



*Western Bay of Plenty  
District Council*

Change to the District Plan - First Review

## **Plan Change 85**

# **Cleanfill Activities in the Rural, Future Urban, Lifestyle and Rural-Residential Zones**

Section 32 Report



## **1.0 Introduction**

### **1.1. General Introduction and Background**

The purpose of this report is to consider a plan change to include rules within the District Plan to manage amenity and transportation related effects associated with the disposal of cleanfill at private properties (i.e. not authorised municipal and commercial landfills) within the District's rural environment. For the purposes of this report, the 'rural environment' means land in the Rural, Future Urban, Lifestyle and Rural Residential Zones.

## **2.0 Resource Management Act 1991**

### **2.1. Section 32 – Requirements for Preparing Evaluation Reports**

Before a proposed plan change can be publicly notified the Council is required under section 32 ('s.32') of the Resource Management Act 1991 ('the Act' or 'RMA') to carry out an evaluation of alternatives, costs and benefits of the proposal. With regard to the Council's assessment of the proposed plan change, s.32 requires the following:

- (1) An evaluation report required under this Act must—*
  - (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
  - (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
    - (i) identifying other reasonably practicable options for achieving the objectives; and*
    - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
    - (iii) summarising the reasons for deciding on the provisions; and*
  - (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*
  
- (2) An assessment under subsection (1)(b)(ii) must—*
  - (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
    - (i) economic growth that are anticipated to be provided or reduced; and*
    - (ii) employment that are anticipated to be provided or reduced; and*
  - (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*
  - (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*
  
- (3) If the proposal (an amending proposal) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an existing proposal), the examination under subsection (1)(b) must relate to—*
  - (a) the provisions and objectives of the amending proposal; and*

- (b) *the objectives of the existing proposal to the extent that those objectives—
  - (i) are relevant to the objectives of the amending proposal; and
  - (ii) would remain if the amending proposal were to take effect.*

(4) *If the proposal will impose a greater prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.*

(4A) *If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—*

- (a) *summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and*
- (b) *summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.*

## **2.2. Section 74 – Iwi Management Plans**

In accordance with Section 74(2A) of the Act, Council must take into account any relevant planning document recognised by an iwi authority that has been lodged with Council.

There are seven hapu management plans that have been lodged with the Council. These are:

- a. Te Mana Taiao o Ngai Tamarawaho Hapu Management Plan (2013);
- b. Ngai Te Ahi Hapu Management Plan (2013);
- c. Matakana Island and Rangiwaea Islands Hapu Management Plan (2012);
- d. Te Awaroa – Ngati Kahu Environmental Management Plan (2011);
- e. Te Awanui Tauranga Harbour Iwi Management Plan (2008);
- f. Pirirakau Hapu Environmental Management Plan (2004); and
- g. Tapuika Environmental Management Plan (2014).

As relevant to this plan change, the key theme arising from a review of these hapu and environmental management plans is the importance of protecting wahi tapu, sites of significance and cultural features and landscapes. In addition, the potential for earthworks activities to adversely affect these values is identified. Some of the management plans include specific policy direction to require consultation with the hapu on earthworks proposals, and the need for cultural monitoring during physical works.

The rules within the District Plan that protect cultural sites of significance will remain unchanged, and are not affected by this proposed plan change.

As part of a separate process to this plan change, Council is currently reviewing the provisions of the District Plan in relation to how they provide for the management of Māori cultural values. It is anticipated that the broader review of District Plan provisions to manage cultural values will

identify whether there is a need for cleanfill and earthworks rules to be changed to provide for cultural values in a manner consistent with the RMA.

### **Clause 3 of Schedule 1 - Consultation**

Clause 3(1) of Schedule 1 of the RMA requires the Council to consult the following during the preparation of a proposed plan:

- a. The Minister for the Environment;
- b. Other Ministers of the Crown who may be affected;
- c. Local authorities who may be affected;
- d. Tangata Whenua of the area who may be affected (through iwi authorities); and
- e. Any customary marine title group in the area.

Information was provided to the Minister for the Environment on a range of proposed plan changes and feedback has been requested. No feedback has been received.

No other Ministers of the Crown or marine title groups are considered affected by the proposed change.

