

# 23. Land and Water Margins – Rules

## 23.1 Permitted Activities

Any land use is a permitted activity if it:

- i. is not otherwise listed as a controlled or discretionary activity under this chapter, or is not a discretionary activity (restricted) under Rule 25.2.4;
- ii. complies with the conditions under Rule 23.1.1; and
- iii. complies with all the conditions and provisions for permitted activities in all chapters.

### 23.1.1 Conditions

23.1.1.1 No soil shall be stockpiled where it can be directly deposited in, or left in a position where it can be carried into, a water body.

23.1.1.2 Stockpiling of soil over vegetation shall not cover more than 1000m<sup>2</sup> at any one time on any one site.

23.1.1.3 There shall be no earthworks:

- a. within 20m of any river or lake; or
- b. within 50m of any wetland.

CROSS REFERENCE: Rules 23.1.1.5 and 23.1.1.6

23.1.1.4 There shall be no vegetation clearance:

- a. within 20m of any river or lake; or
- b. within 50m of any wetland.

CROSS REFERENCE: Rules 23.1.1.5 and 23.1.1.6

23.1.1.5 For the purposes of Rules 23.1.1.3 and 23.1.1.4 river means:

- a. any continually flowing body of fresh water that has a defined bed;
- b. any intermittently flowing body of fresh water with a bed width of more than 4m;
- c. any intermittently flowing body of fresh water with a bed width of less than 4m averaged over the reach of the river between a point 40m upstream and a point 40m downstream adjacent to where the vegetation clearance or earthworks is located,

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provided that the measured reach usually has stable pools or flowing water in February that show evidence of fish, crayfish, mayflies, stoneflies, or caddis flies; or

d. any streams or modified watercourses,

but excludes artificial watercourses (including irrigation canals, water supply races, and farm drainage canals).

- 23.1.1.6 For the purposes of Rules 23.1.1.3 and 23.1.1.4 wetland does not include an area dominated by exotic vegetation.
- 23.1.1.7 Earthworks, including the extraction of minerals, in any Residential Zone or Business Zone, shall not involve the extraction or redistribution of more than 300m<sup>3</sup>, per 1000m<sup>2</sup>, of soil and/or rock on any one site.
- 23.1.1.8 Earthworks, including the extraction of minerals, in the Rural Zones, other than in the bed of any river, shall not involve the disturbance of more than 1000m<sup>2</sup> of soil and/or rock per any 1ha.
- 23.1.1.9 In relation to any high voltage transmission line as shown on the District Plan Maps, no earthworks shall occur:
- a. Within 12m of any electrical transmission tower; or
  - b. Within 5m of any transmission pole; or
  - c. Underneath any high voltage transmission line if those earthworks alter the existing ground level resulting in less than 8m clearance between conductors.
- 23.1.1.10 Within the Residential 5 Zone imported topsoil shall not be spread, and fertiliser, pesticide, or herbicide shall not be applied, within 2m of the high water level of the lake.
- 23.1.1.11 Wahi taonga, wahi tapu and urupa protocol within the Mapleham Rural 4B Zone (north of Woodend):
- a. A representative of Te Ngai Tuahuriri Runanga shall be engaged to be present during significant earthworks to act as advisor on identification or protection of wahi tapu, wahi taonga, urupa or other Maori cultural heritage sites.
  - b. Te Runanga o Ngai Tahu and Te Ngai Tuahuriri Runanga shall be consulted by the landowner to determine, in accordance with tikanga Maori, if there are any matters of protocol which tangata whenua wish to undertake prior to the commencement of any significant earthworks or prior to the commissioning of the completed works.
  - c. Any person involved with significant earthwork activity shall have received training and be aware of the requirement to monitor earthworks in a way that enables the identification of wahi tapu, wahi taonga, urupa or historic cultural sites. Te Runanga o Ngai Tahu and Te Ngai Tuahuriri Runanga shall be contacted by the landowner to provide appropriate training to such persons.

