

**Chapter 52A****EARTHWORKS – RULES**

In respect of the Napier District Plan, the Code of Practice for Subdivision and Land Development must be read in conjunction with this Chapter. Land development in the Napier Plan (including the Code of Practice for Subdivision and Land Development) includes earthworks.

**52A.1 INTRODUCTION**

Earthworks involve the disturbance of land by moving, removing, placing or replacing earth, or by excavation, cutting, scraping, filling or backfilling. It can include, for example, the creation of building platforms for housing, the creation of vehicle access onto sites, or the preparation of silage pits for farming activities.

When land contours are disturbed or altered through earthworks, this can have significant environmental effects on:

- The surface drainage patterns of land,
- Visual amenity values,
- Soil erosion potential,
- The life-sustaining capacity of soils,
- The disturbance of ecosystems, watercourses and waterbodies
- The disturbance of areas of natural, cultural and heritage values, and
- The safety of people and the community where earthworks could cause subsidence, slippage or inundation of land.

While Section 5 of the Resource Management Act 1991 provides for natural and physical resources to be utilised for community benefit, it clearly requires that such utilisation be in a form that protects resources for future generations, safeguards the life supporting capacity of air, water, soil and ecosystems, and avoids, remedies or mitigates adverse environmental effects.

The Plan is not intended to prevent earthworks, but is intended to control such activities so that sediment runoff and dust created during the process is minimised, that revegetation of the earthworked area occurs and the visual impact following the work does not significantly detract from the visual amenity of the area.

**52A.2 RESOURCE MANAGEMENT ISSUES**

The following resource management issues have been identified as significant within Napier City in respect of Earthworks.

**52A.2.1 Earthworks can affect surface drainage patterns on land.**

Where land is modified as part of earthworks this has the potential to alter the manner in which water passes over the land. Natural flow paths of streams or runoff areas can be altered as a result of re-contouring or re-shaping of natural ground levels. This has the potential for water to find a new path which may be detrimental to land uses and activities not usually subject of overland flows of water. This also has the potential to negatively affect neighbouring properties.

**52A.2.2 Inappropriate earthworks can negatively impact on visual amenity.**

A large scale earthwork has the potential to irrevocably scar the landscape if undertaken without the necessary controls to mitigate against adverse effects. Without the ability to re-establish vegetation on, or over, modified land, the visual effects can be a dominant feature on the landscape for many years resulting in a degradation of amenity.

**52A.2.3 Earthworks can disturb ecosystems, waterbodies and watercourses.**

Any disturbance to land or land that borders a stream, estuary or any other natural ecosystem has the potential to adversely affect the biodiversity of those areas. It is therefore imperative that the location and management of earthworks is controlled through rules in the Plan.

**52A.2.4 Earthworks can disturb areas of natural, cultural and heritage values.**

A possibility exists for the presence of archaeological sites associated with pre-1900 human activity throughout the City. Any such sites, both recorded and unrecorded, are controlled under the Heritage New Zealand Pouhere Taonga Act 2014. The development process can have a major influence on the heritage of a City. The Council is endeavouring to raise the profile of the City's heritage values and it will do this through a number of different mechanisms. The Plan identifies areas of historic and archaeological significance in the Chapter 56 of the Plan however it is important that specific controls on earthworks be included as a separate chapter to the Plan to afford better protection to the City's natural, cultural and heritage values.

**52A.2.5 Inappropriate earthworks can compromise the safety of people, the community and property where the earthworks could cause subsidence, slippage or inundation of land.**

While Napier City comprises relatively flat land it is surrounded by the Taradale, Poraiti and Esk hills as well as Napier Hill. Earthworks on these hill areas have the potential to cause subsidence, slippage or inundation of land if undertaken without proper methods or controls. Napier Hill is particularly vulnerable with its historical pattern of urban development, steep gullies, narrow roading pattern and ever intensifying development.

