

## 21. Floodway Zone

Unless explicitly specified, these rules apply to river control and drainage works only when carried out by the Marlborough District Council exercising its functions, duties and powers under the Soil Conservation and River Control Act 1941, the Land Drainage Act 1908 and in accordance the Marlborough District Council Rivers and Drainage Asset Management Plan, or the Marlborough District Council Marlborough Rivers Gravel Extraction Strategy.

### 21.1. Permitted Activities

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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 21.2 and 21.3:

[R, D]

**21.1.1. Maintenance or reconstruction of a stopbank that is structurally weak, damaged or that has developed isolated low points.**

[R, D]

**21.1.2. Rock or gabion structural bank protection works.**

[R]

**21.1.3. Driving and construction of a piled retard.**

[R, D]

**21.1.4. Lining of a drainage channel with timber or concrete for hydraulic efficiency or bank structural stability reasons where the channel is of limited width.**

[R, D]

**21.1.5. Maintenance of a culvert or floodgate.**

[R]

**21.1.6. Shaping and beaching.**

[R]

**21.1.7. Land disturbance works to facilitate the diversion of water.**

[R]

**21.1.8. Gravel and sediment removal within a dry part of a riverbed.**

[R]

**21.1.9. Gravel and sediment removal within a wet part of a riverbed.**

[R]

**21.1.10. Gravel and sediment stockpiling within a dry part of a riverbed.**

[R]

**21.1.11. Planting vegetation for the purposes of edge and aquatic habitat protection or prevention of bank and stopbank erosion.**

[R]

**21.1.12. Removal or control of aquatic vegetation in a river by cutting with an excavator mounted bucket with tined blades.**

[R]

**21.1.13. Removal or control of aquatic vegetation in a river by a floating weedcutter with reciprocating blades, or by hand held cutters (e.g. scythes).**

[R]

**21.1.14. Removal or control of terrestrial vegetation in a riverbed by mechanical and/or other physical means.**

[R]

**21.1.15. Discharge of agrichemicals into or onto land.**

[R, D]

**21.1.16. Passive recreation undertaken by any person.**

[R, D]

**21.1.17. Farming undertaken by any person.**

## **21.2. Standards that apply to all permitted activities**

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### **21.2.1. General.**

- 21.2.1.1. No refuelling or fuel storage must take place within 20m of water.
- 21.2.1.2. No storage or placement of a hazardous substance including but not limited to oil, hydraulic fluid or other fluid lubricants must take place within 20m of water.
- 21.2.1.3. The activity must not cause flooding or erosion of private land.
- 21.2.1.4. The activity must not be in, or within 8m of, a Significant Wetland.

### **21.2.2. Noise.**

- 21.2.2.1. An activity must not cause noise that exceeds the following limits at the Zone boundary or within the Zone:

7.00 am to 10.00 pm	65 dBA $L_{Aeq}$
10.00 pm to 7.00 am	65 dBA $L_{Aeq}$ 75dB $L_{AFmax}$

- 21.2.2.2. An activity undertaken within the Floodway Zone must be conducted to ensure that noise arising at or within the boundary of any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3 or within the notional boundary of any dwelling on land zoned Rural Living or Coastal Living does not exceed the following noise limits:

7.00 am to 10.00 pm	50 dBA $L_{Aeq}$
10.00 pm to 7.00 am	40 dBA $L_{Aeq}$ 70dB $L_{AFmax}$

- 21.2.2.3. The following activities are excluded from having to comply with the noise limits:

- (a) mobile machinery used for a limited duration as part of farming activity occurring in the Floodway Zone;
- (b) a fixed motor or equipment, frost fan or gas gun, milling or processing forestry activity, static irrigation pump; or motorbike that is being used for recreational purposes.

21.2.2.4. 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.

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

### **21.2.3. Odour.**

21.2.3.1. The odour 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.

### **21.2.4. Smoke.**

21.2.4.1. 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.

### **21.2.5. Dust.**

21.2.5.1. The best practicable method must be adopted to avoid dust beyond the legal boundary of the area of land on which the activity is occurring.

