

MEETING — AGENDA —

Ngā Take

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*Western Bay of Plenty
District Council*

POLICY COMMITTEE

Komiti Kaupapa Here

PP22

Wednesday, 24 July 2019

Council Chambers

Barkes Corner, Tauranga

9.30am



Te Kaunihera a rohe mai i nga Kuri-a-Whare ki Otamarakau ki te Uru

4390

Notice of Meeting No PP22 Te Karere

Policy Committee Komiti Kaupapa Here

Wednesday, 24 July 2019
Council Chambers
Barkes Corner
9.30am

His Worship the Mayor

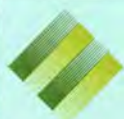
G J Webber

Councillors:

M Williams (Chairperson)
D Marshall (Deputy Chairperson)
G Dally
M Dean
M Lally
P Mackay
K Marsh
M Murray-Benge
J Palmer
J Scrimgeour
D Thwaites

Media
Staff

Miriam Taris
Chief Executive Officer
Western Bay of Plenty District Council



*Western Bay of Plenty
District Council*

Te Kaunihera a rohe mai i nga Kuri-a-Whareki ki Otamarakau ki te Uru

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Policy Committee Delegations

Mangai o Te Kaunihera

Quorum:

The quorum for this meeting is six members.

Role

Subject to compliance with legislation to develop plans and policies for the future direction of Council and its communities.

General Delegations

- To exercise all decision-making powers of Council within the Committee's scope of delegated functions and in accordance with its role, and to do anything precedent to the exercise by Council of its powers and duties as specified in Schedule 7 of the Local Government Act 2002 Clause 32 subclause 1 items b and h being specifically the following:
- To undertake on behalf of Council all processes and actions (including consultation) for the development of bylaws, remuneration and employment policy, and policies required to be adopted and consulted on under the Local Government Act 2002 developed for the purpose of the local governance statement precedent to adoption by Council.

Subject to compliance with legislation and the Long Term Plan to resolve all matters of policy and planning which do not require, under the Local Government Act 2002, a resolution of Council. Policy is defined as any matter relating but not limited to, the following:

- Policy Development
- Comprehensive Development Planning
- Environmental policy
- Matters of policy referred by Council, Community Boards or other committees
- Reserve Management Planning
- To conduct policy review and monitor policy variation frameworks
- To undertake on behalf of Council all processes and actions (including consultation) to develop bylaws precedent to the recommendation to Council for adoption of the bylaws

Subject to compliance with legislation and the Long Term Plan to resolve all matters of strategic policy outside of the Long Term Plan process, which does not require, under the Local Government Act 2002, a resolution of Council. Strategic policy is defined as any matter relating but not limited to, the following:

- Overall Infrastructure Strategies and financial Planning/Action Plans
- Policy direction for asset management planning
- To set service standards including levels of service.
- Utilities services/ infrastructure policy and planning
- Road / Transport policy and planning

- To receive and resolve on or recommend to Council or its Committees as appropriate the reports, recommendations and minutes of the following:
 - Regional Land Transport Committee
 - SmartGrowth Implementation Committee
 - And any other Joint Committee, working group or forum as directed by Council.
- To receive resolve on or refer to Council and its Committees as appropriate the recommendations from the Rural Forum.

Resource Management Act 1991 - District Plan Policy Development

- Pursuant to the Resource Management Act 1991 to establish and review objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district by:
- Developing to the point of notification all District Plan and Development Code Changes, variations, designations and reviews and built environment strategies.

Financial Delegations

Pursuant to Section 4(1) of the Public Bodies Contracts Act 1959, the Committee shall have the power to enter into contracts in respect of the Committee's functions to a maximum value of \$5,000,000 for any one contract, provided that the exercise of this power shall be subject to, and within the allocation of funds set aside for that purpose in the Long Term Plan, the Annual Plan and Budget or as otherwise specifically approved by Council.

To report to Council financial outcomes and recommend any changes or variations to allocated budgets.

Other

Pursuant to clause 32(1) of Schedule 7 of the Local Government Act 2002, each of the Mayor and Councillors, whether individually or collectively, the power to listen to and receive the presentation of views by people and to engage in spoken interaction with people pursuant to section 83(1)(d) of the Local Government Act 2002 in relation to any processes Council undertakes to consult on under the Special Consultative Procedure as required by the Local Government Act 2002 or any other Act.

The Committee may without confirmation by Council exercise or perform any function, power or duty relating to those matters delegated by Council in like manner, and with the same effect, as the Council could itself have exercised or performed them.

The Committee may delegate any of its functions, duties or powers to a subcommittee subject to the restrictions on its delegations and provided that any sub-delegation to subcommittees includes a statement of purpose and specification of task.

The Committee may make recommendations to Council or its Committees on any matters to achieve the outcomes required in the role of the Committee but outside its delegated authorities.

Agenda for Meeting No. PP22

Pages

**Present
In Attendance
Apologies**

Declarations of Interest:

Members are reminded of the need to be vigilant and to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest that they may have.

Public Forum

A period of up to 30 minutes is set aside for a public forum. Members of the public may attend to address the Committee for up to three minutes on items that fall within the delegations of the Committee provided the matters are not subject to legal proceedings, or to a process providing for the hearing of submissions. Speakers may be questioned through the Chairperson by members, but questions must be confined to obtaining information or clarification on matters raised by the speaker. The Chairperson has discretion in regard to time extensions.

Such presentations do not form part of the formal business of the meeting, a brief record will be kept of matters raised during any public forum section of the meeting with matters for action to be referred through the customer contact centre request system, while those requiring further investigation will be referred to the Chief Executive.

PP22.1	Katikati Beach Road Residential Structure Plan and Financial Contributions Schedule	7-21
	Attached is a report from the Senior Policy Analyst Resource Management dated 11 July 2019.	
PP22.2	Approval of Plan Change 82 - 90	22-178
	Attached is a report from the Resource Management Manager dated 11 July 2019.	22-24
	Attachment A: Section 82 - Post Harvest Zone - Review of Provisions	25-60

Attachment B: Section 83 - Accommodation Facility Permitted Limit	61-74
Attachment C: Section 84 - Public Trails (walkways, Cycleways, Bridleways and Similar	75-90
Attachment D: Section 85 - Cleanfill Activities	91-110
Attachment E: Section 86 - Floodable Areas	111-119
Attachment F: Section 87 - Frost Protection Fans	120-151
Attachment G: Section 88 - Noise Standards within Industrial Zones	152-159
Attachment H: Section 89 - Rural Contractors Depot	160-170
Attachment I: Section 90 - Home Enterprises - Sale of Goods	171-178

PP22.4

Approval to Notify Proposed Private Plan Change 91 Rangioru Business Park Water Supply Option 179-193

Attached is a report from the Resource Management Manager dated 11 July 2019.

Western Bay of Plenty District Council
Policy Committee

**Katikati Beach Road Residential Structure Plan and
Financial Contributions Schedule**

Purpose

The purpose of this report is to seek approval in principle for a structure plan and financial contributions schedule for the Katikati Beach Road 1 Area. These will be re-considered at a later date for inclusion in a potential future Plan Change.

Recommendations

- 1. THAT the Senior Policy Analyst Resource Management report dated 11 July 2019 and titled "Katikati Beach Road Residential Structure Plan and Financial Contributions Schedule" be received.***
- 2. THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.***
- 3. THAT the Committee resolves to approve in principle a structure plan and financial contributions schedule for the Katikati Beach Road 1 Area to be re-considered at a later date for inclusion in a potential future Plan Change.***



Tony Clow
**Senior Policy Analyst Resource
Management**

1. Background

Katikati's existing residential land supply is only capable of providing around 370 new lots/dwellings. This isn't expected to come onto the market all at once. Therefore, it is likely that the supply of sections available to the market will become very limited within the next few years.

Council has looked at a number of options for continuing to allow Katikati's future growth beyond its existing residential land supply. With the Park Road Dairy Farm being unavailable, the Beach Road 1 Area was selected as the next preferred option. It was selected because it is within close proximity and walking distance of the town centre, services and schools and is not disconnected from these by the current State Highway or any future Katikati Bypass. It is also close to existing residential areas and adjoins the Park Road Dairy Farm if ever it was to be developed.

To be used for future growth, the Beach Road 1 Area would require a change to the District Plan to rezone it from rural to residential. This would involve the preparation of a structure plan to determine the layout of roads, shared paths, reserves and utilities. It would also require a financial contributions schedule to show how the development will be funded. Rules would also be required to ensure that the development occurred efficiently. The area would also need to be added to the Bay of Plenty Regional Policy Statement (RPS) urban limits.

Council staff previously provided an update on the progress of the structure plan exercise and advised that there were issues that needed to be considered before making a decision to proceed further with the structure plan and to rezone the land. The main issue being that developers had signalled that the area would not be financially feasible in the current market. Their reasons were as follows:

- It would be too difficult to acquire the land because the majority of landowners were not interested in selling or developing at this stage.
- The required section sale prices of \$290,000 per lot to make a 20% profit were too high for the current market. The required section sales were likely to be even higher because developers are now required to achieve a 25-30% profit in order to receive bank loans.
- Property sales have been slowing in Katikati over the last few years creating doubt regarding if/when properties could be sold.

This also raised another issue being whether or not the Regional Council would be supportive of changing the urban limits to include this area. Without this support, it would be difficult for Council to rezone the land. The other issue discussed was whether Council should be proceeding with the rezoning of the Beach Road 1 Area given that there may be other mechanisms available soon which may allow a more suitable area of land to be acquired in the near future.

With the above issues considered, it was agreed that there was still value in completing the structure plan exercise for the Beach Road 1 Area. However, any Plan Change to formalise the structure plan and rezone the land to residential would be delayed until a later date (if proceeding with a Plan Change at all).

This option avoids Council committing to something that is unlikely to work in the current market while still allowing Council to have the structure plan approved in principle for timely notification if or when the market is more suitable for the feasible development of the area. It also allows Council to wait to see whether a more suitable area of land would become available in the meantime.

It would also meet Council's requirements to complete feasibility studies into Katikati's future growth options. Completing the studies would show that all options have been assessed, the most feasible option is unavailable and the next preferred location is not financially feasible at present but there is a structure plan in place for it if circumstances were to change.

2. Structure Plan and Financial Contributions Schedule

The structure plan exercise has been based on two possible scenarios for comparison purposes:

- 350 lots at approximately 15 dwellings per hectare of developable land
- 450 lots at approximately 20 dwellings per hectare of developable land to allow for higher density, a longer time period before further land is needed, and increased financial feasibility for the developer.

The structure plan exercise assumes that Katikati's growth will follow similar growth rates to that observed over the previous five years (excluding the Summerset Retirement Village development). This is approximately 45 dwellings per year. It has been assumed that this future growth will be split between the existing residential land supply (10 dwellings per year) and new structure plan area (35 dwellings per year).

For the purpose of this exercise, it is assumed that development would start in 2021 (based on an assumption that if a Plan Change was being notified this year, it may be operative by 2021).

The structure plan has been divided into a four development stages to calculate how quickly growth will occur in each stage and therefore when new or upgraded infrastructure will be necessary. The basic staging plan is shown on the map on the following page.

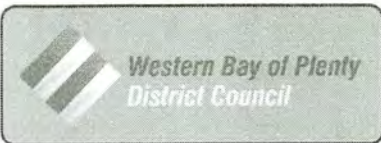
Based on the assumptions above, the stages will open and become full as follows:

Stage	With 350 Lots	With 450 Lots
1	Open 2021 - Full 2023	Open 2021 - Full 2024
2	Open 2023 - Full 2025	Open 2024 - Full 2027
3	Open 2025 - Full 2027	Open 2027 - Full 2030
4	Open 2027 - Full 2030	Open 2030 - Full 3033



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Archaeological data supplied by NZ Archaeological Assoc/Dept. of Conservation.

Email: gs@westernbay.govt.nz Scale A4 - 1:4,000
Date: 7/9/2019
Operator: mib
Map: E:\Shape\MLB\Map\Structure Plans\Beach Road 1 Area Structure Plan.aprx



KATIKATI BEACH ROAD RESIDENTIAL STRUCTURE PLAN STRUCTURE PLAN STAGES



The Structure Plan exercise has involved:

- Council resource management, reserves, utilities and engineering staff
- Landowners within the structure plan area (meeting held in October 2018 to discuss and receive feedback on a possible structure plan layout)
- Hapu - Ngai Tamawharuia, Ngati Te Wai and Te Whanau a Tauwhao
- Various consultants advising on roading layout and costs, archaeology, cultural values and natural mapping and risk assessment.

The structure plans and financial contribution schedules (for the 350 and 450 lot scenarios) have now been completed in a format suitable for inclusion in Appendix 7 (Structure Plans) of the District Plan if there was a future Plan Change. The Structure Plans are shown in **Attachment A**. The financial contribution schedules are shown in **Attachment B**.

The following should be noted:

- If a Plan Change was to be prepared in the future, the structure plan and financial contributions schedule would need to be reviewed to ensure that they were appropriate for the circumstances at that time. For example, the costs will need to be updated. A Plan Change would also require more specific engagement with landowners, tangata whenua, the general public, Regional Council and other stakeholders. This would likely result in changes to the layout, costs and how infrastructure is to be funded.
- If a Plan Change was to be notified in the future, all supporting documents would be notified with the Plan Change.
- The natural hazard information available to date indicates that liquefaction is the only hazard likely to affect the structure plan area. Flooding, coastal inundation, coastal erosion, tsunami, stability and active faults have not been identified within the area. The natural hazard risk assessment is likely to conclude that a low level of risk can be achieved for all hazards which means the structure plan would be supported in this respect.
- The information relating to archeological and cultural values has been used to either inform the structure plan or the requirement for rules below. Both would need to be given greater consideration if a Plan Change was to be prepared and notified.
- No rules have been drafted for the purpose of this exercise. However, it is expected that rules would be required to address the following matters:
 - Restricting vehicle access (off Beach and Pukakura Rd) to identified intersections only i.e. not allowing direct access into each property
 - Staging the development so it is carried out in an efficient manner i.e. ensuring that new areas are not 'unlocked' until the required infrastructure is in place

- Requiring a higher overall density (e.g. 20 dwellings/ha) to make best use of the land available for development
 - Providing for a range of housing options e.g. dwellings, apartments and tiny houses
 - Ensuring the protection of archaeological features and cultural sites of significance
 - Requiring geotechnical reports to address liquefaction.
- As an exercise only, Katikati's financial contributions (for all developments) have been re-calculated based on the inclusion of the new structure plan in the District Plan and an assumption that an existing residential structure plan off Tetley Road may be removed. If Council was to include a new structure plan for Beach Road in the District Plan, it is assumed this would only happen on the basis that the existing residential structure plan was not going to be given effect by the landowners in the foreseeable future.
 - As a result, it may not be appropriate to require financial contributions to be paid towards both areas if only one was going to occur. Collecting for both would significantly increase Katikati's financial contributions.
 - Based on this assumption (and using the current annual plan figures) the changes to Katikati's financial contributions would therefore be as follows:
 - Urban roading - increases from \$3,020 to \$5,086
 - Recreation and leisure - increases from \$9,057 to \$9,166
 - Water - decreases from \$4,592 to \$4,539
 - Wastewater - increases from \$6,296 to \$6,948
 - Stormwater - decreases from \$5,232 to \$4,625
 - Overall, there is an increase of \$2,167 from \$28,197 to \$30,364.
 - The above figures are based on the 350 lot scenario. The same calculations have not been made for the 450 lot scenario as it was not considered to make a significant difference.

3. Significance and Engagement

The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

In terms of the Significance and Engagement Policy this decision is considered to be of low significance. This is because it is a decision to adopt a structure plan and financial contributions in principle only. It is not a decision to prepare and notify a Plan Change and therefore it does not affect any members of the community.

4. Engagement, Consultation and Communication

This structure plan exercise is the conclusion to a number of feasibility studies into Katikati's future growth over the last two and a half years.

Interested/Affected Parties	Completed/Planned Engagement/Consultation/Communication
Landowners	<p><u>Completed</u></p> <p>The owners within the Beach Road 1 Area attended landowner meetings in May and October 2018. The latter meeting was specifically to show them a draft subdivision layout to get their views before preparing a structure plan. Council staff have also met with them individually on other occasions. Letters have also been sent to them regularly throughout the process.</p> <p><u>Planned</u></p> <p>Nothing further at this stage as this is a decision to adopt a structure plan and financial contributions schedule in principle for re-consideration at a later date (if proceeding at all). However, if a decision was made to prepare and notify a Plan Change, they would have further involvement in this process.</p>
Tangata Whenua	<p><u>Completed</u></p> <p>Tangata whenua have been involved throughout the process. They provided feedback on their preferred options for growth in May 2018. For this structure plan they were asked how they would like to be involved and responded by requesting the preparation of an archaeological study and cultural value assessment.</p> <p><u>Planned</u></p> <p>Nothing further at this stage as this is a decision to adopt a structure plan and financial contributions schedule in principle for re-consideration at a later date (if proceeding at all). However, if a decision was made to prepare and notify a Plan Change, they would have further involvement in this process.</p>
General Public	<p><u>Completed</u></p> <p>The wider community was given the opportunity in May 2018 to have their say on which areas they preferred for Katikati's future growth. Many were in support of the Beach Road Area. However, they have not been involved in any structure plan discussions as this was done with the landowners.</p> <p><u>Planned</u></p> <p>Nothing further at this stage as this is a decision to adopt a structure plan and financial contributions schedule in principle for re-consideration at a later date (if proceeding at all). However, if a decision was made to prepare and notify a Plan Change, they</p>

	would have further involvement in this process.
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4. Issues and Options Assessment

Option A	
Adopt the Structure Plan / Financial Contributions Schedule in Principle	
Assessment of option for advantages and disadvantages taking a sustainable approach	<p><u>Advantages</u></p> <p>Would complete Council's feasibility studies into Katikati's future urban growth. Completing this would show that all options have been assessed, the most feasible option is unavailable and the next preferred location is not financially feasible at present but has a structure plan approved in principle if circumstances were to change.</p> <p>Avoids Council committing to something that is unlikely to work in the current market while still allowing Council to have the changes 'ready' for a more timely notification if or when the market is more suitable for the feasible development of the area. It also allows Council to wait to see whether a more suitable area of land may become available in the meantime.</p> <p><u>Disadvantages</u></p> <p>May indicate the area is financially feasible for development and to be rezoned when this is not the case at present.</p> <p>If circumstances change and it did become feasible, the structure plan will need to be reviewed and updated.</p>
Costs (including present and future costs, direct, indirect and contingent costs) and cost effectiveness for households and businesses	<p><u>Costs</u></p> <p>No further financial costs. The costs of preparing a structure plan and financial contributions schedule to be adopted in principle have already been absorbed into existing Council budgets or into Regional Council budgets.</p> <p>No other costs as no further work is to be done at this stage.</p>
Other implications	N/A
Option B	
Do Not Adopt the Structure Plan / Financial Contributions Schedule in Principle	
Assessment of option for advantages and disadvantages taking a sustainable approach	<p><u>Advantages</u></p> <p>Would avoid creating a perception that the area is financially feasible and to be rezoned as residential.</p> <p><u>Disadvantages</u></p> <p>Would not complete Council's feasibility studies into Katikati's future growth.</p> <p>Council would not have the changes approved in principle for a more timely notification if or when the market is more suitable for the feasible development of the area.</p>
Costs (including present and future costs, direct, indirect and contingent costs) and cost effectiveness	<p><u>Costs</u></p> <p>No further costs as no further work would be involved at this stage.</p>






for households and businesses	
Other implications	N/A

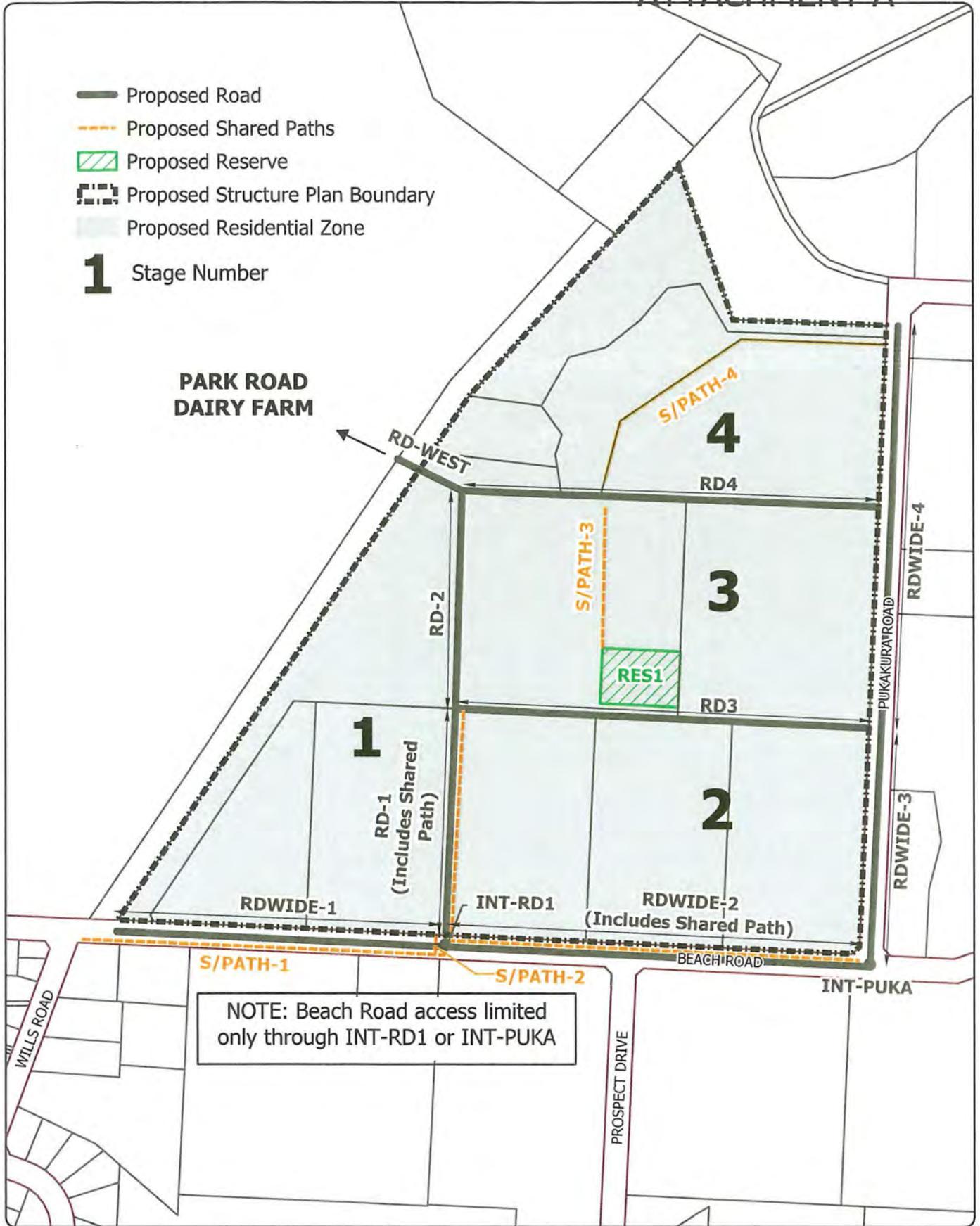
5. Statutory Compliance

The relevant statutory requirements have been considered during preparation of the structure plan and financial contributions schedule, to be approved in principle only. Further consultation and consideration of requirements under the Local Government Act 2002 and Resource Management Act 1991 will be required should a Plan Change be progressed in future.

6. Funding/Budget Implications

Budget Funding Information	Relevant Detail
Structure plan budget	<p>Council's budget for this structure plan was limited to:</p> <ul style="list-style-type: none"> • Archaeological report • Cultural values assessment • Natural hazards risk assessment advice (only a very small portion of this budget needed to be spent as natural hazard mapping is indicating that only one hazard will be an issue). The risk assessment can now be completed by Council staff. • These costs can be absorbed within the existing resource management budget for structure plans <p>Other Council projects which are still in progress have supported this structure plan exercise:</p> <ul style="list-style-type: none"> • Natural hazard mapping – flooding for Katikati • These costs are absorbed by the utilities team budget for flood modelling. <p>The Regional Council have also funded projects (some complete and some in progress) which supported this structure plan:</p> <ul style="list-style-type: none"> • Natural hazard mapping for coastal inundation, tsunami, liquefaction and active faults • Natural hazard mapping for coastal erosion (joint with WBOPDC and TCC) • Risk assessment for liquefaction

-  Proposed Road
-  Proposed Shared Paths
-  Proposed Reserve
-  Proposed Structure Plan Boundary
-  Proposed Residential Zone
- 1** Stage Number



NOTE: Beach Road access limited only through INT-RD1 or INT-PUKA

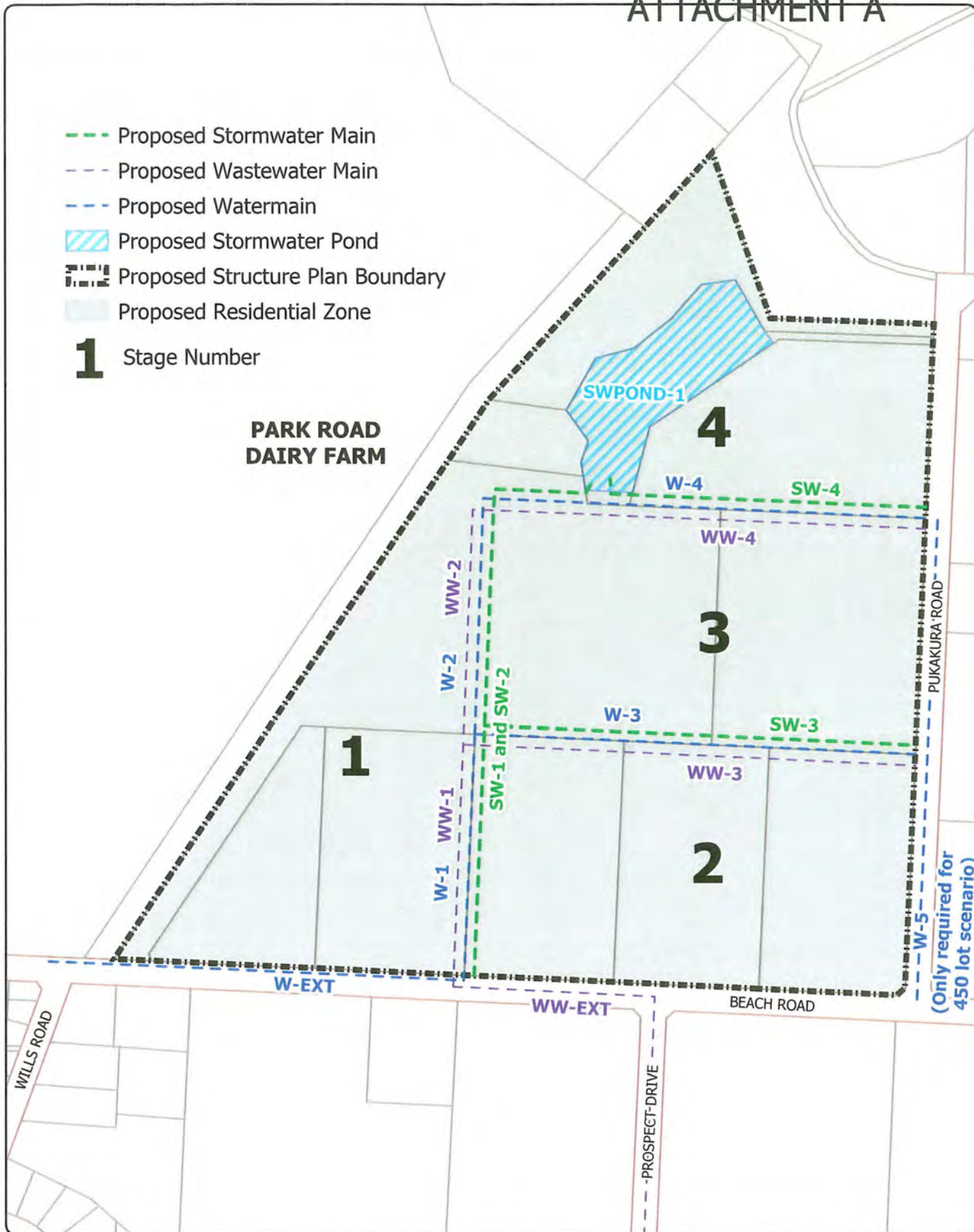
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Email: gis@westernbay.govt.nz
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 Operator: mlb
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350 LOT AND 450 LOT SCENARIOS
 KATIKATI BEACH ROAD
 RESIDENTIAL STRUCTURE PLAN
 ROADING, SHARED PATHS AND RESERVE PLAN





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Email: gis@westernbay.govt.nz
 Date: 7/10/2019
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 Map: E:\Shape\MLB\Map\Structure Plans\Beach Road 1 Area Structure Plan.aprx

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350 LOT AND 450 LOT SCENARIOS
 KATIKATI BEACH ROAD RESIDENTIAL
 STRUCTURE PLAN
 UTILITIES PLAN



350 Lots Scenario Katikati Beach Road Residential Structure Plan

Infrastructure Schedule

Transportation (Roading, Walkways, Cycleways)						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
RD-1	Road 11m Carriageway Includes Shared Path	2021	1,430,000	75%		25%
INT-RD1	Intersection RD-1 Widening / Threshold	2021	100,000	75%		25%
RD-2	Road 8m Carriageway	2021	835,000	75%		25%
RDWIDE-1	Road Widening Beach Rd North Side West of RD1	2021	420,000			100%
S/PATH-1	Shared Path Wills Road to RD1 Beach Rd South Side	2021	96,000	75%		25%
S/PATH-2	Shared Path Crossing Across Beach Road	2021	25,000	75%		25%
RD-3	Road 8m Carriageway	2023	1,710,000	75%		25%
INT-PUKA	Intersection Widening Pukakura Road	2023	85,000	75%		25%
RDWIDE-2	Road Widening Includes Shared Path Beach Rd North Side East of RD1	2023	700,000			100%
RDWIDE-3	Road Widening Pukakura Rd Beach Road to RD3	2023	185,000			100%
RD-4	Road 8m Carriageway	2025	1,710,000	75%		25%
RDWIDE-4	Road Widening Pukakura Rd RD3 to North End	2025	370,000			100%
S/PATH-3	Shared Path From Reserve to RD4	2025	114,000	75%		25%
S/PATH-4	Shared Path From RD4 to Pukakura Road Along SW-POND1	2027	275,500	75%		25%
RD-WEST	Road 8m Carriageway Western Connection Into Dairy Farm	2030	300,000	75%		25%
Reserves						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
RES	New Reserve And Medium Playground	2025	300,000			100%

Water						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
W-EXT	External Network Upgrades	2021	631,000		60%	40%
W-1	Main 150mm & Rider Main 50mm	2021	61,800			100%
W-2	Main 150mm & Rider Main 50mm	2021	61,800			100%
W-3	Main 100mm & Rider Main 50mm	2023	89,640			100%
W-4	Main 150mm & Rider Main 50mm	2025	123,600			100%
Wastewater						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
WW-EXT	External Wastewater Main Beach Road to Prospect Drive	2021	739,000			100%
WW-1	Wastewater Main	2021	114,000			100%
WW-2	Wastewater Main	2021	102,000			100%
WW-3	Wastewater Main	2023	123,000			100%
WW-4	Wastewater Main	2025	137,000			100%
Stormwater						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
SW-POND1	Pond Land Purchase	2021	500,000			100%
SW-POND1	Pond Construction	2021	671,000			100%
SW-1&2	Stormwater Pipe From Beach Road to POND1	2021	550,220	40%		60%
SW-3	Stormwater Pipe	2023	247,660	40%		60%
SW-4	Stormwater Pipe	2025	247,660	40%		60%

Note: This schedule is a summary only. Refer to the Plan Change that proposed the *structure plan* for the original Schedule. In accordance with Rule 11.3.3 the Schedule is updated annually through the *Annual Plan* and/or *LTP* process to reflect changes in costs and timing.

