

**SUBMISSION ON PLAN
CHANGE 1 TO THE
NATURAL RESOURCES
PLAN**

December 2023

To the Greater Wellington Regional Council





Orogen Limited
Registered Company 5908349

15th December 2023

Via email: regionalplan@gw.govt.nz

Dear Greater Wellington Regional Council,

SUBMISSION ON PLAN CHANGE 1 TO THE NATURAL RESOURCES PLAN

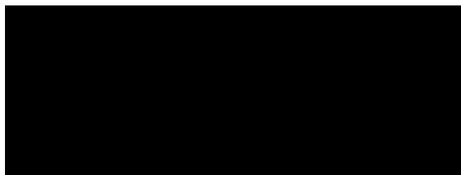
Orogen is a professional services company with a specific focus on Land Development and Civil Engineering services. This includes expertise in Planning and Environmental services associated with development which will be affected by the provisions proposed under Plan Change 1.

We are generally supportive of the proposed objectives and policies, especially to protect freshwater ecosystem health and well-being in accordance with the NPS-FM. Our submission highlights areas where the implementation of these provisions through the proposed rules and standards could be problematic and we believe refinement is required to enable these provisions to be successful.

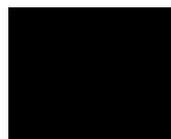
As such, we put forward the following submission to seek clarification on, and amendments to, rules and definitions within Plan Change 1 to in our view enable the Plan Change to be an effective and operable document.

We wish to be heard in support of this submission at a hearing.

Yours faithfully,



Darcy Brittliff BE(Nat Res)(Hons) | CPEng(Civil) | CMEngNZ
Director & Principal Engineer
Orogen Limited



Ants Ransley BAppSc
Environmental Advisor



SUBMISSION ON PROVISIONS

The following submission is regarding definition(s) within Chapter 2.2 of Plan Change 1:

- Amend 'earthworks' definition

Definition	Earthworks
Position	<i>Amend</i>
Reason for feedback	<p>The definition of earthworks has been updated for the Whaitua Te Whanganui-a-Tara and Te Awarua-o-Porirua Whaitua, removing many of the former exclusions that persist in all other whaitua under the proposed plan change.</p> <p>These former exclusions are typically low-risk activities that require limited disturbance in comparison with earthworks activities that were not formerly excluded from this definition. In this respect, the submitter agrees that considerations are required to appropriately manage the risk of sediment discharge from these former exclusions, however we believe that including these former exclusions under the broad definition of 'earthworks' overstates the associated risk and unnecessarily hampers development throughout the Wellington region.</p> <p>The submitter proposes that the definition of 'earthworks' is amended to maintain the former exclusions across all whaitua, and the creation of a new definition for the excluded activities.</p> <p>The excluded activities that are defined under the new definition may then have their own set of rules to ensure that the effects of these activities are appropriately managed while acknowledging the reduced risk by comparison with standard earthworks activities.</p>
Changes sought	<p><i>Amend the definition of 'earthworks':</i></p> <p>The alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes: gardening, cultivation, and disturbance of land for the installation of fence posts</p> <ul style="list-style-type: none"> (a) cultivation of the soil for the establishment of crops or pasture, and (b) the harvesting of crops, and (c) thrusting, boring, trenching or mole ploughing associated with cable or pipe laying and maintenance, and (d) the construction, repair, upgrade or maintenance of: <ul style="list-style-type: none"> (i) pipelines, and (ii) electricity lines and their support structures, including the National Grid, and (iii) telecommunication structures or lines, and (iv) radio communication structures, and (v) firebreaks or fence lines, and (vi) a bore or geotechnical investigation bore, and (e) repair or maintenance of existing roads and tracks, and airfield runways, taxiways, and parking aprons for aircraft, and (f) maintenance of orchards and shelterbelts, and (g) domestic gardening, and

