

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER of the Resource Management Act 1991
AND of appeals under cl 14 of the First Schedule
to the Act
BETWEEN POWERCO LIMITED
(ENV-2017-WLG-000060)
AND TRANSPOWER NEW ZEALAND LIMITED
(ENV-2017-WLG-000064)
Appellants
AND MANAWATU DISTRICT COUNCIL
Respondent

Environment Judge B P Dwyer sitting alone pursuant to s 279 of the Act

In Chambers at Wellington

CONSENT ORDER

- [A] Under s 279(1)(b) of the Act, the Environment Court, by consent, orders that the provisions of Plan Change 55 (District Wide Rules) imposed in that part of the decision the subject of these appeals are to be amended in the manner set out in **Appendix A**, which forms part of this order.
- [B] Under s 285 of the Act, there is no order as to costs.



REASONS**Introduction**

[1] The Court has now read and considered the appeals and the memorandum of the parties dated 16 February 2018.

Other relevant matters

[2] Royal Forest and Bird Protection Society of New Zealand Incorporated joined the Powerco appeal as a s 274 party. Powerco, Federated Farmers of New Zealand, Royal Forest and Bird Protection Society of New Zealand Incorporated and Horticulture New Zealand joined the Transpower appeal as s 274 parties.

[3] All parties signed the consent memorandum setting out the relief sought.

Orders

[4] The Court is making this order under s 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum (unless stated otherwise for specific reasons) requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

DATED at Wellington this 2nd day of May 2018

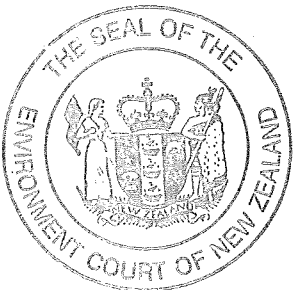


B P Dwyer
Environment Judge



Appendix "A"

PC55 Provisions – District Wide rules



3.0 DISTRICT WIDE RULES

3.1 Introduction

This chapter contains provisions that apply in the Manawatu District relating to:

- Network utilities:
- Transport
- Noise
- Earthworks
- Signage
- Temporary activities
- Relocated buildings

This chapter is intended to be read in conjunction with the relevant zoning provisions. Where specific rules are included in the relevant zoning rules, then those rules apply (unless otherwise referenced in this chapter). If the relevant zoning rules are more restrictive than the provisions contained in this chapter, then the zone rules shall apply.

3A NETWORK UTILITIES

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3A.1 Introduction

Network utilities, including infrastructure of regional and national importance, are an essential part of the District's infrastructure. Communities rely on network utilities to function. It is therefore critical the development, operation, upgrading and maintenance of these essential services are managed appropriately to ensure the social, economic and cultural wellbeing of those in the District and beyond. Such infrastructure, services and facilities can also create significant direct or indirect adverse environmental effects, some of which may be quite specific to the utility. Due to their locational, technical and operational constraints, some utilities may generate adverse effects that cannot be practically avoided, remedied or mitigated. As such, these effects need to be balanced against the essential nature of facilities and the benefits these utilities provide to the social, economic, health and safety and wellbeing of people and communities in the Manawatu District and beyond.

The National Grid is managed and regulated in part by the National Policy Statement on Electricity Transmission 2008 (NPSET) and the Resource Management (National Environmental Standards for Electricity Transmission Activities (NESETA). The NPSET came into effect on 13 March 2008 and recognises the national significance of the National Grid in its entirety. The NPSET facilitates the operation, maintenance and upgrade of the existing National Grid network and the establishment of new National Grid assets. The District Plan is required to give effect to the NPSET.

The NESETA came into effect on 14 January 2010. The NESETA sets out a national framework for permissions and consent requirements for activities on National Grid



lines existing at 14 January 2010. Activities include the operation, maintenance and upgrading of existing lines but exclude the development of new lines and substations. The NESETA must not be in conflict with nor duplicate the provisions of the NESETA.

