

EARTHWORKS

Introduction

Earthworks are a necessary part of subdivision, land use and development, but need to be managed to ensure that risks associated with land instability, sediment loss and increased natural hazards, and effects on amenity values, cultural values, strategic infrastructure and the natural environment are effectively addressed.

Earthworks provisions in the District Plan manage the scale, location and type of earthworks through threshold standards that apply to all zones. Various exemptions are ~~provided from rules included~~ within this chapter. The impact of earthworks on sensitive areas is dealt with in other chapters. This includes ~~Significant Natural Areas (SNAs), Outstanding Natural Landscapes or Features ONLs, ONFs, HNWB High Naturalness Water Bodies, Visual Amenity Landscapes VALs, the Flood Assessment Areas Overlay, the Coastal Environment Overlay, Sites and Areas of Significance to Māori SASM, Historic Heritage items or historic heritage~~ Settings, and infrastructure.

In addition to the District Plan provisions, resource consent may also be required for earthworks under Regional Plan provisions and/or ~~NESs National Environmental Standards~~.

~~In the event that an unidentified archaeological site or wāhi tapu site is located during any¹ earthworks, all earthworks must follow the Accidental Discovery Protocol contained in APP4 – Accidental Discovery Protocol.^{2 3}~~

Objectives

EW-O1	Earthworks activity
Earthworks facilitate subdivision, and the use and development of the District's land resource , while ensuring that its adverse effects on the surrounding environment are avoided or mitigated. ⁴	

Policies

EW-P1	Benefits and necessity
Recognise the benefits and necessity of earthworks for the subdivision, use and development of land, <u>including earthworks for the provision of network utilities, and natural hazard mitigation works</u> . ⁵	

EW-P2	Management and amenity
<u>Ensure</u> Require that any adverse effects of earthworks do not detract from the amenity values, the intrinsic values of ecosystems, and <u>the</u> environmental quality enjoyed by those living or working in the vicinity. ⁶	

EW-P3	Accidental discovery
Require accidental discovery protocols to ensure land disturbance avoids or mitigates adverse effects on sensitive material.	

EW-P4	Infrastructure
Protect R egionally S ignificant I nfrastucture from the adverse effects of earthworks.	

¹ Section 42A Summary Statement, Paragraph 14(a)

² ~~Clause 16(2) Amendments~~

³ ~~Panel Decision Report Part 1, Section 4.3~~

⁴ Clause 16(2) Amendments

⁵ Clause 16(2) Amendments

⁶ Clause 16(2) Amendments

EW-P5	Land stability
<p>Only allow earthworks on steeper slopes and in proximity to boundaries where <u>they will not impact significant adverse effects on land stability are avoided and other adverse effects are appropriately mitigated.</u>⁷</p>	

Rules

Note: Activities not listed in the rules of this chapter are classified as a permitted under this chapter.⁸ For certain activities, consent may be required by rules in more than one chapter in the District Plan. Unless expressly stated otherwise by a rule, resource consent is required under each of those rules. The steps plan users should take to determine which rules apply to any activity, and the status of that activity, are provided in Part 1, HPW — How the Plan Works - General Approach.

EW-R1	<p>Earthworks, excluding earthworks:</p> <ul style="list-style-type: none"> a. for tree planting, or the removal of trees not protected by the District Plan; b. for test pits, wells or boreholes permitted under a regional plan or where all necessary regional resource consents have been obtained; c. for infrastructure <u>that is identified as permitted, controlled or restricted discretionary in Sections A, B, C and E of the Energy, and Infrastructure Chapter and in TRAN-R1 to TRAN-5 and TRAN-R8 of the Transport Chapters of the District Plan;</u>⁹ d. required for maintenance of existing drains and ponds; e. for natural hazard mitigation works carried out by Timaru District Council or CRC Canterbury Regional Council that are permitted by the relevant District Plan chapter <u>or are within the bed of a lake or a river and are within the jurisdiction of the CRC;</u>¹⁰ f. for cemeteries, including pet cemeteries, and urupā; g. permitted under a National Environment Standard, unless otherwise subject to a rule in this District Plan; and h. within the building footprint, or within 2m of the outer edge of, a building that has building consent, <u>or in relation to any area standard earthworks¹¹ will be subject to a building consent¹²</u> and that complies with EW-S3. This exemption does not apply to earthworks associated with retaining walls/structures which are not required for the structural support of the principal building on the site or adjoining site. 	
All Zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 EW-S1, EW-S2, EW-S3, EW-S4 and EW-S5 are complied with; and</p>	<p>Activity status when compliance not achieved with PER-1: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. the matters of discretion of any infringed standard.

