

17. Open Space 1 Zone

Note:

Vegetation clearance, earthworks or land disturbance within, or within a 10m 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)

17.1. 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 17.2 and 17.3:

[D]

17.1.1. Passive recreation.

[D]

17.1.2. Routes for pedestrians and cyclists.

[R, D]

17.1.3. Planting of vegetation.

[R, D]

17.1.4. Indigenous vegetation clearance.

[R, D]

17.1.5. Non-indigenous vegetation clearance.

[R, D]

17.1.6. Excavation.

[R, D]

17.1.7. Filling of land with clean fill.

[R]

17.1.8. Discharge of contaminants to air arising from burning in the open.

[R]

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

[R]

17.1.10. Storage and application (involving a discharge) of fertiliser or lime into or onto land.

Note:

Where the application of fertiliser includes synthetic nitrogen fertiliser, the discharge activity is managed by Regulations 33 or 34 of the Resource Management (National Environmental

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By consent order dated 31 October 2023

Standards for Freshwater) Regulations 2020, in addition to this rule. Regulation 33 limits the rate of application of synthetic nitrogen (N) fertiliser to pastoral land to 190 kg N/ha/year. Standard 3.3.24.3 of Rule 3.1.24 limits the cumulative N loading from all discharges to land to 200 kg N/ha/year, regardless of source (i.e., it includes synthetic nitrogen fertiliser, but also nitrogen from other sources such as agricultural liquid and solid waste, dairy effluent and compost). For the avoidance of doubt, both nitrogen limits must be complied with.

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[R]

17.1.11. Discharge of human effluent into or onto land.

[R, D]

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

[R]

17.1.12. 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]

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

[R]

17.1.14 Discharge of dust.

17.2. Standards that apply to all permitted activities

17.2.1. Construction and siting of a building or structure.

- 17.2.1.1. A building or structure (except a bridge) must be set back a minimum of 4.5m from road boundaries, or any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3, Rural Environment or Coastal Environment.
- 17.2.1.2. A building or structure (except a bridge) must not be constructed or sited closer than 8m to a river, lake, drainage channel, Drainage Channel Network, landward toe of stopbank or the sea.
- 17.2.1.3. The height of a fence or, any part of a fence, on a boundary to any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3 must not exceed 1.2m.
- 17.2.1.4. The maximum height of a building or structure must not exceed 7.5m.
- 17.2.1.5. 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.
- 17.2.1.6. A building or structure must not be sited within a Flood Hazard Area.
- 17.2.1.7. A building or structure must not be located within 3m of the legal boundary with the rail corridor of the Main North Line except for a fence up to 2m in height.

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By consent order dated 15 February 2023

17.2.2. Noise.

17.2.2.1. An activity must not cause noise that exceeds the following limits at any point within the boundary of any other property:

7.00 am to 10.00 pm	50dB L _{Aeq}
10.00 pm to 7.00 am	40dB L _{Aeq} 70dB L _{AFmax}

17.2.2.2. Noise must be measured in accordance with the provisions of NZS 6801:2008 – Measurement of Environmental Sound, and assessed on accordance with NZS 6802:2008 – Environmental Noise.

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

17.2.3. Outdoor lighting.

17.2.3.1. The maximum height of any poles, support structures or fixtures associated with artificial lighting must not exceed of 20m.

17.2.3.2. The lighting level at any point on the ground 2m inside the boundary of the Zone must not exceed 10 lux (lumens per square metre) measured horizontally and vertically.

17.2.3.3. There must be no greater than 2.5 lux spill (horizontal and vertical) of light onto any property zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3, measured at any point more than 2m inside the boundary of the property.

17.2.3.4. All outdoor lighting and exterior lighting, excluding lighting required for safe navigation under the Maritime Transport Act, must be directed away from roads so as to avoid any adverse effect on traffic safety.

17.2.4. Odour.

17.2.4.1. 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.

17.2.5. Smoke.

17.2.5.1. 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.

17.2.6. Dust.

17.2.6.1. 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"

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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.

