

PART 14.2B - PUBLIC OPEN SPACE 2

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Plan modification annotations - key



Indicates where content is affected by proposed plan modification x.
Refer to plan modification folder or website for details.



Indicates where the content is part of plan modification x, which is
subject to appeal.

Underlined content to be inserted.

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PUBLIC OPEN SPACE 2

14.2B.1 INTRODUCTION

Public Open Space 2 is applied to the smaller parks and squares located in the Central Area that are used for passive recreation. These areas, which include Emily Place and Constitution Hill, vary in size but are all strategically located and provide useful pedestrian connections and gathering places.

14.2B.2 RULES - ACTIVITIES

Ornamental gardens and other landscape areas, including monuments, sculptures, and water features and maintenance thereof.	P
Playgrounds and playground apparatus provided that within each individual public space the total of such activity shall not occupy more than 10% of any one established public space.	C
Informal recreation such as walking, jogging and sitting.	P
Earthworks not exceeding 5m ³ in volume and 50m ² in area.	P
Earthworks* not otherwise provided for.	C
Buildings:-	
Buildings predominantly used for changing rooms first aid rooms, public toilet with a gross floor area not exceeding 50m ² .	P
Buildings predominantly used for changing rooms, first aid rooms, public toilets, Information Centre, kiosks and refreshment facilities with a gross floor area of more than 50m ² .	D
Storage and maintenance sheds in areas of public open space not exceeding 50m ² .	P
Demolition or removal of a building except a scheduled heritage building.	P

P = Permitted Activity

C = Controlled Activity

D = Discretionary Activity

*These provisions do not apply to earthworks which are carried out as part of -

- i) *the excavation and filling necessary to construct a building which is otherwise a permitted activity and which has been granted a building consent*
- ii) *a network utility service of the type where specific provision has been made in 12.6.1.*

14.2B.2.1 General Explanation for Permitted Activities

The range of permitted activities in Public Open Space 2 is limited, in order to facilitate the use and enjoyment of the open space areas, to ensure retention of open space character, and to avoid, remedy or mitigate adverse effects on the environment.

Refer to clause 14.2B.3.1 General Criteria for Assessment of Controlled Activities.

14.2B.3 ASSESSMENT CRITERIA

14.2B.3.1 General Criteria for Assessment of Controlled Activities

An application for a controlled activity listed in 14.2B.2 will be expected to comply in all respects with the open space development controls in 14.2B.4, the objectives and policies for Public Open Space under Part 14.2.3, any relevant provisions of the Reserves Act 1977 and any amendments to that Act and any management and/ or conservation plan prepared for the site.

The following criteria shall be used in assessing an application for a controlled activity:

- a) The impact the activity will have on the surrounding environment; compatibility of the design and impact of the building or structure, in terms of the natural or physical landscape, and the nature of the public space.
- b) Whether the recreational potential of the open space is maintained or enhanced.
- c) Preservation of the natural character of the land including outstanding natural features, areas of habitat and ecological values, landscape, landform, geological features and the coast.
- d) Preservation of heritage values associated with any scheduled item.
- e) Maintenance or enhancement of public access to public spaces.



Explanation

Activities and uses on public land required permission from Council as the administering authority. Of particular importance is the retention of the open space character, the preservation of heritage values and the amenity value to the Central Area.

14.2B.3.2 Additional Criteria for Specified Controlled Activities

In addition to the criteria of 14.2B.3, the activities specified below will have the following criteria applied.

a) Buildings predominantly used for changing rooms, first aid rooms, public toilets, information centres, kiosks and refreshment facilities and storage and maintenance sheds.

