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General

4A. General

4A.1 Activities Not Specifically Provided For

Explanatory Statement

Activity lists are used in the District Plan to provide certainty for users and are intended to cover all likely expected activities. It is difficult for a District Plan to cover every eventuality with the use of such lists. Any activities not listed (other than those that fall within the jurisdiction of the *Regional Council*) shall, therefore, be treated as Non-Complying in order to provide a full opportunity to assess the adverse effects on the environment that the activity may give rise to.

4A.1.1 Significant Issue

The actual or potential adverse effects on the environment arising from activities not specifically provided for in the District Plan may not be able to be adequately controlled through defaulting to Discretionary Activity status in the absence of specific provisions to deal with these effects. In addition, issues of planning precedent and District Plan integrity may arise in respect of applications for activities not specifically provided for.

4A.1.2 Objective

The avoidance and/or minimisation of the likely adverse effects on the environment and on District Plan integrity arising from activities not specifically provided for in the District Plan.

4A.1.3 Policy

The adverse effects of activities not specifically provided for in the District Plan should not be of an unanticipated nature and scale nor should such activities either individually or cumulatively create the potential for the integrity of the District Plan to be undermined.

4A.1.4 Rule

With the exception of those activities that are provided for in the general provision of the District Plan, any activity that is not listed in the activity lists in the District Plan shall require a resource consent for a Non-Complying Activity.

4A.2 Temporary Activities

Explanatory Statement

Temporary offices, storage sheds, storage yards, builder's workshops and other similar *buildings/structures* and activities incidental to a building or *construction* project are frequently in use within the *District* and should be provided for with appropriate controls.

Other temporary activities such as bazaars, military training exercises, carnivals, trade fairs, public meetings, parades, concerts and conventions occur intermittently within the *District* and should also be provided for with appropriate controls. Provision for these activities subject to performance standards recognises that in some circumstances exemptions from specific requirements are the only practical solution.

4A.2.1 Significant Issues

Temporary activities can produce adverse effects such as noise, dust and traffic generation affecting the amenity of the *District* on a short term basis.

4A.2.2 Objectives and Policies

4A.2.2.1 Objective

The amenity of the *District* is not compromised unduly by the adverse effects of temporary activities.

4A.2.2.2 Policy

Mitigate the adverse effects of temporary activities taking into consideration the scale and duration of activities.

4A.2.3 Activity Lists

4A.2.3.1 Permitted Activities

- (a) In any zone temporary offices, storage sheds, storage yards, builder's workshops and other similar *buildings/structures* and activities incidental to a building or *construction* project, including the relocation, removal and demolition of *buildings/structures*, but only for the duration of that project or a period not exceeding 12 months whichever is the lesser.
- (b) In any zone temporary activities which are held on a site which falls within the definition of *places of assembly* and which:

- (i) Do not exceed three consecutive days in duration plus two additional days, one day for setting up prior to the event and one day to tidy up afterwards;
- (ii) Do not occur more than six times in any calendar year, nor more than twice in any calendar month on the same site (provided that there shall be at least five full days between the tidy up of one event and the set up of the next event held on the same site);
- (iii) Do not involve the open air use of motorised vehicles (other than those vehicles used for transport to and from the site) unless the prior written consent of all adjoining neighbours is obtained including any neighbours on the immediate opposite side of an adjoining road, except that motorsport events held on public roads and *public reserves* are exempt from this rule (they are addressed through separate legislation);
- (iv) Do not exceed the following noise limits within the stated timeframes (as measured at any point within the *notional boundary* of any *dwelling* in a relevant zone);

Time Period		Sound Level Not to be Exceeded	
Day	Hours	LAeq	LAmx
Monday to Saturday and Public Holidays	9am to 10pm	70dB	75dB
Sunday	10am to 6pm	70dB	75dB
At all other times		40dB	65dB

- (v) Comply with the requirements of Section 4B (Transportation, Access, On-site Parking and Loading - but excluding Rule 4B.4.10) and Section 4C (Amenity - but excluding Rule 4C.1.3.2) of this District Plan.
- (c) Portable sawmilling of trees grown on the subject property in the Rural and Lifestyle Zones.
- (d) Sale of goods by licence issued by *Council* relating to temporary, mobile activities on *District* roads.

