 be required if a new line was going in and so forth, and that would form part of
 2060 a wider consent framework that Transpower would be seeking.
 2061 [00.10.03]
 2062 So I've confined it to existing assets.
 2063
- 2064 Nightingale: But new access tracks to existing assets would be covered?
 2065
- 2066 Whitney: Correct. And noting that probably new access tracks generally to existing assets,
 2067 generally would be outside the five metres as well. Just to note that. Because
 2068 generally Transpower would probably not want to put an access track within five
 2069 metres because of ongoing maintenance issues and risks. So just outlining that.
 2070
- 2071 Nightingale: Thank you.
 2072
- 2073 McGarry: Commissioner McGarry. Thanks very much. Very clear changes. Thanks for
 2074 putting the words forward so clearly. I just wanted to test the waters in terms of
 2075 one day when we talked to Ms Vivian, about how Policies 29 and 27 read a bit
 2076 more like the standards, and we've kind of lost what the message is that we're
 2077 trying to get across, and the policy's got quite complex. So we've asked Ms
 2078 Vivian to look at maybe changing the chapeau, looking at whether some of these
 2079 things might be better reflected in the rules than at the policy level, and giving a
 2080 bit more of a simple policy.
 2081
- 2082 So I just want to test the waters. Obviously, we'd be looking to Ms Vivian to do
 2083 some drafting first and then perhaps get some comments and some input through,
 2084 maybe not [inaudible 00.11.35], but some written feedback or something like
 2085 that. Interested in your comments on how you see those policies, whether they
 2086 read more-?
 2087
- 2088 Whitney: Thank you. Ms Whitney. Happy to also be part of the process as well and to
 2089 review and provide any comments back to Ms Vivian, just as a first one. I guess

2090 my only caution would be, looking at this now, would be where you've got words
 2091 such as 'maximising, limiting, minimising,' you know, they're not quite certain
 2092 enough terms to be included as conditions within, particularly a permitted role.
 2093 So that would be my only qualifier about having that.
 2094

2095 I'm not sure how certain they would be, and you may then just get into a lot of
 2096 discussion between applicants and officers about whether you are limiting the
 2097 amount of land disturbed at any one time. Because then, if you trigger consent if
 2098 you're not doing that, then it becomes quite onerous. So that's my only caution
 2099 about the workability of putting them in as a rule and conditions. I'm not overly
 2100 opposed to that policy. I mean, I think it's..., but I didn't listen to the discussion
 2101 so not fully aware of all the concerns.
 2102

2103 Nightingale: Commissioner Nightingale. Where would, looking at the wording that you're
 2104 proposing for the A rule, Ms Whitney's RD activity rule that she is supporting,
 2105 that's provision for earthworks taking place in Schedule A areas, Schedule F
 2106 ecosystems, habitats with indigenous biodiversity, naturally, the scheduled
 2107 areas, where would they...? I guess is there a consent trigger where Transpower
 2108 undertakes works in those more sensitive environments?

2109 Whitney: Ms Whitney here. Sorry, I'm just not clear what reference you're talking to?
 2110

2111 Nightingale: Sure, sorry.
 2112

2113 Whitney: The A rules?
 2114

2115 Nightingale: The permitted activity rule that you're seeking-
 2116

2117 Whitney: An amendment to?
 2118

2119 Nightingale: Yes. I guess I'm just asking, would there be a trigger for earthworks that take
 2120 place in these scheduled sensitive areas?
 2121

2122 Whitney: Are you talking about the amendment on page, Ms Whitney here, on 7 or 8 of
 2123 my-?
 2124

2125 Nightingale: Sorry, page 8. So the amendment in purple you're seeking to (h)?
 2126

2127 Whitney: So (h), okay.
 2128

2129 Nightingale: Oh I see. Sorry, that's within five metres. Sorry, I was getting confused there.
 2130

2131 Whitney: Not sure where the valued areas, where that trigger is in the rule.
 2132

2133 Nightingale: Yeah. They're in Ms Whitney's proposed restricted.
 2134

2135 Whitney: Ms Vivian?
 2136

2137 Nightingale: Sorry, what did I say? Ms Vivian's.
 2138

2139 Whitney: No, that's okay.
 2140 [00.15.00]

- 2141 Nightingale: Ms Vivian's proposed Rule 24. Maybe that doesn't matter so much. Maybe the
 2142 scaling back. The question is, is there a consent trigger where there are
 2143 earthworks proposed in sensitive environments?
 2144
- 2145 Whitney: Ms Whitney here. Under the NESETA there is. Notwithstanding what's in here
 2146 as well, the NESETA includes provisions about natural areas as well, and
 2147 earthwork limits. So natural areas would cover your sensitive environments.
 2148 Even though earthworks are excluded from the NESETA, you've almost got
 2149 another layer in the NESETA as well. In summary, yes they would be addressed
 2150 through the NESETA. That's Regulation 33.
 2151
- 2152 Vivian: Commissioner, if I could just comment on that. I think that's a good... Sorry, Ms
 2153 Vivian. It's probably a good point that you've raised. If the amendments by Ms
 2154 Whitney were taken, there would probably need to be some forms of exceptions
 2155 put in there, especially because our scheduled areas aren't just or they won't be
 2156 those of the NESETA. In fact, they have been developed. The schedules include
 2157 like sites of significance to mana whenua, and different variables have been
 2158 taken into consideration when identifying those schedules.
- 2159 Whitney: Ms Whitney here. I probably hadn't appreciated the nuances in trying to marry
 2160 these all together, but Transpower will certainly be open to including that.
 2161 Provided the areas are identified clearly in the NRP is probably a key one as
 2162 well. That they have to be identified in that, so it is certain.
 2163
- 2164 Nightingale: Commissioner Nightingale. Just making that really clear and giving you
 2165 certainty, the Council certainty, where an activity is regulated by the regional
 2166 rule then the NESETA doesn't apply. So where is that? Is that boundary very
 2167 clear?
 2168
- 2169 Whitney: Ms Whitney here. Just because earthworks aren't regulated under the NESETA,
 2170 there still is another layer of provisions there. I think the purpose of that
 2171 exclusion is more to remove a permitted activity status outright through the
 2172 NESETA in terms of regional rules. It's complex. But in terms of natural areas,
 2173 yes, certainly open to considering some provisions around that.
 2174
- 2175 Vivian: Commissioner, if I could just make another comment. Would another solution
 2176 to this issue be for within that, "The earthworks shall not occur within five metres
 2177 of the stream," would it be of benefit to then just have the earth, "Except for
 2178 those associated with the construction, repair, upgrade or maintenance of
 2179 electricity lines and their support structures including the National Grid occur,"
 2180 and have an exception there? Would that be an easier solution to this, instead of
 2181 having such an extended long rule?
 2182
- 2183 Whitney: Ms Whitney here. That would be here. That would be a solution I would. Maybe
 2184 you may not want construction there and I guess the framework I said the
 2185 framework I put forward was some, just some maybe additional controls to give
 2186 some comfort to the panel but certainly would be open accepted to more
 2187 simplistic approach up to that so that certain differently.
 2188
- 2189 Nightingale: Great, thank you. I think the issues have all been aired, which was the really
 2190 important place we wanted to get to, so unless you've got any more questions or
 2191 points you want to raise?
 2192

- 2193 Whitney: Ms Whitney. No, it's all quite clear in my notes and that's my position. So thank
2194 you.
2195
- 2196 Nightingale: And as, I think Commissioner McGarry said, we really appreciate. It really does
2197 make our job much easier when the drafting is provided in such a clear way. So
2198 thank you so much. Thank you, Ms Kennedy. Thank you. Have a good long
2199 weekend.
2200
- 2201 **Waka Kotahi – Maxwell Pocock and Catherine Heppelthwaite**
2202 Apologies. We're running slightly over, but we did have some technical issues
2203 before with the documents, which was not the submitters fault. Sorry, my
2204 schedule is now buried under paper. Is it Guildford?
2205
- 2206 [Inaudible 00.19.41]
2207
- 2208 Nightingale: Oh, Waka Kotahi. Ms Heppelthwaite.
2209
- 2210 Ruddock: They're online, sorry.
2211
- 2212 Nightingale: Online. Great. Kia ora. Yes, we've hit the afternoon. Good afternoon. Sorry to
2213 keep you waiting.
2214 [00.19.59]
2215 We had a few issues which meant we had to go slightly over, so hope we're not
2216 eating into your afternoon too much, but we'll make sure that you have your full
2217 allocated time. Shall we run through some quick introductions?
2218
- 2219 Pocock: Hi. Yes, that could be... Max Pocock here on behalf of Waka Kotahi. That would
2220 be appreciated. I will say that Ms Heppelthwaite and myself have been paying
2221 attention to the hearings as they progressed this week, so I think we are
2222 somewhat across the pertinent questions which are being asked of infrastructure
2223 providers as well. But yes, some introductions would be greatly appreciated.
2224
- 2225 Nightingale: Ko Dhilum Nightingale tōku ingoa. Barrister based in Wellington and chairing
2226 the panels.
2227
- 2228 McGarry: Good afternoon. Sharon McGarry. Independent commissioner based out of
2229 Ōtautahi, Christchurch.
2230
- 2231 Kake: Kia ora. Puāwai Kake. Independent planner and commissioner based in Tai
2232 Tokerau, Northland.
2233
- 2234 Wratt: Kia ora. Gillian Wratt. Independent commissioner based in Whakatū, Nelson.
2235
- 2236 Stevenson: Kia ora. Sarah Stevenson. Independent planner and commissioner based here in
2237 Wellington.
2238
- 2239 Nightingale: Great. And we have Ms Vivian, the reporting officer for the earthworks topic
2240 here as well, and Mr Watson, but I'm not sure you have... Oh yes, vegetation
2241 clearance provisions are of interest too, so they are here as well. We'll pass over
2242 to you. And Ms Heppelthwaite, we do have your primary statement of evidence
2243 as well as your hearing statement, so thanks.
2244

