

**NOTICE OF MEETING**

**RESOURCE CONSENTS HEARINGS PANEL**

**TO:** Chairperson                      Alan Watson  
         Crs                                      Ross Craig  
            Zane Taylor

A meeting of the Resource Consents Hearings Panel will take place in the Council Chamber, Rodney District Council, Centreway Road, Orewa on Friday, 22 February 2008 commencing at 9.00 a.m.

for: ACTING CHIEF EXECUTIVE OFFICER  
     Geoff Mears

OREWA  
11 February 2008

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**PROGRAMME**

<u>Time</u>		<u>Page</u>
9.00 a.m.	<b>A LIMITED NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991</b>	2

**AN APPLICATION FOR LAND USE CONSENT TO CONTINUE TO OPERATE AN EXISTING CLEANFILL BY IMPORTING 30,000M<sup>3</sup> OF MATERIAL AFTER THE DATE PROVIDED FOR BY VIRTUE OF A CONDITION OF CONSENT GRANTED BY THE ENVIRONMENT COURT ON 1 AUGUST 2002. THE MATERIAL TO BE IMPORTED WILL INCLUDE THE IMPORTATION OF TOP SOIL FOR THE PURPOSE OF UNDERTAKING REINSTATEMENT WORKS. IT IS ANTICIPATED THAT THE CLEANFILL WILL BE COMPLETED TOWARDS THE END OF 2007 / BEGINNING OF 2008 WITH THE SUBSEQUENT RESTORATION WORKS NOT EXPECTED TO BE COMPLETED UNTIL 31 DECEMBER 2008. THE APPLICATION WILL NOT INVOLVE AN INCREASE IN THE TOTAL VOLUME OF CLEANFILL PROVIDED FOR BY VIRTUE OF THE CONSENT GRANTED BY THE ENVIRONMENT COURT, NAMELY 250,000M<sup>3</sup>**

Address: 194 Blackbridge Road, Dairy Flat

**APPLICANTS: AQUITA DEVELOPMENTS 2007 LIMITED**

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Address: 194 Blackbridge Road, Dairy Flat

**APPLICANTS: AQUITA DEVELOPMENTS 2007 LIMITED**

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ITEM NO: 1

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## APOLOGIES AND ANNOUNCEMENTS

ITEM NO: 2

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## REQUESTS FOR CONSIDERATION OF URGENT ITEMS

Urgent items not referred to on the main agenda can only be considered if the following requirements of the Local Government Official Information and Meetings Act 1987 are met:

- The Chairperson must explain at a time when the meeting is open to the public (even if the additional item is a confidential item)
  - the reason why the item is not on the agenda
  - the reason why the discussion of the item cannot be delayed until a subsequent meeting.
- The Council or Panel must resolve to consider the item.

Councillors or staff members who wish to raise urgent items for consideration need to brief the Panel Chairperson and the Committee Adviser prior to the meeting.

REPORT



TO Resource Consents Hearings Panel  
ON 22 February 2008  
FROM David Hampson – Reporting Planner

SIGNATURE

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APPROVED FOR Carl Jenkins – Team Leader Resource Consents  
RELEASE BY

SIGNATURE

A handwritten signature in black ink, appearing to read "C. Jenkins", written over a horizontal line.

SUBJECT **A LIMITED NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991**

**AN APPLICATION FOR LAND USE CONSENT TO CONTINUE TO OPERATE AN EXISTING CLEANFILL BY IMPORTING 30,000M<sup>3</sup> OF MATERIAL AFTER THE DATE PROVIDED FOR BY VIRTUE OF A CONDITION OF CONSENT GRANTED BY THE ENVIRONMENT COURT ON 1 AUGUST 2002. THE MATERIAL TO BE IMPORTED WILL INCLUDE THE IMPORTATION OF TOP SOIL FOR THE PURPOSE OF UNDERTAKING REINSTATEMENT WORKS. IT IS ANTICIPATED THAT THE CLEANFILL WILL BE COMPLETED TOWARDS THE END OF 2007 / BEGINNING OF 2008 WITH THE SUBSEQUENT RESTORATION WORKS NOT EXPECTED TO BE COMPLETED UNTIL 31 DECEMBER 2008. THE APPLICATION WILL NOT INVOLVE AN INCREASE IN THE TOTAL VOLUME OF CLEANFILL PROVIDED FOR BY VIRTUE OF THE CONSENT GRANTED BY THE ENVIRONMENT COURT, NAMELY 250,000M<sup>3</sup>**

Address: 194 Blackbridge Road, Dairy Flat

**APPLICANTS: AQUITA DEVELOPMENTS 2007 LIMITED**

FILE REF LAN26918/A

WARD Western

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This requires consent as a discretionary activity under the provisions of the Operative Plan as amended by Plan Change 55, and as a non-complying activity under the provisions of the Proposed District Plan 2000.

Having considered the proposal against all the relevant statutory criteria it is recommended by the reporting planner that the application be granted consent. The reasons for this recommendation are set out in section 15 of this report.

Note: This report sets out the advice of the reporting planner. This report has yet to be considered by the Panel of Commissioners delegated by the Council to determine this application. The recommendation is not the decision on this application. A decision will only be made after the Commissioners have considered the application and heard the applicant and any submitters.

## 1.0 APPLICATION AND PROPERTY DETAILS

**SITE ADDRESS:** 194 Blackbridge Road, Dairy Flat.  
**APPLICANT:** Aquita Developments 2007 Limited.  
**LEGAL DESCRIPTION:** Lot 2 DP 364442  
**SITE AREA:** 12.18 hectares

### DISTRICT PLAN

**ZONING:** Operative District Plan as  
Amended by Plan Change 55: General Rural  
Proposed District Plan 2000: General Rural

**ACTIVITY STATUS:** Operative District Plan as  
Amended by Plan Change 55: Discretionary  
Proposed District Plan 2000: Non-Complying  
Overall: Non-Complying

**SNA:** Not Applicable

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## 2.0 BACKGROUND

### 2.1 S93/94 Decision

This application was notified on a limited basis for the following reasons.

- The extended cleanfilling will be of relatively short duration and some of these works will involve post cleanfilling reinstatement works which would be expected to improve amenity values. Taking this into account along with the fact that established forms of mitigation can be imposed by way of consent conditions; overall it is considered the potential adverse effects on overall amenity values are no more than minor.
- Council's Development Engineer has assessed the proposal and confirmed that extending the life of the cleanfill will not raise any engineering concerns subject to the engineering conditions that were imposed in the original consent being reimposed under any future consent approval for the remaining 30,000m<sup>3</sup> to be deposited.
- Council's Consulting Traffic Engineer to the Roding Department has been liaised with in respect of the application and while he feels the Roding Department should be considered affected, he is comfortable that the traffic effects on the environment overall are only minor taking account of the fact that the remaining volumes of cleanfill that are being applied for are not greater than what was originally approved, and effectively it is only a time extension that is sought involving the same cleanfill capacity.
- Continuing sediment and erosion control measures will be implemented for the remaining 30,000m<sup>3</sup> of cleanfilling, and these measures have been employed on the site for the last 5 years and will be subject to a resource consent application to the ARC, the effects in this area are considered to be no more than minor.

- The area of protected wetland which was covenanted as part of a recent subdivision involving the site is located at the opposite end of the site to where the cleanfilling takes place and it is not expected to be affected by the small volume of cleanfilling that needs to be completed in order to retire the site from this activity.
- All persons who made a submission to the original cleanfill application and in particular those persons who were appellants following their involvement as a submitter are potentially adversely affected, as they could have reasonably expected given the 5 year expiration date that was imposed on the original consent that all cleanfilling and restoration work would have ceased 5 years after the commencement of the consent. Those neighbouring or surrounding property owners who have moved in to the area at a time after the commencement of the cleanfill consent are also considered potentially adversely affected as their amenity values also could be diminished over a longer period than they could have reasonably anticipated given the time duration that was imposed on the former consent. Council's Roding Department is also considered affected due to the road being subjected to heavy vehicle movements over a greater period of time. While this amounts to a large group of people having notice served on them, it is considered this has to a certain extent been dictated by the fact that this application to extend the timeframe on the cleanfilling is very closely associated with the previous cleanfill consent which was a fully notified application and therefore involved a large number of submitters as well as appellants whose concerns should be taken account of. There is also likely to be an overlap between the named submitters and appellants and the owners and occupiers of surrounding or nearby properties. It is considered the fact a large number of people will have notice served on them does not indicate that the application should be fully notified as the persons deemed to be affected represent a localised group of interest mainly being rural-residential residents along Blackbridge Road exposed to adverse effects on their amenity values particularly relating to the heavy vehicle movements. The following persons are therefore considered to be affected.

## 2.2 Relevant Planning History

Council records show that resource consent RMA26918 was granted by the Environment Court via a consent order on the 1 August 2002 to Aquita Developments Limited to establish and operate a cleanfill on the application site. The consent restricted the maximum quantity of cleanfill to be deposited on the site during the term of the consent to 250,000m<sup>3</sup>.

A further condition was imposed on the consent namely, condition 4 which stated:

*"All cleanfilling operations on the site (including reinstatement works) shall cease within 5 years of the commencement of this consent"*

A copy of the original resource consent granted by Rodney District Council and the consent order is attached under **Attachment A**.

Following the decision of the Environment Court, a further application was submitted to Council under RMA 40268 for the subdivision of the site into two lots based on the protection of significant wetland. The proposed subdivision created lot 1 which comprised the existing household unit and an area of 1.63 hectares. Lot 2 comprised the cleanfill site and the wetland with an overall area of 12.18 hectares. Council records show that this application was granted consent on 19 October 2001 and has been fully implemented.