### **21.2.6. Dust from any process vent or stack.**

21.2.6.1. The dust must not contain hazardous substances.

21.2.6.2. The particulate discharge rate from any air pollution control equipment and dust collection system must not exceed  $250\text{mg/m}^3$  at any time, corrected to  $0^\circ\text{C}$ , 1 atmosphere pressure, dry gas basis.

21.2.6.3. Dust particles must not exceed 0.05mm size in any direction.

## **21.3. Standards that apply to specific permitted activities**

### **21.3.1. Maintenance or reconstruction of a stopbank that is structurally weak, damaged or that has developed isolated low points.**

21.3.1.1. A stopbank must only be reconstructed up a maximum of the 1 in 100 year design height.

21.3.1.2. Works must be undertaken outside of the wet part of the riverbed.

### **21.3.2. Rock or gabion structural bank protection works.**

21.3.2.1. Rock may be used for protecting a river bank edge, training bank or stopbank.

21.3.2.2. Rock from a damaged or redundant structure may be recovered from the riverbed.

21.3.2.3. A continuous length of vertical gabion bank wall exceeding 50m must be avoided by interposing some gently sloping sections for bird access.

21.3.2.4. A motor vehicle body, old machinery or scrap iron must not be used for bank protection works.

21.3.2.5. Placement of rock rip-rap in a tidal reach must not take place between 1 August and 30 November in any year.

### **21.3.3. Driving and construction of a piled retard.**

21.3.3.1. A piled retard may be used in conjunction with tree planting as bank edge protection.

21.3.3.2. A piled retard must only be used where there is adequate channel width and a retard is likely to aggrade with sediment to form a new river bank.

21.3.3.3. A piled retard may be used as a debris arrestor in front of a culvert, provided that fish passage is not obstructed.

### **21.3.4. Lining of a drainage channel with timber or concrete for hydraulic efficiency or bank structural stability reasons where the channel is of limited width.**

21.3.4.1. Concrete lining must not be constructed when there is flowing water in the channel.

### **21.3.5. Maintenance of a culvert or floodgate.**

21.3.5.1. The maintenance must occur within the original location of a culvert or floodgate.

21.3.5.2. A temporary coffer dam constructed for the purposes of the maintenance must be removed at the completion of the maintenance.

21.3.5.3. A secondary flow path to enable overtopping floodwaters to return to the downstream channel without increasing the flood hazard to another person's property must be constructed during maintenance.

21.3.5.4. The culvert must be placed below the level of the stream bed by a distance equating to the diameter of the pipe divided by 5 (i.e., 20% of the culvert pipe).

21.3.5.5. The culvert must be placed at the same slope as the existing bed of the river.

21.3.5.6. There must be no increase in the velocity of flow through or downstream of the culvert, at the river's median flow, after the maintenance is completed.

21.3.5.7. The culvert installation must be designed and implemented to ensure there is no erosion or scour downstream of the culvert.

21.3.5.8. Fish passage must be provided for floodgates, where habitat exists upstream of the floodgate.

### **21.3.6. Shaping and beaching.**

21.3.6.1. The shaping must be necessary for maintaining the flood carrying capacity of the floodway, or for the stability of the riverbank in the vicinity.

21.3.6.2. Shaping and beaching work must not be to a level higher than that of the natural river bank.

21.3.6.3. The channel shape and form both in cross section and longitudinal slope must be kept similar to the typical natural bedform of that river.

21.3.6.4. Works must not be undertaken in flowing water.

21.3.6.5. Any discharge of sediment into water associated with the shaping or beaching must not, after reasonable mixing, cause a change in colour of the

receiving water of more than 5 Munsell units or a decrease in clarity of more than 20% for more than 8 hours in any 24 hour period and more than 40 hours in total in any calendar month.

**21.3.7. Land disturbance works to facilitate the diversion of water.**

- 21.3.7.1. The works must only be carried out working in an upstream direction.
- 21.3.7.2. Redundant channels must be left open at the downstream end in a manner that ensures that fish stocks are not entrapped.
- 21.3.7.3. The full length of a redundant channel must be surveyed for stranded fish. Any stranded fish found must be relocated to the same river immediately upstream of the diversion.
- 21.3.7.4. The Nelson Marlborough Fish and Game Council and the Department of Conservation must be informed of the proposed works at least 5 working days prior to the works commencing.
- 21.3.7.5. The diversion must be necessary for maintaining the stability of the riverbank in the vicinity, or for facilitating the removal of gravel or sediment for river control purposes.
- 21.3.7.6. Any discharge of sediment into water associated with the land disturbance works must not, after reasonable mixing, cause a change in colour of the receiving waters of more than 5 Munsell units or a decrease in clarity of more than 20% for more than 8 hours in any 24 hour period and more than 40 hours in total in any calendar month.