450 Lots Scenario Katikati Beach Road Residential Structure Plan

Infrastructure Schedule

Transportation (Roothing, Walkways, Cycleways)						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
RD-1	Road 11m Carriageway Includes Shared Path	2021	1,430,000	75%		25%
INT-RD1	Intersection RD-1 Widening / Threshold	2021	100,000	75%		25%
RD-2	Road 8m Carriageway	2021	835,000	75%		25%
RDWIDE-1	Road Widening Beach Rd North Side West of RD1	2021	420,000			100%
S/PATH-1	Shared Path Wills Road to RD1 Beach Rd South Side	2021	96,000	75%		25%
S/PATH-2	Shared Path Crossing Across Beach Road	2021	25,000	75%		25%
RD-3	Road 8m Carriageway	2024	1,710,000	75%		25%
INT-PUKA	Intersection Widening Pukakura Road	2024	85,000	75%		25%
RDWIDE-2	Road Widening Includes Shared Path Beach Rd North Side East of RD1	2024	700,000			100%
RDWIDE-3	Road Widening Pukakura Rd Beach Road to RD3	2024	185,000			100%
RD-4	Road 8m Carriageway	2027	1,710,000	75%		25%
RDWIDE-4	Road Widening Pukakura Rd RD3 to North End	2027	370,000			100%
S/PATH-3	Shared Path From Reserve to RD4	2027	114,000	75%		25%
S/PATH-4	Shared Path From RD4 to Pukakura Road Along SW-POND1	2030	275,500	75%		25%
RD-WEST	Road 8m Carriageway Western Connection Into Dairy Farm	2033	300,000	75%		25%
Reserves						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
RES	New Reserve And Medium Playground	2027	300,000			100%

Water						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
W-EXT	External Network Upgrades	2021	631,000		60%	40%
W-1	Main 150mm & Rider Main 50mm	2021	61,800			100%
W-2	Main 150mm & Rider Main 50mm	2021	61,800			100%
W-3	Main 100mm & Rider Main 50mm	2024	89,640			100%
W-4	Main 150mm & Rider Main 50mm	2027	123,600			100%
W-5	Main 150mm Pukakura Road	2030	88,000			100%
Wastewater						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
WW-EXT	External Wastewater Main Beach Road to Prospect Drive	2021	739,000			100%
WW-1	Wastewater Main	2021	114,000			100%
WW-2	Wastewater Main	2021	102,000			100%
WW-3	Wastewater Main	2024	123,000			100%
WW-4	Wastewater Main	2027	137,000			100%
Stormwater						
Project Number	Project	Proposed Construction Year	Project Costs (\$)	Funding Source (percentage)		
			Total (\$)	Developer	Rates	Financial Contributions
SW-POND1	Pond Land Purchase	2021	500,000			100%
SW-POND1	Pond Construction	2021	872,000			100%
SW-1&2	Stormwater Pipe From Beach Road to POND1	2021	656,970	40%		60%
SW-3	Stormwater Pipe	2024	262,605	40%		60%
SW-4	Stormwater Pipe	2027	262,605	40%		60%

Note: This schedule is a summary only. Refer to the Plan Change that proposed the *structure plan* for the original Schedule. In accordance with Rule 11.3.3 the Schedule is updated annually through the *Annual Plan* and/or *LTP* process to reflect changes in costs and timing.

Western Bay of Plenty District Council

Policy Committee

Proposed Plan Changes 82–90

Purpose

The purpose of this report is to seek approval from the Policy Committee of Proposed Plan Changes 82-90 for public notification.

Recommendation

- 1. THAT the Resource Management Manager's report dated 11 July 2019 and titled "Proposed Plan Changes 82-90" be received.*
- 2. THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.*
- 3. THAT pursuant to Clause 5 of Schedule 1 of the Resource Management Act 1991 the following Plan Changes as attached to this report be approved for notification;*
 - 82. Post Harvest Zone – Review of Provisions (Attachment A).*
 - 83. Accommodation Facility Permitted Limit (Attachment B).*
 - 84. Public Trails (Walkways, Cycleways, Bridleways and Similar) (Attachment C).*
 - 85. Cleanfill Activities (Attachment D).*
 - 86. Floodable Areas (Attachment E).*
 - 87. Frost Protection Fans (Attachment F).*
 - 88. Noise Standards within Industrial Zones (Attachment G).*
 - 89. Rural Contractors Depot (Attachment H).*
 - 90. Home Enterprises – Sale of Goods (Attachment I).*



Phillip Martelli
Resource Management Manager

	<p>raised matters requiring re-assessment.</p> <p>Affected and interested parties will have a full opportunity to make submissions and further submissions through the formal notification process.</p>
Tangata Whenua	<p>Tangata Whenua have been consulted through the Tauranga Moana and Te Arawa ki Tai Partnership Forum on 14 March 2019 and 25 June 2019.</p> <p>No specific feedback was provided in relation to the Proposed Plan Changes, however there was interest in matters relating to horticultural industry employment and matters that affect rural amenity.</p> <p>It is recognised that any projects involving earthworks would continue to be undertaken within the context of particular consideration given to scheduled sites and places within the District Plan and with respect given to the existing partnership relationships between Council and iwi/hapū.</p>
General Public	<p>Council staff engaged with the public through notices in local newspapers and the Council's 'Have Your Say' website to request input.</p> <p>As the majority of the Proposed Plan Changes were mainly of a minor or technical nature, a number of responses were limited to specific interest groups.</p> <p>The public, and specifically interested parties will have further opportunities to make formal submissions through the formal notification process.</p>
<p>Other Stakeholder groups</p> <ul style="list-style-type: none"> - Minister for the Environment - Toi Te Ora Public Health - The New Zealand Transport Agency - Representatives of the kiwifruit industry through NZKGI - Bay of Plenty Regional Council 	<p>Information was provided to the Minister for the Environment on the range of Proposed Plan Changes and feedback was requested. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received.</p> <p>Toi Te Ora Public Health advised they have no specific concerns with the proposed changes but do keep a watch over projects that may have impacts on people's physical health, such as ones which involve significant noise and overcrowding.</p> <p>A draft set of the District Plan provisions proposed through this plan change have been provided to the New Zealand Transport Agency for comment. They have indicated particular interest in relation to any project that would affect vehicle access and egress to and from the State Highway network. At the time of writing this report, the Agency had not provided written feedback on the Proposed Plan Changes however it is understood that the concepts of the proposed changes are supported.</p> <p>NZKGI have an interest in a number of the Proposed Plan Changes and have had the opportunity to be involved through the process of development of the proposals.</p> <p>The Bay of Plenty Regional Council has been consulted on the Proposed Plan Changes. They have identified a number of issues of interest across the range of Proposed Plan Changes. These vary depending on the change proposed but relate to:</p> <ul style="list-style-type: none"> - careful consideration of landscape and ecological values - avoidance of duplication between Regional and District Council roles, specifically in relation to earthworks and

6. Funding/Budget Implications

Budget Funding Information	Relevant Detail
Operational Budget	Staff time plus assistance from a consultant.



Western Bay of Plenty
District Council

ATTACHMENT

A

Change to the District Plan - First Review

Plan Change 82

Post Harvest Zone - Review of Provisions

Section 32 Report

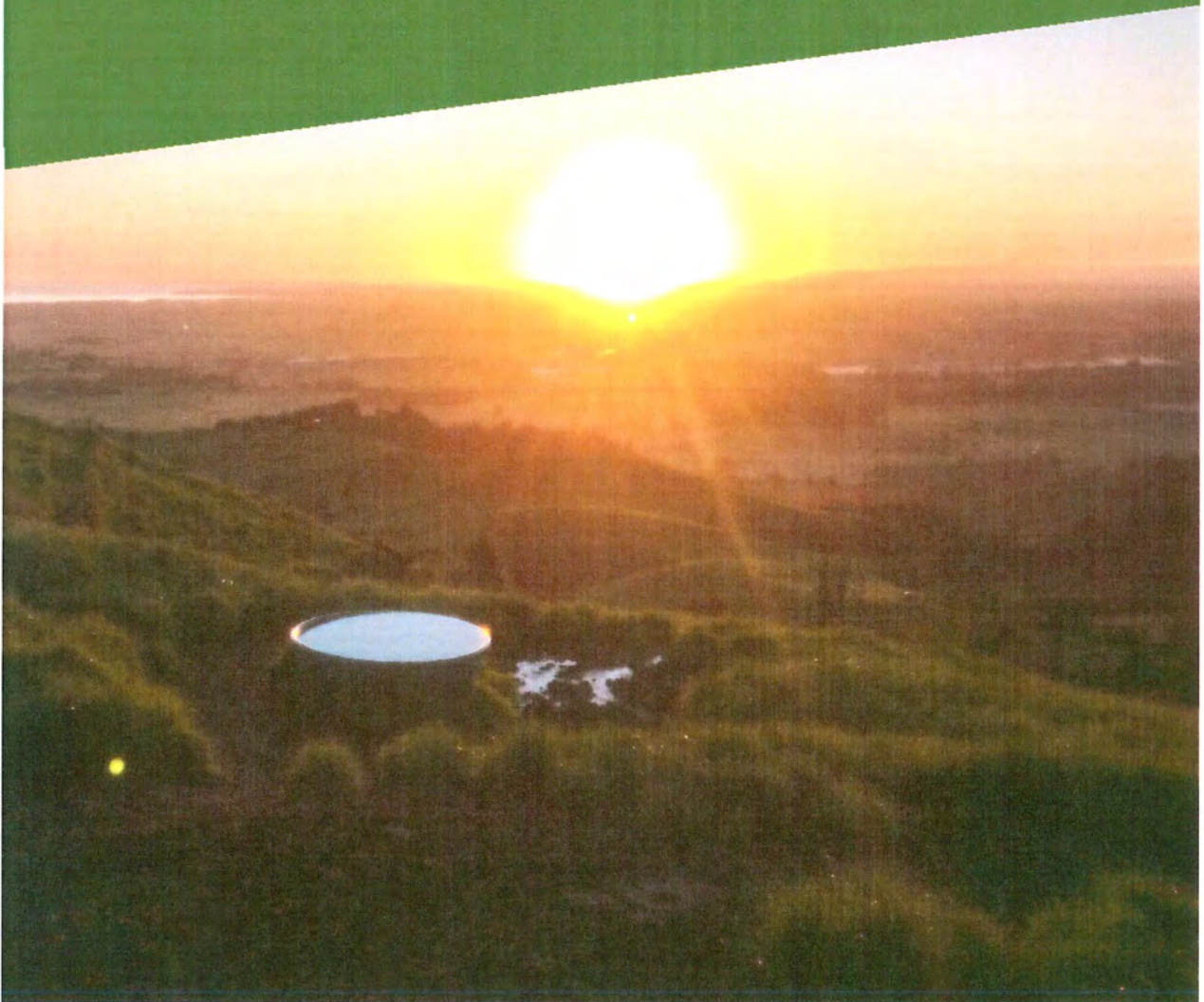


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1.0 Introduction

1.1. General Introduction

The Western Bay of Plenty District Plan was made operative on 16 June 2012. This included Section 22 – Post Harvest which contains provisions relating to 15 post harvest sites which were described at the time as the strategic “post harvest facilities” (pack houses and cool stores) that generally had an output of more than 1 million trays per annum.

The 15 Post Harvest Zoned sites, located within (generally) rural environments, are spread from Kauri Point Road in the north of the District, to Old Coach Road, Paengaroa in the southern part of the District. The zones are clustered generally around the Katikati area in the north and the Te Puke area in the south (see plan in **Appendix A**).

It was noted at the time that there were several other smaller-scale pack houses scattered throughout the District which did not meet the strategic facilities threshold.

The Post Harvest Zone was created because the horticultural (mainly kiwifruit) industry’s post-harvest requirements had evolved to the extent that the post harvest operations and their modern facilities were major activities in their own right and involved a significant investment in land, buildings and plant. The industry was growing and every time a facility wanted to alter or expand operations they had to go through a resource consent process, which took significant time and resources.

In creating the Post Harvest Zone, Council recognised the importance of the horticultural sector (particularly the kiwifruit industry) to the Western Bay of Plenty District, its investment in existing facilities, and the need for these facilities to be able to respond quickly and efficiently to changes. The modern large scale post-harvest facilities are now very much separate entities that are not rural in nature but do support the rural sector.

Within the current Post Harvest Zone provisions of the District Plan, there is an enabling approach to a range of horticultural post harvest activities. In summary the main points are:

- Alterations and expansions of existing post harvest facilities infrastructure is a Permitted Activity where the throughput is not increased beyond levels for the (resource) consented horticultural crop.
- Offices associated with the post harvest operations are provided for as Permitted Activities.
- Seasonal worker accommodation for a maximum of 75 persons is provided for as a Permitted Activity for most sites, and Rule 22.4.1(r) exempts this activity from financial contributions.
- Catering and storage facilities associated with the consented operation of the post harvest facility are Permitted Activities.

In addition, a range of land uses that are Permitted Activities in the Rural Zone are provided for as Permitted Activities in the Post Harvest Zone. This is in recognition that the post harvest facilities are within the rural

environment and parts of some existing Post Harvest Zones still remain in typical rural (horticultural and agricultural) use.

Outside of the 15 specific Post Harvest Zoned sites, there are also a number of large post harvest facilities that are located within Industrial Zones.

The District Plan Industrial Zone provisions provide for *industry* (which means and includes manufacturing, processing, packaging or dismantling activities and engineering workshops) as a Permitted Activity. Due to the size of post harvest facilities, adverse effects of activities (on amenity, stormwater control, access and traffic management etc) can be better avoided or mitigated in an industrial setting.

The establishment of new post-harvest facilities are now encouraged towards the Industrial Zone by way of Permitted Activity status to reduce actual and/or potential effects of large buildings and operations in the rural environment.

A number of smaller post harvest facilities that were established in the Rural Zone prior to the District Plan review (pre-2010) continue to operate under resource consents or under existing use rights. Any proposed expansion of these existing activities, or the development of new post harvest facilities in the Rural Zone, are subject to Discretionary or Non-Complying Activity resource consent processes and need to satisfy Resource Management Act tests, e.g. subject to actual and/or potential adverse effects being avoided, remedied or mitigated.

The ongoing operation and further development of activities in the Post Harvest Zone has raised a number of issues that warrant investigation as to whether changes to the zone provisions should be made in advance of a full District Plan review.

1.2. Background to the Plan Change

National Context

In New Zealand there are around 13,500 hectares of kiwifruit in production, approximately 2,600 kiwifruit growers and 2,900 registered orchards.

Kiwifruit is marketed by Zespri International Limited (the world's largest marketer), who sells into more than 53 countries and manages 30 percent of the global volume.

NZ's total horticultural export revenue for the 2017 year was \$5.1 billion (including wine), with kiwifruit accounting for approximately \$1.65 billion of that which represents nearly 30 percent of the total horticultural export revenue. Excluding wine, in 2017 kiwifruit accounted for almost 50% of NZ's horticultural export revenue.¹

¹ Scrimgeour, F., Hughes, W., and Kumar, V., *The Economic Contribution of Kiwifruit Expansion to the Bay of Plenty, Northland and New Zealand Economies, A report prepared for Zespri International Limited ("Zespri") February 2017*

The export revenue return made by New Zealand kiwifruit is significant in comparison to other fruits and vegetables.

Due to huge global demand for the fruit, the industry is investing heavily in growth. In 2017 NZ's total kiwifruit production was 123 million trays and this is expected to increase by 2027 to 190 million trays.

Bay of Plenty Context

The Bay of Plenty accounts for at least 81 percent of the country's kiwifruit harvest (now approx. 85% pers. comm. 15/04/2019 Nikki Johnson, NZKGI), and this means the kiwifruit industry contribution to GDP for the Bay of Plenty is expected to increase 135 percent by 2030, from \$867 million to \$2.04 billion.

Permanent employment directly in the BoP kiwifruit industry is expected to increase from approximately 8,000 in 2019 (was approx. 5,000 in 2015/2016) to approximately 12,000 FTE by 2029/2030. There are various backward and forward linkages that increase the impact on employment in the Region.¹

In addition to permanent year-round employment in the kiwifruit industry, there are also a very large number of short-term seasonal workers required during the harvest period each year. During the kiwifruit harvest season between March and June, the additional number of FTE temporary seasonal workers required currently peaks between mid-April and mid-May.

For the 2019 harvest, the NZKGI labour prediction model (based on what NZKGI are told will be harvested each week) estimated the peak at the end of April would be over 19,000 FTE (based on 40 hours a week for orchard workers and 50 hours a week for postharvest workers). There were approx. 7 weeks during the harvest period when it was estimated that there would be more than 10,000 harvest workers on the job (between packhouses and the orchards).

Roughly twice as many people are employed in a packhouse than on-orchard each week (because the packhouses run more than one shift over a 24 hour period).

This expected growth, the additional jobs and consequent demand for accommodation for both temporary and permanent staff has significant flow-on effects for the industry and consequently for Council.

The industry has told us that in 2018 they were 1,200 workers short at the start of the kiwifruit harvest despite the 2,000 Recognised Seasonal Employer (RSE) workers allocated to the BOP (who accounted for just 17 percent of the seasonal workers in 2017). The 2019 harvest began with a labour shortfall of over 1,400 vacancies and this was expected to increase to 3800 at harvest's peak around mid-April.

The industry expect that labour shortages will be an ongoing challenge for them to resolve, and they are taking a multi-faceted approach to this.

In summary, horticultural industry representatives tell us that kiwifruit production is increasing, post harvest facilities are getting larger, there is an increasing need for large numbers of seasonal workers particularly during the peak harvesting period, and that there are significant economies of scale and new technologies meaning that larger pack houses are delivering better performances than smaller ones.

District Plan Review

WBOPDC can assist the local horticultural industry to thrive by making sure that there are no unnecessary barriers to the industry continuing to do their business-as-usual. One way this can manifest is by reviewing the Post Harvest Zone provisions of the District Plan to ensure that they continue to meet the needs of the District's horticultural industries and the purpose of the RMA.

In relation to the issues around increasing numbers of temporary seasonal workers, the review of the Post Harvest Zone provisions alone will not deal with the issue of seasonal worker accommodation.

Feedback from the horticultural industry, the Rural Committee of Council and in-house planning, building and compliance staff indicate that the provisions for accommodation for workers in other zones as well as the Post Harvest Zone should also be reviewed. This issue is specifically in relation to whether greater provision could be made in the District Plan to enable the provision of seasonal worker accommodation during the peak kiwifruit harvest and packing season.

The issue of accommodation for temporary horticultural industry employees is complex and involves significant assessment and consideration of effects on the services that Council provides.

Council will consider whether revised or alternative provisions can be made to assist with resolving the shortage of seasonal worker accommodation within the Post Harvest Zone and other zones as a piece of work subsequent to this review of the Post Harvest Zone provisions.

Particular aspects of Post Harvest Zone provisions which have, so far, been identified for review by Council and during discussions with horticultural industry representatives include:

- The size and number of Post Harvest Zones;
- Maximum height provisions;
- Daylighting provision rule;
- NZTA Approval Rule; and
- An edit of *seasonal worker accommodation* exclusion rules.

2.0 Resource Management Act 1991

2.1. Section 32

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.

None of the iwi/hapu management plans lodged with Council raise any issues of particular relevance to this Plan Change.

2.3. 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. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received. An update will be provided at the meeting on 24 July 2019.

No other Ministers of the Crown or local authorities are considered affected by this proposed plan change.

The Bay of Plenty Regional Council has been consulted and they have identified and flagged concerns around the requirements and provisions for ensuring that on-site effluent treatment to support Post Harvest Zone operations can be adequately be provided. None of the proposed amendments will create the need for significant changes in the need for on-site effluent treatment.

No customary marine title groups are considered affected.

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. There was significant interest in the proposed plan change, particularly in and around matters relating to horticultural industry employment and affordable accommodation for workers which is not part of this plan change.

Other specific areas of interest were growth of Post Harvest Zones, and increased height provisions and how these matters affect rural amenity.

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. A summary of responses is provided in the table below.

Question	People's Responses to Questions
<p>Some of the packhouse/coolstore facilities in Post Harvest Zones are seeking to expand their operations onto adjacent sites.</p> <p>Are you affected by these?</p>	<p>1 respondent said "yes".</p> <p>4 respondents said "no".</p>
<p>Do you support the expansions?</p>	<p>All 5 respondents said "yes".</p>
<p>Why do you say that?</p>	<ul style="list-style-type: none"> - Support expansion with appropriate regulations around conditions for expansion. - Kiwifruit is expected to increase in volume and processing facilities need to grow to accommodate this. - Makes more sense to expand existing sites (as compact as possible) and make them more efficient rather than creating additional sites. - Provided they do not impact on residential areas and environmental issues are addressed. - Too much arable/productive land is being used up for houses and industrial/commercial uses.
<p>Automatic stacking of pallets in coolstores is becoming the norm and therefore the industry wants to build coolstores to 20m high to allow for this efficiency. The current allowable limit is 12m.</p> <p>What height limit do you think should be applied to buildings within the Post Harvest Zones?</p>	<p>3 respondents said 20m</p> <p>1 respondent said 12m</p> <p>1 respondent said it depends on the surrounding areas. Amenity and earthquake risks need to be addressed.</p>
<p>If buildings are constructed higher than 12m, which is the current maximum height in Post Harvest Zones, who do you think</p>	<ul style="list-style-type: none"> - Anyone whose safety may be affected by hazards associated with the buildings. - Depends where they are situated, amenity (views) and landscape "pollution" may be a

might be affected by this?	<p>problem.</p> <ul style="list-style-type: none"> - Neighbouring properties. - Rare to have coolstore/packhouse sites with close immediate neighbours. Possible restrictions needed in areas where there are existing adjacent dwellings. - Tall buildings should be restricted to industrial zones. People will not appreciate tall buildings within the present low-profile topography. - A lot to consider - views, shading, lights, etc.
What things could Council ask applicants to do to mitigate the effects of taller buildings?	<ul style="list-style-type: none"> - Ensure future zoning and planning are appropriate (if the horticultural industry fails or changes, buildings can be utilized for other purposes.) - Distance from boundaries, landscaping to help conceal walls and have buffer zones of green space. - Suitable colour schemes that soften the impact and don't create undue adverse visual affects. - Nothing - green paint isn't going to hide the buildings.
Other comments on Post-Harvest Zone - Review of Provisions?	<ul style="list-style-type: none"> - Return Te Puke to two lanes. - Roading changes is not what is wanted or needed. - The visual effect of tall buildings will spoil the landscape and conflict with the growth in tourism.

Council's responses to the feedback from the *Have Your Say* website are incorporated into the issues and options costs and benefits tables below. Some comments are beyond the scope of this review of the Post Harvest Zone provisions. For example, in relation to earthquake risks and hazards associated with buildings, it can be stated that new and extended buildings will be required to comply with the New Zealand Building Act requirements in that regard, and that Te Puke roading changes are also beyond the scope of this review.

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');
- c. Toi Te Ora Public Health.

In relation to engagement with representatives of the horticultural industry, feedback on how the Post Harvest Zone provisions were working was sought early in 2018 from the existing operators. This was on the basis that the zone and associated provisions had been in place for a number of years, and that growth and likely changes in the industry may have raised matters

requiring re-assessment. A meeting with post harvest zone operators and other stakeholder parties was held in March 2018 and an e-mail follow-up sent in June.

Engagement has been carried out since with Post Harvest Zone operators, NZKGI, MBIE, rural contractors, seasonal worker accommodation providers, and others.

Responses were sought on the extent of the Post Harvest Zones, as staff were aware that some operators were wanting to modify boundaries. Comment was also specifically requested on the various relevant District Plan rules, how they have been working for the industry, and how the expected growth in the industry would affect these provisions.

Various one-on-one discussions and meetings with industry representatives have been ongoing since August 2018.

An Issues and Options paper on this topic was prepared and circulated prior to a horticultural industry workshop held on 27th March 2019. Feedback from industry engagement and that workshop forms the basis of the issues raised for discussion and review below.

Staff consulted with representatives of the New Zealand Transport Agency (NZTA) via a series of e-mails and a face-to-face meeting on 11th June 2019. NZTA's interest in this review of District Plan provisions is around post harvest facility access to the State Highway and how increases in activity on the Post Harvest Zones sites will affect access and egress to the State Highway. Current District Plan provisions provide for, and will continue to provide for, the assessment of effects on the transportation network from increases in throughput from the facilities via a resource consent application.

Toi Te Ora Public Health has been consulted and they have identified no particular public health issues with the proposed changes, but have indicated that there could potentially be public health implications around any large increase in numbers to be accommodated, and have flagged their interest in this area.

3.0 Issue 1 - The Size and Number of Post Harvest Zones

3.1. Introduction

The current and forecast expansion of horticultural industry production has put pressure on the boundaries of the existing Post Harvest Zones.

During engagement with the post harvest industry operators and stakeholders were asked whether there were additional areas of land they wished to consider including within existing Post Harvest Zone boundaries. The question was also posed as to whether there were now other (additional) strategic post harvest facilities that should be considered as

additional Post Harvest Zones. No additional sites were raised as a possibility for inclusion.

For some post harvest operations, there are adjacent areas of land they want to include in their existing Post Harvest Zones in order to provide for flexibility and future expansion of on-site activities associated with the growth of kiwifruit production. In some cases these are small areas purchased since the original Post Harvest zones became operative, and in other cases these are larger areas of adjacent land that they want included to provide for the purpose of future flexibility and expansion (see maps in **Appendix B**).

The proposed zone extensions create the potential for conflict with adjacent and nearby properties by creating possible reverse sensitivity, privacy, overshadowing, noise, traffic, services and rural amenity effects.

3.2. Analysis

Post Harvest Zoning provides certainty to post-harvest operators. It allows for growth and development to take place without the requirement to obtain resource consents for each new project, meaning a more efficient operation.

The industry predicts that the intensity and demands of the industry will continue to increase in the future. Cool storage onsite is preferred as this reduces double-handling of product, and reduces traffic movements to and from the site. This means that the zones need to expand (outwards or upwards) to allow them to operate efficiently.

Where small adjustments have been requested, these generally accommodate existing operations and these zone boundary adjustments will have little, if any, effects on the surrounding environment.

Where larger adjustments have been proposed (Trevelyan's, Hume Pack, and DMS - Te Matai Rd), the land is surrounded by horticultural production land. A combination of direct engagement and consultation by the post harvest facilities and Council, and the formal notified Plan Change process will allow any issues that the adjacent landowners have with the proposed re-zoning to emerge and be considered formally.

3.3. Option 1 – Status Quo (no zone extensions)

Costs	<ul style="list-style-type: none"> ▪ Any operational extensions beyond the boundaries of each Post Harvest Zone would require resource consent. ▪ Extensions of operations outside the zone will not be able to be accommodated efficiently and cost-effectively, even if the land is suitable for an operational extension.
Benefits	<ul style="list-style-type: none"> ▪ Post Harvest Zone operators would continue to be able to develop and redevelop within the land already zoned for that purpose. ▪ Adjacent and nearby landowners would have certainty in knowing that post harvest facility development would not extend beyond the current zone boundaries.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective as operators within existing Post Harvest Zones have already made substantial investment in their

	<ul style="list-style-type: none"> sites. Retaining the status quo would have the effect of constraining future flexibility and development, perhaps unnecessarily.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> Sufficient information is available.

3.4. Option 2 - Small Post Harvest Zone Extensions where Property Purchases or Boundary Adjustments have Occurred

Costs	<ul style="list-style-type: none"> This option to permit only small, relatively insignificant, changes to zone boundaries would not provide the opportunity for Post Harvest Zones to expand operations significantly beyond the current zone boundaries. Any operational extensions beyond the boundaries of each Post Harvest Zone would require resource consent. Extensions of operations outside the zone would not be able to be accommodated efficiently and cost-effectively, even if the land is suitable for an operational extension.
Benefits	<ul style="list-style-type: none"> There have been minor boundary adjustments and land purchases by some post harvest operators around the existing Post Harvest Zones. Extending the zone to accommodate these areas of land would assist the post harvest facilities to continue to operate in the streamlined way they currently do. The minor zone adjustments in some cases regularise instances where post harvest operations have spilled-over onto Rural Zoned land. Community members who provided feedback through Council’s <i>Have Your Say</i> engagement supported the proposed expansions. The minor boundary adjustments and land purchases are unlikely to change any of the current effects on the surrounding environment.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Partly effective. This option would tidy-up zone boundaries where title adjustments have occurred.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> Sufficient information is available.

3.5. Option 3: Small Extensions (as per Option 2) and Specific Larger Zone Extensions where Future Projects are Planned

Costs	<ul style="list-style-type: none"> ▪ Development within zone extension areas may have actual and/or potential adverse off-site effects on adjacent or nearby rural properties. These may be effects such as noise, visual effect of new industrial-type buildings, and traffic. ▪ Re-zoning land for future development means that a specific set of development plans have not been prepared (as they would have been for a resource consent). Adjacent and nearby landowners would not have certainty in knowing what and when development will happen. ▪ Unintended consequences, and possible adverse impacts on neighbours may eventuate.
Benefits	<ul style="list-style-type: none"> ▪ This option would provide for future development plans of post harvest facilities. ▪ Specific identified larger proposed extensions of zones will provide for ongoing and future development where extensive investment in the zone has already been made. ▪ Expanding existing sites and providing a rule framework to allow compact and efficient development, rather than creating additional Post Harvest Zones, makes sense and may reduce the amount of productive land used for non-productive purposes. ▪ Industry growth and economies of scale would be catered for. ▪ Specifically identifying adjacent land to be re-zoned during this review would remove the need to obtain resource consent/s if the industries wanted to expand outside their current zone. ▪ Community members who provided feedback through Council's <i>Have Your Say</i> engagement supported the proposed expansions, both the small extensions (as per Option 2) and the specific larger extensions where future projects are planned. ▪ Expansions of Post Harvest Zones will allow growth of post harvest facilities within the framework of the zone criteria for buildings, structures and activities. Expanding existing sites in the rural environment rather than creating new post harvest sites will assist in achieving a better environmental outcome. ▪ The proposed zone extensions would be subject to a formal public process where consultation with affected parties can be carried out.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ This would be an effective means of providing additional land for future growth of a number of the Post Harvest Zones through a public process which provides the opportunity for adjacent and nearby landowners to be involved. ▪ This option would allow continued consolidation of strategic existing post harvest operations where significant development has already taken place.
Risks of Acting/ Not Acting if there is	<ul style="list-style-type: none"> ▪ Sufficient information is available.

uncertain or insufficient information about the subject matter	
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3.6. Preferred Option

The preferred option is Option 3.

To give effect to this change District Plan maps would need to be amended to show the new Post Harvest Zone boundaries. These changes are shown on the maps in *Appendix B*.

3.7. Reasons

The benefits and effectiveness/efficiency reasons included above indicate that Option 3 is likely to achieve the best outcome for the post harvest industry.

It is considered that the zone extensions proposed are likely to be acceptable within the existing environments considering the already significant development and investment on the sites. This will be tested through the formal public plan change process.

4.0 Issue 2a: Bulk and Location Provisions in Post Harvest Zones – Daylighting

4.1. Introduction

The intent when District Plan Rule 22.4.1(b) was implemented was that the daylighting measurement was to be taken from the Post Harvest Zone boundaries and not from title boundaries internal to the Post Harvest Zone. This intent was made clear in the Section 32 Report for the zone, but this intent was not carried through clearly to the current wording of the rule.

4.2. Analysis

Re-wording Rule 22.4.1(b) to make it clear that the daylighting rule applies only when the building / structure is constructed adjoining a different zone (Residential, Rural-Residential, Future Urban or Rural) will meet the needs of the horticultural industry and Council.

4.3. Option 1: Status Quo (daylighting applies to all title boundaries including those internal to the Post Harvest Zone)

Costs	<ul style="list-style-type: none"> ▪ The current provision does not fulfil the intent of the rule to simplify the situation where a building/structure is to be constructed on a site in the Post Harvest Zone and the adjacent site is also zoned Post Harvest. ▪ The status quo delivers an unnecessary additional level of complexity for input on daylighting infringements for development within the Post Harvest Zone where there is
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	more than one land title.
Benefits	<ul style="list-style-type: none"> Where there are land titles in different ownership within a Post Harvest Zone, the status quo provides for input from adjacent landowners on daylighting infringements of buildings/structures protecting their interests in the event that development would have an adverse effect.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Where more than one land title exists in a zone, the adjacent titles are usually owned by the same person/entity. Even if they are not, they have the same zone characteristics because they are in the same zone. The robust plan change process which resulted in the zone means that all landowners within the zone are treated the same and can expect the same environment. The status quo is not effective in creating a streamlined approach to development within Post Harvest Zones.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> Sufficient information is available.

4.4. Option 2: Re-word Rule 22.4.1(b) so that the Daylighting Rule Applies only when Development Adjoins a Different Zone

Costs	<ul style="list-style-type: none"> Where separate land titles within the same Post Harvest Zone are owned by different entities, the amendment of the rule as proposed would deprive the landowner adjacent to the proposed building/structure of the ability to be involved in any variation of the daylighting standard.
Benefits	<ul style="list-style-type: none"> Rewording the rule to make it clear that the daylighting rule applies only when the building/structure is constructed adjoining a different zone will streamline Council processes for any future development in the Post Harvest Zone where more than one title exists. There is no advantage to be gained, and no environmental effect to be addressed by requiring the written approval for a daylighting encroachment between sites that are both zoned Post Harvest and (usually) owned by the same entity. The intent of the rule will be realised by the proposed change to Rule 22.4.1(b).
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Option 2 is effective in realising the stated intent of the rule. The Post Harvest Zone Section 32 report prepared in 2008 stated that the daylighting rule will not change from the existing District Plan requirements, except that the proposed rule only applies to zone boundaries and not internal property boundaries. Where both sites are zoned Post Harvest and have the same development potential, there is no logical reason to require, on the development of one site, the written approval of the owners of the adjoining site.
Risks of	<ul style="list-style-type: none"> Sufficient information is available.

<p>Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</p>	
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4.5. Preferred Option

The preferred option is Option 2.

To give effect to this change, District Plan Rule 22.4.1(b) would need to be amended generally as follows (change shown in underlined red font).

