

BEFORE THE INDEPENDENT HEARINGS PANEL FOR HUTT CITY COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Lower Hutt District Plan

STATEMENT OF REBUTTAL EVIDENCE OF NATHAN GEARD

ON BEHALF OF HUTT CITY COUNCIL

Planner

6 October 2026

Introduction, qualifications, experience and code of conduct

1. My name is Nathan Geard. I am the Policy Planning Manager for Hutt City Council, a planner, and the reporting officer for parts of the Earthworks, Financial Contributions and Subdivision chapters of the Proposed Lower Hutt District Plan, as described in the Scope of this statement (below).
2. My qualifications, experience and code of conduct statement are provided in Appendix 1 of this statement.

Scope of this statement

3. Hearing Stream #7 for the Proposed Lower Hutt District Plan (the PDP) is the 'Other Topics' hearing, and covers a range of district-wide chapters of the PDP.
4. This includes the Earthworks, Financial Contributions and Subdivision chapters.
5. For the most part, the reporting officers for these chapters are:
 - Catherine Nichol – Planner of Boffa Miskell Ltd and reporting officer for the Earthworks chapter, and
 - Hamish Wesney – Planner of Boffa Miskell Ltd and reporting officer for the Financial Contributions and Subdivision chapter.
6. As stated in the s42A reports for these chapters, Ms Nichol and Mr Wesney have declared a conflict of interest for parts of these chapters due to Boffa Miskell Ltd representing a submitter who has submitted on parts of these chapters (Transpower New Zealand Ltd – submitter #504 and further submitter #F12).
7. To manage this conflict of interest, I am the reporting officer for any provisions of the Earthworks, Financial Contributions and Subdivision chapter that Transpower have submitted on, and am responsible for the assessment and recommendations on these provisions in the s42A reports for these chapters.

8. This statement is my rebuttal to any statements of evidence and other statements from submitters that have been received that relate to these provisions since the s42A report was published.
9. Ms Nichol and Mr Wesney will prepare statements of rebuttal evidence in response to any statements of evidence and other statements from submitters that relate to all other parts of the Earthworks, Financial Contributions and Subdivision chapters.
10. I have reviewed the evidence and tabled statements of:
 - Ms Whitney for Transpower (#504 and #F12), and
 - Georgina McPherson for BP Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited ('The Fuel Companies', #471 and #F32) and Z Energy Ltd (#468).
11. This rebuttal evidence responds only to the pre-circulated written evidence and statements received from submitters prior to the hearing. Other submitters may present oral evidence or further details at the hearing, which may raise additional matters that could influence or alter the recommendations made in this rebuttal evidence. Except as expressly identified in this statement, all findings and recommendations contained in my original Section 42A report remain unchanged.

Responses to expert evidence

12. The following sections give my response to the expert evidence that has been lodged on the provisions that I am reporting officer for.
13. These sections are:
 - a. Transpower – Earthworks and Subdivision
 - b. Transpower – Financial Contributions
 - c. The Fuel Companies - Earthworks
14. Appendix 2 sets out my revised and updated recommended amendments in response to submitter evidence.

Transpower – Earthworks and Subdivision

15. In relation to Ms Whitney's statement of evidence for the Earthworks

Subdivision chapters, I consider the key points that require my response are:

- a. For rule **EW-R16** and standard **EW-S13**, which relate to earthworks and vertical holes within the National Grid Yard (outlined in para 7.5), and
- b. For rule **SUB-R24**, which relates to subdivision in the National Grid Subdivision Corridor (outlined para 7.8),

Ms Whitney's recommendation that the recently amended NES-ENA¹ be deferred to, and that the rules and standard be deleted (paras 7.5 and 7.9).

16. I agree with Ms Whitney that rules EW-R16 and SUB-R24 and standard EW-S13 should be deleted. Section 44A of the RMA² requires Council to amend the PDP (and the ODP³) to remove any duplication or conflict with national environmental standards without using the process in Schedule 1 of the RMA and as soon as practicable after the date on which the standard comes into force. The exception to this is where a national environmental standard specific that a plan rule can be more stringent or lenient than the national environmental standard, which is not the case for the NES-ENA in relation to earthworks, vertical holes and subdivision.