17.2.7. Particulate from any process vent or stack.

17.2.7.1. 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.

17.2.7.2. 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.

17.3. Standards that apply to specific permitted activities

17.3.1. Planting of vegetation.

17.3.1.1. Only indigenous species must be planted in, or within 8m of, a Significant Wetland.

17.3.2. Indigenous vegetation clearance.

17.3.2.1. Indigenous vegetation clearance must comply with Standards 17.3.3.1 to 17.3.3.4 (inclusive).

17.3.2.2. The clearance of indigenous vegetation can only occur in the following circumstances:

- (a) [deleted];
- (b) [deleted];
- (bi) where the clearance is of indigenous vegetation under woodlot forest or shelter belt;
- (c) where the clearance is associated with the maintenance of existing signs, roads, tracks, fence lines, cycling tracks or walking tracks;
- (ci) where the clearance is within the curtilage of a dwelling;
- (d) where the clearance is associated with operation and maintenance of the: National Grid, existing network utility operations, and existing electricity distribution activities;
- (di) where the clearance is associated with the maintenance of existing hydro-electricity generation activities connected to the National Grid or distribution network;
- (e) where the clearance is associated with the maintenance of existing fire breaks.
- (f) where the clearance is within existing crop or pasture and is for the purpose of cultivation or pasture maintenance where the indigenous

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vegetation has grown from a previous lawful clearance carried out under the RMA and the indigenous vegetation is less than 10 years in age;

- (g) where the clearance is associated with the maintenance of an archaeological site where authority has been obtained from Heritage New Zealand Pouhere Taonga.
- (h) where the clearance associated with the maintenance of existing:
 - (i) farm building where the clearance is no further than 2 metres from the exterior wall of the existing building; or
 - (ii) farm water supply pipelines, where the total width of clearance is no greater than 2 metres at any point.
- (i) Clearance of indigenous vegetation where it has been planted as part of a domestic or public garden; or has been planted for amenity purposes; or planted as a shelterbelt;
- (j) Clearance of indigenous vegetation that is a danger to human life;
- (k) Clearance of indigenous vegetation that is a material risk to structures or utilities;
- (l) Clearance of indigenous vegetation that cannot reasonably be avoided in the course of destroying pests required by any Regional Pest Management Plan made under the Biosecurity Act 1993, or as a result of a biosecurity response activity under the direction of an Authorised Person appointed in accordance with Section 103 of the Biosecurity Act 1993.

17.3.2.3. [deleted]

17.3.2.4. [deleted]

17.3.2.5. Clearance of indigenous vegetation permitted by 17.3.2.2(f) within the coastal environment must not include the following habitats/species:

- (a) duneland vegetation;
- (b) coastal grassland;
- (c) coastal vegetation dominated by (making up >50% of the canopy cover) *Phormium species*;
- (d) coastal broadleaved shrubland;
- (e) coastal small-leaved shrubland;
- (f) coastal salt turf;
- (g) coastal speargrass herbfield.

17.3.3. Non-indigenous vegetation clearance.

Note:

Standards 17.3.3.1, 17.3.3.2 do not apply in the case of clearance of species listed in the Biosecurity New Zealand Register of Unwanted Organisms or the Marlborough Regional Pest Management Plan.

- 17.3.3.1. Vegetation must not be removed by fire or mechanical means within 8m of a river (except an ephemeral river, or intermittently flowing river when not flowing), lake, Significant Wetland or the coastal marine area.

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- 17.3.3.2. Wheeled or tracked machinery must not be operated in, or within 8m of:
- (a) a river (except an ephemeral river or intermittently flowing river, when not flowing);
 - (b) a lake;
 - (c) a Significant Wetland except where the wetland is fenced in accordance with the wetland boundaries mapped in the Plan, in which case wheeled or tracked machinery may be operated up to the fenced boundary;
 - (d) the coastal marine area.
- 17.3.3.3. [deleted]
- 17.3.3.4. Woody material greater than 100mm in diameter and soil debris must:
- (a) not be left within 8m of, or deposited in, a river (except an ephemeral river or intermittently flowing river, when not flowing), lake, Significant Wetland or the coastal marine area;
 - (b) not be left in a position where it can enter, or be carried into, a river (except an ephemeral river), lake, Significant Wetland or the coastal marine area;
 - (c) be stored on stable ground;
 - (d) be managed to avoid accumulation to levels that could cause erosion or instability of the land.

