

## 22. Dunedin Botanic Garden

### 22.1 Introduction

The Dunedin Botanic Garden is located in North Dunedin, on an extensively landscaped site of approximately 30 hectares. The Garden is owned and operated by the Dunedin City Council.

The Garden was New Zealand's first botanic garden, opening in 1863, and has since developed to provide a wide range of recreational opportunities and significant amenity, horticultural and conservation plant collections. The Garden has an information centre, café and aviary, and provides volunteer activities, education programmes and regular entertainment events in the lower garden band rotunda.

The Garden is managed as one of Dunedin's reserves, under a broad reserve management plan administered by the Dunedin City Council. Future development at the Dunedin Botanic Garden is guided by its Strategic Development Plan which was launched in 2006 and sets the framework for managing the garden for a 30-40 year period. The Development Plan includes proposals to relocate buildings, enhance existing projects and develop a suite of new projects. Development within the next 10 years may include a visitor information and education facility in the upper garden, additions to the Lister Garden, a model vegetable/fruit garden, extensions to the water garden and a children's adventure playground. Ongoing development involves renewal and redevelopment of plantings within the garden, and these should not be considered as permanent **{MF cl.16}**. The lower garden contains three scheduled heritage buildings and structures: the Wolf Harris fountain, the Bandstand soundshell and the Winter Garden.

The Garden is surrounded by several zones, which provide for a range of different land use activities. To the east of the Garden is a large Recreation Zone which includes sports grounds and the Northern Cemetery. To the north, south and west are residential zones with varying densities of residential development. At the north-western edge of the Garden is a further recreation sports field, the 'Gardens Ground', and also the North East Valley suburban centre, which includes a mix of commercial and community activities.

The Dunedin Botanic Garden Zone has been designed to enable the activities necessary for the continued functioning of the Garden, while providing certainty to the community regarding what land use activities can be expected to occur on the Dunedin Botanic Garden site. The types and mix of activities appropriate within the zone, and the potential future uses of the site, have been important factors in determining the extent of, and rules for, the Dunedin Botanic Garden Zone. The zone recognises the existing and foreseeable future uses of the Garden site and, at the same time, appropriately manages potential adverse effects while ensuring compatibility with the wide variety of surrounding environments.

## 22.2 Objectives and Policies

### Objective 22.2.1

The Dunedin Botanic Garden is able to operate efficiently and effectively.

Policy 22.2.1.1	Enable Dunedin Botanic Garden activity.
Policy 22.2.1.2	Provide for activities that are ancillary to Dunedin Botanic Garden activity where they are designed and operated in line with Objective 22.2.2 and its policies.
Policy 22.2.1.3	Only allow activities that are not ancillary to Dunedin Botanic Garden activity where: <ol style="list-style-type: none"> <li>they are related to or support the Dunedin Botanic Garden, 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 the Dunedin Botanic Garden;</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 22.2.2 and its policies.</li> </ol>
Policy 22.2.1.4	Only allow subdivision <u>activities</u> <b>{PO cl.16}</b> where <del>it does</del> <u>they do</u> <b>{PO cl.16}</b> not adversely affect the efficient and effective operation of Dunedin Botanic Garden.

### Objective 22.2.2

Land use activities and development necessary for the continued operation of the Dunedin Botanic Garden are enabled, while ensuring development and land use activities:

- achieve a good standard of on-site amenity for staff and visitors; and
- maintain or enhance the amenity of the surrounding residential areas.

Policy 22.2.2.1	Require buildings and structures to be of a height and setback from boundaries that ensures: <ol style="list-style-type: none"> <li>there are no more than minor effects on the sunlight access and privacy of current and potential future residential buildings and their outdoor living spaces; and</li> <li>any adverse effects on neighbourhood amenity are avoided or, if avoidance is not <u>possible practicable</u> <b>{PO 908.3 and others}</b>, are no more than minor.</li> </ol>
Policy 22.2.2.2	Require development to maintain or enhance on-site and neighbourhood amenity by ensuring service areas are not visible from ground level within or outside the site.
Policy 22.2.2.3	Require landscaping of the boundary of parking areas, where adjacent to a road frontage, to screen or soften these areas and ensure a high standard of visual amenity when viewed from the road.
Policy 22.2.2.4	Require fences on road boundaries to be of a height and design that contributes positively to neighbourhood amenity.
Policy 22.2.2.5	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.
Policy 22.2.2.6	Require ancillary restaurants and retail <u>activities</u> <b>{MF cl.16}</b> to be designed, located and operated to primarily serve visitors to the Dunedin Botanic Garden.

**EW cl.16:** As a clause 16 amendment, Objective 22.2.3 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 22.3 Activity Status

#### 22.3.1 Rule location

The activity status tables in rules 22.3.3 to 22.3.5 specify the activity status of land use activities, development activities, and subdivision activities in the Dunedin Botanic Garden Zone and relevant overlay zones, 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 {PO cl.16} (Section 8)
7. Earthworks (Section 8A) {EW cl.16}

#### 22.3.2 Activity status introduction

1. The activity status tables in rules 22.3.3 - 22.3.5 show the activity status of activities in the Dunedin Botanic Garden Zone and the overlay zones indicated, 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.

