

## 28. Moana Pool

### 28.1 Introduction

Moana Pool sits within the Town Belt, just below Dunedin's hill suburbs, at 60 Littlebourne Road. The pool is owned and operated by the Dunedin City Council and has occupied the site since 1964. It provides a range of recreation facilities, including an Olympic sized pool, a leisure pool, learner's pool, dive/lap pool, water slides, a gymnasium and various function and meeting rooms. There are massage and physiotherapy facilities on-site, as well as an early childhood centre. Expansion of the facility may occur within the next 10 years.

The site is bordered by land zoned recreation and general **{MF cl.16}** residential 2 **{MF cl.16}**. While the facility itself is considerably larger than surrounding properties, it backs onto a steep bush clad area and is an accepted part of the local environment. There is a high level of amenity in the area given its location within the Town Belt, and parts of the site are densely vegetated.

The zone recognises the existing uses of the Moana Pool site and provides certainty to the community regarding what land use activities can be expected to occur on the site, while appropriately managing any adverse effects that may occur, including effects on the Town Belt, residential zones and transport network.

## 28.2 Objectives and Policies

### Objective 28.2.1

Moana Pool is able to operate efficiently and effectively

Policy 28.2.1.1	Enable major recreation facility activity in the Moana Pool Zone.
Policy 28.2.1.2	Provide for activities that are ancillary to major recreation facility activity where they are designed and operated in line with Objective 28.2.2 and its policies.
Policy 28.2.1.3	Only allow activities that are not ancillary to major recreation facility activity where all of the following apply: <ol style="list-style-type: none"> <li>the activities are related to or support Moana Pool, or have other operational requirements that mean they need to locate in the zone;</li> <li>they will support the efficient and effective operation of Moana Pool;</li> <li>they are not more appropriately located in another zone in line with Objective 2.3.2 and its policies; and</li> <li>they are designed and operated in line with Objective 28.2.2 and its policies.</li> </ol>
Policy 28.2.1.4	Enable land that is surplus to the needs of Moana Pool to transition to the Recreation Zone, so that future development <del>can</del> <u>will</u> <b>{PO cl.16}</b> be managed in accordance with the objectives and policies of that zone.
Policy 28.2.1.5	Only allow subdivision <u>activities</u> <b>{PO cl.16}</b> where: <ol style="list-style-type: none"> <li>it is <u>they are</u> <b>{PO cl.16}</b> in accordance with the provisions of the Recreation Zone; and</li> <li>the subdivision does not adversely affect the efficient and effective operation of Moana Pool.</li> </ol>

### Objective 28.2.2

Land use activities and development necessary for Moana Pool to meet the reasonably foreseeable needs of the community is enabled, while ensuring development:

- achieves a good standard of on-site amenity for staff and visitors; and
- maintains or enhances the residential amenity of surrounding sites as far as practicable.

Policy 28.2.2.1	Require buildings and structures to be of a height and setback from boundaries that ensures there are no more than minor effects on the sunlight access of current and future residential buildings and their outdoor living spaces.
Policy 28.2.2.2	Require development to maintain or enhance neighbourhood amenity by ensuring service areas are not visible from ground level outside the site.
Policy 28.2.2.3	Require landscaping that provides a reasonable level of streetscape amenity along the boundary of parking areas.
Policy 28.2.2.4	Require fences on road boundaries to be of a height and design that contributes positively to neighbourhood amenity.
Policy 28.2.2.5	Require ancillary signs visible from outside the zone to be located and designed to maintain streetscape amenity, including by being of an appropriate size and number to convey information about the name, location and nature of the activity on-site to passing pedestrians and vehicles, and not being oversized or too numerous for that purpose.

### Objective 28.2.2

Policy 28.2.2.6	Require ancillary commercial activities to be designed, located and operated to primarily serve staff and visitors of Moana Pool.
Policy 28.2.2.7	Only allow early childhood education - large scale where it is designed and located to avoid or, if avoidance is not possible practicable <b>{PO 908.3 and others}</b> , adequately mitigate, adverse effects on the amenity of surrounding residential properties.

**EW cl.16:** As a clause 16 amendment, Objective 28.2.3 and its policies have been moved to new city-wide section (Section 8A). Any amendments to provisions as a result of submissions are shown there.

## Rules

### Rule 28.3 Activity Status

#### 28.3.1 Rule location

The activity status tables in rules 28.3.3 to 28.3.5 specify the activity status of land use activities, development activities, and subdivision activities in the Moana Pool Zone, except rules for the following city-wide activities, which are contained in Part B of the Plan:

1. Public Amenities (Section 3)
2. Temporary Activities (Section 4) - note that this section includes provisions that apply to construction **{PO cl.16}**
3. Network Utilities and energy generation **{NU 360.233}** (Section 5)
4. Transportation Activities **{PO cl.16}** (Section 6)
5. Scheduled Trees (Section 7)
6. Natural Hazard Mitigation Activities (Section 8)
7. Earthworks (Section 8A) **{EW cl.16}**

#### 28.3.2 Activity status introduction

1. The activity status **{MF cl.16}** tables in rules 28.3.3 - 28.3.5 show the activity status of activities in the Moana Pool Zone, provided any performance standards shown in the far right column are met.
2. Activities are split into three types: a. land use activities, b. development activities, c. subdivision activities. Within these types, activities are split into categories. The nested tables in Section 1.3 outline the hierarchy of categories, activities and sub-activities.
3. Permitted land use activities do not automatically provide for any related development activities. Therefore, the activity status of any associated development activities should also be checked.
4. Where a new land use activity requires a resource consent, all associated development activities will be considered and assessed as part of the resource consent even if the development otherwise meets the development performance standards listed in the Plan.
5. The nested tables in Section 1.3 are intended to be a complete list of activities and categories of activities. For any activity that is not covered by any of the defined activities in the nested tables, the activity status will be non-complying if the activity status of "all" or "all other" activities in the most closely related category is non-complying, otherwise it will be discretionary.