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17.3.4. Excavation.

- 17.3.4.1. Excavation must not be in, or within:
- (a) 8m of a river (except an ephemeral river when not flowing);
 - (b) 8m of the landward toe of a stopbank and the depth of any excavation beyond that may not exceed 15% of the distance between the landward toe of the stopbank and the excavation;
 - (c) a Soil Sensitive Area identified as loess soils.
- 17.3.4.2. There must be no excavation in excess of 10m³ within a Groundwater Protection Area.
- 17.3.4.3. Batters must be designed and constructed to ensure they are stable and remain effective after completion of the excavation.
- 17.3.4.4. Water control measures and sediment control measures must be designed, constructed and maintained in an area disturbed by excavation, such that the area is stable and the measures remain effective after completion of the excavation. The diameter of any culvert used to drain excavation must not be less than 300mm.
- 17.3.4.5. Wheeled or tracked machinery must not be operated in, or within 8m of, a river (except an ephemeral river or intermittently flowing river, when not flowing) or the coastal marine area.
- 17.3.4.6. Excavation must not cause water to enter onto any adjacent land under different ownership.

17.3.5. Filling of land with clean fill.

- 17.3.5.1. Filling must not be in, or within:
- (a) 8m of a river (except an ephemeral river when not flowing);

- (b) 8m of the landward toe of a stopbank;
 - (c) a Soil Sensitive Area identified as loess soils.
- 17.3.5.2. A filled area must be designed, constructed and maintained so it is stable and remains effective after completion of filling.
- 17.3.5.3. Water control measures and sediment control measures must be designed, constructed and maintained in a fill area, such that the area is stable and the measures remain effective after completion of the filling. The diameter of any culvert used to drain a fill area must not be less than 300mm.
- 17.3.5.4. Wheeled or tracked machinery must not be operated in, or within 8m of, a river (except an ephemeral river or intermittently flowing river, when not flowing) or the coastal marine area.
- 17.3.5.5. Filling must not cause water to enter onto any adjacent land under different ownership.
- 17.3.6. Discharge of contaminants to air arising from burning in the open.**
- 17.3.6.1. Only material generated on the same property or a property under the same ownership can be burned.
- 17.3.6.2. The property where the burning is to occur must be located outside of the Blenheim Airshed.
- 17.3.6.3. The material being burned must not exceed 2m³.
- 17.3.6.4. Standards 17.3.6.1 and 17.3.6.2 do not apply to campfires for camps or training of guides or scouts under the control of Girl Guiding New Zealand or Scouting New Zealand.
- 17.3.7. Application (involving a discharge) of an agrichemical into or onto land.**
- 17.3.7.1. Triazine herbicide must not be applied to a Soil Sensitive Area identified as free-draining soils.
- 17.3.7.2. The application must not result in the agrichemical being deposited in or on a river, lake, Significant Wetland, drainage channel or Drainage Channel Network that contains water.
- 17.3.7.3. 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.
- 17.3.7.4. All spills of agrichemicals above the application rate must be notified to Council immediately.
- 17.3.7.5. The application must be carried out in accordance with Sections 5.3 and 5.5 of NZS 8409:2004 Safe Use of Agricultural Compounds and Plant Protection Products – Management of Agrichemicals.

