

## **PART 14 GENERAL DUTY REGARDING ADVERSE EFFECTS**

### **14.1 STATUTORY DUTY**

Section 17 of the Resource Management Act 1991 places a duty on every person to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by, or on behalf of, that person. This duty applies whether or not the activity is being carried on in accordance with:

- a Rule in this District Plan or a Rule in a Regional Plan,
- a resource consent, or
- an "existing use" right.

### **14.2 ADVERSE EFFECTS**

As part of applying the above duty, Section 14.5 outlines generally what constitutes *adverse effects* on the environment throughout the Franklin District and appropriate mitigation or avoidance measures.

Notwithstanding this, Section 14.5 is not a rule and does not change the status of any activity as listed in the District Plan. Particular activities may produce some effects which cannot be mitigated, as otherwise the activity could not be reasonably carried on.

In particular, people living in the *Rural Zone* must expect and accept a certain level of odour, noise and other effects that are characteristic of rural activities. The District Council does not want to place unnecessary or unreasonable controls on the effects of these activities. People should not however be expected to accept undue nuisance or health hazards. A similar consideration applies to activities in the other Zones.

### **14.3 MONITORING**

The District Council will monitor the state of Franklin's environment, on an ongoing basis, to determine whether adverse environmental effects are arising from any activity. This will include a consideration of compliance or consistency with Section 14.5.

### **14.4 ENFORCEMENT**

Where adverse effects are arising or are likely to arise from an activity, the Act makes provision for action to be taken to deal with those effects. Action may be taken as a result of the Council's monitoring programme or in response to complaints.

*Abatement notices or enforcement orders* can be used, requiring people:

- *to stop or not to commence an activity* - where the activity is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it adversely affects the environment; or
- *to do something to avoid, remedy, or mitigate any actual or likely adverse effect on the environment* - if the effect has been caused by them or on their behalf.

Abatement notices and enforcement orders will generally only be used if other remedies, including consultation with those responsible for the offending activity, have failed to resolve the adverse effects.

District Council *Enforcement Officers* will advise people of their duties under the Act and the District Plan - including Section 14.5. And to the extent of their knowledge, experience and available time will advise of ways to avoid, remedy, or mitigate adverse effects on the environment.

**14.5 GENERAL DUTY TO ADDRESS ADVERSE EFFECTS**

Every person should take all necessary action to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by them or on their behalf.

**14.5.1 ODOUR AND DUST**

All buildings and areas associated with an activity (including areas for the treatment and/or disposal of wastes and composting) should be designed, laid out and used in a way that does not produce odour or dust which is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on people, places or resources.

Measures are to be adopted to ensure that emissions of odour and dust are kept to a minimum, and do not exceed a reasonable or tolerable level.

All activities are to comply with the Resource Management Act 1991, the Health Act 1956 and all other relevant statutory requirements relating to air discharges.

**14.5.2 NOISE**

In conducting any activity, including activities in relation to the surface of water in rivers and lakes, and in designing and laying out all buildings and areas associated with an activity, measures should be adopted to ensure that the emission of noise from the activity does not exceed a reasonable or tolerable level.

Notwithstanding compliance with any levels stated in this Plan, the type, characteristics, and frequency of sounds should be such that they do not detract from the established *amenity values* of, or cause an adverse effect on, any other property or the occupants thereof. Similarly, sounds which are typical in a given area, and which may not comply with stated levels, will need to be tolerated by all people (eg lawnmowers in *Residential* areas, and small planes in *Rural* areas).

**14.5.3 DISCHARGES**

No activity should cause or have the potential to lead to the unauthorised or uncontrolled discharge of any contaminant (including animal wastes) into surface or ground water, or onto or into land, or into the air, in ways or under circumstances which may result in that discharge having a detrimental effect on the natural qualities or characteristics, or the natural functioning, of that water or land or air. If any discharges are proposed, the appropriate consents must be obtained from the relevant Regional Council unless provided for in a Regional Plan.

Contaminants, or discharges having contaminating potential, should be stored or stockpiled in a manner that prevents them from washing or permeating into the ground, water and/or stormwater drains, or dispersing into the air. They should be stored such that any leak or spill is promptly and easily detectable, and readily attended to.

**14.5.4 VERMIN, FLIES AND OTHER PESTS**

All buildings and areas associated with an activity (including areas for the treatment and/or disposal of wastes and composting) should be designed, laid out, used and maintained in a way that does not attract or provide a nesting, breeding or feeding ground for vermin, flies and other pests.

All potentially contaminating material (including food and animal wastes) is to be stored or stockpiled in a manner that does not attract or provide a nesting, breeding or feeding ground for vermin, flies and other pests.

#### **14.5.5 TRAFFIC SAFETY**

All accesses, including crossing points, should be located, designed and constructed so that vehicles can enter and leave a site in a safe and convenient manner and without causing adverse effects on the safe and efficient operation of roads.

Signs should not conflict with the colour combinations or shape of traffic control signs. Where applicable, signs should comply with the Transit NZ Bylaw 1987/3 (effective 26 February 1987 - it requires all signs in the legal state highway road reserve to obtain consent from the New Zealand Transport Agency).

#### **14.5.6 HERITAGE PROTECTION**

No person is to engage in any activity that would cause the modification, damage, or destruction of any:

- archaeological site; or
- historic place or historic areas, waahi tapu or waahi tapu areas that are subject to a Heritage Covenant or a Heritage Order; or
- any other place, object, tree, or building Scheduled in Appendix Two of this Plan, without first obtaining an authority or consent from the New Zealand Historic Places Trust, or the relevant Heritage Protection Authority, or the Council, as the situation may require.

#### **14.5.7 REFUSE**

Any debris, litter, or rubbish which is or could be dangerous, unsightly or offensive should be disposed of appropriately. Generally this will mean disposal to or in a properly designated landfill or refuse collection area. It must not be deposited within any road reserve or waterway, or be allowed to drift onto neighbouring properties.

#### **14.5.8 HAZARDOUS SUBSTANCES**

All chemicals, fuels and other potentially hazardous substances are to be stored in accordance with Dangerous Goods Regulations (or any other controlling legislation or regulation), with regard to safety, reactivity and security. Bunding is to be provided where appropriate, and in particular fuel storage facilities should be designed and constructed in a manner that minimises the risk of contamination of water and soil.

#### **14.5.9 ILLUMINATION**

Any lighting associated with an activity is to be located, and directed or screened so as not to create a nuisance to neighbouring activities, or cause a traffic hazard. Where there may be an adverse effect on the safe and efficient movement of traffic on State Highways and Motorways, the New Zealand Transport Agency should be consulted prior to the activity commencing.

#### **14.5.10 SPRAY DRIFT**

Agricultural and horticultural chemicals are to be applied using methods, and during weather conditions, that avoid or minimise drift, or the likelihood of drift, onto neighbouring properties.