17. My only hesitation with recommending this deletion is that there is a risk that plan users are unaware of the regulatory requirements for earthworks, vertical holes and subdivision in the National Grid Yard/Subdivision Corridor under the NES-ENA, look at the PDP to see what rules apply to their proposed earthworks, find no applicable rules, and assume that their earthworks/vertical holes/subdivision are a permitted activity. However, this risk does not justify non-compliance with s44A of the RMA, and Council needs

¹ National Environmental Standards for Electricity Network Activities, amended 7 September 2026.

² Resource Management Act 1991

³ Operative City of Lower Hutt District Plan.

to determine how best to manage that risk. My recommendation is that this risk be managed through a combination of:

- Map the National Grid Yard/Subdivision Corridor as an Informational overlay on the PDP GIS map viewer,
- Adding an advice note that appears in the PDP GIS map viewer when a property in the National Grid Yard/Subdivision Corridor is selected that states “In addition to the provisions of the District Plan, the National Environmental Standards for Electricity Network Activities also apply to subdivision, land use and development within the National Grid Yard/Subdivision Corridor.”
- Updating the reference in the introduction of the Earthworks chapter to the *National Environmental Standards for Electricity Transmission Activities 2009* to the *National Environmental Standards for Electricity Network Activities 2026*.
- Amending the “How this chapter works” section of the Introduction of the Subdivision chapter to note that the NES-ENA applies to subdivision in the National Grid Subdivision Corridor.

18. There may be a question on the role of the Panel in making these amendments, given the Panel’s overall role is part of a Schedule 1 process and s44A requires the duplication or conflict to be removed without using the process in Schedule 1.

19. My advice is that Council should make these amendments through the most straight-forward process that is available that minimises the risk of confusion and complication for plan users.

20. In my opinion, that process would be for Council to make the amendments as part of its final decisions on the PDP, which it will make following the Panel’s recommendations on submissions. The key question is whether those amendments should be presented to Council through the Panel’s recommendations or through a separate report of Council officers. I think the most straight-forward approach would be to advise the Council through the

Panel's recommendations, where the necessary changes to the text of the PDP can be shown alongside other changes recommended by the Panel.

Transpower – Financial Contributions

21. In relation to Ms Whitney's statement of evidence in relation to Financial Contributions chapter, the substantive point is that Ms Whitney supports the s42A Report recommended amendment to rule **FC-R2** to provide a clear exemption for network utilities (para 7.10).
22. As Ms Whitney is in support of the recommended amendment of the s42A report, and as there no other submitters have provided statements of evidence or any other statements in relation to these provisions, no rebuttal is required.

The Fuel Companies – Earthworks

23. In their statement of evidence, Ms McPherson (for The Fuel Companies and Z Energy Ltd) addresses the submission points on the definition of 'minor earthworks'. Ms McPherson effectively restates the request by the submitters' to amend the definition as follows:

Minor earthworks:

means earthworks for the purposes of piling, trenching, geotechnical investigations, contaminated land investigations, interments within existing cemeteries or urupā, soakpits, stormwater detention tanks, stormwater treatment devices, rainwater tanks, wastewater mitigation tanks, and the replacement or removal of underground petroleum storage systems.

24. Having read Ms McPherson's statement of evidence, I largely agree with her analysis and recommended relief. In particular, Ms McPherson's statement that contaminated land investigations and installation of stormwater treatment devices are of generally the same or similar character, intensity and scale as activities already included in the definition of 'minor earthworks'.

25. My only reservation with the requested amendment to the definition is how the term ‘stormwater treatment devices’ may be interpreted when considering land use and developer more broadly than those devices that would often be provided at a fuel station or industrial site. Specifically, stormwater treatment devices could be interpreted as including sediment settling ponds, such as those that are often found at large-scale greenfield developments or other sites with large areas of land disturbance and earthworks, which having significantly different effects to what I would describe as ‘in-ground’ stormwater treatment devices.
26. As a result, I recommend that the Panel accept the submission point of The Fuel Companies to amend the definition of minor earthworks (shown below in red), with an additional amendment (shown in blue):

Minor earthworks:

means earthworks for the purposes of piling, trenching, geotechnical investigations, contaminated land investigations, interments within existing cemeteries or urupā, soakpits, stormwater detention tanks, stormwater treatment devices (excluding sediment retention ponds), rainwater tanks, wastewater mitigation tanks, and the replacement or removal of underground petroleum storage systems.