The scale, appearance and location of any proposed building, structure or storage shed will be assessed to ensure that:

- i) The nature of the site or character of the area is not substantially affected.
- ii) Excessive visual bulk and scale is avoided.
- iii) It is appropriate to the natural landscape and historical setting.
- iv) Extensions to existing buildings are visually compatible with existing structures.
- v) Appropriate landscaping or fencing is provided.
- vi) Storage sheds are used only for the storage of equipment and materials associated with the dominant activities of the site.

b) Earthworks

In considering an application for earthworks, the proposal will be considered against the following criteria:

- i) The objectives and policies for Public Open Space under 14.2.3.
- ii) The applicant's need to undertake the earthworks in order to allow for the proper functioning of the dominant activity of the site.
- iii) Any alternative methods which may be available to the applicant to achieve objectives.
- iv) The extent to which the existing landscape contributes to the visual amenity of the site.
- v) The nature and extent of the proposed work and the degree to which it may disturb natural landforms or vegetation or create soil instability, or lead to adverse ecological effects on natural habitats.

vi) The extent to which the movement of soil or material to or from the site may affect the surrounding road and neighbourhood.

vii) The extent to which water containing silt or sediment or contaminants may enter stormwater pipes, drains, channels, or flow on to the road during rainstorms.

viii) The revegetation of the land once earthworks are completed.

Appropriate conditions may be imposed in relation to these matters.

Applications shall include details of proposed methods of rehabilitation of any areas of cut and fill through appropriate landscaping, revegetation and drainage or other stabilising measures where these are necessary.

c) Playgrounds and playground apparatus

- i) The location of the equipment should ensure that pedestrian pathways and access are not compromised.
- ii) The design, appearance and size should be appropriate to the public space and ensure that an adequate amount of open space is freely available.

d) Outdoor tables and seating areas and/or displays (excluding permanent buildings)

The scale appearance and location of any proposed outdoor tables, seating areas and/or displays, (excluding permanent buildings) to ensure that:

- i) The extent to which the proposal affects pedestrian movement and safety. Pedestrian access shall be maintained to prevent the destruction of pathways and pedestrian accessways.

14.2B.3.3 General Criteria for Assessment of Discretionary Activities

An application for a discretionary activity listed in 14.2B.2 will be expected to comply in all respects with the open space development controls, the objectives and policies for Public Open Space and any relevant provisions of the Reserves Act 1977 and any amendments to that Act and any Management and/or Conservation Plan prepared for the site.

The following criteria shall be used in assessing an application for a discretionary activity:

- a) the impact the activity will have on the surrounding environment; compatibility of the design and impact of the building or structure, in terms of the natural or physical landscape, and the nature of the public space;
- b) whether the recreational potential of the open space is maintained or enhanced;



- c) preservation of the natural character of the land including outstanding natural features, areas of habitat and ecological values, landscape, landform, geological features and the coast;
- d) preservation of heritage values associated with any scheduled item;
- e) maintenance or enhancement of public access to public spaces.

14.2B.3.4 Additional Criteria for Specified Discretionary Activities

In addition to the criteria in Clause 14.2B.3.3, the following criteria will be applied.

a) Buildings or parts of buildings and structures used for recreational or community purposes in Victoria Park.

The scale, location and appearance of any proposed building or structure will be assessed to ensure that:

- i) The nature of the site or character of the area is not substantially affected, ie, the open space character of the site is maintained.
- ii) Excessive visual bulk and scale is avoided.
- iii) It is appropriate to the natural landscape and historical setting.
- iv) Extensions to existing building are visually compatible with existing structures.
- v) Appropriate landscaping or fencing is provided particularly when the building/structure is located adjacent to a residential precinct.

b) Buildings predominantly used for changing rooms, first aid rooms, public toilets, information centres, kiosks and refreshment facilities and storage and maintenance sheds with a gross floor area exceeding 50m².

The scale, appearance and location of any proposed building, structure or storage shed will be assessed to ensure that:

- i) The nature of the site or character of the area is not substantially affected.
- ii) Excessive visual bulk and scale is avoided.
- iii) It is appropriate to the natural landscape and historical setting.
- iv) Extensions to existing buildings are visually compatible with existing structures.
- v) Appropriate landscaping or fencing is provided.
- vi) Storage sheds are used only for the storage of equipment and materials associated with the dominant activities of the site.

c) Exterior lighting

Any application for the use of artificial lighting on a site(s) producing an illuminance in excess of 150 lux at ground level will be assessed against the following:

- i) Particular consideration will be given to the placement, design and screening of light fittings and whether their size and illuminance is appropriate to the size of the subject site and to the general lighting levels of the surrounding area.
- ii) Artificial lighting masts or poles will generally be required to comply with the height limit for the site. Modification to the height controls may be acceptable if it can be demonstrated that it will not adversely affect adjoining sites or road safety, and it will decrease light spill. In such instances conditions relating to the colour of light fittings and poles may be imposed to reduce their visual impact.
- iii) Applicants shall demonstrate that inappropriate or detrimental changes to the night sky viewing conditions of the surrounding area will not occur.
- iv) Applicants shall demonstrate that there will be no significant adverse effects including light spill and glare on the privacy of adjoining land. The use of measures such as screening, dense planting or buffer separation areas may be required where these reduce any impact.

