

5.4 Land use

Interpretation

If an activity is covered by more than one rule, then the rule that applies is the rule that is more specific for the relevant activity, area or resource, rather than a more general rule. Where a proposal includes a number of activities which trigger separate specific rules, all of the relevant rules are considered when assessing the proposal. An activity needs to comply with all relevant rules in the Plan, including those in the **whaitua** Chapters 7 – 11.

For the purposes of these rules, ‘water’ means both fresh water and coastal water.

As noted in Section 2.1 provisions relevant to the coastal marine area are identified by this icon .

Under section 86B of the Resource Management Act 1991 all rules have immediate legal effect from 31 July 2015. The associated definitions, schedules and maps applicable to those rules also have immediate legal effect.

The following table is intended as a guide only and does not form part of the Plan. Refer to specified rules for detailed requirements.

Code	Activity status
P	Permitted
C	Controlled
RD	Restricted discretionary
D	Discretionary
NC	Non-complying
Pr	Prohibited

Rules – Land use	Page	P	C	RD	D	NC	Pr
Land use other methods	171						
Cultivation and break-feeding	171						
Rule R94: Cultivation of land	171	•					
Rule R95: Break-feeding	172	•					
Rule R96: Cultivation and break-feeding	173				•		
Livestock access	173						
Rule R97: Livestock access to a surface water body or the coastal marine area	174	•					
Rule R98 Livestock access to a surface water body or the coastal marine area (excluding any Category 1 surface water body)	176				•		
Rule R98A: Livestock access to any Category 1 surface water body	176					•	

Rules – Land use	Page	P	C	RD	D	NC	Pr
Earthworks and vegetation clearance	176						
Rule R99: Earthworks	176	•					
Rule R99A: Construction of a new farm track	177	•					
Rule R99B: Construction of a new farm track	178		•				
Rule R100: Vegetation clearance on erosion prone land	179	•					
Rule R101: Vegetation clearance on erosion prone land in accordance with a Freshwater Farm Plan	179	•					
Rule R102: Earthworks and vegetation clearance for renewable energy generation	179			•			
Rule R103: Earthworks and vegetation clearance	181				•		

5.4.1 Land use other methods

The Wellington Regional Council will promote sustainable land and water management through Methods M1, M2, M7, M8, M9, M10, M11, M12, M14, M17, M19, M20, M25, M26, M27 and M28.

5.4.2 Cultivation and break-feeding

Rule R94: Cultivation of land – permitted activity

The use of land for **cultivation** and the associated discharge of a contaminant into water or onto land where a contaminant may enter water, is a permitted activity, provided the following conditions are met:

- (a) **cultivation** on land with slope of more than 3 degrees shall not occur within 5m of the bed of a **surface water body** or the coastal marine area, or
- (b) **cultivation** on land with slope of 3 degrees or less shall not occur within 2m of the bed of a **surface water body** or the coastal marine area, and
- (c) the land between the cultivated land and the bed of a **surface water body** or the coastal marine area shall be in pasture or other groundcover vegetation throughout the period of **cultivation**, and
- (d) **cultivation** is undertaken along the contour of the land, where reasonably practicable, and
- (e) a sediment control measure or measures shall be used where a preferential flow path connects with a **surface water body** or the coastal marine area, and

Note

Guidance on sediment control measures for cultivation is available in Section 4 of Horticulture NZ's *Erosion and Sediment Control Guidelines for Vegetable Production* (June 2014)

Commented [NM1]:

Horticulture NZ, Minister of Conservation, Wellington Fish and Game Council – Topic 39 Cultivation and break-feeding – Consent order granted 8 December 2021

- (f) where cultivation is within 5-10m (land with slope of more than 3 degrees) or 3-10m (land with slope of 3 degrees or less) of a natural wetland (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, only if permitted by the Regulations, and
- (g) any discharge from land subject to **cultivation** shall not, outside the **zone of reasonable mixing** in a **surface water body** or the coastal marine area, result in any of the following effects in receiving waters:
- (i) a conspicuous change in colour or visual clarity,
 - (ii) the rendering of fresh water unsuitable for consumption by animals,
 - (iii) any significant adverse effect on aquatic life.

Note

Regulation 50 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 controls vegetation clearance, earthworks or land disturbance (which includes cultivation) outside, but within 10m of a natural wetland for the purpose of arable or horticultural land use. For the avoidance of doubt, cultivation for this purpose is subject to Regulation 50.