- (e) In any zone temporary military training activities involving air, sea and road transport where: the written consent of the owner of the property has been obtained; the activity is limited to a period not exceeding 31 days; the activity does not require the *construction* of permanent *buildings/structures*; the activity does not require *earthworks* or excavation (mechanical or permanent) unless provided for elsewhere in the District Plan, and flying activity is in compliance with civil aviation regulations or in agreement with the local controlling authority.

4A.2.3.2 Restricted Discretionary Activities

- (a) Carnivals, trade fairs, bazaars, conventions, concerts, parades and public meetings not otherwise permitted and to be operated on a temporary and/or intermittent basis.
- (b) Within the Rural, Lifestyle, Rural-Residential, Future Urban and Residential Zones temporary *buildings/structures* for hobby pursuits such as the *construction* of a boat, caravan or other *structure* not intended for commercial gain.

4A.2.4 Activity Performance Standards

- (a) The relevant zone Activity Performance Standards and general provisions shall be met by all Permitted Activities and shall be used as a guide for all other activities. Any Permitted Activity which fails to comply with any of these standards shall be deemed a Restricted Discretionary Activity for the particular non-compliance.
- (b) Restricted Discretionary Activity criteria -

Council's discretion is restricted to actual or potential adverse environmental effects relating to the following:
 - (i) Duration of the activity;
 - (ii) Scale of the activity;
 - (iii) Access;
 - (iv) Parking;
 - (v) Traffic generation;
 - (vi) Noise;
 - (vii) Dust.

4A.2.5 Matters of Discretion

4A.2.5.1 Restricted Discretionary Assessment for Carnivals, Trade Fairs, Concerts, Parades and Other Public Meetings

Council's discretion is restricted to the following:

- (a) Traffic effects, including the use of traffic management, to provide for the safe and efficient operation of the *transportation network*
- (b) Carparking
- (c) Noise
- (d) *Signs*
- (e) Temporary nature of the activity
- (f) Number of attendees and staff
- (g) Overall management of the event

4A.2.5.2 Restricted Discretionary Assessment for Temporary Buildings/Structures for Hobby Activities

Council's discretion is restricted to the following:

- (a) Visual amenity
- (b) Temporary nature of the *building/structure*

4A.3 Activities on the Surface of Water

4A.3.1 Activities on the surface of water are variously controlled by the District Council, the *Regional Council*, and Maritime Safety Authority. The *Regional Council* is primarily concerned with environmental issues (water quality), allocation of water (taking), structures that affect the bed of the waterway, and in some instances navigation and safety. The Marine Safety Authority is concerned with navigation and safety of activities.

4A.3.2 In this District Plan, rivers and waterways are zoned as with the surrounding land. Any controls administered by the District Council shall be those of the zone in the District Plan that covers the respective water body.

Explanatory Note: In accordance with Section 33 of the *RMA*, the functions and powers held by the Western Bay of Plenty District Council in relation to the control of activities on the surface of all water bodies within the Western Bay of Plenty District, were transferred to the *Regional Council* on 22 July 1993.

Any application for a resource consent involving activities on the surface of water is to be lodged with and determined by the *Regional Council*, unless a proposed activity on the surface of water also involves land based activities requiring resource consent from the Western Bay of Plenty District Council.

4A.4 Status of Roads

4A.4.1 As well as being able to be designated, roads are provided for as activities within zones. Existing *District* roads are Permitted Activities and new *District* roads are Restricted Discretionary Activities in all zones but exclusive of Identified Significant Ecological, Landscape and Historic Heritage Features and public reserves (see 10.3 (aj)).

