

46 Open Space Environment Rules

46.1 Introduction

This chapter contains rules governing land uses in the Open Space Environment. The boundaries of this Environment are shown on the Planning Maps. The Open Space Environment covers land owned by the Council, the Department of Conservation or other organisations for recreational and/or conservation purposes. It also applies to other land privately owned and administered for recreational purposes. Most of the open space land that is administered by the Council and the Department of Conservation has additional protection, further to this Plan, under the Conservation Act 1987 and the Reserves Act 1977.

Road Transport rules and Resource Area rules also apply in this Environment.

46.2 Prohibited Activities

The following activity is a prohibited activity, for which no resource consent shall be granted:

- Use, storage or disposal of radioactive material with an activity exceeding 1000 terabequerels.

46.3 Open Space Environment - Activity Rule Table

46.3.1 Activities Generally

<p>Subject to Rules 62.5.2 and 62.6.1 an activity is a permitted activity if:</p> <ol style="list-style-type: none"> It is not a residential, commercial or industrial activity, unless it is in accordance with a Reserve Management Plan, under the Reserves Act 1977, or a Conservation Management Strategy, under the Conservation Act 1987, applicable to the land; and Places of assembly do not operate or open for visitors, clients or deliveries before 0800 or after 2000 on any day; and It does not involve mineral extraction. It is the continued function of the landfill operations, including recycling and composting on William Fraser Memorial Park. 	<p>Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</p>
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46.3.2 Hazardous Substances

<ol style="list-style-type: none"> The use, storage or on-site movement of hazardous substances is a permitted activity if it complies with the conditions for permitted activities in Appendix 8; and The movement of hazardous substances between sites is a permitted activity if conducted by means of an underground pipeline. 	<ol style="list-style-type: none"> The use, storage or on-site movement of hazardous substances is a discretionary activity if it does not comply with a condition for permitted activities in Appendix 8; and The movement of hazardous substances between sites is a discretionary activity if conducted by means of an aboveground pipeline.
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46.3.3 Provision of Parking Spaces

<p>Any activity is a permitted activity if:</p> <ul style="list-style-type: none"> a) Parking spaces are provided in accordance with Chapter 47; and b) No formed parking space is constructed or provided within 2.0m of a road boundary. 	<p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. Those matters listed in Chapter 47 Road Transport Rules; ii. Effects on landscape values; iii. Effects on amenity values; iv. Effects on existing landscapes/streetscapes.
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46.3.4 Signs

<ul style="list-style-type: none"> a) The construction and placement of a sign which is not visible from a neighboring property(s) is a permitted activity. b) The construction or placement of a sign which is visible from a neighboring property(s) is a permitted activity if: <ul style="list-style-type: none"> i. The sign is required under health and safety legislation; or ii. The sign is erected by a road traffic or maritime authority for the purposes of traffic control or public safety and it is located within the legal road reserve; or iii. The sign is required by the Administering body for the management of the site or is in accordance with a Reserve Management Plan, under the Reserves Act 1977; or iv. The sign is a property name sign or is a public information sign, or is a community sign; and v. The sign does not obscure any official signs or traffic signals; and vi. The sign is static, not flashing and not illuminated; and vii. No more than 3 Signs are displayed per site; and viii. A free standing sign is no higher than 2.0m; and ix. The sign is no larger than 1.0m² and the total area of all signs is no greater than 3.0m²; and x. Where the road limit has a speed limit of 70 kph or greater, the sign is located so as to provide an unrestricted view to the motorist for a minimum distance of 250.0m. <p>Notes:</p>	<p>The construction or placement of a sign that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i. The visual amenity of the neighbouring area; ii. The residential coherence of the neighbouring area; iii. The appropriateness of the sign compared to the nature of the neighbouring area; iv. The extent to which any sign detracts from the open space character of reserves, the natural landscape and/or the cultural values associated with the neighbouring area.
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<ol style="list-style-type: none"> 1. Signs within the legal road boundary, or on road verges, road reserves are regulated by Council Bylaws. 2. Temporary signs and signs on vehicles are regulated by Council Bylaws. 3. Signs located in public places are regulated by Council Bylaws. Except for signs erected to advertise commercial activities. These signs are regulated by the above provisions. 4. Parks Manager approval is required for signage on land administered by the Parks Division. 	
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46.3.5 Artificial Lighting

