

Rule 2.6 Hamilton Airport Protection Overlay

Rule Statement

Hamilton Airport is located within Waipa District, but the airport's Horizontal and Conical Obstruction Limitation Surfaces extend into Hamilton City. A building height restriction is placed over land which lies under these surfaces (See Planning Map 20).

~~Airport noise is a growing issue for areas adjacent to the airport. With a growth in air traffic in Hamilton, airport noise is increasing and more frequent. To protect new residential activities and other noise sensitive activities within the Outer Control Boundary for Airport Noise, the rules require that an acceptable internal noise environment is provided.~~

Expected Outcome

~~Uninterrupted air traffic approach paths across the city and exposure of residential activities to airport noise created by Hamilton Airport are limited to levels that protect amenity values.~~

Means of Compliance

The following rules shall be read in conjunction with the standards and performance assessments in the underlying zone, and all other rules in the plan.

The Airport Protection Overlay rules shall be complied with first, then the relevant underlying zone or city-wide rules shall apply. The activity status of a Permitted or Controlled Activity may be altered from the activity list below where the activity cannot meet one or more of the standards in this rule. For clarification of activity status see [Rule 2.6.3 – Failure to Meet Standards](#).

Regard must be had to all Objectives and Policies which may be relevant to any proposed activity subject to this Rule. This includes, but shall not be limited to, Policy Sections 4.2 Transportation and Accessibility and 4.3 Network Utilities.

2.6.1 Activities

Any Permitted, Controlled, Restricted Discretionary or Discretionary Activity within an underlying zoning shall retain its status within the Hamilton Airport Protection Overlay, provided it meets the relevant standards of the zone and the standards in [Rule 2.6.2](#).

2.6.2 General Standards

The following general standards apply to all Permitted and Controlled Activities.

a) ~~Height of Structures - Horizontal and Conical Obstruction~~ Obstacle Limitation Surfaces

No building, mast, tree or other object shall penetrate any of the horizontal and conical obstruction limitation surfaces surrounding Hamilton Airport as shown on the Airport Overlay Planning Map 20.

ADVISORY NOTE

The Horizontal ~~Obstruction~~ Obstacle Limitation Surface is a surface located in a horizontal plane above the main runway with an elevation of ~~95~~102m Moturiki Datum having its outer limit at a locus of 4,000m measured from the periphery of the main strip.

The Conical ~~Obstruction~~ Obstacle Limitation Surface is a surface sloping upwards and outwards from the periphery of the Horizontal Surface at a gradient of 1 vertical to ~~40~~20 vertical horizontal to an elevation of ~~200~~207m above Moturiki Datum.

Where any Resource Consent is required as a result of non-compliance with the standards in this Rule 2.6.2, it is anticipated that the operator of Hamilton Airport will be a party potentially affected by the proposed activity and that operator should be consulted in relation to such a proposal.

~~b) Activities Sensitive to Airport Noise within the Outer Noise Control Boundary for Airport Noise (see Planning Map 20)~~

~~i) Within the Outer Control Boundary for Airport Noise shown in the Airport Overlay Planning Map 20, the following buildings shall incorporate acoustic treatment to ensure that sound levels of 45dBA (Ldn) are not exceeded as a result of airport related noise:~~

- ~~• All rooms in new buildings accommodating Activities Sensitive to Airport Noise, excluding passageways, ablution areas and access ways.~~
- ~~• New rooms or extensions to rooms in existing buildings accommodating Activities Sensitive to Airport Noise, excluding passageways, ablution areas and access ways.~~

~~ii) Where the required internal noise level for any such building or part thereof can only be met with doors and windows closed, then an alternative means of ventilation must be provided in accordance with the Building Act 1991.~~

~~iii) Compliance with this standard shall be demonstrated by production of an acoustic design certificate from an appropriately qualified person, confirming that the proposed design and construction of the building will achieve compliance.~~

2.6.3 Failure to Meet Standards

- a) Activities which do not comply with either or both of the standards in Rule 2.6.2 a) and b) are **Restricted Discretionary Activities**, with discretion restricted to the subject matter of the standard that cannot be met.

Performance Assessment

In determining any resource consent, Council shall have regard to the expected outcome for this rule and the relevant underlying zone, to any related objectives and policies, and to the following:

2.6.4 Assessment Criteria - Restricted Discretionary Activities and Discretionary Activities

Restricted Discretionary Activities will be assessed only in respect of the subject matter of the standard with which the activity was unable to comply.

Discretionary Activities will be assessed against, but not limited to, the assessment criteria below.

a) Height of Structures

The extent to which any structure creates a potential hazard to the flight paths of aircraft or any other operations associated with Hamilton Airport.

~~b) Airport Noise Sensitivity~~

- ~~i) The sensitivity of the receiving environment to the effects of the noise and the effects of the noise on the receiver, especially whether the affected activities include a component where people need to sleep or concentrate.~~
- ~~ii) The extent of the exposure to noise having regard to location, topographic screening and ambient noise levels.~~
- ~~iii) The nature of the noise emissions likely to be generated and the disturbance this may cause to people in the vicinity, including:
 - ~~• audible characteristics; and~~
 - ~~• the expected times and duration of the noise.~~~~
- ~~iv) Whether the design of any building includes adequate noise mitigation measures to ensure that the proposed activity within the building will be adequately protected from intrusion of airport-related noise.~~

Rule 6.3 Subdivisional Standards for Individual Zones

Rule Statement

This rule sets out the standards and basis for consideration of subdivisional proposals with respect to the size and configuration of allotments and access. The intention of the controls is to help ensure that where land is subdivided into separate titles the resulting allotments can be reasonably developed and used in a manner which is in accordance with the other requirements of the District Plan. The rule relates to areas intended for residential, business, rural or community purposes.

Expected Outcome

The arrangement, size and shape of allotments and provision of access accommodates the intended development and use in a practical and environmentally acceptable manner and enables people to provide for their needs.

Means of Compliance

Any subdivision shall be undertaken in accordance with [Rule 6.1](#), shall comply with the standards specified in this rule, and is also subject to the other relevant provisions of [Rule Section 6.0](#).

Regard must be had to all Objectives and Policies which may be relevant to any proposed activity subject to this Rule. This includes, but shall not be limited to, Policy Sections 4.4 Subdivision and Development of Land and to any Structure Plan for the area set out in Rule Section 9.0 or relevant design guidance set out in Rule Section 10.0.

6.3.1 Residential Zones

The following standards apply to any subdivision in the Residential Zones:

a) Subdivision in the Residential Zones

- i) Minimum Net Site Area:
 - 400m²
 - within the High Density Area 350m²
 - within the Rotokauri High Density Area 350m²
 - within the Visitor Facilities Area 350m²
 - within the Heritage Precinct Overlay 600m²
 - within the Claudelands West Special Character Area 600m²

- Where more than 50% of the proposed allotment is situated within the Rotokauri Ridgeline Character Area 800m²
 - where more than 50% of the proposed allotment is situated within the Environmental Protection Overlay 600m²
 - Within the Lake Waiwhakareke Landscape Character Area 350m²
- Also see 6.3.1 a) vi)
- ii) Maximum Net Site Area:
- Within the Lake Waiwhakareke Landscape Character Area where a boundary to an allotment is adjoining the Lake Waiwhakareke Heritage Park or is separated from it only by a road reserve 800m²
- iii) Minimum Shape Factor Circle:
- 15m diameter
 - where more than 50% of the proposed allotment is situated within the Environmental Protection Overlay 20m diameter
- iv) Minimum Frontage:
- net site area <2000m² 3.5m
 - net site area 2000m² - 4000m² 6m
 - net site area >4000m² 17m
- v) Maximum Frontage
- within the Lake Waiwhakareke Landscape Character Area, where a boundary to an allotment adjoins the Heritage Park or is separated from it only by a road reserve, no such boundary shall exceed 20m in length.
- vi) Lots per hectare in the Lake Waiwhakareke Landscape Character Area
- In the Lake Waiwhakareke Landscape Character Area there shall be a minimum gross density of 16 lots per hectare.
- vii) Lot Orientation
- Where a proposed allotment is within the Rotokauri High Density Interface Area the length of the Frontage is to be greater than the depth of the allotment. With the exception of access to rear allotments.

b) Access to Residential Allotments

- i) Minimum width of an entrance, private way, access lot or common area giving principal vehicle access to allotments:
 - up to 4 residential units 3.5m
 - 5 to 10 residential units 6.0m
- ii) Maximum Length of Vehicle Access: 100m
- iii) Exceptions to standards:
 - The width of vehicle access serving a single residential unit may be reduced to 3m (with a corresponding reduction in the minimum frontage specified in Rule 6.3.1 a) iii) if the entrance has unrestricted visibility and the length does not exceed 100m.
- iv) Vehicle access shall comply with the relevant standards in Rule 5.2.1.

c) Provision for Comprehensive Residential Developments

Any subdivision in relation to a comprehensive residential development shall comply with the following:

- i) The minimum net site area of any allotment shall comply with the standards for minimum unit site areas as specified in Rule 4.1.2a) or 4.1A.2b).
- ii) For the Rotokauri Residential Zone density shall comply with 4.1A.2b).
- iii) The standards for Minimum Shape Factor and Frontage in Rule 6.3.1 a) shall not apply but the configuration of the allotments shall conform to the unit site areas approved as part of the land use consent.
- iv) A consent notice shall be registered against the title of each allotment to ensure compliance with the terms of the land use consent.

d) Provision for Public Transport in Rotokauri¹

Provision shall be made for bus stops within all residential subdivisions within the Rotokauri Structure Plan area, to ensure that the walking distance between all allotments and any existing or proposed bus stop is no more than 400m.

