

Note:

The amendments included in PPC15A-H as notified are shown as coloured underlined for additions and ~~coloured~~ ~~striketrough~~ for removals. Further amendments made as part of the PPC15A-H decision are shown as shaded underline for additions and ~~shaded~~ ~~striketrough~~ for removals.

Section 6: General

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6. General Rules

6.2 Noise

6.2.2 Resource Management Issues

The Second Schedule of the Resource Management Act 1991 outlines matters that may be provided for in district plans. These include the control of any emission of noise from land and structures in the district, and the mitigation of the effects of noise.

The general noise performance [standardseconditions](#) within this District Plan have been developed using the guidelines provided by NZS6802: 1991 Assessment of Environmental Sound. They are based on actual noise monitoring undertaken extensively in Palmerston North City, Ashhurst and the rural areas. Environmental quality objectives are established for each area and the noise performance [standardseconditions](#) have been developed to achieve these standards. Because noise performance [standardseconditions](#) are set limits (rather than “floating” limits that would be achieved with a “background plus” approach) the noise emissions in an area will be capped. This prevents background creep and, because the assessment is on a cumulative basis, provides certainty to neighbours of proposed new activities.

In certain circumstances there may be activities which are lawfully established prior to the time that this District Plan became notified, that emit noise that exceeds the noise emission standards in the Plan. The Resource Management Act 1991 provides for these activities to continue as long as the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the Proposed District Plan was notified. Any change to the activity which causes a worsening of the effects will require a resource consent.

Activities that generate noise that exceeds the limits in the noise Performance Rules may also be appropriately located in the Zone, provided that the effects of the activity are minor. Such an activity would not comply with the District Plan and would require a resource consent. An Assessment of Environmental Effects would need to be undertaken for the resource consent application and any assessment would rely on the New Zealand Standard appropriate to the activity. Any assessment would normally report background sound measurements taken at times representative of the periods of operation of the activity and would assess any impact against those background levels. Applications will be considered with regard to the present and likely future development, particularly that of residential development in rural or residential zones, and demonstrate the degree to which management and engineering controls can mitigate any adverse effects. The effects of traffic noise generated by the activity shall also be assessed.

Section 16 of the Resource Management Act 1991 places a duty on occupiers of land and every person carrying out an activity in, on, or under a water to adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level. This does not limit the right of the Council to prescribe noise emission standards in this District Plan.

In addition to placing a duty on persons to avoid unreasonable noise, the Resource Management Act 1991 also provides for the issue of excessive noise directions.

6.2.6 Rules: Noise



R 6.2.6.2 Exclusions from Noise Control Rules

1. Noise from the following activities shall not be controlled using rules in this Plan:

- (a) Aircraft being operated during or immediately before or after flight, except where specifically provided for. Noise from helicopters using separate helicopter landing areas that are not otherwise part of an airport, shall be assessed, predicted, measured and controlled by reference to New Zealand Standard NZS6807: 1994 *Noise Management and Land Use Planning for Helicopter Landing Areas* as that Standard applies.
- (b) Vehicles being driven on a road (within the meaning of Section 2(1) of the Transport Act 1962), or within a site as part of or compatible with a normal residential activity.
- (c) Trains.
- (d) Rural activities listed in R 9.65.1 and R 9.65.2 in the Rural Zone, and grazing and cropping activities, including horticulture, in the Flood Protection Zone.
- ~~(e) Sounds generated by wind farm activities in the Rural Zone shall be assessed, predicted, measured and controlled by reference to New Zealand Standard NZS6808: 1998 *Acoustics – The Assessment and Measurement of Sound From Wind Turbine Generators*.~~
- (fe) Sounds generated by construction, maintenance and demolition activities, and, additionally, sounds generated by soil conservation and river control works carried out or supervised by the Manawatu-Wanganui Regional Council in the Flood Protection Zone, shall be assessed, predicted, measured, managed and controlled by reference to New Zealand Standard NZ6803: 1999 *Acoustics – Construction Noise*.
- (gf) Crowd noise at a park, reserve or any land zoned as Recreation, Racecourse, Conservation and Amenity or Showgrounds.

Explanation

There are some types of activities, particularly that of transportation and of construction, maintenance and demolition, that are appropriate and which could not otherwise meet general noise rules in many circumstances. Crowd noise at a park or at the Showgrounds, for example, is another type of noise which is a reasonable by-product of an activity and which is impossible to control using noise performance [standardseanditions](#) or rules.

