

SECTION 6: COMMERCIAL ZONE RULES

6.1 CATEGORIES OF ACTIVITIES

6.1.1 PERMITTED ACTIVITIES

The following activities are permitted activities in the Commercial Zone, provided activities comply with all relevant Permitted Activity Performance Standards in Section 6.2 and all other Sections of the District Plan:

- (a) Within areas zoned either Commercial (Hāwera Town Centre) or Commercial (Mixed Use), the following activities:
 - (i) Retail activities
 - (ii) Commercial activities.
 - (iii) Entertainment activities.
 - (iv) Community activities.
 - (v) Healthcare services.
 - (vi) Emergency facilities.
 - (vii) Education facilities.
 - (viii) Offices.
 - (ix) Open space.
 - (x) Car parks.
 - (xi) Public conveniences.
 - (xii) Visitor accommodation.
 - (xiii) Marae.
 - (xiv) Papakainga development [on land held under Te Ture Whenua Māori Act 1993](#).
 - (xv) Residential activities, including residential activities ancillary to the operation of a permitted activity.
- (b) Within areas zoned Commercial (Large Format Trade and Service), the following activities:
 - (i) Trade and Service Activity.
 - (ii) Commercial activities.
 - (iii) Emergency facilities.
 - (iv) Car parks.
 - (v) Commercial garages/vehicle sales yards.
 - (vi) Vehicle service stations.
 - (vii) Vehicle sales yards.
 - (viii) Veterinary services.

- (c) Within areas zoned Commercial (Mixed Use Area), in addition to those activities permitted in Rule 6.1.1(a), the following activities are also permitted:
- (i) Residential care facilities.
 - (ii) Home occupations.
 - (iii) Vehicle service stations.
 - (iv) Commercial garages/vehicle sales yards.
 - (v) Childcare facilities.
 - (vi) Veterinary services.
- (d) Within areas zoned either Commercial (Hāwera Town Centre), Commercial (Large Format Trade and Service) or Commercial (Mixed Use), the construction, alteration of, addition to, removal and demolition of buildings and structures for any permitted activity, except those works covered by Rule 6.1.2(a).

6.1.2 CONTROLLED ACTIVITIES

The following activities are controlled activities in the Commercial Zone:

- (a) The full or partial demolition of buildings on a site, where:
- (i) The site has a Defined Pedestrian Frontage.
 - (ii) The site has frontage to:
 - Victoria Street in Kaponga; or
 - Egmont Street in Pātea; or
 - State Highway 3 (Weraroa Road) in Waverley; or
 - State Highway 45 (South Road) in Manaia.

Matters to which the Council restricts its control:

- (i) Effects on visual amenity values and streetscape character.
- (ii) The future use, maintenance, and development of the site, including the duration in which it may be left vacant.

Notification Statement

- (i) Under Section 77D of the RMA, for an activity requiring resource consent under Rule 6.1.2(a), the application shall not be publicly notified, except where:
 - The Council decides special circumstances exist (pursuant to Section 95(A)(4)), or
 - The applicant requests public notification (pursuant to Section 95A(2)(b)).

(b) Papakāinga developments on land held under Te Ture Whenua Māori Act 1993 that do not comply with one or more of the permitted activity performance standards in Section 6.2.

Matters to which the Council restricts its control:

- (i) Avoiding, remedying or mitigating of actual or potential effects deriving from non-compliance with the particular performance standard(s) that is not met.

(ii) Effects on character and amenity values.

(iii) Connection to services.

6.1.3 RESTRICTED DISCRETIONARY ACTIVITIES

The following activities are restricted discretionary activities in the Commercial Zone:

- (a) Unless listed elsewhere in the District Plan, any permitted activity listed in Section 6.1.1, which does not meet one or more of the Permitted Activity Performance Standards in Section 6.2.