6.3.2 Commercial and Industrial Zones

The following standards apply to any subdivision in the City Centre, Suburban Centre, Commercial Service, or Industrial Zone.

a) Subdivisions in Commercial Zones

- i) Minimum Net Site Area: 1,000m²
- ii) Minimum Shape Factor Circle: 20m diameter
- iii) Minimum Frontage:
 - 7m

¹ ENV-2009-AKL-000045

- where fronting a major arterial road 20m
- iv) The standards for minimum net site area, shape factor circle and frontage specified in i) to iii) above shall not apply to unit title subdivision(s) for existing buildings.

b) Subdivisions in Industrial Zone

- i) Minimum Net Site Area:
- 500m²
 - where fronting a major arterial road 1,000m²
 - where situated in an Amenity Protection Area 1,000m²
 - where more than 50% of the proposed allotment is situated within the Environmental Protection Overlay 1,000m²
 - where situated in the Rotokauri Employment Area 1,000m²
- ii) Minimum Shape Factor Circle:
- 15m
 - where situated in an Amenity Protection Area 20m
 - where more than 50% of the proposed allotment is situated within the Environmental Protection Overlay 20m
 - where fronting a Major Arterial Road 30m
 - where situated in the Rotokauri Employment Area (except where fronting a Major Arterial Road) 20m
- iii) Minimum Frontage
- 7m
 - where net site area >5000m² 20m
 - where fronting a Major Arterial Road 30m
- iv) The standards for minimum net site area, shape factor circle and frontage specified in i) to iii) above shall not apply to unit title subdivision(s) for existing buildings.

c) Access to Commercial and Industrial Allotments

- i) Minimum Width of an entrance, private way, access lot or common area giving principal vehicle access to allotments:
- net site area <2,000m² 7m
 - net site area 2000m²-5,000m² 10m
 - access to a major arterial road 10m

- shared access for up to 5 allotments 10m
 - shared access for more than 5 allotments 17m
 - total area of allotments served >5,000m² 17m
- ii) Maximum Length of Vehicle Access: 100m
- iii) Vehicle access shall comply with the relevant standards in Rule 5.2.1.

6.3.3 Future Urban Zone ²

- The following standards apply to any subdivision in the Future Urban Zone except that:
- The Rotokauri Growth cell where, in respect of land indicated on the Rotokauri Structure Plan as being a future Residential or Employment Area b) and c) do not apply, and in respect of land indicated as being future Industrial Area only Rule 6.3.3 e) applies.

a) Provision for Future Urban Subdivision

- i) Minimum Net Site Area: 2ha
- ii) Minimum Frontage: 80m to a formed and sealed legal road forming part of the City's roading network.
- iii) Provision shall be made for wastewater disposal in accordance with Rule 6.8.1 b).
- iv) Where the erection of a dwelling house or other substantial permanent building on a part of the allotment would conflict with the proposals shown on the relevant structure plan for the area as set out in Rule 9.0 or would be at risk from a known natural hazard, then the subdivision consent shall provide that no buildings may be sited on that part of the allotment

b) Control of Closer Future Urban Subdivision

- i) For any subdivision which is a Discretionary Activity pursuant to Rule 6.3.5 c) and where the net site area of any allotment is 2ha or less or the frontage to a formed and sealed legal road is less than 80m, Council shall require the preparation of a concept plan which shows how the allotments in the subdivision can be subsequently resubdivided for a normal complying residential development at a density of not less than 10 houses per ha but allowing for a density of 8 houses per ha in any Environmental Protection Overlay.
- ii) A concept plan prepared under Rule 6.3.3 b) i) shall specify the siting for the detached dwelling and accessory buildings on each such allotment in a position which will not prejudice the subsequent resubdivision of the land as shown on the concept plan and subject to Rule 4.11, no building may be constructed on that allotment except in accordance with the siting specified on the concept plan.
- iii) Any concept plan shall have regard to and make provision for any proposals shown on the relevant structure plan for the area as set out in Appendix 9.0-I.

² 002/P, 017/P, 025/P

- iv) Where any subsequent resubdivision of an allotment as shown on the concept plan can only reasonably occur in conjunction with the subdivision of any other allotment forming part of the original subdivision, then Council may require the registration of suitable legal agreements or the payment of bonds to ensure that coordinated resubdivision including the provision of infrastructural services in accordance with the concept plan will occur.
- v) Any such subdivision shall be subject to the payment of the trunk stormwater levy, trunk wastewater system levy, trunk water supply levy, and arterial roading levy in accordance with [Rule 6.4.2](#), [Rule 6.4.3](#), [Rule 6.4.4](#) and [Rule 6.4.5](#) but until the relevant structure plan for the area has been incorporated in the District Plan and any development levies relating to the area are operative any such subdivision shall be a Non Complying Activity.

c) Subdivision for Urban Purposes

- i) Any subdivision where the net site area of any allotment is 5,000m² or less shall be deemed to be for urban purposes and in addition to the requirements of [Rule 6.3.3 b\)](#) shall be required to make full provision for infrastructural services and roading to an urban standard as part of the subdivision in accordance with [Rule 6.4](#), [Rule 6.7](#) and [Rule 6.8](#).
- ii) Any such subdivision shall be required to connect to the City's infrastructure networks and meet the costs thereof in accordance with [Rule 6.4](#), as well as pay any other contributions specified in [Rule 6.4](#), [Rule 6.5](#) and [Rule 6.6](#) and shall be subject to the provisions of [Rule 6.9](#) regarding staging of development.

d) Subdivision of Existing Allotments

[Rules 6.3.3 b\) and c\)](#) shall not apply to the resubdivision of any allotments created prior to 24 July 1993 which is intended solely for the purpose of creating a single allotment for residential use that has a minimum net site area of 2,500m² and a minimum frontage of 6m, provided that the balance area comprises an allotment which complies with the standards in [Rule 6.3.3 a\)](#).

e) Subdivision in the Rotokauri Industrial Zone

- i) The relevant standards of Rule 6.3.2b) shall apply.
- ii) Any subdivision shall have regard to and make provision for any proposals shown on the Rotokauri Structure Plan set out in Rule 9.0.
- iii) Any such subdivision shall be required to connect to the City's infrastructure networks and meet the costs thereof having regard to the Infrastructure Development Programme set out in Rule 6.9.

6.3.4 Other Zones

The following standards apply to any subdivision in the Community Facilities, Major Facilities, Recreation Environment, Recreation General or Recreation Major Zone.

Subdivision for Recreational and Community Use

- i) Minimum Net Site Area: 4,000m²
- ii) Minimum Shape Factor Circle and Frontage: 50m

Subdivision in the Community Facilities Zone on Lot 8 DP 14655 (WEL Depot 44-48 Peachgrove Road)

- i) Minimum Net Site Area: 1,000m²
- ii) Minimum Shape Factor Circle and Frontage: 20m.

6.3.5 Failure To Meet Standards

- a) Subdivisions which do not comply with any standard in Rule 6.3.1 are **Discretionary Activities**, provided that where application for such a subdivision is undertaken concurrently with an associated land use consent for a Controlled or Restricted Discretionary Activity and is consistent with that consent then the subdivision shall be determined under the same activity classification as the land use consent.
- b) Subdivisions which do not comply with any applicable standard in Rule 6.3.2 are **Discretionary Activities** provided that where the subdivision is solely to create separate allotments for the individual occupancies within a building, the consent of affected persons will not be required.
- c) Subdivisions which do not comply with any standard in Rule 6.3.3 a) are **Discretionary Activities** provided that a subdivision which is not in accordance with the requirements of Rules 6.3.3 b), c) and d) is a **Non-Complying Activity** and subdivisions in the Peacocke and Rotokauri Structure Plan area which do not comply with any standard in Rule 6.3.3(a) are **Non-complying Activities**.
- d) Subdivisions which do not comply with any standard in Rule 6.3.4 are **Discretionary Activities**.

Performance Assessment

In determining any resource consent under the above Council shall have regard to the expected outcome for this rule and the relevant zone, to any related objectives and policies, and to the following.

6.3.6 Performance Outcomes for Controlled Activities

In assessing a resource consent for a Controlled Activity Council can impose conditions on the following matters.

- a) **General Criteria**
 - i) Regard shall be had to the Performance Outcomes of Rule 6.2.3.
 - ii) Regard shall be had to any relevant provisions of any Structure Plan for the area set out in Rule Section 9.0, and any design guidance set out in Rule Section 10.0.
 - iii) Any allotment should be of sufficient area and dimensions to provide for the intended purpose or land use, having regard to the relevant standards of this District Plan.