#### *Additional activity status rules in hazard overlay zones*

6. For the purpose of the hazards provisions, activities are categorised as natural hazards {NH cl.16} sensitive activities, natural hazards {NH cl.16} potentially sensitive activities or natural hazards {NH cl.16} least sensitive activities. The activities that are in each hazards sensitivity category are included in the definitions section and in Section 11.1.
7. In the Hazard 2 (flood) {NH cl.16} Overlay Zone, the activity statuses in Rule 22.3.6 apply to the following activities:
  - i. new {NH 908.3} natural hazards {NH cl.16} sensitive activities;
  - ii. natural hazards {NH cl.16} potentially sensitive activities; and

- iii. some new buildings, and additions and alterations to buildings, which create more than 60m<sup>2</sup> of new ground floor area {NH. cl.16}
- 8. Where the activity status in Rule 22.3.6 differs from that in rules 22.3.3 - 22.3.5, the most restrictive activity status always applies.
- 9. In addition to the rules in Rule 22.3.6, performance standards for development activities within hazard overlay zones are included in rules 22.3.3 - 22.3.5.
- 10. Activities in a hazard overlay zone must comply with all of the rules in 22.3.3 - 22.3.6.

### Performance Standards

- 11. Performance standards are listed in the far right column of the activity status tables.
- 12. Performance standards apply to permitted, controlled, and restricted discretionary activities.
- 13. 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}.
- 14. 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.

<sup>1</sup> **NH cl.16:** The content from Table 22.3.6 has been moved to Table 22.3.X, with the exception that column c has been removed, pursuant to clause 16. This was removed as em-dashes are no longer used and the column was unnecessary. All substantive amendments to provisions are show in the new location.

### Legend

Acronym	<del>Activity status</del> <u>Meaning {PO cl.16}</u>
P	Permitted Activity
C	Controlled Activity
RD	Restricted Discretionary Activity
D	Discretionary Activity
NC	Non-complying Activity
Haz2	Hazard 2 Overlay Zones
Haz3	Hazard 3 Overlay Zones

### 22.3.3 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.	Dunedin Botanic Garden	P	a. Minimum car parking
3.	All other activities in the major facility activities category	NC	
Community activities		Activity status	Performance standards
4.	Community and leisure	P	
5.	Conservation	P	
X. <b>{MF 360.105}</b>	<u>Sport and recreation not involving a motor vehicle</u> <b>{MF 360.105}</b>	<del>D</del> P <b>{MF 360.105}</b>	
6.	All other activities in the community activities category	D	
Commercial activities		Activity status	Performance standards
7.	Commercial activities that are ancillary to Dunedin Botanic Garden activity <b>{MF cl.16}</b>	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	D	
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	

### 22.3.4 Activity status tables - development activities

1.	Performance standards that apply to all development activities <b>{MF cl.16}</b>		a. Setback from coast and water bodies <b>{NatEnv cl.16}</b>
2.	Performance standards that apply to all buildings and structures activities		a. Boundary setbacks b. Height in relation to boundary c. Maximum height d. Minimum floor level <b>{NH 917.27, 947.53 and others}</b> e. Fire fighting <b>{MF cl.16}</b> f. Number, location and design of ancillary signs g. <u>Setback from coast and water bodies</u> <b>{NatEnv cl.16}</b>
Building and structures activities (excluding activities affecting a protected part of a scheduled heritage building or scheduled heritage structure. See rows 5 - 9)		Activity status	Performance standards
3.	Fences	P	a. Fence height and design
4.	All other buildings and structures activities	P	
Building and structures activities that affect a protected part of a scheduled building or scheduled heritage structure		Activity status	Performance standards
5.	Repairs and maintenance or restoration <b>{Her 547.91}</b>	P	a. Materials and design
X.	<u>Restoration of a building or structure that has a Heritage New Zealand Category 1 listing as detailed in Appendix A1.1</u> <b>{Her 547.91}</b>	P C <b>{Her 547.91}</b>	a. Materials and design
Y.	<u>Restoration of all other scheduled heritage buildings and structures</u> <b>{Her 547.91}</b>	P	a. Materials and design
6.	Earthquake strengthening where external features only are protected	C	a. Materials and design
AA.	<u>Signs attached to buildings or structures</u> <b>{Her cl. 16}</b>	P	
7.	All other additions and alterations	RD	
8.	Demolition	NC	
9.	Removal for relocation	RD	
Site development activities		Activity status	Performance standards
10.	Service areas	P	a. Location and screening of service area

11.	Parking, loading and access	P	a. Boundary treatments and other landscaping b. Parking, loading and access standards
12.	New <u>or additions to</u> 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
13.	Storage and use of hazardous substances	P	a. Hazardous substances quantity limits and storage requirements b. <u>Setback from coast and water bodies</u> <b>{NatEnv cl.16}</b>
Z.	<u>Vegetation clearance</u> <b>{NatEnv cl.16}</b>	P	a. <u>Maximum area of vegetation clearance (UBMA)</u> <b>{NatEnv cl.16}</b>
14.	Earthworks – <i>small-scale</i> <b>{EW cl.16}</b>	P	a. Earthworks standards
15.	Earthworks – <i>large-scale</i> <b>{EW cl.16}</b>	RD	a. Earthworks standards
16.	All other site development <u>activities</u> <b>{MF cl.16}</b>	P	

<sup>1</sup> **NatEnv cl.16:** As the Dunedin Botanic Garden Major Facility Zone is partly covered by an Urban Biodiversity Mapped Area, this has been added as a clause 16 amendment to clarify that the vegetation clearance performance standard (Rule 10.3.2.1) applies in the UBMA.

<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.

<sup>3</sup> **Her cl.16:** Rule restructured as a result of change to definition of additions and alterations and new definition of signs attached to buildings and structures. No substantive change to provisions.