- 2245 Heppelthwaite: Kia koutou panel. Thank you very much. Given you have read my primary
 2246 evidence I won't go over that in detail, and also the hearing statement, but I will
 2247 speak to the hearing statement today. I'd just like to start to say thank you to Ms
 2248 Vivian and Mr Watson for considering the matters which have been raised, and
 2249 there are a number which have been addressed through their rebuttal evidence
 2250 and agreed, and I won't go over those again. They should be quite clear to the
 2251 commissioners from the documents they have.
 2252 There's two parts I'd like to address today. Firstly the vegetation, which is a fairly
 2253 brief matter, and then quite possibly of more interest, from what I've seen over
 2254 the last few days, will be the earthworks provisions. If that is suitable, perhaps I
 2255 can direct the panel to my page 5 of the hearing summary statement and
 2256 paragraphs 2.13 to 2.17.
 2257
 2258 It appears to be an administrative or interpretive matter, but it is one of
 2259 importance, and specifically it focuses on the definition of vegetation clearance.
 2260 Now the vegetation clearance definition has a list of things which are excluded
 2261 from being defined as vegetation clearance, and those matters mean that Rules
 2262 WH.17? 16, excuse me, I'm also shuffling papers, do not apply and wording for
 2263 [00.23.19] vegetation clearances in those. Now, you'll see from my primary
 2264 statement and my summary that I am concerned that each of the matters listed in
 2265 the definition is joined by an 'and,' but Mr Watson has provided evidence that
 2266 those matters are actually interpreted by the consenting teams as being 'or', and
 2267 my view of that is the practice of the Council, which I would support, and that
 2268 is each of the items a to d are separate individual items.
 2269
 2270 Then I would propose, instead of the exclusion for roads, which is what my
 2271 prime evidence sought, and instead a much more simple approach, which I
 2272 understand reflects the RPS decision version and also Council practice, would
 2273 simply be to change the 'and' at the end of items a, b, c through d, into an 'or'.
 2274 This would enable each of the listed items to be specifically and individually
 2275 excluded from the application of the vegetation clearance rules in W.17, sorry
 2276 WH.R17 and its companion in P.16. So that's a matter which I'm not anticipating
 2277 questions, but if there are questions, perhaps I could address any now before
 2278 moving to the earthworks.
 2279
 2280 Watson: Mr Watson. Sorry, if I could jump in. That's potentially a scope issue here, I
 2281 think, because the definition comes from the operative NRP. So I don't know if
 2282 the panel has the ability to change the operative NRP, but that was outside of my
 2283 scope to make changes to definitions.
 2284 [00.25.02]
 2285 Heppelthwaite: Perhaps if I could respond to that. Thank you, Mr Watson. I do appreciate that
 2286 scope is very important for the panel, and obviously for us as well. If that is the
 2287 case, then I would refer it back to the relief sought in my primary submission,
 2288 for which there is scope, which is that Rules WH.17 and P.R16 have an exclusion
 2289 included in them and I have outlined that in my paragraph 2.13 in my summary
 2290 statement and just for clarity I will also, if the panel bears with me one moment.
 2291 I will also refer you back to the detailed scope of that in my primary statement.
 2292
 2293 Back to scrolling to find that. One moment please. For my primary evidence you
 2294 will see that it is covered off in section 7, which is the conclusion, and it is listed
 2295 item g and f, and that covers an amendment to WH.R17 and R.16 and it is simply,
 2296 "An exclusion for any vegetation clearance associated with the repair or

2297 maintenance of existing roads or tracks.” So if scope is an issue for the relief
 2298 sought in my summary statement, then I would revert to the relief sought in my
 2299 primary evidence 7. Sorry, section 7 clauses f and g.
 2300

2301 Kake: Commissioner Kake here. Can I just check with Mr Watson the definition under
 2302 the vegetation clearance? It’s got here that it’s from the NES from commercial
 2303 forestry.
 2304

2305 Watson: Mr Watson. The vegetation clearance definition sits in the NRP not in PC1.
 2306

2307 Kake: Okay. Thank you.

2308 Heppelthwaite: Panel, you are a small square on my screen and I'm not sure if you're still looking
 2309 through the documents or if you wish me to continue.
 2310

2311 Nightingale: No, I think we're just thinking, sorry. I am.
 2312

2313 Heppelthwaite: Thank you.
 2314

2315 Nightingale: I think that's fine. Thank you. Please go ahead.
 2316

2317 Heppelthwaite: Thank you. I'll turn now through to the earthworks provision, and I am mindful,
 2318 as Mr Pocock said, I have heard a number of the other witnesses, and I know that
 2319 there will be some questions on this, but what I thought I would commence with
 2320 is just walking through the changes which I have sought, and they commence on
 2321 page 6 of my hearing statement. Obviously, if there's any questions please feel
 2322 free to either put those out as I cover off the items or I'm happy to also take them
 2323 at the end, whatever is most suitable for you.
 2324

2325 The first of those items relates to policies WH.29 and P.P27. In my primary
 2326 statement I sought the deletion of clause (e) which relates to the winter works
 2327 shutdown. Having now had the opportunity to consider other parties’ evidence
 2328 and also having heard some of the discussions, at the time I prepared this I've
 2329 supported the wording which is proposed by Ms Whitney. If deletion is not
 2330 provided in regards to clause (e). So if clause (e) is retained, then it would be my
 2331 preference to revert to, or adopt the version of Ms Whitney. In particular, Ms
 2332 Whitney's version refers to the term ‘managing earthworks’ rather than
 2333 ‘minimising earthworks’ during the winter work season. That is the primary
 2334 change I have looked at for those two provisions.
 2335

2336 Moving on to my item b, which is a near the top of page 7. We have the minor
 2337 infrastructure permitted works provisions. For these the panel is undoubtedly
 2338 aware that road maintenance was excluded, or is excluded under the Operative
 2339 Plan definition, but that is now proposed to be altered for the two whitua that
 2340 are dealt with particularly under this.
 2341

[00.30.05]

2342 And again, I acknowledge that Ms Whitney, Ms Vivian sorry, has endeavoured
 2343 to remedy the loss of that exclusion for road works by including these two new
 2344 rules under 23A and 22A.
 2345

2346 There are two things that I wanted to address here. Particularly one is the
 2347 permitted activity standards, and also the heading. Now the heading is not
 2348 addressed in my evidence, but I have doublechecked this morning, and NZTA

2349 has made a specific submission on this. I rechecked and revisited this after
2350 listening to the Upper Hutt City Council witnesses yesterday, and that matter
2351 relates to the heading and the use of the term 'minor' with that. I'll cover off both
2352 of those things.

2353
2354 As I mentioned yesterday, I listened to the Upper Hutt planning witnesses, and
2355 they proposed the removal of 'minor' within the heading of the two rules. I
2356 would like to explicitly say that I think that that is an appropriate change. The
2357 'minor' is undefined, and as my Upper Hutt colleagues pointed out, it doesn't
2358 provide any great guidance. Also, the application of Rule 23A and 22A would
2359 need to be read in the context of 22 and the 3,000 square metre limit, which I
2360 will turn to in a moment.

2361
2362 Referring now to the permitted activity standards. I have read Ms Foster and
2363 others' evidence and concluded that I actually prefer Ms Foster's wording and
2364 approach in regard to the permitted activity standards. You may recall that she
2365 has proposed deleting items (a) through (c) and replacing item (d) with a more,
2366 what I would call clearer and perhaps more pragmatic response, which
2367 effectively requires erosion and sediment control measures to be engaged to
2368 prevent, as far as practical, the discharge of sediment and debris, and also
2369 flocculent which is already in Ms Vivian's wording. And by deleting the slightly
2370 uncertain term 'preferential flow path connecting with a surface waterbody or
2371 CAN [00.32.28]. So that is where I have landed in regard to that. I didn't hear
2372 Ms Foster's presentation. I was at the Regional Policy Statement mediation so
2373 I'm not sure whether she's changed her position since then.

2374
2375 I would also just like to point out to the panel, which I'm sure they're probably
2376 aware, that the New Zealand Transport Agency has its own set of sediment and
2377 erosion control guidelines which it applies for works as well. So there is a strong
2378 ethos of ensuring that appropriate sediment control is in place via its internal
2379 process. And I appreciate that's not part of the Regional Plan. I raise it only to
2380 mention that the wish and desire to do the right thing is already embedded within
2381 the organisation.

2382
2383 Turning now to Rules R.23 and P.R22. There's two parts to this. I'll deal with
2384 what I think is the most straightforward item first. This is referred to point c on
2385 page 7. If I may direct the panel to subclause (c) and the Roman numeral there.
2386 The bottom, which I have as *x*, but I suspect that should actually be 5, so I do
2387 apologise. I'm just confirming that one with Ms Whitney's most recent
2388 provisions. Yes, my apologies. My evidence, the numbering has gone a little bit
2389 quirky. In my summary statement, you'll see it is Roman numeral *x*, but actually
2390 it should be Roman numeral 5. It appears the list is simply continued on.

2391
2392 Regardless, what I would like to see changed from there is the removal of
2393 'prevent' and replace it with 'minimise risk.' In my experience, and also as
2394 explained in the evidence of Ms Vivian and the cross references in my primary
2395 evidence, complete prevention of all discharges from every earthwork site is not
2396 a realistic outcome. Ms Vivian acknowledges topography, storm events, and
2397 sorry I can't think what else she also refers to, definitely those two items, as
2398 situations where some sediment may escape despite the best practicable erosion
2399 sediment control being in place. In that regard, I think having 'prevent' as a
2400 permitted activity standard is unachievable and inappropriate.

2401 [00.35.05]

2402 Moving back up the page slightly. You'll see there in red text my preferred
2403 wording for the changes, which reflect the difficulties in the current wording of
2404 a current definition of site or property, and an ability there for individual work
2405 sites to be operated up to 3,000 square metres, but at various times along the
2406 same linear network. Now, this has probably already been explained but,
2407 particularly for state highways and other linear networks, and I feel confident
2408 this will also affect territorial authorities' roading networks, there is likely to be
2409 more than one maintenance or project activity being undertaken on the roading
2410 network at one time, and having the rule apply, the 3,000 square metre limit
2411 applied, to all projects at once is extremely limiting, and in my view not an
2412 appropriate trigger to manage effects of sediment runoff.