#### Performance Standards

6. Performance standards are listed in the far right column of the activity status tables.
7. Performance standards apply to permitted, controlled, and restricted discretionary activities.
8. If a permitted or controlled activity does not meet one or more performance standards, then the activity status of the activity will become restricted discretionary, unless otherwise indicated by the relevant performance standard is indicated in the relevant performance standard rule. **{PO cl.16}**.
9. If a restricted discretionary activity does not meet one or more performance standards, then the activity status remains restricted discretionary, unless otherwise indicated in the performance standard.

## Legend

Acronym	Activity status <u>Meaning</u> {PO cl.16}
P	Permitted Activity
C	Controlled Activity
RD	Restricted Discretionary Activity
D	Discretionary Activity
NC	Non-complying Activity

## 28.3.3 Activity status table - land use activities

1.	Performance standards that apply to all land use activities		a. Electrical interference b. Light spill c. Noise
Major facility activities		Activity status	Performance standards
2.	Major recreation facility	P	a. Minimum car parking
3.	All other activities in the major facility activities category	NC	
Community activities		Activity status	Performance standards
4.	Early childhood education - small scale	P	
5.	Early childhood education - large scale	RD	
6.	All other activities in the community activities category	P	
Commercial activities		Activity status	Performance standards
7.	Activities ancillary to major recreation facility	P	a. Location
8.	All other activities in the commercial activities category	NC	
Residential activities		Activity status	Performance standards
9.	All activities in the residential activities category	NC	
Industrial activities		Activity status	Performance standards
10.	All activities in the industrial activities category	NC	
Rural activities		Activity status	Performance standards
11.	All activities in the rural activities category	NC	

### 28.3.4 Activity status table - development activities

1.	Performance standards that apply to all development activities		a. Maximum <del>building</del> <b>{MF cl.16<sup>1</sup>}</b> site coverage and impermeable surfaces
Buildings and structures activities		Activity status	Performance standards
2.	Fences	P	a. Fence height and design
3.	All other buildings and structures activities	P	a. Boundary setbacks b. Height in relation to boundary c. Maximum height d. Number, location and design of ancillary signs
Site development activities		Activity status	Performance standards
4.	Service areas	P	a. Location and screening of service areas
5.	Parking, loading and access	P	a. Parking, loading and access standards b. Boundary treatments and other landscaping
6.	New <del>or additions to</del> parking areas, <del>or extensions to existing parking areas</del> that result in the creation of <b>{Trans cl.16}</b> 50 or more new parking spaces.	RD	a. Boundary treatments and other landscaping b. Parking, loading and access standards
7.	Storage and use of hazardous substances	P	a. Hazardous substances quantity limits and storage requirements
8.	Vegetation clearance	P	a. Maximum area of vegetation clearance ( <del>UBMA</del> ) <b>{NatEnv cl.16}</b>
9.	Earthworks – <del>small scale</del> <b>{EW cl.16<sup>2</sup>}</b>	P	a. <del>Earthworks standards</del>
10.	Earthworks – <del>large scale</del> <b>{EW cl.16<sup>2</sup>}</b>	RD	a. <del>Earthworks standards</del>
11.	All other site development activities	P	

<sup>1</sup> **MF cl.16:** Amendment to make provision consistent with rest of plan.

<sup>2</sup> **EW cl.16:** As a clause 16 amendment, all earthworks provisions in management and major facility zones have been moved to new city-wide section (Section 8A). Any amendments to provisions as a result of submissions are shown there.

#### Note 28.3.4A - General advice

1. Under the Heritage New Zealand Pouhere Taonga Act 2014 it is an offence to modify or destroy an archaeological site without obtaining an archaeological authority from Heritage New Zealand (HNZ). An archaeological authority is required under the Heritage New Zealand Pouhere Taonga Act 2014 to modify or destroy an archaeological site. If you wish to do any earthworks that may affect an archaeological site, you must first obtain an authority from Heritage New Zealand {Her 547.80}. This is the case regardless of whether the land on which the site is located is **{Her 547.80}** designated, or the activity is permitted under the District Plan or Regional Plan, or a resource or building consent has been granted.
2. An archaeological site is defined as any place in New Zealand that was associated with human activity that occurred before 1900 and provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand. This includes the scheduled archaeological sites within the District Plan.
3. Pre-1900 buildings are considered archaeological sites. An archaeological authority must be obtained before demolishing a pre-1900 building or structure.
4. The **archaeological alert layer mapped area** identifies sites and areas that have a strong likelihood of containing archaeological remains, however remains may be present anywhere within the District. If archaeological remains are discovered during any site works, at any location, the Accidental Discovery Protocol (Appendix A8) should be followed. **{MF cl.16}**

<sup>1</sup> MF cl.16: Not within an archaeological alert zone.

#### 28.3.5 Activity status table - subdivision activities

Subdivision activities	Activity status	Performance standards
1. Subdivision activities	RD	a. Subdivision performance standards

#### Note 28.3.5A - Other RMA considerations **{PO 490.4}**

1. Under Section 226(1)(e)(ii) of the Resource Management Act 1991, where an existing allotment shown on a survey plan meets all relevant provisions of the district plan and any proposed district plan, the Dunedin City Council must issue a certificate to that effect to enable the Registrar-General of Land to issue a certificate of title for that separate allotment.

#### 28.3.6 Transition to Recreation Zone

On receipt of written notice from both the landowner and operator of Moana Pool (if different) to Dunedin City Council confirming that all or part of the land within the Moana Pool Zone is surplus to requirements, the provisions of the Moana Pool Zone will no longer apply to that parcel of land and the provisions of the Recreation Zone will apply in full.

### Rule 28.4 Notification

1. Activities are subject to the normal tests for notification in accordance with sections 95A-95G of the RMA.

## **Rule 28.5 Land Use Performance Standards**

### **28.5.1 Electrical Interference**

Land use activities must comply with Rule 9.3.2.

### **28.5.2 Light Spill**

Land use activities must comply with Rule 9.3.5.

