
Western Bay of Plenty District Council

Planning Report

Plan Change 81 – Omokoroa Industrial Zone Review

1.0 Introduction

- 1.1** The purpose of this report is to provide recommendations on submissions and further submissions to Plan Change 81 – Omokoroa Industrial Zone Review.
- 1.2** Plan Change 69 - Omokoroa Stage 2 (related to the previous District Plan) was notified on 13 October 2007 and made operative on 29 March 2010. Part of that Plan Change involved creating the Industrial Zone on the right hand side of Omokoroa Road just off State Highway 2 (SH2).
- The commencement of the development of the Zone has raised a number of issues that require addressing through changes to the District Plan.
- 1.3** For a full background to the Plan Change and the proposed provisions please refer to the Section 32 Report.
- 1.4** Any recommended amendments to rules in this report will be shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this Planning Report in blue.

2.0 Topic 1: Access to the properties adjoining the Industrial Zone

2.1 Background

Current access for the Smith, Birch and Laing properties is via a ROW over the Crapp property. At the Omokoroa Road end the ROW splits the Industrial Zone.

As stated in the S32 Report:

“The legal aspects with regard to changing the ROW are governed by ‘the rights and powers set out in the Seventh Schedule of the Land Transfer Act 1952’. Essentially it is a contractual arrangement between the affected parties, and they need to agree with any proposed changes.”

Thus the relocation of the ROW is not a District Plan matter, and neither the ROW nor rules related to the ROW are part of Plan Change 81. Notwithstanding the ROW was a key matter for the residents and was included in the process in order to offer possible solutions for the parties to consider.

The provision of access adjoining the Priest house site to the Smith and Bruning properties is a Plan Change matter and has been shown on the revised structure plan.

2.2 Submission Points

There were seven submissions received and five further submissions. A number of points were raised relating to the various ROW options presented.

2.2.1 Submitter 1 Powerco raises a number of points with regard to their assets and any physical works that may affect them. These are covered by existing protocols, and are not affected by the Plan Change.

2.2.2 Submitter 3 Crapp proposes that Council should take planning and financial responsibility for appropriate provision of access. They request that Council initiate mediation to endeavor to resolve the matter.

2.2.3 Submitter 4 Bruning supported the access provisions adjoining Priest's house site, but suggested consideration be given to making the western ROW to the Bruning property a road, subject to the number of lots created.

2.3 Option 1 – the District Plan is not changed with respect to the Crapp ROW

Benefits	<ul style="list-style-type: none">▪ It is a civil matter that is to be addressed by the affected landowner parties.
Costs	<ul style="list-style-type: none">▪ Costs to the landowners to resolve the matter.
Effectiveness/ Efficiency	<ul style="list-style-type: none">▪ Efficient for Council as it is not a legal party to the ROW.▪ Not effective or efficient for the landowners as the fixed positions by various parties means resolution will be difficult.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none">▪ Risk is that further industrial development of the Crapp Industrial property will stall until the ROW matter is resolved.

2.4 Option 2 – ROW access is provided to Smith/Bruning properties along Priest boundary

Benefits	<ul style="list-style-type: none"> ▪ Cost effective access – cheaper than a road. ▪ Landscaped ROW provides better amenity to Smith/Bruning properties than a road that will be industrial.
Costs	<ul style="list-style-type: none"> ▪ Costs to Smith and Bruning of acquiring the land.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Both effective and efficient as it provides appropriate access at the least cost.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A

2.5 Discussion

Option 1 Crapp ROW

Throughout the consultation process, considerable time and discussion occurred related to possible access solutions. As stated above the ROW location is a civil matter between the parties, of which Council is not one. However as a good 'corporate citizen' the Council could initiate mediation in order to resolve the matter. This will be investigated following the outcome of the Hearing.

Option 2 - ROW access is provided to Smith/Bruning properties along Priest boundary

Assuming the Smith and Bruning properties will be zoned Rural Residential or Lifestyle through the current Omokoroa Stage 3 Structure Plan process, the new rules would likely allow for up to 12 properties off a ROW. This will be more than sufficient for the likely number of house sites expected. A public road will also have a greater effect on the Priest house site by allowing more vehicles along their boundary as industrial lots will also look to access the road.

