

**Chapter 13****PRINCIPAL REASONS FOR RULES  
(Residential Environments)****13.1 Prohibited Activities**

An area of Napier's coastline has been identified as being subject to coastal erosion and inundation. Within this area, any new structures (with some exceptions) are prohibited, to ensure that the effects of erosion on the land and structure, together with the "flip-side" effects of the structure on the coastal hazard, are appropriately managed.

To ensure the safety of air traffic approaching and taking off from the Hawke's Bay Airport, the prohibition of any building, structure or tree that exceeds the Airport height lines within the Flight Path Overlay, is necessary. These height control lines have been developed in conjunction with the Hawke's Bay Airport Limited and relate to the minimum safety margins for aircraft approaches and take-offs.

**13.2 Land Uses Generally**

This rule states the principal assumption that any use of land for residential purposes is permitted in the residential zones, provided that the conditions in the activity table and condition table are complied with, and that the land use does not require a resource consent, unless no resource consent can be granted (ie: a prohibited activity).

A number of non-residential activities are associated with effects that are unacceptable in residential areas without careful management. Small-scale facilities/land uses that are likely to have no more adverse effects on the residential neighbourhood than a typical dwelling unit are permitted, provided certain conditions are met.

The potential for adverse effects increases as the scale of the land use increases. Such effects may relate to traffic and noise generation, demands for vehicle parking, increases in activity intensity, and differing building form.

Other land uses that require careful management have the potential to affect the character and amenity values of residential areas. Non-residential activities can contribute to the fragmentation of residential neighbourhoods. Therefore the Council intends to retain the discretion to approve or decline such proposals by way of resource consent for discretionary activities.

**13.3 Home Occupations**

Many home occupations can be undertaken without any adverse effect on the surrounding environment, provided certain conditions are met. However, the potential for adverse effects increases as the scale of land use increases. Accordingly, it is considered necessary to apply thresholds beyond which the effects of home occupations should be assessed on a case by case basis.

**13.4 Supplementary Units**

Residential activities may occur in accessory buildings to meet the social and economic needs of the community, such as housing dependent relatives or providing accommodation for paying tenants or similar. The effects of such accommodation is not considered significant unless certain conditions cannot be satisfied to maintain the amenity and character of residential areas. A limitation is applied to the size of supplementary units to ensure that effects beyond a certain threshold are appropriately managed.

### **13.5 External Additions, Alterations and New Buildings (Marewa and Te Awa character zones only)**

The construction of external additions and alterations and new buildings in the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow Character Zones has the potential to adversely affect the unique character for which these zones have been identified. Accordingly, via careful management of such effects, Council intends to retain the discretion to approve or decline such proposals. In addition, refer to Chapter 56 (Heritage).

### **13.6 Residential Care Facilities**

Small-scale residential care facilities can generally operate with minimal impact on the surrounding residential properties. They have therefore been classified as permitted activities in most residential zones of the City, subject to specific conditions.

In the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow zones however, even small scale centres have the potential to impact on the characteristics for which these zones have been identified. A degree of control is therefore required when considering such proposals.

An increase in scale of residential care facilities beyond what might generally be anticipated for a dwelling unit, brings with it an increase in the potential for adverse effects on the surrounding properties. Accordingly, larger scale centres are deemed to be a restricted discretionary or discretionary activity. In general, large scale residential care facilities are not considered appropriate for the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow zones.

### **13.7 Retirement Complexes**

Unlike individual residential care facilities, complexes catering for retired persons have the potential to generate significant environmental effects associated with their large-scale use of land. Through the resource consent process, the Council can assess the merits of the proposed retirement complex. It can either decline consent or grant consent subject to conditions that will ensure any adverse effects associated with the complex are avoided, remedied or mitigated.

### **13.8 Day Care Centres**

Small-scale day care centres can generally operate with minimal impact on the surrounding residential properties. They have therefore been classified as permitted activities in most residential zones of the City, subject to specific conditions.

In the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow character zones however, even small scale centres have the potential to impact on the characteristics for which these zones have been identified. A degree of control is therefore required when considering such proposals.

