

39 Business 1 Environment Rules

39.1 Introduction

This chapter contains rules governing land uses in the Business 1 Environment. The boundaries of this Environment are shown on the Planning Maps. Generally, it comprises the Central Business District (CBD). The CBD is the main centre of commercial activity and a principal focus for the wider community within the Whangarei District. The CBD's role in developing this principle focus is envisioned to continue. Allowance has been made for the expansion of the existing central area to link with, and include, the Town Basin. The design of the CBD has been structured to enhance the amenity and reflect the highly pedestrianised and compact nature of the Business 1 Environment.

Road Transport rules and Resource Area rules also apply in this Environment. The Resource Area rules apply only to the areas indicated on the Planning Maps.

Chapters 1 and 2 describe activities and rules and how to read the rule table. See Chapter 70.3 for a list of matters to which controlled is reserved. These apply to every controlled activity mentioned in the rule table, in addition to those matters given in the rule table.

39.2 Prohibited Activities

The following activity is a prohibited activity, for which no resource consent shall be granted:

- Use, storage or disposal of radioactive material with an activity exceeding 1000 terabequerels.

39.3 Business 1 Environment - Activity Rule Table

39.3.1 Activities Generally

<p>Any activity is a permitted activity if:</p> <p>a) It does not involve intensive livestock farming, animal boarding, panel beating, metal working, spray painting, motor vehicle manufacturing or dismantling, fibreglassing or laminating; and</p> <p>b) It is not an activity involving any of the following on a commercial basis: bone boiling or crushing; collection and storage of used glass bottles; fish cleaning, curing and processing; flax pulping; flock manufacturing or teasing of textiles; refuse accumulation; sewage collection and disposal; storage, drying or preserving of bones, hides, hooves, or skins; tallow melting; tanning; wood pulping; wool scouring; and</p> <p>c) It is not an activity that is classified as an offensive trade in the Health Act 1956</p>	<p>Any activity that does not comply with a condition for a permitted activity is a discretionary activity if:</p> <p>a) It does not involve intensive livestock farming; and</p> <p>b) It is not an activity that involves food irradiation; and</p> <p>c) It is not an activity involving any of the following on a commercial basis:</p> <ul style="list-style-type: none"> i. bone boiling or crushing; ii. collection and storage of used glass bottles; iii. fish cleaning, curing and processing; iv. flax pulping; v. flock manufacturing or teasing of textiles; vi. refuse accumulation; vii. sewage collection and
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	<p>disposal;</p> <p>viii. storage, drying or preserving of bones, hides, hooves, or skins;</p> <p>ix. tallow melting;</p> <p>x. tanning;</p> <p>xi. wood pulping;</p> <p>xii. wool scouring; and</p> <p>d) It is not an activity that is classified as an offensive trade in the Health Act 1956.</p> <p>Any activity that does not comply with a standard for a discretionary activity is a non-complying activity.</p>
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39.3.2 Hazardous Substances

<p>a) The use, storage or on-site movement of hazardous substances is a permitted activity if it complies with the conditions for permitted activities in Appendix 8; and</p> <p>b) The movement of hazardous substances between sites is a permitted activity if conducted by means of an underground pipeline.</p>	<p>a) The use, storage or on-site movement of hazardous substances is a discretionary activity if it does not comply with a condition for permitted activities in Appendix 8; and</p> <p>b) The movement of hazardous substances between sites is a discretionary activity if conducted by means of an aboveground pipeline.</p>
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39.3.3 Network Utility Operations

