View Submitter Details

Submitter No.	S190
Submitter Name	David McKevitt
Online submitter	Yes
Raw submission lodged	Yes

Raw submission points

These are submission points that were lodged as part of an online submission. They have not been summarised.

Raw sub point number	Provision	Support/oppose	Decision sought	Reasons
S190.1	Policy WH.P30: Discharge standard for earthworks.	Amend	**The proposed totalsuspended solids limit is re-evaluated and re-drafted.** **Provision is made for proxy field measurements, such as NTU (nephelometric turbidity units), can be utilised to substitute for total suspended solids**	The proposed total suspended solids limit of 100g/m3 is a significant reduction from the existing 'trigger exceedance' of 170 NTU imposed under current land use consents and does not appear to be scientifically supported for its use in the proposed plan change. The technical publications released in support of the proposed plan change do not make reference to the proposed discharge standard of 100g/m3, raising question as to how this standard was decided and whether it is scientifically linked to the target attribute states sought by the proposed plan change. GWRC along with the earthworks industry in Wellington have largely moved away from total suspended solids for field compliance measurements of sediment retention ponds and streams. NTU has been used as a reliable, standardized, and instant field measurement, that is considered to provide comparable results to TSS. TSS requires laboratory testing, and results have a turnaround of several days. TSS therefore cannot give the instant results required, for example, to determine that the sediment retention pond discharge exceeds 100g/m^3, and therefore sampling of the background stream TSS is required, and, if that exceeds 100g/m^3, an upstream and downstream comparison is to be made. It is not understood by the submitter why it has been deemed acceptable that the upstream and downstream comparison when TSS exceeds 100g/m^3 can then be made using visual clarity (aka turbidity in NTU), when the preceding measurements are prescribed in TSS.
S190.2	Policy WH.P31: Winter shut down of earthworks.	Amend	Earthworks over 3,000m2 in area shall: (a) be ~~shut down~~ **limited** from 1st June to 30th September each year, **with a risk-based approach taken to the permitting of earthworks activities during this period, and** (b) prior to ~~shut down~~ **1st June**, **areas to be shut down shall** be stabilised against erosion and have sediment controls in place using good management practices in accordance with the GWRC Erosion and Sediment Control Guideline for the Wellington Region (2021).	The submitter supports the premise generally for appropriately managing the potential for increased risk during periods of historically higher rainfall. It is considered that the restrictions on earthworks during the "winter" period, of four calendar months, are too onerous for the many activities that require earthworks activities. The adoption of the standard definition of earthworks, with significantly limited exceptions under the definition, under Plan Change 1 means that a far broader range of activities are severely restricted during one third of each year. Earthwork activities are successfully completed on many projects by many contractors in the region during the winter works period, with appropriate management of the potential risks of increased rainfall. The current discretionary regime for winter works approvals allows the Regulator to take into account any relevant risk factors to influence their decision on the extent and type of earthworks permitted on a site. The types of activities proposed to be undertaken is even more important now that the definition of earthworks includes a much broader range of activities, and a much broader range of risk profiles. In this way, projects and consent holders or agents can be incentivized to demonstrate that good planning, execution, transparency, and compliance history may allow for certain winter works to be completed when required. A blanket consent activity status for any winter earthworks removes the ability for the Regulator to consider factors such as compliance history of a consent holder, as this cannot legally be considered for a resource consent application. Therefore, the potential for consent holders or contractors with inadequate performance could be more likely to be permitted to complete winter works than under the current winter works application regime. Under the previous definition of earthworks (retained for the remaining whaitua), lower risk activities could be focused on and completed during the winter works period. A common example of this is trenching for the installation of infrastructure and services, on a site that is otherwise stabilised. These types of low-risk activities now would require separate resource consent, or cannot be completed. This places a large burden on contractors in terms of continuity of work, and will lengthen the duration of projects without the reduction in environmental risk to justify the restrictions.
S190.3	Rule WH.R23: Earthworks – permitted activity.	Amend	(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 (v) Erosion and sediment control measures shall be used to prevent a discharge of sediment where a preferential flow path connects with a surface water body or the coastal marine area, including via a stormwater network.	The discharge of sediment is unavoidable from earthworks projects, even with the installation and operation of sediment controls. The technical reports supporting this plan change reference studies specifying that sediment discharge occurs even when treated by sediment controls, as the sediment removal of all devices are less than 100%. The referenced studies also specify that sediment discharge occurs even when the earthworks catchment is stabilised, including via methods endorsed in GWRC's Erosion and Sediment Control Guide for Land Disturbing Activities in the Wellington Region (2021). The rule is therefore interpreted such that all earthworks, regardless of size and treatment, do not comply with this rule and will require resource consent as the discharge of no sediment is unachievable. Sediment discharges continue to occur, albeit at lower rates, even from areas that are stabilised permanently with grass cover, as does virtually any other approved permanent landscaping stabilisation method. All sediment controls listed under Section F1.0 of GWRC's Erosion and Sediment Control Guide for Land Disturbing Activities in the Wellington Region (2021) still result in the discharge of some amount of sediment, as the sediment removal efficiency of each device is less than 100%. The sediment removal efficiency of various devices being less than 100% is supported by technical reports referenced in Plan Change 1, i.e. Biophysical performance of erosion and sediment control techniques in New Zealand: a review (Phillips, C.J., Basher, L., Spiekermann, R., 2020). It is considered that the current rule permitting zero sediment discharge (i.e. 0.0 TSS) from any runoff, from any earthworks area from 0 to 3000m^2, during any rain event, will be unachievable, and also unenforceable in most circumstances. This would result in most earthworks requiring resource consent, which would be unacceptably onerous but unlikely to improve outcomes.