- d. Where suspected urupa, wahi tapu, wahi taonga or any place associated with Maori activity that occurred before 1900 is, or may be able, through investigation by archeological methods, to provide evidence relating to the Maori history of the area, is discovered:
- earthworks shall stop immediately;
  - all machinery shall be shut down immediately;
  - all persons shall leave the area;
  - the landowner shall be advised of the discovery;
  - the representative of Te Ngai Tuahuriri Runanga shall be consulted by the landowner to determine what further actions are appropriate to safeguard the site or its contents, and to avoid, reduce, remedy or mitigate any damage to the site; and
  - the Waimakariri District Council shall be notified.
- e. Where koiwi tangata (human remains) are suspected:
- steps shall be taken immediately to secure the area in a way that ensures the koiwi tangata are untouched;
  - Te Ngai Tuahuriri Runanga, the Police, the Waimakariri District Council and the New Zealand Historic Places Trust shall be notified;
  - the landowner shall arrange for his/her representatives to be available to meet and guide kaumatua, Police, Waimakariri District Council and New Zealand Historic Places Trust staff to the site, assisting with any requests that they may make;
  - earthworks in the affected area shall remain halted until the kaumatua, the Police and Historic Places Trust staff have marked off the area around the site and have given approval for earthworks to recommence; and
  - where the kaumatua are satisfied that the koiwi tangata are of Maori origin the kaumatua will decide what happens to the koiwi tangata and will give his/their decision to the Police, the New Zealand Historic Places Trust and the landowner.

23.1.1.12 During any site preparation activities or subdivision construction, protection measures shall be put in place to prevent contaminated stormwater or run-off entering the “Eastern Conservation Management Area” or “Mudfish Conservation Area” as shown on District Plan Map 142, except when the works are being carried out for the purpose of the restoration and enhancement of these areas in accordance with Rule 32.1.1.38.

23.1.1.13 Within the Residential 6 and 6A Zones, no earthworks or other site development works shall take place in the “Residential Area” or “Town Centre” as shown on District Plan Map 142, unless the “Main Access Road” between State Highway 1 and the “Residential Area”

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has been formed to an all-weather standard for its full length and sealed for the first 30m from the State Highway.

- 23.1.1.14 There shall be no access to the Residential 6 and 6A Zones or Pegasus Rural Zone from Gladstone Road for site preparation and subdivision construction purposes.
- 23.1.1.15 Within any Residential, Business or Mapleham Rural 4B zone domestic wastewater generated within any site shall be disposed of by connection to a reticulated sewage disposal utility. *(Plan Change 30 – notified 26/9/2009)*
- 23.1.1.16 Within any Residential Zone, Business 1, 2 or 4 Zone, the Rural Zone, and the Mapleham Rural 4B Zone, the supply of water to any site shall be by a reticulated potable water supply.
- 23.1.1.17 Within 2km of, and within, the Core, Buffer and Ashley Gorge Outstanding Landscape Areas there shall be no keeping of goats without the provision of goat proof fencing to constrain these animals to the site.

### 23.1.2 Exemptions

- 23.1.2.1 The maintenance and operation of any existing coastal protection works, flood protection works or river maintenance works, and under the control of the Canterbury Regional Council, is exempt from complying with Rules 23.1.1.1, 23.1.1.2, 23.1.1.3, 23.1.1.4, 23.1.1.7 and 23.1.1.8.
- 23.1.2.2 The maintenance of any electricity utility and associated telecommunication facility is exempt from complying with Rules 23.1.1.3 to 23.1.1.9.
- 23.1.2.3 The maintenance of any underground telecommunication line is exempt from complying with Rules 23.1.1.3, 23.1.1.4, 23.1.1.7 and 23.1.1.8.
- 23.1.2.4 Earthworks in the Residential 6 and 6A Zones and Pegasus Rural Zone are exempt from complying with Rules 23.1.1.3, 23.1.1.4, 23.1.1.7 and 23.1.1.8.
- 23.1.2.5 Vegetation clearance by burning on slopes greater than 20°, or above 600m above mean sea level, is exempt from complying with Rule 23.1.1.4.
- 23.1.2.6 The maintenance of any track, road or fenceline is exempt from complying with Rules 23.1.1.3, 23.1.1.8, 23.1.1.9 and 23.1.1.10.
- 23.1.2.7 The keeping of a goat when tethered is exempt from Rule 23.1.1.17.
- 23.1.2.8 The construction of forestry roads and landing sites within a plantation forest, including an area of indigenous forest managed pursuant to a sustainable management plan under the Forests Amendment Act 1996 or 2004, is exempt from complying with Rule 23.1.1.8 provided construction is in accordance with the 'Best Practice Guidelines for Road and Landing Construction (2000)' as published by Forest Industries Training New Zealand and the adverse effects on the following are avoided or remedied:
- a. the water quality and quantity of any water body; and

