

**Before the Hearings Panel  
At Greater Wellington Regional Council**

**Under**                      The Resource Management Act 1991

**In the matter of**        Proposed Change 1 to the Natural Resources Plan for the  
Wellington Region.

**Hearing Stream Three                      Earthworks**

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**Statement of evidence of Marcella Freeman on behalf of Wellington City  
Council (Planning)**

**Date: 5 May 2025**

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## **INTRODUCTION:**

- 1           My full name is Marcella Nixie Freeman. I am employed as a Planning Advisor by Wellington City Council (WCC).
- 2           I have prepared this statement of evidence on behalf of WCC to provide planning evidence on matters relevant to WCC's submission to Greater Wellington Regional Council's (GWRC) Proposed Change 1 (PC1) to the Natural Resources Plan for the Wellington Region (NRP).

## **QUALIFICATIONS AND EXPERIENCE**

- 3           I hold a Bachelor of Arts from the University of Canterbury. While I have not yet officially graduated, I have completed all requirements for a Postgraduate Diploma in Planning from the University of Otago.
- 4           I have been employed as a Planning Advisor at WCC since 2024 working on a range of projects including district plan reviews and preparing committee reports.

## **CODE OF CONDUCT**

- 5           While this is a local authority hearing, I have read the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing my evidence and will continue to comply with it while giving oral evidence before the Hearings Panel. My qualifications as an expert are set out above. Except where I state I rely on the evidence of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise, and I have not omitted to consider material

facts known to me that might alter or detract from my expressed opinions.

#### **SCOPE OF EVIDENCE**

6 This statement of evidence addresses the following matters:

6.1 Minor Sediment Discharge Provisions.

6.2 Duplication with District Plan Provisions.

7 In preparing my evidence, I have reviewed the following:

7.1 The HS3 Section 42A Report on Earthworks.

8 I was not involved in preparing the WCC submission on PC1, though I can confirm I have reviewed it.

#### **MINOR SEDIMENT DISCHARGE PROVISIONS**

9 WCC supported P.P27, P.P28 and P.P29 and sought these be retained as notified. I support the recommended amendments made to P.P27 and P.P28, and the deletion of P.P29. in the S42A report. I acknowledge the clause 16 amendments to clarify to the numbering of WH.R23 and P.R22.

10 The WCC submission sought the deletion of *clause (c)(iv): “that there is no the 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*". I support GWRC's recommended deletion of this clause.

11 Paragraph 97 of the s42A Report recommends the insertion of a new permitted activity rule to allow for those activities that have been unintentionally affected by the new earthworks definition. These new permitted rules are WH.R23A and P.R22.

12 The WCC submission identified that WH.R23 subclause (g) now subclause (iv) will be almost impossible to meet in practice. According to the submission: "you cannot guarantee that no sediment will leave the site or enter a waterbody, therefore is unreasonable to impose for all development".

13 The 42A Report agrees with this submission point and recommends the deletion of WH.R23 subclause (iv). I support that change.

14 However, the section 42a Report proposes a new rule, WH.R23A. Which still includes this clause.

15 If subclause (iv) is recommended for removal from WH.R23, it is logical and consistent that the equivalent clause should also be removed from WH.R23A for the same reasons.

16 Accordingly, I seek the following amendment to WH.R23a:

Rule WH.R23A – Minor earthworks associated with infrastructure and Rule P.R22A	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:
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Minor earthworks associated with infrastructure	<p>(...)</p> <p>(d) <del>there is no discharge of sediment from earthworks and/or flocculant into 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.</del></p>
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#### DUPLICATION WITH DISTRICT PLAN

- 17 The WCC submission noted the Wellington City Council's 2024 Proposed District Plan rules for earthworks do not apply to activities involving less than 250m<sup>2</sup> of earthworks.
- 18 The WCC submission noted the absence of corresponding scale-based thresholds in NRP PC1 for erosion and sediment control measures results in minor earthworks being unreasonably captured by the rule. I agree with this point.
- 19 The Section 42A report does not directly address this point from WCCs submission.
- 20 This approach results in the doubling up of resource consent requirements for the scale of earthworks, that is typically managed at a territorial authority level.

- 21 Duplication with the Wellington City 2024 District Plan creates inefficiencies, particularly through duplicated consent applications, overlapping consenting conditions, and increased costs for applicants and the public. This conflicts with the general efficiency principles set out in section 18A of the RMA.
- 22 Section 18A of the RMA sets out that persons exercising powers or performing functions or duties under the Act must do so “in a way that is timely, cost-effective, and proportionate to the functions or duties.”
- 23 I support the relief sought in WCC’s submission. I recommend the following amendment to WH.R23 (v):

Rules WH.R23 and P.R22	<p>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, is a permitted activity, provided the following conditions are met:</p> <p>(...)</p> <p>(a) erosion and sediment control measures <u>shall be used for earthworks over 250m2 to prevent a discharge of sediment</u> 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.</p>
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- 24 Additionally, under the same reasoning I recommend the following amendment to rule WH.R24a:

Rule WH.R23A – Minor earthworks associated with infrastructure and Rule P.R22A	<p>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</p>
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Minor earthworks associated with infrastructure	<p>body or coastal water, including via a stormwater network, associated with:</p> <p>(...)</p> <p>(a) 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 <u>shall be used for earthworks over 250m2 to prevent a discharge of sediment</u> 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</p>
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## CONCLUSION

- 25 I support the deletion of WH.R23 subclause (g).
- 26 I recommend adopting the amended version of WH.R23a as proposed in the s42A report, to ensure consistency throughout the policy and to

avoid the unachievable requirement of “no discharge of sediment from earthworks and/or flocculant.”

- 27 I also recommend an amendment to WH.R23(v) to exclude minor earthworks to avoid duplicated consent applications, and overlapping consenting conditions.

**Date:** 5/5/2025

Marcella Freeman

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