Telecommunication and Radiocommunication facilities are in part managed under the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NESTF). The NESTF provides a nationally consistent planning framework for a wide range of telecommunication facilities in locations inside and outside the road reserve. Telecommunication facilities not covered by the NESTF 2016 are controlled under the District Plan.

The Manawatu Wanganui Regional Council's One Plan also provides for the regional and national importance of a range of infrastructure in the region. The Regional Policy Statement section of the One Plan (RPS) requires that councils recognise, and have regard to the benefits that derive from regionally and nationally important infrastructure and utilities, and that the establishment, operation, maintenance and upgrading of such infrastructure be provided for in the District Plan. The RPS also requires that the Council ensure that adverse effects from other activities on network utility infrastructure are avoided as reasonably practicable.

This chapter provides clarification to network utility operators for activities that can be undertaken without a resource consent, and the parameters these activities must comply with. The District Plan provides for a large range of works to be permitted subject to performance standards.

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Subdivision, use and development can adversely impact surrounding network utilities. Therefore, additional provisions relating to setbacks from key network utilities are included in the Chapter 8 - Subdivision. Earthworks when undertaken in proximity to network utilities can undermine the infrastructure asset. Provisions restricting earthworks near some network utilities are contained in the earthworks section of this chapter.

The provisions in 3A of the District Wide Rules Chapter address the development and maintenance of network utilities. The intention is that Chapter 3A will be standalone at the completion of the Sectional District Plan Review. There are some chapters and zones where provisions may apply (for example setbacks) until the Sectional District Plan Review progress has been completed. As other chapters and provisions are reviewed, relevant provisions will be included or cross referenced to Chapter 3A, and those reviewed chapters will cease to apply. When completed, the rules in this chapter (including any cross referenced) will supersede the zone rules. Zone rules will only apply if specifically stated in Chapter 3A.

Note: There are some existing rules that identify subdivision and land use to be setback from Network Utility infrastructure and these continue to apply as outlined in other chapters in the District Plan until those provisions are reviewed.

3A.2 Resource Management Issues

The following resource management issues have been identified in relation to network utilities:



1. To provide for the safe, effective and efficient operation, maintenance, replacement and upgrade of network utilities, including infrastructure of regional and national importance.
2. Recognising that network utilities have technical and operational requirements that may dictate their location and design.
3. The safe, effective and efficient operation, maintenance, replacement and upgrading and planned development of network utilities can be put at risk by inappropriate subdivision, use and development.
4. The need to balance the visual amenity effects of network utilities against their locational needs.
5. The need to manage the disposal of solid waste material by reusing and recycling where possible, while avoiding the use of contaminated soils.
6. Recognising the constraints on existing network utilities when considering new development.
7. Potential effects from electromagnetic and other forms of radiation.
8. The location, operation and maintenance replacement upgrading of network utilities can create adverse effects on the environment.

3A.3 Objectives and policies

Objective 1

To ensure:

- (a) Network utility infrastructure of national and regional importance, including the National Grid, is able to operate, upgrade and develop efficiently and effectively while managing any adverse effects in the environment having regard to the locational, technical and operational constraints of the infrastructure.
- (b) All other network utilities are designed, located, constructed, operated, upgraded and maintained in a manner that ensures the efficient use of natural and physical resources while recognising the environment they are located in.

Policies

- 1.1 To enable the establishment, operation, maintenance, replacement, and minor upgrading of network utilities.
- 1.2 To encourage network utility operators to coordinate and co-locate services or to locate within the existing roading network where practicable.
- 1.3 To encourage all new cables and lines, including electricity distribution lines (but not the National Grid) are installed underground.



- 1.4 To recognise the locational, technical and operational requirements and constraints of network utilities and the contribution they make to the functioning and wellbeing of the community and beyond when assessing their location, design and appearance.
- 1.5 To ensure network utilities are constructed and located in a manner sensitive to the amenity and landscape values where they are located.

Objective 2

To protect network utilities in the district, and in particular nationally and regionally important infrastructure, including the National Grid by avoiding the adverse effects of subdivision, use and development and other land use activities on the operation, maintenance, replacement, and upgrading of the existing network utilities and planned development of new network utilities.

