

0.0 PLANNING REPORT FOR PLAN CHANGE 85 - CLEANFILL ACTIVITIES IN RURAL, FUTURE URBAN, LIFESTYLE AND RURAL-RESIDENTIAL ZONES

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RECOMMENDATION

1. That the report titled "Planning Report for Plan Change 85 - Cleanfill Activities in Rural, Future Urban, Lifestyle and Rural-Residential Zones" dated 28 February 2020 be received.
2. That following consideration of the Planning Report and written and verbal submissions, the District Plan Committee recommends to Council the following decisions on Plan Change 85 ...*decisions to be inserted here*.
3. That staff be delegated the authority to make minor editorial changes to the recommended decision of the District Plan Committee in consultation with the Committee Chairperson.

EXECUTIVE SUMMARY

The purpose of this report is to provide recommendations on submissions and further submissions to Plan Change 85 – Cleanfill Activities in Rural, Future Urban, Lifestyle and Rural-Residential Zones.

Plan Change 85 proposes 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 areas. These areas include land in the Rural, Future Urban, Lifestyle and Rural-Residential Zones.

For a full background to the plan change and explanation of the proposed provisions please refer to the Section 32 Report (Attachment 3).

BACKGROUND TO PROPOSED PLAN CHANGE 85

The key issue identified through Plan Change 85 is that large scale cleanfill disposal activities undertaken in rural areas within the District are causing amenity related concerns 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 was also identified that the current rules do not allow for the management of transportation related effects associated with large scale cleanfill disposal activities, including the capacity of the roading network to accommodate the expected increase in heavy vehicle traffic, safety of access, and impacts on road surfaces.

During the development of Plan Change 85 various options were considered to address the identified issues. These included:

- Retaining 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 (Option 1 from the Section 32 Report);

- The introduction of provisions to require resource consent for cleanfill disposal activities based on the volume of material to be disposed (e.g. 1,000m³, 5,000m³, or 30,000m³ as set out in Options 2-4 of the Section 32 Report); and
- The introduction of rules to require resource consent for cleanfill disposal activities based on the volume of material and other location based criteria. This option includes 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) (Option 5 from the Section 32 Report).

Through the development of the plan change, Council's engineers advised of the need to set an appropriate trigger to require resource consent and enable assessment of traffic and infrastructure related effects and the ability to impose consent conditions, if required.

Based on the anticipated level of heavy vehicle traffic, Option 2 was progressed and notified as the proposed plan change. If adopted, this would require resource consent for cleanfill activities within zones of a rural nature that involve the disposal of more than 1,000m³ of cleanfill material within a 12 month period.

At the time of the Section 32 evaluation report, Option 2 was considered to be the most effective and efficient method to address the amenity and transportation issues that had been identified.

SUBMISSIONS AND FURTHER SUBMISSIONS

Fourteen (14) parties made submissions on Plan Change 85, and seven made further submissions. Two of the further submitters were not original submitters to the plan change.

A total of 49 submission points were made, including:

- Seven (7) submission points in support;
- Fourteen (14) in support, subject to amendments;
- Twenty-two (22) submission points in opposition; and
- Six (6) submission points for which the inclination was not specifically stated.

In addition, seventy-one (71) further submission points were received.

A full summary of submissions and further submissions is included within Attachment 2 to this report, along with comment and recommendations on whether the submission points should be accepted, accepted in part, or rejected.

The main submission points made by submitters are as follows:

- a. Opposition to the whole plan change on the basis that the Section 32 Report does not adequately justify the need for a plan change, and that the District Plan already manages amenity related effects (through provisions in Section 4C of the District Plan).
- b. Query regarding the need for District Council resource consent when earthworks are already controlled by the Regional Council.
- c. Opposition to the plan change on the basis that it should deal only with amenity related effects given rural roads already experience heavy vehicle traffic (particularly as a result of seasonal activities).

- d. Some submitters seek alignment with the Bay of Plenty Regional Council earthworks limit of 5,000m³ per 12 months (as per Option 3 of the Section 32 Report).
- e. Some submitters have requested a combination of proximity-based criteria and cleanfill volumes (as per Option 5 of the Section 32 Report).
- f. The assumptions used for estimating traffic volumes (i.e. trucks carrying between 5m³-10m³ of material) has been questioned and it is suggested that the projected traffic volumes may have been over-estimated (i.e. conservative).
- g. Some submitters have suggested that the Section 32 Report does not justify the need to manage transportation related effects of such low volumes of traffic (i.e. when total volume and traffic movements are averaged over a year).
- h. It has been suggested that the provisions of Plan Change 85 should not apply to quarrying activities given such activities are already provided for through District Plan rules and resource consents (as they are either discretionary or non-complying activities under the relevant zone rules).
- i. Minor amendments are requested to specific provisions in the plan change to:
 - Exclude quarrying activities (Rules 4C.2.3.1 and 4C.2.3.2);
 - Replace the proposed matter of discretion in Rule 4C.2.5.1(e) to refer to effects on the State Highway Network (rather than the views of the New Zealand Transport Agency);
 - Clarify the intent and amend Activity Performance Standard 4C.2.4.1(d) relating to the processing of cleanfill material;
 - Ensure consistency of terminology within the provisions (i.e. deposition and disposal);
 - Delete the explanatory note (ii) from Rule 4C.2.3.2. This is because the explanatory note refers to the way volumes of material are to be calculated and the rule does not refer to volumes of material;
 - Change the explanatory note (iii) following rules 4C.2.3.1 and 4C.2.3.2 to refer to the Bay of Plenty Regional Natural Resources Plan (RNRP), rather than the Land and Water Plan as it was previously named.

In summary, most submitters are generally supportive of the proposed plan change. This is subject to amendments to either align the permitted activity rule with the Regional Council's permitted earthworks volume (as per Option 3 of the Section 32 Report), or to include rules based on the volume of material and proximity-based criteria, such as separation distances (as per Option 5 of the Section 32 Report).

Some submitters have asked for minor changes to the provisions to make corrections and/or accommodate practical considerations. A small number of submitters/further submitters in opposition to the plan change have more fundamental concerns and consider that the District Plan already addresses the effects of cleanfill activities associated with amenity and transportation related considerations.

DISCUSSION ON SUBMISSIONS & FURTHER SUBMISSIONS

This section provides discussion on the key issues arising from the submissions and further submissions. Brief comments on individual submission points are also included in the summary table provided in Attachment 2.

Need for the Plan Change and District Plan Rules

As identified earlier in this report, some submitters have opposed the entire plan change on the basis that the District Plan already manages amenity related effects (through provisions in Section 4C of the District Plan). Others have queried the need for District Council resource consent when earthworks are already controlled by the Regional Council (if the permitted activity rules of the Regional Plan cannot be met).

The need for the plan change has been explained in the Section 32 Report and is therefore not repeated in full here. However, in response to the submissions and further submissions the following comments are made:

- a. The plan change was originally initiated by Council because it became aware of large scale cleanfill disposal activities that have caused, and continue to cause, adverse effects on the amenity of residential and other sensitive activities in rural areas within the District. Since the plan change was notified, Council has continued to deal with and respond to complaints regarding large scale cleanfill disposal activities that have potential to cause adverse effects on the community;
- b. Current rules within the District Plan are not considered sufficient to manage amenity and transportation related effects associated with large scale cleanfill activities occurring within the District; and
- c. Effects associated with amenity and transportation are not managed through the RNRP or resource consents granted by the Regional Council as these are matters outside of the Regional Council's jurisdiction.

Transportation Effects

Some submitters have suggested that the proposed plan change should not manage transportation related effects because rural roads already carry heavy vehicle traffic, particularly during seasonal activities. Other submitters have queried the need to manage transportation effects because, when averaged over a year, the volume of heavy vehicle traffic would be relatively low. The assumptions which have been used to estimate traffic volumes generated by cleanfill activities (as set out in the Section 32 Report) have also been questioned.

The Section 32 Report identifies the expected volume of heavy vehicle traffic associated with cleanfill activities based on an assumption that each truck will carry between 5m³ and 10m³ of material, and that each truck results in two traffic movements (i.e. one movement entering the disposal site and one exiting the disposal site).

Since notification of the plan change, clarification has been sought from the two submitters that operate civil contracting businesses which (amongst other things) undertake earthworks and transport cleanfill material. Information provided by one submitter suggests that while the 5m³ to 10m³ capacity assumed in the Section 32 Report is correct for a typical four, six or eight wheeled truck, this does not account for additional material that may be carried by trailers attached to trucks. Information provided by the submitter indicates trailers may be attached to six or eight wheeled trucks and carry around 11m³ to 14m³ of material.

Tables 1 to 3 (below) set out the information provided by the submitter and include additional analysis regarding the volume of truck movements associated with the disposal of cleanfill material. It is noted, for completeness, that each company's vehicles may vary, the type of

truck used is likely to depend on the nature of the site and access to it, and truck loads may vary depending on the type of material being transported. Nevertheless, the information provided by the submitter is considered to be a useful guide for assessing the potential range of vehicle movements associated with cleanfill activities.

Table 1: Volume of Material Based on Truck Type & Estimated Vehicle Movements Per Year

Vehicle Type	Volume (m ³)	Vehicles per Year (1 vehicle – in + out)	
		1,000 m ³ Earthworks	5,000 m ³ Earthworks
4 Wheeler	5 m ³	400	2,000
6 Wheeler	7 m ³	286	1,428
8 Wheeler	10 m ³	200	1,000
6 Wheeler +trailer	18 – 21 m ³	95 - 111	476 - 556
8 Wheeler +trailer	21 – 24 m ³	83 - 95	417 - 476

Table 1 shows that the volume of material carried would be between 5m³ and 24m³ of material per truck. For cleanfill disposal activities involving 1,000m³ of material, the number of vehicle trips anticipated is between 83 and 400 vehicle trips per year. For cleanfill disposal activities involving 5,000m³ of material, the number of truck movements would be between 417 and 2,000 per year.

Table 2: Average Number of Vehicle Movements – 1,000m³ of Cleanfill

Range	Average Number of Vehicle Movements – 1,000m ³ (1 vehicle – in + out)			
	Annually	Monthly	Weekly	Daily
Lowest	83	6.9	1.6	0.2
Highest	400	33.3	7.7	1.1

Table 2 shows that for activities involving 1,000m³ of cleanfill per year, the total range of vehicle trips (i.e. 83 to 400 per year) would result in a relatively low number of vehicle trips when averaged over the year (i.e. 0.2 - 1.1 vehicles per day, 1.6 - 7.7 vehicles per week, and 6.9 - 33.3 vehicles per month).

Table 3: Average Number of Vehicle Movements – 5,000m³ of Cleanfill

	Average Number of Vehicle Movements – 5,000m ³ (1 vehicle – in + out)			
Range	Annually	Monthly	Weekly	Daily
Lowest	417	34.8	8.0	1.1
Highest	2,000	166.7	38.5	5.5

Table 3 shows that for activities involving 5,000m³ of cleanfill per year, the total range of vehicle trips (i.e. 417 to 2,000 vehicles) would result in a much higher number of vehicle trips compared to activities involving 1,000m³ of fill. For activities involving 5,000m³ of cleanfill material per year the average number of vehicle movements is between 1.1 - 5.5 vehicles per day, 8.0 - 38.5 vehicles per week and 34.8 - 166.7 vehicles per month.

Some submitters have suggested that the level of traffic generated by cleanfill disposal sites would be relatively low when averaged over the year (i.e. over 365 days). While this may be correct, it is understood that the cleanfill disposal sites in the District do not tend to operate in a manner where low volumes of truck movements are experienced each day throughout the year.

It is understood that, in practice, the need to dispose cleanfill is typically generated by earthworks on another site (or sites) undergoing some form of development (e.g. new residential subdivision, commercial development, roading projects, etc.) resulting in a need to dispose of excess material relatively quickly. As such, high volumes of truck movements tend to be experienced over shorter timeframes rather than being spread over the entire year. It is also anticipated, however, that there would be a greater demand for disposal of cleanfill material during the main earthworks season for the Bay of Plenty (i.e. September to April/May).

It is acknowledged that permitted activities in rural areas create their own level of transportation related effects, and that some activities also generate heavy vehicle traffic. Based on Council's knowledge of existing and proposed cleanfill disposal sites, it is considered that the volume, frequency and type of traffic experienced is of a different scale and character to that generally experienced in association with typical farming and other rural activities.

NZTA have submitted in support of the 1,000m³ limit and have also made further submissions opposing the option to increase the permitted limit to 5,000m³. NZTA's key concern with increasing the permitted limit to 5,000m³ appears to be associated with potential effects associated with activities that would directly access the State Highway.

