

Earthworks Plan Change

Changes to objectives, policies and rules of existing chapters in the Operative District Plan

Key: *Proposed text for earthworks is highlighted in yellow if it is part of the draft earthworks plan change. Text to be deleted is ~~struck-through~~ and new text is underlined.*

3.2 Information to be Submitted with an Application for a Resource Consent

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3.2.2 Land Use Consents

An application for a Land Use Consent shall include:

- 3.2.2.1 A description of the activity for which consent is sought, and its location.
- 3.2.2.2 An assessment of any actual or potential effects that the activity may have on the environment, and the ways in which any adverse effects may be mitigated.

Note: Section 88(6) of the Act requires assessments to be in such detail as corresponds with the scale and significance of the actual and potential effects that the activity may have on the environment, and shall be prepared in accordance with the Fourth Schedule to the Act.

- 3.2.2.3 For activities within a Maori Precinct, a description of the type and extent of consultation with tangata whenua and other Maori and any outcomes of the consultation.
- 3.2.2.4 Any information required to be included in the application by the District Plan or the Act's regulations. This could include noise assessment, a traffic impact report or an Urban Design Statement.

3.2.2.4a For the stability of earthworks; drawings, calculations and a written report by an appropriately qualified and experienced person, for example, a chartered engineer practicing in the field of civil / geotechnical engineering.

- 3.2.2.5 A statement specifying all other resource consents that the applicant may require from any consent authority in respect of the activity to which the application relates, and whether or not the applicant has applied for such consents.
- 3.2.2.6 **Site information.** The following information must be supplied:

- the correct street address
- the legal description(s) of the site
- current copies of all certificates of title.

3.2.2.7 **Site plans.** Site plans must be drawn at a 1:100 or 1:200 metric scale where possible, or to such a scale to show sufficient detail of the proposal to enable Council to determine its effects. If the plans are larger than A3 size copies reduced to A3 must also be provided. The site plans must show:

- a north point accurately orientated
- a unique plan number and title describing the proposal and the site.

3.2.2.7.1 The applicant must provide a site plan detailing where relevant the **existing situation** including:

- details of hazardous areas (for example uncompacted filling or flood prone areas)
- levels and contours of the topography (noting significant landforms and natural features)
- gradients of slopes
- banks, walls or steep slopes on the site, or on adjoining sites, that may be relevant to an assessment of earthworks stability
- drainage and underground services
- vegetation (including that located on adjacent road reserve or surrounding properties) and/or habitats of indigenous fauna
- all certificate of title boundaries
- road frontages
- existing buildings (indicating those to be retained)
- buildings on adjacent sites
- all the features and information must be show in relation to the boundaries of the site, and the boundaries of other sites where it is relevant to understanding the proposal.

3.2.2.7.2 The applicant must provide a site plan detailing where relevant the **proposed development** including:

- design of earthworks and final levels and contours of the site
- gradients of earthwork slopes
- drainage and underground services
- layout and location of proposed structures and buildings or alterations to existing structures and buildings
- location of proposed activities, vehicle parking, servicing, circulation and manoeuvring, pedestrian and vehicular access
- floor plans
- calculation of site coverage
- all landscape design, site planting and fencing
- all the features and information must be show in relation to the boundaries of the site, and the boundaries of other sites where it is relevant to understanding the proposal.

3.2.2.8 The applicant must provide, where relevant, elevation drawings and cross-sections, numbered and drawn to a metric scale of generally 1:100 or such as to clearly show the:

- gradients of existing and proposed slopes and the location of any associated structures
- drainage and underground services relevant to earthworks and associated structures
- extent of compliance with relevant plan rules including solar access and maximum building height
- elevations from the street showing the relationship of proposed structures to structures on adjacent sites, including the location of existing private outdoor spaces and main living area windows (where these have outlook over the development)

- all the features and information must be show in relation to the boundaries of the site, and the boundaries of other sites where it is relevant to understanding the proposal.

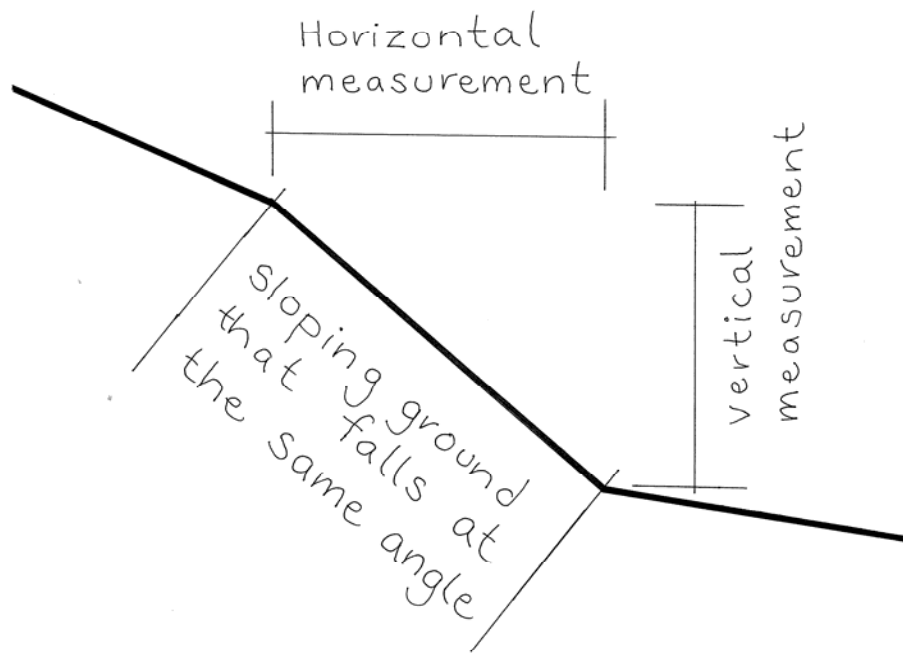
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3.10 Definitions

ASSOCIATED STRUCTURE [for the purpose of Chapters 19A and 19B (Earthworks)]: is a structure for stabilising or retaining ground (whether cut, filled or unworked) that is associated with the carrying out of earthworks.

EARTHWORKS: means the removal, relocation or deposit of earth (which includes any substance constituting the land such as soil, clay and rock) from a natural or constructed land formation. Topsoil stripping mining, turf farming, ground cultivation, gardening, grave digging, maintenance of sports fields, cleanfills, landfills and quarrying and archaeological excavations are excluded from the definition of earthworks, as are the digging and filling of holes and trenches.

EXISTING SLOPE [for the purpose of Chapters 19A and 19B (Earthworks)]: is a section of sloping ground that falls at the same angle. It is measured horizontally and vertically, from where the slope of the same angle starts to where it finishes. It does not include any existing bank or wall less than 0.6 metres high measured vertically, where the bank or wall will be removed by an earthworks cut or covered by an earthworks fill.



