

568 Change 22: Earthworks/Filling Rules and Rural 1 Closed Zone**■ SUBMISSIONS DEALT WITH IN THIS REPORT**

Consideration Order : 6

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| C22.342.9 | Adventurer Leisure Properties Ltd | 18.5.2.1 | Amend 18.5.2.1(p)(i) to NOT exclude from permitted activities filling below the 4.6m contour in Tourist Services Zone at Mapua. |
| C22.342.10 | Adventurer Leisure Properties Ltd | 18.5.2.3 | Delete controlled activity condition (b) excluding filling within 200m of the coastal marine area in various zones, including Tourist Services Zone at Mapua/Ruby Bay. |
| C22.1223.7 | Garnett, Colin J & Hulse, Carol | 18.5.2.1 | Delete permitted activity reference in condition (p) to no filling activity in part of Iwa Street. |
| C22.1223.8 | Garnett, Colin J & Hulse, Carol | 18.5.2.3 | Delete controlled activity reference in condition (b) to no recontouring in Iwa Street Residential Closed Zone. |
| C22.2874.21 | Mitchell, David & Judy | 18.5.2.1 | Extend the land filling condition (p) to apply to low-lying land in Aranui Basin. |
| C22.3034.25 | Gallagher, Devin & Charmaine | 16.3.5.1 | Retain condition (m) limiting filling, but replace 4.6m contour with 4.25m or other justifiable contour. |
| <i>Oppose</i> | FC22.3151.63 | | |
| C22.3034.31 | Gallagher, Devin & Charmaine | 18.5.2.1 | Delete provisions (p)(i) and (ii) so filling is a permitted activity in specified zones at Mapua and Ruby Bay. |
| <i>Oppose</i> | FC22.3151.69 | | |
| C22.3034.32 | Gallagher, Devin & Charmaine | 18.5.2.3 | Allow recontouring in condition (b) to provide building platforms as a controlled activity in Residential Closed Zones at Ruby Bay and Iwa Street and in Rural 1 Coastal Zone. |
| <i>Oppose</i> | FC22.3151.70 | | |
| C22.3243.1 | Johns, Richard | ZM 87 | Retain the Seaton Valley floor as Rural 1 Zone. OR Remove land above 3.5m (particularly the submitter's land) from the Rural 1 Closed Zone. OR Allow landowner to fill their Rural 1 Closed land and allow subdivision. |
| C22.3689.4 | Atkins, Sue | 18.5.2.1(p) | Allow filling below the 4.6m contour. |
| <i>Support</i> | FC22.3721.1 | | |
| C22.3689.5 | Atkins, Sue | 18.5.2.3(b) | Allow recontouring of land in condition (b) at Iwa Street. |
| C22.3692.3 | Bannister, Frederick & Annamarie | 18.5.2.1(p) | Allow landowners in Iwa and Tahi Streets to do filling as a permitted activity and limit the Council raising the height of the remediated site. |
| C22.3702.14 | Friends of Mapua Wetland Inc. | 18.5.2.1 | Extend the land filling condition (p) to apply in the Aranui Basin. |
| <i>Support</i> | FC22.3151.38 | | |
| C22.3710.9 | Jarvis, Martin D | 18.5.2.1 | Delete provision in condition (p) that recontouring at 44 Stafford Drive is not a permitted activity. |

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| C22.3718.24 | Mapua and District Cycle-Walkways Group | 18.5.2.1(p) | Prohibit further land filling below 4.6m contour in Rural 1 Closed Zone, Rural 1 Coastal Zone and Tourist Services Zone in Mapua and make applications in hazard zone notifiable. |
| <i>Oppose</i> | FC22.3721.15 | | |
| <i>Support</i> | FC22.3151.108 | | |
| C22.3721.9 | Nelson Cycle Trail Trust | 18.5.2.1(p) | Allow filling below the 4.5m contour for cycleways and walkways as an exception. |
| <i>Support</i> | FC22.3151.119 | | |
| C22.3722.3 | Ngaruroro Farm Ltd | 16.3.5.1(m) | Allow land in the Coastal Hazard Area at Mapua Ruby Bay to be filled for a building platform. |
| C22.3722.4 | Ngaruroro Farm Ltd | 18.5.2.3 | Allow recontouring as a permitted activity in Rural 1 Coastal Zone. |
| C22.3728.4 | Robinson, Tim & Jill | 18.5.2.1(p) | Allow filling below the 4.6m contour as a permitted activity. |
| <i>Support</i> | FC22.3721.20 | | |
| C22.3728.5 | Robinson, Tim & Jill | 18.5.2.3(b) | Allow filling below the 4.6m contour in condition (b) as a permitted activity. |
| C22.3731.1 | Schroder, Ben | ZM 87 | Delete Rural 1 Closed Zone from 6 Seaton Valley Rd. |
| <i>Support</i> | FC22.3243.2 | | |
| C22.3731.2 | Schroder, Ben | 18.5.2.1(p) | Allow filling below the 4.6m in Rural 1 Closed Zone as a permitted activity. |
| <i>Support</i> | FC22.3243.3 | FC22.3721.21 | |
| C22.3736.7 | Talley, P; Ryder, J; Fitchett, J | 16.3.5.1(m) | Delete new condition limiting filling in the Rural 1 Coastal Zone. |
| <i>Oppose</i> | FC22.3151.132 | | |

