



TAURANGA CITY COUNCIL

OPERATIVE CITY PLAN

Plan Change – 30 Earthworks

Annotated Text Content

Notification November 2020

Annotated Text Content – Plan Change 30 to the Tauranga City Plan

Earthworks

Guide to understanding the changes

The Proposed Plan Changes have been merged into the Operative Tauranga City Plan and are identified with a yellow background with the Plan Change number and legal status also shown.

Where changes to the content of the City Plan are proposed these are highlighted grey and shown as either a ~~strike out~~ for deleted text or underlined for additional text.

e.g.

4C.3.2 - Restricted Discretionary Activity – Matters of Discretion and Conditions

The *Council* restricts the exercise of its discretion to the following matters:

4C.3.2.1 For Earthworks in all Zones

- a) In considering activities that do not comply with *Rule 4C.2.2(b) – All Zones the Council* restricts the exercise of its discretion to how the proposed methods of erosion and sediment control will meet the intended purpose of Appendix 4N – Erosion and Sediment Control Measures.

Proposed Amendment

4C.3.2 - Restricted Discretionary Activity – Matters of Discretion and Conditions

The *Council* restricts the exercise of its discretion to the following matters:

4C.3.2.1 For Earthworks in all Zones

- a) In considering activities that do not comply with *Rule 4C.2.2(b) – All Zones the Council* restricts the exercise of its discretion to how the proposed methods of erosion and sediment control will ~~meet the intended purpose of Appendix 4N – Erosion and Sediment Control Measures;~~ ensure that sediment is controlled and kept on site to minimise sediment runoff, particularly into the *Council's* stormwater systems.

Plan Change 30 – No legal effect

The following are the Proposed Changes to the Operative Tauranga City Plan text for public notification under Plan Change 30 – Earthworks.

The text for public notification under Plan Change 27 – Flooding from intense rainfall is amalgamated with the text for Plan Change 30 where they overlap rules. As the provisions within Plan Change 27 relate to water, these have Legal Effect on notification, pursuant to section 86B(3) of the Resource Management Act 1991.

Chapter 3 - Definitions

Delete existing definition for *approved earthworks* as follows:

approved earthworks

Means:

- a) Earthworks that have resource consent under the Bay of Plenty Regional Council Regional Water and Land Plan;
- b) Earthworks in accordance with the conditions of any subdivision consent granted by the Council;
- c) Granted in accordance with the conditions of any land-use consent imposed by the Council.
- d) Earthworks having a permitted activity status under the Plan.

Proposed Amendment

~~*approved earthworks*~~

Means:

- ~~a) Earthworks that have resource consent under the Bay of Plenty Regional Council Regional Water and Land Plan;~~
- ~~b) Earthworks in accordance with the conditions of any subdivision consent granted by the Council;~~
- ~~c) Granted in accordance with the conditions of any land-use consent imposed by the Council.~~
- ~~d) Earthworks having a permitted activity status under the Plan.~~

Plan Change 30 – No Legal effect

Chapter 4 – Section 4C Earthworks

Amend Rule 4C.2.1 as follows:

4C.2.1 Exemptions to the Permitted Activity Rules

- a) The following *activities* are permitted and exempt from *Rule 4C.2.2 – All Zones* through *Rule 4C.2.9 – High Voltage Transmission Plan Area*:
 - i) *Earthworks* consented as part of an approved *subdivision*;
 - ii) *Earthworks* in the *Road Zone*;
 - iii) *Earthworks* associated with the maintenance, renewal and *minor upgrading (in relation to electric lines)* of *network utilities* listed in *Chapter 10 – Network Utilities and Designations* subject to *Rule 10A.5.9 – Establishment, Maintenance or Demolition of a Network Utility*;
 - iv) *Earthworks* associated with the construction of *stormwater reserves*.
 - v) *Earthworks* for domestic gardening;
 - vi) *Earthworks* for grave digging;
 - vii) *Earthworks* for archaeological investigations authorized by Heritage New Zealand, subject to the written approval of Transpower being clearly endorsed on all relevant investigation site plans where those investigations occur within the High Voltage Transmission Plan Area identified on the *Plan Maps, Part B*.