It is noted that Rule 4B.4.2 (Access to Strategic Roads) requires that where there is to be an increase in traffic movements to a site with direct access from a State Highway, the written consent of the New Zealand Transport Agency is required. This rule enables assessment of any proposal to create a new crossing or to increase the use of an existing crossing onto the State Highway. As such, it is indirect access to the State Highway that is an effect not currently controlled through the District Plan.

Further advice has been sought from Council's Transportation Manager and Senior Development Engineer regarding the potential to increase the permitted cleanfill volumes from 1,000m³ to 5,000m³. Both agreed that, for the reasons stated in submissions, there is merit in increasing the limit to 5,000m³. Council's Development Engineer suggested that additional

sight distances may be justified for entranceways with access to a Right of Way. No other additional performance standards were recommended to manage transportation related effects associated with an increased cleanfill limit.

Excluding Quarry Activities

Submissions have also requested changes to exclude quarry activities from the proposed cleanfill provisions as quarries are an activity specifically provided for through District Plan rules and resource consents (as either discretionary or non-complying activities under the relevant zone rules). As such it is suggested that the provisions of Plan Change 85 should not apply to quarrying activities.

As quarrying activities are already controlled through the zone rules (as either discretionary or non-complying activities) Plan Change 85 was not intended to apply to these activities. It is acknowledged that the District Plan rules for quarrying already provide for the assessment of effects associated with the disposal of cleanfill at quarry sites and, as such, there is no need to manage these activities through rules specifically associated with cleanfill activities.

Minor Amendments Sought to Proposed Provisions

As set out earlier in this report, submitters have requested a range of minor changes to aspects of the plan change (as notified). The majority of the amendments requested would provide additional clarity and generally reflect the intent of the proposed plan change.

Further Consideration of Options 3 and 5 in the Section 32 Report

Some submitters have requested that the maximum permitted limit for cleanfill disposal be increased from 1,000m³ (as notified) to 5,000m³ (Option 3 in the Section 32 Report). The key reason for this is to seek alignment with the Bay of Plenty Regional Council's limit of 5,000m³. Fulton Hogan considers that this approach would continue to ensure the outcome of Plan Change 85's proposed Policy 4C.2.2.2.3 (to manage the effects associated with cleanfill operations to an acceptable level) can be achieved while also providing an integrated planning approach with the RNRP.

Other submitters have suggested that, if the Plan Change proceeds, Option 5 in the Section 32 Report would be a more appropriate method to manage adverse effects on amenity. Option 5 includes 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.

In this regard, Horticulture New Zealand have suggested that further development and adoption of this option would enable resources (time and cost) to be better spent on circumstances where there is a higher risk of adverse effects associated with the disposal of cleanfill material (i.e. where the receiving environment is more sensitive to effects). They say this approach is more in keeping with the sustainable management purpose of the Act. Housing New Zealand Corporation (now Kainga Ora) and Federated Farmers have also submitted suggesting that Option 5 would be a more appropriate approach to manage effects associated with amenity.

It is noted that, as set out in the Section 32 Report, Option 5 is the same as Option 3 in terms of having a 5,000m³ limit before resource consent is required. However, Option 5 also includes

additional performance standards associated with separation distances from sensitive activities and restrictions on the use of shared accessways for activities involving between 1,000m³ and 5,000m³ of cleanfill material.

OPTIONS & ANALYSIS OF PERMITTED CLEANFILL LIMITS

Further consideration has been given to Options 3 and 5 outlined in the Section 32 Report. The costs and benefits of each option is provided in the following sections of this report. Option 1 (status quo) and Option 2 (permitted limit of 1,000m³, as notified) are also discussed for comparison purposes and because some submitters have requested these options be adopted.

Based on the submissions received, the Hearings Panel may wish to consider the following options:

1. Retain the maximum permitted limit of 1,000m³ of cleanfill per 12-month period (Option 2 in the Section 32 Report);
2. Increase the maximum permitted of cleanfill per 12-month period to 5,000m³ (Option 3 in the Section 32 Report);
3. Include rules permitting smaller scale cleanfills (e.g. 1,000m³ or less) and restricting moderate to larger scale cleanfill activities (e.g. 1,000m³ – 5,000m³) based on volume and other location-based criteria (Option 5 of the Section 32 Report); and
4. Status quo - decline the proposed plan change in its entirety (Option 1 in the Section 32 Report).

Option 1 – Status Quo – Cleanfill activities permitted subject to existing activity performance standards (Option 1 in Section 32 Report)

This option would result in the Plan Change being declined in its entirety and would 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 limited activity performance standards.

This option would result in the Plan Change being declined in its entirety and would 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 limited activity performance standards.

Costs	<ul style="list-style-type: none"> ▪ Does not provide for adequate management of transportation and amenity related effects. In this regard, existing rules are not sufficient to adequately manage vibration, visual amenity, hours of operation, duration of the activity, safety and convenience of access, and the capacity of the road network to accommodate additional heavy vehicle traffic.
Benefits	<ul style="list-style-type: none"> ▪ No limit on the volume or area of cleanfill for landowners and developers. ▪ No additional time and cost associated with resource consent applications.

	<ul style="list-style-type: none"> 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.

Option 2 – Introduction of District Plan provisions requiring resource consent for cleanfill activities involving more than 1,000m³ of material per year (Option 2 in Section 32 Report)

Costs	<ul style="list-style-type: none"> If exceeding 1000m³, will add additional time and cost for property owners to gain consent. The limit of 1000m³ 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. Does not provide for relatively small scale, short term cleanfill activities that may not result in adverse amenity and transportation related effects. May result in additional and unnecessary financial costs for projects needing to dispose of cleanfill at nearby rural locations (e.g. roading projects involving trimming of banks).
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 with traffic, access, and roading infrastructure. Potential to collect financial contributions to help fund roading upgrades required as a result of additional heavy vehicle traffic. More conservative approach which would allow assessment of effects on a case by case basis.

<p>Effectiveness/ Efficiency</p>	<ul style="list-style-type: none"> ▪ Effective because the rule and associated provisions would address the identified issue that the amenity and transportation related effects associated with cleanfill activities is not adequately managed through the current rules. ▪ The introduction of a rule and associated provisions is considered to be an efficient method for addressing the issues that have been identified, however, the maximum limit of 1,000m³ is potentially overly restrictive and resource consent may not be warranted to address effects associated with this volume of material.
<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.

Option 3 – Introduction of District Plan provisions requiring resource consent for cleanfill activities involving more than 5,000m³ of material per year (Option 3 in Section 32 Report)

<p>Costs</p>	<ul style="list-style-type: none"> ▪ If exceeding 5000m³, will add additional costs and time for property owners. ▪ The limit of 5000m³ does not take into account that a rural property (receiving the cleanfill) may be large and far away from neighbours meaning there may be no effects on neighbours. ▪ Taking into account the volume of truck movements to be generated (i.e. up to 2,000 truck movements), a 5,000m³ limit may not always be adequate to manage effects on the transportation network, particularly if the traffic movements occur over a relatively short period of time. ▪ May not adequately manage adverse amenity effects on neighbouring properties, particularly where sensitive activities (such as dwellings and childcare centres are in close proximity).
<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. ▪ Consistent with Regional Council limit meaning greater efficiency and less costs (compared to Option 2) for developers and consent applicants in terms of being aware of the rules and in preparing and lodging resource consent applications.

	<ul style="list-style-type: none"> ▪ 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 with traffic, access, and roading infrastructure. ▪ Where there is access to a Right of Way, resource consent would be required and the suitability of the access would need to be assessed and addressed through the application. This addresses the comment from Council’s Development Engineer set out earlier in this report. ▪ Potential to collect financial contributions to help fund roading upgrades required as a result of additional heavy vehicle traffic.
<p>Effectiveness/ Efficiency</p>	<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.
<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.

Option 4 – Introduce District Plan provisions (including policies, rules and assessment criteria) to require resource consent for cleanfill activities based on the volume of material and other location based criteria (Option 5 in Section 32 Report)

Option 4 involves the inclusion of 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). In the Section 32 Report, this option proposed:

- a. Cleanfill activities with up to 1,000m³ of material as permitted activities;
- b. Cleanfill activities with between 1,000m³ and 5,000m³ as permitted, if separation distances were maintained from sensitive activities, and access to the cleanfill site was not via a shared accessway; and
- c. Any cleanfill activities exceeding 5,000m³ would require resource consent.

Option 4 is the same as Option 3 in terms of having a 5,000m³ limit before resource consent is required. However, Option 4 also includes additional performance standards associated with separation distances from sensitive activities and restrictions on the use of shared accessways for activities involving between 1,000m³ and 5,000m³ of cleanfill material.

<p>Costs</p>	<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.
<p>Benefits</p>	<ul style="list-style-type: none"> ▪ Including a sliding scale and separation distances allows for some cleanfill to be deposited where there is lower 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 upgrades required as a result of additional heavy vehicle traffic, but only where consent is required for amenity reasons.
<p>Effectiveness/ Efficiency</p>	<ul style="list-style-type: none"> ▪ 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 transportation network, including as a result of traffic generation, safety, and wear and tear on the roading network. ▪ Greater efficiency in terms of aligning with Regional Council rules.
<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.

RECOMMENDATIONS

The following sets out recommendations on the key issues identified in this report. Recommendations on all submissions and further submissions are included in the summary of submissions report included within Attachment 2.

Changes recommended to the District Plan First Review as the result of Plan Change 85 are included in Attachment 1 to this report.

General Approach to Cleanfill Activities - Rules & Permitted Volumes

It is recommended that amendments be made to the proposed plan change to adopt an approach consistent with Option 4 above (i.e. Option 5 of the Section 32 Report). Option 4 essentially aligns the proposed rules with the Regional Council earthworks limit of 5,000m³ (as per Option 3), but includes additional performance standards associated with separation distances and shared accessways for proposals involving between 1,000m³ and 5,000m³.

Reasons:

This approach is considered to respond to many of the concerns raised by submitters regarding a preference to align with the Regional Council's limits for earthworks. It also recognises the need for an approach that better responds to the risk of potential adverse amenity related effects (e.g. where there are sensitive activities in close proximity). In addition, it is considered that this approach provides a reasonable balance between allowing the disposal of cleanfill for legitimate reasons and the need to manage transportation and amenity related effects.

Specifically excluding quarrying activities

It is recommended that minor amendments are made to the proposed District Plan provisions to clarify that the cleanfill rules do not apply to quarrying activities.

Reasons:

The changes to the cleanfill rules were not intended to control the disposal of cleanfill at quarry sites as the effects of such activities are managed through the rules of the relevant zone and resource consents (with quarries being either a discretionary or non-complying activity).

Various minor changes to proposed plan provisions

It is recommended that various minor amendments be made to the proposed District Plan provisions as notified. The nature of these changes is set out earlier in this report under the Submissions and Further Submissions section.

Reasons:

The majority of the amendments requested will provide additional clarity and generally reflect the intent of the proposed plan change.

ATTACHMENTS

- 1. Attachment 1 - Section 4C - Amenity - Recommended Changes**
- 2. Attachment 2 - Summary of Submissions and Further Submissions with Recommendations**
- 3. Attachment 3 - Section 32 Report for Plan Change 85 – Cleanfill Activities in the Rural, Future Urban, Lifestyle and Rural-Residential Zones**

The following attachment shows the existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this Planning Report in blue.

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 adverse effects deposition of *cleanfill* material activities to minimise adverse effects on the *transportation network, infrastructure and network utilities, safety and convenience of road and access users, and on the amenity of residential activities and other sensitive sites.*~~

4C.2.3 Activity Lists

~~4C.2.3.1 Permitted Activities~~

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

~~**Explanatory Note:**~~

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

~~4C.2.3.2 Discretionary Activities~~

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

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

(a) Permitted Activities

Disposal on private land (i.e. not to an *quarry* or 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 off the disposal site where the total volume of material is more than 1,000m³ but not greater than 5,000m³ within any 12 month period subject to meeting both (a) and (b) below or obtaining written approval under (c) below;

- (a) Access to the site and the *cleanfill* disposal area being located no less than 300m from;

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- any existing or consented dwelling or minor dwelling on a separate site in different ownership to the disposal site;
- any approved building site assessed as part of a subdivision in accordance with Rule 12.4.1(b) on a separate site in different ownership to the disposal site;
- the boundary of any *sensitive site* in different ownership to the disposal site.

(b) Vehicle access to the disposal site not being via a shared accessway, driveway, or Right of Way.

(c) Where all owners and occupiers of land affected by (a) and (b) provide written approval to the Council.