ASSESSMENT

1.0 EARTHWORKS AND FILLING RULES / RURAL 1 CLOSED ZONE

Plan Change 22 introduces new rules about the filling of land into Section 18.5 of the TRMP for the Rural 1 Closed Zone, Rural 1 Coastal Zone, Tourist Services Zone at Mapua and the Residential Closed Zone at Ruby Bay, low-lying parts of Iwa Street and Tahī Street. Within 200 metres of the coastal marine area recontouring/filling of land in the above mentioned zones is a discretionary activity. Beyond the 200 metre limit, the recontouring and filling is a controlled activity. The rules were introduced so there could be better management of filling and its effects on neighbouring properties, access and services. There are 14 submitters who have expressed views on the new filling rules. These views range from those who want filling to be a permitted activity, through to those who want it to be a prohibited activity.

2.0 PERMITTED ACTIVITIES

C22.342.9 & C22.342.10 and C22.3718.24 – Tourist Services Zone
 Submitter C22.342 who owns the Mapua Leisure Park wants filling below the 4.6m contour to be a permitted activity. The Plan Change has made it a discretionary activity. Most of the MLP site is below 3.5 metres amsl on the LiDAR map for the site. The highest point is 4m on the eastern side. The sites immediately to the north appear to be generally higher. As filling has the potential to affect neighbouring sites, particularly in respect to seawater inundation dispersal and stormwater runoff, it is recommended that filling remains a discretionary activity. C22.3718.24 supports the rule change to prevent filling in the Tourist Services Zone.

C22.1223.7 & C22.1223.8 and C22.3689.4 & C22.3689.5 – Residential Closed Zone, Iwa Street
 These submitters want filling and recontouring of land to be a permitted activity in the Residential Closed Zone at Iwa Street. Like the land at Mapua Leisure Park, the land in the Residential Closed Zone at Iwa Street is low lying. While it may seem logical to a landowner to fill his/her low-lying land, this activity can reduce stormwater ponding requirements unless all low-lying areas are filled at the same time and to the same degree which is difficult to achieve in practice. Individual infilling can exacerbate stormwater ponding on to neighbouring properties which is likely to cause adverse effects for the neighbour.

C22.3728.4, C22.3692.3 and C22.3784.5

The submitters want filling below the 4.6m contour to be a permitted activity in the Residential Closed Zone at Iwa Street and Tahī Street. These submissions are not supported, for the reasons outlined above. The Tahī Street building platform rule is distinguished from Iwa Street because although Tahī Street is low lying, it is less prone to ponding issues than Iwa Street. The Council land on the remediated site in Tahī Street is generally above 4.6 metres and is not intended to be further filled.

C22.3710.9 and C22.3722.4 – Rural 1 Coastal Zone

Submitter C22.3710.9 who has a 4 ha property at 44 Stafford Drive zoned Rural 1 Coastal Zone wants recontouring to be a permitted activity and opposes any prohibition on recontouring. The new rule provisions do not prohibit recontouring. Because the submitter's property is more than 200m from the coastal marine area, recontouring is a controlled activity on his site.

C22.3722.4 also has a property in the Rural 1 Coastal Zone and wants recontouring allowed as a permitted activity. This same submitter supports the subdivision rule condition 16.3.5.1(m) which requires that lots are not filled except to create a building platform area. This submission is not supported, as recontouring may reduce or broaden the area of stormwater or seawater inundation and/or result in potential adverse effects on adjacent property.

C22.3731.2 and C22.3243.1 – Rural 1 Closed Zone

These submitters want filling below the 4.6m contour in the Rural 1 Closed Zone to be a permitted activity. The Rural 1 Closed Zone (in the lower Seaton Valley) is very low lying and filling has the potential to affect neighbouring and downstream properties. It is not agreed that filling should be a permitted activity. Alternatively, the submitters would like to retain the Seaton Valley floor as Rural 1 Zone. The valley floor is unsuitable for further subdivision as it is subject to flooding on an annual basis.

