

# EARTHWORKS

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## 1 Scope of Report

- [1] This Recommendation Report relates to the Earthworks chapter of the PDP and contains the Hearing Panel's recommendations to Council on the submissions and further submissions received on that chapter.
- [2] The Hearing Panel members for the Earthworks chapter were:
- Debra Hasson
  - Gary Rae (Chair)
  - Raewyn Solomon
  - Andrew Willis
- [3] The initial Section 42A Report and the end of hearing Section 42A Report (Reply Report) for this topic were:
- Earthworks Chapter, 25 November 2021, Ryan Mayes
  - Earthworks Chapter, 16 May 2022, Ryan Mayes
- [4] Prior to the hearing the reporting officer also provided an Addendum Report dated 17 December 2021 to correct errors and clarify some issues identified in the Section 42A Report. We also received a report entitled 'Officer's Response to Questions from The Hearings Panel', dated 13 January 2022.
- [5] The Hearing Panel's recommended amendments to the notified provisions of the Earthworks chapter are set out in Appendix 1. Amendments recommended by the Section 42A Report author that have been adopted by the Hearing Panel are shown in strike out and underlining. Any further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.
- [6] We note that some of the numbering of individual clauses in the rule and rule requirement provisions will need to be consequentially amended and not all such amendments are shown in Appendix 1. We understand that will occur in the amended version of the entire PDP that will accompany the release of all of the Recommendation Reports.
- [7] Readers should also note that we have, at their request, amended all references to 'Trustpower' to 'Manawa Energy'.
- [8] Further submitters are not listed in the tables in this Recommendation Report because further submissions are either accepted or rejected in conformance with our recommendations on the original submissions to which they relate.

## 2 Hearing and Submitters Heard

- [9] The hearing for the Earthworks chapter was held on Tuesday 18 January 2022. The submitters who appeared at the hearing (either in person or via Zoom) are listed below, together with an identification of whether they were an original submitter, a further submitter, or both.

Sub #	Submitter	Original	Further
DPR-0367	Orion New Zealand Limited <sup>1</sup>	✓	

<sup>1</sup> Commissioner Hasson recused herself from consideration of Orion's submissions due to a conflict of interest.

Sub #	Submitter	Original	Further
Combined			
DPR-0358	RWRL	✓	✓
DPR-0363	IRHL	✓	✓
DPR-0374	RIHL	✓	✓
DPR-0384	RIDL	✓	✓

[10] Some of the submitters had expert witnesses appear on their behalf. The witnesses we heard from are listed in Appendix 2. Tabled statements of evidence are also listed in Appendix 2. Copies of all evidence (expert and non-expert) received are held by the Council. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Recommendation Report.

[11] We record that we considered all submissions and further submissions, regardless of whether the submitter or further submitter appeared at the hearing and whether they were represented by expert witnesses.

### 3 Sub-topic Recommendations

[12] In this part of the Recommendation Report we assess the submissions by sub-topic, using the same headings as the initial Section 42A Report.

#### 3.1 General submissions and Overview

[13] For the following submitters and their submission points on those provisions we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0212	Ellesmere Sustainable Agriculture Incorporated (ESAI)	094
DPR-0260	Canterbury Regional Council (CRC)	146
DPR-0269	Heritage NZ Pouhere Taonga (HNZ)	026
DPR-0353	Horticulture NZ (Hort NZ)	203
DPR-0358	RWRL	242
DPR-0363	IRHL	231
DPR-0374	RIHL	237
DPR-0383	Oil Companies	017
DPR-0384	RIDL	249
DPR-0422	NCFE	226
DPR-0439	Rayonier Matariki Forests	003

[14] We note that several submitters have sought to retain the Overview as notified. It is recommended that those submission points are accepted in part, as we have recommended a change to insert a note in the Overview clarifying that the rules in the Earthworks chapter do not apply to earthworks within the beds of lakes and rivers and within the CMA.

[15] We accept it is not appropriate to:

- locate all earthworks provisions in the Earthworks chapter;
- replicate information found in the NESCS; and
- provide additional references to the NESPF.

## 3.2 Objectives and Policies

### 3.2.1 EW-O1

- [16] RWRL, IRHL, RIHL, RIDL, NCFE and DoC all sought to replace the usage of the word ‘limits’ in EW-O1 with various wordings. The Section 42A Report considered that ‘avoids significant and minimises other’ is more appropriate wording, as it provides better clarity of the outcomes sought. However, in the Reply Report the Section 42A Report author, in response to a question from the Panel, noted that the use of ‘avoid’ in the objective would be inconsistent with the rules structure in the chapter which has very limited use of non-complying activities. Subsequently the author recommended amended wording to remove the ‘avoid’ wording, so that the objective would read as:

*Earthworks are undertaken in a manner that minimises adverse effects on the surrounding environment.*

- [17] However, the Panel considers the word ‘minimise’ is stronger<sup>2</sup> than the direction contained in the associated EW policies, which include the word ‘manage’ and therefore appear to anticipate some adverse effects occurring in association with earthworks, especially for smaller scale or temporary earthworks. The Panel also considered using the words “*Minimise significant adverse effects and remedy or mitigate other adverse effects*” however we consider that would conflict with EW-P4 which seeks to minimise specific effects including some which are not significant. Overall, that wording may send mixed messages and is therefore not appropriate for an overarching objective.
- [18] We consider that EW-O1, as notified, provides a suitable overarching and more generic direction that sits more comfortably with the four EW policies, i.e. “*Earthworks are undertaken in a manner that limits adverse effects on the surrounding environment*”. We consider the word ‘limits’ implies some level of constraint and can include both mitigation and management of effects.
- [19] We are satisfied with the reasons provided in the Section 42A Report that it is not necessary to include a new objective to provide for important infrastructure. Our recommendation is however to provide a cross referencing note to alert readers to the Energy and Infrastructure chapter which contains provisions that may also be relevant to earthworks, which may provide partial relief to Orion (refer to section 3.3.4 of this report).
- [20] Consequently, for the following submitters and submission points our recommendations are set out below.