~~(ii)(iii)~~ Cleanfill material originating from the same site on which it is to be disposed;

~~(i)(iv)~~ Organic waste (e.g. shelter trimmings, home composting) that originates from the site itself.

(b) Restricted Discretionary Activities

~~(i) ——— Disposal of *cleanfill* material on private land (i.e. not to an authorised landfill) where the *cleanfill* material originates from off the site and the volume of material exceeds 1,000m³ within any 12 month period.~~

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

- (i) Cleanfill material originating from off the disposal site where the total volume of material is more than 1,000m³ but not greater than 5,000m³ and which does not qualify as a permitted activity under Rule 4C.2.3.1 (a) (ii).
- (ii) Cleanfill material originating from off the disposal site where the total volume of material exceeds 5,000m³ 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 calculated as solid measure when the material is compacted in place on 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 Bay of Plenty Regional Natural Resources Plan](#).
- (iv) The term "consented" within Rule 4C.2.3.1 above refers to activities that have been approved through a building consent and/or resource consent (if required) and where the relevant consent or consents have not lapsed.

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 *quarry* or authorised landfill) of the following solid waste materials:

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

(b) Discretionary Activities

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

Explanatory Notes:

- (i) These rules do not apply to the disposal of solid waste at authorised municipal or privately managed landfills and organic waste facilities (see Rule 10.3(ay)).
- ~~(ii) The volume of *cleanfill* material calculated as solid measure when the material is compacted in place on the disposal site.~~
- (ii) Disposal of all solid waste on private land (including *cleanfill*) is subject to the provisions of the [Regional Water and Land Plan Bay of Plenty Regional Natural Resources 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. Unless specified otherwise, Any Permitted or Controlled 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~~ mechanical crushing and/or screening 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) [Effects on the State Highway Network and the views of the New Zealand Transport Agency](#).~~
- ~~(f) The requirement for financial contributions for pavement consumption as assessed in accordance with Section 11.~~
- ~~(g) Measures to avoid, remedy or mitigate adverse effects in matters identified (a) to (f).~~

Summary of Original Submissions & Further Submissions with Recommendations (ATTACHMENT 2)

Topic	Issue ID	Issue	Sub ID	Sub Point	Name	Inclination	Summary	Decision Requested	Reporting Planner Comment & Recommendation
Whole of Plan Change	1	General	9	1	J Swap Contractors Ltd C/- Richard Harkness	Support with Amendment	<p>Quarrying and extraction activities require the removal of overburden, the disposal of cleanfill and reinstatement works. Cleanfill is from the site itself, but can also be transported from off-site locations. The scale of activity is substantial and thus the associated clean filling operation will likely be above the proposed threshold in any 12 month period.</p> <p>Quarrying under the current RMA planning framework generally requires consents from both regional and district councils (unless meeting permitted activity criteria). This will ensure that potential adverse environmental effects for quarries (including deposition of cleanfill) will be controlled through regional plan provisions, and the district plan zones, rules and resource consents. Hence, quarries should be exempt from the new thresholds proposed under PC85 for private property cleanfill activities.</p> <p>The PC85 focus on private properties seeks to address large scale cleanfill activities that are causing concerns due to heavy vehicle traffic, noise, dust, vibration, loss of visual amenity, property damage and safety of access - and such matters are already controlled for quarrying as noted above.</p>	Swaps seek amendments to the proposed PC85 provisions to exempt authorized quarries.	<p>Accept</p> <p>Quarries are a specific activity managed through the zone provisions of the District Plan.</p> <p>The changes to the cleanfill rules were not intended to control the disposal of cleanfill at quarry sites as the effects of such an activity are already managed through the rules of the relevant zone and resource consents (with quarries being either a discretionary or non-complying activity).</p>
			FS 34 [9]	1 [1]	Federated Farmers of New Zealand (Inc) [J Swap Contractors Ltd C/- Richard Harkness]	Support	FFNZ supports the submitter for reasons outlined in their principle submission.	Amend proposed PC85 provisions to exempt authorized quarries.	<p>Accept</p> <p>As per the reasons stated for Submission 9.1</p>
			FS 37 [9]	1 [1]	Classic Developments NZ Ltd [J Swap Contractors Ltd C/- Richard Harkness]	Support	We agree with the amendments sought as cleanfill can be considered quarrying under the PC85.	Include provisions to exempt authorised quarries as sought by the submitter.	<p>Accept</p> <p>As per the reasons stated for Submission 9.1</p>
			FS 38 [9]	1 [1]	Zariba Holdings [J Swap Contractors Ltd C/- Richard Harkness]	Support	We agree with the amendments sought as cleanfill can be considered quarrying under the Plan.	Include provisions to exempt authorised quarries as sought by the submitter.	<p>Accept</p> <p>As per the reasons stated for Submission 9.1</p>
			9	8	J Swap Contractors Ltd C/- Richard Harkness	Support with Amendment	Seek clarification regarding use of the terms "deposition" and "disposal" within the proposed Plan Change.	The submitter seeks clarification of the use of terms "deposition" and "disposal".	<p>Accept</p> <p>Terminology used should be consistent and minor changes are therefore recommended to address this submission point.</p>
			10	1	Pearce, Rowena Jade	Support with Amendment	<p>Of particular concern to me is the nature and number of heavy vehicle traffic movements on our rural roading infrastructure (particularly narrow and/or unsealed roads that are inadequate) - and the impact this has on traffic and pedestrian safety. Some roads are not of adequate nature to withstand heavy vehicle movements and will pose severe safety threats to those in our community.</p> <p>The preferred option 2 for the Plan Change highlights</p>	Whether the volume of cleanfill transported is 1000m ³ or 5000m ³ , road width and road capacity need to be considered for every section within the rural	<p>Accept in part</p> <p>The proposed rules provide for smaller scale cleanfill activities and seek to manage larger cleanfills through a resource consent process where a greater volume of heavy vehicle traffic is to be generated.</p>

					the benefit of the potential to collect financial contributions to help fund roading maintenance and repair required as a result of additional heavy vehicle traffic but, fails to recognise that these same roads are already under specification for the volume and nature of vehicles currently using		
FS 37 [10]	2 [1]	Classic Developments NZ Ltd [Pearce, Rowena Jade]	Oppose		There is no s.32 analysis to justify the plan change and impact on Council's roading network.	That the submission be rejected.	Reject
FS 38 [10]	2 [1]	Zariba Holdings [Pearce, Rowena Jade]	Oppose		There is no s.32 analysis to justify the plan change and impact on Council's roading network.	That the submission be rejected.	Reject
11	7	Te Puke Economic Development Group	Support with Amendment		TPEDG support the well considered submissions from NZKGI on Clean Fill Activities, namely that they are unsure what the benefit would be of introducing another resource consent for any deposition of clean fill under 5000m3. Bay of Plenty Regional Council already have rules relating to earthworks and quarries require a resource consent for any exposed area greater than one hectare and volume greater than 5,000 m ³ . This resource consent should cover the need (if any) to transport up to 5000m3 of clean fill.	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 (Issue 1 - Option 3 in the s92 Report).	Accept in part Alignment with Regional Council earthworks rule is recommended, however, additional performance standards (such as separation distances and restrictions on use of shared accessways) is recommended where the volume of cleanfill material is between 1,000m ³ and 5,000m ³ .
FS 32 [11]	1 [7]	Kainga Ora - Homes & Communities [Te Puke Economic Development Group]	Oppose		Kainga Ora opposes this submission point as it is contrary to the relief sought in Kainga Ora's primary submission, and the reasons for that relief. Further, the Regional Natural Resources Plan has rules controlling 5000m3 or more of earthworks. It is not considered appropriate to duplicate this threshold within the District Plan rule framework. The potential adverse amenity effects (such as noise and vibration) are already appropriately controlled through other parts of the District Plan.	Oppose introducing provisions 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.	Reject
FS 36 [11]	4 [7]	NZ Transport Agency [Te Puke Economic Development Group]	Oppose		The proposed permitted threshold of 1,000m3 is considered to be appropriate for cleanfill activities. The heavy vehicle movements generated by cleanfill operations have the potential to adversely affect the state highway network in terms of traffic safety and efficiency. Appendix SB of the NZ Transport Agency's Planning Policy Manual (PPM) sets out key considerations for accessways onto State Highways. These guidelines provide some context in terms of when trip generating activities are likely to cause safety and traffic efficiency effects that need to be avoided, remedied or mitigated. Council has estimated the trip generation associated with a 1000m ³ cleanfill operation to be in the order of 200-400 vehicle movements. Appendix SB of the PPM specifies that where more than one slow, heavy or long vehicle (such as trucks delivering cleanfill) will utilise an accessway, a larger than normal accessway standard is required (Diagrams D and E) to accommodate safe ingress and egress. The resource consent process is an appropriate mechanism for the accessways of cleanfill activities to be assessed, and appropriate standards applied or alternative solutions	The Transport Agency seeks that PC85 be approved in its current form.	Accept in part Advice has been sought from Council's engineers as to whether additional performance standards should be included to reflect the standards referred to in NZTA's further submissions. It has been advised that this is not necessary given the standards generally apply to the State Highway, and access to the State Highway is already controlled through other District Plan rules.

				provided for. Sightlines to and from accessways are another important factor set out in the PPM. Many potential State Highway accessway locations will not have compliant sightlines. Trucks associated with cleanfill operations are vulnerable to sightline deficiencies given that they are typically slow and long. For this reason, a sightline assessment through the resource consent process is considered to be appropriate for cleanfill activities generating in the order of 200- 400 heavy vehicle movements. Given the statutory functions of Bay of Plenty Regional Council, the traffic effects associated with cleanfill operations are not assessed at the regional consent stage. For the purposes of ensuring that traffic effects are managed, the regional plan's earthworks volume threshold is not relevant. 1000m3 would not be an unusually low permitted threshold in comparison to the cleanfill provisions of other district plans across the country.		
FS 37 [11]	3 [7]	Classic Developments NZ Ltd [Te Puke Economic Development Group]	Oppose	The matters raised in this submission are not supported by sufficient s.32 analysis.	That the submission be rejected.	Reject Intent of this further submission is unclear as Classic Developments NZ Ltd has supported other submissions requesting the same outcome sought by Submission 11.7.
FS 38 [11]	3 [7]	Zariba Holdings [Te Puke Economic Development Group]	Oppose	The matters raised in this submission are not supported by sufficient s.32 analysis.	That the submission be rejected.	Reject Intent of this submission is unclear as Zariba Holdings has supported other submissions requesting the same outcome sought by Submission 11.7.
13	11	Horticulture New Zealand C/- Charlotte Drury	Support with Amendment	The deposition of cleanfill can enable sites to be made more suitable for horticultural use by providing material for activities such as recontouring, therefore HortNZ supports the provisions of the district plan enabling the activity to be undertaken to some degree, particularly within the Rural Zone. As the District Council's functions in this regard are largely restricted to managing the amenity and traffic effects of cleanfill activities, HortNZ is generally supportive of an approach that avoids unnecessary cost for landowners who wish to undertake such operations.	HortNZ supports Option 4 within the s32 Report and suggests that further development and adoption of this option would enable time and cost to be better targeted to circumstances where the potential impacts of cleanfills may be greater and would enable a more effects based approach is more in keeping with the sustainable management purpose of the Act.	Accept in part The legitimate need for small scale cleanfill activities without the need for resource consent is acknowledged and it is therefore recommended to increase the permitted limit in line with the Regional Council's limit of 5,000m ³ , with additional performance standards which reflect Option 5 of the s32 report. Note that it is Option 5 in the s32 report (not Option 4 in the s32 Report) that the submitter is referring to in their submission.
FS 37 [13]	4 [11]	Classic Developments NZ Ltd [Horticulture New Zealand C/- Charlotte Drury]	Oppose	The amenity and traffic effects of cleanfill activities at scale are already controlled through Regional Plan provisions.	That the submission be rejected.	Reject Amenity and traffic related effects are not managed through the Regional Plan or Regional Council resource consents.