A number of consent notices were imposed on Lot 2 which contained the cleanfill. These relate to the following:

- Wetland protection;
- Building restrictions relating to general engineering issues;
- Limitation on impermeable areas;
- Building restrictions relating to stormwater control;
- Fees payable for the on-going monitoring of conditions.

Council records also show that a further application was submitted to Council under RMA 26918/A to vary condition 4 of the consent granted by the Environment Court to establish and operate a cleanfill. The application was submitted pursuant to the provisions of s.127 of the Resource Management Act 1991 to allow for an extension of time until 31 December 2008 to enable the applicant to complete the cleanfill operations and to undertake associated restoration works.

The Council's processing planner subsequently responded to the applicant by fax dated 15 November 2006 confirming that such an application could not be assessed under the provisions of s.127 of the Resource Management Act 1991 and would require the submission of a new application.

The applicant subsequently submitted the current application under RMA26918/A on 17 November 2007 to extend the time to enable the completion of the cleanfill operations and to undertake associated restoration works.

### **3.0 THE PROPOSAL AND REASONS FOR APPLICATION**

This application seeks consent to continue to operate the existing cleanfill by importing 30,000m<sup>3</sup> of material after the date provided for by virtue of a condition of consent granted by the Environment Court on 1 August 2002. The applicant has stated that the application has been submitted because:

*"It will not be possible to complete the cleanfill in the timescale set out in the Consent Order due to the delays experienced through the initial Environment Court process in obtaining resource consent".*

The material to be imported will include the importation of topsoil for the purpose of undertaking reinstatement works. It is anticipated that the cleanfill will be completed towards the end of 2007 / beginning of 2008 with the subsequent restoration works not expected to be completed until 31 December 2008.

The applicant has also confirmed that the application will not involve an increase in the total volume of cleanfilling originally provided for by virtue of the consent granted by the Environment Court, namely 250,000m<sup>3</sup>.

#### **3.1 Reason for Application.**

Resource Consent is required for the following reason(s)

#### **3.2 Plan Change 55 to the Operative District Plan**

The site is zoned General Rural under Plan Change 55.

The proposed activity is provided for as a discretionary activity under Plan Change 55. Under this Plan, and subject to complying with the site management plan requirements contained under Rule 10.2(b)(i), cleanfilling operations in excess of 1,000m<sup>3</sup> are considered a Discretionary Activity pursuant to Rule 9.3. In this instance a Management Plan was submitted with the original application and the applicant has confirmed that the cleanfill will continue to be operated in accordance with the Management Plan. Consequently, in this instance it is considered that the proposal falls to be assessed as a Discretionary Activity.

A copy of the application details, Management Plan and a letter from the applicant confirming that the cleanfill will be operated in accordance with the Management Plan is attached under **Attachments B, C and D.**

Overall the proposal must be assessed as a Discretionary Activity.

A copy of the discretionary assessment criteria is attached under **Attachment E.**

### 3.3 Proposed District Plan 2000

The site is zoned General Rural under the Proposed District Plan 2000.

The proposal is provided for as a Non-Complying Activity under the Proposed District Plan 2000. Under this Plan cleanfilling operations in excess of 1,000m<sup>3</sup> are considered a Non-Complying Activity under Rule 7.9.2 as amended by Decision Report 2112. A check of Council's Schedule of Appeals to the Proposed District Plan has confirmed that there are no appeals regarding this rule.

### 3.4 Overall Status

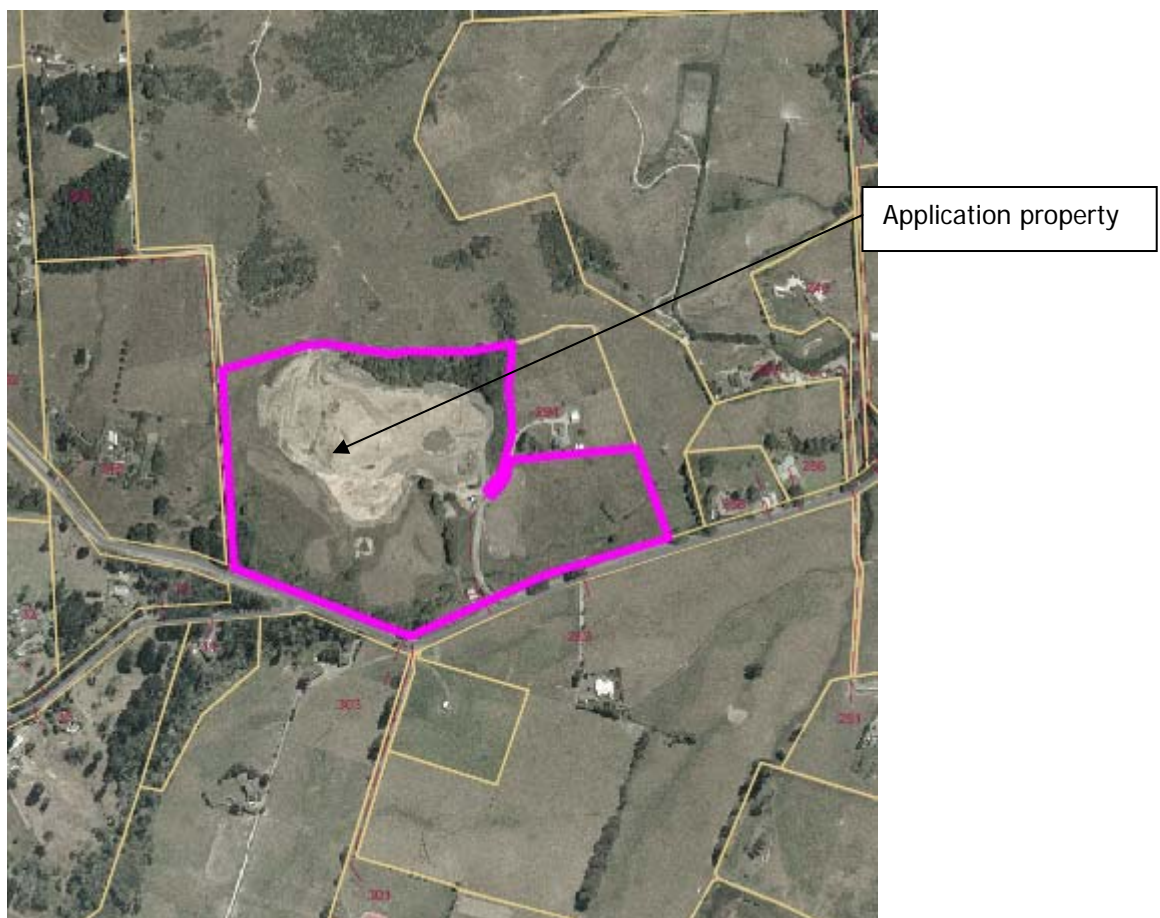
Overall the application is a Non-Complying Activity.

### 4.0 SITE DESCRIPTION

The site formerly comprised a limestone quarry and is located on Blackbridge Road approximately 2km west of the intersection of Blackbridge Road and State Highway 17.

The site is undulating with numerous pockets of exotic and native vegetation. There is a section of vegetation along the majority of the rear boundary of the site and an area of covenanted wetland in the south-western corner of the site abutting Blackbridge Road.

The cleanfill is located at the rear of the site and is accessed by way of a sealed driveway off Blackbridge Road. A 1.63 hectare section of the north-eastern corner of the site has been subdivided off from the cleanfill site to create a rural-residential lot around the existing household unit. Access to the rural-residential site is via a metalled driveway which in turn accesses on to the sealed driveway which serves the cleanfill site.



The immediate locality is characterised by rural-residential and lifestyle properties with associated pastoral grazing land uses.

## 5.0 WEIGHTING OF DISTRICT PLANS

When assessing the potential effects of the proposal and the appropriate weight to be attributed to the Proposed District Plan and Plan Change 55 in this application, in general, where an activity requires consideration under both Plan Change 55 and the Proposed District Plan, Plan Change 55 is considered the dominant planning document because it is an operative planning document.

Plan Change 55 became operative on 28 April 2006 and amended the provisions of the Operative District Plan 1993.

Plan Change 62: Financial Contributions was made operative in April 2005.

With regards to the Proposed District Plan 2000 (hereafter the Proposed District Plan), the Plan was publicly notified in November 2000. After examining the Schedule of Appeals to the Rodney District Proposed District Plan 2000 it has been established that a number of appeals have been submitted in respect of *Chapter 7 - Rural* particularly with regard to the stated objectives and policies in respect of rural character.