22.4 Activity Performance Standards

22.4.1 General

(b) Daylighting

No part of any building/structure shall exceed a height equal to 2m above ground level at all boundaries and an angle of 45° into the site from that point. Except where the site boundary is with a road or with a site zoned Post Harvest, in which case this rule shall not apply in respect to that boundary.

Provided that:

A building/structure may exceed the aforementioned height where the written approval of the owner of the immediately adjoining property to a specified greater height is obtained.

4.6. Reasons

The benefits and effectiveness/efficiency reasons included above indicate that Option 2 is likely to achieve the best outcome for the zone and the intent of the rule would be realised. It would be clear that the daylighting rule applies only when the building / structure is constructed adjoining a different zone (Residential, Rural-Residential, Future Urban or Rural).

5.0 Issue 2b: Bulk and Location Provisions in Post Harvest Zones – Height

5.1. Introduction

Under current District Plan Rule 22.4.1(a), the maximum permitted height within the Post Harvest Zone is 12m for all sites (except that for Lot 4 DP 376727 Te Puna the maximum is 9m). Any additional height over 12m currently requires a resource consent (Restricted Discretionary Activity status).

The horticultural industry has advised that 12m is no longer a realistic maximum height for the zone, and a review of the maximum height provision is necessary to ensure that sufficient infrastructure is able to be installed to support industry growth over the next 10 years.

The post harvest industry is beginning to introduce automated racking technology into coolstores which allows pallets to be stacked and manipulated automatically, resulting in various economies for the post harvest industry, and new coolstore buildings are now typically being constructed to more than 12m in height.

The industry has asked that Council consider reviewing the maximum height provision in the Post Harvest Zone.

5.2. Analysis

The automated racking technology is expensive, but allows pallets to be stacked much higher than they can be otherwise, meaning less land is taken up by coolstore buildings. Because the system is fully automatic it also allows very efficient manipulation and tracking of pallets within the coolstores, and reduces reliance on labour.

An increase in the maximum permitted height in the Post Harvest Zone would allow added efficiency in the addition or replacement of existing coolstores. It would also assist the horticultural industry if, or when, the cost of land or the desire to protect productive land from built development encourages coolstore construction upward.

A March 2019 horticultural industry workshop indicated wholehearted support for an increase provision to 20m as a maximum height for buildings and structures within the Post Harvest Zone. New Zealand Kiwifruit Growers Incorporated (NZKGI) have also surveyed the kiwifruit industry and advise that they support an increase of the maximum permitted height within the zone to 20m, with the ability to make application for additional height over this.

The rationale for this is that post harvest facilities are to be encouraged to extend upward rather than outwards, and that automation in the industry meant greater efficiencies with taller buildings.

A number of the existing Post Harvest Zones have available space to construct new structures/buildings. However, having available space does not necessarily equate to the ability to easily construct coolstores as geotechnical or other site-specific issues may prevent this.

It is thought likely that adjoining and nearby landowners may reject the proposal for a blanket increase in height to 20m within the zone. A limited increase in height to 14m as a Permitted Activity with height up to 20m as a Restricted Discretionary Activity with specific criteria for assessment is a possibility to manage this.

Alternatively 20m as a maximum height could be a Permitted Activity with Performance Standards applied to reduce the potential for adverse visual

effects on nearby residents. These could require for example, that the building not be obtrusively visible from any dwelling within a specified distance and this could be achieved with careful building placement, specific wall colour, or vegetative screening.

Careful consideration of the effects on neighbouring and nearby sites in relation to overshadowing, visual effect, and bulk needs to be contemplated. Adverse visual effects (including interruptions of views) could also extend to sites further from the zone, and consideration of visual effects is most effective on a site-by-site basis.

Additional height might not be such an issue for immediately adjoining neighbours as shelterbelts can obscure the immediate adverse visual effect or view of coolstores. In addition, high buildings are often placed more centrally on a site because of fire-rating, daylighting, and yard requirements in relation to boundaries.

NZKGI have also advised that they support additional height provisions to be extended to coolstore and packhouse facilities outside of Post Harvest Zones (i.e. within Rural Zones). This request is outside of the ambit of this review of the Post Harvest Zones and we consider that that issue should be "parked" until the full review of the District Plan.

Increasing the maximum Permitted Activity height limit from 12m to 14m, would allow some additional flexibility for coolstore stacking to 4 pallets high. Allowing height to 20m as a Restricted Discretionary Activity would enable consideration of the effects of the additional height and any mitigation measures that could be applied.

Consideration of District Plan Matters of Discretion for applications for height between 14m and 20m has centred on how to mitigate the visual impact of higher buildings. Controls over the use of large walls of the buildings for advertising purposes has been discussed, as was the possibility of landscape screening and control of the colour of exterior walls.

Staff have discussed the matter of exterior panel colours with industry experts in the coolstore panel industry. The industry advise that they tend to buy the standard "Titania" (white) colour in bulk as this means good discounts for them and their clients. Other colours are not common and a premium is paid to obtain them. They are however beginning to use different colours on outside panels and can manufacture panels to match the colour steel range.

Common colours used (from the Kiwi steel or Colour steel samples) are Desert sand/Gull grey/Mist green. The industry tends to avoid darker colours as this can generate a difference in heat range from internal to external skins but they advise that as long as cool colours (like those mentioned above) are used to reflect the heat, they would not be an issue for heat gain.

The price for a 100mm coloured panel ends up approximately \$7 per square metre more than a standard 100mm "Titania" panel which is approximately

\$95 per square metre. This means that a 20m by 50m coolstore wall would cost \$7,000 more if a coloured panel was required.

In relation to screening, District Plan Section 4C – Amenity, already contains provisions relating to screening in the Post Harvest Zone. These provisions require all existing screening to be retained on site, a landscape strip to be provided on all road frontages, and shelterbelt trees attaining a minimum height of 8m at maturity to be provided on the remaining boundaries. Where specific sites do not have this screening in place, a resource consent application for additional height over 14m would enable Council to include condition/s requiring screening be provided within a specific time-period.

5.3. Option 1: Status Quo (maximum height of buildings/structures remains at 12m)

Costs	<ul style="list-style-type: none"> ▪ Post Harvest Zone operators may be prevented from employing new coolstore technology in a timely and efficient manner. ▪ Post Harvest Zone operators would need to go through a resource consent application and consider actual and/or potential adverse effects on the environment to build higher than 12m. ▪ Assessments of visual amenity are subjective and this may create uncertainty for the industry. ▪ The need to consider effects on adjoining and nearby landowners would create uncertainty for the industry.
Benefits	<ul style="list-style-type: none"> ▪ Actual and/or potential effects on environmental amenity would remain unchanged. ▪ The status quo provides certainty for post harvest operators building to 12m in height as a Permitted Activity. ▪ The status quo provides certainty for neighbouring and nearby owners and occupiers. ▪ The maximum height of structures and buildings would remain at 12m but any building or structure to be constructed higher than this could still apply to gain consent through a robust assessment of effects via a resource consent application (as a Restricted Discretionary Activity).
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective in maintaining the rural amenity as it currently is around the Post Harvest Zones. ▪ Not effective in allowing the post harvest industry to quickly adapt to changes in technology that may provide on-site efficiencies.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ Sufficient information is available.

5.4. Option 2: Increase the Maximum Permitted Height of Buildings/Structures in the Post Harvest Zone to 14m as a

Permitted Activity, and Between 14m and 20m as a Restricted Discretionary Activity

<p>Costs</p>	<ul style="list-style-type: none"> ▪ Post harvest facilities are industrial in nature. An increase in the maximum permitted height to 14m would create inconsistency with the Industrial Zone provisions which allow 20m maximum permitted height. This may create confusion. ▪ The horticultural industry has invested considerable resources in existing Post Harvest Zones and restricting the ability to expand upwards creates uncertainty for further development to respond to increasing kiwifruit production. ▪ Industry representatives have strongly stated that they want a 20m maximum height as a Permitted Activity and are likely to be unwilling to accept a 14m maximum permitted height. ▪ An additional 2m height as a Permitted Activity in the Rural Zone may create adverse visual effects that can't easily be absorbed in this environment. ▪ Restricting height to 14m as a Permitted Activity may have the effect of pushing post harvest operations away from Post Harvest Zones into Industrial Zones. ▪ Providing for height up to 20m as a Restricted Discretionary Activity may, even with specified Matters of Discretion, still enable the construction of buildings with adverse effects that are not considered appropriate in a Rural Zone. ▪ Assessments of visual amenity for applications between 14 and 20m height may be subjective creating uncertainty for both applicants and nearby residents.
<p>Benefits</p>	<ul style="list-style-type: none"> ▪ This option would give post harvest operators in the zone flexibility beyond the current standard and may allow the installation of automated racking systems to 4 pellets high. ▪ Increasing the Permitted Activity height to 14m may provide certainty for post harvest operators that they could install and use automated racking to 4 pallets height, and the possibility of going higher via a resource consent application. ▪ Restricting maximum Permitted Activity height to an additional 2m in the Post Harvest Zones would provide some useful flexibility for the industry, and the relatively minor increase in height may be able to be readily absorbed into the existing interface between the post harvest and rural environments. ▪ Height over 14m still could be applied for via a resource consent as a Restricted Discretionary Activity with specific Matters of Discretion relating to visual amenity to give certainty for applicants and for neighbouring landowners and occupiers. ▪ The existing post harvest operations within Post Harvest Zones are large industrial activities and an additional 2m of height may be able to be easily absorbed on some sites where these zones currently exist. ▪ Restricting Permitted Activity height to 14m may have the effect of pushing post harvest operations into Industrial Zones.
<p>Effectiveness/</p>	<ul style="list-style-type: none"> ▪ This option would provide some flexibility for new coolstore

<p>Efficiency</p>	<p>builds (over the current maximum height) and would therefore be somewhat effective in providing what the post harvest industry needs.</p> <ul style="list-style-type: none"> ▪ Specific Matters of Discretion in relation to height over 14m can be developed to give some certainty to the industry and the Council in considering site-by-site applications therefore efficient in managing actual and/or potential effects on the environment if a number of satisfactory and suitable Matters of Discretion were developed.
<p>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</p>	<ul style="list-style-type: none"> ▪ Sufficient information is available.

5.5. Option 3: Increasing Maximum Permitted Height of Structures in the Post Harvest Zone to 20m

<p>Costs</p>	<ul style="list-style-type: none"> ▪ If the District Plan daylighting provisions for boundaries with a different zone had to be complied with, a significant 18m setback from Rural Zone boundaries would be required for a 20m high building (unless written approval was obtained from the neighbouring landowner). ▪ Fire-protection requirements under the Building Act would require a substantial setback from any boundary for a 20m high building, unless a specific design allowed construction closer to boundaries. ▪ Buildings above 12m and up to 20m in height have the potential to create significant adverse visual amenity impacts in the Rural Zone. Shelterbelts and trees in the rural environment could also be a significant height but create quite a different visual impact to buildings which are solid and present one dimensional walls. ▪ It would be very difficult to determine who might be affected by additional height when it would not necessarily only be adjoining landowners who were affected visually; views from further afield could also be affected in a significant way by a substantial bulky high building. ▪ It would be difficult to produce Permitted Activity Performance Standards that could be applied successfully to 20m height buildings and structures to mitigate actual and/or potential visual impacts constructed on a range of different sites (within mainly rural environments).
<p>Benefits</p>	<ul style="list-style-type: none"> ▪ Increasing the maximum height to 20m would provide for automated stacking up to 5 pellets in height plus provide adequate headspace for the refrigeration system and maintenance crew. ▪ An increase in the maximum permitted height to 20m would create consistency with the Industrial Zone provisions, and remove rule confusion between sites that are both industrial in nature. ▪ Activity Performance Standards could be applied to the

	<p>20m height to mitigate actual and/or potential visual impacts (such as requiring a specific setback from dwellings, and/or vegetative screening).</p> <ul style="list-style-type: none"> This option would provide some certainty for post harvest operators who often work across the Post Harvest and Industrial Zones.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Providing for buildings up to 20m in height in the Post Harvest Zone would give the post harvest industry flexibility and certainty that they could use automated stacking technology up to 5 pallets high in new builds. The potential for adverse effects on rural amenity values is significant, and actual and/or potential effects are likely to be site-specific and could not be easily identified in advance across all Post Harvest Zoned sites
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> Sufficient information is available.

5.6. Option 4: Providing for Unlimited Height as a Permitted Activity

Costs	<ul style="list-style-type: none"> Unlimited height would create enormous uncertainty for adjoining and nearby landowners and occupiers. There would be the potential for significant adverse visual effects on Rural Zone amenity.
Benefits	<ul style="list-style-type: none"> It would be easier for development in the Post Harvest Zone to adjust to, and implement new technology such as automated stacking systems which require additional height. Operations in Post Harvest Zones could easily respond to changes in technology and pressures for additional cool storage onsite by building up instead of out. Effective in reducing unnecessary complexity in relation to additional District Plan activities, rules and criteria.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Not an effective or efficient means of providing for development in the Post Harvest Zones while also protecting the Rural Zone amenity. Effective in enabling post harvest industry development.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> Sufficient information is available to determine that providing unlimited height as a Permitted Activity is not a feasible option in the rural environment.

5.7. Preferred Option/s

The preferred option is Option 2.

This option provides additional height to 14m as a Permitted Activity to provide some flexibility, and retains the ability for the industry to apply for additional height over 14m to a maximum of 20m via a resource consent as a Restricted Discretionary Activity.

Additional height over 20m would be considered as a Discretionary Activity.

Specific Restricted Discretionary Activity Matters of Discretion have been developed to give some certainty around what information would need to be provided to Council to increase the chances of a successful application between 14m and 20m in height.

Changes required are as follows (in underlined red font).

22.3 Activity Lists

22.3.3 Restricted Discretionary Activities

(e) Buildings/structures over 14m in height to a maximum of 20m in height.

22.3.4 Discretionary Activities

(c) Buildings/structures over 20m in height.

22.4 Activity Performance Standards

22.4.1 General

(a) Height of buildings/structures

Maximum: ~~±2m~~ 14m.

Except that:

For Lot 4 DP 376727 Te Puna the maximum shall be 9m.

22.5 Matters of Discretion

22.5.1 Restricted Discretionary Activities

(e) With respect to Rule 22.3.3(e), Council's discretion shall be restricted to relevant objectives and policies, and to the following matters:

(i) The impact on the visual amenity of the existing environment.

This shall require an assessment of the actual and/or potential effects of the building/structure that is appropriate to the scale and effect of the proposal and which addresses the following:

- The actual and/or potential loss of visual amenity when viewed from any existing or consented dwelling that is located on a title outside of the Post Harvest Zone and in different ownership to the post harvest zone operator;
 - The actual and/or potential loss of visual amenity for any title that is located outside of the Post Harvest Zone and in different ownership to the post harvest zone operator;
 - The ability of any actual and/or potential adverse effects to be avoided, remedied or mitigated via measures such as the colour of the building/structure, and/or vegetative or other screening.
- (ii) Restrictions on advertising or similar publicity and/or promotional material on the walls of the building/structure to reduce the potential for adverse visual effects.

5.8. Reasons

The Post Harvest Zone environments are generally rural in nature, and by virtue of that the expectation is that buildings are of a lower scale that would be expected of an industrial activity within an Industrial Zone.

There may however be site-specific situations where an increase in height to 20m (or more) can be absorbed by the surrounding environment. This may include that the specific site (including that adjacent and nearby landowners are accepting of the additional height, or mitigation measures that may be applied to mitigate the visual impact).

Option 2 therefore allows more flexibility over the current 12m height, and the ability to apply through a resource consent application for additional height through a process that ensures that the amenity of the surrounding environment is safeguarded.

Specific Matters of Discretion will ensure that adverse effects on rural amenity are able to be reduced or mitigated via, for example, control of advertising on large blank walls, colour of buildings and/or screening.

The benefits and effectiveness/efficiency reasons included above indicate that Option 2 is likely to achieve the best outcome for the zone, and for the surrounding rural environment.

6.0 Issue 3: NZTA Approval Rule 22.5.1(c) RDA Criteria

6.1. Introduction

District Plan Rule 22.5.1(c) requires that when there is any increase in the throughput of the consented horticultural crop(s) beyond the consented level, or the use of existing post harvest facilities for the grading and storage of horticultural crops other than kiwifruit and avocados, that the written approval of the New Zealand Transport Agency (NZTA) is required or limited notification of the application shall be required.

A number of the Post Harvest Zoned sites in and around Te Puke gain access via side roads to the Te Puke Highway which was previously a State Highway under the control of NZTA but is now managed by WBOPDC.

Rule 22.5.1(c) needs to be reworded to exclude those sites in and around Te Puke which no longer have close access to State Highway 2.

6.2. Analysis

Councillors and the horticultural industry have agreed on the approach to re-word Rule 22.5.1(c) to make it clear that the rule does not apply to sites which have side road access to the Te Puke Highway.

Engagement with NZTA would not be required as Council retains control relating to its roads, including the Te Puke Highway.

It is noted that Rule 22.5.1(a) in relation to impacts on the safe and efficient operation of the access to the site, the relevant Council roads, and any relevant intersection of the Council road to the State Highway still applies, as does District Plan Section 4B in relation to effects of access to activities on Strategic Roads. These District Plan provisions will continue to ensure that traffic effects of any proposal are considered in any application.

6.3. Option 1: Status Quo (NZTA written approval required for activities on sites with access to Te Puke Highway)

Costs	<ul style="list-style-type: none"> Not changing the rule would result in unnecessary consultation with NZTA, or require additional explanation/assessment in resource consent applications.
Benefits	<ul style="list-style-type: none"> No advantages to retaining the status quo.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Not effective.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> Sufficient information is available.

6.4. Option 2: Amend Rule 22.5.1(c)

Costs	<ul style="list-style-type: none"> No disadvantages to this option.
Benefits	<ul style="list-style-type: none"> Amending the rule will eliminate unnecessary consultation

	<p>with NZTA (who no longer control Te Puke Highway as a State Highway).</p> <ul style="list-style-type: none"> ▪ The resource consenting process will be streamlined for the sites that access Te Puke Highway via a side road.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective in reducing unnecessary complexity.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ Sufficient information is available.

6.5. Preferred Option

The preferred option is Option 2.

To give effect to this change, District Plan Rule 22.5.1(c) would need to be amended generally as follows (change shown in underlined red font).

22.5 Matters of Discretion

22.5.1 Restricted Discretionary Activities

(c) *For the purposes of an application under either Rule 22.3.3(a) or 22.3.3(b), the following shall apply in respect of notification:*

(i) *Where the prior written approval of the New Zealand Transport Agency has been obtained, neither public nor limited notification of the application shall be required.*

(ii) *Where the prior written approval of the New Zealand Transport Agency has not been obtained, only limited notification of the application shall be required, such notification to be limited to the New Zealand Transport Agency.*

Except that:

This shall not apply to those Post Harvest Zoned sites that access Te Puke Highway via a side road.

6.6. Reasons

The benefits and effectiveness/efficiency reasons included above indicate that Option 2 is likely to achieve the best outcome for the zone.

7.0 Issue 5 – Edit of Rule 22.3.1(d) - *Seasonal Worker Accommodation* Exclusion and Deletion of Rules 22.3.3(e) and 22.5.1(e)

7.1. Introduction

There are some specific site exclusions in relation to *seasonal worker accommodation* within Post Harvest Zones.

These exclusions were included during the last District Plan review through submissions lodged from adjacent and nearby landowners who did not support accommodation being provided on specific Post Harvest sites.

7.2. Analysis

Existing Permitted Activity List Rule 22.3.1(d) reads as follows:

(d) Seasonal worker accommodation for a maximum of 75 persons associated with the post harvest and/or kiwifruit or avocado orchard operations. This rule does not apply to Lot 3 DP 392756, Te Matai Road, Lots 1 and 2 DPS 35211, Rangioru, and Lot 1 DPS 89976, Lot 2 and 4 DP 376727, Te Puna and Lots 4 and 5 DPS 18004, Kauri Point Road.

The *seasonal worker accommodation* exclusions relate to Post Harvest Zoned sites as follows:

Legal Description	Site
Lot 3 DP 392756, Te Matai Road	DMS Post Harvest Zone on Te Matai Road
Lots 1 and 2 DPS 35211, Rangioru	Previously Seeka post harvest site, now located in Rangioru Business Park Industrial Zone, Rangioru
Lot 1 DPS 89976, Lot 2 and 4 DP 376727, Te Puna	DMS Post Harvest Zone on Armstrong Road, Te Puna
Lots 4 and 5 DPS 18004, Kauri Point Road	Kauri Pak Post Harvest Zone on Kauri Point Road.

Rule 22.3.1(d) may be edited to remove reference to Lots 1 and 2 DPS 35211, Rangioru, as this property contains a Seeka post harvest facility which is now located within the Rangioru Business Park (and not within a Post Harvest Zone).

As a consequential change, Rules 22.3.3(e) and 22.5.1(e) may be deleted as they also relate specifically to Lots 1 and 2 DPS 35211, Rangioru which are no longer within a Post Harvest Zone.

Rule 22.3.3(e) Restricted Discretionary Activities reads as follows:

(e) For Lots 1 and 2 DPS 35211, Rangioru, seasonal worker accommodation for a maximum of 75 persons associated with the post harvest and/or kiwifruit or avocado orchard operations.

Rule 22.5.1(e) Matters of Discretion - Restricted Discretionary Activities reads as follows:

- (e) *With respect to 22.3.3(e) Council will limit its discretion to:*
- (i) *Matters listed in 22.4.1(e);*
 - (ii) *The impact of the activity on the safe and efficient operation of the Maketu Road/Te Puke Highway intersection (and its immediate environs).*

7.3. Option 1: Status Quo (make no changes to Rule 22.3.1(d) and retain Rules 22.3.3(e) and 22.5.1(e))

Costs	<ul style="list-style-type: none"> ▪ Not editing Rule 22.3.1(d) and deleting Rules 22.3.3(e) and 22.5.1(e) may result in unnecessary confusion for people reading the District Plan provisions.
Benefits	<ul style="list-style-type: none"> ▪ No advantages to retaining the status quo.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ Sufficient information is available.

7.4. Option 2: Amend Rule 22.3.1(d) and delete Rules 22.3.3(e) and 22.5.1(e).

Costs	<ul style="list-style-type: none"> ▪ No disadvantages to this option.
Benefits	<ul style="list-style-type: none"> ▪ Amending the rule will eliminate unnecessary confusion.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective in reducing unnecessary complexity.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ Sufficient information is available.

7.5. Preferred Option

The preferred option is Option 2.

To give effect to this change, District Plan Rule 22.5.1(c) would need to be amended as follows (change shown in underlined red font).

22.3 Activity Lists

22.3.1 Permitted Activities

- (d) *Seasonal worker accommodation for a maximum of 75 persons associated with the post harvest and/or kiwifruit or avocado orchard operations. This rule does not apply to Lot 3 DP 392756, Te Matai Road, Lots 1 and 2 DPS 35211, Rangioru,*

~~and~~ Lot 1 DPS 89976, Lot 2 and 4 DP 376727, Te Puna and Lots 4 and 5 DPS 18004, Kauri Point Road.

22.3.3 Restricted Discretionary Activities

~~(e) For Lots 1 and 2 DPS 35211, Rangiuru, seasonal worker accommodation for a maximum of 75 persons associated with the post harvest and/or kiwifruit or avocado orchard operations.~~

22.5 Matters of Discretion

22.5.1 Restricted Discretionary Activities

~~(e) With respect to 22.3.3(e) Council will limit its discretion to:~~

~~(i) Matters listed in 22.4.1(e);~~

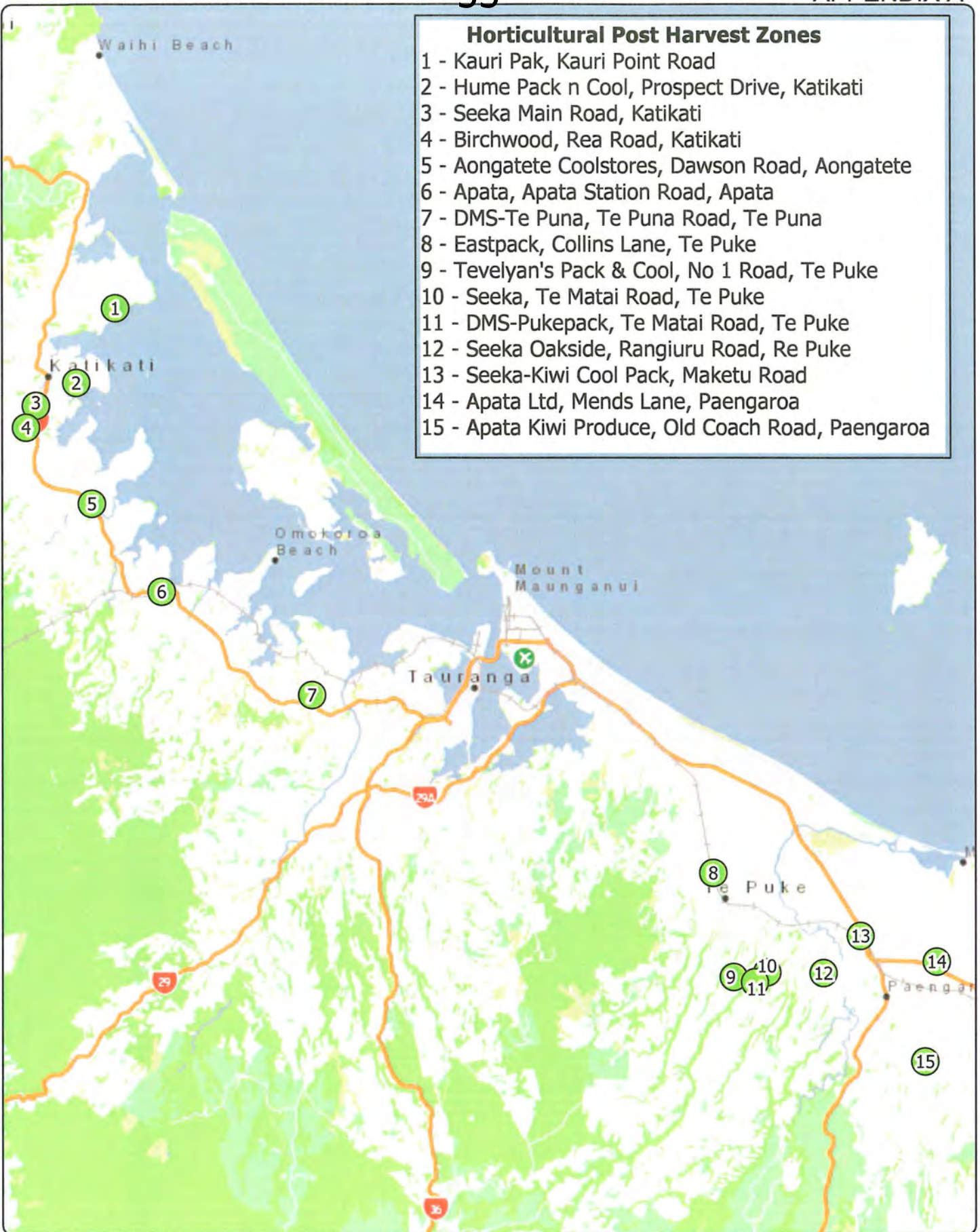
~~(ii) The impact of the activity on the safe and efficient operation of the Maketu Road/Te Puke Highway intersection (and its immediate environs).~~

7.6. Reasons

The benefits and effectiveness/efficiency reasons included above indicate that Option 2 is likely to achieve the best outcome for the zone.

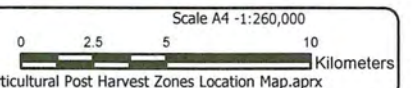
Horticultural Post Harvest Zones

- 1 - Kauri Pak, Kauri Point Road
- 2 - Hume Pack n Cool, Prospect Drive, Katikati
- 3 - Seeka Main Road, Katikati
- 4 - Birchwood, Rea Road, Katikati
- 5 - Aongatete Coolstores, Dawson Road, Aongatete
- 6 - Apata, Apata Station Road, Apata
- 7 - DMS-Te Puna, Te Puna Road, Te Puna
- 8 - Eastpack, Collins Lane, Te Puke
- 9 - Tevelyan's Pack & Cool, No 1 Road, Te Puke
- 10 - Seeka, Te Matai Road, Te Puke
- 11 - DMS-Pukepack, Te Matai Road, Te Puke
- 12 - Seeka Oakside, Rangiuuru Road, Re Puke
- 13 - Seeka-Kiwi Cool Pack, Maketu Road
- 14 - Apata Ltd, Mends Lane, Paengaroa
- 15 - Apata Kiwi Produce, Old Coach Road, Paengaroa



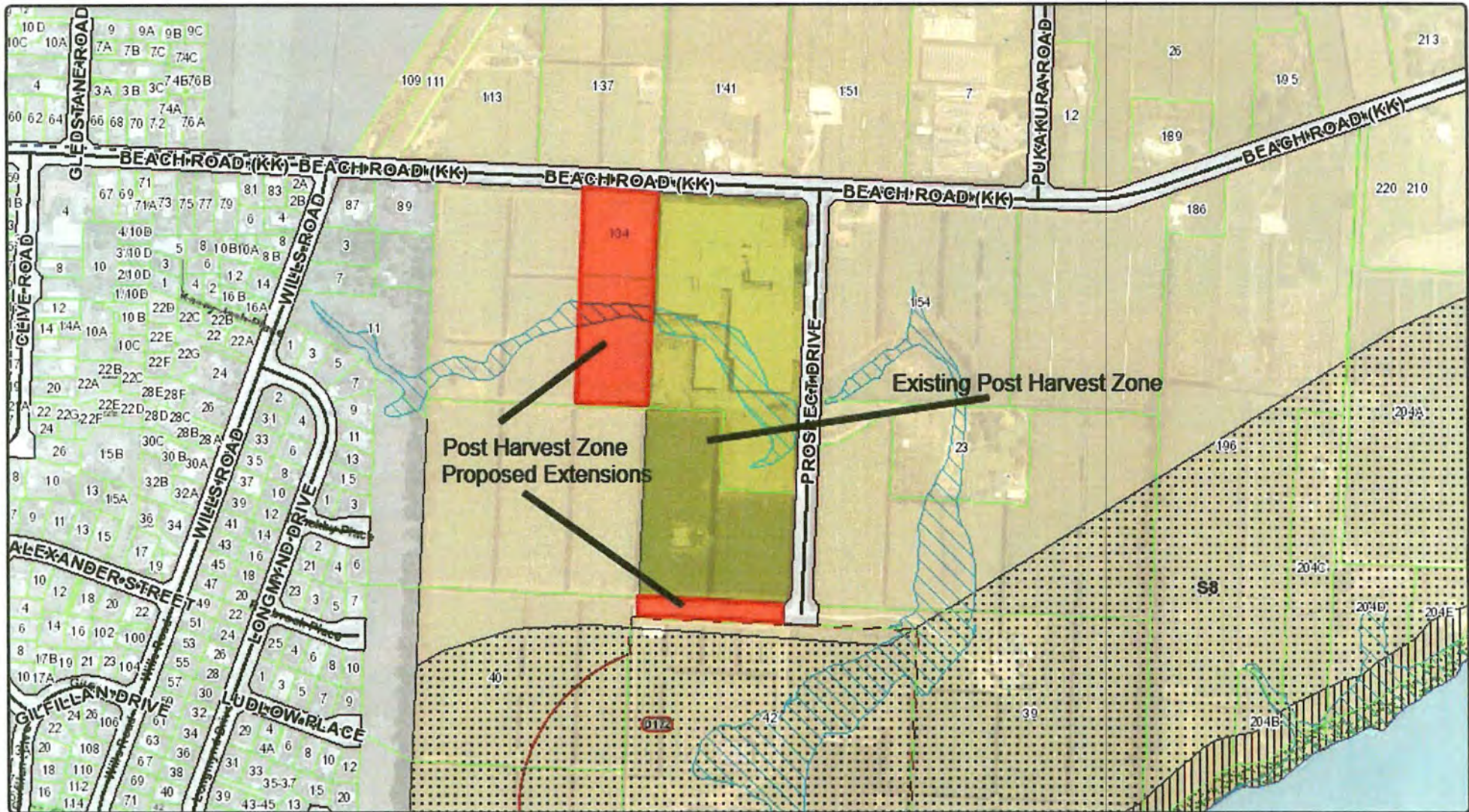
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 Archaeological data supplied by NZ Archaeological Assoc/Dept. of Conservation.