- iv) The size and configuration of the proposed allotments should be capable of accommodating future buildings and intended activities in a complying manner, with adequate provision for the access, manoeuvring and parking of vehicles and for outdoor space.
- v) The foreseeable potential of any allotment for more intensive subdivision and development should be taken into account as well as the integrated management of any development subdivided into separate allotments for the individual occupancies, and to the design principles of connectivity and permeability in minimising the effects of transport activities on the environment.
- vi) As part of any subdivision, appropriate regard should be had to maintaining and enhancing the existing and future amenity values of the locality, The size and configuration of the proposed allotments should be such that the heritage values or special character of the locality will be maintained.
- vii) The intensity of likely development and the size and configuration of the proposed allotments should be compatible with maintaining the natural values of environmentally sensitive areas and mitigating potential hazards.

b) Residential Subdivision

- i) Where any subdivision involves allotments intended to be occupied by detached dwellings, then the size, shape and arrangement of the allotments or unit site areas should enable flexible provision to be made for the required outdoor living and service areas, the access, manoeuvring and parking of vehicles, the privacy of the occupants and neighbours and the maintenance of neighbourhood amenities including landscaping.
- ii) Where any subdivision involves the division of a residential development into separate allotments for each residential unit then the configuration of the development should be such that the individual residential units can reasonably be held in separate ownerships
- iii) Where any subdivision involves the division of a residential development into separate allotments for each residential unit then the size, shape and arrangement of the allotments and provision for access thereto should adequately provide for the convenience, privacy, and leisure needs of the occupants, make appropriate provision for vehicles including the allocation of car parks for each residential unit and appropriately provide and allocate the required open space.
- iv) Consideration shall be had to the foreseeable potential of any allotment for more intensive subdivision and development and where a group of residential units are closely interrelated or involve communal facilities then adequate provision shall be made for the integrated management of the development and its eventual redevelopment.
- v) The overall density of residential development likely to result from any subdivision should not exceed the capacity of the roading system or the network utilities serving the locality.

- vi) Subdivisional layouts shall be configured so as to respond positively to public spaces and maximise the opportunities for roads to give a public edge to these spaces, including parks and green corridor networks.

c) Access in Residential Zones

- i) Practical all weather vehicular access should be provided to each allotment or unit site area either directly from a road or over an individual or shared access.
- ii) Any vehicle access should safely and conveniently accommodate the traffic likely to be generated by the number of residential units in the development.
- iii) Vehicle access should be of a standard which permits the passing of cars where conflicts are likely because of traffic volumes or restricted visibility as well as accommodate access by furniture vans and emergency vehicles where warranted.
- iv) Provision for vehicle access should be in a form which allows the safe movement of pedestrians, accommodates network utility services and maintains the amenities of neighbouring properties.

d) Commercial and Industrial Subdivision

Where any subdivision involves the division of any land and/or buildings in any commercial or industrial zone into separate allotments, then the size, shape and arrangement of such allotments and provision for access should be such as to satisfy the following:

- i) Adequately accommodate any potential principal buildings and accessory buildings in compliance with the provisions of this District Plan.
- ii) Ensure compliance with those provisions of this District Plan relating to the access, manoeuvring and parking of cars and service vehicles in relation to each business while minimising traffic conflicts on major arterial routes.
- iii) Provide for the protection of the amenity values of adjoining residential areas and of major arterial routes.
- iv) Provide for the mitigation of adverse effects on the environment, avoidance of conflicts with neighbours and avoidance of hazards (particularly in industrial areas).
- v) Ensure adequate and convenient provision for the access, manoeuvring and parking of vehicles particularly in any Suburban Centre Zone.
- vi) Facilitate the principles and proposals contained in the Indicative Structure Plan - Central Area in Appendix 4.3-II.
- vii) Ensure the protection of residential amenity values where adjacent to any Suburban Centre Zone.

e) Access Commercial and Industrial Zones

- i) Practical and convenient all-weather vehicular access should be provided where practicable to each commercial allotment either directly from a road or service lane or over an individual or shared access in a form adequate to accommodate normal service traffic associated with the intended activities but not so as to conflict with any

provisions for maintaining pedestrian shopping frontages in Rule 4.2.2 e) and Rule 4.3.2 f).

- ii) Practical and convenient all-weather vehicular access should be provided to each industrial allotment either directly from a road or over an individual or shared access in a form adequate to accommodate a 99 percentile truck, to permit two trucks to pass safely where warranted by the volume of traffic and to permit access by emergency vehicles.
- iii) Where fronting a major arterial road access to each allotment should be from a common vehicle access/crossing located in accordance with Rule 5.2.
- iv) Vehicle access should be of a standard which will not detract from the amenities of neighbouring residential properties.

f) Subdivision in the Future Urban zone

The size, shape and arrangement of allotments in any subdivision in the Future Urban Zone should be such that it satisfies the following:

- i) Allows for the effective management of land for farming purposes and the maintenance of the productive capacity of quality soils pending urban development.
- ii) Accommodates existing and potential principal buildings, accessory buildings and associated activities in a flexible manner and suitable future building sites are identified where relevant.
- iii) Ensures adequate access by the public in respect of margins of the Waikato River, lakes and streams and to gullies and other reserve areas.
- iv) Ensures the boundaries are logically related to significant topographical features and have adequate regard to the Environmental Protection Overlay.
- v) Provides for the mitigation of adverse effects on the environment and avoidance of natural hazards and conflicts with adjoining existing and potential activities.
- vi) Gives adequate recognition to proposals shown on the structure plan for the area set out in Rule 9.0 and in particular boundaries should logically relate to indicative roads and open space areas.
- vii) Ensures adequate on site provision for access, manoeuvring and parking of vehicles in accordance with Rule 5.2.

g) Access in the Future Urban Zone

- i) Practical all weather vehicle access, sited to ensure safe traffic visibility, should be provided for each allotment either directly from a road or over an individual or shared access.
- ii) Access should be provided in a manner which minimises traffic conflicts and protects traffic safety and efficiency on major arterial roads.
- iii) Vehicular access in a form adequate to accommodate heavy vehicles should be provided to rural allotments unless the site is used primarily for residential purposes.

- iv) Provision should be made for reasonably direct connections of an adequate standard to the city's arterial roading network in terms of safety, convenience and impacts on residential neighbourhoods.

h) Other Zones and Activities

Any subdivision in a Recreation Zone, or the Community Facilities or Major Facilities Zone, or of any designated or scheduled site should satisfy the following:

- i) Such subdivision should result in sites suitable for an integrated and functional development appropriate to the intended use and to the zone and compatible with neighbouring development.
- ii) The size and configuration of the allotments and the provision for access should satisfactorily accommodate the particular activities while ensuring adequate provision for the access, manoeuvring and parking of vehicles.
- iii) The size and configuration of the allotments should be such that surrounding residential or recreational amenity values can be adequately protected and adverse effects on the environment avoided or mitigated.
- iv) Practical all weather vehicular access should be provided to each allotment either directly from a road or over an individual or shared access of a standard adequate to accommodate service and maintenance vehicles.

6.3.7 Assessment Criteria for Restricted Discretionary and Discretionary Activities

Restricted Discretionary Activities will be assessed only in respect of the subject matter of the standard with which the activity was unable to comply.

Discretionary Activities will be assessed against, but not limited to, the assessment criteria below.

a) General Criteria

- i) Regard shall be had to any relevant performance assessment for a controlled activity and for general rules.
- ii) The extent to which other relevant standards are complied with.
- iii) Whether any adverse or cumulative effects will occur from the subdivision or non-compliance and whether they can be avoided or mitigated.
- iv) Whether the site, given its size, configuration, access, topography and existing development, can be subdivided as proposed in an effective and environmentally acceptable manner. The design principles contained in the Guidance set out in Rule Section 10.0.
- v) The extent to which the proposal is consistent with the principles and proposals contained in any relevant Structure Plan set out in Rule Section 9.0.

~~vi) The reverse sensitivity effects arising from aircraft noise where the subdivision is located in the Hamilton Airport Protection Overlay.~~

b) Commercial and Industrial Zones

Where any subdivision involves land and/or buildings in the City Centre, Suburban Centre, Commercial Service or Industrial Zone, the extent to which the size, shape and arrangement of allotments and provision of access will affect the following:

- i) The convenience of occupants.
- ii) Provision for on site loading and facilitation of service deliveries to individual businesses.
- iii) Adequate and convenient access by the public to individual businesses.
- iv) Public amenities, particularly relating to shopping frontages.
- v) The need to minimise traffic conflicts on major arterial routes.

c) Future Urban Resubdivision Potential

- i) Whether closer subdivision is carried out in a manner which facilitates future urban resubdivision particularly with regard to achieving an efficient and cohesive urban layout and economic provision of infrastructure.
- ii) Whether for closer subdivision, access to all allotments is provided in a form, which facilitates future urban subdivision of the individual allotments in an economic manner, and the extent to which rear lots are avoided.
- iii) The extent to which appropriate provision is made as part of any closer subdivision for effective future urban resubdivision taking into account underlying concept plans, legal agreements, bonds and the like.
- iv) Whether any proposals shown on the structure plan for the area set out in Appendix 9.0-1 are compromised by closer subdivision.

d) Future Urban Intensification

The extent to which the cumulative effects of increased development due to the further significant fragmentation of rural land would impact on the following:

- i) The environment, including any adverse effects of additional septic tank disposal and the need to avoid contamination of natural waters from stormwater and effluent particularly with respect to the Waikato River, Lake Rotokauri and Horseshoe Lake.
- ii) The desirability of providing an off-site wastewater treatment and disposal system for the locality where the intensity of development and environmental conditions warrant.
- iii) The ability of the local roading network to accommodate increased traffic flows and the effects on of nearby urban streets giving access to the rural area in terms of traffic capacity and amenity values.