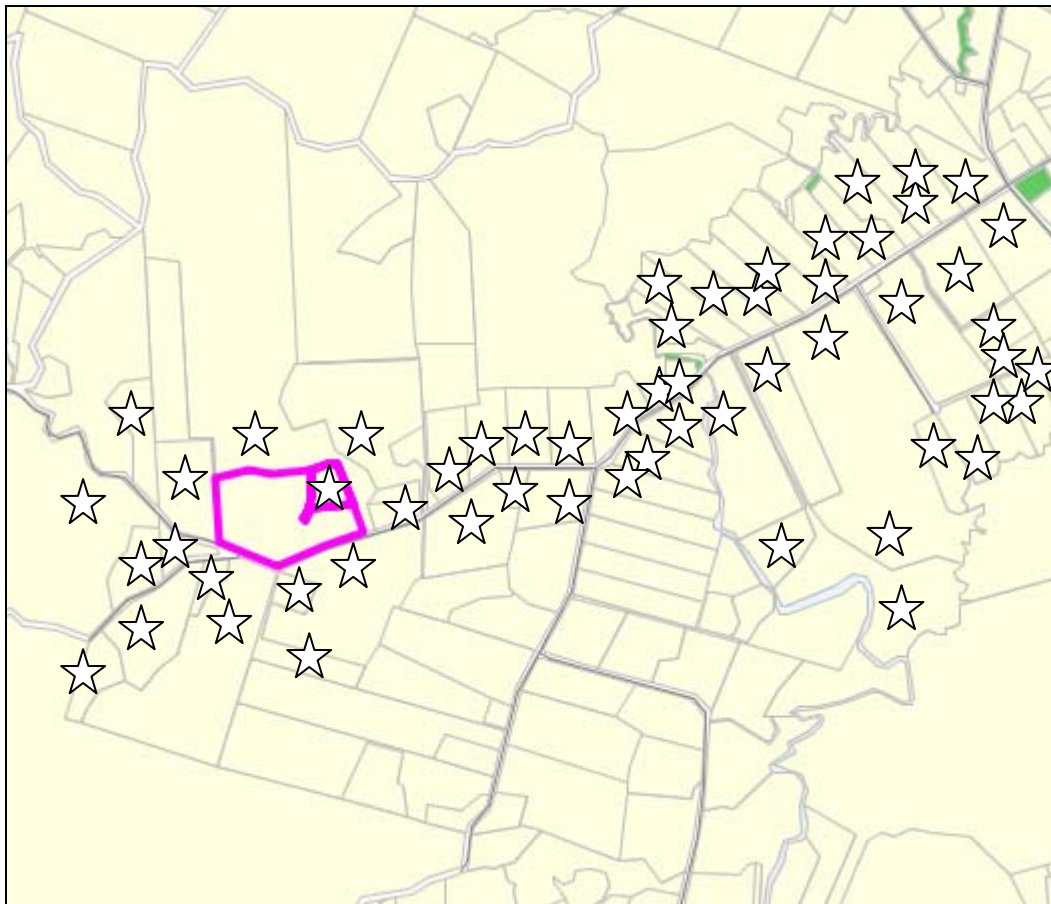
Consequently, it is considered that the provisions of Plan Change 55 so far as it relate to cleanfill operations on land zoned General Rural should be given greater weight.

## 6.0 NOTIFICATION AND SUBMISSIONS

### 6.1 Notification

The application was limited notified on 28 September 2007 and submissions closed on 24 September 2007.

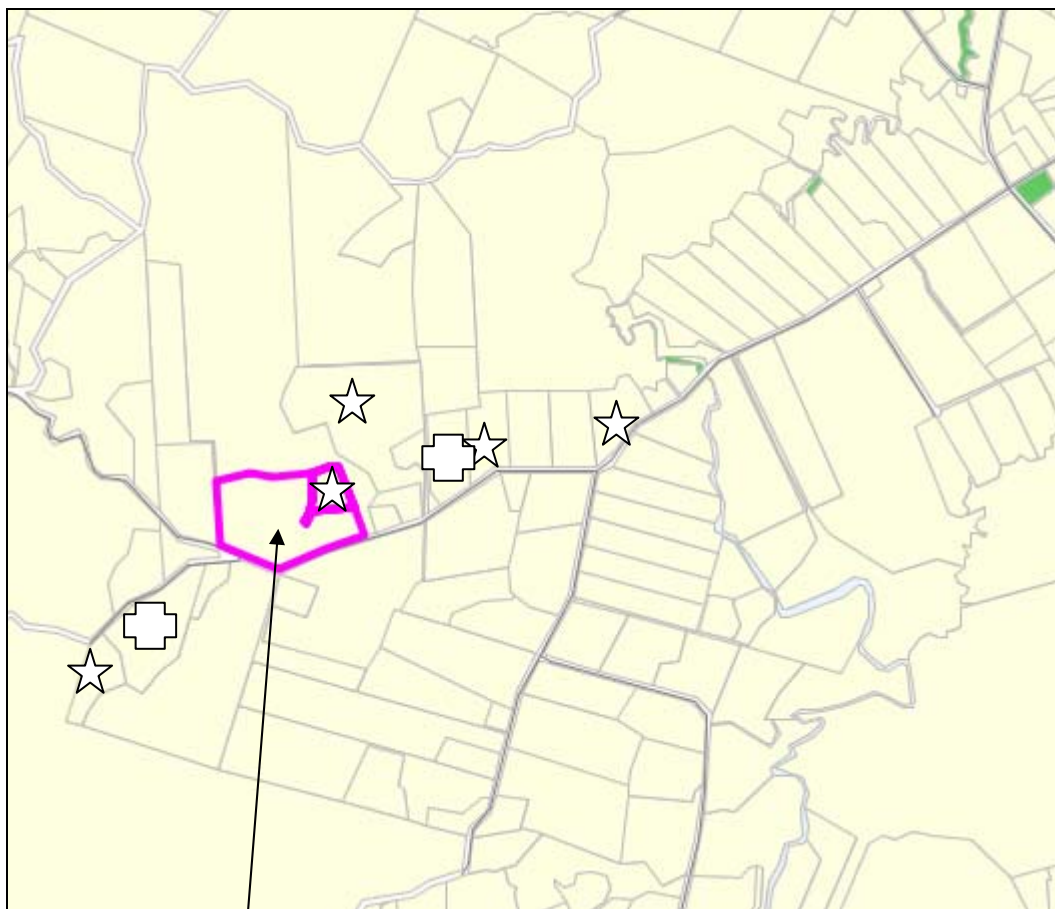
A site plan showing the location of those parties notified is set out below.



Properties notified = ☆

## 6.2 Submissions

A total of 7 submissions were received by the close of the submission period. Of these 6 opposed the application and 1 supported the proposal. The location of the submitters' properties is set out below.



Application property

Submissions received in opposition = ☆

Submission received supporting the proposal = ⊕

A summary of the submissions is set out below. A full copy of the submissions is attached as **Attachment F**.

Name	Address	Main Concerns	Relief Sought	Wish to be heard
Murray and Allison McMillan	236 Blackbridge Road, Dairy Flat.	6.3 (a)	Oppose continuation for further 12 months. Consent should only be granted subject to condition that applicant pay to restore road from site to SH17 and carried out immediately after completion.	Yes
Allen and Lyn Barr	294 Blackbridge Road, Dairy Flat.	6.3 (a), (b) and (c)	Refuse consent.	Yes

<b>Name</b>	<b>Address</b>	<b>Main Concerns</b>	<b>Relief Sought</b>	<b>Wish to be heard</b>
Peter and Amanda Morton	252 Blackbridge Road, Dairy Flat.	6.3(a), (d) and (e)	Not to grant an extension to the current resource consent.	No
G.A. and P.E. Powell.	224 Blackbridge Road, Dairy Flat.	6.3(a)	Reject application.	Yes
Julian and Serena Beavis.	154 Blackbridge Road, Dairy Flat.	6.3(a), (d) and (f).	Reject application. However, if consent is granted an additional financial contribution should be paid to Council to rebuild the road.	No
Stan Collet.	61 Drury Road, Dairy Flat.	6.3(a), (b) and (f)	Reject application, stop cleanfill operation and relocate landfill to another site and repair Blackbridge Road.	Not stated.

### 6.3 Submissions in opposition

A total of 6 submissions have been received in opposition to the proposal raising some or all of the following concerns:

- a) The continued damage to Blackbridge Road due to heavy traffic.
- b) Continued danger from trucks.
- c) Noise, dust and mud along the road and damage to the bridge.
- d) Ample time has lapsed to enable Aquita Development to complete the landfill.
- e) The frequency of trucks have adversely affected road safety for other road users including pedestrians and horse riders.
- f) The proposal continues to raise traffic issues, cause road damage, speeding trucks, debris on road, noise and vibration and air and stream pollution.

Three of the submitters have confirmed that they wish to be heard at the hearing.

### Submissions in support

In addition, 1 submission has been received from Carmen Mills of 35 Drury Lane, Dairy Flat supporting the application and requests the that Council impose the following conditions:

- a) Blackbridge Road between the cleanfill site and State Highway 17 is maintained in good condition and then completely rebuilt to a new state when the cleanfill operations are finished at the cost of Aquita Developments Ltd.
- b) Blackbridge Road be protected by preventing slurry, clay etc from being deposited on the road.

The submitter has confirmed that she does not intend to speak at the hearing.

### 6.3 Written Consents

Section 104 (3) of the Act states that a consent authority must not have regard to any effect on a person who has given written approval to the application. However, in this instance, no written consents have been provided.

### 7.0 PRE HEARING MEETING

No pre hearing meeting has been held.

## **8.0 REPORTS FROM OTHER OFFICERS/DEPARTMENTS/CONSULTANT**

Reports and/or comments have been received from the following persons with respect to this application:

- (1) Development Engineer's report from Ross Green (see **Attachment G**);
- (2) Traffic Engineers report received from David Mitchell of T2 Traffic Engineers on behalf of Rodney District Council (see **Attachment H**).

## **9.0 STATUTORY ASSESSMENT**

The Act requires for all applications for resource consent that subject to Part 2 of the Act, the Council must have regard to the matters set out in section 104 of the Act.

Section 104 (2) of the Act states that the Council "*may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.*" The permitted baseline of effects will therefore be assessed prior to the assessment in terms of section 104 (1) of the Act.

Following the section 104 (1) assessment an assessment will be made in terms of sections 104B and 104D, as applicable, and the provisions set out in Part 2 of the Act.

## **10.0 SECTION 104 ASSESSMENT**

### **10.1 Permitted Activities Assessment**

A consent authority may, pursuant to section 104(2) of the Act, consider an application with reference to activities that are permitted by a plan. This permitted baseline defines the environment against which a proposed activity's degree of adverse effects is gauged. The permitted baseline comprises non-fanciful hypothetical activities and their constituent effects that would be permitted as of right by a district plan.