**OBJECTIVES, POLICIES AND METHODS****Objective 52A.3**

To enable earthworks within Napier City while ensuring that the life-supporting capacity of soils and eco-systems are safeguarded and adverse effects on outstanding natural features and significant landscapes, historic heritage values and human health and safety are avoided, remedied or mitigated.

**Policies**

To achieve this objective the Council will:

52A.3.1 Require the repasture or revegetation of land where vegetation is cleared in association with earthworks.

52A.3.2 To avoid duplication in regulation by District Plan rules and standards where earthworks activities are already subject to regulatory assessment.

- 52A.3.3 Protection of productive soils within the City from large-scale stripping, stockpiling, alteration and removal to ensure the land can still support a range of productive land uses.
- 52A.3.4 Control earthworks to ensure that they will not adversely affect the natural and physical environment, and the amenity of the community, adjoining land uses, historic heritage values and culturally sensitive sites.
- 52A.3.5 Allow earthworks where the adverse effects on the environment will be minor.
- 52A.3.6 Historic and cultural heritage (including archaeology) will be protected from the effects of earthworks wherever practicable.

**Objective 52A.4**

Minimise the hazard and environmental effects of earthworks.

**Policies**

To achieve this objective the Council will:

- 52A.4.1 Control the adverse effects of earthworks on the natural and physical environment, including the potential for an increased risk of hazard and the potential effects on adjoining property owners.

**Principal Reasons for Adopting Objective and Policies**

Where vegetation clearance occurs, except where a pavement or permitted building is constructed, disturbed areas will be required to be repastured or revegetated in plant species which are in harmony with those existing in the area to avoid the risk of soil erosion and to ensure that the life-supporting capacity of the soil is safeguarded. It will also help to ensure that adverse effects on the character and visual amenity of the area are avoided.

Subdivision and Land Development, the District Plan and the Building Act 2004 all have their own control regarding the controls and safety of Earthworks. Such assessments are more specific for the associated activities. Where possible, the District Plan aims to reduce duplications in regulatory control.

Some areas in Napier are widely regarded for having highly productive soils. Where possible such soils, particularly topsoils, should be protected from stripping, stockpile and removal off-site. Any alteration to such soils will generally decrease the productivity of fertile soils. Where alterations to productive soils occur, all efforts should be undertaken to re-habilitate the land to a productive state.

District Plan rules and standards are incorporated to control the scale, operation, and location of earthworks to ensure that any potential adverse effects are avoided, remedied or mitigated.

Earthworks are recognised as having the potential to cause significant adverse effects on the environment, including the safety of people and property, and on the visual amenity and character of the area where it occurs. Prevention measures are required to ensure historic heritage values are not destroyed by earthworks. While controls can be created around known historic heritage areas, sites and features, land disturbance and vegetation clearance can often unveil archaeological and cultural heritage sites/remains. Rules in the District Plan assist in the protection of any heritage item including archaeological sites. If any new archaeological sites are located, particular care must be undertaken to protect the heritage items and notify Heritage New Zealand.

**Methods**

- (1) Napier District Plan Rules
- (2) Building Act (2004)
- (3) National Environmental Standards (NES)
- (4) Napier City Council Code of Practice for Subdivision and Land Development

- (5) Land Information Memoranda
- (6) Hawke's Bay Regional Policy Statement and Plans
- (7) Napier City Council Engineering Code of Practice
- (8) Industry Codes of Practice
- (9) Napier City Landscape Assessment Study
- (10) Network Utility Operations Plans
- (11) Heritage New Zealand Pouhere Taonga Act 2014  
Advice notes will be placed on resource consents involving earthworks reminding consent holders that an archaeological authority may be required under the Heritage New Zealand Pouhere Taonga Act 2014 to modify or destroy any recorded or unrecorded archaeological site.

#### **Reasons for Methods**

The methods recognise that in order to avoid negative impacts from earthworks the effects need to be carefully managed through the various statutory and non-statutory documents. The District Plan which includes the Code of Practice for Subdivision and Land Development provides rules to protect the environment from the effects of earthworks and require in some instances, a resource consent application so that those effects can be appropriately assessed. By investigating the potential effects, appropriate remedial works can be required.