<sup>4</sup> **NatEnv cl.16:** This performance standard applies to the activity. A link has been added to the activity status table as a cl. 16 amendment to aid plan usability.

<sup>5</sup> **MF cl.16:** The firefighting performance standard applies to residential activities. Residential activity is non-complying in this zone and so the performance standard is not relevant and has been removed under cl. 16.

#### **Note 22.3B.4A - General advice**

- 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.
- 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.
- 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.
5. ~~All buildings and structures activities associated with existing major facilities are advised to undertake an assessment of risk from natural hazards and implement any recommended risk mitigation measures. {MF cl.16}~~

<sup>1</sup> **MF cl.16:** As a clause 16 amendment, this note is not necessary as the sections contain natural hazard performance standards.

### 22.3.5 Activity status - subdivision activities

Subdivision activities		Activity Status	Performance standards
1.	General subdivision	RD	a. Subdivision performance standards
2.	Cross lease, company lease and unit title subdivision	NC	

#### Note 22.3.5A - 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.

### 22.3.6 Change to activity status in Hazard 1, Hazard 2 and Hazard 3 Overlay Zones {NH cl.16<sup>1</sup>}

Activity {NH cl.16}		a. Haz2 {NH cl.16}	b. Haz3 {NH cl.16}
1- {NH cl.16}	Potentially sensitive activities not permitted in Dunedin Botanic Garden Zone {NH cl.16}	⊘ {NH cl.16}	— {NH cl.16}
2- {NH cl.16}	Sensitive activities {NH cl.16}	⊘ {NH cl.16}	— {NH cl.16}
3- {NH cl.16}	In the hazard 2 overlay zones new buildings, and additions and alterations to buildings, <del>which create more than 60m<sup>2</sup> of new ground floor area</del> {NH cl.16}	RD {NH cl.16}	— {NH cl.16}

<sup>1</sup> **NH cl. 16:** The content from Table 22.3.6 has been moved to Table 22.3.X, with the exception that column c has been removed, pursuant to clause 16. This was removed as em-dashes are no longer used and the column was unnecessary. All substantive amendments to provisions are show in the new location.

### 22.3.X Activity status in the Hazard 2 (flood) Overlay Zone {NH 637.74 and others<sup>1</sup>}

Activity	Activity status
X. <u>Natural hazards sensitive activities {NH 634.74}</u>	D RD {NH 634.74}
Y. <u>Natural hazards potentially sensitive activities {NH 634.74}</u>	D RD {NH 634.74}
3. <u>In a hazard 2 overlay zones, new {NH 73.4 and others} New buildings, and additions and alterations to buildings, which create more than 60m<sup>2</sup> of new ground floor area</u>	RD

<sup>1</sup> **NH 634.74:** Note that "potentially sensitive activities not permitted in Dunedin Botanic Garden Zone" (which was notified as a discretionary activity) has been replaced by "natural hazards potentially sensitive activities" as there is no longer differentiation between activities permitted in the underlying zone and those that are not. This activity was changed to restricted discretionary in response to this submission.

#### **Note 22.3.6A - Guidance on existing use rights applying to land use activities in hazard overlay zones** **Other RMA considerations {MF cl.16}**

1. For the purposes of the natural hazards provisions only, with respect to section 10 of the RMA (existing use rights) {NH 634.81}, Council will generally consider that a land use activity is similar in character, intensity, and scale where:
  - a. for a residential activity, there is less than 25m<sup>2</sup> increase in ground floor area of any residential building(s), in any consecutive 10 year period; or
  - b. for a residential activity, a new building is to be used solely as a garage or shed; or
  - c. for all other natural hazards {NH cl.16} sensitive activities and natural hazards {NH cl.16} potentially sensitive activities, the ground floor area of any buildings increases by less than 100% in any consecutive 10 year period.

Accordingly, these activities will not usually trigger the provisions for natural hazards sensitive activities and natural hazards potentially sensitive activities in Rule 22.3.6. {NH 634.81} However, Council will consider specific circumstances associated with the development and how this affects the character, intensity and scale of the land use activity.

## Rule 22.4 Notification

1. Applications for resource consent for the following activities will be considered without the need to obtain a written approval of affected persons and will not be notified in accordance with section 95A or section 95B of the Act ~~RMA~~, **{MF cl.16}** unless Council considers special circumstances exist in relation to the application that require public notification:
  1. earthquake strengthening of a scheduled heritage building or scheduled heritage structure where external features only are protected (controlled activity) and that are not listed by Heritage New Zealand; and
  2. contravention of ~~the materials and design~~ **{Her cl.16}** performance standard (Rule 13.3.2) 'Materials and design' **{Her cl.16}** where the building or structure is not listed by Heritage New Zealand.
2. With respect to resource consent applications, Heritage New Zealand will be considered an affected person in accordance with section 95B of the RMA where their written approval is not provided for the following:
  1. activities that affect a protected part of a scheduled heritage building, scheduled heritage structure, or a scheduled heritage site, that is listed with Heritage New Zealand; and
  2. contraventions of ~~the materials and design~~ **{Her cl.16}** performance standard (Rule 13.3.2) 'Materials and design' **{Her cl.16}** where the building or structure is not listed by Heritage New Zealand.
3. Applications for resource consent for the following activities will be publicly notified in accordance with section 95A(2) of the RMA: **{Her 308.362}**
  1. demolition of a protected part of a scheduled heritage building or scheduled heritage structure: **{Her 308.362}**
4. ~~In accordance with section 95B of the RMA, where an application is not publicly notified, Council will give limited notification to all affected persons: {PO cl.16'}~~
5. All other activities are subject to the normal tests for notification in accordance with sections 95A-95G of the RMA.