Sub #	Submitter	Submission Point	Accept	Reject
DPR-0260	CRC	143	✓	
DPR-0358	RWRL	243		✓
DPR-0363	IRHL	232		✓
DPR-0367	Orion New Zealand Limited	113		✓
DPR-0372	Dairy Holdings Ltd	090	✓	
DPR-0374	RIHL	238		✓
DPR-0384	RIDL	250		✓
DPR-0390	Rakaia Irrigation Ltd (RIL)	067	✓	

<sup>2</sup> The Panel’s recommendation in Hearing 2 was for a definition of ‘minimise’ that means “*reduce to the smallest extent reasonably practical*”.

Sub #	Submitter	Submission Point	Accept	Reject
DPR-0422	Federated Farmers of NZ - North Canterbury (NCCF)	227		✓
DPR-0427	Department of Conservation (DoC)	083		✓

### 3.2.2 EW-P1, EW-P3

- [21] For the following submitters and their submission points, which are in support of EW-P1 and EW-P3 as notified, we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0260	CRC	145
DPR-0358	RWRL	244, 246
DPR-0363	IRHL	233, 235
DPR-0372	Dairy Holdings Ltd	091, 093
DPR-0374	RIHL	239, 240
DPR-0384	RIDL	251, 253
DPR-0390	RIL	068
DPR-0427	DoC	084

### 3.2.3 EW-P2

- [22] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0260	CRC	144
DPR-0358	RWRL	245
DPR-0363	IRHL	234
DPR-0372	Dairy Holdings Ltd	092
DPR-0374	RIHL	240
DPR-0384	RIDL	252
DPR-0390	RIL	069
DPR-0422	NCCF	229

- [23] We are satisfied that the Section 42A Report author's recommendation to retain EW-P2 and not replace the wording 'restrict' with 'control, and where necessary restrict' as requested by RWRL, IRHL, Dairy Holdings, RIHL, and RIDL is appropriate. We accept that this policy seeks to discourage earthworks on slopes and higher altitude areas, where possible, as earthworks in these areas can result greater adverse effects than what would occur if undertaken in other areas, and the use of the term 'restrict' is therefore the most appropriate term to achieve this outcome.

### 3.2.4 EW-P4

- [24] For the following submitters and their submission points we generally accept the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0215	Winstone	037
DPR-0217	Summerset Villages	018
DPR-0353	Hort NZ	205
DPR-0356	Aggregate and Quarry Association	006

Sub #	Submitter	Submission Points
DPR-0358	RWRL	247
DPR-0363	IRHL	236
DPR-0372	Dairy Holdings Ltd	094
DPR-0374	RIHL	242
DPR-0384	RIDL	254
DPR-0388	Craigmore	048
DPR-0390	RIL	071
DPR-0422	NCCF	230, 231

- [25] We are satisfied that the Section 42A Report author's recommendation to amend EW-P4 to change it from a 'require' approach to a 'minimise' approach in response to the submission points by RWRL, RIHL, and RIDL is appropriate<sup>3</sup>. This is in recognition that effects may be unavoidable during works and instead should be appropriately managed.
- [26] The Panel also records our acknowledgement that EW-P4 as notified, and also as recommended to be amended, could be seen to conflict with EW-P1 which is more enabling. However EW-P1 relates specifically to temporary, small scale earthworks. The Panel's understanding is that, whilst not explicitly stated, EW-P4 relates more to larger scale earthworks and so any conflict seems somewhat limited. This could be made clearer, however scope to further amend these policies seems limited, and so this could be resolved or clarified by way of a future plan change.
- [27] We considered the planning evidence of Ms Clark for these submitters but (for similar reasons to those outlined in section 3.2.1 above) consider that the word 'avoid' is inappropriate and the word 'minimise', as amended by our recommendations on Hearing 2 Part 1 – Introduction and General Provisions (i.e. *reduce to the smallest extent reasonably practicable ...*), will better achieve the intent of this policy.
- [28] We accept the Section 42A Report author's opinion that the scale of changes does not require a s32AA evaluation.

### 3.2.5 New EW Policy

- [29] For the following submitter and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0367	Orion	114, 115

- [30] We are satisfied that the Section 42A Report author's recommendations to not include new policies as requested by Orion are appropriate, as policies relating to distribution lines are most appropriately addressed in the Energy and Infrastructure chapter, which already includes rules relating to protecting the operation and security of important infrastructure. We also accept the officer's evidence that earthworks are necessary for a wide range of activities, which is inherent within the objective and policies of the chapter, and an additional policy is not required.

<sup>3</sup> The Panel has a minor amendment, to delete the second reference to 'adverse' in relation to shading effects.

### 3.3 Rules

#### 3.3.1 *EW-R1 Earthworks subject to a Building Consent*

- [31] For the following submitters and their submission points, which are all seeking that EW-R1 is retained, we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0204	JP Singh	003
DPR-0217	Summerset Villages	019
DPR-0358	RWRL	248
DPR-0363	IRHL	237
DPR-0372	Dairy Holdings Ltd	095
DPR-0374	RIHL	243
DPR-0384	RIDL	255
DPR-0390	RIL	072

#### 3.3.2 *EW-R2 Earthworks*

- [32] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0142	NZ Pork	031
DPR-0215	Winstone	038
DPR-0217	Summerset Villages	020
DPR-0358	RWRL	249
DPR-0363	IRHL	238
DPR-0372	Dairy Holdings Ltd	096
DPR-0374	RIHL	244
DPR-0381	Coleridge Downs	010
DPR-0384	RIDL	256
DPR-0388	Craigmore	049
DPR-0390	RIL	073
DPR-0422	NCFF	233
DPR-0439	Rayonier Matariki Forests	006
DPR-0441	Manawa Energy	131

- [33] We note in particular the Overview section clarifies that plantation forestry is regulated under the National Environmental Standards for Plantation Forestry (NESPf), and this does not require repeating in this rule.

#### 3.3.3 *EW-R5 Stockpiling, EW-R6 Test Pits, EW-R7 Excavation for Wells/Bores*

- [34] For the following submitters and their submission points, which seek to retain EW-R5, EW-R6 and EW-R7 as notified, we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0142	NZ Pork	032
DPR-0215	Winstone	039
DPR-0358	RWRL	250, 251, 252
DPR-0363	IRHL	239, 240, 241
DPR-0372	Dairy Holdings	097
DPR-0374	RIHL	245, 246, 247
DPR-0384	RIDL	247, 258, 259

Sub #	Submitter	Submission Points
DPR-0390	RIL	074

### 3.3.4 New rules

- [35] For the following submitter and their submission point we adopt the recommendations and reasons of the Section 42A Report author in the Reply Report.

