

11. Business 3 Zone

Note:

Vegetation clearance, earthworks or land disturbance within, or within a 10 m setback from a natural wetland is managed under Part 3 Subpart 1 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, except where prohibited by this plan.

Note:

Natural wetland has the meaning given by the National Policy Statement for Freshwater Management and includes, but is not limited to, Significant Wetlands.

Commented [1]: NES-FW s44A(5)

11.1. Permitted Activities

Unless expressly limited elsewhere by a rule in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without resource consent where they comply with the applicable standards in 11.2 and 11.3:

[D]

11.1.1.1. **Large format retail.**

[D]

11.1.1.2. **Park or reserve.**

[R, D]

11.1.1.3. **Excavation or filling.**

[R, D]

11.1.1.4. **Geotechnical bore drilling for the purposes of investigation of sub-surface conditions.**

[R]

11.1.1.5. **Application (involving a discharge) of an agrichemical into or onto land.**

[R]

11.1.1.6. **Discharge of contaminants to air from the burning of solid fuel in an indoor open fire.**

[R]

11.1.1.7. **Discharge of contaminants to air from the burning of solid fuel in a small scale solid fuel burning appliance, except an enclosed pellet burner.**

[R]

11.1.1.8. **Discharge of contaminants to air from the burning of solid fuel in an enclosed pellet burner.**

[R]

11.1.1.9. **Discharge of heat and water vapour from cooling towers.**

Commented [2]: RESOLVED:
Minister of Defence
ENV-2020-CHC-76
By consent order dated 25 July 2022

[R]

11.1.1.10. **Discharge of contaminants to air arising from the burning of materials for any of the following purposes:**

- (a) creating special smoke and fire effects for the purposes of producing films;
- (b) fireworks display or other temporary event involving the use of fireworks.

[R]

11.1.11 The discharge of contaminants into air from the storage or transfer of petroleum products, including vapour ventilation and displacement.

[R]

11.1.12 Discharge of dust.

11.2. Standards that apply to all permitted activities

11.2.1. Construction of a building or structure.

- 11.2.1.1. The maximum height of a building or structure must not exceed 12m.
- 11.2.1.2. Permanent buildings must not cover more than 60% of the gross site area.
- 11.2.1.3. The minimum setback of a building must be 10m from a road including a right of way or private road.
- 11.2.1.4. The minimum setback of a building from the boundary of any adjoining zone must be 8m.
- 11.2.1.5. The height of a fence, or part of a fence, must not exceed 2m.
- 11.2.1.6. Large format retail tenancy areas must have a gross floor area greater than 1000m².
- 11.2.1.7. A building or structure in which human effluent will be created must connect to, and dispose of its effluent into, a Council operated sewerage system designed for that purpose, if the system is within 30m of the property boundary or 60m of the closest building.
- 11.2.1.8. Metal cladding, roofing or fences are painted or otherwise coated with a non-reflective finish.

11.2.2. Noise.

11.2.2.1. An activity must not cause noise that exceeds the following limits any point within the boundary of any other property zoned Business 1, Business 2 or Business 3:

7.00 am to 10.00 pm	60dB LAeq	
10.00 pm to 7.00 am	55dB LAeq	75dB LAFmax

11.2.2.2. An activity must not cause noise that exceeds the following limits at the boundary of, or at any point within, any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3 or within the notional boundary of a dwelling within any other zone:

7.00 am to 10.00 pm	50dB LAeq	
10.00 pm to 7.00 am	40dB LAeq	70dB LAFmax

11.2.2.3. Noise must be measured in accordance with NZS 6801:2008 Acoustics – Measurement of Environmental Sound, and assessed in accordance with NZS 6802:2008 Acoustics – Environmental Noise

- 11.2.2.4. Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with NZS 6803:1999 Acoustics – Construction Noise.

11.2.3. Use of external lighting.

- 11.2.3.1. All exterior lighting must be directed away from adjacent properties, roads and any adjoining site within the Urban Residential 2 Zone so as to avoid any adverse effects on the neighbourhood and/or traffic safety.
- 11.2.3.2. Light spill, when measured at a height of 1.5m above the ground at the zone boundary, must not exceed 8 Lux spill (horizontal and vertical).