The Bay of Plenty Regional Council manages effects associated with earthworks (including the deposition of cleanfill material) through the Bay of Plenty Regional Natural Resources Plan, and may therefore be affected by the proposed change. Regional Council staff have advised they support the intent of the proposed plan change, however, they would also like to ensure that the rules are not overly restrictive, such that they limit the capacity of the District to provide for cleanfill activities.

Under Clause 3B of Schedule 1, with respect to Tangata Whenua, the Council is treated as having consulted iwi authorities if it:

- (a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and*
- (b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and*
- (c) consults with those iwi authorities; and*
- (d) enables those iwi authorities to identify resource management issues of concern to them; and*
- (e) indicates how those issues have been or are to be addressed.*

Tangata Whenua have been consulted through the Tauranga Moana and Te Arawa ki Tai Partnership Forum on 14 March 2019 and 25 June 2019. No specific feedback was provided in relation to this proposed plan change.

In addition, the Council engaged with the public to request input prior to the writing of this report. This was done through notices in local newspapers and the Council's 'Have Your Say' website.

Two people provided feedback outlining concerns associated with cleanfill activities in the District. One person identified that the deposition of cleanfill is a particular problem in the Welcome Bay area due to the large number of gullies, and the short distance to development sites.

Specific concerns identified by these people are associated with noise, pollution, traffic and safety, effects on water bodies and flooding. The feedback suggested cleanfill could be better managed by preventing the deposition of cleanfill in wetland gullies and near streams, and by avoiding truck movements during school drop off and pick up times.

One person thought 500m would be an appropriate separation distance to be maintained between large scale cleanfill activities and other sensitive uses (e.g. dwellings and childcare centres), while the other person thought 20km would be an appropriate distance.

Council also engaged with the following groups and stakeholders on a range of proposed plan changes:

- a. Representatives of the kiwifruit industry through NZKGI;
- b. New Zealand Transport Agency ('the Agency'); and
- c. Toi Te Ora Public Health.

The kiwifruit industry representatives did not have any concerns with the concept of requiring resource consent for large scale cleanfill activities, and noted that effects would depend very much on the characteristics of the site. With respect to separation distances, the kiwifruit industry representatives thought that a separation distance of 300m was too great, and that 50m-100m may be more appropriate for the rural environment.

The New Zealand Transport Agency indicated in a meeting with Council staff that they are supportive of the concept of the proposal to include rules to better manage cleanfill activities, and identified particular interest in relation to vehicle access and traffic on the State Highway network. A draft set of the District Plan provisions proposed through this plan change have been provided to the Agency for comment. At the time of writing this report, the Agency had not provided feedback on these, however it is understood that the concepts of the proposed changes are supported.

Toi Te Ora Public Health advised they had no specific concerns with the proposal, particularly if existing noise rules were to be retained.

### **3.0 Issue 1 – Deposition of cleanfill in the Rural, Future Urban, Lifestyle and Rural-Residential Zones**

#### **3.1. Introduction**

Due to the extent and scale of earthworks being undertaken around the Western Bay of Plenty (and within Tauranga City), there has been an increasing need for developers (or their contractors) to dispose of large

quantities of cleanfill material at off-site locations. In some cases, this material is being deposited on private properties (i.e. not authorised landfills) within the rural environment as part of re-contouring works to improve the usability of productive land.

The issue that has been identified is that large scale cleanfill activities undertaken in the rural environment have caused amenity related concerns for neighbouring landowners in some situations. In particular, concerns have been associated with heavy vehicle traffic, noise, dust, vibration, loss of visual amenity, property damage and safety of access.

It has been identified that there may be a gap in the District Plan rules to adequately manage amenity effects on neighbouring landowners associated with large scale cleanfill activities, particularly where they involve the transportation of large amounts of material to a site and where this occurs in close proximity to sensitive activities (such as dwellings and childcare centres). In addition, the current rules do not allow for the management of transportation related effects associated with large scale cleanfill activities, including traffic effects, safety of access, and impacts on road surfaces.

### **3.2. District and Regional Council Functions & Rules**

Earthworks, including deposition of cleanfill, are controlled through rules in the Bay of Plenty Regional Plans and the Western Bay of Plenty District Plan. However, as each Council has different functions under the Resource Management Act 1991 (RMA), the matters which are controlled and assessed as part of any resource consent application vary.

