

3.11. OTHER ENVIRONMENTAL ISSUES

3.11.1. OVERVIEW

All activities and land uses will, to some degree, have an effect on the environment or a neighbouring property. The aim of this section is to mitigate or avoid those effects of activities that have the potential to create a nuisance. It is not intended to cover the broad range of issues (such as landscape values etc) encompassed in the Act's definition of "amenity values". Issues such as landscape, indigenous flora and fauna are dealt with elsewhere in the Plan.

These provisions apply to the entire district, however specific Resource Areas may have a more stringent control in respect of some issues and these would override the provision of this section.

The effects of noise are dealt with in Section 3.13 and in the specific Resource Areas.

3.11.2. THE ISSUES

- **A number of activities undertaken throughout the District create effects such as glare, electrical interference, and emit dust (including road dust), odour, and smoke. These effects can adversely impact on amenity values of neighbouring properties and the District as a whole.**

Explanation

These effects often create a significant nuisance problem (particularly on adjoining properties) and can generally be avoided by appropriate management practices.

- **Buildings and structures, and other works, particularly when left in an unfinished condition or left to deteriorate, can have a significant effect on visual amenity values of the District.**

Explanation

Large purpose built industrial and commercial buildings, large areas of carparking and buildings and/or works left incomplete or whose condition is left to deteriorate, can detract from the amenity values of the neighbourhood within which they are located. Council has to date received numerous complaints on this issue and believes it is appropriate to address them in the District Plan.

- **New activities often locate in the vicinity of existing activities that create adverse effects thereby increasing the potential for conflict between existing activities and newly located activities.**

Explanation

One of the most significant issues Council has faced in managing the District's resources over the past years has been the situation where a new activity locates adjacent to an existing industry, and the person associated with the newly located activity brings action against that existing activity for generating adverse effects. Under the effects based regime of the Resource Management Act, that situation has the potential to occur more often because the standards establish an "environmental bottomline" and do not restrict activities that generally require a higher amenity standard.

An example of such a situation is where a new dwelling locates adjacent to an existing factory which is operating within the required standards for that location at that particular time. The arrival of the dwelling changes the nature of the receiving environment and, in some circumstances, the factory may no longer comply with the required standards. Furthermore, the occupier of the dwelling could possibly bring action against the factory in common law on the basis of it creating a nuisance, even though it may be complying with the appropriate standards of the District Plan.

3.11.3. OBJECTIVES AND POLICIES

OBJECTIVE AME.1

To maintain and enhance the amenity values of the District.

POLICY AME.1

To ensure that the adverse effects of odour, glare, electrical interference, smoke, fumes and dust that some activities can have on neighbouring properties are avoided, remedied or mitigated.

Explanation

These effects have the potential to create a nuisance problem for adjoining properties and greatly affect the amenity values of the District. Generally there is no reason why these effects can not be confined to the property on which they are produced.

(Refer Rule AME.1 to 3, Rule AME.7 and Method AME.1)

POLICY AME.2

To ensure that the adverse visual effects that industrial, commercial and other development can have is avoided, remedied or mitigated.

Explanation

Large industrial or commercial buildings and large areas of carparking can have significant adverse visual impacts. Developers will be required to landscape the frontages of such properties to soften the visual impact and protect amenity values in those areas identified as having a high visual amenity value.

(Refer Rules AME 4, 5 and 6, and 4.5.5 Industrial Resource Areas)

POLICY AME.3

To control the use and storage of commercial quantities of potentially hazardous substances.

Explanation

The storage and use of potentially hazardous substances is not necessarily dangerous but the obligation to obtain consent for the storage and use of such substances provides a mechanism for occupiers of neighbouring properties and for fire and civil defence services to be informed of sites where potentially hazardous substances are used or stored. Controls on these effects are found throughout the various Resource Areas of the Plan.

(Refer Section 4 Resource Areas and Rule NHZ.2)

3.11.4. RULES

RULE AME.1 ELECTRICAL INTERFERENCE

All activities shall be managed and controlled so that there is negligible electrical interference with radio, TV, telecommunication signals, or any other electronic equipment.

Activities that do not comply with this rule shall be a non-complying activity in relation to this matter.

REASON

Electrical interference with electronic equipment is a nuisance that can be avoided by the use of proper equipment and appropriate maintenance.

Electrical interference is covered by the Radio Communications Act 1989, the Radio Communications (Radio) Regulations 1993 and the Radio Communications Interference Notice 1993. These Acts are administered by the Communications Division of the Ministry of Commerce and the appropriate approvals from this body will be required by Council in relation to any activity generating the above effects.