The Building Act has controls regarding the quality and structural safety of soils to be built on. These controls provide measures to prevent slippage and subsidence for buildings.

All activities must be assessed against National Environmental Standards. Where any NES provision is triggered, these outweigh any District Plan provisions. The activity may still require assessment against District Plan provisions.

The Napier District Plan must give effect to the Regional Policy Statement, and must not be inconsistent with a regional plan.

When Land Information Memoranda (LIM) are requested for sites located within an area that has been identified as having fill or has been modified as a result of earthworks, the LIM shall identify the activity being undertaken and any particular conditions relating to the proposal.

The Act clearly states that the protection of outstanding landscapes and natural features from inappropriate subdivision, use and development is a matter of national importance (Section 6(b)). The values associated with significant landscapes and natural features within Napier City include amenity, historical, cultural and rarity associations. Careful management, including the control of subdivision, land use and/or development, including earthworks, is necessary to ensure such valued areas are maintained, enhanced and protected for current and future generations.

Information available from Network Utility Operators on the location of their services is considered important in order to ensure that their services remain unaffected by earthworks.

Archaeological sites (recorded or unrecorded) are particularly sensitive to the effects of earthworks. Land development as a result of subdivision and land development often results in disturbance of land and it is this land disturbance that has the potential to damage archaeological sites. It is important that the planning for any building or development takes into account that there are many recorded or unrecorded archaeological sites in Napier, particularly within the rural environment and that an archaeological assessment may be required. Heritage New Zealand under the Heritage New Zealand Pouhere Taonga Act 2014 is the relevant authority for the protection of archaeological sites, however there still needs to be a level of public awareness as to the consent requirements under this Act. The Napier City Council can assist with this by placing advice notes on resource consents that an archaeological authority may be required under the Heritage New Zealand Pouhere Taonga Act 2014, and by advising applicants to contact Heritage New Zealand if any activity involving earthworks is likely to modify or destroy any archaeological site, before any disturbance of land is undertaken on property that may contain an archaeological site.

**52A.4 ANTICIPATED ENVIRONMENTAL RESULTS**

- (1) The risks of soil erosion, subsidence or inundation on people and property are avoided.
- (2) The life-supporting capacity of soils is safeguarded.
- (3) The visual amenity and character of the District's landscape is not reduced or compromised by earthworks.
- (4) Flood protection of rivers is sustainably managed including the reduction of sedimentation into waterbodies, watercourses and riparian areas.
- (5) There are no adverse visual effects from earthworks.
- (6) The amenity of the environment, including adjoining land uses is not compromised by earthworks.

**RULES**

All rules contained in Chapter 52A – Earthworks apply throughout the City and over-ride the specific zone rules and other district wide rules, unless otherwise stated in this Chapter.

**52A.5 Summary of Rules for Earthworks**

The following is a quick reference guide that summarises the Earthworks Rule Table. It is intended as a guide only and should not be used in place of the Earthworks Activity Table and Condition Table elsewhere in this Chapter.

Rule Number and Description		Classification	Page Number
Rule 52A.6	Earthworks	Permitted	6
Rule 52A.7	River Control or Drainage Works	Permitted	6
Rule 52A.8	Earthworks exempted from Earthworks Provisions	Permitted	6
Rule 52A.9	Any permitted activity that does not comply with all of the relevant conditions, unless stated elsewhere in this Chapter	Restricted Discretionary	7
Rule 52A.10 1.	The removal off site of more than 25m <sup>3</sup> of topsoil, sand, gravel, metal or earth per 12 month period in the Main Rural Zone.	Discretionary	7
Rule 52A.10 2.	The removal off site of more than 100m <sup>3</sup> of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone)	Discretionary	7