HOLE means, in relation to the earthworks rules, a hole dug for fences or other minor structures, on any part of a site or on a slope of any angle, where the structures does not retain ground and the hole does not exceed 0.6 metre in diameter. Minor structures are such things as low decks, letterboxes, clotheslines and children's play equipment.

STREAM: means a continually or intermittently flowing body of fresh water and includes a modified watercourse. For the purposes of the District Plan a stream's area is defined as the area which its water covers at its fullest flow or highest level, without overtopping its banks or margins.

TRENCH means in relation to the earthworks rules, a long narrow excavation for the purpose of installing drainage, irrigation or service connections.

Where the trench is excavated across an existing slope that is steeper than 2 horizontal to 1 vertical (approximately 26^o), it is recommended that the trench is excavated, the pipe or line laid, and the trench is backfilled, in one sequence, to minimise the risk of instability.

WATERBODY: has the meaning contained within the Act. For the purposes of this District Plan a waterbody's area is defined as the area which its water covers at its fullest flow or highest level, without overtopping its banks or margins.

WETLAND: includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

4.2 Residential Objectives and Policies

4.2.2.5 ~~Manage any adverse effects of earthworks.~~

METHODS

- ~~Rules~~
- ~~Other mechanisms (WCC Bylaws)~~

~~Earthworks associated with land development and building is an essential activity throughout the Residential Area. The Plan therefore allows most forms of earthworks but retains controls to prevent unnecessary visual scarring of the landscape. Issues concerning the safety of earthworks are dealt with by the City Bylaws.~~

~~4.2.5.3 Ensure that any approved earthworks are designed and engineered to reflect natural landforms.~~

~~**METHODS**~~

- ~~• Rules~~
- ~~• Design Guide (Subdivision)~~
- ~~• Other mechanisms (WCC Bylaw Part 8) (Earthworks)~~

~~*Because excavations or earth fills can leave unnatural forms or unsightly scars which detract from the amenities of an area, Council considers that controls on such activities are necessary. The city bylaws control earthworks to ensure that they are properly engineered, whereas the District Plan provisions enable amenity considerations to be assessed.*~~

~~*The environmental result will be to ensure that earthworks, when completed, will not cause a visual detraction.*~~

4.2.7.4 Ensure that earthworks and structures in Residential Areas do not exacerbate natural hazards, particularly flood events.

METHOD

- Rules

Earthworks and large structures have the potential to increase the degree of risk associated with flooding. Where they are proposed for flood-prone areas they will be controlled to ensure that they do not increase the flood hazard.

Matters to consider in assessing applications for earthworks and associated structures include:

- *Whether earthworks in a Hazard (Flooding) Area increase the risk of flooding, by such effects as blocking flood water flow paths and culverts, and diverting flood waters to other properties*
- *Whether the earthworks in a Hazard (Flooding) Area reduce the risk or effects of flooding*
- *The extent that the proposed earthworks and associated structures will be designed to use 'soft engineering' practices, which are visually unobtrusive and minimise or enhance the ecology of the stream and flood-prone area.*

The environmental result will be the minimisation of hazard risks on flood plains or flood-prone areas.

5.1 Residential Permitted Activities

~~5.1.9 Earthworks are Permitted Activities provided that they comply with the following conditions:~~

For subdivision of Lot 1 DP 25046 and Pt Sec 10 Kaiwharawhara District above Patna Street and Huntleigh Park Way, Ngaio refer to Appendix 17

~~5.1.9.1 That existing ground level is not to be altered by more than 2.5 metres measured vertically.~~

~~5.1.9.2 That total area of ground surface disturbance is less than 250m².~~

For Ridvan Gardens, off Downing Street, Ngaio refer to Appendix 16

~~5.1.9.3 That earthworks do not take place in Hazard (Flooding) Areas.~~

~~5.1.9.4 That earthworks are not undertaken on slopes of more than 45°.~~

~~5.1.9.5 That no earthworks are carried out within 5 metres of a waterbody or the coastal marine area.~~

~~5.1.9.6 That no contamination, including siltation, of any waterbody or coastal water occurs.~~

~~5.1.9.7 Nothing in rules 5.1.9.1 to 5.1.9.5 shall apply to utilities which are a Permitted Activity.~~

5.1.11 Except for company lease, cross lease and unit title subdivision, any subdivision around an existing lawfully established residential building which does not result in the creation of any new undeveloped allotment that contains no residential building is a Permitted Activity provided that it complies with the following conditions:

...

5.1.11.5 Any earthworks and any associated structures are authorised by rule ~~5.1.9~~ 19B.1.1

...

5.2 Controlled Activities

5.2.5 Any subdivision that is not a Permitted Activity and;

(a) creates five or less allotments, except those that:

- create more than 10 linear metres of legal road;
or
- are on a ridgeline or a hilltop; or
- involves a requirement to set aside esplanade land;

is a Controlled Activity in respect of:

5.2.5.1 site design, frontage and area

5.2.5.2 standard, construction and location of vehicular access

5.2.5.3 road design and construction

5.2.5.4 earthworks

*For subdivision of
Lot 1 DP 25046 and
Pt Sec 10*

*Kaiwharawhara
District above Patna
Street and Huntleigh
Park Way, Ngaio
refer to Appendix 17*

*For Subdivision of
Lot 1 DP 29604 off
the end of*

*Silverstream Road,
Ngaio refer to
Appendix 12*

*For subdivision of
Lot 3 DP 71465 and
Lot 33 DP 1022 off
Allanbrooke Place
refer to Appendix 13*

5.2.5.5 landscaping

5.2.5.6 utility and/or services provision

5.2.5.7 protection of any special amenity feature.

(b) is a company lease, cross lease or unit title
subdivision is a **Controlled Activity** in respect of:

5.2.5.8 stormwater, sewerage and water services

**5.2.5.9 the allocation of accessory units to principal units and
the allocation of covenant areas to leased areas to
ensure compliance with rule 5.1.1.2 (vehicle parking)
and to ensure practical physical access to every
household unit.**

*For subdivision of
Lot
29, DP 1747 off
Freeling Street,
Island Bay refer to
Appendix 20*

Non-notification

The written approval of affected persons will not be necessary in respect of items 5.2.5.1 to 5.2.5.9. [Notice of applications need not be served on affected persons]¹ and applications need not be notified.