Policies

- 2.1 To ensure that any vegetation is planted and maintained to avoid interference with network utilities, including transmission lines and the National Grid Yard.
- 2.2 To require that appropriate separation of activities is maintained to enable the safe operation, maintenance, replacement and upgrading of network utilities, and avoid reverse sensitivity and/or manage risk issues.
- 2.3 To ensure all subdivision and development is designed to avoid adverse effects on the operation, access, maintenance, replacement and upgrading of existing or planned development of network utilities.
- 2.4 To manage the effects of subdivision, development and land use on the safe, effective and efficient operation, maintenance, replacement and upgrading of the National Grid by ensuring that:
 - a. Areas are identified in the Plan to establish safe buffer distances for managing subdivision and land use development near the National Grid.
 - b. Sensitive activities and intensive farming are excluded from establishing within the National Grid Yard.
 - b.c. Non-sensitive activities within the National Grid Yard are managed so that the National Grid is not compromised.
 - e.d. Subdivision is managed around the National Grid Corridor to avoid subsequent land use from restricting the operation, maintenance and upgrading of the National Grid.
 - e.e. Changes to existing activities within a National Grid Yard do not further restrict the operation, maintenance and upgrading of the National Grid.



Objective 3

To protect the values that are important to significant heritage and landscape areas from the inappropriate development of network utilities.

Policies

- 3.1 Subject to Policy 3.2, to protect the values that cause an Outstanding Natural Feature and Landscape to be scheduled in Appendix 1C (Outstanding Natural Features) or a site of historic heritage scheduled in Appendix 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value).
- 3.2 To restrict the development of network utilities, except within an existing road corridor, within areas scheduled in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) unless
 - a. there is no practicable alternative location; and
 - b. the infrastructure is of national importance; and
 - c. the development substantially protects the values of the scheduled resource.

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3A.4 Rules

Rules in this chapter apply District-wide and the chapter needs to be read in conjunction with the other District Wide Rules, the District Plan maps, relevant appendices and depending on the progress of the Sectional District Plan Review at the time an application is lodged, any relevant provisions of the applicable zone.

Note: The provisions in the District Wide Rules Chapter are intended to be standalone for the development and maintenance of Network Utilities upon completion of the Sectional District Plan Review. There are some chapters and zones where provisions may apply (for example setbacks). The new provisions will be included or cross referenced to Chapter 3A of the District Wide Rules Chapter as the Sectional District Plan Review progresses. Provisions in the rules of the District Plan that may apply until they are reviewed include, but are not limited to, the relevant noise provisions in the Manfeild Park and Special Development Zone, subdivision provisions, special yard requirements in the Residential Zone, buildings clear of drains in the Village and Rural Zone, and roading impacts on the Rural Zone and Flood Channel Zones.

Rules in this chapter apply District-wide and the chapter needs to be read in conjunction with the District Plan maps, relevant appendices and provisions of the applicable zone.

3A.4.1

Permitted Activities



The following network utilities are Permitted Activities throughout the District, provided that they comply with the standards in Rule 3A.4.2 below:

- a. The operation, maintenance, replacement, or minor upgrading of lawfully established or consented network utilities, or those that are existing as at 22 February 2017.
- b. Construction, operation, maintenance, realignment and upgrading of roads and railway lines within the road reserve or railway corridor.
- c. The construction, operation, maintenance, replacement and minor upgrading of radiocommunication and/or telecommunication facilities, cables and lines, including those underground.
- d. Underground pumping stations and pipe networks for the conveyance or drainage of water or sewage, and necessary incidental equipment.
- e. Water storage tanks, reservoirs and wells, including pump stations.
- f. Pipes for the distribution (but not transmission) of natural or manufactured gas at a gauge pressure not exceeding 2000kPa including any necessary ancillary equipment such as household connections and compressor stations.
- g. The construction, operation, maintenance, replacement and upgrading of any new electricity lines up to and including 110kV and associated transformers and switchgear.
- h. Soil conservation, erosion protection, river control or flood protection works undertaken by, or on behalf of the Manawatu Wanganui Regional Council.
- i. Land drainage, stormwater control or irrigation works including pump stations.
- j. Railway crossing warning devices and barrier arms.
- k. Trig stations and survey marks.
- l. Navigational aids, lighthouses and beacons.
- m. Meteorological instruments and facilities.
- n. Decommissioning and removal of utilities.
- o. Electric vehicle charging stations.
- p. The trimming and removal of any vegetation that is required to maintain safe separation distances or the ongoing efficient operation of the telecommunication or electricity line.