2.6 Recommendation

That the Plan Change be retained as notified.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
1	1	Powerco

Accepted in Part

Submission	Point Number	Name
2	2	SE Smith
4	1	NF Bruning
5	1	TMM Laing
7	1	J Birch

Rejected

Submission	Point Number	Name
3	1	PJ and LC Crapp
6	1	PC Lusby
FS8	1,2,4,6,7	PJ and LC Crapp

2.7 Reason

The location of the ROW is a civil matter between the relevant property owners. However, Council could initiate mediation between the parties to see if a solution can be brokered.

A ROW is the best solution for Smith/Bruning along the Priest boundary as it will be sufficient to serve the intended number of lots, is cost effective, and will give the better amenity outcomes to all parties including Priest.

3.0 Topic 2: Spine Road landscaping

3.1 Background

The District Plan requires the industrial spine road to have a 10m landscape strip down the middle. The Plan Change proposes deleting the central planted median and replacing it with landscaping and other amenity controls on properties that adjoin the spine road. The proposed rule change is as follows:

4C.5.3.2 Screening in Industrial and Commercial Zones (d) Omokoroa Industrial Zone

Delete (ii):

"A 10m planted median within the road reserve of the road leading east off the Francis Road roundabout and vested in Council shall be provided in Lot 2 DPS 68390. Such planting shall be in evergreen trees with an average height of at least 5m and a height at maturity of at least 10m and be sufficient to screen industrial development within Lots 2 DPS 68390 and Pt Lot 4 DPS 72370 from State Highway 2;"

And replace with:

“Lots adjoining the spine road leading east off the first intersection along Omokoroa Road from the State Highway shall provide landscaping in accordance with 4C.5.3.1(a)(ii) and (iii), and 4C.5.3.1(b).”

Rules 4C.5.3.1(a)(ii) and (iii) and 4C.5.3.1(b) are the rules that control landscaping and the provision of fencing.

3.2 Submission Points

There were two submissions (SE Smith, NF Bruning) in support.

3.3 Recommendation

That the Plan Change be retained as notified.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
2	3	SE Smith
4	2	NF Bruning

3.4 Reason

Deleting the central planted median and replacing it with landscaping and other amenity controls on properties that adjoin the spine road is more effective use of land, and provides better amenity for both residents and industrial users.

4.0 Topic 3: Perimeter Landscaping Timing

4.1 Background

The District Plan requires a 10m landscape strip around the perimeter of the Industrial Zone. However the District Plan is not clear as to when the landscaping should be provided. The proposal is to require landscaping of the remaining existing vacant titles to be landscaped prior to any further subdivision or development. The proposed rule change is as follows:

4C.5.3.2 Screening in Industrial and Commercial Zones (d) Omokoroa Industrial Zone

Insert new:

“(iii) Use or development of Lot 2 DP 483735 or Lots 1 and 2 DPS 68390 shall only occur after landscaping planting described in (i) above has been planted.”

Note: the owners of the properties are: Lot 2 DP 483735 – Crapp; Lots 1 DPS 68390 – Western BOP District Council; Lot DPS 68390 – Priest.

4.2 Submission Points

Two submission points were received, one in support (SE Smith) and one opposing (NF Bruning).

Bruning sought the status quo whereby landscaping was provided as each activity is established.

4.3 Option 1 – Landscape each activity as it is established

Benefits	<ul style="list-style-type: none"> ▪ Cheaper for the developer.
Costs	<ul style="list-style-type: none"> ▪ Does not screen activities that have occurred to date from the adjoining residents.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective in mitigating the visual impact of industrial development on the neighbours, or as viewed from the adjoining road network. ▪ Not efficient as results in a piecemeal approach.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A

4.4 Option 2 – Each remaining title to be landscaped prior to subdivision or development

Benefits	<ul style="list-style-type: none"> ▪ More effective in screening the visual effects of industrial activities. ▪ Provides certainty to all as to when landscaping is required.
Costs	<ul style="list-style-type: none"> ▪ Cost to the developer of the industrial land as landscaping is likely to be required earlier than currently anticipated.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective in mitigating the visual impact of industrial development on the neighbours and as viewed from the surrounding road network. ▪ Inefficient to the developer, depending upon the extent of the landscaping required.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A

4.5 Discussion

There is current uncertainty as to when the landscaping should be provided. The landscaping is important to adjoining residents and the wider public who will view the Industrial Zone from the adjoining road network, including the State Highway. The Zone is also at the entrance to the peninsula and it is important to have a positive visual impact at this location. This can only be achieved if landscaping is done in a timely manner.

