

3 DISTRICT WIDE RULES

3.1 Introduction

This chapter contains provisions that apply in the Manawatū 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).

3A NETWORK UTILITIES

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 Manawatū 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 significant

ance of the **National Grid** in its entirety. The PSET 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 Manawātū 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.

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.

Guidance Note: Plan Users are directed to Chapter 8 Residential Zone, Rule 8.4.1.g for additional provisions that apply to Network Utilities with respect to infrastructure being located underground. [PC51]¹

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**.

¹ PC51 decision of hearing panel. Has legal effect but is not yet operative.

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, including those areas identified as Significant Amenity Features in NFL-APP2.

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, 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**.
 - c. **Non-sensitive activities** within the **National Grid Yard** are managed so that the **National Grid** is not compromised.
 - 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. Changes to existing activities within a **National Grid Yard** do not further restrict the operation, maintenance and upgrading of the **National Grid**.

Objective 3

The characteristics and values of the Outstanding Natural Features and Landscapes identified in NFL-APP1 and historic heritage are protected from the inappropriate use and development of network utilities. To protect the values that are important to significant heritage and landscape areas from the inappropriate development of network utilities.

Policies

- 3.1 To protect the characteristics and values of Outstanding Natural Features and Landscapes scheduled in NFL-APP1 or a **site** of historic heritage scheduled in Appendix 1E (Buildings and Objects with Heritage Value) and 1F (Sites with Heritage Value) from the effects of network utilities.
- 3.2 To avoid significant adverse cumulative effects from new network utilities on the characteristics and values of Outstanding Natural Features and Landscapes.
- 3.3 Except as required by Policy 3.2, avoid adverse effects as far as reasonably practicable and where avoidance is not reasonably practicable, remedy or

These highlighted provisions have been appealed by PowerCo and Transpower. The appeals on hold pending the provisions being reviewed as part of a future Plan Change on Outstanding Natural Features and Landscapes (Plan Change 65). For now the highlighted provisions continue to have legal effect alongside the corresponding provisions of the Operative District Plan. The Appeals will be withdrawn once Plan Change 65 is made operative, unless otherwise agreed by PowerCo and Transpower. For further information see the Minute of the Court, dated [2 May 2018].

mitigate adverse effects on the characteristics and values identified in NFL-APP1.

For the purpose of policy 3.3, reasonably practicable means where:

- a. there is no reasonably practicable alternative location, recognising the functional and operational² need of the network utility; and
- b. the infrastructure is of national or regional importance; and
- c. the development does not have a significant adverse effect on the characteristics and values identified in Appendix NFL-APP1 (Outstanding Natural Features and Landscapes), Appendix 1E (Buildings and Objects with Heritage Value) or 1F (Sites with Heritage Value).

3.4 To provide for the operation, maintenance, replacement or minor upgrading of existing network utilities located within or adjacent to Outstanding Natural Features and Landscapes.

3.5 To avoid inappropriate use and development within Outstanding Natural Landscapes which adversely affects the identified values and characteristics of the areas, including:

- a. The extensive unbuilt coastal strip along the Manawatū Coastline Outstanding Natural Landscape.
- b. The unmodified and continuous indigenous vegetation values and the ridges and hilltops of the Ruahine Ranges Outstanding Natural Landscape.

3.6 To recognise the major upgrade or development of new National Grid Electricity infrastructure in an Outstanding Natural Feature or Landscape by managing adverse effects on the characteristics and values of the feature or landscape by ensuring route, site and method selection demonstrates that, to the extent practicable having regard to the functional, operational and technical needs of the National Grid, in order of preference:

- a. Infrastructure will be located outside of an Outstanding Natural Feature or Landscape.
- b. Where a. cannot be achieved, infrastructure will be located in the more compromised parts of the Outstanding Natural Feature or Landscape; and
- c. Techniques (such as structure selection) will be used to avoid adverse effects; and
- d. Adverse effects that cannot be avoided will be remedied or mitigated.

~~3.1 Subject to Policy 3.2, to protect the characteristics and 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) 1F (Sites with Heritage Value) unless:~~
- ~~a. there is no practicable alternative location; and~~
 - ~~b. the infrastructure is of national or regional importance; and~~
 - ~~c. the development substantially protects the values of the scheduled resource.~~

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.

Guidance Note: Plan Users are directed to Chapter 8 Residential Zone, Rule 8.4.1.g for additional provisions that apply to Network Utilities with respect to infrastructure being located underground. [PC51]⁴

3A.4.2 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** or repair 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

⁴ PC51 decision of hearing panel. Has legal effect but is not yet operative.

- 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.
 - 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 Manawatū 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 Manawatū-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.4.3 Standards for Permitted Activities

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 need 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 carriageway, 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), Outstanding Natural Features and Landscapes identified in NFL-APP1 or Significant Amenity Features identified in NFL-APP2 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

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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.4.4 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:

- scale of built form and location on **site**, including **height**
- screening, storage and landscaping
- traffic generation, **site** access and parking

These **highlighted** provisions have been appealed by PowerCo and Transpower. The appeals on hold pending the provisions being reviewed as part of a future Plan Change on Outstanding Natural Features and Landscapes (Plan Change 65). For now the highlighted provisions continue to have legal effect alongside the corresponding provisions of the Operative District Plan. The Appeals will be withdrawn once Plan Change 65 is made operative, unless otherwise agreed by PowerCo and Transpower. For further information see the Minute of the Court, dated [2 May 2018].

- 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), Outstanding Natural Features and Landscapes identified in NFL-APP1 or Significant Amenity Features identified in NFL-APP2 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.4.5 Discretionary Activities

These highlighted provisions have been appealed by PowerCo and Transpower. The appeals on hold pending the provisions being reviewed as part of a future Plan Change on Outstanding Natural Features and Landscapes (Plan Change 65). For now the highlighted provisions continue to have legal effect alongside the corresponding provisions of the Operative District Plan. The Appeals will be withdrawn once Plan Change 65 is made operative, unless otherwise agreed by PowerCo and Transpower. For further information see the Minute of the Court, dated [2 May 2018].

The following activities shall be a Discretionary Activity

- a. Any new network utility, including windfarms and new transmission and distribution electricity lines within any Outstanding Natural Feature as identified in NFL-APP1 or Significant Amenity Feature identified in NFL-APP2.
- b. 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.4.6 Non-Complying Activities

Any new network utility, including windfarms and new transmission and distribution electricity lines located within an Outstanding Natural Feature or Landscape identified in NFP-APP1 in Appendix 1C which is not otherwise provided for is a Non-Complying Activity.

These highlighted provisions have been appealed by PowerCo and Transpower. The appeals on hold pending the provisions being reviewed as part of a future Plan Change on Outstanding Natural Features and Landscapes (Plan Change 65). For now the highlighted provisions continue to have legal effect alongside the corresponding provisions of the Operative District Plan. The Appeals will be withdrawn once Plan Change 65 is made operative, unless otherwise agreed by PowerCo and Transpower. For further information see the Minute of the Court, dated [2 May 2018].

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.

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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 ~~NFL-APP1 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 Manawatū-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 Manawatū-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**

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.

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; and
- 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 6m 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	✓			✓	✓

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 Manawatū-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.4.2 f. 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:

- 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

The following activities are a Discretionary Activity:

- a. Any **earthworks** that do not meet the Permitted Activity standards, or ~~is~~are not specifically provided for in this Plan, ~~shall be a Discretionary Activity.~~
- b. Any earthworks within an Outstanding Natural Feature identified in NFL-APP1 or Significant Amenity Feature identified in NFL-APP2.

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 NFL-APP1 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.