	<p>(h) repair, sealing or resealing of a road, footpath, driveway, and (i) discharge of cleanfill material to a cleanfill area</p> <p>Except that, for the purposes of Rules WH.R20, WH.R21 and P.R19, P.R20, 'ea' has the same meaning as given in section 3 of the Resource Management Environmental Standards for Plantation Forestry) Regulations 2017.</p> <p><i>Create a new definition and associated set of rules for the excluded activities, including:</i></p> <p>(a) cultivation of the soil for the establishment of crops or pasture, and (b) the harvesting of crops, and (c) thrusting, boring, trenching or mole ploughing associated with cable or pipe laying and maintenance, and (d) the construction, repair, upgrade or maintenance of: (i) pipelines, and (ii) electricity lines and their support structures, including the National Grid, and (iii) telecommunication structures or lines, and (iv) radio communication structures, and (v) firebreaks or fence lines, and (vi) a bore or geotechnical investigation bore, and (j) repair or maintenance of existing roads and tracks, and airfield runways, taxiways, and parking aprons for aircraft, and (k) maintenance of orchards and shelterbelts, and (l) domestic gardening, and (m) repair, sealing or resealing of a road, footpath, driveway, and (n) discharge of cleanfill material to a cleanfill area</p>
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- Clarify 'greenfield development' definition

Definition	Greenfield development (no definition)
Position	<i>Clarify</i>
Reason for feedback	There is currently no definition for 'greenfield development', which creates ambiguity in applying rules. For instance, a definition will be required to ensure the correct application of Rule WH.R6 & Rule P.R6.
Changes sought	Add definition of 'greenfield development' to Chapter 2.2 of Plan Change 1.

The following submissions are regarding policies within Chapters 8 & 9 of Plan Change 1:

- Oppose Policies WH.P31 & P.P29

Rule	WH.P31 & P.P29 (Winter shut down of earthworks)
Position	<i>Amend</i>
Reason for feedback	<p>The submitter does not support the wording of these policies, in their effect of designating earthworks during the period 1st June to 30th September as a non-complying activity.</p> <p>We do agree that seasonal variations in rainfall and groundwater should be considered when assessing the risk of the discharge of sediment from earthworks activities.</p>
Changes sought	<p><i>Amend WH.P31 & P.P29 as follows:</i></p> <p>Earthworks over 3,000m² in area shall-</p> <p>(a) be shut down require erosion and sediment controls appropriate for seasonal variations in rainfall and groundwater from 1st June to 30th September each year, and</p> <p>(b) prior to shut down, be stabilised against erosion and have sediment controls in place using good management practices in accordance with the Greater Wellington Regional Council Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Wellington Region (2021).</p>

The following submissions are regarding rules within Chapters 8 & 9 of Plan Change 1:

- **Amend Rules WH.R5 & P.R5**

Rule	Rules WH.R5 & P.R5 (Stormwater from new and redeveloped impervious surfaces – permitted activity)
Position	<i>Clarify</i>
Reason for feedback	The lack of clarity on a ‘greenfield development’ definition creates ambiguity around the correct application of Rules WH.R5 & P.R5.
Changes sought	Add definition of ‘greenfield development’ to Chapter 2.2 of Plan Change 1.

- **Clarify Rules WH.R6 & P.R6**

Rule	Rules WH.R6 & P.R6 (Stormwater from new greenfield impervious surfaces – controlled activity)
Position	<i>Clarify</i>
Reason for feedback	The lack of clarity on a ‘greenfield development’ definition creates ambiguity around the correct application of Rule WH.R6 & Rule P.R6, especially regarding new developments in existing urban areas.
Changes sought	Add definition of ‘greenfield development’ to Chapter 2.2 of Plan Change 1.

- **Clarify Rules WH.R11 & P.R10**

Rule	Rules WH.R11 & P.R10 (Stormwater from new and redeveloped impervious surfaces – discretionary activity)
Position	<i>Clarify</i>
Reason for feedback	The lack of clarity on a ‘greenfield development’ definition creates ambiguity around the correct application of Rule WH.R11 & Rule P.R10, especially around condition (b) and the requirement for financial contributions.
Changes sought	Add definition of ‘greenfield development’ to Chapter 2.2 of Plan Change 1.

- Oppose Rules WH.R13 & P.R12

Rule	Rules WH.R13 & P.R12 (Stormwater discharges from new unplanned greenfield development – prohibited activity)
Position	<i>Oppose</i>
Reason for feedback	<p>We consider the Prohibited Activity status to be too widespread in its application, as it captures all impervious areas in an unplanned greenfield area.</p> <p>The requirement to go through a plan change process is extensive for what could be minor applications; for example, a rural property with an extension of impervious surfaces that may simply require some hydrological control and/or stormwater treatment system.</p> <p>We believe various consenting pathways should be available to accommodate the various scales of activities in unplanned greenfield areas.</p>
Changes sought	<p>Reconsider Rules WH.R13 & P.R12, for example, through:</p> <ul style="list-style-type: none"> • A revised activity status, or • Additional exclusions to the Rule