Standards and Terms

[All activities, buildings and structures (existing and proposed) must meet the conditions for vehicle parking (5.1.1.2), site access (5.1.1.3) and building (5.1.3) in relation to all existing and proposed fee simple allotments **or** meet the terms of any relevant resource consent **or** have **existing use rights under section 10 of the Act.**]²

Assessment Criteria

In determining the conditions to be imposed, if any, Council will have regard to the following criteria:

- 5.2.5.10 The requirements of Section 106 of the Act.
- 5.2.5.11 Whether proposed allotments are capable of accommodating Permitted Activities in compliance with the Residential Area rules **(except for rule 19B.1.1.1, earthworks stability)**
- 5.2.5.12 The extent of compliance with the relevant parts of the Subdivision Design Guide, City Bylaws and if applicable the Council's Code of Practice for Land Development.
- 5.2.5.13 In respect of cross lease or unit title subdivisions:
- the need for permanent site access and access to and around buildings
 - the current and future allocation for use of land area, accessory buildings and amenities
 - the need to service and use land and buildings efficiently.

5.3 Discretionary Activities (Restricted)

5.3.9 Earthworks that do not comply with the conditions for Permitted Activities are a Discretionary Activity (Restricted) in respect of:

5.3.9.1 the alteration or disturbance of the ground

5.3.9.2 the degree of slope

5.3.9.3 the undertaking of earthworks in a Hazard (Flooding) Area

5.3.9.4 the undertaking of earthworks within 5 metres of a waterbody or the coastal marine area.

For earthworks on Lot 1 DP 29604 off the end of Silverstream Road, Ngaio refer to Appendix 12

Standards and Terms

[There are no standards and terms.][†]

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:

5.3.9.5 The extent to which any earth cut or fill will remove existing vegetation, alter existing landforms, affect water quality, cause or contribute to soil erosion or affect existing natural features, such as waterbodies.

5.3.9.6 The extent to which any cut or fill can be restored or treated to resemble natural landforms. Council will seek to avoid the creation of unnatural scar faces.

~~5.3.9.7 — The extent to which any earthworks may impact on prominent or visually sensitive situations, including the coastal marine area, ridgelines, cliffs, escarpments and waterbodies.~~

~~5.3.9.8 — The necessity for carrying out the works.~~

~~5.3.9.9 — Whether the earthworks proposed increase or decrease flood hazards.~~

~~5.3.9.10 — Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.~~

~~5.3.9.11 — The effects on any water body or the coastal marine area arising from the contaminants associated with earthworks.~~

~~5.3.9.12 — Rule 5.3.9 shall not apply to a subdivision where earthworks is controlled or subject to a discretion in the grant or refusal of a subdivision consent.~~

~~*Council's Earthworks Bylaw (Part 8) is designed to ensure that any earthworks are properly engineered and will be safe. Council is also concerned that earthworks should not adversely affect existing landforms or detract from the amenities of an area. Discretionary control has therefore been imposed so that any proposal may be evaluated.*~~

Appendix 12. Particular provisions for the land described as Lot 1 DP 29604, CT 49D/212 (Wellington Registry) off the end of Silverstream Road, Ngaio

The following provisions were the result of settling the District Plan reference filed by Pavan Lands Limited (RMA 586/96) by Environment Court Consent Order dated 20/08/98.

1. Rule 5.2.5 of the Plan (relating to controlled subdivision) shall not apply and the following rule will apply:

All subdivision on the land which is not a Permitted Activity shall be a Discretionary (Unrestricted) Activity.

2. Rule **5.3.9 19B.1.1** of the Plan (relating to earthworks) shall not apply and the following rule will apply:

All earthworks and associated structures, which are not a Permitted Activity will be a Discretionary Activity (Restricted) in respect of:

1. ~~The alteration or disturbance of the ground earthworks stability~~

2. ~~The degree of the slope erosion, dust and sediment~~

3. ~~The undertaking of earthworks in a Hazard (Flooding) Area flooding hazard~~

4. ~~The undertaking of earthworks within 5m of a water body or the coastal marine area earthworks associated with streams and wetlands~~

5. ~~Visual amenity – general~~

6. ~~Transport of material~~

5. 7. The effects on any water body or coastal water arising from contaminants associated with earthworks

6. 8. Erosion, falling debris, subsidence, slippage, or inundation from any source.

Non-notification

There will be no express provision to enable applications to be considered without the need to obtain the written approval of affected persons.

Standards and terms

~~The conditions for earthworks in rule 5.1.9 may be waived totally.~~

Assessment Criteria

In deciding whether to grant consent and what conditions, if any, to impose, in relation to the land Council will have regard to the following criteria:

~~7. The extent to which any earth cut or fill will remove existing vegetation, alter existing landforms, affect water quality, cause or contribute to soil erosion or affect existing natural features, such as waterbodies.~~

~~8. The extent to which any cut or fill can be restored or treated to resemble natural landforms. Council will seek to avoid the creation of unnatural scar faces.~~

~~9. The extent to which any earthworks may impact on prominent or visually sensitive situations, including the coastal marine area, ridgelines, cliffs, escarpments and waterbodies.~~

~~10. The necessity for carrying out the works.~~

~~11. Whether the earthworks proposed increase or decrease flood hazards.~~

~~12. This rule shall not apply to a subdivision where earthworks is controlled or subject to a discretion in the grant or refusal of a subdivision consent.~~

~~7. The extent to which the earthworks and any associated structures will meet Policies 19A.2.1.1 to 19A.2.1.6, and 19A.2.1.9.~~

13. Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.

14. The extent to which any earthworks will cause adverse effects in terms of erosion, falling debris, subsidence, slippage or inundation from any source.

~~Council's earthworks bylaw (Part 8)~~ Policy 19A.2.1.2 is designed to ensure that any earthworks are properly engineered and will be safe. Council is also concerned that earthworks should not adversely affect existing land forms or detract from the amenities of an area. Discretionary control has therefore been imposed so that any proposal may be evaluated.

With regard to the land situated in Silverstream Road, and more particularly described as Lot 1 on Deposited Plan 29604, CT 49D/212 (Wellington Registry), earthworks must be carefully considered through the resource consent process to ensure that any adverse environmental effects, in particular land stability issues, are avoided, remedied or mitigated.

Appendix 17. Subdivision of Lot 1 DP 25046 & Pt Sec 10 Kaiwharawhara District above Patna Street and Huntleigh Park Way, Ngaio

The following provisions were the result of settling the District Plan Reference filed by Kilmarston Properties Limited and Stately Pleasure Dome Limited (RMA 482/96) by Environment Court Consent Order dated 10/08/98.

Subdivision

Rule 5.2.5 of the District Plan relating to subdivision as a Controlled Activity does not apply to Lot 1 DP 25046 and Pt Sec 10 Kaiwharawhara District and all subdivision which is not a Permitted Activity is a Discretionary Activity (Unrestricted).

