



Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 8th day of September 2008

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 43 of the Resource Management Act 1991, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council (given on the recommendation of the Minister for the Environment after consultation in accordance with section 44 of that Act), makes the following regulations.

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Regulations

1 Title

These regulations are the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Interpretation

In these regulations, unless the context requires another meaning,—

antenna—

- (a) means a device that—
 - (i) receives or transmits radiocommunication or telecommunication signals; and
 - (ii) is operated by a network operator; and
- (b) includes the mount, if there is one, for the device; and
- (c) includes the shroud, if there is one, for the device

cabinet means a casing around equipment that is necessary to operate a telecommunication network

mount means a structure for attaching an antenna to an original utility structure or a replacement utility structure

network operator has the meaning given to it by section 5 of the Telecommunications Act 2001

original utility structure means a power pole, street light pole, traffic light pole, or structure like those kinds of poles, as it is before any of the following happens to it:

- (a) an antenna is added to it; or
- (b) it is modified to enable an antenna to be added to it; or
- (c) it is replaced to enable an antenna to be added to the replacement

replacement utility structure means—

- (a) an original utility structure that has an antenna added to it; and
- (b) an original utility structure that—
 - (i) is modified to enable an antenna to be added to it; and
 - (ii) has an antenna added to it; and
- (c) a replacement of an original utility structure that—
 - (i) replaces the original utility structure to enable an antenna to be added to the replacement; and
 - (ii) has an antenna added to it

road reserve means a formed legal road and the land, if there is any, right next to it up to the legal boundary of the adjacent land

telecommunication facility means—

- (a) an antenna;
- (b) a cabinet and, if there is one, the concrete foundation plinth for the cabinet.

4 Telecommunication facilities generating radiofrequency fields: activity status

- (1) This regulation applies to the planning and operation of a telecommunication facility that generates radiofrequency fields.
- (2) A telecommunication facility is a permitted activity as far as radiofrequency fields are concerned if the network operator that plans and operates the facility complies with—
 - (a) the conditions in subclauses (3) and (4); and
 - (b) the condition in subclause (5), if it applies.
- (3) The first condition is that the network operator plans and operates the telecommunication facility in accordance with *NZS*

2772: Part 1:1999 Radiofrequency Fields Part 1 – Maximum Exposure Levels – 3 kHz to 300 GHz.

- (4) The second condition is that the network operator ensures that the relevant local authority receives, before the telecommunication facility becomes operational, the following:
- (a) written or electronic notice of where the facility is or where it is proposed to be; and
 - (b) a report that—
 - (i) is prepared in accordance with *NZS 6609.2: 1990 Radiofrequency Radiation: Part 2: Principles and Methods of Measurement 300 kHz to 100 GHz*; and
 - (ii) takes account of exposures arising from other telecommunication facilities in the vicinity of the facility; and
 - (iii) predicts whether the radiofrequency field levels at places in the vicinity of the facility that are reasonably accessible to the general public will comply with *NZS 2772: Part 1:1999 Radiofrequency Fields Part 1 – Maximum Exposure Levels – 3 kHz to 300 GHz*.
- (5) The third condition applies if the prediction referred to in sub-clause (4)(b)(iii) is that the radiofrequency field levels will reach or exceed 25% of the maximum level authorised by *NZS 2772: Part 1:1999 Radiofrequency Fields Part 1 – Maximum Exposure Levels – 3 kHz to 300 GHz* for exposure of the general public. The network operator must ensure that the relevant local authority receives, within 3 months of the telecommunication facility becoming operational, a report that—
- (a) is prepared in accordance with *NZS 6609.2: 1990 Radiofrequency Radiation: Part 2: Principles and Methods of Measurement 300 kHz to 100 GHz*; and
 - (b) provides evidence that the actual radiofrequency field levels at places in the vicinity of the facility that are reasonably accessible to the general public comply with *NZS 2772: Part 1:1999 Radiofrequency Fields Part 1 – Maximum Exposure Levels – 3 kHz to 300 GHz*.

- (6) A telecommunication facility that is not a permitted activity under this regulation is a non-complying activity as far as radiofrequency fields are concerned.