Summary of Original Submissions & Further Submissions with Recommendations (ATTACHMENT 2)

			FS 38 [13]	4 [11]	Zariba Holdings [Horticulture New Zealand C/- Charlotte Drury]	Oppose	The amenity and traffic effects of cleanfill activities at scale are already controlled through Regional Plan provisions.	That the submission be rejected.	Reject Amenity and traffic related effects are not managed through the Regional Plan or Regional Council resource consents.
			15	1	Matthews, Richard James	Unknown	The current WBOPDC rules make dumping a "permitted activity" requiring only BOPRC Consent. How are the proposed changes going to address neighbouring properties concerns?	No specific relief sought.	Accept in part Matters are addressed through the proposed plan change.
			15	2	Matthews, Richard James	Unknown	How is WBOPDC going to address 100,000 cubic metres per year; 20,000 - 40,000 truck movements per year if it is only concerned about 1% of this?	No specific relief sought.	Accept in part Matters are addressed through the proposed plan change.
			15	3	Matthews, Richard James	Unknown	BOPRC consent only addresses: a. Noise - trucks need COF b. Dust - must be visible, not visibly blown onto neighbouring properties; will only be checked annually; relies on complaints. c. The consent allows 24/7 dumping for 20 years without any ability to change.	No specific relief sought.	Accept in part Comments regarding Regional Council consent are acknowledged.
			16	1	BayGold Limited	Oppose	BayGold expresses concerns as developers, they are already required to acquire a BOPRC resource consent for any exposed area no greater than 1 hectare and volume no greater than 5,000m ³ . We feel that this consent should cover the need (if any) to also transport up to 5000m ³ . We are unsure what the benefit would be of introducing another resource consent for deposition of cleanfill when it is not necessary to get a resource consent for earthworks <5,000m ³ ? The majority of earthworks are done within the boundary of a site but there are times when the deposition of cleanfill is necessary and the need for a District Council resource consent will only slow the progress of kiwifruit development.	We feel that the resource consent (from BOPRC) should cover the need (if any) to also transport up to 5000m ³ .	Reject Amenity and traffic related effects are not managed through the Regional Plan or Regional Council resource consents. As such, it is proposed to better manage these effects through the proposed plan change.
			FS 32 [16]	2 [1]	Kainga Ora - Homes & Communities [BayGold Limited]	Oppose	Kainga Ora opposes this submission point as it is contrary to the relief sought in Kainga Ora's primary submission, and the reasons for that relief. In any event, Kainga Ora considers that a generic 5000m ³ cleanfill threshold is not appropriate.	Oppose introducing provisions to require resource consent for cleanfill activities involving the deposition of more than 5,000m ³ of material per year in the Rural, Future Urban, Lifestyle and Rural Residential Zones.	Accept in part Increasing the permitted limit from 1,000m ³ to 5,000m ³ is considered appropriate subject to the inclusion of additional performance standards in line with Option 5 in the s32 Report (which is an approach also supported by Housing New Zealand (now Kainga Ora – see submission point 24.2).
			FS 36 [16]	5 [1]	NZ Transport Agency [BayGold Limited]	Oppose	Same Further submission point as FS 36.4	The Transport Agency seeks that PC85 be approved in its current form.	Accept in part As per the reasons stated for FS 36.4.
			FS 37 [16]	5 [1]	Classic Developments NZ Ltd [BayGold Limited]	Support	We agree that resource consent from the Bay of Plenty Regional Council is sufficient to cover the need for the consent of cleanfills.	That the submission be accepted.	Reject Regional Council consents do not address amenity and transportation effects
			FS 38 [16]	5 [1]	Zariba Holdings [BayGold Limited]	Support	We agree that resource consent from the Bay of Plenty Regional Council is sufficient to cover the need for the consent of cleanfills.	That the submission be accepted.	Reject

						Regional Council consents do not address amenity and transportation effects
17	5	Bay of Plenty Regional Council	Support	BOPRC support the proposed Plan Change 85 rules aimed at controlling traffic, amenity and noise effects resulting from cleanfill activities in rural environment. It is appropriate these effects are dealt with in the District Plan and not the Regional Natural Resources Plan.	No specific relief sought.	Accept For the reasons stated in response to Submission 17.5.
FS 37 [17]	6 [5]	Classic Developments NZ Ltd [Bay of Plenty Regional Council]	Oppose	Existing District Plan Rules already cover amenity effects raised in the submission.	That the submission be rejected.	Reject Existing District Plan rules are not considered adequate to manage amenity effects associated with large scale cleanfill activities.
FS 38 [17]	6 [5]	Zariba Holdings [Bay of Plenty Regional Council]	Oppose	Existing District Plan Rules already cover amenity effects raised in the submission.	That the submission be rejected.	Reject Existing District Plan rules are not considered adequate to manage amenity effects associated with large scale cleanfill activities.
19	4	Federated Farmers of New Zealand (Inc)	Oppose	<p>Preferred Option 2 attempts to control two quite different aspects of off-site cleanfill disposal to the detriment of both. Amenity issues are addressed using a blunt, one size fits all approach and financial contributions are being sought from third parties not the proposed exacerbators.</p> <p>The attempt to address the heavy vehicle effects on the transport network through the proposed rules has focused on a third party rather than the parties generating the proposed effects.</p> <p>Council identifies the driver for this plan change as being the increasing need for developers, or their contractors, to dispose of large quantities of cleanfill material to off-site locations. If an exacerbator-pays approach is desired, then it is more appropriate to seek a financial contribution for road wear and tear from the developers but this alternative was not considered in the section 32 analysis. If the current development contributions do not cover extra road maintenance and repair required because of additional heavy vehicle traffic needed to move clean fill, then it is the policy which needs a review. It should not be addressed indirectly by creating low triggers to increase the number of resource consents required and subsequent increase in consent fees. With the proposed transport issue more appropriately addressed elsewhere, Council can use the more targeted approach as outlined in Option 5 to meet the stated amenity concerns.</p>	<p>Oppose preferred Option 2 in the s32 Report - funding for roading maintenance and repair should be considered in a Development Contribution policy not a Plan Change.</p> <p>Proposed Option 5 in the s32 Report would better meet the identified amenity effects issue if transport-related effects are addressed via Development Contributions.</p>	Accept in part While there is merit in the issue raised by the submitter, it is considered that effects associated with wear and tear on roads are best addressed through specific cleanfill sites.
FS 37 [19]	7 [4]	Classic Developments NZ Ltd [Federated Farmers of New Zealand (Inc)]	Support	We consider that the s.32 analysis is insufficient in terms of its analysis of the effects on roads. There are a number of other permitted activities such as farming and forestry which are provided for which have similar effects.	That the submission be accepted in part if Council is to levy development contributions outside of the RMA process.	Accept in part There is no current proposal to levy development contributions outside of the resource consent process.
FS 38 [19]	7 [4]	Zariba Holdings [Federated]	Support	We consider that the s.32 analysis is insufficient in terms of its analysis of the effects on roads. There are a number of other permitted activities such as farming	That the submission be accepted in part if Council is to levy	Accept in part

		Farmers of New Zealand (Inc)]		and forestry which are provided for which have similar effects.	development contributions outside of the RMA process.	There is no current proposal to levy development contributions outside of the resource consent process.
20	6	NZ Transport Agency	Support	<p>The traffic generated by clean fill activities has the potential to adversely affect the state highway network in terms of traffic safety and efficiency, as well as road maintenance.</p> <p>The deposition of clean fill on private land is generally a permitted activity under the operative District Plan, which represents a gap in the Council's ability to manage the effects associated with this activity. Proposed PC85 will introduce rules that enable the management of these effects, which is supported by the Transport Agency.</p> <p>The proposed permitted threshold of 1,000m³ annually is considered to be appropriate and the proposed assessment criteria are considered to be comprehensive in terms of the relevant effects to NZTA.</p>	Adopt PC85 as notified.	<p>Accept in part</p> <p>The provisions in the proposed Plan Change are considered to be appropriate, however, it is recommended that the permitted threshold be increased from 1,000m³ to 5,000m³, subject to additional performance standards in line with Option 5 in the s32 Report.</p>
FS 35 [20]	4 [6]	J Swap Contractors Ltd [NZ Transport Agency]	Oppose	J Swaps opposes adopting PC85 as notified.	Amend plan changes as per J Swaps submission and exclude authorised quarries.	<p>Accept</p> <p>For the reasons stated in Submission 9.1</p>
21	13	New Zealand Kiwifruit Growers	Oppose	<p>NZKGI are unsure what the benefit would be of introducing another resource consent for any deposition of clean fill under 5000m³. Bay of Plenty Regional Council already have rules relating to earthworks and quarries require a resource consent for any exposed area greater than one hectare and volume greater than 5,000 m³.</p> <p>This resource consent should cover the need (if any) to transport up to 5000m³ of clean fill.</p>	We therefore support Option 3 - Introduce District Plan provisions (including policies, rules and assessment criteria) to require resource consent for cleanfill activities involving the deposition of more than 5,000m ³ of material per year in the Rural, Future Urban, Lifestyle and Rural Residential Zones (Issue 3 - Option 3 in the s92 Report).	<p>Accept in part</p> <p>Regional Council rules and resource consents do not manage effects associated with amenity and transportation.</p> <p>For reasons stated in the submissions it is recommended that the permitted volume of cleanfill material be increased from 1,000m³ to 5,000m³, with additional performance standards in line with Option 5 in the s32 Report.</p>
FS 32 [21]	3 [13]	Kainga Ora - Homes & Communities [New Zealand Kiwifruit Growers]	Oppose	Kainga Ora opposes this submission point as it is contrary to the relief sought in Kainga Ora's primary submission, and the reasons for that relief. In any event, Kainga Ora considers that a generic 5000m ³ cleanfill threshold is not appropriate.	Oppose introducing provisions to require resource consent for cleanfill activities involving the deposition of more than 5,000m ³ of material per year in the Rural, Future Urban, Lifestyle and Rural Residential Zones.	<p>Reject</p> <p>As per the reasons stated for FS 32.2.</p>
FS 33 [21]	19 [13]	Horticulture New Zealand [New Zealand Kiwifruit Growers]	Support	HortNZ notes the request expressed by a number of submitters (for example Submitters 8, 12, 21, 25) in relation to Plan Change 85 - Cleanfill, for there to be consistency between the volume thresholds of the Bay of Plenty Natural Resources Plan, and the Western Bay of Plenty District Plan, and supports this request, which is effectively proposed Option 3, as set out in the Section 32 report for Plan Change 85. Creating consistency amongst planning frameworks where possible is positive for growers, (and all members of the community) as it reduces the risk of confusion, and also potentially provides an opportunity for some cost savings for those people that do need to apply for resource consent from both authorities, if the trigger/threshold level is the same.	Supports aligning proposed Plan Change 85 with BOPRC Regional Natural Resource Plan rules to allow a maximum of 5,000m ³ cleanfill material in a 12 month period.	<p>Accept</p> <p>For the reasons stated in Submission 13.11.</p>

			FS 36 [21]	6 [13]	NZ Transport Agency [New Zealand Kiwifruit Growers]	Oppose	Same Further submission point as FS 36.4	The Transport Agency seeks that PC85 be approved in its current form.	Accept in part As per the reasons stated for FS 36.4.
			24	1	Housing New Zealand Corporation	Oppose	Housing New Zealand considers that the s32 report specific to PC85 has failed to justify the need for the PC85 and the proposed introduction of new earthworks rule thresholds for cleanfill activities in the Rural, Future Urban, Lifestyle and Rural-Residential zones.	(a) That PC85 be declined; (b) If PC85 is not declined, that the proposed provisions of PC85 be deleted and/or amended to address the matter raised in this submission; and (c) Such further or other relief, or other consequential or other amendments, as are considered appropriate and necessary to address the concerns set out herein.	Reject It is considered that the s32 Report adequately justifies the need for a plan change. Prior to notification of the Plan Change, Council was aware of a number of cleanfill sites in the District that have caused concern for the community. Since the plan change was notified Council is continuing to deal with issues associated with proposed cleanfill disposal sites that have potential to cause significant adverse effects.
			FS 37 [24]	8 [1]	Classic Developments NZ Ltd [Housing New Zealand Corporation]	Support	We agree with Housing NZ that the s.32 analysis has failed to justify the need for the plan change and the proposed introduction of new rules for cleanfill activities.	That the submission be accepted.	Reject As per the reasons stated for Submission 24.1
			FS 38 [24]	8 [1]	Zariba Holdings [Housing New Zealand Corporation]	Support	We agree with Housing NZ that the s.32 analysis has failed to justify the need for the plan change and the proposed introduction of new rules for cleanfill activities.	That the submission be accepted.	Reject As per the reasons stated for Submission 24.1
			24	2	Housing New Zealand Corporation	Oppose	Housing New Zealand considers the s32 report has not robustly assessed and considered the various cost and benefits of the 'preferred option'. The preferred option chosen by the Council has failed to address in any way the issue of 'proximity to sensitive activities', instead simply seeking to introduce a default earthworks volume threshold (of 1,000m3 of cleanfill per year), irrespective of whether the material would be deposited in a location which has the potential to adversely affect a sensitive activity. This aspect of 'proximity to sensitive activities' appears to be a key reason for the promulgation of proposed PC85, yet the proposed provisions have failed to adequately address this matter.	(a) That PC85 be declined; (b) If PC85 is not declined, that the proposed provisions of PC85 be deleted and/or amended to address the matter raised in this submission, in particular for this submission point that if any new provisions are required within the District Plan to address the matters of concern, then an approach along the lines of the 'Option 5' (which incorporates location /proximity-based provisions), set out in the s32 report, would be more appropriate; and (c) Such further or other relief, or other consequential or other amendments, as are considered appropriate and necessary to address the concerns set out herein.	Accept in part The primary driver for the plan change was the need to better manage adverse amenity effects associated with large scale cleanfill activities. However, through the development of the plan change the need to manage transportation related effects was also identified. Changes are recommended to reflect Option 5 in the s32 Report.
			FS 37 [24]	9 [2]	Classic Developments NZ Ltd [Housing New Zealand Corporation]	Support	We agree with Housing NZ that the s.32 report has not robustly assessed and considered the various costs and benefits of preferred options.	We consider that the submission should be accepted, and Plan Change 85 should be declined or, if adopted, option 5 (incorporating location proximity-based provisions) would be more appropriate (including a set back from existing dwellings).	Accept in part As per the reasons stated for Submission 24.2