2413
2414 In that regard, I proposed in my primary evidence, and Ms Vivian has adopted
2415 the intent of a rule, which would allow 3,000 square metres per site or work area.
2416 And my provision goes further than that, or in my opinion, than what Ms Vivian
2417 has proposed, and specifically reflects the ability of a work site to be
2418 progressively stabilised. For example, if the overall project is perhaps 5,000
2419 square metres of earthworks but only 2,000 square metres is opened, that area is
2420 stabilised and then a further 1,000 or 2,000 metres is opened, or even 4,000 is
2421 opened. Sorry, not 4,000, a further 2,000 is opened, that even though the total
2422 project is 5,000, as long as no more than 3,000 is open at once that is an
2423 acceptable outcome.

2424
2425 So this allows for projects, and one which I'm familiar with in the Auckland
2426 context, is the Safer Road Alliance, or Safe Roads Alliance. There are safety
2427 barriers, you may have seen them being installed along the edge and in medium
2428 strips of existing roads. It basically entails the widening of the current road, and
2429 the earthworks associated with that, sort of to one to two metres and sometimes
2430 a little more in places, earthworks required for the installation of footings, the
2431 actual seal widening and banks. Those projects extend often along several
2432 kilometres of road at once, but they are generally done in stages for traffic
2433 management purposes, but also sediment control. For example, the project
2434 might cover a 10 kilometre stretch of road, but it is done in progressive stages,
2435 and as each stage is finished it is closed and safe. So whilst the total project
2436 would exceed the 3,000 square metre [38.07], the bit which is actually being
2437 worked on would not. Hopefully, that's clear. Hopefully, the example is helpful.

2438
2439 The only other aspect of that rule which I would like to invest [00.38.20] would
2440 be Ms Vivian's inclusion of a 12 month limit. I'm not quite certain of the purpose
2441 of that or how that would be monitored, or indeed what the environmental effect
2442 is of that 12 months is proposed to be managed. So there might be question there
2443 which could be answered by Ms Vivian at some point, but it's not something
2444 which I support without understanding better what its purpose is.

2445
2446 Now the final matter which I have raised, and it is in point d, which is at the
2447 bottom of page 7, relates to the activity status for consents which are required
2448 under Rule 24 and Rule 23. That's the part Freshwater Management Units. We
2449 have the fine sediment TAS is not met. At the moment that is proposed to default
2450 to discretionary, and my primary evidence and still I do not see the need for this
2451 matter to be dealt with as a discretionary activity. I consider that the effects on
2452 these environments is well known or well understood and that there is a suitable

2453 array of matters for discretion which could be provided to ensure that perhaps
 2454 the recognised degraded nature of these part FMUs is appropriately managed,
 2455 and I have made some suggestions here around those in my 5a.

2456 [00.40.02]

2457 The grey text you see simply refers to the fact that the changes I'm proposing
 2458 relate both to WH. R24 and P.R23, and the grey text simply reflects the
 2459 alternative references which are needed, rather than repeating the same changes
 2460 twice.

2461
 2462 Item e, which follows this I have already covered so we won't say it again, unless
 2463 [00.40.29]. That was largely all I wanted to say, except to say I have heard other
 2464 witnesses referring to possible expert conferencing [00.40.37], and I think I
 2465 heard Mr Duaford [00.40.42] at the airport yesterday indicating, if that wasn't
 2466 going to be adopted then some review prior to the Council's right of reply being
 2467 submitted. I would support all of those. My preference would be for
 2468 conferencing, but any input which I would be able to offer would be available,
 2469 and I think I've seen a willingness from other experts with considerable
 2470 experience who are also wanting to assist the Council ensure that there's a
 2471 workable suite of provisions available for the panel's consideration. So I'm very
 2472 happy to take questions.

2473
 2474 McGarry: Commissioner McGarry. Thanks, Ms Heppelthwaite. Very clear. I just wanted
 2475 to understand if there's a difference. Ms Vivian has proposed in her revisions
 2476 tabled this week that would put the new (d) for network utility operators, and
 2477 you've just kind of placed it up above (c) as (bb) here. Was there a reason for
 2478 you to do that? Is that just because of where the (bb) above does not apply? Is
 2479 that what your thinking was?

2480
 2481 Heppelthwaite: Yes. In the primary evidence, and yes if we have (c) [42.08] Ms Vivian's (d).
 2482 I'm not super fussed about that. I note these provisions, well provision (d) as Ms
 2483 Vivian has proposed is separated by an 'or' from provisions (a) to (c), so that
 2484 would be helpful. When I initially placed it above the (v) it was to make the
 2485 delineation clear and have it sitting next to the other provision, which I have as
 2486 (c), which talks about the 3,000 square metres. So you could see that there was
 2487 sort of an either/or for that. But if Ms Vivian wants to pop it as separated from
 2488 the others by an or, which she currently has, and as item (d), that would be
 2489 acceptable too.

2490
 2491 McGarry: Great, thanks. Commissioner McGarry. Let's just focus on (d) as she proposed
 2492 it. Particularly it's good that you've listened in. Thanks very much for keeping
 2493 up with the hearings, it makes our job much, much easier. But we discussed with,
 2494 particularly Upper Hutt City Council, just ending on the end of it. They didn't
 2495 seem to have a concern about the consecutive 12 month period if there was a
 2496 qualifier put on the end of it which would be something along the lines of,
 2497 "Unless the location/site is completely stabilised or stabilisation's completed,"
 2498 something along those lines that met their concerns so that they could
 2499 progressively move along and stabilise as they went. Would that meet your
 2500 concerns regarding the 12 month period?

2501 Heppelthwaite: At the outset, I'm not sure of the purpose of the 12 month period. It seems a little
 2502 bit extraneous. I'm not sure if the Council monitors all earthworks in a catchment
 2503 over 12 months or if they have some sort of method of keeping an eye on
 2504 provisions. I prefer that the stabilisation is sort of not a tack-on instead of the 12

2505 month period, my preference is that stabilisation is recognised as a key part of
2506 the actual provision. For me, the incentive to stabilise and keeping it under 3,000
2507 square metres is a really good, as I said, an incentive for earthworks contractors
2508 to actually keep stabilising and do it as quickly as possible, to make sure that
2509 they stay under that 3,000 square metres. So the 12 month period, I don't think
2510 is actually particularly relevant, but I'm happy to hear others comments on that,
2511 of course.

2512
2513 I did hear the Upper Hutt comment. I still prefer the wording I propose or
2514 something similar which includes deletion of 12 months and a more clear
2515 reference to stabilisation.

[00.45.00]

2516 McGarry: Commissioner McGarry. If I could just comment on that. The concept of
2517 progressive closure and stabilisation isn't something that Greater Wellington is
2518 supportive of on earthwork sites. I guess my first concern here is the combination
2519 of these changes proposed by NZTA in addition to that. What is the consent
2520 trigger for earthworks for operators such as NZTA? I don't know where that
2521 trigger would now start.
2522

2523
2524 The issue that we have with progressive stabilisation and allowing for additional
2525 areas to be opened up once, you know, 2,000 square metres has been stabilised,
2526 is it would apply to mass areas where you end up with just, you know, 10,000
2527 square metres that within one 12 month period has all been opened up, now
2528 meets the definition of stabilisation but is still more sensitive to erosion. So I
2529 guess my concern there is, where is the trigger for a resource consent? If we can
2530 all manage our earthworks via progressive stabilisation, where are we heading?
2531

2532 Heppelthwaite: Madam Chair, may I respond to that through you?

2533
2534 Nightingale: Yes sorry. Yes please.
2535

2536 Heppelthwaite: Thank you. Thank you for the question. Not all projects will be able to stay
2537 within the 3,000 square metres via progressive stabilisation. There'll be some of
2538 a scale which simply are too big for that, and that would be the trigger for
2539 consent. The permitted activity standards are required to be met, and the whole
2540 purpose of stabilisation is to stop or limit to the extent practical, sediment runoff
2541 from earthworks area. The stabilisation is what it's there for, and it is to minimise,
2542 as far as practicable, earthquakes runoff.
2543

2544 So I think hopefully I've answered the question about when a consent trigger
2545 would happen. There still remains a quite clear 3,000 square metre limit, and
2546 there is no certainty that a project would be able to stabilise to stay inside that.
2547 So that's where that sits. There's no wish to undermine the need to stabilise or
2548 the need to implement best practice sediment and erosion controls at all times
2549 during the earthworks which are open and in place.
2550

2551 McGarry: Commissioner McGarry. Thanks Ms Heppelthwaite. I understand your
2552 reasoning there. Ms Vivian, I just wanted to circle back and doublecheck. You're
2553 concerned there would be the removal of the 12 months, so you would support
2554 some kind of recognition of progressive along the lines of the Upper Hutt
2555 conversation? Because I recorded your supporting something like that qualifier,

- 2556 and what I'm hearing is that you wouldn't support the removal of the 12 months?
 2557 Is that correct?
 2558
- 2559 Vivian: Ms Vivian. I don't know if I could say yes or no off the top of my head. I think I
 2560 need to see something in writing. Bearing in mind that my concerns regarding
 2561 progressive stabilisation may largely stem from works not undertaken by
 2562 network utility operators. I'm thinking of mass land development consents where
 2563 it's just open an area, and so maybe for linear projects it's more appropriate.
 2564 That's probably what I can say right now.
 2565
- 2566 McGarry: Commissioner McGarry. That's fair enough for you to have a think about this
 2567 and reflect on everything. That was going to be my next question to you, is we've
 2568 got to remember that this is a network utility operator. So thank you for that.
 2569
- 2570 Nightingale: Commissioner Nightingale, and this might be a question for Mr Pocock, but
 2571 could you talk about, I mean conceptually the 3,000 square metres, where
 2572 obviously not something like Transmission Gully would far exceed that and is
 2573 consented separately, but what sort of things would come within the 3,000 square
 2574 metres for the agency's activities.
 2575
- 2576 Pocock: Yep, I can absolutely take that, and thanks for that question. So yes, big projects
 2577 like Transmission Gully or any future large scale roads that the Transport
 2578 Agency might be putting into the Wellington region, would go through their own
 2579 individual consenting process. They would trigger over the consenting threshold
 2580 there. We're not really debating that those should have an exemption for them
 2581 themselves. But the 3,000 metres squared for NZTA, the example given by Ms
 2582 Heppelthwaite to begin with, we do quite often undertake earthworks to widen
 2583 our roads to install safety barriers.
 2584 [00.50.02]
 2585 So it may not look to the layperson like we've done earthworks, but based on the
 2586 definition, yes we have.
 2587
 2588 That then can add up really fast in terms of the area that is actually exposed.
 2589 We've had issues before in the past actually, with our widening and the
 2590 accumulative area that you can end up with from an impermeability perspective.
 2591 So we end up doing these types of activities, which they're not really massive
 2592 upgrades, but cumulatively they end up adding up.
 2593
- 2594 Heppelthwaite: Perhaps if I could give a spatial example of that. A five metre widening on the
 2595 edge of a road, which may only result in one or two metres of seal but then
 2596 perhaps there's a small embankment to construct, that would allow one kilometre
 2597 of roading before you hit, well, well over 3,000 square metres. You're at 5,000
 2598 square metres at one kilometre, so I mean effectively you're looking at half a
 2599 kilometre at five metres of disturbance. If that gives a more visual example. So
 2600 it's not much in terms of 3,000 square metres for a minor work.
 2601 [silence 00.51.09-00.51.55]
 2602
- 2603 Pocock: I'm really sorry, I'm not sure if we're getting asked a question. It's a bit quiet,
 2604 sorry.
- 2605 Heppelthwaite: I couldn't hear either.
 2606