<sup>1</sup> **PO cl.16:** Clause removed as superfluous.

## **Rule 22.5 Land Use Performance Standards**

### **22.5.1 Electrical Interference**

Land use activities must comply with Rule 9.3.2.

### **22.5.2 Light Spill**

Land use activities must comply with Rule 9.3.5.

### **22.5.3 Location**

1. Ancillary retail and restaurants activities **{PO cl.16}** must not be located adjacent to a road frontage.
2. Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

### **22.5.4 Minimum Car Parking**

1. Dunedin Botanic Garden activity must provide a minimum of 94 parking spaces, including three 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 22.5.4A - 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.

### **22.5.5 Noise**

Land use activities must comply with Rule 9.3.6.

## Rule 22.6 Development Performance Standards

### 22.6.1 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); with an average of one tree for every 5m of frontage **{MF cl.16}**.
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}**

### 22.6.2 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.

### 22.6.3 Fence Height and Design

1. Fences must not exceed the following height limits, except as provided for below: **{Res cl.16<sup>1</sup>}**

Location <b>{Res cl.16}</b>		Maximum height <b>{Res cl.16}</b>
a- <b>{Res cl.16}</b>	Along the road boundary with a state highway <b>{Res cl.16}</b>	2m <b>{Res cl.16}</b>
b- <b>{Res cl.16}</b>	Along all other road boundaries <b>{Res cl.16}</b>	1.4m <b>{Res cl.16}</b>
c- <b>{Res cl.16}</b>	Along a side or rear boundary with a residential zone <b>{Res cl.16}</b>	1.4m <b>{Res cl.16}</b>

Location {Res cl.16}		Maximum height {Res cl.16}
e- {Res cl.16}	Along all other side and rear boundaries {Res cl.16}	2m {Res cl.16}

2. Fences along boundaries include fences that are not exactly on the boundary but are within the boundary setbacks required by Rule 22.6.12. {Res cl.16}
3. 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 15.6D and Figure 15.6E). {Res cl.16}
4. 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.

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

- a. The maximum height of fences along boundaries (including within the boundary setbacks required by Rule 22.6.12) 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.

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

- a. Fences along road boundaries (or within the boundary setbacks required by Rule 22.6.12), or along a side or rear boundary with a residential zone, 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.

#### 22.6.4 Fire Fighting {Confirmed for deletion- MF cl.16}

~~New residential buildings and subdivision activities must comply with Rule 9.3.3. {MF cl.16<sup>1</sup>}~~

<sup>1</sup> **MF cl.16:** The firefighting performance standard applies to residential activities. Residential activity is non-complying in this zone and so the performance standard is not relevant and has been removed under cl.16.

### 22.6.5 Hazardous Substances Quantity Limits and Storage Requirements

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

### 22.6.6 Height

#### 22.6.6.1 Height in relation to boundary

Buildings and structures adjoining the a residential zone must not protrude through a plane rising at an angle of 45 degrees measured from a starting point of 2.5m vertically above ground level at the zone boundary (see Figure 15.6F), except: 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>

- a. a gable end or dormer may project beyond the plane where it is: **{Res cl.16}**<sup>1</sup>
  - i. no greater than 1 2m {Res 740.1} in height measured parallel to the nearest adjacent boundary; and/or **{Res cl.16}**<sup>1</sup>
  - ii. no greater than 1 2m {Res 740.1} in depth measured horizontally at 90 degrees to the nearest adjacent boundary (See Figure 15.6H) **{Res 740.1}**. **{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 the rule in the residential zones to avoid repeating rule wording.

#### 22.6.6.2 Maximum height

- a. The maximum height of new buildings and structures, and additions and alterations, must not exceed 12m above ground level.
- b. Rooftop structures are exempt from the performance standard for height provided they do not exceed the maximum height limit by more than 4m.
- c. Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

### 22.6.7 Location and Screening of Service Areas

1. 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.
2. Service areas must not encroach into required parking, loading or manoeuvring areas.
3. Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

### 22.6.8 Materials and Design

Repairs and maintenance, restoration and earthquake strengthening must comply with Rule 13.3.2.

### 22.6.9 Minimum Floor Level {Confirmed for deletion - NH 917.27, 947.53 and others}

New buildings (including residential buildings) to be used for sensitive activities in the Hazard 2 (flood) or Hazard 3 (flood) Overlay Zones must comply with Rule 11.3.3. **{NH 917.27, NH 947.53 and others}**

## 22.6.10 Number, Location and Design of Ancillary Signs

### 22.6.10.1 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 Dunedin Botanic Garden 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 Dunedin Botanic Garden Zone.
- c. Signs must comply with Rule 6.7.3 where visible from a road.
- d. Signs must not be illuminated or digital.
- e. ~~Signs other than those specified in rules 22.6.10.2 and 22.6.10.3 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}**

### 22.6.10.2 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 30m of building façade;
  - 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.

### 22.6.10.3 Freestanding signs

- a. The maximum number of freestanding signs is one per entrance to the Dunedin Botanic Garden plus one per 100m of road frontage.
- b. The maximum dimensions of freestanding signs are:
  - i. maximum height of 3m;
  - ii. maximum area of 2m<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 areas parking, loading and access areas; and **{PO cl.16}**
  - ii. ~~Freestanding signs must be located within the site and cannot be located on the road reserve~~ be

positioned entirely within the site boundaries. **{PO cl.16}**

**Note 22.6A - 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 22.6.10B - 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.