RULE AME.2 GLARE

- (i) No activities shall result in greater than 10 lux spill (horizontal and vertical) of light onto any adjoining property, measured at the boundary of the neighbouring property, provided that this rule shall not apply to headlights of moving vehicles or vehicles that are stationary for less than 5 minutes.

Provided that the provisions of (ii) below are not contravened, the amount of light that may be spilled onto a neighbouring property may be increased by not more than 100%, in cases where the neighbouring activity is not residential or people orientated in nature.

- (ii) No activity, or use of land or buildings, shall be conducted so that direct or indirect illumination creates a nuisance to traffic or occupants of adjoining or nearby sites.

Council's Enforcement Officers shall decide whether or not there are reasonable grounds for believing that a nuisance has been created.

- (iii) No building shall be constructed, and/or left unfinished, and/or clad in any protective material or cover which could reflect sufficient light to detract from the amenities of the neighbourhood or cause discomfort to any person resident in the locality. Material used in construction, cladding, or protection of a building where discomfort is likely to occur should have a reflective value not greater than 20%.

- (iv) Activities which do not comply with this rule shall be non-complying activities in relation to these matters.

REASON

Glare from external lighting and reflected light can be a nuisance and can be avoided by careful siting and design of lighting fixtures, and by the design of buildings, their position and the material used which may reflect artificial or natural light.

RULE AME.3 ODOUR

No use of land or buildings or any activity shall produce any noxious, offensive and/or objectionable odour discernible beyond the boundaries of the site from which the odour emanates provide that this rule does not apply to normal farming activities (excluding intensive farming activity) in the Rural Resource Area.

REASON

Odour can greatly affect the use and enjoyment of neighbouring properties. Those who create an odour nuisance should be responsible for the control of its effect.

It should be noted that activities that emit odour may require resource consent from the Otago Regional Council. However, for an activity to be a permitted land use in the District, no objectionable odour shall be discernible beyond the site. If an activity does not comply with this rule (regardless of conditions imposed by the Regional Council) it will require a land use consent. Council also has the ability to utilise the provisions of the Health Act where odour is or becomes a nuisance.

RULE AME.4 LANDSCAPING

Where any new industrial site, commercial building in excess of 750m² in gross floor area, or parking area in excess of 500m² is developed which adjoins or faces any residential, health, educational, recreational or retail area, waterbody, or public road, a strip of the relevant frontage of any such property shall be landscaped to provide adequate screening of the site.

Such strips are to be planted in appropriate trees or shrubs by not later than the first planting season after the building or development is completed or the operation or process commences. Such plantings shall be maintained in a healthy condition at all times and shall be so designed as to avoid significant shading of any road carriageway.

A landscape plan outlining the proposed landscaping shall be approved by Council.

REASON

Large industrial and commercial type buildings, and large areas of gravel, sealed or paved carparking can have an adverse effect on the visual amenity of the District. The provision of a landscape screen can soften such visual impact and can also be used to off-set reserve or development contributions.

RULE AME.5 EXTERNAL APPEARANCE OF LAND AND BUILDINGS

In carrying out any activity permitted under this Plan, or by a resource consent granted under this Plan, all persons shall ensure that:

- (i) No structure, sign, excavation, storage of materials, or other works

or

- (ii) Land or activities ancillary to the use of the site

shall be left without significant physical progress towards completion of the work during the following 12 month period; or be allowed to deteriorate to or remain in such a condition that would detract from the amenities (as defined in the Act, and in particular, visual amenity) of the neighbourhood it is located in or to have an adverse effect on the environment.

The applicant, owner or occupier of the property claiming to be injuriously affected by any abatement notice imposed under the foregoing provisions of this rule may obtain a review of the decision by way of a non-notified application to Council. This does not restrict the rights of any such person under Section 325 of the Act (which provides for appeals to the Planning Tribunal).

REASON

Where any building, operation or storage of material is allowed to fall into disrepair or is adversely affecting the environment (which includes amenity values) Council has the power to issue an abatement notice pursuant to Section 322 of the Act which can, require a person to cease an activity or do something to remedy the situation. This rule clarifies situations which Council may consider such an abatement notice is required, although it is not intended to limit Council's powers under Section 322 of the Act. It should be noted that what is likely to be noxious etc to the extent that it has an adverse effect on the environment is a matter of opinion for the Enforcement Officer to determine. (See Section 322 of the Act)

RULE AME.6 RELOCATED DWELLINGS

(i) Permitted Activities

The relocation of a previously used building intended for use as a dwelling to a site in the Rural Resource Area that complies with the following standards is a permitted activity:

- (a) The site is not within 500 metres of an Urban, Transitional or Rural Settlement Resource Area.
- (b) The building must have previously been designed, built and used as a dwelling.
- (c) The building must be sited in accordance with the other relevant rules of the Rural Resource Area.
- (d) A building inspection report shall accompany the application for building consent. That report is to identify all reinstatement work to be completed to the exterior of the building.
- (e) All reinstatement work required by the building inspection report and the building consent to reinstate the exterior of the dwelling shall be completed within six months of the building being delivered to the site. Reinstatement work is to include connections to infrastructure services (including road access) and closing in of the foundations.
- (f) The proposed owner of the relocated building must certify that the reinstatement work will be completed within the six-month period.