- 2607 Nightingale: Yes, sorry I'll repeat that. It was just understanding how you would interpret the
 2608 wording at a particular location. If you're staying on the same state highway,
 2609 how would you interpret that? Does it need to be approximate, you need to be
 2610 working adjacent to it? How would you interpret that?
 2611
- 2612 Heppelthwaite: In my view, it would need to be contiguous, joined up, so the earthworks areas
 2613 would need to be touching effectively or part of one continuous excavation.
 2614
- 2615 Nightingale: Commissioner Nightingale. If I could just touch on that as well. I think that when
 2616 drafting this clause, that's why I added in, "All work site." I feel like, "All work
 2617 site" is identified by a contiguous area associated with one project.
 2618
- 2619 Pocock: Could I? Sorry, Mr. Pocock. Can I just jump in there on that. With the use of
 2620 work site, we do need to be careful with the interpretation there. If we're
 2621 undertaking works over quite a long area, we can establish that as a work site for
 2622 a corridor. We're all familiar with the traffic management that gets put in place
 2623 over large, large areas, and it's also you drive through, and you think, 'There's
 2624 nothing happening here.' So if we have a work site that we've established like
 2625 that, then it can be quite long.
 2626
- 2627 Nightingale: Commissioner Nightingale. We'll be asking Ms Vivian too. Have you heard
 2628 submitters provide some revised wording before we then decide if we are going
 2629 to come back to submitters. But just to clarify, the 3,000 square metre cap to
 2630 remain as a permitted activity, if your work stops... So same stretch of state
 2631 highway but if your work stops being contiguous and you need to go and do
 2632 some work further down the stretch of highway, does that 3,000 square metres
 2633 start again? I think I've confused myself as to how this works in practice.
 2634 [00.55.00]
- 2635 Heppelthwaite: Yes. I would say yes. In my view at least, if the works are a disturbed area, if
 2636 you like, so I said excavation before, but if the disturbed areas all join up that's
 2637 going to need to be counted, but if you move a kilometre down the road, for
 2638 example, and there's no joining up in that interim, perhaps it will be undisturbed
 2639 if you like, then the 3,000 would commence again.
 2640
- 2641 Nightingale: Commission Nightingale. Because I think when we were talking to Dr Greer
 2642 about this a few days ago, I think he expressed the view that this is still works
 2643 that have the potential to impact the same part FMU and potentially contribute
 2644 to degradation at that TAS site.
 2645
- 2646 Heppelthwaite: Yes. I'll just be clear now. I did not hear the Council staff and witnesses being
 2647 examined in the first two days. I've only heard submitter comments. My response
 2648 to that would be that I'm not sure what the difference between, say, New Zealand
 2649 Transport Agency, or perhaps Transpower who you heard from earlier, doing
 2650 two independent separate excavations of, say, 2,500 square metres each,
 2651 separated by a kilometre, than if there was an adjoining, perhaps private land
 2652 development going on, a residential development on the other side of the state
 2653 highway, also doing 2,500 square metres of otherwise permitted earthworks.
 2654
- 2655 I think this circles back to my concern with the 12 month period. I completely
 2656 understand and appreciate that all earthworks undertaken in a catchment will
 2657 have a downstream effect. So I do agree with Dr Greer that earthworks create
 2658 sediment. They all go to the same catchment if they're obviously in the same

- 2659 catchment. What I don't agree with, is that there's any difference between the
 2660 Transport Agency doing a 2,000 square metre piece of earthworks in one
 2661 location, six developers doing earthworks in separate locations, and then the
 2662 Transport Agency doing another set of earthworks somewhere else.
 2663
- 2664 I'm waiting to understand whether or not the Council has earthworks monitoring
 2665 for the catchment overall, which should drive any decision making which would
 2666 say, "I'm sorry developer down the road. You cannot do earthworks which would
 2667 otherwise be permitted because there's already too much sediment in this
 2668 catchment." So the bigger picture, I'm not certain why individually managed
 2669 earthwork sites on the Transport Agency network or other linear networks are
 2670 different than the, I don't know, 10, 20, 30, however many there are, individually
 2671 managed earthwork sites undertaken on private property.
 2672
- 2673 Nightingale: Thank you that. That was very helpful and appreciate the very open response
 2674 you've given on that. It's complex. I feel like we're passing the reporting officer.
 2675
- 2676 Heppelthwaite: Yes. I'll just reiterate the offer of help, and I know my colleagues who I've
 2677 spoken to, which is probably quite obvious from the relief we're seeking, are
 2678 more than happy to assist if that is of help.
 2679
- 2680 Nightingale: Yes, thank you very much. Appreciate that. Is there anything else anyone wanted
 2681 to ask? Anything else Ms Heppelthwaite, Mr Pocock, from your points of view
 2682 that you'd like to discuss with us?
 2683
- 2684 Heppelthwaite: No, but thank you very much for your time from me.
 2685
- 2686 Pocock: Sorry, if I may just cut in. Listening in on some of the previous presenters as
 2687 well. The panel have asked questions and there's been a lot of discussion about
 2688 the five metre setback on the permissive activity rule that's been proposed on
 2689 earthworks. I'm not sure off top of my head what the reference is. I just wanted
 2690 to kind of touch on that.
 2691
- 2692 Obviously, the relief that the Transport Agency is seeking aligns with Ms
 2693 Foster's relief sought, which was about an outcome on erosion and sediment
 2694 controls as opposed to having that five metre metric. But because we saw the
 2695 interest from the panel on that five metre setback and kind of a provisional,
 2696 "Please provide examples of where that five metre setback may not be able to be
 2697 complied with," we do actually have an example that we would like to share if
 2698 the panel would be interested.
 2699
- 2700 Nightingale: Year sure.
 2701 Pocock: Brilliant, okay. I am assuming that I can share screen, so just bear with me. I'm
 2702 assuming everyone can see that?
 2703
- 2704 Nightingale: Yes, thank you.
 2705
- 2706 Pocock: This is State Highway 2, just north of Upper Hutt, and as you can see on your
 2707 screen there, you have the Hutt River in very close proximity to our asset.
 2708 [01.00.07]
 2709 As the permitted activity rule is written right now, any road sealing or repair or
 2710 maintenance work through there would have to comply with the five metre

- 2711 setback. You could not comply with that setback. You'll see here, I've used the
 2712 GWRC maps to show what the buffer is. It's three metres from the curb and
 2713 channel. That's a path to the bed as per the RMA for the Hutt River.
 2714
- 2715 I just wanted to use this as an example of where, if we were to have to comply
 2716 with that, our standard operation and maintenance activity, so resealing through
 2717 this area, would all of a sudden require a resource consent where previously they
 2718 haven't.
 2719
- 2720 Stevenson: Sorry, Commissioner Stevenson. Thanks, Mr Pocock and the visual is really
 2721 helpful. Do you have an idea, I guess the proliferation of other examples like that
 2722 around the region? How common is it for?
 2723
- 2724 Pocock: It's very common, and I've also heard the relief that's been proposed originally is
 2725 that there's rules for bridges and culverts which would be used in this instance,
 2726 which I actually disagree with. For NZTA, when we're undertaking our sealing
 2727 and maintenance activities, we're not necessarily touching the culvert, so I kind
 2728 of go, that's not the rule that should be used if you're undertaking an activity
 2729 which is different. So throughout our network we have lots of these interactions
 2730 where we're within five metres of natural water courses.
 2731
- 2732 Nightingale: Commissioner Nightingale. I mean, the Council might say, "Well, isn't it
 2733 appropriate if works are going to be carried out that close to a surface waterbody?
 2734 Isn't it appropriate for consent to be triggered?" I mean, obviously you've got the
 2735 cost and those consequences, but any comment in terms of managing
 2736 environmental effects?
 2737
- 2738 Pocock: Yes, absolutely. Our basic activities like road sealing and repair and maintenance
 2739 through the corridor we already maintain, and we have very strict erosion and
 2740 sediment control that we require of our contractors. Sealing, to keep using that
 2741 as the example because it has been added to that permitted activity rule, that's an
 2742 activity that we can contain entirely within that already existing formed corridor,
 2743 so that the risk of it running off, so to speak, is very low.
 2744
- 2745 Nightingale: Thank you. I do note this is also adjacent to Te Awa Kairangi River, and the
 2746 TAS for, I was going to say visual clarity, but suspended sediment is, can't
 2747 quickly bring it up. It might be just above national bottom line, I think, but it's
 2748 not meeting the TAS currently. So I guess it's the balance, isn't it? And also that
 2749 equity issue as well. The river does have sediment issues and at what point do
 2750 the activities that are potentially contributing to the sediment and the water
 2751 quality degradation do need to have a consent trigger and managed? But take the
 2752 point, and as Commissioner Stevenson said, the example is helpful.
 2753
- 2754 Thank you. More good, very good food for thought. Yes, thanks again for your
 2755 time and we'll look forward to talking with you in Hearing Steam 4, I'm sure.
 2756
- 2757 Heppelthwaite: Thank you.
 2758
- 2759 Pocock: Thank you, commissioners.
 2760
- 2761 **Guildford Timber Company Limited – Adrian Hansen and Tim Rillstone**
 2762