4.6 Recommendation

That the Plan Change be adopted as notified.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
2	4	SE Smith

Rejected

Submission	Point Number	Name
4	3	NF Bruning

4.7 Reason

The landscaping provisions are to mitigate the visual impact of industrial development on the neighbours and travelling public whether on Omokoroa Road or the State Highway. Because of the wider angles (i.e. not directly adjoining) that these people will have to see any industrial development, landscaping that is strictly adjacent to that development will not mitigate that impact. The Zone is also at the entrance to the peninsula and it is important to have a positive visual impact at this location.

The proposed rule is the same as Rule 4C.5.3.2(d)(iii) which requires landscaping along the Bruning boundary to be in place prior to development of that land.

5.0 Topic 4: Perimeter Landscaping Width

5.1 Background

There has been discussion about the necessity for the current width of 10m of landscaping around the whole of the perimeter of the Industrial Zone and whether there are acceptable alternatives. The Plan Change does not propose changes to the rules.

5.2 Submission Points

Three submission points were made: one in support (SE Smith), one in support subject to amendments (NF Bruning), and one in opposition (TMM Laing).

Notwithstanding the stated positions of the submitters, both Smith and Laing requested the 10m buffer remain, which supports the Plan Change as it did not recommend any change to the District Plan.

The issue of screening by NZTA will be addressed by their designation for the State Highway and the Omokoroa Road intersection and actual design of the final option.

5.3 Discussion

Existing Rules 4C.5.3.1(b) and 4C.5.3.2(d) provide the controls for landscaping at Omokoroa. The latter provides for a 10m strip. As with other rules, an application can be made to vary from these provisions. In considering such requests Council must have regard to those provisions, the Objectives and Policies of the District Plan, and whether any parties may be affected. In the latter regard, this may involve the affected parties consent. Each is assessed on a case by case basis and the current provisions of the RMA and District Plan are considered to be adequate.

5.4 Recommendation

That no change be made to the District Plan.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
2	5	SE Smith

Accepted in Part

Submission	Point Number	Name
4	4	NF Bruning
5	5	TMM Laing

5.5 Reason

The existing rules require a 10m landscape strip. The District Plan does not need changing to introduce such a width.

6.0 Topic 5: Industrial Zone Interface with adjoining properties

6.1 Background

The zoning provisions for this particular industrial area are those for the standard Industrial Zone in the District Plan. However the proposed Plan Change suggests the inclusion of a Light Industrial Zone which is defined as the area 50m from the Smith boundary, and modifies building height, yard requirements and noise provisions.

These are as follows:

4C.1.3.2(b)

Noise limits for activities in Industrial and Commercial Zones

"All activities located within Industrial and Commercial Zones shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits within the stated timeframes at any point within the *notional boundary* of any *dwelling* in a Rural Zone or Rural-Residential Zone, nor at any point within the boundary of any property within a Residential or Future Urban Zone:

Time Period		Sound Level Not to be Exceeded	
Day	Hours	Leq	Lmax
Monday to Saturday	6am to 10pm	55dBA	N/A
Sunday and Public Holidays	9am to 6pm	55dBA	N/A
At all other times		45dBA	70dBA"

The proposal is to attach the following clause to "At all other times":

"For the Omokoroa Light Industrial Zone the Lmax is 65dBA."

21.4.1 (a) Height and daylighting

"Maximum *height* of all *buildings/structures* - 20m except in the following areas:"

Insert before Te Puna Business Park:

"- Omokoroa Light Industrial Zone – 9m"

21.4.1(b) Yards

Add to the end of the "Except that" below the following new clause:

" - Omokoroa Light Industrial Zone:

Minimum 5m reduced to 3m with the provision of a solid fence (as measured from the internal boundary of the landscape strip)".

"All *buildings/structures*

Minimum 3m where a property adjoins a Residential, Rural-Residential, Future Urban or Rural Zone or reserve."

Provided that:

A *building/structure* may be located within a *side* or *rear yard* and up to a side or rear boundary where the adjoining property is a road or where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.

