

Western Bay of Plenty District Council

Plan Change 79 Screening – Commercial and Industrial Zones

Section 32 Report

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1.0 Introduction

1.1. General Introduction and Background

The purpose of this Plan Change is to review the screening controls for activities in the Commercial and Industrial Zones to address some anomalies that exist. To assist with understanding the discussion and proposed changes, the relevant rules are shown below:

Section 4C – Amenity

4C.5.3.1 Activity Performance Standards

4C.5.3.1 General

The following performance standards shall be met by all Controlled Activities that are required to be screened by a specific rule in the District Plan, and shall be used as a guide for all Discretionary and Non-Complying Activities. At Omokoroa Stage 2, such screening is additional to the 10m buffer landscaping required about Industrial Zones.

(a) *Screening shall be by either:*

- (i) *A solid wall of not less than 2m in height, or*
- (ii) *Landscape planting to a minimum depth of 3m and a minimum height of not less than 2m (the screen must be a minimum of 1.2m high at time of planting, but must have achieved a height of 2m within 2 years), or*
- (iii) *A permeable fence (i.e. trellis or chain mesh) in conjunction with planting (i.e. vines and creepers) which will fully screen the site.*

4C.5.3.2 Screening in Industrial and Commercial Zones

The following landscape areas and requirements will be implemented either at the time of subdivision or development as the case may require.

(a) *Unless otherwise required by a rule in the District Plan any activity which has a common boundary with or is separated by a road from a Residential, Rural-Residential, Future Urban or Rural Zone, or a public reserve shall be screened by landscape planting to a minimum depth of 3m and a minimum height of not less than 2m.*

The screen must be a minimum of 1.2m high at the time of planting and be capable of achieving a height of 2m within two years.

Section 19 – Commercial

19.3.2 Controlled Activities

- (d) *With respect to screening, any activity in Rule 19.3.1 which has a common boundary with or is separated by a road from a Residential, Rural or Future Urban zone or a public reserve.*

19.4.1 Activity Performance Standards – General

These performance standards generally require a high level of amenity along the road frontage.

Section 21 – Industrial

21.4 Activity Performance Standards

21.4.1 General

- (c) *Visual amenity – Streetscene*

Streetscene performance standards apply to the following areas:

- *Katikati Industrial Zone and having a boundary with any road shown on the Structure Plan (excluding cul-de-sacs and the L-shaped road in the southern part of the industrial area from Tetley Road) within the industrial area or any road surrounding the industrial area;*
- *Te Puke West Industrial Zone in respect of any site boundary adjoining a Structure Plan road (Road 1 and 2);*
- *Rangiuru Business Park and being a collector or entrance road as shown on the Structure Plan or a site boundary adjacent to the Proposed Tauranga Eastern Link, Pah Road or the Te Puke Highway/East Coast main trunk Railway (including a boundary which is separated from the above by any reserve);*
- *Omokoroa Industrial Zones and having a boundary with Omokoroa Road, Hamurana Road and Francis Road.*
- *Comvita Campus Structure Plan Area in respect of any boundary adjoining either State Highway 33 or Wilson Road South.*

The following standards apply:

- (i) *All buildings/structures shall be set back a minimum of 5m from the road boundary;*

(ii) *Loading and unloading, or outdoor storage activities shall be set back behind a line perpendicular to the nearest part of any building to the boundary with the road. Outdoor storage areas shall be screened from public view and other properties by way of a solid wall of not less than 2m in height and/or landscape planting to a minimum depth of 3m and a minimum height of not less than 2m. Such screening is to be maintained in good order at all times.*

(iii) *In respect of any exterior wall that faces the road and which is greater than 150m² in face area, provision shall be made for at least two of the following design features:*

- *A step or protrusion in the wall of at least 2m in depth and 4m in height;*
- *Doors and windows that cover at least 20% of the wall;*
- *A variation of surface texture with at least 20mm relief from the wall that covers at least 30% of the wall;*
- *Vegetation in the form of vines and other climbing plants attached to the wall or free standing plantings that screen at least 50% of the wall.*

For the purposes of clause (iii) above, a wall is considered to 'face' a boundary if the outside face of the wall is parallel to or at an angle of 45° or less to the boundary.