5 Telecommunication facilities in road reserves: activity status

- (1) The installation and operation of a telecommunication facility in a road reserve is a permitted activity as far as the situations in regulations 6 to 9 are concerned if—
- (a) the facility is a permitted activity as far as radiofrequency fields are concerned under regulation 4; and
 - (b) the facility complies with the applicable conditions in regulations 6 to 9.
- (2) The installation and operation of a telecommunication facility in a road reserve is a non-complying activity as far as radiofrequency fields are concerned if the facility does not comply with the condition specified in subclause (1)(a).
- (3) The installation and operation of a telecommunication facility in a road reserve is a controlled activity as far as the situations in regulations 6 to 9 are concerned if—
- (a) the facility does not comply with the conditions specified in subclause (1)(b); and
 - (b) the facility would have been a permitted activity or a controlled activity under the relevant district plan or proposed district plan if these regulations did not exist.
- (4) For the purpose of assessing resource consent applications for a telecommunication facility to which subclause (3) applies, control is reserved over the conditions in regulations 6 to 9 with which the facility does not comply.
- (5) The installation and operation of a telecommunication facility in a road reserve is a restricted discretionary activity as far as the situations in regulations 6 to 9 are concerned if—
- (a) the facility does not comply with the conditions specified in subclause (1)(b); and
 - (b) the facility would have been a restricted discretionary activity under the relevant district plan or proposed district plan if these regulations did not exist.

- (6) For the purpose of assessing resource consent applications for a telecommunication facility to which subclause (5) applies, discretion is restricted to the conditions in regulations 6 to 9 with which the facility does not comply.
- (7) The installation and operation of a telecommunication facility in a road reserve is a discretionary activity if—
 - (a) the facility does not comply with the conditions specified in subclause (1)(b); and
 - (b) the facility would have been a discretionary activity under the relevant district plan or proposed district plan if these regulations did not exist.
- (8) The installation and operation of a telecommunication facility in a road reserve is a non-complying activity if—
 - (a) the facility does not comply with the conditions specified in subclause (1)(b); and
 - (b) the facility would have been a non-complying activity under the relevant district plan or proposed district plan if these regulations did not exist.
- (9) The installation and operation of a telecommunication facility in a road reserve is a prohibited activity if—
 - (a) the facility does not comply with the conditions specified in subclause (1)(b); and
 - (b) the facility would have been a prohibited activity under the relevant district plan or proposed district plan if these regulations did not exist.

6 Conditions protecting trees and vegetation, historic heritage values, visual amenity values, and coastal marine area

- (1) This condition applies if the telecommunication facility is located in a road reserve within the drip line of a tree or other vegetation and the relevant district plan or proposed district plan would, if these regulations did not exist, require the network operator to obtain a resource consent for the installation and operation of the facility in such a location. The installation and operation of the facility must comply with the plan's rules on tree and vegetation protection. The rules may be more stringent than the conditions in regulations 7 to 9.

- (2) This condition applies if the telecommunication facility is located in a road reserve that is on the same side of the road as and next to land or items that are identified as having historic heritage values in the relevant district plan or proposed district plan. The facility must comply with the plan's rules on historic heritage values. The rules may be more stringent than the conditions in regulations 7 to 9.
- (3) This condition applies if the telecommunication facility is located in a road reserve that is on the same side of the road as and next to land or sites that are identified as having visual amenity values in the relevant district plan or proposed district plan. The facility must comply with the plan's rules on visual amenity values. The rules may be more stringent than the conditions in regulations 7 to 9.
- (4) This condition applies if the telecommunication facility is located in a road reserve that is on the same side of the road as and next to coastal marine area. The facility must comply with the plan's rules that apply to telecommunication facilities. The rules may be more stringent than the conditions in regulations 7 to 9.

7 Conditions controlling antennas and utility structures

- (1) This condition applies if an original utility structure in a road reserve is replaced by a replacement utility structure. The replacement utility structure must not have a diameter that is more than the original utility structure's diameter at its largest point plus 50%.
- (2) This condition applies if the addition of an antenna makes a structure into a replacement utility structure in a road reserve. The height of the replacement utility structure must be no more than the original utility structure's highest point plus the lesser of 3 m or 30%.
- (3) This condition applies if an antenna on a replacement utility structure in a road reserve is replaced. The combined height of the replacement utility structure and the replacement antenna must be no more than the combined height of the replacement utility structure and the original antenna.