- b. land stability and erosion.

NOTE: Verbatim text from Environment Court Consent Order C88/2004

## 23.2 Controlled Activities

23.2.1 Within the Residential 6 and 6A Zones and Pegasus Rural Zone, the following activities shall be controlled activities:

- a. Earthworks within the areas shown on District Plan Map 142 as “Lake”, “Eastern Conservation Management Area”, “Western Ridge Conservation Area” or “Mudfish Conservation Area”.
- b. Any earthworks on land outside the areas referred to in a above, which are not the subject of an approved resource consent for subdivision.

### Standards and Terms

The earthworks shall comply with the following standards and terms:

- i. conditions for permitted activities under Rule 23.1.1; and
- ii. all other conditions and provisions for permitted activities in the Residential 6 and 6A Zones and Pegasus Rural Zone in all chapters.

In considering any application for a resource consent under Rule 23.2.1 the Council shall, in granting consent, and in deciding whether to impose conditions, exercise its control over the following matters:

- i. whether or not conditions need to be imposed which bind the consent holder to comply with protocols in relation to archaeological sites and wahi taonga, wahi tapu and urupa, in accordance with Rules 32.1.1.39 and 32.1.1.40;
- ii. whether or not conditions need to be imposed to ensure that the earthworks do not increase the risk of floodwaters entering the town from the west, as a result of a 500 year return period flood breaching or overtopping the Ashley River/Rakahuri stopbanks;
- iii. the protection, enhancement and provision for the diverse habitats of indigenous plants and animals, in particular: short-finned eels (*Anguilla australis*), Canterbury Mudfish (*Neochanna burrowsius*), matagouri (*Discaria toumatou*), four square sedge (*Lepidosperma australe*), *Carex secta*, *C. flaviformis*, *Baumea rubiginosa*, *Blechnum fluviatile*, *Nertera setulosa*, *Ranunculus macropus* and *Urtica linearifolia* within the town and on adjacent lands;
- iv. interconnections between the lake, stormwater systems, dunes, waterways and wetland habitats of the area, and the avoidance of the interruption of these as the result of the construction of a beach access road and beach car park within the Eastern Conservation Management Area;
- v. variability in the way in which earthworks are carried out so as to allow for seasonal and long-term natural cycles that occur in habitats found within the area;

- vi. the need for any proposed earthworks in the “Conservation Areas” to be consistent with Policies 2.1.3.5 and 6.1.1.8 for Pegasus town and with the Enhancement and Conservation works required to be carried out in the “Eastern Conservation Management Area” and the “Mudfish Conservation Area” under Rule 32.1.1.38; and
- vii. the movement of vehicles into the Eastern Conservation Management Area or the dune system from the beach access road and beach car park.

## 23.3 Discretionary Activities (Restricted)

23.3.1 Any land use that does not comply with one or more of the conditions under Rules 23.1.1.1 to 23.1.1.6 is a discretionary activity (restricted), except where exempted by Rule 23.1.2.