11.2.4. Outdoor storage.

- 11.2.4.1. An outdoor storage area must be screened with a wall or fence 1.8m high or dense planting of vegetation capable of growing to 1.8m high.

11.2.5. Odour.

- 11.2.5.1. There must be no objectionable or offensive odour to the extent that it causes an adverse effect, at or beyond the legal boundary of the site.

Note:

For the purpose of this performance standard, an offensive or objectionable odour is that odour which can be detected and is considered to be offensive or objectionable by a Council officer. In determining whether an odour is offensive or objectionable, the "FIDOL" factors must be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the "site" comprises all that land owned or controlled by the entity undertaking the activity causing the odour.

11.2.6. Smoke.

- 11.2.6.1. The smoke must not be objectionable or offensive, as detected at or beyond the legal boundary of the area of land on which the permitted activity is occurring.

11.2.7. Dust.

- 11.2.7.1. There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.

Note 1:

For the purpose of this performance standard, an offensive or objectionable discharge of dust is one which can be detected and is considered to be offensive or objectionable by a Council officer. In determining whether dust is offensive or objectionable, the "FIDOL" factors must be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the "site" comprises all that land owned or controlled by the entity undertaking the activity causing the dust.

Note 2:

This performance standard shall not apply if the discharge of dust is authorised by an air discharge permit.

11.2.8. Particulate from any process vent or stack.

- 11.2.8.1. The particulate must not contain hazardous substances such that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.
- 11.2.8.2. The concentration of particulate discharged from any air pollution control equipment and dust collection system must not exceed 250mg/m³ at any time, corrected to 0°C, 1 atmosphere pressure, dry gas basis.

This standard does not apply to discharges to air which are subject to standards for specific permitted activities.

11.3. Standards that apply to specific permitted activities

11.3.1. Large format retail.

- 11.3.1.1. A landscaped area of a minimum width of 3m must be established along all road boundaries and any adjoining zone, and must be planted with a minimum of one tree for every 10m of frontage. Trees must not be planted a distance of more than 25m apart or closer than 5m. At the time of planting, the trees must have a minimum height of 1.5m.
- 11.3.1.2. Hours of operation:
- (a) An activity must only occur during the hours of 7.00 am to 10.00 pm Monday to Sunday (inclusive).
 - (b) Delivery and waste collection vehicle movements must only occur during the hours of 7.00 am to 10.00 pm Monday to Saturday (inclusive) or during the hours of 9.00 am to 7.00 pm Sundays.

11.3.2. Park or reserve.

- 11.3.2.1. The park or reserve must be owned, managed or administered by the Marlborough District Council.
- 11.3.2.2. All activities within the park or reserve must also comply with the rules of the Open Space 1 Zone.

11.3.3. Excavation or filling.

- 11.3.3.1. Excavation or filling must not occur within 8m of the landward toe of a stopbank and the depth of excavation must not exceed 20% of the distance between the landward toe of the stopbank and the excavation.
- 11.3.3.2. The maximum volume of excavation must not exceed 50m³ per Record of Title within any 12 month period, unless the excavation is to establish the foundation for a large format retail building.
- 11.3.3.3. The maximum volume of filling must not exceed 50m³ per Record of Title within any 12 month period, unless the filling is associated with the establishment of the foundation for a large format retail building.
- 11.3.3.4. No excavation or filling must occur on land with a slope greater than 10°.
- 11.3.3.5. There must be no excavation in excess of 10m³ within a Groundwater Protection Area.
- 11.3.3.6. Excavation must not intercept groundwater or cause ponding of surface run-off.
- 11.3.3.7. Excavation and filling must not occur within, or within 8m of, a river or drainage channel.
- 11.3.3.8. Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.
- 11.3.3.9. A filled area must be designed, constructed and maintained to ensure it is stable and remains effective after completion of filling.