<p>Artificial lighting is a permitted activity if either:</p> <ol style="list-style-type: none"> a) The light is a street light, navigation light or traffic signal; or b) The light spill onto any other site measured at the boundary complies with NZS 6701:1983 and does not exceed: <ol style="list-style-type: none"> i. 10 lux at any Living or Countryside Environment boundary; ii. 15 lux at any road reserve boundary; iii. 20 lux at any other receiving property boundary; or c) The lighting is required under health and safety legislation. 	<p>Any activity that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> i. Orientation, strength, intensity, colour, frequency of flashing of the light; ii. Effects on traffic safety; iii. Positive effects on pedestrian safety; iv. Effect on amenity values.
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46.3.6 ~~Noise~~ (Deleted – refer to Noise and Vibration Chapter)

46.3.7 ~~Construction Noise~~ (Deleted – refer to Noise and Vibration Chapter)

46.3.8 ~~Vibration~~ (Deleted – refer to Noise and Vibration Chapter)

46.3.9 Electromagnetic Radiation

<p>Any activity is a permitted activity if:</p> <ol style="list-style-type: none"> a) Exposures comply with NZS 2772.1:1999, Radio Frequency Fields Part 1: Maximum Exposure Levels 3 kHz – 300 GHz; 	<p>Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</p>
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46.3.10 ~~Electricity Transmission Lines~~ (Deleted 13/01/2014 - refer to Network Utilities Chapter)

46.3.11 Aerials and Aerial Support Structures

<p>Aerials and/or aerial support structures are a permitted activity if:</p> <ol style="list-style-type: none"> a) The highest point of any aerial and/or aerial support structure is to be no more than 12.0m above ground level in the Open Space Environment, except for a dish aerial, the highest point of which is to be no more than 8.0m above ground level in the Open Space Environment; and b) All aerials and/or aerial support structures comply with the relevant building setback and daylight angle requirements for the Environment within which they are located; 	<p>Any aerial and/or aerial support structure that does not comply with a condition for a permitted activity is a discretionary activity.</p>
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<p>and</p> <p>c) Above the height of 8.0m, any aerial and/or aerial support structure is to be unguyed; and</p> <p>d) Above the height of 8.0m, the components that make up an aerial and/or aerial support structure are to be no greater than 80.0mm in diameter, or have a rectangular section with sides no greater than 80.0mm.</p>	
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46.3.12 Network Utility Operations

<p>The following activities related to network utility operations excluding electricity infrastructure are a permitted activity:</p> <p>a) The establishment of junction boxes, substations and other equipment cabinets required as part of a utility network that have a height of no greater than 1.5m and a ground coverage not exceeding 3.0m²; and</p> <p>b) The establishment of network utility operations for the purposes of wireless communication, or the measurement, collection and distribution of meteorological information, that comply with the rules for Aerials and Aerial Support Structures; and</p> <p>c) The minor upgrading, replacement, removal and maintenance of existing network utility operations facilities; and</p> <p>d) Minor extensions to an existing overhead line network (including additional service connections and/or 1 additional support structure); and</p> <p>e) The establishment of, or extension to, underground network utility operations, including gas lines with a maximum operating pressure not exceeding 2000 kilopascals; and</p> <p>f) Network utility operations in association with activities permitted in accordance with Rule 40.3.2.</p>	<p>Network utility operations that do not comply with a condition for a permitted activity are a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i Scale, bulk and form of the installation(s) above ground; ii Cumulative effects of additional structures; iii Shading effects; iv Effects on amenity values; v Effects on landscape/streetscape values; vi Effects on ecological values; vii Effects on heritage values; viii Effects on cultural values; ix Effects on public health and safety; x Issues of reverse sensitivity.
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46.3.13 Indigenous Vegetation Clearance and Indigenous Wetland Disturbance

