

9.0 PERFORMANCE STANDARDS FOR DEVELOPMENT AND SUBDIVISION

9.1 BACKGROUND

9.1.1 DESCRIPTION

Both subdivisions and developments require standards to guide their establishment and ongoing operation.

The performance standards, environmental results and assessment criteria set out in this Section have been developed to promote the objectives and policies of this District Plan and the purpose of the Resource Management Act 1991, namely the avoidance, remedy or mitigation of adverse effects of activities on the environment, natural and physical resources and amenity values.

The performance standards are based on and developed from standards that were prepared, administered, monitored and reviewed under the provisions of the previous Town and Country Planning Act 1977. These standards have developed in order to protect the environment and amenity of areas. Many of the standards have "survived the test of time", as useful and effective planning tools. However, they have been reviewed, altered, deleted and/or updated in order to reflect the intent of Part II Resource Management Act 1991, and to reflect the higher environmental and amenity qualities expected by the community. The purpose of the performance standards is to avoid completely, where possible, or at least minimise the effects of activities on the environment.

9.1.2 ACTIVITY STATUS

In this District Plan, activities have permitted or controlled activity status depending on two factors:

- ☒ Meeting the definition requirements; and
- ☒ Compliance with the performance standards as specified for an activity in each zone and as set out in this Section.

Where a permitted or controlled activity cannot comply with any one of the performance standards, then a resource consent (discretionary activity) needs to be sought and consent granted before the activity may be commenced. As provided in Section 76 (3B) of the Resource Management Act 1991, in considering a Discretionary Activity application for non-compliance with one or more of the Performance Standards, Council shall restrict the exercise of its discretion to that matter only (refer to Rule 9.1.5 – General Rule for all Performance Standards). The assessment criteria set out within each performance standard will be used for assessment of the application.

For activities that require a resource consent as a discretionary or non-complying activity, the performance standards, environmental results and assessment criteria shall be used as a guide when assessing the resource consent application.

Where an activity is not specified in the zone, then the performance standards will be used as one of the factors to determine the status of that activity. If the activity falls within the general range of listed activities and the performance standards can be met, then Council will be in a position to certify the status of the activity.

Nothing in these rules shall override the provisions of Section 10 of the Resource Management Act 1991 ("existing use rights").

9.1.3 TYPES OF PERFORMANCE STANDARDS

The performance standards are a combination of building development (eg height), infrastructure (eg disposal of effluent) and performance (eg noise) standards and measurements. Some standards such as the height of building can be set when the building is built and no further monitoring or review is required. For standards such as noise, and hours of operation however, continual monitoring and review is required to ensure that standards are not being exceeded. In the event that they are, consideration has to be given to the following matters:

- ☒ Should a resource consent (discretionary activity) be applied for?
- ☒ Is Council required to undertake enforcement action to obtain compliance with the standard?
- ☒ Are there any detrimental effects on the environment?
- ☒ Is the standard "reasonable" in the situation?
- ☒ Does the standard require modification?

9.1.4 OBJECTIVES AND POLICIES

The Objectives and Policies for the zone in which the activity is being carried out, are in addition to and complementary to the objectives and policies set out for the performance standards. Accordingly, both sets of objectives and policies need to be considered when assessing an application to exceed a standard.

Objective 1

To avoid, remedy or mitigate the adverse effects of activities (development and subdivision) on the environment, natural and physical resources and the amenity values of the Hauraki District.

Policies

Objective 1 will be achieved by implementation of the following policies:

1. Ensuring permitted and controlled activities operate within limits that do not have an adverse effect on the environment.
2. Adopting standards that have been developed under the Town and Country Planning Act 1977, to reflect the environmental result approach of the Resource Management Act 1991 and the level of environmental amenity demanded by the present community, and future generations.
3. Recognising that the performance standards in this District Plan are one of a range of methods available to achieve the anticipated environmental results identified.

Objective 2

To recognise that the performance standards may not be applicable to every situation (ie the adverse effects are able to be avoided, remedied or mitigated) and that flexibility to assess those situations needs to be provided.

Policies

Objective 2 will be achieved by implementation of the following policies:

1. Providing environmental outcomes, objectives and policies throughout the District Plan, which clearly identify the environmental limits that are acceptable in a particular environment.

2. Providing flexibility for permitted and controlled activities which cannot meet one or more of the performance standards to be considered as a discretionary activity.
3. Making discretionary activities in Policy 2 above, non-notified where the written approval has been obtained from those persons Council considers may be adversely affected.
4. Specifying the assessment criteria that will be used to assess whether or not exceeding the limits of the standard will have a detrimental effect on the environment or amenity values of the area.

Reasons for All Objectives and Policies

1. For each standard in this Section, a discussion is included which identifies what the standard is and the purpose of that standard. Reference should also be made to Section 2.0 for a discussion on the alternatives considered and the main reasons for and against and costs and benefits of adopting a Rules based approach (combined with the use of performance standards) to control and manage the effects of activities.
2. Each standard includes an outline of the principal reasons for the inclusion of the standard. This is not intended as a comprehensive list of all the purposes and reasons. However, the principal purpose and reason for any of the standards is to avoid, remedy or mitigate any adverse effects of activities (including buildings) on the environment, natural and physical resources and amenity values. These purposes are summarised in the environmental result listed for each standard, as well as the objectives, policies, resource management issues and anticipated environmental results, listed for the zone to which the standard relates.

9.1.5 GENERAL RULE FOR ALL PERFORMANCE STANDARDS

In all zones where an activity is a permitted or controlled activity, but the activity fails to comply with one or more of the required performance standards set out in Rules 9.2 – 9.4 (inclusive), the activity becomes a discretionary activity (restricted):

As provided by section 76(3B) of the Resource Management Act 1991, in considering the non-compliance of a permitted or controlled activity with one or more of the performance standards, Council shall restrict the exercise of its discretion to the matter or matters that are applicable to the performance standard or standards that are not complied with.