Proposed Amendment

- a) The following *activities* are permitted and exempt from *Rule 4C.2.2 – All Zones* through *Rule ~~4C.2.9 – High Voltage Transmission Plan Area~~ 4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas*:

Plan Change 27 – Legal effect

Proposed Amendment

- i) *Earthworks* consented as part of an ~~approved *subdivision*~~ *subdivision* consent approved by Council where the scope and extent of *earthworks* has been specifically described in the application in accordance with *Rule 12B.3.1.5 – Earthworks*; *Rule 12C.3.1.3 -*

Earthworks, Rule 12D.3.1.2 – Earthworks; or Rule 12E.3.1.4 - Earthworks;

- ii) *Earthworks* in the *Road Zone*;
- iii) *Earthworks* associated with the maintenance, renewal and *minor upgrading (in relation to electric lines)* of *network utilities* listed in *Chapter 10 – Network Utilities and Designations* subject to *Rule 10A.5.9 – Establishment, Maintenance or Demolition of a Network Utility*;
- iv) *Earthworks* associated with the construction of *stormwater reserves*.
- v) *Earthworks* for domestic gardening;
- vi) *Earthworks* for grave digging;
- vii) *Earthworks* for archaeological investigations authorized by Heritage New Zealand, subject to the written approval of Transpower being clearly endorsed on all relevant investigation *site* plans where those investigations occur within the High Voltage Transmission Plan Area identified on the *Plan Maps, Part B*.

Plan Change 30 – No legal effect

Amend Rule 4C.2.2 as follows:

4C.2.2 All Zones

In addition to *Rule 4C.2.3 – Tauriko Business Estate* through to *Rule 4C.2.9 – High Voltage Transmission Plan Area*, *earthworks* are a Permitted Activity providing:

- a) They are ancillary to an *activity* that is listed as a Permitted, Controlled or Restricted Discretionary Activity within that zone;
- b) They use a combination of erosion and sediment control measures that are consistent with *Appendix 4N: Erosion and Sediment Control Measures* where *earthworks* on a *site* expose more than 100m² of area. For the avoidance of doubt this rule shall not apply to *approved earthworks* or *earthworks* ancillary to *primary production*.
- c) Any single cut on a *site* 1.5 metres in *height* or higher (either as a single cut or combination of cuts) where the angle of cut is 45° or greater is retained either before *construction* of any *building* foundations or retained no later than 3 months after that cut being created. This rule shall not apply to *earthworks* in the Rural Zone unless those *earthworks* are associated with *construction* of a *building*;
- d) They do not take place within the *drip-line* of a *Notable Tree* or *Heritage Tree*;
- e) They do not take place on any *site* that includes *potentially contaminated land*, unless:
 - i) A consent for remediation has been obtained from the Bay of Plenty Regional Council;
 - ii) A *site* investigation report prepared by a suitably qualified contaminated *site* investigator is submitted to the Council in accordance with Ministry for the Environment Guideline No.1 – Reporting on Contaminated Sites in New Zealand demonstrating that either the *site* does not have *potentially contaminated land* or the *potentially contaminated land* is separated from the *earthworks* by a safe distance (determined by the substance causing soil contamination);
 - iii) Consent has been obtained pursuant to *Rule 9B.3 – Restricted Discretionary Rules*;
 - iv) The provisions of *Rule 9B.2.1 – Applicability to Subdivision and Land Use* apply;
- f) They are associated with sub-surface investigations of contaminated and *potentially contaminated land* to determine the presence, extent and nature of any contamination. This work shall be coordinated by a suitably qualified contaminated *site* investigator.

Proposed Amendment

4C.2.2 All Zones

In addition to *Rule 4C.2.3 – Tauriko Business Estate* through to *Rule 4C.2.9 – High Voltage Transmission Plan Area* ~~4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas~~, earthworks are a Permitted Activity providing:

Plan Change 27 – Legal effect

Proposed Amendment

- a) ~~They are ancillary to and carried out at the same time as physical works required to establish an activity that is listed as a Permitted –Controlled or Restricted Discretionary– Activity within that zone;~~
- b) ~~They use a combination of erosion and sediment control measures that are consistent with Appendix 4N: Erosion and Sediment Control Measures where the earthworks on a site expose more than 100m² of area. For the avoidance of doubt this rule shall not apply to approved earthworks or earthworks ancillary to primary production.~~
- b) Any earthworks, exposing more than 100m² of area shall apply, as a minimum, the following erosion and sediment control measures (where applicable) to keep sediment on the site:
 - i) A single access constructed to prevent vehicle tracking of material off the site;
 - ii) A perimeter silt fence or other barrier;
 - iii) Material stockpiles placed upslope of the silt fence or other barrier and covered when not in use;
 - iv) Temporary or permanent downpipes connected to the stormwater system;
 - v) Surface water diverted away from, or prevented from, running over bare soil; and
 - vi) Sediment-laden water from the works area channelled to a retention area on the site.

