

## 2.31 – Earthworks - section 32 evaluation for the Proposed Auckland Unitary Plan

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## 1 Overview and Purpose

This evaluation should be read in conjunction with Part 1 in order to understand the context and approach for the evaluation and consultation undertaken in the development of the Proposed Auckland Unitary Plan (the Unitary Plan).

### 1.1 Subject Matter of this Section

Earthworks are defined in the Unitary Plan as: *Disturbance of soil, earth or substrate land surfaces.*

*Includes:*

- *blading*
- *boring*
- *contouring*
- *cultivation*
- *cutting*
- *drilling*
- *excavation*
- *filling*
- *ripping*
- *moving*
- *placing*
- *removing*
- *replacing*
- *thrusting.*

Provisions controlling earthworks are included in the Unitary Plan as a set of Auckland-wide zone and overlay objectives, policies and rules. There are also relevant higher level issues, objectives and policies at the regional policy statement level.

### 1.2 Resource Management Issue to be Addressed

Uncontrolled earthworks may have the following adverse effects on the environment:

- discharge of sediment may reduce the quality of fresh and coastal water;
- discharge of sediment may adversely affect aquatic ecosystems intrinsically or in terms of the direct economic and cultural value of their productivity and health;
- discharge of sediment and subsequent deposition on the beds of water bodies and the coastal marine area, may adversely affect the navigability and recreational value of those water bodies, and their capacity to supply water, or hold floodwater;
- discharge of sediment and subsequent deposition in irrigation systems, drainage systems, stormwater ponds, flood retention devices, flood plains and water supply reservoirs may adversely effect the capacity of the that infrastructure to supply and distribute water, disperse and treat stormwater and prevent flood damage;
- direct filling in of floodplains and overland flow paths adversely affects their capacity for floodwater which can lead to flood damage and loss of life;
- earthworks that alter the capacity of floodplains, overland flow paths and rivers can relocate the adverse effects of flooding to areas where it will cause more damage;
- repeated and prolonged disturbance and exposure of soils can reduce their carbon, content, soil texture, biological and agricultural productivity, capacity to absorb and store rainwater, and capacity to store carbon and other minerals;
- earthworks on unstable ground can exacerbate existing instability hazards;
- cutting into otherwise stable ground can create an instability hazard that did not previously exist causing property damage or loss of life;
- earthworks can damage underground infrastructure causing property damage costs, loss of supply costs or loss of life;

- earthworks that alter the profile of the ground or require retaining walls can, in some locations, reduce amenity and damage landscape features,
- earthworks may damage or cause loss of items, places and features of historical, cultural or natural significance.
- discharge of dust from earthworks may adversely affect amenity values, cause nuisance, damage property and infrastructure and adversely affect health;
- noise and vibration from earthworking and transport of earth can adversely affect amenity values;
- cutting into the ground can alter water tables and divert groundwater;
- earthworks may release contamination in the soil;
- earthworks may spread weeds and disease organisms.

This potential for effects needs to be considered in the context that individuals and the community as a whole derive considerable benefit from undertaking earthworks. Earthworks enable people and communities to provide for their social, economic and cultural wellbeing.

### **1.3 Significance of this Subject**

The proposed objectives, policies and rules for managing earthworks are not a major shift in approach from the previous regime. However, what is significant is that there will be a consistent approach to the regulation of earthworks throughout Auckland. This contrasts with previous regime, which, although having a consistent regional approach to large scale earth works, also included significant variation in the way the former district councils managed earthworks.

### **1.4 Auckland Plan**

The objectives and policies contribute towards Auckland being the world's most liveable city in acknowledging the following Auckland Plan directives:

Directive 2.3 – Recognise and provide for the unique cultural heritage of wahi tapu

Directive 4.2 – Identify, protect and conserve our locally, regionally, nationally and internationally significant historic heritage.

Directive 6.2 – Ensure an efficient and effective regulatory process with strong public – private relationships, and implement a streamlined regulatory process that offers reduced uncertainty and cost, timing and outcome.