<p>The following activities related to network utility operations excluding electricity infrastructure are a permitted activity:</p> <p>a) The establishment of junction boxes, substations and other equipment cabinets required as part of a utility network that have a height no greater than 1.5m and a ground coverage not exceeding 3.0m²; and</p> <p>b) The establishment of network utility operations for the purposes of wireless communication, or the measurement, collection and distribution of meteorological information, that comply with the rules for Aerials and Aerial Support Structures; and</p> <p>c) The minor upgrading, replacement, removal and maintenance of existing network utility operations facilities; and</p> <p>d) Minor extensions to an existing overhead line network (including additional service connections and/or 1 additional support structure); and</p>	<p>Network utility operations that do not comply with a condition for a permitted activity are a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <p>i. Scale, bulk and form of the installation(s) above the ground;</p> <p>ii. Cumulative effects of additional structures;</p> <p>iii. Shading effects;</p> <p>iv. Effects on amenity values;</p> <p>v. Effects on landscape/streetscape values;</p> <p>vi. Effects on ecological values;</p> <p>vii. Effects on heritage values;</p> <p>viii. Effects on cultural values;</p> <p>ix. Effects on public health and safety;</p> <p>x. Issues of reverse sensitivity.</p>
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<p>e) The establishment of, or extension to, underground network utility operations, including gas lines with a maximum operating pressure not exceeding 2000 kilopascals.</p>	
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39.3.4 **Provision of Parking Spaces**

<p>Any activity is a permitted activity if,</p> <p>a) Parking spaces are provided in accordance with Chapter 47; and</p> <p>b) No formed parking space is provided within 2.0 metres from a road boundary.</p>	<p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <p>i. Those matters listed Chapter 47 Road Transport Rules.</p>
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39.3.5 **Signs**

<p>a) The construction or placement of a sign which is not visible from a public place or neighbouring property(s) is a permitted activity.</p> <p>b) The construction or placement of a sign which is visible from a public place or neighbouring property(s) is a permitted activity if:</p> <p>i. The sign is required under health and safety legislation; or</p> <p>ii. The sign is erected by a road control authority for the purposes of traffic control or public safety and it is located within the legal road reserve; or</p> <p>iii. The sign relates to goods and services available on site, or is a property name sign, or is a community sign; and</p> <p>iv. The sign does not obscure any official signs or traffic signals; and</p> <p>v. The sign is static, and not flashing; and</p> <p>vi. If illuminated, the added illuminance (horizontal or vertical) onto any other site measured at the boundary does not exceed 10 lux at any receiving property boundary or 15 lux at any road reserve boundary; and</p> <p>vii. If illuminated, the sign is not within 20.0m of any road intersection; and</p> <p>viii. No more than 5 signs are displayed per site; and</p>	<p>The construction or placement of a sign that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <p>i. Traffic safety;</p> <p>ii. Whether the proposed sign will have an effect on amenity values by:</p> <ul style="list-style-type: none"> • Being visually inappropriate to the neighbourhood. The Council will ensure that general advertising signs do not dominate a site or the surrounding area and will limit such signs accordingly. • Being visually obtrusive on Living, Rural or Open Space Environments. • Creating an effect of clutter in the immediate area because of a poor relationship to other signs or elements. In general, clutter will be determined by the amount of signage, in relation to the frontage of a site. • Being sensitive (in terms of scale, form and harmony) to the building on which it is to be erected or displayed, to the immediate surroundings or to the places from which it can be seen. • Obscuring or detracting from important visual landmarks of the city, such as visual landmarks or buildings or areas of architectural or heritage value. • Obscuring or detracting from
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<p>ix. A free standing sign is no higher than 4.0m; and</p> <p>x. The total area of all signs is no greater than 3.0m² on sites with frontage less than 25.0m; and</p> <p>xi. On sites with frontage greater than 25.0m, the total area of all signs shall be no more than 0.12m² per metre of frontage to a maximum area of 6.0m²; and</p> <p>xii. As an alternative to iv to ix above, signs complying with the conditions set out in Appendix 12 are permitted activities; and</p> <p>xiii. Where the road limit has a speed limit of 70 kph or greater, the sign is located so as to provide an unrestricted view to the motorist for a minimum distance of 250.0m.</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. Signs within the legal road boundary, or on road verges and road reserves are regulated by Council Bylaws. 2. Temporary signs, and signs on vehicles are regulated by Council Bylaws. 3. Signs located in public places are regulated by Council Bylaws. 	<p>landscape elements in the front yard of a site.</p> <ul style="list-style-type: none"> • Being of such construction that its method of support or fixing is not aesthetically incorporated into its design.
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39.3.6 Artificial Lighting