Except that:

Where a property adjoins a Strategic Road or a designation for a Strategic Road, that *yard* shall be 10m.

Explanatory Note:

This 10m *front yard* shall not be applicable to service station forecourts and associated forecourt canopies.

Te Puna Industrial Park specific provisions:

- (i) 10m where a property adjoins a Rural Zone;
- (ii) 20m from Te Puna Station Road and 5m from any other road boundary."

Structure Plan

See maps in Section 8.

6.2 Submission Points

Six submission points were received. Two supported with amendments, and two opposed parts of the Plan Change.

The main submission points made by submitters are as follows:

Three submitters (2-6 Smith, 5-3 Laing, and 6-2 Lusby) sought a tightening up of the hours of operation. One sought the hours to be Monday to Saturday 6am to 6pm, one sought 7am to 6pm, and the third sought a finish time of 7pm.

One submitter (5-3 Laing) sought to lower the Lmax further.

One submitter (5-3 Laing) sought exclusion of “dust, odour, light and noise contributing industrial activities” such as spray painters.

One submitter (5-4 Laing) sought to delete in 21.4.1(b) Yards the ability to reduce the yard from 5m to 3m with the provision of a solid fence.

Two submitters (2-1 Smith and 5-2 Laing) sought to delete the Industrial zoning and replace it with Residential or Commercial.

6.3 Option 1A - Hours of operation: As Proposed – no change to the District Plan which states Monday to Saturday 6am to 10pm:

Benefits	<ul style="list-style-type: none"> Consistency throughout the District.
Costs	<ul style="list-style-type: none"> Higher noise limits may affect resident’s amenity between 6-10pm Monday to Saturday.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Effective to industries as it is not feasible to provide a cut off time of 6pm. And it gives flexibility. Not efficient as such a rigid timeframe will create compliance problems.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> N/A

6.4 Option 1B - Hours of operation: Change Monday to Saturday hours of operation from 6am – 10pm to 6am-6pm:

Benefits	<ul style="list-style-type: none"> May assist residents amenity.
Costs	<ul style="list-style-type: none"> Restricts industrial activities hours of operation.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Effective in reducing the impact on residents amenity (because of the distance of dwellings from where the noise is created). Not effective as it will impact on the operational hours of businesses.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> N/A

6.5 Option 2 – Lmax remains as notified at 65dBA

Benefits	<ul style="list-style-type: none"> Provides a lower level of intermittent 'loud bangs' for the residents.
Costs	<ul style="list-style-type: none"> Compliance and enforcement costs to Council.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Effective in reducing noise impacts on neighbours. Efficient as the proposed lower limit is already used for the residential zone.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> N/A

6.6 Option 3 – Create a Light Industrial Zone

Benefits	<ul style="list-style-type: none"> Reduced impact on neighbours by creating a zone that has tighter amenity controls.
Costs	<ul style="list-style-type: none"> Restrictions on industrial activities.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Effective in addressing neighbours amenity concerns. Efficient in that such a zone already exists in the District Plan.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	N/A

6.7 Option 4 – Allow the Light Industrial yard to be reduced from 5m to 3m with the provision of a solid fence

Benefits	<ul style="list-style-type: none"> Flexibility in that more land will be available for industrial activities.
Costs	<ul style="list-style-type: none"> None.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Effective as it focuses on the outcome being sought. Efficient as allows for a better use of space.
Risks of Acting/not Acting if there is uncertain or insufficient information about the subject matter	N/A

6.8 Option 5 – Retain the Industrial Zoning

Benefits	<ul style="list-style-type: none"> ▪ Employment is necessary at Omokoroa to ensure a community that is as sustainable as possible is developed. It is unacceptable to have all employment provided at other centres, and the traffic issues that will create.
Costs	<ul style="list-style-type: none"> ▪ Amenity effects of industrial development on adjoining neighbours.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective in providing for employment and other economic needs on the peninsula. ▪ Efficient because of the reduction in the impact on the transport network
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A

6.9 Discussion

Option 1: Hours of operation

The hours of operation are to provide certainty of what time limits will be applied. They have also been developed to allow flexibility for industrial activities to run their business. The current rules have been in place for some time and are a compromise between residential and industrial needs. The night time limits have been developed around provision for sleep and 10pm is considered a reasonable time. It is a common time in many District Plans.