⁷ Silver Fern Farms [172.96] and Alliance Group [173.99]
⁸ Clause 16(2) Amendment
⁹ Mr. Willis Recommendation – Hearing E, Hearing F Interim Reply
¹⁰ Clause 10(2)(b) Amendment - OWL [181.48] and [181.54]
¹¹ Technical correction, Minute 55
¹² Panel Decision Report Part 7, Section 3.6

<p>PER-2 Except where an Archaeological Authority has been obtained from <u>Heritage New Zealand Pouhere Taonga HNZPT</u>, the earthworks shall be undertaken in accordance with the <u>Accidental Discovery Protocol commitment form</u>, contained within APP4 - Form confirming a commitment to adhering to an Accidental Discovery Protocol, has been completed and submitted to Council, prior to the commencement of any earthworks.¹³</p>	<p>Activity status when compliance not achieved with PER-2: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. the extent of potential adverse effects on sites where there is the potential for koiwi or artefacts to be discovered; <u>and</u> 2. whether there has been prior consultation with Te Rūnanga o Arowhenua and <u>Heritage New Zealand Pouhere Taonga HNZPT</u>; <u>and</u> 3. measures to avoid, remedy or mitigate potential adverse effects on potential koiwi or artefacts.
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Standards		
EW-S1	Areas	
<p>1. General Rural Zone Rural Lifestyle Zone</p>	<p>The area of earthworks must be limited to as follows:</p> <ol style="list-style-type: none"> 1. for any primary production activity that is a <u>Permitted Activity</u> in the zone, there is no limit; and 2. for any ancillary rural earthworks, there is no limit; and 3. for other activities: 2,000m² in any 12-month period per site. 	<p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. dust nuisance, sedimentation, land instability, erosion and contamination effects; and 2. the impact on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks; and 3. the impact on visual amenity and landscape character; and 4. the impact on any overland flow paths.¹⁴
<p>2. General Residential Zone Medium Density Residential Zone</p>	<p>The area of earthworks must be limited to 250m² in any 12-month period per site.</p>	<p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. dust nuisance, sedimentation, land instability, erosion and contamination effects; and 2. the impact on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks; and 3. the impact on visual amenity and landscape character; <u>and</u>¹⁵ 4. the impact on any overland flow paths.¹⁶

¹³ Heritage NZ [114.37]

¹⁴ Clause 16(2) Amendment, Hearing F Interim Reply

¹⁵ Clause 16(2) Amendment

¹⁶ Clause 16(2) Amendment, Hearing F Interim Reply

5. where the earthworks are within a wāhi tūpuna, wāhi taoka or wāhi tapu overlay:
- a. whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and
 - b. the proposal's consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and
 - c. the potential adverse effects, including on sensitive tangible and/or intangible cultural values; and
 - d. whether there are alternative methods, locations or designs that would avoid or mitigate the impact of earthworks on the values associated with the ~~SASM site or area of~~ significance; and
 - e. the appropriateness of any mitigation measures proposed, including the need for an accidental discovery protocol; and
 - f. the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the ~~SASM site/area~~, and any potential to:
 - i. affirm the connection between mana whenua and place; or
 - ii. enhance the cultural values of the ~~SASM site/area~~; or
 - iii. provide for the relationship of Kāti Huirapa with their taoka; or
 - iv. maintain or enhance the ability of Kāti Huirapa to access and use the

		<p><u>SASM Site or Area of Significance commensurate with the scale and nature of the proposal; and</u></p> <p>g. <u>where the earthworks will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses.</u>¹⁷</p>
<p>3. Settlement Zone</p> <p>Commercial and mixed use zones</p> <p>General Industrial Zone</p> <p>PREC-8 Clandeboye Dairy Manufacturing Zone Precinct^{18 19}</p> <p>Open Space and Recreation zones</p> <p>Port Zone</p> <p>Māori Purpose Zone</p>	<p>The area of earthworks must be limited to 2,000m² in any 12-month period per site.</p>	<p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. dust nuisance, sedimentation, land instability, erosion and contamination effects; and 2. the impact on the road network, of heavy vehicle and other vehicular traffic generated as a result of earthworks; and 3. the impact on visual amenity and landscape character; and 4. the impact on any overland flow paths.²⁰ 5. <u>where the earthworks are within a wāhi tūpuna, wāhi taoka or wāhi tapu overlay:</u> <ol style="list-style-type: none"> a. <u>whether Te Rūnanga o Arowhenua has been consulted, the outcome of that consultation, and the extent to which the proposal responds to, or incorporates the outcomes of that consultation; and</u> b. <u>the proposal’s consistency with the values identified in SCHED6 — Schedule of Sites and Areas of Significance to Kāti Huirapa; and</u> c. <u>the potential adverse effects, including on sensitive tangible and/or intangible cultural values; and</u> d. <u>whether there are alternative methods, locations or designs that would avoid or mitigate the impact of earthworks on</u>