2763 Nightingale: We have Guildford Timber, and sorry to keep you waiting. We are running a
2764 little bit late, just about 10 minutes late, so I hope that's not going to cause too
2765 many issues for you. Who have we got online? Is it Mr Hansen?
2766 [01.05.00]
2767 Ruddock: Kia ora, Mr Hansen. You should have control of your microphone and camera
2768 now.
2769
2770 [Silence 01.05.08 – 01.06.03]
2771
2772 Nightingale: Okay, thank you. We'll just take a few minutes break and back about one o'clock.
2773
2774 [Break taken – 01.06.09 – 01.11.05]
2775
2776 Nightingale: Mr Hansen?
2777
2778 Hansen: Hello, can you hear me?
2779
2780 Nightingale: We can hear you. Hello. Welcome.
2781
2782 Hansen: Sorry, I was caught in the ether back then.
2783
2784 Nightingale: Well, we're glad we found you. Is Mr Rillstone with you as well, Mr Hansen, or
2785 is it just you?
2786
2787 Hansen: I'm hoping so. He was listening earlier and when it came time to come over, all
2788 of our keys, my keys anyway, were all greyed out so I couldn't turn the camera
2789 on or anything. So I've had to go back out and come back in, so I'm hoping he
2790 will do that.
2791
2792 Nightingale: I can see him.
2793
2794 Hansen: Oh yes.
2795
2796 Nightingale: Hi, Mr Rillstone.
2797
2798 Rillstone: Hello.
2799
2800 Nightingale: Some technical issues, but we can see you and hear you now. We'll just do some
2801 really brief introductions so you know who we are, and then we will hand over
2802 to you. Please do take your evidence as we've read that in advance, so be good
2803 if you'd like to do a summary and then take us to the key, to the relief that you're
2804 seeking in the Hearing Stream 3 provisions.
2805
2806 I'm Dhilum Nightingale. I'm a barrister based here in Wellington and chairing
2807 the panels today.
2808
2809 McGarry: Kia ora koutou. My name's Sharon McGarry. I'm an independent hearing
2810 commissioner based out of Ōtautahi, Christchurch.
2811
2812 Kake: Kia ora. Puāwai Kake. Independent planner and commissioner based out at Tai
2813 Tokerau, Northland.
2814

- 2815 Wratt: Kia ora. Gillian Wratt. Independent commissioner based in Whakatū, Nelson.
2816
- 2817 Stevenson: Kia ora kōrua. I'm Sarah Stevenson. Independent planner and commissioner
2818 based here in Te-Whanganui-a-Tara, Wellington..
2819
- 2820 Nightingale: Just so you know, we have the reporting officer, Mr Watson, here in the room as
2821 well for the forestry vegetation clearance topic. So thank you, we'll pass over to
2822 you.
2823
- 2824 Hansen: Thank you. I'll just, I guess very briefly say how we'll operate. I'll ask Mr
2825 Rillstone first if he will give just a quick summary of his evidence and key points
2826 he makes, and then I've provided a document, which I hope you've got, that is a
2827 summary, and I just intend on going through that very, very briefly and we can
2828 go from there. So Tim, would you like to just very briefly give your view?
2829
- 2830 Just by way of introduction, I'm a consultant planner that is doing a lot of work
2831 for Guildford Timber Company, and Mr Rillstone is the operations manager
2832 there. That's just a clarification of our roles. Tim.
2833
- 2834 Rillstone: Good afternoon. So just a summary of my evidence. There is the [inaudible
2835 01.14.20] of the forestry harvest activities. Currently we undertake harvest
2836 notices, and my business, of course working for Guilford Timber, Guilford
2837 Timber has been harvesting for 100 years in their forest. This being a change
2838 will make it a restricted discretionary activity, and due to the Act in the Upper
2839 Hutt River catchment, we understand would require we would have to apply for
2840 resource consent.
2841 [01.15.00]
- 2842 Currently processes, there's a 20 day notice period for the permitted activity how
2843 it's undertaken currently. We have to provide all the information under the NES-
2844 CF, which is essentially what we're asking for in here, except for the additional
2845 requirement to put in a resource consent. There's a 20 day period for it to be
2846 considered and feedback given back.
2847
- 2848 We think that the big problem with this is that the Council doesn't have the
2849 resources to do that, so often there's no feedback at all. Regarding the earthwork,
2850 everybody wants to comply. Nobody wants to release sediment into the
2851 catchment, and so it's virtually treated as if everybody's not going to comply
2852 when you do comply. We think that it's unreasonable.
2853 Just my final point, is that there's a reference to canopy cover retaining trees,
2854 which prevent the sediment being washed away in areas and movement, but
2855 that's not the case. You need to manage the harvesting, otherwise if the trees age
2856 they'll fall over, and the point is that a lot of, like there's areas in our forest where
2857 it will become uneconomic to harvest, and in many other forests in the area,
2858 which is going to be more detrimental to having these trees retained, just to try
2859 and maintain canopy cover rather than managing the entire tree asset at a
2860 reasonable age.
2861
- 2862 Nightingale: Thanks very much. It's very clear.
2863
- 2864 Ruddock: Apologies, Mr Hansen.
2865
- 2866 Hansen: Yes.

2867
2868 Ruddock: I see the email you're talking about regarding the attached evidence, and I
2869 flagged it. I received it on Wednesday evening. However, there were no
2870 attachments to the email. I was supposed to follow up with you yesterday about
2871 that, but that's my bad. Obviously, I got caught up with the other hearing
2872 planning. Are you possibly able to send that through now?
2873
2874 Hansen: Thats okay. Oh my. Yes, I will do that right now.
2875
2876 Ruddock: Thank you so much.
2877
2878 Hansen: So that this is Josh. Sorry, that's you Josh, is it?
2879
2880 Ruddock: Yes. Josh Ruddock.
2881
2882 Hansen: Thank you. I just want to make sure. So I'll add Mr Rillstone and myself. We
2883 both provided that. I'm not quite sure what happened there. While that's coming
2884 through, I guess you don't have my summary then, so I'll just very briefly walk
2885 you through it. What I've done in the document is just highlighted the key matters
2886 that are outstanding now, and I must say that through the process, which
2887 originally the submission provided by Guildford was quite extensive, and
2888 through the Section 42A Reports and also through the rebuttal evidence, there's
2889 quite a number of matters that have been worked through and resolved. So there
2890 are some positives there that we've done.
2891
2892 So actually, my evidence was separated into two parts. Those parts that were still
2893 outstanding, and those parts where just for record I've indicated where we would
2894 like or I'm recommending that the panel accept the recommendations of the
2895 Section 42A Report officers. What I've done in the summary is just gone through
2896 the key points left that are outstanding, and I've said that I've also looked at the
2897 rebuttal evidence of Mr Watson and Dr Greer.
2898
2899 I also, in paragraph 3 of the summary, identified a number of small typos in my
2900 evidence which inevitably come up, and one of the key ones being the wrong
2901 paragraph numbers have been referred to, because with unfortunately changing
2902 as we go through the process, and even though I've gone and checked them all,
2903 I can still find errors.
2904
2905 What I've done in paragraph 4 of the summary, is just highlighted again the map
2906 that was included in the submission. And the key point there is that Guildford
2907 has a 300 hectare piece of property or site, and the submission is pretty well
2908 focusing on that, understanding that there are other areas in the region that will
2909 also be affected by the provisions, and in particular two aspects. One is the
2910 ongoing commercial forestry operation, which Mr Rillstone is responsible for,
2911 and the NES and how that all works.
2912 [01.20.03]
2913 The other is the fact that Guilford has been and is looking to develop quite a bit
2914 of the site for future residential opportunities. It used to be called the Southern
2915 Growth Area, and so that's the aspects. The aspects of earthworks are of interest.
2916 There's two components to those earthworks. There's earthworks associated with
2917 a commercial forestry, and then there's ongoing earthworks associated with

2918 future development, which obviously would be significant if they continue with
2919 the development proposal.

2920
2921 The topic I've raised first off is the National Environmental Standards and the
2922 need to, I guess, have more restrictive provisions. Now, this is an interesting
2923 topic and I'm sure as a committee you've discussed it with other parties. What
2924 I've done there is, in my evidence I raised six key points about that, and I
2925 questioned, I came to the conclusion that unless there's a really good reason to
2926 actually bring in more strategic or stringent rules, then what's wrong with what's
2927 working at the moment? And I hadn't seen that.

2928
2929 I read the rebuttal evidence of Mr Watson, and he's brought some amendments
2930 to the Forest Management Plan definition, and I support those. I think they're
2931 good. I think what's happening there, is there was a recommendation at one stage
2932 that the three schedules of the NES be brought into the plan, and I concluded that
2933 that was a little bit pointless. So now it's the definition of Forest Management
2934 Plans being redefined. I think that's a good move.

2935
2936 The other is the deletion of those. They were recommended to be included as
2937 Schedules 34A to C and that's been changed. I still have quite a concern about
2938 the additional layers of the requirements and the policies and rules, and just to
2939 add to the complexity which I know the panel will be dealing with, is that
2940 yesterday, as you'll be aware, the government released its national directives
2941 packages it's doing to the RMA reforms, and in there it will be dealing
2942 specifically with that question of, when is it necessary or appropriate for strategic
2943 rules to be included in a plan? It seems to be defined purely to what they have
2944 called 'severe erosion issues.'

2945
2946 That may cause some rethink of where the NRPs at, at the moment. I appreciate
2947 the panel can only deal with what's in front of it at the moment and it's further
2948 down the track, but it does raise the issue that there is quite a bit of consideration
2949 being given to this question of, when is more stringent rules required? And a lot
2950 of the submissions and the evidence that we're presenting is that we believe that
2951 the NES as it stands has a lot of regulations, permitted activity standards, the
2952 RDA rules, that meet a lot of the issues that have been dealt with.