### **28.5.3 Location**

1. For ancillary commercial activities, customer access must only be available from inside the Moana Pool buildings.
2. Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

### **28.5.4 Minimum Car Parking**

1. Major recreation facility activity must provide a minimum of 190 parking spaces, including a minimum of 4 mobility parking spaces.
2. Required parking spaces may be used for car, cycle or motorcycle parking, except for any required mobility parking spaces, which must be used for mobility car parking.
3. Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

#### **Note 28.5.4A - Other relevant District Plan provisions**

1. Parking areas must comply with the standards in Section 6.6: Parking, Loading and Access Performance **{MF cl.16}** Standards.

### **28.5.5 Noise**

Land use activities must comply with Rule 9.3.6.



## Rule 28.6 Development Performance Standards

### 28.6.1 Boundary Setbacks

1. New buildings and structures, and additions and alterations, must be set back from boundaries as follows:

Building		Setback from road boundary or site boundary where site directly adjoins another zone
a.	Buildings not exceeding 12m in height or 250m <sup>2</sup> GFA	4.5m
b.	Other buildings	10m

- c. Fences and ancillary signs are exempt from the performance standard.
- d. Public entrances to buildings must be located at least 10m from a boundary with the residential zone.

2. Activities that contravene this performance standard are restricted discretionary activities.{PO cl.16}

### 28.6.2 Boundary Treatments and Other Landscaping

1. Where a parking area is built within 5m of a road frontage, a landscaping area with a minimum 1.5m width must be provided along the full length of the road frontage (except for where vehicle access is provided).
2. Landscaping areas must:
  - a. be planted with a mix of trees and shrubs and/or ground cover plants that achieves a total coverage of the ground area in planting (when mature), except for 10% of the area, which may be used for pedestrian paths;
  - b. have an average of one tree for every 5m of frontage;
  - c. not have more than 10% cover in impermeable surfaces (for pedestrian paths);
  - d. be designed to allow surface water run-off from surrounding areas to enter;
  - e. be protected by a physical barrier that prevents cars from accidentally driving into or {PO 360.213} damaging plants;
  - f. for required trees, use trees that are at least 1.5m high at the time of planting and capable of growing to a minimum {PO 360.213} height of 5m within 10 years of planting;
  - g. be planted prior to occupation or completion of any relevant building(s) or upon completion of site development activities {MF cl.16}; and
  - h. be maintained to a high standard, which means trees and under-planting are healthy and areas are regularly cleared of rubbish and weeds.
3. Any road boundary fences provided must be placed on the property side of any required {MF cl.16} road frontage landscaping required by this rule {PO 360.213}.
4. Activities that contravene this performance standard are restricted discretionary activities.{PO cl.16}

### 28.6.3 Earthworks Standards {Confirmed to be replaced by 8A.5 - EW cl.16<sup>1</sup>}

<sup>1</sup> **EW cl.16:** As a clause 16 amendment, all earthworks provisions in management and major facility zones have been moved to new city-wide section (Section 8A). Any amendments to provisions as a result of submissions are shown there.

## 28.6.4 Fence Height and Design

1. The maximum height of a fence or gate on the road boundary or within the road boundary setback, or adjacent to a public place, is 1.4m. **{Res cl.16<sup>1</sup>}**
2. The maximum height of a fence on side and rear boundaries (except where adjacent to the recreation zone, or public place), is 2m. **{Res cl.16}**
3. Fences along boundaries include fences that are not exactly on the boundary but are within the boundary setbacks required by Rule 28.6.1. **{Res cl.16}**
4. Where the maximum height of a fence is 1.4m, the height of a fence may be increased to a maximum height of 2m provided that a minimum of 40% of the entire structure is visually permeable (see-through), or the portion above 1.4m height is visually permeable. Visually permeable refers to construction using trellis, lattice, wrought iron, or spaced palings (palings maximum width 100mm, spacing minimum width 25mm) or other materials that provide gaps that can be seen through (see Figure 15.6.D and Figure 15.6E). **{Res cl.16}**
5. For the purposes of calculating maximum height, where a fence or wall is erected atop a retaining wall, the height will be calculated as the combined height measured from ground level to the top of the fence or wall. **{Res cl.16}**

<sup>1</sup> **Res cl.16:** As a clause 16 amendment this performance standard has been restructured from the notified version to provide clarity. This is not a substantive change.

### 28.6.4.1 Maximum Height {Res cl.16<sup>1</sup>}

- a. The maximum height of fences along boundaries (including within the boundary setbacks required by Rule 28.6.1) is 2m. **{Res cl.16<sup>1</sup>}**
- b. For the purposes of calculating maximum height, where a fence is erected atop a retaining wall, the height will be calculated as the combined height measured from ground level to the top of the fence. **{Res cl.16<sup>1</sup>}**
- c. Fences that contravene this performance standard are restricted discretionary activities. **{PO cl.16}**

<sup>1</sup> **Res cl.16:** “As a clause 16 amendment this performance standard has been restructured from the notified version to provide clarity. This is not a substantive change.

### 28.6.4.2 Visual Permeability {Res cl.16<sup>1</sup>}

- a. Fences along road boundaries (or within the boundary setbacks required by Rule 28.6.1) must be constructed to a length and/or height that maintains visual permeability for 50% of the length of the boundary measured at a height of 1.4m above ground level (see Figure 15.6.D). **{Res 190.1 and others}**
- b. Fences along the road boundary of a state highway are exempt from this requirement. **{Res cl.16<sup>1</sup>}**
- c. Fences that contravene this performance standard are restricted discretionary activities. **{PO cl.16}**

<sup>1</sup> **Res cl.16:** “As a clause 16 amendment this performance standard has been restructured from the notified version to provide clarity. This is not a substantive change.

## 28.6.5 Hazardous Substances Quantity Limits and Storage Requirements

The storage and use of hazardous substances must comply with Rule 9.3.4.