6.3 Earthworks

6.3.3 Objectives and Policies

Policies

1.2 To avoid, remedy, or mitigate any adverse effects on the environment on:

- Natural Land Form;
- Landscape Values;
- Visual Amenity Values;
- Adjoining Properties;
- Natural Hazards and Processes;
- ~~Effects on the National Grid.~~

1.3 To manage earthworks activities so that:

- a) Adverse effects of earthworks on the National Grid are avoided; and
- b) The operation, maintenance and upgrade of the National Grid is not compromised by earthworks.

Explanation

The objectives and policies take the approach that [...]

The National Policy Statement on Electricity Transmission sets out matters which must be given effect to in the District Plan. Among other matters, this includes the need to manage adverse effects of activities (such as earthworks) on the ongoing operation, maintenance and upgrading and of the National Grid.

This section of the Plan is consistent with the provisions of the Subdivision section [...]

6.3.4 Methods

The following methods have been identified as being appropriate in controlling the effects of earthworks.

- District Plan Rules (Palmerston North City Council)
- The Palmerston North City Council Engineering Standards for Land Development
- Building Act 2004
- Industry Codes

The community's desire for a high level of amenity means that a regulatory approach through the rules in this and other sections of the District Plan will be the most cost efficient and effective means of achieving the objectives and policies.

The Palmerston North City Council Engineering Standards for Land Development provides additional support to ensure earthworks are appropriately constructed and land stability issues managed. The 'site works' and natural hazards provisions of the Building Act 2004 also provide support in association with the construction of buildings.

It should also be noted that Horizons Regional Council also plays a role in managing earthworks effects with regard to air and water quality.

Network Utility operators often work within model industry codes and model standards, for example electricity [transmission](#) lines, with the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34:2001).

6.3.6 Rules: Permitted Activities



R 6.3.6.1 Permitted Activities for Earthworks

Earthworks are Permitted Activities within the City provided the following performance conditions for the relevant zone are met (unless exempted under R 6.3.6.2):

Performance Conditions:

The following standards apply to earthworks located on any site in the following zones:

(a) Rural Zone

In the Rural Zone, no earthworks shall:

- (i) Result in the disturbance of more than 1000m³ (volume) of land in any 12 month period, or
- ~~(ia) Result in the disturbance of more than 50m² (area) in the Tararua Landscape Protection Area (Map 9.1)~~
- (ii) Result in the alteration of the existing ground level by more than 1.5 metres (measured vertically), or
- (iii) Be located closer than 3 metres to a site boundary.
- ~~(iv) Be located closer than 6 metres to any electricity transmission line support structure that forms part of the National Grid.~~

(b) Residential Zone

In the Residential Zone, no earthworks shall:

- (i) Result in the disturbance of more than 500m² of land in any 12 month period, or
- (ii) Result in the alteration of the existing ground level by more than 1.5 metres (measured vertically).
- ~~(iii) Be located closer than 6 metres to any electricity transmission line support structure that forms part of the National Grid~~

(c) North East Industrial Zone

In the North East Industrial Zone no earthworks shall:

- (i) Result in the disturbance of more than 1000m³ (volume) of land in any 12 month period on any notional site, or
- (ii) Result in the alteration of the existing ground level by more than 1.5 metres (measured vertically), or
- (iii) Be located closer than 3 metres to a notional site boundary.
- ~~(iv) Be located closer than 6 metres to any electricity transmission line support structure that forms part of the National Grid~~

(d) Midhurst Street Industrial Area and Railway Road Industrial Enclave

In the Midhurst Street Industrial Area no earthworks shall:

- (i) Involve the disturbance of more than 1000m³ (volume) of land in any 12 month period, or
- (ii) Alter the existing ground level by more than 1.5 metres (measured vertically), or
- (iii) Be located closer than 3 metres to a site boundary.
- ~~(iv) Be located closer than 6 metres to any electricity transmission line support structure that forms part of the National Grid.~~

(e) All Zones

Earthworks within the National Grid Yard shall:

- (i) be no deeper than 300mm within 12m of any National Grid support structure foundation;
- (ii) not result in a reduction in the ground to conductor clearance distances below less than what is required by Table 4 of the NZECP34:2001 New Zealand Electrical Code of Practice for Safe Electrical Distances; and
- (iii) Not compromise the stability of any National Grid support structure.

Explanation

Earthworks can generate adverse effects depending on the scale and location of the development. Earthworks effects may be temporary or more permanent. Adverse effects may include:

Landscape and Visual amenity – earthworks can alter natural landscape features, and can create changes to natural ground contours. Development that does not take into account the surrounding landform and landuse may result in amenity effects on adjacent sites; and

Stability – earthworks can undermine the stability of the natural land form and accelerate the hazard risk. Earthworks may also directly or indirectly undermine or affect the structural and system integrity and stability of existing transmission line support structures, which can create safety hazards or result in a power outages to certain areas;

Flooding – earthworks may accelerate the erosion of land and lead to sedimentation, or may result in localised flooding effects, or potentially impact on larger flood flows.