An increase in scale of day care centres beyond that which might generally be anticipated for a dwelling unit, brings with it an increase in the potential for adverse effects on the surrounding properties. Accordingly, larger scale centres are deemed to be a restricted discretionary or discretionary activity.

In general, large scale day care centres are not considered appropriate for the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow character zones.

**13.9 Travellers' Accommodation**

Small-scale travellers' accommodation can generally operate with minimal impact on the surrounding residential properties. They have therefore been classified as permitted activities in most residential zones of the City, subject to specific conditions.

In the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow zones however, even small scale accommodation facilities have the potential to impact on the characteristics for which these zones have been identified. A degree of control is therefore required when considering such proposals.

An increase in scale of accommodation facilities beyond what might generally be anticipated for a dwelling unit, brings with it an increase in the potential for adverse effects on the surrounding properties. Accordingly, larger scale travellers' accommodation are deemed to be a restricted discretionary or discretionary activity.

In general, large scale travellers' accommodation are not considered appropriate for the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow zones.

**13.10 Education Facilities**

Small scale education facilities and additions to existing facilities can generally operate with minimal impact on the surrounding residential properties. They have therefore been classified as permitted activities in most residential zones of the City, subject to specific conditions.

In the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow zones however, even small scale facilities have the potential to impact on the characteristics for which these zones have been identified. A degree of control is therefore required when considering such proposals.

An increase in scale of education facilities beyond what might generally be anticipated for a dwelling unit, brings with it an increase in the potential for adverse effects on the surrounding properties. Accordingly, larger scale facilities are deemed to be a restricted discretionary or discretionary activity.

In general, large scale education facilities are not considered appropriate for the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow zones.

**13.11 Non-Residential Activities**

Non-residential activities can have significant impacts on the character of residential areas. The resource consent process allows the assessment of any non-residential activity wishing to locate in a residential zone. Such non-residential activities will be scrutinised and regard will be given to the importance of maintaining residential amenity, avoidance of risks to people's health and safety. The diversity of non-residential activity types also make it difficult to apply comprehensive sets of district plan rules.

However, it is recognised that the nature of some non-residential activities are required to locate in residential areas of the City, or are of community benefit to local residents or to the wider public. Some such land uses are already provided for in the Plan. The resource consent process (including regard to the assessment criteria) will be utilised for managing others.

**13.12 Scheduled Sites**

The Council recognises that there are some existing uses within Napier City that provide a valuable service to the community. These land uses require recognition in

the Plan because several of them are not specifically provided for within the rules for permitted activities in their respective zone. In addition, the method of scheduling sites provides an opportunity for on-site expansion and modification within certain limits. This is potentially more liberal than the existing use rights that the Act provides in Sections 10, 10A and 10B.

### **13.13 Land Development including Subdivision**

The rules are based on the premise that there is a strong interrelationship between subdivision and land use. Subdivision of land can have marked effects on land use expectations. Adequate provision of access, water, sewerage, open space, and other requirements is essential to ensure development following subdivision does not have adverse effects on the environment.

Subdivisions in the Marewa Art Deco, Marewa State Housing, and Te Awa Bungalow Character Zones (other than boundary adjustments or subdivisions for the purpose of network utility operations, or for subdivisions creating new lots from existing cross-lease or multi-unit developments where no new developable lot is created) not meeting the minimum lot size require resource consent as a non-complying activity, while those not meeting the other standards, terms and conditions require resource consent as a restricted discretionary activity. The reason for this difference is that the effects of under-size lots are cumulative in nature, and effects on amenity and character can be difficult to quantify. Those zones within the Residential Environment that have specified minimum lot size requirements have been identified as having a special character that the community wishes to protect or encourage.

Likewise, the effects of land development need to be carefully managed, particularly in relation to provision of services. The provisions for financial contributions and the Code of Practice for Subdivision and Land Development also contribute to these outcomes.

### **13.14 Relocation of Buildings**

To ensure that relocated buildings are reinstated in a timely manner and are consistent with the built characteristics of the surrounding environment, the Council intends to exercise some control over the relocation of buildings throughout most residential areas of the City.