(iv) *Front entrances to buildings shall face towards the main vehicle entrance on the site;*

(v) *Specimen tree planting shall be provided on sites adjoining the road boundary at the rate of one tree for every 10m (lineal) of road frontage or fraction thereof. The required trees shall be located in the area within 10m of the front boundary of the site with the road;*

At least 50% of the setback required by clause (i) above shall be landscaped in the form of shrubs and groundcover species.

- (vi) *No more than five vehicle parking spaces may be located within the 5m setback required by clause (i) above, except where continuous landscape planting to screen the carparks is located between the road and the carparks, and this landscaping achieves a height of 1m across the front of the carparks;*
- (vii) *Fences shall not exceed 1.2m in height within 5m of any front boundary.*
- (d) *Visual amenity - reflectivity*
- (i) *Te Puna Business Park - All external surfaces of buildings/structures (excluding glazing) shall comply with the following reflectivity standards:*
- *Walls no greater than 35%;*
 - *Roofs no greater than 25%.*
- Explanatory Note:*
The above shall be in accordance with British Standard BS5252 Reflectance Value.
- (ii) *Te Puke West - All buildings/structures adjacent to the Raparapahoe Stream and Te Puke Highway shall be developed in accordance with the standards and controls contained in the Te Puke West Urban Design Plan included in Appendix 7.*
- (iii) *Any building/structure failing to comply with these requirements shall require resource consent approval for a Non-Complying Activity.*
- (e) *Amenity - Katikati Waterford Road Industrial Zone*
- (i) *A close-boarded wooden fence shall be constructed on the boundary of the Zone with Flat 1 DPS 31079 and Lot 2 DPS 30458.*
- (ii) *The fence shall be 2m in height with a wooden cap. The fence is to be constructed prior to Lot 2 DP 30458 being used for industrial purposes.*

2.0 Resource Management Act 1991

2.1. Section 32

Before a proposed plan change can be publicly notified the Council is required under section 32 ("s.32") of the Act to carry out an evaluation of alternatives, costs and benefits of the proposed review. With regard to the Council's assessment of the proposed plan change s.32 requires the following:

- 1) An evaluation report required under this Act must—*
 - (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
 - (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
 - (i) identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - (iii) summarising the reasons for deciding on the provisions; and*
 - (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

- (2) An assessment under subsection (1)(b)(ii) must—*
 - (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - (i) economic growth that are anticipated to be provided or reduced; and*
 - (ii) employment that are anticipated to be provided or reduced; and*
 - (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*
 - (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

- 3) If the proposal (an amending proposal) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an existing proposal), the examination under subsection (1)(b) must relate to—*
 - (a) the provisions and objectives of the amending proposal; and*
 - (b) the objectives of the existing proposal to the extent that those objectives—*
 - (i) are relevant to the objectives of the amending proposal; and*
 - (ii) would remain if the amending proposal were to take effect.*

- 4) If the proposal will impose a greater prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.*

2.2. Section 74

In accordance with Section 74(2A) of the Act, Council must take into account any relevant planning document recognised by an iwi authority

lodged with Council. There are no iwi authority documents that are relevant to this proposed plan change.

3.0 Consultation

This plan change is addressing anomalies that exist in the rules for screening in the Commercial and Industrial zones. Specific consultation is considered unwarranted due to the minor technical nature of the proposed change.

4.0 Issue 1 – Controlled activity status for screening in the Commercial Zone

Under the previous District Plan (Operative 2002) where a commercial or industrial activity had a common boundary with or was separated by a road from residential or other sensitive zones the activity was a controlled activity (under their respective zone rules). During the District Plan review, which was notified in 2009, these controlled activity rules were intended to be deleted and turned into permitted activity performance standards to sit within the Amenity Section. However, when the review was notified this controlled activity was only deleted for the Industrial zone.