- iv) The rural amenity values of the locality in the interim, including detracting from the rural landscape and the potential for conflict with established farming and related activities in terms of reverse sensitivity.
- v) The potential conflicts with existing and future infrastructural works.

e) Other Future Urban Issues

- i) Where network utility services are not available, whether any allotment will be self sufficient in respect of water supply and of a sufficient size to enable disposal of stormwater and wastewater effluent in a manner that avoids contamination of water resources including any cumulative adverse effects on ground water, the Waikato River and the gully, lake and wetland ecosystems.
- ii) Whether for any subdivision relating to boundary relocations between two or more adjoining existing lots, it can be demonstrated that the subdivision will not prejudice future resubdivision for urban purposes and that the configuration of and access to the allotments, complies with the other provisions of this rule.

7.4 Noise

Introduction and Issues

The emission of noise is an intrinsic part of most activities. While some noise is inevitable, the effects can vary dramatically depending on the volume and type (frequency) and on the nature of the receiving environment.

Noise is recognised as both a health and environmental issue. It can impact on health causing annoyance, sleep interference, stress and the disruption of concentration. Noise can also impact on the amenity of individual properties and the wider city.

Ambient noise levels vary throughout the city. Generally, low background noise levels are recorded in residential areas, while commercial and industrial areas and properties adjoining arterial roads all have higher ambient noise levels. While all occupiers of land have a duty to keep noise emissions from their site to reasonable levels, conflicts tend to occur at the interface between different areas, or where activities within an area generate levels of noise which are significantly above the background levels.

Nuisance noise is often associated with intermittent activities (eg. someone using a chainsaw), particularly in residential areas. The RMA provides specifically for the management of this noise through the excessive noise provisions.

The principal issues regarding noise in Hamilton are:

- **Noise from recreation, industrial, and commercial activities can adversely affect the amenity values of residential environments.** Residential areas have low ambient noise levels. Intrusive noise from activities within the area or from commercial, industrial or recreation activities adjoining residential areas can have a detrimental impact on the amenity values of the residential neighbourhood.

The growth of commercial activities in residential areas also has the potential to adversely effect residential amenity values through car noise, people visiting the site and operational noise.

Noise from construction work is a temporary but unavoidable part of development. However, it has the potential to adversely affect residential environments, particularly if intrusive noise is generated for long periods, especially at disruptive hours.

- **Within industrial and commercial areas, loud noise from adjoining activities can affect the health and safety of occupants in neighbouring buildings and the overall amenity values of the area.** Industrial activities have the potential to impact on adjoining activities. There is potential for industrial noise to pass into other buildings, thereby exposing workers to excess noise. This also has the potential to affect amenity values in industrial areas.

Conflicts between adjoining activities also occur in commercial areas. For example, trends towards inner city living means that the central commercial area is becoming increasingly popular for housing. This can lead to conflicts as the noise environment is greater than people anticipate and is not the same as traditional residential areas. As a result of this reverse sensitivity, activities in the central commercial area could be placed under pressure to achieve high standards of amenity by changing their operations to make less noise.

- **Noise of a temporary nature from adjoining residential activities can adversely impact on the low ambient noise levels in residential areas.** Usually, residential noise has minimal effects and consists of temporary disturbances such as lawn mowing, domestic appliances, parties or stereos. There has also been an increase in the spread of noise over time, for example at night and on weekends. These noise nuisances can affect the low ambient noise levels expected in residential areas and disturb people's enjoyment of their property.
- **Noise from transport can have an adverse effect on the amenity values of residents living close to the source.** Road traffic noise affects a large proportion of the community. Traffic noise is an increasing noise nuisance due to the growing numbers of vehicles on the roads. All city residents are exposed to some degree of traffic noise. However, a significant proportion may be exposed to levels which affect their health and enjoyment of their properties.

~~Airport noise is a growing noise issue for areas adjacent to the Hamilton Airport. While the Hamilton Airport is not located within Hamilton City, airport noise has a significant noise impact on Hamilton residents. A growth in flights from the airport means more airport noise is being produced, more frequently.~~

Objective 7.4.1 Noise from Non-Residential Activities

To protect the accepted ambient noise environment of residential areas from the adverse effects of noise arising from non-residential activities.

Policies

- a) Ensure that noise emissions from commercial, industrial and community activities received at the boundary of residential properties are consistent with the existing ambient noise environment.
- b) Control the noise emissions of non-residential activities, including home occupations, in residential areas to protect residential amenity values.
- c) Ensure that temporary large-scale recreation events which are held close to residential areas are organised and operated to minimise noise impacts on adjoining residential activities.

Reasons

Different land use activities generate different levels of noise. Management of the interface of the different areas is important to ensure that noise does not intrude into quieter areas and noise levels meet accepted minimum standards for the receiving environment.

Recreation facilities, licensed premises and places of assembly can cause high levels of noise. As many of these facilities are located next to residential areas, the overall effect is to reduce the amenity of the area. Similarly, non-residential activities such as home occupations in residential areas have the potential to cause a noise nuisance and are sometimes incompatible with the residential environment. The policies aim to ensure that these activities do not exceed accepted noise levels.

Large-scale recreation events also have the potential to cause noise nuisance. These events are inherently noisy, but because they are of a temporary nature they are more tolerable to the community. The policies encourage large recreational events to be planned in advance to minimise noise.

Objective 7.4.2 Inter-Activity Noise

To minimise adverse noise effects between different activities and properties to protect the amenity values of people in neighbouring properties.

Policies

- a) Ensure that activities in commercial and industrial areas do not produce excessive or unreasonable noise emissions that adversely affect adjoining activities.
- b) Require residential activities in commercial and industrial areas to provide sufficient acoustic treatment to ensure they achieve an acceptable internal noise environment.
- c) Discourage the adverse effects of temporary noise from residential activities to protect the existing ambient noise environment in residential areas.
- d) Encourage the mitigation of noise emanating from construction, maintenance or demolition work to reduce the adverse effects on the surrounding neighbourhood and adjoining activities.

Reasons

Industrial and commercial activities have the potential to impact on adjoining activities. There is a potential for noise to pass into other buildings exposing workers and occupants to excess noise. Within industrial and commercial areas, higher noise levels are accepted, but will be controlled to prevent unreasonable or excessive noise from transferring between sites.

An increasingly diverse number of activities has increased the potential for conflict in commercial areas, especially in the central commercial area. Noise from commercial activities not only affect neighbouring commercial activities, but also affects the growing number of residential activities. The

policy recognises that higher levels of noise occur in commercial areas and therefore residential activities will require acoustic insulation to achieve an acceptable internal noise environment.

Noise from other residential activities also has the potential to impact on neighbouring residences. The temporary nature of this noise (eg stereos, chainsaws, car repairs) make controlling it through standards in the District Plan difficult and will be dealt with through methods outside the District Plan.

Many construction activities are inherently noisy but methods are available which can minimise the emission and impact of this noise. Noise experienced during construction work is usually of a temporary nature and provided that noise at inconvenient times can be mitigated or avoided, reasonable levels of construction noise can be accommodated.

Objective 7.4.3 Transport Noise

To protect residential activities from the adverse effects of transport noise.
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Policies

- a) Minimise the potential effects of traffic noise on adjacent residential development from the operation of new arterial roads.
- b) Encourage the reduction of the adverse effects of traffic noise on adjacent residential development when existing arterial roads are being reconstructed or redeveloped.
- c) Ensure that new residential development adjacent to an existing arterial road and any habitable rooms above the first floor of residential developments adjacent to a new arterial road provide sufficient acoustic treatment to protect their residential noise environment.
- ~~d) Ensure that new residential activities achieve an acceptable internal noise environment where the dwelling is within the outer control boundary for airport noise to mitigate the adverse effects of aircraft noise.~~
- ~~e) Ensure, in conjunction with Waipa District Council, that aircraft operations from Hamilton Airport are carried out to meet the limits for noise generation established by the outer control boundary for airport noise.~~

Reasons

Road traffic is a predominant source of noise in the community. A significant proportion of the community may be exposed to levels which affect their health and enjoyment of their properties. The policies aim to limit people's exposure to traffic noise from arterial roads by reducing noise at the source.

The policies ensure that noise mitigation techniques are included during the construction of new arterial roads. Section 16 of the RMA places the onus of responsibility on the persons causing the noise to contain the noise at source or to limit its effects. However, this is not always possible, for example traffic noise on existing roads is difficult to completely contain at the source. For existing

arterial roads, the policies seek to encourage the installation of noise mitigation measures, such as barriers or quiet road surfaces when existing roads are being redeveloped or reconstructed.

The policies also recognise that noise mitigation of noise from the road itself is not always possible and where road traffic noise cannot be addressed, adjacent houses will require acoustic treatment to ensure that internal noise levels protect the residential environment.

The policies also require that the upper storey of any dwellings adjacent to new arterial roads should have acoustic treatment. Under the policies, the road builder has a responsibility to mitigate against noise where it affects the ground storey, however where upper storeys are to be constructed, the responsibility lies with the receiver. The protection of the upper storeys through the design and construction of the road would mean costly and tall barriers.

