

**BEFORE THE HEARINGS PANEL
AT RANGIORA**

IN THE MATTER of the Resource Management Act
1991 ("**the Act**")

AND

IN THE MATTER of the Resource Management Act 1991
AND

IN THE MATTER of the hearing of submissions on The
Proposed Waimakariri District Plan

Hearing Stream 5: Earthworks

STATEMENT OF EVIDENCE BY VANCE ANDREW HODGSON

FOR THE NEW ZEALAND PORK INDUSTRY BOARD

AND

HORTICULTURE NEW ZEALAND

7 AUGUST 2023

CONTENTS

SUMMARY STATEMENT	3
QUALIFICATIONS AND EXPERIENCE	4
SCOPE OF EVIDENCE.....	4
THE NEW ZEALAND PORK SECTOR.....	6
THE NEW ZEALAND HORTICUTURAL SECTOR	7
ANCILLARY RURAL EARTHWORKS.....	8
CONCLUSION	14
APPENDIX A – CANTERBURY LAND AND WATER REGIONAL PLAN	15
APPENDIX B – OPOTIKI DISTRICT PLAN (OPERATIVE 2021).....	17
APPENDIX C – AUCKLAND UNITARY PLAN (OPERATIVE IN PART 15 NOV 2016)	18
APPENDIX D – PROPOSED WAIKATO DISTRICT PLAN (APPEALS VERSION)	20
APPENDIX E – PROPOSED CENTRAL HAWKES BAY DISTRICT PLAN (DECISIONS VERSION).....	22
APPENDIX F – PROPOSED TIMARU DISTRICT PLAN (NOTIFIED VERSION)	25
APPENDIX G – PROPOSED SELWYN DISTRICT PLAN (HEARING 6: CONTAMINATED LAND AND HAZARDOUS SUBSTANCES).....	27
APPENDIX H – CANTERBURY AIR REGIONAL PLAN.....	29

SUMMARY STATEMENT

1. This planning evidence addresses the New Zealand Pork Industry Board ("**NZPork**") submission and that of Horticulture New Zealand ("**HortNZ**") on the Waimakariri District Council's ("**WDC**") s42A Report response to the submissions on the Proposed Waimakariri District Plan ("**PDP**"), Hearing Stream 5: Earthworks.
2. The scope of my evidence focuses on the submissions of NZPork and HortNZ that seek a definition of 'ancillary rural earthworks', along with rules to operationalise the definition.
3. In my opinion it is appropriate to include earthwork provisions in the Proposed Waimakariri District Plan that enable the burying of biosecurity material that may be required under the Biosecurity Act 1993, as ancillary rural earthworks in a primary production setting.
4. Landholders are legally obliged to comply with any Notice of Direction under the Biosecurity Act 1993. Biosecurity incursions affecting these primary production activities must be able to be managed with a rapid response to quickly and efficiently contain spread and eliminate the incursion.
5. However, it is my understanding that only in particular circumstances does the Biosecurity Act 1993 override Part 3 of the Resource Management Act 1991. Similarly, not all biosecurity incursions would constitute a biosecurity emergency that would trigger provisions in the Resource Management Act 1991 (as emergency works). In particular this is the case for incursions of unwanted organisms as defined under the Biosecurity Act 1993.
6. While burning for biosecurity purposes is a permitted activity under the Canterbury Air Regional Plan, burning of affected material may not be the most appropriate method of disposal in all cases.
7. Where possible I consider resource consent processes that might cause delays in responding to a biosecurity incursion of an unwanted organism and duplication across regional and district plans should be avoided.
8. The Canterbury Land and Water Regional Plan and other regulations would ensure effects from a burial response are appropriately managed.

QUALIFICATIONS AND EXPERIENCE

9. My full name is Vance Andrew Hodgson. I am a director of HPC Ltd, a resource management consultancy based in Waiuku. I have been employed in resource management related positions in local government and the private sector since 1994 and have been in private practice for 19 years. I hold a Bachelor of Resource and Environmental Planning (Hons) degree from Massey University.
10. I have worked in the public sector, where I was employed in student, assistant and senior policy planning roles by the Franklin District Council. I have provided resource management consultancy services to various district and regional councils. The scope of work for the public sector has been broad, covering plan change processes, submissions to national standards/regulations/policy statements and regulatory matters, mediation and appeals.
11. In private practice I regularly advise a range of private clients on statutory planning documents and prepare land use, subdivision, coastal permit, water permit and discharge permit resource consent applications. I have experience in resource consent applications, hearings and appeals on a range of activities, particularly for activities in the rural environment. I have provided independent resource management advice to HortNZ and NZPork on policy matters across New Zealand since 2012/2013.
12. While these are not proceedings in the Environment Court, I consider the Environment Court's Code of Conduct for Expert Witnesses relevant, and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

13. This evidence provides a planning assessment of those provisions on which NZPork and HortNZ submitted and addresses the Section 42A Report, prepared by WDC for Hearing Stream 5: Earthworks.

14. The planning framework is well described in both the s32 Report and the s42A Reports provided by the WDC. I agree with the analysis. Given the agreement I do not repeat the analysis of the applicability of those planning instruments or the compliance of the PDP with those instruments.