Directive 7.1 – Acknowledge and account for ecosystem services when making decisions for Auckland.

Directive 7.3 -Identify significant landscapes, landscape character, natural character and natural features, and appropriately manage these to protect and enhance their biophysical and sensory qualities, and associated values.

Directive 7.5 - Protect ecological areas, ecosystems and areas of significant indigenous biodiversity from inappropriate use and development, and ensure ecosystems and indigenous biodiversity on public and private land are protected and restored.

Directive 7.10 – Manage land to support the values of waterbodies by protecting them where they are high and reviving them where they are degraded.

Directive 7.12 - Protect coastal areas, particularly those with high values – including special natural character, significant marine habitats and recreational importance – from the impacts of use and development, and enhance degraded areas.

Directive 7.14 - Take account of environmental constraints as identified on Map 7.6 and Figure 7.1 when considering the location and nature of any future development.

Directive 9.1 – Ensure that the resources and production systems that underpin working rural land are protected, maintained and improved.

Directive 9.2 - Develop a regulatory framework that accommodates and encourages productive rural uses, changing activities and associated enterprises.

Directive 12.1 – Identify, protect and provide existing and future network utility infrastructure to ensure efficient provision of secure and resilient water supply, wastewater, stormwater, energy and telecommunication services that will meet the needs of Auckland over time.

The Auckland Plan recognises that there are a range of sensitive environments in the region. These have been recognised in the Unitary Plan through the use of overlays and the application of lower resource consent threshold for earthworks within these areas.

### 1.5 Current Objectives, Policies, Rules and Methods

Similar objectives and policies are contained in legacy plans. The Unitary Plan objectives and policies continue the approach to managing earthworks in the Unitary Plan

The main changes from legacy plan approaches is a single set for resource consent thresholds for earthworks that will apply across Auckland, whereas the legacy district plans have different thresholds. In addition, both the regional and district functions are combined into a single set of provisions.

Continuing with the current legacy provisions unchanged is the status quo alternative discussed in section 3. A summary of the current legacy plan approaches follows:

<p><b>Alternative One - Status quo</b></p>	<p><b>Description: Retain existing land disturbance provisions within the legacy district and regional plans.</b></p> <p>Legacy district plan approaches are summarised below.</p> <p>Auckland City District Plan – Isthmus section</p> <ul style="list-style-type: none"> <li>• Earthworks are permitted up to 500m<sup>2</sup> where the average slope of the area subject to the earthworks is less than 5 per cent, and permitted up to 250m<sup>2</sup> where the average slope of the area is 5 per cent or more. Permitted activities must comply with the development standards.</li> <li>• Certain activities can exceed above for example for subdivision where consent has resource consent or a network utility service where specific provision has been made for earthworks.</li> <li>• Part 5B Coastal), 5C (Heritage), 7 (Residential) and 9 (Open Space) have earthworks rules which may be more restrictive and which take precedence over these provisions.</li> </ul> <p>Auckland City District Plan – Central Areas section</p> <ul style="list-style-type: none"> <li>• There are generally no area or volume controls on earthworks and excavations with the exception of public open space (i.e. Albert Park)</li> </ul>
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sites in the district plan.<sup>3</sup> or in relation to heritage

#### Auckland City District Plan – Hauraki Gulf Islands section

- Earthworks are controlled by area with a range of areas permitted depending on the land units. The plan distinguishes between sites greater than 1 in 6 with reduced earthworks areas permitted in that instance. Generally in residential, commercial, and open space zones earthworks less than 400m<sup>2</sup> on land with a slope < 1 in 6 is permitted.
- Permitted activities must comply with development standards. More restrictive controls may also apply under other provisions of the Unitary Plan such as Part 7 Heritage and Part 8 Natural hazards and Clause 10c.5.7 coastal, wetland and water body protection yards.

