

# **Planners Report 13**

## **Variation 1: Lifestyle Zones and Minden Structure Plan Area**

### **Lifestyle Section – Activity Performance Standards Yards**

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#### **1.0 Background**

- 1.1** The proposed yard rules have undergone the following changes.
- 1.2** The 30m yard requirement for dwellings and other habitable buildings from the railway corridor has been deleted.
- 1.3** There has been an increase from a 30m setback to a 100m setback for dwellings and other habitable buildings from Strategic Roads (and designations e.g. Tauranga Northern Link).
- 1.4** The minimum front yard for “all other structures” has been increased from 5m to 10m.

#### **2.0 Issues**

- 2.1** Nine submission points were received requesting amendments to the activity performance standards for yards. Three further submission points were received.
- 2.2** The main issues raised by submitters can be summarised as follows:
  - 2.2.1** One submitter opposes the title ‘yards’ and suggest it be replaced with ‘situation of buildings’.
  - 2.2.2** One submitter wants the 10m yard for dwellings from property boundaries increased to 30m.
  - 2.2.3** Another submitter has suggested allowing an exemption to the yards (for dwellings and other structures) where a 20m distance can be achieved between these and nearest dwelling or accommodation unit on an adjoining title.
  - 2.2.4** A number of submitters feel the 100m yard for dwellings and other habitable buildings from strategic roads is excessive, impractical given contour, and will significantly reduce yield e.g. 50 lots. Suggested alternatives include 20m, 30m, 50m or 70m.
  - 2.2.5** New Zealand Transport Agency request that this same yard from strategic roads be increased to 200m to align with NZS 6808: a

new standard for measuring, predicting and mitigating road traffic noise on dwellings within 200m of the carriageway.

**2.2.6** One submitter has asked that the 5m side and rear yard for “all other structures” from property boundaries increases to 10m.

**2.2.7** Another submitter opposes the “provided that” clause allowing yard encroachments for “all other structures” following written approval from the adjoining owners (which they say are often developers). They feel rural openness will be compromised.

### **3.0 Options**

#### **3.1 Option 1**

**3.1.1** Retain the Activity Performance Standards for yards as notified.

#### **3.2 Option 2**

**3.2.1** Change the title “yards” to “situation of buildings”.

#### **Options 3-6 Relate to Rule 16A.4.1 (c) (i).**

#### **3.3 Option 3**

**3.3.1** Increase the 10m yard (for dwellings and other habitable buildings) from property boundaries to 30m.

#### **3.4 Option 4**

**3.4.1** Allow yards (for dwellings and other habitable buildings) from property boundaries to be reduced when a 20m separation distance can be achieved between these and the nearest of the same type.

#### **3.5 Option 5**

**3.5.1** Reduce yard (for dwellings and other habitable buildings) from strategic roads to 20m, 30m, 50m or 70m.

#### **3.6 Option 6**

**3.6.1** Increase the yard (for dwellings and other habitable buildings) from strategic roads to 200m.

#### **Options 7 and 8 relate to Rule 16A.4.1 (c) (ii).**

#### **3.7 Option 7**

**3.7.1** Increase the 5m side and rear yard for “all other structures” from property boundaries to 10m.

#### **3.8 Option 8**

**3.8.1** Remove the “provided that” clause in 16A.4.1 (c) (ii) for ‘all other structures’ which allows yards be reduced by written

approval of adjoining neighbours (or developers), and instead address yard encroachments through resource consent only.

## 4.0 Advantages and Disadvantages

<b>4.1 Option 1: Retain the Activity Performance Standards for yards as notified.</b>	
Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• 10m yard from property boundaries provides open space amenity and privacy between dwellings.</li> <li>• 30m yard from rural zone boundary maintains lifestyle zone amenity e.g. sets development back from spray drift, dust, noise, smell etc. Also reduces likelihood of reverse sensitivity towards those farming activities.</li> <li>• 100m yard from Strategic Roads reduces noise, vibration, light spill from the TNL. Also reduces likelihood of reverse sensitivity towards the TNL.</li> <li>• 5m yard for "all other structures" on side and rear boundaries allows for flexible use of land.</li> <li>• 10m front yard for "all other structures" is for amenity purposes.</li> </ul>	<ul style="list-style-type: none"> <li>• See opposition from submitters.</li> </ul>
<b>4.2 Option 2: Change the title "yards" to "situation of buildings".</b>	
Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• No advantages.</li> </ul>	<ul style="list-style-type: none"> <li>• The term "yards" is established and recognized.</li> </ul>
<b>4.3 Option 3: Increase the 10m yard (for dwellings and other habitable buildings) from property boundaries to 30m.</b>	
Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• More privacy between dwellings.</li> <li>• Would increase open space amenity</li> <li>• Provides a larger set back from existing and establishing farming activities within the lifestyle zone e.g. helps avoid effects of spray drift, dust, noise, smell etc.</li> </ul>	<ul style="list-style-type: none"> <li>• 30m yard is appropriate for a rural setting but is out of character with a lifestyle setting.</li> <li>• Severely restricts the number of areas available for selecting a house site e.g. would push house-sites into the centre of properties or eliminate permitted house-sites altogether.</li> <li>• For example a 4000m<sup>2</sup> lot at 63m x 63m would only be capable of a 9m<sup>2</sup> house site.</li> </ul>