The relocation of buildings in the Marewa Art Deco, Marewa State Housing and Te Awa Bungalow Character Zones have the potential to adversely affect the unique character for which these zones have been identified. Accordingly, with careful management of such effects, Council intends to retain the discretion to approve or decline such proposals.

It is recognised that relocated buildings in some instances, can have a positive effect on the City's mix of building styles and contribute to the sustainable management of the physical resources of the City.

### **13.15 Density**

The effects of residential development typically derive from building height, coverage and setback, paved versus landscaped area, vehicle access and parking, and the removal or planting of vegetation. They do not derive from density itself (ie: the number of dwelling units on a site). Accordingly, Council's approach is that, throughout most residential areas of the City, a density limit is no longer appropriate.

However, a figure has been derived from a number of calculations and assumptions

to advise plan users of an approximate site area with which a typical residential development may comply. These figures vary from area to area in recognition of historical or topographical features. Developments exceeding the advisory figure are to be supported by “concept plans” showing how the proposal fully complies with the relevant conditions for the land use.

The district plan retains density limits for the Marewa Art Deco, State Housing and Te Awa Bungalow zones in recognition of the character of these areas. The density levels in these areas have been set to discourage infill development on the basis that such development is likely to compromise the special character of these zones. Within these zones, the “concept plan” notion is also applied for the guidance of Plan users.

### 13.16 Yards

The front yard setback control ensures that new buildings and additions to existing buildings recognise the surrounding streetscape character while the front yard landscaping control is intended to maintain a reasonable level of amenity in the surrounding area.

Building to the boundary facilitates the efficient use of a site. However, it can also have adverse effects on the amenity of adjacent properties. The “side and rear yard” rule will help to balance the efficiency/amenity trade-off.

Note: Buffer areas will be required within any new greenfield residential subdivision to create a separation between urban and rural activities and avoid effects on both types of land use activity.

### 13.17 Height

Of all the factors contributing to amenity values and/or the special character of a neighbourhood, building height can have some of the most significant effects.

The default height limits are intended to reflect the community’s expectations in terms of site development, while recognising the physical qualities and characteristics of the areas to which they have been applied.

The default limits allow two-storey development throughout most of the City. However, the limits are lower in areas of special character - the Marewa Art Deco Character Zone, where development tends to be single storey, with a flat roof consistent with the art deco form; and in the Marewa State Housing and Te Awa Bungalow Character zones, where development also tends to be single storey, but with a peaked roof consistent with the state housing and bungalow building form.

Development within the Napier Hill Character Zone comprises a diversity of building types and architectural styles but with a predominance of buildings built prior to 1940. In recognition of the large number of these buildings having a pitched roof form and as a method to ensure consistency and compatibility with new development seeking to establish amongst the existing housing, Council has chosen to reserve discretion over the form of roof for development exceeding the maximum permitted height. Consideration will be given towards permitting a pitch roof exceeding the maximum permitted height for the zone where developers are able to demonstrate no person who has not given their affected persons consent is adversely affected by such development and/or where the effects of the pitch roof form can be demonstrated to be no more than minor.

Conversely, the height limit is higher in the Marine Parade Character Zone, Hardinge Road Residential Zones and in parts of the Main Residential Zone

identified in Appendix 3. This acknowledges the historically liberal height limits in these areas and the potential for the development of these sites in a manner that will take advantage of the location close to the CBD, the coast and the topography of the site.

The streetscape height control recognises that developments will usually be able to exceed the default height limits without having a significant effect on the environment where the existing development on the adjacent sites already exceeds the default limits.

Within the areas of land covered by aviation flight paths, the height of buildings, structures, and trees are restricted to ensure the operation requirements of the Hawke's Bay Airport and aircraft movements are clear of obstructions and remain safe for use.

### **13.18 Height in Relation to Boundary**

The height in relation to boundary control is intended to prevent buildings from physically dominating the adjacent properties and to maintain sunlight access to areas of open space which, for most people, is essential to a sense of health and wellbeing. The height in relation to boundary control does not concern itself with protecting the amenity of entrance strips or access ways as the function of these is limited and their use transitory.

