

**Chapter 50****PRINCIPAL REASONS FOR RULES  
(Open Space Environments)****50.1 Prohibited Activities**

Commercial, industrial, and residential land uses within certain zones are prohibited as they are considered to be incompatible with land uses, the open space character and other recreational and ecological values of such zones. These land uses are also considered to be better able to locate in other, more appropriate zones.

**50.2 Land Uses Generally**

Throughout the open space environments, the various permitted activities fit with the specialist nature of the zoning. Only the Marine Parade Recreation Zone and the Sports Park Zone provide for commercial activities, although this is by way of resource consent.

All of the open space environments are considered to be relatively sensitive areas, and the general assumption is that any land use not specifically provided for in the zone is a discretionary activity so that full consideration of the effects can be undertaken.

**50.3 Burial of Deceased Marine Mammals**

This rule recognises that from time to time marine mammals may become stranded/beached in the Foreshore Reserve Zone and Marine Parade Recreation Zone. It is appropriate that the deceased marine mammals can be buried without delay and is thus a permitted activity.

**50.4 Maintenance and Repair of Buildings and Structures**

The maintenance and repair of buildings and structures is permitted to recognise that if left unattended such buildings and structures can be a safety hazard and have the potential to adversely effect amenity, visual and landscape values. The rule also provides for consistency with regional rules in the coastal marine area.

**50.5 Boat and Beach Related Hire Activity**

Boat and beach related hire activities are permitted in the Foreshore Reserve Zone to recognise the popularity of water related recreation activities. These land uses are subject to conditions to protect the amenity of, and access by others, to the foreshore.

**50.6 Sediment and Shingle Removal and Deposition**

This rule recognises the need to allow for the removal and clearance of sediment and shingle from drainage outfalls to ensure that they can continue to drain efficiently. It also recognises that in some ecosystems ie: the Estuary, the build up of excessive sediments can result in adverse effects on the functioning of the ecosystem. The deposition of sediment and shingle in appropriate places can mitigate the effects of erosion and can create a safer beach environment.

**50.7 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 as a number are not specifically provided for within the rules for permitted activities in the 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.

#### **50.8 Surface of Water Body Activities**

Passive and non-motorised water body recreational activities on the surface of water bodies are permitted due to their minor effects on the environment.

Motorised recreational activities on the surface of water bodies are recognised as creating some adverse effects on amenity and conservation values. Hence non-commercial motorised recreational activities are controlled activities. When commercial, they are discretionary. These rules are consistent with those of the Hastings District Council. This consistency is essential as the Esk and Tutaekuri Rivers form the common boundaries between the two local authorities. It is also consistent with the Proposed Hawke's Bay Regional Council Resource Management Plan that manages the beds of water bodies.

#### **50.9 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 (other than boundary adjustments) 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.

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.

#### **50.10 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 open space areas of the City.

The relocation of buildings into or within the Open Space Environment has the potential to adversely affect the unique character for which the zones have been identified. Accordingly, with careful management of such effects, the 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.

#### **50.11 Business Premises for the Sale of Food and Drink.**

In some of the open space environments provision must be made for the business premises for the sale of food. Business premises for the sale of food and drink, including licensed premises, restaurants and cafes are provided for in the Marine Parade Recreation Zone with few adverse effects, provided a number of conditions

are met. Conditions relating to the hours of operation, the effects of noise from both vehicles and people, and the design and appearance of the buildings in the zone, require careful management to maintain the amenity of surrounding areas.

**50.12 Yards**

The yard condition ensures that new buildings and additions to existing buildings recognise the surrounding character of the area while maintaining a reasonable level of amenity in the surrounding area.

**50.13 Height**

Of all the factors contributing to amenity values and/or the character of an area, building height can have some of the most significant adverse effects. The height limits are intended to recognise 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.

**50.14 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 the sense of open space character. 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.

**50.15 Landscaped Areas**

Landscaping is an important feature of open space zones, and plays a significant role in mitigating effects when buildings or development occur in these zones. Where these environments have a special natural character the landscaping must be consistent with the vegetation that occurs in the area.

**50.16 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 the open space areas. Section 16 of the Resource Management Act applies to noise generated by all land uses, but in addition, conditions have been included in the Plan to impose limits on noise emissions from land uses occurring in the open space environments. This approach ensures that the character of the zone 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) whilst maintaining an appropriate "bottom line" for noise emissions.

**50.17 Light Spill**

Lighting can interfere with the enjoyment of a property. Direct light spill and glare are consequences of outdoor lighting used to illuminate property. The effect of this rule is to control lighting levels, so that they are compatible with the existing light levels in nearby residential sites, while still maintaining traffic and personal safety. Lighting associated with sports parks are generally very intensive. Such lighting is required to focus on the park – not adjacent roads and residential areas.

**50.18 Vibration**

Vibration has nuisance and health effects like noise, and can have major effects on people's enjoyment of their property. 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.

#### **50.19 Fences**

The fencing condition 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 reduce amenity levels and the feeling of open space. Fencing of some open spaces within the City may be necessary. To ensure that the character and amenity values of the City's reserves, parks and other open spaces is maintained, a limit on the height of fences is considered appropriate.

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

The number of aerials, lines and support structures in these 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. The number and size of dish antenna is limited as these tend to be more visually intrusive than other aerials. These land uses can be visually intrusive or dominant in these zones because they are generally very open environments. Their location is controlled for this reason.

#### **50.21 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 and places of significance to Maori) have been identified to ensure that the heritage values and character of historic areas is not adversely affected by modern development. In addition, refer to Chapter 56 (Heritage).

#### **50.22 Signs**

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

#### **50.22 Trees**

Trees are a valuable resource throughout the whole City. They provide amenity benefits, ecological benefits, shading, and can act as a buffer between adjoining land uses. Napier City Council currently protects a number of notable public trees. Most of these notable trees occur within the Open Space Environment, particularly the Reserve and Sports Park zones. 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.

#### **50.23 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 vehicle parking and manoeuvring to mitigate the effects of road

congestion.

The reduction of on-road parking has positive effects for the amenity of neighbourhood 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).

Vehicle parking areas are permitted in all zones, except for the River Conservation Zone. By providing identifiable vehicle parking areas, the adverse effects of indiscriminate and ad-hoc parking is avoided, and parking is contained in one area where effects can be appropriately managed. In some zones, it is not essential that parking areas be sealed and marked. Informal parking areas may also be in keeping with the open space character of the zone. The only exception of the permitted status of vehicle parking areas is the River Conservation Zone. This is for safety reasons, including that the land in this area is at risk from flooding.

#### **50.24 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 is 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 on the district plan maps. However such information will be recorded on the Council's property file system, and used in the preparation of Land Information Memorandums and Project Information Memorandums. In addition, refer to Chapter 62 (Natural Hazards).

#### **50.25 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).

#### **50.26 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).

#### **50.27 Financial Contributions**

The City's existing amenities and utilities represent a major community investment which 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. Financial contributions have a very real environmental benefit in avoiding, remedying or mitigating the adverse effects of activities 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).

**50.28 Code of Practice for Subdivision and Land Development**

There is a strong interrelationship between land development, subdivision, and future land use. 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 the rule table conditions of the respective zone. In addition, refer to Chapter 66 (Volume II - Code of Practice for Subdivision and Land Development).