REASON

Incompletely reinstated relocated buildings can have an adverse effect on the amenity values.

(ii) Controlled Activities

The relocation of a previously used building intended for use as a dwelling within the Urban, Transitional or Rural Settlement Resource Areas or within 500 metres of those zones OR the relocation of a previously used building intended for use as a dwelling to a site in the Rural Resource Area that does not comply with the standards set out in (i) above, is a controlled activity.

Council shall retain control over the following matters:

- (a) The proposed timetable for completion of the work required to reinstate the exterior of the building and connections to services.
- (b) The design and appearance of the building following reinstatement having regard to the amenity values of the neighbourhood within which it is to relocate.

Council may exercise the bond provisions of Section 108(1)(b) of the Act in respect of such activities.

Any application made under this rule will generally not be notified or served where the written approval of affected persons has been obtained.

REASON

Council has experienced difficulties with the completion of reinstatement works for such dwellings in the past. These buildings sometimes require exterior upgrading and repair and may be left on the site in an unfinished state. This can have an adverse effect on amenity values. Requiring consent will enable Council to consider the timeframe for completion of the work and enables conditions to be imposed that address amenity issues.

RULE AME.7 EXISTING EFFECTS

Where any activity is carried out pursuant to a resource consent or is otherwise lawfully established in time prior to the commencement of any new activity, the new activity shall ensure that any building or work is designed to mitigate any adverse effect of the original activity.

This rule shall not apply if the character, intensity and scale of the original activity changes.

REASON

One of the most significant issues Council has faced in managing the District's resources over the past years has been the situation where a new activity locates adjacent to an existing industry, and the person associated with the newly located activity brings action against that existing activity for generating adverse effects. Under the effects based regime of the Resource Management Act, that situation has the potential to occur more often because the standards establish an "environmental bottom line" and do not restrict activities that generally require a higher amenity standard.

An example of such a situation is where a new dwelling locates adjacent to an existing factory which is operating within the required standards for that location at that particular time. The arrival of the dwelling changes the nature of the, receiving environment and, in some circumstances, the factory may no longer comply with the required standards. Furthermore, the occupier of the dwelling could possibly bring action against the factory in common law on the basis of it creating a nuisance, even though it may be complying with the appropriate standards of the District Plan.

To avoid these scenarios, Council considers the most appropriate approach is to require the activity that "moves to the effect" to bear the cost of mitigating the effect where it conforms with the provisions of the Plan before the new activity located.

(Note: See Nuisance effect boundaries on planning maps and Rule RRA.3(iv)(b))

RULE AME.8 EXISTING COMMUNITY FACILITIES

All those facilities identified in Schedule 6.3 and all other like facilities lawfully established prior to notification of this Plan not identified on Schedule 6.3 are permitted activities on their current sites in all Resource Areas.

Any upgrade or extension of these facilities that increases the character, intensity or scale of effects associated with the facility is a permitted activity provided:

- (a) the written consent of adjoining owners and/or affected persons is received;
- (b) the written consent of the appropriate roading authority adjoining the facility is received;
- (c) all building work is carried out in accordance with the rules of this Plan, in particular rules governing bulk and location;
- (d) carparking is provided in accordance with Table 12 and Figure 5.

Where Condition (a) to (d) are not met, the activity shall be considered as a discretionary activity.

REASON

Council's experience has been that the redevelopment of these facilities generally creates minor adverse effects only. Provided affected persons concerns are met, Council does not consider it necessary to require resource consents for the extension of such facilities.

