

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. Large format retail.

[D]

11.1.2. Park or reserve.

[R, D]

11.1.3. Excavation or filling.

[R, D]

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

[R]

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

[R]

11.1.5A. Discharge of stormwater containing contaminants to land.

Commented [2]: By consent order dated 22 October 2024

[R]

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

[R]

11.1.7. 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]

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

[R]

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

Commented [3]: RESOLVED:
Minister of Defence
ENV-2020-CHC-76
By consent order dated 25 July 2022

[R]

11.1.10. 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.

[D]

11.1.13. Any new building, or external addition to an existing building, that contains a noise sensitive activity, or any new noise sensitive activity in an existing building, within the State Highway Noise Boundary or Rail Noise Boundary.

Note:

This rule has legal effect from the date that the PMEP is made operative.

Commented [4]: By consent order dated 16 December 2024

Commented [5]: RMA s86B

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

- 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.
- 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.

Commented [6]: NES-FW s44A(5)

- 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 [7]: By consent order dated 31 October 2023

11.3.5A. Discharge of stormwater containing contaminants to land.

- 11.3.5A.1. The discharge must not cause erosion of land.
- 11.3.5A.2. The discharge must not cause flooding of land on any other property.
- 11.3.5A.3. The discharge must not contain stormwater from an area where a hazardous substance is stored unless:
 - (a) The hazardous substance cannot enter stormwater; or
 - (b) There is an interceptor system in place to collect any hazardous substance and divert contaminated stormwater to a trade waste system.
- 11.3.5A.4. The discharge must not occur within a Groundwater Protection Area.
- 11.3.5A.5. The discharge must not occur within 50m of a bore used for water abstraction for potable supply unless the bore intercepts the confined layer of Riverlands FMU or the confined layer of the Wairau Aquifer FMU.
- 11.3.5A.6. For any discharge onto land in circumstances which may result in a contaminant entering water the discharge must comply with Rules 2.16.3, 2.16.4 or 2.16.6.

Commented [8]: By consent order dated 22 October 2024

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 [9]: 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 [10]: 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.

11.3.10.1. 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.

Commented [11]: Clause 16

11.3.11. Any new building, or external addition to an existing building, that contains a noise sensitive activity, or any new noise sensitive activity in an existing building, within the State Highway Noise Boundary or Rail Noise Boundary.

11.3.11.1. Any new building or external addition to an existing building that contains a noise sensitive activity, or any existing building that contains a new noise sensitive activity, within the State Highway Noise Boundary or Rail Noise Boundary, must comply with one of the following standards:

- (a) The building is a framed residential building with habitable rooms, is designed, constructed, and maintained in accordance with the construction schedule for indoor noise control in Appendix 31, Schedule 1; or
- (b) The new building or external addition to an existing building, or in the case of a new noise sensitive activity in an existing building, the existing building, is designed, constructed, and maintained to achieve indoor design noise levels (determined on the basis set out in Appendix 31, Schedule 2) resulting from the road or railway not exceeding the maximum values in Appendix 31, Schedule 2; or
- (c) The new building or external addition to an existing building, or in the case of a new noise sensitive activity, the existing building, is at least 50 metres from the carriageway of any state highway or 50 metres from the rail corridor, and is designed so that a noise barrier completely blocks line-of-sight from all parts of doors and windows to the road surface and to all points 3.8 metres above railway tracks; or
- (d) In the case of an external addition to an existing building, the addition does not increase the gross floor area of an activity listed in Appendix 31, Schedule 2.

11.3.11.2. A report must be submitted to the Council demonstrating compliance with 11.3.11.1(a) or (b) (as relevant) prior to:

- (a) The construction of any new building, or external addition to an existing building that contains a noise sensitive activity; or
- (b) Any new noise sensitive activity being established in an existing building.

11.3.11.3 Mechanical ventilation: If windows must be closed to achieve the design noise levels in Permitted Activity Standards X.3.X.1(b), the building must be

designed, constructed and maintained with a mechanical ventilation system that:

- (a) For habitable rooms located within the State Highway Noise Boundary or Rail Noise Boundary for a residential activity, achieves the following requirements:
 - (i) Provides mechanical ventilation that can operate continuously to satisfy clause G4 of the New Zealand Building Code and that provides at least 1 air change per hour, but no less than 7.5L/s per occupant; and
 - (ii) Provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C when assessed using a 2.5% design weather condition for the applicable location; and
 - (iii) A Heating, Ventilation and Air Conditioning (HVAC) system installed in compliance with (a)(i) and (ii) above, must not generate more than 35 dB LAeq(30s) when measured 1 metre away from any grille or diffuser. The noise level must be measured after the system has cooled the rooms to the temperatures in (a)(ii) above, or after a period of 30 minutes from the commencement of cooling (whichever is the lesser).
- (b) Alternatively, in lieu of section (a) above, a design verified by a suitably qualified and experienced HVAC expert stating the design proposed will provide ventilation and internal space temperature controls to meet or exceed the outcomes described in (a) above.

Note:

For Permitted Activity Standard 11.3.11.3(a)(ii) an acceptable design weather set would include IRHACE Yearbook 2009 NIWA weather data.

11.3.11.4. A commissioning report must be submitted to the Council prior to occupation of the building demonstrating compliance with all of the mechanical ventilation system performance requirements in 11.3.11.3.

Commented [12]: By consent order dated 16 December 2024

11.3A.Restricted Discretionary Activities

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

[R]

11.3A.1. Discharge of stormwater containing contaminants to land where Standards 11.3.5A.4 or 11.3.5A.5 are unable to be met.

Matters over which the Council has restricted its discretion:

11.3A.1.1. The effects on groundwater quality, particularly effects on potable supplies.

Commented [13]: By consent order dated 22 October 2024

[D]

11.3A.2. Noise sensitive activities within the State Highway Noise Boundary and Rail Noise Boundary that are unable to meet the Permitted Activity Standards in 11.3.11.

Matters over which the Council has restricted its discretion:

- 11.3A.2.1. Whether the activity sensitive to noise could be located further from the state highway or rail corridor.
- 11.3A.2.2. The extent to which the noise criteria are achieved and the effects of any non-compliance.
- 11.3A.2.3. The character of, and degree of, amenity provided by the existing environment and proposed activity.
- 11.3A.2.4. The reverse sensitivity effects on the state highway or railway network, and the extent to which mitigation measures can enable their ongoing operation, maintenance and upgrade.
- 11.3A.2.5. Special topographical, building features or ground conditions which will mitigate vibration impacts.
- 11.3A.2.6. The outcome of any consultation with the New Zealand Transport Agency or KiwiRail.

Notification:

Application for resource consent under this rule will be decided without public notification. The New Zealand Transport Agency or KiwiRail (as relevant) are likely to be the only affected person determined in accordance with section 95B of the Resource Management Act 1991.

Commented [14]: RESOLVED:
New Zealand Transport Agency Waka Kotahi
ENV-2020-CHC-56
By consent order dated 16 December 2024

11.4. Discretionary Activities

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

[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.