- Amend Rules WH.R23 & P.R22

Rule	Rules WH.R23 & P.R22 (Earthworks – permitted activity)
Position	<i>Amend</i>
Reason for feedback	<p>The discharge of sediment is unavoidable from earthworks projects, even when treated by sediment controls in accordance with good management practices.</p> <p>The technical reports supporting this plan change reference studies specifying that sediment discharge occurs even when treated by sediment controls (Easton <i>et al.</i> 2019; Philips <i>et al.</i> 2020), as the sediment removal efficiencies of all devices are less than 100%.</p> <p>Sediment discharge continues to occur, albeit at lower rates, even when the earthworks area is stabilised, therefore there is no conceivable circumstance exists where there is no discharge of sediment.</p> <p>The rule is then interpreted such that no earthworks meet the permitted activity criteria, regardless of size and treatment, and will therefore require resource consent.</p>
Changes sought	<p><i>Amend WH.R23(c)(iv) – (v) and P.R22(c)(iv) – (v) as follows:</i></p> <p>(iv) There is no discharge of runoff 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, that is not treated by erosion and sediment control measures, and</p>

	(v) Erosion and sediment control measures shall be used to prevent a discharge of where a preferential flow path connects with a surface water body or the coastal ma including via a stormwater network.
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- Oppose Rules WH.R24 & P.R23 – specifically condition (a)

Rule	Rules WH.R24 & P.R23 (Earthworks – restricted discretionary activity)
Position	<i>Oppose</i>
Reason for feedback	<p>Discharge Standard lacks Scientific Justification</p> <p>The proposed total suspended solids (TSS) limit of 100g/m³ is a significant reduction from the ‘trigger exceedance’ standard of 170 NTU that is typically imposed under existing land use consents.</p> <p>For reference, the submitter has measured the TSS in a sample of potable water, returning a result of 63g/m³. It would be unreasonable to expect that treated discharges should, or can, comply with an earthworks discharge standard that is comparable to potable water.</p> <p>Existing and past consent requirements have provided GWRC with years of empirical data detailing the performance of sediment control devices across the Wellington region. We question why this has not been considered in calculating the new standard, as it supplies insight into current industry performance and avenues for improvement based on real local data.</p> <p>The technical reports released in support of the proposed plan change do not reference the discharge standard of 100g/m³. This issue that we see is the absent connection between the technical reports on the receiving water bodies and the proposed discharge standard.</p> <p>In consideration of the abundance of available but unused data and the lack of scientific evidence supporting the 100g/m³ standard, the submitter suggests that GWRC re-draft the proposed discharge standard, using the best information available as required under Section 1.6 of the NPS-FM.</p>

	<p>TSS as Unit of Measurement will slow Response Time</p> <p>Earthworks consents issued in recent years have largely required measurement of turbidity over total suspended solids. Nephelometric turbidity units (NTU) have been used as a reliable unit of measurement which can be used as a proxy for TSS, particularly when a location specific relationship is established between the two units of measurement.</p> <p>Furthermore, the technology available to take instant field measurements of NTU is more accessible than that of TSS, with many operators opting to send samples to a third-party laboratory to measure TSS. This process typically yields results in up to 5 business days, at which point the potential effects of an elevated discharge of sediment have already occurred.</p> <p>Rules will Increase Sediment Discharge to Whaitua</p> <p>The submitter agrees that the use of flocculated sediment retention ponds and decanting earth bunds are often the best practice solution for treating runoff from earthworks sites and we support their use where practicable, however it has become increasingly difficult to endorse the use of these devices under the proposed plan change due to the heightened compliance risk associated with the operation of these devices.</p> <p>Under the proposed rules GWRC has disincentivized the use of high efficiency sediment devices by imposing an over-aspirational discharge standard that is unsupported by scientific data, while escalating the compliance risk associated with failing to meet this standard.</p> <p>Of particular concern is that the good management practices, as promoted in GWRC's <i>Erosion and Sediment Control Guide for Land Disturbing Activities in the Wellington Region (2021)</i>, fail to equip earthworks operators with the tools they need to comply with this standard.</p> <p>GWRC is therefore likely to see future earthworks projects opting for the use of low efficiency devices such as silt fences, which do not produce a measurable point source discharge and are arguably exempt from the proposed discharge standard.</p> <p>This will create the optic of compliance, while decreasing regional performance against the associated attribute states and increasing sediment discharge to the whaitua.</p>
<p>Changes sought</p>	<p>The submitter requests that the proposed total suspended solids limit is re-drafted to a meaningful threshold that achieves the outcomes sought.</p> <p>The submitter requests that provision is made for the use of NTU (nephelometric turbidity units) as an acceptable unit of measurement.</p>