Email: gis@westernbay.govt.nz
 Date: 10/9/2018
 Operator: mlb
 Map: E:\Shape\MLB\2018\Projects\Horticultural Post Harvest Zones Location Map.aprx



**HORTICULTURAL POST HARVEST ZONES
 LOCATION MAP**





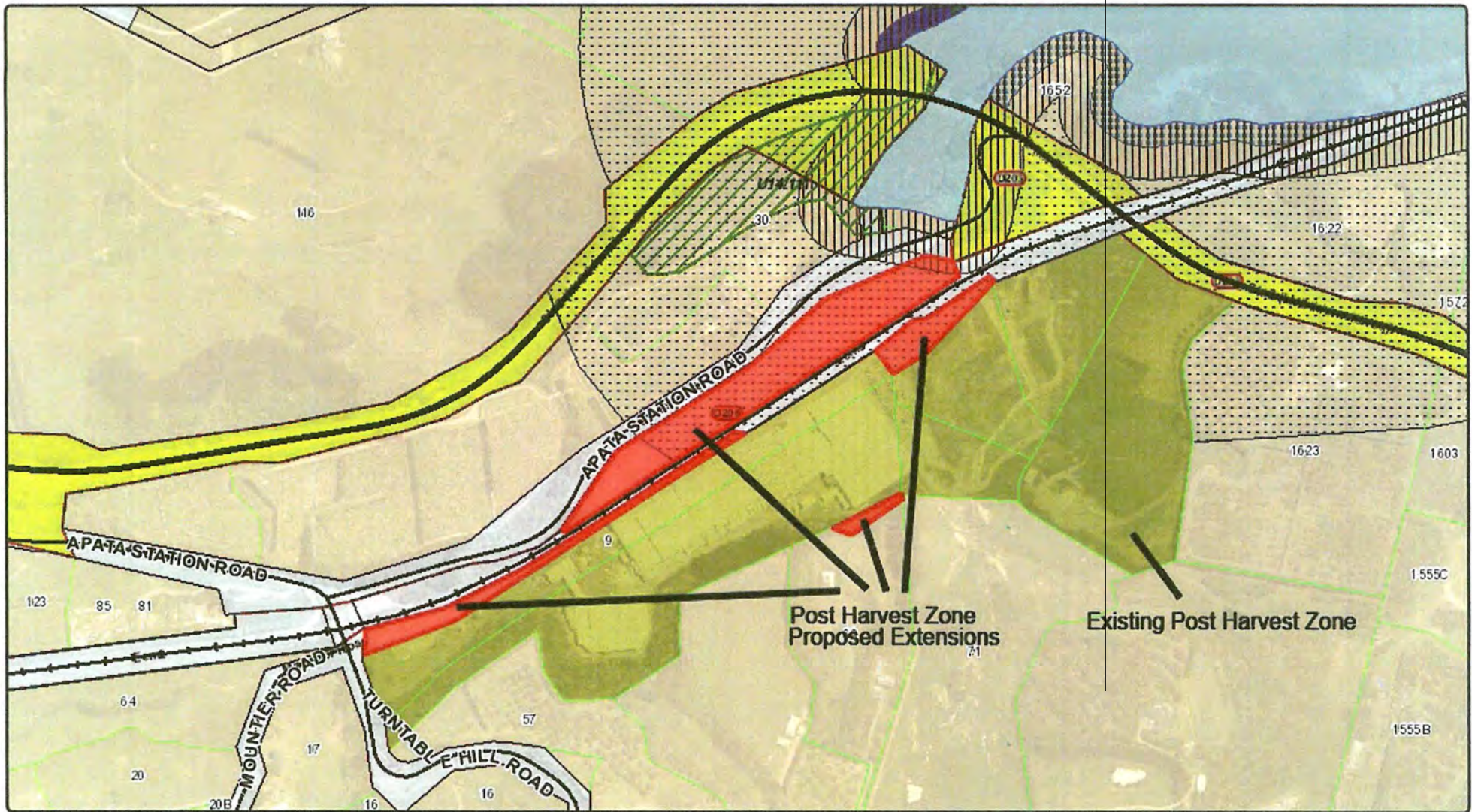
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 Archaeological data supplied by NZ Archaeological Assoc./Dept. of Conservation.

Date: 08/07/2019
 Operator:
 A4 Scale 1: 5,000
 0 250 Meters



Hume Pack-N-Cool Ltd
 Prospect Drive, Katikati
 Proposed Post Harvest Zone Extensions





Post Harvest Zone
Proposed Extensions

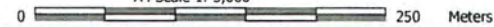
Existing Post Harvest Zone

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Date: 08/07/2019

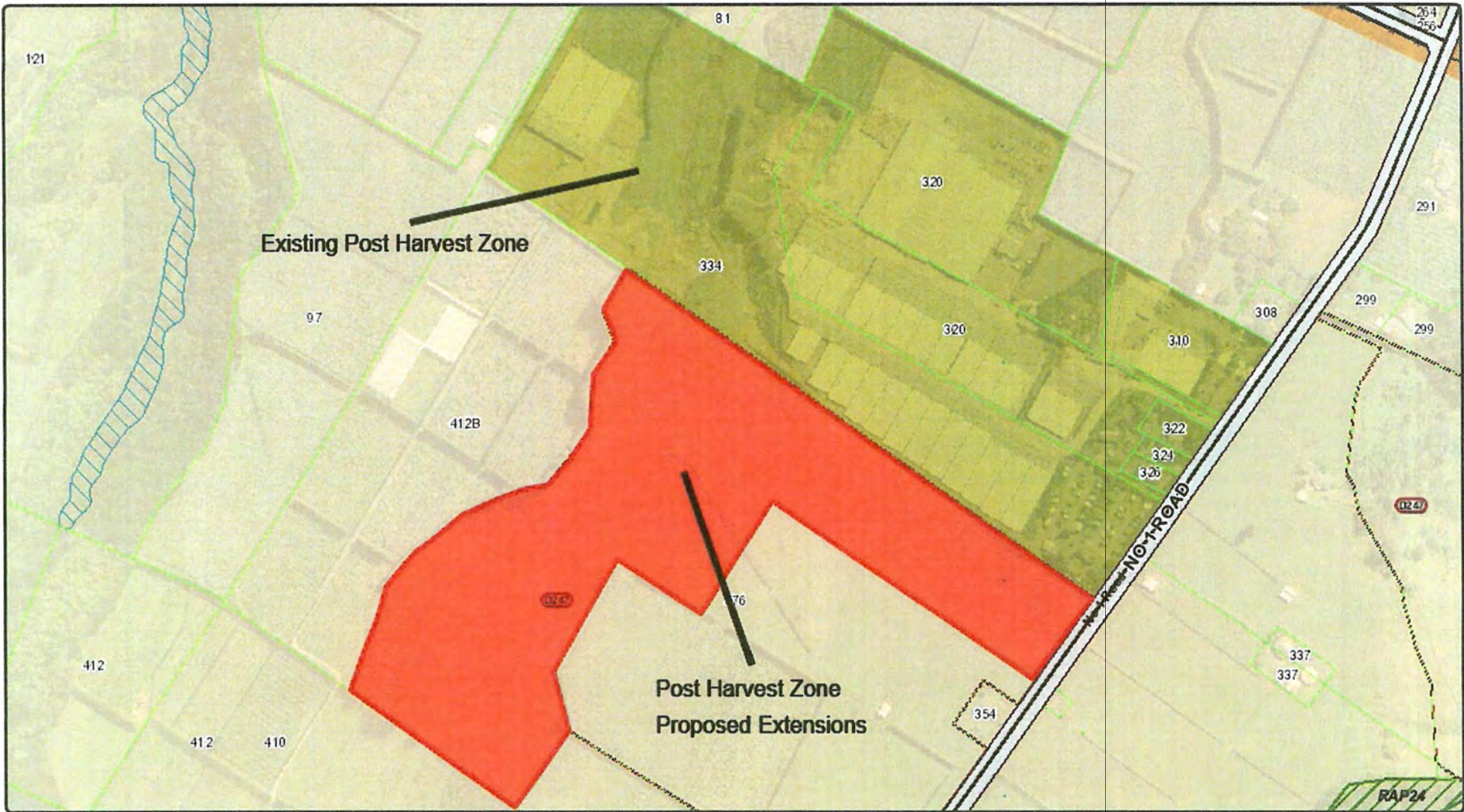
Operator:

A4 Scale 1: 5,000



Apata Group Ltd
 Turntable Road, Katikati
 Proposed Post Harvest Zone Extensions





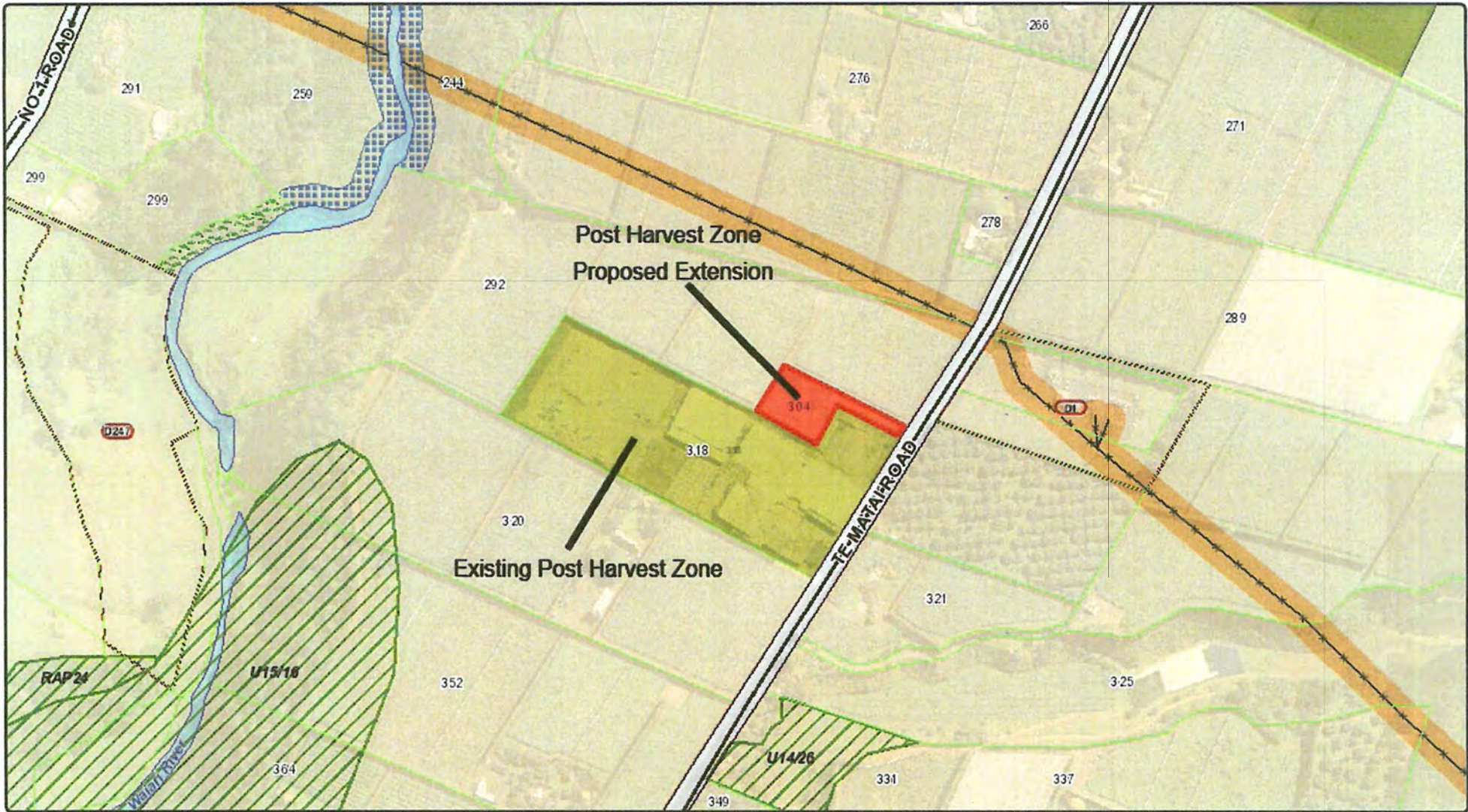
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 Archaeological data supplied by NZ Archaeological Assoc/Dept. of Conservation.

Date: 08/07/2019
 Operator:
 A4 Scale 1: 5,000
 0 250 Meters



Trevelyan's
 No. 1 Road, Te Puke
 Proposed Post Harvest Zone Extensions





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Date: 08/07/2019
Operator:
A4 Scale 1: 5,000
0 250 Meters



DMS Pukepack
Te Matia Road, Te Puke
Proposed Post Harvest Zone Extensions





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Archaeological data supplied by NZ Archaeological Assoc/Dept. of Conservation.

Date: 08/07/2019
Operator:
A4 Scale 1: 5,000
0 250 Meters



Apata Group Ltd
Mends Lane, Te Puke
Proposed Post Harvest Zone Extensions





Western Bay of Plenty
District Council

Change to the District Plan - First Review

Plan Change 83

Accommodation Facility Permitted Limit

Section 32 Report



1.0 Introduction

1.1. General Introduction and Background

The purpose of this report is to consider a plan change to review the District Plan Activity Performance Standards for *Accommodation Facilities* to provide for a combined maximum of five persons in most zones.

This will provide some increased consistency between the District Plan and the Building Act 1991.

2.0 Resource Management Act 1991

2.1. Section 32

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.

None of the iwi/hapu management plans lodged with Council raise any issues of particular relevance to this Plan Change.

2.3. 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. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received. An update will be provided at the meeting on 24 July 2019.

No other Ministers of the Crown or local authorities are considered affected by this proposed plan change.

The Bay of Plenty Regional Council has been consulted and they identified no issues with the proposed change.

No marine title groups are considered affected.

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. A variety of feedback was received, generally unrelated to this topic, being mainly in relation to larger *accommodation facilities* beyond the proposed Permitted Activity limit of five persons.

For larger *accommodation facilities* the matters that Have Your Say respondents were concerned about were overcrowding, dwelling maintenance and appearance deteriorating over time, parking of vehicles/unregistered vehicles, noise, rubbish dumping, noise, run-off from services, and rubbish. The general consensus was that an acceptable accommodation facility in a Residential Zone would be between four and eight people.

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');
- c. Toi Te Ora Public Health.

No specific issues were raised by the kiwifruit industry in relation to this proposed change beyond being supportive of any proposal that increased the ability of people to provide accommodation for horticultural workers, particularly during times of peak season demand.

Staff consulted with representatives of the New Zealand Transport Agency (NZTA) via a series of e-mails and a face-to-face meeting on 11th June 2019. NZTA had no concerns about this topic.

Toi Te Ora Public Health were consulted and identified no particular public health issues with the proposed change. They indicated that there could potentially be public health implications around any large increase in

numbers to be accommodated and have flagged their interest in this area for future plan changes.

3.0 Topic 1: Increase the Accommodation Facility Permitted Activity Limit

3.1. Introduction

Currently *accommodation facilities* for a combined maximum of four persons are a Permitted Activity in most zones. This provision enables people to provide rental/boarding/commercial accommodation for non-members of their household on a small scale that would be compatible with and complimentary to the "usual" residential use of a property, or to establish an *accommodation facility* as a stand-alone business.

Any facility not meeting the Activity Performance Standards for an *accommodation facility* is currently a Discretionary Activity (and resource consent is required including a comprehensive assessment of the proposal including an assessment of environmental effects).

Discretionary Activity consent status covers all *accommodation facilities* that would fall outside of the stated Activity Performance Standards for that use.

3.2. Current District Plan Provisions

The District Plan definition of *accommodation facility* is as follows.

"Accommodation Facility" means any form of residential accommodation that is accessory to a primary dwelling, forms part of a primary dwelling, or is a stand alone facility, that does not comply with the definition of dwelling, minor dwelling, or accessory building. Included within this definition is; home-stays, farm-stays, bed and breakfast, boarding houses, hotels, motels, hostels and camping grounds. Excluded from this definition are Retirement Villages and Rest Homes. Occupancy is based on one person per single bed and two per double bed.

The Activity Performance Standards for *Accommodation facilities* are:

- (i) Have a maximum occupancy of four persons at any one time (excluding staff);
- (ii) The total area available for exclusive use for the occupiers be no greater than 60m² gross floor area;
- (iii) Must not contain a kitchen or otherwise be self contained;
- (iv) For Discretionary Accommodation Facilities, information is to be provided in accordance with 4A.6.2.

In relation to accommodation facilities in different zones, the following table provides a summary of current District Plan Standards for *Accommodation Facilities*.

Zone	Accommodation Facilities
Residential Zones	Yes <i>Limited to Activity Performance Standards as listed above.</i>
Medium Density	Yes <i>Limited to Activity Performance Standards as listed above.</i>
Future Urban	Yes <i>Limited to Activity Performance Standards as listed above.</i>
Rural Residential	Yes <i>Limited to Activity Performance Standards as listed above.</i>
Lifestyle	Yes <i>Limited to Activity Performance Standards as listed above.</i>
Rural	Yes <i>Limited to Activity Performance Standards as listed above.</i>
Commercial	Yes – <i>provided as a Permitted Activity, although no Activity Performance Standards restricting numbers apply, and activity becomes a Controlled Activity as accommodation facilities are high water users.</i>
Commercial Transition	Yes – <i>provided as a Permitted Activity, although no Activity Performance Standards restricting numbers apply.</i>
Industrial	<i>Provided as a Discretionary Activity where ancillary to an industrial activity. No Activity Performance Standards restricting numbers apply.</i>
Post Harvest	<i>No provision.</i>
All Terrain Park	<i>Provided as a Discretionary Activity not undertaken as an All Terrain Park activity. No Activity Performance Standards restricting numbers apply.</i>

The District Plan Commercial Zone provisions allow for *accommodation facilities* via resource consent rather than as a Permitted Activity because accommodation in these zones is listed as a high water user (water supply and wastewater) and require a specific assessment to determine what financial contributions are payable towards providing these services. There is however no specified limit on building size or the number of guests or staff, which allows for hotels, motels, hostels and larger boarding establishments.

Within the Industrial Zone a dwelling accessory to a Permitted Activity is a Restricted Discretionary Activity, while *accommodation facilities* ancillary to an industrial activity are Discretionary Activities.

3.3. Analysis

Increasing the *accommodation facilities* Permitted Activity limit to a combined maximum of five persons (excluding staff), would provide some increased consistency between the Building Act and the District Plan.

The NZ Building Code under the Building Act states that the term detached dwelling applies to a building or use where a group of people live as a single household or family and includes a boarding house accommodating fewer than six people.

An *accommodation facility* activity allowing a maximum of five persons would still be considered residential in nature, and would provide a small increase in accommodation over the District.

The *accommodation facility* definition and associated policy and rule structure anticipates the situation where a *dwelling* accommodating a household of people exists, and an *accommodation facility* is permitted in addition to this.

Allowing for more than five in an *accommodation facility* over and above a household unit would be likely to have effects greater than those anticipated by most "usual" residential activities. These effects are best assessed and managed via a resource consent application for a Discretionary Activity as is currently the case. An assessment of compliance with the Building Act and a *change of use* assessment would also be required for a facility in this category. A change to the *accommodation facility* maximum limit, if made, would be required across a number of different zones.

3.4. Option 1 - Status Quo (combined maximum of 4 persons in an *accommodation facility*)

Costs	<ul style="list-style-type: none"> ▪ Is inconsistent with the Building Act provisions. ▪ Does not provide a large number of beds that would be useful to fulfil the worker accommodation needs of the horticultural industry. ▪ Requires a Discretionary Activity application for any more than 4 persons in an <i>accommodation facility</i>.
Benefits	<ul style="list-style-type: none"> ▪ Minimises actual and/or potential effects of larger numbers of people being accommodated on a site.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective in maintaining a low level of activity around <i>accommodation facilities</i> operated in a commercial manner on a site.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ Sufficient information is available.

3.5. Option 2 – Increase the *accommodation facility* combined Permitted Activity maximum limit to five persons

Costs	<ul style="list-style-type: none"> ▪ Does not provide a large number of beds that would be useful to fulfil the worker accommodation needs of the horticultural industry. ▪ Creates the need (and attendant costs and time) for a resource consent for a Discretionary Activity for any facility larger than 5 person capacity-.
Benefits	<ul style="list-style-type: none"> ▪ Creates a small increase in Permitted Activity accommodation which would be available for any persons requiring accommodation. ▪ <i>Accommodation facilities</i> beyond five persons would be a Discretionary Activity with a full assessment against objectives and policies and of effects on the environment. ▪ Creates consistency between the District Plan and the Building Act.

	<ul style="list-style-type: none"> Allows for full resource consent application consideration of effects on the environment of <i>accommodation facilities</i> over and above a five-person facility, or one which does not comply with the Activity Performance Standards.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Effective in creating a small increase in accommodation without resource consenting requirements, and allows a full consideration of actual and/or potential effects on the environment for larger facilities. Effective in providing a little additional permitted capacity for property owners/occupiers who wish to use spare space in their dwelling or ancillary building/s for a small number of people (could be seasonal workers, other boarders, bed and breakfast establishments etc.) to supplement their income. Efficient and effective as it provides consistency between the Building Act and the District Plan.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> Sufficient information is available.

3.6. Option 3 – Increase the *accommodation facility* combined maximum limit to 10 persons as a Permitted Activity

Costs	<ul style="list-style-type: none"> Where the occupiers are not a cohesive group that could be defined as a "residential household" this model does not meet the intent of the current District Plan rule structure. This places considerable pressure on Council-provided services, and could also generate complaints about effects on residential amenity. This option could have the effect of removing large numbers of dwellings from the rental pool for the use of temporary seasonal workers in the horticultural industry. Inconsistent with Building Act provisions which creates confusion and monitoring difficulties. A larger number of persons on-site means that the activity is more commercial than residential in nature. Activity Performance Standards would probably need to be reviewed as 60m² would not be adequate space for 10 persons, and 10 persons in addition to a dwelling on a site as a Permitted Activity could have the ability to generate significant adverse effect on amenity.
Benefits	<ul style="list-style-type: none"> Increasing the permitted number of occupants for an <i>accommodation facility</i> from four to 10 would match the capacity of van or mini bus and the suggestion has been made by the horticultural industry that this would be a practical number to have as a Permitted Activity. There is anecdotal evidence that landlords can get a better return on renting to seasonal workers where a large number are accommodated in a house and outbuildings, paying per bed.

Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective or efficient in managing effects on the environment. ▪ The <i>accommodation facility</i> definition and associated rule structure anticipates the situation where a dwelling accommodating a household of people exists, and an <i>accommodation facility</i> is permitted in addition to this. Allowing for more than five in an <i>accommodation facility</i> over and above a household unit would be likely to have effects greater than those anticipated by a "usual" residential activity. These effects are best assessed and managed via a resource consent application for a Discretionary Activity as is currently the case. An assessment of compliance with the Building Act would also be required for a facility in this category.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ Sufficient information is available to determine that an <i>accommodation facility</i> for 10 persons as a Permitted Activity does not accord with the intent or expectations of either the Residential or Rural Zones.

3.7. Option 4 – Provide for an *accommodation facility* combined maximum limit of five as a Permitted Activity and between 6 and 10 persons as a Restricted Discretionary Activity (RDA)

Costs	<ul style="list-style-type: none"> ▪ Providing for a 10 person <i>accommodation facility</i> as an RDA could continue to place considerable pressure on the residential dwelling rental stock which is already in short supply, put pressure on Council-provided services, and generate complaints about the effects on residential or rural amenity. ▪ Inconsistency with Building Act provisions could create confusion and monitoring difficulties. An assessment of compliance with the Building Act provisions would be required for a facility over 5 person capacity. ▪ A larger number of persons on-site in an <i>accommodation facility</i> which could be established in addition to a <i>dwelling</i> on the same site means that the activity is more commercial than residential in nature. ▪ Up to 10 persons in an <i>accommodation facility</i> over and above a household unit on the same site could create effects significantly greater than those anticipated by a "usual" residential activity. ▪ The residential environment is sensitive to non-residential activities due to dwellings generally being closely located, and therefore may not be able to easily absorb and mitigate the effects of larger numbers of people being accommodated on a site. ▪ The Residential Zone can be a sensitive environment in which to have larger numbers of people on one site so a site-by-site assessment would be required to assess effects, including effects on residential amenity. ▪ <i>Accommodation facilities</i> would need to be self sufficient in
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	<p>terms of water and wastewater servicing in rural areas, and would connect to Council's infrastructure services where these were available. The issue of financial contributions towards Council-provided services would need to be addressed. Assessment of effects on Council-provided services may be difficult.</p>
Benefits	<ul style="list-style-type: none"> ▪ Smaller-scale accommodation facilities (up to 10 persons) that have been evaluated through a resource consent application as an RDA may be appropriate subject to assessment against specified activity performance standards and specific matters of discretion. ▪ Compliance with Building Act requirements would be mandatory, and inconsistency with Building Act provisions would be able to be highlighted during a resource consent process for more than five persons. ▪ Council could consider the imposition of financial contributions for additional impact on Council-provided services for <i>accommodation facilities</i> over five persons. ▪ Increasing the number of occupants for an <i>accommodation facility</i> to 10 would match the capacity of van or mini bus per dwelling and may result in no additional effect on traffic movement from a site. ▪ Landlords could get a better return where a larger number are accommodated in a facility where people pay per bed. ▪ For <i>accommodation facilities</i> over 10 persons and where standards are not met, Discretionary Activity status would enable the actual and/or potential effects of the activity to be managed appropriately. ▪ The Residential Zone is convenient for <i>accommodation facilities</i> as water/wastewater etc. services are available and social considerations and pastoral care functions may be able to be more easily met.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Perhaps effective in providing some additional accommodation capacity. Not effective in managing larger <i>accommodation facilities</i> which need a full assessment via Discretionary Activity status. ▪ Possibly efficient in managing actual and/or potential effects on the environment if a number of satisfactory and suitable assessment criteria were developed. Likely to create an environment which is not residential in nature and intent.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ Insufficient information is available – there is a need for further discussion and direction on the acceptable activity limit for <i>accommodation facilities</i> for more than five persons as a Permitted Activity or a Restricted Discretionary Activity.

3.8. Preferred Option

The preferred option is Option 2 which increases the *accommodation facility* combined Permitted Activity maximum limit to five persons.

To give effect to Option 2, a change in the Activity Performance Standards for *accommodation facilities* would need to be made from four to five persons as the combined maximum across a number of zones.

The changes required are as follows (changes are shown in red underlined font).

Section 13 – Residential

13.3 Activity Lists

13.3.1 Permitted Activities

- (c) ~~Accommodation or e~~Education facilities for a combined maximum of four persons (excluding staff).
- (h) Accommodation facilities for a combined maximum of five persons (excluding staff).

13.4 Activity Performance Standards

13.4.1 General

- (f) Standards for Accommodation Facilities
 - (i) Have a maximum occupancy of four five persons at any one time (excluding staff);
 - (ii) The total area available for exclusive use for the occupiers be no greater than 60m² gross floor area;
 - (iii) Must not contain a kitchen facility or otherwise be self contained;
 - (iv) For Discretionary accommodation facilities, information is to be provided in accordance with 4A.6.2.

Section 14 – Medium Density

14.3 Activity Lists

14.3.1 Permitted Activities

- (c) ~~Accommodation or e~~Education facilities for a combined maximum of four persons (excluding staff).

(g) Accommodation facilities for a combined maximum of five persons (excluding staff).

14.4 Activity Performance Standards

14.4.2 Standards for Accommodation Facilities

In the event of any conflict or inconsistency between these rules and those set out in 14.4.1 above, the content of these rules shall prevail.

- (a) Have a maximum occupancy of ~~four~~ **five** persons at any one time (excluding staff);*
- (b) The total area available for exclusive use for the occupiers be no greater than 60m² gross floor area;*
- (c) Must not contain a kitchen facility or otherwise be self contained;*
- (d) For Discretionary accommodation facilities, information is to be provided in accordance with 4A.6.2.*

Section 15 - Future Urban

15.3 Activity Lists

15.3.1 Permitted Activities

- ~~(f) Accommodation or eEducation facilities for a combined maximum of four persons (excluding staff).~~*
- (i) Accommodation facilities for a combined maximum of five persons (excluding staff).*

15.4 Activity Performance Standards

15.4.1 General

- (d) Standards for accommodation facilities**
 - (i) Have a maximum occupancy of ~~four~~ **five** persons at any one time (excluding staff);*
 - (ii) The total area available for exclusive use for the occupiers be no greater than 60m² gross floor area;*
 - (iii) Must not contain a kitchen facility or otherwise be self contained;*

- (iv) For Discretionary accommodation facilities, information is to be provided in accordance with 4A.6.2.

Section 16 – Rural-Residential

16.3 Activity Lists

16.3.1 Permitted Activities

- (d) ~~Accommodation or e~~Education facilities for a combined maximum of four persons (excluding staff).

- (j) Accommodation facilities for a combined maximum of five persons (excluding staff).

16.4 Activity Performance Standards

16.4.1 General

(e) Standards for Accommodation Facilities

- (i) Have a maximum occupancy of ~~four~~ five persons at any one time (excluding staff);
- (ii) The total area available for exclusive use for the occupiers be no greater than 60m² gross floor area;
- (iii) Must not contain a kitchen facility or otherwise be self contained;
- (iv) For Discretionary accommodation facilities, information is to be provided in accordance with 4A.6.2.

Section 17 – Lifestyle

17.3 Activity Lists

17.3.1 Permitted Activities

- (e) ~~Accommodation or e~~Education facilities for a combined maximum of four persons (excluding staff).

- (m) Accommodation facilities for a combined maximum of five persons (excluding staff).

17.4 Activity Performance Standards

17.4.1 General

(d) Standards for Accommodation Facilities

- (i) Have a maximum occupancy of ~~four~~ five persons at any one time (excluding staff);
- (ii) The total area available for exclusive use for the occupiers be no greater than 60m² gross floor area;
- (iii) Must not contain a kitchen facility or otherwise be self contained;
- (iv) For Discretionary accommodation facilities, information is to be provided in accordance with 4A.6.2.

Section 18 – Rural

18.3 Activity Lists

18.3.1 Permitted Activities

- (h) ~~Accommodation or e~~Education facilities for a combined maximum of four persons (excluding staff).
- (t) Accommodation facilities for a combined maximum of five persons (excluding staff).

18.4 Activity Performance Standards

18.4.1 General

(e) Standards for accommodation facilities

- (i) Have a maximum occupancy of ~~four~~ five persons at any one time (excluding staff);
- (ii) The total area available for exclusive use for the occupiers be no greater than 60m² gross floor area;
- (iii) Must not contain a kitchen facility or otherwise be self contained;
- (iv) For Discretionary accommodation facilities, information is to be provided in accordance with 4A.6.2.

3.9. Reasons

Increasing the accommodation facilities Permitted Activity limit to a combined maximum of five persons (excluding staff) as provided for by Option 2 is the preferred option.

This option provides some increased consistency between the Building Act 1991 and the District Plan. It is the most effective and efficient method to address the inconsistency between the District Plan and the Building Act provisions, and will achieve the best outcome for the District.

Western Bay of Plenty District Council

Change to the District Plan – First Review

Plan Change 84 Public Trails (Walkways, Cycleways, Bridleways and Similar)

Section 32 Report

Prepared by: Fiona Low, Senior Policy Analyst Resource Management

1.0 Introduction

1.1. General Introduction

The purpose of this report is to consider a Plan Change to include rules within the District Plan to provide a more enabling framework for the construction of public trails (walkways, cycleways, bridleways and similar).

1.2. Background

A review of District Plan provisions has been undertaken to reflect on whether there is scope to provide a more enabling set of provisions for the development of public trails.

Staff have assessed the relevant operative District Plan provisions, discussed the issues with Reserves and Facilities, Utilities, and Environmental Consenting staff, and have undertaken some research on other Councils' approaches to public trails and similar activities.

This report outlines the issues that have been identified and considers possibilities for changes to the District Plan to make the development of public trail projects easier, whilst continuing to ensure that actual and/or potential effects on the environment, including on scheduled significant sites and District Plan overlays continue to be managed appropriately.

2.0 Resource Management Act 1991

2.1. Section 32

Before a proposed plan change can be publicly notified the Council is required under section 32 ("s.32") of the Resource Management Act ('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 lodged with Council.

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

- (a) Te Mana Taiai o Ngai Tamarawaho Hapu Management Plan (2013);
- (b) Ngai Te Ahi Hapu Management Plan (2013);
- (c) Matakana Island and Rangiwaia 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 management plans is the importance of protecting the values of wahi tapu, sites of significance and cultural features and landscapes from adverse effects of activities, particularly activities involving earthworks. Some management plans include specific policy direction to require consultation with the hapu on earthworks proposals, and the need for cultural monitoring during physical works.

In relation to the changes proposed to enable public trails through this plan change, protection rules within the District Plan that relate to scheduled cultural sites of significance will remain unchanged. In addition, the provisions of the Heritage New Zealand Pouhere Taonga Act provide absolute protection to all archaeological sites, whether recorded or not, and whether scheduled in the District Plan or not. Existing protocols and partnership relationship agreements with iwi/hapu in relation to Council's projects exist and these which will not be altered by this proposed plan change.

As part of a process separate to this plan change, Council is currently reviewing the provisions of the District Plan in relation to how it provides for the management of Maori cultural values. It is anticipated that this broader review will identify whether there is a need for an additional change to the District Plan to better provide for cultural values in a manner consistent with the relationships Council seeks to maintain with iwi/hapu, and the intent of the RMA.

2.3. 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. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received. An update will be provided at that meeting which is scheduled for 24 July 2019.

No other Ministers of the Crown or local authorities are considered affected by this proposed plan change.

The Bay of Plenty Regional Council has been consulted and they have identified no issues with the proposed change beyond the need to carefully consider landscape and ecological values and the need to avoid duplication between the roles of the Regional and District Councils (specifically in relation to earthworks and vegetation removal). They advised that they would be generally supportive of creating a more enabling District Plan

structure for public trails to provide access to, and along, the coast and rivers, and also in terms of providing for alternative modes of transport.