Submissions of NZPork

15. The evidence focuses on the following NZPork submission points considered in the s42A Report for Hearing Stream 5.
- NZPork 169.23
 - *Amend Earthworks Chapter to provide permitted activity status, standards and definition for 'ancillary rural earthworks', to exclude biosecurity purposes.*
 - NZPork 169.4
 - *Seeks a new definition of 'ancillary rural earthworks' that includes the burying of infected material as a permitted activity to enable farmers to undertake earthworks in the event of a biosecurity incident.*
16. I rely on the industry evidence provided by Mr Brent Kleiss for NZPork.

Submissions of HortNZ

17. Given HortNZ seek the same outcome as NZPork in regard to the matter concerning an 'unwanted organism' biosecurity incursion, this evidence also considers the following HortNZ submission points considered in the s42A Report for Hearing Stream 5.
- HortNZ FS47
 - *Support submission of NZPork; Provide permitted activity status, standards, and definition for 'ancillary rural earthworks' to exclude biosecurity purposes.*
 - HortNZ 295.98
 - *New definition to provide for 'ancillary rural earthworks' which are undertaken as part of*

normal horticultural property (or other farm) operations.

- HortNZ 295.103
 - *New earthworks rule to enable ancillary rural earthworks:*

18. I rely on the industry evidence provided by Sarah Cameron for HortNZ.

THE NEW ZEALAND PORK SECTOR

19. Before assessing the submission points, I first set out a brief description of national and regional commercial pig farming activity. I have relied for this part of my evidence on information provided to me by Brent Kleiss for NZ Pork,

20. Commercial pig farming in New Zealand is small by international standards, with 93 commercial (levy-paying) pork producers in 2021. These farmers produce approximately 632,153 pigs annually.

21. Canterbury is the pork producing capital of New Zealand: 63% of piggeries registered with NZPork are located within Canterbury. Waimakariri is an important district for pig farming, with almost 10% of the commercial industry based in the district, using a mixture of both indoor and outdoor farming systems. Of the nine commercial farms in the Waimakariri District, four are located in the General Rural Zone, and five in the Rural Lifestyle Zone.

22. In New Zealand, pigs are farmed using a spectrum of models from intensive indoor farming systems to outdoor free-farmed and free-range systems. Some pig farmers specialise in pork production only, while others farm pigs in conjunction with sheep and beef, arable and dairy farming, horticulture and viticulture.

23. Outdoor pork production requires flat land, low rainfall and free draining soils, so most outdoor pig farms are situated in Canterbury. New Zealand is one of few countries with a suitable climate for year-round outdoor or free-range pig farming, so Canterbury's outdoor pig farms are rare, globally.

24. Currently, only 40% of pork products consumed in New Zealand are sourced domestically; the balance is imported

pork product (largely as cured meats). Annual pork consumption per capita in New Zealand is around 23kg and is projected to increase by 0.8kg per capita year-on-year to 2031.

25. Pig farming potentially has an important role in lower emissions farming systems in New Zealand and an option in mixed farming systems for farmers wanting to reduce their biogenic methane emissions without losing production.
26. Pig farming is particularly sensitive to reverse-sensitivity effects from residential and rural lifestyle encroachment, primarily related to odour effects from the animal's natural body odour and from spreading of pig effluent.
27. New Zealand's commercial pig farming industry is internationally recognised for its high-health status. New Zealand's pig herd is largely disease free compared to many other pork producing countries. High levels of biosecurity are vital to retaining this status.

THE NEW ZEALAND HORTICULTURAL SECTOR

28. I also set out a brief description of the horticultural activity in the Waimakariri District based on information provided by Sarah Cameron the Senior Environmental Policy Advisor for Horticulture NZ.
29. There are 242.10 hectares of horticulture grown in the Waimakariri District of which 135.2 hectares is grown in the General Rural Zone (GRUZ) and 101.3 hectares in the proposed Rural Lifestyle Zone (RLZ).
30. The majority of the uncovered growing operations are located on highly productive land (HPL) and are soil reliant land-based primary production activities.
31. Of the 242ha growing area in the district, 3.28 hectares is estimated to be covered crops based on 2023 AgriBase data and HortNZ Grower information. All greenhouses are situated on HPL.
32. The Waimakariri District is a potential growth area for horticulture due to its close proximity to market and transport links. Both Progressive Enterprises and Foodstuffs South Island headquarters are located in Christchurch and there is also a strong support for local Farmers Markets in the District. There

is easy access to State Highway 1, which runs through the District, Christchurch Airport and Lyttleton Port.

ANCILLARY RURAL EARTHWORKS

33. The submission of NZPork seeks a permitted activity status for 'ancillary rural earthworks', with a new definition of ancillary rural earthworks.

34. The definition sought is as follows:

means:

- a. Normal agricultural and horticultural practices, such as cultivating and harvesting crops, ploughing, planting trees, root ripping, digging post holes, maintenance of drains, troughs and installation of their associated pipe networks, and realignment of fencelines, drilling bores and offal pits, burying of dead stock and plant waste;
- b. Land preparation and vegetation clearance undertaken as part of horticultural plantings; and
- c. Maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways within the same formation width.
- d. the burying of material infected by unwanted organisms as declared by the Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993

35. HortNZ seek a similar definition.

Ancillary rural earthworks means any earthworks associated with the maintenance and construction of facilities typically associated with farming activities, including, but not limited to, farm tracks or roads (up to 6m wide), landings, stock races, silage pits, farm drains, farm effluent ponds, feeding pads, fencing, erosion and sediment control measures, and burying of material infected by unwanted organisms (as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993).