#### North Shore City District Plan

- A generic approach is taken to the management of earthworks based on surface area controls and excavation depth. Up to 300m<sup>2</sup> of exposed aggregate is provided for as a permitted activity with exceptions for sites in close proximity to streams, areas of wildlife and geological significance. The surface area exposure is further limited (up to 100m<sup>2</sup>) in the foreshore yard. Permitted excavation depths are up to 1.5m with greater flexibility for the construction of underground utilities (up to 3m). Site works for approved utilities within the road reserve (except in the foreshore yard) are also permitted. All works must be in accordance with the sediment and erosion control standards specified in Chapter 9.

#### Manukau City District Plan

- A generic approach is taken in the plan to earthworks involved with land modification, preparation of a building platform and site works excluding those necessary for subdivision whereby earthworks involving up to 200m<sup>3</sup> are permitted in any zone except in defined circumstances. A range of heritage or notable features are protected and any works are discretionary.

#### Rodney District Plan

- Earthworks less than or equal to a volume of 5m<sup>3</sup> and/or an area of 25m<sup>2</sup> is a permitted activity without any corresponding performance standards. Earthworks greater than 5m<sup>3</sup> but less than 200m<sup>3</sup> and/or greater than 25m<sup>2</sup> but less than 1000m<sup>2</sup> is permitted but is subject to performance standards which manages the adverse effects of soil erosion arising from earthworks.
- Within each of the non-urban zones earthworks as a permitted activity are generally restricted to less than 200m<sup>3</sup> (except within significant natural areas or in close proximity to coastal margins and watercourses). Within the general rural zone earthworks greater than 200m<sup>3</sup> but less than 1000m<sup>3</sup> is permitted subject to compliance with performance standards.
- More restrictive controls near sensitive environments apply.

#### Waitakere City District Plan

- Within the General Natural Area, earthworks beyond an approved building platform up to 50m<sup>3</sup> a surface area of 100m<sup>2</sup> and a maximum height or cut depth of 1.5m is permitted. Provision for permitted earthworks beyond an approved building platform is not provided for in more sensitive protected/managed, riparian/coastal edge natural area Environments. Earthworks within heritage features are restricted. All earthworks shall be in accordance with the sediment and erosion control guidelines and are not within a sensitive ridgeline or headland scarp, within a 100-year flood plain or within an open natural watercourse.

	<p>Papakura District Plan</p> <ul style="list-style-type: none"> <li>• In the Rural Papakura and the Rural Takanini zones excavations and earthworks up to 100m<sup>3</sup> are permitted with a variety of performance standards specific to each zone including avoiding the modification of watercourses.</li> <li>• Within the urban area up to 50m<sup>3</sup> of earthworks is permitted except where the council has granted consent for a controlled activity.</li> <li>• Restrictions also apply earthworks within the coastal yard, within 10 metres of a watercourse or affecting land that has a gradient greater than 1 in 5 or land comprising a significant land form. The placement of fill on land that is subject to flooding is a restricted discretionary activity.</li> </ul> <p>Franklin District Plan</p> <ul style="list-style-type: none"> <li>• In residential and business zones bare ground arising from any earthworks activity must be revegetated as soon as practicable.</li> <li>• The plan includes restrictions on earthworks in special of sensitive areas.</li> </ul> <p>Regional Plan: Sediment control This provides two thresholds for land disturbance based on slope and whether the activity is within a sediment control area.</p> <p>A sediment control area is defined as 100m either side of a foredune or landward of the CMA or 50m landward of the edge of a watercourse or a wetland of 1000m<sup>2</sup> or more.</p> <p>Restricted discretionary consent is required for earthworks greater than 0.25ha within a sediment control area or on land where the slope is greater than or equal to 15 degrees. On land which is outside the sediment control area or on land with a slope less than 15 degrees it is a controlled activity to remove from 1ha to 5ha and a restricted discretionary activity to remove more than 5ha.</p> <p>Below these thresholds land disturbance is permitted. It is also a permitted activity for roading, tracking and trenching providing the total area of land moved is less than the thresholds above and the length is less than 100m.</p> <p>Quarries are also permitted provided the quarry is less than 1000m<sup>2</sup> or the catchment is less than 1ha.</p> <p>A range of permitted standards are provided including erosion and sediment control measures which must be carried out in accordance with erosion and sediment and control guidelines. Sediment control measures are to be monitored on a weekly basis.</p>
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## 1.6 Information and Analysis

Refer to section 1.7.