## DISTRICT WIDE EARTHWORKS – ACTIVITY TABLE

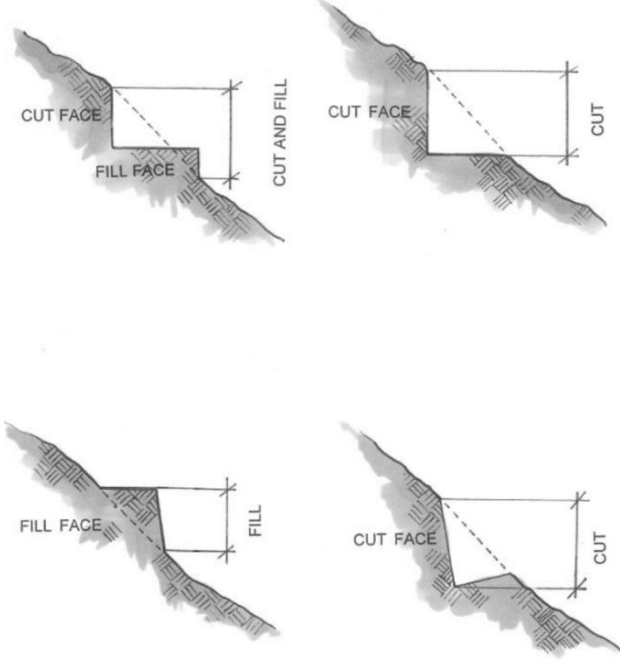
PERMITTED ACTIVITIES	Matters the Council will restrict its discretion to for restricted discretionary activities.
<p><b>52A.6 Earthworks</b></p> <p>1. Earthworks are considered a permitted activity provided that:</p> <ul style="list-style-type: none"> <li>a) They comply in all respects with the relevant conditions in the District Wide Earthworks Activity and Condition Table.</li> <li>b) They comply with Rule 53.31 – Earthworks within any National Grid Yard and with any other relevant conditions in Chapter 53 Network Utility Operations Activity and Condition Table.</li> </ul>	<p>The Council will restrict its discretion to the matters referred to in 52A.22</p>
<p><b>52A.7 River Control or Drainage Works</b></p> <p>1. The removal of river berm silt, gravel or other river control or drainage works carried out by a local or regional authority, exercising its powers, functions and duties under the Soil Conservation and Rivers Control Act 1941, or the Land Drainage Act 1908.</p>	<p>The Council holds no discretion for this matter. The activity is either considered a permitted activity or it is not.</p>
<p><b>52A.8 Earthworks exempted from Earthworks Provisions</b></p> <p>1. Earthworks will be considered a permitted activity and do not have to comply with the relevant conditions in the Earthworks Activity Table, provided that they are:</p> <ul style="list-style-type: none"> <li>a) Earthworks assessed with any subdivision consent and/or designations.</li> <li>b) Earthworks in association with a Building Consent, where the area of earthworks includes no more than 150% of the area of the associated building footprint. Note - Rules and Conditions are applied once the 150% threshold is exceeded.</li> <li>c) Earthworks associated with the construction of roads and the excavation of trenches for the purpose of the construction, maintenance, replacing, removing or upgrading of any network utility service by a network utility operator or road controlling authority.</li> <li>d) Earthworks associated with the re-nourishment of the coastal environment to mitigate the effects of coastal erosion (refer Rule 62.8)</li> </ul> <p>Note: Any activities undertaken within the coastal marine area are regulated by the Hawke's Bay Regional Council and may require resource consent approval. Contact Hawke's Bay Regional Council for advice.</p> <ul style="list-style-type: none"> <li>e) Earthworks associated with the replacement and/or removal of a fuel storage system as defined in the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.</li> <li>f) Any dredging undertaken within the Boat Harbour Zone.</li> </ul>	<p>The Council holds no discretion for this matter. The activity is either considered a permitted activity or it is not.</p>