36. Those definitions cover a broad range of typical primary production, agricultural and horticultural related land disturbance activities.

37. Some of these activities are provisioned through the proposed rule structure e.g.

- EW-R1 for the maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways within the same formation width.
 - EW-R3 for the maintenance of drains.
38. Or, in the case of cultivation and installation of fence posts, – excluded from the definition of earthworks as per the National Planning Standards definition.

Ministry for the Environment. November 2019. National Planning Standards. Wellington: Ministry for the Environment

14. Definitions Standard

Earthworks means 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.

Cultivation means the alteration or disturbance of land (or any matter constituting the land including soil, clay, sand and rock) for the purpose of sowing, growing or harvesting of pasture or crops.

39. Some activities, such as offal pits, and the burying of dead stock are also subject to specific regional plan rules. Refer Appendix A for excerpts from the Canterbury Regional Land and Water Plan. Regional councils have a specific function to control land uses which may affect water quality, and the discharge of contaminants under s30 of the Resource Management Act 1991.
40. Including a definition and providing specific recognition of 'ancillary rural/farming earthworks' has been the approach adopted in a number of plans provided around New Zealand. Appendices B-G provide examples from:
- The Auckland Unitary Plan.
 - The Opotiki District Plan.
 - The Proposed Waikato District Plan (Appeals Version).
 - The Proposed Central Hawkes Bay District Plan (Decisions Version).
 - The Proposed Timaru District Plan.

- The Proposed Selwyn (s42A Recommendation).

41. While some of these ancillary rural earthwork activities are provided for in the proposed rule structure or excluded from the definition of earthworks as per the National Planning Standards definition, adopting the method proposed by the submitters provides clarity for all parties that earthworks ancillary to compliance with a Notice of Direction under the Biosecurity Act 1993 are a permitted activity. I assume this is one of the key reasons for talking this approach in other plans.

Biosecurity

42. As noted above, consistent through the exemplar planning documents appended to this evidence, are earthwork provisions that enable the burying of biosecurity material that may be required under the Biosecurity Act 1993, as ancillary rural earthworks in a primary production setting.

43. This is the primary concern and request of both NZPork and HortNZ.

44. As I understand the evidence of NZPork, a person who is subject to a Notice of Direction under the Biosecurity Act 1993 is required to comply with that notice. I also understand that the most appropriate method of compliance and the timing for compliance will depend on the circumstances in each case, including the nature of the biosecurity incursion.

45. However, relying on Mr Kleiss' evidence, it is my understanding there may not be time to wait for an application for a resource consent for earthworks to be processed under a district plan. The person may find themselves in the invidious position of having to breach their legal obligations under one statute to comply with another.

46. This situation is not dissimilar from the situation rural landholders face in discharging their obligations to manage plant pests under Regional Pest Strategies. Regional Pest Strategies are prepared under the Biosecurity Act 1993 and landholders can receive Notices of Direction under that Act to manage plant pests. In that case, the Notices of Direction are issued by regional councils, but it is still a legal obligation to comply.

47. Consequently, provisions for managing the removal of indigenous vegetation in district plans and rules for activities in and adjoining waterbodies in regional plans, often include an exemption for ancillary removal of indigenous vegetation as part of complying with a Notice of Direction or undertaking pest management.
48. Similarly, in the horticultural sector biosecurity threats are a constant risk to a food production system that provisions the domestic supply of fresh fruit and vegetable, maintains food security for New Zealanders and is a significant export earner.
49. Changing climate is likely to increase biosecurity risks from plant, fungal and animal pests and diseases. The MPI Technical Paper No: 2015/25: *Effects of Climate Change on Current and Potential Biosecurity Pests and Diseases in New Zealand* (9 July 2015)¹ states as follows:

In New Zealand, the general warming of temperatures expected with climate change is expected to result in a southward extension of the habitable ranges of many crops and pests which are currently limited by winter cold. In addition, the reduced frequency or absence of frosts and increased temperatures in the northern North Island may create sub-tropical climates that allow some existing crops and new crops to be grown commercially (see Section 6). These local climates may also facilitate the establishment of new exotic pests and diseases that damage current and future crops and natural ecosystems. Of particular concern for agriculture and human health would be the establishment of vectors (e.g. ticks, mosquitoes, plant-sucking insects) that would facilitate the spread of animal and plant diseases.

50. Any biosecurity incursions affecting these primary production activities must be able to be managed with a rapid response to quickly and efficiently contain spread and eliminate the incursion.

Responses to biosecurity incursions

51. It is important to recognise that not all biosecurity incursions would meet the threshold of a biosecurity emergency that would trigger provisions in the Resource Management Act 1991 (as emergency works) or the provisions in s7A of the

¹ [Effects of climate change on current and potential biosecurity pests and diseases in New Zealand \(mpi.govt.nz\)](https://www.mpi.govt.nz/~/media/documents/default.aspx?resid=34222&reskey=1&resourcetype=document)

Biosecurity Act 1993, which overrides Part 3 of the Resource Management Act 1991.