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			FS 38 [24]	9 [2]	Zariba Holdings [Housing New Zealand Corporation]	Support	We agree with Housing NZ that the s.32 report has not robustly assessed and considered the various costs and benefits of preferred options.	We consider that the submission should be accepted, and Plan Change 85 should be declined or, if adopted, option 5 (incorporating location proximity-based provisions) would be more appropriate (including a set back from existing dwellings).	Accept in part As per the reasons stated for Submission 24.2
			25	2	The Aggregate and Quarry Association of New Zealand	Support with Amendment	We are also concerned that if PC85 goes ahead, existing rights are not lost so that any quarries authorised to take cleanfill via an existing resource consent (consistent with the exemption for authorised landfills) are still able to do so.	Consent must not be triggered for any quarries authorised to take clean fill via an existing resource consent (consistent with the exemption for authorised landfills).	Accept As per the reasons stated for Submission 9.1.
			FS 35 [25]	5 [2]	J Swap Contractors Ltd [The Aggregate and Quarry Association of New Zealand]	Support	The submitter seeks that existing rights are not lost so that any quarries authorised to take cleanfill via an existing resource consent are still able to do so.	J Swaps supports this approach.	Accept As per the reasons stated for Submission 9.1.
Whole of Plan Change	2	Amenity Effects	8	2	Shrimpton And Lipinski Limited Partnership	Oppose	The matters addressed by the District Plan provisions should be confined to matters of amenity.	The matters addressed by the District Plan provisions should be confined to matters of amenity.	Reject Transportation related effects are a relevant resource management consideration that the District Council has responsibility for managing.
			15	5	Matthews, Richard James	Unknown	Neighbouring properties are often close to the loading sites to reduce travel costs. This means they are also likely to include use of shared driveways, close proximity to other neighbours, long term effects on rateable values, dramatic effect on the peace and tranquillity sought by such landowners and a roading infrastructure being destroyed by so many heavy vehicles. As an example, Oropi Rd has 2 permitted sites allowing 700,000m3 i.e. 280,000 truck movements.	Could you please explain how the neighbouring properties are going to have their concerns heard and addressed and how the roading costs being imposed are going to be addressed?	Accept in part Effects on neighbouring properties and potential impacts on roading infrastructure are intended to be addressed through the proposed Plan Change and resource consent process.
			FS 37 [15]	10 [5]	Classic Developments NZ Ltd [Matthews, Richard James]	Oppose	Cleanfills are a legitimate activity required in rural areas and to cater for fill from urban development. They are relatively short term in nature and should be provided for.	That the submission be rejected.	Accept in part It is acknowledged that cleanfill activities are required, however, not all are short-term and the effects of such activities also need to be managed in a manner consistent with the RMA.
			FS 38 [15]	10 [5]	Zariba Holdings [Matthews, Richard James]	Oppose	Cleanfills are a legitimate activity required in rural areas and to cater for fill from urban development. They are relatively short term in nature and should be provided for.	That the submission be rejected.	Accept in part It is acknowledged that cleanfill activities are required, however, not all are short-term and the effects of such activities also need to be managed in a manner consistent with the RMA.
			15	6	Matthews, Richard James	Support with Amendment	Need Council to legislate protection for neighbours to large fill sites.	Submitter requests that Council enforces mandatory notification to bordering properties, collecting their views and addressing them wherever practical.	Reject Mandatory notification is not considered appropriate as the need for notification will be dependent on the specific circumstances of each proposal and the nature of the locality. The proposed plan
			15	7	Matthews, Richard James	Unknown	The submitter acknowledges that these fill sites are necessary for urban development but neighbouring	No specific relief sought.	

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					properties should have input on their effects and legal support for practical ameliorating actions.		change allows for consideration of relevant effects on neighbouring properties and must be considered when decisions are made regarding notification in accordance with the Resource Management Act 1991.
	24	3	Housing New Zealand Corporation	Oppose	<p>Housing New Zealand also notes that the wider 'amenity' related provisions, as set out in Section 4C of the operative District Plan which already contains general, 'district-wide' provisions relating to noise and vibration (including noise limits for activities within the Rural, Future Urban, Lifestyle and Rural-Residential zones) and also confirms that noise from traffic on public roads is exempt from the noise rules relating to activities within zones.</p> <p>The submitter considers that this current approach within the District Plan acknowledges that matters relating to noise emissions from vehicles on roads are managed under the Land Transport Act, rather than under the Resource Management Act.</p>	<p>(a) That PC85 be declined;</p> <p>(b) If PC85 is not declined, that the proposed provisions of PC85 be deleted and/or amended to address the matter raised in this submission; and</p> <p>(c) Such further or other relief, or other consequential or other amendments, as are considered appropriate and necessary to address the concerns set out herein.</p>	<p>Accept in part</p> <p>It is acknowledged that the District Plan includes noise limits that must be complied with and that noise from traffic on roads is exempt from the noise limits of the Plan.</p> <p>There are no specific vibration standards in the District Plan and noise standards alone are not considered sufficient to adequately manage adverse effects associated with cleanfill activities.</p>
	FS 37 [24]	11 [3]	Classic Developments NZ Ltd [Housing New Zealand Corporation]	Support	Existing district wide plan provisions relating to noise, and vibration are already contained within the District Plan and apply to cleanfill activities. This extends to construction noise standards under NZ6803.	That the submission be accepted.	<p>Accept in part</p> <p>Refer to reasons stated for submission 24.3.</p> <p>In addition, some cleanfill operations are a land use activity in themselves and are not always associated with a construction project. Therefore, the construction noise standards are not always relevant.</p>
	FS 38 [24]	11 [3]	Zariba Holdings [Housing New Zealand Corporation]	Support	Existing district wide plan provisions relating to noise, and vibration are already contained within the District Plan and apply to cleanfill activities. This extends to construction noise standards under NZ6803.	That the submission be accepted.	<p>Accept in part</p> <p>Refer to reasons stated for submission 24.3.</p> <p>In addition, some cleanfill operations are a land use activity in themselves and are not always associated with a construction project. Therefore, the construction noise standards are not always relevant.</p>
	24	4	Housing New Zealand Corporation	Oppose	<p>Section 4C of the District Plan also contains the existing provisions relating to the deposition of cleanfill materials, including performance standards which need to be complied with (as a Permitted Activity) in relation to screening and management of dust nuisance. Section 4C.4 of the operative District Plan also contains provision in relation to the management of offensive odours.</p> <p>The submitter considers that the provisions of the operative District Plan provide an appropriate framework to manage the amenity related issues which PC85 is seeking to address.</p>	<p>(a) That PC85 be declined;</p> <p>(b) If PC85 is not declined, that the proposed provisions of PC85 be deleted and/or amended to address the matter raised in this submission; and</p> <p>(c) Such further or other relief, or other consequential or other amendments, as are considered appropriate and necessary to address the concerns set out herein.</p>	<p>Reject</p> <p>It is considered that the current District Plan rules are not sufficient to adequately manage amenity related effects associated with large scale cleanfill activities.</p>
	FS 37 [24]	12 [4]	Classic Developments NZ Ltd	Support	The existing provisions in part 4 of the plan contain sufficient performance standards.	That the submission be accepted as the District Plan provides an appropriate existing framework to	Reject

					[Housing New Zealand Corporation]			manage the amenity related issues associated with the Plan Change.	As per reasons stated for submission 24.4
			FS 38 [24]	12 [4]	Zariba Holdings [Housing New Zealand Corporation]	Support	The existing provisions in part 4 of the plan contain sufficient performance standards.	That the submission be accepted as the District Plan provides an appropriate existing framework to manage the amenity related issues associated with the Plan Change.	Reject As per reasons stated for submission 24.4
			24	6	Housing New Zealand Corporation	Oppose	<p>The proposed amendments set out in PC85 appear to indicate that the issue of amenity-related effects within the rural environment are sought to be managed through introducing new earthwork volume thresholds within the rural zones, while the existing District Plan approach (e.g. no identified volume threshold) would continue to apply within residential zones.</p> <p>Given 'sensitive activities' are generally located much closer together within the residential environment - it is unclear why Council has considered that the 'amenity related' issues it has identified in the s32 report requirement further management in the rural environment, but not within the residential environment.</p>	<p>(a) That PC85 be declined;</p> <p>(b) If PC85 is not declined, that the proposed provisions of PC85 be deleted and/or amended to address the matter raised in this submission; and</p> <p>(c) Such further or other relief, or other consequential or other amendments, as are considered appropriate and necessary to address the concerns set out herein.</p>	Reject Council has identified that the issues associated with large cleanfill disposal sites have been, and continue to occur within rural areas.
Whole of Plan Change	3	Transportation Effects	8	3	Shrimpton And Lipinski Limited Partnership	Oppose	<p>There are at times significant vehicle movements including heavy vehicles both to and from and on properties in a rural environment from several permitted activity types in the Rural Zone that would have a significantly greater effect than movements associated with fill activities.</p> <p>A combination of seasonal and year round movements associated with a range of rural and other activities is similar in nature to those associated with any clean fill activities subject to the proposed change. They are short term and include concentrations of heavy vehicle movements during seasonal operations, which is similar to the short term nature of fill operations.</p> <p>Gradual filling operations over longer periods of time can result in more random heavy vehicle movements often from when casually obtained fill is obtained. The random or infrequent nature of these movements means they are not easily discernible from the other occasional or less concentrated heavy vehicle movements associated with non-seasonal and year round farming and other activities.</p> <p>Fill operations are often an important part of farm management and development as are other activities that generate heavy vehicle movements. Rural areas are productive environments in which heavy vehicle movement should be expected.</p> <p>Fill can commonly occur on 1 or few rural properties in a rural neighbourhood at a time. When considered with regard to the total movements associated with farming activities along rural roads the effects may be expected to be indiscernible.</p> <p>This indicates with regard to rural areas, a wider community acceptance of heavy vehicle movement</p>	<p>If Council desires to provide control over effects on amenities from vehicle movements associated with fill activities, the alternative that is already in the District Plan is separation distances. Application of a minimum distance for access routes from sensitive activities such as dwellings would follow this already established model and address the effect of concern directly.</p>	<p>Accept in Part</p> <p>While it is acknowledged that filling and re-contouring can be an important part of legitimate rural and farming activities, Council's experience is that cleanfill activities are discernible from activities typically anticipated within the rural environment and have potential to generate significant adverse effects.</p> <p>Changes are recommended to reflect Option 5, which includes performance standards with separation distances from sensitive activities.</p>