No marine title groups are considered affected.

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.*

In relation to actual and/or potential effects of public trails on cultural and heritage sites, it is acknowledged that where they are scheduled in the District Plan there is statutory protection for them. In addition, protection mechanisms around historic heritage in the Historic Places Pouhere Taonga Act apply.

Tangata Whenua have been consulted through the Tauranga Moana and Te Arawa ki Tai Partnership Forum on 14 March 2019 and 25 June 2019.

Direction was sought at the 25th June forum as to whether existing partnership agreements and/or protocols with Council continue to provide a level of comfort in relation to the proposed framework for public trail projects carried out under Council administration. It was recognised that public trail projects would continue to be undertaken within the context of particular consideration given to scheduled significant sites and places within the District Plan.

At the 25th June meeting no specific concerns were raised in relation to the public trails plan change project. It is acknowledged that the partnership relationship is important and where public trails are Permitted Activities, Council's project staff will engage as they do currently with iwi/hapū.

Statutory Acknowledgement Areas that are not scheduled in the District Plan do not currently trigger a response in relation to Permitted Activities in the District Plan however, existing protocols between Council and iwi/hapū within the WBOPDC rohe provide for engagement on Council's projects.

In addition, the Council have 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. A variety of responses were received and these are summarised as follows.

Question	Responses
Do you think that making it easier for Council to establish public trails is a good idea?	73% said "yes" 27% said "no"
Why?	<p>"Yes" responses:</p> <ul style="list-style-type: none"> - substantial benefits to residents & visitors - passion for safe walking and cycling - better environmental and amenity outcome - consenting process causes unnecessary costs and delays and needs to be as streamlined and practical as possible - recreational, health and ultimately economic benefits to the District making it a high priority - positive alternative to using cars - need good access for commuting, cycle touring, walking and schools - happy that significant environmental features will continue to be assessed through resource consent <p>"No" responses:</p> <ul style="list-style-type: none"> - unintended consequences (on archaeology) - lack of consultation and financial burden of more public trails
Are there potential adverse effects of public trails projects that concern you?	64% said "yes" 46% said "no"
If "yes", what are these concerns?	<p>"Yes" responses:</p> <ul style="list-style-type: none"> - concern about effects on historic heritage sites not scheduled in the District Plan and concern that the plan change would remove the opportunity for HNZPT staff to provide advice on resource consents. - costs have to be reduced as they are currently unaffordable - enabling public trail projects may result in unforeseen and unfortunate effects (that closer scrutiny via resource consent may have identified) - environmental concerns - dogs hazardous to cyclists and the environment in sensitive birdlife/wildlife areas
Other comments.	<ul style="list-style-type: none"> - trails promote good health and wellbeing for all ages - support alternative trail networks and making the District walking and cycle friendly - keep constraints and costs down, surface doesn't always need to be concreted - positive community effects and ultimate payback e.g. Otago and Hauraki Rail Trails - links between different environments - positive spin-offs like accommodation and services associated with trail use - a significant positive influence on the economy of our region

	<ul style="list-style-type: none"> - opportunity for Council's to work together on links - more is better and a connected network is essential - there is room to promote the economic benefit assessments done by other areas - existing trails are a credit to Council - Waihi Beach/Athenree link – is this still on the agenda? - the formation and maintenance of walkways, cycleways, bridleways and similar trails and car parking areas should not be excluded from the definition of "earthworks". - Council does not carry out enough consultation or cost-benefit analysis before constructing trails and the process should not be allowed to be less transparent than it already is.
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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 (NZTA);
- c. Toi Te Ora Public Health.

No specific issues were raised by NZKGI in relation to this proposed plan change.

Toi Te Ora Public Health staff indicated that a plan change of this nature would be supported from a public health perspective as it enables physical activity.

NZTA raised a potential concern about the interface between public trails and State Highways. This concern was in relation to how potential conflicts between vehicular traffic and users of the public trails (pedestrians, cyclists and horses) would be managed and/or avoided in close proximity with State Highways. It is noted that the development of any public trail involving a link with the State Highway network would, by necessity, involve Council working with NZTA to manage any potential effects.

3.0 Issue 1: Public Trails - Activity Status and Rule Framework

3.1. Introduction

The impetus for the review of District Plan provisions relating to public trails arose from complexities arising out of the Omokoroa to Tauranga cycleway project. The required resource consents for a number of locations within the project added significant time and cost.

In general, it was thought that the current District Plan provisions around public trails frequently adds a layer of (resource) consenting to the process, often with no resulting benefit to the environment or to the project.

3.2. The Application of Current District Plan Provisions

Within the District Plan framework there is currently no specific definition that captures public trails or similar activities. Neither is there a specifically identified activity status for these activities.

The definition of *places of assembly* (below) has been used to “capture” public trails as an activity, usually as a Discretionary Activity for which resource consent is required.

“Places of Assembly” means land, buildings, structures, or uses on the surface of water, that involve the congregation of people for such purposes as deliberation, entertainment, cultural, recreation or similar purposes and includes places of worship, marae, halls, funeral chapels, clubrooms, taverns, restaurants, art galleries, theatres, sports fields, facilities for recreation activities and tourist facilities.

The classification of public trails as *Places of Assembly*, as well as the triggering of earthworks provisions in District Plan Section 6 – Landscape, and the Floodable Areas and Coastal Inundation Areas provisions in Section 8 have, in particular, created a need for resource consenting for public trail projects that may not be necessary or useful in managing actual and/or potential adverse effects on the environment.

Within all Council’s reserves, whatever the underlying zone, the District Plan allows for *activities on reserves as provided for within the Reserves Act 1977* as Permitted Activities. This means that if the relevant Reserve Management Plan provides for public trails, then they are Permitted Activities.

This Permitted Activity rule however does not exempt activities within reserves (including public trails) from the need to gain resource consent if the District Plan has identified that it is required for another matter (e.g. vegetation removal or earthworks relating to a significant overlay feature within Natural Environment, Landscape, Culture and Heritage, and Natural Hazards sections).

Reserve Management Plans can therefore facilitate public trail activities where they are anticipated and mandated via a Reserve Management Plan which has been through community consultation processes, however the activity may still need resource consent to assess effects on specific matters where there is a District Plan overlay. This is a correct and generally robust approach as overlays are commonly included in the District Plan to protect sensitive areas.

It is however believed that some consideration of enabling low-impact or no-effect public trails within Floodable Areas and Coastal Inundation Areas may be useful, and this is considered below.

Section 4A.5 of the District Plan provides that all *earthworks* are permitted, except where they:

- Are listed as requiring resource consent elsewhere in the District Plan.
- Undertaken in association with an activity for which a resource consent for a Discretionary or Non-Complying Activity is required.
- Are listed as a matter of control or discretion.

The definition of *earthworks* (below) is wide and exempts certain activities, but not the formation or maintenance of public trails.

"Earthworks" means the alteration of land contours on any site including, without limitation: deposition, disturbance of land by moving, removing, placing or replacing soil by excavating, cutting, filling or backfilling and recompacting of existing ground, but does not include domestic and reserve gardening, quarrying and normal agricultural and horticultural practices.

The *earthworks* definition could be altered so that the formation and maintenance of public trails would be excluded from the definition of earthworks, except that as a *place of assembly* (as is the case currently) or where there is a District Plan significant area overlay, they are captured by the listed exemptions in Section 4A.5.

A wider consideration of the District Plan provisions is therefore necessary to establish whether there is an alternative rule framework that would assist in enabling the construction and use of public trails.

3.3. Analysis and Possible Change to Provisions

A number of possible changes to the District Plan which would provide a more enabling rule framework for public trails have been explored.

Definition

The simplest and most pragmatic of these would be to provide a specific definition and activity status for public trails so that they are not classified as *places of assembly* (requiring Discretionary Activity resource consent).

Activity Status

In determining an activity status for public trails, the provisions of Section 10 – Infrastructure, Network Utilities and Designations have been considered. The explanatory statement says that *infrastructure and network utilities* are essential components for the effective and efficient functioning of the District, and that they contribute positive benefits to local communities, the wider sub-region and the nation. The explanatory statement goes on to list roading and associated linkages as a function that *infrastructure and network utilities* includes.

Further, the definition of *infrastructure and network utilities* includes:

- (k) *Structures for transport on land by cycleways, rail, roads, walkways, or any other means.*

It is considered that *infrastructure and network utilities* could effortlessly embrace public trails as an activity. *Infrastructure and network utilities* are variously provided for within the District by way of Permitted Activities, through obtaining appropriate resource consents, or in regards to a network utility operator, by way of designation. Table 10.3 – Activity Table for Infrastructure and Network Utilities provides the activity status for different utilities, and, as relevant to this plan change does include cycle lanes but only as a Permitted Activity within *road reserve*.

Every zone in the District Plan contains "*works and network utilities as provided for in Section 10*" as a listed Permitted Activity. Table 10.3 outlines specific *infrastructure and network utilities* activities with an activity status assigned for each activity for each particular zone. Unless stated otherwise, the activities contained within Table 10.3 must comply with the Performance Standards contained within Section 10.4 where they are relevant, and with the Performance Standards for the zone in which the activity is located.

This means that, rather than changing the Permitted Activity Lists in every zone in the District Plan to allow for public trails, an addition to Table 10.3 – Activity Table for Infrastructure and Network Utilities would allow public trails to be provided for as a Permitted Activity in every zone whilst still providing for consideration of relevant overlay features in Sections 5 to 8 of the District Plan (Natural Environment, Landscape, Culture and Heritage, Natural Hazards). This is important to ensure public trails proceed through a resource consent assessment process, if required, in order to protect significant features or the environment.

Effects of Public Trails on Others

Consideration has been given to the environments in which a public trail activity is likely to be established, and whether there is a need for specific consideration of actual and/or potential adverse effects on landowners or occupiers who adjoin proposed public trails, particularly where the land is not a reserve where a Reserve Management Plan has already been through a public process.

In this context, it is acknowledged that where a public trail is proposed within an esplanade reserve, access strip or similar, that the purpose of these reserve areas is to enable public access, but in other environments (such as the Rural Zone) there may be no expectation that public access immediately adjacent to a site would be enabled by the District Plan.

Where a public trail is to be constructed on land that is not a Council reserve with a Reserve Management (or similar) Plan that has gone through a public process, the actual and/or potential effects on neighbouring landowners is something Council needs to consider. A specified setback distance that could only be reduced with the written approval of the landowner/s is one way to manage this. Staff have considered how to draft this into a District Plan rule framework.

Earthworks Provisions and Definition

It is proposed through this review that provision is made in all zones for public trails as a Permitted Activity. A change to the *earthworks* definition is not required because under District Plan Rule 4A.5, *earthworks* are permitted if they don't need resource consent under another District Plan rule. *Earthworks* in association with the development of public trails will therefore be permitted, except where they require resource consent under another rule.

This will make a significant difference to the current situation where by default public trails are defined as a *Place of Assembly* and require resource consent for a Discretionary Activity.

Public Trails within Natural Hazard Overlay Areas

Within Natural Hazard overlay areas there are some restrictions around *earthworks* and *vegetation removal* that would impact the construction of *public trails* and propel them into an activity category requiring resource consent. As assessment has been carried out to consider whether these restrictions are appropriate and whether there is anything in the existing rule framework that could be amended to make the process of establishing *public trails* easier whilst still protecting the environment.

In relation to Stability (landslip) Areas the current framework is considered appropriate as this overlay area is very sensitive to earthworks or vegetation changes. This means that *public trails* within the identified landslip areas that involve vegetation removal and/or excavation and filling will continue to require resource consent as a Restricted Discretionary Activity.

Within Floodable Areas and Coastal Inundation Areas however, it is considered that a Permitted Activity rule could be drafted to cover situations where a *public trail* constructed on top of the natural ground surface changed the surface levels by a small amount, but did not result in any adverse effect on overland flow or cause water to bank up.

Council's Reserves and Facilities staff advise that where *public trails* are constructed on the ground surface, often with a small amount of excavation of the top humus and soil layer, the finished level is usually no more than 100 to 150mm above natural ground level, but could be up to 200mm.

There are many other situations where greater amounts of cut and fill are required to establish public trails, for example within most esplanade reserve/strip situations.

Discussion with Councils Utility Services staff indicated that an increase in the level of the ground surface by a maximum of 200mm for public trail construction would not affect the drainage or overland flow functions of Floodable Areas by a significant degree that would cause concern. They have however advised that if there was a change in the surface of the land by more than 200mm they would have some concerns that adverse effects relating to stormwater management could arise.

It has been suggested that raising the land surface to a higher level within floodable areas where culverts or bridges are constructed in accordance with a hydrological engineer's calculations for the specific site and the upstream catchment area would be acceptable. This would ensure that an appropriate engineer had designed the flowpath so that stormwater is allowed to flow through, and this would only be needed in an overland flow path area i.e. in floodable areas not inundation areas.

A Permitted Activity however, cannot be subject to the fulfilment of resource-consent type conditions (such as the lodgement for approval of a hydrological engineer's assessment).

Council's Utilities staff have further advised that they have no issues in relation to raised trails (i.e. boardwalks) as water can pass underneath or overflow the boardwalk. This is useful in relation to public trail activities as a boardwalk structure within a floodable area or coastal inundation area can be up to 1.5m in height without the need for building consent and without being defined as a *building/structure* under the District Plan definition.

Statutory Acknowledgement Areas

Finally, Statutory Acknowledgement Areas that are not scheduled in the District Plan do not currently trigger a response in relation to Permitted Activities in the District Plan. However, existing protocols between Council and iwi/hapu within the WBOPDC rohe provide for engagement on Council's projects, including for any public trails that may affect any Statutory Acknowledgement Areas.

3.4. Option 1 – Status Quo – Retain current District Plan provisions which capture public trails (walkways, cycleways, bridleways and similar) as *Places of Assembly*

Costs	<ul style="list-style-type: none"> ▪ Uncertain outcome for any public trail proposal where resource consent is required as a Discretionary Activity. ▪ Creates additional costs (financial and time) for any public trail project. ▪ Resource Consent process may not provide any additional benefit to the public trail project in terms of a practical or environmental outcome. ▪ Enabling positive public trail projects to provide for car-free transportation and recreational pursuits is more difficult.
Benefits	<ul style="list-style-type: none"> ▪ Enables a rigorous assessment of any public trail proposal as invariably a resource consent for a Discretionary Activity consent is required. ▪ Where resource consent is required as a Discretionary Activity a full assessment of all aspects of the project are required. Advice notes as well as consent conditions can be imposed, which allows HNZPT to suggest archaeological advice notes to reduce the potential for public trails to adversely affect archaeology.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not an efficient means of providing for public trail projects for the District which are invariably a positive initiative for the community.

	<ul style="list-style-type: none"> Not an effective District Plan rule structure as the current provisions will not solve the identified issue or achieve a desirable outcome.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> Sufficient and certain information is available.

3.5. Option 2 – Create a clearer and more enabling District Plan policy and rule framework for public trails (walkways, cycleways, bridleways and similar)

Costs	<ul style="list-style-type: none"> Resource consents will still be necessary where the potential for actual and/or potential adverse effects on significant District Plan-identified features need to be assessed, adding time and financial costs. Where resource consent is not necessary, there is no ability to impose conditions or advice notes on the project. Where public trails become Permitted Activities, HNZPT would have no ability to “piggyback” on consenting processes to suggest archaeological advice notes to reduce the potential for public trails to adversely affect archaeology.
Benefits	<ul style="list-style-type: none"> A clearer and more streamlined District Plan framework for a defined <i>public trail</i> activity. Only those public trails that require a thorough assessment on specific identified matters will have to go through a resource consent process. Adverse effects on District Plan-identified scheduled significant features and overlays will continue to be assessed via resource consent to ensure actual and/or potential adverse effects are avoided, remedied or mitigated. Because <i>public trails</i> will be established and administered by Council, a multi-disciplinary approach will ensure that provisions of other legislation are considered and met (HNZPH Act, Health and Safety legislation etc). Activity performance standards will provide more certainty for <i>public trail</i> applications. Unnecessary assessments against <i>places of assembly</i> Discretionary Activity criteria will be avoided. People will know what a <i>public trail</i> is as there will be a definition. Bylaws will still be able to provide a layer of structure via signage and provisions for the use of Council administered <i>public trails</i> (around dual/multi use of the public trails, and dog management for example).
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Effective in removing uncertainty over activity status for <i>public trails</i> and making the process more enabling and simpler where no significant features and overlays require a full assessment via resource consent. Efficient in creating a clearer and therefore more cost-

	effective framework within which to assess proposals for <i>public trails</i> over a variety of zones and within the context of a variety of environments.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ Sufficient information is available to have determined that this option seems to be the most effective and efficient means of providing a better outcome for the provision of <i>public trails</i> in the WBOP District.

3.6. Option 3 – Providing for public trails (walkways, cycleways, bridleways and similar) as Permitted Activities in all zones and contexts (irrespective of zones and significant area overlays).

Costs	<ul style="list-style-type: none"> ▪ Identified significant features in the District Plan, which are often sensitive environments, would not get a specific assessment as part of a resource consent application to determine whether actual and/or potential adverse environmental effects will eventuate. ▪ Adverse effects on the some environments may eventuate. ▪ Scheduled historic heritage places/sites/areas would not continue to have the protection of the District Plan overlay provisions. ▪ Advice notes and consent conditions cannot be imposed. HNZPT would have no ability to “piggyback” on consenting processes to suggest archaeological advice notes to reduce the potential for <i>public trails</i> to adversely affect archaeology.
Benefits	<ul style="list-style-type: none"> ▪ New <i>public trails</i> could be established with ease without the hindrance of resource consenting processes. ▪ The process for new <i>public trails</i> would be faster, easier and cheaper.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not an effective means of protecting (the District Plan-identified) significant features from adverse effects of development and achieving the best environmental outcome. ▪ An efficient means of streamlining the process to establish <i>public trails</i> with the least financial cost. ▪ Not an efficient means of ensuring important, sensitive or special features are maintained and protected from the effects of development.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ Sufficient information is available.

3.7. Preferred Option

The preferred option is Option 2 which creates a clearer and more enabling District Plan framework for public trails (walkways, cycleways, bridleways and similar).

To give effect to this change, various amendments to the District Plan will be required as follows (additions are shown in underlined red font).

A new definition for *public trail* is required.

"Public Trail" means a path either on or off road for the purpose of public recreational or commuter cycle or pedestrian transport (including mobility scooters and other wheeled pedestrians), or can be a bridle trail or similar. A public trail can be for one or more of the above uses, but is not for the use of combustion-engine and similar motorised vehicles. Public trail includes activities associated with creating it, and includes but is not limited to, pathways, bridging, boardwalks, walkways and steps, and includes related signage and maintenance activities.

An addition to Table 10.3 is required.

Section 10.3 Activity Table for Infrastructure and Network Utilities

Miscellaneous

(bd) Public trails

Public trails will be provided for as a Permitted Activity (P) within every zone/column identified in Activity Table 10.3. It is further noted that even though *public trails* will be provided for as a Permitted Activity in Activity Table 10.3, the Activity Performance Standards in Section 10.4 and for each zone in which a *public trail* will be located still apply. This means that the provisions relating to Identified Significant Features in District Plan Sections 5 – 8 for example are relevant and may propel any *public trail* activity into another activity status category.

An addition to Section 10.4 Activity Performance Standards for Infrastructure and Network Utilities is required as follows.

10.4 Activity Performance Standards for Infrastructure and Network Utilities

(r) Public trails

- (a) Any part of a public trail shall be a minimum of 30m from any title boundary.
- (b) The above shall not apply if the public trail location is closer than 30m from a title boundary and it:
 - has been confirmed via a Reserve Management Plan, Town Centre Plan, Structure Plan, or similar plan that has been through a public process; or
 - is on land that is an esplanade reserve or an access strip; or

- is on land where a public trail in the position proposed is specifically provided for by another legal mechanism.

(c) Provided that:

A public trail may be located closer than 30m to a title boundary where the written approval of the owner/s of the title/s has been obtained.

- (d) Where the written approval/s have not been obtained under (c) above, limited notification of the application shall be required, with notice being served on those who have not provided written approval.

An addition to District Plan Section 8.3.3(c) is required as follows.

8.3.3 Restricted Discretionary Activities

(c) Floodable Areas and Coastal Inundation Areas

- (i) *Buildings/Structures not within an Approved Building Site – Natural Hazards*
- (ii) *Earthworks over 5m³ (except for*
 - *maintenance, operation, upgrade and development of above ground lineal network utility structures and underground network utilities where the ground is reinstated to the same contour as existed immediately prior to the works being undertaken;*
 - or*
 - *public trails where the finished surface is not more than 200mm above the pre-existing ground level/contour and where any other ground within the surrounding area that has been disturbed is reinstated to the same contour as existed immediately prior to the works being undertaken).*
- (iii) *Closed board fences, retaining walls, raised gardens, concrete and block walls*

3.8. Reasons

Option 2 is the preferred option and is considered to be the most effective and efficient method to provide a more enabling framework for the construction of *public trails* (walkways, cycleways, bridleways and similar) whilst ensuring that the actual and/or potential effects on the environment continue to be managed appropriately.

In this regard, the preferred option addresses the identified issue and makes it clear for District Plan users what a *public trail* is (via the definition) and what its activity status is.

The benefits and effectiveness / efficiency reasons included above indicate that Option 2 is likely to achieve the best outcome for the WBOP District.



Western Bay of Plenty District Council

Change to the District Plan – First Review

Plan Change 85 Cleanfill Activities in Rural, Future Urban, Lifestyle and Rural-Residential Zones

Section 32 Report

Prepared by: Paula Golsby, Resource Management Planner – PMG Planning

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 Rangiwaia 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. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received. An update will be provided at the meeting on 24 July 2019.

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 5,000m³ (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 1,000m³, 2,000m³ or 5,000m³ per year. Auckland has a much stricter limit of 250m³ in volume (and a limit of 500m² 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 2,000m³ per hectare of site area for general earthworks and 1,000m³ 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.

Costs	<ul style="list-style-type: none"> ▪ 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.
Benefits	<ul style="list-style-type: none"> ▪ No limit on the volume or area of cleanfill for land owners and developers. ▪ No additional time and cost associated with resource consent applications. ▪ Existing rules that manage amenity effects associated with noise and visual amenity, and the disposal of hazardous substances will continue to apply.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective or efficient in addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

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 1,000m³ 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 1,000m³ per year would result in approximately 200 to 400 truck movements per year (assuming each truck carries between 5m³ and 10m³ 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.

Costs	<ul style="list-style-type: none"> ▪ If exceeding 1,000m³, will add additional time and cost for property owners to gain consent. ▪ The limit of 1,000m³ 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.
Benefits	<ul style="list-style-type: none"> ▪ Still allows property owners to deposit some cleanfill without the need for resource consent. ▪ 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. ▪ 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. ▪ Potential to collect financial contributions to help fund roading maintenance and repair required as a result of additional heavy vehicle traffic.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective because the rule and associated provisions would address the identified issue being that the

	<p>amenity and transportation related effects associated with cleanfill activities are not adequately managed through the current rules.</p> <ul style="list-style-type: none"> ▪ The introduction of a rule and associated provisions is considered to be the most efficient method for addressing the issues that have been identified.
<p>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</p>	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

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 5,000m³ 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 5,000m³ 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.

<p>Costs</p>	<ul style="list-style-type: none"> ▪ If exceeding 5,000m³, will add additional costs and time for property owners. ▪ The limit of 5,000m³ 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. ▪ Taking into account the volume of truck movements to be generated (i.e. around 1,000 to 2,000 truck movements), a 5,000m³ 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.
<p>Benefits</p>	<ul style="list-style-type: none"> ▪ Allows property owners to deposit a relatively large amount of cleanfill without the need for resource consent. ▪ 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. ▪ Provides for the assessment and management of transportation related effects, where cleanfill activities have potential to result in adverse effects associated

	<p>traffic, access, and roading infrastructure.</p> <ul style="list-style-type: none"> ▪ Potential to collect financial contributions to help fund roading maintenance and repair required as a result of additional heavy vehicle traffic.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ 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. ▪ Somewhat efficient, however, as identified above, there is some risk that this option will not fully resolve the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

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 30,000m³ 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 30,000m³ 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.

Costs	<ul style="list-style-type: none"> ▪ Potential for significant adverse effects on surrounding neighbours. ▪ 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. ▪ Potential for significant transportation related effects, including effects on roading infrastructure.
Benefits	<ul style="list-style-type: none"> ▪ Allows a significant volume of material to be removed or deposited before property owners are required to obtain resource consent. ▪ Reduces potential for additional costs and time for property owners intending to carry out earthworks and cleanfill activities. ▪ Potential to collect financial contributions to help fund roading maintenance and repair required as a result of additional heavy vehicle traffic.

Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective or efficient in addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

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. 1,000m³) 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 1,000m³;
- b. The volume of cleanfill material is more than 1,000m³, but less than 5,000m³ 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 5,000m³ resource consent is required.

The 300m separation distance suggested above is intended to be a starting point for discussion, 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.

Costs	<ul style="list-style-type: none"> ▪ 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. ▪ 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. ▪ Potential for additional costs and time for property owners intending to carry out cleanfill activities.
Benefits	<ul style="list-style-type: none"> ▪ 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. ▪ 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. ▪ 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. ▪ Reduces potential for additional costs and time for property owners in situations where effects are acceptable. ▪ 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.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Partially effective in addressing the identified issue that cleanfill activities are causing amenity related issues in rural areas. ▪ Partially effective in addressing the issue that cleanfill activities can result in adverse effects on the

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

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 1,000m³ of material per year in the Rural, Future Urban, Lifestyle and Rural Residential Zones as set out in **Attachment A**.

3.10. Reasons

Earlier in the review of the issues associated with cleanfill activities, Council staff's preferred option was Option 5. Under this option, the deposition of cleanfill material (regardless of scale) would be a permitted activity if the disposal site was located some distance (e.g. 300m) away from other sensitive sites and vehicle access to the site was not via a shared accessway, driveway, or Right of Way.

However, further advice has been sought from Council's engineers regarding the potential for heavy vehicle traffic associated with cleanfill activities to result in adverse effects on the transportation network. This advice identified the need to set an appropriate trigger to require resource consent and enable Council and the New Zealand Transport Agency to assess traffic and infrastructure related effects and to impose conditions, if required.

Based on the anticipated level of heavy vehicle traffic, the preferred option is now Option 2. This would require resource consent for cleanfill activities involving the deposition of more than 1,000m³ of cleanfill material within a 12 month period.

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. 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*

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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 1,000m³ 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.

ATTACHMENT A

(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 1,000m³ 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)).

ATTACHMENT A

- (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.
- (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).

Western Bay of Plenty District Council

Change to the District Plan – First Review

Plan Change 86 Floodable and Coastal Inundation Areas – Maintenance of Stopbanks and Drains

Section 32 Report

Prepared by: Paula Golsby, Contract Resource Management Planner – PMG Planning

1.0 Introduction

1.1. General Introduction and Background

The purpose of this report is to consider a plan change to allow earthworks for the purposes of maintaining stopbanks and drains as a permitted activity in Floodable Areas and Coastal Inundation Areas.

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

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 Rangiwhaea 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 earthworks rules to be changed to provide for cultural values in a manner consistent with the RMA.

2.3. 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. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received. An update will be provided at the meeting on 25 July 2019.

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

The Bay of Plenty Regional Council is affected by the proposed change as it has responsibilities for managing the effects of natural hazards and for land drainage. It is also responsible for flood protection and land drainage assets in the District. The Regional Council provided feedback that it is supportive of a plan change that would enable it to carry out maintenance works to its flood protection assets without the need to obtain resource consent for earthworks exceeding 5m³.

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; one in support and the other opposed.

The person in support of the proposed change states that allowing the maintenance of stopbanks and drains without the need for resource consent would speed up necessary works.

The person opposed to the proposed change described concerns with the state of drains and suggested that they should be managed to exclude livestock, and to enhance their ecology and water quality.

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');
- c. Toi Te Ora Public Health.

No specific issues were raised by any of these stakeholders regarding this proposed plan change.

3.0 Issue 1 – Floodable and Coastal Inundation Areas - Maintenance of Stopbanks and Drains

3.1. Introduction

It has been identified by staff that there is an anomaly in the District Plan with respect to rules associated with activities carried out by the Regional Council for purposes associated with its flood control stopbanks and drains.

In this regard, Section 10 – Infrastructure, Network Utilities & Designations allows activities associated with the protection of Regional Council flood control stopbanks and drains to be carried out as permitted activities, subject to the relevant performance activity standards (Rule 10.3(ba)).

However, within Chapter 8 – Natural Hazards, Rule 8.3.3(c)(ii) requires resource consent for a restricted discretionary activity for any earthworks in a Floodable Area or Coastal Inundation Area that exceed a volume of 5m³. The only exemption to this rule is for earthworks associated with the maintenance, operation, upgrading and development of above ground lineal network utility structures and underground network utilities where the ground is reinstated to the same contour as existed immediately prior to the works being undertaken.

Section 10 makes it clear (through the Explanatory Statement on page 2 and Performance Activity Standard Rule 10.4(n)) that the Natural Hazards rules in Section 8 also apply to infrastructure and network utilities, such as the Regional Council's flood protection and drainage schemes.

Because the clearing of drains involves 'earthworks' (as defined by the District Plan) resource consent would be required for such works if the volume of material exceeds 5m³, which is likely to be the case in many situations. This requirement appears to be unnecessarily restrictive,

particularly given such works are carried out for the purposes of controlling adverse effects associated with flooding and land drainage. The same issue applies to stopbanks, which are typically managed by the Regional or District Council for flood protection purposes.

3.2. Option 1 – Status Quo – Retain Rule 8.3.3(c)(ii) without change so that resource consent is needed for earthworks over 5m³ for the maintenance of existing drains and stopbanks in floodable and coastal inundation areas

Costs	<ul style="list-style-type: none"> ▪ Requires resource consents when they are not necessary to manage adverse effects associated with flooding. ▪ Results in unnecessary time delays and financial costs for those responsible for managing drainage schemes and flood protection assets. ▪ Inconsistent with the approach in Section 10 – Network Utilities of the District Plan.
Benefits	<ul style="list-style-type: none"> ▪ Would allow Council to assess the effect of a specific earthworks proposal on the capacity of ponding areas and the function of overland flow paths (as set out in the relevant matters of discretion in Rule 8.5.1.3(a)).
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective in addressing the identified issue. ▪ Not efficient as results in unnecessary time and expense associated with the preparation and processing of resource consent applications.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

3.3. Option 2 – Amend Rule 8.3.3(c)(ii) to permit any person to carry out earthworks associated with the maintenance of existing stopbanks and drains

Costs	<ul style="list-style-type: none"> ▪ Council (as consent authority) would not be able to assess the effect of a specific earthworks proposal on the capacity of ponding areas and the function of overland flow paths (as set out in the relevant matters of discretion in Rule 8.5.1.3(a)). ▪ There is potential that excavated material may be placed in locations that would adversely affect the capacity of ponding areas and obstruct overland flowpaths, if undertaken by inexperienced persons or
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	<p>those unaware of the need to ensure placement of excess spoil does not cause other flooding and/or drainage issues.</p> <ul style="list-style-type: none"> Only partly consistent with the approach in Section 10 – Network Utilities of the District Plan.
Benefits	<ul style="list-style-type: none"> This option would enable works associated with stopbanks and the clearance of drains without unnecessary time and expense associated with the resource consent process.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Partly effective because an amendment to the rule would address the identified issue, however, other adverse effects on ponding areas and overland flow paths may occur if the works are not undertaken in an appropriate manner. Amending Rule 8.3.3(c)(ii) is somewhat efficient as it would avoid unnecessary time delay and cost for those maintaining drains and stopbanks.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> N/A – Sufficient information is available.

3.4. Option 3 – Amend Rule 8.3.3(c)(ii) to permit only the District Council, Regional Council and Waihi Drainage Society to carry out earthworks associated with maintenance of existing stopbanks and drains

Costs	<ul style="list-style-type: none"> Council (as consent authority) would not be able to assess the effect of a specific earthworks proposal on the capacity of ponding areas and the function of overland flow paths (as set out in the relevant matters of discretion in Rule 8.5.1.3(a)) for works undertaken by the District Council, Regional Council or Waihi Drainage Society. However, such works would be undertaken for the purposes of avoiding effects associated with flooding and land drainage so this is not considered to be a significant issue. The general community would still require resource consent for the clearing of drains if the works exceeded 5m³ and this may cause time delays and additional financial costs for those persons needing to carry out drain clearance activities.
Benefits	<ul style="list-style-type: none"> Prevents inexperienced persons from carrying out works in a manner that may cause issues associated

	<p>with flooding and/or drainage.</p> <ul style="list-style-type: none"> ▪ This option would allow works carried out by the main organisations with flood management and/or land drainage responsibilities without the need for resource consent. This would avoid time delays and expense associated with the resource consent process for the organisations identified. ▪ Consistent with the approach in Section 10 – Network Utilities of the District Plan.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective because an amendment to the rule would address the identified issue that the Regional Council often requires resource consent to undertake drain clearance works in Floodable Areas and Coastal Inundation Areas. ▪ Amending Rule 8.3.3(c)(ii) is an efficient method for addressing the identified issue and would avoid unnecessary time delay and cost for the District Council, Regional Council and Waihi Drainage Society.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

3.5. Preferred Option

The preferred option is Option 3:

- (a) Amend Rule 8.3.3(c)(ii) to exempt the District Council, Regional Council and Waihi Drainage Society from requiring resource consent for earthworks associated with maintenance of stopbanks and drainage channels as follows:

8.3.3 Restricted Discretionary Activities

...