Matters to which the Council restricts its discretion:

- (i) Avoiding, remedying or mitigating of actual or potential effects deriving from non-compliance with the particular performance standard(s) that is not met, except where specifically identified in other rules below.
- (b) Within the Commercial Zone (Mixed Use Area), the following activities:
- (i) Housing for the Elderly where the net site area per dwelling unit is, at minimum, 280m².
- (ii) In Hāwera, three or more dwelling units where the net site area per dwelling unit is, at minimum, 300m².

Matters to which the Council restricts its discretion for (i) – (ii) above:

- (i) Site Layout;
- (ii) Scale and design of buildings.
- (iii) Effects on existing character and amenity values, including privacy, loss of healthy mature trees and shading on neighbouring properties.
- (iv) Location, function and amenity of on-site open space.
- (v) Parking, access, extent of impervious surfaces and landscaping.

In relation to any Housing for the Elderly additional matters of discretion is:

- (vi) Effects from the construction and operation of any medical, recreational, communal and staff facilities associated with the development.

Notification Statement

- (i) Under Section 77D of the RMA, for an activity within the Commercial Zone (Hāwera Town Centre) requiring resource consent under Rule 6.1.3(a) or (b), the application shall not be publicly notified, except where:
- The Council decides special circumstances exist (pursuant to Section 95(A)(4)), or
 - The applicant requests public notification (pursuant to Section 95A(2)(b)).
- (c) Within the Commercial Zone (Large Format Trade and Service), any building with a total floor area exceeding 1000m².

Matters to which the Council restricts its discretion:

- (i) Scale and design of buildings.

- (ii) Visual effects.
 - (iii) Effects on the vibrancy and vitality of the Hāwera Town Centre
 - (iv) Safety and efficiency of the road network;
 - (v) Parking, access, servicing activities;
 - (vi) The use of urban design and landscaping to avoid, remedy or mitigate adverse effects.
- (d) Additions to existing noise sensitive activities within the Outer Control Boundary (OCB) of Hāwera Aerodrome shown on Planning Maps (Special Map 1).

Matters to which the Council restricts its discretion:

- (i) The nature, size and scale of the proposed development.
- (ii) The internal noise environment of the proposed addition.
- (iii) The effects on the safe and efficient functioning and operation of Hāwera Aerodrome.

(e) Papakāinga developments on general title land that comply with the permitted activity performance standards in Section 6.2.

Matters to which the Council restricts its discretion:

- (i) Whether the applicant has demonstrated their whakapapa or ancestral connection to the land.
- (ii) Evidence that the land will remain in Māori ownership in the long-term. This may be through the use of appropriate legal mechanism(s) to ensure that land is maintained in Māori ownership.

Note: For resource consent applications under this rule, the Council will obtain advice from the relevant iwi authority and will take this advice into account. The matters that Council will seek advice from iwi authorities on include:

- (a) Where the papakāinga is on general title land, whether the applicant has demonstrated a whakapapa or ancestral connection to the land;
- (b) Any other matter related to tikanga Māori.

(f) Papakāinga developments on general title land that do not comply with one or more of the permitted activity performance standards in Section 6.2.

Matters to which the Council restricts its discretion:

- (iv) Avoiding, remedying or mitigating of actual or potential effects deriving from non-compliance with the particular performance standard(s) that is not met.
- (v) Effects on character and amenity values.
- (vi) Connection to services.

In relation to papakāinga developments on general title land are the additional matters of discretion:

- (vii) Whether the applicant has demonstrated their whakapapa or ancestral connection to the land.

(viii) Evidence that the land will remain in Māori ownership in the long-term. This may be through the use of appropriate legal mechanism(s) to ensure that land is maintained in Māori ownership.

Note: For resource consent applications under this rule, the Council will obtain advice from the relevant iwi authority and will take this advice into account. The matters that Council will seek advice from iwi authorities on include:

(a) Where the papakāinga is on general title land, whether the applicant has demonstrated a whakapapa or ancestral connection to the land;

(b) Any other matter related to tikanga Māori.