Rule 5.4.5 of the District Plan relating to subdivision as a Discretionary Activity (Unrestricted) includes the following additional standards and terms in respect of Lot 1 DP 25046 and Pt Sec 10 Kaiwharawhara District:

- On Pt Sec 10 Kaiwharawhara District the maximum number of allotments shall be 30
- On Lot 1 DP 25046 the maximum number of allotments shall be 11.

Subdivisions exceeding the maximum number of allotments will be a Non-Complying Activity.

Residential Buildings

Rule 5.1.3 of the District Plan relating to the construction of residential buildings including accessory buildings does not apply to the areas identified by shading on Map 1 attached to this appendix. Building within the identified areas will be a Non-Complying Activity.

Rule 5.1.3.1 of the District Plan relating to the number of household units on a site includes the following additional conditions in respect of Lot 1 DP 25046 and Pt Sec 10 Kaiwharawhara District:

- On Pt Sec 10 Kaiwharawhara District no more than one household unit shall be permitted on any allotment and rule 5.3.4 does not apply.
- On Lot 1 DP 25046 no more than one household unit shall be permitted on any allotment and rule 5.3.4 does not apply.

Additional household units on a site will be a Non-Complying Activity.

Earthworks

Rule 5.1.9 19B.1.1 of the District Plan does not apply to the areas identified by shading on the map attached to this appendix and all earthworks in these areas are a Discretionary Activity (Restricted) under rule **5.3.9 19B.2.1**

7.1 Suburban Centres Permitted Activities

7.1.5 Any activity relating to the upgrade and maintenance of existing formed roads and public accessways including associated earthworks, except the construction of new legal road, is a Permitted Activity.

7.2 Controlled Activities

7.2.5 In the Tawa Hazard (Flooding) Area

- earthworks; or
- the construction, alteration of, and addition to buildings, including accessory buildings;

which are more than 5 metres from the Porirua Stream and have a floor level above the 1 in 100 year flood event are Controlled Activities in respect of:

7.2.5.1 the level, extent and gradient of earthworks

7.2.5.2 building location within the site

7.2.5.3 building floor area

7.2.5.4 the displacement of flood waters from the site.

“For the purposes of clarification, this rule does not apply to network utility infrastructure, as they are provided for in ‘Section 23. Utility Rules’ of the District Plan.”

Non-notification

The written approval of affected persons will not be necessary in respect of items 7.2.5.1, 7.2.5.2, 7.2.5.3 and 7.2.5.4. [Notice of applications need not be served on affected persons]² and applications need not be notified.

Standards and Terms

This activity must comply with the conditions specified for activities in rules 7.1.1 and 7.1.2 unless consents are concurrently sought and granted under rules 7.3.1, 7.3.2, 7.3.5 and 7.3.6 for those conditions not met.

All earthworks and associated structures must meet the conditions under rule 19B.1.1 unless consent is concurrently sought and granted for the condition(s) not met.

Assessment Criteria

In determining the conditions to be imposed, if any, Council will have regard to the following criteria:

- 7.2.5.5 Whether the undertaking of earthworks, or the size or siting of the building will impede the flow of flood waters.
- 7.2.5.6 Whether the earthworks, building or associated works will accelerate, worsen or result in the erosion or inundation of the site, or any other site or building.
- 7.2.5.7 The extent that the proposed earthworks and associated structures will be designed to use 'soft engineering' practices, which are visually unobtrusive and minimise or enhance the ecology of the stream and the flood-prone area.

Flooding problems exist in the Porirua Stream catchment. To protect the safety of building occupants, the Council will generally require that building floor levels are above the predicted flood levels for the 1 in 100 year flood event. The detail of flood depths for land within the Tawa Hazard (Flooding) Area is held by Wellington City Council. These depths are based on the best information available to the Council and vary with the topography of the area. New building development has been included as a Controlled Activity to ensure that earthworks and the location or size of any building on a site does not impede the flow of flood waters and the flooding risk is not increased for other properties or sites.

7.3 Discretionary Activities (Restricted)

7.3.7 In the Tawa Hazard (Flooding) Area

- earthworks; or
- the construction, alteration of, and addition to buildings, including accessory buildings;

which are more than 5 metres from the Porirua Stream, that are not Controlled Activities, are Discretionary Activities (Restricted) in respect of:

7.3.7.1 the level, extent and gradient of earthworks

7.3.7.2 building floor levels

7.3.7.3 building location within the site

7.3.7.4 the displacement of flood waters from the site.

“For the purposes of clarification, this rule does not apply to network utility infrastructure, as they are provided for in ‘Section 23. Utility Rules’ of the District Plan.”

Non-notification

The written approval of affected persons will not be necessary in respect of items 7.3.7.1, 7.3.7.2, 7.3.7.3 and 7.3.7.4. [Notice of applications need not be served on affected persons]¹ and applications need not be notified.

Standards and Terms

This activity must comply with the conditions specified for activities in rules 7.1.1 and 7.1.2 unless consents are concurrently sought and granted under rules 7.3.1, 7.3.2, 7.3.5 and 7.3.6 for those conditions not met.

All earthworks and associated structures must meet the conditions under rule 19B.1.1 unless consent is concurrently sought and granted for the condition(s) not met.

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:

- 7.3.7.5 Whether the undertaking of earthworks, or the size or siting of the building will impede the flow of flood waters.
- 7.3.7.6 Whether the earthworks, building or associated works will accelerate, worsen or result in the erosion or inundation of the site, or any other site or building.
- 7.3.7.7 Whether the potential threat to the health and safety of people, property or the environment from flooding is avoided, remedied or mitigated.
- 7.3.7.8 The extent that the proposed earthworks and associated structures will be designed to use 'soft engineering' practices, which are visually unobtrusive and minimise or enhance the ecology of the stream and the flood-prone area.
- 7.3.7.9 Flooding problems exist in the Porirua Stream catchment. To protect the safety of building occupants, the Council will generally require that building floor levels are above the predicted flood levels for the 1 in 100 year flood event. The detail of flood depths for land within the Tawa Hazard (Flooding) Area is held by Wellington City Council. These depths are based on the best information available to the Council and vary with the topography of the area. Buildings with floor levels below the predicted flood levels have been made a Discretionary Activity (Restricted) to ensure that the implications of such development is fully considered. Earthworks below the predicted flood levels have similarly been made a Discretionary Activity (Restricted) to ensure a full

assessment of the works. The Council will also require that earthworks and the location or size of any building on a site does not impede the flow of flood waters and the flooding risk is not increased for other properties or sites.