	<ul style="list-style-type: none"> <li>It would be impossible to fit a house site on a 3000m<sup>2</sup> lot at 55m x 55m.</li> </ul>
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**4.4 Option 4: Allow yards (for dwellings and other habitable buildings) from property boundaries to be reduced when a 20m separation distance can be achieved between these and the nearest of the same type.**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Would allow for more flexibility in house-site section in cases where a large number of house sites were being selected under a single subdivision.</li> </ul>	<ul style="list-style-type: none"> <li>Favours those who build their dwellings before their neighbours.</li> <li>For example, creates the situation where "Landowner A" selects their house site first e.g. 2m from boundary because no dwelling yet exists on the adjoining property (20m separation achieved), but then "Landowner B" is not allowed the same exemption when they select their house site (20m separation may no longer be achieved). Therefore they must still build at 10m from the boundary and possibly be 12m from the other dwelling.</li> <li>This scenario may lead to a number of dwellings being closer than 20m from each other, affecting the privacy and open space which is intended for the zone.</li> <li>Creates uncertainty for landowners because this exception would be a Permitted Activity. Written approval from neighbours is the most appropriate option for considering such an exception.</li> </ul>

**4.5 Option 5: Reduce yard (for dwellings and other habitable buildings) from strategic roads to 20m, 30m, 50m or 70m.**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Would allow landowners more flexibility for choosing a house site.</li> <li>Adds developable land area to the Minden Lifestyle Zone increasing the overall yield and uptake of transferable subdivision entitlements.</li> </ul>	<ul style="list-style-type: none"> <li>Dwellings exposed to more noise, vibration etc.</li> <li>Increases likelihood of reverse sensitivity from landowners towards TNL.</li> <li>NZTA have suggested a 200m setback is required to meet a new adopted noise standard NZS6806, which the TNL is likely to need to comply with.</li> </ul>

**4.6 Option 6: Increase the yard (for dwellings and other habitable buildings) from strategic roads to 200m.**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>NZTA suggest a 200m setback is required to meet a new adopted noise standard NZS 6806, which the TNL is likely to need to comply with.</li> <li>Further reductions to noise, vibration experienced from dwellings.</li> <li>Reduced likelihood of reverse sensitivity toward TNL.</li> </ul>	<ul style="list-style-type: none"> <li>Further restrictions on landowners.</li> <li>Reduces yield of the Minden Lifestyle Zone.</li> <li>No justification for why a 200m yard is required.</li> </ul>

**4.7 Option 7: Increase the 5m side and rear yard for “all other structures” from property boundaries to 10m.**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Buildings such as sheds, workshops or farm buildings all have potential for unwanted noise, smell, lighting etc.</li> <li>One submitter believes there is a risk from shading at 5m.</li> </ul>	<ul style="list-style-type: none"> <li>Would unnecessarily restrict the use of the land without a clear reason for making the change.</li> <li>“All other structures” are uninhabitable so generally do not require the same yard as needed for dwellings.</li> </ul>

**4.8 Option 8: Remove the “provided that” clause in 16A.4.1 (c) (ii) for ‘all other structures” which allows yards be reduced by written approval of adjoining neighbours (or developers), and instead address yard encroachments through resource consent only.**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Submitter believes this is needed to prevent loss of rural openess.</li> </ul>	<ul style="list-style-type: none"> <li>Removes flexibility for landowners.</li> <li>Rural openess will not necessarily be compromised.</li> </ul>

## 5.0 Discussion

### 5.1 Option 1 – No change

**5.1.1** Overall, the proposed yard rules attempt to create a high level of amenity for the Lifestyle Zones. They also minimise the likelihood of reverse sensitivity from those moving into the Lifestyle Zones toward existing activities such as farming, and future activities such as the TNL.