## 28.6.6 Height

### 28.6.6.1 Height in Relation to Boundary

In all zones no part of any building may protrude through a plane raising at an angle of 45 degrees measured from the starting point indicated below (see Figure 15.6F) **{Res cl.16}**<sup>1</sup>:

Zone boundary <b>{Res cl.16}</b> <sup>1</sup>		Starting vertically above ground level at the side and rear boundary <b>{Res cl.16}</b> <sup>1</sup>
a- <b>{Res cl.16}</b> <sup>1</sup>	Inner City Residential Zone <b>{Res cl.16}</b> <sup>1</sup>	3m <b>{Res cl.16}</b> <sup>1</sup>
b- <b>{Res cl.16}</b> <sup>1</sup>	All other residential zones <b>{Res cl.16}</b> <sup>1</sup>	2.5m <b>{Res cl.16}</b> <sup>1</sup>

- a. New buildings and additions and alterations to buildings on sites adjoining a residential zone must comply with the Height in Relation to Boundary performance standard of that residential zone, along the adjoining boundary (see Rule 15.6.7.1). **{Res cl.16}**<sup>1</sup>

<sup>1</sup> **Res cl.16:** There is no substantive change to the rule, it simply refers back to rule in other section to avoid repeating rule wording.

### 28.6.6.2 Maximum height

- a. The maximum height of new buildings and structures, and additions and alterations, must not exceed the following heights above ground level:
- Western side Queens Drive/Littlebourne Road: 18m;
  - Eastern side Queens Drive/Littlebourne Road: 12m;
  - Rooftop structures are exempt from the performance standard for maximum height, provided they do not exceed the maximum height limit by more than one third of that limit or 5m, whichever is the lesser.
- b. Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

## 28.6.7 Location and Screening of Service Areas

- Service areas must be located or screened so that they are not visible at ground level from adjacent: residential activities, residential zoned properties, or public places.
- Service areas must not encroach into required parking, loading or manoeuvring areas.
- Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

### 28.6.8 Maximum Building Site Coverage and Impermeable Surfaces {was 'Maximum Site Coverage and Impermeable Surfaces' - MF cl.16<sup>1</sup>}

1. The maximum building **{MF cl.16}** site coverage of buildings (% of site) is 40%; and
2. The maximum total impermeable surface site coverage (buildings and impermeable surfaces % of site) is 70%.
3. Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

<sup>1</sup> MF cl.16: Amendment to make provision consistent with rest of plan

### 28.6.9 Number, Location and Design of Ancillary Signs

#### 28.6.9.1 General

- a. Signs must comply with the following standards, except the following signs are exempt from these standards:
  - i. signs that are not visible from outside the Moana Pool Zone;
  - ii. ~~'regulatory signs' (requiring or prohibiting specified actions), 'warning signs' (informing of hazards or of other features requiring a safe response), or 'directional signs' (identifying the location of, or direction to destinations, routes, building entrances and vehicle accesses) signs; and {CMU 271.18 and others}~~
  - iii. building names (excluding commercial sponsorship names).
- b. Signs related to ancillary retail and ancillary restaurants activities **{PO cl.16}** must not be visible outside the Moana Pool zone.
- c. Signs located on or **{PO cl.16}** above the footpath must comply with Rule 6.7.2.
- d. Signs must comply with Rule 6.7.3 where visible from a road.
- e. ~~Signs other than those specified in rules 28.6.9.2 and 28.6.9.3 are not allowed.~~ **{MF cl.16}**
- f. Signs that contravene the performance standard for number, location and design of ancillary signs are restricted discretionary activities.**{PO cl.16}**

<sup>1</sup> **PO cl.16:** Amended to reflect requirements of Rule 6.7.2

#### 28.6.9.2 Signs attached to buildings

- a. The height, above ground level, at the highest point of any sign, attached to a building is 4m.
- b. Signs must not be attached to roofs.
- c. Signs must not project higher than the lowest point of the roof, except where mounted against a parapet or gable end.
- d. Signs attached to a building must:
  - i. not exceed one sign per 15m of road frontage;
  - ii. have a maximum area per display face of 2m<sup>2</sup>;
  - iii. have a maximum of two display faces per sign;
  - iv. where attached to the façade of a building, must not project more than 1m from the façade to which it is attached; and
  - v. if attached to a verandah fascia, must not exceed a height of 500mm, or the height of a verandah fascia, whichever is greater.

#### 28.6.9.3 Freestanding signs

- a. The maximum number of freestanding signs is two per 50m of frontage.
- b. The maximum dimensions of freestanding signs are:
  - i. maximum height of 3m;
  - ii. maximum area of 4m<sup>2</sup>;
  - iii. maximum width of 2m; and
  - iv. maximum depth of 400mm **{PO cl.16}**.
- c. Freestanding signs must:
  - i. not obstruct driveways, ~~parking or loading area~~ parking, loading and access areas; and **{PO cl.16}**
  - ii. ~~Freestanding signs must not be located on road reserve.~~ be positioned entirely within the site boundaries. **{PO cl.16}**
- d. Freestanding signs must not exceed:
  - i. maximum height of 900mm above ground level; and
  - ii. a maximum width of 600mm.

**Note 28.6A - Other relevant District Plan provisions {PO cl.16<sup>1</sup>}**

1. Commercial advertising is a non-complying land use activity in all zones except the Airport Zone. {PO cl.16}
  2. See Section 3 Public Amenities for the rules related to public noticeboards. {PO cl.16}
  3. See Section 4 Temporary Activities for the rules related to temporary signs. {PO cl.16}
- <sup>1</sup> PO cl.16: Deleted as definition of "Signs" amended to clarify how different signs are managed in the Plan.

**Note 28.6.9B - Other requirements outside of the District Plan**

1. For additional restrictions that may apply to signs, see also:
  - a. New Zealand NZ {Trans 881.17} Transport Agency *Traffic Control Devices Manual, Part 3, Advertising Signs and Signs on State Highways Bylaw* {Trans 881.137}.
  - b. Dunedin City Council Commercial Use of Footpaths Policy.
  - c. Dunedin City Council Roadway Bylaw.
  - d. Dunedin City Council Traffic and Parking Bylaw.