Option 2: Lmax

Lmax for the Industrial Zone is 70 dBA. The Plan Change reduces this to 65dBA which to bring it in line with the Residential, Rural-Residential, Future Urban, Rural and Lifestyle Zones.

Option 3: Create a Light Industry Zone

As discussed in the S32 Report the most effective way to control noise in sensitive areas such as this is to specify the types of activities that should be excluded. Otherwise there will be uncertainty as to whether certain activities can comply, with likely ongoing monitoring and enforcement issues.

Option 4: Yard reduction with a solid wall

A solid wall can provide an effective barrier to mitigate visual and noise effects. On the one hand the yard should not be eliminated where a solid

wall is provided because planting is still required to address the amenity effects. On the other hand the provision of a solid wall means it is not necessary to require the full 5m planting, as a solid wall is considered more effective as a barrier than 2m of planting.

Option 5: Retain the Industrial Zoning

The need for employment land was recognized and extensively discussed through SmartGrowth and the Plan Change 69 process. The justifications in terms of “live, learn, work, play” are still valid, as is the quantum of land required and the lack of alternative locations at Omokoroa. Allowing Omokoroa to develop as a “dormitory” town with the consequential effect on the transportation network is not acceptable.

6.10 Recommendation

That the Plan Change be retained as notified.

The following submissions are therefore:

Accepted

Accepted in Part

Submission	Point Number	Name
2	6	SE Smith

Rejected

Submission	Point Number	Name
2	1	SE Smith
5	2,3,4	TMM Laing
6	2	PC Lusby

6.11 Reason

Removing the Industrial Zone is not sustainable in terms of meeting the employment and other service needs of the residents of Omokoroa, nor in terms of impact on the wider transportation network.

The most effective way to control noise in sensitive areas such as this is to specify the types of activities that should be excluded. Otherwise there will be uncertainty as to whether certain activities can comply, with likely ongoing monitoring and enforcement issues. This is consistent with the existing District Plan provisions for the Omokoroa Light Industry Zone, and still leaves a wide range of activities that can be undertaken as a Permitted Activity.

7.0 Topic 6: Industrial Zone Internal Roads

7.1 Background

The structure plan shows only the main spine road that comes off Omokoroa Road. Other roads will be required to enable the Zone and adjoining properties to be subdivided in a sensible manner, and these should be shown on the structure plan to give certainty.

7.2 Submission Points

Two submission points were in support, and two further submission points were received.

The main points made by the further submitter relate to holding a mediation to resolve access issues. This is covered in Topic 1 above.

7.3 Discussion

As stated in the S32 Report, the structure plan shows the main spine road that comes off Omokoroa Road. It does not show other roads that will be required to enable the Zone to be subdivided in a sensible manner. This is in particular through the Priest land to the Bruning property, or to ensure suitable access to the lots that have already been subdivided off the Crapp property and that currently use a temporary access directly off Omokoroa Road adjoining the ROW.

7.4 Recommendation

That the Plan Change be retained as notified.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
2	7	SE Smith
4	5	NF Bruning

Rejected

Submission	Point Number	Name
FS 8	3,5	PJ Crapp

7.5 Reason

The current structure plan leaves the landowners to negotiate with each other and Council as to where the internal roads should be located. To avoid this complexity and uncertainty these lateral roads need to be shown on the structure plan.

8.0 Plan Change 81 - Recommended Changes to the District Plan First Review

8.1 The purpose of this part of the report is to show the Proposed Plan Change in full including any recommended changes in response to the submissions and further submissions.

8.2 Recommended changes to the District Plan First Review are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this Planning Report in blue.

4C.1.3.2(b) Noise limits for activities in Industrial and Commercial Zones

Attach the following clause to "At all other times":

"For the Omokoroa Light Industrial Zone the Lmax is 65dBA."

4C.5.3.2 Screening in Industrial and Commercial Zones

(d) Omokoroa Industrial Zone

Replace (ii) with:

"Lots adjoining the spine road leading east off the first intersection along Omokoroa Road from the State Highway shall provide landscaping in accordance with 4C.5.3.1(a)(ii) and (iii), and 4C.5.3.1(b)."