#### **10.1.2 Activities Permitted by the Plan**

Permitted activities contained in Operative Plan Change 55 and the Proposed District Plan enables the deposition of cleanfill of up to 200m<sup>3</sup>.

Other non-fanciful activities permitted under the Operative Plan Change 55 and the Proposed District Plan include:

- Childcare facilities (not more than 10 children at any time); and
- Forestry
- Farmstay or Homestay accommodation for not more than 10 guests accommodated within an existing household unit;
- Greenhouse production;
- Home occupations;
- Horticulture;
- Prospecting and exploration for minerals not involving the use of explosives.

#### **10.1.3 The Existing Environment**

In having regard to the effects on the environment arising from the proposal regard should be had to the existing environment, including the existing activity on the subject site and associated consent notices.

The immediate locality is characterised by rural-residential and lifestyle properties with associated pastoral grazing land uses.

The site is currently being extensively earthworked in association with the previous consent granted via a consent order on 1 August 2002 to Aquita Developments Limited to establish and operate a cleanfill on the application site.

The site is also subject to a number of consent notices in respect of wetland protection, building restrictions relating to general engineering issues, limitation of impermeable areas, building restrictions relating to stormwater control and fees payable in respect of on-going monitoring of conditions.

In this instance, the consent notices were imposed following the consent to subdivide the site under RMA40268. The continued operation of the cleanfill site will not adversely affect any of the matters referred to in the consent notices.

#### **10.1.4 Unimplemented Consents**

There are no unimplemented consents that are relevant. However, it is noted that the site benefits from a resource consent granted by the Environment Court via a consent order on the 1 August 2002 to Aquita Development Limited to establish and operate a cleanfill on the applications site. The consent restricted the maximum quantity of cleanfill to be deposited on the site during the term of the consent to 250,000m<sup>3</sup> and stated that all works including reinstatement works were to cease within 5 years from the commencement of the consent (namely, 1 August 2007).

#### **10.2 Section 104(1) (a) Any Actual and Potential Effects on the Environment of Allowing the Activity.**

The effects on the environment of the proposal are considered to be greater than those generated by an activity which is permitted as of right (as outlined above). The potential effects on the environment of the proposal are considered to relate to the following broad categories:

- Effects on rural character and landscape values;
- Effects on amenity values;
- Effects on landform, vegetation and ecology;
- Earthworks and geotechnical effects;
- Sediment effects;
- Traffic effects;
- Cultural effects;
- Cumulative effects.

Section 3 of the Act states that the term “effect” includes any positive or adverse effect; temporary or permanent effect; past, present, or future effect; any cumulative effect and potential effects.

In carrying out this assessment of effects, I have had regard to the relevant rules and assessment criteria of the district plans, and the information provided on behalf of the applicant as described in previous sections of this report.

##### **(a) Effects on rural character and landscape values.**

It is acknowledged that the site is not located within a significant natural area (as defined in the Proposed District Plan) and the general area is a mixture of landscape components that display features typical of land that has been modified for primary productive purposes, including forestry and pastoral farming.

While the surrounding environment is characterised by properties used for rural production purposes, a number of 1 – 4 hectare sites are also located within the locality and appear to be used for countryside living purposes.

The processing planner in assessing the effects of the original proposal on the landscape character stated:

*“The cleanfill operation will take place within the footprint of a disused quarry, and the site is therefore already disturbed. Earthworks do nevertheless have the potential to generate adverse effects, and measures can be taken to mitigate these effects. While the applicant refers to blading and regrassing exposed areas that have been unworked for 2 months, it is recommended that the maximum exposed area of earthworks be limited to 0.5 hectares at any one time. This will mitigate adverse visual effects as well as dust generation potential.*”

*The applicant has proposed that a landscaping programme, incorporating planting native species, be implemented, and an appropriate condition is recommended.”*

A copy of the processing planner's report is attached under **Attachment I**.

A condition was imposed on the consent requiring the submission of a landscaping scheme within 3 months of the commencement of the cleanfill. However, Council records indicated that no such landscaping scheme was submitted. Given that the implementation of such a landscaping scheme will assist in mitigating the adverse visual effects of the continued operation of the cleanfill it is recommended that this condition be re-imposed.

While this application is effectively a new application, the cleanfill will not result in a form of development different from that approved by the Environment Court. It is also noted that the existing landform has already been substantially modified by virtue of the existing cleanfill activities and that the majority of the material to be imported will be used to enable the restoration of the site for pastoral farming purposes.

While it is noted that the proposal will continue to generate adverse visual effects, given the limited extent of additional time envisaged by the applicant to complete the cleanfill activities and the suggested imposition of a condition requiring the land to be rehabilitated for pastoral farming purposes (in accordance with an approved landscaping scheme) it is considered that the effects on rural character and landscape values of the area will be no more than minor.

#### **(b) Effects on amenity values**

Various aspects of the continued operation of the cleanfilling activity have the potential to adversely affect rural amenity. These relate principally to the continued use of Blackbridge Road and surrounding roading network by trucks and noise, dust and vibration associated with the undertaking of the cleanfill activity.

The applicant was required to submit a Management Plan under the provisions of Plan Change 55 and the Proposed District Plan. The Management Plan addressed a number of matters including:

- whether off-site effects such as noise, dust, vibration and traffic generation will adversely affect or inhibit the use of the surrounding land for productive purposes or for the carrying out of any permitted, controlled or approved restricted discretionary or discretionary activity;
- whether off-site effects such as noise, dust, vibration and traffic generation adversely affect the amenity values of sites in the vicinity;

The Management Plan incorporated a number of measures to address the above matters including management techniques to minimise effects in respect of vibration and dust generation. With regard to dust effects, these measures included vegetating any topsoil stockpiles, keeping exposed (unvegetated areas) to a minimum, adequately maintaining the access road to the cleanfill site and the use of a water cart to dampen down exposed areas and the access road as required.

The *Assessment of Effects on the Environment* submitted by the applicant for the current proposal has confirmed that the cleanfill will continue to be operated in accordance with the Management Plan. The applicant has also stated in relation to vibration:

*“The use of tracked machinery will be limited to hydraulic excavators and bulldozers. Hydraulic excavators will have a limited movement and be relatively stationary, hence limiting vibration. Bulldozers will be utilised in the compaction and spreading of the topsoil. While vibration from bulldozers will be generated, due to the soft nature of the materials expected to be imported into the site, it is expected to dampen the effect of vibration.*

*The vehicles bringing topsoil material into the site will have rubber tyres, reducing the effect of vibration.”*

Overall, it is considered that the continued compliance with the Management Plan in respect of the type of material deposited in the cleanfill and the type of machinery used on site will ensure that any vibration effects will be no more than minor.

In terms of noise, the applicant submitted a report by Hegley Acoustic Consultants in respect of the original application. The report confirmed that the cleanfill activity could be undertaken in accordance with Council's noise performance standards. The Council undertook a review of the details submitted and confirmed that the activity would comply with the noise standards contained in the Development and Environmental Controls in Plan Change 55. While the Proposed District Plan introduced a new set of noise standards, it is noted that the standards set out in Plan Change 55 are more restrictive than those contained under Rule 16.9.2.1.2 of the Proposed District Plan and as such it is considered that the activity will accord with the noise requirements of the Proposed District Plan. However, for the avoidance of doubt, the applicant may wish to address this matter at the hearing.

Council's assessment of the original proposal concluded with the recommendation of a number of conditions in respect of:

- Noise levels;
- Hours of operation;
- The number of daily truck movements;
- The length of trucks that could access the cleanfill;
- Remedial action to be undertaken in the event of dust nuisance; and
- The need to adhere to the Management Plan.

The above conditions were incorporated in the Consent Order issued by the Environment Court on 1 August 2002.

Overall, it is considered that the proposal will result in temporary and short term effects. It is also considered that such effects can be mitigated by requiring the cleanfill to continue to be operated in accordance with the previously approved Management Plan and relevant conditions of consent in respect of the above matters. Overall, it is considered that compliance with the above will ensure that any effects on rural amenity will be no more than minor.

### **(c) Effects on landform, vegetation and ecology**

The cleanfill operation will extend over an area of approximately 3.8 hectares. The surrounding area comprises a mixture of landscape components that display features typical of land that has been modified for primary productive purposes, including forestry and pastoral farming.

The quarry, by virtue of its former use represents a substantially modified component of the landscape.

In this instance it is noted that it is proposed to rehabilitate the site by importing topsoil and grassing which will enable the site to be used for pastoral farming purposes.

The proposed re-contouring of the site to reflect the topography of the surrounding rural landscape and the subsequent use of the site for pastoral farming purposes will ensure that any effects on the landform of the surrounding area will be no more than minor.

With regard to vegetation, the *Assessment of Effects on the Environment* submitted by the applicant in respect of the original application states:

*"The site is predominantly covered in pasture plants and weeds including Privet (Ligustrum sp.), Thistle, Pampus (Cortaderia sp.), Gorse (Ulex europaeu) and Blackberry (Rubus fruticosus). On the flatter slopes of the quarry are also scattered natives including Red Mapou (Myrsine australis), Mahoe (Melicytus ramiflorus), and Cabbage Tree (Cordyline australis).*

*Above the quarry is a small bush patch including Treeferns, young Kahikatea (Dacrydium dacrydiodes) and Kauri (Agathis australis).*

*On either side of the quarry there are mixed natives and exotics including Macrocarpa and Gum trees as well as a variety of wetland species in a drainage swale.*

*In the quarry lake large mats of water lilies are present and raupo (Typha orientallis) is beginning to establish.*

*Along the stream at the site entrance are native riparian flax (Phormium sp.) and Cabbage Tree (Cordyline australis).*

*Fauna observed at the site including a variety of insects and birds, including a Hawk, a pair of Swallows, a pair of Lorikeets and a multitude of red (Xanthocnemis zealandica) and blue damselflys. Other birds could be heard including pukeko”.*

The majority of the vegetation referred to above lies outside the cleanfill area. The applicant has confirmed that all the vegetation proposed to be removed as part of the original proposal has been removed and it is not proposed to remove any additional vegetation. The applicant has also confirmed that the quarry lake has been filled in with cleanfill.