#### **3.2.1. Regional Council**

The Regional Council is responsible for the control of land for the purposes of soil conservation, maintenance and enhancement of the quality of water and ecosystems in water bodies and in coastal water, and the avoidance or mitigation of natural hazards. It also has responsibility for identifying and monitoring contaminated land, and for controlling discharges to land, air and water.

As a consequence of these functions, Regional Council earthworks consents (required under the Bay of Plenty Regional Natural Resources Plan ('NRP') and Regional Air Plan) focus on managing effects associated with:

- Erosion;
- Sediment run-off;
- Replacement of topsoil;
- Overland flowpaths for stormwater;
- Natural hazards (e.g. flooding and liquefaction);
- Ecological values;
- Disturbance of contaminated land;
- Discharge of contaminants to water, dust, odour; and
- Māori cultural values.

As a result, Regional Council consents do not typically impose conditions to manage effects associated with traffic and amenity related matters (e.g. noise, rural character, traffic volumes and safety).

On a typical and relatively flat site, resource consent is only required from the Regional Council for earthworks where the exposed area exceeds one hectare and the volume of material is greater than 5,000m<sup>3</sup> (in a 12 month period). For sites with slopes exceeding 15 degrees, or where there are other important values or risks (e.g. Sand Dune Country, Riparian Management Zones, Coastal Margins), the limits on area and volume are reduced.

Under the Bay of Plenty Regional Air Plan, any discharge of dust associated with earthworks is permitted, provided that the discharge is not noxious or dangerous, offensive or objectionable beyond the subject property, and it is not from an industrial or trade premises. Regional Council rules do not distinguish between deposition of cleanfill and other kinds of earthworks (e.g. excavation works or deposition of material other than cleanfill).

### **3.2.2. District Council**

The District Council is responsible for the control of any actual or potential adverse effects of the use, development and protection of land, and the control of the emission of noise.

The District Plan currently contains a rule (Rule 4C.2(a)(i)) which allows for the deposition of cleanfill on private land (i.e. not an authorised landfill) without the need for resource consent. To proceed as a permitted activity, compliance must be achieved with the performance activity standards (relating to screening, wind mitigation, and disposal of hazardous substances) and any other relevant rules in the District Plan, such as noise limits and sightlines from vehicle entrances.

In some cases, resource consent is still required for the deposition of cleanfill if the works are located within significant areas, such as Significant Natural Features, Identified Outstanding Landscape Features, and Identified Significant Historic Heritage Features, or within identified natural hazard areas.

Noise associated with the cleanfill activities is required to achieve the requirements in Section 4C of the District Plan, however, there are no specific rules controlling vibration.

As activities involving the deposition of cleanfill on private land are generally permitted within the District, there is currently limited opportunity to manage adverse effects associated with these works.

To better manage effects of cleanfill activities, a plan change is being considered. Any such plan change should focus on managing effects associated with the district council's functions (e.g. noise and visual amenity) and should avoid duplicating matters controlled by the Regional

Council (e.g. dust and sediment and erosion control). In addition, it is anticipated that issues associated with off-site amenity effects will generally only occur where cleanfill activities are in close proximity to activities sensitive to those effects (e.g. dwellings and childcare centres).

### 3.3. Review of Approach by Other District Councils

To assist with the analysis of earthworks and cleanfill provisions, a review has been undertaken of the approach taken in other Districts, including Auckland, Matamata-Piako, South Waikato, Waipa, Whakatane, Hastings, and Selwyn. In general terms, these councils provide for earthworks (including cleanfill activities) as permitted activities in rural areas subject to conditions. While there are a range of permitted activity conditions, all (except Whakatane) have a limit on the volume on earthworks permitted and some also place limits on the maximum area.

These councils typically limit the volume of earthworks or cleanfill to 1,000m<sup>3</sup>, 2,000m<sup>3</sup> or 5,000m<sup>3</sup> per year. Auckland has a much stricter limit of 250m<sup>3</sup> in volume (and a limit of 500m<sup>2</sup> in area) per year, except that any earthworks associated with a farming activity are permitted regardless of volume or area. In addition, Hastings District Council's limit is 2,000m<sup>3</sup> per hectare of site area for general earthworks and 1,000m<sup>3</sup> per hectare for cleanfill. Whakatane has a different approach and, instead of limiting the extent and scale of earthworks, it places a 12 month limit on all construction projects (including earthworks).

