



*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



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 Western Bay of Plenty District Council (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 Rangiwaea Islands Hapu Management Plan (2012);
- (d) Te Awaroa – Ngati Kahu Environmental Management Plan (2011);
- (e) Te Awanui Tauranga Harbour Iwi Management Plan (2008);
- (f) Pirirakau Hapu Environmental Management Plan (2004); and
- (g) Tapuika Environmental Management Plan (2014).

As relevant to this plan change, the key theme arising from a review of these 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 on this proposed plan change was provided to the Minister for the Environment and feedback was requested. No feedback has been received.

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?	<p>64% said "yes"</p> <p>46% said "no"</p>
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 - 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 "<i>earthworks</i>".

	<p>- 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.</p>
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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*

<p>Costs</p>	<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.
<p>Benefits</p>	<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 is 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.
<p>Effectiveness/ Efficiency</p>	<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. ▪ Not an effective District Plan rule structure as the current provisions will not solve the identified issue or achieve a desirable outcome.
<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 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)

<p>Costs</p>	<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.
<p>Benefits</p>	<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 (HNZPT 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).
<p>Effectiveness/ Efficiency</p>	<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.
<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 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).

<p>Costs</p>	<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.
<p>Benefits</p>	<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.
<p>Effectiveness/ Efficiency</p>	<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.
<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.

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.