~~While the Hamilton Airport is not located within the Hamilton City boundary, airport noise extends into the Peacocke area of the city. Airport noise will be controlled by requiring the airport to operate within the noise levels set by the outer control boundary for airport noise. The impact of airport noise will also be reduced by requiring acoustic treatment of residential activities within the outer control boundary for airport noise. This will ensure consistency with neighbouring districts, especially Waipa District's District Plan.~~

Methods

The Noise objectives and policies will be implemented through the following methods:

District Plan

- **Noise Rules** - will be developed which relate to existing background noise levels in each zone and zone interface to control noise emissions.
- ~~**Hamilton Airport Protection Overlay** - will be used to identify the area of city affected by noise from the airport's operations and ensure that noise sensitive activities are protected.~~

Other methods

- **Council Works Programmes** - particularly in relation to roading works could be used to minimise traffic noise (eg. roading design and improvements).
- **Access Hamilton** - is a transport strategy and infrastructure works programme which promotes a wide range of transport options. It will encourage people to use alternative modes of transport to the motor vehicle so as to manage the rate of traffic growth and to assist in achieving environmental sustainability in the future.
- **Facilitation and Negotiation** - will be used to control 'unreasonable' noise at the source to ensure the 'best practicable option'.
- **Council Guidelines and other Educational Material** - could be developed for the community and businesses.
- **Enforcement** - will be used to control excessive and unreasonable noise, when necessary.

- **Hamilton City Council By-Laws** - will be developed and enforced to control noise nuisances such as the noise impacts of heavy vehicles.
- **New Zealand Standards** - will be followed for assessing noise emissions.

Anticipated Environmental Results

The following environmental results are anticipated:

- Overall number of noise complaints reduced.
- Existing ambient noise levels in residential areas maintained, especially at night.
- Noise levels from adjacent areas measured at the boundary of residential activities do not affect exceed the standards set.
- Traffic noise from both existing and future arterial roads will be mitigated to reduce disturbance to residents and to occupants of adjacent properties.
- Acceptable noise levels achieved inside dwellings adjacent to arterial roads, ~~within the outer control boundary for airport noise~~ and within commercial areas.

Rule 8.0 Definitions

In this plan, unless the context otherwise requires, each specified term has the meaning that follows:

Accessory Building - means a detached building, the use of which is clearly incidental to the use of the principal building or land use on or permitted on that site. A garage or carport which is attached to and forms part of a residential building shall be considered to be an Accessory Building.

Access Strip - means a strip of land created by the registration of an easement in accordance with Section 237B of the Resource Management Act for the purpose of allowing public access to or along any river, or lake, or the coast, or to any esplanade reserve, esplanade strip, other reserve, or land owned by the local authority or by the Crown (but excluding all land held for a public work except land held, administered, or managed under the Conservation Act 1987 and the Acts named in the First Schedule to that Act).

Accessway - means any passage way, laid out or constructed by the authority of the council or the Minister of Works and Development (or, on or after the 1st day of April 1988, the Minister of Lands) for the purposes of providing the public with a convenient route for pedestrians from any road, service lane, or reserve to another, or to any public place or to any railway station, or from one public place to another public place, or from one part of any road, service lane, or reserve to another part of that same road, service lane, or reserve.

Acoustic Design Certificate - means a certificate provided by an acoustic engineer, architect or other person(s) experienced in the field of acoustic design.

Active Frontage – means a façade of a building that includes windows and preferably an entrance to encourage activity and allow passive surveillance of the street, carpark or area of public space.

~~**Activities Sensitive to Airport Noise** – means residential activities, home occupations, education and training facilities, places of assembly, community centres, Marae, residential centres, visitor accommodation, health care services and hospitals.~~

Additions and alterations (in relation to the Heritage Items Overlay and Heritage Precincts Overlay) – means any work which involves the addition, alteration, removal and replacement of walls, windows or features which results in an external structural appearance different to its existing appearance, but does not include minor work or demolition of the item.

Adjacent – means lying near to, but not necessarily contiguous to.



Adjoining – means next to and joined with or is contiguous to.



Site 1 Site 2

Allotment - means

a) *Any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not:-*

- i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or
- ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or

b) *Any parcel of land or building or part of a building that is shown or identified separately:-*

- i) on a survey plan; or
- ii) on a licence within the meaning of Part I of the Companies Amendment Act 1964; or

c) *Any unit on a unit plan; or*

d) *Any parcel of land not subject to the Land Transfer Act 1952.*

Amenity Values - means 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.

Ancillary Flat - means a detached self-contained residential unit built in association with the principal residential unit on site and held in common ownership with that unit, or in the Industrial Zone means any residential accommodation ancillary to any activity undertaken on site.

Ancillary Retail Activity – means a retail activity which is incidental to but associated with the principal activity on the site, for example a factory shop selling goods produced on the premises.

Ancillary Use - means a use which is incidental to the main or principal use of a premise and which the main or principal use of the premises does not rely on to function or exist.

Apartment Building - means a residential building comprising two or more attached residential units not all of which are necessarily located at ground floor level (refer also to the definitions of Accessory Building and Residential Unit).

Approved Noise Abatement Measures - means measures including but not limited to acoustic screening or barriers, distance attenuation, placing non-residential land uses between the noise source and receiver, use of building design and construction, or any combination of the above.

Archaeological Site – means any place in New Zealand that either was associated with human activity that occurred before 1900, or is the site of the wreck of any vessel where that wreck occurred before 1900; and is or may be able, through investigation by archaeological methods, to provide evidence relating to the history of New Zealand.

Biodiversity - means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part: this includes diversity within species, between species, and of ecosystems.

Boundary - means the legal boundary of the site, or in the case of more than one detached dwelling on a site it is defined by the notional boundary of a complying unit site area.

Building - means any structure whether temporary or permanent, movable or immovable and includes a fence, boundary wall or retaining wall more than 2m in height. A building does not include the following: a) Swimming Pools and accessories, ornamental pools, fences, walls and other structures not roofed or enclosed, all not exceeding 2m in height. b) Pergolas and lynch gates, not roofed or enclosed, and not exceeding 3m in height. c) Steps, terraces and patios, not roofed or enclosed, and not exceeding 1m in height.

Building Line Restriction - means a restriction imposed on a site to ensure that when new buildings are erected, or existing buildings re-erected, altered or substantially rebuilt, no part of any such building shall stand within the area between the building line and the adjacent site boundary.

Clean Fill - consists of soil and hardfill material such as for paving and terracing which can be compacted and landscaped to become part of the landform, but excludes any fill containing any organic, pollutant, inflammable or hazardous components; and/or consists of material other than soil, sand, gravel, silt, or demolition material, and/or has an average particle size in excess of 200mm; and/or where the organic content of the fill consists of more than 5% of the total volume.

Clubrooms – means the premises used by a club and can include indoor courts for recreational activities.

Connectivity – connectivity in terms of subdivisional planning, means the ability to provide a well-connected local movement system which connects people to adjoining land, local facilities and surrounding neighbourhoods through interconnectivity of the local road, pedestrian and cycle networks. The starting point for a well connected development is the existing system of linkages into and through the site from the surrounding neighbourhood.

NB, for further illustrated advice on what constitutes connectivity refer to Rule Section 10.0.

Communal Open Space - means a quantity of landscaped land freely available to all residents on the site, exclusive of driveways, buildings, and private outdoor space of individual residential units.

Community Centre - means premises used for a range of functions of a community character such as; community, spiritual, educational, recreational, cultural, social, and ceremonial activities and include places of worship, community houses, and halls.

Comprehensive Residential Development - means a development of an integrated residential development, including residential units, open space, access and other activities. The development may include retirement villages and other group housing schemes with accommodation ranging from shared accommodation to individual residential units. Ancillary facilities could include medical care, recreation, or other communal facilities which offer exclusive service to the residents of the development.

Council - means the Hamilton City Council and includes any committee, subcommittee or person acting under delegated authority.

CPTED – stands for Crime Prevention Through Environmental Design which is a crime prevention philosophy based on the premise that *“proper design and effective use of the physical environment can produce behavioural effects that will reduce the incidence and fear of crime, thereby improving the quality of life. These behavioural effects can be accomplished by reducing the propensity of the physical environment to support criminal behaviour”*. (Crowe, 1991, Crime Prevention Through Environmental Design: Applications of Architectural Design and Space Management Concepts.)

Culvert - means a short length of pipe, open at both ends, that conveys water under an accessway or road.

Dairy – means the use of a building where the retail element does not exceed 100m² gfa in a residential area for the sale of day to day food requirements and associated household items. The majority of its trade must be derived from the sale of milk, bread, non-alcoholic beverages and other day to day convenience merchandise. Excludes any retail activity involving fried food cooked on the premises and the sale of alcohol.

Development - means the development of a site required to establish or operate a land use and shall include buildings, structures, ground works and landscape.

Detached Dwelling - means a detached residential building designed for, and occupied exclusively by, one household.

Dispensing Facility – means for drive through fast food or service outlets each single combination of an order point, a payment point, and a collection point and for service stations as a single petrol pump or a group of petrol pumps that are grouped on a single “island”.

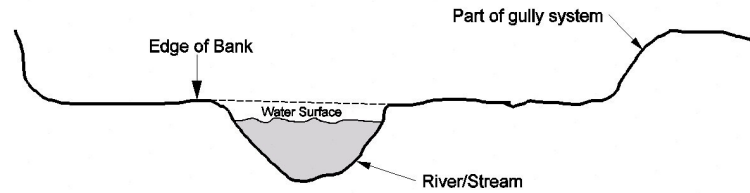
Earthworks - means the disturbance of the land surface by moving, removing, placing or replacing soil or earth, by excavation, cutting or filling operations, but excludes foundation piling.