Sub #	Submitter	Submission Points
DPR-0367	Orion	117

- [36] The submission by Orion requested that the EW chapter includes corridor protection rules in relation to earthworks and land disturbance to ensure that Significant Electricity Distribution Lines (SEDL's) and support structures are protected.
- [37] The Section 42A Report had recommended that such a rule is not necessary as it essentially replicates the provisions of the NZCEP which manage earthworks near overhead lines support structures. However, in the Reply Report, the officer changed that recommendation in response to the information provided at the hearing by Ms Foote, and in order to remain consistent with the updated recommendation in Hearing 4 Energy and Infrastructure relating to earthworks in proximity to the National Grid.
- [38] The Section 42A Report author also noted that the rule inclusion relates more directly to the Energy and Infrastructure chapter, however the matter was not considered as part of that hearing.
- [39] We are satisfied that, having regard to the Panel's recommendations with respect to the Energy and Infrastructure hearing for earthworks in proximity to the National Grid (EI-R2A), it is appropriate to also insert the new corridor protection rules in relation to earthworks affecting SEDL's within the Energy and Infrastructure chapter. We note that the intention of the PDP is to have that as a self-contained chapter for all energy, transport and infrastructure works and activities.
- [40] We are also satisfied that the draft provisions submitted by Orion should be further amended as recommended by the Section 42A author in the Reply Report. We also accept the recommendation to add a note to the Earthworks chapter to identify that there are rules relating to earthworks in the Energy and Infrastructure chapter that take precedence over the rules in the Earthworks chapter, this being in accordance with the direction in the National Planning Standards.
- [41] Finally, in response to Orion's concern relating to readers of the PDP potentially being unaware of the earthworks rules relating to SEDL's, the Reply Report confirmed that the PDP also provides a link to the EI chapter for all properties which contain the SEDL layer. In this way those readers who search for information on their property will be directed to the Energy and Infrastructure chapter when relevant.
- [42] We consider that the scale of changes does not require a s32AA evaluation, but in any event the new rule located in the Energy and Infrastructure chapter is the most appropriate option for achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents. Overall, the recommended changes will better align with the National Planning Standards.



### 3.4 Rule Requirements

#### 3.4.1 *EW-REQ1 Volume of Earthworks*

- [43] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0068	MetroPort	016
DPR-0142	NZ Pork	033
DPR-0204	JP Singh	004
DPR-0208	Ngāi Tahu Property	004
DPR-0211	William Trolove	002
DPR-0215	Winstone	040
DPR-0217	Summerset	021
DPR-0358	RWRL	253
DPR-0363	IRHL	242
DPR-0365	Stuart PC	040
DPR-0372	Dairy Holdings	098
DPR-0374	RIHL	248
DPR-0384	RIDL	260
DPR-0388	Craigmore	050
DPR-0390	RIL	075
DPR-0441	Manawa Energy	136
DPR-0453	Lyttelton Port Company	051

- [44] We are satisfied that the Section 42A Report author's recommendation to amend the rule requirement, in response to submissions by Winstone and Summerset Villages, is appropriate. This will remove the effects relating to sedimentation and water erosion from the matters of discretion, as these effects are the responsibility of regional council and are more appropriately managed under the CLWRP. It is noted that, as highlighted in the Addendum Report, the reference to 'sedimentation and water' being removed from EW-REQ1.3.b was inadvertently not shown in Appendix 2 of the Section 42A Report.
- [45] Several submitters sought changes to the permitted volumes of earthworks and how they are measured or applied to parcels of land and sites. We are satisfied with the Section 42A Report author's response to these requests, both in the report and in the subsequent Reply Report, and in particular:
- The Carter Group submitters had requested the permitted earthworks volumes be increased in the LFRZ and GIZ from 1000m<sup>3</sup> per site to 1000m<sup>3</sup> per hectare, however that was not in our consideration supported by evidence at sufficient detail to justify a change to the rule requirement as notified;
  - The request by Ngai Tahu Property Ltd to increase the volume threshold to 5000m<sup>3</sup> per hectare of site area was not supported by evidence;
  - The rule requirement does not relate to the volume of earthworks associated with building consents, and the proposed limits are considered sufficient to achieve the works needed for sites within the GIZ and LFRZ;
  - Aggregating permitted volumes on properties held in single ownership could result in larger amounts of earthworks concentrated in one part of a site with potential increased effects on amenity and dust;

- Lots which are under the same ownership but on different titles would each be entitled to undertake the permitted levels of earthworks for the respective zone;
- Earthworks which are undertaken for activities under the Energy and Infrastructure chapter would also not be required to meet the Earthworks chapter rules, and it is therefore considered that the current wording would not be unreasonably restrictive of Manawa's activities; and
- It is considered appropriate for the PDP to control the amenity effects of potentially large scale earthworks for flood protection and irrigation schemes outside the beds of rivers, lakes or in the Coastal Marine Area.

[46] In relation to the submission point from CRC, we consider EW-REQ1 would not restrict activities or duplicate regional rules, however as noted in section 3.1 above this is recommended to be clarified in the Overview section of the chapter in response to this submission.

### 3.4.2 *EW-REQ2 Maximum Slope Gradient*

[47] For the following submitters and their submission points, which supported EW-REQ2 and sought to retain it as notified, we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0358	RWRL	254
DPR-0363	IRHL	243
DPR-0372	Dairy Holdings	099
DPR-0374	RIHL	249
DPR-0384	RIDL	261
DPR-0390	RIL	076
DPR-0453	LPC	052

### 3.4.3 *EW-REQ3 Excavation and Filling*

[48] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0207	Selwyn District Council (SDC)	041
DPR-0212	ESAI	095
DPR-0358	RWRL	255
DPR-0363	IRHL	244
DPR-0372	Dairy Holdings	100
DPR-0374	RIHL	250
DPR-0383	Oil Companies	018
DPR-0384	RIDL	262
DPR-0390	RIL	077
DPR-0422	NCFF	234

[49] We are satisfied that the Section 42A Report author's recommendations to amend the rule requirement, including reasons set out in the Reply Report, are appropriate in response to submissions by:

- SDC, as this will allow consideration of effects that result from the use of non-clean fill;

- ESAI and NCCF, as the nature of offal pits on farms is such that it would not be achievable to have all filling being clean fill material and as noted in the Reply Report the effects can be appropriately managed by the regional plans;
- Oil Companies, as the appropriateness of all materials used for filling of land needs to be considered, especially in the higher amenity zones and to ensure the likely intended activities are not compromised.

