

Decision Report

Plan Change 48 – Future Urban and Rural Residential Yards for Habitable Buildings

1.0 Introduction

- 1.1 This report shows the decisions made on the topics in the Planning Report and then shows the whole of the Plan Change i.e. how the full notified Plan Change and subsequent decisions on topics are proposed to change the District Plan First Review.
- 1.2 For topics, any changes to rules are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and any changes resulting from decisions in blue.
- 1.3 For the whole of the Plan Change, any changes to rules are shown as follows; existing District Plan text in black, and changes (being the culmination of the notified Plan Change and subsequent decisions) in red.

2.0 Topic 1: Rules 15.4.1 (c) and 16.4.1 (c) – Future Urban and Rural Residential Yards

2.1 Decision

That Rules 15.4.1 (c) and 16.4.1 (c) are amended so that it is clear that the yard exemption through written approval only applies to “other buildings/structures”, as shown below.

That staff investigate all other inconsistencies in the use of the words “structure” and “building” with a view that these be altered to read “buildings/structures” in the District Plan where relevant, and ensure that all rules referring to “buildings/ structures” are clear in their interpretation.

Rule 15.4.1(c)

(c) Yards

- (i) ~~All~~ Dwellings, minor dwellings, accommodation facilities and education facilities – 5m
- (ii) All other buildings/structures – 5m minimum

Provided that:

A All other buildings/structures may be located within and up to a side or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.

Rule 16.4.1(c)

(c) Yards

- (i) ~~All~~ Dwellings, minor dwellings, accommodation facilities and education facilities – 5m
- (ii) All other buildings/structures – 5m minimum

Provided that:

All other buildings/structures may be located within and up to a side or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.

The following submissions are therefore:

Accepted

Submission	Point Number	Name
20	1, 6	Toi Te Ora Public Health

Accepted in Part

Submission	Point Number	Name
FS53	1, 2	Horticulture NZ and NZ Kiwifruit Growers

Rejected

Submission	Point Number	Name
23	2	Aurecon (Tauranga)

2.2 Reasons

- 2.2.1** The purpose of this Plan Change is to correct an oversight which unintentionally allows the use of the written approval rule to avoid obtaining resource consent for dwellings and other habitable buildings located with 5m of the boundary in the Future Urban and Rural-Residential Zone.
- 2.2.2** The large lot sizes in the Rural-Residential Zone (average 4000m²) allow sufficient space to maintain the 5m yard.
- 2.2.3** While adjoining landowners may not deem their privacy to be affected by any infringements, there may still be wider affects on the amenity of the zone and enjoyment of the residents i.e. if there are a number of houses within closer proximity than intended.
- 2.2.4** The significant issues for the zone do also recognise some potential for reverse sensitivity towards agricultural and horticultural activities within or adjoining the zone. This is another matter that would need to be taken into account with regards to any yard infringement of the 5m yard.

2.2.5 The point raised in evidence by Horticulture New Zealand regarding consistent use of the terms buildings and structures is noted and addressed. The inconsistent use of the terms "building" and "structure" and the layout of the rule (leaving uncertainty around what clause the "provided that" note relates to) creates potential interpretation issues around what the yard exemption/written approval is intended to apply to.

3.0 Topic 2: The introduction of 30m yards for habitable buildings in the Future Urban and Rural Residential Zone where they adjoin the Rural Zone

3.1 Decision

That there is no introduction of a new 30m yard for habitable buildings in the Future Urban and Rural Residential Zone where they adjoin the Rural Zone.

The following submissions are therefore:

Rejected

Submission	Point Number	Name
21	4, 5	Horticulture New Zealand

3.2 Reasons

3.2.1 The request is not within the scope of the Plan Change.

3.2.2 Notwithstanding this, it is noted that reverse sensitivity issues can be addressed through either the resource consent or rezoning process.

4.0 Additional Topic: Restricted Discretionary Activities 15.3.3 and 16.3.3

4.1 Decision

That proposed Restricted Discretionary Activities 15.3.3 and 16.3.3 be deleted;

~~15.3.3~~ ~~Restricted Discretionary Activities~~

~~(x) Any dwelling, minor dwelling, accommodation facility or education facility that fails to comply with performance standard 15.4.1(c)(i).~~

~~16.3.3~~ ~~Restricted Discretionary Activities~~

~~(x) Any dwelling, minor dwelling, accommodation facility or education facility that fails to comply with performance standard 16.4.1(c)(i).~~

4.2 Reason

- 4.2.1 These are not actually required because Rules 15.4.1 and 16.4.1 already state that any permitted activity that fails to comply with any performance standard shall be deemed a Restricted Discretionary Activity for the particular non-compliance.

5.0 Whole of Plan Change 48 - Changes to the District Plan First Review

5.1 Amend Performance Standard 15.4.1(c) as follows:

(c) Yards

- (i) ~~All Dwellings, minor dwellings, accommodation facilities and education facilities~~ – 5m
- (ii) ~~All other buildings/structures~~ – 5m minimum

Provided that:

~~A All other buildings/structures~~ may be located within and up to a side or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.

5.2 Amend Performance Standard 16.4.1(c) so it reads as follows:

(c) Yards

~~Where no bulk and location standards have been established pursuant to a 'building site' approved on a scheme plan of subdivision, the bulk and location requirements shall apply as follows:~~

- (i) ~~All Dwellings, minor dwellings, accommodation facilities and education facilities~~ – 5m minimum
- (ii) ~~All other buildings/structures~~ – 5m minimum

Provided that:

~~A All other buildings/structures~~ may be located within and up to a side or rear boundary where the written approval of the owner of the immediately adjoining property to a specified lesser distance is obtained.