## 1.7 Consultation Undertaken

An initial report exploring options for land disturbance activity provisions in the Unitary Plan titled 'Section 31 – Land Disturbance Activities' was circulated among key council staff. A workshop was held on 19 December 2011 where participants were given the opportunity to provide feedback on this report. A summary of the feedback received is included in section 9 of this document.

02/02/ 2012 Meeting with consultants and coastal land air and water team  
21/03/2012 Meeting with Auckland Transport on Sediment Control  
13/07/2012 Meeting with internal officers with experience in earthworks.

The full draft Unitary Plan was made available for public comment in March to May 2013. All feedback received on earthworks was considered in subsequent preparation of the Unitary Plan.

### **1.8 Decision-Making**

Natural Environment Issues Paper accepted by PWP on 19/10/2011  
Political Advisory Group Direction on 21/09/2012

### **1.9 Proposed Provisions**

The overall approach to managing earthworks in the Unitary Plan is:

- set permitted thresholds for earthworks based on the zone or overlay where the activity is carried out,
- include a set of permitted activity controls to ensure the permitted levels of earthworks can be carried out without adverse effects on the environment,
- include a range of permitted activities for maintenance activities including the repair of fences and driveways and minor disturbance associated with gardening and planting,
- a range of earthworks area and volume thresholds where consent would be required based on the zone or overlay area.

### **1.10 Reference to other Evaluations**

This section 32 report should be read in conjunction with the following evaluations:

- 2.3 Residential zones
- 2.11 Biodiversity
- 2.12 Pre-1944 Demolition
- 2.13 Historic heritage
- 2.15 Mana Whenua cultural heritage
- 2.18 Māori and natural resources
- 2.19 Landscapes
- 2.24 Urban stormwater
- 2.25 Freshwater
- 2.26 Flooding
- 2.27 Intermittent streams and riparian margins
- 2.28 Natural hazards
- 2.32 Mangroves
- 2.41 Strategic transport corridor
- 2.50 Retirement villages

## **2 Objectives, Policies and Rules**

### **2.1 Objectives**

The following objectives are proposed:-

- 1. Earthworks are undertaken in a manner that protects people and the environment.*
- 2. The risk of natural hazards is not increased by earthworks.*
- 3. Sediment generation from earthworks is minimised.*

### **Appropriateness of the Objectives**

The objectives and policies are consistent with the purpose of the RMA set out in s.5, which is to promote the sustainable management of natural and physical resources. Earthworks are enabled so that people and communities can undertake earthworks while the potential effects are controlled.

S.6 of the RMA sets out the matters of national importance. Of particular relevance are s.6(a), (b), (c), (e) and (f).

S.6(a) recognises the importance of preserving the natural character of the coastal environment. This is relevant to earthworks as natural character is made up of a range of components including landform, natural patterns, water quality and ecology. Managing the effects of earthworks results in the protection of these various components of natural character. The objectives and policies provide for earthworks to be undertaken in a manner that protects the environment.

Similarly earthworks can affect the outstanding natural features and landscape recognised in section 6(b), and the significant vegetation and habitats recognised in section 6(c).

Section 6(e) addresses the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. Managing earthworks enables the council to recognise and provide for Māori values. This is supported in the objectives and policies.

Section 6(f) is also relevant as earthworks can affect historic heritage sites and the objectives and policies assist the protection of these sites from inappropriate modification.