52. The best management method for any biosecurity risk will depend on the nature and location of the incursion and may involve manual or chemical treatments and disposal of infected material by burning, burial or removal to a specific disposal facility.
53. As set out in the evidence of HortNZ, the transfer of infected material offsite may have unacceptable spread risks. Furthermore, suitable facilities may not be available to receive the infected material.
54. The most appropriate method of disposal can and will be determined by the appropriately qualified personnel dealing with the incursion. For this reason, I presume the Canterbury Air Regional Plan provides a permitted activity pathway for burning for biosecurity reasons, including unwanted organisms. Refer Appendix H.
55. However, in some cases where on-site disposal is required, burning may not be the most appropriate option. In other cases where either burial or burning is appropriate, there may be fewer adverse effects on adjoining landholders and the community from burial.
56. In forming my opinion on this matter, I have also considered the nature of the effects of earthworks which are controlled by district councils under the Resource Management Act 1991, relative to effects which are controlled by regional councils or by other agencies under other legislation.
57. Regional councils have the specific function to control land uses which affect water quality or soil erosion under s30 of the Resource Management Act 1991, as well as discharges of contaminants. Consequently, there are already rules in various Canterbury Regional Plans to manage effects of any discharges from such activities.
58. In my opinion, additional constraints on earthwork activity at a district plan level (e.g., volume, area, maximum depth) may inhibit a timely, efficient, and effective response. I also question whether it is likely a district council would decline a resource consent in these circumstances.

59. NZPork and HortNZ seeks a definition of Ancillary Rural Earthworks to cover earthworks associated with compliance the disposal of material infected by unwanted organisms as declared by the Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993. This would allow farmers to undertake earthworks related to compliance with a Notice of Direction under the Biosecurity Act 1993 as a permitted activity.
60. The reference to 'unwanted organisms' is specific.
61. In the case of a response to a biodiversity risk, I do not consider it necessary to duplicate a volume control in the proposed Waimakariri District Plan (EW-1 500m³ or 100m³ per ha, whichever is the greater over a 12month period). The Canterbury Land and Water Regional Plan provides for the control of discharges.
62. Similarly, risks pertaining to public health and the environment are addressed in other legislation. For example:
- The Health Act 1956 where the activity must not be offensive, likely to be injurious to health, spread disease, likely to harbour rats and other vermin, or give rise to the breeding of flies or other insects which are capable of transmitting disease.
 - The Biosecurity Act 1993 where directions by a person authorised would I expect be cognisant of environmental outcomes.
63. The Opotiki District Plan has linked the permitted activity pathway for earthworks ancillary to the removal and disposal, of plants and plant material infected by unwanted organisms to being a response to directions of a person authorised under the Biosecurity Act 1993. Other plans do not.
64. I would support the Opotiki District Plan approach. Linking the earthworks to directions of an authorised person under the Biosecurity Act 1993 limits the circumstances when which these provisions can be relied upon on to bona fide biosecurity incursions where burial is an appropriate response,

CONCLUSION

65. In my opinion it is appropriate to include provisions in the Proposed Waimakariri District Plan that enable the burying of biosecurity material that may be required under the Biosecurity Act 1993, as permitted ancillary rural earthworks in a primary production setting.
66. Linking such earthworks to directions of an authorised person under the Biosecurity Act 1993 limits the circumstances when which these provisions can be relied upon on to bona fide biosecurity incursions where burial is an appropriate response.
67. In forming my opinion on this matter, I have considered the nature of the effects of earthworks which are controlled by district councils under the Resource Management Act 1991, relative to effects which are controlled by regional councils or by other agencies under other legislation and consider these are sufficient to manage actual or potential adverse effects on the environment.

APPENDIX A – CANTERBURY LAND AND WATER REGIONAL PLAN

Offal and Farm Rubbish Pits

Notes:

1. In addition to the provisions of this Plan and any relevant district plan, any activity which may modify, damage or destroy pre 1900 archaeological sites is subject to the archaeological authority process under the Heritage New Zealand Pouhere Taonga Act 2014. An archaeological authority is required from Heritage New Zealand to modify, damage or destroy any archaeological site, whether recorded or not in the New Zealand Heritage List/Rārangi Kōrero website
2. Nothing in Rule 5.24 or 5.27 prevents a pit being used for both an offal pit and an on-site refuse disposal pit, if the conditions of Rule 5.24 and Rule 5.27 are met.
3. The discharge of carcasses and offal to land must not create a nuisance under the Health Act 1956. This means that the activity must not be offensive, likely to be injurious to health, spread disease, likely to harbour rats and other vermin, or give rise to the breeding of flies or other insects which are capable of transmitting disease.
4. If the discharge of carcasses and offal creates risks to human health it is appropriate to notify the Medical Officer of Health or Health Protection Officer for the area. Situations where this might be necessary include:
 - a. potential for microbial contamination of water supplies;
 - b. any infestations of vermin or other disease vectors; or
 - c. fallen stock left to decompose in the field where they die.