Rule 4C.2.2 b) shall not apply to earthworks that: have resource consent under the Bay of Plenty Regional Council Regional Natural Resources Plan or are ancillary to primary production;

Note: Council's Sediment and Erosion Control Guideline provides guidance and examples of sediment and erosion control measures/materials for different site circumstances to assist the selection of the best practice measures for erosion and sediment control.

Note: The Bay of Plenty Regional Council also has Erosion and Sediment Control Guidelines for Land Disturbing Activities which applies to activities/consents under the Bay of Plenty Regional Council Regional Natural Resources Plan.

- c) Any single cut on a site 1.5 metres in height or higher (either as a single cut or combination of cuts) where the angle of cut is 45° or greater is retained either before construction of any building foundations or retained no later than 3 months after that cut being created. This rule shall not apply to earthworks in the Rural Zone unless those earthworks are associated with construction of a building;
- d) They do not take place within the drip-line of a Notable Tree or Heritage Tree;
- e) They do not take place on any site that includes potentially contaminated land, unless:
 - i) A consent for remediation has been obtained from the Bay of Plenty Regional Council;
 - ii) A site investigation report prepared by a suitably qualified contaminated site investigator is submitted to the Council in accordance with Ministry for the Environment Guideline No.1 – Reporting on Contaminated Sites in New Zealand demonstrating that either the site does not have potentially contaminated land or the potentially contaminated land is separated from the earthworks by a safe distance (determined by the substance causing soil contamination);
 - iii) Consent has been obtained pursuant to Rule 9B.3 – Restricted Discretionary Rules;
 - iv) The provisions of Rule 9B.2.1 – Applicability to Subdivision and Land Use apply; and
- f) They are associated with sub-surface investigations of contaminated and potentially contaminated land to determine the presence, extent and nature of any contamination. This work shall be coordinated by a suitably qualified contaminated site investigator.

Plan Change 30 – No legal effect

Amend Matters of Discretion and Conditions, Rule 4C.3.2.1 as follows:

4C.3.2.1 For Earthworks in all Zones

- a) In considering *activities* that do not comply with *Rule 4C.2.2(b) – All Zones* the *Council* restricts the exercise of its discretion to how the proposed methods of erosion and sediment control will meet the intended purpose of *Appendix 4N – Erosion and Sediment Control Measures*.
- b) In considering *activities* that do not comply with *Rule 4C.2.2 c) – All Zones* the *Council* restricts the exercise of its discretion to considering the degree of slope and the risk of instability taking into account the volume of *earthworks* and any appropriate alternative methods of retention.

Proposed Amendment

4C.3.2.1 For Earthworks in all Zones

- a) In considering *activities* that do not comply with *Rule 4C.2.2(b) – All Zones* the *Council* restricts the exercise of its discretion to how the proposed methods of erosion and sediment control will ~~meet the intended purpose of Appendix 4N – Erosion and Sediment Control Measures;~~ ensure that sediment is controlled and kept on site to minimise sediment runoff, particularly into the Council's stormwater systems.
- b) In considering *activities* that do not comply with *Rule 4C.2.2 c) – All Zones* the *Council* restricts the exercise of its discretion to considering the degree of slope and the risk of instability on the site and to adjoining sites taking into account the volume of *earthworks* and any appropriate alternative methods of retention.

Plan Change 30 – No legal effect

Chapter 12 – Subdivision, Services and Infrastructure

Amend Rule 12B.3.1.5 as follows:

12B.3.1.5 Earthworks

The extent of all *earthworks* proposed as part of the *subdivision* shall be shown including, but not limited to:

- a) Areas of cut and fill;
- b) Existing and proposed finished *ground levels*;
- c) Location of *building platforms* where there is potential risk to a proposed allotment from inundation or instability.

