

5 May 2025

**Wellington Regional Council  
Plan Change 1 – Natural Resources Plan**

**Hearing Stream 3 – Submission to Hearing Commissioners**

**1. Submitters Details – Submitter S220**

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**2. Introduction**

Rosco Ice Cream Ltd (Rosco) holds a head lease over the site at 30 Benmore Crescent, Manor Park (Sec 1 SO 493901 held in Record of Title 738223 = 13.2121 ha). The property is owned by Te Runanga O Toa Rangatira Inc. Rosco are currently developing the site with earthworks under GWRC and LHCC resource consents to create useable platforms on the site. Rosco has also obtained further consents from LHCC to construct new private roading and upgrade the nearby public roading, as well as to install civil infrastructure (water supply, sewage & stormwater disposal) that would support future development of the site.

### **3. Earthworks Definition – Submission Point S220.002**

The plan change introduced a new definition of *earthworks* that applies only to the whaitua of Te Whanganui-a-Tara and Te Awarua-o-Porirua.

The proposed definition is intended to adopt the definition of *earthworks* from the National Planning Standards. However, this then removes a list of exclusions from the original definition. Rosco opposed the new definition and sought that the original definition is retained.

The Section 42A Report rejects Rosco's submission on the basis that the proposed definition adopts the *earthworks* definition from the National Planning Standards.

However, the Section 42A Report instead introduces a new rule (WH.R23A and P.R22A), whereby the list of excluded activities from the original definition are given permitted activity status, subject to conditions.

While Rosco generally supports this alternative for an additional permitted activity rule, some further changes / corrections to the new rule are required as follows:

*Earthworks and the associated discharge of sediment and/or flocculant into a surface water body or coastal water or onto or into land where it may enter a surface water body or coastal water, including via a stormwater network, associated with:*

- (a) thrusting, boring, trenching or mole ploughing associated with cable or pipe laying and maintenance, ~~and~~ or*
- (b) the construction, repair, upgrade or maintenance of:*
  - (i) pipelines, ~~and~~ or*
  - (ii) electricity lines and their support structures, including the National Grid, ~~and~~ or*
  - (iii) telecommunication structures or lines, ~~and~~ or*
  - (iv) radio communication structures, ~~and~~ or*
  - (v) firebreaks or fence lines, ~~and~~ or*
- (c) repair or maintenance of existing roads and tracks, and airfield runways, taxiways, and parking aprons for aircraft;*

*is a permitted activity provided the following conditions are met:*

- 1. the earthworks shall not occur within 5m of a surface water body or the coastal marine area; **and***
- 2. soil or debris from earthworks is not placed where it can enter a surface water body or the coastal marine area, including via a stormwater network, and*
- 3. the area of earthworks must be stabilised within six months after completion of the earthworks, and*
- 4. ~~there is no discharge of sediment from earthworks and/or flocculant into a surface water body, the coastal marine area, or onto land that may enter a surface water body or the coastal marine area, including via a stormwater network, and erosion and sediment control measures shall be used to prevent a discharge of sediment where a preferential flow path connects with a surface water body or the coastal marine area, including via a stormwater network.~~*

The list of permitted activities should be independent of each other and hence the word “or” is required after each activity.

As with the changes to rules WH.R23 and P.R22 recommended by the Section 42A Report, the condition to prevent a discharge of sediment is not feasible and should be removed. The new rule includes the associated discharges from the minor works. The requirement to utilise erosion and sediment control measures remains, but a discharge of sediment from those control measures is permitted provided.

The relief sought by Rosco is that the proposed new rule (WH.R23A and P.R22A) is amended as above.

#### **4. Rule WH.R23 – Submission Point S220.017**

Rosco opposed the conditions of permitted activity rule WH.R23 that prevent any discharge of sediment from earthworks.

The Section 42A Report accepts Rosco's submission in part and recommends deletion of condition (iv). However, Rosco's submission regarding the use of erosion and sediment controls to prevent a discharge of sediment (condition (v)) is rejected.

Rosco submits that condition (v) should be amended as follows:

(v) *erosion and sediment control measures shall be used to prevent a discharge of sediment where a preferential flow path connects with a surface water body or the coastal marine area, including via a stormwater network.*


The recommended amended wording of the rule includes the associated discharges from the earthworks. The requirement to utilise erosion and sediment control measures remains, but a discharge of sediment from those control measures is permitted.

The relief sought by Rosco is that the proposed rule WH.R23 is amended as above.

## **6. Summary of Decision Sought**

That the Hearings Committee / Council further amends the recommendations of the Section 42A Report in respect of rule WH.R23 and recommended additional rule WH.R23A as outlined in this submission.

Signature of person making submission.

  
A D Gibson

Date 5 / 5 / 2025

On behalf of Rosco Ice Cream Ltd