- (c) Floodable Areas and Coastal Inundation Areas

- (i) *Buildings/Structures* not within an *Approved Building Site – Natural Hazards*
- (ii) *Earthworks* over 5m³ (except for:
- ~~m~~Maintenance, operation, upgrade and development of above ground lineal network utility structures and underground network utilities where the ground is reinstated to the same contour as existed immediately prior to the works being undertaken); **and**

- Maintenance of existing stopbanks and drains (including the clearing of drains) carried out by or on behalf of the Council, Regional Council or the Waihi Drainage Society.

- (iii) Closed board fences, retaining walls, raised gardens, concrete and block walls

3.6. Reasons

Option 3 is considered to be the most effective and efficient method to address the issue that those organisations with flood control and land drainage responsibilities often require resource consent for the maintenance of existing stopbanks and drains where they are located in Floodable and Coastal Inundation Areas.

Consideration was given to allowing all persons to undertake these maintenance works without the need for resource consent (if the volume of earthworks exceeds 5m³), however, there is some concern that if such work is not undertaken in an appropriate manner unanticipated adverse effects may arise (e.g. if excavated material is placed in a location that affects ponding areas and/or overland flowpaths).

Western Bay of Plenty District Council

Change to the District Plan – First Review

Plan Change 87 Frost Protection Fans

Section 32 Report

Prepared by: Paula Golsby, Contract Resource Management Planner – PMG Planning

1.0 Introduction

1.1. General Introduction and Background

The purpose of this report is to consider a plan change to provide greater flexibility and protection for the operation of frost protection fans within the rural environment. In addition, it has been identified that there is a need to clarify some of the existing rules relevant to frost protection fans. Some minor changes are proposed to address these issues.

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

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. None of the iwi/hapu management plans lodged with Council raise any issues of particular relevance to this Plan Change.

2.3. 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. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received. An update will be provided at the meeting on 25 July 2019.

No other Ministers of the Crown or marine title groups are considered affected by the proposed change. Consultation was undertaken with the Bay of Plenty Regional Council on a number of proposed plan changes and Regional Council staff have advised they have no concerns with the changes proposed to District Plan provisions associated with frost protection fans.

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 who live next to properties with existing frost protection fans provided feedback outlining concerns associated with noise from these devices. One person specifically identified that noise generated affects their sleep and that this has flow on effects for their health and wellbeing. Another person thought the current rules for frost protection fans are about right, and neither person thought that permitted noise levels should be increased (as would be the case if the preferred option for the plan change proceeds).

Option 1 (as outlined below) is supported by one of the people providing feedback as they consider it gives neighbours some protection and means that orchardists need to consider neighbours, and that council can enforce the rules.

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');
- c. Toi Te Ora Public Health.

The kiwifruit industry representatives supported the approach to provide for frost protection fans as a permitted activity based on current controlled activity standards (e.g. noise limits of 55dBA Leq and 65dBA Lmax, rather than current permitted noise limit of 40dBA Leq and 65dBA Lmax). The potential for reverse sensitivity effects was raised by representatives of the kiwifruit industry, and in particular the need to protect the on-going operation of existing frost protection fans from new residential development.

The need to operate frost protection fans was identified as being particularly important for areas where water is not available for frost protection, and the potential risk of disease (e.g. PSA) associated with using water for frost protection was also noted. Further to this, the need to operate frost protection fans for unforeseen maintenance (e.g. as a result of a breakdown) was also identified.

The New Zealand Transport Agency indicated they had no particular interest in changes to District Plan provisions for frost protection fans.

Toi Te Ora Public Health wants to ensure that Council maintains control over noise emissions from frost protection fans and expressed the view that people's physical health must be prioritised over economic benefit.

3.0 Analysis of Frost Protection Fan Provisions

3.1. Introduction

Rules in the District Plan relating to frost protection fans aim to recognise these features as legitimate activities within rural areas, while also managing adverse effects associated with noise and visual amenity.

3.2. Review of Western Bay District Plan Frost Protection Fan Provisions

Under the Western Bay's District Plan, frost protection fans are provided for as a permitted activity in the Rural Zone and Post Harvest Zone, subject to the permitted activity standards associated with the zone (e.g. noise, building height and side yard requirements). Separate rules are also included in the Amenity section (Section 4C) of the District Plan, which control noise from frost protection fans.

It is the night time noise limits that are most relevant for the operation of frost protection fans as it is during this time that they operate (except for maintenance purposes). It is understood that the night time noise limits for the Rural Zone (40dBA Leq / 65 dBA Lmax) and Post Harvest Zone (45dBA Leq/ 65 dBA Lmax) are often unachievable for the operation of frost protection fans. As such, most require resource consent as a controlled or restricted discretionary activity. If the following standards are met, the frost protection fan is assessed as a controlled activity:

- a. Noise from the operation of frost protection fans does not exceed 55dBA Leq and 65dBA Lmax at any point within the notional boundary of any dwelling in a Rural or Lifestyle Zone or at any point within the boundary of any property within a Residential, Rural-Residential or Future Urban Zone.
- b. The frost protection fan must not start up until the air at canopy height drops to 2°C, and operation must cease when the rising temperature reaches 4°C at canopy height.
- c. The frost protection fan may only operate for maintenance purposes from Monday to Friday, 8am to 5pm.

If the above standards cannot be met, resource consent is required for a restricted discretionary activity and any adversely affected persons would be notified (unless their written approval had been provided).

It is noted that the noise limits under the current rules relate to the notional boundary of existing dwellings in the Rural and Lifestyle Zones, and the property boundary of any site in the Residential, Rural-Residential or Future Urban Zone. The term 'notional boundary' is defined within the District Plan as the line 20m from any side of a dwelling, or the legal boundary of the property on which the dwelling is located, whichever is the closer to the dwelling.

3.3. Review of Resource Consents for Frost Protection Fans in Western Bay

To assist in understanding the issues arising from resource consent applications and the value added by the resource consent process, a review of resource consent applications received since 2012 has been undertaken.

This review showed that there have been 43 applications made, out of which 40 applications were granted consent. Three were withdrawn and none of the applications were declined. The resource consents granted in recent years tend to include the same conditions which require:

- a. Compliance with the controlled activity performance standards ((a) to (c) in section 3.2 above);
- b. Use of the frost protection fan is limited to a maximum of 20 times/nights per year;
- c. Records are to be kept on the use of the frost protection fan;
- d. Thermometers to be independently assessed and calibrated; and
- e. An alarm is to be activated to inform the orchard manager when a frost fan commences operation so that they can ensure compliance with the temperature related-condition.

3.4. Review of Frost Protection Fan Provisions for Other Councils

To understand how other districts manage frost protection fans, a review was undertaken of district plan provisions for Marlborough, Tasman, Whakatane, Hastings, and Hurunui Districts. All of these districts (except for Marlborough) provide for frost protection fans as permitted activities, subject to compliance with a range of conditions. Marlborough District Council requires resource consent for a controlled activity if the standards are met.

All of the District Plans include similar standards to the Western Bay District Plan and the following are key the observations from the review:

- a. Most District Plans include a noise limit of 55dBA Leq at the notional boundary of a dwelling, or at 300m from the device (whichever is closer). The exception is Hastings District Council, which applies a limit of 65dBA Leq;

- b. Marlborough, Tasman, and Hurunui Districts only allow use of frost protection fans between bud burst and the end of harvest (so that they are only used when crops are at risk from frost damage);
- c. Most districts limit hours for operation associated with maintenance in a manner consistent with Western Bay;
- d. Marlborough District requires frost protection fans to be located at least 500m from residential and township zones, and at least 300m of a rural residential zone.
- e. Marlborough, Tasman and Hurunui District Plans include rules to require new dwellings in close proximity to existing frost protection fans to be designed and constructed to ensure bedrooms and other habitable areas within the dwelling are not unreasonably affected by the operation of frost protection fans that existed prior to the development of the dwelling. This approach is similar to that for new dwellings constructed within Western Bay that are within 200m of a Post Harvest Zone.

3.5. Summary

In summary, the Western Bay District Plan approach to frost protection fans is similar to other districts. However, there is scope to provide greater flexibility and protection for the establishment and on-going operation of frost protection fans in the District. Based on the review of resource consent applications processed by the Council, there is a fairly standard set of conditions that get applied.

Where noise limits have not been achieved, written approvals have been obtained from affected persons and provided with resource consent applications in most cases. It therefore appears that there may be some merit in allowing the operation of frost protection fans as permitted activities, subject to the need to comply with appropriate standards to ensure the amenity, and health and wellbeing of the community is protected.

Key issues that have arisen as a result of the review of frost protection fan provisions in the District Plan include:

- a. The need to enable the establishment of frost protection fans in the rural environment, subject to appropriate noise and operational limits;
- b. The need to protect established frost protection fans from reverse sensitivity effects associated with the establishment of new, more sensitive land use activities after the frost protection fan is established;
- c. The need to ensure that the legitimate development rights of peoples' properties are recognised;

- d. The need to enable the operation of frost protection fans for testing outside the hours weekday hours, if required for urgent unforeseen maintenance; and
- e. The need to ensure the rules for frost protection fans are well-linked and to avoid consistencies within different sections on the District Plan.

4.0 Issue 1 – Frost Protection Fans – Activity Status

4.1. Option 1 – Status Quo

This option is to retain the existing rules without change (as summarised in section 3.2 of this report). This means that frost protection fans are permitted if they meet the noise limits of the relevant zone (i.e. 40dBA Leq and 65 dBA Lmax in the Rural Zone, and 45dBA Leq and 65 dBA Lmax in the Post Harvest Zone), but otherwise require resource consent for a controlled or restricted discretionary activity.

Costs	<ul style="list-style-type: none"> ▪ For frost fan operators, in most situations, frost protection fans do not meet the night time noise limits for the Rural Zone and Post Harvest Zone and therefore resource consents are required most of the time. ▪ For frost fan operators, the need for resource consent results in additional financial costs. ▪ If meeting the controlled activity noise limits, resource consent must be granted and, based on a review of resource consent applications processed for controlled activity frost protection fans, there appears to be limited value added through the resource consent process. ▪ For frost fan operators, the need for resource consent may be unnecessary if effects can be adequately managed through compliance with performance standards.
Benefits	<ul style="list-style-type: none"> ▪ The noise related effects of each frost protection fan that fails to meet the noise limits of the zone can be assessed on a case by case basis and conditions can be imposed, if required.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective or efficient in addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

4.2. Option 2 – Allow frost protection fans as permitted activities based on current controlled activity standards

This option is to allow frost protection fans as a permitted activity, subject to compliance with the performance standards that currently apply to the controlled activity rule. These are set out in section 3.2 of this report and relate to noise limits during operation (to protect residential dwellings), limitations on use based on temperature at canopy height, and times during which the frost protection fan can operate for maintenance purposes. Noise limits under the current rules relate to the notional boundary of existing dwellings in the Rural and Lifestyle Zones, and the property boundary of any site in the Residential, Rural-Residential or Future Urban Zone.

If compliance is not achieved, the proposal would be assessed as a restricted discretionary activity, similar to the current approach of the District Plan, and matters of discretion would be included.

This option provides more flexibility for the operation of frost protection fans as, for example, the permitted noise limit would increase from 40dBA Leq and 65 dBA Lmax to 55dBA Leq and 65 dBA Lmax in the Rural Zone. Failure to comply with the standards would result in the need for resource consent for a restricted discretionary activity.

Minor consequential edits would also be required under this option to ensure consistency within the rules and assist with usability of the District Plan.

<p>Costs</p>	<ul style="list-style-type: none"> ▪ The existing controlled activity standards only address a limited number of matters. Other matters are dealt with through conditions of consent (e.g. limit on number of days per year). Converting the controlled standards into permitted standards would remove the requirement for resource consent and therefore the opportunity to address other matters through conditions of consent. ▪ As a permitted activity, frost fan operators would be able to proceed without resource consent. Frost fan operators may not know whether their proposed frost protection fan would comply with noise limits. Therefore, there is potential that frost protection fans may be placed in positions that do not meet noise limits and this may affect neighbours. ▪ If neighbours were to complain about frost fans, the Council staff would need to investigate whether noise limits had been exceeded (or not). This is considered to be an inefficient use of Council staff time. ▪ This option does not recognise the potential effects on the owners of properties in the Rural and Lifestyle Zones that currently do not have a dwelling, but that have a legitimate right to develop that land with a dwelling in the future. This is because the current rules for noise produced by frost protection fans relate to the notional boundary of existing dwellings
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	in the Rural and Lifestyle Zones and do not relate to vacant land.
Benefits	<ul style="list-style-type: none"> ▪ For frost fan operators, enables the use of frost protection fans with a higher noise limit than can currently occur, without the need for resource consent. ▪ For frost fan operators, saves time and money associated with preparation and lodgement of resource consent applications.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective in addressing the issue that greater flexibility is required for the establishment and operation of frost protection fans. This option also recognises the need and requirements of frost protection fans which are required for primary productive activities in the rural environment. ▪ Only partly effective in achieving the objectives of the District Plan which seek to ensure noise is not unreasonable, having regard to the character and amenity of the zones where noise is generated and received. ▪ This option is a somewhat efficient method to address the identified issue and achieves the objectives of the District Plan.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

4.3. Option 3 – Allow frost protection fans as permitted activities based on current controlled activity standards and:

- a. **Additional standards to recognise rights for owners of land in the Rural and Lifestyle Zones without an existing or consented dwelling;**
- b. **An additional option for obtaining written approvals (where noise limits are to be exceeded) to avoid the need for resource consent;**
- c. **A change to allow testing of frost protection fans outside specified maintenance hours, if required for urgent unforeseen maintenance purposes; and**
- d. **Additional requirements for frost fan operators to provide information to Council regarding the location of frost protection fans and compliance with District Plan rules.**

This option is to allow frost protection fans as a permitted activity, subject to compliance with the performance standards that currently apply for controlled activity frost protection fans and to include additional performance standards.

The existing controlled activity performance standards are set out in section 3.2 of this report and relate to noise limits during operation (to protect residential dwellings), limitations on use based on temperature at canopy height, and times during which the frost protection fan can operate for maintenance purposes. Noise limits under the current rules also relate to the notional boundary of existing dwellings in the Rural and Lifestyle Zones, and the property boundary of any site in the Residential, Rural-Residential or Future Urban Zone.

The additional standards proposed under this option include:

- a. An exemption from having to meet noise limits (55dBA Leq and 65dBA Lmax) if affected persons have provided their written approval;
- b. The requirement to comply with noise levels at the boundary of any property in the Rural or Lifestyle Zone that does not have an existing or consented dwelling at the time the frost protection fan is established;
- c. An allowance for the operation of frost protection fans for testing outside the hours of Monday to Friday 8am to 5pm, if required for urgent unforeseen maintenance (e.g. as a result of a breakdown); and
- d. The need to provide information on the compliance (or lack of compliance) and the location of the frost protection fan(s) to Council prior to installation.

Matters of discretion are also proposed under this option, along with any other necessary consequential changes.

Costs	<ul style="list-style-type: none"> ▪ For frost fan operators, there is an additional requirement to provide information regarding the location and noise levels to be emitted from proposed frost protection fans. ▪ For frost fan operators, there is an additional requirement to consider the effects of noise on owners of properties in the Rural and Lifestyle Zone that are not occupied by a dwelling.
Benefits	<ul style="list-style-type: none"> ▪ For frost fan operators, enables the use of frost protection fans with a higher noise limit than can currently occur, without the need for resource consent. ▪ For frost fan operators, saves time and money associated with preparation and lodgement of resource consent applications. ▪ For frost fan operators, provides even greater flexibility (compared with Option 2) if noise levels are

	<p>exceeded and affected persons have provided their written approval.</p> <ul style="list-style-type: none"> ▪ For frost fan operators, recognises that frost protection fans may need to operate outside of the prescribed hours for maintenance in unforeseen circumstances (e.g. such as during a breakdown). ▪ For neighbours and Council, ensures that frost fan operators confirm their frost protection fans comply with the relevant rules and any non-compliances are properly identified for the purposes of obtaining written approvals. ▪ For neighbours, this option ensures that both existing dwellings and vacant land in the Rural and Lifestyle Zones (with potential to be developed with a dwelling) are protected from the noise effects of frost protection fans. It also continues to protect people and property in the Residential, Rural-Residential, Medium Density Residential or Future Urban Zones. ▪ For Council, ensures that information on the location of frost protection fans is provided so that new rules proposed under section 5.0 of this report can be applied. This proposed rule requires new dwellings to be designed and constructed so that they are protected from noise emitted by existing frost protection fans and, in turn protects the operation of frost protection fans from reverse sensitivity effects.
<p>Effectiveness/ Efficiency</p>	<ul style="list-style-type: none"> ▪ Effective in addressing the issue that greater flexibility is required for the establishment and operation of frost protection fans. This option also recognises the need and requirements of frost protection fans which are required for primary productive activities in the rural environment. ▪ Effective in achieving the objectives of the District Plan which seek to ensure noise is not unreasonable, having regard to the character and amenity of the zones where noise is generated and received. ▪ This option is considered to be an efficient method for addressing the identified issue and to achieve the objectives of the District Plan.
<p>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</p>	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

4.4. Option 4 – Permit frost protection fans without noise limits

This option is to exempt frost protection fans from the noise limits in the District Plan.

Costs	<ul style="list-style-type: none"> ▪ For neighbours, unrestricted use of frost protection fans would mean that the effects of noise on them would not be managed and such effects have the potential to adversely affect the health and amenity of those in the surrounding environment (particularly given frost protection fans operate during normal sleeping hours).
Benefits	<ul style="list-style-type: none"> ▪ For frost fan operators, the use of frost protection fans would be unrestricted, allowing them to protect crops as needed. ▪ For frost fan operators, saves time and money associated with preparation and lodgement of resource consent applications.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Exempting frost protection fans from any noise limits is not an effective or efficient method to achieve the objectives of the District Plan, particularly those which seek to achieve an environment free of unreasonable noise in accordance with the character and amenity of the relevant zone.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

4.5. Preferred Option

The preferred option is Option 3:

- a. Amend Rule 4C.1.3.6 to provide for frost protection fans as a permitted activity, subject to a number of permitted activity performance standards;
- b. Amend Rule 4C.1.3.6 to require restricted discretionary resource consent for any frost protection fan that fails to comply with the permitted activity performance standards; and

- c. Include matters of discretion for restricted discretionary frost protection fans (Rule 4C.1.4.2).

The changes proposed to the text are provided in **Attachment A**.

4.6. Reasons

Option 3 is the preferred option as it provides for better flexibility than the current rules and avoids the need for unnecessary resource consents. It also provides an appropriate level of protection against the actual and potential adverse effects associated with noise generated by frost protection fans, but also provides an opportunity to avoid the need for resource consent if affected persons provide their written approval.

In addition, the rule and matters of discretion recognise the potential for effects on people who own neighbouring properties that may not yet be developed with a dwelling. Further to this, the rule recognises that during an unforeseen breakdown, there may be the need to operate the frost protection fan for testing purposes and this is considered to be appropriate.

The requirement to provide certification of compliance with the noise levels specified in the rules and other information identifying the location of the frost protection fans will ensure that compliance with the standards can be proven. It also allows Council to record the location of the frost protection fans to enable reverse sensitivity to be addressed.

Option 3 is considered to be the most effective and efficient method to achieve the objectives of the District Plan.

5.0 Issue 2 – Frost Protection Fans – Reverse Sensitivity

5.1. Introduction

There is potential for dwellings to establish in locations that could be affected by noise from existing or consented (but not yet established) frost protection fans. This results in the potential for amenity and health related effects for occupiers of the new dwellings as the result of noise emitted from frost protection fans, particularly given noise from frost protection fans is typically emitted during normal sleeping hours.

These potential effects also result in the potential for reverse sensitivity effects. Reverse sensitivity effects arise where a new and more sensitive activity establishes and has the potential to constrain the on-going operation of existing activities (e.g. a new dwelling developed near an existing frost protection fan).

The health and safety of people is integral to the sustainable management purpose of the RMA, and there is a general duty under section 16 of the RMA to ensure the best practicable option is adopted to ensure that the emission of noise does not exceed a reasonable level. It is therefore

important to ensure that the effects of noise from the operation of frost protection fans is not unreasonable and that peoples' health and safety is protected in accordance with the overall purpose of the Act.

In addition, to adequately protect the on-going operation of lawfully established frost protection fans, there is a need to avoid potential for reverse sensitivity effects.

5.2. Option 1 – Status Quo

This option is to retain the existing rules without change. Under this option, there are no requirements for new dwellings to be located and designed to avoid adverse noise effects associated with existing frost protection fans.

Costs	<ul style="list-style-type: none"> ▪ For frost fan operators, there is the potential for new dwellings to constrain operation of existing frost protection fans. ▪ For neighbours, they may unknowingly build a dwelling in a location affected by noise from an existing frost protection fan.
Benefits	<ul style="list-style-type: none"> ▪ For neighbours, there will be no restrictions on where they can build a dwelling if they are willing to accept noise produced by frost protection fans, which occurs for a limited period of time each winter.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective or efficient in addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

5.3. Option 2 – Amend Rule 4C.1.3.2 to require new dwellings within 300m of existing or consented frost protection fans to be designed and constructed to protect occupants from noise effects associated with the operation of the frost protection fan

Costs	<ul style="list-style-type: none"> ▪ For neighbours, potential for additional costs associated with developing new dwellings within 300m of frost protection fans.
Benefits	<ul style="list-style-type: none"> ▪ For neighbours, protects their amenity and health from noise associated with the operation of existing frost protection fans. ▪ For frost fan operators, reduces potential for complaints from occupants of new dwellings

	<p>established close to existing frost protection fans.</p> <ul style="list-style-type: none"> For frost fan operators, protects the on-going operation of existing/consented frost protection fans and helps protect these from reverse sensitivity effects.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Option 2 is an effective and efficient method to address the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> N/A – Sufficient information is available.

5.4. Preferred Option

The preferred option is Option 2:

- (a) Amend Rule 4C.1.3.2 as set out in **Attachment A** and as follows :

4C.1.3.2 Noise Limits

- (a) **Noise limits for activities in Residential, Rural-Residential, Future Urban, Rural and Lifestyle Zones**

...

- (iii) Any new dwelling to be erected, or the addition of habitable space to an existing dwelling, within 300m of any existing or consented frost protection fan located on a title separate to that of the subject site and in different ownership shall be designed and constructed so as to ensure that, with respect to noise emitted by any existing or consented frost protection fan, internal noise levels do not exceed LAeq(15min) 30dBA in any bedroom and LAeq(15min) 40dBA in other habitable room. Written certification of such compliance from a suitably qualified and experienced acoustic engineer shall be submitted with the building consent application for the dwelling concerned. Where the windows of the dwelling are required to be closed to achieve compliance with the aforementioned noise limits, alternative means of ventilation shall be provided in compliance with clause G4 of the New Zealand Building Code or any subsequent equivalent clause.

For the purposes of this rule, "consented" means:

- (a) any frost protection fan for which a resource consent has been granted; or
- (b) any permitted frost protection fan for which certification has been provided to the Council in accordance with Rule 4C.1.3.6(b);

prior to lodgement of a building consent application for the dwelling concerned.

5.5. Reasons

Option 2 is the preferred option as it the most effective and efficient method to address the need to adequately protect the amenity and health of occupants of future dwellings from the adverse effects of noise generated by existing and consented frost protection fans. In addition, it is considered to be the most effective and efficient method to provide protection for the on-going operation of existing and consented frost protection fans from potential reverse sensitivity effects associated with the development of new dwellings that may be affected by noise.

6.0 Issue 3 – Frost Protection Fans – Height in Post-Harvest Zone

6.1. Introduction

As set out in section 3.1 of this report, it has been identified that there are some inconsistencies in the rules for frost protection fans. In particular, the height limit for frost fans in the Post Harvest Zone is not consistent with the Rural Zone.

The maximum permitted height for buildings and structures in the Rural Zone is 9.0m, except that frost protection fans are allowed up to a height of 15.0m as a permitted activity (Rule 18.4.1(a)). The reason frost fans are allowed up to a height of 15m is due to the actual height of these structures, and their technical and operational requirements.

Rule 22.4.1(a) states that the maximum permitted height for buildings and structures in the Post-Harvest Zone is 12.0m and there is no exclusion for frost protection fans.

This is an anomaly between the rules and it is understood the intention is that frost protection fan structures be permitted up to a height of 15.0m, regardless of whether they are located in the Rural Zone or Post-Harvest Zone.

6.2. Option 1 – Status Quo

This option is to retain the existing rules without change (frost fan height limit of 12m).

Costs	<ul style="list-style-type: none"> ▪ District Plan rules (between Rural and Post Harvest Zones) would continue to be inconsistent. ▪ District Plan rules would not adequately provide for frost protection fans within the Post-Harvest Zones.
Benefits	<ul style="list-style-type: none"> ▪ No benefits identified.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective or efficient in addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

6.3. Option 2 – Amend Rule 22.4.1(a) to allow for frost protection fans up to a height of 15.0m in the Post Harvest Zone

This option is to amend Rule 22.4.1(a) to provide a 15.0m height limit for frost protection fans.

Costs	<ul style="list-style-type: none"> ▪ No costs identified.
Benefits	<ul style="list-style-type: none"> ▪ Height limits would be consistent between the Rural Zone and Post-Harvest Zone. ▪ District Plan rules would adequately provide for frost protection fans within the Post-Harvest Zones.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Option 2 is an effective and efficient method to address the inconsistency in the District Plan.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

6.4. Preferred Option

The preferred option is Option 2:

(a) Amend Rule 22.4.1(a) as follows:

22.4.1 General

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

(a) Height of buildings/structures

Maximum: 12m; excluding frost protection fans which shall be a maximum of 15m inclusive of blades.

6.5. Reasons

Option 2 is the preferred option as it the most effective and efficient method to address the anomaly in the District Plan that the Post-Harvest Zone does not identify the height requirement for frost protection fans.

4C.1 Noise and Vibration

Explanatory Statement

Council's aim is to maintain a reasonable balance between the objective of maintaining a high quality living environment free from unreasonable noise and the need to recognise that permitted and lawfully established activities in the Rural and Industrial Zones may have associated noise levels that are acceptable as part of the principal activity such as farming.

In some areas the loading/unloading of materials at night and the movement onsite of vehicles 24 hours a day is an issue for adjoining landowners. The noise levels of the District Plan are intended to control this type of adverse effect.

Vibration from activities has not been an issue in the *District*. In many cases *Council* can manage vibration effects through the management of noise emissions or through the provisions of the Health Act. Specific standards to manage vibration are therefore not proposed.

Reverse sensitivity is a matter that requires management throughout the *District*. This is done in a number of ways.

The Post Harvest Zone and the Tara Road Rural Residential Zone each have specific buffer provisions, as does the Cameron Quarry site which is located at Otamarakau within the Rural Zone. In the latter case, a *Quarry Effects Management Area (QEMA)* has been identified on the District Planning maps over land surrounding the site.

4C.1.1 Significant Issues

1. The potential for the operation of non-residential activities within residential areas to generate noise which detracts from existing amenity.
2. The potential for the operation of non-rural activities in rural and isolated natural environment areas to generate noise which detracts from existing amenity.
3. The potential for Permitted Activities within one zone to generate noise which detracts from the existing amenity of nearby zones.
4. The perception of the rural area as being a quiet environment does not reflect the realities of the Rural Zone as a productive working environment and increases the potential for *reverse sensitivity* issues.

4C.1.2 Objective and Policies**4C.1.2.1 Objective**

An environment free of unreasonable noise in accordance with the character and amenity of the zone within which the noise is generated and received.

4C.1.2.2 Policies

1. Ensure activities do not generate noise levels inconsistent with the character and amenity of the zone in which the generated noise is received.
2. Exempt from the maximum permitted noise level requirements are those activities which are an integral part of accepted management practices of activities associated with production land in rural areas as well as other activities clearly of a temporary nature (e.g. *construction works, military training exercises*).
3. Have regard to any relevant New Zealand standards, guidelines, or codes of practice in the assessment of applications for resource consents.

4C.1.3 Activity Performance Standards

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.

4C.1.3.1 Construction Noise

Construction noise shall not exceed the noise limits in, and shall be measured and assessed in accordance with the requirements of NZS 6803:1999 Acoustics – Construction Noise.

4C.1.3.2 Noise Limits**(a) Noise limits for activities in Residential, Rural-Residential, Future Urban, Rural and Lifestyle Zones**

- (i) All activities located within these zones shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits within the stated timeframes at any point within the *notional boundary* of any *dwelling* in a Rural, Lifestyle or Rural-Residential Zone, or at any point within the boundary of any property within a Residential or Future Urban Zone (other than the site of the activity);

ATTACHMENT A

(ii) Any new *dwelling* to be erected or the addition of habitable space to an existing *dwelling* within 200m of a Post Harvest Zone boundary shall be designed and constructed so as to ensure that with respect to the night time noise levels permitted within the Post Harvest Zone, internal noise levels do not exceed LAeq(15min) 30dBA in bedroom and LAeq(15min) 40dBA in other habitable rooms. Written certification of such compliance from a suitably qualified and experienced acoustic engineer shall be submitted with the building consent application for the *dwelling* concerned. Where the windows of the *dwelling* are required to be closed to achieve compliance with the aforementioned noise limits, alternative means of ventilation shall be provided in compliance with clause G4 of the New Zealand Building Code or any subsequent equivalent clause.

(iii) Any new *dwelling* to be erected, or the addition of habitable space to an existing *dwelling*, within 300m of any existing or consented frost protection fan located on a title separate to that of the subject site and in different ownership shall be designed and constructed so as to ensure that, with respect to noise emitted by any existing or consented frost protection fan, internal noise levels do not exceed LAeq(15min) 30dBA in any bedroom and LAeq(15min) 40dBA in other habitable room. Written certification of such compliance from a suitably qualified and experienced acoustic engineer shall be submitted with the building consent application for the *dwelling* concerned. Where the windows of the *dwelling* are required to be closed to achieve compliance with the aforementioned noise limits, alternative means of ventilation shall be provided in compliance with clause G4 of the New Zealand Building Code or any subsequent equivalent clause.

For the purposes of this rule, "consented" means:

- (a) any frost protection fan for which a resource consent has been granted; or
- (b) any permitted frost protection fan for which certification has been provided to the *Council* in accordance with Rule 4C.1.3.6(b);

prior to lodgement of a building consent application for the *dwelling* concerned.

Time Period		Sound Level Not to be Exceeded	
Day	Hours	Leq	Lmax
Monday to Saturday	7am to 10pm	50dBA	N/A
Sunday	7am to 6pm	50dBA	N/A
At all other times and on public holidays		40dBA	65dBA

(b) Noise limits for activities in Industrial and Commercial Zones

All activities located within Industrial and Commercial Zones shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits within the stated timeframes at any point within the *notional boundary* of any *dwelling* in a Rural Zone or Rural-Residential Zone, nor at any point within the boundary of any property within a Residential or Future Urban Zone:

Time Period		Sound Level Not to be Exceeded	
Day	Hours	Leq	Lmax
Monday to Saturday	6am to 10pm	55dBA	N/A
Sunday and Public Holidays	9am to 6pm	55dBA	N/A
At all other times		45dBA	70dBA

(c) Noise sensitivity

- (i) For potentially noise-sensitive activities such as commercial offices, *places of assembly, medical, veterinary or scientific facilities and dwellings and accommodation facilities*, an acoustic design certificate shall be provided at the time of building consent demonstrating the *building* has been designed so that the internal noise limits set out in the following table are not exceeded;
- (ii) Where windows and doors must be closed in order to meet the internal noise standards, an alternative means of ventilation shall be provided which meets all relevant requirements of the Building Code.

	Sound Level Not to be Exceeded	
	Daytime period	Night time period
	Leq	Leq
Offices not accessory to any industry, storage or warehousing	45dBA	N/A
Residential units (habitable spaces)	45dBA	30dBA

(d) Acoustic certification

The following provisions shall apply to Industrial Zoned sites that are either:

- (i) within 100m of a *dwelling* in the Rural Zone that existed as at December 2005; or
- (ii) within 200m of a *dwelling* within the Rangioru Business Park that existed as at December 2005;

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- (iii) those lots within the Te Puke West Industrial Zone that are within 50m of Manoeka Road as indicated on the Te Puke West Structure Plan:
- (iv) those *lots* within the Comvita Campus Structure Plan area that are zoned Industrial and located within 50m of Wilson Road South as indicated on the Comvita Campus Structure Plan.

Prior to commencement of activities on the site or building consent being approved an acoustic design report prepared by a suitably qualified and experienced acoustical engineer shall be required by the *Council*.