Explanation

For activities on public land, permission is required from Council as the administering authority. Trading in streets and public places is controlled by the Auckland City Council Consolidated Bylaw.

Of particular importance is the retention of the open space character, the preservation of heritage values and the amenity value.

14.2B.4 RULES - DEVELOPMENT CONTROLS

- a) **Maximum height:** 4m measured by the Rolling height method (refer definition of "Height" under Part 16).
- b) **Maximum Building coverage:** 5%

Explanation

Maximum height and building coverage controls are applied to ensure that amenity values gained from open spaces are maintained.

Note: An application to modify one or more of the provisions described as development controls may be



considered by the Council under Clause 15.3.1.2(b) as a restricted discretionary activity.

14.2B.5 RULES - TREE PROTECTION

In addition to any tree scheduled for protection the following rules shall be applied.

14.2B.5.1 Trees located on Roads and Open Spaces

The Council will continue its practice of planting trees on roads and in public open spaces. The Council will not remove any trees which are:

- a) greater than 6m in height or with a girth (measured 500mm above ground) greater than 600mm; or
- b) of historical or botanical value.
- c) on roads or public open spaces except where they are dead, dying, or in a dangerous condition requiring immediate removal.

Note: Reference should be made to Auckland City Delegation Register to identify the Council officers delegated to authorise such removals.

Any application for consent to carry out removal of trees on roads in public open spaces (other than those that are dead, dying, or in a dangerous condition), shall be by way of an application for a restricted discretionary activity (refer Clause 15.3.2.6).

In assessing an application the Council shall consider the following matters:

- a) The opinion of a Council arborist and the relevant Community Board member nominated as the board's tree representative.
- b) The public benefit to be gained or degree of necessity for removal.
- c) Whether it is possible to successfully relocate the tree.
- d) Whether the tree is to be replaced by another tree in close proximity, appropriate to the location in relation to size, appearance, health and condition.
- e) Any alternative methods which may be available to the applicant in the achievement of his/her objectives including consideration of a variation to specified development controls where this would encourage retention and enhancement of existing large trees on the site.
- f) The extent to which the tree or trees contribute to the amenity of the neighbourhood and/or street both visually and physically, including contributions as habitats for birds and other animals.

- g) Any function the tree may have in conservation of water and soil.

- h) The actions of the applicant in regard to the tree.

Exceptions to this control

- a) Any regular minor trimming or maintenance effected by hand-operated secateurs or pruning shears, in accordance with the accepted arboricultural practice.
- b) The removal of any tree or part of a tree that is dead or suffering from an untreatable disease which has caused a significant decline in its health (evidence shall be produced if required).

Note: Where any element of uncertainty exists the tree will not be removed until such time as its irreversible decline is obvious. Before removing any affected tree, consultation with the Council's arborist is strongly advised.

- c) Work immediately necessary to avoid injury to persons or damage to property. In such circumstances the person undertaking the work shall notify the Council in writing within seven days of the work commencing as to the reason.
- d) The actions of any statutory authority in carrying out of work authorised by statute. In such circumstances the authority concerned shall notify the Council in writing no later than seven days prior to the work commencing as to the reason.
- e) The removal of any tree (regardless of its state of health) which has been positively identified as suffering from any notable dangerously infectious disease such as Dutch elm disease.
- f) The destruction of any of the following except those included on the Notable Trees Schedule, Appendix 2 to this document.
 - i) Acacia species (wattle) - all except *Acacia melanoxylon* (Tasmanian blackwood)
 - ii) *Eucalyptus cinerea* (silver dollar gum)
 - iii) *Acmena smithii* (acmena or lillypilly)
 - iv) *Phoenix canariensis* (phoenix palm)
 - v) *Ligustrum* species (privet)
 - vi) *Araucaria heterophylla* (Norfolk Island pine)
 - vii) *Salix* species (willow)
 - viii) *Hakea salicifolia*
 - ix) Any tree species grown primarily for its edible fruit.
 - x) Any tree listed as a noxious plant under the Noxious Plant Act 1978 (repealed) or listed as a pest under an approved Pest Management Strategy



prepared in accordance with the Biosecurity Act 1993.