RESTRICTED DISCRETIONARY ACTIVITIES	Matters the Council will restrict its discretion to for restricted discretionary activities.
<p><b>52A.9 Land Uses Not Complying With Conditions</b></p> <p>1. Any use referred to in Rules 52A.6 to 52A.8 that does not comply with all of the relevant conditions in the Earthworks activity table and condition table, is a restricted discretionary activity, unless stated by a rule elsewhere in this Chapter.</p>	<p>The Council will have regard to the relevant objectives and policies of the Plan and will restrict its discretion to:</p> <ul style="list-style-type: none"> <li>- The matters identified in the second column of the Earthworks activity table and/or condition table.</li> <li>- The cumulative effect of non-compliance with more than one condition.</li> <li>- The matters set out in Chapter 1.6.5</li> <li>- The assessment criteria in Chapter 52A.22 of this Plan where applicable.</li> </ul>
DISCRETIONARY ACTIVITIES	
<p><b>52A.10 Discretionary Activities</b></p> <p>The following Earthworks operations are discretionary activities. A resource consent application must be made and consent may be declined or granted with, or without, conditions. The Council will have regard to the objectives and policies of this Plan and the assessment criteria in Chapter 52A.22. The Councils discretion is unrestricted.</p> <p>1. The removal off site of more than 25m<sup>3</sup> of topsoil, sand, gravel, metal or earth per 12 month period, in the Main Rural Zone.</p> <p>2. The removal off site of more than 100m<sup>3</sup> of earth (including topsoil) per 12 month period in any zone (excluding Main Rural Zone).</p>	
PROHIBITED ACTIVITIES	
<p><b>52A.11 Prohibited Activities</b></p> <p>1. There are no earthworks that are a prohibited activity.</p>	

DISTRICT WIDE EARTHWORKS – CONDITION TABLE

CONDITIONS FOR PERMITTED ACTIVITIES			Matters the Council will restrict its discretion to for restricted discretionary activities
52A.12 <b>Extent Of Earthworks</b>			The Council will restrict its discretion to the relevant matters in 52A.9 (Restricted Discretionary Activities).
Zone	Volume	Criteria (for any 12 month period)	
Main Rural, Airport	100m <sup>3</sup>	Per hectare of site	
Rural Residential	100m <sup>3</sup>	Per hectare of site	
Mission Special Character Zone – Productive Rural, Lifestyle and Visitor, and Rural Residential Precincts	100m <sup>3</sup>	Per hectare of site	
All Residential Zones, Rural Settlement Zone, Jervoistown Zone, Lifestyle Character Zone and Mission Special Character Zone – Residential Precinct	50m <sup>3</sup>	Per Site	
All Commercial Zones and Rural Commercial Zone	50m <sup>3</sup>	Per site	
Open Space Zones	1000m <sup>3</sup>	Per hectare of site	
Industrial zones	50m <sup>3</sup>	Per Site	
Mixed Use Zone	50m <sup>3</sup>	Per site	
Rural Conservation and Tertiary Education Zone	100m <sup>3</sup>	Per Site	
<p>For the purpose of assessing the total volume of earthworks allowed as a permitted activity for sites in the above zones, the volume shall be calculated by multiplying the volume threshold (listed in the above table) by the total area of the subject site in hectares, over any 12 month period.</p> <p>For the importation of fill or removal of cut to or from an offsite location, the volumes of earthworks specified in the above table shall be reduced by 50% in determining the volume permitted in any 12 month period.</p> <p><b>Advice Note:</b> Earthworks undertaken as a permitted activity in accordance with the Resource Management Regulations 2011 (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) will not be required to comply with the volume restrictions in Rule 52A.12 Extent of Earthworks but will be required to comply with rules Rules 52A.13, 52A.14, 52A.15, 52A.16, 52A.17, 52A.18, 52A.19; any failure to comply with these rules will trigger the</p>			