27. I consider this to be a relatively minor amendment, and that the scale and significance of the amendment do not warrant a lengthy s32AA assessment. However, I consider that the recommended amendment improves the efficiency of the Earthworks chapter by providing for the relatively small-scale earthworks involved in contaminated land investigations and underground stormwater treatment devices without requiring resource consent, acknowledging the small-scale of earthworks and small-scale of effects associated with the earthworks involved in these activities (noting that other aspects of these activities, including the discharge of contaminants, are managed through other mechanisms, including the NES-CS and provisions of the Natural Resource Plan for the Wellington Region).

Nathan Geard

Policy Planning Manager

Hutt City Council

6 October 2026

Appendix 1: Qualifications, experience and code of conduct statement

My full name is Nathan Joseph Geard. I am the Policy Planning Manager of Hutt City Council.

I have been employed by Hutt City Council since 2014. Initially my role at Council was as a resource consents planner. However, I have been part of Council's Policy Planning team since 2015, initially as a policy planner, but as the Policy Planning Manager since 2022.

In my time at Hutt City Council, I have been involved in a range of policy and plan making projects, including council-initiated plan changes (particularly in relation to transport and residential growth and development), private plan change requests, notices of requirement and regional spatial plans.

Prior to being employed by Hutt City Council, I was employed by the West Coast Regional Council as a resource consents planner from 2008 to 2014, where my primary role was the processing of resource consents associated with the dairy, mining and construction industries.

I have been involved in the District Plan Review since it began in 2019. Initially my involvement was as the subject expert/lead for a range of district plan topics, but more recently (since becoming the Policy Planning Manager) in a role that focuses more on supporting other planners involved in the District Plan Review, reviewing material prepared as part of the Review, and general project management.

I have Bachelor of Science majoring in Geography from the University of Canterbury.

I am an associate member of the New Zealand Planning Institute.

Code of Conduct

Although this is a Council hearing, I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. I have complied with the Code of Conduct when preparing this statement and I agree to comply with it when I give any oral evidence.

Other than where I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinion. Where I have set out opinions in my evidence, I have given reasons for those opinions.

Appendix 2: Recommended amendments to the Earthworks, Financial Contributions and Subdivision chapters

This appendix sets out my revised and updated recommended amendments in response to statements of evidence from submitters.

Amendments recommended in this rebuttal evidence are shown in blue underline or ~~strike-through~~⁴.

Definitions

Minor earthworks

means earthworks for the purposes of piling, trenching, geotechnical investigations, contaminated land investigations, interments within existing cemeteries or urupā, soakpits, stormwater detention tanks, stormwater treatment devices (excluding sediment retention ponds), rainwater tanks, wastewater mitigation tanks, and the replacement or removal of underground petroleum storage systems.

Earthworks

Introduction – Other relevant legislation and planning documents

Earthworks are managed through a range of planning documents in addition to the District Plan. These include:

...

- The following National Environmental Standards:
 - National Environmental Standards for Electricity Transmission Activities 2009
Electricity Network Activities 2026,

...

Rule EW-R16

EW-R16	Earthworks and vertical holes within the National Grid Yard not associated with infrastructure
All Zones	1. Activity status: Permitted Where: a. Compliance is achieved with EW-S13: Earthworks and vertical holes within the National Grid Yard not associated with infrastructure.

⁴ The convention is to show recommended amendments from the s42A report in red underline and ~~strike-through~~ and additional recommended amendments from the rebuttal in blue underline and ~~strike-through~~. In the case of the additional recommended amendments for the Earthworks and Subdivision chapters, it is clearer to communicate those amendments in relation to the provisions as notified, rather than to the s42A report versions.