Commented [3]: NES-FW s44A(5)

- 11.3.3.10. Water control measures and sediment control measures must be designed, constructed and maintained in all areas disturbed by any excavation or filling, such that the areas are stable and the measures remain effective after completion of the excavation or filling. The diameter of a culvert used to drain excavation or fill areas must not be less than 300mm.
- 11.3.3.11. For staged excavations or filling, any part of the excavation or filled area that has not been further developed within 12 months must be re-vegetated.
- 11.3.3.12. Where the excavation or filling results in areas of exposed soil, those areas must be re-vegetated within 12 months of the completion of the excavation or filling.
- 11.3.3.13. The fill must not contain any:
- (a) hazardous substances;
 - (b) combustible or organic materials;
 - (c) any other contaminant subject to chemical or biological breakdown;
 - (d) liquids or sludge.
- 11.3.3.14. Excavation or filling must not cause water to enter onto any adjacent land under different ownership.
- 11.3.4. Geotechnical bore drilling for the purposes of investigation of sub-surface conditions.**
- 11.3.4.1. The bore must be drilled by a Recognised Professional.
- 11.3.4.2. A copy of the bore log, including a grid reference identifying the bore location, must be supplied to the Council in a suitable electronic format within 20 working days of drilling of the bore.
- 11.3.4.3. On completion of the geotechnical investigation, the bore must be sealed or capped to prevent any potential contamination of groundwater.
- 11.3.5. Application (involving a discharge) of an agrichemical into or onto land.**
- 11.3.5.1. The application must be undertaken either:
- (a) in accordance with the most recent product label; or
 - (b) if the agrichemical is approved for use under the Hazardous Substances and New Organisms Act 1996, the discharge shall be in accordance with all conditions of the approval.
- 11.3.5.2. All spills of agrichemicals above the application rate must be notified to Council immediately.
- 11.3.5.3. All reasonable care must be exercised in the application to ensure that the agrichemical must not pass beyond the legal boundary of the area of land on which the agrichemical is being applied.
- 11.3.5.4. The application must not result in the agrichemical being deposited in or on a river, lake, Significant Wetland or drainage channel that contains water.
- 11.3.5.5. All sprays must be applied with hand held equipment.

Note:

The Hazardous Substances (Hazardous Property Controls) Notice 2017 (EPA Consolidation 30 April 2021) sets out the qualifications required for use of certain substances in any place that is not a workplace, unless otherwise specified. The Health and Safety at Work (Hazardous Substances) Regulations 2017 sets out the competency requirements for the use of substances in a workplace and the duty of a PCBU to

provide information, training, supervision, and instruction. Together these Regulations stipulate training and competency requirements based on the substance used and risk to the environment. A summary of these requirements is also set out in NZS 8409:2021 Management of Agrichemicals, Appendix D.

Commented [4]: By consent order dated 31 October 2023

11.3.6. Discharge of contaminants to air from the burning of solid fuel in a small scale solid fuel burning appliance, except a pellet burner.

11.3.6.1. The appliance must only burn fuels approved for use in the device.

11.3.6.2. The appliance must be operated so that all reasonable steps are taken to minimise the amount of smoke discharged.

11.3.7. Discharge of contaminants to air from the burning of solid fuel in an enclosed pellet burner.

11.3.7.1. The burner must only burn fuels approved for use in the burner.

11.3.8. Discharge of heat and water vapour from cooling towers.

11.3.8.1. No more than 5MW of heat per hour must be discharged.

11.3.8.2. A discharge velocity that exceeds 4.3m/s through an obstacle limitation surface of an aerodrome, or at a height over 60m above ground level, must be advised to the Director of Civil Aviation Authority in accordance with Civil Aviation Authority Rule 77.13.

Commented [5]: RESOLVED:
The Minister of Defence
ENV-2020-CHC-76
By consent order dated 25 July 22

11.3.9. Discharge of contaminants to air arising from the burning of materials for any of the following purposes:

(a) creating special smoke and fire effects for the purposes of producing films;

(b) fireworks display or other temporary event involving the use of fireworks.