6.1.4 DISCRETIONARY ACTIVITIES

- (a) Industrial activities, except in the Commercial Zone (Hāwera Town Centre) (refer Rule 6.1.5(a)).
- (b) Within the Commercial Zone (Large Format Trade and Service):
 - (i) Residential activities.
 - (ii) Residential care facilities.
 - (iii) Visitor accommodation.
- (c) Any activity that is not listed as a permitted, controlled, restricted discretionary, non-complying or prohibited activity.

Notification Statement

- (i) Under Section 77D of the RMA, for an activity within the Commercial Zone (Hāwera Town Centre) requiring resource consent under Rule 6.1.4(c), the application shall not be publicly notified, except where:
 - The Council decides special circumstances exist (pursuant to Section 95(A)(4)), or
 - The applicant requests public notification (pursuant to Section 95A(2)(b)).

6.1.5 NON-COMPLYING ACTIVITIES

- (a) Industrial activities in the Commercial Zone (Hāwera Town Centre).
- (b) Stockyards.
- (c) Noise sensitive activities within the Outer Control Boundary (OCB) of Hāwera Aerodrome shown on Planning Maps (Special Map 1).

6.1.6 PROHIBITED ACTIVITIES

None

6.2 PERFORMANCE STANDARDS - PERMITTED ACTIVITIES

6.2.1 Bulk and Location

- (a) Yards: All buildings shall be located no closer than:
- (i) 10m to the State Highway 3 road boundary between Hāwera and Normanby.
 - (ii) 3m to the rail boundary.
- (b) Building Recession Plane: Buildings on sites adjacent to the Residential zone shall not project beyond a building recession plane from points 3m above the site boundaries adjacent to the Residential zone, as shown in Section 4: Residential Zone Appendix 1.

Except that:

- (i) The recession plane shall not apply to road boundaries.
 - (ii) Where a boundary abuts an access lot or right of way, the boundary may be taken from the furthest boundary of the access lot or right of way.
- (c) Building Height: No part of any building shall extend more than 10m above natural ground level.

Except that:

- (iii) All poles, support structures and fixtures associated with outdoor lighting shall not exceed a height of 13.5m.
- (iv) On Defined Town Centre Corner Sites identified on the Planning Maps, buildings shall have a minimum height of two storeys or 10m (whichever is the lesser) and not exceed a maximum height of 15m.

6.2.2 Defined Pedestrian Frontage

- (a) On sites with a Defined Pedestrian Frontage identified on the Planning Maps, the following standards apply:
- (i) All buildings shall be built to the front road boundary at the Defined Pedestrian Frontage.
 - (ii) All buildings shall be built along the full width of the front road boundary for the Defined Pedestrian Frontage.
 - (iii) All buildings shall have continuous verandas over the full width (less 300 mm along roads) and length of all footpaths or other accessways for the Defined Pedestrian Frontage.
 - (iv) All buildings shall have display windows along the Defined Pedestrian Frontage of at least 75% of the ground floor facade surface. The minimum window area shall be kept clear and not be boarded up, painted or covered by signage.
 - (v) No activities or development shall obstruct the footpath for the Defined Pedestrian Frontage.

6.2.3 Sites Adjoining Residential Zone or Rural Zone

- (a) Where a site adjoins a Residential Zone or Rural Zone, the following standards apply:
- (i) All buildings shall be located no closer than 5m to the Residential or Rural zone boundary.
 - (ii) Landscaping and planting of at least 2m deep at the Residential or Rural zone boundary/boundaries shall be provided.
 - (iii) All outdoor carparking, storage, servicing and loading areas shall be screened by a close-boarded fence made of solid material with a minimum height of 1.2m and a maximum height of 2m.
 - (iv) The spill of light from any outdoor artificial lighting shall not exceed 10 lux (measured horizontally and vertically) when measured at the boundary of an adjoining Residential zoned site.

6.2.4 Minimum and Maximum Floor Areas

- (a) Within the Commercial Zone (Hāwera Town Centre), no individual activity shall occupy a total floor area of 500m² or more, at ground level.
- (b) Within the Commercial Zone (Large Format Trade and Service), no individual activity shall occupy a total floor area (excluding shared storage space and activities) less than 500m², at ground level.
- (c) Within the Commercial Zone (Large Format Trade and Service), the maximum total floor area of any building shall not exceed 1000m².