7.3.8 In the Takapu Hazard (Flooding) Area

- earthworks; or
- the construction, alteration of, and addition to buildings, including accessory buildings;

which are more than 5 metres from the Takapu Stream, are Discretionary Activities (Restricted) in respect of:

7.3.8.1 the level, extent and gradient of earthworks

7.3.8.2 building floor levels

7.3.8.3 building location within the site

7.3.8.4 the displacement of flood waters from the site.

“For the purposes of clarification, this rule does not apply to network utility infrastructure, as they are provided for in ‘Section 23. Utility Rules’ of the District Plan.”

Non-notification

The written approval of affected persons will not be necessary in respect of items 7.3.8.1, 7.3.8.2, 7.3.8.3 and 7.3.8.4. [Notice of applications need not be served on affected persons]¹ and applications need not be notified.

Standards and Terms

This activity must comply with the conditions specified for activities in rules 7.1.1 and 7.1.2 unless consents are concurrently sought and granted under rules 7.3.1, 7.3.2, 7.3.5 and 7.3.6 for those conditions not met.

All earthworks and associated structures must meet the conditions under rule 19B.1.1 unless consent is concurrently sought and granted for the condition(s) not met.

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:

- 7.3.8.5 The effect of the earthworks, building or associated works on the flood hazard.
- 7.3.8.6 Whether the earthworks, building or associated works will accelerate, worsen or result in the erosion or inundation of the site, or any other site or building.
- 7.3.8.7 Whether the potential threat to the health and safety of people, property or the environment from flooding is avoided, remedied or mitigated.
- 7.3.8.8 Whether any additional flood detention area can be provided on site to mitigate any reduction in the total detention volume for flood waters from the building, earthworks, or associated works.
- 7.3.8.9 The extent that the proposed earthworks and associated structures will be designed to use 'soft engineering' practices, which are visually unobtrusive and minimise or enhance the ecology of the stream and the flood-prone area.

The land adjacent to the Takapu Stream, and identified on the District Plan Maps as the Takapu Hazard (Flooding) Area, is prone to inundation during periods of high rainfall. To protect the safety of building occupants, the Council will generally require that floor levels are above the predicted flood levels. Earthworks, buildings or structures must ensure that the flood hazard is not worsened and that works do not cause or increase erosion or inundation of buildings or sites.

Flood water detention volumes should not be reduced by future development and Council will consider whether any new development should provide on site compensatory flood water storage capacity.

7.4 Residential Discretionary Activities (Unrestricted)

7.4.7 Earthworks, and the construction, alteration of, and addition to, buildings, including accessory buildings, less than 5 metres from the Porirua Stream within the Tawa Hazard (Flooding) Area, and the Takapu Stream within the Takapu Hazard (Flooding) Area, are Discretionary Activities (Unrestricted).

“For the purposes of clarification, this rule does not apply to network utility infrastructure, as they are provided for in ‘Section 23. Utility Rules’ of the District Plan.”

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:

- 7.4.7.1 The effect of the earthworks, building or associated works on the flood hazard.
- 7.4.7.2 The extent to which the earthworks will affect water quality, or cause or contribute to soil erosion.
- 7.4.7.3 Whether the potential threat to the health and safety of people, property or the environment from flooding is avoided, remedied or mitigated.
- 7.4.7.4 Whether any additional flood detention area can be provided on site to mitigate any reduction in the total detention volume for flood waters from the earthworks, building or associated works.

7.4.7.5 The extent that the proposed earthworks and associated structures will be designed to use 'soft engineering' practices, which are visually unobtrusive and minimise or enhance the ecology of the stream and the flood-prone area.

Council is concerned that earthworks and buildings within 5 metres of the Porirua and Takapu Streams could impede the flow of flood waters and increase the risk of flooding to other properties in the respective catchments. In addition, contaminants could affect the water quality and erosion could be increased. Earthworks and buildings in this situation have therefore been made a Discretionary Activity (Unrestricted) to ensure that the effects of such development are fully considered.

Flood water detention volumes should not be reduced by future development and Council will consider whether any new development should provide on site compensatory flood water storage capacity.

9.1 Institutional Precincts

9.1.4 Any activity relating to the upgrade and maintenance of existing formed roads and **public** accessways **including associated earthworks**, except the construction of new legal road, is a Permitted Activity.

11A Airport Area Permitted Activities

11.1.4 Any activity relating to the upgrade and maintenance of existing formed roads and **public** accessways **including associated earthworks**, except the construction of new legal road, is a Permitted Activity.

11B Golf Course Recreation Area

Permitted Activities

11.5.2 Any use, construction, removal, demolition, repair, alteration of or addition to buildings and structures ~~together with any excavation or other disturbance of land~~ are is Permitted Activities provided that they comply with the following conditions:

11.5.3 Any activity relating to the upgrade and maintenance of existing formed roads and **public** accessways including associated earthworks, except the construction of new legal road, is a Permitted Activity.

13.1 Central Area Permitted Activities

13.1.6 Any activity relating to the upgrade and maintenance of existing formed roads and public accessways including associated earthworks, except the construction of new legal road, is a Permitted Activity.

13B Te Ara Haukawakawa Precinct Rules

13.14.4 Any activity relating to the upgrade and maintenance of existing formed roads and public accessways including associated earthworks, except the construction of new legal road, is a Permitted Activity.

13C Te Ara Haukawakawa Precinct Rules – Stadium Site Rules

13.20.4 Any activity relating to the upgrade and maintenance of existing formed roads and public accessways including associated earthworks, except the construction of new legal road, is a Permitted Activity.

14.2 Rural Area Objectives and Policies

14.2.7.4 Ensure that earthworks and structures in the Rural Area do not exacerbate natural hazards, particularly flood events.

METHOD

- Rules

Earthworks and large structures have the potential to increase the degree of risk associated with flooding. Where they are proposed for flood plains or flood-prone areas they will be controlled to ensure that they do not increase the flood hazard.

Matters to consider in assessing applications for earthworks and associated structures include:

- *Whether earthworks in a Hazard (Flooding) Area will impede the flow of flood waters*
- *Whether the earthworks in a Hazard (Flooding) Area will reduce the risk or effects of flooding*
- *Whether earthworks in a Hazard (Flooding) Area will accelerate, worsen or result in erosion or inundation of the site, or any other site or building*
- *In a Hazard (Flooding) Area, whether the potential threat to the health and safety of people, property or the environment from flooding is avoided, remedied or mitigated*
- *The extent that the proposed earthworks and associated structures will be designed to use 'soft engineering' practices, which are visually unobtrusive and minimise or enhance the ecology of the stream and the flood-prone area.*

The environmental result will be the minimisation of hazard risks on flood plains or flood-prone areas.

15.1 Rural Area Permitted Activities

15.1.7 Any activity relating to the upgrade and maintenance of existing formed roads and public accessways including associated earthworks, except the construction of new legal road, is a Permitted Activity.