### 3.4. Option 1 – Status Quo – Cleanfill activities permitted

This option is to retain the existing rules which specifically allow the disposal of cleanfill on private property (i.e. not an authorised municipal or commercial landfill) as a permitted activity, subject to conditions.

<b>Costs</b>	<ul style="list-style-type: none"> <li>Does not allow transportation and amenity effects to be assessed and managed as part of a resource consent process. This is an issue where neighbouring landowners are experiencing adverse effects which are not prevented by the permitted activity status. It is also an issue in terms of managing traffic and safety related effects on the transportation network.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>No limit on the volume or area of cleanfill for land owners and developers.</li> <li>No additional time and cost associated with resource consent applications.</li> <li>Existing rules that manage amenity effects associated with noise and visual amenity, and the disposal of hazardous substances will continue to apply.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>Not effective or efficient in addressing the identified issue.</li> </ul>
<b>Risks of Acting/ Not Acting if there is</b>	<ul style="list-style-type: none"> <li>N/A – Sufficient information is available.</li> </ul>



<b>uncertain or insufficient information about the subject matter</b>	
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**3.5. Option 2 – Introduce District Plan provisions (including policies, rules and assessment criteria) to require resource consent for cleanfill activities involving the deposition of more than 1,000m<sup>3</sup> of material per year in the Rural, Future Urban, Lifestyle and Rural Residential Zones**

This option includes the introduction of a rule, and associated plan provisions, to require resource consent for cleanfill activities in the Rural, Future Urban, Lifestyle and Rural Residential Zones that may impact on the amenity of the surrounding environment, and that may have effects on the transportation network.

As identified above, amenity concerns are more likely to arise where large amounts of material are deposited at a site that is in close proximity to other sensitive sites. A limit of 1,000m<sup>3</sup> per year would result in approximately 200 to 400 truck movements per year (assuming each truck carries between 5m<sup>3</sup> and 10m<sup>3</sup> of material). There is also potential for this volume of heavy vehicle traffic to cause adverse effects on the surrounding transportation network as a result of traffic, safety of access, and wear and tear on roading infrastructure.

Matters of discretion would be focussed on assessing and managing amenity related effects, including effects associated with noise, vibration, traffic movements, vehicle access, hours of operation, visual effects during the construction phase, and the duration and staging of works. There is also the need to consider potential effects on roading infrastructure, as well as other network utilities that may be present (e.g. telecommunications, street lights, electricity poles). Effects associated with dust are managed by the Regional Council so it is not proposed to manage such effects through District Plan rules.

<b>Costs</b>	<ul style="list-style-type: none"> <li>▪ If exceeding 1,000m<sup>3</sup>, will add additional time and cost for property owners to gain consent.</li> <li>▪ The limit of 1,000m<sup>3</sup> does not take into account that a rural property (receiving cleanfill) may be large and far away from neighbours meaning there may be no amenity related effects on neighbours.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>▪ Still allows property owners to deposit some cleanfill without the need for resource consent.</li> <li>▪ Enables assessment and management of amenity related effects of cleanfill activities undertaken in rural areas, where there is potential to result in adverse effects on the amenity of surrounding properties.</li> <li>▪ Provides for the assessment and management of transportation related effects, where cleanfill activities have</li> </ul>

	<p>potential to result in adverse effects associated traffic, access, and roading infrastructure.</p> <ul style="list-style-type: none"> <li>▪ Potential to collect financial contributions to help fund roading maintenance and repair required as a result of additional heavy vehicle traffic.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Effective because the rule and associated provisions would address the identified issue being that the amenity and transportation related effects associated with cleanfill activities are not adequately managed through the current rules.</li> <li>▪ The introduction of a rule and associated provisions is considered to be the most efficient method for addressing the issues that have been identified.</li> </ul>
<b>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</b>	<ul style="list-style-type: none"> <li>▪ N/A – Sufficient information is available.</li> </ul>

**3.6. Option 3 – Introduce District Plan provisions (including policies, rules and assessment criteria) to require resource consent for cleanfill activities involving the deposition of more than 5,000m<sup>3</sup> of material per year in the Rural, Future Urban, Lifestyle and Rural Residential Zones**

This option includes the introduction of a rule, and associated plan provisions to require resource consent for cleanfill activities in the Rural, Future Urban, Lifestyle and Rural Residential Zones that may impact on the amenity of the surrounding environment, and that may have effects on the transportation network. A limit of 5,000m<sup>3</sup> per year would result in approximately 1,000 to 2,000 truck movements per year.