**22.6.11 Parking, Loading and Access Standards**

Parking, loading and access must comply with Rule 6.6.

**22.6.12 Setbacks**

~~26.6.12.1~~ **22.6.12.1 **{PO cl.16}**** Boundary setbacks

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

Building		Setback from road boundary or other zone boundary
i.	Buildings, structures, and additions and alterations not exceeding 9m in height or 250m <sup>2</sup> gross floor area	4.5m
ii.	All other buildings, structures and, additions and alterations	10m

- iii. Except fences and ancillary signs are exempt from the performance standard.
- iv. All public entrances to buildings must be located at least 10 metres from a boundary with a residential zone.
- b. Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

~~25.6.12.2~~ **22.6.12.2 **{PO cl.16}**** Setback from coast and water bodies

New buildings and structures, additions and alterations, ~~earthworks—large scale;~~ **{EW cl.16}** and storage and use of hazardous substances must comply with Rule 10.3.3.

<sup>1</sup> **EW cl.16:** As a clause 16 amendment, reference to earthworks in the setback from coast and water bodies standards in all management and major facility zones have been moved to setback standards in the new city-wide section (Rule 8A.5.10). Any amendments to provisions as a result of submissions are shown there.

### **22.6.13 Maximum Area of Vegetation Clearance (UBMA) {NatEnv cl.16<sup>1</sup>}**

Vegetation clearance in an urban biodiversity mapped area (UBMA) must comply with Rule 10.3.2.1. {NatEnv cl.16}

<sup>1</sup> **NatEnv cl.16:** As the Dunedin Botanic Garden Major Facility Zone is partly covered by an Urban Biodiversity Mapped Area, this has been added as a clause 16 amendment to clarify that the vegetation clearance performance standard (Rule 10.3.2.1) applies in the UBMA.

### **Rule 22.7 Subdivision Performance Standards**

General subdivision must comply with Rule 20.7.

## Rule 22.8 Assessment of Controlled Activities

### Rule 22.8.1 Introduction

1. Controlled activities will be assessed in accordance with section 104 and 104A of the RMA. Council must grant the application and may impose conditions with respect to matters over which it has reserved its control.
2. Rule 22.8.2:
  - a. lists the matters over which Council has reserved its control; and
  - b. provides guidance on how consent applications will be assessed, including:
    - i. relevant objectives and policies, with respect to s104(1)(b)(vi); and
    - ii. conditions that may be imposed.
3. Where a controlled 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 22.9; and
    - iv. the matters of control become matters of discretion and will be assessed as indicated in this section.
  - 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 22.11; 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 22.12; and
    - iii. the assessment guidance in this section will also be considered.

## 22.8.2 Assessment of controlled activities

Activity	Matters of control	Guidance on the assessment of resource consents
<p>1. <u>Affecting a scheduled heritage building or a scheduled heritage structure: {Her cl.16}</u></p> <ul style="list-style-type: none"> <li>• Earthquake strengthening that affects a protected part of a scheduled heritage building or scheduled heritage structure, where external features only are protected.</li> <li>• <u>Restoration of a protected part of a scheduled heritage building or scheduled heritage structure that has a Heritage New Zealand Category 1 listing (as detailed in Appendix A1.1) {Her 547.91}</u></li> </ul>	<p>a. Effects on heritage values</p>	<p>See Rule 13.4</p>

## **Rule 22.9 Assessment of Restricted Discretionary Activities (Performance Standard Contraventions)**

### **Rule 22.9.1 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 22.9.2 - 22.9.5:
  - 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 22.9.2 - 22.9.5 apply as follows: {MF cl.16}
  - a. Rule 22.9.2 applies to all performance standard contraventions;
  - b. Rule 22.9.3 applies to land use performance standard contraventions;
  - c. Rule 22.9.4 applies to development performance standard contraventions; and
  - d. Rule 22.9.5 applies to subdivision performance standard contraventions.
  - e. Rule 22.9.X applies to performance standard contraventions in an overlay zone, mapped area or affecting a scheduled item. {MF cl.16}

### 22.9.2 Assessment of all performance standard contraventions

Performance standard	Guidance on the assessment of resource consents
1. All performance standard contraventions	<p><i>Potential circumstances that may support a consent application include:</i></p> <ul 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 including topography, make meeting the standard impracticable.</li> <li>c. The nature of activities on surrounding sites, topography of the site and/or surrounding sites, 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> </ul> <p><i>General assessment guidance:</i></p> <ul style="list-style-type: none"> <li>e. Where more than one standard is contravened, the combined effects of the contraventions should be considered.</li> <li>f. In balancing consideration of the objectives and policies related to the maintenance of heritage values and those related to general amenity, greater weight will usually be placed on heritage policies.</li> </ul>

### 22.9.3 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 {MF cl.16}	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> <li>i. Objective 22.2.2</li> <li>ii. Ancillary restaurants and retail are designed, located and operated to primarily serve visitors to the Dunedin Botanic Garden (Policy 22.2.2.6).</li> </ul>
3. Minimum car parking	a. Effects on the safety and efficiency of the transport network b. Effects on accessibility	See Rule 6.9