<p>Destruction or clearance of indigenous vegetation within this Environment:</p> <p>a) In a contiguous area of 5.0ha or more of predominantly indigenous vegetation; or</p> <p>b) In any area of 1.0ha or more of predominantly indigenous vegetation over 6.0m in height; or</p> <p>c) In an indigenous wetland;</p> <p>is a permitted activity if it complies with the following:</p> <ul style="list-style-type: none"> i. The removal is in accordance with an existing use right; or ii. The total clearance of indigenous vegetation within a site is no more than 500.0m² where the clearance is for the express purpose of providing a house site 	<p>Destruction or clearance of indigenous vegetation that does not comply with a condition for a permitted activity is a discretionary activity.</p> <p>Any activity that will result in the destruction or clearance of indigenous vegetation within an indigenous wetland, and which may result in changes to the seasonal or annual range in water level of indigenous wetland to an extent that may adversely affect the wetland’s natural ecosystem and is not required as part of normal maintenance of drains and flood ways, is a discretionary activity.</p>
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<p>and/or access to a house site; or is to provide access to existing farming or forestry activities; or</p> <ul style="list-style-type: none"> iii. The removal is of trees that are a danger to human life or existing structures (including network utilities); or iv. The removal is necessary for the maintenance of any building, structure, road or track including any telecommunication work or utility service; or v. The removal is for a new fence, where the purpose of the fence is to exclude stock and/or pests from the area; or vi. The removal is beneath a canopy of a production forest; or vii. The removal is for the formation and maintenance of walking tracks less than 1.2 metres wide using manual methods that do not require the removal of any indigenous tree over 300mm girth; or viii. The removal is for the construction of a fire break by a rural fire authority; or ix. The removal of a tree or trees, or the gathering of plant matter is in accordance with Maori custom or values; or x. The removal is harvesting of indigenous timber under a Sustainable Management Plan or permit under the Forests Act 1949. 	
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46.4 Open Space Environment- Building Rule Table

46.4.1 Building Height and Area

<p>Construction or alteration of a building is a permitted activity if:</p> <ul style="list-style-type: none"> a) The height of the building does not exceed 8.0m; and b) The gross floor area of the building does not exceed 50.0m², including the new work. <p>Note: Any new building must also meet the requirements of Rule 46.3.1 Activities Generally.</p> <p>Provided always and notwithstanding the height requirements in this Rule, if the activity under consideration is a mineral extraction activity and it is located within a Mineral Extraction Area then the building height requirements for that activity will be determined in accordance with the rules in Chapter 64.</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i The scale and bulk of the building in relation to the site; ii The built characteristic of the neighbourhood; iii The extent to which the effects of the height can be mitigated by setbacks, planting, design or the topography of the site; iv Effects on landscape values; v Effects on availability of daylight; vi Effects on amenity values.
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46.4.2 Building Setbacks

<p>Construction or alteration of a building is a permitted activity if the building is set back at least:</p> <ul style="list-style-type: none"> a) To the same standards as apply in the 	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p>
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<p>adjoining Environment nearest the building site for front and other yards.</p> <p>Note: The provisions of Rules 58.2.6 and 59.2.3 also apply to building setbacks.</p> <p>Provided always and notwithstanding the setback requirements in this Rule, if the activity under consideration is a mineral extraction activity and it is located within a Mineral Extraction Area then the building setback requirements for that activity will be determined in accordance with the rules in Chapter 64.</p>	<ul style="list-style-type: none"> i The existing landscape/street-scape and protection from road frontage domination; ii The outlook and privacy of adjoining and adjacent neighbours; iii Shading of adjoining properties; iv Effects on natural character; v Effects on landscape values; vi Effects on heritage values; vii Effects on natural functioning of ecosystems.
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46.4.3 Building Setbacks from Water Bodies