- Oppose Rules WH.R24 & P.R23 – specifically condition (b)

Rule	Rules WH.R24 & P.R23 (Earthworks – restricted discretionary act
Position	<i>Oppose</i>
Reason for feedback	<p>The submitter agrees that seasonal variations in rainfall and groundwater should be considered when assessing the risk of the discharge of sediment from earthworks activities.</p> <p>Problems with the proposed non-complying status of this activity arise when projects rarely have accurate information available at the time of applying for consent to forecast the future site conditions for the period 1st June to 30th September (or the “winter earthworks” period) as this typically forms part of a larger earthworks package spanning over the preceding non-winter months.</p> <p>In designating winter earthworks as a non-complying activity and requiring the supporting information at the consenting phase, the quality of information received by GWRC is therefore poorer, relying on assumptions, including:</p> <ul style="list-style-type: none"> • the size and location of earthworks, and • the type of construction activities, and • the performance of the proposed sediment control devices, and • seasonal variations in the local environment, and • the applicant’s resourcing capabilities. <p>Under current discretionary mechanisms, GWRC receives applications for winter works no less than one month prior to the 1st of June. The supplied information is therefore accurate, reflective of site conditions, and is assessed by the compliance officer who is familiar with the project, its compliance history, and who can verify the accuracy of the information provided.</p> <p>Retaining the current discretionary mechanisms will therefore assist in ensuring that winter earthworks is granted to a higher standard of earthworks operators in delivering the relevant objectives and policies of the NRP.</p>
Changes sought	The submitter requests that (b) is struck out, and that earthworks activities during the winter period is inserted as a matter of discretion under WH.R24 / P.R23.

The following submissions are regarding schedules within Chapter 12 of Plan Change 1:

Rule	Schedule 28
Position	<i>Amend</i>
Reason for feedback	<p>The submitter observes that Schedule 28 specifies load reductions for copper and zinc when stormwater is treated by bioretention, constructed wetland and swales.</p> <p>The reduction values associated with each device appear consistent with Section 2.3 of the <i>Water Sensitive Design for Stormwater: Treatment Device Guideline</i> (Farrant <i>et al.</i> 2019) however excludes the use of pervious paving from the schedule.</p> <p>The submitter considers that this schedule should include the full suite of good management practises endorsed by the guide.</p>
Changes sought	Amend Schedule 28 to include the use of pervious paving in keeping with the <i>Water Sensitive Design for Stormwater: Treatment Device Guideline</i> (Farrant <i>et al.</i> 2019).

Once you have completed your feedback, please email to regionalplan@gw.govt.nz

Please enter your details below	
*Submitter Name: Full name, or Name of Organisation / Company	Orogen Limited
Contact person for submission: (If different to above)	Darcy Brittliff Ants Ransley
Telephone no: (Not required)	+64 4 232 0973
*Address for service: (Email, or physical address) Please note, an <u>email address</u> is the preferred method	darcy.brittliff@orogen.nz ants.ransley@orogen.nz
*I wish to be heard in support of my submission at a hearing	Yes
*I would consider presenting a joint case at the hearing with others who make a similar submission	No
*I could gain an advantage in trade competition through this submission	No
Only answer this question if you answered 'yes' to the above question. I am directly affected by an effect of the subject matter of the submission that: A) adversely affects the environment; and B) does not relate to trade competition or the effects of trade competition	Select A or B
In providing a submission to Greater Wellington, I agree to having read and understood the terms and procees outlined in this Information Statement	
If providing a submission on behalf of a company / organisation I confirm that I have authority to do so:	DVB AJR
Date:	15-Dec-23
Please enter your feedback in the next worksheet "2) Feedback on Provisions". All of the provisions in the proposed change have been included so please place your comments in the corresponding cells. If you have questions on how to use this submission form please vist our Submitter User Help Guide or email one of our friendly team at regionalplan@gw.govt.nz	