<p>need to obtain resource consent under Rule 52A.9 Land Uses Not Complying with Conditions.</p>	
<p><b>52A.13 Vegetation</b></p> <p>1. Where vegetation clearance occurs, disturbed areas shall be re-pastured or re-vegetated as soon as practicable within 18 months of the activity ceasing.</p>	<p>The Council will restrict its discretion to the relevant matters in 52A.9 (Restricted Discretionary Activities).</p>
<p><b>52A.14 Slope</b></p> <p>1. Earthworks shall not be undertaken on land with a slope of greater than 22° above horizontal.</p>	<p>The Council will restrict its discretion to the relevant matters in 52A.9 (Restricted Discretionary Activities).</p>
<p><b>52A.15 Excavation</b></p> <p>1. No earthworks shall have a cut/fill face of overall vertical extent of (see diagram) greater than:</p> <p>a) 2.5 metres in all zones</p> <p><b>Vertical Extent Measurement</b></p>  <p><b>Cut/Fill Face:</b> means the sloping or vertical exposed face resulting from earthworks (filling and/or excavation).</p> <p>2. No excavations shall be of greater than 1 metre vertical extent of cut/fill face, where the top of the excavation is within 10 metres of buildings or surcharge loads.</p> <p>In respect of Rule 52A.15 1 and 2 a Statement of Professional Opinion shall be required to certify</p> <p>a) Suitability of land for development          b) Earthworks compliance</p> <p><b>Refer to Appendix A6 and A7 of the Code of Practice for Subdivision and Land Development (Volume 2 of the District Plan) for the relevant forms.</b></p>	<p>The Council will restrict its discretion to the relevant matters in 52A.9 (Restricted Discretionary Activities).</p>
<p><b>52A.16 Location of Fill</b></p> <p>1. Any fill less than</p> <p>a) 100m<sup>3</sup> volume, and/or          b) 0.5 metres total depth</p>	<p>The Council will restrict its discretion to the relevant matters in 52A.9 (Restricted Discretionary Activities).</p>

<p>Shall only be permitted if a site plan is provided to the Napier City Council showing the location and extent of the fill.</p>	
<p><b>52A.17 Sediment Control</b></p> <p>1. Sediment runoff into a council reticulated network shall not cause any conspicuous change in colour or visual clarity of water after reasonable mixing.</p> <p>NOTE: All other discharges across a property boundary will be dealt with under the Hawkes Bay Regional Plan.</p>	<p>The Council will restrict its discretion to the relevant matters in 52A.9 (Restricted Discretionary Activities).</p>
<p><b>52A.18 Flood Protection Works</b></p> <p>1. No extraction or deposition is to occur within 50 metres of any flood protection or river control structure (excluding activities in relation to Rule 52A.7).</p> <p>2. No significant change is to occur to existing flood overflow paths.</p>	<p>The Council will restrict its discretion to the relevant matters in 52A.9 (Restricted Discretionary Activities).</p>
<p><b>52A.19 Noise</b></p> <p>1. Activities shall comply with the provisions of Chapter 57 (Noise) of the District Plan.</p>	<p>The Council will restrict its discretion to the relevant matters in 52A.9 (Restricted Discretionary Activities).</p>
<p><b>52A.20 Archaeological Sites</b></p> <p>NOTE: Archaeological sites are notated on the Planning Maps and listed in Appendix 13B of the Operative District Plan. These have been sourced from the New Zealand Archaeological Association Site Recording Scheme (as at 9 December 2013). Heritage New Zealand can provide guidance on any consenting requirements under the Heritage New Zealand Pouhere Taonga Act 2014.</p>	<p>The Council will restrict its discretion to the relevant matters in 52A.9 (Restricted Discretionary Activities) and Chapter 56 Heritage.</p>

## 52A.21 ASSESSMENT CRITERIA

Some discretionary activity and restricted discretionary activity rules refer to assessment criteria to assist the Council in considering resource consent applications. The Council will have regard to the Assessment Criteria outlined below for earthworks when considering an application under Sections 104 and 105 of the Act