Section 7 requires the council to have particular regard to a range of other matters. Of relevance are:

- 7(b) the efficient use and development of natural and physical resources
- 7(g) finite characteristics of natural and physical resources
- 7(f) maintenance and enhancement of the quality of the environment.

It is considered that the objectives and policies proposed for earthworks contribute towards achieving these other matters as set out in the RMA.

Section 8 requires the principles of the Treaty of Waitangi to be taken into account when achieving the purpose of the RMA. It is considered that the principles of the Treaty of Waitangi are taken into account though the objectives and policies in combination with other relevant objectives and policies in the Unitary Plan.

### **Usefulness**

The objectives and policies proposed highlight the need to control earthworks in areas where these activities can have adverse effects on the environment and requires that these effects are avoided, remedied or mitigated.

The objectives and policies proposed will assist in decision-making when assessing applications for resource consent.

### **Achievability**

The council has a greater ability to achieve the objectives and policies proposed in the Unitary Plan for earthworks as it has the ability to combine both regional and district

functions when developing its methods. The earthworks provisions in the Unitary Plan are an integrated set of provisions as they include both s. 31 and s. 30 functions.

The s. 31 district functions that are relevant to earthworks include avoiding or mitigating natural hazards, preventing or mitigating the effects of subdivision, development or use of contaminated land, and maintaining indigenous biodiversity.

The s. 30 regional functions that are relevant to earthworks include soil conservation, the maintenance and enhancement of water quality, the maintenance and enhancement of ecosystems in water bodies and coastal water, the avoidance or mitigation of natural hazards as well as managing the discharge of contaminants.

### **2.1.1 Policies**

#### **Earthworks Policy**

1. *Avoid, remedy or mitigate the adverse effects on the values or sites included in the Natural Heritage and Natural Resource overlays in the Unitary Plan.*
2. *Manage earthworks to:*
  - a. *retain soil and sediment on the land, and not discharge it to water bodies and coastal water by use of best sediment and erosion control practices;*
  - b. *limit the amount of land being disturbed at any one time, particularly where the soil type, topography and location is likely to result in increased sediment runoff or discharge;*
  - c. *not create or exacerbate the risk of natural hazards;*
  - d. *avoid, remedy or mitigate noise, vibration, odour and other amenity effects, traffic and human health effects;*
  - e. *maintain the cultural and spiritual values of Mana Whenua in terms of land and water quality, preservation of wāhi tapu, and kaimoana gathering;*
  - f. *minimise the loss of sediment during rain events and its subsequent discharge into surface water bodies and coastal water;*
  - g. *require the use of best industry practices and standards for on-site sediment treatment or removal methods relative to the nature and scale of the activity to reduce the amount of sediment discharge.*
3. *Manage earthworks within the 1 per cent AEP floodplain to ensure:*
  - a. *they do not exacerbate flooding, either at the site or at any location upstream or downstream of the works*
  - b. *there is no significant permanent reduction of waterway area or loss of flood plain storage.*
4. *Manage the impact on Mana Whenua cultural heritage that are discovered during development or land use by:*
  - a. *requiring a protocol for the accidental discovery of kōiwi, archaeology and artefacts of Māori origin;*
  - b. *undertaking appropriate actions in accordance with mātauranga and tikanga Māori;*
  - c. *undertaking appropriate measures to avoid adverse effects. Where adverse effects cannot be avoided, effects are remedied or mitigated.*

#### **Discharge Policy**

1. *Require any proposal to discharge sediment laden water to a surface water body or to coastal water from the undertaking of earthworks for which resource consent is required, to demonstrate that:*

