

FORM 5

Submission on Plan Change 1 to the Natural Resources Plan for the Wellington Region under Clause 6 of Schedule 1 Resource Management Act 1991

15 December 2023

Greater Wellington Regional Council
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Name of submitter: The New Zealand Transport Agency

This is a submission on Plan change (**Plan change**) 1 to the Natural Resources Plan for the Wellington Region.

The New Zealand Transport Agency, Waka Kotahi (**NZTA**) could not gain an advantage in trade competition through this submission.

NZTA role and responsibilities

NZTA is a Crown Entity established by Section 93 of the Land Transport Management Act 2003 (**LTMA**). NZTA's objective is to undertake its functions in a way that contributes to an effective, efficient, and safe land transport system in the public interest. NZTA's roles and responsibilities include:

- Managing the State Highway system, including planning, funding, designing, supervising, constructing, maintaining and operating the system;
- Managing funding of the land transport system, including auditing the performance of organisations receiving land transport funding;
- Managing regulatory requirements for transport on land and incidents involving transport on land; and
- Issuing guidelines for and monitoring the development of regional land transport plans.

The topics which the Plan Change relates to such as freshwater management and significant indigenous biodiversity values relate to the ability of NZTA to construct, operate and maintain the state highway network across the region. NZTA's interest in the Plan Change stems from its role as:

- A transport investor to maximise effective, efficient and strategic returns for New Zealand;
- A planner of the land transport network to integrate one effective and resilient network for customers;
- Provider of access to and use of the land transport system to shape smart efficient, safe and responsible transport choices; and
- The manager of the State Highway system and its responsibility to deliver efficient, safe and responsible highway solutions for customers.

Decision sought

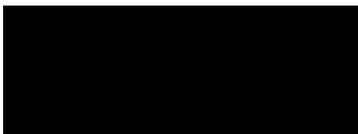
NZTA is supportive of the intent of the Plan Change but has concerns regarding the scale of the changes proposed and the difficulties inherent in complying with the proposed provisions. The 'immediate legal effect' and timing of implementation of other provisions pose challenges for projects currently underway and also for existing funding and planning priorities.

NZTA requests that a range of amendments are made to the Plan Change and these are detailed in Table 1. NZTA also seeks further alternative or consequential relief as may be necessary to fully achieve the relief sought in this submission. The need for further amendments to the provisions is particularly relevant given the scale of this Plan change and the numerous points of clarification requested.

Hearings

NZTA wishes to be heard in support of its submission. If others make a similar submission, NZTA will consider presenting a joint case with them at a hearing.

Signature of person authorised to sign on behalf of Submitter:

A solid black rectangular box redacting the signature of the person authorized to sign on behalf of the submitter.

Evan Keating

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Table 1: NZTA Submission on Plan change 1 to the Natural Resources Plan for the Wellington Region

Sub #	Provision Number	Reason for Submission	Relief Sought
1	Whole of plan change	NZTA is concerned at the scale of changes proposed in the Plan change and the timeframes for them to be implemented, particularly those provisions which have immediate legal effect. The section 32 analysis has not considered the costs associated with introducing such wide-ranging changes with immediate legal effect. These include costs of projects which are in construction and/or budgeted for this earthworks season but which have no allocated funding for additional consents and/or more restrictive working conditions	Remove the immediate legal effect of provisions via a variation.
2	Definitions	Notwithstanding the concerns with the proposed financial contribution provisions addressed below, if there are provisions which relate to 'new state highways' then it is essential that this term is defined. A suggested definition is provided but NZTA are open to alternative wording but it must make clear that the definition only relates to 'new' state highways and not alterations to existing ones.	Define new state highways as: a new road operated by NZ Transport Agency. This excludes any upgrades or alterations to an existing state highway.
3	Definition: Earthworks (within Whaitua Te Whanganui-a-Tara and Te Awarua-o-Porirua Whaitua)	The definition is very confined and will not allow for the construction, repair, upgrade or maintenance of infrastructure.	Provide for an exclusion (as per (d) " <i>for all other whaitua</i> ") to enable construction, repair, upgrade or maintenance of infrastructure where standards are met.
4	Definition: Redevelopment	Excluding 'minor maintenance and repairs to roads...' and 'installation, maintenance or repair of underground infrastructure or network utilities requiring trenching and resurfacing' is supported. A change is however sought so that the scale of maintenance and repair works is not limited to "minor"	Delete "minor" where it appears before "maintenance and repairs to roads.
5	Use of defined term 'property'	The definition of 'property' would include the entire state highway as a single property. For example Rule P.R22(c) would apply the	Delete the reference to 'property' relative to all state highways. Replace it with reference to 'project' or similar.