Proposed Amendment

~~The extent of all earthworks proposed as part of the subdivision shall be shown including, but not limited to~~ Any application for subdivision consent must include:

- a) A description of the scope and extent of all earthworks including, but not limited to:
 - ~~a)~~ i) Areas of cut and fill;
 - ~~b)~~ ii) Existing and proposed finished *ground levels*;
 - ~~c)~~ iii) Location of *building platforms* where there is potential risk to a proposed allotment from inundation or instability.
- b) An assessment of the potential risk to the site and to adjoining sites from inundation or instability as a result of earthworks.

Plan Change 30 – No legal effect

Amend, Rule 12B.3.2.1 as follows:

12B.3.2.1 Topography and Landform

- a) The maintenance of the natural landform and retention of existing natural features that could act as landmarks and assist in providing legibility within the *subdivision*.
- b) The extent of proposed *earthworks* including, but not limited to:
 - i) Change in levels resulting from excavation and fill;
 - ii) Any modification of drainage patterns;
 - iii) The consistency between proposed finished *ground levels* and *ground levels* on adjoining *sites*;
 - iv) The location, design and suitability of *building platforms* for their intended use;
- c) Geotechnical, natural or man-made hazards on the *site*.

Proposed Amendment

12B.3.2.1 Topography and Landform

- a) The maintenance of the natural landform and retention of existing natural features that could act as landmarks and assist in providing legibility within the *subdivision*.
- b) The extent of proposed *earthworks* including, but not limited to:
 - i) Change in levels resulting from excavation and fill;
 - ii) Any modification of drainage patterns;
 - iii) The consistency between proposed finished *ground levels* and *ground levels* on adjoining *sites*;
 - iv) The location, design and suitability of *building platforms* for their intended use;
 - v) The location, design and suitability of retaining;
 - vi) Instability and inundation effects on adjoining *sites* as a result of *earthworks*.
- c) Geotechnical, natural or man-made hazards on the *site*.
- d) Sediment and erosion control measures to keep sediment on the *site* to minimise sediment runoff, particularly into *Council's* stormwater systems.

Plan Change 30 – No legal effect

Amend Rule 12C.3.1.3 as follows:

12C.3.1.3 Earthworks

The extent of all *earthworks* proposed as part of the subdivision shall be shown including, but not limited to:

- a) Areas of cut and fill;
- b) Existing and finished *ground levels*;
- c) Location of *building platforms*.

Proposed Amendment

12C.3.1.3 Earthworks

~~The extent of all *earthworks* proposed as part of the subdivision shall be shown including, but not limited to~~
Any application for *subdivision* consent must include:

- a) A description of the scope and extent of all *earthworks* including, but not limited to:
 - ~~a~~i) Areas of cut and fill;
 - ~~b~~ii) Existing and proposed finished *ground levels*;

eiii) Location of *building platforms* where there is potential risk to a proposed allotment from inundation or instability.

b) An assessment of the potential risk to the *site* and to adjoining *sites* from inundation or instability as a result of *earthworks*.

Plan Change 30 – No legal effect

Amend Rule 12C.3.2.1 as follows:

12C.3.2.1 Topography and Landform

- a) The extent of proposed *earthworks* including, but not limited to:
 - i) Change in levels resulting from excavation and fill;
 - ii) Any modification of drainage patterns;
 - iii) The consistency between proposed finished *ground levels* and *ground levels* on adjoining *sites*;
 - iv) The location, design and suitability of *building platforms* for their intended use;
- b) Geotechnical, natural or man-made hazards on the *site*.

Proposed Amendment

12C.3.2.1 Topography and Landform

- a) The extent of proposed *earthworks* including, but not limited to:
 - i) Change in levels resulting from excavation and fill;
 - ii) Any modification of drainage patterns;
 - iii) The consistency between proposed finished *ground levels* and *ground levels* on adjoining *sites*;
 - iv) The location, design and suitability of *building platforms* for their intended use;
 - v) The location, design and suitability of retaining
 - vi) Instability and inundation effects on adjoining *sites* as a result of *earthworks*.
- b) Geotechnical, natural or man-made hazards on the *site*.
- c) Sediment and erosion control measures to keep sediment on the *site* to minimise sediment runoff, particularly into *Council's* stormwater systems.

Plan Change 30 – No legal effect

Amend Rule 12D.3.1.2 as follows:

12D.3.1.2 Earthworks

The extent of all *earthworks* proposed as part of the *subdivision* shall be shown including, but not limited to:

- a) Areas of cut and fill;
- b) Existing and finished *ground levels*;
- c) Location of *building platforms*.