**5.1.2** Providing separation distances between dwellings (10m yard from boundary) ensures that privacy is maintained between residents and that the open space character of the lifestyle zone is maintained while still allowing landowners a number of

options for choosing a house site and using the remainder of their property for other purposes.

- 5.1.3 Larger 30m yards have been set for dwellings on those properties bordering the Rural Zone in recognition of the effects that close proximity to rural activities may have on residential amenity. Such effects include noise, dust, spray and smell. This yard is consistent with the current rural yard.
- 5.1.4 The 100m yard from the strategic roading network (which in the case of the Minden Lifestyle Zone accounts for 100m set back from TNL designation) has been established for a similar reason. Effects this time mainly being noise, vibration and spill light.
- 5.1.5 The 10m front yard for "all other structures" is consistent with front yards for activities such as dwellings and is in place to retain amenity. The 5m side and rear yard for "all other structures" is consistent with that used in the Rural and Rural-Residential Zones which have been in place for some time.
- 5.1.6 The yard rules have been accepted by submitters overall, subject to specific changes as discussed below.

## **5.2 Option 2 – Changing the title 'yards' to 'situation of buildings'.**

- 5.2.1 The term "yards" is established and its meaning is well recognized by plan users. There is no reason to change this name.

## **5.3 Options 3 and 4 – Yards from property boundaries.**

- 5.3.1 Options 3 and 4 present different alternatives to the 10m yard for dwellings from property boundaries.
- 5.3.2 Option 3 is to increase the yard from 10m to 30m. This is not appropriate for a Lifestyle Zone which expects a higher density and closer proximity of dwellings than in the Rural Zone. Furthermore, it would render many of the lots unusable, as it would essentially eliminate all possible building sites.
- 5.3.3 For example, a 4000m<sup>2</sup> lot (square) would measure roughly 63m x 63m and would only be left with a small area (9m<sup>2</sup>) available in the centre of the lot for a house site. A 3000m<sup>2</sup> lot (square) measuring 55m x 55m, would be left with no area remaining for a house site.
- 5.3.4 Option 4 is to allow a reduction to the 10m yard in cases where a 20m separation can be still be maintained from the nearest habitable building. This same type of rule has recently been introduced in the Rural Zone allowing landowners to build closer than the 30m yard when the nearest habitable building on an adjoining property is still at least 60m away (in effect the same

as two 30m yards). This works in the Rural Zone where lot sizes are larger and a 10m yard will often be appropriate as the nearest dwelling may be a large distance away.

- 5.3.5** One possible benefit of using this method in the Lifestyle Zone would be the ability to reduce yards to gain better house sites in subdivisions where many house sites are being chosen at once and it is therefore possible to ensure 20m separations.
- 5.3.6** However, in the scenario where "Landowner A" and "Landowner B" own two adjoining empty lots, it creates the problem where the first to select their house site can reduce their yard below 10m (because a 20m separation can be achieved) but then the second may not be able to depending on where the first decided to put that house site (e.g. it may be 2m from the joint boundary). This could lead to a separation of only 12m and defeat the purpose of the rule.
- 5.3.7** It is better to address yard encroachments through resource consent and written approval from neighbours. This way, effects such as loss of privacy and loss of open space amenity can be addressed. Ultimately, a 10m yard provides enough flexibility for house site selection and certainty to landowners that they will be at least 20m from the nearest dwelling on an adjoining property.

#### **5.4 Options 5 and 6 – Yards from Strategic Roads**

- 5.4.1** The 100m yard from the TNL was agreed upon between Council and NZTA as an appropriate setback for the purpose of dealing with any reverse sensitivity effects. It should at least remain at 100m for this agreed purpose even though it does already pose a considerable restriction on landowners and a reduction in yield for the Minden Lifestyle Zone.
- 5.4.2** Increasing this yard from 100m to 200m will impose further restrictions on landowners and reduce the yield of the Lifestyle Zone further. As NZTA highlight, NZS 6806:2010 requires the consideration of road noise impacts on all dwellings within 200m of the road edge (in rural areas). However, there does not appear to be a requirement under this standard or justification given for why a 200m yard should be adopted.
- 5.4.3** NZS 6806:2010 simply requires that mitigation is provided to keep noise levels at specified levels. This mitigation could include construction of low noise roads, building of noise barriers, and acoustic insulation as stated by NZTA at workshops. Setting a 200m yard will make it easier for NZTA to meet this standard by essentially taking away the need to consider other options for mitigating noise. For this reason, the 100m should be retained.