RULE AME.9 BUILDINGS AND STRUCTURES WITHIN A NATIONAL GRID YARD

- (a) On all sites within any part of the National Grid Yard the following buildings and structures are a permitted activity:
- (i) If they are for an existing sensitive activity and do not involve an increase in the building height or footprint where alterations and additions to existing buildings occur; or
 - (ii) A fence; or
 - (iii) A network utility within a transport corridor or any part of electricity infrastructure that connects to the National Grid; or
 - (iv) An uninhabitable farm building or structure for farming activities (but not a milking/dairy shed, or intensive farming buildings (excluding ancillary structures)); or
 - (v) An uninhabited horticultural building or structure; or
 - (vi) Any public sign required by law or provided by any statutory body in accordance with its powers under any law.
- (b) All buildings or structures permitted by a) must comply with at least one of the following conditions:
- (i) A minimum vertical clearance of 10m below the lowest point of the conductor associated with National Grid lines; or
 - (ii) Demonstrate that safe electrical clearance distances are maintained under all National Grid line operating conditions.
- (c) All buildings or structures permitted by a) above shall be located at least 12m from a National Grid support structure unless it is a:
- (i) Network Utility within a transport corridor or any part of electricity infrastructure that connects to the National Grid.
 - (ii) Fence less than 2.5m in height and more than 5m from the nearest support structure.
 - (iii) Horticultural structure between 8m and 12m from a pole support structure that:
 - a. Meets the requirements of the New Zealand Electrical Code Of Practice for Electrical Safe Distances for separation distances from the conductor (NZECP34:2001);
 - b. Is no more than 2.5m high;
 - c. Is removable or temporary, to allow a clear working space 12 metres from the pole when necessary for maintenance and emergency repair purposes; and
 - d. Allow all weather access to the pole and a sufficient area for maintenance equipment, including a crane.
 - (iv) A horticultural structure where Transpower has given written approval in accordance with clause 2.4.1 of NZECP34:2001 to be located within 12m of a tower or 8m of a pole support structure.

RULE AME.10

The following buildings and structures are a non-complying activity within the National Grid Yard:

- (a) Any building or addition to a building for a sensitive activity.
- (b) Any change of use to a sensitive activity or the establishment of a new sensitive activity.
- (c) Intensive farm buildings and dairy/milking sheds or buildings excluding associated ancillary structures.
- (d) Any building or structure not permitted by Rule AME.9

RULE AME.11

Earthworks within the National Grid yard are a permitted activity provided that:

- (a) within a distance measured 12 metres from the outer visible edge of any National Grid support structure, any earthworks shall not exceed a depth (measured vertically) of 300mm; and
- (b) any earthworks shall not create an unstable batter that will affect a National Grid support structure; and
- (c) any earthworks shall not result in a reduction in the ground to conductor clearance distances below what is required by Table 4 of NZECP34: 2001

The following activities are exempt from Rule AME.11 (a) above:

- A. Earthworks undertaken in the course of constructing or maintaining infrastructure
- B. Normal agricultural activities or domestic gardening.
- C. Repair, sealing resealing of an existing road, footpath, farm track or driveway.
- D. Earthworks undertaken in the course of constructing and maintaining lines and structures and equipment that is associated with facilities for the commercial scale generation of electricity.

RULE AME.12

Any earthworks that do not comply with Rule AME.11 a) shall be a restricted discretionary activity.

The matters over which the Council will exercise its discretion are:

- Any effects on the integrity of the transmission line;
- Volume, area and location of the works, including temporary activities such as stockpiles;
- Time of the works;
- Site remediation;
- The use of mobile machinery near transmission line which may put the line at risk;
- Compliance with NZECP 34:2001; and
- Technical or safety advice provided by any consultation with Transpower New Zealand Limited.

RULE AME.12A

Any earthworks that do not comply with Rule AME.11 b) or Rule AME.11 c) shall be a non-complying activity.

Note: Vegetation to be planted within the transmission corridor 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 lines. Compliance with the permitted activity standards of the Plan does not ensure compliance with the Code of Practice.

3.11.5. OTHER METHODS

METHOD AME.1 SMOKE, FUMES AND DUST

Council recognises that a number of activities, including domestic activities such as open-fires and barbecues, emit smoke, fumes and dust. These effects will, in the main, be dealt with in the Otago Regional Council Air Plan.

Council encourages those people undertaking normal domestic or farming activities to adopt the most practicable method to avoid the adverse effects of smoke, fumes and dust on adjoining properties.

Being difficult to quantify or measure, no specific standards are set in relation to these effects. However, where any emission of this type under the jurisdiction of Council is deemed to be having a significant adverse effect, Council has the option of issuing an abatement notice to alleviate the problem.

REASON

Effects of this nature are generally controlled by other means (e.g. Regional Air Plan, Health Act etc) and consequently Council does not consider it necessary to intervene until such time as a significant nuisance is being created.

METHOD AME.2 MONITORING

To assess the effectiveness of these policies and rules Council shall

- analyse complaints received in respect of nuisance caused by dust, odour. etc.
- monitor the storage and use of hazardous substances.

3.11.6. ANTICIPATED ENVIRONMENTAL RESULTS

1. Neighbouring properties will be protected from the adverse effects of activities on adjoining properties.
2. The amenity values of the District will be protected.