

Western Bay of Plenty District Plan – Assessment of Relevant Rules

Section 10 – Infrastructure, Network Utilities & Designations		
Rule	Description	Comments
10.3(bd)	<p>Public trails¹</p> <p><i>* The activity status of a public trail within an identified significant feature shall be determined by any relevant specific provision in Sections 5, 6 and 7 of the District Plan.</i></p> <p><i>**In this context Road Reserve includes formed and unformed roads.</i></p>	<p>This rule permits ‘public trails’ and associated ancillary signage, structures and enabling works in the Rural Zone, subject to conditions.</p> <p>This does not apply to:</p> <ul style="list-style-type: none"> Those portions of the Site located in Identified Significant Ecological Feature U15/18 (Puwhenua Forest) (section 5 applies); or The proposed car park or toilet block (section 18 applies).
10.4(a)	<p>Ground reinstatement</p> <p>(i) <i>Where the development, operation, maintenance or minor upgrading of infrastructure or network utilities involves ground disturbance, the ground affected shall be reinstated as far as practicable to the condition existing before the start of the activity;</i></p> <p>(ii) <i>Where the removal of infrastructure/network utilities involves disturbance to the ground, the ground shall be reinstated as far as practicable to the condition of the land immediately surrounding where the activity has occurred.</i></p>	<p>Will comply.</p> <p>Any ground that is disturbed through the construction of the walking trail and structures will be reinstated as far as is practicable prior to the trails being open to the public.</p>
10.4(g) to 10.4(m)	<ul style="list-style-type: none"> Section 4B - Transportation, Access, Parking and Loading. Section 4C.1 - Noise and Vibration. Section 4C.2 - Storage and Disposal of Solid Wastes. Section 4C.3 – Lighting and Welding. Section 4C.4 - Offensive Odours, Effluent Aerosols and Spray Drift. Section 4C.5 - Screening. Section 4C.D - Signs. 	<p>These sections/sub-sections are addressed separately in this table where relevant.</p>
10.4(r)	<p>Public trails</p> <p>(i) <i>Any part of a public trail shall be a minimum of 30m from any title boundary.</i></p> <p><u>Except that:</u></p> <p>(ii) <i>Clause (i) shall not apply if the public trail location is closer than 30m from a title boundary and the public trail:</i></p> <ul style="list-style-type: none"> <i>has been identified in a plan prepared under the Reserves Act 1977, the Local Government Act 2002, or the Resource Management Act 1991; or</i> <i>is on land that is an esplanade reserve, esplanade strip, formed or unformed road, or an access strip.</i> <p><u>Provided that:</u></p>	<p>Does not comply.</p> <p>The proposed trail will be located within 30 metres of the title boundary of numbers 1021B, 1021C, 1041 and 1069 Omanawa Road.</p> <p>Rule 10.4 prescribes a Restricted Discretionary Activity status to ‘network utilities’ that do not comply with the applicable performance standards.</p> <p>Rule 10.5.2 prescribes the applicable matters of discretion.</p>

¹ Section 3 of the District Plan defines ‘public trail’ as:

“Public Trail” means a path either on or off road for the purpose of public recreational or commuter cycle or pedestrian transport or can be a bridle trail or similar. Public trail includes activities associated with creating the path, which includes pathways, bridging, boardwalks, walkways and steps, and includes related signage and maintenance activities, but excludes public trail support infrastructure such as public toilets and carparks.