In considering any application for a resource consent under Rule 23.3.1, the Council shall in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of its discretion to the following matters:

- i. conditions for permitted activities under Rule 23.1.1;
- ii. any alternative location or timing for the land use;
- iii. the effect the land use will have on the water quality of any water body;
- iv. the extent to which the land use will restrict public access and enjoyment of the margin of any water body;
- v. the extent to which the land use adversely affects areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- vi. the extent to which the land use will result in a loss of natural character or amenity of the area;
- vii. the extent to which aquatic habitat, aquatic amenity, or aquatic recreational values may be adversely affected through increased nutrient or sediment run-off;
- viii. the extent to which the habitat of trout, salmon, and native fish (including whitebait and eels), may be adversely affected by any disturbance on the margin of the water body;
- ix. the extent to which the land use will adversely affect wahi taonga and mahinga kai;
- x. effect on public health and safety;
- xi. fencing, planting and landscaping;
- xii. soil and water quality and run-off management;
- xiii. provision of esplanades;
- xiv. the effect on floodwater flows beyond the earthworks; and
- xv. financial contributions as set out in Chapter 20: Financial Contributions and Chapter 34: Financial Contributions – Rules and development contributions as set out in Waimakariri District Council’s Development Contributions Policy.

23.3.2 Any land use involving earthworks, including the extraction of minerals, that does not comply with Rules 23.1.1.7 to 23.1.1.9 is a discretionary activity (restricted), except where exempted by Rule 23.1.2.

In considering any application for a resource consent under Rule 23.3.2, the Council shall in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of its discretion to the following matters:

- i. final contours and floor levels resulting from excavation;
- ii. location of plant and structures;
- iii. vehicle circulation on-site from the area of disturbance or quarry face to the road;
- iv. identification of the area used for processing, stockpiling and distribution of disturbed or quarried material;
- v. drainage;
- vi. measures to avoid, remedy or mitigate adverse effects on the surrounding environment including noise, dust, siltation, visual detracting and traffic generation;
- vii. contingency provisions and emergency response procedures;
- viii. remediation and restoration proposals for the site;
- ix. the short and long term effects on flood potential beyond the earthworks;
- x. for East Woodend Outline Development Plan area those matters over which control is exercised for controlled activities in Chapter 32: Subdivision – Rules;
- xi. compliance with NZECP 34:2001 “New Zealand Electrical Code of Practice for Electrical Safe Distances”; and
- xii. financial contributions as set out in Chapter 20: Financial Contributions and Chapter 34: Financial Contributions – Rules and development contributions as set out in Waimakariri District Council’s Development Contributions Policy.

23.3.3 Any land use that does not comply with Rule 23.1.1.11 (Mapleham Rural 4B Zone) is a discretionary activity (restricted).

In considering any application for a resource consent under Rule 23.3.3, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of its discretion to the following matters:

- i. conditions for permitted activities under Rule 23.1.1;
- ii. any alternative location for the land use;
- iii. the extent to which the land use will adversely affect the wahi tapu, wahi taonga, urupa or historic cultural sites; and
- iv. alternative processes and protocols that protect the interests of Te Runanga o Ngai Tahu and Ngai Tuahuriri Runanga.

23.3.4 Any land use that does not comply with Rule 23.1.1.12 (site preparation activities or subdivision construction) within the Residential 6 and 6A Zones or Pegasus Rural Zone is a discretionary activity (restricted).

In considering any application for a resource consent under Rule 23.3.4, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of its discretion to the following matters:

- i. the means, design, scale, construction and standard of stormwater or runoff disposal systems (including soakage areas and the means and location of any outfall);
- ii. the effectiveness and environmental impacts of any measures proposed for mitigating the effects of stormwater or runoff, including the control of water-borne contaminants, litter and sediments;
- iii. the location, scale, construction and environmental effects of the site preparation and subdivision construction activities; and
- iv. effect on the “Eastern Conservation Management Area” or “Mudfish Conservation Area”.

23.3.5 Any land use that does not comply with Rules 23.1.1.13 or 23.1.1.14 (site access) within the Residential 6 and 6A Zones or Pegasus Bay Zone is a discretionary activity (restricted).