### 1. General Information Requirements

Any application for a Resource Consent for a Discretionary Activity shall include a management plan describing the scope and nature of the operation including methods to control the effects of the activity. Any application for a resource consent shall include an assessment of the effects of the proposed activity as well as compliance with all relevant matters within the Code of Practice for Subdivision and Land Development. Applications shall address the matters listed below:

- a) An assessment of the actual or potential effects of the proposed activity on the environment, in accordance with the Fourth Schedule to the Resource Management Act 1991.
- b) Site layout including:
  - A programme for any staged development
  - Areas for stockpiling and topsoil storage
- c) Proposals to avoid, remedy or mitigate adverse effects of the activities, particularly in regard to noise, ground vibration, traffic, dust, visual impact and land stability
- d) Impact on the City roading network.
- e) Description of permits and consents required from the Hawke's Bay Regional Council and other relevant Local Authorities
- f) Proposals for the clearance of vegetation, including the location (maps and plans may be required).
- g) Proposals and timeframes for restoration and of area subject of earthworks to a reasonably natural state, or appropriate modified state, including levelling and backfilling, planting of grass, trees or other vegetation.

Council may require applicants to provide more detailed investigations of potential effects on the environment by way of environmental impact reports (prepared at the expense of the applicant). The level of detail required will depend on the scale and nature of the proposal as well as the magnitude and extent of anticipated effects on the environment.

- h) Any effects on historic heritage values (including archaeological sites).

### 2. Earthworks

The following criteria will be used by the Council in considering a resource consent application for a Discretionary Activity or a Restricted Discretionary Activity for non-compliance with one or more conditions in the relevant activity table and/or condition table.

The Council will have regard to the relevant objectives and Policies of this Plan, any relevant matters identified in the Code of Practice for Subdivision and Land Development and in addition will consider:

*Land Disturbance and Vegetation Clearance*

- a) The effects of land disturbance and vegetation clearance will be assessed in terms of their effects on:
  - i) The life-supporting capacity of soils.
  - ii) Soil erosion and stability.
  - iii) Soil Runoff and Sedimentation.
  - iv) Natural landforms and contours.
  - v) Flora and fauna.
  - vi) Significant cultural, ecological and historic heritage sites (including archaeological sites).
  - vii) Composition and characteristics of any fill used
  
- b) In making an assessment, regard will be had to the following:
  - i) The extent of removal of vegetation, topsoil and subsoils at any one time.
  - ii) Methods to separate soil horizons during stripping.
  - iii) Measures to safeguard the life supporting capacity of stockpiled soils.
  - iv) The potential or increased risk of hazards from the activity, including potential risk to people or the community.
  - v) Sediment control measures, including measures to prevent sediment runoff into Council's reticulated network.
  - vi) Rehabilitation of site (including backfilling, re-spreading of subsoil and topsoil, contouring, re-pasturing and re-vegetation).
  - vii) Land capability and potential end uses of the site.
  - viii) Information of any relocation of fill on or offsite.
  - ix) Siting, construction and maintenance of internal access roads.
  - x) Effect on flow paths and floodways.
  - xi) Measures to avoid the disturbance of cultural and historic heritage sites (noting that any disturbance of an archaeological site will require separate approval under the Heritage New Zealand Pouhere Taonga Act 2014).

*Visual Impact*

- a) The visual effects of the activity will be assessed in terms of its potential effect on:
  - i) The residential or recreational (including tourism) use of land in the vicinity of the activity.
  - ii) The existing character of the locality and amenity values.
  - iii) Whether the land is covered by Outstanding or Significant Landscape Areas will be assessed under the Assessment Criteria entitled 'Earthworks within Outstanding Natural Landscapes'.
- b) In making that assessment regard shall be had to:
  - i) Planting, screening and other amenity treatment to minimise visual impact.
  - ii) Site location including locality, topography, geographical features, adjoining land uses.
  - iii) Height of soil stockpiles and cuttings.
  - iv) Rehabilitation of the site, including contouring, landscaping and re-vegetation.