S190.4	Rule WH.R24: Earthworks – restricted discretionary activity.	Amend	~~(a) the concentration of total suspended solids in the discharge from the earthworks shall not exceed 100g/m3, except that, if at the time of the discharge the concentration of total suspended solids in the receiving water at or about the point of discharge exceeds 100g/m3, the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than:~~ ~~(i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or~~ ~~(ii) 30% in any other river, and~~ **The proposed totalsuspended solids limit is re-evaluated and re-drafted. Provision is made for proxy field measurements, such as NTU (nephelometric turbidity units), can be utilised to substitute for total suspended solids** ~~(b) earthworks shall not occur between 1st June and 30th September in any year.~~ **The submitter requests that earthworks activities during the winter period is inserted as a matter of discretion under this rule:** **(a) Earthworks over 3000m2 shall be limited from 1st June to 30th September each year, with a risk-based approach taken to the permitting of earthworks activities during this period, and** **(b) prior to 1st June, areas to be shut down shall be stabilised against erosion and have sediment controls in place using good management practices in accordance with the GWRC Erosion and Sediment Control Guideline for the Wellington Region (2021).**	The proposed total suspended solids limit of 100g/m3 is a significant reduction from the existing 'trigger exceedance' of 170 NTU imposed under current land use consents and does not appear to be scientifically supported for its use in the proposed plan change. The technical publications released in support of the proposed plan change do not make reference to the proposed discharge standard of 100g/m3, raising question as to how this standard was decided and whether it is scientifically linked to the target attribute states sought by the proposed plan change. GWRC along with the earthworks industry in Wellington have largely moved away from total suspended solids for field compliance measurements of sediment retention ponds and streams. NTU has been used as a reliable, standardized, and instant field measurement, that is considered to provide comparable results to TSS. TSS requires laboratory testing, and results have a turnaround of several days. TSS therefore cannot give the instant results required, for example, to determine that the sediment retention pond discharge exceeds 100g/m^3, and therefore sampling of the background stream TSS is required, and, if that exceeds 100g/m^3, an upstream and downstream comparison is to be made. It is not understood by the submitter why it has been deemed acceptable that the upstream and downstream comparison when TSS exceeds 100g/m^3 can then be made using visual clarity (aka turbidity in NTU), when the preceding measurements are prescribed in TSS. The submitter supports the premise generally for appropriately managing the potential for increased risk during periods of historically higher rainfall. It is considered that the restrictions on earthworks during the "winter" period, of four calendar months, are too onerous for the many activities that require earthworks activities. The adoption of the standard definition of earthworks, with significantly limited exceptions under the definition, under Plan Change 1 means that a far broader range of activities are severely restricted during one third of each year. Earthwork activities are successfully completed on many projects by many contractors in the region during the winter works period, with appropriate management of the potential risks of increased rainfall. The current discretionary regime for winter works approvals allows the Regulator to take into account any relevant risk factors to influence their decision on the extent and type of earthworks permitted on a site. The types of activities proposed to be undertaken is even more important now that the definition of earthworks includes a much broader range of activities, and a much broader range of risk profiles. In this way, projects and consent holders or agents can be incentivized to demonstrate that good planning, execution, transparency, and compliance history may allow for certain winter works to be completed when required. A blanket consent activity status for any winter earthworks removes the ability for the Regulator to consider factors such as compliance history of a consent holder, as this cannot legally be considered for a resource consent application. Therefore, the potential for consent holders or contractors with inadequate performance could be more likely to be permitted to complete winter works than under the current winter works application regime. Under the previous definition of earthworks (retained for the remaining whaitua), lower risk activities could be focused on and completed during the winter works period. A common example of this is trenching for the installation of infrastructure and services, on a site that is otherwise stabilised. These types of low-risk activities now would require separate resource consent, or cannot be completed. This places a large burden on contractors in terms of continuity of work, and will lengthen the duration of projects without the reduction in environmental risk to justify the restrictions.
S190.5	Policy P.P28: Discharge standard for earthworks sites.	Amend	**The proposed totalsuspended solids limit is re-evaluated and re-drafted.** **Provision is made for proxy field measurements, such as NTU (nephelometric turbidity units), can be utilised to substitute for total suspended solids**	The proposed total suspended solids limit of 100g/m3 is a significant reduction from the existing 'trigger exceedance' of 170 NTU imposed under current land use consents and does not appear to be scientifically supported for its use in the proposed plan change. The technical publications released in support of the proposed plan change do not make reference to the proposed discharge standard of 100g/m3, raising question as to how this standard was decided and whether it is scientifically linked to the target attribute states sought by the proposed plan change. GWRC along with the earthworks industry in Wellington have largely moved away from total suspended solids for field compliance measurements of sediment retention ponds and streams. NTU has been used as a reliable, standardized, and instant field measurement, that is considered to provide comparable results to TSS. TSS requires laboratory testing, and results have a turnaround of several days. TSS therefore cannot give the instant results required, for example, to determine that the sediment retention pond discharge exceeds 100g/m^3, and therefore sampling of the background stream TSS is required, and, if that exceeds 100g/m^3, an upstream and downstream comparison is to be made. It is not understood by the submitter why it has been deemed acceptable that the upstream and downstream comparison when TSS exceeds 100g/m^3 can then be made using visual clarity (aka turbidity in NTU), when the preceding measurements are prescribed in TSS.