Drive-Through Services – means any premises where goods and services are offered for sale to the motoring public primarily in a manner where the customer can remain in their vehicle. Drive-through services can include dispensing and associated storage of motor fuels and relation products, fast food outlets providing on demand meals prepared on the premises for consumption therein or taking away, the provision of servicing and running repairs for light motor vehicles and any other activity of a drive-through nature including those ancillary to the above.

Eave – means that portion of the roof extending beyond the exterior wall of a building having a maximum overhang of 500 mm.

Ecological Corridors - means natural corridors that provide for the movement of flora and fauna for a variety of purposes including feeding and breeding.

Edge of the Bank – means the topographical feature defined in the diagram below:



Education and Training Facilities - means premises where groups of people are given tuition and training on a formal basis and includes childcare facilities, schools, tertiary education institutions and specialised training facilities.

Effect - means:

- a) Any positive or adverse effect;
- b) Any temporary or permanent effect;
- c) Any past, present or future effect;
- d) Any cumulative effect which arises over time or in combination with other effects regardless of the scale, intensity, duration, or frequency of the effect, and also includes –
- e) Any potential effect of high probability;
- f) Any potential effect of low probability which has a high potential impact.

Emergency Removal – means removal of a significant tree provided it constitutes an imminent hazard to people and property in the opinion of a qualified arborist.

Environment – means:

- a) Ecosystems and their constituent parts, including people and communities;
- b) All natural and physical resources;
- c) Amenity values; and
- d) The social, economic, aesthetic and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.

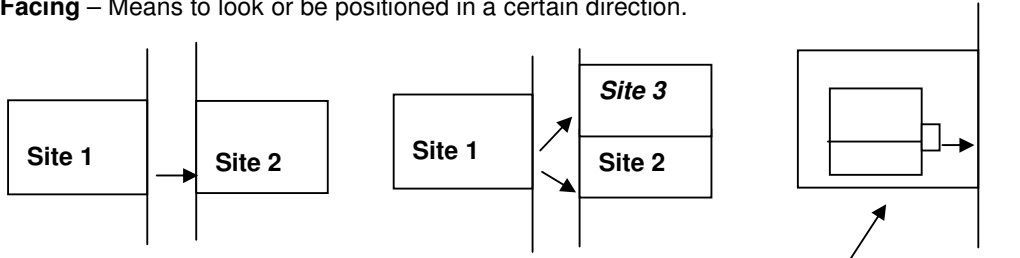
Event - means an activity involving relatively large groups of people engaged in recreational, leisure or similar pursuits either as participants or spectators and includes sports meetings, carnivals, craft or trade fairs, displays and the like.

Excavation, Modification and Disturbance (in relation to the Significant Archaeological, Historic and Cultural Sites Overlay) – means to dig into, or the removal of soil or other material from, the ground; or the movement of soil or other material on to or within the site which changes the existing profile of the landform; with the exception of those matters defined as Minor Work (in relation to the Significant Archaeological, Historic and Cultural Sites Overlay).

Exotic Vegetation - means vegetation which does not occur naturally in New Zealand (refer also to the definition of Indigenous Vegetation).

Expected Outcome - means in relation to any rule the environmental outcome expected from compliance with that rule.

Facing – Means to look or be positioned in a certain direction.



Factory Farming - means the commercial raising and keeping of plants or animals which is dependant on a high input of food or fertiliser from beyond the site and is contained in buildings or outdoor enclosures and includes boarding kennels or catteries.

Farming - means a land based activity having as its primary purpose the commercial production of any livestock or vegetative matter, and includes bee-keeping, horse training agistment, but excludes forestry and factory farming.

Fence – means any structure, intended to be a permanent division, screen or barrier, but shall not include a post wire fence or temporary fence.

Flood (for the purposes of events for motorised water activities on the Waikato River) - means a river level of $\geq 14.0\text{m}$ above mean sea level (Moturiki Datum) measured at the Waikato Regional Council (Environment Waikato) Victoria Street Bridge Recorder Station.

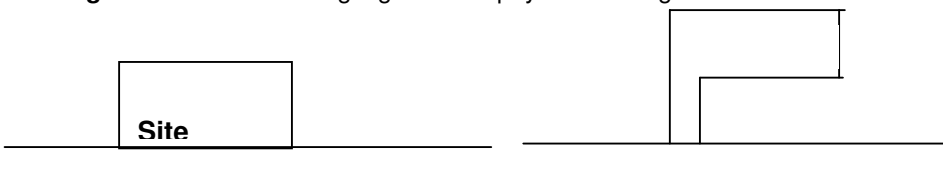
Floor Area Ratio - means the ratio between the gross floor area of a building and the net area of the site which for the purposes of this definition comprises one or more lots in permanent contiguous ownership and occupied exclusively by the development to which the requirement applies.

Forestry - means the establishment, management and harvesting of forest or tree plantations, of greater than 1 ha in area of contiguous planting, for commercial gain and extraction of timber therefrom but does not include saw-milling or other timber processing.

Front site – means a site having one frontage or more frontages to a road.

Frontage - means that portion of the boundary of any lot which is also the boundary of an existing road, or road to be vested or otherwise legalised as a condition of subdivision consent. For the purpose of this definition 'road' does not include any Motorway, Service Lane or Accessway.

Fronting – means a site having legal and or physical frontage or access to a road.



General Recreation - means any active sports or games or recreational pursuits for participants and/or spectators and the fields necessary to accommodate them but excludes motorised vehicle sports.

Good Subdivision Guidance – means written or illustrative material contained in Council documentation. This may include Guidance contained in Rule Section 10.0, the Hamilton City Development Manual, Best Practice Design Guides or other educational material prepared by Council.

Green Network - means a network of open space corridors throughout the city, consisting of both public and private land that supports the natural environment and ecological processes. The Waikato River and associated gully system form the backbone of the Green Network.

Gross Floor Area (gfa) - means the sum of the gross floor area of all floors of all buildings on a site measured from the exterior faces of the exterior walls or from the centrelines of walls separating two buildings. Gross floor area shall:

- a) Include elevator shafts, stairwells and lobbies at each floor and mezzanine floors and balconies;
- b) Exclude any provided car-parking, loading and servicing areas and access thereto and building service rooms containing equipment such as lift machinery, tanks, air conditioning and heating plants.

Gross Leasable Floor Area (GLFA) - means the sum of any floor areas (within the external walls of buildings designed for tenant occupancy and exclusive use including both freehold and leased areas. It includes any stock storage or preparation areas whether exclusive or not but excludes the following areas where these are common and not designed for rental: liftwells and stair wells including landing areas, corridors and malls, building service rooms, required parking areas.

Groundcover - means plants of less than 0.5m metre in height which are not turf grass.

Ground Level - Refer to Natural Ground Level.

Habitable Room - means any room in a dwelling apart from those used solely for the purposes of a entrance, passageway, toilet, bathroom, laundry, garage or storeroom.

Hazardous Facility - means any activity involving hazardous substances and their sites where hazardous substances are used, stored, handled or disposed of, and any installations or vehicles parked on site that contain hazardous substances. Hazardous facility does not include:

- the incidental use and storage of hazardous substances in minimal domestic quantities;
- fuel in motor vehicles, boats and small engines;

- retail outlets for the domestic scale usage of hazardous substances (i.e. supermarkets, hardware shops, pharmacies, home garden centres);
- gas and oil pipelines including necessary incidental equipment being main line valves, regulator stations and meeting equipment; and
- trade waste sewers.

Hazardous Sub-Facility – means any activity involving hazardous substances, including vehicles for their transport and the land or building on or within which hazardous substances are used, stored, handled and disposed of, where that activity is more than 30 meters from any other activity involving the use, storage, handling or disposal of hazardous substances within that same site. For the purpose of this definition any activity and other activity includes a) individual departments, sections, units or buildings of an activity and b) does not include those activities which are excluded from the definition of a hazardous facility.

Hazardous Substances – means, unless expressly provided otherwise by regulations, any substance with one or more of the following intrinsic properties:

- Explosiveness
- Flammability;
- A capacity to oxidise;
- Corrosiveness;
- Toxicity (including chronic toxicity)
- Ecotoxicity with or without bioaccumulation; or
- which in contact with air or water (other than air and water where the temperature or pressure has been artificially increased or decreased) generates a substance with any one or more of the properties specified above.

Health Care Services - means services relating to physical and mental health and welfare performed by duly qualified practitioners or by persons in their employ and includes services provided by medical practitioners or by persons in their employ including surgical procedures and day patient care, dentists and veterinary surgeons but excludes a hospital.

Height - in relation to maximum height of a building means the vertical distance between:

- a horizontal plane through the highest point of the roof, excluding service rooms containing equipment such as lift machinery, tanks, air-conditioning and heating plants, aerials and dish's as permitted in Rule 3.3; and chimneys, flues and similar projections of less than 1m² in area and projecting not more than 2m above maximum permitted height ; and
- a horizontal plane through the mean of the highest and lowest point of the natural ground level along the relevant external wall of the building provided that any calculated mean height shall not exceed the maximum permitted height.

Height Control Plane - means a surface through which no part of a building other than chimneys, flues and similar projections not exceeding 2m in height and 1m² in area or an aerial as permitted in

Rule 3.3 may protrude. It is defined by drawing height control lines from all points on the boundaries of an allotment or unit site area. Such lines are to commence at a specified vertical distance above the natural ground level at the boundary, point into the site at right angles to the boundary and rise at a specified angle.