National Grid – earthworks near the National Grid lines can cause risks to people nearby, and/or damage the lines. Yard setback is designed to limit the chance of damage or hazards being created by earthworks. They also ensure that support structures can be accessed for inspection and maintenance. Earthworks near transmission line support structures can compromise the structural integrity of overhead National Grid lines. Maintaining a 12m setback from the support structures maintains a physical area to enable operation, maintenance and upgrade activities to occur, as required by Policy 10 of the National Policy Statement for Electricity Transmission.

This performance condition places a limit on the scale of earthworks on a site where the adverse effects are considered to be significant.

NOTES TO PLAN USERS:

1. An earthworks activity will default to Rule 6.3.7.1 if there is non-compliance with any threshold in the subject zone.
2. Provisions (a)(ii), (b)(ii), and (c)(ii) apply as a vertical distance above and below the existing ground level, and apply as a combined vertical measurement.
3. For the purposes of performance condition (d)(i) and (iii) the term Notional Site has the same meaning as “Development” as defined in Section 4. For the purposes of this rule, land being developed means the immediate area of land upon which the development work is being carried out.
4. Also refer to the following rules:
 - R 10.7.6.1 Awatea Stream and Jensen Street Ponding Areas;
 - R 10.7.6.2 River Terrace and Cliff Protection Lines;
 - R 10.8.1.7 Undevelopable Land in the Aokautere Development Area;
 - R 10.8.1.9 Structural Maintenance of Flood Protection Works by Manawatu Wanganui Regional Council;
 - R 10.8.3.3 Construction, Development or Redevelopment of Flood Protection Works or Structures by Manawatu Wanganui Regional Council;
 - R 17.9.1 Discretionary Activities (Unrestricted) for the specific requirements relating to excavation restrictions for Natural and Cultural Heritage sites (including Scheduled Trees);
5. Earthworks completed as part of Land Restructuring in the Aokautere Development Area under Section 22.9 ‘Land Instability’ are further subject to those rules.
6. Earthworks may also require consent from the Manawatu Wanganui Regional Council.

R 6.3.6.2 Exclusions from Earthworks Rule 6.3.6.1

Earthworks associated with the following activities shall be exempted, except as specified in (vii) below, from the requirements of R 6.3.6.1 of this Plan:

- (i) Earthworks associated with the maintenance of farm tracks, fences and fence lines, the cultivation of land, harvesting of crops, and the clearing of drains as part of Horticultural and Agricultural activities on production land.
- (ii) Trenching and backfilling ancillary to the installation of utilities and services, including effluent disposal fields, and water and effluent tanks, provided there is no change to the existing ground level.
- (iii) Earthworks undertaken as part of Quarrying or Extraction activities in Section 9 (Rural Zone) of this Plan.
- (iv) Earthworks in association with permitted 'Minor and Extended Temporary Military Training Activities' as per the definition in this Plan.
- (v) Flood Protection works carried out or supervised by the Manawatu-Wanganui Regional Council.
- (vi) With respect to Rule 6.3.6.1(a)(ii) and Rule 6.3.6.1(b)(ii) only, earthworks as part of foundations for a dwelling or a swimming pool are exempted from the 1.5 height restriction. This exemption applies only to a cut made below the existing ground level, and for a distance of 2m surrounding the foundation (when measured in plan view).

Exemptions from R 6.3.6.1 (e)

- (vii) With respect to R 6.3.6.1(e)(i) only, the following exemptions apply:
 - (i) vertical holes not exceeding 500mm in diameter provided the holes that are:
 - a. at least 1.5m from the outer edge of a National Grid support structure or stay wire; or
 - b. are a post hole for a farm fence or horticultural structure and are more than 5m from the visible outer edge of a National Grid tower support structure foundation.
 - (ii) Earthworks for a Network Utility within a transport corridor, as part of a transmission activity, for electricity infrastructure, or for commercial scale electricity generation;
 - (iii) Earthworks undertaken as part of agricultural or domestic cultivation or repair, sealing, or resealing of a road, footpath, driveway or farm track.
 - (iv) Earthworks associated with the maintenance of farm tracks, the cultivation of land, harvesting of crops, and the clearing of drains as part of Horticultural and Agricultural activities on production land;
 - (v) Earthworks undertaken as part of the repair, sealing or resealing of a road, footpath, or driveway.

Explanation

Earthworks are in some cases considered a common aspect of landuse and development activity, such as tilling of soil for horticultural activities, the maintenance of farm tracks, or the laying of infrastructure services. In these circumstances the associated effects of earthworks are considered normal permitted activities resulting in less than minor effects.