Insert new:

"(iii) Use or development of Lot 2 DP 483735 or Lots 1 and 2 DPS 68390 shall only occur after landscaping planting described in (i) above has been planted."

And consequentially renumber existing (iii) as (iv).

21.4.1 (a) Height and daylighting

Insert before Te Puna Business Park:

"- Omokoroa Light Industry Zone – 9m"

21.4.1(b) Yards

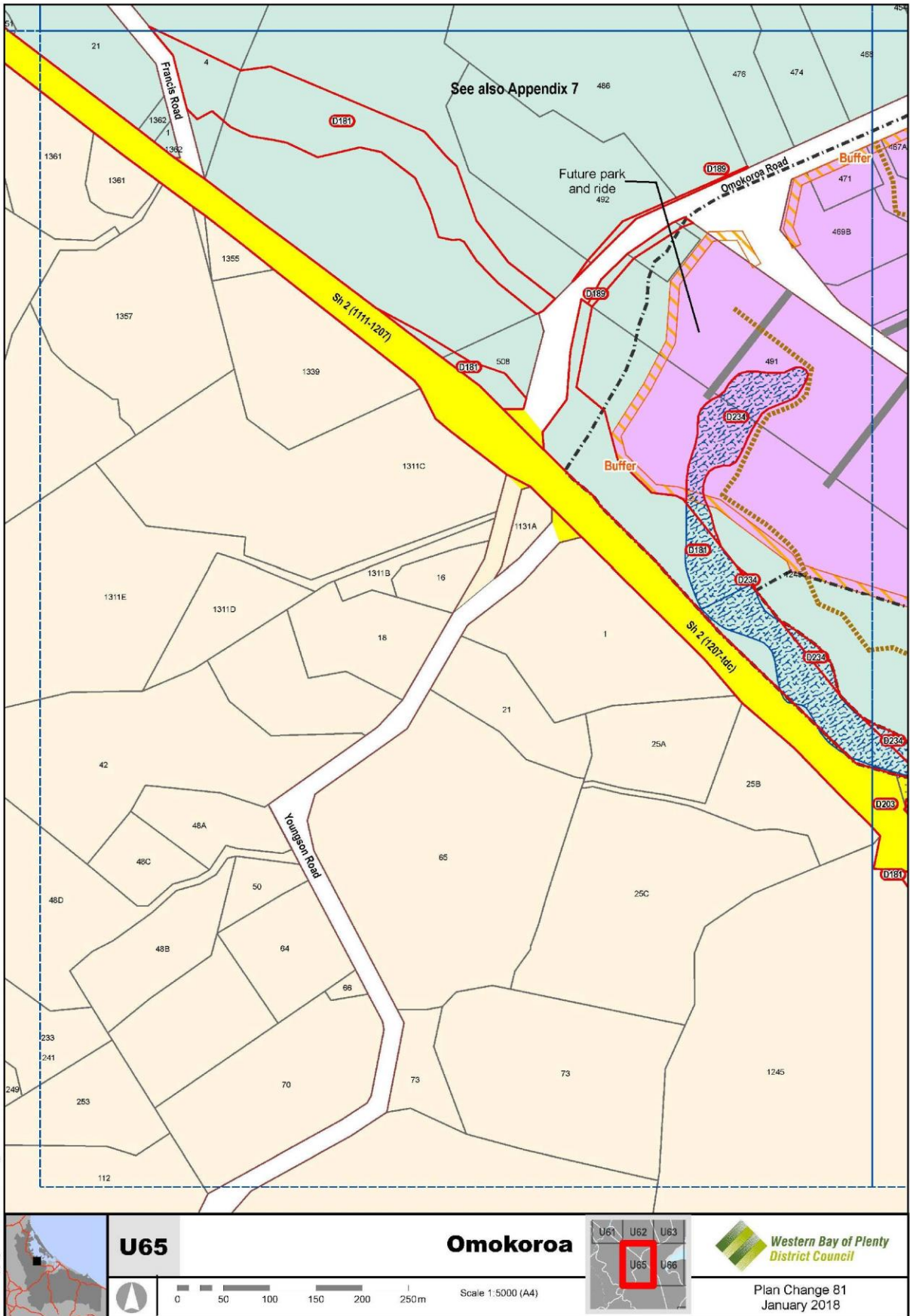
Add to the end of the "Except that" the following new clause:

" – Omokoroa Light Industry Zone:

Minimum 5m reduced to 3m with the provision of a solid fence (as measured from the internal boundary of the landscape strip)".