Heliport - means a facility for the landing, take-off, parking, storage, refuelling and routine maintenance of helicopters including associated buildings, but does not include facilities for overhaul or long term engine testing.

Heritage Fabric - means all the physical material of a building, object, site, place or area that contributes to the heritage value.

Heritage Item - means a building, structure, object, site or place and all elements of that item, which have been identified as having heritage value.

Heritage Record – includes photographic records of the interior and exterior of the item, and any land title records, structural architectural plans, and building or site survey plans which currently exist relating to the item. Heritage records are required to be of archival quality and will become the property of the Council once submitted.

High Intensity Sign - means any flashing or moving animated or illuminated sign, or any other active sign.

High Noise Route - means a major or minor arterial road identified in the high noise route map (refer Appendix 5.1-I.) The L10 18 hour dBA levels are either measured or predicted using the criteria laid down in UK Department of the Environment, Welsh Office - "Calculation of Noise Levels".

Home Occupation - means an occupation, or craft, or profession which is incidental to the residential use of the site. The generated effects are not significantly different from those of other permitted uses in the zone.

Household - means a person or group of people related or unrelated who reside together and interact on a daily basis to maintain a self-contained housekeeping unit.

Impermeable Surfaces - means surfaces such as roads, roof tops, footpaths, patios or highly compacted soil that are not vegetated and do not infiltrate run-off.

Indigenous Vegetation - means vegetation that occurs naturally in New Zealand or arrived in New Zealand without human assistance.

Industrial Activity - means any industrial activity including all types of processing, manufacturing, bulk storage, warehousing, service and repair activities.

Informal Recreation and Ancillary Buildings – means any activity whose primary aim is the enjoyment of leisure of a primarily non competitive casual nature and includes amenity and

conservation plantings, children's play areas, shelters, public toilets and other buildings necessary for the maintenance of the park.

Integrated Retail Development (in relation to Rule 5.2 Parking, Loading and Access) – means a development of retail activities on a site which are developed and managed as a comprehensive entity, and which has combined facilities (ie. services areas, loading spaces and parking) which are accessible from, and can be utilised by, all the individual tenancies of the development.

Jetty – means a landing pier attached to the bed of a lake or river.

Ldn - The day night noise level which is calculated from the 24 hour Leq with a 10 dBA penalty applied to the night time Leq (2200hr -0700hr).

Leq - The time averaged noise level (ie. the constant noise level which would contain an equal amount of sound energy to the actual fluctuating noise level).

Lmax - The maximum noise level recorded during the particular measurement period. Lmax is generally used to assess the potential sleep disturbance of individual noise events.

L10 (18hr) - means the sound level in dBA which is exceeded for 1 tenth of a period of one hour and L10 (18hr) is the arithmetic mean of all the levels of L10s during a period of 0600hr – 2400hr .

Lake - means a body of fresh water that is entirely or nearly surrounded by land.

Landscape Design - means the functional layout and design of a site involving the planned use of open space, landform, plant-form, water and artificial features for the purpose of beautifying or enhancing a site for human use and enjoyment.

Licensed Premises - means land, buildings or part of a building used principally for the serving of liquor, for consumption on the premises. Licensed premises include (but are not limited to) hotels, taverns, wine bars and clubs (both chartered and night).

Light Industry - means manufacturing, storage, service and repair activities which do not involve the use of heavy machinery, are carried out indoors and are unlikely to give rise to significant adverse effects beyond the site and are generally of a small scale and includes printing works, furniture manufacture, car repairs, light engineering, tradesmen's depots and the like.

Local Movement System – means any type of resource capable of moving people or vehicles within the transport network and can include roads, pedestrian/cycle accessways, reserves and the River.

Low Flow (for the purposes of events for motorised water activities on the Waikato River) - means a river level of $\leq 11.80\text{m}$ above mean sea level (Moturiki Datum) measured at the Waikato Regional Council (Environment Waikato) Victoria Street Bridge Recorder Station.

Low Intensity Sign - means a painted or similar sign, or static illuminated sign, device or symbol.

Manoeuvring Area - means that part of a site used by vehicles to move from the vehicle crossing to any parking space or loading space and includes all driveways and aisles and may be part of an access strip.

Marae – means a complex including meeting house, dining hall, educational and other associated facilities and residential accommodation associated with the marae.

Margins - means the land/water boundary of any permanent, natural watercourse, lake or wetland.

Means of Compliance - means those standards, terms, restrictions, prohibitions, classifications and other provisions forming a rule.

Minor Work (in relation to the Heritage Items Overlay and Heritage Precincts Overlay) – means work for the purpose of restoration and repair of any original structure including the repair of materials and replacement of minor components where these are beyond repair or are missing. The replacement should be of original or similar material, colour, texture, form and design as the original it replaces.

Minor Works (in relation to roads) – means construction, repair and maintenance and other operational roadworks of a minor nature undertaken on the transportation roading network to effect the safe and efficient functioning of a road.

Minor Work (in relation to the Significant Archaeological, Historic and Cultural Sites Overlay) – means the maintenance of existing site landscape features such as gardens, lawns, and planting beds; but excludes the development or re-development of the site which involves excavation, modification or disturbance of the ground.

Motorised Vehicle Activity – means any activity involving a motor driven vehicle and can include cars, motorbikes and karts; but does not include modelled or scaled down versions of vehicles operated through remote control.

Motorised Water Activity – means any activity involving a motor driven vessel and can include jetboats, water skiing, jet skis, hovercraft and the use of outboard motors, but does not include modelled or scaled down versions of boats operated through remote control.

Multi purpose facilities for international sports, events and functions – means land and buildings that provide for:

- International standard playing surfaces; and
- International standard facilities for use by professional sports codes; and
- International standard facilities for televised sports and events broadcasting; and
- Spectator facilities including but not limited to stands, seating, corporate and entertainment boxes, audio-visual screens; and
- Places of assembly including function rooms and facilities for concessions to serve food and refreshments including liquor; restaurants, licensed premises and catering services, entertainment, exhibitions and conferences;

and may include

- Retail activities;
- Offices;
- Visitor Accommodation; and
- Out catering service to serve venues, facilities and functions beyond Waikato Stadium and Seddon Park.

Advice Note: 'Event' excludes the use of the playing areas for training, practice and rehearsals at night time, notwithstanding that lights and floodlights may be used.

Natural Ground Level - means the lowest of:

- a) the level of the ground at the time the Section 224 certificate is issued; or
- b) the finished level of the ground as the result of building construction work; or
- c) the finished level of the ground as the result of any subsequent works.

Natural Hazard - means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment.

Natural Values – in terms of this District Plan incorporates the city's key natural features – the Waikato River corridor and gully systems, peat lakes, wetlands and associated peatland, remnant and regenerated indigenous vegetation, surface and groundwater resources and the ecosystems and habitats that depend on these natural features. It also includes the landscape and visual qualities associated with these features.

Natural Watercourse - means a continually or intermittently flowing body of fresh water including streams but not including any artificial watercourse.

Net Site Area – means the area of the site, excluding any entrance strip with a width of 6m or less, or any right of way, private way or access lot.

Network Utility - means a service provided by a network utility operator as defined under Section 166 of the RMA for the purposes of supplying water, energy, sewage disposal, telecommunications and radio communications, broadcasting, streetlighting, navigational aids or similar services

Non-Industrial Activity - means all activities other than industrial activities.

Non-Residential Activities - means all activities other than residential activities.

Noxious Plant Pest - means those plant species listed as being noxious in the Regional Pest Management Strategy.

Offices - means premises used for an administrative or a professional activity but excludes Health Care Services.

Outdoor Living Area - means an on-site outdoor area for the exclusive use of each residential unit, free of any building or carparking, but which may include the area beneath eaves, and uncovered decks and terraces regardless of height.

Papakāinga – means the use and occupancy of multiple-owned land by the Maori land owners involving the development of the land for residential units and other buildings necessary to enable landowners to live on their land.

Park - means a defined and named area of recreation land administered and/or owned by Hamilton City Council.

Parking Lots and Parking Buildings – means those parking areas established specifically to be used for carparking and which are not provided to fulfil the parking requirements of any other activity in the District Plan.

Peat Lakes – means lakes which are influenced by the presence of extensive areas of peat within their catchments and dystrophic characteristics being relatively low in nutrients, low in pH and their waters stained by dissolved humic compounds.

Performance Assessment - means in relation to any rule those provisions intended to guide Council in determination of resource consents.

Permeability – the extent to which an environment provides choice and ease of movement through it, from place to place. The starting point for a permeable development is the existing system of links into and through the site from the surrounding neighbourhood.

Places of Assembly - means land or buildings which are used principally for the public or private assembly of persons for cultural, entertainment, recreation, leisure, education or similar purposes. They include conference centres, seminar rooms, gymnasiums, public halls, theatres and cinemas, display galleries and museums.

Planting - means the provision of trees, shrubs, and/or groundcover plantings, and may include any other vegetative forms so arranged as to improve visual amenity.

Pontoon – means a landing pier that floats on the surface of a water body and is attached to the bank of the water body.

Primary Frontage – means a defined area within a suburban centre where specific provisions apply.

Principal Rooms - include kitchens, living rooms and dining rooms and bedrooms.

Produce Stalls - means any land, building or part of any building that is used for the sale, to the public only, of goods grown or produced on the property on which the produce stall is sited.