3.0 CONTROLLED ACTIVITY

C22.3034.25, C22.3034.31 and C22.3034.32

Submitter C22.3034.25 notes that filling is not a permitted activity in the Rural 1 Closed Zone, the Rural 1 Coastal Zone or in the Residential Closed Zone at either Ruby Bay or part of Iwa Street, Mapua, yet it is a permitted activity in the Residential Closed Zone at Tahī Street if it is for the purpose of creating a building platform area. This is because the predominant inundation risk is from the sea and individual raised platforms will not exacerbate flooding risk to more than a minor degree. While the submitter prefers the latter provision as a solution for the other stated zones, it also supports recontouring of land to provide building platforms being dealt with as a controlled activity. This is not supported as there may be circumstances where infilling may cause adverse effects on neighbouring land and consent should not be granted.

Submitter C22.3034.25 has also queried why the 4.6m contour has been chosen as the limit for filling and suggests a figure of 4.25m or some other appropriate number. This figure has been used at Richmond West as well as at Mapua

4.0 PROHIBITED ACTIVITY

C22.3718.24

This group representing some walkers and cyclists supports the change to prevent land filling below the 4.6m contour in the Rural 1 Closed Zone, Rural 1 Coastal Zone and the Tourist Services Zone in Mapua. The group is concerned that land filling in the sand dune area of the Rural 1 Coastal Zone has altered the natural landform and complicated sand dune processes. It urges that land filling in vulnerable areas, such as the hazard area, should be a prohibited activity. Also it should be a notifiable resource consent. There is a concern that filling of sandy and wetland areas creates areas vulnerable to liquefaction in an earthquake.

5.0 FILLING FOR CYCLEWAYS AND WALKWAYS

C22.3721.9

This submitter wants filling below the 4.6m contour for cycleways and walkways to be an exception to the new rule 18.5.2.1(p) that requires filling for such purposes to obtain consent. Filling for these activities can interfere with stormwater flows and possibly act as a tidebank in some coastal locations. It is not agreed there should be an exception for filling for cycleways and walkways.

6.0 FILLING IN THE ARANUI BASIN

C22.2874.21 and C22.3702.14

Two submitters want the land filling rule 18.5.2.1(p) that requires consent for landfilling below the 4.6 metre contour to be extended to apply to low lying land in the Aranui basin. Almost all of that land is less than 2.5 metres above mean sea level and the land normally floods each winter. It is agreed with the submitters that the filling rule should cover low-lying land in the Aranui basin.

■ RECOMMENDATIONS AND REASONS

Recommendation 568.1

C22.342.9

Adventurer Leisure Properties Ltd

Disallow

C22.342.10 **Adventurer Leisure Properties Ltd** **Disallow**

Plan Amendments

Topic : 18.5.2.3

No Plan amendments to rule 18.5.2.3(b).

Topic : 18.5.2.1

No Plan amendments to rule 18.5.2.1(p)(i) in respect to Tourist Services Zone at Mapua.

Reasons

1. The submitter's site (Mapua Leisure Park) is a low-lying coastal site that is dynamic in nature and subject to coastal hazard risk.
2. Filling of the site has the potential to affect adjoining properties and the coastal marine area.
3. It is preferable to adopt a precautionary approach towards activities, such as recontouring and filling, whose effects on the coastal environment and coastal character are potentially adverse.
4. The consent category restricted discretionary enables adverse effects to be addressed better than if the activity is permitted.

Recommendation 568.2

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|-------------------|---|-----------------|
| C22.1223.7 | Garnett, Colin J & Hulse, Carol | Disallow |
| C22.1223.8 | Garnett, Colin J & Hulse, Carol | Disallow |
| C22.3689.4 | Atkins, Sue | Disallow |
| <i>Disallow</i> | FC22.3721.1 | |
| C22.3689.5 | Atkins, Sue | Disallow |
| C22.3692.3 | Bannister, Frederick & Annamarie | Disallow |
| C22.3728.4 | Robinson, Tim & Jill | Disallow |
| <i>Disallow</i> | FC22.3721.20 | |
| C22.3728.5 | Robinson, Tim & Jill | Disallow |

Plan Amendments

Topic : 18.5.2.3

No Plan amendments to rule 18.5.2.3.

Topic : 18.5.2.1

No Plan amendments to rule 18.5.2.1.