- (4) This condition applies if an antenna is added or replaced under subclause (2) or (3). The antenna—excluding the mount, if there is one, and the shroud, if there is one, and ancillary equipment, if there is any—must fit within the dimensions of a cylindrical shape that, when measured along the centre line of the original utility structure or the replacement utility structure, is no more than 2 m high and no more than 0.5 m in diameter.
- (5) This condition applies if a dish antenna either is added to an original utility structure in a road reserve or a replacement utility structure in a road reserve or replaces an antenna on an original utility structure in a road reserve or a replacement utility structure in a road reserve. The dish antenna must have a diameter of no more than 380 mm, must not protrude from the structure's centre line by more than 0.6 m, and must be one of only 2 on the structure.

8 Conditions controlling cabinets

- (1) This condition applies if a cabinet is located by itself in a road reserve next to land that a relevant district plan or proposed district plan classifies as primarily for residential activities. The cabinet's footprint must be no more than 1.4 m². The cabinet must be no higher than the height of the concrete foundation plinth, if there is one, plus 1.8 m.
- (2) This condition applies if 2 or more cabinets are located at the same site in a road reserve next to land that a relevant district plan or proposed district plan classifies as primarily for residential activities. Each cabinet's footprint must be no more than 1.4 m². The total footprint of all the cabinets must be no more than 1.8 m². The distance between each cabinet and the cabinet or cabinets closest to it must be no more than 500 mm. The cabinets must be no higher than the height of the concrete foundation plinths, if there are any, plus 900 mm, with the exception that 1 cabinet may be as high as the height of the concrete foundation plinth, if there is one, plus 1.8 m.
- (3) This condition applies if a cabinet is located by itself in a road reserve, or if 2 or more cabinets are located at the same site in a road reserve, next to land that a relevant district plan or proposed district plan does not classify as primarily for residential activities. The total footprint of all the cabinets must

be no more than 2 m². Each cabinet must be no higher than the height of the concrete foundation plinth, if there is one, plus 2 m.

- (4) This condition applies if 2 or more cabinets are located at different sites in the road reserve, on the same side of the road as one another, and next to land that a relevant district plan or proposed district plan either does or does not classify as primarily for residential activities and are higher than the height of the concrete foundation plinths, if there are any, plus 900 mm. Each cabinet must be at least 30 m from each other cabinet that is higher than the height of the concrete foundation plinth, if there is one, plus 900 mm. The 30 m must be measured between the 2 closest points of the cabinets.
- (5) This condition applies if a cabinet is located in a road reserve next to land that a relevant district plan or proposed district plan either does or does not classify as primarily for residential activities and requires a power supply. The power supply must be located either below ground or within the cabinet.

9 Conditions controlling noise

- (1) This condition applies if a cabinet is located in a road reserve in an area in which a relevant district plan or proposed district plan allows residential activities. The noise from the cabinet must not exceed—
 - (a) 50 dB LAeq (5 min) between 7 am and 10 pm:
 - (b) 40 dB LAeq (5 min) between the 10 pm referred to in paragraph (a) and the following 7 am:
 - (c) 65 dB LAFmax between the 10 pm referred to in paragraph (a) and the following 7 am.
- (2) This condition applies if a cabinet is located in a road reserve in an area in which a relevant district plan or proposed district plan does not allow residential activities. The noise from the cabinet must not exceed—
 - (a) 60 dB LAeq (5 min) at any time:
 - (b) 65 dB LAFmax between 10 pm and the following 7 am.
- (3) The noise from the cabinet must be measured and assessed at 1 of the following points:

- (a) if the side of a building containing a habitable room is within 4 m of the closest boundary of the road reserve, the noise must be measured—
 - (i) at a point 1 m from the side of the building; or
 - (ii) at a point in the plane of the side of the building;
 - (b) in any other case, the noise must be measured at a point that is—
 - (i) at least 3 m from the cabinet; and
 - (ii) within the legal boundary of land next to the part of the road reserve where the cabinet is located.
- (4) The noise from the cabinet must be measured in accordance with *NZS 6801: 2008 Acoustics – Measurement of environmental sound*, the measurement must be adjusted in accordance with *NZS 6801: 2008 Acoustics – Measurement of environmental sound* to a free field incident sound level, and the adjusted measurement must be assessed in accordance with *NZS 6802: 2008 Acoustics – Environmental noise*.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations provide national environmental standards for telecommunication facilities. The standards relate to the radiofrequency fields of all telecommunication facilities and the dimensions and noise levels of telecommunication facilities in road reserves.

The regulations come into force 28 days after they are notified in the *Gazette*.

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**Resource Management (National
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Telecommunication Facilities)
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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 11 September 2008.

These regulations are administered by the Ministry for the Environment.