Matters of discretion would be the same as those under Option 2.

<b>Costs</b>	<ul style="list-style-type: none"> <li>▪ If exceeding 5,000m<sup>3</sup>, will add additional costs and time for property owners.</li> <li>▪ The limit of 5,000m<sup>3</sup> does not take into account that a rural property (receiving the cleanfill) may be large and far away from neighbours meaning there would be no effects on neighbours.</li> <li>▪ Taking into account the volume of truck movements to be generated (i.e. around 1,000 to 2,000 truck movements), a 5,000m<sup>3</sup> limit will not always be adequate to manage effects on the transportation network, particularly if the traffic movements occur over a relatively short period of time.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>▪ Allows property owners to deposit a relatively large amount of cleanfill without the need for resource consent.</li> <li>▪ Enables assessment and management of amenity related</li> </ul>

	<p>effects of cleanfill activities undertaken in rural areas, where there is potential to result in adverse effects on the amenity of surrounding properties.</p> <ul style="list-style-type: none"> <li>▪ Provides for the assessment and management of transportation related effects, where cleanfill activities have potential to result in adverse effects associated traffic, access, and roading infrastructure.</li> <li>▪ Potential to collect financial contributions to help fund roading maintenance and repair required as a result of additional heavy vehicle traffic.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Partially effective in addressing the identified issue, however, there is a risk that amenity and transportation related effects may not be adequately managed due to the scale of the activity and potential generation of heavy vehicle traffic.</li> <li>▪ Somewhat efficient, however, as identified above, there is some risk that this option will not fully resolve the identified issue.</li> </ul>
<b>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</b>	<ul style="list-style-type: none"> <li>▪ N/A – Sufficient information is available.</li> </ul>

**3.7. Option 4 – Introduce District Plan provisions (including policies, rules and assessment criteria) to require resource consent for cleanfill activities involving the deposition of more than 30,000m<sup>3</sup> of material per year in the Rural, Future Urban, Lifestyle and Rural Residential Zones**

This option includes the introduction of a rule, and associated plan provisions to require resource consent for cleanfill activities in the Rural, Future Urban, Lifestyle and Rural Residential Zones that will likely have a significant impact on the amenity of the surrounding environment. A limit of 30,000m<sup>3</sup> would result in approximately 6,000 to 12,000 truck movements per year.

Matters of discretion would be the same as those under Options 2 and 3.

<b>Costs</b>	<ul style="list-style-type: none"> <li>▪ Potential for significant adverse effects on surrounding neighbours.</li> <li>▪ Does not enable assessment of effects associated with a proposed cleanfill activity of this size and no ability to impose conditions of consent to manage effects.</li> <li>▪ Potential for significant transportation related effects, including effects on roading infrastructure.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>▪ Allows a significant volume of material to be removed or deposited before property owners are required to obtain resource consent.</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Reduces potential for additional costs and time for property owners intending to carry out earthworks and cleanfill activities.</li> <li>▪ Potential to collect financial contributions to help fund roading maintenance and repair required as a result of additional heavy vehicle traffic.</li> </ul>
<b>Effectiveness/ Efficiency</b>	<ul style="list-style-type: none"> <li>▪ Not effective or efficient in addressing the identified issue.</li> </ul>
<b>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</b>	<ul style="list-style-type: none"> <li>▪ N/A – Sufficient information is available.</li> </ul>

**3.8. Option 5 – Introduce District Plan provisions (including policies, rules and assessment criteria) to require resource consent for cleanfill activities based on not only the volume of material (e.g. 1,000m<sup>3</sup>) but also other location based criteria**

This option is to include rules permitting smaller scale cleanfill activities, and restricting larger scale cleanfill activities based on the volume of fill and the location of the site with respect to other sensitive activities (e.g. dwellings and childcare centres).