*Noise*

- a) The impact of noise will be assessed in terms of its potential effect on:
  - i) The noise sensitivity of the receiving environment, including adjacent land uses where it is proposed to undertake the activity.
  - ii) The hours of operation of the activity.

*Effects on other land uses and adjoining properties*

- a) The extent to which the activity will interfere with, or adversely affect, the current use of the land on which the activity is sited, or adjoining land uses.
  - i) Consideration will be given to any potential effects of the proposed activity on adjoining properties and land uses, such as effects on surface drainage patterns, dust nuisance, or adverse effects on adjoining buildings.
  - ii) Permanent effects will be given more weight than temporary effects.
  - iii) Consideration will also be given to methods to avoid adverse effects on land use activities which are allowed in the zone where the activity is located, such as the distance of activities from boundaries, and methods to avoid disturbance to adjoining properties.

*Earthworks within Outstanding or Significant Natural Landscapes*

Earthworks within and outstanding natural landscape shall be designed to ensure that it does not have any adverse visual effects. This shall include reference to the proposed location and screening of any earthworks. In particular any such developments shall:

- a) Avoid the location of large scale earthworks on prominent rural ridgelines, hill faces and spurs.
- b) Be designed to minimise cuttings across hill faces and spurs.
- c) Avoid a finished contour that is out of character with the natural contour.
- d) Demonstrate what visual mitigation is proposed to minimise the visual intrusion of the work, including proposals to ensure the successful establishment of any plantings.

## 52A.22 PRINCIPAL REASONS FOR RULES

### 1. Earthworks Generally

This rule states the principal assumption that any earthwork operation is permitted throughout the City, provided that it complies with the conditions in the relevant activity and condition tables.

Some earthworks have only minor effects on the environment in which they are located, and it is expected in these cases that earthworks can be undertaken without being required to obtain a resource consent. Large scale earthworks on the other hand can have more significant effects, particularly in residential areas, on amenity values, traffic safety, and the health and safety of people. The resource consent process will be used to ensure that amongst other things, the amenity of the City, traffic safety, and people's health, wellbeing and safety are safeguarded.

### 2. Vegetation

The purpose of the rule is to provide protection to the land and the visual environment once earthworks have been completed to ensure that wherever possible remedial work in the form of re-vegetation occurs. This will result in the visual amenity of the environment being restored and the erosion susceptibility of disturbed ground is reduced.

### 3. Slope

Steep land is particularly prone to erosion or slippage particularly if it is modified by cutting into the natural toe of a hill/slope or when excavating to provide building platforms for new buildings. The rule has been developed to protect land from the effects of earthworks, particularly soil erosion and slippage.

### 4. Excavation

Limitations on the height and scale of cuts are in place to avoid unsightly scarring of the landscape particularly in areas where they will be highly visible. Large scale cuts beyond the permitted rules will therefore be subject of resource consent which will provide the Council with controls to control earthworks when they are of a scale not envisaged by District Plan rules and have potential safety issues.

### 5. Noise

Noise is one of the factors that can affect the appreciation of amenity. It can have an effect on people's health in a psychological sense. Section 16 of the Resource Management Act applies to noise generated by all land uses, but in addition, conditions have been included in the Plan to impose limits on noise emissions from land use activities and temporary activities (earthworks is considered a temporary activity). This approach ensures that the character of particular locations is maintained and that any noise generated is assessed on its merits (for example, timing, duration, sound levels, and the compatibility of the noise with the neighbourhood).

**6. Flood Protection Works**

Flooding protection and drainage patterns will not be adversely affected by any earthworks.

**7. Location of Fill**

It is vitally important that the location of any uncontrolled fill shall be provided to ensure that the safety of future development can be provided by not building on land prone to slipping and subsidence.

**8. Sediment Control**

The purpose of this rule is to ensure that any stockpiling of soil matter created as part of an earthworks operation is contained within a controlled environment. This is to reduce the risk of adverse effects to the surrounding environment that could occur from sediment leaving the site and entering adjoining properties, open drains or streams.

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