4A.4.2 The rules for roads are within Section 10 and provision has been made for a limited number of *network utilities* and works within the legal *formed road*. The District Plan does not permit other activities within *formed roads*. Notwithstanding this *Council* may issue licences to temporary, mobile activities on the public road but not State Highways.

4A.4.3 The State Highways and proposed deviations/bypasses have been designated by the New Zealand Transport Agency.

The Plan also provides for new Strategic Roads as Restricted Discretionary Activities in all zones exclusive of the Identified Significant Ecological, Landscape and Historic Heritage Features and public reserves. The New Zealand Transport Agency will in the future have the choice of the designation or Discretionary Activity procedures.

4A.5 Earthworks

With the exception of the following, all *Earthworks* shall be permitted:

- (a) *Earthworks* which are listed as requiring resource consent elsewhere in the District Plan.
- (b) *Earthworks* which are undertaken in association with an activity for which a resource consent for a Discretionary or Non-Complying Activity is required.
- (c) Where *Earthworks* are listed as a matter of control or discretion.

4A.6 Information Required with Applications

4A.6.1 All Applications

Explanatory Note: See also Section 12.3.7 and 12.3.8 for information to be submitted with applications for subdivision consent.

The following information (as applicable) shall be submitted with any application for a resource consent:

- (a) A completed standard *Council* application form and check list.
- (b) A statement specifying all other resource consents required from any other consent authority and whether or not such consents have been obtained or applied for.
- (c) The known historical use of the site, including any history of horticulture, agriculture or any other use that could have resulted in *persistent chemical residues* in the soil and in particular any known *hotspots*.

If so, soil testing may be required to confirm that the land is fit for increased exposure to humans. Use of *Ministry for the Environment Contaminated Land Management Guidelines* (assisted by the explanatory note for soil acceptance criteria in Rule 12.3.8(o)) shall be used to establish this. In addition, if deemed necessary by the report, remediation of the *hotspot* or area concerned may be necessary depending on proposed future use of the area. *Ministry for the Environment Contaminated Land Management Guidelines* shall be used to guide the remediation requirements.

The Hazardous Activities and Industries List (referred to in the *Ministry for the Environment Contaminated Land Management Guidelines*) lists uses which could have contaminated the land. If *Council* is satisfied the land has no history of activities involving uses from that list, soil testing shall not be necessary.

- (d) A description of the subject site including:
 - (i) Location and adjoining road (with a location plan where appropriate);
 - (ii) Legal description (with title references);
 - (iii) Existing uses and *buildings/structures*;
 - (iv) Topography and vegetation;

- (v) Extent and nature of any filled areas or any areas subject to erosion, landslip, inundation or other natural hazards;
 - (vi) Description of any *Identified Significant Features*, registered archaeological sites, or any other features considered to be of value to the community.
- (e) A description of the activity for which consent is sought, including:
- (i) Nature of the activity and any processes involved;
 - (ii) Location of and means of access to the site;
 - (iii) Nature and extent of likely traffic generation;
 - (iv) Provision for on site parking, loading, and vehicle manoeuvring;
 - (v) Number of people employed and to be catered for;
 - (vi) Number of animals or poultry involved;
 - (vii) Any proposed *earthworks*;
 - (viii) Existing or proposed landscaping;
 - (ix) Proposed hours of operation;
 - (x) Location, size, and function of any proposed *signs* both on or off the site;
 - (xi) Any proposed staging of the *development*;
 - (xii) Any *hazardous substances* or installations involved, including the discharge of any contaminants.
- (f) The subjects of water supply, wastewater and stormwater reticulation and disposal are to be addressed and where these are to be provided a detailed description on how this is to be achieved is required. Aspects such as source of supply, discharge points, quantities likely, other resource consents required and the location of any waterways, *wetlands* and ponding areas shall be addressed in the report.
- (g) An analysis of the suitability of the site for the proposed activity, having regard to the foregoing clauses (c), (d), and (e).
- (h) Identification of any tangata whenua or Treaty of Waitangi issues.