		earthworks limitations (3000m ² over 12 months) to the entire state highway network. Other examples include WH.P14(a)(i) and P.R17.	
6	5.1.10 Mobile sources Rule R34:	The s32 assessment indicates that this rule (along with others are permitted activities within the coastal marine area but are inappropriate and there is no precedent or demand. It is proposed to delete the coastal icon. Marine transport operates within the coastal environment and is a 'mobile discharge'. There is a 'demand' for this as a permitted activity and it is requested the coastal icon is reinstated.	Reinstate the 'coastal icon' to Rule 5.1.10.
7	8.2.1 Discharges to water	It is unclear if Policy P.P5, Policy P.P6 are intended to apply to stormwater network discharge points noting that Policy WH.P6 specifically excludes stormwater networks. Stormwater networks are subject to a range of other controls which would address issues identified in P.P5 and P.P6 so should be specifically excluded from these provisions.	Specifically exclude stormwater networks from consideration under WH.P5, P.P5 and P.P6 and related provisions (to be consistent with WH.P6).
8	Rule 8.3.1(b) & (h) & Rule 9.3.1. Policy 9.3.1 – Point Source Discharges	This rule cannot be complied with as items such as paint and cement are required for the construction and maintenance of structures in the coastal marine area. A prohibited activity status is overly inflexible and could have unintended consequences as other potentially more harmful substances may have to be used instead.	Delete this rule
9	8.2.2 Stormwater and 9.3.2 Stormwater General	In addition to the detailed points below, the provisions would benefit from amendments to improve clarity of application and provide a revised policy and consenting structure. <ul style="list-style-type: none"> a. The policy and rule frameworks needs clarification. While the Section 32 report (page 151) indicates some rules are not intended to apply to state highway networks, the term "new and redeveloped impervious surfaces" (eg P.P13, WH.P14) and "new greenfield development" (eg WH.P14) are used frequently and both could be interpreted to include new or redeveloped state highways. Explanatory notes following rules as appear in other parts of the plan change could assist. The rule frame also does not anticipate single point discharge locations which are otherwise 'disconnected from' the primary piped network. 	Relief sought: <ul style="list-style-type: none"> a. Clarify that provisions relating to "new and redeveloped impervious surfaces" or "new greenfields developments" do not apply to state highways. b. Clarification of the term "urban development" may assist with this relief. c. Confine provisions relating to point sources and cumulative effects of point sources to discharges which are not part of a stormwater network. d. Modify the rule structure for stormwater networks to reflect permitted and restricted discretionary activity status (with permitted activity standards and appropriate matters of discretion/assessment). e. Modify notification status to reflect statutory tests.