There are a range of ways that this option could be developed, and it may include a stepped approach with a more permissive rules framework for sites less sensitive to adverse effects, and a more stringent approach where the risk of adverse effects is higher.

For example, the deposition of cleanfill could be permitted in the Rural, Future Urban, Lifestyle and Rural-Residential Zone if:

- a. The volume of cleanfill material is less than 1,000m<sup>3</sup>;
- b. The volume of cleanfill material is more than 1,000m<sup>3</sup>, but less than 5,000m<sup>3</sup> and the following criteria are achieved:
  - i. The access to the site and the cleanfill area is located at least 300m from:
    - the *notional boundary* of any dwelling or minor dwelling on a separate site in different ownership; and/or
    - the boundary of any *sensitive site*.
  - ii. Vehicle access to the site is not via a shared accessway, driveway, or Right of Way.

- iii. Where all the owners and occupiers of land affected by (i) and (ii) provide written approval to the Council, the activity shall be permitted.
- c. If the cleanfill activity does not meet (b) or involves the deposition of more than 5,000m<sup>3</sup> resource consent is required.

The 300m separation distance suggested above is intended to be a guide, however, other separation distances may be considered more appropriate in the context of the rural environment and having regard to the issues that have been raised by the community in the past. Other options could be:

- 60m, similar to the separation distance required for rural contractors depots from dwellings;
- 100m;
- 200m, similar to the separation distance required for new dwellings close to the Post Harvest Zone;
- 300m, similar to the separation distance required between dwellings and intensive farming activities in the Rural Zone; or
- 500m.

Consideration could also be given to allowing any volume of cleanfill if a site was located a significant distance from other sensitive activities (e.g. 500m or more).

Matters of discretion would be the same as those discussed under Option 2.

<b>Costs</b>	<ul style="list-style-type: none"> <li>▪ Additional location/site specific criteria may not anticipate or accommodate all scenarios as each site and location has its own set of site specific circumstances.</li> <li>▪ Does not allow assessment of effects on the transportation network, including potential wear and tear of road surfaces, when resource consent is not required because separation distances are met.</li> <li>▪ Potential for additional costs and time for property owners intending to carry out cleanfill activities.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>▪ Including a sliding scale and separation distances allows for some cleanfill to be deposited where there is low risk of adverse effects on amenity values.</li> <li>▪ Requires consents where there is a higher risk of adverse amenity effects and allows management of amenity and transportation related effects through the consent process.</li> <li>▪ The additional criteria recognises that adverse amenity effects may only occur when there are dwellings and other sensitive activities within close proximity, or where there is a shared accessway.</li> <li>▪ Reduces potential for additional costs and time for property owners in situations where effects are acceptable.</li> <li>▪ Potential to collect financial contributions to help fund roading maintenance and repair required as a result of additional heavy vehicle traffic, but only where consent is required for amenity reasons.</li> </ul>
<b>Effectiveness/</b>	<ul style="list-style-type: none"> <li>▪ Partially effective in addressing the identified issue that</li> </ul>

<b>Efficiency</b>	<p>cleanfill activities are causing amenity related issues in rural areas.</p> <ul style="list-style-type: none"> <li>▪ Partially effective in addressing the issue that cleanfill activities can result in adverse effects on the transportation network, including as a result of traffic generation, safety, and wear and tear on the roading network.</li> <li>▪ Not efficient in addressing the two issues that have been identified with respect to amenity and transportation related effects.</li> </ul>
<b>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</b>	<ul style="list-style-type: none"> <li>▪ N/A – Sufficient information is available.</li> </ul>

### 3.9. Preferred Option

The preferred option is Option 2:

- a. Introduce District Plan provisions (including policies, rules and assessment criteria) to require resource consent for cleanfill activities involving the deposition of more than 1,000m<sup>3</sup> of material per year in the Rural, Future Urban, Lifestyle and Rural Residential Zones as set out in **Attachment A**.

### 3.10. Reasons

Option 2 is considered to be the most effective and efficient method to address the identified issues that cleanfill activities are causing, including amenity and transportation related effects in the District’s rural environment.