Appendix 3: Woodridge Estate, Newlands - Development of Area Subject to Consent Order as per the attached map

The following provisions were the result of settling the District Plan reference filed by Woodridge Estates Limited (RMA 595/96) by Environment Court Consent Order dated 18/10/99.

Subdivision

Subdivision must be assessed in accordance with rule ~~15.4.5~~ 15.4.7 except that the additional standards and terms, and assessment criterion will apply as set out below.

Standards and terms

The residential allotment number and size must not exceed the following:

Map area	Maximum number of residential allotments	Minimum allotment size
Area A	13	3,900m ²
Area B	11	6,400m ²
Area C	5	8,000m ²
Total:	29	-

[Note: The dotted area on the attached map can be used for the calculation of minimum allotment size. For the avoidance of doubt the 50ha minimum allotment size applies to the cross hatched area on the attached map.]

Building sites must be identified and secured at the time of subdivision by covenant or consent notice.

Restrictions by way of covenant or consent notice must be placed on the new allotments so that they will not be further subdivided, and that there will be no more than one household unit per allotment.

Assessment criteria

That building sites are located to avoid, remedy or mitigate adverse effects of buildings on the ridgeline, rural/residential character, and the visual effect of the proposed buildings when viewed from the dwelling at 277 Horokiwi Road.

Buildings, Accessory Buildings and Earthworks

Rules 15.1.4 and 15.4.2 do not apply to buildings and accessory buildings that are located in the dotted area. Buildings and accessory buildings in these areas will be assessed as a Non-Complying Activity.

Rule ~~15.1.4~~ 19B.1.2 does not apply to earthworks in the dotted area. Earthworks in this area ~~is~~ are to be assessed under rule ~~15.4.2~~ 19B.2.1

All buildings, accessory buildings and earthworks in the remainder of Areas A, B and C must be assessed as appropriate in accordance with rules 15.4.1 and 15.4.2 and 19B.2.1, except that the additional assessment criteria will apply as set out below.

Assessment Criteria

The extent to which design and siting of dwellings avoid, remedy or mitigate adverse effects of buildings on the ridgelines, rural/residential character and the visual effect of the proposed buildings or **earthworks** when viewed from the dwelling at 277 Horokiwi Road.

Explanation to Appendix 3

This appendix was agreed as a result of settling the District Plan reference from Woodridge Estates Limited by consent (Environment Court Consent Order dated 18/10/99).

The resolution of this appeal has recognised that part of the Woodridge Estates land (shown as A, B and C on the attached map) is suitable for rural/residential development provided that the effects of subdivision are managed. Successful development of this site will require a mixture of reserve development, minimum allotment size, restrictions on the number of household units or on further subdivision, and the siting and design of buildings.

The cross-hatched and dotted area identifies the predominant ridgeline. The cross-hatched area is subject to the Rural Area rules. Development on the areas marked A, B and C is mitigated by requiring buildings to be located off the ridgeline. Some of the area sought to be protected has been recognised as being able to be included in the rural/residential lots. There is an expectation that this land (i.e. the dotted area) will be subject to covenants to protect it from development. Accordingly, the dotted area is subject to more stringent rules affecting buildings, accessory buildings and earthworks than the rest of areas A, B and C to first discourage development, and second to ensure that any proposals to develop the area takes into account the visual and rural character features of the covenanted area itself, and the balance of the land in Appendix 3. Adequate long term protection of the cross hatched area will be discussed with Council at the time of subdivision and will be a key to mitigating the effects of developing areas A, B and C.

A lower minimum lot size has been allowed in area A because it is contiguous with the existing Newlands residential area to the south. The topography of the land in Appendix 3 is such that the provision of the predominant ridgeline has provided a natural buffer between the more residential type development to the south, and the rural/residential areas of Horokiwi to the north.

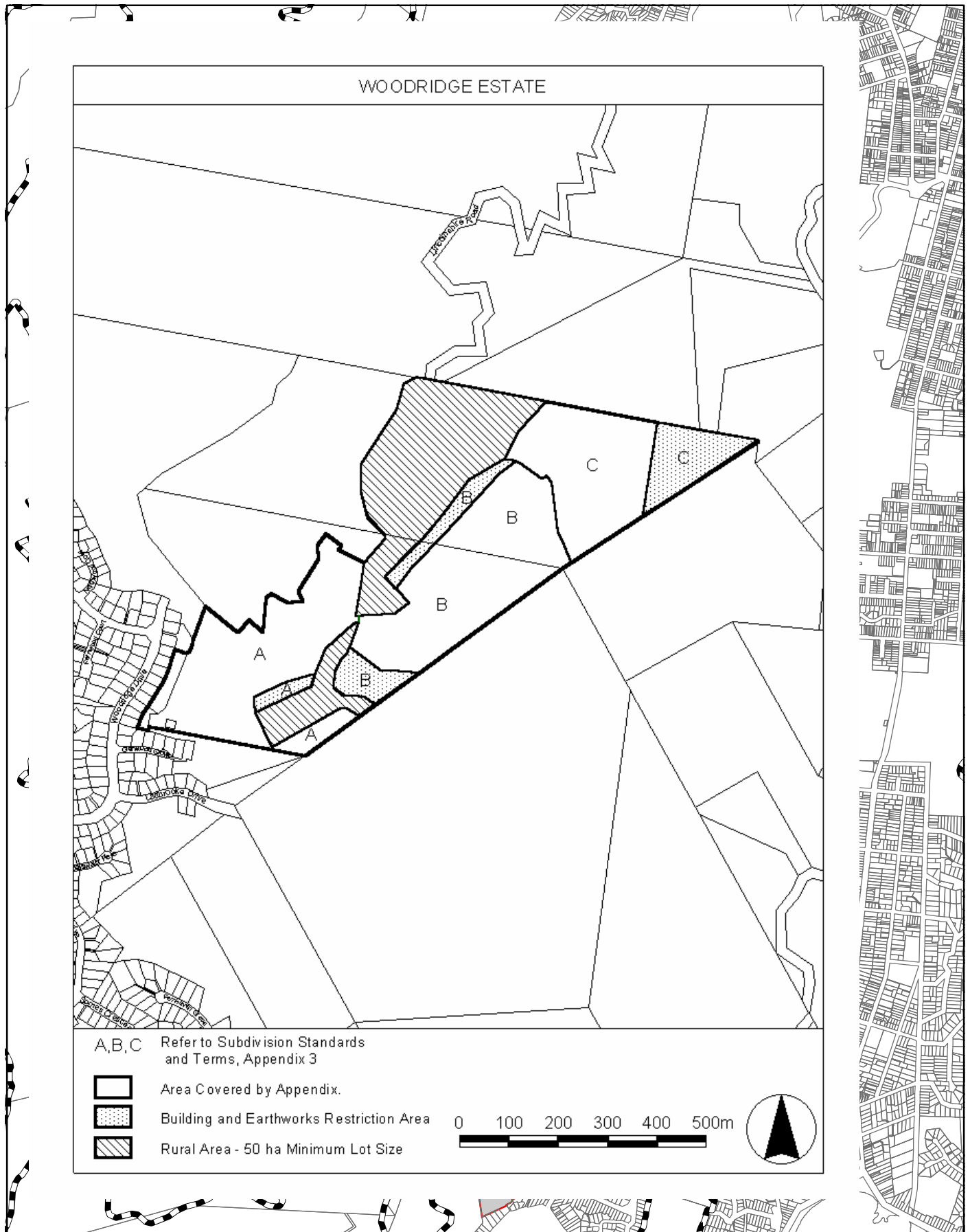
Issues relating to the appropriate transition between residential and rural/residential areas bordering the existing rural/residential Horokiwi area will need to be addressed in the future.