Rule R95: Break-feeding – permitted activity

The use of land for **break-feeding** and the associated discharge of a contaminant into water or onto land where a contaminant may enter water, is a permitted activity, provided the following conditions are met:

- (a) **break-feeding** on land with slope of more than 3 degrees shall not be within 5m of the bed of a **surface water body** or the coastal marine area, and
- (b) **break-feeding** on land with slope of 3 degrees or less shall not be within 2m of the bed of a **surface water body** or the coastal marine area, and
- (c) the land between the land used for **break-feeding** and the bed of a **surface water body** or the coastal marine area shall be in pasture or other groundcover vegetation, and not be grazed or cultivated throughout the period that the land adjacent is used for **break-feeding**, and
- (d) a sediment control measure or measures shall be used where a preferential flow path connects with a **surface water body** or the coastal marine area, and

Note

Guidance on sediment control measures for break-feeding is available from <http://www.gw.govt.nz/good-management-practice/>

Commented [NM2]:

Minister of Conservation, Wellington Fish and Game Council - Topic 39 Cultivation and break-feeding – Consent order granted 8 December 2021

- (e) any discharge to a **surface water body** from land used for **break-feeding** shall not, outside of the **zone of reasonable mixing** in a **surface water body** or the coastal marine area, result in any of the following effects in receiving waters:
- (i) a conspicuous change in colour or visual clarity,
 - (ii) the rendering of fresh water unsuitable for consumption by animals,
 - (iii) any significant adverse effect on aquatic life.

Note

The activity of break-feeding of winter forage crops and intensive winter grazing by livestock is also subject to:

- (i) the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, with regulations to take effect on 01 May 2021, and
- (ii) the Resource Management (Stock Exclusion) Regulations 2020, with regulations for break-feeding of cattle beef and deer to take effect on 03 September 2020 for new pastoral systems and 01 July 2023 for existing pastoral systems.

Rule R96: Cultivation and break-feeding – discretionary activity 

The use of land for **cultivation** or **break-feeding** and the associated discharge of a contaminant into water or onto land where a contaminant may enter water, that is not permitted by Rule R94 or Rule R95 is a discretionary activity.

5.4.3 Livestock access

Note

Any restrictions in this Plan on livestock access to a water race do not limit the use of the water race for the purpose of providing drinking water for stock, provided livestock do not enter the water race.

Livestock access to, and exclusion from, a surface water body is also subject to:

- (i) the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, with regulations to take effect on 01 May 2021, and
- (ii) the Resource Management (Stock Exclusion) Regulations 2020, with regulations to take effect on 03 September 2020 for new pastoral systems and from 01 July 2023 and 01 July 2025 for existing pastoral systems.

Commented [NM3]:

Beef and Lamb NZ, Carterton District Council, Dan Riddiford Federated Farmers of New Zealand, Minister of Conservation, Royal Forest and Bird Protection Society, Wellington Fish and Game Council - Topic 38 Livestock access and riparian margins - Consent order granted 8 December 2021

Rule R97: Livestock access to a surface water body or the coastal marine area – permitted activity



Livestock access to a **surface water body** or the coastal marine area, and any associated discharge to water, is a permitted activity provided the following conditions are met:

(a) From 31 July 2019, there shall be no **livestock** access to a **Category 1 surface water body**, except that sheep may have access to a **natural wetland** if authorised by a resource consent pursuant to Rule R106.

(b) From 31 July 2022, access by:

- (i) **cattle, farmed deer or farmed pigs** to a **Category 2 surface water body**, (except for a Schedule F1 river that is less than 1m wide), and
- (ii) **dairy cows** to a river that is not a **Category 1 or Category 2 surface water body** and has an **active bed** width of 1m or wider at the location of the access,

may occur provided, the access is only at a **stock crossing point** and the cattle (including dairy cows), farmed deer or farmed pigs:

- (iii) are supervised and actively driven across the water body, and
- (iv) do not cross the same water body more than twice in any month.

(c) From 1 July 2025, access by:

- (i) cattle, farmed deer or farmed pigs to a **Category 2 surface water body**, which is a Schedule F1 river that is less than 1m wide), and
- (ii) cattle, farmed deer or farmed pigs to a **Category 2 surface water body** which is within that part of the Huangarua River catchment identified in Schedule I (trout spawning habitat), during the trout spawning season (31 May to 31 August),

may occur provided, the access is only at a **stock crossing point** and the cattle (including dairy cows), farmed deer or farmed pigs:

- (iii) are supervised and actively driven across the water body, and
- (iv) do not cross the same water body more than twice in any month.