All Zones	2. Activity status: Restricted discretionary Where: a. Compliance is not achieved with EW-R16.1. Matters of discretion are restricted to: 1. The matters of discretion of any infringed standard. 2. The matters in EW-P15: Earthworks and vertical holes within the National Grid Yard not associated with infrastructure. Notification: Public notification is precluded for applications under this rule. Notice of any application for resource consent under this rule must be served on Transpower New Zealand Limited.
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Standard EW-S13

EW-S13	Earthworks and vertical holes within the National Grid Yard not associated with infrastructure
All Zones	1. The depth of earthworks and vertical holes in the National Grid Yard must be no greater (measured vertically) than: a. 300 millimetres within 6 metres of the outer visible edge of a foundation of any National Grid support structure, or b. 3 metres between 6 metres and 12 metres from the outer visible edge of a foundation of any National Grid support structure. 2. Earthworks and vertical holes must not: a. Result in a reduction in the ground to conductor clearance distances as required in Table 4 of the (File, 50, New Zealand Electrical Code of Practice for Safe Electrical Distances (NZECP 34:2001) ISSN 01140663. b. Compromise the stability of any National Grid Support Structure. c. Permanently physically impede vehicular access to a National Grid support structure. 3. The following are exempt from this standard: a. Earthworks and vertical holes that are undertaken by the operator of the National Grid. b. Earthworks and vertical holes for the repair, sealing or resealing of a footpath, driveway or farm track. c. Vertical holes not exceeding 500 millimetres in diameter that: i. Are more than 1.5 metres from the outer edge of the pole support structure or stay wire, or ii. Are a post hole for a farm fence or horticulture structure more than 6 metres from the visible outer edge of a tower or support structure foundation. d. Earthworks and vertical holes subject to a dispensation from Transpower under (File, 50, New Zealand Electrical Code of Practice for Safe Electrical Distances (NZECP 34:2001) ISSN 01140663. Matters of discretion if the standard is breached: 1. Impacts on the operation, maintenance, upgrading and development of the National Grid.

	2. The risk to the structural integrity of the affected National Grid support structures. 3. Any impact on the ability of Transpower to access the National Grid. 4. The risk of electrical hazards affecting public or individual safety, and the risk of property. 5. Technical advice provided by Transpower. Any effects on National Grid support structures including the creation of an unstable batter.
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Financial Contributions

No amendments recommended through this rebuttal.

Subdivision

Introduction – How this chapter works

This chapter includes objectives, policies, and rules that relate to subdivision generally as well as policies and rules that relate to specific types of subdivision and subdivision in specific zones, overlays, and other planning notations.

The general subdivision policies (SUB-P1 to SUB-P9) and rules (SUB-R1 to SUB-R5) apply to all subdivision applications, including those that affect land subject to overlays and other planning notations. The zone-specific and topic-specific policies (SUB-P10 to SUB-P27) and related rules (SUB-R6 to SUB-R25) apply to subdivisions of land subject to the applicable overlay. They apply in addition to the general subdivision provisions.

For the avoidance of doubt, subdivision of land subject to an overlay or other planning notation must comply with the relevant general rules as well as the overlay/planning notation specific rules. Where multiple rules apply, the activity status for the subdivision is the more onerous activity status.

The Financial Contributions chapter contains a subdivision rule that relates to and triggers the need for financial contribution where subdivision creates any vacant allotments.

[The National Environmental Standards for Electricity Network Activities 2026 includes regulations that apply to subdivision in the National Grid Subdivision Corridor \(mapped as an Information layer on the District Plan maps\).](#)

Rule SUB-R24

SUB-R24		Subdivision of land within the National Grid Subdivision Corridor Overlay
	All Zones	1. Activity status: Restricted discretionary Where: a. All resulting allotments, other than allotments for roads, accessways, or network utilities, can accommodate building platforms for sensitive activities that are located entirely outside of the National Grid Yard, and

		b. Physical access to any National Grid support structures located on the allotments is maintained. Matters of discretion are restricted to: 1. The matters in SUB-P25: Subdivision of land within the National Grid Subdivision Corridor. Notification provisions: Public notification is precluded for applications under this rule. Notice of any application for resource consent under this rule must be served on Transpower New Zealand Limited.
	All Zones	2. Activity status: Non-complying Where: a. Compliance is not achieved with SUB-R25.1.