#### 22.9.4 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 neighbourhood amenity	<p><i>Relevant objectives and policies:</i></p> <ol style="list-style-type: none"> <li>Objective 22.2.2</li> <li><u>Buildings and structures are of a height and setback from boundaries that ensures: {MF cl.16}</u> <ol style="list-style-type: none"> <li>there are no more than minor effects on the sunlight access and privacy of current and potential future residential buildings and their outdoor living spaces (Policy 22.2.2.1.a); and</li> <li>any adverse effects on neighbourhood amenity are avoided or, if avoidance is not possible <u>practicable</u> {PO 908.3 and others}, are no more than minor (Policy 22.2.2.1.b).</li> </ol> </li> </ol>
2.	Boundary treatments and other landscaping	a. Effects on neighbourhood amenity	<p><i>Relevant objectives and policies:</i></p> <ol style="list-style-type: none"> <li>Objective 22.2.2</li> <li>Landscaping of the boundary of parking areas adjacent to a road frontage screens or softens these areas and ensures a high standard of visual amenity when viewed from the road (Policy 22.2.2.3).</li> </ol>
3.	<p>Earthworks standards:</p> <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> <ol style="list-style-type: none"> <li>Objective 22.2.3</li> <li>Earthwork 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 22.2.3.1.b).</li> </ol> <p><i>Conditions that may be imposed include, but are not limited to:</i></p> <ol style="list-style-type: none"> <li>Maximum slopes of cut and fill batters.</li> <li>Time limits for retaining wall installation to avoid leaving a cut slope unsupported for an extended period.</li> <li>Temporary shoring requirements to maintain stability before a wall is constructed.</li> <li>Supervision and monitoring requirements for retaining wall construction and standard earthworks construction.</li> </ol>
4.	<p>Earthworks standards:</p> <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> <ol style="list-style-type: none"> <li>Objective 22.2.3</li> <li>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 and cliffs (Policy 22.2.3.1.a).</li> </ol>

#### 22.9.4 Assessment of development performance standard contraventions

Performance standard		Matters of discretion	Guidance on the assessment of resource consents
5.	Earthworks standards: • Setback from network utilities {EW cl.16'}	a. Effects on efficient and effective operation of network utilities	See Rule 5.7
		b. Effects on health and safety	
6.	Earthworks standards: • Sediment control {EW cl.16'}	a. Effects on surrounding sites	<i>Relevant objectives and policies:</i> i. Objective 22.2.3 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 22.2.3.2.b).
		b. Effects on biodiversity values and natural character of the coast and riparian margins	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 neighbourhood amenity	<i>Relevant objectives and policies:</i> i. Objective 22.2.2 ii. Fences on road boundaries are of a height and design that contributes positively to neighbourhood amenity (Policy 22.2.2.4).  <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 is achieved. v. The fence will be screened by landscaping.
		b. Effects on health and safety	See Rule 9.4

#### 22.9.4 Assessment of development performance standard contraventions

Performance standard		Matters of discretion	Guidance on the assessment of resource consents
8.	Hazardous substances quantity limits and storage requirements	a. Effects on health and safety	See Rule 9.4
		b. Risk from natural hazards <b>{PO cl.16}</b>	See Rule 11.4 <b>{PO cl.16}</b>
9.	Location and screening of service areas	a. Effects on on-site amenity	<b>Relevant objectives and policies:</b> i. Objective 22.2.2 ii. Development maintains or enhances on-site amenity <b>{MF cl.16}</b> and neighbourhood amenity by ensuring service areas are not visible from ground level within or outside the site (Policy 22.2.2.2).
		b. Effects on neighbourhood amenity	
10.	Materials and design <b>{PO cl.16}</b>	a. Effects on heritage values (work on scheduled heritage buildings/structures) <b>{PO cl.16}</b>	See Rule 13.5 <b>{PO cl.16}</b>
11.	Minimum floor level (hazard overlays) <b>{NH 917.27, NH 947.53 and others}</b>	a. Risk from natural hazards <b>{NH 917.27, NH 947.53 and others}</b>	See Rule 11.4 <b>{NH 917.27, NH 947.53 and others}</b>
12.	Number, location and design of ancillary signs	a. Effects on neighbourhood amenity	<b>Relevant objectives and policies:</b> i. Objective 22.2.2 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 22.2.2.5).
		b. Effects on the safety and efficiency of the transport network	See Rule 6.9

#### 22.9.4 Assessment of development performance standard contraventions

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
13. Setback from coast and water bodies	a. Effects on biodiversity values and natural character of the coast and riparian margins	See Rule 10.4
	b. Effects on public access	
	c. Risk from natural hazards	See Rule 11.4
14. Parking, loading and access standards	a. Effects on the safety and efficiency of the transport network	See Rule 6.9

<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> **NatEnv cl.16:** As the Dunedin Botanic Garden Major Facility Zone is partly covered by an Urban Biodiversity Mapped Area, this has been added as a clause 16 amendment to clarify that the vegetation clearance performance standard (Rule 10.3.2.1) applies in the UBMA.