The height in relation to boundary control may have the effect of protecting sunlight access to the windows of buildings.

In general, building to the boundary allows more efficient use to be made of a site. Accordingly, the recession planes start at a level that will allow a single storey building to be built up to the boundary of most sites without having to go through a resource consent process for this aspect of the development (note: this is subject to rules relating to yards).

The height in relation to boundary control for the Marine Parade character zone also recognises that development in this zone has tended to be higher than in other parts of the City. Accordingly, the recession planes start at a higher level than in the other zones.

### **13.19 Site Coverage**

The application of site coverage limits in previous planning documents has created a spacious suburban setting throughout much of the City, which is appreciated by the resident community, while still allowing a reasonable level of development to occur.

The site coverage limits specified are applied to contain increases in stormwater load on the drainage system and to limit building bulk to a level that will maintain the visual amenity of the surrounding area.

### **13.20 Landscaped Area**

The minimum landscaped area control is intended to complement and reinforce the site coverage control. The control will help to contain increases in stormwater load and ensure that sufficient area is available for planting, to improve a site's appearance and to cumulatively maintain amenity values of the neighbourhood.

### **13.21 Private Open Space**

Open space contributes greatly to the liveability of dwellings. Open space provides space for children to play, space to entertain guests, space for a garden, an area for clothes drying and storage, and a variety of other functions.

The open space rule addresses both the quantity and quality of the private open space, with the quality of the space being determined by its relationship to the dwelling, usability, and dimension to adjacent walls or fences.

### **13.22 Noise**

Noise is one of the factors that can affect the appreciation of amenity. It can have an effect on people's health in a psychological sense. It may interfere with communication and disturb concentration. A high level of amenity in respect of noise is required to meet the expectations of residential areas. Section 16 of the RMA shall apply to noise generated by residential activities. This approach ensures that residential character is maintained and that any noise generated is assessed on its merits (for example, timing, duration, sound levels, and the compatibility of the noise with the neighbourhood etc). Meanwhile, noise arising from other land uses is limited to maintain and protect residential amenity and aural privacy.

Noise from regionally significant infrastructure (e.g. State Highways, Airport, Port) has the potential to create issues of reverse sensitivity. It is for this reason that the noise boundaries are included within certain residential zones. An acoustic noise condition rule will ensure that any noise effects in relation to new dwellings can be mitigated against the effects of noise.

### **13.23 Light Spill**

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 this rule is to state lighting levels that are compatible with the existing character of residential areas, while maintaining traffic and personal safety.

### **13.24 Vibration**

Vibration has nuisance and health effects as does noise, and can have major adverse effects on people's enjoyment of their property. This is particularly so for residential properties, therefore the rule is based upon the generation of any unreasonable vibration, given the possible effects on people's amenity values, health and safety, together with effects on the structural integrity of buildings.

### **13.25 Fencing**

The fencing control retains the status quo for most properties throughout the City. The Council sees little need to control fencing up to two metres in height throughout most of the City. However, higher fences can detract from residential amenity and reduce the feeling of open space. This also applies to front yard fencing in the Marewa Art Deco, State Housing, and Te Awa Bungalow zones where fence height has been restricted to enable views towards the dwelling from the road for appreciation of the special character and amenity of these areas. Fortified fences detract from the sense of community wellbeing with their threatening connotations. Such fortifications are subject to control by a Napier City Bylaw.

### **13.26 Aerials, Lines and Support Structures**

The number of aerials, masts, towers, poles and similar support structures in residential zones is limited to prevent a proliferation of such structures upon any one site, while allowing for the needs of the community to receive television and radio signals, and electricity. The number and size of dish antenna is limited as these tend to be more visually intrusive than other aerials. Due to the visual intrusion or dominance that aerials can have, their location is also controlled.

**13.27 Heritage**

Development in an area has the potential to have a negative impact on heritage. The effects of development can often ignore the value of the heritage element and alter the character of the area. Within this Plan, individual and groups of heritage elements (including buildings, structures, archaeological sites and places of significance to Maori) have been identified to ensure that the heritage values and character of historic areas are not adversely affected by inappropriate development. In addition, refer to Chapter 56 (Heritage).