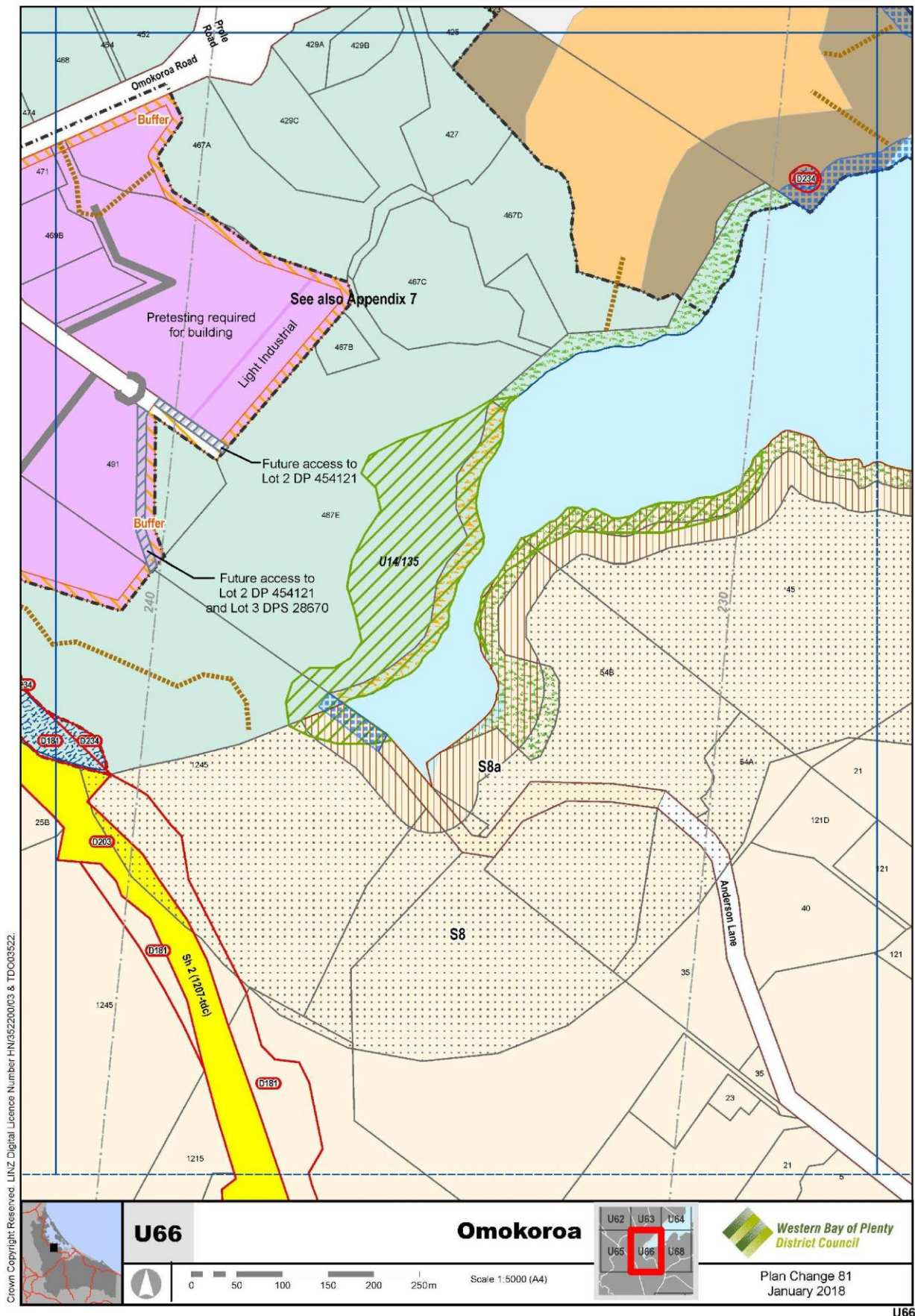
District Plan Maps

Replace the District Plan Maps U65 and U66 with the following:



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U65



Crown Copyright Reserved. LINZ Digital Licence Number HN/352200/03 & TDO003522.

U66