S190.6	Policy P.P29: Winter shut down of earthworks.	Amend	Earthworks over 3,000m2 in area shall: (a) be ~~shut down~~ **limited** from 1st June to 30th September each year, **with a risk-based approach taken to the permitting of earthworks activities during this period, and** (b) prior to ~~shut down~~ **1st June**, **areas to be shut down shall** be stabilised against erosion and have sediment controls in place using good management practices in accordance with the GWRC Erosion and Sediment Control Guideline for the Wellington Region (2021).	The submitter supports the premise generally for appropriately managing the potential for increased risk during periods of historically higher rainfall. It is considered that the restrictions on earthworks during the "winter" period, of four calendar months, are too onerous for the many activities that require earthworks activities. The adoption of the standard definition of earthworks, with significantly limited exceptions under the definition, under Plan Change 1 means that a far broader range of activities are severely restricted during one third of each year. Earthwork activities are successfully completed on many projects by many contractors in the region during the winter works period, with appropriate management of the potential risks of increased rainfall. The current discretionary regime for winter works approvals allows the Regulator to take into account any relevant risk factors to influence their decision on the extent and type of earthworks permitted on a site. The types of activities proposed to be undertaken is even more important now that the definition of earthworks includes a much broader range of activities, and a much broader range of risk profiles. In this way, projects and consent holders or agents can be incentivized to demonstrate that good planning, execution, transparency, and compliance history may allow for certain winter works to be completed when required. A blanket consent activity status for any winter earthworks removes the ability for the Regulator to consider factors such as compliance history of a consent holder, as this cannot legally be considered for a resource consent application. Therefore, the potential for consent holders or contractors with inadequate performance could be more likely to be permitted to complete winter works than under the current winter works application regime. Under the previous definition of earthworks (retained for the remaining whaitua), lower risk activities could be focused on and completed during the winter works period. A common example of this is trenching for the installation of infrastructure and services, on a site that is otherwise stabilised. These types of low-risk activities now would require separate resource consent, or cannot be completed. This places a large burden on contractors in terms of continuity of work, and will lengthen the duration of projects without the reduction in environmental risk to justify the restrictions.
S190.7	Rule P.R22: Earthworks – permitted activity.	Amend	(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 (v) Erosion and sediment control measures shall be used to prevent a discharge of sediment where a preferential flow path connects with a surface water body or the coastal marine area, including via a stormwater network.	The discharge of sediment is unavoidable from earthworks projects, even with the installation and operation of sediment controls. The technical reports supporting this plan change reference studies specifying that sediment discharge occurs even when treated by sediment controls, as the sediment removal of all devices are less than 100%. The referenced studies also specify that sediment discharge occurs even when the earthworks catchment is stabilised, including via methods endorsed in GWRC's Erosion and Sediment Control Guide for Land Disturbing Activities in the Wellington Region (2021). The rule is therefore interpreted such that all earthworks, regardless of size and treatment, do not comply with this rule and will require resource consent as the discharge of no sediment is unachievable. Sediment discharges continue to occur, albeit at lower rates, even from areas that are stabilised permanently with grass cover, as does virtually any other approved permanent landscaping stabilisation method. All sediment controls listed under Section F1.0 of GWRC's Erosion and Sediment Control Guide for Land Disturbing Activities in the Wellington Region (2021) still result in the discharge of some amount of sediment, as the sediment removal efficiency of each device is less than 100%. The sediment removal efficiency of various devices being less than 100% is supported by technical reports referenced in Plan Change 1, i.e. Biophysical performance of erosion and sediment control techniques in New Zealand: a review (Phillips, C.J., Basher, L., Spiekermann, R., 2020). It is considered that the current rule permitting zero sediment discharge (i.e. 0.0 TSS) from any runoff, from any earthworks area from 0 to 3000m^2, during any rain event, will be unachievable, and also unenforceable in most circumstances. This would result in most earthworks requiring resource consent, which would be unacceptably onerous but unlikely to improve outcomes.