- a. *where the MCI in the receiving river or stream currently meets or exceeds the relevant guideline in Table 1: MCI guidelines for Auckland in Part 3.1.3.16.1 - Water quality the sediment discharge will not result in a long-term deterioration of the MCI*
- b. *where the MCI in the receiving river or stream currently does not meet the relevant guideline in Table 1: MCI guidelines for Auckland in Part 3.1.3.16.1 - Water quality, the sediment discharge has been minimised to the fullest extent that is reasonably practicable*
- c. *the receiving environment is able to assimilate the discharged sediment after reasonable mixing, with any significant adverse effects being avoided, and other effects remedied or mitigated, particularly within areas identified in this plan as being sensitive because of their ecological values, including terrestrial, freshwater and coastal ecological values*
- d. *any significant adverse effects on the present use of the receiving waters after reasonable mixing have been avoided, and other effects remedied or mitigated, particularly in areas where there is:*
  - i. *high recreational use*
  - ii. *relevant initiatives by Mana Whenua, established under regulations relating to the conservation or management of fisheries, including taiāpure, rāhui or whakatupu areas*
  - iii. *the collection of fish and shellfish for consumption*
  - iv. *areas of maintenance dredging.*

Note that the efficiency and effectiveness of the policies is considered in the section above.

### **2.1.2 Rules and other methods**

The rules regulate the earthworks in two ways. Firstly, there are some activities involving earthworks that are permitted, subject to development controls. These earthworks do not require resource consent provided that the development controls are complied with. The development controls set various standards to manage effects. Generally, the responsibility for (and the cost of) monitoring compliance with the development controls falls on the council. However, in some cases, the development controls require information, such as sediment and erosion control plans, to be provided to the council. In these cases, the cost of providing that information will fall on the person or agency undertaking the work.

Secondly, there are earthworks which are permitted up to a specified threshold, and which require resource consent for earthworks above that threshold. Development controls also apply for earthworks that do not exceed the threshold for which resource consent is not required.

The thresholds for earthworks resource consent are generally set by using a combination of earthworks area and volume. The threshold set varies depending on the type of activity, the zone and whether any overlays apply. Generally, the overlays have a more restrictive threshold.

To give one example: general earthworks in a Unitary Plan residential zone have an earthworks resource consent threshold of 501m<sup>2</sup> or 251m<sup>3</sup>. If a historic heritage site exists on a site, the threshold drops to 5m<sup>2</sup> and 5m<sup>3</sup>. If the historic heritage site is an archaeological site, the threshold is zero, i.e. all general earthworks require resource consent.

Note that legacy plans all used differing combinations of threshold type and quantity. Some used volume only, some used area and volume, some used slope and area, and some did not require consent for earthworks at all. In considering alternatives, the council decided that a combination of area and volume was the best threshold to use generally in the Unitary Plan.

Also some legacy councils varied the quantity of the threshold by zone or overlay and some did not. The council considers that some variation in the Unitary Plan quantitative threshold for different zones and overlays is an appropriate method of addressing the differing sensitivity of different zones and overlays to the effects of earthworks.

Previously all earthworks rules in legacy district plans were made for the purpose of section 31 of the RMA and could potentially address any or all of the effects listed at the front of this report (although they did not always do so). The legacy regional plan earthworks rules were made for the purpose of section 30 of the RMA and principally addressed sediment and erosion control. In some cases separate resource consents for earthworks could be required from both the regional and district council.

The preparation of the Unitary Plan provided an opportunity to unify the district and regional rules. Consideration was given to the following alternatives:

- a. Making all the rules district rules.
- b. Making all the rules regional rules.
- c. Making all the rules both regional and district rules.
- d. Making some rules regional, and some district and some both regional and district rules.
- e. Not making any clear demarcation of whether an earthworks rule is a regional or district rule.

Option a would not be appropriate because the district rules would not apply to existing use and designated sites, which in some cases, could permit significant adverse effects. Also, Section 15 of the Act would still apply in the absence of expressly stated regional rules, and the default application of section 15 would create uncertainty about the legal status of earthworks proposals.

Option b would not be appropriate because it would not be possible for regional rules, or consents issued under those rules, to address some significant adverse effects of earthworks, such as effects on amenity, landscape and heritage sites.

Option c is the administratively simplest in terms of plan drafting, but may, in some cases increase the range of matters that need to be considered in processing of consents, thus increasing the processing cost of some resource consents.