2953
2954 Moving on. I then, and I guess coined it myself and said that I've sort of viewed
2955 that as two things happening here with Policy WH.P28 and WH.R20. And I
2956 appreciate we're not dealing specifically with the Porirua catchment area that it
2957 covers as well, but that's because the sites not in that area, but there are equivalent
2958 rules, I know. I've called it the Planning Mechanism, and that's the use of the
2959 TAS for visual clarity or suspended sediment, and when that triggers the need
2960 for resource consent, and I've called that a Planning Mechanism, and I've listed
2961 in my evidence four key concerns. I list them again in the summary document
2962 I've provided.

2963
2964 I've really basically said, as a resource user it makes it very difficult to know
2965 when a consent might be required, and it may duplicate the provisions already
2966 included in the NES as well. And it's the whole issue about how it's worded at
2967 the moment, that mechanism, and it's the nearest site, which is fine, that's the
2968 closest site to the, sorry monitoring site to Guildford site, is currently an A. So
2969 that's good, but downstream is also potentially an issue. For monitoring sites

2970 further downstream, how that will work out, what that means from a resource
2971 user perspective?

2972 [01.25.05]

2973 I raise in my evidence, and I summarised in this document, quite a number of
2974 concerns I have on how it will work, and that's all based on the fact that we really
2975 need planning mechanisms in the plan that a normal person can walk in or look
2976 online and work out whether they need a resource consent or not. It becomes
2977 very complex in that sense, trying to understand where it's going and whether a
2978 consent's needed or not.

2979
2980 In terms of the rebuttal evidence, I note that Mr Watson actually recommends
2981 quite a number of substantial changes to Policy P.28, and he shifts the focus from
2982 minimising discharges to managing through the Forestry Management Plans as
2983 redefined. Overall I support that initiative, but I still have concerns regarding
2984 setting consent conditions based on whether the part FMU suspended fine
2985 sediment has been met or not been met, and also the sensitivity of the receiving
2986 environment downstream.

2987
2988 So I think, even though he has provided some movement in that policy that I
2989 agree with, fundamentally I have an issue with the mechanism that's trying to be
2990 used here. That doesn't say I don't fully understand what the issue we're trying
2991 to deal with, I'm just suggesting that the mechanism that we've got here is
2992 difficult to implement. And that reminds me, that I did note in the rebuttal that
2993 there's a suggestion that the implementation of the TAS might be put off to, or
2994 be revisited for Hearing Stream 4, and that may be very helpful. So some of my
2995 concerns and issues that I'm dealing with now are, without that implementation
2996 being sort of potentially revisited, and I just make that point.

2997
2998 I do accept Dr Greer's argument in his rebuttal, that a whole of catchment
2999 approach to managing suspended fine sediment is necessary. I suggested an
3000 alternative that came from some advice I'd received from Guilford's specialists
3001 in water quality, as looking at perhaps using a catchment approach as opposed
3002 to a wider FMU approach, but I accept that that could be problematic as well. I
3003 was trying to be helpful, and we maybe haven't hit that quite right.

3004
3005 I do identify it in my summary that one compromise could be for Rule WH.R20
3006 to require the suspended fine sediment to be met at the nearest downstream
3007 monitoring station only, to allow forestry activities upstream to be regulated by
3008 the NES-CF. Should there be a degradation of the nearest monitoring site, then
3009 a restricted discretionary activity could be warranted, but to include any
3010 downstream site seems to be problematic from that perspective as a planning
3011 mechanism.

3012
3013 I do note that Dr Greer also mentioned that it was very unlikely any activities on
3014 the, well it was actually aimed at the site itself, but any activities to do with the
3015 forestry activities would be close to a waterbody. I think there's an issue there
3016 for Guildford site, because while there are quite a number of defined streams on
3017 the site, the definition of waterbody doesn't include ephemeral streams. That's
3018 the definition that the Regional Plan's adopted, and so we are going through a
3019 process at the moment as part of looking at development. But there are a lot of
3020 ephemeral waterways as it were on the property which wouldn't be met by that
3021 definition. I guess my point I was making there was, is that there are activities

3022 that are a small scale and are well away from waterways that will get captured,
3023 and that's problematic certainly from the forestry activities perspective for
3024 Guildford.

3025
3026 Mr Watson also recommends central changes to Rule WH.R20, and in practice
3027 all the amendments do clarify the activities the rule applies and rearranges the
3028 structure of the rule.

3029 [01.30.04]

3030 But I don't think they actually address the fundamental concerns that I have with
3031 the planning mechanism that I've outlined in my evidence.

3032
3033 I do point out in paragraph 18 of the summary when you get it, that I felt that
3034 there may have been an error in the way that it's been written, and this is to the
3035 note... Or is it? Sorry, I'll have to doublecheck that, whether it's the note or
3036 whether it's the rule itself. But it says that it's the explanation. New explanation
3037 of the rule states, "A restricted discretionary activity is required where the
3038 monitoring report demonstrates the suspended fine sediment meets the Target
3039 Attribute State," and I assume this should have read, "Demonstrates the
3040 sustained fine sediment does not meet the Target Attribute State." Otherwise, it's
3041 contradictory to where Mr Watson was going with that. So I just wondered
3042 whether that was an error that you need to perhaps have a closer look at. That's
3043 covered in paragraph 18 of my summary here.

3044
3045 There's the freshwater allocation of a number of the commercial forestry
3046 provisions to the freshwater planning process, and in here I just simply again
3047 reiterate the point that I felt that a number of the definitions, particularly
3048 afforestation, harvesting, mechanical land practices, preparation, replanting,
3049 vegetation clearance for the purpose of commercial forests, they were all part of
3050 the definitions in the NES-CF and I have, I guess, a fundamental problem with
3051 adopting those definitions now in a FPP context, which they weren't originally
3052 intended.

3053
3054 I've also raised some specific provisions to do with Policy WH.P28 and
3055 WH.R20, and they relate to, in particular the mapping which I acknowledge that
3056 Mr Willis has recommended a way of resolving them in the mechanism, the
3057 planning issues in his Section 42A Report, and also which I support, and Mr
3058 Watson also recommends. Sorry, I'll just catch my place here. I'll move on from
3059 that. I'm just quickly whizzing through.

3060
3061 The final matter that's there is specific earthworks, and this is more related to
3062 Guildford's future development proposals, and that's the question of the
3063 shutdown period. It also can affect the forestry as well. So both of them are in
3064 there, but that's the shutdown period that's been put in there, and I point out in
3065 my evidence that there seems to be a contradiction between the policy which
3066 intends to minimise work, that's WH.P29, and the actual provision itself in the
3067 rule which says, "No work is allowed." So I've covered in my evidence the whole
3068 issue around that shutdown period through those certain months and what it
3069 might mean from, not only a forestry operation point of view, but also from a
3070 perspective of the future development proposals that they have, that Guildford
3071 has.

3072

- 3073 That's probably. I'm sorry, it's a bit of a ramble, but that's I guess summing up
 3074 where we sit at the moment in terms of some of the matters that are still
 3075 outstanding.
 3076
- 3077 Nightingale: Thank you, and we do have the summary statements now in front of us, so thank
 3078 you very much. Sorry, we're just formulating the questions that we have.
 3079
- 3080 Kake: Commissioner Kake here. Mr. Rillstone, I was quite interested in what you were
 3081 saying with respect to the age of the pine or the trees, the forestry that you've got
 3082 on your land block. I just wanted to hear a little bit more, I suppose, in terms of
 3083 the age that you're talking about.
 3084 [01.35.00]
- 3085 I suppose we've heard that there's an issue with respect to the trees getting to a
 3086 particular age, and I wondered if you could just elaborate on what you meant by
 3087 that age bracket that you guys end up managing. I'm assuming this is all kind of
 3088 captured in a Forestry Management Plan anyway, but can you just elaborate a
 3089 little bit? That was probably a bit confusing question, but hopefully you got the
 3090 gist of it.
 3091
- 3092 Rillstone: Yes. So a little bit of background. I actually have spent the last 40 years as an
 3093 arborist, and I work around the country managing sites, particularly after adverse
 3094 weather events, and as these trees age the exotic forests don't fare well. When
 3095 they start to reach senescence then they often have catastrophic failures. On a
 3096 site such as Guildford's, where potentially what's going to end up because of
 3097 some of the slopes and the economics of harvesting, because all these changes
 3098 are increasing the cost significantly, these trees will get left behind.
 3099
- 3100 You're probably looking at trees of plus 80 years. They become uneconomic to
 3101 harvest and then they fall over. They don't just disintegrate, they don't just stay
 3102 there, they're exotics been introduced into our environment and they don't have
 3103 the understory that you have in a native forest, so when they fail the whole root
 3104 plate lifts out, and then they fill up and that's I hear quite difficult to manage
 3105 once they get to this stage, and that's where you have a lot of land movement.
 3106
- 3107 There's areas not far from Guilford Timber around Eastbourne and through
 3108 Lower Hutt where this has occurred, and the remaining pit I guess to describe it,
 3109 where the root ball has come out of, fills up with water and the whole site
 3110 becomes unstable with large landslips. So leaving these trees in or making them
 3111 difficult to get out, there's going to be some very, very severe consequence down
 3112 the track, and some of these trees are already 35 to 40 years old in the forest as
 3113 it is. Hopefully, that answers your question.
 3114
- 3115 Kake: Thank you. Yeah it does, really well. Just a quick, my final question really, is
 3116 just around, and it might be for a Council officer actually, just the Forestry
 3117 Management Plans will apply irrespective of the zoning. So if we're in a rural
 3118 zone forestry is there, for an urban zone forestry is there, if the Forestry
 3119 Management Plan is triggered. I'm not sure if that's something that's going to be
 3120 picked up in the next Hearing Stream perhaps.
 3121
- 3122 Rillstone: An urban zone you currently have to get resource consent at the moment,
 3123 depending on the... It's at Council level, at a District Council level or a City
 3124 Council level.