(d) Access by livestock, excluding sheep, to all **surface water bodies** or the coastal marine area shall not result in:

- (i) a conspicuous change in colour or visual clarity of water,

Commented [NM4]:

Beef and Lamb NZ, Carterton District Council, Dan Riddiford Federated Farmers of New Zealand, Minister of Conservation, Royal Forest and Bird Protection Society, Wellington Fish and Game Council - Topic 38 Livestock access and riparian margins - Consent order granted 8 December 2021

- a) in a site with significant **mana whenua** values identified in Schedule C (mana whenua), or
- b) in a lake, estuary or the coastal marine area, or
- c) beyond the **zone of reasonable mixing** in a river, or
- (ii) more than minor damage in a natural wetland provided that:
 - a) the natural wetland is 0.05 ha or more and is not identified as a **Category 1 surface water body**, or
 - b) stock exclusion from the natural wetland is not required by the Resource Management (Stock Exclusion) Regulations 2020, and
- (iii) more than minor damage to the water body's bed and banks, including through bank collapse, except at a **stock crossing point** where **livestock** are supervised and actively driven across the water body.
- (e) **In the coastal marine area:**
 - (i) access by beef cattle shall not result in more than minor damage, and
 - (ii) beef cattle shall be supervised in, or driven across, land below mean high water springs in a Schedule F5 (coastal habitats) or Schedule J (geological features) site or habitat, and
 - (iii) cattle (other than beef cattle), farmed deer or farmed pigs shall be supervised in, or driven across, land below mean high water springs, and
 - (iv) where the quality of water in the coastal environment has deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats, or water-based recreational activities, or is restricting existing uses, **livestock** access to the coastal marine area, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment must be expressly allowed for in a Freshwater Farm Plan certified under section 271G of the RMA.

Note

Fencing is one method of managing **livestock** access and fencing can be either permanent or temporary as long as it achieves the conditions of the rule.

Rule R98: Livestock access to a surface water body or the coastal marine area (excluding any Category 1 surface water body) – discretionary activity



The use and disturbance of the bed, including the banks, or other land in a **surface water body** or the coastal marine area, and any associated discharge to water, from **livestock** access that does not comply with condition (b), (c), (d) or (e) of Rule R97, is a discretionary activity.

Commented [NM5]:

Dan Riddiford
Federated Farmers of New Zealand
Royal Forest and Bird Protection Society - Topic 38 Livestock access and riparian margins - Consent order granted 8 December 2021

Rule R98A: Livestock access to any **Category 1 surface water body** – non complying

The use and disturbance of the bed, including the banks, or other land in a **surface water body** or the coastal marine area, and any associated discharge to water, from **livestock** access that does not comply with condition (a) of Rule R97, is a non complying activity.

Commented [NM6]:

Federated Farmers of New Zealand - Topic 38 Livestock access and riparian margins - Consent order granted 8 December 2021

5.4.4 Earthworks and vegetation clearance

Note

Vegetation clearance is also controlled by provisions in district plans and bylaws, and the Electricity (Hazards from Trees) Regulations 2003.

The rules in this section do not control any earthworks, soil disturbances, vegetation clearance or vegetation disturbances covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.

Earthworks and vegetation clearance outside, but within 10 metres of a natural wetland on land used for horticulture or arable land uses is also controlled by provisions in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

Commented [RS7]:

Porirua City Council - Topic 40 Earthworks and vegetation clearance - Consent order granted 8 December 2021

Rule R99: Earthworks – permitted activity

The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water from **earthworks** up to a total area of 3,000m² per **property** per 12 month period is a permitted activity, provided the following conditions are met:

Commented [NM8]:

Dan Riddiford, Federated Farmers of New Zealand
Masterton District Council, NZ Transport Agency
South Wairarapa District Council,
Wellington Fish and Game Council - Topic 40 Earthworks and vegetation clearance - Consent order granted 8 December 2021

- (a) soil or debris from **earthworks** is not placed where it can enter a **surface water body** or the coastal marine area, and
- (b) **earthworks** will not create or contribute to instability or subsidence of a slope or another land surface at or beyond the boundary of the **property** where the **earthworks** occurs, and
- (c) any **earthworks** shall not, after the **zone of reasonable mixing**, result in any of the following effects in receiving waters:
 - (i) the production of conspicuous oil or grease films, scums of foams, or floatable or suspended materials, or
 - (ii) any conspicuous change in colour or visual clarity, or

- (iii) any emission of objectionable odour, or
 - (iv) the rendering of fresh water unsuitable for consumption by animals, or
 - (v) any significant adverse effect on aquatic life, and
- (d) **earthworks** shall not occur within 5m of a **surface water body** except for **earthworks undertaken in association with Rules R112, R114, R115, R116, R117, R118, R119 R120, R121, R122 and R124.**
- (e) work areas are **stabilised** within six months after the completion of the **earthworks**.