#### 22.9.X Assessment of performance standard contraventions in an overlay zone, mapped area or affecting a scheduled item {PO cl.16}

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
1. In a hazard overlay zone: • <u>Hazardous substances quantity limits and storage requirements {PO cl.16}</u>	a. Risk from natural hazards {PO cl.16}	See Rule 11.4 {PO cl.16}
2. <u>Affecting a scheduled heritage building or scheduled heritage structure {PO cl.16}</u> • Materials and design	a. Effects on heritage values (work on scheduled heritage buildings/structures) {MF cl.16}	See Rule 13.5
3. In an <u>urban biodiversity mapped area:</u> • <u>Maximum area of vegetation clearance (UBMA) {NatEnv cl.16}</u>	a. Effects on biodiversity values {NatEnv cl.16}	See Rule 10.4 {NatEnv cl.16}

#### 22.9.5 Assessment of subdivision performance standard contraventions

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

## Rule 22.10 Assessment of Restricted Discretionary Activities

### Rule 22.10.1 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 22.10.2 and 22.10.3:
  - 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 22.10.2 and 22.10.3 apply as follows: {MF cl.16}
  - a. Rule 22.10.2 applies to restricted discretionary development activities; and
  - b. Rule 22.10.3 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 22.9; 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 22.11; 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 22.12; and
    - iii. the assessment guidance in this section will also be considered.

## 22.10.2 Assessment of restricted discretionary development activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
<p>1. <u>Activities affecting a scheduled heritage building or scheduled heritage structure: {Her cl.16}</u></p> <ul style="list-style-type: none"> <li>• All other Additions and alterations that affect a protected part of a <b>scheduled heritage building</b> or <b>scheduled heritage structure</b></li> <li>• Removal for relocation</li> </ul>	<p>a. Effects on heritage values</p>	<p>See Rule 13.6</p>

## 22.10.2 Assessment of restricted discretionary development activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
2. Earthworks – large scale (that exceed the scale thresholds for the Dunedin Botanic Garden 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 22.2.3</li> <li>ii. Adverse effects on visual amenity and character will be avoided or, if avoidance is not possible, adequately mitigated (Policy 22.2.3.3.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 22.2.3.3.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 impact upon 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>

### 22.10.2 Assessment of restricted discretionary development activities

Activity		Matters of discretion	Guidance on the assessment of resource consents
		e. 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 22.2.3</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 22.2.3.3.e).</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 22.13.1).</li> <li>iv. Excavation, fill and retaining structures will be designed, and the work undertaken, in accordance with best practice engineering standards.</li> </ul>
3.	Earthworks – large scale (that exceed scale thresholds within 5m of a water body or MHWS) {EW cl.16'}	a. Effects on biodiversity values and natural character of riparian margins and the coast b. Effects on public access	See Rule 10.5
4.	Earthworks – large scale (that exceed scale thresholds for a hazard (flood) overlay zone) {EW cl.16'}	a. Risk from natural hazards	See Rule 11.5
5.	In the <b>Hazard 2 (flood) {NH 73.4 and others} Overlay Zone</b> (see Rule 22.3.6): <ul style="list-style-type: none"> <li>• New buildings, and additions and alterations to buildings, which create more than 60m<sup>2</sup> of new ground floor area</li> </ul>	a. Risk from natural hazards	See Rule 11.5

## 22.10.2 Assessment of restricted discretionary development activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
<p>6. <u>High trip generators:</u> <b>{Trans cl.16<sup>2</sup>}</b></p> <ul style="list-style-type: none"> <li>• New <u>or additions to parking areas ; or extensions to existing parking areas</u> 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 <u>accessibility</u> <b>{Trans cl.16}</b></p>	See Rule 6.10
<p>7. In the <b>Hazard 2 (flood) Overlay Zone:</b> <b>{NH 634.74}</b></p> <ul style="list-style-type: none"> <li>• <u>Natural hazards</u> <b>{NH cl.16}</b> <u>sensitive activities</u> <b>{NH 634.74}</b></li> <li>• <u>Natural hazards</u> <b>{NH cl.16}</b> <u>potentially sensitive activities</u> <b>{NH 634.74}</b></li> </ul>	<p>a. Risk from natural hazards <b>{NH 634.74}</b></p>	See Rule 11.5 <b>{NH 634.74}</b>

<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.



### 22.10.3 Assessment of restricted discretionary subdivision activities

Activity		Matters of discretion	Guidance on the assessment of resource consents
1.	General subdivision	a. Effects on the efficient and effective operation of Dunedin Botanic Garden	<i>Relevant objective and policies:</i> i. Objective 22.2.1 ii. Subdivision <u>activities</u> does not adversely affect the efficient and effective operation of Dunedin Botanic Garden (Policy 22.2.1.4).
		See Rule 20.10	

## **Rule 22.11 Assessment of Discretionary Activities**

### **Rule 22.11.1 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. Rules 22.11.2 - 22.11.4 provide 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. Rules 22.11.2 - 22.11.4 apply as follows: {MF cl.16}
  - a. Rule 22.11.2 applies to all discretionary activities; and
  - b. Rule 22.11.4 applies to discretionary 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.