In considering any application for a resource consent under Rule 23.3.5, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of its discretion to the following matters:

- i. the location, design and provision of access to the site development areas;
- ii. the location, design and provision of the vehicle crossing at State Highway 1;
- iii. the standard of construction of the vehicle crossing at State Highway 1;
- iv. effects on traffic and pedestrian safety and network efficiency on State Highway 1;
- v. effects on traffic and pedestrian safety and network efficiency in Gladstone Road and adjacent streets (including the surrounding residential areas) and on the access from Gladstone Road to State Highway 1; and
- vi. effects on amenity, including noise, dust, and vibration, for residents of Gladstone Road and adjacent streets (including the surrounding residential areas).

23.3.6 Any land use that does not comply with Rule 23.1.1.15 (disposal of sewage) is a discretionary activity (restricted).

In considering any application for a resource consent under Rule 23.3.6, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of its discretion, to the following matters:

- i. the environmental standards of the proposed and existing sewage disposal systems;
- ii. the scale, location, design, construction and standard of any sewage treatment and disposal system and outfall;

- iii. contingency provisions and emergency response procedures in the event of a failure in the service, treatment disposal system or outfall;
- iv. financial contributions as set out in Chapter 20: Financial Contributions and Chapter 34: Financial Contributions – Rules and development contributions as set out in Waimakariri District Council's Development Contributions Policy;
- v. those matters over which control is exercised for Controlled Activities in Chapter 32: Subdivision – Rules;
- vi. effects on wahi taonga and mahinga kai;
- vii. effects on effectiveness and efficiency of existing public systems;
- viii. the need for ongoing maintenance, service contracts and standards;
- ix. the protection of on-site and off-site domestic water supply;
- x. buffers between any disposal field(s) and any dwellinghouse;
- xi. the design, location, management of any sewerage system(s) in relation to soil or ground permeability and topography;
- xii. buffers between water bodies, excluding aquifers and wetlands and sewage disposal fields;
- xiii. the need to contain disposal fields within allotments; and
- xiv. the effect land use will have on the water quantity of any water body.

23.3.7 Any land use that does not comply with Rule 23.1.1.16 (supply of water) is a discretionary activity (restricted).

In considering any application for a resource consent under Rule 23.3.7, the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of its discretion to the following matters:

- i. the potability and capacity of water supply;
- ii. the environmental standards of the proposed and existing water supply;
- iii. the means of supply and location of any water source;
- iv. contingency provisions and emergency response procedures in the event of a failure in the service;
- v. financial contributions as set out in Chapter 20: Financial Contributions and Chapter 34: Financial Contributions – Rules and development contributions as set out in Waimakariri District Council's Development Contributions Policy;
- vi. those matters over which control is exercised for Controlled Activities in Chapter 32: Subdivision – Rules;
- vii. effects on wahi taonga and mahinga kai;
- viii. effects on effectiveness and efficiency of existing public systems;

- ix. the need for ongoing maintenance, service contracts and standards; and
- x. the effect land use will have on the water quantity of any water body.

23.3.8 Any land use that does not comply with Rule 23.1.1.17 (keeping goats) is a discretionary activity (restricted).

In considering any application for a resource consent under Rule 23.3.8 the Council shall, in deciding whether to grant or refuse consent, and in deciding whether to impose conditions, restrict the exercise of its discretion to the following matter:

- i. the ability of the proposed fencing to effectively confine the goats within the area to be fenced.

## 23.4 Discretionary Activities

23.4.1 Any land use activity which is to be carried out on a contaminated site and involves:

- a. the use, erection, reconstruction, placement, alteration, extension, removal or demolition of any structure or part of any structure in, on, under, or over the land;
- b. the excavation, drilling, tunnelling or other disturbance of the land;
- c. the destruction of, damage to, or disturbance of the habitats of plants or animals in, on or under the land; or
- d. the deposit of any substance in, on or under the land of the site

is a discretionary activity.

23.4.2 Landfills (excluding offal pits) and solid waste transfer stations are discretionary activities.