Guidance Notes:



1. The provisions of the National Environmental Standard for Telecommunications Facilities (2016) apply and resource consent may be required under those Standards. In the event of a conflict between them the provisions of the National Environmental Standard override the District Plan.
2. Water takes, diversions, new tracks, drilling of bores, offal pits, farm dumps and earthworks are also regulated by the Manawatu-Wanganui Regional Council and a resource consent may be required under the rules of the One Plan.
3. The National Environmental Standard for Electricity Transmission Activities (2010) (NESETA) sets out a national framework of permission and consent requirements for activities on National Grid lines existing at 14 January 2010. Activities include the operation, maintenance and upgrading of existing lines but exclude the development of new lines (post 14 January 2010) and substations. The District Plan must not be in conflict with nor duplicate the provisions of the NESETA.
4. Vegetation and planting around lines (including the National Grid) shall comply with the Electricity (Hazards from Trees) Regulations 2003.
5. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to the lines, and must be complied with.
6. Early consultation with Heritage New Zealand Pouhere Taonga is encouraged where a development may adversely affect an item listed on the New Zealand Heritage List/Rarangi Korero. Works near or within areas of historic heritage may also require an Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act (2014). It is an offence to modify or destroy an archaeological site or demolish/destroy a whole building if the person knows or reasonably suspects it to be an archaeological site. An archaeological site is any place, including any building or structure (or part of), that:
 - was associated with human activity or the site of a wreck of a vessel that occurred before 1900; and
 - provides or may provide, through archaeological investigation, evidence relating to the history of New Zealand.

7. The Electricity Act 1992 outlines the regulatory process for the electricity industry and the supply of electricity. This includes responsibilities between the electricity industry and landowners. The provisions of the Electricity Act 1992 are separate from the regulation of activities under the District Plan and Resource Management Act 1991.

3A.4.2 Standards for Permitted Activities

For all zones, the permitted activities specified in Rule 3A.4.1 above must comply with the following standards and the relevant standards in those chapters and zones that



have not been reviewed and made operative as part of the Sectional District Plan Review. The permitted activities specified in Rule 3A.4.1 do not and need not to comply with the height and setback rules in the zone chapter:

- a. New network utilities must not exceed a maximum height of
 - i. 9m within the Residential or Village Zone, or
 - ii. 25m within the Rural Zone, or
 - iii. 22m for all other zones.

Guidance Note: antennas (including any ancillary equipment) that do not extend 3m above the height of the building or mast are excluded from the 9m, 22m or 25m limit above. The mast heights provided in i, ii and iii above can be increased by 5m if the mast is used by more than one telecommunications provider. Lightning rods may exceed the maximum height. Refer also to Clause f relating to transmission line requirements.

- b. Any mast with a height of more than 9m must not be located within 20m of any site zoned Residential or Village.
- c. All masts must be set back 20m from a road reserve on any site zoned Rural or Flood Channel.
- d. No mast, building or structure may be located closer than 5m to any site boundary. This 5m yard does not apply to buildings with a floor area of less than 10m², or to overhead lines and cables.
- e. Telecommunication cabinets must not exceed 10m² in area in all zones, except in Flood Channel Zone where cabinets must not exceed 5m² in area.
- f. Electricity transmission and distribution must not, with the exception of minor upgrading activities, exceed a height of:
 - i. 12m in the Residential and Inner Business Zones, or
 - ii. 25m in all other zones.
- g. Buildings and structures within an electricity transmission corridor, including the National Grid Yard must:
 - i. Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP34:2001) (Note: compliance with the permitted activity standard of the Plan does not ensure compliance with NZECP34:2001); and



ii. With the exception of electricity lines associated with the electricity transmission or distribution, not exceed a maximum height of 2.5m and an area of 10m².