- (i) Identification of persons affected and whether such persons have been consulted, including those from whom written approvals to the proposed activity have been obtained (such approvals to be submitted with the application on the standard *Council* form).
- (j) An assessment (in accordance with the Fourth Schedule of the *RMA*) of any actual or potential effects that the activity may have on the environment and the ways in which those adverse effects may be avoided, remedied, or mitigated. The assessment shall be in such detail as corresponds with the scale and significance of the actual or potential effects that the activity may have on the environment.
- (k) The identification of the location of any electricity transmission, sub-transmission and distribution feeder is required. Such lines are identified on the *Council's* Geographical Information System (GIS). An assessment of the potential effects of the activity on those lines must be included in the Assessment of Environmental Effects (AEE).
- (l) Two full size original scale copies and one A4 reduced copy of each of the following plans illustrating the proposal shall be submitted, such plans to comprise:
- (i) A location plan of the site showing road name, street number, north point and scale;
- (ii) A site plan of the property (at a scale of not less than 1:200) showing:
- North point and scale;
 - Site boundary lengths and other dimensions in metres;
 - Location with distances to site boundaries, of all existing *buildings/structures* which are to remain on the site and all proposed *buildings/structures* (including where applicable, eaves, balconies, courts and verandas);
 - Proposed use of each *building/structure*;
 - Position of any easement over the site;
 - Position, location and dimensions of every parking and loading space and the proposed access and manoeuvring areas;
 - Proposed retaining walls, excavations and landfill;

- Levels on the site boundaries and around any *buildings/structures*, contours of the site unless the site has a uniform grade of less than 1 in 10 (this requirement shall not be applicable within the Rural Zone);
 - Existing trees and proposed landscaping. Dimensioned areas of the landscaping should be shown together with all existing and proposed sealed areas;
 - Water courses and drainage and sewerage pipes and other utility services within the site; and
 - The means proposed to deal with all stormwater and sanitary drainage.
- (iii) A floor plan of each *building* (at a scale of not less than 1:100) showing use of all parts of the *building*, including basements, parking, storage or service areas.
- (iv) Elevations of each *building/structure* (at a scale of not less than 1:100) showing:
- External appearance of the *building/structure* including doors and windows;
 - Number of floors and their proposed use;
 - *Building/structure heights* and *height* in relation to any boundary;
 - Relative *height* of new *buildings/structures* fixed in terms of the definition of *height* as set out in this District Plan.

4A.6.2 Information requirements for Accommodation Facilities

In addition to the information requirements above the following shall be provided with any application for an *Accommodation Facility*:

- (a) An assessment of financial contributions that includes details of:
- (i) The number of persons to use the facility;
 - (ii) How many *household equivalents* this equates to;
 - (iii) The expected occupancy rates for existing facilities;
 - (iv) Available *Council* facilities to be used i.e. roading, water, wastewater, or stormwater;

- (v) An outline of activities and facilities provided for onsite.
- (b) A management plan to include:
 - (i) Hours of operation;
 - (ii) Terms and conditions of use;
 - (iii) An assessment of management of effects on a regular basis e.g. noise to be controlled by staff onsite at all times.

4A.6.3 Information requirements for the creation of on-site Protection Lots or Transferable Protection Lot credits based on land for community benefit

In addition to the information requirements above the following shall also be provided;

- (a) Evidence that the applicant has met with *Council's* reserves staff to discuss the proposal and a record of the extent to which the proposal is supported by *Council's* reserves staff with respect to the following;
 - (i) Plans showing the area of land which is being provided and for what particular feature type/s and purpose/s;
 - (ii) The reasons why the provision of the land will have a significant community benefit;
 - (iii) How legal protection is to be achieved;
 - (iv) The number of on-site Protection Lots or Transferable Protection Lot credits proposed.

4A.7 Consent of Affected Parties – Controlled Activities

4A.7.1 Rule

In the case of a resource consent application for a Controlled Activity, the written approval of affected persons is not required and no person is required to have notice served on them unless the District Plan specifically states otherwise.