5.24 The use of land for an offal pit and the associated discharges onto or into land in circumstances where a contaminant may enter water are permitted activities, provided the following conditions are met:

1. The discharge is to a pit that:
 - (a) has a volume of less than 50 m³; and
 - (b) is sited and designed to prevent surface runoff entering the pit; and
 - (c) is designed to prevent animals from gaining access to the pit; and
2. The discharge is only of dead animals or animal parts produced on the property where the pit is located; and
3. No more than one pit is constructed or used per 100 hectares of property area per annum; and
4. When any pit is filled to within 0.5 m of the original land surface, or is no longer used, the contents are covered with soil to a depth of at least 0.5 m or the pit is covered with an impermeable lid; and
5. No discharge occurs:
 - (a) within 100m of a surface water body, a bore used for water abstraction, the boundary of the site, or the Coastal Marine Area; or
 - (b) within a Community Drinking-water Protection Zone as set out in Schedule 1; or
 - (c) unless there is at least 3 m of soil or sand between the point of discharge and the seasonal high water table level or
 - (d) within the Christchurch Groundwater Protection Zone as shown on the Planning Maps; or
 - (e) onto or into land listed as an archaeological site; or
 - (f) within any area or zone identified in a proposed or operative district plan for residential, commercial or industrial purposes.

5.25 Despite Rule 5.24, the use of land to bury a single dead animal and the associated discharge onto or into land in circumstances where a contaminant may enter water are permitted activities, provided the following conditions are met:

1. The dead animal cannot be disposed of in accordance with the conditions of Rule 5.24; and
2. The dead animal results from agricultural production on the same property; and
3. The dead animal is buried in a pit which does not contain any water, and is immediately and completely covered by sufficient soil or plant material so as to prevent discharge of odour to air, or other nuisance; and
4. The burial location is not within any area or zone identified in a proposed or operative district plan for residential, commercial or industrial purposes; and
5. The burial site is at least 50 m from any:
 - (a) surface water body; or
 - (b) bore used for water abstraction; or
 - (c) property boundary.

5.26 The use of land for an offal pit and the associated discharges onto or into land in circumstances where a contaminant may enter water that does not meet one or more of the conditions in Rule 5.24 is a restricted discretionary activity where the following condition is met:

1. The disposal and discharge are the subject of a Farm Environment Plan that has been prepared in accordance with Schedule 7 Part A.

The exercise of discretion is restricted to the following matters:

1. The actual or potential environmental effects of not meeting the condition or conditions of Rule 5.24 or Rule 5.25; and
2. The actual or potential environmental effects of the discharge on the quality and safety of human and animal drinking-water; and
3. The quality of, compliance with, and auditing of the Farm Environment Plan.

APPENDIX B – OPOTIKI DISTRICT PLAN (OPERATIVE 2021)

Earthworks, Landscapes, Indigenous Vegetation And Habitats

13.2.5 OBJECTIVE

Enable national or regional responses to biosecurity incursions and allow for the appropriate management of plants and plant material infected by an unwanted organism.

POLICY 13.2.5.1

Enable disposal of plants and plant material infected by unwanted organisms, including ancillary earthworks, carried out as directed by a person authorised under the Biosecurity Act 1993.

13.3.2 INDIGENOUS VEGETATION CLEARANCE

Rule	Outstanding Natural Landscapes in 13.9.1	Outstanding Natural Features in 13.9.2	Coastal Environment Overlay	Coastal	Coastal Settlement	Ohiwa Harbour	Rural
Removal and disposal, including ancillary earthworks, of plants and plant material infected by unwanted organisms carried out as directed by a person authorised under the Biosecurity Act 1993.	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted

APPENDIX C – AUCKLAND UNITARY PLAN (OPERATIVE IN PART 15 NOV 2016)

Chapter J: Definitions

Ancillary Farming Earthworks

Disturbance of soil, earth or substrate land surfaces ancillary to farming.

Includes:

- land preparation and cultivation (including establishment of sediment and erosion control measures), for planting and growing operations and harvesting of agricultural and horticultural crops (farming);
- burying of material infected by unwanted organisms as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993;
- irrigation and land drainage; and
- maintenance and construction of facilities, devices and structures typically associated with farming activities including but not limited to farm tracks, driveways and unsealed parking areas, stock races, silage pits, farm drains, farm effluent ponds, and feeding lots, fencing, crop protection and sediment control measures.

Chapter 12: Land Disturbance - District

Table E12.4.1 Activity table – all zones and roads

Activity	Activity status						
	Residential zones	Business zones and City Centre Zone	Future Urban Zone and rural zones (excluding Rural – Rural Conservation Zone)	Open space zones (excluding – Conservation Zon	Rural – Rural Conservation Zone and Open Space – Conservation Zone	Special Purpose – Quarry Zone	All other zones and roads
Ancillary farming earthworks	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted

Table E12.4.2 Activity table – overlays (except Outstanding Natural Features Overlay)

Activity	Activity status					
	Outstanding Natural Character Overlay	High Natural Character Overlay and Outstanding Natural Landscapes Overlay	Historic Heritage Overlay	Sites and Places of Significance to Mana Whenua Overlay	Special Character Areas Overlay – Residential: (except Isthmus C – Residential: Isthmus C – Three Kings	Special Character Areas Overlay – Residential: Isthmus C – Three Kings

Ancillary farming earthworks for maintenance of tracks RD* where archaeological rules apply as listed in Schedule 14.1	Permitted	Permitted	Permitted / RD*			
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Table E12.4.3 Activity table – Outstanding Natural Features Overlay

Activity	Activity status	
	Features A1 – A2	Features V, B, C, D, E, F
Ancillary farming earthworks limited to the area and depth of earth previously disturbed or modified for the same activity	Permitted	RD