Notwithstanding these controls, and because of the prominent visual features of the land, it is still important that proposals are assessed through the consent process to more particularly assess the effects of development. This appendix has been agreed on following a long process of discussions and an Environment Court mediation.

In addition to being considered under the subdivision rules consent, consent will be required under either rule 15.4.1 or 15.4.2. However as visual issues have been largely addressed through the resolution of RMA 595/96 (and the location of building sites through the subdivision process), the focus of the assessment under these rules is the detailed design of buildings within the areas marked A, B and C. Further, as any development will take place on allotments that contravene the conditions of rule 15.1.3 (in particular the first bullet point) consent will also be required under rule 15.3.1.

Other land owned by Woodridge Estates, in particular the land to the north west, remains subject to the 50ha minimum lot size requirement. The explanation to rule 15.4.5 (in particular the part relating to Greenfield Subdivision in the Rural Area) applies to this land.

Appendix 4 - West of Ohiro Road and South of Panorama Heights, Brooklyn - Area where Subdivision Rule 15.4.6 applies



-  Identified ridgelines and hilltops
-  Rural land where subdivision is provided as a Discretionary Activity (Unrestricted) under Rule 15.4.6



1:20,000

0 315 630 1,260 Metres

17.1 Open Space Permitted Activities

17.1.6 Earthworks involving the relocation of earth within the site are Permitted Activities provided that they comply with the following conditions:

*For Section 105
Ohariu District,
West of Cortina
Avenue,
Johnsonville refer
to*

Appendix 2

~~17.1.6.1 That the existing ground level is not altered by more than 1.5 metres measured vertically.~~

*[This rule does not
apply to the Chest*

~~17.1.6.2 That the ground surface disturbance is less than 100m².~~

Hospital Heritage

~~17.1.6.3 That earthworks do not take place in Hazard (Flooding) Areas.~~

Area (Lot 4 DP

316137). Rule

17.2.5 applies.][†]

~~17.1.6.4 That earthworks are not undertaken on slopes of more than 45°.~~

~~17.1.6.5 That no earthworks are carried out within 5 metres of a waterbody or the coastal marine area.~~

~~17.1.6.6 That no contamination, including siltation, of any waterbody or coastal water occurs.~~

~~17.1.6.7 The construction and maintenance of tracks for pedestrian access is excluded from these conditions.~~

17.1.14 Any activity relating to the upgrade and maintenance of existing formed roads and public accessways including associated earthworks, except the construction of new legal road, is a Permitted Activity.

17.3 Discretionary Activities (Unrestricted)

17.3.3 The removal, relocation or deposit of earth which is not a Permitted Activity is a Discretionary Activity (Unrestricted).

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose Council will have regard to the following criteria:

17.3.3.1 The extent to which any earth cut or fill will remove existing vegetation, alter existing landforms, affect water quality, or affect existing natural features, such as waterbodies.

17.3.3.2 The extent to which any cut or fill can be restored or treated to resemble natural landforms. Council seeks to avoid the creation of unnatural scar faces.

17.3.3.3 The extent to which any earthworks may impact on prominent or visually sensitive situations, including the coastal marine area, ridgelines, cliffs, escarpments and waterbodies.

17.3.3.4 The necessity for carrying out the works.

17.3.3.5 Whether the earthworks proposed increase or decrease flood hazards.

17.3.3.6 Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.

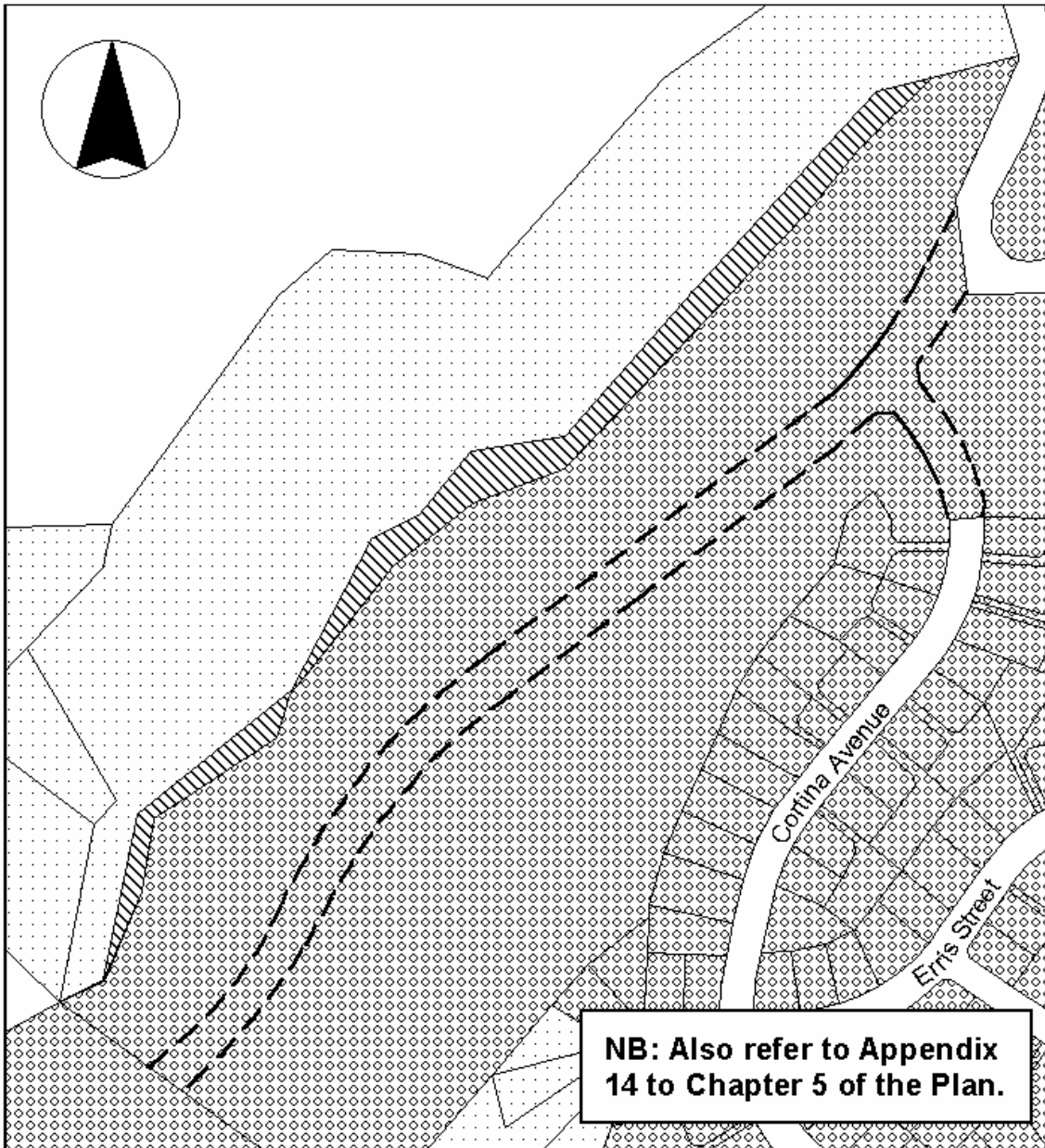
Council's Earthworks Bylaw (Part 8) is designed to ensure that any earthworks are properly engineered and will be safe. Council is concerned that earthworks should not adversely affect existing landforms or detract from the amenities of an area. Discretionary control is imposed so that any proposal may be evaluated.