There were two submissions received to the Commercial Section's rules which sought that the existing screening controls be retained. As a result, the decisions kept the controlled activity rule for screening in the Commercial Zone (Rule 19.3.2 (d) above). However, there was also a Council submission which sought to extend the permitted activity performance standards to include Commercial zones to address the oversight (see 4C.5.3.2 above). This meant there were two conflicting decisions.

The outcome is that activities within the Commercial zone which have a common boundary with or are separated by a road from Residential or other sensitive zones are subject to conflicting rules. If they meet the Amenity Section's screening performance standards in rule 4C.5.3.2 (a), the activity is a permitted activity. However, despite this permitted activity status, rule 19.3.2 (d) of the Commercial Section makes the activity a controlled activity for screening. It is desirable to delete the controlled activity rule from the Commercial Section to avoid the unnecessary controls on commercial activities and remove the confusion that these two rules create. This will also require the Amenity Section's general permitted activity performance standards in Rule 4C.5.3.1 (see above) to be amended to remove reference to controlled activities that have specific requirements for screening, as these will no longer exist.

4.1. Option 1 – Status Quo – Retain the controlled activity screening rule for the Commercial Zone

Benefits	<ul style="list-style-type: none"> There are no benefits in keeping the existing duplication of rules.
Costs	<ul style="list-style-type: none"> Some businesses will have additional consent costs to establish the activity. The duplication causes confusion.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> Retaining the controlled activity rule will be reasonably effective at implementing the required screening of commercial activities from sensitive zones. It is not efficient as it requires time and money to apply for consent.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> N/A – sufficient information is available.

4.2. Option 2 – Delete the controlled activity screening rule from the Commercial Zone

Benefits	<ul style="list-style-type: none"> Removes conflicting rules from the District Plan. Reduces costs to commercial businesses.
Costs	<ul style="list-style-type: none"> Some risk that commercial activities establish without required screening. This is a matter that can be readily addressed through Council’s compliance monitoring.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> This approach is considered to be both effective and efficient as it provides for commercial activities to establish with fewer costs than the existing rules while maintaining screening standards.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> N/A – sufficient information is available.

4.3. Preferred Option

The preferred option is:

Option 2 – Delete the controlled activity rule from the Commercial Section.

Rule Change

Delete rule 19.3.2(d) and consequentially renumber 19.3.2(e) to 19.3.2(d), as shown below:

19.3.2 Controlled Activities

- (a) Subdivision.
- (b) Dwellings provided they are located above ground floor level.
- (c) Works and network utilities as provided for in Section 10.
- ~~(d) With respect to screening, any activity in Rule 19.3.1 which has a common boundary with or is separated by a road from a Residential, Rural or Future Urban zone or a public reserve.~~
- (e) With respect to financial contributions only:
 - (i) The erection or undertaking of one or more commercial activities other than the first such activity on a site or significant expansion of an existing activity (significant expansion is an increase of more than 0.5 of a household equivalent for services);
 - (ii) Any activity in 19.3.1 which has a household equivalent for water and wastewater greater than one as listed in Rule 11.3.3 (c).

Amend rule 4C.5.3.1 as follows:

4C.5.3.1 General

The following performance standards shall be ~~met by all Controlled Activities that are required to be screened by a specific rule in the District Plan, and shall be~~ used as a guide for all Discretionary and Non-Complying Activities. At Omokoroa Stage 2, such screening is additional to the 10m buffer landscaping required about Industrial Zones.

4.4. Reasons

The benefit of this change is that it will remove a rule for screening that requires some activities in a Commercial zone to apply for resource consent as a controlled activity, while the screening requirement can be satisfactorily provided for as a permitted activity performance standard.

5.0 Issue 2 – Permitted activity performance standards for screening between Industrial/Commercial Zones and sensitive zones separated by a road

The Amenity Section permitted activity performance standards for screening in Commercial and Industrial Zones in Rule 4C.5.3.2 (see above) apply to any activity which has a common boundary with or is separated from a sensitive zone by a road. The issue is whether the Amenity Section's screening performance standards are actually necessary given other rules which are in place to achieve the same outcome. For example, the Commercial Section's performance standards already require a high level of amenity along street frontages and the Industrial Section has specific

performance standards for screening from certain roads (21.4.1 (c) – (e)) which are very similar to the Amenity screening rules and largely achieve the same outcome. These can contradict and/or duplicate each other as a result.