It is also noted that the wetland protected as part of an earlier subdivision resource consent granted under RMA40268 is located a significant distance from the cleanfill and is adequately fenced off from the remainder of the site. As such it is not anticipated that the continued operation of the cleanfill will adversely affect its long-term potential.

Consequently, given the above, it is considered that the ecological effects of the proposal will be no more than minor.

#### **(d) Earthworks and geotechnical effects**

The Council's Development Engineer in assessing the original application included an assessment of the proposal in terms of the following:

- Engineering suitability for proposed use;
- Earthworks;
- Silt and Dust Control; and
- Stormwater;

The Council's Development Engineer in his original assessment concluded that the site was suitable for backfilling from a geotechnical point of view and the extent of the earthworks proposed would not result in adverse effects in terms of stability silt, dust and stormwater.

The report also recommended a number of conditions in respect of the above. These conditions were subsequently incorporated in to the Consent Order.

The Council's Development Engineer has assessed the current proposal and confirmed that extending the cleanfill activities up to 31 December 2008 will not have any engineering implications that would require a change to the conditions of consent that were imposed under the existing Consent Order.

A copy of the report of the Council's Development Engineer is attached under **Attachment G**.

Consequently, given the re-imposition of the conditions imposed on the original Consent Order it is considered that any effects on engineering suitability, earthworks, silt and dust control and stormwater will be no more than minor.

#### **(e) Sediment effects**

The applicant has confirmed that measures have been installed and these measures consist of clean water diversion channels. The applicant has also confirmed that surface run-off will continue to be directed around the footprint and into the tributary through the existing drainage swales.

A sediment pond is also being utilised to receive the sediment laden water and will be retained on site until effective protection against erosion is established.

The cleanfill has been operating under an existing Auckland Regional Council consent for earthworks and sediment control; however, this expired on 31 December 2006. The applicant has applied to the ARC for a new consent to continue to operate the cleanfill up to 31 December 2008. This consent was issued by the ARC on 27 June 2007 under Permit 33404 and involves the continued use of the existing measures incorporated as part of the original consent. A copy of the Permit is attached under **Attachment J**.

Given that the continuing sediment and erosion control measures will be implemented for the remaining 30,000m<sup>3</sup> of cleanfill, and these measures have been employed on site since 2001 and have been approved for use by the Auckland Regional Council up to December 2008, it is considered that the effects of the proposal on the receiving environment will be no more than minor.

**(f) Traffic effects**

With regards to traffic, the *Assessment of Effects on the Environment* submitted by the applicant in respect of the current application states:

*“Traffic issues are outlined in Section 3.4 of the Management Plan and are still relevant today.*

*It is envisaged that approximately 60 vehicles (120 traffic movements) will visit the site on average on a daily basis, with a maximum of up to 90 trucks in any one day, this can be predetermined by the forward booking arrangement instigated.*

*At the site office are signs indicating to drivers the hazards in the area and what to look for i.e. pedestrians and horses and a speed restriction of 70km/h along Blackbridge Road. A copy of this Hazard Identification Sheet will be forwarded to all potential account holders.*

*All vehicles are to be less than 15 m in length. This will be determined at the time of booking.*

*Safety features, including safety barrier at the one lane bridge, bridal paths (120m) and the widening of the road at the entrance have all been completed. One small length of bridle path has not been completed (other than the trimming of some trees) as this path crosses over a well maintained garden. Consultation with the owner will be completed before any disturbance of the road berm is carried out.”*

It is noted that 7 submissions have been received to the present application and all of the submitters have raised concern over the suitability of Blackbridge Road and the additional traffic generated by the existing cleanfill.

These submissions are summarised in section 6 and are set out below:

- a) The continued damage to Blackbridge Road due to heavy traffic.
- b) Continued danger from trucks,
- c) Noise, dust and mud along the road and damage to the bridge.
- d) The frequency of trucks have adversely affected road safety for other road users including pedestrians and horse riders.
- e) The proposal continues to raise traffic issues, cause road damage, speeding trucks, debris on road, noise and vibration and air and stream pollution.

These matters are substantially the same as those issues raised in respect of the original proposal which were in turn addressed by the processing planner in *Section 4.1.1 Traffic Safety* and *Section 5 Existing Road Access* of his report.

*Section 4.4.1 Traffic safety* – stated that:

*“The effect of the increase in heavy usage on Blackbridge Road has been assessed by Council’s Roding Engineers, and a traffic assessment has been provided by the applicant (Traffic Planning Consultants, 15 August 2000). Council’s Roding Engineers have reviewed this report and are in agreement with the conclusion that the only upgrading work required is at the entrance of the site onto Blackbridge Road. The Development Engineer*

*has recommended an appropriate condition, requiring the upgrading of this intersection to Transit NZ Standards.*

*It is however, appropriate to include a condition, on any consent granted, restricting the number of trucks per day that are authorised to use the site based on the projected maximum capacity of the cleanfill of 250,000m<sup>3</sup> and the expected 5 year life of the cleanfill. It is considered that to ensure the adverse effects of heavy vehicle usage remain minor, there should be no more than an average of 30 truck deliveries to the site per day, as averaged over one month. In absolute terms there should be no more than 45 truck deliveries on any day, and a maximum of 22 deliveries on Saturdays (half day). This proposed restriction on truck numbers will mitigate adverse traffic effects in terms of traffic safety and rural amenity, but still allow the full capacity of the cleanfill to be reached within the 5 year term sought by the applicant”.*

The Consent Order allowed for an increase in the number of truck deliveries from 45 to 60 as averaged over one month, which in absolute terms meant that there would be a consequential increase in absolute terms from 45 to 90 truck deliveries in any one day.

The applicant has confirmed that the continued operation of the cleanfill will accord with the above condition. In addition, the applicant has also confirmed that the roading entrance on to Blackbridge Road has been upgraded in accordance with the recommendation of the Council's Roding Engineer.

In addressing the concerns of the submitters, the report prepared by the processing planner in respect of the original proposal stated:

#### *Section 5 Existing Road Access*

*“With respect to pedestrians walking along the side of the road it is considered that the situation on Blackbridge Road is no better nor worse than that exists on many rural roads that carry heavy traffic.*

*In the case of the one lane bridge, it is considered that it can operate successfully with the addition of 12 to 18 movements per hour generated by the landfill. As viewed by westbound motorists, oncoming traffic to the bridge is first seen 105 metres to the east of the bridge abutment. Taking into account the road grade and operating speed on the road a vehicle could be expected to stop in a distance of around 95, which is less than the 105 metres available.*

*At the intersection of the internal road to the fill site with Blackbridge Road the applicant proposes upgrading work. Trees on the property limit visibility to the west. These are to be cleared as part of upgrading the access and should provide a sight distance of around 95 to 100 metres. There is a bend to the west of the site that limits the operating speed to around 55km/hour. The safe stopping sight distance at this speed is 93 to 100 metres depending on whether the situation is “urban” or “rural”. There is therefore sufficient stopping distance.*

*With regards to damage done to the road by heavy vehicles, the Roding Engineers consider that the applicant pay to the Council a fair and reasonable sum of \$1.00 per cubic metre of imported material to the site. This sum is similar to other clean filling and quarrying operation within the District”.*

The Council's Development Engineer has confirmed that the initial financial contributions payable under the provisions of the original Consent Order issued by the Environment Court were utilised to undertake improvements to a section of Blackbridge Road between the site entrance and Escott Drive. These improvements have mitigated the effects of heavy vehicles utilising this section of Blackbridge to access the cleanfill.

The Council's Development Engineer has also confirmed that Council will be undertaking an area wide pavement (carriageway) treatment/upgrading of the remaining section of Blackbridge Road between Escott Drive and its junction with State Highway 17. The improvements will involve hoeing and stabilising the existing pavement then overlaying it with metal to a depth of 200mm. The metal will then be stabilised and sealed.

Council have appointed Opie Engineers to supervise the work. A site visit undertaken on 28 January 2008 has confirmed that work has commenced in anticipation of the work being completed before the end of the current earthworks season.

It is considered that the rehabilitation works outlined above will address the main concerns of the submitters and will mitigate the continued use of Blackbridge Road by heavy vehicles accessing the cleanfill.

In any event, the Council's Roding Engineer has reviewed the current proposal and is satisfied that the traffic effects on Blackbridge Road and the surrounding roading network will be no more than minor on the basis that the remaining volume of cleanfill that is being applied for is no greater than that which was originally approved and what is being applied for is effectively an extension in the time to complete the cleanfill with no increase in cleanfill capacity.

The Council's Roding Engineer has also recommended that consent from a traffic perspective be granted. A copy of the Council's Roding Engineer's report is attached under **Attachment H**.

With regards to concerns over the amount of debris along Blackbridge Road, it is noted that the access road from Blackbridge Road and the cleanfill site is sealed. The length of the access road when combined with the nature of its construction has minimised the potential for mud and other debris from being deposited along Blackbridge Road. It is considered that the current situation when combined with the limited duration of the cleanfill will ensure that such effects will be no more than minor.

Concerns over the ability of the bridge to accommodate the type and volume of traffic accessing the cleanfill were raised at the time of the submission of the original application. The Council noted these concerns. The reporting planner in *Section 5 Existing Road Access* –stated:

*“With respect to the safety of the bridge, the Council undertakes regular inspections of all bridges within the district on a periodic basis and any requirements for upgrading will be assessed at the time and then completed as necessary.”*

Council continues to carry out inspections of bridges through the District and as such it is considered that any potential adverse effects of the operation of the cleanfill on the safety of the bridge can be adequately avoided and mitigated.