Note: Pest management strategies prepared under the Biosecurity Act 1993 will replace the list of noxious plants under the Noxious Plants Act 1978 by June 1996 or as soon as the strategies are approved.

- xi) Any tree subject to an order made. See section 129c of the Property Law Act 1952.

Note: The Council considers itself to be an interested party in any proceedings where an order is sought under the above Act.

14.2B.5.2 Works in the vicinity of Trees on Roads and in Public Open Spaces

Where the provision of a network utility service or any other works are proposed to be carried out within the dripline of any tree (for fastigate-shaped trees refer Annex 5 guidelines) or in open spaces, an application shall be made for a resource consent for a restricted discretionary activity, or, if on a road a restricted controlled activity consent.

Exceptions to this control

- a) The resealing of existing sealed roads, footpaths, driveways etc, provided all reasonable steps are taken to ensure the resealing works will not damage or compromise affected trees.
- b) The felling or pruning of trees or excavation within the dripline where this is an emergency work to restore power, communication links, services or utilities. This exception applies to genuine emergencies only and shall not be applied to routine servicing and maintenance work or upgrading of services. The relevant Council arborist shall be notified within 24 hours if damage to a tree occurs as a result of such emergency works.
- c) All those listed as exceptions in Clause 14.2B.5.1.

In considering an application, the Council shall refer to Annex 5 guidelines for carrying out work in the vicinity of trees and consider:

- d) The public benefit or necessity for the work.
- e) Any alternative methods and locations available to the applicant for providing the utility or carrying out the work.
- f) The objectives and policies of the Public Open Space Precincts under 14.2.3.
- g) The extent to which the tree or trees contribute to the amenity of the neighbourhood.
- h) Whether the activity is likely, in the opinion of the Council, to damage the tree or endanger its health.

- i) Whether the activity is likely to cause disturbance to the wildlife habitat of the trees (nesting birds in particular).

Conditions may be imposed as part of any consent to an application and may include:

- j) The requirement to pay a bond to ensure that the tree is not damaged or destroyed during the carrying out of works or activities within the dripline area.
- k) The requirement to provide a replacement tree and associated infrastructure where the tree is removed or destroyed, where it is appropriate having regard to the amenity of the area.

14.2B.5.3 Vehicle Access and Trees on Roads

Where vehicular access is proposed across the dripline of any tree on a road, an application is required for a resource consent for a restricted discretionary activity.

In considering such an application, Council will consider the following matters:

- a) The necessity for providing the access.
- b) The method proposed for providing the access.
- c) Alternative methods and locations for providing the access.
- d) Whether it is possible to relocate the tree (particularly having regard to any underground infrastructure, irrigation systems and paving associated with the tree).

Conditions may be imposed as part of any consent and may include:

- e) The requirement to pay a bond to ensure that the tree is not damaged or destroyed during the carrying out of works or activities within the dripline area.
- f) The requirement to pay for all costs associated with the removal of an existing tree and associated infrastructure and to pay for or provide a replacement tree and associated infrastructure where the tree is removed or destroyed, where it is appropriate having regard to the amenity of the area.

14.2B.6 HERITAGE ITEMS

For any scheduled building, object, place, heritage property or tree or site shown on Planning Overlay Map 6 refer to Part 10 Heritage for any additional compliance requirements and for an explanation of the role of the New Zealand Historic Places Trust.



14.2B.7 ANTICIPATED ENVIRONMENTAL RESULTS

It is expected that the provisions will result in the retention and enhancement of those areas which provide important and valued pockets of open space within the Central Area. The Plan will facilitate the development of these facilities designed to serve the well-being of the people who work, live and visit the Central Area.

The provisions will also result in the protection and retention of trees of value to the public. The continued presence of trees on road reserves and in public open spaces should provide visual amenity and reduce adverse environmental effects.