Appendix 2. Section 105, Ohariu District Ct 4A/80 (Wellington Registry), West of Cortina Avenue, Johnsonville






The following provisions were the result of settling the District Plan reference filed by James McDonnell Limited by Environment Court Consent Order No RMA 485/96 dated 19/10/1998.

Specific rules relating to the Open Space B area identified by hatching on the map attached to this appendix being part of section 105, Ohariu District, CT 4A/80 (Wellington Registry) (“the area”).

1. The area will be mapped Open Space B.
2. The provision of Chapters 16 and 17 (Open Space objectives, policies and rules) of the Plan will apply to the area except that earthworks **and associated structures** in the area will be subject to the relevant provisions for a Residential Area in **of Chapters 4 and 5 (residential provisions) Chapters 19A and 19B: Earthworks** of the Plan.



NB: Also refer to Appendix 14 to Chapter 5 of the Plan.

 Area within Open Space B Zone where Residential Area Earthworks Provisions apply.	 Open Space B
	 Outer Residential
	 Rural
	 New Road Alignment



Legal Description McDonnell Property: Johnsonville Pt Section 105 Ohariu District CT 41A/80 (Wellington Registry)

Road Alignment changed by Decision Report No.3018, Hearing Code xx30 and xx30.5, January 1998.

19.1 Conservation Site Permitted Activities

19.1.4 Any activity relating to the upgrade and maintenance of existing formed roads and **public** accessways **including associated earthworks**, except the construction of new legal road, is a Permitted Activity.

~~19.1.5 Earthworks involving the relocation of earth within the site are Permitted Activities, provided they comply with the conditions listed below however the construction and maintenance of tracks for pedestrian access, where such track has a width of 1.5 metres or less need not comply with these conditions:~~

~~19.1.5.1 The existing ground level is not altered by more than 1.5 metres measured vertically.~~

~~19.1.5.2 The ground surface disturbance is less than 100m².~~

~~19.1.5.3 Earthworks do not take place in Hazard (Flooding) Areas.~~

~~19.1.5.4 Earthworks are not undertaken on slopes of more than 45^o.~~

~~19.1.5.5 No earthworks are carried out within 5 metres of a waterbody or the coastal marine area.~~

~~19.1.5.6 No contamination, including siltation, of any waterbody or coastal water occurs.~~

19.4 Discretionary Activities (Unrestricted)

19.4.2 The removal, relocation or deposit of earth which is not a Permitted Activity is a Discretionary Activity (Unrestricted).

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose Council will have regard to the following criteria:

19.4.2.1 The necessity for carrying out the works.

19.4.2.2 The extent to which any earth cut or fill will remove existing vegetation, alter existing landforms, affect water quality, or affect existing natural features, such as waterbodies.

19.4.2.3 The extent to which any cut or fill can be restored or treated to resemble natural landforms. Council seeks to avoid the creation of unnatural scarp faces.

19.4.2.4 The extent to which any earthworks would impact on prominent or visually sensitive situations, including the coastal marine area, ridgelines, cliffs, escarpments and waterbodies.

19.4.2.5 Whether the earthworks proposed increase or decrease flood hazards.

Council's Earthworks Bylaw (Part 8) is designed to ensure that any earthworks are properly engineered and will be safe. Council is concerned that earthworks should not adversely affect existing landforms or detract from the amenities of an area. Discretionary control is imposed so that any proposal may be evaluated.

23. UTILITY RULES

These provisions apply to utility network infrastructure dealt with in this chapter throughout all parts of the city. The area based objectives, policies and rules shall not apply to utility network infrastructure dealt with in this chapter except that the conditions that apply to Permitted Activities in respect of earthworks and associated structures (which apply for 19B.1.1.2 and 19B.1.2.2, erosion, dust and sediment; 19B.1.1.3 and 19B.1.2.3, earthworks and structures associated with streams and wetlands; 19B.1.1.4 and 19B.1.2.4; and 19B.1.1.8 and 19.1.2.6, transport of materials), noise, dust, lighting, electromagnetic radiation and hazardous substances apply to all activities in this chapter.

For the avoidance of doubt, references to the “Central Area” in this chapter include the Te Ara Haukawakawa Precinct.

For the avoidance of doubt, where utilities will be located on a site with a Hazard Area notation, the utility rules in this chapter applying to the underlying Area (e.g. Central Area, Residential Area etc.) will apply and the Hazard Area notation will only be relevant if the proposal is a utility structure and is to be dealt with under rules 23.2.1 or 23.4.1.

23. CONTROLLED ACTIVITIES

23.2.3 Subdivision to create an allotment for utility network purposes is a Controlled Activity in respect of:

23.2.3.1 site design, frontage and area

23.2.3.2 vehicular access

23.2.3.3 earthworks

23.2.3.4 landscaping

23.2.3.5 protection of any special amenity feature.

...

End of Appendix Two