[50] We accept the Section 42A Report author's opinion that the scale of changes does not require a s32AA evaluation. However, we consider that in any event our recommended amendments to EW-REQ3 to remove requirements for offal pits and to include additional matters of discretion are the most appropriate option for achieving the purpose of the RMA, the relevant objectives of this Plan and other relevant statutory documents.

#### **3.4.4 EW-REQ4 Rehabilitation and Reinstatement**

[51] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0212	ESAI	096
DPR-0353	Hort NZ	202
DPR-0358	RWRL	256
DPR-0363	IRHL	245
DPR-0374	RIHL	251
DPR-0384	RIDL	263
DPR-0390	RIL	078
DPR-0422	NCCF	235

[52] We are satisfied that the Section 42A Report author's recommendations to amend the rule requirement, including reasons set out in the Reply Report, are appropriate in response to submissions by:

- ESAI and NCCF, as offal pits may be required to be left open for more than 12 months and the CLWRP offers control around their location and nature;
- Hort NZ, as whilst an amendment was requested to include the provision of 'other erosion resistant states', Ms Wharfe's statement<sup>4</sup> confirms the submitter accepts the Section 42A author's recommendation to not include this as it is uncertain and will not address potential adverse amenity effects on the environment, especially in higher amenity areas.

[53] We accept the Section 42A Report author's opinion that the scale of changes does not require a s32AA evaluation.

#### **3.4.5 EW-REQ5 Bunding**

[54] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0215	Winstone	041
DPR-0358	RWRL	257

<sup>4</sup> Ms Wharfe's EIC, Appendix 2

Sub #	Submitter	Submission Points
DPR-0363	IRHL	246
DPR-0374	RIHL	252
DPR-0384	RIDL	264
DPR-0390	RIL	079

[55] We accept that the amendments requested in the submission points by Winstone will clarify the maximum height requirement for bunds and the type of effects that are appropriately managed by this rule requirement.

[56] We accept the Section 42A Report author's opinion that the scale of changes does not require a s32AA evaluation.

### 3.5 Non-notification clauses

[57] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0358	RWRL	416
DPR-0363	IRHL	436
DPR-0374	RIHL	482
DPR-0384	RIDL	515

[58] These submitters sought non-notification clauses be added to all controlled and restricted discretionary activities. This would apply to EW-R5.2 and where EW-REQ1 to EW-REQ5 are not met. We agree with the Section 42A Report author that in association with all of these activities there is the potential for adverse effects to potentially be more than minor and for neighbouring properties, communities, or the wider district to be potentially directly affected.

[59] We also note that Ms Clark<sup>5</sup> confirmed in her statement of evidence that the officer's recommendation to not include non-notification clauses was supported in this instance.

### 3.6 Rural Ancillary Earthworks

[60] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0353	Hort NZ	060, 165, 120, 201, 206 - 209
DPR-0422	NCFF	228, 232

[61] Hort NZ seeks the inclusion of ancillary rural earthworks within the Policy, Rule and Rule Requirement sections of the Earthworks chapter, and together with NCFF also sought to amend EW-P1 to specifically reference enabling ancillary rural earthworks. It is noted that in their submission Hort NZ referenced EW-O1 on this submission point, however the amended text relates to EW-P1.

[62] We are satisfied that the Section 42A Report author's recommendations to not make these changes are appropriate, in particular as:

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<sup>5</sup> Ms Clark, EIC, paragraph 7

- the existing objective and policies acknowledge the necessity of earthworks, making the changes unnecessary;
- the permitted volume requirements provide for cultivation and works for fence posts and also ensure that the effects of larger scale works can be appropriately managed;
- The Panel's recommendations for Hearing 6 for Contaminated Land and Hazardous Substances include inserting a new chapter so that all of the relevant provisions relating to biosecurity matters are addressed there without the need to make changes to the earthworks chapter.

[63] We note that Ms Wharfe, planning consultant for Hort NZ, advised us that whilst there is benefit in inclusion of provisions for ancillary rural earthworks to provide clarity and certainty:

*Given that the nature of the earthworks that horticultural growers undertake would be classed as ancillary rural earthworks and are generally provided for within the current framework of the PDP, specific provision for ancillary rural earthworks may not be necessary.<sup>6</sup>*

### 3.7 Dairy Processing Zone

[64] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0370	Fonterra	059
DPR-0420	Synlait Milk	006 - 008

[65] We are satisfied that the Section 42A Report author's recommendations in response to submission by Fonterra and Synlait to amend EW-REQ3 to align the DPZ and PORTZ requirements are appropriate. We received no evidence opposing these submissions, and it is also noted that a tabled letter from Synlait advised that it supported for the amendments to EW-REQ3 as recommended in the Section 42A Report.

[66] We accept the Section 42A Report author's opinion that the scale of changes does not require a s32AA evaluation.

### 3.8 Quarries

[67] For the following submitter and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0122	Frews Quarries	024 - 028

[68] We are satisfied that the Section 42A Report author's recommendations in response to submission points by Frews Quarries to exclude quarrying operations from the earthwork provisions, such that they are only subject to GRUZ-R21, are appropriate. The recommended amendments to EW-R2 will provide better clarity and improve user understanding.