APPENDIX D – PROPOSED WAIKATO DISTRICT PLAN (APPEALS VERSION)

Part 1: Definitions

Ancillary Rural Earthworks

Means any earthworks or disturbance of soil associated with:

- a. Crop cultivation and associated land preparation (including establishment of sediment and erosion control measures);
- b. Harvesting of agricultural and horticultural crops (farming);
- c. Maintenance and construction of facilities associated with farming activities, including, but not limited to, farm tracks, roads and landings, stock races, silage pits, offal pits, farm drains, farm effluent ponds, feeding pads, fertiliser storage pads, airstrips, helipads, post holes, fencing, drilling bores, stock water pipes, water tanks and troughs, the maintenance of on-farm land drainage networks, and erosion and sediment control measures; and
- d. Burying of material infected by unwanted organisms as declared by the Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.

Part 2: EW – Earthworks

EW-P2 Earthworks in the GRUZ – General rural zone, FUZ – Future urban zone, CORZ – Corrections zone or TTZ – TaTa Valley zone. [000078] {000047}

(1) Enable earthworks associated with rural or conservation activities including:

- (a) Ancillary rural earthworks;
- (b) Farm quarries;
- (c) The importation of controlled cleanfill material to a site; and
- (d) Indigenous biodiversity restoration

GRUZ – General rural zone

EW-R17		Ancillary rural earthworks [000078, 000051] {000047, 000051, 000036}	
GRUZ – General rural zone; CORZ – Corrections Zone; FUZ – Future urban zone; and TTZ – TaTa Valley zone	(1) Activity status: PER Activity specific conditions: (a) Provided they are not within a kauri root zone	(2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) The risk of earthworks exacerbating Kauri dieback disease	

RLZ – Rural lifestyle zone

EW-R24		Ancillary rural earthworks [000078, 000051] {000047, 000051, 000036}	
RLZ – Rural lifestyle zone	(1) Activity status: PER Where: (a) Earthworks within a site for: (i) Ancillary rural earthworks; or (ii) Construction and/or maintenance of tracks, fences	(2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) Amenity values and landscape effects; (b) Volume, extent and depth of earthworks; (c) Nature of fill material; (d) Contamination of fill material; (e) Location of the earthworks to waterways, significant indigenous vegetation and habitat;	

	<p>or drains; or (iii) A building platform for a residential activity including an accessory building.</p> <p>(b) Provided they are not within a kauri root zone</p>	<p>(f) Compaction of the fill material; (g) Volume and depth of fill material; (h) Protection of the Hauraki Gulf Catchment Area; (i) Geotechnical stability; (j) Flood risk, including natural water flows and established drainage paths; (k) Land instability, erosion and sedimentation; (l) Effects on the safe, effective and efficient operation, maintenance and upgrade of infrastructure, including access; and (m) The risk of earthworks exacerbating kauri dieback disease.</p>
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APPENDIX E – PROPOSED CENTRAL HAWKES BAY DISTRICT PLAN (DECISIONS VERSION)

Part 1: Definitions

Ancillary Rural Earthworks (Primary Production)

means earthworks associated with normal agricultural and horticultural practices, such as:

- a. maintenance of drains, troughs and installation of their associated pipe networks, drilling bores and offal pits, and burying of dead stock and plant waste (including material infected by unwanted organisms as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993); and
- b. Maintenance of existing walking tracks, farm and forestry tracks, driveways, roads and accessways.

Note: for clarification purposes, the alteration or disturbance of land associated with ‘gardening, cultivation, and disturbance of land for the installation of fence posts’ is excluded from the definition of ‘earthworks’.

Part 2: EW – Earthworks

EW-R2	Ancillary rural earthworks	
General Rural Zone	1. Activity Status: PER	2. Activity status where compliance not achieved: RDIS
Rural Production Zone	Where the following conditions are met: a. Compliance with: i. EW-S2; ii. EW-S3; iii. EW-S4; iv. EW-S5; v. EW-S6; vi. EW-S7; and vii. EW-S8.	Matters over which discretion is restricted: a. EW-AM1. b. EW-AM2. c. EW-AM3. d. EW-AM4. e. EW-AM5. f. EW-AM6. g. EW-AM7. h. EW-AM9.
Rural Lifestyle Zone		

EW-S2 Extent of Earthworks	
Identified areas of: <ul style="list-style-type: none"> • High Natural Character (HNCs) • Outstanding Natural Features and Landscapes (ONFs/ONL) • Significant Natural Areas (SNAs) 	<ol style="list-style-type: none"> 1. Ancillary rural earthworks – maximum of 500m³ per site within the identified area/feature in any 12-month period. Refer also Standard EW-S7. 2. All other earthworks – maximum of 200m³ per site within the identified area/feature in any 12-month period
General Rural Zone (except any	3. Ancillary rural earthworks – unlimited.

identified HNC, ONF/ONL or SNA areas)	4. All other earthworks – maximum of 2,000m ³ per hectare of site in any 12-month period
Rural Production Zone (except any identified HNC, ONF/ONL or SNA areas)	5. Ancillary rural earthworks – unlimited. 6. All other earthworks – maximum of 1,000m ³ per hectare of site in any 12-month period. 7. Removal offsite of topsoil, sand, gravel, or earth – maximum of 25m ³ per site in any 12-month period.