<p>Construction or alteration of a building is a permitted activity if the building is set back at least:</p> <ul style="list-style-type: none"> a) 27.0m from Mean High Water Springs; or b) From the top of the bank of any river that has a width of less than 3.0m or a lake under 8ha <ul style="list-style-type: none"> i 5.0m where the dominant slope is less than 8 degrees; ii 10.0m where the dominant slope is greater than 8 degrees but less than 15 degrees; iii 20.0m where the dominant slope is more than 15 degrees; or c) 27.0m from the top of the bank of a river equal to 3.0m or more in width, any lake over 8ha in area or any river identified in Appendix 5 as an Esplanade Priority Area; or d) 5.0m from the top of the bank of all other water bodies, unless an esplanade reserve already exists, in which case a 5.0m setback from the edge of the landward side of the esplanade reserve shall apply. <p>Note: The provisions of Rules 58.2.6 and 59.2.3 also apply to building setbacks.</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i The continued availability of land in Esplanade Priority Areas; ii Effects on natural character; iii Effects on natural functioning of an ecosystems; iv Effects on landscape values; v Effects on heritage values; vi Effect on public access; vii Effect on river maintenance and hazards; viii The Protection of the conservation, ecological, recreation, access and hazard mitigation values of land in Esplanade Priority Areas and existing esplanade reserves or strips; ix The suitability of the proposed location of the building on the site.
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46.4.4 Building to Access Setbacks

<p>Construction or alteration of a building is a permitted activity if:</p> <ul style="list-style-type: none"> a) There is a minimum separation distance of 1.0m between the building and any right of way or common access. 	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i Noise and vibration effects on occupants of buildings erected within 2.0m of accesses; ii The use of accesses if obstructed by building overhangs or opening windows.
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46.4.5 Building Daylight Angles

<p>Construction or alteration of a building is a permitted activity if:</p> <p>a) It does not penetrate the building daylight angles defined in Appendix 11.</p>	<p>Construction or alteration of a building that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i The availability of daylight to adjoining properties; ii The privacy of the adjoining properties; iii Effects on shading; iv Effects on amenity values.
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46.4.6 Coastal Minimum Floor Level

<p>Construction or alteration of a building or structure is a permitted activity if:</p> <p>a) There is a minimum floor level of 2.5m above One Tree Point Datum Mean Sea Level 1964.</p>	<p>The construction or alteration of a building or structure that does not comply with a condition for a permitted activity is a restricted discretionary activity.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> i Construction or alteration of a building or structure in relation to its location; ii The avoidance, remediation or mitigation of coastal hazards; iii Floor level in relation to One Tree Point Mean Sea Level Datum 1964.
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46.5 Principal Reasons for Rules / Explanations

Activities Generally

This rule names various activities for which a resource consent is required. The listed activities are all associated with effects that are unacceptable in this Environment without careful management. Open space areas provide for a wide range of social and recreational opportunities, and preserve and protect landscape and ecological values. As such, it is important that activities occurring within the Open Space Environment do not adversely affect the environment or adjoining sites.

Aerials and Aerial Support Structures

The size and location of aerials and aerial support structures is controlled due to the visual intrusion or dominance that aerials and aerial support structures can have. The Plan makes allowance for aerials and aerial support structures to reach a height of 4.0m above the maximum height limit for the Environment. Chapter HH of the Plan also seeks to control the visual impact that aerials and aerial support structures can have on Built Heritage.

Artificial Lighting

Lighting can interfere with the enjoyment of a property and the sleep of occupants. Direct light spill and glare are consequences of outdoor lighting used to illuminate property. The effect of the rule is to state lighting levels that are compatible with the existing lighting character of this Environment and adjacent Living Environments. Street lights, navigation lights and traffic signals are exempt from this rule, in order to preserve traffic and personal safety.

Building Height and Area

The height of buildings is an important factor in maintaining built amenity. As such, height as a permitted activity is limited to a scale generally considered acceptable in living areas. The 50.0m² permitted building area is designed to allow buildings which are of limited area and limited environmental effect to be built.

Building Setbacks

Building setbacks are identical to those of the adjoining Environment. This will allow the current built amenity of an area to continue.

Building Daylight Angles

The daylight angles are set to provide reasonable daylight to a site, unobstructed by buildings on an adjacent site.

Building to Access Setbacks

The required setback serves to protect occupants of buildings from unnecessary noise and vibration. The rule also ensures that the access does not become less usable due to open windows or other obstructions.

Coastal Minimum Floor Level

Coastal flooding is a hazard that needs to be addressed and this hazard is not restricted to those areas covered by the coastal hazard areas. By ensuring that the floor level of structures and buildings is at least 2.5m above One Tree Point Datum Mean Sea Level 1964, this risk will be significantly reduced. The 2.5m will take into account a rise in sea level of 0.5m, plus the instances of a spring tide and the surges associated with coastal storms.

