

3.10 AMENITY PROTECTION

3.10.1 - INTRODUCTION

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. In addressing the question of amenity regard has been had to the obligation on Council to have regard to the maintenance and enhancement of amenity values and the quality of the environment throughout the whole District.

The Act in its interpretation of amenity values (Section 2) specifically refers to the natural qualities and characteristics of an area. The report "Landscape and Ecology" prepared as part of District Plan preparation identifies a diverse range of landscape qualities and amenity values that exist throughout the whole district and highlights how complex the components which make up landscape quality and amenity values can be.

As has been stated earlier in the District Plan, preference has been given to a planning technique which utilises "resource areas" which to a large extent were initially identified by landscape character.

It is acknowledged that under this system ecosystem boundaries are often hard to define, and rarely correspond to jurisdictional boundaries. The resource based approach used in this study gives greater importance to the characteristics and values of the core areas than to the definition of precise boundaries between areas.

As a consequence the amenity values also vary throughout the District and the provisions relating to their protection are individually identified under the specific resource areas.

This definition "amenity value" is not precise but neither is the definition of amenity value that appears in the Resource Management Act which states :

"Amenity Value"

Those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes."

These provisions accordingly apply to the entire District, however specific resource areas may have more stringent control in respect of some issues and these would override the provisions of this section. The effects of noise are dealt with in Section 3.12 and in the specific Resource Areas.

3.10.2 - 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 the 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.

3.10.3 - OBJECTIVES AND POLICIES

Objective AME.1

To avoid or mitigate the adverse effects that activities have on the amenities of the District, and the quality of the environment particularly on neighbouring properties.

Policy AME.1

To ensure that activities which give rise to odour, glare, electrical interference, smoke, fumes or dust, particularly on roads, do not adversely effect neighbouring properties.

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 4)

Policy AME.2

To ensure that the adverse visual effects that industrial, commercial and carparking developments can have on Urban Resource Areas, recreational areas, (including the surface of any waterbody) or public roads, is mitigated or avoided.

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 and 5, and 4.7.9 Industrial Resource Areas)

Policy AME.3

To control the use and storage 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)

3.10.4 - METHODS AND RULES

Method AME.1 - Smoke, Fumes and Dust

Council recognises that a number of activities including domestic heating appliances, bar-be-cues, traditional cooking fires, any fire subject to a permit, any public road or normal farming activities (excluding the burning of significant indigenous vegetation and factory farming) emits smoke fumes and dust. These effects will in the main be dealt with in the Southland Regional Air Quality Plan.

Council encourages those people undertaking domestic or farming activities to adopt the most practicable method to avoid the adverse effect 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 omission of this type under the jurisdiction of Council is deemed to be having a significant adverse effect, Council has the ability to issue an abatement notice to alleviate the problem or to utilise the provisions of the Health Act (1956) and its amendments and any other relevant Act (such as the Litter Act and the Building Act) to control nuisance discharge of smoke, dust and fumes.

Reason

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

Rule AME.1 - Electrical Interference

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

- (a) No activities shall result in greater than 10 lux spill (horizontal and vertical) of light onto any adjoining property, measured at 1.5 m inside 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 (b) 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 in nature or a public road.

- (b) No activity, or use of land or buildings, shall be conducted so that direct or indirect illumination creates a nuisance to 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.

- (c) 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%.
- (d) 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 sighting 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 objectionable odour discernible beyond the boundaries of the site from which the odour emanates other than in accordance with the conditions of any resource consent issued by the Regional Authority. Provided that this rule does not apply to farming activities excluding factory farming or, the housing or close confinement of livestock in the Rural Resource Area. Where nuisance occurs Council will use the provisions of the Health Act (1956) and its amendments and any other relevant Act to control nuisance discharges of odour.

Reason

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

Rule AME.4 - Landscaping

Where any industrial site, commercial building in excess of 1000 m² in gross floor area, or parking area in excess of 500 m², adjoins, faces or can be seen from any residential, health, educational, recreational or retail area, waterbody, or public road, a 3 metre wide 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 dense evergreen trees or shrubs by not later than the first planting season after the building 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 or should be planted and maintained in a position which conflicts with the rules applying to visibility affecting driveways and accessways.

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 offset reserve or development contributions.

Rule AME.5

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

- (a) No structure, sign, excavation, storage of materials, or other works
- or
- (b) Land or activities ancillary to the use of the site

shall be left without significant physical progress towards completion of the work during the preceding 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 in which it is located or 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 Environment Court).

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 to 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)."

3.10.5 - ANTICIPATED ENVIRONMENTAL RESULTS

- (a) Neighbouring properties will be protected from the adverse effects of activities on adjoining properties.
- (b) The amenity values of the District will be protected.