Based on the anticipated level of heavy vehicle traffic to be generated by cleanfill activities, Option 2 is considered to provide an appropriate trigger to require resource consent to enable Council and the New Zealand Transport Agency to assess traffic and infrastructure related effects and to impose conditions, if required.

It is also considered that this option allows a reasonable amount of cleanfill material to be deposited without the need for resource consent, and requires resource consent where there is a greater risk of effects on amenity values and the transportation network.

With respect to the feedback provided through consultation, the following comments are provided in response to matters that are not otherwise addressed (either directly or indirectly) throughout this report:

- a. Activities (such as the deposition of cleanfill material) in wetlands are controlled by rules in the Bay of Plenty Regional Natural Resources Plan. As such, it is not considered necessary to duplicate such rules in the District Plan; and
- b. Consideration has been given to the need to avoid truck movements during school drop off and pick up times. This would be a relevant matter for consideration as part of any resource consent application for a restricted discretionary activity and, if required, the proposed matters of discretion allow for restrictions on hours of operation. Given that not all cleanfill activities will occur near schools, it is not considered necessary to include rules to specifically exclude traffic movements from occurring at school drop off and pick up times.

## 4C.2 Storage and Disposal of Solid Waste

### Explanatory Statement

*Council* wishes to more effectively manage the private storage and disposal of solid waste as an adjunct to its Solid Waste Management Strategy.

Provision is made to enable onsite storage and disposal of non-toxic or non-hazardous solid wastes without resource consent, subject to meeting performance standards designed to mitigate any potential adverse effects.

The disposal of *hazardous substances* unless properly managed can cause major adverse environmental effects. Accordingly provision is made to dispose of such materials at authorised facilities only.

#### 4C.2.1 Significant Issue

The potential for the storage and disposal of solid wastes to generate adverse environmental effects including, for example: ~~odour, vermin, visual intrusion and litter.~~

- (a) Effects on the amenity values of the surrounding area;
- (b) Effects on the *transportation network* and other *infrastructure and network utilities*, and
- (c) Effects on the safety of road users and vehicle accessways.

#### 4C.2.2 Objective and Policies

##### 4C.2.2.1 Objective

Protecting the environment from the adverse effects of the storage and disposal of solid wastes.

##### 4C.2.2.2 Policy

1. Ensure the management of solid waste storage and disposal so as to avoid or minimise adverse environmental effects.
2. To encourage waste minimisation and disposal of waste only to an authorised landfill.
3. Manage the deposition of *cleanfill* material to minimise adverse effects on the *transportation network, infrastructure and network*



utilities, safety and convenience of road and access users, and on the amenity of residential activities and other *sensitive sites*.

### **4C.2.3 Activity Lists**

#### **~~4C.2.3.1 Permitted Activities~~**

- ~~(a) Disposal on private land (i.e. not to an authorised landfill) of the following solid waste materials:~~
- ~~(i) *Cleanfill*, whether originating from the site on which it is disposed or not;~~
  - ~~(ii) Organic waste (e.g. shelter trimmings, home composting) that originates from the site itself.~~

#### **~~Explanatory Note:~~**

~~Disposal of all solid waste on private land (including cleanfill) is subject to the provisions of the Regional Water and Land Plan.~~

#### **~~4C.2.3.2 Discretionary Activities~~**

~~Storage or disposal on private land (i.e. not to an authorised landfill) of solid waste (excluding *cleanfill*) that does not originate from the site on which it is located, whether man-made or natural.~~

#### **4C.2.3.1 Rural, Future Urban, Rural-Residential and Lifestyle Zones**

##### **(a) Permitted Activities**

Disposal on private land (i.e. not to an authorised landfill) of the following solid waste materials:

- (i) *Cleanfill* material originating from off the disposal site where the total volume of material does not exceed 1,000m<sup>3</sup> within any 12 month period;
- (ii) *Cleanfill* material originating from the same site on which it is to be disposed;
- (i) Organic waste (e.g. shelter trimmings, home composting) that originates from the site itself.

**(b) Restricted Discretionary Activities**

- (i) Disposal of *cleanfill* material on private land (i.e. not to an authorised landfill) where the *cleanfill* material originates from off the site and the volume of material exceeds 1,000m<sup>3</sup> within any 12 month period.