The industrial zones in Katikati and Te Puke (excluding Te Puke West Industrial Zone) are the only industrial areas not covered by the Industrial Section performance standards and therefore still reliant upon the Amenity performance standards for screening controls. However, in these cases, visual effects have already been mitigated in other ways. In Katikati, the affected properties are across the road from Countdown which has specific screening requirements through its resource consent. In the case of Te Puke, Jellicoe Street is a strategic road and requires a 10m yard on both sides and has a 30m plus road reserve. There is also a Te Puke Highway landscaping plan being developed. It is therefore unnecessary to require screening under the Amenity Section.

5.1. Option 1 – Status Quo - Retain the Amenity Section performance standards for screening Commercial and Industrial Zone activities from sensitive zones separated from them by a road

Benefits	<ul style="list-style-type: none"> ▪ For the two industrial areas (Katikati and Te Puke) not specifically covered by the Industrial performance standards, the Amenity performance standards will continue to provide for screening from sensitive zones separated by a road. However, this benefit is questionable given there are other measures in place to ensure visual effects are mitigated.
Costs	<ul style="list-style-type: none"> ▪ For the Industrial Zones, having two similar rules in place for screening has created contradiction and duplication. This confuses plan users and may lead to extra time and costs for Council and customers. ▪ The Amenity Section’s screening performance standards are not necessary as the Commercial Section’s performance standards already require a high level of amenity along road frontages and all Industrial Zones across the road from sensitive zones have their visual effects mitigated through other rules or methods.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not effective or efficient as it leads to contradictions and duplication.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – sufficient information is available.

5.2. Option 2 – Delete the Amenity Section performance standards for screening Commercial and Industrial Zone activities from sensitive zones separated from them by a road

Benefits	<ul style="list-style-type: none"> ▪ Removes unnecessary rules. The Commercial Section’s performance standards already require a high level of amenity along road frontages and all Industrial Zones across the road from sensitive zones have their visual effects mitigated through other rules or methods. ▪ For the Industrial Zone, removes contradiction and duplication associated with having two similar rules for screening.
Costs	<ul style="list-style-type: none"> ▪ A small number of lots belonging to a single owner along No 3 Rd, Te Puke (zoned Rural) may be affected. However, the industrial activities across the road are already established and have existing use rights.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Effective as the visual impacts which the Amenity screening rules are intending to mitigate are still mitigated by other rules and methods. ▪ Efficient as it removes contradictions and duplications between rules which achieve the same outcome.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – sufficient information is available.

5.3. Preferred Option

The preferred option is:

Option 2 – Delete the Amenity Section performance standards for screening Commercial and Industrial Zone activities from sensitive zones separated from them by a road

Rule Change

Amend Rule 4C.5.3.2 as follows:

4C.5.3.2 Screening in Industrial and Commercial Zones

The following landscape areas and requirements will be implemented either at the time of subdivision or development as the case may require.

- (a) Unless otherwise required by a rule in the District Plan any activity which has a common boundary with ~~or is separated by a road from~~ a Residential, Rural-Residential, Future Urban or Rural Zone, or a public reserve shall be screened by landscape planting to a minimum depth of 3m and a minimum height of not less than 2m.

The screen must be a minimum of 1.2m high at the time of planting and be capable of achieving a height of 2m within two years.

5.4. Reasons

Deleting the Amenity Section's performance standards for screening Commercial and Industrial Zone activities from sensitive zones separated from them by a road removes an unnecessary rule. The Commercial Section's performance standards already require a high level of amenity along road frontages and all Industrial Zones across the road from sensitive zones have their visual effects mitigated through other rules or methods. For the Industrial Zone, removes contradiction and duplication associated with having two similar rules for screening.