		<p>b. The overall activity status for state highway network is overly onerous and unnecessarily broad (eg. discretionary for new roads WH.R10) and should be altered to reflect the known range of effects and management responses.</p> <p>Rules for stormwater networks (state highways) should provide for:</p> <ul style="list-style-type: none"> i. Permitted activity for existing (at notification date) state highway network subject to a Stormwater Management Strategy (regional or sub-regional) being provided within 5 years of date of plan operative date. ii. small areas of permitted increase in road impervious area (eg. to cater for safety or intersection improvements where specific treatment is provided (to be specified as a permitted activity standard). iii. provide for areas ancillary to ‘live traffic lanes’ eg. police parking pads, storage areas, access roads to stormwater treatment devices as a permitted activity iv. apply consent requirements only to higher volume roads. v. larger improvements or new roads as restricted discretionary activities. vi. No discretionary or non-complying activities. vii. notification subject to statutory notification tests (eg WH.R9 and P.RA). Schedule 31 <i>Strategic Actions</i> (b) sets out mana whenua and community engagement requirements and the S32A indicates this should preclude the need for notification. <p>Discharges to a (defined) stormwater network (ie local authority or state highway) are not a direct discharge to land or water and do not require a consent. These types of discharges are to be managed by the network operator (via connection standards or similar). Reference to discharges to a stormwater network requiring consent (eg P.R5, P.R6 and Schedule 31 (11)) should be deleted.</p>	<p>f. delete reference to discharges through a stormwater network from all rules as these do not require consent.</p>
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	Policy P.P10 and Policy WH.P10: Managing adverse effects of stormwater discharges and P.P10	WH.P10(a) requires source control. This is outside of the direct control of NZTA to deliver for its stormwater network. This is clearly reflected in <i>Schedule 27 Freshwater Action Plan requirements</i> where point (4)(a) requires <i>Work with the Ministers for the Environment and Transport, Waka Kotahi NZ Transport Agency and the territorial authorities to promote source control for copper from vehicles</i> . In this regard, more flexibility is required in WH.P10(a) whether the stormwater network operator does not have full mandate over the contaminant source.	Modify WH.P10(a) and P.P10(a) to provide for flexibility where the stormwater network operator does not have full mandate over the contaminant source.
10	Policies WH.P13 and P.P12: Managing stormwater network discharges through a Stormwater Management Strategy	<p>Policy P.P12(a) specifies numeric limits but has no time frame and applies equally to local authority and state highway networks (ie no allocation of contributions to achieve the target).</p> <p>Policies WH.P13 (d) and P.P12(e) should be modified to reflect the scale of consent proposed (ie. a stormwater management strategy may not be appropriate in all circumstances).</p> <p>Policies WH.P13 (e) and P.P12(f) should be addressed as consent condition where appropriate, regional modelling and monitoring (along freshwater management unit prioritising) should be led at a regional level.</p>	<p>Delete P.P12(a).</p> <p>Modify WH.P13 (d) and (e) and P.P12 (e) and (f) to reflect varying consent application scale and to address monitoring on a consent by consent basis respectively.</p>
11	Rule WH.R2 & Rule P.R2 – Stormwater to Land	This rule does not take into account the state highway network given that the highway network and worksites use the local authority network – in cases via discharge to land. As such, this rule needs to provide for the discharge where the water does not contain contaminants.	Delete this rule and provide for areas of the transport network which do not accommodate vehicle traffic as a permitted activity
12	Rule WH.R9 and P.R8: Stormwater from a local authority or state highway network–restricted discretionary activity	It is unclear if this rule applies to existing (consented) or unconsented networks and if it applies to existing consented networks, whether a further consent is now also required.	Clarify the intent of these rules and amend if required to only apply to unconsented works.
13	Rule WH.R10 and P.R9: Stormwater from new state highways – discretionary activity	The activity status does not reflect the known effects and specificity of specific management methods contained within the plan change. A restricted discretionary activity status is appropriate.	Change WH.R10: Stormwater from new state highways – to restricted discretionary activity