Electromagnetic Radiation

Certain utilities and other activities emit electromagnetic radiation or create electric fields, which are a health concern to some people living near them. Radio Frequency Fields (RF) are produced by broadcasting and microwave transmission activity. It is the antennae used for sending the signal that produces the Electromagnetic Radiation (EMR), which is within the 3 kHz to 300 GHz range of non-ionising radiation. This Plan is taking a cautious approach to the location of such activities within the Open Space Environment. An acceptable public level of exposure for EMR has been adopted from the New Zealand Standard, which has been thoroughly researched and based upon scientific evidence. Setting a minimum distance enables provision for access, maintenance and public safety.

Hazardous Substances

See Appendix 8.

Indigenous Vegetation Clearance

The indigenous vegetation clearance rule in the Open Space Environment rule table seeks to protect those large tracts of indigenous vegetation that are not currently protected by the provisions that relate to Significant Ecological Areas.

Network Utility Operations

Newly constructed utilities are required to be underground to preserve the amenity of open space areas. Small junction boxes, substations and other equipment cabinets required, as part of a utility network that have a height no greater than 1.5m and a ground coverage not exceeding 3.0m², are exempted from this rule, as the impacts they make on the environment are generally acceptable.

Prohibited Activities

The level of radioactivity stated as a prohibited activity allows for use of household smoke detectors and use of radioactive materials in medical laboratories and hospitals, but does not allow large installations such as food irradiation plants or nuclear power stations.

Signs

Signs have the potential to affect the visual amenity of areas generally adjacent to a living area. They are therefore controlled in the Open Space Environment, with provision made for signs associated with the open space activity.

Revision and Sign-off Sheet

Date Approved	Editor	Paragraph	Change Reference	Decision Date	Approved By
27 June 2007	FP	46.3.3	46.3.3. i deletion of unnecessary reference to sections of Chapter 47.		PW
2 October 2007	FP	46.4.5; 46.5	Parts of Plan Change 49. Daylight Angles Rules and Building Daylight Angles explanation.	Council decision ES 20 September 2007	PW
5 November 2007	FP	46.3.4	Insertion of hyperlink to Plan Change 41 Signs		PW
5 November 2007	FP	46.4.2; 46.4.4; 46.5	Insertion of hyperlinks to Plan Changes 49.		PW
11 December 2007	FP	46.4.1	Correction of typo in the note reference to 46.3.2 refers and should read "rule 46.3.1 Activity Generally".		PW
31 March 2008	FP	46.3.6 Noise	Amendment of typos in Rules 46.3.6 a) bullets ii and iii	Memo: Clause 20 A – Trim Doc 08/20586	PW
21 May 2008	FP	46.4.2; 46.4.3 and 46.5	Plan Change 49 Decisions – Amendments to Building Setbacks Rule and explanation; Addition of new rule and explanation for Building to Access Setbacks	Council Decision ES 14 May 2008	PW
14 July 2008	FP	46.3.4	Plan Change 41 after Council decision	ES 9 July 2008	PW
4 March 2009	FP	46.4.5	Underlining of refence to appendices removed to avoid confusion with hyperlinks		PW
11 December 2009	FP	46.4.3	Plan Change 98 Setbacks from Water Bodies	Operative Date 12 January 2010	PW
14 Sept. 2010	FP	Reference to Chapter 2.3.3	Plan Change 106 consequential changes, this provision no longer exist.	Record 10/96471	PW
8 August 2011	FP	46.3.1	Update of cross reference 62.6.1		PW
21 August 2012	LB	All	Spelling error, reformat of entire chapter .	Memo: 21 August 2012 TRIM: 12/66910	PW
11 December 2013	MD	46.3.10 46.3.12 46.5	Plan Change 123A consequential changes 'Electricity Infrastructure'.	Operative Date 13 January 2014 TRIM 14/4071	PW
11 May 2016	TB	46.3.6 46.3.7 46.3.8	Deletion of Rules as a result of Plan Change 110 becoming operative.	Operative Date 24 May 2016 TRIM 16/52692	MM
14 September 2016	JM	46.3.11 46.5	Plan Change 124 becoming operative.	Operative date 28 September 2016 TRIM 16/106480	MM

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