## 22.11.2 Assessment of all discretionary activities

Activity	Guidance on the assessment of resource consents
<p>1. All discretionary <u>land use</u> activities including listed below: <b>{PO cl.16}</b></p> <ul style="list-style-type: none"> <li>all residential activities</li> <li>all activities in the community activities category except community and leisure, <u>sport and recreation not involving a motor vehicle</u> <b>{MF 360.105}</b> and conservation activities <b>{PO cl.16}</b></li> <li>all activities listed below <b>{PO cl.16}</b></li> </ul>	<p><b><i>Relevant objectives and policies (priority considerations):</i></b></p> <ol style="list-style-type: none"> <li>Objectives 2.3.1, 2.3.3</li> <li>Objective 22.2.1</li> <li>The activity does not detract from, or preferably contributes to, the strategic directions objectives.</li> <li>Activities that are ancillary to Dunedin Botanic Garden activity are designed and operated in line with Objective 22.2.2 and its policies (Policy 22.2.1.2).</li> <li>Activities that are not ancillary to Dunedin Botanic Garden activity: <ol style="list-style-type: none"> <li>are related to or support the Dunedin Botanic Garden, or have other operational requirements that mean they need to locate in the zone;</li> <li>support the efficient and effective operation of Dunedin Botanic Garden;</li> <li>are not more appropriately located in another zone in line with Objective 2.3.2 and its policies; and</li> <li>are designed and operated in line with Objective 22.2.2 and its policies (Policy 22.2.1.3).</li> </ol> </li> </ol> <p><b><i>Potential circumstances that may support a consent application include:</i></b></p> <ol style="list-style-type: none"> <li>For discretionary land use activities, whether any associated development activities meet relevant development performance standards, or are otherwise consistent with relevant objectives and policies for development.</li> <li>All relevant land use performance standards are met, including noise and light spill standards.</li> </ol> <p><b><i>General assessment guidance:</i></b></p> <ol style="list-style-type: none"> <li>In assessing the significance of effects, consideration will be given to: <ol style="list-style-type: none"> <li>short to long term effects, including effects in combination with other activities; and</li> <li>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> </ol> </li> <li>In assessing activities that are discretionary 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: <b>{MF cl.16<sup>2</sup>}</b></li> </ol> <p><b><i>Relevant guidance from other sections (priority considerations):</i></b></p> <ol style="list-style-type: none"> <li>See Section 6.11 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</li> </ol>

### 22.11.2 Assessment of all discretionary activities

Activity	Guidance on the assessment of resource consents
	<p><u>and its affordability to the public. {Trans cl.16'}</u></p> <p>k. <u>See Section 9.6 for guidance on the assessment of resource consents in relation to Objective 9.2.2 and effects on health and safety. {PHS cl.16}</u></p> <p>l. <u>See Section 14.5 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on cultural values of Manawhenua. {MW 1071.3}</u></p>

<sup>1</sup> **Trans cl.16:** This amendment adds a cross-reference to relevant assessment rules in the transportation section, for all discretionary activities. This does not change the effect of provisions.

<sup>2</sup> **MF cl.16:** Rule 22.11.2.1.i unnecessary because there are no activities that are discretionary due to being in an overlay zone, mapped area, in a scheduled site, or affecting a scheduled item.

### 22.11.3 Assessment of discretionary development activities {NH634.74}

Activity {NH634.74}	Guidance on the assessment of resource consents {NH634.74}
<p>4. In the <b>hazard 2 overlay zones</b> (see Rule 22.3.6): {NH634.74}</p> <ul style="list-style-type: none"> <li>Potentially sensitive activities not permitted in Dunedin Botanic Garden Zone {NH634.74}</li> <li>Sensitive activities {NH634.74}</li> </ul>	<p>See Section 11.6 for guidance on the assessment of resource consents in relation to Objective 11.2.1 and effects related to the risk from natural hazards. {NH634.74}</p>

### 22.11.4 Assessment of discretionary performance standard contraventions

Performance standard	Guidance on the assessment of resource consents
<p>1. • Noise - where the limit is exceeded by up to <u>less than</u> {PHS cl.16} 5dB LAeq (15min)</p> <p>• Light spill - where the limit is exceeded by 25% or less</p>	<p>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.</p>

## **Rule 22.12 Assessment of Non-complying Activities**

### **Rule 22.12.1 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 22.12.2 - 22.12.5 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 22.12.2 - 22.12.5 apply as follows: {MF cl.16}
  - a. Rule 22.12.2 applies to non-complying land use activities;
  - b. Rule 22.12.4 applies to non-complying development activities; and
  - c. Rule 22.12.5 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.

## 22.12.2 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 22.2.1</li> <li>c. Activities that are not ancillary to Dunedin Botanic Garden activity: <ul style="list-style-type: none"> <li>i. are related to or support Dunedin Botanic Garden, or have other operational requirements that mean they need to locate in the zone;</li> <li>ii. support the efficient and effective operation of Dunedin Botanic Garden;</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 22.2.2 and its policies (Policy 22.2.1.3).</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. 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<sup>1</sup>}</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<sup>3</sup>}</b></p>	<p><b>Relevant objectives and policies (priority considerations):</b></p> <ul style="list-style-type: none"> <li>a. Objective 2.4.1</li> <li>b. Policy 2.4.1.6.c</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> **MF cl.16:** As a clause 16 amendment this content has been moved from Rule 22.12.3. This is not a substantive change to provisions.

#### **22.12.3 Assessment of non-complying land use activities**

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

<sup>1</sup> **MF cl.16:** As a clause 16 amendment this content has been moved from Rule 22.12.2. This is not a substantive change to provisions.

#### **22.12.4 Assessment of non-complying development activities**

Activity	Guidance on the assessment of resource consents
1. Demolition that affects a protected part of a scheduled building or scheduled heritage structure	<i>Relevant guidance from other sections (priority considerations):</i> a. See Section 13.8 for guidance on the assessment of resource consents in relation to Objective 13.2.1 and effects on heritage values.

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

Performance standard	Guidance on the assessment of resource consents
1. <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>	<i>Relevant guidance from other sections (priority considerations):</i> 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.

### **Rule 22.13 Special Information Requirements {Confirmed to be deleted - EW cl.16}**

**EW cl.16:** As a clause 16 amendment, Rule 22.13.1 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.