The report shall outline the range of activities, their potential noise levels and any noise mitigation/management measures which will be implemented to ensure compliance with the relevant noise performance standards.

(e) Noise limits for activities in the Post Harvest Zone

All activities located within the Post Harvest Zone shall be conducted so as to ensure that noise from the zone shall not exceed the following noise limits within the *notional boundary* of any *dwelling* in a Rural Zone or at any point within the boundary of any property within a Residential, Rural-Residential, or Future Urban Zone:

Time Period	Sound Level Not To Be Exceeded	
	<i>Leq</i>	<i>Lmax</i>
Daytime 7am – 10pm	55dBA	N/A
Night time 10pm – 7am	45dBA	65dBA

Provided that:

- (i) Night time levels may exceed LAeq 45dBA where it is demonstrated that a noise level not exceeding LAeq (15min) 30dBA ('the internal level') can be achieved within all bedroom and LAeq(15min) 40dBA in other habitable rooms of any *dwelling* (existing as at 7 February 2009), located in any of the zones specified above. Before the externally measured LAeq 45dBA noise limit can be exceeded, any necessary mitigation measures shall be installed in the *dwelling(s)* concerned and compliance with the internal level shall be certified by a suitably qualified and experienced acoustic engineer;
- (ii) Any new *dwelling* or any addition of *habitable space* to an existing *dwelling* to be erected in a Rural, Lifestyle, Rural Residential, Residential or Future Urban Zone within 200m of a Post Harvest Zone boundary shall be designed and constructed so as to ensure that the internal noise levels do not exceed LAeq(15min) 30dBA in bedrooms and LAeq(15min) 40dBA in other habitable rooms. Written certification of such compliance from a suitably qualified and

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experienced acoustic engineer shall be submitted with the building consent application for the *dwelling* or alteration concerned. Where the windows of the *dwelling* are required to be closed to achieve compliance with the noise limits, alternative means of ventilation shall be provided in compliance with clause G4 of the New Zealand Building Code or any subsequent equivalent clause.

(f) Noise limits for activities in the All Terrain Park Zone

- (i) All activities in the All Terrain Park (the Park) (except for those involving gunshot noise) shall be conducted so as to ensure that noise shall not exceed the following noise limits within the stated timeframes at any point within the *notional boundary* of any *dwelling* existing at 7 February 2009 located outside the zone.

Time Period		Sound Level Not to be Exceeded	
Day	Hours	Leq	Lmax
Monday to Sunday	7am to 10pm	50dBA	N/a
At all other times and Christmas Day, Good Friday and Easter Sunday	7am to 6pm	40dBA	65dBA

- (ii) Firing from any shooting range shall be only within the hours of 7am to 10pm and shall be so conducted as to ensure that gunshot noise does not exceed a composite noise rating (CNR) of 90 at any point within the *notional boundary* of any *dwelling* in regard to the properties in private ownership to the east of the subject site in a Rural Zone:

$$\text{CNR} = Y - 25 + 10 \log (N) + 10 \log (R);$$

Where: CNR=composite noise rating;

Y=dB linear peak level of the burst;

N=number of single shots or bursts per day;

R=number of rounds, or detonations, (acoustic events) per burst.

- (iii) Noise shall be measured and assessed in accordance with NZS6801:2008 and NZS6802:2008. Adjustments for special audible characteristics shall not apply to the assessment of gunshot noise.

(g) Written approval

- (i) The noise levels set out in 4C.1.3.2 (a) – (f) above may be exceeded where the written approval is provided by all owners or occupiers of those properties or *dwelling*s affected by the non-compliance.

4C.1.3.3 Exemptions from Noise Limits**(a) Exemptions from noise limits for short-term activities**

Subject to Rule 4C.1.6, the noise limits in Rule 4C.1.3.2 shall not apply to temporary or short-term activities as listed below, provided that the best practicable option pursuant to Section 16 of the *RMA* and manufacturers specifications for machinery, shall be adopted to ensure noise received off-site is reasonable.

The exemptions do not apply to long-term activities, and in the case of residential activities apply to domestic activities rather than commercial or business activities carried out from residential premises.

(b) Exemptions for residential activities in all zones

- (i) Warning Devices used by Emergency Services;
- (ii) Short-term domestic activities e.g. lawn mowing.

(c) Exemptions for rural activities in Rural Zones

- (i) Warning Devices used by Emergency Services;
- (ii) Activities required for primary production activities, including agricultural and horticultural vehicles and equipment; aircraft used for agricultural and horticultural purposes; and portable equipment (excluding portable sawmills and frost protection fans and audible bird scaring devices) associated with agricultural and horticultural activities such as: spraying, harvesting, etc;
- (iii) Livestock.

(d) Other exemptions

- (i) Noise from *construction, maintenance* and demolition (see Rule 4C.1.3.1);
- (ii) Temporary Military Training Activity;
- (iii) Temporary Activities (see Rule 4A.2.3.1 (iv)).

(e) Noise from traffic on public roads that are legally formed and maintained is exempt from the zone rules of the District Plan

Explanatory Note:

Some roads may have specific conditions imposed by resource consent or designation.

(f) Exemptions for roadside cabinets housing telecommunication equipment

Noise from roadside cabinets housing telecommunication equipment is subject to the requirements of the National Environmental Standard (NES) for Telecommunication Facilities. Such noise is not subject to rules in this District Plan.

4C.1.3.4 Noise Measurement and Assessment

- (a) For the purposes of Rule 4C.1.3.2, subject to the express provisions of these rules, sound levels should be measured in accordance with the requirements of NZS 6801:2008 Measurement of Environmental Sound, and assessed in accordance with the requirements of NZS6802:2008 Assessment of Environmental Sound;
- (b) The noise shall be measured with a sound level meter complying with the International Standard IEC 651 (1979): Sound Level Meters, Type 1.

Explanatory note:

Council may require any Discretionary or Non-Complying resource consent application in any zone to provide as part of the resource consent documentation evidence from an appropriately qualified independent person that the proposal shall comply with the District Plan noise levels for the site. *Council* shall consider the noise insulation methods associated with the use of generators, fans, blowers, refrigeration equipment, forklifts, outdoor loading operations, and any activity that operates between 7.00pm and 7.00am.

4C.1.3.5 Audible Bird Scaring Devices – Performance Standard for Permitted Activity

Audible bird scaring devices shall be a Permitted Activity subject to compliance with the following performance standards.

An audible bird scaring device:

- (a) Shall only be operated from half an hour before sunrise to half an hour after sunset.
- (b) Shall be set to operate at no greater frequency than 12 times in any period of one hour, that is 12 single discharges or four groups of three discharges.

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- (c) Shall not be operated for any continuous period exceeding two seconds.
- (d) Shall only be operated when the horticultural crop is at risk from bird damage.
- (e) Shall not exceed 65dB ASEL at the *notional boundary* of any Rural, Rural Residential, Future Urban or Lifestyle *dwelling* or at the boundary of any Residential Zone (excluding any *dwelling/s* located on the same site as the device is being operated).
- (f) Where those persons who experience noise levels over 65dB ASEL as described in (e) above, have provided written approval to *Council* then the activity shall be permitted.

Use of any audible bird scaring device not in compliance with the above performance standards shall fall to be considered as a Restricted Discretionary Activity.

4C.1.3.6 Frost Protection Fans – Performance Standard for Permitted Activity

~~Frost protection fans (including portable non-fixed type) shall be a Permitted Activity subject to the relevant performance standards of the underlying zone. Should the fan not comply with the relevant noise standards the activity shall default to be considered as a Controlled or Restricted Discretionary Activity as detailed in 4C.1.3.7 and 4C.1.3.8.~~

Frost protection fans (including portable non-fixed type) shall be a Permitted Activity subject to compliance with the following performance standards:

- (a) Noise from the operation of a frost protection fan shall not exceed 55dBA *Leq* or 65dBA *Lmax* when measured:
 - (i) At any point at or within the *notional boundary* of any *dwelling* in the Rural or Lifestyle Zone that:
 - is or will be located on a title separate to that of the subject site and in different ownership; and
 - was existing or consented on the date that certification is provided to the Council in accordance with (b), below;
 - (ii) At any point at or within the boundary of a property in the Rural or Lifestyle Zone that:
 - is located on a title separate to that of the subject site and in different ownership; and
 - did not have an existing or consented *dwelling* on the date that certification is provided to the Council in accordance with (b) below;

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- (iii) At any point at or within the boundary of any property within a Residential, Rural-Residential, Medium Density Residential or Future Urban Zone.
- (b) Evidence of the ability to meet (a) above shall be provided to Council prior to the installation of the frost protection fan and shall include:
- (i) Certification from an appropriately qualified and experienced acoustic engineer that the noise limits in (a) above will be met; and
- (ii) A plan showing the location, and Global Positioning System co-ordinates, of the frost protection fan(s) to which the certification applies.
- (c) When the frost protection fan is in operation for frost protection the frost protection fan must not start up until the air at canopy height drops to 2°C, and shall cease operation when the rising temperature reaches 4°C at canopy height.
- (d) When the frost protection fan is operating for maintenance purposes the machine shall only be used from Monday to Friday 8am to 5pm. Testing outside these hours may only take place for urgent unforeseen maintenance purposes.
- Except that:
- (e) Noise from the operation of a frost protection fan may exceed the noise levels described in (a) above, if:
- (i) The noise to be produced by the operation of the frost protection fan(s) is assessed and determined by an appropriately qualified and experienced acoustic engineer. The assessment shall include:
- the noise levels to be produced by the operation of the frost protection fan(s);
 - identification of the non-compliances with the noise levels specified in (a) above;
 - a plan showing the location, and the Global Positioning System co-ordinates, of the frost protection fan(s) to which the assessment applies;
- AND
- (ii) The written approval of the owners of the land, and owners and occupiers of the dwelling(s) to which the non-compliances apply have provided their written approval for the non-compliances identified in the assessment provided in (i) above.

AND

- (iii) The information in (i) and (ii) above is provided to Council prior to the installation of the frost protection fan.

Any frost protection fan (including portable non-fixed type) that fails to meet the performance standards above shall be a Restricted Discretionary Activity.

Explanatory Notes:

Fan Type - The distance required to achieve 55dBA *Leq* and 65dBA *Lmax* will vary depending on the noise performance of the frost protection fan.

For portable frost protection fans, determination and/or certification of noise to be emitted must take into account the full range of possible operating locations for the device.

4C.1.3.7 Frost Protection Fans — Performance Standard for Controlled Activity

~~Where the following performance standards cannot be met then the activity shall fall to being assessed as a Restricted Discretionary Activity:~~

- ~~(a) Noise from the operation of frost protection fans shall not exceed 55dBA *Leq* and 65dBA *Lmax* at any point within the *notional boundary* of any dwelling in a Rural or Lifestyle Zone (excluding a residential dwelling on the same property on upon which the fan is operating) nor at any point within the boundary of any property within a Residential, Rural Residential or Future Urban Zone.~~
- ~~(b) When the frost protection fan is in operation for frost protection the frost protection fan must not start up until the air at canopy height drops to 2°C, and shall cease operation when the rising temperature reaches 4°C at canopy height.~~
- ~~(c) When the frost protection fan is operating for maintenance purposes the machine shall only be used from Monday to Friday 8am to 5pm.~~

Explanatory Note:

~~Fan Type — The distance required to achieve 55dBA will vary depending on the noise performance of the frost protection fan. Applications for resource consent must be supported with evidence identifying the noise performance of the fan to be used.~~

~~Where the written approvals of all affected persons have not been obtained then notice shall be served on those persons.~~

Explanatory Note:

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~~For the purpose of identifying affected persons where the noise from the operation of the frost protection fan exceeds 55dBA *Leq* at any point within the *notional boundary* of any *dwelling* in a Rural, Lifestyle or Future Urban Zone, (excluding a residential *dwelling* on the same property on upon which the fan is operating) or at any point within the boundary of any Residential or Rural Residential zone, those occupiers/owners shall be deemed to be affected.~~

4C.1.4 — Matters of Control — Controlled Activities**4C.1.4.1 — Frost Protection Fans**

- (a) ~~— Council shall exercise control over the following;~~
- (i) ~~— The noise level that is permitted to be emitted from the frost protection fan;~~
 - (ii) ~~— The operational requirements of the frost protection fan;~~
 - (iii) ~~— The operation of the frost protection fan for maintenance purposes;~~
 - (iv) ~~— The hours of operation and times when the fan is permitted to operate.~~

4C.1.54 Matters of Discretion**4C.1.54.1 Restricted Discretionary Activity – Audible Bird Scaring Devices**

Council shall restrict its discretion to the noise levels and the consequential affect on amenity of the neighbouring properties. Notification of the application is not required. For the purposes of identifying affected persons, written approval shall be required from persons who will experience noise levels above 65dBA *SEL* (excluding a residential dwelling on the same property as the audible bird scaring device). Should any written approvals not be obtained from an affected person(s) notice will be served on those persons.

4C.1.54.2 Restricted Discretionary Activity - Frost Protection Fans

Council shall restrict its discretion to the following:

- (a) The level of noise that is to be emitted from the frost protection fan(s).
- (b) The effect of noise on the owners of land, and owners and occupiers of *dwellings* who will be affected by noise levels over 55dBA *Leq* and/or 65dBA *Lmax*.
- (c) The hours of operation, duration and frequency of use of the frost protection fan.
- (d) The best practicable option for preventing or minimising adverse effects associated noise emissions. This may include, but is not limited to consideration of alternative options for frost protection,

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effectiveness of those alternative options, affordability, cumulative effects of existing frost protection fans in the vicinity, effects on established land uses, and proposed mitigation.

- (e) The operational requirements of the frost protection fan.

4C.1.6 Other Methods

- (a) Application of other statutory powers

Notwithstanding the foregoing clauses the *Council* reserves the right to use its more general statutory and regulatory powers (e.g. under relevant resource management, environmental, and health legislation and *Council's* own bylaws) to exercise appropriate control over noise in the environment.

- (b) Vibration

Where significant vibration effects are experienced *Council* may deal with the matter as a nuisance under the Health Act.

Western Bay of Plenty District Council

Change to the District Plan – First Review

Plan Change 88 Noise Standards within Industrial Zones

Section 32 Report

Prepared by: Paula Golsby, Contract Resource Management Planner – PMG Planning

1.0 Introduction

1.1. General Introduction and Background

The purpose of this report is to consider a plan change to include standards within the District Plan for noise generated and received within the Industrial Zone.

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. None of the iwi/hapu management plans lodged with Council raise any issues of particular relevance to this Plan Change.

2.3. 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. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received. An update will be provided at the meeting on 25 July 2019.

No other Ministers of the Crown or local authorities are considered affected by this proposed plan change. Nevertheless, the Bay of Plenty Regional Council has been consulted and they identified no issues with the proposed change. No marine title groups are considered affected.

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 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 on this topic, and both considered there should be standards within the District plan to limit noise between properties located within the Industrial Zone.

One person raised concern about bird scaring devices operating at orchards through the night, and the potential impact they have on shift workers who sleep throughout the day, children, and animals. Although these concerns are acknowledged, the issue of noise from bird scaring devices is not related to noise within the Industrial Zones. In addition, these devices are subject to specific rules within the District Plan, which the Council has provided direction to retain unchanged for the time being.

It is also noted, for completeness, that bird scaring devices are only permitted to operate from half an hour before sunrise to half an hour after sunset. Any operation outside of these hours is considered to be a non-compliance with the rules of the District Plan, which are able to be enforced by Council's compliance staff.

The second person raised concern about the expanding kiwifruit industry and the potential noise impacts on established urban centres.

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.

No specific issues were raised by any of these stakeholders regarding this proposed plan change.

3.0 Issue 1 – Noise within Industrial Zones

3.1 Introduction

Under the current District Plan, noise rules for the Industrial Zone relate to the level of noise experienced in other adjoining land use zones that are potentially more sensitive to the effects of noise (e.g. Residential Zone and

Rural Zone). However, there are no rules within the District Plan to limit the effects of noise within the Industrial Zone itself (i.e. from one industrial property to another). Noise emitted in the Industrial Zones has caused some concern within the District, and there is potential for adverse effects on people and their health and safety if noise is not managed adequately.

3.2. Research & Analysis

A review of other District Plans from around New Zealand shows that there is a mixed approach to noise limits within the Industrial Zones. While some councils have rules limiting noise within their Industrial Zones, others do not. Those that do have rules restricting the amount of noise that can be produced within the Industrial Zone typically have an Leq noise limit (i.e. average sound level) of 65dBA Leq or 75dBA Leq. Some councils also include an Lmax noise limit (i.e. the highest level of noise) of 85dBA Lmax. In addition, some councils have lower noise levels for night time hours.

Worksafe also controls noise levels to protect the health and safety of people at work. Under health and safety laws, workers must not be exposed to noise levels equivalent to 85 dBA (averaged over an 8 hour period) or a peak noise level of 140 dBA.

Further to this, the New Zealand Standard for Acoustics – Environmental Noise (NZS 6802:2008) includes guidelines for the protection of health and amenity. For the protection of the amenity values within heavy industry zones the guideline suggests that a limit of 75dBA Leq may be appropriate as an intra-zone noise limit (i.e. between properties within the industrial zone). The guideline also states that it may be appropriate for there to be no noise limits within industrial areas where there are similar activities in an industrial zone, but that differing levels of activity may require different levels of protection (e.g. administrative offices associated with industrial activities).

Initial noise monitoring undertaken by Council staff suggests that a lower noise level would be more appropriate in the Western Bay of Plenty district than the 75dBA Leq suggested in NZS 6802:2008 for heavy industrial zones.

3.3. Option 1 – Status Quo – No noise limits within the Industrial Zone

This option is to retain the existing rules without change. Existing rules limit the amount of noise produced in an Industrial Zone that can be experienced in other zones (e.g. Residential Zone and Rural Zone). However, the existing rules do not restrict the level of noise that can be experienced within the Industrial Zone itself (i.e. from one industrial property to another).

Costs	<ul style="list-style-type: none"> ▪ May not adequately protect some people within the industrial zone from the adverse effects of noise in some cases. ▪ Without noise restrictions in place, the obligation for industrial operators to manage their noise is unclear. This causes issues in terms of the general duty under
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	<p>section 16 of the RMA that there is a need to adopt the best practicable option to avoid unreasonable noise.</p> <ul style="list-style-type: none"> It also causes potential issues for complying with Worksafe requirements if neighbouring sites (and their workers) are subject to noise levels exceeding the prescribed limits under health and safety legislation.
Benefits	<ul style="list-style-type: none"> Would benefit industrial operators that undertake particularly noisy activities and/or where noisy activities occur without noise attenuation. Industrial operators would continue to be allowed to operate without restrictions on noise produced within the Industrial Zone.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Not an effective or efficient in addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> N/A – Sufficient information is available.

3.4. Option 2 – Plan Change to include noise limits and associated provisions within the Industrial Zone

This option is to include rules in the District Plan to limit the amount of noise that can be produced and received within the Industrial Zone (i.e. from one industrial property to another). Changes are also proposed to the 'Significant Issues' in Section 4C.1.1 of the District Plan regarding noise, and consequential changes are proposed to the policies in Section 4C.1.2.2

Costs	<ul style="list-style-type: none"> May result in additional constraints for operators of industrial activities.
Benefits	<ul style="list-style-type: none"> Addresses the issue that noise produced and received within the Industrial Zone has the potential for adverse effects and that there is a need to manage activities to ensure unreasonable effects of noise are avoided. A noise limit would protect people within the Industrial Zone from the adverse effects of noise. Noise limits within the Industrial Zone would mean that industrial operators would need to design and operate their businesses to manage noise appropriately. This would also ensure the ability of

	<p>neighbouring properties to meet Worksafe obligations is not compromised by third parties.</p> <ul style="list-style-type: none"> ▪ A minor change to Policy 3 in Section 4C.1.2.2 highlights the need to consider other relevant legislation (such as the Health and Safety at Work Act) when setting noise limits and considering consent applications.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ The inclusion of noise standards within the Industrial Zone is considered to be an effective and efficient method for addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

3.5. Preferred Option

The preferred option is Option 2:

(a) Amend the Significant Issues in Section 4C.1.1 to read as follows:

4C.1.1 Significant Issues

...

3. The potential for ~~Permitted A~~activities within one zone to generate noise which detracts from the existing amenity of nearby zones.

...

5. The potential for noise emissions within the Industrial Zone to adversely affect the health and safety of people within and adjacent to that zone.

(b) Amend Policy 3 in Section 4C.1.2.2 to read:

3. Have regard to any relevant New Zealand legislation, standards, guidelines, ~~or~~ and codes of practice, in the assessment of applications for resource consents.

(b) Amend Rule 4C.1.3.2(b) – Noise limits for activities in Industrial and Commercial Zones to include new clause (ii) as follows:

(i) All activities located within Industrial Zones shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits

within the stated timeframes at any point within the boundary of any other property within an Industrial Zone:

Time Period	Sound Level Not to be Exceeded	
	<i>Leg</i>	<i>Lmax</i>
Day time 7am – 10pm	60dBA	N/A
Night time 10pm – 7am	45dBA	70dBA

3.6. Reasons

The preferred option is Option 2 as it addresses the identified issue and would ensure that effects on people's health and safety as a result of noise are better managed. In addition, the inclusion of noise standards within the Industrial Zones makes it clear that industrial operators have a responsibility to ensure they do not generate unreasonable noise.

Western Bay of Plenty District Council

Change to the District Plan – First Review

Plan Change 89 Rural Contractors Depots - Separation Distances

Section 32 Report

Prepared by: Paula Golsby, Contract Resource Management Planner – PMG Planning

1.0 Introduction

1.1. General Introduction and Background

The purpose of this report is to consider a plan change to clarify that vehicle accessways, driveways, manoeuvring and parking areas associated with Rural Contractors Depots are required to meet permitted activity Rule 18.4.1(p)(v). This rule requires a 60m separation between Rural Contractors Depots and existing dwellings, minor dwellings, education facilities and accommodation facilities.

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. None of the iwi/hapu management plans lodged with Council raise any issues of particular relevance to this Plan Change.

2.3. 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. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received. An update will be provided at the meeting on 25 July 2019.

No other Ministers of the Crown or local authorities are considered affected by this proposed plan change. Nevertheless, the Bay of Plenty Regional Council has been consulted and they identified no issues with the proposed change. No marine title groups are considered affected.

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 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.

One response was received in support of the proposed change to clarify that vehicle accessways, driveways, manoeuvring and parking areas associated with Rural Contractors Depots are required to be setback 60m from dwellings and other sensitive activities. The feedback identifies particular concerns with dust produced from vehicle accessways, and the use of shells for driveways which have the potential to cause issues associated with odour.

In addition, to account for sites with limited options for the development of future dwellings, it has been suggested that the separation distance of 60m should apply to the property boundary, rather than existing dwellings, minor dwellings, education facilities and accommodation facilities. A response to the feedback is provided within the discussion of options being considered.

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.

No specific issues were raised by any of these stakeholders regarding this proposed plan change, however, kiwifruit industry representatives sought clarification regarding application of the rule and whether it applied to properties on the opposite side of the road.

3.0 Issue 1 – Rural Contractors Depots – Separation Distances

3.1. Introduction

As a result of a recent complaint and investigation into a non-compliant Rural Contractor's Depot, staff have identified that there is opportunity to clarify that permitted activity Rule 18.4.1(p)(v) applies to vehicle accessways/driveways, manoeuvring and parking areas associated with Rural Contractors Depots. In this regard, Rule 18.4.1(p)(v) requires a 60m separation between new Rural Contractors Depots and any existing dwelling, minor dwelling, education facility, or accommodation facility located on a separate site and in different ownership.

In addition, within the Rural Zone, permitted activity Rule 18.4.1(c)(i) requires new dwellings, minor dwellings, education facilities and accommodation facilities to be setback 30m from all boundaries. In accordance with Rule 18.4.1(c)(i)(e), a side or rear yard may be reduced to 10m without the need for resource consent if a separation distance of 60m is maintained between the new dwelling, minor dwelling, education facility, or accommodation facility and any existing or consented Rural Contractor's Depot. The same separation distance also applies between new and existing (or consented) dwellings, minor dwellings, education facilities, and accommodation facilities.

3.2. Plan Change 1 – Rural Contractors Depots

The current permitted rules for Rural Contractors Depots were introduced through Plan Change 1, which was publicly notified in 2012 and made operative in 2013. This Plan Change sought to provide for Rural Contractors Depots as permitted activities in the Rural Zone, subject to activity performance standards. Prior to this change, Rural Contractors Depots were classified as discretionary activities in the Rural Zone meaning that all Rural Contractors Depots (regardless of scale, intensity, and environmental effects) required resource consent.

The s32 analysis for Plan Change 1 identified that the extent of adverse effects associated with Rural Contractors Depots would need to be acceptable if they were to be provided for as a permitted activity within the Rural Zone. It was identified that restrictions would need to be imposed to address noise, transportation safety, access and visual impacts.¹

Proximity to neighbouring properties and potential disturbance associated with Rural Contractor's Depot activities, including the movement of traffic, was identified as a particular effect that needed to be addressed. It is clear from the s32 Report for Plan Change 1 that adverse amenity effects as a result of traffic movements associated with Rural Contractors Depots were intended to be addressed through the performance standard which requires a 60m separation between the Rural Contractor's Depot and any dwelling,

¹ Plan Change 1, s32 Report, page 8

minor dwelling, education facility, or accommodation facility (Rule 18.4.1(p)(v)).

In this regard, the s32 Report states that the separation distance "...*would ensure that the increased noise, noise from traffic, dust, and visual amenity will not adversely impact on neighbouring properties.*"² It is therefore clear that the separation distance required by Rule 18.4.1(p)(v) was intended to address amenity related effects associated with activities at Rural Contractors Depots, including potential adverse effects associated traffic movement.

3.3. Resource Consent Applications

A review of resource consent applications received by Council for Rural Contractors Depots has been undertaken. This showed that since 1991 there have been 36 applications, with 32 decisions granted (the remaining four were withdrawn or otherwise closed prior to a decision). None of the applications received were declined. Within the last 10 years there have been two resource consent applications, one before Plan Change 1 was made operative (28 September 2013) and one after. Both of these applications were granted.

The first application was made in 2010 (following complaints from neighbours) for a Rural Contractor's Depot involving hay harvesting and baling. The key effects assessed in the Council's decision relate to:

- a. The track record of the applicant;
- b. Scope of the 'rural contractor's depot' activity (relating to the preparation of hay bales for sale off-site);
- c. Hours of operation;
- d. Noise, dust, and odour effects; and
- e. Traffic and roading effects.

Conditions of consent relate to the odour, dust, noise, and limitations on hours of operation, traffic movements, number of staff, and financial contributions. A review of the decision shows that noise effects associated with traffic on the driveway at the site was a key concern of submitters opposed to the application and this effect was mitigated through conditions limiting the scale and intensity of the contracting business (e.g. through maximum staff numbers and vehicle movements) and hours of operation.

The second resource consent application was made in 2013 (also following a complaint). This Rural Contractor's Depot includes two separate businesses, one being an orchard management/contracting business and the other being associated with the storage of equipment for a logging business. The main effects assessed in the Council's decision report are associated with:

- a. Traffic generation, access and parking;
- b. Visual and landscape effects; and

² Plan Change 1, s32 Report, page 10

- c. Rural character and amenity (including as a result of non-compliance with the required separation distance between the Rural Contractor’s Depot activities and nearby dwellings).

Resource consent conditions relate to noise, maximum staff numbers, days and hours of operation, provision of on-site car parking, and hazardous substance requirements. The conditions relating to the scale and intensity (staff numbers and hours of operation) of the activities on the site appear to address amenity related effects, rather than safety or road capacity issues.

In summary, there has been a very limited number (i.e. two) of resource consent applications received for Rural Contractors Depots in the last 10 years, and only one since Plan Change 1 was made operative. A review of these applications shows that amenity related effects associated with traffic movement was a relevant consideration and the extent of such effects has been mitigated through conditions of consent such as hours of operation, staff numbers, vehicle movements, and driveway construction.

3.4. Complaints

Advice from Council’s Compliance Officers is that there have been a limited number of complaints (i.e. two or three) regarding Rural Contractors Depots in the last seven to eight years.

3.5. Analysis

It is clear from the s32 Report prepared with respect to Plan Change 1 that the separation distance Rule 18.4.1(p)(v) was intended to address amenity related effects associated with activities at Rural Contractors Depots, including potential adverse effects associated traffic movement.

It appears that any issues arising from the operation of Rural Contractors Depots are infrequent and there have also been a limited number of resource consent applications since Plan Change 1 introduced the permitted activity rule (and associated activity performance standards) for Rural Contractors Depots. This information suggests that the identified problem (as set out in section 3.1) may not be a significant issue for the District. Nevertheless, a plan change has merit if it would avoid confusion for Council staff and the community in terms of interpreting and implementing the District Plan.

3.6. Option 1 – Status Quo (with potential for internal guidance on how rules should be applied)

Costs	<ul style="list-style-type: none"> ▪ Potential that there may still be confusion about how the separation distance rule is to be applied with respect to Rural Contractors Depots. ▪ There is a risk regarding loss of knowledge within Council (with regard to internal guidance) if staff change or leave. ▪ This option does not assist people with understanding the District Plan.
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Benefits	<ul style="list-style-type: none"> ▪ Saves time and avoids financial costs associated with a plan change process.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective because the District Plan rule will continue to be unclear and may result in unintended outcomes. ▪ Not efficient as may result in unnecessary time spent by staff and customers associated with interpretation of District Plan provisions, and would also involve time to prepare guidance material.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

3.7. Option 2 – Amend the definition of “Rural Contractors Depot” to clarify that the activity includes accessways, driveways, manoeuvring and parking areas

Costs	<ul style="list-style-type: none"> ▪ There is potential that a change to the definition would introduce an inconsistency in the relationship between other land use definitions and associated yard/setback rules. For example, the definitions for “<i>Dwellings</i>”, “<i>Minor Dwellings</i>”, “<i>Accommodation Facility</i>”, and “<i>Education Facilities</i>” do not specifically refer to vehicle accessways, driveways, manoeuvring and parking areas. A change to the definition for “<i>Rural Contractors Depot</i>” may therefore cause confusion for District Plan users about how yard and setback requirements (for vehicle accessways, driveways, manoeuvring and parking areas) are to be applied to other land uses.
Benefits	<ul style="list-style-type: none"> ▪ This option would assist in clarifying that vehicle accessways, driveways, manoeuvring and parking areas are part of the land use activity and therefore that the separation distance also applies to these areas.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Amending the definition is partially effective in addressing the identified issue because it would make it clear that vehicle accessways, driveways, manoeuvring and parking areas are part of the activity to which the separation distance rule applies. ▪ Amending the definition is not efficient as it may result in confusion regarding interpretation of other land use definitions and their relationship with

	yard/setback rules in the District Plan (as explained above). This has potential to result in additional and unnecessary financial costs for the community, the Council, and consent applicants due to the time spent resolving interpretation issues.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

- 3.8. Option 3 – Amend Activity Performance Standard Rule 18.4.1(p)(v) to clarify that the separation distance required for rural contractors depots from existing dwellings, minor dwellings, education facilities and accommodation facilities applies to vehicle accessways/driveways, manoeuvring and parking areas associated with Rural Contractors Depots.**

In addition, make consequential changes to Rural Zone yard Rule 18.4.1(c)(i)(e) to ensure in the reverse situation that dwellings, minor dwellings, education facilities and accommodation facilities also need to be setback from vehicle accessways, driveways, manoeuvring and parking areas associated with Rural Contractors Depots.

Costs	<ul style="list-style-type: none"> ▪ Does not address issues raised through public consultation that it may be more appropriate to apply the separation distance to the site boundary, rather than dwellings and other sensitive activities on neighbouring sites.
Benefits	<ul style="list-style-type: none"> ▪ For rural contractors depots, amending performance activity standard Rule 18.4.1(p)(v) will clarify that the required separation distances from existing dwellings, minor dwellings, education facilities and accommodation facilities apply to vehicle accessways, driveways, manoeuvring and parking areas associated with Rural Contractors Depots. ▪ Applying the 60m separation distance from new Rural Contractors Depots to nearby dwellings (and other sensitive activities) rather than the property boundary ensures the rule continues to complement Rule 18.4.1(c)(i)(e). This rule relates to side yard setbacks for dwellings, minor dwellings, accommodation facilities and education facilities in the Rural Zone. It allows the required side yard setback for dwellings,

	<p>minor dwellings, accommodation facilities and education facilities to be reduced from 30m to 10m if a separation distance of 60m is maintained between the new (or extended) building and any existing dwelling, minor dwelling, accommodation facility, education facility, or rural contractor's depot.</p> <ul style="list-style-type: none"> ▪ Making a consequential change to Rule 18.4.1(c)(i)(e) (setbacks for dwellings etc from rural contractors) will ensure that this rule continues to complement Rule 18.4.1(p)(v) (setbacks for rural contractors depots from existing dwellings, minor dwellings, education facilities and accommodation facilities) and that the separation distance is applied consistently.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Amending the activity performance standard is effective in addressing the identified issue as it will be clear that the separation rules for both rural contractors depots and dwellings, minor dwellings and accommodation facilities apply to vehicle accessways/driveways, manoeuvring and parking areas. ▪ Amending the activity performance standard is considered to be an efficient method to address the identified issue because it reduces time and financial costs associated with interpreting and disputing how rules are to be applied.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

3.9. Preferred Option

The preferred option is Option 3:

- (a) Amend the Activity Performance Standard Rule 18.4.1(p)(v) to clarify that the separation distance required for rural contractors depots from existing dwellings, minor dwellings, education facilities and accommodation facilities applies to vehicle accessways/driveways, manoeuvring and parking areas associated with Rural Contractors Depots as follows:

The *Rural Contractors Depot* (including any associated vehicle accessways, driveways, vehicle parking and/or manoeuvring areas) shall not be located within 60 metres of any existing or consented *Dwelling, Minor Dwelling,*

Education Facility or Accommodation Facility that is located on a title separate to that of the subject site and in different ownership to that of the *Rural Contractors Depot* operator.