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					due to recognition it is a productive area and includes activities generating heavy vehicle movements on a regular and seasonal basis. In regard to Future Urban and Rural Residential zones, such movements may be expected to be accepted as part of the development of these areas.					
				FS 37 [8]	13 [3]	Classic Developments NZ Ltd [Shrimpton And Lipinski Limited Partnership]	Support	If the plan change is to be granted, then the best control over effects on amenities from vehicle movements is to establish separation distances. These should be established under existing performance standards for cleanfill activities in part 4(c) of the District Plan.	That the submission be accepted in part if the plan change is to be granted and proximity-based provisions be adopted to retain clean fill activities as a permitted activity.	Accept in part As per reasons stated for Submission 8.3
				FS 38 [8]	13 [3]	Zariba Holdings [Shrimpton And Lipinski Limited Partnership]	Support	If the plan change is to be granted, then the best control over effects on amenities from vehicle movements is to establish separation distances. These should be established under existing performance standards for cleanfill activities in part 4(c) of the District Plan.	That the submission be accepted in part if the plan change is to be granted and proximity based provisions be adopted to retain clean fill activities as a permitted activity.	Accept in part As per reasons stated for Submission 8.3
				13	12	Horticulture New Zealand C/- Charlotte Drury	Support with Amendment	HortNZ agrees that impacts on the roading network will occur as a result of cleanfill activities but notes that the volume of material that it has been estimated that a truck can carry (5m ³ -10m ³), which has formed the basis of calculations used to estimate potential vehicle movements resulting from a cleanfill activity, does appear to be rather conservative. Potential impacts (in terms of number of truck movements) on the roading network may therefore not be as significant as indicated.	HortNZ supports Option 4 in the s32 Report as it would provide a more nuanced approach to managing the effects of cleanfills. HortNZ suggests that the further development and adoption of this option would enable effort (both time and cost) to be better targeted to circumstances where the potential impacts of cleanfills may be greater.	Accept Further investigation on likely volumes of materials suggests that the initial assumptions of 5m ³ -10m ³ of material per truck did not provide for truck and trailer units. With trailers added, information suggests trucks may carry up to 24m ³ of material. Changes are recommended to increase the permitted volume of cleanfill material from 1,000m ³ to 5,000m ³ , with additional performance standards (including separation distances) in line with Option 5 in the s32 Report.
				15	4	Matthews, Richard James	Support with Amendment	As it is acknowledged that the dumping traffic increases roading damage shouldn't there be a greater roading contribution from the dumping agent and the landowner, proportional to the proposed quantity of fill? The submitter asks how the neighbouring properties are going to have their concerns heard and addressed and how the roading costs being imposed are going to be addressed.	As it is acknowledged that the dumping traffic increases roading damage shouldn't there be a greater roading contribution from the dumping agent and the landowner, proportional to the proposed quantity of fill?	Accept in part The proposed plan change includes matters of discretion that provide for the taking of financial contributions for capacity consumption and pavement consumption (if required). In addition, the plan change also provides for the consideration of measures that an applicant may propose to mitigate adverse effects (such as on roading).
				FS 34 [15]	2 [4]	Federated Farmers of New Zealand (Inc) [Matthews, Richard James]	Support	FFNZ raised a similar point in our principle submission with regards to road damage being paid for by the exacerbator. For this reason, we support the submission to the extent that it seeks similar relief from the dumping agent but FFNZ does not believe the receiving landowner is an exacerbator and should not be targeted for financial contributions.	There should be a greater roading contribution from the dumping agent, proportional to the proposed quantity of fill.	Reject As per the reasons stated for Submission 19.4.
				24	5	Housing New Zealand Corporation	Oppose	In relation to the s32 assessment of the potential effects on the transport network, the proposed earthworks volume threshold of 1,000m ³ per year would result in approximately 200 - 400 truck movements per day (assuming a truck carries 5m ³ or 10m ³ of material), meaning only 1 to 2 two-way movements per day.	(a) That PC85 be declined; (b) If PC85 is not declined, that the proposed provisions of PC85 be deleted and/or amended to address the matter raised in this submission; and (c) Such further or other relief, or	Accept in Part It is acknowledged that when the volume of traffic is averaged over a full year (i.e. 365 days), the average daily number of traffic movements associated with 1,000m ³ is relatively low. However, it is

							Housing New Zealand notes that the s32 report contains no information to justify or clarify why such a low volume of truck movements per day would require management through the District Plan, or what level of potential effects on the road network could be caused by one or two truck movements per day to any given site.	other consequential or other amendments, as are considered appropriate and necessary to address the concerns set out herein.	understood that, in practice, there are often concentrated times for transporting material as the demand occurs at sites where the cleanfill originates. Council's Transportation Manager and Development Engineer have advised that concentrated volumes of heavy vehicle traffic, in particular, results in increased pavement and capacity consumption on the District's roads. Changes are recommended to increase the permitted volumes to 5,000m ³ (subject performance standards associated with separation distances and use of shared accessways) which would result in greater volumes of traffic before such effects are assessed through a resource consent process.
			FS 36 [24]	7 [5]	NZ Transport Agency [Housing New Zealand Corporation]	Oppose	Same Further submission point as FS 36.4	The Transport Agency seeks that PC85 be approved in its current form.	Accept in part As per the reasons stated for FS 36.4.
			FS 37 [24]	14 [5]	Classic Developments NZ Ltd [Housing New Zealand Corporation]	Support	The s.32 report contains no information to justify how low volumes of truck movements requirement management through the District Plan.	That the submission be accepted.	Accept in Part As per reasons stated for Submission 24.5
			FS 38 [24]	14 [5]	Zariba Holdings [Housing New Zealand Corporation]	Support	The s.32 report contains no information to justify how low volumes of truck movements requirement management through the District Plan.	That the submission be accepted.	As per reasons stated for Submission 24.5
4C.2.1 - Significant Issue	1	Significant Issue	9	2	J Swap Contractors Ltd C/- Richard Harkness	Support	Swaps supports the changes proposed which focus on amenity values, effects on transportation network and infrastructure, and on the safety of road users and vehicle accessways.	Adopt Significant Issue 4C.2.1 as proposed.	Accept For the reasons stated in the submission.
			12	1	Fulton Hogan Ltd C/- Tonkin and Taylor Limited	Support	Significant Issue 4C.2.1 clearly identifies the issues to be managed by the plan provisions.	Retain Significant Issue 4C.2.1 as notified.	Accept For the reasons stated in the submission.
			FS 35 [12]	6 [1]	J Swap Contractors Ltd [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	The submitter seeks that significant issue 4C.2.1 is adopted as proposed. The changes proposed focus on amenity values, effects on transportation network and infrastructure, and on the safety of road users and vehicle accessways.	J Swaps also seek that Significant Issue 4C.2.1 is adopted as proposed.	Accept
4C.2.2.2 - Objectives and Policies - Policy	1	4C.2.2.2.3 Policy	9	3	J Swap Contractors Ltd C/- Richard Harkness	Support with Amendment	Swaps 'supports in part' the changes proposed to 4C.2.2.2.3 Policy subject to adequately addressing reverse sensitivity for existing quarry sites (including identified sites and active extraction quarry sites).	Add the following words to proposed Policy 4C2.2.2.3: "... except where any proposed residential activities create reverse sensitivity issues for existing quarry sites." Or, alternatively amend Proposed Policy 4C2.2.2.3, as follows: "...amenity of existing residential activities and other established sensitive sites (when the plan became operative)."	Accept in part As per the reasons stated for Submission 9.1.

			FS 34 [9]	3 [3]	Federated Farmers of New Zealand (Inc) [J Swap Contractors Ltd C/- Richard Harkness]	Support	FFNZ supports the submitter for reasons outlined in their principle submission.	Add the following words to proposed Policy 4C2.2.2.3: "... except where any proposed residential activities create reverse sensitivity issues for existing quarry sites." Or, alternatively amend Proposed Policy 4C2.2.2.3, as follows: "...amenity of existing residential activities and other established sensitive sites (when the plan became operative)."	Accept in part As per reasons stated for Submission 9.1
			12	2	Fulton Hogan Ltd C/- Tonkin and Taylor Limited	Oppose	The word minimise introduces uncertainty into the policy. The common definition of 'minimise' is to reduce to the smallest possible amount or degree which is not always possible or even appropriate in an RMA context. A more directive policy linked to the relevant guidelines and standards for those effects to be managed would be appropriate. Minimisation of effects without a reference point provides limited guidance to consent applicants and decision makers as to what level of effect is acceptable.	Amend Policy 4C.2.2.2.3 to provide more specific guidance as to how effects are to be managed.	Accept in part The submitter has not provided a specific alternative to the wording of the proposed policy. As currently worded the policy is consistent with the way in which other policies in the Amenity section of the District Plan are expressed. However, a change has been made to refer to managing effects instead of minimising effects.
			FS 35 [12]	7 [2]	J Swap Contractors Ltd [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	The submitter seeks that policy 4C.2.2.2.3 is amended to provide more specific guidance as to how effects are to be managed.	J Swaps supports in part the amendments to Policy 4C.2.2.2.3. However, J Swaps also still requests that the policy adequately addresses reverse sensitivity for existing quarry sites (including identified sites and active extraction quarry sites).	Accept in part As per the reasons stated for Submission 12.2
			FS 34 [12]	4 [2]	Federated Farmers of New Zealand (Inc) [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	FFNZ supports the submitter for reasons outlined in their principle submission.	Amend Policy 4C.2.2.2.3 to provide more specific guidance as to how effects are to be managed.	As per the reasons stated for Submission 12.2
4C.2.3.1 - Activity Lists - Rural, Future Urban, Rural-Residential and Lifestyle Zones	1	4C.2.3.1(a) i) - (iii) Permitted Activities	8	1	Shrimpton And Lipinski Limited Partnership	Oppose	Rule 4C.2.3.1(a) should be aligned with the BOPRC Regional Natural Resource Plan rules for disturbance of land and soil to provide for a maximum of 5,000m3 in a 12-month period (for other than identified sensitive environments). Regional Council matters should be left for the Regional consenting regime as reference to them results in a duplication of processes with the potential for different and conflicting outcomes.	Align proposed Rule with BOPRC Regional Natural Resource Plan rules to allow a maximum of 5,000m3 cleanfill material in a 12 month period. Leave Regional Council matters to be considered under Regional Council consenting process to avoid duplication of processes.	Accept in part Alignment with Regional Council earthworks rule is recommended, however, additional performance standards (associated with separation distances and used of shared accessways) are recommended in line with Option 5 of the s32 Report. In addition, the proposed matters of discretion avoid duplication with Regional Council functions.
			FS 33 [8]	1 [1]	Horticulture New Zealand [Shrimpton And Lipinski Limited Partnership]	Support	HortNZ notes the request expressed by a number of submitters (for example Submitters 8, 12, 21, 25) in relation to Plan Change 85 - Cleanfill, for there to be consistency between the volume thresholds of the Bay of Plenty Natural Resources Plan, and the Western Bay of Plenty District Plan, and supports this request, which is effectively proposed Option 3, as set out in the Section 32 report for Plan Change 85. Creating consistency amongst planning frameworks where possible is positive for growers, (and all members of the community) as it reduces the risk of confusion, and	Supports aligning proposed Plan Change 85 with BOPRC Regional Natural Resource Plan rules to allow a maximum of 5,000m3 cleanfill material in a 12 month period.	Accept As per the reasons stated for Submission 8.1.