- h. No antenna will exceed the following dimensions:
- i. 2.5 metres in diameter (dish antenna), or a face area of 1.5m² (other antenna) in the Residential Zone, or
 - ii. 5 metres in diameter (dish antenna), or a face area of 2.5 m² (other antenna) in all other zones.
- i. Where network utilities are located underground, any disturbance of the ground surface and any vegetation (apart from vegetation compromising the operational integrity of the network utility) must be reinstated or replaced upon completion of the works within the first available planting season.

Guidance Note: The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) also applies to earthworks and a resource consent may be required under those provisions.

- j. Works that are undertaken outside of an existing road corridor, or that are not operation, maintenance, replacement or minor upgrading works must not be located within the areas scheduled in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) of this Plan.
- k. Exterior lighting must be directed away from public places and adjoining sites, and must avoid any spill of light that may result in safety concerns for road users.
- l. Metal cladding or fences must be painted or otherwise treated to mitigate reflection.
- m. All road/rail level crossings must be kept clear of buildings and other obstructions which might block sight lines in accordance with Appendix 3B.5.
- n. All network utilities must meet the noise standards relevant to the zone they are located in.
- o. All activities that result in vibration must be managed in accordance with the NZ Transport Agency State Highway Construction and Maintenance Noise and Vibration guide (August 2013) to manage vibration beyond site boundaries.
- p. Electric vehicle charging stations must not exceed 1.5m² in area and 1.8m in height per charging station in all zones.



Guidance Notes:

1. Vegetation planted within an electricity transmission corridor, including the National Grid Yard and distribution lines should be selected and managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.
2. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to the lines.
3. Buildings, structures and other activities near transmission gas lines should be managed according to the Operating Code Standard for Pipelines – Gas and Petroleum (NZS/AS 2885) and the Gas Distribution Networks (NZS 5258:2003).
4. Compliance with the permitted activity standards in Rule 3A.4.2 does not necessarily ensure compliance with the relevant code of practice identified above.
5. Sounds generated by construction, maintenance and demolition activities will be assessed, predicted, measured, managed and controlled by reference to NZS6803:1999 Acoustics – Construction Noise.
6. For any construction work associated with any infrastructure that is undertaken in the legal road, the person responsible for that work must be able to demonstrate compliance with the National Code of Practice for Utility Operators Access to Transport Corridors (2011).
7. Radiocommunication and/or telecommunication facilities that emit radiofrequency fields are required to comply with the radiofrequency regulations in the NESTF 2016.

3A.4.3 Restricted Discretionary Activities

The following activities are Restricted Discretionary Activities in respect to network utilities:

- a. Any permitted activity that does not comply with any of the relevant standards in Rule 3A.4.2. This rule does not apply to activities that do not meet standard (j) in Rule 3A.4.2 unless it meets the definition of minor upgrading, maintenance or replacement.

For these activities, the Council has restricted its discretion to considering the following matters, only to the extent that they are relevant to the standard that is not met:

- o scale of built form and location on site, including height



- screening, storage and landscaping
- traffic generation, site access and parking
- noise and vibration
- signage
- lighting
- effects on heritage
- known effects on the health and safety of nearby residents.