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<sup>6</sup> Ms Wharfe, EIC, paragraphs 6.14 & 6.15

### 3.9 Subdivision

- [69] For the following submitters and their submission points we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0207	Selwyn District Council	038
DPR-0414	Kainga Ora	133

- [70] The submission point by Kāinga Ora requested that SUB-REQ12 be deleted in full, with earthworks managed by the Earthworks chapter, while the Selwyn District Council requests that SUB-REQ12 be deleted and replaced with an equivalent rule in the Subdivision chapter.
- [71] The Section 42A report advised that while the National Planning Standards require all subdivision provisions to be located in the Subdivision chapter, they also require all provisions for managing earthworks to be located in the Earthworks chapter.
- [72] We accept the advice from the Section 42A Report author, informed by his discussion with the Subdivision Topic Lead, that in line with the Council submission, earthworks associated with subdivision are a related but separate activity from the action of subdivision, and that it is therefore appropriate to move the provisions to a rule, rather than rule requirement, status.
- [73] We accept that it is appropriate to move SUB-P10 to the Earthworks chapter (and become EW-P5), so that the rule and its associated policy are in the same chapter. Associated amendments will be required, including deleting SUB-REQ12 (and associated references to it in the Subdivision chapter) and inserting a new rule (EW-R5A) based on the Council's submission point, and each of EW-R2, EW-R3 and EW-R4 amended to clarify that they do not apply to earthworks subject to EW-R5A.
- [74] We accept the Section 42A Report author's opinion that the scale of changes does not require a s32AA evaluation, noting also that the policy is simply to be relocated within the PDP and other changes are consequential and will clarify which earthworks rules apply in which circumstances as they relate to subdivision. Overall, the recommended changes will better align with the National Planning Standards.

### 3.10 Natural Hazards

- [75] For the following submitter and their submission point we adopt the recommendations and reasons of the Section 42A Report author.

Sub #	Submitter	Submission Points
DPR-0414	Kainga Ora	063

- [76] The Panel's recommendation with respect to submissions on the Natural Hazards chapter, in Hearing 9, is for NH-R3 to be removed and to amend EW-R1, EW-R2, EW-R4, and EW-R5 so that they are subject to NH-REQ4, for the reasons set out in that report.
- [77] In terms of s32AA of the RMA, we are satisfied with the Section 42A Report author's advice that the scale of changes does not require a s32AA evaluation, noting also that the recommended changes are simply a restructuring of existing rules rule to provide better alignment.

#### 4 Other Matters

- [78] The recommended amendments to the PDP provisions contained in Appendix 1 are those that result from this Hearing Panel's assessment of submissions and further submissions. However, readers should note that further or different amendments to these provisions may have been recommended by:
- Hearing Panels considering submissions and further submissions on other chapters of the PDP;
  - the Hearing Panels considering rezoning requests, and
  - the Independent Hearing Panel (IHP) considering submissions and further submissions on Variation 1 to the PDP
- [79] Any such further or different amendments are not shown in Appendix 1 of this Recommendation Report. However, the Chair<sup>7</sup> and Deputy Chair<sup>8</sup> of the PDP Hearing Panels have considered the various recommended amendments and have ensured that the overall final wording of the consolidated version of the amended PDP is internally consistent.
- [80] In undertaking that 'consistency' exercise, care was taken to ensure that the final wording of the consolidated version of the amended PDP did not alter the intent of the recommended amendments contained in Appendix 1 of this Recommendation Report.
- [81] There are no other matters arising from our consideration of the submissions and further submissions or that arose during the hearing.

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<sup>7</sup> Who is also the Chair of the IHP.

<sup>8</sup> Who chaired one stream of hearings.

## Appendix 1: Recommended Amendments

**Note to readers:** Only provisions that have recommended amendments are included below. All other provisions remain as notified. Amendments recommended by the Section 42A Report author that have been adopted by the Hearing Panel are shown in strike out and underlining. Further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.

### Amendments to the PDP Maps

There are no amendments recommended to PDP Planning Maps arising from our recommendations on the submissions and further submissions covered by this Recommendation Report.

### Amendments to the PDP Text

## Part 2 – District Wide Matters

Energy, Infrastructure and Transport

EI – Energy and Infrastructure

EI-Rules

<u>El-4B</u>	<u>Earthworks Near Significant Electricity Distribution Lines</u>
<b>All Zones</b>	<p><b>Activity Status:</b> PER</p> <ol style="list-style-type: none"> <li>1. <u>Earthworks within 10m of the centreline and/or foundation of a support structure of <del>in the vicinity of</del> any Significant Electricity Distribution Line.</u></li> </ol> <p><b>Where:</b></p> <ol style="list-style-type: none"> <li>a. <u>Earthworks are for cultivation or the repair, sealing or resealing of the existing surface of any road, footpath, driveway or farm track.</u></li> <li>b. <u>The earthworks are for any network utility and meet <b>El-R2A Earthworks in the National Grid Yard.</b></u></li> </ol> <p><b>Activity status when compliance not achieved:</b></p> <ol style="list-style-type: none"> <li>2. <u>When compliance with El-4B.1.a. is not achieved: Refer to El-R4B.4 or El-R4B.6.</u></li> <li>3. <u>When compliance with El-R4B.1.b is not achieved: NC</u></li> </ol> <p><b>Notification:</b></p> <p><u>A. Any application arising from El-R4B.3. shall not be subject to public notification and shall be limited notified to the following parties: the network utility operator with responsibility for the Significant Electricity Distribution Line, unless their written approval is provided.</u></p>
<b>All zones</b>	<p><b>Activity Status:</b> PER</p> <ol style="list-style-type: none"> <li>4. <u>Earthworks within 10m of the centreline and/or foundation of a support structure of the Significant Electricity Distribution Line (Islington to Springston), the purpose of which is not covered by El-R4B.1.</u></li> </ol> <p><b>Activity Status when Compliance not achieved:</b></p> <ol style="list-style-type: none"> <li>5. <u>When compliance with any of El-R4B.4. is not achieved: NC</u></li> </ol> <p><b>Notification:</b></p>