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					also potentially provides an opportunity for some cost savings for those people that do need to apply for resource consent from both authorities, if the trigger/threshold level is the same.		
FS 35 [8]	8 [1]	J Swap Contractors Ltd [Shrimpton And Lipinski Limited Partnership]	Oppose		The submitter seeks that Rule 4C.2.3.1(a) should be aligned with the BOPRC Regional Natural Resource Plan rules for disturbance of land and soil to provide for a maximum of 5,000m ³ in a 12-month period.	While J Swaps supports the intent of raising the threshold from 1000m ³ to 5000m ³ , J Swaps seek that quarry activities are exempt from PC 85, rather than the 1000m ³ volume limit being replaced with the 5000m ³ limit for consistency with the BOPRC's RNRP.	Accept in part As per reasons given for submission 8.1.
FS 36 [8]	8 [1]	NZ Transport Agency [Shrimpton And Lipinski Limited Partnership]	Oppose		Same Further submission point as FS 36.4	The Transport Agency seeks that PC85 be approved in its current form.	Complete
FS 37 [8]	15 [1]	Classic Developments NZ Ltd [Shrimpton And Lipinski Limited Partnership]	Support		Should the plan change proceed it should be aligned with Regional Plan provisions to avoid unnecessary duplication of process.	That the submission be accepted in part should the plan change be adopted.	Accept As per reasons given for submission 8.1
FS 38 [8]	15 [1]	Zariba Holdings [Shrimpton And Lipinski Limited Partnership]	Support		Should the plan change proceed it should be aligned with Regional Plan provisions to avoid unnecessary duplication of process.	That the submission be accepted in part should the plan change be adopted.	Accept As per reasons given for submission 8.1
9	4	J Swap Contractors Ltd C/- Richard Harkness	Oppose		Swaps opposes Proposed Rule 4C2.3.1(a)(i) which limits cleanfill to a limit of 1000m ³ within any 12-month period for sites in Rural, Future Urban, Rural-Residential and Lifestyle Zones. This should not include quarry activities which already have regional council consents for earthworks and land use consents or existing use rights.	Amend proposed Rule 4C2.3.1(a)(i) to exclude quarry activities, by adding the following wording: "...except for authorised quarry activities."	Accept in part As per the reasons stated for Submission 9.1. Alternative change recommended to address issue.
FS 34 [9]	5 [4]	Federated Farmers of New Zealand (Inc) [J Swap Contractors Ltd C/- Richard Harkness]	Support		FFNZ supports the submitter for reasons outlined in their principle submission.	Amend proposed Rule 4C2.3.1(a)(i) to exclude quarry activities, by adding the following wording: "...except for authorised quarry activities."	Accept in part As per reasons stated for Submissions 9.1 and 9.4.
9	5	J Swap Contractors Ltd C/- Richard Harkness	Support		Swaps supports proposed Rule 4C2.3.1(a)(ii) and (iii) which provides for cleanfill and organic waste originating on the same site for disposal.	Adopt Rule 4C.2.3.1(a)(ii) and (iii) as proposed.	Accept
12	3	Fulton Hogan Ltd C/- Tonkin and Taylor Limited	Support with Amendment		Under the BOPRC Regional Natural Resources Plan (RNRP) cleanfills that do not produce leachate are included under the definition of earthworks. Under RNRP rule LM R1, up to 5000 m ³ of earthworks can be undertaken within any 12-month period as a permitted activity if the earthworks are outside of sand dunes, ephemeral flow paths, the coastal margin and urban and riparian areas and are not on a slope >25 to 350. The proposed 1000 m ³ disposal limit within rule 4C.2.3.1(a) is therefore inconsistent with the RNRP. The s32 report outlines that the 1000 m ³ limit will result in approximately 200 to 400 truck movements per year (assuming each truck carries between 5 m ³	Increase the volume of cleanfill that is able to be disposed of as a permitted activity to 5000 m ³ per any month period to be consistent with the RNRP. The wording requested is as follows: Rule 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	Accept in part It is agreed that the traffic volumes estimated within the s32 report have not considered the potential for truck and trailer units (combined). For reasons requested by submitters, it is recommended to increase the maximum permitted cleanfill volume from 1,000m ³ to 5,000m ³ , with additional performance standards in line with Option 5.

					<p>and 10 m3). It is unclear whether this calculation is incorrect or if compaction onsite has been factored in. Regardless, the s32 report indicates that this level of vehicle generation is acceptable and achieves the policy outcomes sought.</p> <p>A typical haulage truck can cart up to 10 m3 of material (without a trailer). Therefore, the 5000 m3 limit may generate approximately 500 - 600 truck movements per year or less than 2.5 truck movements per day when operating either five days per week; or a potential increase of approximately 100 - 200 vehicles movements per year over the PC85 limit.</p> <p>Vehicle generation will either be temporary if cleanfilling is concentrated, or of very low intensity if spread over the 12 month permitted period. In either scenario, a 5000 m3 limit is consistent with the intent of proposed Policy 4C.2.2.2.3 to manage the effects associated with cleanfill operations to an acceptable level, while also providing an integrated planning approach with the RNRP.</p>	<p>following solid waste materials:</p> <ul style="list-style-type: none"> (i) Cleanfill material originating from off the disposal site where the total volume of material does not exceed 5,000 m3 within any 12 month period; (ii) Cleanfill material originating from the same site on which it is to be disposed; (iii) Organic waste (e.g. shelter trimmings, home composting) that originates from the site itself. 	<p>This will ensure greater consistency with Regional Council rules and greater efficiency for Applicants, while still ensuring an appropriate level of management for cleanfill activities with greater risk of causing adverse amenity effects.</p>
FS 32 [12]	4 [3]	Kainga Ora - Homes & Communities [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Oppose	<p>Kainga Ora opposes this submission point as it is contrary to the relief sought in Kainga Ora's primary submission, and the reasons for that relief. In any event, Kainga Ora considers that a generic 5000m3 cleanfill threshold is not appropriate.</p>	<p>Oppose introducing provisions 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.</p>	<p>Reject</p> <p>For the reasons stated in Submission 24.4</p>	
FS 33 [12]	18 [3]	Horticulture New Zealand [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	<p>HortNZ notes the request expressed by a number of submitters (for example Submitters 8, 12, 21, 25) in relation to Plan Change 85 - Cleanfill, for there to be consistency between the volume thresholds of the Bay of Plenty Natural Resources Plan, and the Western Bay of Plenty District Plan, and supports this request, which is effectively proposed Option 3, as set out in the Section 32 report for Plan Change 85. Creating consistency amongst planning frameworks where possible is positive for growers, (and all members of the community) as it reduces the risk of confusion, and also potentially provides an opportunity for some cost savings for those people that do need to apply for resource consent from both authorities, if the trigger/threshold level is the same.</p>	<p>Supports aligning proposed Plan Change 85 with BOPRC Regional Natural Resource Plan rules to allow a maximum of 5,000m3 cleanfill material in a 12 month period.</p>	<p>Accept in part</p> <p>For the reasons stated for Submission 12.3.</p>	
FS 34 [12]	6 [3]	Federated Farmers of New Zealand (Inc) [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	<p>FFNZ supports the submitter for reasons outlined in their principle submission.</p>	<p>Increase the volume of cleanfill that is able to be disposed of as a permitted activity to 5000 m3 per any month period to be consistent with the RNRP.</p>	<p>Accept in part</p> <p>For the reasons stated for Submission 12.3.</p>	
FS 35 [12]	9 [3]	J Swap Contractors Ltd [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Oppose	<p>While J Swaps supports the intent of raising the threshold from 1000m3 to 5000m3, J Swaps seek that quarry activities are exempt from PC 85, rather than the 1000m3 volume limit being replaced with the 5000m3 limit for consistency with the BOPRC's RNRP.</p>	<p>J Swaps seek that quarry activities are to be exempt from PC 85.</p>	<p>Accept in part</p> <p>For the reasons stated for Submission 12.3.</p>	
FS 36 [12]	9 [3]	NZ Transport Agency [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Oppose	<p>Same Further submission point as FS 36.4</p>	<p>The Transport Agency seeks that PC85 be approved in its current form.</p>	<p>Accept in part</p> <p>As per the reasons stated for FS 36.4</p>	

			FS 37 [12]	16 [3]	Classic Developments NZ Ltd [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	Should the plan change proceed it should be aligned with Regional Plan provisions to avoid unnecessary duplication of process.	That the submission be accepted in part should the plan change be adopted.	Accept in part For the reasons stated for Submission 12.3.
			FS 38 [12]	16 [3]	Zariba Holdings [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	Should the plan change proceed it should be aligned with Regional Plan provisions to avoid unnecessary duplication of process.	That the submission be accepted in part should the plan change be adopted.	Accept in part For the reasons stated for Submission 12.3.
			25	1	The Aggregate and Quarry Association of New Zealand	Oppose	The District Plan definition of "quarrying" currently includes clean filling meaning that any consent application for a quarry which plans to accept clean fill as part of its operation would normally cover off clean filling and no limit in terms of volume accepted is specified by the Plan. Reliance is placed on the BOPRC Regional Water & Land Plan provisions instead. We note that the proposed threshold of 1000m3/year cleanfill proposed under PC85 is much lower than the 5000m3 of earthworks that is permitted under the BOPRC Natural Resources Plan and considers the 1000m3 threshold is too restrictive and that the volume of cleanfill that is able to be disposed of as a permitted activity should be left at 5000m3 per any 12 month period.	That the 1000 m3 volume limit should not be introduced and the existing 5000m3 limit, as allowed under the Bay of Plenty Regional Natural Resources Plan, should apply.	Accept in part As per reasons stated for Submission 12.3
			FS 33 [25]	20 [1]	Horticulture New Zealand [The Aggregate and Quarry Association of New Zealand]	Support	HortNZ notes the request expressed by a number of submitters (for example Submitters 8, 12, 21, 25) in relation to Plan Change 85 - Cleanfill, for there to be consistency between the volume thresholds of the Bay of Plenty Natural Resources Plan, and the Western Bay of Plenty District Plan, and supports this request, which is effectively proposed Option 3, as set out in the Section 32 report for Plan Change 85. Creating consistency amongst planning frameworks where possible is positive for growers, (and all members of the community) as it reduces the risk of confusion, and also potentially provides an opportunity for some cost savings for those people that do need to apply for resource consent from both authorities, if the trigger/threshold level is the same.	Supports aligning proposed Plan Change 85 with BOPRC Regional Natural Resource Plan rules to allow a maximum of 5,000m3 cleanfill material in a 12 month period.	Accept in part As per reasons stated for Submission 12.3
			FS 35 [25]	10 [1]	J Swap Contractors Ltd [The Aggregate and Quarry Association of New Zealand]	Support	The submitter seeks that the 1000 m3 volume limit should not be introduced and the existing 5000m3 limit, as allowed under the Bay of Plenty Regional Natural Resources Plan should apply.	While J Swaps supports the intent of raising the threshold from 1000m3 to 5000m3, J Swaps seek that quarry activities are exempt from PC 85, rather than the 1000m3 volume limit being replaced with the 5000m3 limit for consistency with the BOPRC's RNRP.	Accept in part As per reasons stated for Submissions 9.1 and 25.1.
			FS 36 [25]	11 [1]	NZ Transport Agency [The Aggregate and Quarry Association of New Zealand]	Oppose	Same Further submission point as FS 36.4	The Transport Agency seeks that PC85 be approved in its current form.	Accept in part As per the reasons stated for FS 36.4
4C.2.3.1 - Activity Lists - Rural, Future Urban,	2	4C.2.3.1(b) - Restricted	9	6	J Swap Contractors Ltd C/- Richard Harkness	Oppose	Opposes proposed Rule 4C.2.3.1(b) Restricted Discretionary Activities	Amend proposed Rule 4C.2.3.1(b)(i) Restricted Discretionary Activities to exclude	Accept in part

Summary of Original Submissions & Further Submissions with Recommendations (ATTACHMENT 2)

Rural-Residential and Lifestyle Zones		Discretionary Activities						quarry activities, by adding the following wording: "...except for authorised quarry activities."	As per the reasons stated for Submission 9.1.
			FS 34 [9]	7 [6]	Federated Farmers of New Zealand (Inc) [J Swap Contractors Ltd C/- Richard Harkness]	Support	FFNZ supports the submitter for reasons outlined in their principle submission.	Amend proposed Rule 4C.2.3.1(b)(i) Restricted Discretionary Activities to exclude quarry activities, by adding the following wording: "...except for authorised quarry activities."	Accept in part As per the reasons stated for Submission 9.1
			12	4	Fulton Hogan Ltd C/- Tonkin and Taylor Limited	Support with Amendment	Fulton Hogan supports the restricted discretionary activity status. However, as discussed in relation to Rule 4C.2.3.1, the 1000 m3 limit should be raised to 5000 m3 to be consistent with the RNRP.	Increase the volume of cleanfill that triggers the restricted discretionary activity status to 5000 m3 within any 12-month period. The wording requested is as follows: Rule 4C.2.3.1 Rural, Future Urban, Rural-Residential and Lifestyle Zones (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 5,000 m3 within any 12 month period.	Accept As per the reasons stated for Submission 12.3.
			FS 32 [12]	5 [4]	Kainga Ora - Homes & Communities [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Oppose	Kainga Ora opposes this submission point as it is contrary to the relief sought in Kainga Ora's primary submission, and the reasons for that relief. In any event, Kainga Ora considers that a generic 5000m3 cleanfill threshold is not appropriate.	Oppose introducing provisions 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.	Reject
			FS 34 [12]	8 [4]	Federated Farmers of New Zealand (Inc) [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	FFNZ agrees the limit threshold should be increased to be consistent with the Regional Plan.	Increase the volume of cleanfill that triggers the restricted discretionary activity status to 5000 m3 within any 12 month period.	Accept in part As per the reasons stated for Submission 12.3.
			FS 35 [12]	11 [4]	J Swap Contractors Ltd [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	The submitter seeks that the volume of cleanfill that triggers the restricted discretionary activity status is increased to 5000 m3 within any 12- month period.	While J Swaps supports the intent of raising the threshold from 1000m3 to 5000m3, J Swaps seek that quarry activities are exempt from PC 85, rather than the 1000m3 volume limit being replaced with the 5000m3 limit for consistency with the BOPRC's RNRP.	Accept in part As per reasons stated for Submissions 9.1 and 25. 1.
			FS 36 [12]	10 [4]	NZ Transport Agency [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Oppose	Same Further submission point as FS 36.4	The Transport Agency seeks that PC85 be approved in its current form.	Accept in part As per the reasons stated for FS 36.4
			4C.2.3.1 - Activity Lists - Rural, Future Urban, Rural-Residential and Lifestyle Zones	3	4C.2.3.1(c) - Discretionary Activities	9	7	J Swap Contractors Ltd C/- Richard Harkness	Oppose