Rule R99A: Construction of a new farm track – permitted activity

The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water from earthworks up to a total area of 10,000m² per property per 12 month period for the construction of a new farm track is a permitted activity, provided the following conditions are met:

- (a) the side cutting height measured vertically is less than 2m, or over 2m for continuous length of no more than 150m, and
- (b) soil or debris from earthworks is not placed where it can enter a surface water body or the coastal marine area, and
- (c) earthworks will not create or contribute to instability or subsidence of a slope or another land surface at or beyond the boundary of the property where the earthworks occurs, and
- (d) any earthworks shall not, after the zone of reasonable mixing, result in any of the following effects in receiving waters:
 - (i) the production of conspicuous oil or grease films, scums of foams, or floatable or suspended materials, or
 - (ii) any conspicuous change in colour or visual clarity, or
 - (iii) any emission of objectionable odour, or
 - (iv) the rendering of fresh water unsuitable for consumption by animals, or
 - (v) any significant adverse effect on aquatic life, and
- (e) **earthworks** shall not occur within 5m of a **surface water body** except for **earthworks undertaken in association with Rules R112, R114, R115, R116, R117, R118, R119 R120, R121, R122 and R124.**
- (f) work areas must be stabilised as soon as reasonably practicable and until the work area is stabilised, erosion and sediment control measures

Commented [NM9]:

Dan Riddiford
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 NZ Transport Agency
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shall be used where a preferential flow path connects with a surface water body or the coastal marine area.

Note

Guidance on erosion and sediment control measures is available from <http://www.gw.govt.nz/good-management-practice/>

Rule R99B: Construction of a new farm track – controlled activity

The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water from **earthworks** for the construction of a new farm track that is not permitted by Rules R99 or R99A is a controlled activity, provided the following conditions are met:

- (a) **earthworks** shall not occur within 5m of a **surface water body** except for **earthworks** undertaken in association with Rules R112, R114, R115, R116, R117, R118, R119 R120, R121, R122 and R124, and
- (b) a maximum side cutting height measured vertically is no more than 3m for a continuous length of no more than 100m.

Matters of control

1. The location, duration and timing of the **earthworks**
2. The need for increased **surface water body** setbacks to manage erosion risk and sediment loss
3. The design, suitability, monitoring and maintenance of erosion and sediment control measures
4. Monitoring and reporting requirements
5. Effects on **aquatic ecosystem health** and **mahinga kai**
6. The effects, after the **zone of reasonable mixing**, in receiving waters including:
 - (i) the production of conspicuous oil or grease films, scums of foams, or floatable or suspended materials, or
 - (ii) any conspicuous change in colour or visual clarity, or
 - (iii) any emission of objectionable odour, or
 - (iv) the rendering of fresh water unsuitable for consumption by animals, or
 - (v) any significant adverse effect on aquatic life.

Commented [NM10]:

Dan Riddiford, Federated Farmers of New Zealand
Masterton District Council, NZ Transport Agency
South Wairarapa District Council,
Wellington Fish and Game Council - Topic 40 Earthworks and
vegetation clearance - Consent order granted 8 December 2021

Rule R100: Vegetation clearance on erosion prone land – permitted activity

The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water from **vegetation clearance** up to a total area of 2ha per **property** per 12 month period on **erosion prone land** is a permitted activity, provided the following conditions are met:

- (a) any soil or debris from the **vegetation clearance** is not placed where it can enter a **surface water body** or the coastal marine area, and
- (b) any soil disturbances associated with the **vegetation clearance** shall not after the **zone of reasonable mixing**, result in any of the following effects in receiving waters:
 - (i) the production of conspicuous oil or grease films, scums of foams, or floatable or suspended materials, or
 - (ii) any conspicuous change in colour or visual clarity, or
 - (iii) any emission of objectionable odour, or
 - (iv) the rendering of fresh water unsuitable for consumption by animals, or
 - (v) any significant effect on aquatic life, and
- (c) **vegetation clearance** shall not occur within 5m of a **surface water body** except for **vegetation clearance undertaken in association with** by Rules R112, R114, R115, R116, R117, R118, R119, R120, R121, R122 and R124.