Consequently, given the limited duration of the cleanfill and when combined with the above measures that are currently being implemented and those measures that will be undertaken in the near future it is considered that any traffic effects along Blackbridge Road and on the surrounding roading network will be no more than minor.

#### **(g) Cultural Heritage values**

There are no known archaeological sites on the land within the District Plans. There are also no items of cultural heritage value on the site listed on the Cultural Heritage Index as maintained by the Auckland Regional Council.

MOKO has reviewed the proposal but has not made any comment.

Consequently, based on the information available, it is considered that adverse cultural effects created by this application will be no more than minor.

#### **(h) Cumulative effects.**

Section 3 of the Act defines cumulative effects to include:

*“any effect which arise over time or in combination with other effects regardless of the scale, intensity, duration or frequency of the effect, and also includes any potential effect of high probability; and any potential effect of low probability which has a high potential impact.”*

The continued operation of the cleanfill up to December 2008, when combined with other activities, has the potential to cumulatively affect rural amenity values. However, in this instance, the proposal will generate effects over a relatively short period of time. Furthermore, the assessment of effects outlined above has demonstrated that the potential effects of the continued operation of the cleanfill for the limited period of time requested by the applicant will be no more than minor.

Having regard to the above and to the existing activities undertaken in the locality and the potential for activities to be undertaken in the vicinity of the site that are permitted by Plan Change 55 and the Proposed District Plan it is considered that the proposal will generate no more than minor cumulative effects.

## **11.0 Section 104(1) (b) Any Relevant Plan Provisions**

### **11.1 District Plan Provisions**

#### **11.1.1 Operative Plan Change 55**

##### **Objectives and Policies**

Under heading 2.1 – Issues (page 7), the adverse effects on rural character and amenity are outlined:

*“Although it means different things to different people, on-going development within rural areas often adversely affects rural character. As more, and smaller, sites are subdivided the resulting houses, out-buildings, access roads, increased traffic and other development have a creeping and irreversible effect on what most consider to be a ‘rural’ environment, ultimately resulting in a quite different rural or even an ‘urban’ environment.*

*Although individual subdivisions and developments may have only limited adverse effect on rural character, the cumulative effect of several or many subdivisions or activities will often be significant. For example, in a landscape with several 50 hectare farms, subdivision and development into many 4 hectare sites results in a totally new rural environment – still rural but irreversibly altered. While the landscape may not be regionally or even locally significant it has a rural character where the parts make the whole.”*

The General Objective for the General Rural Activity Area is set out on Page 44:

*“The general objective for the General Rural Activity Area is to ensure the long term protection and enhancement of the soil, water, air, natural features, indigenous fauna and general rural character of the area, while maintaining flexibility to accommodate future rural land use options and a level of amenity which enables rural production to be effectively and efficiently undertaken. This objective complements the objectives of the Plan in relation to metropolitan Auckland and the urban areas and settlements within the District, together with the opportunities for countryside living and lifestyle activities.”*

In the context of the foregoing district plan strategy, and general objective, the Specific Objectives for the General Rural Activity Area relevant to this proposal are as follows:

- (a) Objective 5.1 and Policies 5.2(i) and (ii) (page 45)
- (b) Objective 5.3 and Policies 5.4 (i), (ii) and (iv) (page 46)
- (c) Objective 5.5 and Policies 5.6 (i) (page 46)
- (d) Objective 5.11 and Policy 5.12 (page 47)
- (e) Objective 5.13 and Policy 5.14 (page 47).

The Objectives and Policies of Plan Change 55 are aimed at protecting and enhancing the productive potential of the rural resource, maintaining the rural character of the zone, maintaining and enhancing natural areas, and enabling the productive use of the rural land resource. In addition, the Objectives and Policies provide guidance as to the level of amenity that is appropriate within the General Rural zone.

The importation of the remaining 30,000m<sup>3</sup> of material will be temporary in nature and will include the importation of topsoil which will be used as part of the reinstatement works required under the existing consent. Plan Change 55 seeks to allow a limited number of activities that are best sited in areas of low population density. The location of the cleanfill

has previously been assessed and considered to accord with the relevant Objectives and Policies of the General Rural zone set out in Plan Change 55. In particular, it was considered that the location of the cleanfill within a disused quarry, the staged method of operation, and the progressive rehabilitation of the site would successfully mitigate adverse effects on the landscape and rural character.

This proposal will enable the cleanfill site to be rehabilitated which will in turn mitigate adverse effects of the cleanfill on the landscape and rural character. While it is acknowledged that the proposal will involve the continued use of Blackbridge Road by heavy vehicles and the use of earth moving plant and machinery on site, it is considered that such activities will be short term and will cease by 31 December 2008.

With of conditions in respect of truck movements, noise and dust control, the continued operation of the cleanfill in accordance with the previously approved site management plan and the reinstatement of the site, it is considered that the actual or potential effects are capable of being controlled and managed to an extent that will ensure that any effect of the proposal on neighbouring property owners and occupiers as well as on the wider environment will be no more than minor.

Consequently, it is determined that the proposal is not considered to be contrary to the relevant objectives and policies of the General Rural zone.

### **Strategic Issues**

A clear strategic vision and philosophy emerges from these provisions to protect the character, amenity and production values of rural areas in Rodney District as they currently exist while also allowing some non-rural activities, which because of the effects they generate are best sited in areas of low population density and larger sites provided their adverse effects are avoided, remedied or mitigated.

It is considered that the proposal in this instance is appropriately located because of the potential effects that could be generated by the activity. However, it is also considered that conditions of consent can be imposed to ensure that the proposal will result in a form of development that will generate effects on the existing and expected character and on neighbouring property owners that will be no more than minor.

### **Assessment Criteria**

Rule 10.2(a) and (b) provides the relevant assessment criteria in assessing applications for cleanfill sites in excess of 1000m<sup>3</sup> and comprises the following:

- i. The need for a rural rather than an urban location
- ii. Effect on rural character
- iii. Effects on amenities of neighbouring properties
- iv. Effect on road safety
- v. The Public Utility
- vi. Compliance with relevant Management Plan

It is considered that the proposal satisfies criteria (i) to (v), subject to the recommended conditions contained in this report.

With regards to criteria (vi) the applicant has confirmed that the cleanfill will continue to be operated in accordance with the previously submitted and approved Management Plan. Consequently, it is considered that the proposal satisfies the relevant assessment criteria in Plan Change 55.

#### **11.1.2 Proposed District Plan 2000**

In the context of the foregoing district plan strategy, and general objective, the general Objectives and Policies for the General Rural Activity Area relevant to this proposal are as follows:

- (a) Objective 7.3.1 and Policies 7.4.2 and 7.4.3
- (b) Objective 7.3.3 and Policies 7.4.3, 7.4.4, 7.4.8 and 7.4.15
- (c) Objective 7.3.4 and Policies 7.4.2, 7.4.3, 7.4.4 and 7.4.8

- (d) Objective 7.3.5 and Policy 7.4.4.
- (e) Objective 7.3.6 and Policy 7.4.7.
- (f) Objective 7.3.7 and policies 7.4.8, , 7.4.9 and 7.4.16
- (g) Objective 7.3.10 and policies 7.4.1, 7.4.8, 7.4.15 and 7.4.16

In the context of the foregoing district plan strategy, and general objective, the Specific Objectives and Policies for the General Rural Activity Area relevant to this proposal are as follows:

- (h) Objective 7.8.1.1.1 and Policies 7.8.1.2.4 and 7.8.1.2.11
- (i) Objective 7.8.1.1.2 and Policies 7.8.1.2.3 and 7.8.1.2.11
- (j) Objective 7.8.1.1.3 and Policies 7.8.1.2.6 and 7.8.1.2.8
- (k) Objective 7.8.1.1.4 and Policies 7.8.1.2.8 and 7.8.1.2.11

The Proposed District Plan seeks to maintain the rural character of the district. It is acknowledged that an important part of the rural character is the predominance of natural features, such as native bush and wetlands, and the open space areas being in pasture, trees, crops or indigenous vegetation and accordingly the above Objectives and Policies are aimed at maintaining the rural character of the zone, maintaining and enhancing natural areas, avoiding conflict between residential and non-residential activities, and enabling the productive use of the rural land resource.

The site has already been modified by the previous quarrying and cleanfill operations and the proposed cleanfill will result in limited and temporary effects to the productive capacity of the land. Such effects are considered to be temporary because the site will be fully rehabilitated back to pasture after the completion of the cleanfill operations. The stockpiling and reinstatement of topsoil will ensure that the soil is conserved for future use.

The proposal will result in the generation of temporary adverse effects in terms of soil disturbance, landscape and rural character and amenity. However, the location of the cleanfill within a disused quarry, the staged method of operation, and the progressive rehabilitation of the site will successfully mitigate adverse effects on the landscape and rural character.

The imposition of conditions with regard to truck movements, noise and dust controls will also ensure that any adverse effects on amenity values will also be avoided or mitigated.

Consequently, overall it is considered that the potential adverse effects on the landscape, rural character and amenity values will be no more than minor and as such the proposal is not considered to be contrary to the relevant objectives and policies of the General Rural zone.

### **Strategic Issues**

The provisions of the Proposed District Plan build upon the strategic approach taken to the management of the rural environment in Plan Change 55 and develops this approach further to achieve a clear demarcation between urban and rural areas. The significant resource management issues identified in the Proposed District Plan (7.2, pages 3 – 14) relate to the effects that subdivision and development can have upon the rural environment, including growth pressure (7.2.1), rural character (7.2.2), rural amenity (7.2.3), rural productivity (7.2.4), biodiversity (7.2.5), riparian margins (7.2.6), the versatility of rural land (7.2.7) and water quality (7.2.9).