14	WH.R17, WH.R18 & Rule P.R16 and P.R17 – Vegetation Clearance on High Erosion Risk Land – Permitted	NZTA need to remove vegetation to provide for a safe transport network and the requirement to obtain a consent for any removal on high erosion risk land is overly onerous (200 m ² per property in any consecutive 12-month) and would give rise to unacceptable safety effects. A permitted activity status for limited removals subject to appropriate performance standards if required, would achieve safe outcomes as was provided for under the operative provisions. Further, a restricted discretionary activity should be provided (rather than P.R17 which is non-complying) noting that the limit is “per property”.	Provide for vegetation removal as a permitted activity when associated with the maintenance of a transport network.
15	Rule WH.R23, WH.R24, WH.R25 & P.R22, Policy P.P29 Earthworks	<p>As noted in the clause 16 changes, the notified version of these rules contained errors which have now been corrected.</p> <p>The rule also needs to be amended to provide for the ability of some sediment and/or flocculant the stormwater network (eg. P.R22 (g) and (h)). A limit of no discharge is unworkable without completely isolating the site from the network and treating all sediment / flocculant discharge to 100% is not feasible.</p>	Amend the rules to provide for some sediment and/or flocculant discharge where appropriate sediment control methods are in place.
16	Policies WH.P30 and P.P28: Discharge standard for earthworks Policy: Discharge standard for earthworks sites Rules WH.R3, WH.R24, P.R3, P.R23: Earthworks – restricted discretionary activity	<p>These provisions contain specific numeric standards for discharge of sediment. This is a general approach which does not, without a change to consent activity status, allow for a site by site assessment to determine if the standard set is appropriate for the receiving environment.</p> <p>It is also of concern that determining activity status will be based on a predicted level of performance ie. it is only possible to determine if, (for example) Rule P.R23(a) is met once the earthworks are underway and the discharge is measured. It is unclear if a further consent (under Rule P.R24) would be required if P.R.23(a) was not met.</p> <p>The 100g/m³ and associated 20% and 30% visual clarity requirements would be better placed as matters of discretion/assessment and set in a policy framework which indicates this is a desired outcome. This would also allow for different parameters to be set based on the detail of the receiving environment.</p>	Modify rules to provide for 100g/m ³ and associated 20% and 30% visual clarity as matters of discretion/assessment. Adjust policy framework to set 100g/m ³ and associated 20% and 30% visual clarity as outcomes to be achieved unless an alternative, receiving environment specific, outcome is agreed.

	Policies WH.P31 and P.P29 Winter shut down of earthworks	The prohibition on all earthworks between the 1 st of June and the 30 th of September would impose significant constraints on the construction programme for NZTA's essential works to provide for a safe transport network. Instead of blanket rules and non-complying activity status for winter works, a permitted level to provide for maintenance and minor upgrade activity (subject to appropriate controls as a performance standard) combined with a restricted discretionary status for larger scale works can address any potential issues with winter works.	Remove the control on winter works or, at a minimum, provide for a process for 'winter works' approval without the need for a further resource consent.
17	Objective P.03, Polies P.P1 and P.P2, P.P4 and P.P12 Contaminant Load Reduction	<p>While NZTA supports the intent behind the reduction in contaminant loads proposed, it is unclear if and how the reduction can be sustained and further information should be provided before such targets are adopted.</p> <p>The Section 32 assessment states "<i>...the economic costs to communities are likely to be significant due to infrastructure upgrade costs [when compared to 'status quo'] (page 162). It is also noted that cost assessments (page 151 and 152) focus on local authority costs, not NZTA costs which seem to have been omitted. The value of investment/forward planning which has already been made through the consent process under the Operative Plan is also not explicitly recognised in the section 32.</i></p>	Further consideration of the feasibility and costs of this these targets
18	Schedule 28 and 29: Stormwater Impact Assessments	<p>Schedule 28 specifies that it applies only to WH.R6, WH.R7, P.R6 and P.R7. However Schedule 29(6) requires an assessment under Schedule 28. NZTA generally supports provision of guidance on treatment methods but has some concerns with the content of Schedule 28. In particular, it provides for only a limited range of treatment options (bioretention, constructed wetlands and swales). Other proprietary devices are available which could be utilised.</p> <p>Further, there is not detail as to the time over which the percentage treatment is to be achieved. For example, a device may function at 90% during normal rainfall events but may function at a lower level during abnormal weather. Additional clarification is sought to provide that compliance is to be achieved in the long term and that rainfall events that exceed the capacity of the treatment are simply discharged</p>	Broaden the methods and outcomes within Schedule 28 to provide flexibility.