**(c) Discretionary Activities**

- (i) Storage or disposal on private land (i.e. not to an authorised landfill) of solid waste (excluding *cleanfill* material) that does not originate from the site on which it is located, whether man-made or natural.

**Explanatory Notes:**

- (i) These rules do not apply to the disposal of solid waste at authorised municipal or privately managed landfills and organic waste facilities (see Rule 10.3(ay)).
- (ii) The volume of *cleanfill* material is to be calculated as a solid measure compacted in place at the disposal site.
- (iii) Disposal of all solid waste on private land (including *cleanfill*) is subject to the provisions of the Regional Water and Land Plan.

**4C.2.3.2 All Other Zones (Residential, Medium Density, Commercial, Commercial Transition, Industrial, Post Harvest, All Terrain Park)**

**(a) Permitted Activities**

Disposal on private land (i.e. not to an authorised landfill) of the following solid waste materials:

- (i) *Cleanfill* material whether originating from the site on which it is disposed or not;
- (ii) Organic waste (e.g. shelter trimmings, home composting) that originates from the site itself.

**(b) Discretionary Activities**

Storage or disposal on private land (i.e. not to an authorised landfill) of solid waste (excluding *cleanfill* material) that does not originate from the site on which it is located, whether man-made or natural.

**Explanatory Notes:**

- (i) These rules do not apply to the disposal of solid waste at authorised municipal or privately managed landfills and organic waste facilities (see Rule 10.3(ay)).

- (ii) The volume of *cleanfill* material is to be calculated as a solid measure compacted in place at the disposal site.
- (iii) Disposal of all solid waste on private land (including *cleanfill*) is subject to the provisions of the Regional Water and Land Plan.

### 4C.2.4 Activity Performance Standards

#### 4C.2.4.1 General

The following performance standards shall be met by all Permitted and Controlled Activities and shall be used as a guide for all other activities. Any Permitted Activity which fails to comply with any of these standards shall be deemed a Discretionary Activity for the particular non-compliance.

##### (a) Screening

All stand alone or ancillary outdoor solid waste storage and disposal areas shall be screened from adjacent Residential, Future Urban, Rural-Residential, Lifestyle and Rural Zones, recreation reserves and the public road. Screening shall be as required in Section 4C.5

##### **Explanatory Note:**

Mineral exploration, mining and *quarrying* activities will be exempt from this rule as the visual mitigation of these activities shall be in accordance with Rule 18.5.9(g).

##### (b) Wind mitigation

All solid waste material shall be stored and disposed of in a manner that ensures it will not be blown beyond the boundaries of the site.

##### (c) Disposal of hazardous substance

The disposal of *hazardous substances* (excluding from *dwelling*s) shall be to authorised landfills that have been specifically approved to receive *hazardous substances* or to approved industry collectors such as AgRecovery or in accordance with the provisions of NZS 8409:2004 Management of Agrichemicals Appendix S 5.1.

##### (d) Processing of Cleanfill Material Sourced Off Site

All *cleanfill* material sourced from off the site shall be ready for disposal without the need for any dismantling or processing on the site where it is to be disposed.

**4C.2.5 Matters of Discretion**

**4C.2.5.1 Restricted Discretionary Activities Criteria**

~~———— The matters that Council will take into account include but are not limited to:~~

- ~~(a) ——— The existing amenity of the surrounding environment.~~
- ~~(b) ——— Proximity of the site to public roads and services.~~

~~Council shall restrict its discretion to the following matters and shall use them as a guide for Discretionary Activities:~~

- ~~(a) Effects on the amenity values of the surrounding area, including effects associated with noise and disturbance, vibration, visual amenity, traffic movements, hours of operation and duration of the activity.~~
- ~~(b) Effects associated with vehicle access to and from the site, including safety and convenience for other road and access users.~~
- ~~(c) Effects of traffic movements on the safety, efficiency and maintenance of the *transportation network*.~~
- ~~(d) Effects on *infrastructure and network utilities*.~~
- ~~(e) The views of the New Zealand Transport Agency regarding effects on the State Highway network.~~
- ~~(f) The requirement for financial contributions for capacity consumption and pavement consumption as assessed in accordance with Section 11.~~
- ~~(g) Measures to avoid, remedy or mitigate adverse effects in matters identified (a) to (f).~~