In this instance the proposal seeks to continue with a lawfully established activity that has been in operation for a number of years. The establishment of the cleanfill has resulted in a modification of the existing rural character. However, with regard to the effects of the continued operation of the cleanfill for a further 12 months on rural character and amenity as well as on rural productivity, these matters have been discussed throughout this report and it is considered that the adverse effects of the proposal can be either avoided or mitigated to such an extent that will ensure that any adverse effects will be no more than minor.

## Plan Rules

### Assessment Criteria

Whilst the proposed activity is non-complying (for the reasons stated above), it is considered that the assessment criteria contained in Rule 7.13.4.1, which in turn refers to Rule 7.11.1.2, are relevant.

A copy of rules and assessment criteria in respect of the Proposed District Plan 2000 are attached under **Attachment K**.

It is considered that the proposal satisfies the following criteria:

- Off-site effects
- Amenity values
- Traffic effects
- Visual effects
- Restoration or rehabilitation programme
- Mitigation measures
- Significant Natural Areas

The applicant has confirmed that the cleanfill will continue to be operated in accordance with the previously submitted and approved Management Plan which has addressed all of the above assessment criteria. The Management Plan includes details in respect of the following:

- Quality and type of material to be deposited,
- The extent of area to be filled,
- The provisions for the control of stormwater, silt or any other liquid discharge,
- The likely number of vehicle movements per day and the hours/days of operation,
- The number and type of vehicles working permanently on the site,
- The location of any buildings on the site,
- The position of boundary fences, and existing vegetation and watercourses on site,
- The reinstatement measures proposed for the site including topsoiling, regressing or planting.

Off site effects such as noise and dust, vibration and traffic generation have previously been discussed throughout this report and it is considered that the adverse effects of the proposal can be either avoided or mitigated to such an extent that will ensure that any adverse effects will be no more than minor.

Consequently, it is considered that the proposal satisfies the relevant assessment criteria in the Proposed District Plan.

## 11.2 Auckland Regional Policy Statement

The Auckland Regional Policy Statement sets out the broad resource management issues, objectives and policies for the Auckland Region to achieve the integrated management of its natural and physical resources. Various key issue areas such as transport, energy, heritage, matters of significance to Iwi, the coastal environment, water quality, conservation and allocation, and air quality are discussed.

Of particular relevance to this proposal is *Chapter 2 – Strategic Direction*, which contains a set of strategic objectives and policies that are designed to provide for the integrated management of the regions natural and physical resources.

It is considered that the proposal is generally consistent with these objectives and policies as the potential effects of the proposal can continue to be avoided or mitigated through the imposition and compliance with conditions of consent which will ensure that any effects on the wider environment including water courses will be no more than minor.

### **11.3 Section 104 (1) (c) Any other Matter**

#### **11.3.1 Relevant Council Documents**

Vision Rodney is a document incorporating the statements of the future that people and communities of Rodney want for the District. It sets out the following 6 key intent statements:

- We will keep our country look and feel
- We will not let our towns and villages sprawl
- We will maintain our lifestyle and look after the environment
- We will take care of ourselves while working with others
- We will be able to make our living in Rodney
- We will determine the future of our district

The proposal is consistent with the anticipated character and amenity of the area. The adverse effects associated with the proposal will be short term and will result in the reinstatement of the land to a rural productive use. As such it is considered that the cleanfill, once completed and reinstated will reinforce the country look and feel and as such the proposal is consistent with the outcomes envisaged in Vision Rodney.

#### **11.3.2 The Integrity and Consistent Administration of the Plan**

As the proposal is a non-complying activity, the potential for a proposal to create a precedent for other similar applications within the same zone is a relevant consideration under s104 (1) (c).

As a non-complying activity, a precedent is not likely to be set if there are special or unusual circumstances that apply to the site or the proposal. If such circumstances exist, Council can use these to differentiate (and therefore decline or approve if appropriate) other proposals seeking to obtain approval under the same or similar non-complying rule.

In this case, it is considered that there are a number of unusual factors that apply to this proposal which are as follows:

- The proposal is located within a former limestone quarry which is currently subject to cleanfill operations by virtue of a resource consent granted via a Consent Order by the Environment Court on 1 August 2002. The existing cleanfill has significantly modified the character of the area and continued operation of the cleanfill will enable the undertaking of reinstatement works to enable the site to be utilised for pastoral farming.
- The proposal also involves the undertaking of reinstatement works which will enable the re-use of a rural resource which will in turn reinforce the rural character and amenities of the surrounding environment.

Overall, these circumstances are considered to be unusual and are not present (or able to be easily replicated) elsewhere in the district. It is considered that these factors are relevant in distinguishing this proposal from other possible developments otherwise excluded from the General Rural zone. Accordingly, it is considered that no adverse precedent will be established.

### **11.4 Section 104 Assessment Conclusions**

Overall it is considered that having regard to all the relevant section 104 matters that consent be granted.

### **12.0 SECTION 104D ASSESSMENT**

As a non-complying activity section 104D of the Act states that the Council may only grant consent if it is satisfied that either:

- (a) the adverse effects of the activity on the environment will be minor; or
- (b) the application is for an activity that will not be contrary to the objectives and policies of the relevant plan.

Based upon the section 104 assessment of actual and potential effects in Section 10 of this report, it is considered that the adverse effects on the environment will be no more than minor.

Based upon the section 104 assessment of the relevant objectives and policies of the planning instruments in this report, it is considered that the proposed activity subject to conditions of consent will be consistent with the objectives and policies of Plan Change 55 the Proposed District Plan 2000 and the RPS.

Overall it is considered that the proposal can be considered for the grant of consent on its merits.

### **13.0 PART II ASSESSMENT**

Section 5 outlines the purpose of the Act, defining sustainable management. In this case, it is considered that the proposal meets the purpose of the Act as the proposal will not have significant adverse effects on the environment (as demonstrated by the specialist reports and the peer review of these reports undertaken as part of the assessment of the original application) and will not set a precedent that would ultimately result in unsustainable development with further adverse effects on rural character and amenity in the surrounding area. The application also provides methods to mitigate potential adverse effects on the environment resulting from the activity including reinstatement of the land to enable the land to be used for pastoral farming purposes.

Section 6 relates to "matters of national importance" which consent authorities are to recognise and provide for in achieving the purpose of the Act. There are no matters of national importance relevant to the application. First, the location of the proposed activity is not within an outstanding natural feature or landscape so as to require consideration under subsection (b). Similarly, the proposal shall not directly impact on any areas of significant indigenous vegetation or significant habitats of indigenous fauna, as referred to in subsection (c).

Other matters are referred to in Section 7 and include the maintenance and enhancement of amenity values and the quality of the environment. It is considered that the proposal is not contrary with this section as it makes efficient use of the site in such a way to provide development with acceptable effects in relation to amenity values and the quality of the environment.

There are no section 8 Treaty of Waitangi matters relevant to this application.

Overall it is considered this application is not consistent with Part 2 matters.

### **14.0 RECOMMENDATION**

**That, pursuant to Sections 104, 104B and 104D of the Resource Management Act 1991, the limited notified application for resource consent by Aquita Developments 2007 Limited to continue to operate an existing cleanfill by importing 30,000m<sup>3</sup> of material after the date provided for by virtue of a condition of consent granted by the Environment Court on 1 August 2002 on the property at 194 Blackbridge Road, Dairy Flat, legally described as Lot 2 DP 364442 be granted consent.**

### **15.0 REASONS FOR THE RECOMMENDATION**

**Pursuant to Section 113 of the Resource Management Act 1991, the reasons for this decision are as follows:**

- (a) The actual and potential effects of extending the operation of the cleanfill up to the end of 2008 have been assessed, and while the proposal will generate some short term adverse effects on rural character and amenity values, it is considered that subject to the imposition of appropriate conditions of consent to protect rural amenity, to manage traffic effects, to control the volume and duration of the proposed cleanfill, and to ensure the stability of the fill, the effects on the environment will be, on balance, no more than minor.**

- (b) The applicant has confirmed that the cleanfill operation will continue to be carried out in accordance with the Management Plan submitted in respect of the original application and it is considered that this adequately addresses the assessment criteria relating to Discretionary activities as outlined in Plan Change 55. Specifically, it is noted that the site will be progressively developed and rehabilitated, traffic effects have been demonstrated to be no more than minor, there is sufficient separation distance between the proposed activity and neighbouring dwellings so that effects in terms of noise are able to be avoided, any adverse effects in terms of dust and discharges into local watercourses are able to be avoided through conditions of consent.
- (c) The Council's Development Engineer has reviewed the application and is satisfied the extending the cleanfill operation is able to be carried out without resulting in effects of stability, earthworks, silt and dust control, stormwater, and road access that are no more than minor subject to the re-imposition of engineering conditions that were imposed in the original consent being granted by the Environment Court on the 1 August 2002.
- (d) The Council's Roading Engineer has reviewed the application and subject to the imposition of conditions of consent imposed in respect of the original application is satisfied the proposed cleanfill is able to be carried out without resulting in effects in terms of traffic safety that are no more than minor.
- (e) The proposal is considered to be consistent with the objectives and policies for the General Rural Activity Area in Plan Change 55 and the Proposed District Plan. In particular, it is considered that the location of the cleanfill within a disused quarry, the staged method of operation and the progressive rehabilitation of the site will successfully mitigate adverse effects on the landscape and rural character. The proposal is considered compatible with the existing and foreseeable future qualities and characteristics of the surrounding rural area. The proposal will not result in adverse effects that exceed the identified levels of acceptable environmental effects applicable to the zone.
- (f) The application for consent is for a Non Complying Activity and satisfies the requirements of Section 104D as the adverse effects of the activity will be no more than minor and the application is considered to be consistent with the objectives and policies of the relevant plan and the relevant proposed plan.
- (g) The proposal is considered to be consistent with the sustainable management purpose and principles of Part II of the Act, particularly section 5, as the proposal represents the sustainable management of natural and physical resources.
- (h) The proposed mitigation measures (and in particular land rehabilitation) are considered sufficient to adequately ensure that the potential adverse effects of the proposal will be no more than minor.