Option d provides for some customisation of the rules to better address the effects of some activities. This is the preferred option.

Option e would create legal uncertainty about the status of the rules and consent requirements and would not be an appropriate option.

### **2.1.3 Costs and Benefits of Proposed Policies and Rules**

People and communities undertake earthworks to enhance their social, cultural and economic well being. In some cases, such as quarrying, the works provide a direct benefit. However, in most cases the earth works are undertaken to enable another activity. For example, construction of a house requires earthworks for the foundations, landscaping and infrastructure connections.

In our modern human society, there is very little social and economic activity that does not require at least some indirect earthworks to enable it to occur. For example, clothing is made from fibres derived either from minerals or agricultural fibres and in either case some earthworks would have taken place to: provide the raw material, make the roads that transport the fibre, support the factories and shops that make and sell the cloths and so on.

Overall, the direct and the indirect benefits of earthworks to human society are large although not normally specifically accounted for.

At the same time, earthworks can have any of the adverse effects described in section 1.2 above. These adverse effects are a cost to society that is also not usually specifically accounted for but is nevertheless, potentially substantial.

Some of these effects may lead to financial costs. For example, earthworks that cause instability can damage property, or earthworks dust accumulating on goods for sale and electrical infrastructure can damage the goods or infrastructure.

Some earthworks can affect the health and safety of individuals which has a cost to those people and society. For example, prolonged dust exposure can reduce health and life expectancy. Uncontrolled alterations to flood plains may alter flooding in a way that causes loss of life. Unintentional damage of underground infrastructure during earthworks can cause loss of life where the infrastructure contains hazardous materials.

Other adverse effects may have costs in terms of damage to or loss of landscape values, heritage feature and places. These costs to society are significant and, in some cases, may be irreversible.

The effects of sediment runoff on water bodies and the coastal environment has been widely researched and documented. These are also a cost to society.

The effects of earthworks can be managed through regulation and other methods and thus the costs of those adverse effects can be reduced. However, the regulation also has a cost. This includes: the cost of preparing and maintaining the Unitary Plan, the cost of preparing and processing any consent applications, the cost of complying with the Unitary Plan development controls or resource consent conditions, the cost of monitoring and tracking compliance, and the opportunity cost of foregone development opportunity if resource consent is declined (uncommon). These costs will vary depending on circumstances.

These costs and benefits have been taken into account in the preparation of the Unitary Plan. In particular, the costs of resource consenting have been taken into account in setting the thresholds for resource consents.

The move to one consistent system of regulating earthworks throughout Auckland will reduce compliance complexity costs, particular for businesses and agencies that operate throughout Auckland.

#### **2.1.4 Adequacy of Information and Risk of Not Acting**

It is considered that there sufficient information on which to base the proposed policies and methods.

### **3 Alternatives**

The proposed preferred alternative, being the Unitary Plan provisions, is discussed in 2.0 above. The status quo alternative, being retention of the existing legacy provisions, is outlined in 1.5 above.

Alternatives are:

1. Preferred
2. Status quo
3. Have no earthworks rules and rely on the default settings section 15 of the RMA.

The table below discusses each alternative compared to the Proposed Alternative.