11.3.9.1. The Council must be notified at least 5 working days prior to the burning activity commencing.

11.3.9.2. If the property is located within the Blenheim Airshed, the discharge, except any discharge under (b), must not occur during the months of May, June, July or August.

11.3.9.3. [deleted]

Commented [6]: Clause 16 – Irrelevant standard

11.3.10 The discharge of contaminants into air from the storage or transfer of petroleum products, including vapour ventilation and displacement.

11.3.11.1. There shall be no objectionable or offensive odours to the extent that it causes an adverse effect at or beyond the boundary of the site.

11.4. Discretionary Activities

Commented [7]: New Zealand Transport Agency
ENV-2020-CHC-000056

Application must be made for a Discretionary Activity for the following:

New restricted discretionary rule and standards in relation to noise sensitive activities (See appendix B of appeal)

[R, D]

11.4.1. Any activity provided for as a Permitted Activity that does not meet the applicable standards.

[D]

11.4.2. Any use of land not provided for as a Permitted Activity or limited as a Prohibited Activity.

[R]

11.4.3. Any discharge of contaminants into or onto land, or to air, not provided for as a Permitted Activity or limited as a Prohibited Activity.

11.5. Prohibited Activities

The following are Prohibited Activities for which no application can be made:

[R]

11.5.1. The storage, reprocessing or disposal of hazardous waste into or onto land (other than into a lawfully established hazardous waste landfill).

[R]

11.5.2. Discharge of contaminants into air arising from the burning in any small scale solid fuel burning appliance of any of the following materials:

- (a) wood having a moisture content of more than 25% dry weight;
- (b) wood which is painted, stained, oiled or coated;
- (c) wood treated with preservatives or impregnated with chemicals, including but not limited to, wood treated with Copper-Chrome-Arsenic, except that woodfuel burnt in a fuel burning device (external combustion) may contain incidental amounts of anti-sapstain chemicals;
- (d) pellets containing greater than 10mg/kg (dry) of copper and 0.02 w-% (dry) of chlorine;
- (e) composite wood boards containing formaldehyde or similar adhesives, including but not limited to chip board, fibreboard, particle board and laminated boards;
- (f) metals and materials containing metals including but not limited to cables;
- (g) materials containing asbestos;
- (h) material containing tar or bitumen;
- (i) all rubber, including but not limited to, rubber tyres;
- (j) synthetic material, including, but not limited to motor vehicle parts, foams, fibreglass, batteries, chemicals, paint and other surface-coating materials, or any type of plastics;
- (k) waste oil (excluding re-refined oil);
- (l) peat;
- (m) sludge from industrial processes;
- (n) animal waste (except animal waste generated on production land), medical waste, pacemakers, biomechanical devices or chemical waste.

[R]

11.5.3. Discharge of contaminants to air arising from the deliberate burning in the open of any of the materials in the following list, except where material is present in minor quantities and cannot be separated from the principal material being burnt, or where the discharge arises from the burning of material for training people to put out fires as provided for as a Permitted Activity or authorised by a resource consent;

- (a) wood which is painted, stained, oiled or coated;
- (b) wood treated with preservatives or impregnated with chemicals, including but not limited to, wood treated with Copper-Chrome-Arsenic, except that woodfuel burnt in a fuel burning device (external combustion) may contain incidental amounts of anti-sapstain chemicals;
- (c) pellets containing greater than 10mg/kg (dry) of copper and 0.02 w-% (dry) of chlorine;
- (d) composite wood boards containing formaldehyde or similar adhesives, including but not limited to chip board, fibreboard, particle board and laminated boards;
- (e) metals and materials containing metals including but not limited to cables;
- (f) materials containing asbestos;
- (g) material containing tar or bitumen;
- (h) all rubber, including but not limited to, rubber tyres;
- (i) synthetic material, including, but not limited to motor vehicle parts, foams, fibreglass, batteries, chemicals, paint and other surface-coating materials, or any type of plastics;
- (j) waste oil (excluding re-refined oil);
- (k) peat;
- (l) sludge from industrial processes;
- (m) animal waste (except animal waste generated on production land), medical waste, pacemakers, biomechanical devices or chemical waste.