		without causing nuisance or alternatively an adjustment to the percentage outcomes sought.	
	Schedule 29: Stormwater Impact Assessments	Schedule 29 should be prefaced with a statement which reflects Schedule 4 of the RMA “...must be specified in sufficient detail to satisfy the purpose for which it is required”	Add prefacing text which indicates that the Stormwater Impact Assessment should be of a scale which reflects the application to which it relates. For example: <i>A stormwater impact assessment shall include the following analysis in sufficient detail to satisfy the purpose for which it is required:</i>
19	Schedule 30. Financial contributions and all policies, rules and provisions which direct or require financial contributions for state highway activities.	NZTA has concerns with the philosophy behind and methodology for the proposed financial contributions for new state highways. These concerns are summarised as <ul style="list-style-type: none"> • NZTA invests significant sums in stormwater treatment and seeks to progressively improve treatment in highly constrained environments. A contribution on top of these investments is unreasonable and could make some projects unviable; • The level of adverse effect from state highway discharges has not been quantified nor have a reasonable range of measures been investigated to determine the most appropriate action in a section 32 analysis. As an example the required level of treatment of stormwater could be raised to achieve similar outcomes; • The proposal if implemented would require significant amounts of public money to be expended, as an example the recently opened Transmission Gully project would have required over \$2m of contributions. However, the section 32 analysis does not acknowledge these costs, nor does it clearly outline how the \$360 per 100m² figures have been derived and if there were other figures which could have been used. In the absence of this information, it is not clear that the charges are fair, reasonable nor proportionate; • As noted above, funding for projects is allocated in advance and any current project applying for consent will not have budgeted for these contributions. If a financial contribution were to be proposed it would need to be implemented on 	Remove the provisions for financial contributions for state highways.

		<p>phased basis and/or have an exemption for essential infrastructure such as state highways.</p> <ul style="list-style-type: none"> There is no differentiation for state highway areas which are not 'live traffic' lanes ie. not vehicle contaminant generating (eg. police parking areas, maintained areas/access, shoulders). 	
20	Schedule 31	The prefacing text implies (but is not specific) that a single network stormwater management strategy (SMS) will be provided. This may not be the case. Catchment or area based SMSs may be provided.	<p>Modify prefacing text: <i>A stormwater management strategy (or strategies) for the local authority or state highway stormwater networks shall be prepared and implemented that:</i></p>
21	Schedule 31	Schedule 31 should be modified to reflect Schedule 4 of the RMA "...must be specified in sufficient detail to satisfy the purpose for which it is required". It is noted that a range of times would not apply to the state highway network (eg. wastewater) so the use of "shall" is inappropriate.	<p>Modify text following point 11: As a minimum, a stormwater management strategy shall <u>be provided the following in sufficient detail to satisfy the purpose for which it is required:</u></p>
22	Schedule 31, point 1	It is not appropriate to require the stormwater network to be "in accordance" with the Objectives and Policies as this requires a literal compliance with higher level wording. In any event, the SMS is prepared under the Regional Plan and must therefore align with the objectives and policies.	Delete point 1.
23	Schedule 31, point 4	This point foresees an unrealistic degree of monitoring for the state highway network which has numerous discharge points	Remove state highways form this point
24	Schedule 31, point 8	It may not always be possible to identify locations for stormwater retention and detention in the state highway network and the wording should provide for this.	Reword as follows: identifies locations and opportunities (<u>if any</u>) for the retention or detention of stormwater flows or volumes, and
25	Schedule 33: Vegetation Clearance Erosion and Sediment Management Plan	<p>The general principle of a management plan is supported. A range of detailed matter are however considered to be overly prescriptive especially where combined with rules (eg WH.R18) are required to be prepared in <i>accordance with</i> Schedule 33 (ie. suggesting non-compliance with the detail of Schedule 33 may lead to a change in activity status). In addition, a range of matters appear to be overly onus or uncertain.</p> <p>For example.</p>	Move to a guideline and/or a reassessment of the detail within Schedule 33 with inclusion of prefacing statements indicating that the Management Plan should reflect likely effects of the proposal.

		<p><i>B Management Objectives (b)</i>: appears to require pre-development levels (<i>land in its natural state</i>) of discharge, regardless of current land use.</p> <p><i>B Management Objectives (d)</i>: assumes land use will be revegetated, this may not be the case where new infrastructure or buildings are proposed.</p> <p><i>Operating systems and practices (c)</i>: appears to be mor focused on forestry activities.</p> <p>Maps (b) (viii) a 1m digital terrain model of vegetation clearance is an inappropriately high level of detail for (eg) 300m² of vegetation clearance but is perhaps suitable for large scale clearance.</p> <p>Given the level of detail which may or may not be applicable for a specific application and the highly mandatory nature of complying with the schedule, changes to Schedule 33 should be considered which could include:</p> <ol style="list-style-type: none"> a. Making it a guideline b. Prefacing with text which indicates that matters should be addressed to the extent applicable 	
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