**28.6.10 Parking, Loading and Access Standards**

Parking, loading and access must comply with Rule 6.6.

**28.6.11 Maximum Area of Vegetation Clearance (UBMA) {Was "Maximum Area of Vegetation Clearance"- NatEnv cl.16}**

Vegetation clearance in an **urban conservation biodiversity mapped area** (UCMA UBMA) {NatEnv 958.60} must comply with Rule 10.3.2.1.

**Rule 28.7 Subdivision Performance Standards**

Subdivision activities must comply with Rule 20.7.

## Rule 28.8 Assessment of Restricted Discretionary Activities (Performance Standard Contraventions)

### Rule 28.8.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rules 28.8.2 - 28.8.5:
  - a. list the matters Council will restrict its discretion to; and
  - b. provide guidance on how consent applications will be assessed, including:
    - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
    - ii. potential circumstances that may support a consent application;
    - iii. general assessment guidance; and
    - iv. conditions that may be imposed.
3. Rules 28.8.2 - 28.8.5 apply as follows: {MF cl.16}
  - a. Rule 28.8.2 applies to all performance standard contraventions;
  - b. Rule 28.8.3 applies to land use performance standard contraventions;
  - c. Rule 28.8.4 applies to development performance standard contraventions; and
  - d. Rule 28.8.5 applies to subdivision performance standard contraventions. {MF cl.16}

### 28.8.2 Assessment of all performance standard contraventions

Performance standard	Guidance on the assessment of the resource consents
1. All performance standard contraventions	<p><i>Potential circumstances that may support a consent application include:</i></p> <ol style="list-style-type: none"> <li>a. The degree of non-compliance with the performance standard is minor</li> <li>b. The need to meet other performance standards, or site specific factors, make meeting the standard impracticable.</li> <li>c. Topography or other site specific factors make the standard irrelevant as the adverse effects that the standard is trying to manage will not occur.</li> <li>d. Non-compliance with a development performance standard would improve the design of the development in a way that would result in positive effects and better achieve the identified objectives and policies of the Plan.</li> </ol> <p><i>General assessment guidance:</i></p> <ol style="list-style-type: none"> <li>e. Where more than one standard is contravened, the combined effects of the contraventions should be considered.</li> </ol>



### 28.8.3 Assessment of land use performance standard contraventions

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
1. Electrical interference	a. Effects on health and safety	See Rule 9.4
2. Location	a. Effects on the vibrancy and economic and social success of the CBD and centres hierarchy <b>{MF cl.16}</b>	<i>Relevant objectives and policies:</i> i. Objective 28.2.2 ii. Ancillary commercial activities are designed, located and operated to primarily serve staff and visitors of Moana Pool (Policy 28.2.2.6).
3. Minimum car parking	a. Effects on the safety and efficiency of the transport network	See Rule 6.9
	b. Effects on accessibility	See Rule 6.9

### 28.8.4 Assessment of development performance standard contraventions

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
1. <ul style="list-style-type: none"> <li>Boundary setbacks</li> <li>Height in relation to boundary</li> <li>Maximum height</li> </ul>	a. Effects on surrounding sites	<i>Relevant objectives and policies:</i> i. Objective 28.2.2 ii. <u>Building and structures are of a height and set back from boundaries to ensure that {MF cl.16<sup>3</sup>}</u> there are no more than minor effects on sunlight access of current and future residential buildings and their outdoor living spaces (Policy 28.2.2.1).
2. Boundary treatments and other landscaping	a. Effects on streetscape amenity	<i>Relevant objectives and policies:</i> i. Objective 28.2.2 ii. Landscaping provides a reasonable level of streetscape amenity along the boundary of parking areas (Policy 28.2.2.3).



#### 28.8.4 Assessment of development performance standard contraventions

Performance standard		Matters of discretion	Guidance on the assessment of resource consents
3.	Earthworks standards: <ul style="list-style-type: none"> <li>Batter gradient {EW cl.16'}</li> </ul>	a. Effects on the stability of land, buildings and structures	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> <li>i. Objective 28.2.3</li> <li>ii. Earthworks and associated retaining structures are designed and located to avoid adverse effects on the stability of land, buildings, and structures by using a batter gradient that will be stable over time (Policy 28.2.3.1.b).</li> </ul> <p><i>Conditions that may be imposed include, but are not limited to:</i></p> <ul style="list-style-type: none"> <li>iii. Maximum slopes of cut and fill batters.</li> <li>iv. Time limits for retaining wall installation to avoid leaving a cut slope unsupported for an extended period.</li> <li>v. Temporary shoring requirements to maintain stability before a wall is constructed.</li> <li>vi. Supervision and monitoring requirements for retaining wall construction and standard earthworks construction.</li> </ul>
4.	Earthworks standards: <ul style="list-style-type: none"> <li>Setback from property boundary, buildings, structures and cliffs {EW cl.16'}</li> </ul>	a. Effects on the stability of land, buildings and structures	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> <li>i. Objective 28.2.3</li> <li>ii. Earthworks and associated retaining structures are designed and located to avoid adverse effects on the stability of land, buildings, and structures by being set back an adequate distance from property boundaries, buildings, structures and cliffs (Policy 28.2.3.1.a).</li> </ul>
5.	Earthworks standards: <ul style="list-style-type: none"> <li>Setback from network utilities {EW cl.16'}</li> </ul>	a. Effects on efficient and effective operation of network utilities  b. Effects on health and safety	See Rule 5.7