EW-S3 Vertical Extent of Excavation

General Rural Zone	3.5m
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EW-S4 Site Reinstatement

All zones	<ol style="list-style-type: none"> 1. Areas disturbed by exploration, prospecting or earthworks will be stabilised, filled and/or recontoured in a manner consistent with the surrounding land as soon as practicable, but no later than 6 months of the disturbance activity ceasing; and 2. Where vegetation clearance occurs as a result of land disturbance (except where it is associated with the operation, maintenance or upgrading of lawfully established roads, tracks, network utility operations and drainage channels), disturbed areas must be re-pastured or re-vegetated as soon as practicable within 18 months of the disturbance activity ceasing. <p><i>Note: Vegetation clearance and soil disturbance may also be subject to rules administered by the Hawkes Bay Regional Council.</i></p>
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EW-S5 Control of Silt and Sediment

All zones	<ol style="list-style-type: none"> 1. Erosion and sediment control measures must be put in place to avoid sediment run-off from earthworks, mining, quarrying and hydrocarbon extraction activities entering a Council reticulated network or into waterbodies. <p><i>Notes:</i></p> <ol style="list-style-type: none"> 1. <i>The Hawke's Bay Regional Council's 'Hawke's Bay Waterway Guidelines – Erosion and Sediment Control, (2009, HBRC Plan Number 4109)' outlines an acceptable means of compliance with this standard.</i> 2. <i>All other stormwater runoff across property boundaries or sediment entering waterbodies may be subject to rules administered by the Hawkes Bay Regional Council.</i>
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EW-S6 Earthworks and Vertical Holes within the National Grid Yard

All zones	<p>The earthworks must not compromise the stability of a National Grid support structure, and</p> <ol style="list-style-type: none"> 1. The earthworks must not result in a reduction in ground-to-conductor clearance distances as required in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001), and 2. The earthworks must not result in the permanent loss of vehicular access to any National Grid support structure.
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EW-S7 Ancillary Rural Earthworks

Identified areas of: <ul style="list-style-type: none">• High Natural Character (HNCs)• Outstanding Natural Features and Landscapes (ONFs/<u>ONL</u>)• Significant Natural Areas (SNAs)	<ol style="list-style-type: none">1. For the <u>maintenance</u> of existing tracks, driveways, <u>roads</u> and <u>accessways</u> only, <u>ancillary rural earthworks</u> must be within the same formation width, and the landowner must take, and provide to <u>Council</u> on request, photos of the location of the <u>earthworks</u> before and after completion, sufficient to show the formation width.2. Exposed vertical cuts or batter faces must not exceed 2m in vertical <u>height</u> or take place on slopes of greater than 45 degrees above horizontal.3. All remaining slopes must be remediated to marry in with the surrounding landform and be replanted with either grass or planting to match the surrounding vegetation cover (excluding weed species).
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EW-S8 Electrical Safety Distances

All zones	<ol style="list-style-type: none">4. Any <u>earthworks</u> within the vicinity of overhead electric <u>lines</u> must comply with the New Zealand Electrical Code of Practice for Electrical Safety Distances (NZECP 34:2001).
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APPENDIX F – PROPOSED TIMARU DISTRICT PLAN (NOTIFIED VERSION)

Part 1: Definitions

Ancillary Rural Earthworks

means any [earthworks](#) associated with the [maintenance](#) and construction of facilities typically associated with farming activities, including, but not limited to, farm tracks/[roads](#) (up to 6m wide), landings, stock races, silage pits, farm drains, farm effluent ponds, feeding pads, fencing and erosion and sediment control measures, and burying of material infected by unwanted organisms (as declared by Ministry for Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993).

Part 2: EW – Earthworks

EW-P1 Benefits and necessity

Recognise the benefits and necessity of [earthworks](#) for the [subdivision](#), use and development of [land](#), the provision of utilities, and [natural hazard](#) mitigation.

EW-R1 Ancillary rural earthworks	
All Zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 EW-S1, EW-S2, EW-S3, EW-S4 and EW-S5 are complied with; and</p> <p>PER-2 The Accidental Discovery Protocol commitment form, contained within APP4 - Form confirming a commitment to adhering to an Accidental Discovery Protocol, has been completed and submitted to Council, prior to the commencement of any earthworks.</p>
EW-S1 Areas	
<p>General Rural Zone</p> <p>Rural Lifestyle Zone</p>	<p>The area of earthworks must be limited to as follows:</p> <ol style="list-style-type: none"> for any primary production activity that is a Permitted Activity in the zone, there is no limit; and for any ancillary rural earthworks, there is no limit; and for other activities: 2,000m² in any 12-month period per site
EW-S2 Excavation and filling	
All Zones	<ol style="list-style-type: none"> Earthworks do not exceed a maximum depth or height of 1.5m below or above ground level; and earthworks are not undertaken at any point on land with a slope gradient greater than 1 in 4; and all fill consist of cleanfill material.

	Note: A cut or fill height up to 2.5m measured vertically does not need to meet this standard where it is retained by a building or structure authorised by a building consent (which must be obtained prior to any earthworks commencing).
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EW-S3 Setbacks	
All Zones	1. Earthworks involving filling and/or excavation must not exceed 0.5m in depth or height within 1.5m of any site boundary.