	<p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. <u>Earthworks are less than 300mm deep within 6m from the outer visible edge of a foundation of a Significant Electricity Distribution Line (Islington to Springston) support structure; and</u></li> <li>b. <u>Earthworks are less than 3m deep between 6 and 10 metres from the outer visible edge of a foundation of the Significant Electricity Distribution Line (Islington to Springston) support structure; and</u></li> <li>c. <u>The work does not compromise the stability of the Significant Electricity Distribution Line support structure; and</u></li> <li>d. <u>Earthworks are for fence posts more than 5m from the outer visible edge of a foundation of a Significant Electricity Distribution Line (Islington to Springston) support structure.</u> <u>Note: That part of the earthworks definition which excludes fence posts does not apply to this clause.</u></li> <li>e. <u>The earthworks do not result in a reduction in ground to conductor clearance distances below what is required by Table 4 in NZECP 34:2001.</u></li> </ul> <p><b>And this activity complies with the following rule requirements:</b> EI-REQ2A New Zealand Code of Practice for Electrical Safe Distances</p>	<p><b>B.</b> <u>Any application arising from EI-R4B.4 shall not be subject to public notification and shall be limited notified to the following parties: the network utility operator with responsibility for the Significant Electricity Distribution Line, unless their written approval is provided.</u></p>
<b>All Zones</b>	<p><b>Activity Status:</b> PER</p> <p>6. <u>Earthworks within 5m of the centreline of Other Significant Electricity Distribution Lines not covered by EI-R4B.1 or EI-R4B.4.</u></p> <p><b>Where:</b></p> <ul style="list-style-type: none"> <li>a. <u>Earthworks are less than 300mm deep within 2.2m metres of a foundation of the Significant Electricity Distribution Line support structure; and</u></li> <li>b. <u>Earthworks are less than 0.75m deep between 2.2m and 5m from the foundation of the Significant Electricity Distribution Line support structure; and</u></li> <li>c. <u>The work does not compromise the stability of the Significant Electricity Distribution Line support structure.</u></li> <li>d. <u>The earthworks do not result in a reduction in ground to conductor clearance distances below what is required by Table 4 in NZECP 34:2001.</u></li> </ul> <p><b>And this activity complies with the following rule requirements:</b></p>	<p><b>Activity Status when Compliance not achieved:</b></p> <p>7. <u>When Compliance not achieved with EI-R4B.6: NC</u></p> <p><b>Notification:</b></p> <p>8. <u>Any application arising from EI-R4B.6 shall not be subject to public notification and shall be limited notified to the following parties: the network utility operator with responsibility for the Significant Electricity Distribution Line, unless their written approval is provided.</u></p>

<p> <a href="#">EI-REQ2A New Zealand Code of Practice for Electrical Safe Distances</a> </p>
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## General District Wide Matters

### EW – Earthworks

#### EW-Overview

...

While the Canterbury Regional Council has the primary role in respect of discharges to the environment (to air and into waterbodies), the District Plan can assist by ensuring the adverse effects of any earthworks are minimised beyond the site where the works are occurring. Land use and discharge consents may also be required from the Canterbury Regional Council (Environment Canterbury) under either the Land & Water Regional Plan or the Canterbury Air Regional Plan. This Chapter does not apply to earthworks within the beds of lakes and rivers and the Coastal Marine Area, which are managed under the regional planning framework.<sup>9</sup>

...

#### **Note:**

...

*As mentioned above, before undertaking any work that may affect an archaeological site you must obtain an authority from Heritage New Zealand Pouhere Taonga.*

*As well as the provisions in this chapter, the Energy and Infrastructure chapter contains provisions that may also be relevant to earthworks.*<sup>10</sup>

## EW-Objectives and Policies

#### EW-Policies

<b>EW-P4</b>	<p><del>Require that during and on completion of earthworks any visual impact, loss of privacy, dust nuisance, and shading from earthworks does not detract from the amenity values and quality of the environment</del></p> <p><u>Minimise any adverse visual effects, loss of privacy, dust nuisance, or shading effects during and on completion of earthworks</u><sup>11</sup></p>
<b>SUB-P10 EW-PA<sup>12</sup></b>	<u>Manage the temporary adverse visual amenity and nuisance effects associated with preparing land for subdivision.</u> <sup>13</sup>

<sup>9</sup> DPR-0260.146 CRC

<sup>10</sup> DPR-0367.117 Orion

<sup>11</sup> DPR-0353.205 HortNZ, DPR-0358.247 RWRL, DPR-0374.242 RIHL, DPR-0384.254 RIDL, DPR-0422.230 & 231 Federated Farmers, DPR-0215.037 Winstone, DPR-0217.018 Summerset Villages, and DPR0356.006 Aggregate and Quarry Association

<sup>12</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>13</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

## EW-Rules

EW-Rule List		
...		
<b>EW-5A</b> <sup>14</sup>	<u>Earthworks</u> <sup>15</sup> for Subdivision <sup>16</sup>	
<b>EW-R1</b>	<b>Earthworks subject to a Building Consent</b>	
<b>All Zones</b>	<b>Activity status:</b> PER 1. Earthworks that are or will be subject to a building consent.  ....  <b>And this activity complies with the following rule requirements:</b> EW-REQ3 – Excavation and filling NH-REQ4 Natural Hazards and Earthworks <sup>17</sup>	<b>Activity status when compliance not achieved:</b> 2. When compliance with EW-R1.1.a. is not achieved: Refer to EW-R2. 3. When compliance with any <del>EW Rule Requirement</del> <u>rule requirement</u> <sup>18</sup> listed in this rule is not achieved: Refer to <del>EW Rule Requirements</del> <u>relevant rule requirement</u> <sup>19</sup> .
<b>EW-R2</b>	<b>Earthworks</b>	
<b>All Zones, except GRAZ and DPZ</b>	<b>Activity status:</b> PER 1. All other Earthworks not covered by EW-R1, <u>EW-R5A</u> <sup>20</sup> or <u>GRUZ-R21</u> <sup>21</sup>  <b>And this activity complies with the following rule requirements:</b> ... <u>NH-REQ4 Natural Hazards and Earthworks</u> <sup>22</sup>	<b>Activity status when compliance not achieved:</b> 2. When compliance with any <del>EW Rule Requirement</del> <u>rule requirement</u> listed in this rule <sup>23</sup> is not achieved: Refer to <del>EW Rule Requirements</del> <u>relevant rule requirement</u> . <sup>24</sup>
<b>EW-R3</b>	<b>Earthworks in the Grasmere Zone</b>	
<b>GRAZ</b>	<b>Activity status:</b> PER	<b>Activity status when compliance not achieved:</b> 2. When compliance with EW-R3.1.a. is not achieved: NC