Reasons

1. The land in part of Iwa Street that is zoned as Residential Closed is low lying.
2. Filling of low-lying sites has the potential to affect adjoining properties and the coastal marine area.
3. It is preferable to adopt a precautionary approach towards activities, such as recontouring and filling, whose effects on the coastal environment, neighbours and coastal character are potentially adverse.
4. The consent category, restricted discretionary, enables adverse effects on neighbours to be addressed better than if the activity is permitted.
5. The Tahurangi Street and Iwa Street Residential Closed Zone rules for building platforms are different because Iwa Street is more susceptible to ponding issues.

Recommendation 568.3

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| C22.3034.25 | Gallagher, Devin & Charmaine | Disallow |
| <i>Allow</i> | FC22.3151.63 | |
| C22.3034.31 | Gallagher, Devin & Charmaine | Disallow |
| <i>Allow</i> | FC22.3151.69 | |
| C22.3034.32 | Gallagher, Devin & Charmaine | Disallow |
| <i>Allow</i> | FC22.3151.70 | |
| C22.3710.9 | Jarvis, Martin D | Disallow |
| C22.3718.24 | Mapua and District Cycle-Walkways Group | Disallow |

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|-------------------|---|-----------------|
| Allow | FC22.3721.15 | |
| Disallow | FC22.3151.108 | |
| C22.3721.9 | Nelson Cycle Trail Trust | Disallow |
| Disallow | FC22.3151.119 | |
| C22.3722.3 | Ngaruroro Farm Ltd | Allow |
| C22.3722.4 | Ngaruroro Farm Ltd | Disallow |
| C22.3736.7 | Talley, P; Ryder, J; Fitchett, J | Disallow |
| Allow | FC22.3151.132 | |

Plan Amendments

Topic : 16.3.5.1

No Plan amendments to rule 16.3.5.1(m).

Topic : 18.5.2.3

No Plan amendments to rule 18.5.2.3 to make recontouring a controlled activity.

Topic : 18.5.2.1

No Plan amendments to rule 18.5.2.1 to make recontouring a permitted activity.

Reasons

1. The Rural 1 Coastal Zone is a low-lying area.
2. Recontouring and filling of sites has the potential to affect adjoining properties and the coastal environment.
3. It is preferable to adopt a precautionary approach towards activities, such as recontouring and filling, whose effects on the coastal environment, neighbours and coastal character are potentially adverse.
4. The Council policy is to have future urban development located out of low-lying areas that could be subject to more flooding and inundation than occurs presently.
5. The subdivision rule 16.3.5.1(m) for the Rural 1 Coastal Zone has a general condition that allotments are not filled except to create a building platform area.
6. Filling land for walkways and cycleways can interfere with stormwater flows and natural values.
7. The ground level limit of 4.6 metres is retained as the limit below which consent is required to fill sites. There is a risk of coastal and freshwater flooding to be managed with the possibility of higher groundwater levels as sea level rises.

Recommendation 568.4

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| C22.3243.1 | Johns, Richard | Disallow |
| C22.3731.1 | Schroder, Ben | Disallow |
| Disallow | FC22.3243.2 | |
| C22.3731.2 | Schroder, Ben | Disallow |
| Disallow | FC22.3243.3 | FC22.3721.21 |

Plan Amendments

Topic : 18.5.2.1

No Plan amendments to rule 18.5.2.1

Topic : ZM 87

No Plan amendments to zoning of submitters' land as Rural 1 Closed.

Reasons

1. The Rural 1 Closed Zone is a low-lying area where stormwater ponding frequently occurs. It is therefore unsuitable for further subdivision other than boundary relocations.
2. Filling of the submitters' sites has the potential to affect adjoining properties in the lower Seaton Valley.
3. It is preferable to adopt a precautionary approach towards activities, such as recontouring and filling, whose effects on the environment, neighbours and rural character are potentially adverse.
4. The Council policy is to have future urban development located out of low-lying areas that could be subject to more flooding and inundation than occurs presently.

Recommendation 568.5

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| C22.2874.21 | Mitchell, David & Judy | Allow |
| C22.3702.14 | Friends of Mapua Wetland Inc. | Allow |

Allow

FC22.3151.38

Plan Amendments

Topic : 18.5.2.3

Add new condition 18.5.2.3(c):
"It is not filling of the low-lying Aranui Basin"

Topic : 18.5.2.1

Add new condition 18.5.2.1(p)(iv):
"There is no filling in the low-lying Aranui Basin."

Topic : ZM 87

Add a notation that land in the Aranui Basin is subject to condition 18.5.2.1(p).

Reasons

1. The land is low lying and subject to flooding on an annual basis.
2. Filling is likely to have an adverse effect on surrounding land.