	(iii) <i>A public trail may be located closer than 30m to a title boundary where the written approval of the owner/s of the title/s has been obtained.</i>	
Section 5 – Natural Environment		
Rule	Description	Comments
5.4.1(b)	<i>Clearance of exotic species subject to no native trees greater than 6m in height being felled for access.</i>	Permitted Activity Proposal includes clearance of vegetation where exotic species are present within Identified Significant Ecological Feature U15/18 (Puwhenua Forest). There are no applicable performance standards / permitted activity rules.
5.4.1(c)	<i>Planting and management of indigenous vegetation, restoration, perimeter fencing, and any plant or animal pest control measures.</i>	Permitted Activity Proposal includes the planting of indigenous plant species and pest control within Identified Significant Ecological Feature U15/18 (Puwhenua Forest). There are no applicable performance standards / permitted activity rules.
5.4.1(e)	<i>Trimming or pruning of any native tree, bush or plant in if it becomes a hazard (must not result in the death, destruction or irreparable damage of the tree, bush or plant).</i>	Permitted Activity <i>Trimming or pruning of a native tree, bush or plant may be required if it becomes a hazard.</i>
5.4.1(f)	<i>Maintenance of existing tracks, walkways and fences.</i>	Permitted Activity The Proposal includes the ongoing maintenance and repair of the walking trail and ancillary infrastructure within Identified Significant Ecological Feature U15/18 (Puwhenua Forest). There are no applicable performance standards / permitted activity rules.
5.4.2	Restricted Discretionary Activity status for the following activities (as relevant to Identified Significant Ecological Features: (a) <i>Native vegetation removal, destruction or clearance (including logging and burning).</i> (b) <i>Earthworks.</i> (l) <i>Works and network utilities as provided for in Section 10.</i>	Restricted Discretionary Activity These works are required within Identified Significant Ecological Feature U15/18 (Puwhenua Forest) for the construction, maintenance and upgrade of the walking trail and ancillary infrastructure. Matters of discretion are listed in Rule 5.6.1.
Section 7 – Historic Heritage		
Rule	Description	Comments
7.3.3(g)	Discretionary Activity - Alteration, reconstruction or removal of, or excavation, construction or any other work on, any part of a built heritage feature which is not a building/structure or similar but which has been identified as contributing to the significance of that feature.	The Proposal is for the walking track to emerge at the existing power station stone steps that are located below the access tunnel and above the power station. Fences and gates are to be placed either side of the trail (on the existing stone steps) to deter visitors from accessing the power station platform and the access tunnel. Additionally, a number of structures / viewing platforms are proposed in proximity to the power station. For this reason it is conservatively assessed that resource consent is required for the proposed works under Rule 7.3.3(g).
Section 18 – Rural		
Rule	Description	Comments

18.3.1(t)	Permitted activity in the Rural Zone: <i>Accommodation facilities² for a combined maximum of five persons (excluding staff).</i>	The proposed ancillary staff accommodation is considered to be an 'accommodation facility' in accordance with the Section 3 definition, subject to performance activity standards
18.4.1(c)	Yard setbacks (i) <i>Dwellings, minor dwellings, accommodation facilities and education facilities – 30m, with potential to reduce to 10m in certain circumstances.</i> (ii) <i>Other buildings/structures – 5m</i>	Does not comply Minor ancillary buildings/structures to be located within 5m of front yard.
18.4.1(e)	Performance standards for accommodation facilities: (i) <i>Have a maximum occupancy of five persons at any one time (excluding staff);</i> (ii) <i>The total area available for exclusive use for the occupiers be no greater than 60m² gross floor area;</i> (iii) <i>Must not contain a kitchen or otherwise be self contained;</i> (iv) <i>For Discretionary Accommodation Facilities, information is to be provided in accordance with 4A.6.2.</i>	Does not comply with (ii) (i) Complies – no more than 5 persons are to be accommodated. (ii) Does not comply. The proposed accommodation comprises 74m ² on the Level 1 and uses the kitchen and staffroom area (an additional 39m ²) at ground floor level. (iii) Does not comply. The accommodation has use of the kitchen and can operate as a self-contained unit. (iv) Information Requirement noted and applicable.
18.3.4	This rule prescribes a Discretionary Activity status to a number of activities in the Rural Zone: (a) <i>Accommodation facilities not complying with 18.4.1(e).</i> (b) <i>Places of assembly³, other than as provided for by Rule 18.3.3(e)</i>	As previously identified, the accommodation facility does not meet all performance standards under 18.4.1(e). Proposal includes the following activities that fall within the definition of 'places of assembly': <ul style="list-style-type: none">▪ The proposed public car park and toilet facility.▪ The proposed visitor centre and its associated buildings and uses (other than the accommodation).▪ The ancillary café (food truck and shipping container) and retail components.▪ The ancillary administrative office.▪ The areas for public recreation on the site.
Section 4A – General		
Rule	Description	Comments
4A.5	<i>With the exception of the following, all Earthworks shall be permitted:</i>	The proposal includes earthworks activities: <ul style="list-style-type: none">▪ To construct the walking trail and associated ancillary structures. For those works located within Identified