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 [9]: By consent order dated 31 October 2023

17.3.8. Storage and application (involving a discharge) of fertiliser or lime into or onto land.

- 17.3.8.1. Fertiliser must not be applied to a Soil Sensitive Area identified as free-draining soils.
- 17.3.8.2. Fertiliser must be stored on an impermeable surface, bunded and covered at all times, except when fertiliser is being applied.
- 17.3.8.3. The application must not result in the fertiliser being deposited in or on a river, lake, Significant Wetland, drainage channel or Drainage Channel Network that contains water.
- 17.3.8.4. The application must not occur when the soil moisture exceeds field capacity.
- 17.3.8.5. Total cumulative nitrogen (N) loading on the land used for the application must not exceed 200kg N/ha/year (excluding N from direct animal inputs).
- 17.3.8.6. The application of fertiliser must not result in fertiliser passing beyond the legal boundary of the area of land on which the fertiliser is being applied.
- 17.3.8.7. All reasonable care must be exercised with the application of lime so as to ensure that the lime does not pass beyond the legal boundary of the area of land on which the lime is being applied.

17.3.9. Discharge of human effluent into or onto land.

- 17.3.9.1. There must not be a Council operated sewerage system designed for that purpose within 30m of the Zone boundary or 60m of the closest building.
- 17.3.9.2. The human effluent must be treated via an on-site wastewater management system which must be maintained in an efficient operating condition at all times.
- 17.3.9.3. There must be no increase in the rate of discharge due to an increased occupancy of any building(s).
- 17.3.9.4. No objectionable odours must be able to be detected.
- 17.3.9.5. There must be:
 - (a) no ponding of effluent;
 - (b) no run-off or infiltration of effluent beyond the property boundary or into a river, lake, Significant Wetland, drainage channel, Drainage Channel Network, groundwater or coastal water.
- 17.3.9.6. The discharge rate must not exceed 2000 litres per day, averaged over any 7 day period.
- 17.3.9.7. Effluent must be able to:
 - (a) infiltrate through at least 600 mm of unsaturated soil following primary treatment; or
 - (b) infiltrate through at least 300 mm of unsaturated soil following secondary treatment.
- 17.3.9.8. The discharge must not occur within a Groundwater Protection Area.

17.3.9.9. The discharge must not occur within 50m of a bore unless the bore intercepts the confined layer of Riverlands FMU or the confined layer of the Wairau Aquifer FMU.

17.3.9.10. The discharge must not occur on a Soil Sensitive Area.

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

17.3.10.1. The bore must be drilled by a Recognised Professional.

17.3.10.2. 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.

17.3.10.3. On completion of the geotechnical investigation, the bore must be sealed or capped to prevent any potential contamination of groundwater.

17.3.11. 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.

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

17.3.11.2. 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.

17.3.11.3. [deleted]

Commented [10]: Clause 16 – Irrelevant standard

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

17.3.12.1. 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.

17.4. Discretionary Activities

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

[R, D]

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

Note:

Where the application of fertiliser includes synthetic nitrogen fertiliser, the discharge activity is managed by Regulations 33 or 34 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, in addition to this rule. Regulation 33 limits the rate of application of synthetic nitrogen (N) fertiliser to pastoral land to 190 kg N/ha/year. Standard 3.3.24.3 of Rule 3.1.24 limits the cumulative N loading from all discharges to land to 200 kg N/ha/year, regardless of source (i.e., it includes synthetic nitrogen fertiliser, but also nitrogen from other sources such as agricultural liquid and solid waste, dairy effluent and compost). For the avoidance of doubt, both nitrogen limits must be complied with.

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

Commented [12]: NES-FW s44A(5)

[D]

17.4.2. Community facility.

[D]

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

[R]

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

17.5. Prohibited Activities

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

[R]

17.5.1. Discharge of contaminants to 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 (CCA, 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 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]

17.5.2. 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.

[R]

17.5.2. Discharge of contaminants into air from outdoor burning within the Blenheim Airshed, after 9 June 2016, unless the fire is used exclusively for the cooking or smoking of food for non-commercial purposes, or is a campfire used for scout or guide training under the control of Girl Guiding New Zealand or Scouting New Zealand.

[R]

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

[R]

17.5.4. Discharge of human effluent into or onto land through a soak pit established after 9 June 2016.