## **LAPSING OF CONSENT**

Pursuant to Section 125 of the Resource Management Act 1991, this resource consent will expire 5 years after the date of commencement of consent unless, before the consent lapses;

- (a) the consent is given effect to; or
- (b) an application is made to the Council to extend the period of consent, and the Council decides to grant an extension after taking into account the statutory considerations, set out in section 125(1)(b) of the Resource Management Act 1991.

## CONDITIONS OF CONSENT:

Pursuant to Section 108 of the Resource Management Act 1991, this consent is subject to the following conditions:

1. (general) The cleanfilling operation shall proceed in general accordance with the information provided in the land use consent application and plans drawn by Hazel Hewitt and Associates Ltd, dated February 2000 and November 2006 and numbered 1122/1, 1a and 1 respectively, and in accordance with amendments as required by the conditions of this consent.

2. (hours of operation) The hours of operation shall be:

Monday to Friday: 7.30 a.m. to 5.30 p.m.

Saturday: 8.00 a.m. to 1.00 p.m.

No operations on Sundays or Public Holidays.

3. (maximum quantity of cleanfill) The maximum quantity of cleanfill to be deposited on the site during the term of this consent is 30,000m<sup>3</sup> uncompacted.

4. (duration of cleanfill activity) All cleanfilling operations on the site (including reinstatement works) shall cease by the 31 December 2008.

5. (noise) The noise level generated by any cleanfilling operation or associated activity conducted on the site shall comply at all times with the following noise standard:

The corrected noise level (L10) as measured at the notional boundary shall not exceed 50dBA.

*(Notional boundary is defined as a line 20 metres from the façade of any rural dwelling or the legal boundary where this is closer to the dwelling.)*

The background noise level (L95) as measured on or close to the boundary of any site shall not exceed 45dBA.

Notwithstanding the above standards and compliance with them, the relevant provisions of any legislation or Council Bylaws may also be invoked by the Council to control any noise which has become excessive.

Noise levels shall be measured and assessed in accordance with the requirements of New Zealand Standards NZS 6802:1991 Methods of Measuring Noise and NZS 6802:1991 Assessment of Noise in the Environment, except that • all measurements shall be carried out at the notional boundary as defined above.

The noise shall be measured with a sound level meter complying with international standard IEC 651(1979) Sound Level Meters: Type 1.

Prior to the commencement of the activity, the consent holder shall forward to the Council a certificate from an acoustical engineer stating that the above performance standards will be met. As soon as practicable following the commencement of the activity, the consent holder shall forward to the Council a commissioning report demonstrating that the activity meets the above performance criteria.

6. (truck movements) There shall be no more than an average of 60 truck deliveries to the site per day, as averaged over one month. In absolute terms, there shall be no more than 90 truck deliveries in any one day. On Saturdays the maximum number of truck deliveries shall be 30.

7. (traffic safety) The transportation of cleanfill to the site shall not occur with either truck or trailer units or trucks with an overall length exceeding 15 metres.

8. (security gate) A gate shall be installed and maintained at the site entrance/exit on Blackbridge Road and shall be securely locked at all times outside authorised operating hours.
9. (landscaping plan) A landscape planting and implementation plan, including provisions for replacement planting as necessary, shall be prepared to the satisfaction of the Consents Manager within two (2) months of the date of this consent. This landscaping planting and implementation plan shall be incorporated into the planting plan presented in evidence of Jan Woodhouse, Landscape Architect at the hearing undertaken in respect of RMA26918. All landscape planting shall be undertaken within the first planting season following the completion of this consent.
10. (footprint of cleanfill) The maximum footprint of the cleanfill shall be no more than 3.8 hectares, excluding access roads and maneuvering areas.
11. (maximum disturbed area) The maximum disturbed area, excluding access roads and maneuvering areas, shall at no time exceed 0.5 hectares.
12. (storage of hazardous substances) There shall be no hazardous substances deposited in the cleanfill, and all loads are to be visually checked by the site operator at the time of deposition. The applicant shall prepare a hazardous substance emergency response plan, to the satisfaction of the Consents Manager, prior, to the commencement of operations on the site.
13. (odours) Beyond the boundary of the cleanfill site there shall be no objectionable odour caused by material deposited at the site, as determined by a Council Environmental Health Officer.
14. (signage) All signage associated with the cleanfilling activity shall comply with the District Plan.
15. (cleanfill deliveries) The consent holder shall submit a six (6) monthly report to Council including the following information, and shall make this information available to Council on request, at all times:
  - a) The total number of truck deliveries to the site on a monthly basis.
  - b) The registration number of each truck making a delivery of cleanfill to the site, along with the estimated volume of cleanfill material deposited, the source of the cleanfill, and time and date of delivery.
  - c) The percentage of untreated timber and other 'non-cleanfill' material as defined in the District Plan, relative to cleanfill material deposited on the site during the reporting period.
16. (archaeological findings) In the event of an archaeological site being uncovered, work is to cease immediately in the vicinity of the discovery and the NZHPT Regional Archaeologist contacted so that appropriate action can be taken before work may recommence.
17. (aftercare monitoring) Following the completion of filling and reinstatement works on site, Council shall continue to monitor the site for an after care period of a further two years. Inspections shall be undertaken at six monthly intervals. The purpose of these inspections shall be to monitor, but is not limited to, the following matters: slope stability, ground settlement, and success of the final revegetation programme.
18. (limitation on type of material) Material imported onto the site shall be restricted to clean fill which is defined as *"materials of natural content, such as soil, clay, concrete, brick or demolition materials, which are free of combustible materials and are not subject to biological or chemical breakdown, but does not include domestic, commercial and industrial wastes, hazardous wastes, or timber, or trees and garden trimmings; provided that in the case of demolition materials, minimal quantities not exceeding 5% of any one truck load of untreated timber still firmly embedded or attached to concrete or brickwork is acceptable."*

19. (public access) The site shall not be open to the general public in relation to the clean fill operation.
20. (management plan) The management plan prepared by Hazel Hewitt and Associates Limited dated August 2002 approved under RMA26918 shall continue to be strictly adhered to at all times.
21. (review of management plan) The management plan shall be subject to a 6 month review from the date of consent.
22. (dust control) All necessary actions shall be taken to prevent a dust nuisance to neighbouring properties and public roads; including, but not limited to:
  - The staging of areas of the works;
  - The retention of any existing shelter belts and vegetation;
  - The installation and maintenance of wind fences and vegetated strips;
  - Watering of all haul roads and maneuvering areas during dry periods;
  - Spraying of load dumping operations;
  - Suspension of all operations if necessitated by the prevailing conditions.
23. (protection of the roads) All necessary measures, including, but not limited to, metal led (not limerocked) access roads and manoeuvre areas, permanent tip-heads, wheel washing facilities and high pressure hoses, shall be installed and operated to prevent the deposition of slurry, clay or other materials on the roads by vehicles leaving the site. Should material be deposited on the road it shall be removed immediately, and the site shall be closed until it can operate without material being carried onto any road to the satisfaction of the Consents Engineer.
24. (grass cover) All areas affected by the works shall be regrassed, revegetated or otherwise protected from wind and water erosion within two months of the completion of the works.
25. (health and safety plan) The cleanfill activity hereby approved shall continue to be operated in accordance with the detailed traffic management plan and the health and safety plan submitted to and approved by the Consents Engineer under RMA26918.
26. (other consents) Prior to the commencement of the works the consent holder shall obtain all consents, permits and authorisations for the works as may be required by the Auckland Regional Council.
27. (administration fee) The consent holder shall pay to the Council the administrative fee for processing this application for resource consent within one month of the date of issue of this consent.
28. (monitoring/supervision) The consent holder shall pay to the Council the actual and reasonable costs of monitoring the conditions of the resource consent. The consent holder will be advised of the charges as they fall due covering the fair and reasonable costs incurred by the Council.

**Advice Notes:**

1. Prior to the commencement of the operation, the consent holder shall obtain all necessary consents, permits and authorisations as may be required by the Auckland Regional Council.
2. The consent holder shall ensure that all drivers delivering cleanfill to the site are made aware that pedestrians, and horses and riders often use Blackbridge Road, and that care is required.

## **ATTACHMENTS**

<b>Attachment A</b>	<b>Copy of Consent Order issued by Environment Court.</b>
<b>Attachment B</b>	<b>Copy of Application details.</b>
<b>Attachment C</b>	<b>Copy of Management Plan.</b>
<b>Attachment D</b>	<b>Copy of letter received from applicant confirming that cleanfill will continue to be operated in accordance with previously submitted Management Plan and conditions set out in the Consent Order.</b>
<b>Attachment E</b>	<b>Copy of rules and assessment criteria in respect of Plan Change 55.</b>
<b>Attachment F</b>	<b>Copy of submissions.</b>
<b>Attachment G</b>	<b>Development Engineers Assessment.</b>
<b>Attachment H</b>	<b>Roading Engineer's Report.</b>
<b>Attachment I</b>	<b>Copy of report of original processing planner.</b>
<b>Attachment J</b>	<b>Copy of ARC approval Permit 33404.</b>
<b>Attachment K</b>	<b>Copy of rules and assessment criteria in respect of the Proposed District Plan 2000.</b>