² Section 3 of the District Plan defines 'accommodation facility' as:
"Accommodation Facility" means any form of residential accommodation that is accessory to a primary dwelling, forms part of a primary dwelling, or is a stand alone facility, that does not comply with the definition of dwelling, minor dwelling, or accessory building. Included within this definition is; home-stays, farm-stays, bed and breakfast, boarding houses, hotels, motels, hostels and camping grounds. Excluded from this definition are Retirement Villages and Rest Homes. Occupancy is based on one person per single bed and two per double bed.

³ Section 3 of the District Plan defines 'places of assembly' as:
"Places of Assembly" means land, buildings, structures, or uses on the surface of water, that involve the congregation of people for such purposes as deliberation, entertainment, cultural, recreation or similar purposes and includes places of worship, marae, halls, funeral chapels, clubrooms, taverns, restaurants, art galleries, theatres, sports fields, facilities for recreation activities and tourist facilities.

	<p>(a) <i>Earthworks which are listed as requiring resource consent elsewhere in the District Plan.</i></p> <p>(b) <i>Earthworks which are undertaken in association with an activity for which a resource consent for a Discretionary or Non-Complying Activity is required.</i></p> <p>(c) <i>Where Earthworks are listed as a matter of control or discretion.</i></p>	<p>Significant Ecological Feature U15/18, resource consent is required for a Restricted Discretionary Activity in accordance with rule 5.4.2(b). For those works located outside of Identified Significant Ecological Feature U15/18 these are considered to be permitted in association with the establishment of a 'public trail'.</p> <ul style="list-style-type: none"> ▪ To construct the car parking area. This is considered be part of the 'place of assembly' activity, which requires resource consent as a Discretionary Activity under 18.3.4(e) and as such the earthworks are also a discretionary activity.
Section 4B – Transportation, Access, Parking and Loading		
Rule	Description	Comments
4B.4.1	Roading hierarchy - Omanawa Road is a 'Local Road'.	-
4B.4.3	<p>In relation to Rural Roads:</p> <p>(a) <i>No vehicle entrance shall be constructed within:</i></p> <p>(i) <i>30m of a rural road intersection;</i></p> <p>(ii) <i>45m of a State Highway intersection where the posted speed limit on the rural road is 70km/hr or less;</i></p> <p>(iii) <i>60m of a State Highway intersection where the posted speed limit on the rural road is greater than 70 km/hr;</i></p> <p>(iv) <i>(i), (ii) and (iii) above shall be measured from the intersection of the legal road boundaries, or the edge of the road formation, whichever is closer to the entrance.</i></p> <p>(b) <i>Each entrance shall be located in such a position as to provide complying visibility for motorists entering and leaving the property in accordance with Council's Development Code 2009.</i></p> <p>(c) <i>All new rural entrances and entrances which are in a 'fixed location' at subdivision consent stage on District roads shall be designed and constructed so that heavy vehicles can enter and leave the property in a safe and convenient manner without damaging the edge of seal.</i></p>	<p>Complies</p> <p>(a) Complies - The existing vehicle entrances, which are proposed to be modified under the Proposal, observe these setback distances.</p> <p>(b) Complies – Sight lines are provided as required.</p> <p>(c) Complies – The modifications to the existing entrances will be carried out in accordance with the Development Code and to ensure that damage to the edge of the seal does not occur.</p>
4B.4.5	<i>Activities requiring loading facilities or servicing from heavy vehicles shall comply with the 90 percentile design two axled truck swept path and minimum loading space dimensions or a greater dimension of design where articulated vehicles or trucks and trailers are anticipated.</i>	<p>N/A</p> <p>Following the completion of construction activities, the Site will not require regular servicing from a heavy vehicle. Notwithstanding this, suitable space (including manoeuvring space) for loading and unloading of vehicles is to be provided on the Site.</p>
4B.4.6	<i>All activities shall provide manoeuvring space onsite so that all vehicles can enter and exit without reversing on to or off the road. Such manoeuvring shall be able to be executed in no more than a three-point turn.</i>	<p>Complies</p> <p>The proposed car parking and vehicle circulation areas have been designed to enable easy egress from the Site onto Omanawa Road in a forward facing direction.</p>
4B.4.7	<p>This rule requires the following in relation to on-site vehicle parking and loading:</p> <p>Accommodation Facility</p>	<p>Complies</p> <p>The accommodation facility is to be occupied by staff of the place of assembly activity. Given</p>