- 3125
3126 Nightingale: Commissioner Nightingale. Mr Rillstone, so in the situation you were describing
3127 to Commissioner Kake, I mean is there any incentive to just not plant in those
3128 areas where harvesting is going to become, because of the terrain and the
3129 difficulty in getting the trees out, is there anything currently that would make an
3130 operator just say, "Well, we're just not going to plant in that area."?
3131
- 3132 Rillstone: Yes. To answer, that is yes. It's purely the economics and risk, and we evaluate
3133 it and there are areas we're retiring out. The problem being is by doing these
3134 changes there's going to be more areas that it's not economic to actually take the
3135 trees out, and it's going to be far more difficult.
3136
- 3137 I refer back to what Mr Hansen said regarding the periods where we can't work,
3138 the winter works periods they used to be called, it's all changed now. The
3139 seasons in Wellington it doesn't fit a winter days. We manage a lot more than
3140 just not working in a winter, these periods. Like we actually don't engage in
3141 harvesting in November, for example. Sorry, I digress but there's a reason why
3142 I'm doing this. So these smaller windows when you can actually access some of
3143 these areas to get these trees out, it starts becoming more and more difficult. So
3144 it's not a case of not replanting either, it's a case of, actually if these changes go
3145 through, of not even harvesting at all in these areas.
3146 [01.40.05]
- 3147 Get out existing trees, which is going to exacerbate other problems. So to answer
3148 your question directly, we are retiring areas where we can, but there's far more
3149 areas that need to be harvested to be retired.
3150
- 3151 Wratt: Commissioner Wratt. A follow on from that. Someone earlier on this week
3152 referred to, I think it was they called it 'transition forestry' which is where you're
3153 transitioning from, as I understood it, from an exotic forest into natives, and I
3154 guess my impression was that you get regeneration of the natives under the older,
3155 as a pine forest gets older, and therefore you get that transition from exotic forest
3156 to an indigenous forest. But what I'm hearing you saying is that you in fact, as
3157 the exotic, particularly the pines, fall over, you're actually increasing the risk of
3158 landslides due to that root bowl and water accumulating in the root bowl. Can
3159 you just talk me through that a little bit.
3160
- 3161 Rillstone: If you harvest the trees in there, I'm sure you call them the optimum age, so
3162 around the 28 to 35 year mark, the trees are of a more manageable size to take
3163 out, and then you can retire that land without too much harm, or you continue to
3164 plant and grow those trees through. If you leave the trees to naturally, I guess
3165 your natural selection, to collapse or die or be poisoned, then basically it's
3166 uncontrolled and they'll fail. And evidence, you know, it's clear that this is what
3167 happens. Some of them disintegrate, but more often than not the whole root plate
3168 lifts out, and that's where you get all the land disturbance.
3169
- 3170 Then to harvest where these, saying that the native trees come through, you can't
3171 go and take out these large pine trees and expect not to have [inaudible 01.42.20]
3172 around it. You can helicopter fly them out. I've done many helicopter jobs, but
3173 it's very expensive. The value just isn't in the timber, so somebody has to pay
3174 for it at the end of the day, and so they either get left their age or they get
3175 poisoned, which some places have done. But that certainly isn't the purpose of

3176 what... I'm not sure the evidence you were talking about, because I wasn't
3177 familiar with it, but that's what tends to happen.

3178
3179 There's a lot of talk about the coupes, so areas that we're managing in the
3180 Guilford Timber currently I can talk directly about that. We're harvesting areas,
3181 and because of basically the terrain and the way Wellington weather comes
3182 through, and it's quite an exposed site, we manage it and sort of, just the name
3183 they use is coupes. So in areas, so we don't clear fell the entire forest, we work
3184 through a process of taking areas out and having these. There's actually been a
3185 lot of native remnant forest that's been retained in it and so we manage it in a
3186 small way like that. But you couldn't interplant and then pack the trees out. It
3187 doesn't work.

3188
3189 Wratt: Thank you. Commissioner Wratt. So that whole concept of... Sorry, we've also
3190 been told that there's a concern with where a developer picks up a forestry block,
3191 harvests it, and then essentially landbanks it and just leaves it, and that that also
3192 causes an erosion issue. I'm just, I guess just trying to get my head around that
3193 whole picture and how that fits together.

3194
3195 Rillstone: Yeah, so if you landbank it, you'd need a stabiliser site.

3196
3197 Wratt: Commissioner Wratt. And what do you do to stabilise the site in that situation?
3198 I guess you've got in the map that, I think it's in Mr Hansen's evidence, a large
3199 part of your area is shown as potential for being redeveloped.

3200
3201 Rillstone: At the moment, it's part of our Management Plan. We have to do a Management
3202 Plan now, so it's nothing new in these areas where I know that they're looking at
3203 the development and it's in early stages, so it's hard to comment too much on it.
3204 But there's areas where it's unlikely to be developed and we'll harvest those and
3205 retire some of those areas in these other areas where we don't know when it's
3206 going to be developed or if it's going to be developed, and so we will continue
3207 to plant.

3208 [01.45.02]
3209 We manage that really carefully with replanting, looking at setbacks and keeping
3210 cover on it. There's a range of options around that, from short-term crops,
3211 rotating crops, to keeping the pine forest going.

3212
3213 Wratt: Commissioner Wratt. Just one more clarification perhaps. You say retire, so is
3214 that where you're talking about you might put in a crop? What do you do when
3215 you retire a property, an area from forestry?

3216
3217 Rillstone: Well that depends on the owner, but specifically with Guilford Timber, there's
3218 areas where you plant it back into native so it's clear felled and then replanted.
3219 We've increased our buffer zones and planted it, and a lot of people are doing
3220 that now where you can improve your feedback and your sediment management,
3221 you'll plant it into native.

3222
3223 Wratt: Commissioner Wratt. Apologies. Your responses keep raising other questions
3224 for me. So planting with natives, as I understand, isn't quite as easy as it sounds.
3225 I mean, I understand that you replant with pines, it's a pretty routine operation
3226 these days, whereas planting with natives, you've got to find the right stock. I
3227 mean, I guess it's just it's a more expensive and more difficult process.

- 3228
3229 Rillstone: Yes. The expense is, yes in the purchase of the plants, but also in controlling the
3230 wildling pines that come away, and all the seedlings that come back up. You've
3231 got to remove them, so that's either spraying, wholesale spraying, cutting them
3232 out later on once they've sprouted, or spot spraying.
3233
- 3234 Wratt: Thank you for those explanations.
3235
- 3236 Nightingale: Commissioner Nightingale. Mr Rillstone, have there been instances, I know
3237 you've commented in your evidence about sort of insufficient monitoring by the
3238 Regional Council, but have there been instances where Council has looked at the
3239 harvest plan, for instance, and provided some feedback and suggestions for
3240 perhaps how sediment could be managed differently, and has your company
3241 taken those on board and implemented them?
3242
- 3243 Rillstone: So to answer your first question. We haven't had anybody engaged or doing it
3244 while I've been managing Guildford Timber from Regional Council. I've been in
3245 contact, and I talk to the Regional Council and have a very good relationship
3246 with their team. I could assume some reasons why we haven't been visited, which
3247 I believe is probably because we're low risk and we try and be proactive. The
3248 Regional Council had a, I believe, a consultancy company that's been doing some
3249 work with them and reviewing some of the sites, and I believe that's been funded
3250 by Greater Wellington. So that answers your first question. Sorry, what was your
3251 second question, please?
3252
- 3253 Nightingale: I think that does answer it because it was, then if they have provided comments
3254 have you implemented them? But I think the answer is they haven't provided the
3255 comments.
3256
- 3257 Rillstone: I talk to their, well because I'm in a position of dealing with other forests outside
3258 of Guildford, I give feedback on those ones, and some of those have been visited
3259 and I try and implement any learnings out of those into that spot as well.
3260
- 3261 Hansen: Madam Chair. If I could just add to that, one of the things that we were looking
3262 at was the question of whether that's an issue for the Council, i.e. that they don't
3263 have any mechanism by which they can ask for changes to the plan, apart from
3264 under the NES of course.
3265 [01.50.02]
3266 What I suggested in my summary, and I said I would in my evidence, I've
3267 provided an attachment, one right at the end, just flagging it for consideration, is
3268 the possibility of a permitted activity rule that allows the Council to engage with
3269 the forestry manager over the Management Plan, and uses the existing system
3270 but also allows for the agreed amendments and a Notice of Commencement, and
3271 all the sorts of things like that.
3272
3273 That's an attempt to put something in there that perhaps the NES doesn't
3274 necessarily provide at the moment, and obviously if those activities and those
3275 particular standards aren't met, then maybe a resource consent would be then
3276 required. But we were trying to work out whether that was a gap that needed to
3277 be filled and so we just flagged that for consideration.
3278

- 3279 Nightingale: Commissioner Nightingale. Thank you, that is very helpful. Would you also
 3280 support the proposed suggestion of having the mapping done at closer intervals?
 3281 So the suggestion is contour lines at intervals equal to or less than five metres to
 3282 provide for that more granular sort of assessment of erosion risk. That's another
 3283 change that's in addition to what's in the NES-CF. Is that something that you
 3284 would also support?
 3285
- 3286 Hansen: Certainly, we had concerns about the mapping as included first off in PC1, and
 3287 I think Mr Willis has raised potential solutions there. Mr Wilson, you can
 3288 confirm, but my understanding is that the Forestry Management Plan goes down
 3289 to quite a detailed level anyway when it comes to erosion land, on particular
 3290 Guildford site. So from that perspective, it shouldn't be that much of an issue.
 3291 Could you comment on that, Tim?
 3292
- 3293 Rillstone: No, that's not an issue. Most of the contour maps that we're using now are down
 3294 to five metres already, and any areas of risk we identify them so we can move
 3295 proactively. The type of site that it is, which is relatively steep, we are actively
 3296 managing all of that currently in use, so I don't see any issue with the five metre.
 3297 Can I just circle back to a question before. I just wanted to note that the Regional
 3298 Council in the last week has put out an email saying that, because it previously
 3299 hasn't been charged for the assessment of the maps, sorry of our Harvest
 3300 Management Plans and our notices, and that's been notified to everybody that
 3301 they're now going to start charging and doing that. So that's a change that's just
 3302 come in for the permitted activity.
 3303
- 3304 Nightingale: Yes, thank you. Which I think is enabled through the NES. Sorry, I know we are
 3305 over time, but we did start a bit late so maybe we might just have a couple more
 3306 questions. Mr Rillstone, you say that including a restricted discretionary activity
 3307 will make most woodlots in the region uneconomic to harvest. I mean that's
 3308 really, and I'm not doubting what you're saying here, but can you talk a bit about
 3309 how you have made that assessment? Are you speaking specifically to
 3310 Guildford's or have you sort of talked to one [inaudible 01.54.03]. I don't know,
 3311 just how you've come to that statement.
 3312
- 3313 Rillstone: Both specifically for Guilford, probably for Guildford and for other forest
 3314 owners that I have interaction with and business with. The area that's been
 3315 harvested in Guildford, there's a lot smaller areas now that we're able to harvest
 3316 each year. It depends on the extent of, if you're talking harvesting for Guilford
 3317 specifically, if you're able to get a 25 year consent, we have to look at what the
 3318 returns are likely to be and the cost of getting that in place, because that's quite
 3319 a major consent to apply for, and there's a number of people. It's not something
 3320 that I would have the ability to do on my own, and there'll be a number of other
 3321 parties involved - engineers, sediment control, specialists, etc.
 3322 [01.55.09]
- 3323 So for a site such as Guildford it's quite a large cost, and the return that we can
 3324 get out of that site is very small when you've got, it's quite difficult, it's expensive
 3325 to log as it is. Other landowners in the area, I know that some of them, they're
 3326 all fairly small holdings. Guildford's probably one of the bigger ones in the area
 3327 that we're talking about as part of this, and the smaller ones, they definitely can't.
 3328 I know what their returns are. I model them for them.
 3329