<sup>14</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora<sup>15</sup> DPR-0409.015 Hughes and DPR-0410.001 Urban Estates<sup>16</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora<sup>17</sup> DPR-0414.063 and DPR-0414.067 Kāinga Ora<sup>18</sup> Consequential amendment to DPR-0414.063 and 067 Kāinga Ora, for consistency with PDP drafting requirements<sup>19</sup> Consequential amendment to DPR-0414.063 and 067 Kāinga Ora, for consistency with PDP drafting requirements<sup>20</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora<sup>21</sup> DPR-0122.025-027 Frews Quarries<sup>22</sup> DPR-0414.063 and 067 Kāinga Ora<sup>23</sup> Consequential amendment to DPR-0414.063 and 067 Kāinga Ora, for consistency with PDP drafting requirements<sup>24</sup> Consequential amendment to DPR-0414.063 and 067 Kāinga Ora, for consistency with PDP drafting requirements

	1. All other Earthworks not covered by EW-R1, <u>or EW-R5A</u> . <sup>25</sup> ...	3. When compliance with any EW-Rule Requirement listed in this rule is not achieved: Refer to <u>EW Rule Requirements relevant rule requirement</u> . <sup>26</sup> .
<b>EW-R4</b>	<b>Earthworks in the Dairy Processing Zone</b>	
<b>DPZ</b>	<b>Activity status:</b> PER 1. All other Earthworks not covered by EW-R1 <u>or EW-R5A</u> . <sup>27</sup>  <b>Where this activity complies with the following rule requirements:</b> ... <u>NH-REQ4 Natural Hazards and Earthworks</u> <sup>28</sup>	<b>Activity status when compliance not achieved:</b> 2, When compliance with any <u>EW-Rule Requirement rule requirement</u> <sup>29</sup> listed in this rule is not achieved: Refer to <u>EW Rule Requirements relevant rule requirement</u> . <sup>30</sup>
<b>EW-R5</b>	<b>Stockpiling</b>	
<b>All Zones</b>	<b>Activity status:</b> PER 1. Earthworks stockpiling.  ...  <b>And this activity complies with the following rule requirements:</b> <u>NH-REQ4 Natural Hazards and Earthworks</u> <sup>31</sup>	<b>Activity status when compliance not achieved:</b> 2. When compliance EW-R5.1.a. is not achieved: RDIS 3. <u>When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant rule requirement.</u> <sup>32</sup>  ...
<b>EW-R5A</b>	<b>Earthworks<sup>33</sup> for Subdivision<sup>34</sup></b>	
<b>All Zones<sup>35</sup></b>	<b>Activity status:</b> PER <sup>36</sup> 1. <u>Earthworks<sup>37</sup> directly associated with the development of land for subdivision<sup>38</sup></u>	<b>Activity status when compliance not achieved:</b> 2. When compliance with any of EW-R5A.1 is not achieved: RDIS

<sup>25</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>26</sup> Consequential amendment to DPR-0414.063 and 067 Kāinga Ora, for consistency with PDP drafting requirements

<sup>27</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>28</sup> DPR-0414.063 and 067 Kāinga Ora

<sup>29</sup> Consequential amendment to DPR-0414.063 and 067 Kāinga Ora, for consistency with PDP drafting requirements

<sup>30</sup> Consequential amendment to DPR-0414.063 and 067 Kāinga Ora, for consistency with PDP drafting requirements

<sup>31</sup> DPR-0414.063 and 067 Kāinga Ora

<sup>32</sup> Consequential amendment to DPR-0414.063 and 067 Kāinga Ora, for consistency with PDP drafting requirements

<sup>33</sup> DPR-0409.015 Hughes and DPR-0410.001 Urban Estates

<sup>34</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>35</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>36</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>37</sup> DPR-0409.015 Hughes and DPR-0410.001 Urban Estates

<sup>38</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

	<p><b><u>Where:</u></b></p> <p>a. <u>The maximum area of land subject to the works is 1,000m<sup>2</sup>.</u><sup>39</sup></p> <p><b><u>And this activity complies with the following rule requirements</u></b><sup>40</sup></p> <p><u>EW-REQ2 Maximum Slope Gradient</u><sup>41</sup></p> <p><u>EW-REQ3.2 Excavation and Filling</u><sup>42</sup></p> <p><u>EW-REQ3.6 Excavation and Filling</u><sup>43</sup></p> <p><u>EW-REQ5 Bunding</u><sup>44</sup></p> <p><u>NH-REQ4 Natural Hazards and Earthworks</u><sup>45</sup></p>	<p><u>3. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant rule requirement</u><sup>46</sup></p> <p><b><u>Matters for discretion:</u></b></p> <p><u>4. The exercise of discretion in relation to EW-R5A.2 is restricted to consideration of:</u><sup>47</sup></p> <p>a. <u>any adverse effects from the earthworks in terms of visual amenity, landscape context and character, views, outlook, overlooking and privacy from raising ground levels.</u><sup>48</sup></p> <p>b. <u>any potential dust nuisance, sedimentation, and water or wind erosion effects can be avoided or mitigated.</u><sup>49</sup></p> <p>c. <u>the amenity effects on neighbouring properties, and on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks can be avoided or mitigated.</u><sup>50</sup></p> <p>d. <u>any changes to the patterns of surface drainage or subsoil drains would result in a higher risk of drainage problems, inundation run-off, flooding, or raise the water table.</u><sup>51</sup></p> <p>e. <u>any alteration to natural ground levels in the vicinity and, consequently, to the height and bulk of buildings that may be erected on the site.</u><sup>52</sup></p> <p>f. <u>the degree to which the resultant levels are consistent with the surrounding environment.</u><sup>53</sup></p>
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<sup>39</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>40</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>41</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>42</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>43</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>44</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>45</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>46</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>47</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>48</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>49</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>50</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>51</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>52</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>53</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

		g. <u>the need for a Construction Management Plan (including a Dust Management Plan), containing procedures, which shall be implemented, that establish management and mitigation measures for the activity that ensure that any potential adverse effects beyond the property boundary are avoided, remedied, or mitigated.</u> <sup>54</sup>
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## EW-Rule Requirements