	<p>One space per every three persons plus one space per two staff members.</p> <p>Places of Assembly (Recreational) Two spaces per every five persons the facility is designed to cater for.</p>	<p>that it is designed to accommodate four persons, 1.3 spaces are required.</p> <p>Given that the proposed facility is designed to cater for up to 149 persons and 15 staff members, a total of 66 spaces⁴ are required.</p> <p>The proposal includes the provision of 77 on-site car parking spaces, which exceeds the 67 spaces required under this rule.</p>
4B.4.9	<p>The provision for parking and loading in respect of any site shall not be on:</p> <p>(a) Part of any manoeuvring area or access lane, or road. (b) Any screening required by the District Plan. (c) Any solid waste storage area required by the District Plan.</p> <p><u>Provided that:</u> In Commercial and Industrial Zones manoeuvring may be on service lanes where land for service lane is given by the applicant. (d) Parking spaces shall not occupy loading spaces nor loading spaces occupy parking spaces. (e) Parking and loading spaces are to be either visible from the public road or clearly signposted at the road frontage.</p>	<p>Complies</p> <p>(a) Complies – No car parking or loading is proposed in areas required for vehicle manoeuvring or access. (b) Complies – No car parking or loading is proposed in areas required for screening. (c) Complies – No car parking or loading is proposed in areas required for solid waste storage. (d) Complies – No car parking is proposed in loading is areas. (e) Complies – The car parking spaces will be easily visible upon entry to the Site (with the entry also sign-posted).</p>
4B.4.10	<p>Parking and loading areas shall be sealed in Residential, Commercial and Industrial zones and metalled as a minimum in Rural-Residential, Future Urban, Rural and Lifestyle Zones so as not to create a dust nuisance to adjoining properties, except in respect of the 3m of any carpark immediately adjoining Strategic Roads that shall be paved in all zones.</p>	<p>Complies The Site is located in the Rural Zone and the car parking and loading areas are to be sealed or metalled.</p>
4B.4.11	<p>This rule prescribes the following in relation to stacked car parking: Council shall accept stacked parking only in the case of dwellings provided that the stacking area is exclusive of all those matters listed in 4B.4.9 above.</p>	<p>Noted / N/A No stacked car parking is proposed.</p>
Sub-Section 4C.1 – Noise and Vibration		
Rule	Description	Comments
4C.1.3.1	<p>This rule requires the following in relation to construction noise: Construction noise shall not exceed the noise limits in, and shall be measured and assessed in accordance with the requirements of NZS 6803:1999 Acoustics – Construction Noise.</p>	<p>Will comply The Proposal is for construction activities to comply with this standard.</p>
4C.1.3.2(a)	<p>This rule sets the following noise limits for a number of zones, including the Rural Zone: All activities located within the Post Harvest Zone shall be conducted so as to ensure that noise from the zone shall not exceed the following noise limits within the notional boundary of any dwelling in a Rural Zone or at any point within the boundary of any property within a Residential, Rural-Residential, or Future Urban Zone:</p>	<p>Partial Non-Compliance The proposal is that day to day activities will be conducted on site to comply with this standard, however, up to six special events may occur per year where the maximum noise levels for temporary activities will be adopted.</p>