In determining whether to grant a resource consent and what conditions to impose, the Council will, in addition to the objectives and policies of the Network Utilities section and the relevant zone, assess any application in terms of the following assessment criteria:

- i. the proposed benefits of the network utility proposal to the wider community and beyond.
- ii. whether the activity will result in any adverse effects on amenity values of neighbouring properties or the character of the zone in which the activity is proposed.
- iii. whether the application remains consistent with the intention of the standard(s) it infringes.
- iv. the degree to which the non-compliance can be mitigated to ensure the effects are internalised to the site.
- v. the degree to which co-location has been considered and is practicable.
- vi. whether the activity impacts on the scheduled heritage values in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves)), 1C (Outstanding Natural Features), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) of this Plan and, if so, how such impacts are remedied or mitigated.
- vii. the degree to which the alternative locations, sites, or routes have been assessed and any operational, locational or technical constraints considered.
- viii. the degree to which the proposed facility may affect the performance of other utilities nearby.
- ix. the technical and operational needs for the efficient functioning of the network utility.



3A.4.4 Discretionary Activities

Any network utility not otherwise specified as Permitted, Restricted Discretionary or Non-Complying Activity, or is not specifically provided for in this Plan, shall be a Discretionary Activity.

3A.4.5 Non-Complying Activities

Any new network utility located within an Outstanding Natural Feature or Landscape in Appendix 1C which is not otherwise provided for is a Non-Complying Activity unless it is minor upgrading, maintenance or replacement in which case Rule 3A.4.3 applies.

3B ...

3C ...



3D EARTHWORKS

3D.1 Introduction

Earthworks are often carried out in conjunction with subdivision and development including through construction of a structure or building, the establishment of a site access and when completing landscaping. Earthworks are also undertaken in the rural environment in conjunction with rural production activities, and for biosecurity purposes to dispose of unwanted organisms.

Without appropriate management, earthworks have the potential to affect land stability and cause erosion. Rehabilitation and design have an important role in the mitigation of potential adverse effects such as land stability and visual amenity.

Earthworks can also affect archaeological sites and care should be taken to ensure those sites are protected and not destroyed.

3D.2 Resource Management Issues

The following resource management issues have been identified in relation to earthworks:

1. Potential adverse effects resulting from earthworks can detract from the amenity values of the District.
2. Earthworks can result in or increase the risk of land instability.
3. Earthworks can result in adverse effects on historic heritage values.
4. Earthworks can result in adverse effects on the values that cause a natural feature or landscape to be outstanding.
5. Increased risk of natural hazards when overland flow paths or stormwater drains/swales are changed through earthworks.
6. Earthworks can compromise the safe, efficient and effective functioning of established network utilities including regionally and nationally significant infrastructure.

3D.3 Objectives and Policies

Objective 1

To ensure earthworks do not result in adverse effects on the visual amenity, landscape, or historic heritage values of the area.



Policies

- 1.1 To mitigate any visual amenity effects arising from earthworks.
- 1.2 To restrict earthworks within the area of items scheduled in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1D (Trees with Heritage Value), 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value).
- 1.3 To restrict earthworks in Outstanding Natural Features or Landscapes as scheduled in Appendix 1C, except where earthworks are necessary to manage risk to human health and safety.
- 1.4 To ensure the scale of earthworks are appropriate for the site they are located on to avoid visual amenity effects on or beyond the site.

Objective 2

To ensure that earthworks are designed and undertaken in a manner to minimise the risk of land instability and accelerated erosion.

Policies

- 2.1 To manage the scale of earthworks on sites susceptible to erosion and land instability.
- 2.2 To require rehabilitation measures be undertaken to avoid accelerated erosion following earthworks.
- 2.3 To ensure all adverse effects from earthworks including dust and sediment run-off are managed onsite so that particulate matter does not cause a nuisance or affect the safety or operation of other activities.
- 2.4 To ensure that earthworks do not affect the functioning of known overland flow paths.

Objective 3

To protect the operation of the National Grid and infrastructure of regional and national importance by avoiding earthworks that could undermine their integrity and functioning.

Policies

- 3.1 To control earthworks within the National Grid Yard to ensure the continued safe, effective and efficient access to and operation, maintenance and upgrading of the National Grid.
- 3.2 To control earthworks near infrastructure of regional and national importance to ensure their safe and efficient operation, maintenance and upgrading.