## **5.5 Option 7 – Yards for “all other structures”**

**5.5.1** Yards for “all other structures” are smaller than for dwellings because their use (not being habitable) is not affected by being close to a neighbouring property. It also allows land to be used without unnecessary restrictions.

**5.5.2** There are occasions though where their use could affect others. The Amenity Section of the District Plan controls these nuisance issues that may be caused from people using the likes of sheds, workshops and farm buildings. A larger side and rear yard is therefore not justified.

## **5.6 Option 8 – Removing ability to reduce yards for “all other structures” through written approval of adjoining neighbour.**

**5.6.1** The submitter opposing the written approval clause in Rule 16A.4.1. (c) (ii) has done so because they feel it could compromise rural openness especially if developers who own multiple lots take advantage of this clause when they are technically the affected neighbour.

**5.6.2** The written approval rule allows two adjoining landowners the ability to allow a smaller yard when it would benefit the initiator without affecting the other. It allows for more practical use of land in cases where topography and other factors may limit location choices.

**5.6.3** Garden sheds, storage sheds, workshops etc are anticipated activities in the lifestyle zone and already to an extent impact on rural openness. It is doubtful whether a slightly closer distance to the boundary would exaggerate that effect. These buildings may not even be located within proximity of others in which case rural openness is not further compromised in any case.

**5.6.4** The potentially low number of cases where developers may sign off their own encroachments as “affected landowners” in the Lifestyle Zone shouldn’t remove this option fro landowners with a genuine need.

## **6.0 Recommendation**

**6.1** That there is no change to the Activity Performance Standards for Yards in 16A.4.1 (c).

6.2 The following submissions are therefore:

**6.3 Accepted**

Submission	Point Number	Name
FS 89	12	NZ Transport Agency Opposes 29.6

**6.4 Rejected**

Submission	Point Number	Name
39	3	Ainsworth Farm Trust
29	6	Cobb, Ray & Michelle
38	14	Gravit, Jo
80	3	Hedge, Allan
FS 90	13	Milne, Aaron Supports 38.14
FS 90	18	Milne, Aaron (Supports 80/3)
58	9	NZ Transport Agency
52	2	Stonehill Family Trust
49	27, 28	Surveying Services Ltd
27	1, 2	Walpole, Erica

## 7.0 Reasons

**7.1 Option 1**

7.1.1 The Yards have been recommended to remain unchanged for the reasons below.

**7.2 Option 2**

7.2.1 The term "yards" should be retained because it is established and recognised.

**7.3 Option 3**

7.3.1 The yard for dwellings from property boundaries should not be increased from 10m to 30m because it makes it impractical to build and is out of character with the expected lifestyle zone density.

**7.4 Option 4**

7.4.1 Allowing the reduction of yards below 10m (where a 20m separation distance can be achieved) is not appropriate for the Lifestyle Zone.

## **7.5 Option 5**

- 7.5.1** The 100m yard from the TNL was agreed upon by Council and NZTA as an appropriate setback for the purpose of dealing with any reverse sensitivity effects.

## **7.6 Option 6**

- 7.6.1** Increasing this yard from 100m to 200m will impose further restrictions on landowners and reduce the yield of the Lifestyle Zone further
- 7.6.2** There does not appear to be a requirement under this standard or justification given for why a 200m yard should be adopted. This is a fairly rough approach which creates further restrictions without consider other options.
- 7.6.3** NZS 6806:2010 simply requires that mitigation is provided to keep noise levels at specified levels. This mitigation could include construction of low noise roads, building of noise barriers, and acoustic insulation as stated by NZTA at workshops.

## **7.7 Option 7**

- 7.7.1** The proposed 5m side and rear yards for “all other structures” should be retained because there is no benefit of increasing them to 10m.
- 7.7.2** Potential effects are controlled under the Amenity Section (4C).

## **7.8 Option 8**

- 7.8.1** Retaining the ability to reduce yards for “all other structures” by written approval allows landowners the ability to use land in the most practical way. Impacts on rural openness are not considered to be significant as to warrant removing this opportunity.