⁴ 149 + 15 = 164/5 = 32.8 x 2 = 65.6.

	<table> <tr> <th>Time Period</th><th colspan="2">Sound Level Not To Be Exceeded</th></tr> <tr> <td></td><th><i>LAeq</i></th><th><i>L_{Amax}</i></th></tr> <tr> <td>Daytime 7am – 10pm</td><td>55dB</td><td>N/A</td></tr> <tr> <td>Night time 10pm – 7am</td><td>45dB</td><td>65dB</td></tr> </table>	Time Period	Sound Level Not To Be Exceeded			<i>LAeq</i>	<i>L_{Amax}</i>	Daytime 7am – 10pm	55dB	N/A	Night time 10pm – 7am	45dB	65dB	
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Sub-Section 4C.2 – Storage and Disposal of Solid Waste														
Rule	Description	Comments												
4C.2.4.1(a)	<i>All stand alone or ancillary outdoor solid waste storage and disposal areas shall be screened from adjacent Residential, Future Urban, Rural-Residential, Lifestyle and Rural Zones, recreation reserves and the public road. Screening shall be as required in Section 4C.5</i>	Will comply Any outdoor solid waste storage areas will be screened from view.												
Sub-Section 4C.5 – Screening														
Rule	Description	Comments												
4C.5.3.1	<p>This rule includes performance standards used to guide discretionary and non-complying activities:</p> <p>(a) <i>Screening shall be by either:</i></p> <ul style="list-style-type: none"> (i) <i>A solid wall of not less than 2m in height, or</i> (ii) <i>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</i> (iii) <i>A permeable fence (i.e. trellis or chain mesh) in conjunction with planting (i.e. vines and creepers) which will fully screen the site.</i> <p><i>Such screening is to be maintained in good order at all times and maintenance planting shall be undertaken in the current or next planting season to achieve this.</i></p> <p>(b) <i>Where an activity proposes landscape planting as a form of screening a landscape plan shall be submitted for Council's consideration. In considering an application Council shall have regard to the following:</i></p> <ul style="list-style-type: none"> (i) <i>Landscaping must have a minimum width of 3m exclusive of site access for pedestrians and vehicles at the frontage including provision for sight lines;</i> (ii) <i>There must be a variety of vegetation both in size and character having considered:</i> <ul style="list-style-type: none"> - <i>The character of the building/structure or activity on site;</i> - <i>The character of adjacent properties;</i> - <i>The scale of any parking areas to be screened;</i> - <i>Potential shadowing in winter of adjacent residential or rural properties or public reserves;</i> - <i>Underground and overground services;</i> - <i>Suitability of the species to the location;</i> - <i>Suitability of the species to the maintenance and watering plan;</i> - <i>Effects on the safety and efficiency of the roading network.</i> (iii) <i>The proposed landscape plan is to be certified by an appropriately qualified person as being</i> 	<p>Noted</p> <p>The Applicant has taken a comprehensive approach in designing the site layout to include setbacks and landscape treatment to ensure that the interface with adjoining sites and the street is appropriate for the setting. This approach has generally accommodated these requirements.</p>												

	<p><i>an appropriate screening and one that will be hardy;</i></p> <p>(iv) <i>Council shall apply a bond for three years to ensure the establishment and maintenance of the landscaping. The bond shall be directly related to the actual capital and labour costs of the work.</i></p>	
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