<p>Artificial lighting is a permitted activity if either:</p> <ol style="list-style-type: none"> a) The lighting is required under health and safety legislation; or b) The light is a street light, navigation light, or traffic signal; or c) The following standards are complied with: <ol style="list-style-type: none"> i. The added illuminance onto any other site measured at the boundary does not exceed 10 lux at any receiving property boundary, or 15 lux at any road reserve boundary; and ii. The artificial light is shielded in such a manner that light emitted by the fixture is projected below a horizontal plane running through the lowest point on the fixture; and iii. The lower edge of the shield, as required by ii) 	<p>Any activity that does not comply with a standard for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is limited to:</p> <ol style="list-style-type: none"> i. Orientation, strength, intensity, colour, frequency of flashing of the light; ii. Effects on traffic safety; iii. Positive effects on pedestrian safety; iv. Effect on amenity values.
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<p>above, is to be at or below the centreline of the light source; and</p> <p>d) The light is static, and is not flashing; (except in the case of lighting on vehicles associated with mineral extraction and related activities, or flashing beacons in accordance with the Land Transport Road Use Rule 2004.</p> <p>e) The artificial lighting complies with AS/NZS 1158/1996.</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. If the object or device that contains Artificial Lighting is a sign, then Rule 38.3.5 Signs is solely applicable. 2. See Appendix 15 for illustration of c) (ii) and (iii) above. 	
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39.3.7 **Noise** *(Deleted – refer to Noise and Vibration Chapter)*

39.3.8 **Construction Noise** *(Deleted – refer to Noise and Vibration Chapter)*

39.3.9 **Vibration** *(Deleted – refer to Noise and Vibration Chapter)*

39.3.10 **Electromagnetic Radiation**

<p>Any activity is a permitted activity if:</p> <p>a) Exposures comply with NZS 2772.1:1999, Radio Frequency Fields Part 1: Maximum Exposure Levels 3 kHz – 300 GHz;</p>	<p>Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</p>
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39.3.11 **Electricity Transmission Lines** *(Deleted 13/01/2014 - refer to Network Utilities Chapter)*

39.3.12 **Outdoor Storage**

<p>Any activity is a permitted activity if:</p> <p>a) Outdoor areas of storage or stockpiles of materials or equipment comply with building height, setbacks and daylight angle rules; and</p> <p>b) Outdoor areas of storage or stockpiles of materials or equipment are contained or maintained to prevent the dispersal of dust or airborne contaminants beyond the site; and</p> <p>c) Materials are stored in a way that does not provide a food source for vermin; and</p> <p>d) The best practicable option is adopted to prevent or minimise contaminants from stockpiles entering watercourses or water bodies.</p>	<p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> i. Dust effects; ii. Smell effects; iii. Visual effects; iv. Amenity effects; v. Effects on amenity values; vi. Effects on health and safety; vii. Quality of the stormwater runoff.
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39.3.13 Aerials and Aerial Support Structures

<p>Aerials and/or aerial support structures are a permitted activity if:</p> <ul style="list-style-type: none"> a) No dish aerial exceeds a diameter of 2.4m; and b) No aerial and/or aerial support structure exceeds a height of 24.0m; and c) All aerials and/or aerial support structures comply with the relevant building setback and daylight angle requirements for the Environment within which they are located. 	<p>Any aerial and/or aerial support structure that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. The design and external appearance of buildings and structures; ii. Landscape treatment and screening; iii. Site location and layout; iv. Amenity effects, including visual effect and glare; v. Construction materials.
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39.4 Business Environment 1- Building Rule Table