Raw submission documents

These are files that were uploaded as part of an online submission.

Document name	File	Description	Upload date
No data			

S190.8	Rule P.R23: Earthworks – restricted discretionary activity.	Amend	(a) the concentration of total suspended solids in the discharge from the earthworks shall not exceed 100g/m3, except that, if at the time of the discharge the concentration of total suspended solids in the receiving water at or about the point of discharge exceeds 100g/m3, the discharge shall not, after the zone of reasonable mixing, decrease the visual clarity in the receiving water by more than: ~~(i) 20% in River class 1 and in any river identified as having high macroinvertebrate community health in Schedule F1 (rivers/lakes), or~~ ~~(ii) 30% in any other river, and~~ **The proposed total suspended solids limit is re-evaluated and re-drafted.** **Provision is made for proxy field measurements, such as NTU (nephelometric turbidity units), can be utilised to substitute for total suspended solids** ~~(b) earthworks shall not occur between 1st June and 30th September in any year.~~ **The submitter requests that earthworks activities during the winter period is inserted as a matter of discretion under this rule:** **(a) Earthworks over 3000m2 shall be limited from 1st June to 30th September each year, with a risk-based approach taken to the permitting of earthworks activities during this period, and** **(b) prior to 1st June, areas to be shut down shall be stabilised against erosion and have sediment controls in place using good management practices in accordance with the GWRC Erosion and Sediment Control Guideline for the Wellington Region (2021).**	The proposed total suspended solids limit of 100g/m3 is a significant reduction from the existing 'trigger exceedance' of 170 NTU imposed under current land use consents and does not appear to be scientifically supported for its use in the proposed plan change. 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