

20. Open Space 4 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)

20.1. Permitted Activities

Unless expressly limited elsewhere by a rule in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without a resource consent where they comply with the applicable standards in 20.2 and 20.3:

Commented [2]: Royal Forest and Bird Protection Society of New Zealand Incorporated
ENV-2020-CHC-64

New rules or standards for mapped SNAs

[D]

20.1.1. Skifield activity, including the use of a building or structure, existing at 9 June 2016.

[R, D]

20.1.2. Avalanche control works.

[D]

20.1.3. Helicopter landing area.

[D]

20.1.4. Use of an existing building for staff accommodation.

[R, D]

20.1.5. Excavation or filling.

[R, D]

20.1.6. Planting of vegetation but excluding planting managed under the National Environmental Standards for Plantation Forestry 2017 as afforestation or replanting.

[R, D]

20.1.7. Vegetation clearance excluding where managed by the National Environmental Standards for Plantation Forestry 2017.

[R]

20.1.8. Application (involving a discharge) of a vertebrate toxic agent into or onto land.

This rule does not apply to the application of sodium fluoroacetate or brodifacoum (on land that is protected by predator-proof fencing or an island of New Zealand other than the North and South Island) where the application complies with the conditions for exemptions stated in the Resource Management (Exemption) Regulations 2017.

[R]

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

[R]

20.1.10. Discharge of contaminants to air from the burning of solid fuel in a indoor open fire.

[R]

20.1.11. 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]

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

[R]

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

[R]

20.1.14 Discharge of dust.**20.2. Standards that apply to all permitted activities****20.2.1. Noise.**

20.2.1.1. An activity must not cause noise that exceeds the following limits measured at any point within the zone, or for effects beyond the zone, measured at the zone boundary.:

7.00 am to 10.00 pm	65dB LAeq
10.00 pm to 7.00 am	65dB LAeq 75dB LAFmax

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

20.2.1.3. Construction noise must not exceed the recommended limits in, and must be measured and assessed in accordance with, NZS6803:1999 Acoustics – Construction Noise.

20.2.2. Odour.

20.2.2.1. 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.

20.2.3. Smoke.

20.2.3.1. 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.

20.2.4. Dust.

- 20.2.4.1. 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.

20.2.5. Particulate from any process vent or stack.

- 20.2.5.1. 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.
- 20.2.5.2. 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.

20.3. Standards that apply to specific permitted activities**20.3.1. Avalanche control works.**

- 20.3.1.1. Control works must only be undertaken to the extent that is required to provide for a safe environment for skifield activity.
- 20.3.1.2. Any control works that have an adverse effect on a river, lake or Significant Wetland must be reported to the Council within 24 hours of the works being conducted.

20.3.2. Use of an existing building for staff accommodation.

- 20.3.2.1. The on-site accommodation must be for staff, members or contractors of the skifield and be necessary for the operation of the skifield.

20.3.3. Excavation or filling.

Note:

Where excavation and filling are managed under the National Environmental Standards for Plantation Forestry 2017 as earthworks, Standards 20.3.3.1, 20.3.3.2, 20.3.3.6, 20.3.3.7, 20.3.3.8, 20.3.3.9 and 20.3.3.10 do not apply, and Standard 20.3.3.5 only applies to the extent that it relates to Significant Wetlands smaller than 0.25ha.

- 20.3.3.1. No excavation in excess of 1000m³ must occur on any land with a slope greater than 20° within any 24 month period.
- 20.3.3.2. No filling in excess of 1000m³ must occur within any 24 month period.

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

- 20.3.3.3. [deleted]
- 20.3.3.4. Excavation must not be within 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.
- 20.3.3.5. 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), lake or Significant Wetland.
- 20.3.3.6. Batters must be designed to be stable and remain effective after completion of excavation.
- 20.3.3.7. Water control measures and sediment control measures must be designed, constructed and maintained around all areas disturbed by excavation, such that the areas are stable and remain effective after completion of excavation or filling.
- 20.3.3.8. Excavation or filling must not cause any conspicuous change in the colour or natural clarity of a flowing river after reasonable mixing, or the water in a Significant Wetland.
- 20.3.3.9. The diameter of any culvert used to drain any excavation or fill area must not be less than 300mm.
- 20.3.3.10. 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.

Commented [4]: NES-FW s44A(5)

20.3.4. Planting of vegetation.

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

20.3.5. Vegetation Clearance excluding where managed by the National Environmental Standards for Plantation Forestry 2017.