EW-S4 Rehabilitation and reinstatement	
All Zones	1. No more than 12 months after the earthworks commenced and on completion of the earthworks , the area of land disturbed as a result of the earthworks must be: <ol style="list-style-type: none"> 1. built upon; or 2. sealed with hardstand material; or 3. landscaped; or 4. recontoured and replanted.

EW-S5 Earthworks in proximity of the National Grid and/or a 66kV electricity distribution line, excluding earthworks for:	
	<ol style="list-style-type: none"> a. a network utility as part of an electricity transmission activity; or b. agricultural or domestic cultivation; or c. the repair, sealing or resealing of a road, footpath, driveway or farm track.
All Zones	<ol style="list-style-type: none"> 1. Any earthworks must not exceed a depth or fill of 300mm within a distance measured 12m from the outer visible edge of any National Grid support structure; or 2. Earthworks within 12 metres of the centre line of a 110kV or a 220kV National Grid transmission line or within 10 metres of the centre line of a 66kV transmission line must: <ol style="list-style-type: none"> a. be no deeper or higher than 300mm within 6m of a foundation of a transmission line support structure; and b. be no deeper than 3m when: <ol style="list-style-type: none"> i. between 6 and 12 metres from the foundation of a 110kV or a 220kV National Grid transmission line support structure; or ii. between 6 and 10 metres from the foundation of a 66kV transmission line support structure; and iii. not result in a reduction in the ground to conductor clearing distances below what is required by Table 4 in NZECP 34:2001, unless the requirements of Clause 2.2.3 of NZECP 34:2001 are met.

APPENDIX G – PROPOSED SELWYN DISTRICT PLAN (HEARING 6: CONTAMINATED LAND AND HAZARDOUS SUBSTANCES)

Contaminated Land and Hazardous Substances Jocelyn Lewes 1 November 2021. Appendix 1 Recommended Amendments

Appendix 1: Recommended amendments

Definitions

Definitions	
MATERIAL INFECTED BY UNWANTED ORGANISMS	means material infected by unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.

Biosecurity

BIOS-Overview	
In the event of a biosecurity incursion, where material such as flora or fauna is infected by an unwanted organism, there is a need to respond rapidly. Responses may include earthworks for burying infected material or clearance of infected vegetation so as to stop the spread of and destruction from the unwanted organism. The provisions of this chapter recognise the urgency required in the event of a biosecurity emergency as declared either in accordance with the Biosecurity Act 1993 or by a Ministry of Primary Industries Chief Technical Officer.	

BIOS-Objectives	
BIOS-O1	Land and resources in the district are protected from the adverse effects of <u>materials infected by unwanted organisms</u> .

BIOS-Policies	
BIOS-P1	Enable the removal and destruction of material infected by unwanted organisms that are being managed as part of <u>Bbiosecurity response under the Biosecurity Act 1993</u> .

BIOS-Rules	
BIOS-R1	Materials Infected by Unwanted Organisms
All Zones	<p>Activity Status: PER</p> <p><u>1. Earthworks necessary for the burying of material infected by unwanted organisms.</u></p> <p><u>Where:</u></p> <p><u>a. The earthworks:</u></p> <p><u>i. do not involve indigenous vegetation clearance;</u></p> <p><u>ii. are outside of an area identified in SASM-SCHED1;</u></p> <p><u>iii. are outside of the Coastal Environment Overlay; iv. are outside of the Significant Natural Areas Overlay; and</u></p> <p><u>b. Within 5 working days of the completion of the works, the Council's Chief Executive is notified in writing by the landowner or their representative of:</u></p> <p><u>Activity status when compliance not achieved:</u></p> <p><u>2. When compliance with BIOS-R1.1.a.i is not achieved: DIS</u></p> <p><u>3. When compliance with BIOS-R1.1.ba.ii is not achieved: Refer to SASM-R2</u></p> <p><u>4. When compliance with BIOS-R1.1.ca.iii is not achieved: Refer to CE-R5 4</u></p> <p><u>5. When compliance with BIOS-R1.1.da.iv is not achieved: Refer to EIB-R2 5</u></p>

	<p><u>i. the specific location and extent of any earthworks necessary of the burying of material infected by unwanted organisms;</u> <u>ii. the nature of the material infected by unwanted organisms; and</u> <u>iii. any ongoing management requirements.</u></p> <p><u>And where the activity complies with the following rule requirements:</u></p> <p><u>NH-REQ4 Natural Hazards and Earthworks NFL-REQ9 Volume and Area of Earthworks NATC-REQ1 Setback from Surface Water Bodies – Earthworks and Earthworks Stockpiles</u></p>	<p><u>6. When compliance with any rule requirement listed in this rule is not achieved: Refer to the relevant rule requirement</u></p>
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APPENDIX H – CANTERBURY AIR REGIONAL PLAN

Burning for biosecurity reasons

7.17 The discharge of contaminants into air, from outdoor burning for the purpose of controlling unwanted organisms or disease control and that is undertaken as a requirement of the Biosecurity Act 1993, is a permitted activity.

7.18 The discharge of contaminants into air from outdoor burning of animal carcasses and offal is a permitted activity provided the following conditions are met:

1. The discharge is on a property greater than 2ha in area; and
2. The burning does not occur within 100m of any National Grid power line or substation unless permission has been obtained from the owner of the infrastructure; and
3. The discharge does not occur within 100m of a property boundary.