#### 28.8.4 Assessment of development performance standard contraventions

Performance standard		Matters of discretion	Guidance on the assessment of resource consents
6.	Earthworks standards: • Sediment control {EW cl.16'}	a. Effects on surrounding sites	<i>Relevant objectives and policies:</i> i. Objective 28.2.3 ii. Earthworks and any associated retaining structures are designed and located to minimise adverse effects on surrounding sites and the wider area by managing earthworks to avoid sediment run-off, including on to any property, or into any stormwater pipes, drains, channels or soakage systems, or the coastal marine area {EW 1071.106} (Policy 28.2.3.2.b).
		b. Effects on biodiversity and natural character of riparian margins and the coast	See Rule 10.4
		c. Effects on the efficiency and/or affordability of infrastructure	See Rule 9.4
7.	Fence height and design	a. Effects on streetscape amenity	<i>Relevant objectives and policies:</i> i. Objective 28.2.2 ii. Fences on road boundaries are of a height and design that contribute positively to neighbourhood amenity (Policy 28.2.2.4).  <i>Potential circumstances that may support a consent application include:</i> iii. The increased height or reduced visual permeability is necessary to meet protection requirements, to provide security, minimise noise effects from a busy road or activity, or for public well-being. iv. An attractive interface with the streetscape {MF cl.16} is achieved. v. The fence will be screened by landscaping.
		b. Effects on health and safety {MF cl.16'}	See Rule 9.4 {MF cl.16'}
8.	Hazardous substances quantity limits and storage requirements	a. Effects on health and safety	See Rule 9.4
		b. Risk from natural hazards {PO cl.16}	See Rule 11.4 {PO cl.16}

#### 28.8.4 Assessment of development performance standard contraventions

Performance standard		Matters of discretion	Guidance on the assessment of resource consents
9.	Location and screening of service areas	a. Effects on neighbourhood amenity	<i>Relevant objectives and policies:</i> i. Objective 28.2.2 ii. Neighbourhood amenity is maintained or enhanced by <del>service areas not being</del> <u>Development maintains or enhances neighbourhood amenity by ensuring service areas are not {MF cl.16<sup>3</sup>}</u> visible from ground level outside the site (Policy 28.2.2.2).
11.	Maximum building <del>{MF cl.16<sup>4</sup>}</del> site coverage and impermeable surfaces	a. Effects on efficiency and/or <del>{MF cl.16}</del> affordability of infrastructure	See Rule 9.4
12.	Number, location and design of ancillary signs	a. Effects on neighbourhood amenity	<i>Relevant objectives and policies:</i> i. Objective 28.2.2 ii. Ancillary signs visible from outside the zone are located and designed to maintain streetscape amenity, including by being of an appropriate size and number to convey information about the name, location and nature of the activity on-site to passing pedestrians and vehicles, and not being oversized or too numerous for that purpose (Policy 28.2.2.5).
		b. Effects on the safety and efficiency of the transport network	See Rule 6.9
13.	Parking, loading and access standards	a. Effects on the safety and efficiency of the transport network	See Rule 6.9
10.	In an <u>urban biodiversity mapped area</u> : <del>{NatEnv cl.16}</del> <ul style="list-style-type: none"> <li>Maximum area of vegetation clearance (UCMA UBMA) <del>{NatEnv 958.60}</del> standards <del>{NatEnv cl.16}</del></li> </ul>	a. Effects on biodiversity <u>values</u> <del>{NatEnv 958.60}</del>	See Rule 10.4

<sup>1</sup> **EW cl.16:** As a clause 16 amendment, all earthworks provisions in management and major facility zones have been moved to new city-wide section (Section 8A). Any amendments to provisions as a result of submissions are shown

there.

<sup>2</sup> **MF cl.16:** Links to an existing assessment rule in section 9.4, not a substantive change

<sup>3</sup> **MF cl.16:** Amendment to align with policy wording.

<sup>4</sup> **MF cl.16:** Amendment to make provision consistent with rest of plan.

#### **28.8.5 Assessment of subdivision performance standard contraventions**

Performance standard	Guidance on the assessment of resource consents
1. Subdivision performance standards	See Rule 20.9

## Rule 28.9 Assessment of Restricted Discretionary Activities

### Rule 28.9.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rules 28.9.2 - 28.9.4:
  - a. list the matters Council will restrict its discretion to; and
  - b. provide guidance on how a consent application will be assessed, including:
    - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
    - ii. potential circumstances that may support a consent application;
    - iii. general assessment guidance; and
    - iv. conditions that may be imposed.
3. Rules 28.9.2 - 28.9.4 apply as follows: {MF cl.16}
  - a. Rule 28.9.2 applies to restricted discretionary land use activities;
  - b. Rule 28.9.3 applies to restricted discretionary development activities; and
  - c. Rule 28.9.4 applies to restricted discretionary subdivision activities. {MF cl.16}
4. For all land use activities that require consent, all associated development activities will be considered as part of the resource consent even if the development otherwise meets the development performance standards in the Plan. Conditions on development activities may be used to minimise any adverse effects from the land use activity or create mitigating positive effects.
5. Where a restricted discretionary activity does not meet a performance standard the following occurs:
  - a. if the contravention of the performance standard defaults to **restricted discretionary** ~~(which is the case, unless otherwise indicated in the performance standard)~~ **{PO cl.16}** then:
    - i. the activity, as a whole, will be treated as **restricted discretionary**; and
    - ii. the matters of discretion are expanded to include the areas of non-compliance with the performance standard; and
    - iii. the performance standard contravention will be assessed as indicated in Section 28.8; and
    - iv. the matters of discretion in this section will be assessed as indicated.
  - b. if the contravention of the performance standard defaults to **discretionary** then:
    - i. the activity, as a whole, will be treated as **discretionary**; and
    - ii. the performance standard contravention will be assessed as indicated in Section 28.10; and
    - iii. the assessment guidance in this section will also be considered.
  - c. if the contravention of the performance standard defaults to **non-complying** then:
    - i. the activity, as a whole, will be **non-complying**; and
    - ii. the performance standard contravention will be assessed as indicated in Section 28.11; and
    - iii. the assessment guidance in this section will also be considered.