39.4.1 Building Height

<p>Construction or alteration of a building is a permitted activity if:</p> <ul style="list-style-type: none"> a) The height of the building does not exceed 20.0m; and b) The height of any building on a site adjoining a Living or Open Space Environment does not exceed the daylight angle stated for the adjoining Environment. 	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity if:</p> <ul style="list-style-type: none"> a) The height of the building does not exceed 25.0m. <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. The scale and bulk of the building in relation to the site; ii. The built characteristic of the neighbourhood; iii. The extent to which the effects of the height can be mitigated by setbacks, planting, design or the topography of the site; iv. Effects on landscape values; v. Effects on availability of daylight; vi. Effects on amenity values. <p>Construction or alteration of a building that does not comply with a standard for a discretionary activity is a non-complying activity.</p>
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39.4.2 Building Setbacks

<p>Construction or alteration of a building is a permitted activity if the building is setback at least:</p> <p>a) To the line of any building line restriction shown on the Planning Maps.</p> <p>Notes:</p> <ol style="list-style-type: none"> The provisions of Rules 58.2.6 and 59.2.3 also apply to building setbacks. Verandas required in terms of Rule 38.4.6 are exempt from this Rule. 	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> The outlook and privacy of adjoining and adjacent properties; Shading of adjoining properties; Effects on natural character.
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39.4.3 Building Setbacks from Water Bodies

<p>Construction or alteration of a building is a permitted activity if the building is set back at least:</p> <p>a) 27.0m from Mean High Water Springs; or</p> <p>b) From the top of the bank of any river that has a width of less than 3.0m, or a lake under 8ha</p> <ol style="list-style-type: none"> 5.0m where the dominant slope is less than 8 degrees; 10.0m where the dominant slope is greater than 8 degrees but less than 15 degrees; 20.0m where the dominant slope is more than 15 degrees; or <p>c) 27.0m from the top of the bank of a river equal to 3.0m or more in width, any lake over 8ha in area or any river identified in Appendix 5 as an Esplanade Priority Area; or</p> <p>d) 5.0m from the top of the bank of all other water bodies, unless an esplanade reserve already exists, in which case a 5.0m setback from the edge of the landward side of the esplanade reserve shall apply.</p> <p>Note:</p> <p>The provisions of Rules 58.2.6 and 59.2.3 also apply to building setbacks.</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> The continued availability of land in Esplanade Priority Areas; Effects on natural character; Effects on natural functioning of an ecosystems; Effects on landscape values; Effects on heritage values; Effect on public access; Effect on river maintenance and hazards; The protection of the conservation, ecological, recreation, access and hazard mitigation values of land in Esplanade Priority Areas and existing esplanade reserves or strips; The suitability of the proposed location of the building on the site.
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39.4.4 Building Daylight Angles

<p>Construction or alteration of a building is a permitted activity if:</p> <p>a) The building height does not protrude through a line drawn from the middle of the road at an angle of 65°, measured from ground level; and</p> <p>b) The building height does not</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> The available daylight or shadowing effect at pedestrian level, especially at key pedestrian
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<p>protrude through a line drawn from the middle of the road at an angle of 45° measured from ground level on the northern side of Cameron Street, between John Street and Bank Street, and on the western side of Rathbone Street, between Cameron Street and Robert Street.</p> <p>Note: Building daylight angles are not applied to verandahs required under Rule 39.4.6.</p>	<p>locations.</p>
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39.4.5 Living Courts

<p>Construction or alteration of a residential unit is a permitted activity if:</p> <p>a) A balcony or outdoor living court is provided with a minimum area of 10.0m² and a minimum dimension of 2.0m; and</p> <p>b) The court or balcony must be accessible from a habitable room of the residential unit.</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <p>i. The privacy and amenity of the occupants on site.</p>
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39.4.6 Verandahs