	<b>Status Quo Alternative - Retain existing land disturbance provisions within the legacy district and regional plans.</b>	<b>Alternative 1 - Preferred alternative</b>	<b>Alternative 2 – Have no rules and rely on section 15 of the RMA.</b>
Appropriateness	This is not an appropriate alternative in light of the goal to have one combined RMA plan for Auckland.	This approach is appropriate as it builds on the current approaches in legacy plans and simplifies the provisions. The outcome is a single set of permitted activities, permitted activity controls and assessment criteria for earthworks.	This would not be appropriate as resource consent would be required for all earthworks where sediment can enter water, irrespective of the actual effects. Conversely, consent would not be required where other adverse effects can occur, e.g. damage to heritage features.
Effectiveness	While having rules varying for one former territorial area, may still achieve the objectives in some areas, it is not considered an effective method in light of the opportunity in the Unitary Plan for a more consistent system of regulation.	The proposed earthworks provisions are considered to be an effective way of achieving the proposed objectives in terms of water quality, environmental protection and to respect the sensitive nature of some sites.	The proposed alternative would not result in the achievement of the objectives and policies proposed in the Unitary Plan around protection of heritage sites, and sensitive areas..
Efficiency	Having a series of different provisions is not considered an efficient alternative.	The benefits outweigh the costs. There will be significant administrative savings for council and the community in a single set of rules. There is also ability for more works to be carried out than in some legacy plans in without the need for consent, provided there is compliance with the permitted activity controls.	This is not considered an efficient alternative as it would result in high consent costs irrespective of environmental benefits.
Costs	The costs of maintaining a range of rules would detract from the purpose of having a single resource management plan for Auckland. A single set of rules for earthworks in the Unitary Plan will simplify the provisions and make it clear which rules apply in which areas. This alternative means there would be multiple thresholds from legacy plans which would cause confusion as to which rules applied. There is also an overlap in some cases where both regional and district provisions apply, therefore requiring two consents for the same activity.	There will be reduced compliance and consenting costs along with a more streamlined approval process as there will be a single set of rules for earthworks Auckland-wide.  Environmental costs will be minimised. While some of the permitted thresholds have increased, the permitted activity controls will manage effects on the environment.	Section 15 of the RMA prevents the discharge of sediment into water (irrespective of scale) unless a regional rule or resource consent allows the discharge. Relying only on this default provision of the RMA would result in high consenting costs, irrespective of the significance of effects. It would also lead to uncertain outcomes and business operating conditions.
Benefits	It is considered that there are some benefits but these are less than the benefits of the preferred alternative.	This alternative would result in significant benefits in terms of the ability to combine the regional district functions into one section of the Unitary Plan. Having a single set of rules will also benefit those carrying out land disturbance activities across Auckland, such as utility operators.	There are no obvious benefits with this alternative.
Risks	The status quo alternative poses a risk to council and the community in that managing various rules would result in unnecessary complexity and significant inconsistencies across the region.	There is a risk in that some sensitive areas have not been identified as part of an overlay or in Auckland-wide activity table under sensitive areas.	The risks of having no rules include adverse amenity effects and adverse effects on heritage sites and features. There would also be increased risk to businesses in relying on the default provisions of the RMA.

## **4 Conclusion**

Based on the discussion above, the following conclusions are drawn:

- A range of alternatives exist for managing land disturbance activities in the Unitary Plan.
- The most appropriate approach is to manage land disturbance activities in an integrated way and to combine both the territorial functions under section 31 and the regional council functions under section 30 into one set of rules with clear specification of which rules are section 30 rules and which are section 31 rules.
- The thresholds proposed by the Unitary Plan are considered appropriate when combined with the permitted activity controls and compared to the range of legacy plan thresholds.

## **5 Record of Development of Provisions**

### **5.1 Information and Analysis**

Section 31 – Land Disturbance Activities, Methods of Implementation Report, Campbell Brown and Southern Skies Environmental Ltd (20 January 2012).

### **5.2 Consultation Undertaken**

An initial report exploring options for land disturbance activity provisions in the Unitary Plan titled 'Section 31 – Land Disturbance Activities' was circulated among key council staff. A workshop was held on 19 December 2011 where participants were given the opportunity to provide feedback on this report.

02/02/ 2012 Meeting with consultants and coastal land air and water team

21/03/2012 Meeting with Auckland Transport on Sediment Control

13/07/2012 Meeting with internal officers with experience in earthworks.

15/03/2013 to 31/05/2013 Draft Unitary Plan issued for feedback.

### **5.3 Decision-Making**

Natural Environment Issues Paper accepted by PWP on 19/10/2011

Political Advisory Group Direction on 21/09/2012