## 28.9.2 Assessment of restricted discretionary land use activities

Activity		Matters of discretion	Guidance on the assessment of resource consents
A.	All high trip generators, which include: <b>{Trans cl.16<sup>1</sup>}</b> • any activities that generate 250 or more vehicle movements a day <b>{Trans cl.16}</b>	a. Effects on accessibility <b>{Trans cl.16}</b>	See Rule 6.10 <b>{Trans cl.16}</b>
		b. Effects on the safety and efficiency of the transport network <b>{Trans cl.16}</b>	
1.	Early childhood education - large scale	a. Effects on the safety and efficiency of the transport network	See Rule 6.10
		b. Effects on surrounding sites' residential amenity	<i>Relevant objectives and policies:</i> i. Objective 28.2.2 ii. Early childhood education - large scale is designed and located to avoid or, if avoidance is not possible <u>practicable</u> <b>{PO 908.3 and others}</b> , adequately mitigate, adverse effects on the amenity of surrounding residential properties (Policy 28.2.2.7).

<sup>1</sup> **Trans cl.16:** Under Transportation section assessment rules (Rule 6.10.2.7a&b), 'effects on accessibility' and 'effects on safety and efficiency of the transport network' are matters of discretion for high trip generators, which include land use activities that generate 250 or more vehicle movements a day. However, the rule necessary to link to Rule 6.10.2.7 was inadvertently omitted from notified Section 28 assessment rules. The correction of this error, via the addition of Rule 28.9.2.A, does not result in a substantive change to the effect of provisions.

### 28.9.3 Assessment of restricted discretionary development activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
1. Earthworks – large scale (that exceed the scale thresholds for the Moana Pool Zone) <b>{EW cl.16}</b>	<p>a. Effects on visual amenity and character</p> <p>b. Effects on the amenity of surrounding properties</p>	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> <li>i. Objective 28.2.3</li> <li>ii. Adverse effects on visual amenity and character will be avoided or, if avoidance is not possible, adequately mitigated (Policy 28.2.3.3.a).</li> <li>iii. Adverse effects on the amenity of surrounding properties, including from changes to drainage patterns, will be avoided or, if avoidance is not possible, adequately mitigated (Policy 28.2.3.3.b).</li> </ul> <p><i>Potential circumstances that may support a consent application include:</i></p> <ul style="list-style-type: none"> <li>iv. There is no, or only minimal, alteration to the natural landform.</li> <li>v. Any cut or fill will be restored or treated to resemble natural landforms.</li> <li>vi. The earthworks will not remove or effect existing vegetation or landscaping.</li> </ul> <p><i>Conditions that may be imposed include, but are not limited to:</i></p> <ul style="list-style-type: none"> <li>vii. Measures to minimise visual effects, e.g. requirements for revegetation and/or landscaping.</li> <li>viii. Maximum slopes of cut and fill batters.</li> <li>ix. Measures to divert surface water and rain away from, or prevent from discharging over, batter faces and other areas of bare earth.</li> <li>x. Measures to ensure there are no adverse effects from changes to drainage patterns on surrounding properties.</li> <li>xi. Requirement to de-compact soils; to take other remedial action to ensure the natural absorption capacity of the soils is not reduced; or to use other mitigation measures to ensure the overall absorption of rain water on-site is not diminished.</li> </ul>

### 28.9.3 Assessment of restricted discretionary development activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
	c. Effects on the stability of land, buildings, and structures	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> <li>i. Objective 28.2.3</li> <li>ii. Adverse effects on the stability of land, buildings, and structures will be avoided or, if avoidance is not possible, adequately mitigated (Policy 28.2.3.3.c).</li> </ul> <p><i>Potential circumstances that may support a consent application include:</i></p> <ul style="list-style-type: none"> <li>iii. A geotechnical report confirms the existing ground is suitably stable for the proposed works, and proposed works will not create instability risks for surrounding land, buildings, or structures (see Special Information Requirements – Rule 28.12.1).</li> <li>iv. Excavation, fill and retaining structures will be designed, and the work undertaken, in accordance with best practice engineering standards</li> </ul>
2. Earthworks – large scale (that exceed scale thresholds for a UCMA) <b>{EW cl.16<sup>1</sup>}</b>	a. Effects on biodiversity	See Rule 10.5
3. <u>High trip generators:</u> <b>{Trans cl.16<sup>2</sup>}</b> <ul style="list-style-type: none"> <li>• New or additions to parking areas, or extensions to existing parking areas that result in the creation of 50 or more new parking spaces <b>{Trans cl.16}</b></li> </ul>	<p>a. Effects on the safety and efficiency of the transport network</p> <p>b. Effects on accessibility <b>{Trans cl.16}</b></p>	See Rule 6.10

<sup>1</sup> **EW cl.16:** As a clause 16 amendment, all earthworks provisions in management and major facility zones have been moved to new city-wide section (Section 8A). Any amendments to provisions as a result of submissions are shown there.

<sup>2</sup> **Trans cl.16:** A reference to 'high trip generators' has been added here, to clarify that this activity is assessed as a high trip generator under Transportation section rules. This does not result in a substantive change to the effect of provisions.





#### 28.9.4 Assessment of restricted subdivision activities

Activity		Matters of discretion	Guidance on the assessment of resource consents
1.	All subdivision activities	a. Effects on efficient and effective operation of Moana Pool	<i>Relevant objectives and policies:</i> i. Objectives 28.2.1, 2.3.1 ii. Subdivision does not adversely affect the efficient and effective operation of Moana Pool (Policy 28.2.1.5.b).
		See Rule 20.10	

## Rule 28.10 Assessment of Discretionary Activities

### Rule 28.10.1 Introduction

1. Discretionary activities will be assessed in accordance with section 104 and 104B of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rule 28.10.2 provides guidance on how a consent application for the listed discretionary activities will be assessed, including:
  - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi);
  - b. potential circumstances that may support a consent application;
  - c. general assessment guidance, including any effects that will be considered as a priority; and
  - d. conditions that may be imposed.
3. For all land use activities that require consent, all associated development activities will be considered as part of the resource consent even if the development otherwise meets the development performance standards in this Plan. Conditions on development activities may be used to minimise any adverse effects from the land use activity or create mitigating positive effects.