3D.4 Rules

Rules in this chapter apply District-wide and the chapter needs to be read in conjunction with the District Plan maps, relevant appendices and provisions of the applicable zone.

3D.4.1 Permitted Activities

The following are Permitted Activities in all zones, except the Rural and Flood Channel zones provided that they comply with the standards in Rule 3D.4.2 below.

- a. Earthworks, other than in an Outstanding Natural Feature or Landscape.
- b. Earthworks for the purposes of burying material infected by unwanted organisms as declared by the Minister under the Biosecurity Act 1993.

Guidance Notes:

1. Water takes, diversions, discharges and earthworks are also regulated by the Manawatu-Wanganui Regional Council and a resource consent maybe required under the rules of the One Plan.
2. Earthworks near or within areas of cultural and natural heritage values may also require an Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act (2014). It is an offence to modify or destroy an archaeological site or destroy an archaeological site or demolish/destroy a whole building if the person knows or reasonably suspects it to be an archaeological site. An archaeological site is any place, including any building or structure (or part of), that:
 - was associated with human activity or the site of a wreck of a vessel that occurred before 1900; and
 - provides or may provide, through archaeological investigation, evidence relating to the history of New Zealand.
3. The disposal of contaminated material, including unwanted organisms, may require resource consent from the Manawatu-Wanganui Regional Council under the rules of the One Plan.

3D.4.2 Standards for Permitted Activities

The Permitted Activities specified above must comply with the following standards:

- a. Any sediment run-off from earthworks must be contained within the subject site.



- b. All dust and sedimentation control measures must be installed prior to earthworks commencing, maintained during the construction works, and only removed once stabilisation occurs.
- c. Earthworks must not be undertaken closer than 20m of the banks of the Oroua River or Kiwitea Stream.
- d. Earthworks must not be undertaken closer than 10m of the banks of the Makino Stream.
- e. Earthworks must not be undertaken within any area identified in Appendix 1A (Wetlands, Lakes, Rivers and their Margins), 1B (Significant Areas of Indigenous Forest/Vegetation (excluding Reserves), 1D (Trees with Heritage Value) and 1F (Sites with Heritage Value).
- f. Earthworks undertaken in the National Grid Yard

For-Around National Grid support poles and stay wires:

- i. depth shall be no greater than 300mm within 2.2m of the pole or stay wire; and
- ii. depth shall be no greater than 750mm between 2.2m and 5m of the pole or stay wire.

For-Around National Grid support towers (including any tubular steel tower that replaces a steel lattice tower):

- iii. depth shall be no greater than 300mm within 6m of the outer edge of the visible foundation of the tower; and
- iv. depth shall be no greater than 3m between 6m and 12m of the outer edge of the visible foundation of the tower;
- v. shall not compromise the stability of a National Grid support structure, and
- vi. shall not result in a reduction in the ground to conductor clearance distances below what is required by Table 4 of NZECP34:2001.

Provided that the following earthwork activities are exempt from the provisions (i)-(vi) above:

- vii. by a network utility operator within a transport corridor as part of a transmission activity or for utility infrastructure, or
- viii. as part of agricultural or domestic cultivation, or



- ix. repair, sealing or resealing of a road, footpath, driveway or farm track
- x. any vertical holes not exceeding 500mm in diameter provided they are:
 - a. more than 1.5m from the outer edge of a pole support structure or stay wire; or
 - b. a post hole for a farm fence or horticulture structure and more than 6.5m from the visible edge of a tower support structure foundation.

Guidance Note: The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) contains restrictions on the location of structures and activities in relation to all electricity lines. Compliance with the Code of Practice is mandatory. Compliance with the permitted activity standards of the Plan does not ensure compliance with the Code of Practice.

- g. No earthworks, buildings or structures can be undertaken or erected within 20m of a natural gas transmission pipeline.
- h. Earthworks must comply with the standards specified in Table 3D.1 Earthwork Volumes.
- i. Earthworks must not block any stormwater or overland flow paths.