- 20.3.5.1. Where clearance is by mechanical means, blading or root-raking by a bulldozer must not be used on slopes greater than 20 degrees.
- 20.3.5.2. Woody vegetation must not be removed by fire or mechanical means within 8m of a river (except an ephemeral river) or lake.
- 20.3.5.3. [deleted]
- 20.3.5.4. All trees must be felled away from a river (except an ephemeral river, or intermittently flowing river when not flowing), lake or Significant Wetland.
- 20.3.5.5. Notwithstanding 20.3.5.4 where trees are leaning over a river, lake, Significant Wetland or coastal marine area, they must be felled in accordance with industry safety practices.
- 20.3.5.6. Except for trees felled in accordance with 20.3.5.5 no tree or log must be dragged through the bed of a river (except an ephemeral river, or intermittently flowing river when not flowing), lake or Significant Wetland.
- 20.3.5.7. 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), lake or Significant Wetland.

Commented [5]: Royal Forest and Bird Protection Society of New Zealand Incorporated
ENV-2020-CHC-64
By consent order dated 24 May 2023

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

- 20.3.5.8. Within 6 months of completion of vegetation clearance, a suitable vegetative cover that will mitigate soil loss must be restored over 80% of the clearance site.
- 20.3.5.9. The depth of topsoil removed must not exceed more than 20mm over more than 15% of any vegetation clearance site.
- 20.3.5.10. No woody material of greater than 100mm diameter must be left in a river, lake or Significant Wetland.
- 20.3.5.11. Vegetation clearance must not cause any conspicuous change in the colour or natural clarity of a flowing river after reasonable mixing, or the water in a Significant Wetland.
- 20.3.5.12. If the clearance is of indigenous vegetation, the following also applies:
 - (a) no more than 500m² of indigenous sub-alpine vegetation must be cleared in any 5 year period;
 - (b) no more than 100m² of tall tussock of the genus Chionochloa ~~Chinochloa~~ must be cleared in any 5 year period.

Commented [7]: Clause 16 – Update 8

20.3.6. Application (involving a discharge) of a vertebrate toxic agent into or onto land.

This rule does not apply to the application of sodium fluoroacetate or brodifacoum (on land that is protected by predator-proof fencing or an island of New Zealand other than the North and South Island) where the application complies with the conditions for exemptions stated in the Resource Management (Exemption) Regulations 2017.

- 20.3.6.1. The agent must be approved for use under the Hazardous Substances and New Organisms Act 1996 and the use and discharge of the substance is in accordance with all conditions of the approval.
- 20.3.6.2. The discharge must be by the administering agency, or by any person authorised by the administering agency to carry out the activity, or by any other agency carrying out statutory powers in relation to the activity.
- 20.3.6.3. All reasonable care must be exercised in the discharge so as to ensure that the vertebrate toxic agent must not pass beyond the legal boundary of the area of land on which the vertebrate toxic agent is being discharged.
- 20.3.6.4. The discharge must not result in the vertebrate toxic agent being deposited on any roof or structure used as a catchment for water supply.

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

- 20.3.7.1. Only material generated on the same property must be burned.
- 20.3.7.2. The total volume of material being burned must not exceed 2m³.

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

- 20.3.8.1. The appliance must only burn fuels approved for use in the appliance.
- 20.3.8.2. The appliance must be operated so that all reasonable steps are taken to minimise the amount of smoke discharged.

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

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

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

20.3.10.1. 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.

20.4. Restricted Discretionary Activities

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

[R]

20.4.1. Excavation in excess of 1000m³ on any land with a slope greater than 20° within any 24 month period.

Note:

Where excavation is managed under the National Environmental Standards for Plantation Forestry 2017 as earthworks, Rule 20.4.1 does not apply.

Matters over which the Council has restricted its discretion:

20.4.1.1. The effects on water quality and soil conservation from the excavation.

Commented [8]: New Zealand Transport Agency
ENV-2020-CHC-56

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

20.5. Discretionary Activities

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

[R, D]

20.5.1. Any activity provided for as a Permitted Activity or Restricted Discretionary Activity that does not meet the applicable standards.

[D]

20.5.2. Skifield facility, including a ski lift or a building.

[D]

20.5.3. Any use of land not provided for as a Permitted Activity or Restricted Discretionary Activity, or limited as a Prohibited Activity.

[R]

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

20.6. Prohibited Activities

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

[R]

20.6.1. 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, 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]

20.6.2. 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]

20.6.3. Disposal of any solid waste material to land.

Commented [9]: Clause 16

[R, D]

20.6.4. 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).

[D]

20.6.5. Industrial activity.

Appeals Version