- (b) Amend permitted activity Rule 18.4.1(c)(i)(e) to clarify that the separation distance required for new dwellings, minor dwellings, education facilities and accommodation facilities from existing or consented Rural Contractor's Depots applies to vehicle accessways/driveways, manoeuvring and parking areas associated with the Rural Contractor's Depot as follows:

(c) Yards

- (i) *Dwellings, minor dwellings, accommodation facilities*

Minimum 30m.

Provided that:

...

A *side* or *rear yard* may be reduced to not less than 10m in one or more of the following circumstances;

...

- (e) Where any new *dwelling, minor dwelling, accommodation facility* or *education facility* (including any additions or alterations to these) can meet all of the following permitted activity performance standards;

- Shall not be located any closer than 60m to any existing or consented *dwelling, minor dwelling, accommodation facility, education facility, rural contractors depot* (including vehicle accessways, driveways, vehicle parking and/or manoeuvring areas associated with a rural contractors depot), or approved building site assessed as part of a subdivision in accordance with Rule 12.4.1(b), that is located on a title separate to that of the subject site and in different ownership;...

3.10. Reasons

Option 3 is the preferred option as it is considered to be the most effective and efficient method to address the confusion regarding application of Rule 18.4.1(p)(v), which was intended to require new rural contractors depots to have a separation distance of 60m from existing or consented dwellings, minor dwellings, education facilities or accommodation facilities. In this regard, the preferred option addresses the identified issue and makes it clear for District Plan users how the performance standard is to be interpreted. Option 3 is also preferred over Option 2 because it clarifies how rural yard Rule 18.4.1(c)(i)(e) is to be applied to dwellings, minor dwelling, accommodation facilities and education facilities with respect their required setbacks from existing Rural Contractors Depots, and does not confuse how other land use definitions and associated yard/setback rules are to be applied.

Western Bay of Plenty District Council

Change to the District Plan – First Review

Plan Change 90 Home Enterprises - Sale of Goods

Section 32 Report

Prepared by: Paula Golsby, Contract Resource Management Planner – PMG Planning

1.0 Introduction

The purpose of this report is to consider a plan change to clarify and refine the performance standard associated with the sale of goods from Home Enterprises.

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

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. None of the iwi/hapu management plans lodged with Council raise any issues of particular relevance to this Plan Change.

2.3. 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. At the time of writing this report for the purposes of the District Plan Committee Meeting Agenda, no feedback had been received. An update will be provided at the meeting on 25 July 2019.

No other Ministers of the Crown or local authorities are considered affected by this proposed plan change. Nevertheless, the Bay of Plenty Regional Council has been consulted and they advised they have no issues with the proposed change. No marine title groups are considered affected.

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 has been 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 on the sale of goods from home enterprises. One person was not concerned with the sale of goods, whereas the second person was. This person concerned about the sale of goods from home enterprises raised issues about increased traffic in residential areas and concern that courier drivers often do not comply with road rules. It was suggested that traffic generation associated with the home enterprise be limited to weekdays between 10am and 2pm (when children are at school), and that the number of vehicle movements be limited to three per day.

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');
- c. Toi Te Ora Public Health.

No specific issues were raised by any of these stakeholders regarding this proposed plan change.

3.0 Issue 1 – Home Enterprises – Sale of Goods Performance Standard

3.1. Introduction

Home Enterprises are listed as permitted activities in the District Plan¹, subject to compliance with several performance standards. One of these standards is that the Home Enterprise:

"Does not involve sales of products other than those produced on the site. This does not apply to the sale of any goods stored, distributed and manufactured off the site that are sold via the internet;"

The intent of this standard is to place limits on the sale of goods from 'Home Enterprises' to ensure that the integrity of the District's Commercial

¹ Applicable to the Residential, Medium Density, Future Urban, Rural-Residential, Lifestyle, and Rural Zones

Zones is protected, and that adverse effects associated with 'Home Enterprises' (e.g. people and traffic movement) are appropriately managed.

The existing performance standard provides for the sale of goods produced on the site (e.g. sale of artwork produced in a studio on site), and also for the sale of goods not produced on the site if they are sold via the internet.

However, there is confusion about whether internet sales can occur as part of a 'Home Enterprise' if the goods are manufactured off-site, but stored on, and distributed from the site where the Home Enterprise is located. This, for example, could include an on-line clothing retailer who has clothes manufactured off-site and then stores them on their property (as part of a Home Enterprise) for direct sale via the internet, and where deliveries are made via courier (i.e. from the home enterprise site to the customer).

In addition, the existing standard does not allow for the sale of goods that are ancillary to a legitimate Home Enterprise that offers a service. This, for example, could include a hair dresser working from home who sells shampoo to clients during their appointment.

A review of other District Plans from around the country shows that there are a range ways that other Councils deal with the sale of goods from Home Enterprises. Some allow the sale of goods, subject to a restriction on floor area, while others do not specifically control the sale of goods as part of a Home Enterprise.

There is an opportunity to amend the standard through a plan change to ensure it is clear and reflects the way Home Enterprises operate. Such a change could acknowledge that Home Enterprises often provide goods for sale that are ancillary to the main service or business activity (e.g. shampoo sold by a hairdresser) and, in most cases these sales will not generate any additional off-site effects.

In addition, the sale of goods manufactured off-site and distributed from a Home Enterprise is considered appropriate if the current performance standards are met and there are restrictions to avoid adverse effects associated with people and traffic movements to and from the site (e.g. limits on the way goods can be sold and re-distributed from the site).

3.2. Option 1 – Status Quo – Retain the Sale of Goods Performance Standard without Change

Costs	<ul style="list-style-type: none"> ▪ Does not address the issue that the performance standard is unclear and can be interpreted in different ways. ▪ Does not adequately reflect that goods may be sold from a legitimate Home Enterprise and that such sales do not result in additional adverse effects. ▪ Does not allow the sale of goods ancillary to a home enterprise that provides a service. ▪ Continues to be unclear whether goods sold via the
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	<p>internet that are produced off-site can be stored and distributed from the site of a home enterprise.</p> <ul style="list-style-type: none"> ▪ Does not address the issue raised through public consultation regarding the potential need for restrictions on hours for traffic generated by home enterprises.
Benefits	<ul style="list-style-type: none"> ▪ No identified benefits.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective because the District Plan rule will continue to be unclear. ▪ Not efficient as may result in unnecessary time spent by staff and customers associated with interpretation of District Plan provisions.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

3.3. Option 2 – Amend the sale of goods performance standard in the Residential, Medium Density, Future Urban, Rural Residential, Lifestyle and Rural Zones to clarify that the following are permitted as part of Home Enterprise activities:

- (a) **the sale of goods ancillary to Home Enterprise offering a service; and**
- (b) **the storage and distribution of products produced off-site where they are sold via the internet, telephone or by mail order, and are re-distributed by post or courier.**

Costs	<ul style="list-style-type: none"> ▪ Does not address the issue raised through public consultation regarding the potential need for restrictions on hours for traffic generated by home enterprises.
Benefits	<ul style="list-style-type: none"> ▪ The change would clarify how the performance standard is to be interpreted. ▪ The change recognises that in many cases goods may be offered for sale from a Home Enterprise (either as the main part of that business or as an incidental component) and that they do not have additional off-site effects. ▪ Allows for the sale of goods ancillary to a home enterprise that provides a service. ▪ Makes it clear that goods produced off-site that are sold via the internet can be stored and distributed from the site of a home enterprise.

Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective because an amendment to the performance standard would address the issue regarding interpretation. ▪ Amending the performance standards is an efficient method for addressing anomalies in the rule and the identified issue, and would avoid unnecessary time spent regarding interpretation issues.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

3.4. Preferred Option

The preferred option is Option 2:

Replace existing activity performance standards 13.4.1(g)(iii), 14.4.3(c), 15.4.1(e)(iv), 16.4.1(f)(iii), 17.4.1(e)(v), and 18.4.1(h)(v) as follows:

~~*Does not involve sales of products other than those produced on the site. This does not apply to the sale of any goods stored, distributed and manufactured off the site that are sold via the internet;*~~

Any goods sold must be:

(i) goods produced on site; and/or

(ii) goods that are ordered by the customer by telephone, mail or electronic transaction and redistributed to them by post, courier, or electronically; and/or

(iii) goods ancillary and related to a service provided by the home enterprise.

3.5. Reasons

Option 2 is the preferred option as it is considered to be the most effective and efficient method to address the issue regarding interpretation of the activity performance standards relating to the sale of goods from Home Enterprises. The proposed change also reflects the way many legitimate Home Enterprises operate and enables the sale of goods in situations where this is unlikely to result in off-site effects. In particular, the proposed change clarifies that goods produced off-site can be stored, distributed and

sold from a home enterprise if the sale is undertaken via telephone, mail or electronic transaction and the goods are distributed to the customer by post, courier, or electronic means. Further to this, the proposed change also allows for the sale of goods ancillary to a home enterprise that provides a service.

Consideration was given to controlling traffic associated with home enterprises to school hours, however, it is considered that this may unreasonably restrict many legitimate home enterprises. In addition, it would be impractical for deliveries via courier to be restricted to school hours as the time of delivery is outside the home enterprise owner's control. As courier deliveries generally occur during daytime hours, it is considered that there is no need for place further restrictions on these activities.

Western Bay of Plenty District Council**Policy Committee****Approval to Notify Proposed Private Plan Change 91
Rangiuru Business Park Water Supply Option**

Purpose

Proposed Private Plan Change 91 seeks to add an alternative water supply source that is cheaper than the two currently provided for in the District Plan. The purpose of this report is to obtain approval from the Policy Committee to accept the Proposed Private Plan Change for notification.

Recommendation

- 1. THAT the Resource Management Manager's report dated 11 July 2019 titled 'Approval to Notify Proposed Private Plan Change 91' be received.***
- 2. THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.***
- 3. THAT, pursuant to Clause 25 of the First Schedule of Part 2 of the Resource Management Act 1991, Council accepts the attached Proposed Private Plan Change 91 Rangiuru Business Park Water Supply Option, and notifies it concurrently with Council's Plan Changes 82 - 90.***



Phillip Martelli
Resource Management Manager

1. Background

Quayside Holdings are seeking to add an alternative cheaper water supply option for the Rangiuru Business Park. In order to be able to collect reduced financial contributions for this option, the option needs to be added to the District Plan. This requires a plan change under the Resource Management Act (RMA). The option being added has Regional Council consent and this has the benefit of saving time in getting the Business Park established.

Private plan changes have specific requirements under the RMA. The First Schedule Part 2, clause 25 provides that the Council may (RMA sub-clauses):

- (2)(a) Adopt the request if it were Council's own plan change.
- (2)(b) Accept the request, in whole or in part, and proceed to notify it.
- (3) Deal with the request as if it were an application for a resource consent.
- (4) Reject the request on the grounds that:
 - (a) It is frivolous or vexatious.
 - (b) The matter has been considered in the last two years.
 - (c) It is not in accordance with sound resource management practice.
 - (d) It would make the District Plan inconsistent with RMA Part 5.
 - (e) The District Plan has been operative for less than two years.

The only options that Council has with the proposed private plan change is to either adopt it as Council's own plan change (2a), or accept it (2b) and proceed to process it in accordance with the Act. The others are not applicable or appropriate.

Council's practice with such requests is that they are accepted (2b) on the basis that this puts Council in a neutral position in the submission and hearing process. Where the request coincides with other plan changes that Council is processing (as in this case) the applicant covers the cost of the preparation of the plan change, Council covers the cost of processing. The applicant has to support the plan change through the hearings process, and there is the proviso that the applicant may be called on to cover the cost of any technical evidence required by Council for the hearing. See the attached Section 32 Report for the detailed Proposed Private Plan Change.

2. Significance and Engagement

The Local Government Act 2002 requires a formal assessment of the significance of matters and decisions in this report against Council's Significance and Engagement Policy. In making this formal assessment, there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

In terms of the Significance and Engagement Policy this decision is considered to be of low significance because of the following reasons:

- The notification of the Proposed Private Plan Change will be done in accordance with the Resource Management Act. This gives any party an opportunity to engage through the submission process.
- The matter is technical in nature and will not impact financially or otherwise on ratepayers. Of note is the purpose to reduce the cost of financial contributions and hence of development.

3. Engagement, Consultation and Communication

Interested/Affected Parties	Completed/Planned Engagement/Consultation/Communication
Affected Landowners	Will be notified as per the Resource Management Act. Once notified, the Plan Change will follow the Resource Management Act requirements for submissions and further submissions.
Tangata Whenua	As per above
General Public	As per above

4. Issues and Options Assessment

4.1 Notifying Proposed Private Plan Change 91

Option A Notify Private Plan Change 91	
Assessment of option for advantages and disadvantages taking a sustainable approach	<p>The proposed Plan Change will reduce the cost of financial contributions for developments in the Rangiora Business Park.</p> <p>Will enable the development of Rangiora Business Park, which will have significant benefits to the District.</p> <p>Consents are in place for the alternative water source which saves time in getting the Business Park established.</p>
Costs (including present and future costs, direct, indirect and contingent costs) and cost effectiveness for households and businesses	The applicant has covered the costs to develop the Proposed Plan Change. Council will cover the processing costs, but may request the applicants to cover the costs of any technical evidence required.
Other implications	

Option B	
Status Quo - Do not Notify Plan Change	
Assessment of option for advantages and disadvantages taking a sustainable approach	Higher financial contributions will be payable by developments in the Business Park
Costs (including present and future costs, direct, indirect and contingent costs) and cost effectiveness for households and businesses	As above.
Other implications	Development of the Business Park will be delayed.

5. Statutory Compliance

The Proposed Private Plan Change has been prepared in accordance with Section 32 of the Resource Management Act.

6. Funding/Budget Implications

Budget Funding Information	Relevant Detail
Operational Budget	Staff time.

Western Bay of Plenty District Council

Change to the District Plan – First Review

Plan Change 91 Rangiuru Business Park – water supply option

Section 32 Report

Prepared by: Kahurangi Tapsell, Senior Planner, Harrison Grierson Consultants Ltd

1.0 Introduction

1.1. General Introduction and Background

The Rangioru Business Park is an area of land (250 ha) zoned for future long term industrial use beyond 2021, as included in the Western Bay of Plenty District Plan, which was made operative on 16 June 2012.

Currently, under the District Plan water supply servicing for Rangioru Business Park is dependent on one of two options, being either via the Eastern Water Supply Network (new Rangioru Road reservoir), or via an on-site bore and treatment plant.

This plan change proposes a third option, being water supply from a second bore at Pongakawa.

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 lodged with Council. The following iwi have interests in the Rangioru and Pongakawa areas:

- Ngāti Pikiao
- Tapuika
- Ngāti Whakaue
- Ngāti Mākino
- Ngāti Rangiwewehi
- Ngāti Rangitahi
- Ngāti Pūkenga
- Ngāi Te Rangī

Subsequently, the following iwi planning documents are deemed relevant:

- Ngāti Pikiao Iwi Resource Management Strategy Plan 1993
- Tapuika Environmental Management Plan 2014
- Ngāti Whakaue ki Maketu Hapū Iwi Resource Management Plan 2009
- Ngāti Rangiwewehi Iwi Environmental Management Plan 2012
- Ngāti Rangitahi Iwi Environmental Plan 2011
- Ngāti Pūkenga Resource Management Plan 1993
- Ngāi Te Rangī Iwi Resource Management Plan 1995

None of the iwi/hapū management plans lodged with Council raise any issues of particular relevance to this plan change. In particular, the District Plan already provides for water supply to Rangiuru Business Park from within the Eastern Water Supply Network. The Pongakawa bore is located within the Eastern Water Supply Network. However, it is noted that groundwater allocation is a common issue amongst iwi/hapū management plans.

The Pongakawa bore (ESZ10) is also consented as Consent 62957. This consent expires on 31 August 2025 and is attached as Appendix 1.

2.3. 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.

None of the preceding parties have been consulted with during the preparation of this plan change, given that the additional water supply option is from within the Eastern Water Supply Network.

No other consultation has been completed, although we note that the Pongakawa bore has an existing resource consent.

3.0 Issue 1 – Water supply to Rangiuru Business Park

The Rangiuru Business Park has the option of obtaining water supply from the second bore at Pongakawa, being within the Eastern Water Supply Network. This will require an amendment to section 12.4.13.3 of the District Plan, as well as an additional financial schedule and a schematic structure plan.

The Rangiuru Business Park requires access to water to commence development. However, the Pongakawa bore option cannot be utilised unless it is added to the District Plan. The Pongakawa bore option includes:

- New pump(s) and controls for bore ESZ10 at Pongakawa;
- Upgrade of the water treatment plant (WTP) at Pongakawa and new pump(s) and controls;
- New trunk mains from ESZ10 to the WTP and then from the WTP to Rangiuru Business Park;
- On site reservoirs and associated ancillary equipment; and
- Internal Park Trunk Reticulation.

The District Plan contains the following rule:

12.4.13.3 Water Supply – General

- (a) *Water supply servicing in the Rangiuru Business Park is possible via two distinct options as follows:*
- (i) *Option A - Eastern Water Supply Network, which constitutes;*
- *New reservoir at Rangiuru Road (5,500m³);*
 - *Gravity supply main from Rangiuru Road reservoir to Business Park (450mm diameter, approximately 7.8km length);*
 - *Rising main from existing Eastern Supply water source to new reservoir at Rangiuru Road (225mm diameter, approximately 9.0km length);*
 - *Temporary pump station, Stage 1;*
 - *Pah Road/Young Road/ State Highway 2 reticulation loop (375mm diameter, approximately 5.3km length);*
 - *Internal Park trunk reticulation.*
- (ii) *Option B – On site water bore and treatment plant, which constitutes:*
- *On site water bores;*
 - *Treatment plant;*
 - *On site reservoirs;*
 - *Associated and ancillary equipment;*
 - *Internal Park trunk reticulation as shown on the structure plan.*
- (b) *Both options are viable options. Option B will require resource consent from the Regional Council. Selection of the option to serve the Business Park to be determined by the developer of the first land use or subdivision within Stage 1 who must provide sufficient capacity for 50% of the land in Stage 1.*
- (c) *Once a preferred option is chosen this is the option to serve the entire Business Park. A combination of options is not permissible unless demonstrated as being more cost effective.*

It is up to the developer as to whether Option A or B is taken. This is a decision that will be made by the developer of the first land use or subdivision within Stage 1, and who must provide sufficient capacity for 50% of the land in Stage 1. Under part (c) of this rule, whichever option that is chosen will serve the entire business park. A combination of options is not permissible, unless this is shown to be more cost effective.

Option A provides for water supply from the Eastern Water Supply Network, via a new reservoir at Rangiuru Road. However, costings have been completed to use the Pongakawa bore (ESZ10). Consent 62957 for this bore provides for a take of 4,320 m³/day or 50 L/sec and expires on 31 August 2025. These costings are provided in an updated Financial Schedule appended as Appendix 2 to this report.

Such a change to provide for the Pongakawa bore in Rule 12.4.13.3 would appear as stated below in section 4.0 of this report.

3.1. Option 1 – Status Quo

The District Plan retains the requirement for water supply servicing of Rangioru Business Park being dependent on one of two options, being either via the Eastern Water Supply Network (new Rangioru Road reservoir), or via an on-site bore and treatment plant.

Costs	<ul style="list-style-type: none"> Development of Rangioru Business Park will be delayed, as the on-site water bore and reticulation, and Rangioru reservoir options are more expensive, and less attractive to developers. Delayed operation of the business park, with delayed potential for new business and job creation.
Benefits	<ul style="list-style-type: none"> Existing water supply options have already been forecasted in the District Plan.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Effective in that water supply is provided to the business park. Not an efficient use of capital to build infrastructure – Options A and B are more expensive.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> No regional consents are in place for either Option A or B.

3.2. Option 2 – Addition of Option C (Pongakawa bore)

Utilise Pongakawa bore ESZ10 and associated infrastructure to provide water to Rangioru Business Park.

Costs	<ul style="list-style-type: none"> The route traverses two areas of potential archaeological interest. These areas are within the road reserve and Te Puke Golf Course. There is the potential for archaeological or cultural finds to be made in these locations.
Benefits	<ul style="list-style-type: none"> Utilises an existing consented bore that has capacity to provide water for Rangioru Business Park. Provides a more cost effective water supply option than other options listed in the District Plan. Construction will occur primarily within modified land and the road reserve. Enables earlier operation of Rangioru Business Park than would be possible under other water supply options, including business and employment options.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Effective in that water supply is provided to Rangioru Business Park, via an existing consented take. Water supply can be provided to Rangioru Business

Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	Park in the most cost efficient way. <ul style="list-style-type: none"> • Additional archaeological investigation will likely be required, including an authority from Heritage New Zealand. • Additional negotiations will be required to construct the main through SH 2, Te Puke Golf Course, railway and Maketu Road.
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3.3. Preferred Option

The preferred option is Option 2.

3.4. Reasons

Use of the Pongakawa bore and associated infrastructure enables water supply to be provided to Rangiuru Business Park in a cost effective manner compared to other options. This enables operation of the business park to occur sooner and as a consequence attract new business and employment opportunities. The Pongakawa bore has an existing regional consent. Neither of the Rangiuru or on site water supply options have regional consents in place.

Additional archaeological investigations will be required. Negotiations will be required to enable access for construction of the pipeline. However, these are considered to be low risk matters to address. In any case, the use of the other existing water supply options remain available in the District Plan.

4.0 Recommended Changes to the District Plan

12.4.13.3 Water Supply – General

(a) *Water supply servicing in the Rangiuru Business Park is possible via two distinct options as follows:*

(i) *Option A - Eastern Water Supply Network, which constitutes:*

- *New reservoir at Rangiuru Road (5,500m³);*
- *Gravity supply main from Rangiuru Road reservoir to Business Park (450mm diameter, approximately 7.8km length);*
- *Rising main from existing Eastern Supply water source to new reservoir at Rangiuru Road (225mm diameter, approximately 9.0km length);*
- *Temporary pump station, Stage 1;*
- *Pah Road/Young Road/ State Highway 2 reticulation loop (375mm diameter, approximately 5.3km length);*
- *Internal Park trunk reticulation.*

(ii) *Option B – On site water bore and treatment plant, which constitutes:*

- *On site water bores;*
- *Treatment plant;*
- *On site reservoirs;*

- *Associated and ancillary equipment;*
 - *Internal Park trunk reticulation as shown on the structure plan.*
- (iii) *Option C – Pongakawa bore, which constitutes:*
- *New pump(s) and controls for bore ESZ10 at Pongakawa;*
 - *Upgrade of the water treatment plant (WTP) at Pongakawa and new pump(s) and controls; and*
 - *New trunk mains (315 mm OD diameter, approximately 9.2 km length) from ESZ10 to the WTP and then from the WTP to proposed Rangiora Business Park reservoirs.*
 - *On-site reservoirs and associated ancillary equipment.*
 - *Internal Park trunk reticulation as shown on the structure plan.*
- (b) *~~Both~~ The three options are viable options. Options A and B will require resource consent from the Regional Council. Selection of the option to serve the Business Park to be determined by the developer of the first land use or subdivision within Stage 1 who must provide sufficient capacity for 50% of the land in Stage 1.*
- (c) *Once a preferred option is chosen this is the option to serve the entire Business Park. A combination of options is not permissible unless demonstrated as being more cost effective.*

Appendix C: Consent Number 62957

Consent Number: 62957

Bay of Plenty Regional Council**Resource Consent**

Pursuant to section 105 of the Resource Management Act 1991, the **Bay of Plenty Regional Council**, by a decision dated 21 October 2005, **Hereby Grants to:**

WESTERN BAY OF PLENTY DISTRICT COUNCIL

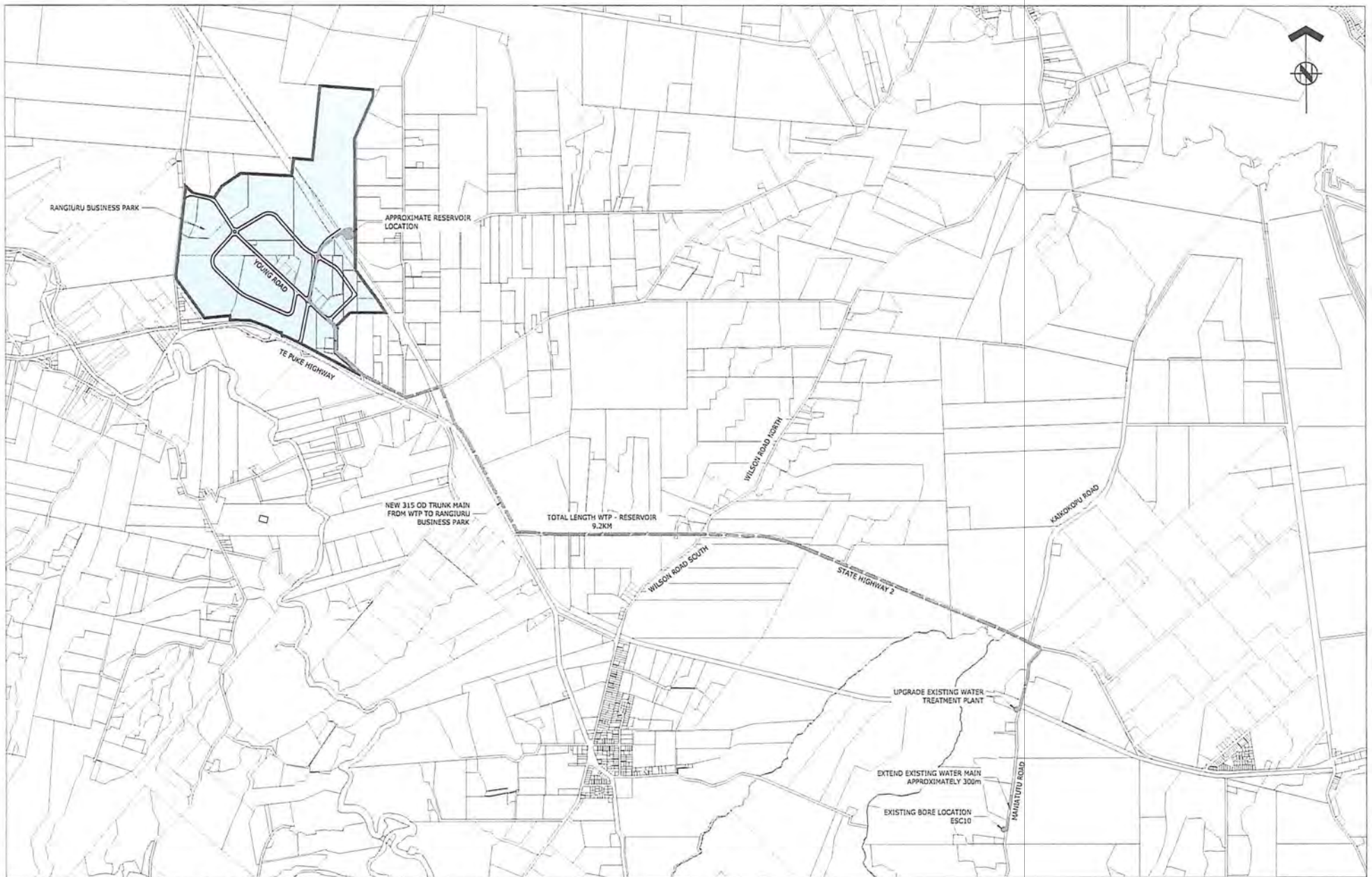
Private Bag 12023
Greerton
TAURANGA

A water permit pursuant to section 14(1)(a) of the Resource Management Act 1991 to undertake a discretionary activity being to **Take Water From Two Bores for Public Water Supply**, subject to the following conditions:

- 1 **Purpose**
To authorise and set conditions on the taking of water for the purpose of public water supply, from two bores located on the permit holder's property on Maniatulu Road, Pongakawa.
- 2 **Source of Supply**
At Maniatulu Road, Pongakawa as shown on BOPRC Plan No. 62957/1.
- 3 **Map Reference**
Bore ESZ8 - At or about map reference: NZMS 260 V15:1417-6945 and
Proposed Bore At or about map reference NZMS 260 V15:1411-6916.
- 4 **Legal Description**
Road Reserve, Block VIII, Makatu SD, (Western Bay of Plenty District).
- 5 **Quantity and Rate**
 - 5.1 The daily quantity of water taken from Bore ESZ8, shall not exceed 4320 cubic metres and the rate of taking shall not exceed 50 litres per second.
 - 5.2 Following the installation of a second production bore, the cumulative daily quantity of water taken from the two bores, shall not exceed 8640 cubic metres and the cumulative rate of taking shall not exceed 100 litres per second.

Financial Contributions schedule - Water Option (off site) Ex PONGAKAWA

TABLE 4 A: FINANCIAL CONTRIBUTIONS SCHEDULE		OFF-SITE (EASTERN WATER SUPPLY NETWORK) PONGAKAWA BORE OPTION				ESTIMATED PERCENTAGE OF WORKS TO BE COMPLETED IN EACH STAGE			
ITEM	DESCRIPTION	UNIT	QUANTITY	RATE	COST (\$)	1	2	3	4
3.1 A	150 mm uPVC/PE Watermain	m	2,310	130.15	300,646.50	100%	0%	0%	0%
3.2 A	200 mm uPVC/PE Watermain	m	620	184.95	114,669.00	0%	100%	0%	0%
3.3 A	250 mm uPVC/PE Watermain	m	3,950	274.00	1,082,300.00	28%	34%	20%	18%
3.4 A	Isolation Valves/Fittings (150-200 mm Watermain)	No.	9	4,795.00	43,155.00	66%	34%	0%	0%
3.5 A	Isolation Valves/Fittings (250 mm Watermain)	No.	16	7,261.00	116,176.00	31%	38%	19%	12%
3.6 A	Air/Scour Valves (150-200 mm Watermain)	No.	4	20,550.00	82,200.00	75%	25%	0%	0%
3.7 A	Air/Scour Valves (250 mm Watermain)	No.	6	35,620.00	213,720.00	33%	34%	17%	16%
3.8 A	Fire Hydrants	No.	65	5,480.00	356,200.00	42%	33%	14%	11%
3.9 A	Water Treatment Plant Upgrade (WTP)- Pongakawa	LS	1	7,535,000.00	7,535,000.00	45%	28%	0%	27%
3.10 A	Storage Reservoir - Rangiuuru	LS	4	1,849,500.00	7,398,000.00	50%	0%	25%	25%
3.11 A	Booster Pump Station -Rangiuuru	LS	1	3,425,000.00	3,425,000.00	100%	0%	0%	0%
3.12 A	Pongakawa Bore - Pump and control	No.	1	191,800.00	191,800.00	100%	0%	0%	0%
3.13 A	Pongakawa Bore -250mm trunk main extension (315OD)	LS	300	435.66	130,698.00	100%	0%	0%	0%
3.14 A	Secondary Bore, Pumps and Pipework - Pongakawa	LS	1	959,000.00	959,000.00	0%	0%	0%	100%
3.15 A	250mm PE Trunk Main to Rangiuuru (315OD)	m	9200	672.67	6,188,564.00	100%	0%	0%	0%
3.16 A	Land Purchase and Legal	Ha	1.57	107,500.00	168,775.00	100%	0%	0%	0%
Total Cost of Water					28,305,903.50				
Total area			148.60ha						
Per square metre rate			\$ per m ²	19.05					



DESIGNED BY AJM	DATE 09.07.19	DRAWN BY AJM	DATE 09.07.19	CHECKED BY SMH	DATE 10.07.19	APPROVED BY SMH	DATE 10.07.19
FOR INFORMATION		DATE		DATE		DATE	
REV		BY		DATE		DATE	

PROJECT BY: **NKS**
 ASSOCIATION OF CONSULTING ENGINEERS NEW ZEALAND
 ISO 9001 QUALITY ASSURED
HC TAURANGA OFFICE
 LEVEL 1, 88 SPRING STREET
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PROJECT: **QUAYSIDE PROPERTIES LTD RANGIORA BUSINESS PARK**
 TITLE: **OFFSITE INFRASTRUCTURE WATER RETICULATION PLAN PONGAKAWA OPTION**

PROJECT No:	1550-144952-01	SCALE:	A1
DRAWING No:	144952-01-500	REV	1