Summary of Original Submissions & Further Submissions with Recommendations (ATTACHMENT 2)

4C.2.3.1 - Activity Lists - Rural, Future Urban, Rural-Residential and Lifestyle Zones	4	4C.2.3.1 - Explanatory Notes	8	4	Shrimpton And Lipinski Limited Partnership	Oppose	Movements associated with fill in other zones such as Rural Residential and Future Urban referred to in the proposed rule are concerned with construction of the urban or Rural Residential environments. These are recognised and short term construction activities common to development of these areas. They often result from the subdivision process in which effects from vehicle movement can be considered. Restriction on the number of movements, if not provided for in subdivision consents, which would be expected, will result in the rate of development being slowed considerably and thus dispersal of any effects over a longer time frame and thus causing a greater effect on amenities. In regard to Future Urban and Rural Residential zones, such movements may be expected as part of the development of these areas.	No specific relief sought.	Accept in part While it is acknowledged that filling within the Rural Residential and Future Urban Zones may be undertaken in association with urban or rural-residential development, management of environmental effects is a relevant matter and Council's experience is that many cleanfill activities are occurring over an extended period with unacceptable adverse effects as a consequence.
			17	6	Bay of Plenty Regional Council	Support with Amendment	BOPRC support the proposed Explanatory Note in the draft rule that directs Plan users to the Regional Natural Resources Plan but notes this needs to be updated to refer instead to the Regional Natural Resources Plan.	Retain and amend proposed Explanatory Note 4C.2.3.1(iii) to read: 'Disposal of all solid waste on private land (including cleanfill) is subject to the provisions of the Regional Natural Resources Plan.'	Accept Updating reference to the Regional Natural Resources Plan reflects the new and correct name of the relevant Regional Plan.
			FS 37 [17]	17 [6]	Classic Developments NZ Ltd [Bay of Plenty Regional Council]	Oppose	The explanatory statement does not need to repeat matters in the natural resources plan as this results in unnecessary provisions which duplicate existing plan provisions elsewhere.	That the submission be rejected.	Reject The explanatory note to Rule 4C.2.3.1 is currently included within the District Plan to provide guidance for plan users to check Regional Council requirements. It does not repeat or duplicate rules in the Regional Plan and inclusion of the updated plan name is considered appropriate.
			FS 38 [17]	17 [6]	Zariba Holdings [Bay of Plenty Regional Council]	Oppose	The explanatory statement does not need to repeat matters in the natural resources plan as this results in unnecessary provisions which duplicate existing plan provisions elsewhere.	That the submission be rejected.	Reject The explanatory note to Rule 4C.2.3.1 is currently included within the District Plan to provide guidance for plan users to check Regional Council requirements. It does not repeat or duplicate rules in the Regional Plan and inclusion of the updated plan name is considered appropriate.
4C.2.3.2 - Activity Lists - All Other Zones	1	4C.2.3.2(a) - Permitted Activities	12	5	Fulton Hogan Ltd C/- Tonkin and Taylor Limited	Support	Fulton Hogan suggest that the disposal of cleanfill material within urban zones as a permitted activity is considered appropriate. These urban zones typically have suitable transport infrastructure such that they can cater to the vehicle movements associated with a cleanfill. Additionally, a cleanfill within these zones will remain subject to the noise and vibration rules within the plan. Therefore, these effects will continue to be managed under the existing provisions and do not require further control.	Retain Rule 4C.2.3.2 as notified.	Accept Rule 4C.2.3.2(a) as currently drafted is a consequential change and reflects existing rule requirements for the non-rural zones.
4C.2.3.2 - Activity Lists - All Other Zones	3	4C.2.3.2 - Explanatory Notes	12	6	Fulton Hogan Ltd C/- Tonkin and Taylor Limited	Oppose	Fulton Hogan suggests that the explanatory note is not considered necessary for the "All other Zones" rules within section 4C.2.3.2 as there is no mention of volume in rules 4C.2.3.2 (a) and (b) that would need to be calculated to determine the activity status.	Remove Rule 4C.2.3.2 Explanatory Note (ii) as outlined below: "(ii) The volume of cleanfill material is to be calculated as a solid measure compacted in place at the disposal site."	Accept For the reasons stated in Submission 12.6

Summary of Original Submissions & Further Submissions with Recommendations (ATTACHMENT 2)

4C.2.4.1 - Activity Performance Standards - General	1	4C.2.4.1(d) - Processing of Cleanfill Material Sourced Off Site	9	10	J Swap Contractors Ltd C/- Richard Harkness	Support with Amendment	Clarification is sought on the use of the term, 'processing' within the Plan Change.	The submitter seeks clarification of the use of term "processing".	Accept As per the reasons stated for Submission 12.7 (below)
			FS 34 [9]	9 [10]	Federated Farmers of New Zealand (Inc) [J Swap Contractors Ltd C/- Richard Harkness]	Support	FFNZ agrees that a better understanding of what is meant by the term 'processing' would be useful for plan users.	Clarification of the term 'processing' is sought in reference to 4C.2.4.1(d) - Processing of Cleanfill Material Sourced Off Site.	Accept As per the reasons stated for Submission 12.7 (below)
			9	9	J Swap Contractors Ltd C/- Richard Harkness	Oppose	Swaps Opposes proposed Rule 4C2.4.1(d) which requires all cleanfill material sourced from off-site to be ready for disposal without further processing.	Delete Rule 4C.2.4.1(d) as proposed in PC85, unless quarry sites are exempt.	Accept Changes are recommended to clarify that Rules 4C.2.3.1 and 4C.2.3.2 do not relate to quarries as such activities are controlled through the relevant zone rules (as discretionary or non-complying activities).
			12	7	Fulton Hogan Ltd C/- Tonkin and Taylor Limited	Oppose	Fulton Hogan submits that it is uncertain what activities the terms 'dismantling' or 'processing' may preclude. Some processing of cleanfill material at the cleanfill site, such as sorting may be required in order to achieve site specific fill requirements. As currently worded, activity standard 4C.2.4.1(d) is not clear as to whether this activity would be precluded. The implications are that clean filling that requires some sorting or other minor processing may become non-compliant with this permitted activity rule immediately, and require a resource consent as a Restricted Discretionary activity.	Amend 4C.2.4.1(d) Activity Performance Standards - General to read as follows: "(d) Processing of Clean fill Material Sourced Off Site. All clean fill material sourced from off the site shall be ready for disposal without the need for mechanical crushing and screening occurring onsite prior to disposal."	Accept For the reasons stated in Submission 12.7
			FS 34 [12]	10 [7]	Federated Farmers of New Zealand (Inc) [Fulton Hogan Ltd C/- Tonkin and Taylor Limited]	Support	FFNZ agrees that a better understanding of what is meant by the term 'processing' would be useful for plan users.	Clarification of the term 'processing' is sought in reference to 4C.2.4.1(d) - Processing of Cleanfill Material Sourced Off Site.	Accept For the reasons stated in Submission 12.7
4C.2.5.1 - Matters of Discretion - Restricted Discretionary Activities	1	4C.2.5.1(a) - (g)	9	11	J Swap Contractors Ltd C/- Richard Harkness	Support	Swaps supports proposed Rule 4C.2.5.1(a) - (g) for Restricted Discretionary Activities; and also as a guide for Discretionary Activities.	Adopt 4C.2.5.1(a) - (g) as proposed in PC85.	Accept in part The matters of discretion as notified are generally considered appropriate, subject to minor changes recommended in response to the submissions and further submissions.
			FS 34 [9]	11 [11]	Federated Farmers of New Zealand (Inc) [J Swap Contractors Ltd C/- Richard Harkness]	Support	Support is extended to the matters of discretion as proposed	Adopt 4C.2.5.1(a) - (g) as proposed in PC85.	Accept in part As per the reasons for Submission 9.11

Summary of Original Submissions & Further Submissions with Recommendations (ATTACHMENT 2)

			12	8	Fulton Hogan Ltd C/- Tonkin and Taylor Limited	Oppose	<p>The submitter suggests that point (e) of provision 4C.2.5.1 Matters of Discretion - Discretionary Activities (which includes the views of the NZ Transport Agency as a matter of discretion) is not an effect that can be addressed or assessed by an applicant or decision maker.</p> <p>The matters of discretion should refer to the effects of an activity on the State Highway, which an applicant can avoid, remedy and mitigate, rather the NZ Transport Agencies views. The views of an outside third party should be considered after an effects assessment has been completed and through s.95 notification decisions as provided for under the RMA 1991.</p>	<p>Reword provision 4C.2.5.1(e) as follows:</p> <p>(e) Effects on the State Highway network.</p>	<p>Accept in part</p> <p>For the reasons stated in Submission 12.8, it is considered that it is the effects on the State Highway that are relevant. It is also acknowledged, however, that in many instances the views of NZTA will need to be obtained to determine and assess such effects.</p> <p>It is recommended that the matter of discretion be extended to include reference to effects on the State Highway network, and that the existing wording also be retained. In this regard, it is acknowledged that in many cases the views of NZTA will be required to determine effects, and consultation with the Agency is also encouraged to ensure effects are managed appropriately.</p>
			15	8	Matthews, Richard James	Unknown	<p>Matters of Discretion 4C.2.5.1 is unclear about its application for 1,000m3 per year or BOPRC consent. If WBOPDC apply it to all dumping, then it could conflict with BOPRC consent. If it doesn't then major dumpsites will have less protection than smaller sites.</p>	<p>No specific relief sought.</p>	<p>Reject</p> <p>Proposed Plan Change 85 would mean that there are additional controls for cleanfill sites and that amenity and transportation related matters are controlled through the District Plan. Each Council is responsible for managing different effects under the RMA.</p>



*Western Bay of Plenty
District Council*

Change to the District Plan - First Review

Plan Change 85

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

Section 32 Report



1.0 Introduction

1.1. General Introduction and Background

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

2.0 Resource Management Act 1991

2.1. Section 32 – Requirements for Preparing Evaluation Reports

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

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

- (b) *the objectives of the existing proposal to the extent that those objectives—*
- (i) are relevant to the objectives of the amending proposal; and*
 - (ii) would remain if the amending proposal were to take effect.*
- (4) *If the proposal will impose a greater prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.*
- (4A) *If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—*
- (a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and*
 - (b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.*

2.2. Section 74 – Iwi Management Plans

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

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

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

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

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

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

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

Clause 3 of Schedule 1 - Consultation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.1. Introduction

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

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

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

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

3.2. District and Regional Council Functions & Rules

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

3.2.1. Regional Council

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

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

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

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

On a typical and relatively flat site, resource consent is only required from the Regional Council for earthworks where the exposed area exceeds one hectare and the volume of material is greater than 5,000m³ (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	<ul style="list-style-type: none"> N/A – Sufficient information is available.

uncertain or insufficient information about the subject matter	
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3.5. Option 2 – Introduce District Plan provisions (including policies, rules and assessment criteria) to require resource consent for cleanfill activities involving the deposition of more than 1,000m³ 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

	<p>potential to result in adverse effects associated 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"> ▪ Effective because the rule and associated provisions would address the identified issue being that the amenity and transportation related effects associated with cleanfill activities are not adequately managed through the current rules. ▪ The introduction of a rule and associated provisions is considered to be the most efficient method for addressing the issues that have been identified.
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.

3.6. 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.

Costs	<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.
Benefits	<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

	<p>effects of cleanfill activities undertaken in rural areas, where there is potential to result in adverse effects on the amenity of surrounding properties.</p> <ul style="list-style-type: none"> ▪ 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"> ▪ 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.

	<ul style="list-style-type: none"> ▪ 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 guide, however, other separation distances may be considered more appropriate in the context of the rural environment and having regard to the issues that have been raised by the community in the past. Other options could be:

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

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

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

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/	<ul style="list-style-type: none"> ▪ Partially effective in addressing the identified issue that

Efficiency	<p>cleanfill activities are causing amenity related issues in rural areas.</p> <ul style="list-style-type: none"> ▪ Partially effective in addressing the issue that cleanfill activities can result in adverse effects on the transportation network, including as a result of traffic generation, safety, and wear and tear on the roading network. ▪ 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

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

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

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

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

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

ATTACHMENT A

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*

ATTACHMENT A

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.

ATTACHMENT A**4C.2.5 Matters of Discretion****4C.2.5.1 Restricted Discretionary Activities Criteria**

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

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

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

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