Note: For the purpose of this Performance Standard, the total floor area shall be measured from the internal face of exterior walls, or from the centre line of common walls separating two (2) abutting individual activities, and shall exclude shared storage facilities and spaces.

6.2.5 Outdoor storage

- (a) All areas used for the storage of goods, materials or waste products shall be maintained in a tidy condition and shall be fully screened from view from roads and adjacent properties.

6.2.6 Odour

- (a) No activity shall result in offensive or objectionable odours to the extent that it causes an adverse effect at or beyond the boundary of the site in which the activity is located on.

Note 1: For the purpose of this performance standard, an offensive or objectionable odour is that odour which can be detected and is considered to be offensive or objectionable by at least two independent observers; including at least one Council officer. In determining whether an odour is offensive or objectionable, the “FIDOL factors” shall be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location of where the odour is measured (i.e. the sensitivity of the receiving environment).

Note 2: This performance standard shall not apply if the discharge of odour is authorised by a discharge permit granted by the Regional Council.

6.2.7 Access and Rooding

- (b) Where on-site parking or loading spaces are provided, they, along with vehicle access and manoeuvring areas must be in accordance with Section 10: Parking and Transportation.

Except that activities:

- (i) Adjacent to the Defined Pedestrian Frontage in Hāwera; or
- (ii) Within the Commercial Zone (Mixed Use) areas in Eltham, Normanby, Pātea, Manaia, Ōpunakē, Kāponga and Waverley;

Are exempt from providing vehicle access, manoeuvring areas and loading facilities as set out in Sections 10.2 – 10.6 of the Plan; and

If vehicle access, manoeuvring areas, loading facilities and on-site parking is proposed, it shall be located to the rear of the building.

- (c) Activities within the Commercial Zone (Large Format Trade and Service) shall provide vehicular access by way of local roads as opposed to access from State Highway 3.

6.2.8 Hāwera Aerodrome Protection Area

- (a) No building, mast, pole, other structure or tree shall penetrate the flight path protection plane, the transitional side slopes or the horizontal surface as shown on the Planning Maps (Special Map 1) and as defined in Appendices of the District Plan.
- (b) No road or railway shall be building above or within 4.6m vertically of the flight path protection plane, the transitional side slopes or the horizontal surface as shown on the Planning Maps (Special Map 1) and as defined in Appendices of the District Plan.

6.2.9 Landscaping

- (a) All activities adjacent to the State Highway 3 road boundary between Hāwera and Normanby, shall provide landscaping and planting that can attain a minimum height 1m, of at least 2m width at the boundary abutting the State Highway.

6.2.10 Residential Activities and Visitor Accommodation

- (a) All new dwelling units shall have a private outdoor living area which is at least 50m² in area and capable of containing a circle 4m in diameter, and is oriented to the east, west, or north of the dwelling unit.
- (b) All new minor dwelling units shall have a private outdoor living area which is at least 10m² in area and capable of containing a circle 2.5m in diameter and is oriented to the east, west or north of the dwelling unit.

Except that:

- (i) This requirement does not apply to new dwelling units or minor dwelling units accommodated in buildings listed in Schedule 1A.
- (c) Within the Commercial Zone (Hāwera Town Centre) and the Defined Pedestrian Frontage area in Eltham, no residential activities or visitor accommodation shall occupy the ground floor of buildings.

Except that:

- (i) Residential activities may occur on the ground floor to the rear of the building if the building frontage is occupied by retail or other permitted activity.

Advice Notes

Note: Vegetation to be planted near electricity lines (including the National Grid) should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.

Note: The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to the telecommunication and electricity lines (including the National Grid). Compliance with the permitted activity standards of the Plan does not ensure compliance with the NZECP 34:2001.

Where works are proposed near any electrical line, individuals are advised to contact the line operator to discuss the works.