Proposed Amendment

12D.3.1.2 Earthworks

~~The extent of all *earthworks* proposed as part of the *subdivision* shall be shown including, but not limited to~~
Any application for *subdivision* consent must include:

- a) A description of the scope and extent of all *earthworks* including, but not limited to:
 - ~~a~~i) Areas of cut and fill;
 - ~~b~~ii) Existing and proposed finished *ground levels*;

~~ejii~~ Location of *building platforms* where there is potential risk to a proposed allotment from inundation or instability.

b) An assessment of the potential risk to the *site* and to adjoining *sites* from inundation or instability as a result of *earthworks*.

Plan Change 30 – No legal effect

Amend Rule 12D.3.2.1 as follows:

12D.3.2.1 Topography and Landform

- a) The extent of proposed *earthworks* including, but not limited to:
 - i) Change in levels resulting from excavation and fill;
 - ii) Any modification of drainage patterns;
 - iii) The consistency between proposed finished *ground levels* and *ground levels* on adjoining *sites*;
 - iv) The location, design and suitability of *building platforms* for their intended use;
- b) Geotechnical, natural or man-made hazards on the *site*.

Proposed Amendment

12D.3.2.1 Topography and Landform

- a) The extent of proposed *earthworks* including, but not limited to:
 - i) Change in levels resulting from excavation and fill;
 - ii) Any modification of drainage patterns;
 - iii) The consistency between proposed finished *ground levels* and *ground levels* on adjoining *sites*;
 - iv) The location, design and suitability of *building platforms* for their intended use;
 - v) The location, design and suitability of retaining.
 - vi) Instability and inundation effects on adjoining *sites* as a result of *earthworks*.
- b) Geotechnical, natural or man-made hazards on the *site*.
- c) Sediment and erosion control measures to keep sediment on the *site* to minimise sediment runoff, particularly into *Council's* stormwater systems.

Plan Change 30 – No legal effect

Amend Rule 12.3.1.4 as follows:

12E.3.1.4 Earthworks

The extent of all *earthworks* proposed as part of the *subdivision* shall be shown including, but not limited to:

- a) Areas of cut and fill;
- b) Existing and finished *ground levels*;
- c) Location of *building platforms*.

Proposed Amendment

12E.3.1.4 Earthworks

~~The extent of all *earthworks* proposed as part of the *subdivision* shall be shown including, but not limited to~~ Any application for *subdivision* consent must include:

- a) A description of the scope and extent of all *earthworks* including, but not limited to:
 - ~~a~~i) Areas of cut and fill;
 - ~~b~~ii) Existing and proposed finished *ground levels*;

eiii) Location of *building platforms* where there is potential risk to a proposed allotment from inundation or instability.

b) An assessment of the potential risk to the *site* and to adjoining *sites* from inundation or instability as a result of *earthworks*.

Plan Change 30 – No legal effect

Amend Rule 12E.3.2.2 as follows:

12E.3.2.2 Topography and Landform

- a) The extent of proposed *earthworks* including, but not limited to:
 - i) Change in levels resulting from excavation and fill;
 - ii) Any modification of drainage patterns;
 - iii) The consistency between proposed finished *ground levels* and *ground levels* on adjoining *sites*;
 - iv) The location, design and suitability of *building platforms* for their intended use;
- b) Geotechnical, natural or man-made hazards on the *site*.

Proposed Amendment

12E.3.2.2 Topography and Landform

- a) The extent of proposed *earthworks* including, but not limited to:
 - i) Change in levels resulting from excavation and fill;
 - ii) Any modification of drainage patterns;
 - iii) The consistency between proposed finished *ground levels* and *ground levels* on adjoining *sites*;
 - iv) The location, design and suitability of *building platforms* for their intended use;
 - v) The location, design and suitability of retaining;
 - vi) Instability and inundation effects on adjoining *sites* as a result of *earthworks*.
- b) Geotechnical, natural or man-made hazards on the *site*.
- c) Sediment and erosion control measures to keep sediment on the *site* to minimise sediment runoff, particularly into *Council's* stormwater systems.

Plan Change 30 – No legal effect

Delete *Appendix 4N: Erosion and Sediment Control Measures* as follows:

Appendix 4N: Erosion and Sediment Control Measures

Note: For further details on the design of erosion and sediment control measures please refer to Tauranga City Council's Managing Sediment Pollution on Small Earthwork Sites and the Bay of Plenty Regional