<p>Construction or alteration of a building is a permitted activity if:</p> <p>a) A verandah is constructed or maintained along the entire site frontage of sites (excluding vehicle access) fronting the roads stated in Schedule 39.1; and</p> <p>b) The verandah forms a continuous line of shelter with adjacent verandahs; and</p> <p>c) The clearance above the footpath is at least 3.0m and no more than 4.0m; and</p> <p>d) The width of the verandah is:</p> <p>i. the width of the corresponding footpath less 600.0mm from the kerb; and</p> <p>ii. 3.0m maximum.</p> <p>Note: The required verandahs, in terms of this rule, are exempt from the building setback requirement in Rule 39.4.2 and the building daylight angles required in Rule 39.4.4.</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <p>i. The comfort of pedestrians;</p> <p>ii. Effect on visual amenity;</p> <p>iii. Traffic effects.</p>
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39.4.7 Coastal Minimum Floor Level

<p>Construction or alteration of a building or structure is a permitted activity if:</p> <p>a) There is a minimum floor level of 2.5m above One Tree Point Datum Mean Sea Level 1964.</p>	<p>The construction or alteration of a building or structure that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p>
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	<p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. Construction or alteration of a building or structure in relation to its location; ii. The avoidance, remediation or mitigation of coastal hazards; iii. Floor level in relation to One Tree Point Datum Mean Sea Level 1964.
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Schedule 39.1 : Roads that Require Verandahs

Refer Rule 39.4.6 (both sides of roads, unless otherwise indicated).

- Cameron Street between Bank and Walton Streets;
- Bank Street between Vine Street and Hunt Street;
- Rathbone Street;
- James Street to Dent Street;
- John Street to Dent Street;
- Walton Street (west side) between Vine & Dent Street;
- Vine Street;
- Robert Street, from Laurie Hall Park as far as Walton Street.

39.5 Principal Reasons for Rules / Explanations

Prohibited Activities

The level of radioactivity stated as a prohibited activity allows for use of household smoke detectors and use of radioactive materials in medical laboratories and hospitals, but does not allow large installations such as food irradiation plants or nuclear power stations. Radiation greater than 1000 terabequerels is prohibited. Although the probability of radiation greater than 1000 terabequerels being released into the environment is low, the potential adverse effects, if this occurs, are considered very great.

Activities Generally

This rule names various activities for which a resource consent is required. The benefit of activity lists is that they are relatively easy to use. Where activities are grouped on the basis of like effects on differing Environments, the Plan can still reflect the effects based approach required by the Resource Management Act 1991.

The listed activities are all associated with effects that are unacceptable in this Environment without careful management. The identification of "commercial" activities assumes that there is a greater likelihood of adverse effects arising from activities carried out at a commercial scale than at a non-commercial scale. Effects of these activities are not consistent with the character, aims and values of this Environment. Many of these activities have effects such that they require an offensive trade licence under the Health Act 1956.

Hazardous Substances

See Appendix 8.

Signs

Flashing and moving signs have the potential to affect the visual amenity of a Living or Rural Environment and the traffic safety in the vicinity of traffic signals. Therefore, signs that have the potential to affect these matters are controlled in the Business 1 Environment.

Artificial Lighting

Lighting can interfere with the enjoyment of a property and the sleep of occupants. Direct light spill and glare are consequences of outdoor lighting used to illuminate property. The effect of the rule is to state lighting levels that are compatible with the existing lighting character of the Business Environments. Street lights, navigation lights and traffic signals are exempted from the rule to preserve traffic and personal safety.

Electromagnetic Radiation

Certain utilities, and other activities, emit electromagnetic radiation or create electric fields, which are a health concern to some people living near them. Radio Frequency Fields (RF) are produced by broadcasting and microwave transmission activity. It is the antennae used for sending the signal which produce the Electromagnetic Radiation (EMR), which is within the 3 kHz to 300 GHz range of non-ionising radiation. This Plan is taking a cautious approach to the location of such activities within the Business Environments. An acceptable public level of exposure for EMR has been adopted from the New Zealand Standard, which has been thoroughly researched and based upon scientific evidence. Setting a minimum distance enables provision for access, maintenance and public safety.