Alternatively, in the case of Quarrying and Extraction activities the effects are adequately assessed through other parts of this Plan.

With respect to paragraph (vi), exempting dwellings from the height threshold provides flexibility for the construction of foundations and basements below ground level. Alternatively this will enable the design of a dwelling to take into account any undulating ground, and provide for dwellings to be recessed into any slope. The major adverse effect in this situation is with respect

to stability, which can be addressed through the Building Consent process.

NOTE TO PLAN USERS:

The Earthworks rules do not apply to Network Utility Operators. Network Utility Operators activities are specifically addressed in Section 23 of the Plan.

6.3.7 Rules: Restricted Discretionary Activities



R 6.3.7.1 Restricted Discretionary Activities

Any earthworks that do not comply with the Permitted Activity Performance Conditions R 6.3.6.1 (a) – (d) (but excluding (a)(ia)) shall be Restricted Discretionary Activities with regard to:

- Landscape and visual impact
- Effects on adjoining properties including amenity values
- Impact on flood plains and flood flows
- Increase in hazard risk and effects on land stability
- Effects of erosion and sedimentation
- Effects on overland flow paths
- ~~Effects on the National Grid~~

In determining whether to grant consent and what conditions to impose, if any, Council will, in addition to the City View objectives in Section 2, the Earthworks objectives and policies (Section 6), and the objectives and policies of the relevant zone, assess any application in terms of the following further policies:

- (a) To ensure that earthworks do not adversely affect the residential amenity of adjoining neighbours.
- (b) Avoid earthworks that materially impact on the landscape and visual values associated with the land in its surrounding context.
- (c) Avoid material increases in the susceptibility of the land or adjoining land to flooding.
- (d) Ensure that all earthworks are carried out in accordance with the relevant technical standards.

Non-Notification:

~~Where an activity is restricted discretionary because of non-compliance with the performance condition in Rule 6.3.6.1 relating to separation distance from the National Grid then the application need not be publicly notified and need not be served on any affected party other than Transpower NZ Limited.~~

Explanation

The type of adverse effects related to earthworks activities is limited to certain issues listed above. The Discretionary Activity (Restricted) category enables each application to be assessed on a case by case basis. The Council retains the ability to impose Conditions to ensure such effects are appropriately avoided, remedied, or mitigated.

Section 5 outlines the information required to be submitted with an application for earthworks Resource Consent. Reference should also be made to the Palmerston North Engineering Standards for Land Development, and relevant NZ Standards (for example, the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001). Council may require an earthworks management plan to be submitted in support of an application. Where an application is approved, Conditions may be placed on the resource consent to ensure compliance with the proposed earthworks plan, and to ensure construction effects are sufficiently contained.

It should also be noted that consent from the Manawatu Wanganui Regional Council may also be required for some earthworks.

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R 6.3.7.2 Restricted Discretionary Activities

Any earthworks that do not comply with the Permitted Activity Performance Condition R 6.3.6.1 (e)(i) shall be Restricted Discretionary Activities with regard to:

- The risk to the structural integrity of the National Grid
- Impacts on the operation, maintenance, upgrade and development of the National Grid, including access.
- Compliance with NZECP34:2001.
- Technical advice provided by Transpower.
- The risk of electrical hazards affecting public or individual safety, and the risk of property damage
- Compliance with the Palmerston North Engineering Standards for Land Development

Non-Notification:

The application need not be publicly notified and need not be served on any affected party other than Transpower NZ Limited.

Explanation

The type of adverse effects related to earthworks activities is limited to certain issues listed above. The Discretionary Activity (Restricted) category enables each application to be assessed on a case by case basis. The Council retains the ability to impose Conditions to ensure such effects are appropriately avoided, remedied, or mitigated.

Section 5 outlines the information required to be submitted with an application for earthworks Resource Consent. Reference should also be made to the Palmerston North Engineering Standards for Land Development, and relevant NZ Standards (for example, the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001). Council may require an earthworks management plan to be submitted in support of an application. Where an application is approved, Conditions may be placed on the resource consent to ensure compliance with the proposed earthworks plan, and to ensure construction effects are sufficiently contained.

It should also be noted that consent from the Manawatu Wanganui Regional Council may also be required for some earthworks.

6.3.8 Rules: Non-Complying Rules

R 6.3.78.1 Non-Complying Activities

Any earthworks that do not comply with the Permitted Activity Performance Condition R 6.3.6.1 (e)(ii) or Condition R6.3.6.1(e)(iii) or condition R 6.3.6.1 (a)(ia) shall be Non-Complying Activities.

DECISIONS VERSION