**21.3.8. Gravel and sediment removal within a dry part of a riverbed.**

- 21.3.8.1. Gravel and sediment must be extracted in strips and layers from the inside of bends, working from the water's edge towards the land and with a perceptible slope rising away from the water edge, alternatively, a buffer strip of 1m width must be left between the water's edge and the start of excavation.
- 21.3.8.2. The removal must not disturb flowing water.
- 21.3.8.3. Any removal must take place from the downstream end of the gravel beach, working upstream.
- 21.3.8.4. No secondary braid or flow pattern must be opened up during the removal operation.
- 21.3.8.5. A vertical face of an area of gravel removal must not exceed one metre in height.
- 21.3.8.6. Gravel must not be stockpiled within the active riverbed for a period exceeding 24 hours.
- 21.3.8.7. Oversize boulders or other sediment excavated must be removed from the riverbed.
- 21.3.8.8. Access across the Wairau floodway bars for gravel extraction is not permitted from Boyces Road, Pauls Road, Giffords Road, Cravens Road, Hilllocks Road or State Highway 1 (North Bank).
- 21.3.8.9. An access route to a removal point must not cross or cut off flow into a minor channel or backwater, not adversely affect riparian vegetation or not disturb native birds using riparian vegetation for nesting.
- 21.3.8.10. The removal of gravel must be limited to the hours of 7.30 am - 5.00 pm from Monday to Saturday (inclusive). No gravel must be removed on a public holiday or between 24 December and 3 January (inclusive).

- 21.3.8.11. During the period of 1 September to 31 December in any year no removal must occur within 50m of nesting birds on the riverbed.
- 21.3.8.12. The amount of gravel removed must not exceed, on an annual basis, the amount specified in the MDC Marlborough Rivers Gravel Extraction Strategy.

**21.3.9. Gravel and sediment removal within a wet part of a riverbed.**

- 21.3.9.1. The removal must be necessary for maintaining the flood carrying capacity of the floodway, or for the stability of the riverbank in the vicinity.
- 21.3.9.2. Gravel or sediment removal must not be carried out more than once in any 12 month period in any floodway.
- 21.3.9.3. Excavators must operate from the riverbank where possible.
- 21.3.9.4. The removal must not be carried out in water greater than 2m average depth.
- 21.3.9.5. The gravel and sediment removed must be retained on adjacent river banks for a period not less than 12 hours to provide opportunity for fish and animals to re-enter the river.
- 21.3.9.6. The removal must not be carried out in a tidal reach between 1 February and 30 April, and 1 August and 30 November in any year.
- 21.3.9.7. The removal must not limit fish passage.
- 21.3.9.8. For a river with a greater than 10m width of flowing water, not more than half the width of the riverbed must be disturbed at any time.
- 21.3.9.9. The extraction of gravel and sediment must be limited to the hours of 7.30 am - 5.00 pm from Monday to Saturday (inclusive). No gravel must be extracted on a public holiday or between 24 December and 3 January (inclusive).
- 21.3.9.10. Any discharge of sediment into water associated with the removal must not, after reasonable mixing, cause a change in colour of the receiving water of more than 5 Munsell units or a decrease in clarity of more than 20% for more than 8 hours in any 24 hour period and more than 40 hours in total in any calendar month.
- 21.3.9.11. Allowable road access routes to floodways must be controlled by the Council's permit system to ensure road safety and maintenance standards as set out in the MDC Marlborough Rivers Gravel Extraction Strategy are met.
- 21.3.9.12. During the period of 1 September to 31 December in any year no removal must occur within 50m of nesting birds on the riverbed.
- 21.3.9.13. The amount of gravel removed from any floodway must not exceed, on an annual basis, the amount specified in the MDC Marlborough Rivers Gravel Extraction Strategy.