Commented [NM11]:

Dan Riddiford, Federated Farmers of New Zealand, Masterton District Council, Porirua City Council, South Wairarapa District Council, Wellington Fish and Game Council - Topic 40 Earthworks and vegetation clearance - Consent order granted 8 December 2021

Rule R101: Vegetation clearance on erosion prone land in accordance with a Freshwater Farm Plan – permitted activity

The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water from **vegetation clearance on erosion prone land** is a permitted activity where it is expressly allowed for in a Freshwater Farm Plan certified under section 217G of the RMA.

Commented [NM12]:

Dan Riddiford, Federated Farmers of New Zealand Meridian Energy Limited - Topic Rule 101 Vegetation clearance - Consent order granted 8 December 2021

Rule R102: Earthworks and vegetation clearance for renewable energy generation – restricted discretionary activity

The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water from **earthworks not permitted by Rule R99 or vegetation clearance on erosion prone land that is not permitted by Rule R100** associated with the use, development, operation, maintenance and upgrade of **renewable energy generation** is a restricted discretionary activity, provided the following conditions are met:

Commented [NM13]:

Dan Riddiford, Federated Farmers of New Zealand, Masterton District Council, Porirua City Council, South Wairarapa District Council, Wellington Fish and Game Council - Topic 40 Earthworks and vegetation clearance - Consent order granted 8 December 2021

- (a) the **earthworks** or **vegetation clearance** and associated discharge are associated with the following construction activities:
 - (i) the formation of access tracks,

- (ii) the formation of laydown areas and stockpile areas,
 - (iii) the formation of wind turbine platforms, including foundation formation,
 - (iv) foundations for any operations building or transmission line,
 - (v) placement of any excess fill associated with any of the activities listed in (i) to (iv) above,
 - (vi) ancillary works necessary to construct or maintain any erosion and sediment control measures associated with (i) to (v) above, and
- (b) the activity does not occur within the **coast marine area**, and
 - (c) any soil or debris from the **vegetation clearance** is not placed where it can enter a **surface water body** or the **coastal marine area**, and
 - (d) the **earthworks** or **vegetation clearance** will not create or contribute to instability or subsidence of a slope or another land surface at or beyond the boundary of the **property** where the **earthworks** or **vegetation clearance** occurs, and
 - (e) work areas are **stabilised** within six months after the completion of the **earthworks**, and
 - (f) any earthworks shall not, after the **zone of reasonable mixing**, result in any of the following effects in receiving waters:
 - (i) the production of conspicuous oil or grease films, scums of foams, or floatable or suspended materials, or
 - (ii) any conspicuous change in colour or visual clarity, or
 - (iii) any emission of objectionable odour, or
 - (iv) the rendering of fresh water unsuitable for consumption by animals, or
 - (v) any significant effect on aquatic life, and
 - (g) the **earthworks** or **vegetation clearance** shall not, occur within 10m of a **surface water body** or coastal marine area.

Matters for discretion

1. The location, area, scale, volume, duration and timing of the works
2. The design and suitability of erosion and sediment control measures including consideration of hazard mitigation and the risk of accelerated soil erosion associated with

3. Staging of works and progressive **stabilisation**:
4. Adverse effects on:
 - (i) groundwater, **surface water bodies** and their margins, particularly **surface water bodies** within sites identified in Schedule A (outstanding water bodies), Schedule B (Ngā Taonga Nui a Kiwa), Schedule C (mana whenua), Schedule F (ecosystems and habitats with indigenous biodiversity), Schedule H (contact recreation and Māori customary use) or Schedule I (important trout fishery rivers and spawning waters)
 - (ii) group and **community drinking water supplies**
 - (iii) **mauri**, water quality (including water quality in the coastal marine area), **aquatic** and marine **ecosystem health**, aquatic and riparian habitat quality, indigenous biodiversity values, **mahinga kai** and critical life cycle periods for indigenous aquatic species
 - (iv) the natural character of lakes, rivers, **natural wetlands** and their margins and the coastal environment
 - (v) natural hazards, land stability, soil erosion, sedimentation and flood hazard management including the use of natural buffers
5. The placement and treatment of stockpiled materials on the site, including requirements to remove material if it is not to be reused on the site
6. The benefits to be derived from the use and development of **renewable energy generation**
7. Monitoring and reporting requirements.

Rule R103: Earthworks and vegetation clearance – discretionary activity



The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water from **earthworks** or **vegetation clearance** on **erosion prone land** that is not permitted by Rules R99, R99A, R100 and R101, and not controlled by Rule R99B, or not restricted discretionary by Rule R102 is a discretionary activity.

Commented [NM14]:

Dan Riddiford, Federated Farmers of New Zealand
Meridian Energy Limited - Topic 40 Earthworks and vegetation clearance - Consent order granted 8 December 2021