Table 3D.1 Earthwork Volumes

Zone	Minimum setback from site boundary		Maximum area per site exposed at any one time	Maximum permitted volume per site in any 12 month period	Maximum change to existing ground level
	1.5m	3m	500m ²	500m ³	1.5m
Residential, Village & Inner Business Zones	✓		✓		✓
Outer Business & Industrial Zones		✓		✓	✓
Manfeild Park & Special Development Zones		✓		✓	✓



Recreation Zone	✓			✓	✓
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Guidance Notes:

1. The restrictions above do not apply to land based quarrying activities which are managed in the Rural Zone of this Plan.
2. Earthworks are also regulated by the Manawatu-Wanganui Regional Council and a resource consent may be required under the rules of the One Plan, or any subsequent Regional Plan. The One Plan requires Erosion and Sediment Control measures to comply with the Greater Wellington Regional Council’s Erosion and Sediment Control Guidelines dated September 2002.
3. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) also applies to earthworks and a resource consent may be required under those provisions.
4. Where earthworks are to be undertaken within 20m of any electricity line or high pressure gas transmission line, the owners of the electrical or gas network should be advised of the intention to carry out the works not less than 5 working days prior to their commencement.
5. Earthworks that may or will modify or destroy an archaeological site require an Archaeological Authority under the Heritage New Zealand Pouhere Taonga Act (2014). It is an offence to modify or destroy an archaeological site or demolish/ destroy a whole building if the person knows or reasonably suspects it to be an archaeological site. An archaeological site is any place, including any buildings or structure (or part of), that:
 - was associated with human activity or the site of a wreck of a vessel that occurred before 1900; and
 - provides or may provide, through archaeological investigation, evidence relating to the history of New Zealand.

3D.4.3 Restricted Discretionary Activities

The following activities are Restricted Discretionary Activities:

- a. Any earthworks undertaken in the National Grid Yard that do not comply with the standards for permitted activities under Rule 3D.4.2f (i) – (iv) above.

For this activity, the Council has restricted its discretion to considering the following matters, only to the extent that they are relevant to the standard that is not met:

- o Any effects on the operation of the National Grid



- Volume, area and location of the works, including temporary activities such as stockpiles
- Hours of operation and time of year the proposed works will occur
- Site remediation
- The use of mobile machinery within the National Grid Yard
- Demonstrated compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001).

3D.4.4 Discretionary Activities

Any earthworks that do not meet the Permitted Activity standards, or is not specifically provided for in this Plan, shall be a Discretionary Activity.

Guidance Note: The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) also applies to earthworks and a consent may be required under those provisions.

3D.4.5 Non-Complying Activities

Any earthworks within an Outstanding Natural Feature or Landscape identified in Appendix 1C, except within an existing road corridor, or in the National Grid yard that do not comply with 3D.4.2(f) (v) or (vi) is a Non-Complying Activity.



2 DEFINITIONS

MINOR UPGRADING

in relation to network utilities means increasing the carrying capacity or efficiency of an existing utility while the effects of that utility remain the same or similar in character, intensity and scale. Minor upgrading shall not include an increase in the voltage of an electricity line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage. Examples of minor upgrading may include:

- a. Adding circuits and conductors to electricity and telecommunication lines.
- b. Reconductoring lines with higher capacity conductors.
- c. Resagging conductors.
- d. Bonding of conductors.
- e. Adding longer or more efficient insulators.
- f. Adding earthwires to electricity lines, which may contain telecommunication lines, earthpeaks and lightning rods.
- g. Adding electrical or telecommunication fittings.
- h. Replacement of cross arms with cross arms of an alternative design.
- i. Relocation and replacement of support structures, such as poles supporting electricity and telecommunication lines up to 3m from the original location and in the case of the National Grid, relocation and replacement of support structures up to 5m.
- j. An increase in support structure height required to achieve compliance with NZECP34:2001.
- k. In the case of ~~electricity transmission lines~~ [the National Grid and electricity distribution lines](#), an increase by not more than 15% of the base height of the support structure where the base height is defined as the height of the structure established as at January 2010. [PC55]