### 28.10.2 Assessment of discretionary performance standard contraventions

Performance standard	Guidance on the assessment of resource consents
1. <ul style="list-style-type: none"> <li>• Noise - where the limit is exceeded by up to <u>less than</u> <b>{PHS cl.16}</b> 5dB LAeq (15min)</li> <li>• Light spill - where the limit is exceeded by 25% or less</li> </ul>	<i>Relevant guidance from other sections (priority considerations):</i> <ol style="list-style-type: none"> <li>a. See Section 9.6 for guidance on the assessment of resource consents in relation to Objective 9.2.2 and effects related to public health and safety.</li> </ol>

## **Rule 28.11 Assessment of Non-complying Activities**

### **Rule 28.11.1 Introduction**

1. Non-complying activities will be assessed in accordance with section 104, 104B and 104D of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
2. Rules 28.11.2 - 28.11.3 provide guidance on how a consent application for the listed non-complying activities will be assessed, including:
  - a. relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi); and
  - b. general assessment guidance, including any effects that will be considered as a priority.
3. Rules 28.11.2 - 28.11.4 apply as follows: {MF cl.16}
  - a. Rule 28.11.2 applies to non-complying land use activities; and
  - b. Rule 28.11.4 applies to non-complying performance standard contraventions. {MF cl.16}
4. For all land use activities that require consent, all associated development activities will be considered as part of the resource consent even if the development otherwise meets the development performance standards in this Plan. Conditions on development activities may be used to minimise any adverse effects from the land use activity or create mitigating positive effects.

## 28.11.2 Assessment of non-complying land use activities

Activity	Guidance on the assessment of resource consents
<p>1. All non-complying land use activities</p>	<p><b>Relevant objectives and policies (priority considerations):</b></p> <ul style="list-style-type: none"> <li>a. Objectives 2.3.1, 2.3.3</li> <li>b. Objective 28.2.1</li> <li>c. Activities <u>that are {MF cl.16}</u> not ancillary to a major recreation facility activity <b>{MF cl.16}</b>: <ul style="list-style-type: none"> <li>i. are related to or support Moana Pool, or have other operation requirements that mean they need to locate in the zone;</li> <li>ii. support the efficient and effective operation of Moana Pool;</li> <li>iii. are not more appropriately located in another zone in line with Objective 2.3.2 and its policies; and</li> <li>iv. are designed and operated in line with Objective 28.2.2 and its policies (Policy 28.3.1.3).</li> </ul> </li> </ul> <p><b>General assessment guidance:</b></p> <ul style="list-style-type: none"> <li>d. In assessing the significance of effects consideration will be given to: <ul style="list-style-type: none"> <li>i. both short and long term effects, including effects in combination with other activities; and</li> <li>ii. the potential for cumulative adverse effects arising from similar activities occurring as a result of a precedent being set by the granting of a resource consent.</li> </ul> </li> <li>e. In assessing activities that are non-complying due to being in an overlay zone, mapped area, in a scheduled site, or affecting a scheduled item, that otherwise require resource consent, the assessment guidance provided in relation to the underlying activity status will also be considered.</li> </ul> <p><b>Relevant guidance from other sections (priority considerations):</b></p> <ul style="list-style-type: none"> <li>f. See Section 6.12 for guidance on the assessment of resource consents in relation to objectives 6.2.2 and 6.2.3, and effects related to accessibility and the safety and efficiency of the transport network and its affordability to the public. <b>{Trans cl.16}</b></li> <li>g. See Section 9.7 for guidance on the assessment of resource consents in relation to Objective 9.2.2 and effects on health and safety <b>{PHS cl.16}</b></li> <li>h. See Section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on cultural values of Manawhenua <b>{MW 1071.3}</b></li> </ul>
<p>2. Commercial advertising <b>{MF cl.16}</b></p>	<p><b>Relevant objectives and policies (priority considerations): {MF cl.16}</b></p> <ul style="list-style-type: none"> <li>a. Objective 2.4.1 <b>{MF cl.16}</b></li> <li>b. Policy 2.4.1.6.c <b>{MF cl.16}</b></li> </ul>

<sup>1</sup> **Trans cl.16:** This amendment adds a cross-reference to relevant assessment rules in the transportation section,

for all non-complying activities. This does not change the effect of provisions.

<sup>2</sup> **Trans cl.16:** As a clause 16 amendment this content has been moved from Rule 28.11.3. This is not a substantive change to provisions.

#### **28.11.3 Assessment of non-complying land-use activities {MF cl.16'}**

Activity {MF cl.16'}	Guidance on the assessment of resource consents {MF cl.16'}
1. Commercial advertising in all zones {MF cl.16'}	<p>Relevant objectives and policies (priority considerations): {MF cl.16'}</p> <p>a. Objective 2.4.1 {MF cl.16'}</p> <p>b. Policy 2.4.1.6.e {MF cl.16'}</p>

<sup>1</sup> **MF cl.16:** As a clause 16 amendment this content has been moved to Rule 28.11.2. This is not a substantive change to provisions.

#### **28.11.4 Assessment of non-complying performance standard contraventions**

Performance standard	Guidance on the assessment of resource consents
<p>1.</p> <ul style="list-style-type: none"> <li>• Light spill - where the limit is exceeded by greater than 25%</li> <li>• Noise - where the limit is exceeded by 5dB LAeq (15 min) or more</li> <li>• Hazardous substances quantity limits and storage requirements (Rule 9.3.4.2)</li> </ul>	<p><i>Relevant guidance from other sections (priority considerations):</i></p> <p>a. See Section 9.7 for guidance on the assessment of resource consents in relation to Objective 9.2.2 and effects related to public health and safety.</p>

### **Rule 28.12 Special Information Requirements {Confirmed for deletion - EW cl.16}**

**EW cl.16:** As a clause 16 amendment, Rule 28.12.1 Geotechnical investigation report has been moved to new city-wide section (Section 8A). Any amendments to provisions as a result of submissions are shown there.