EW-REQ1	Volume of Earthworks	
	<p>1. The volume of earthworks is not to exceed the threshold outlined in Table 1: Earthworks Volumes by Zone over any consecutive twelve month period.</p> <p>Note: for ONL and VAL Overlays see the <a href="#">Natural Features and Landscapes Chapter</a>.</p>	<p><b>Activity status when compliance not achieved:</b></p> <p>2. When compliance with EW-REQ1.1. is not achieved: RDIS</p> <p><b>Matters for discretion:</b></p> <p>3. The exercise of discretion in relation to EW-REQ1.2. is restricted to the following matters:</p> <p>a. ...;</p> <p>b. any potential dust nuisance, <del>sedimentation, and water</del><sup>55</sup> or wind erosion effects can be avoided or mitigated;</p> <p>c. ...</p>
EW-REQ3	Excavation and Filling	
<b>All Zones excluding PORTZ and DPZ<sup>56</sup></b>	<p>1. Earthworks, <u>excluding those earthworks associated with offal pits</u>,<sup>57</sup> shall not exceed a maximum depth below or height above natural ground level of:</p> <p>a. 2m, when 1.5m or more from the boundary of a site in separate ownership; or</p> <p>b. 0.5m, when within 1.5m of the boundary of a site in separate ownership.</p> <p>2. All filling of land, <u>excluding those earthworks associated with offal pits</u>,<sup>58</sup> shall consist of cleanfill material only.</p>	<p><b>Activity status when compliance not achieved:</b></p> <p>3. When compliance with any of EW-REQ3.1 or EW-REQ3.2 is not achieved: RDIS</p> <p><b>Matters for discretion:</b></p> <p>4. The exercise of discretion in relation to EW-REQ3.3 is restricted to the following matters:</p> <p>a. ...</p> <p>f. <u>the nature and composition of the fill; and</u></p>

<sup>54</sup> DPR-0207.038 The Council and DPR-0414.133 Kāinga Ora

<sup>55</sup> DPR-0215.040 Winstone and DPR-0217.021 Summerset Villages

<sup>56</sup> DPR-0442.008 Synlait Milk and DPR-0370.059 Fonterra

<sup>57</sup> DPR-0212.095 ESAI and DPR-0422.234 NCFE

<sup>58</sup> DPR-0212.095 ESAI and DPR-0422.234 NCFE

		g. <u>the degree of compaction required for the anticipated use of the site.</u> <sup>59</sup>
<b>DPZ<sup>60</sup> PORTZ</b>	<p>5. The maximum depth of the earthworks from existing ground level shall be 5m and no closer than 1m to the highest recorded groundwater, whichever is the lesser.</p> <p>6. All filling of land shall consist of cleanfill material only.</p>	<p><b>Activity status when compliance with not achieved:</b></p> <p>7. When compliance with any of EW-REQ3.5 or EW-REQ3.6 is not achieved: RDIS</p> <p><b>Matters for discretion:</b></p> <p>8. The exercise of discretion in relation to EW-REQ3.7 is restricted to the following matters:</p> <p>a. ...</p> <p>f. <u>the nature and composition of the fill; and</u></p> <p>g. <u>the degree of compaction required for the anticipated use of the site.</u><sup>61</sup></p>
<b>EW-REQ4</b>	<b>Rehabilitation and Reinstatement</b>	
<b>All Zones</b>	<p>1. No more than twelve months after the earthworks commenced and on completion of the earthworks, the area of land disturbed as a result of earthworks activities is to be built upon, sealed with hardstand material, landscaped, or recontoured and replanted. <u>This requirement does not apply to earthworks associated with offal pits.</u><sup>62</sup></p>	...
<b>EW-REQ5</b>	<b>Bunding</b>	
<b>GRUZ</b>	<p>1. Earth bunds for noise attenuation or screening are <del>less</del> <u>no more</u><sup>63</sup> than 3m in height.</p>	<p><b>Activity status when compliance with not achieved:</b></p> <p>2. When compliance with EW-REQ5.1. is not achieved: RDIS</p> <p><b>Matters for discretion:</b></p> <p>3. The exercise of discretion in relation to EW-REQ5.2. is restricted to the following matters:</p> <p>a. the potential for adverse visual amenity <u>effects and shading over adjoining properties, giving particular consideration to the effects on residential activities.</u> <del>nuisance and post development flood and</del></p>

<sup>59</sup> DPR-0207.041 SDC

<sup>60</sup> DPR-0442.008 Synlait Milk and DPR-0370.059 Fonterra

<sup>61</sup> DPR-0207.041 SDC

<sup>62</sup> DPR-0212.096 ESAI and DPR-0422.235 NCFE

<sup>63</sup> DPR-0215.041 Winstone

		<p><del>drainage effects on the functioning of natural biological and physical processes;</del> and<sup>64</sup></p> <p>b. <u>the effectiveness of any proposed measures to initially and permanently stabilise the bund.</u><sup>65</sup></p>
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<sup>64</sup> DPR-0215.041 Winstone

<sup>65</sup> DPR-0215.041 Winstone



## Appendix 2: List of Appearances and Tabled Evidence

### Hearing Appearances

Sub #	Submitter	Author	Role
DPR-0367	Orion New Zealand Limited	Amy Hill Melanie Foote Garry Hayes	Counsel Planner Manager
Combined DPR-0358 DPR-0363 DPR-0374 DPR-0384	RWRL IRHL RIHL RIDL	Amy Clark*	Planner

A Memorandum was filed by Ms Clark following the hearing on 21 January 2022 to clarify some evidence presented at the hearing.

### Tabled Evidence

Sub #	Submitter	Author	Role
DPR-0212	Ellesmere Sustainable Agriculture Inc	Carey Barnett	Environmental Advisor
DPR-0353	Horticulture NZ Ltd	Lynette Wharfe	Planner
DPR-0370	Fonterra Limited	Dean Chrystal	Planner
DPR-0372, DPR-0390	Dairy Holdings Ltd Rakaia Irrigation Ltd	B Williams and K Jacomb	Counsel
DPR-0375	Waka Kotahi NZ Transport Agency	Richard Shaw	Planner
DPR-0383	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd	Jarrold Dixon	Planner
DPR-0420	Synlait Milk Limited	Nicola Rykers	Planner