¹⁷ Ms. White Recommendation – Hearing E

¹⁸ Fonterra [165.95]

¹⁹ **Schedule 1 cl10(2)(b) relating to correct reference to the Clandeboye Dairy Manufacturing Precinct.**

²⁰ Clause 16(2) Amendment, Hearing F Interim Reply

		<p><u>the values associated with the SASM site or area of significance; and</u></p> <p>e. <u>the appropriateness of any mitigation measures proposed, including the need for an accidental discovery protocol; and</u></p> <p>f. <u>the extent to which the proposed activity provides an opportunity to recognise Kāti Huirapa culture, history and identity associated with the site/area, and any potential to:</u></p> <ul style="list-style-type: none"> i. <u>affirm the connection between mana whenua and place; or</u> ii. <u>enhance the cultural values of the SASM site/area; or</u> iii. <u>provide for the relationship of Kāti Huirapa with their taoka; or</u> iv. <u>maintain or enhance the ability of Kāti Huirapa to access and use the SASM Site or Area of Significance commensurate with the scale and nature of the proposal; and</u> <p>g. <u>where the earthworks will remove indigenous vegetation, the nature of any effects on mahika kai and other customary uses.</u>²¹</p>
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EW-S2		Excavation and filling
All <u>Z</u> ones	<p>Earthworks must meet the following standards:²²</p> <ol style="list-style-type: none"> 1. Earthworks do not exceed a maximum depth or height of 1.5m below or above existing ground level; and 2. Earthworks are not undertaken at any point on land with a slope gradient greater than 1 in 4; and 3. All fill consists²³ of cleanfill material. 	<p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. dust nuisance, sedimentation, land instability, erosion and contamination effects; and 2. the impact on visual amenity, landscape character, outlook and privacy; and

²¹ Ms. White Recommendation – Hearing E

²² **Technical correction, Minute 55**

²³ Clause 16(2) Amendment

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| <p>a. be no deeper or higher than 300mm <u>below or above ground level</u>²⁷ within 6m of a foundation of a transmission line support structure; and</p> <p>b. be no deeper than 3m <u>below ground level</u>²⁸ when:</p> <ul style="list-style-type: none"> i. between 6 and 12 metres from the foundation of a 110kV or a 220kV National Grid transmission line support structure; or ii. between 6m and 10m metres from the foundation of a 66kV transmission line support structure; and iii. c. not result in a reduction in the ground to conductor clearing distances below what is required by Table 4 in NZECP 34:2001, unless the requirements of Clause 2.2.3 of NZECP 34:2001 are met. <p>Note: EI-R26 applies to any eEarthworks and land disturbance within the National Grid Yard are assessed in EI-R28.²⁹</p> | <p>3. the effects on the ability of the <u>network</u> utility operator to operate, upgrade and develop the National Grid and transmission lines, including ongoing safe and direct access.</p> |
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Note: ~~EI-R26 applies to any eEarthworks and land disturbance within the National Grid Yard are assessed in EI-R28.~~²⁹

Advice Note:

In the event that an unidentified archaeological site or a waahi tapu site is located during any earthworks, the following applies:

- ~~1. The earthworks must cease immediately at that place and within 20m around the site.~~
- ~~2. Heritage New Zealand Pouhere Taonga must be notified and apply for the appropriate authority if required.~~
- ~~3. Te Rūnanga o Ngāi Tahu must be notified of the discovery and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken.~~
- ~~4. If human remains (koiwi) are uncovered then the Heritage New Zealand Pouhere Taonga, NZ Police and Te Rūnanga o Ngāi Tahu must be notified. Remains are not to be moved until such time as iwi and Heritage New Zealand have responded.~~
- ~~5. Works affecting the archaeological site shall not resume until Heritage New Zealand Pouhere Taonga, the Police (if skeletal remains are involved) and Te Rūnanga o Ngāi Tahu have each given the necessary approval for work to continue.~~

*Evidence of archaeological sites can include oven stones, charcoal, shell middens, ditches, banks, and pits, building foundations, artefacts of Māori and Non-Māori origin or human burials.*³⁰

²⁷ ECan [183.4]

²⁸ ECan [183.4]

²⁹ Transpower [159.89] and Section 42A Summary Statement, Paragraph 8

³⁰ Clause 16(2) Amendment