**13.28 Signs**

Signs have the potential to severely affect the visual amenity of a residential zone. They are therefore strictly controlled in the residential zones with limited provision for signs associated with land uses occurring on-site. In addition, refer to Chapter 58 (Signs).

**13.29 Trees**

Trees are a valuable resource throughout the whole city. They provide amenity benefits, ecological benefits, shading, and can act as a buffer between adjacent land uses. Napier City Council currently protects a number of notable public trees. As education and awareness of the community increases, as to the benefits of protecting trees, private trees may also be added to the notable tree schedule. It is important that the City is aware of which trees are scheduled as notable, so that the relevant conditions can be complied with. A number of options for protecting private trees are available if the owners so desire. Some of these are via regulatory mechanisms, while others include private initiatives.

**13.30 Transport**

The roading network can have a significant effect on the environment. New roads or the upgrading of existing ones have a multitude of effects from physical effects to the effects on the amenity of a neighbourhood by way of increased noise levels. In order to reduce the need for road upgrading, the Council has imposed requirements relating to on-site car parking and manoeuvring to mitigate the effects of road congestion.

The reduction of on-road parking has positive effects for the amenity of neighbourhoods and improves the efficiency of the roading network. The provision of on-site manoeuvring also reduces the level of reversing vehicles, creating a safer environment for traffic and pedestrians. In addition, refer to Chapter 61 (Transport).

**13.31 Natural Hazards**

Napier is at risk from a wide range of natural hazards. Conditions are required to ensure that development is well managed in the most at risk areas, and that buildings and infrastructure in other areas are designed to a standard appropriate for the actual level of risk in those areas. Those hazards which present a district-wide risk (for example, wind hazards, liquefaction and earthquake amplification) are not intended to be identified in the district plan. However such information will be recorded on Council's property file system, and used in the preparation of LIMs and PIMs etc. In addition, refer to Chapter 62 (Natural Hazards).

**13.32 Hazardous Substances**

Controls on the use and storage of hazardous substances are required to avoid adverse effects on people's health and wellbeing. The use of hazardous substances and genetically modified organisms in New Zealand is primarily managed by the Hazardous Substances and New Organisms Act 1996 (HSNO). The purpose of the HSNO Act is to 'protect the environment, and the health and



safety of people and communities by preventing or managing the adverse effects of hazardous substances and new organisms'. The HSNO Act is administered by the Ministry for the Environment and implemented by the Environmental Protection Authority. The new Ministry of Business, Innovation and Employment are also involved with enforcement in terms of hazardous substances. In addition, refer to Chapter 63(Hazardous Substances).

### **13.33 Contaminated Sites**

Controls regarding contaminated sites now fall under The National Environment Standards (NES) for Assessing and Managing Contaminants in Soil to Protect Human Health which came into effect on January 2012. In addition, refer to Chapter 64 (Contaminated Sites).

### **13.34 Financial Contributions**

The City's existing amenities and utilities represent a major community investment that should be utilised and protected. Promoting the efficient use of the City's network of essential services, community services, utilities, roads and other infrastructural components will aid in reducing the environmental costs of development for present and future generations and sustain the future potential of resources.

The collection and end use of financial contributions have an environmental benefit in avoiding, remedying or mitigating the adverse effects of land uses resulting from subdivision and land development as the contributions are directly applied to that part of the environment which is affected. In addition, refer to Chapter 65 (Financial Contributions).

### **13.35 Code of Practice for Subdivision and Land Development**

There is a strong interrelationship between subdivision, future land use and land development. In order to manage the effects of subdivision and land development, particularly effects relating to the provision of services, the Council has prepared a document setting out conditions, engineering performance criteria and engineering standards. These conditions and engineering details, due to their technical nature are supplementary to conditions in the activity table and condition table of the respective zone. In addition, refer to Chapter 66 (Volume II - Code of Practice for Subdivision and Land Development).

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