Proper Speed - means speed of a watercraft discounting the contribution of any current to that speed.

Protected Tree – means any tree/shrub or group of trees or shrubs listed in the Significant Tree Register of this District Plan (Appendix 2.2-1)

Public Space – means the parts of the neighbourhood or city (whether in public or private ownership) that are available without charge for everyone to use or see. This can include streets, squares, parks, reserves and green corridors.

Public Transport Facility - means land and buildings, used for scheduled passenger transport services. This may include bus bays, taxi ranks, drop off and pick up points, cycle parking, shelters, waiting rooms, ticket office, information centre, luggage lockers, public toilets, showers, changing rooms and ancillary activities³.

Railway Houses – means pre-cut timber detached dwellings constructed in the 1920's by the Railways for railwaymen and their families and located in the Frankton Railway Village.

Rear Site – means a site which is situated generally to the rear of another site and has frontage or legal access to a road or private road.

Reinstatement - means work carried out to restore the exterior of a building to a completed and integrated standard and appearance. This includes the reassembling of the building as a unified whole, the replacement of defective exterior materials with materials in keeping with the character of the building, and exterior repainting.

Relocated Building – means a building originally built off site which is repositioned onto a new site, but does not include new buildings or accessory buildings.

Remnant or Regenerated Indigenous Vegetation - means vegetation dominated by indigenous species or with a substantial component of indigenous species i.e. species that are native to the Hamilton Ecological District (McEwen, M.C, 1987: *Ecological Regions & Districts of New Zealand*, Department of Conservation, Wellington). This may be indigenous vegetation that remains after a larger area has been incompletely cleared, e.g. Claudelands Bush which still contains some original or old growth trees. It also includes vegetation dominated by indigenous species that has developed following major disturbance or destruction of the original vegetation, e.g. the second or third growth vegetation which has regenerated naturally but which may be essentially different to the original vegetation, e.g. the induced kanuka forest of some Hamilton river scarps and terraces. It does not include plantations of indigenous species.

Removal (of a significant tree) – means the physical clearance or cutting down of a significant tree.

Residential Activities - means the use of land and buildings by people for living accommodation (whether or not any person is subject to care or supervision.)

Residential Building - means any building or part thereof used, or intended to be used for human habitation.

³ ENV-2009-AKL-000045

Residential Centre - means land or buildings used for long term or emergency residential accommodation occupied by five or more persons in addition to staff and not constituting a household. They include boarding houses, hostels, and other long stay accommodation, and resthomes or other residential accommodation which provides board and lodging for managed care and/or support. They exclude visitor accommodation, hospitals and secure units.

Residential Unit – means the self-contained residence of a single household.

Restaurant - means premises where meals are sold principally for consumption on the premises , whether or not the premises are licensed under the Sale of Liquor Act.

Restoration - means returning the existing physical material of heritage resources to a known earlier state.

Retail Activities - means the use of land or buildings where goods and services are offered or exposed to the general public for sale, hire or utilisation but excludes restaurants, licensed premises, offices or drive-through services as herein defined.

RMA - means the Resource Management Act 1991 and all subsequent amendments.

Road - means any street or highway.

Road Boundary - means any boundary of a site abutting a legal road (other than an accessway or service lane) or contiguous to a boundary of a road designation. Frontage or road frontage shall have the same meaning as road boundary.

Rotokauri High Density interface Area – means any land facing the Rotokauri Neighbourhood Green and/or Rotokauri Suburban Centre Primary Frontage Area or separated from it only by a road reserve, walkway or cycleway. The Rotokauri High Density Interface Area is to be the depth of 1 dwelling unit and any associated carparking, servicing and outdoor living areas. As illustrated in the Rotokauri Neighbourhood Centre Concept Plan.

Rural Industry - means any industry ancillary to rural activities which is dependent primarily on the direct handling of raw produce or supply of services to farming, horticulture, factory farming or forestry and includes: packing and storage of produce, engineering workshops for the repair and servicing of farm equipment, depots for rural transporters and farming contractors, depots for the receipt of produce for preparation for market, agricultural, horticultural, or silvicultural research, horticultural services and primary processing of horticultural produce, but excludes saw mills, abattoirs, wool scouring and the like.

Service Areas - means an area of outdoor open space provided for the service needs of the occupants of a residential unit; commercial; industrial; community or recreational activity.

Service Industry - means premises occupied by activities involving light manufacturing or the repair or servicing of goods of a light nature and includes repair of household appliances, electronic

equipment assembly and servicing, craft manufacture and clothes manufacture but does not include car repairs, furniture making and the like.

Service Lane - means land dedicated as service lane which is used from time to time for the vehicular servicing of adjacent properties.

Setback – means the distance from the boundary, specified object, or building line restriction in respect of a road widening, which is required to be free, unoccupied or unobstructed by buildings from the ground upwards, with the exception of eaves and, except as otherwise provided for in this District Plan. Front and rear setbacks extend across the full width of the site and side setbacks lie along the length of a side boundary between the front and rear setbacks.

Shared-use Accessway – means, for the purpose of this District Plan an accessway to provide for the movement needs of the following user groups, being pedestrians, including the use of motorised disability equipment (e.g. mobility scooters) and cyclists.

Shopping Frontage - means the principal face of a commercial building which is intended to be occupied by retail activities or which adjoins other such buildings and which is on or adjacent to the street frontage or which faces a customer car parking area with 15 or more car spaces.

Shrub - means a perennial plant with a mature growth height of less than 3 metres but greater than 0.5 m.

Sign - means a display or device intended to attract attention and which is visible from any public place or any nearby sites and includes those affixed to, painted on or incorporated within the design of buildings and any structure which supports the sign.

Site - means a physical area of land with defined legal boundaries comprising one or more allotments, or part of an allotment, related to a particular development, application, proposal or use. A site comprising more than one allotment shall be held in such a way that separate allotments or part of an allotment cannot be disposed of separately.

Site Coverage - means that portion of a site which is covered by buildings, whether principal or accessory, excluding eaves and uncovered decks and terraces. The net site area shall be used for the purpose of calculating coverage.

Special Event - means an event as herein defined which involves such large groups of people or is of such a character that the normal requirements relating to matters such as noise, parking and the like cannot be complied with.

Streetscape – means the physical features such as buildings, landscaping, street furniture and other elements that contribute to the appearance or view of a road.

Structure Plans – means a plan that sets out the development concept for longer term growth and the likely extent of future infrastructure provision within a locality. It may set out a logical sequence and timing for provision of infrastructure and establish the principles on which development levies are to be paid as part of a subdivision and/or development.

Structures Associated with the Generation, Storage or Transmission of any Network Utility – means any pole, mast, aerial, dish, or equipment shelter which is used for the transmission, switching, measurement, or regulation of any approved Network Utility.

Temporary Sign – means a sign that is not reflectorised, illuminated, flashing or moving and the sign is used to:

- Advertise that the property is for sale, and is displayed only while the property is on the market; or
- Advise of any construction project being undertaken on the site; or
- Inform of a public election; or
- Inform for the purpose of public notification; or
- Advertise an event associated with any recreational or community activity.

Transplanting (of a significant tree) – means the relocation of a significant tree to a new site in accordance with standard arboricultural practice.

Transport Depot – means land and buildings used principally for the receiving, dispatching or holding of goods or passengers in transit by road and any associated provision for vehicles.

Tree (in relation to Planting Section) - means a large perennial plant with a woody trunk with a mature growth height of greater than 3 metres or with a trunk diameter at its base of greater than 100mm.

Trimming and Maintenance (of a significant tree) – means detaching foliage, branches, and roots from a significant tree.

Unclean Fill – means any fill containing any organic, pollutant, flammable or hazardous components; and/or consists of materials other than soil, sand, gravel, silt, or demolition material, and/or has an average particle size in excess of 200mm; and/or where the organic content of the fill consists of more than 5% of the total volume.

Unit Site Area - means a defined area of land associated with a residential unit which complies with the provisions of Rule 6.1.5 b).

Upper Floor Level - is measured where the height of the ground floor level is 2.5m or more at any corner of external foundations of the building.

Vegetation Removal (in relation to Rule 2.1) – means removing any vegetation of any height including the root structure of such vegetation provided that this definition shall not include emergency removal of protected trees and/or removal or alteration of vegetation necessary to avoid injury to persons or imminent danger to property or works undertaken by regional or territorial authorities for erosion control, flood management, or plant pest management purposes.

Vehicle Crossing - means the formed and properly constructed vehicle entry/exit point from the carriageway of any road up to and including that portion of the road boundary of the site across

which a vehicle entry or exit point is permitted by this Plan and includes any culvert, bridge or kerbing.

Visitor Accommodation - means any land or buildings used for day to day accommodation of five or more visitors and includes motels, holiday or tourist flats, backpackers accommodation, motor or tourist lodges. It excludes camping grounds and motor camps and any restaurants or other non-residential activities available for use by members of the public.

Waahi Tapu - means a place sacred to Maori in the traditional, spiritual, religious, ritual, or mythological sense.

Warehouse - means premises used for the receipt, storage and disposal of materials, articles or goods destined for a retail outlet, trader or manufacturer.

Wetland - means permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

Work (on a significant tree) – means the erection of any structure within the dripline or over the top of the tree, any excavation within the dripline of the tree, and any paving, access, sealing, or modification of soil or ground level within the dripline of the tree.

Hearing Track Changes: 23/3/11

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