**21.3.10. Gravel and sediment stockpiling within a dry part of a riverbed.**

- 21.3.10.1. The gravel and sediment stockpiled must be limited to that removed from nearby parts of the same floodway.
- 21.3.10.2. Gravel and sediment must not be stockpiled within a floodway for a period exceeding 24 hours, except as allowed for in 21.3.10.3.
- 21.3.10.3. Gravel and sediment may be stockpiled for periods longer than 24 hours where the stockpiling will not impair the flood capacity of the river.

- 21.3.10.4. Stockpiling must be in the locations identified, and only up to the maximum quantities specified, in the MDC Marlborough Rivers Gravel Extraction Strategy.

**21.3.11. Planting vegetation for the purposes of edge and aquatic habitat protection or prevention of bank and stopbank erosion.**

- 21.3.11.1. Crack willow must not be planted on any floodway, except for the Wairau River downstream of the Wye River confluence.
- 21.3.11.2. When vegetation is planted for the purposes of aquatic habitat protection, native plant species must be preferentially planted.

**21.3.12. Removal or control of aquatic vegetation in a river by cutting with an excavator mounted bucket with tined blades.**

- 21.3.12.1. Cutting must not be carried out more than once in any 12 month period on any river reach, except that the Lower Ōpaoa River may be cut up to four times per year.
- 21.3.12.2. The removal or control must not be carried out in a tidal reach between 1 February and 30 April in any year.
- 21.3.12.3. The excavator must not enter flowing water.
- 21.3.12.4. The cutting must not be carried out over more than 90% of the channel width by leaving an uncut strip on each side of the river.
- 21.3.12.5. Removed material must be retained on adjacent river banks for a period not less than 12 hours to provide opportunity for fish and animals to re-enter the river.

**21.3.13. Removal or control of aquatic vegetation in a river by a floating weedcutter with reciprocating blades, or by hand held cutters (e.g. scythes).**

- 21.3.13.1. Cutting by mechanical means must not be carried out more than once in any 12 month period on any river reach, except that the Lower Ōpaoa River may be cut up to four times per year.
- 21.3.13.2. The removal and control must not be carried out in a tidal reach between 1 February and 30 April in any year.
- 21.3.13.3. The cutting must not be carried out over more than 90% of the channel width by leaving an uncut strip on each side of the river.

**21.3.14. Removal or control of terrestrial vegetation in a riverbed by mechanical or other physical means.**

- 21.3.14.1. The cut or felled vegetation must be removed from a riverbed less than 3m in width.
- 21.3.14.2. Vegetation greater than 100mm in diameter must be removed from a riverbed wider than 3m.
- 21.3.14.3. Machinery must not be operated in flowing water.
- 21.3.14.4. Removal of trees overhanging or partially in the water must be by machinery operated on the river bank or mounted on a boat or barge.
- 21.3.14.5. An assessment of the benefits of retaining vegetation, including an analysis of the potential ecological benefits to instream values, must be made before making a decision to remove or control the vegetation.

**21.3.15. Discharge of agrichemicals into or onto land.**

- 21.3.15.1. The discharge must be undertaken in accordance with the most recent product label.
- 21.3.15.2. The agrichemical 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.
- 21.3.15.3. The agrichemical must not enter water.

**21.3.16. Farming undertaken by any person.**

- 21.3.16.1. The activity must be authorised by the Council through a formal agreement.
- 21.3.16.2. The farming must not include a dairy farm or a pig farm established after 9 June 2016.
- 21.3.16.3. Standards 2.9.9.1 to 2.9.9.3 (inclusive) in the General Rules for livestock entering onto, or passing across, the bed of a river apply.

## 21.4. Discretionary Activities

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

[R, D]

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

[D]

**21.4.2. Any use of land not provided for as a Permitted Activity.**

[R]

**21.4.3. Any use of the bed of a lake or river not provided for as a Permitted Activity.**

[R]

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

## 21.5. Prohibited Activities

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

[R]

**21.5.1. Discharge of contaminants to air arising from the burning 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;
- (d) pellets containing greater than 10 mg/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;
- (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.