- 3330 I look at a lot of the forests around, and for somebody that's got five hectare
 3331 block, annually they'd probably be, if they're lucky they might get \$60,000 or
 3332 \$70,000 out of it because of all the complexities. Some of them are less. I can
 3333 think of one that they'll be getting \$25,000 or \$30,000 out of their block after
 3334 waiting 28 years of growing their trees, and they'll probably end up having a bill
 3335 for that amount if this goes through. That's genuine. That's what it's going to cost
 3336 them. Just a consent alone is going to be \$10,000. I know it is because I get
 3337 consents for other things.
 3338
- 3339 Nightingale: Thank you.
 3340
- 3341 Stevenson: Commissioner Stevenson. Just a question, perhaps for Mr Hansen coming out of
 3342 that previous conversation about the cost of consent processes. If, for example,
 3343 there was a permitted activity with performance standards covering the matters
 3344 that PC1 through its various iterations is now interested in, Mr Hansen, what do
 3345 you think, off the top of your head, a few of those might focus on from a planners
 3346 perspective?
 3347 Hansen: [laughs] I guess the question is, what activity? Are we talking just forestry
 3348 activity here, are we talking development as well?
 3349
- 3350 Stevenson: No, sorry. Focusing specifically on the forestry. My apologies. I realise you've
 3351 got two areas of interest.
 3352
- 3353 Hansen: Right. The only thing they really need to concentrate on is anything that's not
 3354 currently covered under the NES-CF. And I guess that's been the cry of the
 3355 submission right from the start, that there's a lot of activities in there that are
 3356 already, they're permitted, they've got standards, they've not met their RDA
 3357 already. What is it we're trying to control here that's not covered already? I mean,
 3358 the only thing I came up with was the ability to change a Management Plan with
 3359 certainty, and that's why I suggested that permitted activity standard, but what
 3360 else is there? I don't mean to put it back on the Council planners, but that in my
 3361 mind is a question that I haven't found an answer to.
 3362
- 3363 If you looked at all the permitted activity standards in the NES already, what is
 3364 it that's not covered now? I appreciate that there are issues around sediment
 3365 loadings, etc, but again erosion lands and all that, doing forestry activities on
 3366 erosion prone land and that, are all covered by the NES to start with. So in my
 3367 mind, if it is permitted activity standards, what's missing that needs to be picked
 3368 up there? And if that then is the case that there is something legitimately, then
 3369 the rules can come, and I think that's what the national directive is going to
 3370 provide some certainty to.
 3371
- 3372 I don't mean to sidestep it, but that's the hope that I have as a planner, that the
 3373 national directives will be much more clear on, "These are the things that you
 3374 really need to consider if you want to go more restrictive than the NES."
 3375
- 3376 McGarry: Commissioner McGarry. One of the things we've been told that it doesn't cover,
 3377 is the period post-harvest through that window of vulnerability, and particularly
 3378 where people just walk away from the sites and don't replant, and that if there
 3379 has been any sediment traps or erosion control put in, that there's no ability to
 3380 make sure that gets maintained and inspected, and make sure it continues to

- 3381 continues to function effectively throughout that five to eight year period. So
 3382 what's your response to that?
 3383
- 3384 Hansen: Mm, okay.
 3385 [02.00.00]
- 3386 I mean again, I know the national directives is looking at the slash side of things
 3387 as well, which has obviously been in the spotlight. I mean, that could be a very
 3388 legitimate matter that needs to be given regard to. I don't know if you've got any
 3389 experience on that, Mr Rillstone, that you'd want to comment on?
 3390
- 3391 Rillstone: I do want to comment on it. I do ponder this one quite regularly, because as a
 3392 harvest manager you often go in, you harvest, you complete your activity and
 3393 you go, and you hand it back to the landowner. I can't understand why it's not
 3394 already... It's no different than anything else. There's an expectation and an
 3395 inspection by the Councils to make sure it stays compliant. I guess, when does
 3396 the harvest thing be completed?
 3397 Guilford, for example, we are actively managing that because our permitted
 3398 activity status is that every year we're doing work on it. You're either doing track
 3399 maintenance, you're doing [02.01.17], there's a big incentive to continue that
 3400 work, to manage the forest and then keep the asset up. And I do wonder whether
 3401 there was follow up from the Regional Council across the landowners. There's
 3402 opportunity for that already. I don't understand why that's not already included
 3403 as part of your permitted activity status as your Management Plan. We've got to
 3404 provide the Management Plans. It's an ongoing maintenance activity, which is
 3405 what you're asking.
 3406
- 3407 McGarry: Mr Rillstone. So it is that kind of matter covered in the Forestry Management
 3408 Plan at the moment? Is there a section that would, you know, the landowner
 3409 would need to state what their intention is for that eight-year period after or is
 3410 that [02.02.13]?
 3411
- 3412 Rillstone: You put your notice in, and if it is picked up and the Council says, because you
 3413 got to have a Harvest Management Plan, I can't understand why it wouldn't be
 3414 included in that or questioned if it's not. And then if you're doing replanting, you
 3415 have to do an Afforestation Notice as a permitted activity, and so you'd need to
 3416 include that as well. So they should be able to overlap, apparently. I don't believe
 3417 it's just looked at like that.
 3418
- 3419 I've just been trying to see whether there's anything in the regulations that cover
 3420 that. That's not something I've sort of put my mind to, but certainly from a
 3421 planners perspective that would be something that could be looked at closer,
 3422 definitely. But it is really a matter of, and again I'm not sure how the national
 3423 directives are going to come out on this, but it's something that the Council, in
 3424 its role under the NES perhaps, could also address that issue.
 3425
- 3426 Nightingale: Commissioner Nightingale. I think another operational issue that's been
 3427 identified with the NES is that certain activities are managed only where they
 3428 are in those sort of orange or red zones, and the level at which that Erosion
 3429 Susceptibility Classification is made just sometimes misses areas that are
 3430 actually steeper, but they're just not picked up in the mapping.
 3431

- 3432 Mr Rearson and Mr Pepperell have identified in their evidence some of these
 3433 operational issues. It's been very useful hearing from you and your perspectives
 3434 on the other side of that, which is that if the Council was giving feedback and
 3435 guidance, then it sounds like you, Guildford's, would be certainly very open to
 3436 taking that on board and implementing those recommendations.
 3437
- 3438 Thank you, and we apologise for going over time, but it's obviously been a very
 3439 interesting and useful discussion for us, so we really appreciate your evidence
 3440 and your presenting to us today.
- 3441 [02.05.05]
- 3442 Thank you.
- 3443
- 3444 Rillstone: Thank you. Thank you very much. All the best for your decision-making.
 3445
- 3446 Nightingale: Thank you very much. That takes us to the end of submitters for the day and for
 3447 the week so thank you very much. We've really appreciated everything that we
 3448 have heard. [inaudible 02.05.37]. Yes, go for it.
 3449
- 3450 McGarry: Ms Vivian. It's been out of place all the last couple of days, so I just wanted to
 3451 circle back here. It was really to do with airports seeking relief in terms of... Let
 3452 me find the right piece of paper now I've got the moment to ask the question.
 3453 And my question was whether or not you would be supportive in Rules 23A and
 3454 22A in C, whether you could consider, I don't expect you to, you might answer
 3455 but you might not, whether adding in there, "Airfield. The landward side of
 3456 airfield or airport seawall," to get around that issue of the CMA rule is there.
 3457 And it is just for maintenance and repair, not for new ones. So I just wondered
 3458 whether you were open to entertaining putting, "The landward side of the
 3459 seawall," in.
 3460
- 3461 Vivian: Ms Vivian, I have no concern with that. The intentions of those permitted
 3462 activities within the coastal chapter are purely for the maintenance and repair of
 3463 seawalls to be undertaken as a permitted activity, and the way that they're
 3464 drafted, they do only apply to those works within the CMA. So I have no concern
 3465 potentially putting that in there.
 3466
- 3467 Nightingale: Thank you. It's probably a good point to just note that we've also really
 3468 appreciated the very helpful commentary advice we've received from all the
 3469 reporting officers this whole week. Thank you very much and appreciate the
 3470 huge amount of work that's gone into this to date, and there's still quite some
 3471 way to go, but we've found the responses really constructive and helpful. So
 3472 thank you so much.
 3473
- 3474 Thank you to all the submitters, their advisors, Council, Mr Ruddock, and we
 3475 will be issuing a Minute shortly with some further follow up questions and next
 3476 stages from here for these provisions. Otherwise, unless there's anything else
 3477 anyone wants to raise we'll probably close with karakia.
 3478
- 3479 Ruddock: Thank you very much, Commissioner.
 3480
- 3481 *Unuhia, unuhia*
 3482 *Unuhia kī te uru tapu nui*
 3483 *Kia wātea, kia māmā, kia ngākau, te*

3484 *tinana, te wairua i te ara tāngata*
3485 *Koia rā e Rongo,*
3486 *whakairia ake kī runga*
3487 *Kia tina! Hui e! Tāiki E!*
3488
3489
3490 [End of recording 02.09.31]