Outdoor Storage

The storage of materials outside can have an adverse visual effect, as well as contributing to air emissions. The rule aims to lessen the effects of this and thus reduce the effect on the amenity of the Business 1 Environment.

Aerials and Aerial Support Structures

The size and location of aerials and aerial support structures is controlled due to the visual intrusion or dominance that aerials and aerial support structures can have. Chapter HH of the Plan also seeks to control the visual impact that aerials and aerial support structures can have on Built Heritage.

Building Height

The height of buildings is an important factor in maintaining built amenity. Building height is limited to a scale generally considered acceptable in a Business Environment. The permitted activity rule allows commercial buildings (office blocks) to be built. Higher buildings require further assessment as to their suitability, and a resource consent application is required.

Building Setbacks

Setbacks from water bodies and the coast will preserve future availability of esplanade reserves, providing access space for water body maintenance and some flood protection.

Building Daylight Angles

The daylight angles are set to provide a reasonable amount of protection of daylight to pedestrians, particularly within the main open area of the Business 1 Environment.

Outdoor Living Courts

In all residential developments there is a requirement for outdoor living courts. In the Business 1 Environment these will generally take the form of a balcony. The courts provide outdoor living space, which is considered desirable for the health and enjoyment of occupants.

Verandahs

The provision of a continuous line of verandahs along building frontages in this Environment will provide shelter from the elements and thus contribute to a pleasurable environment for pedestrians.

Coastal Minimum Floor Level

Coastal flooding is a hazard that needs to be addressed and this hazard is not restricted to those areas covered by the coastal hazard areas. By ensuring that the floor levels of structures and buildings is at least 2.5m above One Tree Point Datum Mean Sea Level 1964, this risk will be significantly reduced. The 2.5m will take into account a rise in sea level of 0.5m, plus the instances of a spring tide and the surges associated with coastal storms.

Revision and Sign-off Sheet

Date Approved	Editor	Paragraph	Change Reference	Decision Date	Approved By
27 June 2007	FP	39.3.4 i	Deletion of unnecessary reference to sections of chapters		PW
1 November 2007	FP	39.3.5 and 39.3.6	Addition of hyperlinks to Plan Change 41 Signs and 42 Artificial Lighting.		PW
13 May 2008	FP	39.3.7 b)ii	Typo at time of reformatting –reinstating the measure of dBA -		PW
11 July 2008	JL	39.3.5	Plan Change 41 Signs, after Council decision	ES 9 July 2008	PW
11 July 2008	JL	39.3.6	Plan Change 42 Artificial Lighting after Council decision	ES 9 July 2008	PW
17 September 2008	FP	39.3.5	Formatting of numbering		PW
11 December 2009	FP	39.4.3	Plan Change 98 Setbacks from Water Bodies	Operative Date 12 January 2010	NW
14 June 2010	FP	39.3.1	Plan Change 97 Consequential changes from PC45 Intensive Livestock Farming	ES 9 June 2010 Operative 22 June 2010	NW
9 September 2010	FP	Reference to Chapter 2.3.3	Plan Change 106 consequential changes, this provision no longer exist.	Record 10/96471	NW
11 December 2013	MD	39.3.3 39.3.11 39.5	Plan Change 123A consequential changes 'Electricity Infrastructure'	Operative Date 13 January 2014 TRIM 14/4071	NW
11 May 2016	TB	39.3.7 39.3.8 39.3.9	Deletion of Rules as a result of Plan Change 110 becoming operative.	Operative Date 24 May 2016 TRIM 16/52692	MM
14 September 2016	JM	39.3.13 39.5	Plan Change 124 becoming operative.	Operative date 28 September 2016 TRIM 16/106480	MM

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