

Chapter 17. Open Space Rules

Guide to Rules

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

P refers to Permitted Activities, C to Controlled Activities, DR to Discretionary Activities (Restricted) and DU to Discretionary Activities (Unrestricted).

Uses/Activities	Rule	P	C	DR	DU
Recreation activities subject to conditions	17.1.1	●			
Recreation activities not complying with conditions for Permitted Activities	17.2.1			●	
Activities in Open Space A not being Permitted Activities	17.3.1				●
Recreation and other activities in Open Space B and Open Space C not being Permitted Activities	17.3.2				●
Planting and rural activities (excluding factory farming and goat farming) in Open Space A and Open Space B	17.1.7	●			
Planting in Open Space C	17.1.8	●			
Modification, damage, removal or destruction of indigenous vegetation in Open Space B and Open Space C subject to conditions	17.1.15	●			
Modification, damage, removal or destruction of indigenous vegetation in Open Space A	17.1.16	●			
Modification, damage, removal or destruction of indigenous vegetation not being a Permitted Activity	17.2.4			●	
Temporary activities and uses	17.1.2	●			
Earthworks (small scale) subject to conditions	17.1.6	●			
Earthworks not being a Permitted Activity	17.3.3				●
Carparking and access drives in Open Space A subject to conditions	17.1.9	●			
Carparking and access drives in Open Space B subject to conditions	17.1.11	●			
Carparking and access drives in Open Space C subject to conditions	17.1.12	●			
Concerts at the Basin Reserve subject to conditions	17.1.3	●			
Upgrade and maintenance of formed roads and accessways	17.1.14	●			
Storage, use or handling of hazardous substances, except in a Hazard Area, subject to conditions	17.1.13	●			
Storage, use, handling or disposal of hazardous substances not complying with the conditions for Permitted Activities	17.3.5				●
Buildings	Rule	P	C	DR	DU
Buildings and structures for the purpose of recreation activities in Open Space A subject to conditions	17.1.9	●			
Buildings and structures for recreation purposes less than 30m ² in area and 4m in height in Open Space B and Open Space C subject to conditions	17.1.10	●			
Buildings and structures in Open Space A for the purpose of recreation that do not comply with conditions	17.2.3			●	
Buildings and structures in Open Space B and Open Space C not being Permitted Activities	17.3.2				●
Demolition or removal of buildings and structures except listed heritage items	17.1.5	●			
Structures in Open Space A not being Permitted Activities	17.3.1				●

Signs subject to conditions	17.1.4	●			
Signs not complying with conditions for Permitted Activities	17.2.2			●	
Subdivision	Rule	P	C	DR	DU
Any subdivision	17.3.4				●
Heritage	Rule	P	C	DR	DU
Activity affecting listed heritage items	21.0	●	●		●
Utilities	Rule	P	C	DR	DU
Utilities	23.0	●	●	●	●
[Contaminated and Potentially Contaminated Land	Rule	P	C	DR	DU
Investigations on any contaminated land or potentially contaminated land to determine whether the land is contaminated, and the nature and extent of that contamination	32.1.1	●			
The removal of underground petroleum storage systems is a Permitted Activity	32.1.2	●			
The use development or subdivision of any potentially contaminated land that has been confirmed as not being contaminated through site investigations	32.1.3	●			
The remediation, use, development and subdivision, of any contaminated or potentially contaminated land.	32.2.1			● ^{PC69}	

Schedule Of Appendices

Appendix Number	Appendix
1	Noise
2	Area West of Cortina Avenue (Johnsonville)

17. OPEN SPACE RULES

The following rules apply in the Open Space Area and include the rules for Earthworks (Chapter 30), Contaminated Land (Chapter 32) and Heritage (Chapter 21)

17.1 Permitted Activities

The following activities are permitted in Open Space areas provided that they comply with specified conditions.

Where Open Space Areas are situated within the Central Area Boundary as defined on the Planning Maps, the relevant Open Space objectives, policies and rules will apply to those Open Space Areas.

17.1.1 Recreation activities are Permitted Activities provided that they comply with the following conditions:

17.1.1.1 Noise

17.1.1.1.1 Noise emission levels from any activity located in an Open Space Area when measured at the Conceptual Boundary of the activity must not exceed 45dBA (L10).

17.1.1.1.2 Any activity occurring within an Open Space Area when measured from any land or premises outside that area must comply with the noise levels stated in Appendix 1.

As Open Space is often held in large titles or sites the use of the phrase “Conceptual Boundary” is used to allow noise to be managed within a large site. Section 16 and 17 of the Resource Management Act will also be considered for the control of noise.

17.1.1.2 Discharge of contaminants

The discharge of contaminants to land, air or water is a Regional Council responsibility and activities causing discharges may need to obtain a relevant consent from the Regional Council. However, every person has a general duty under Section 17 of the Act to avoid, remedy or mitigate the adverse effects of activities. Where adverse effects are generated the Council will use its enforcement powers as appropriate to protect the environment.

17.1.1.3 Dust

Activities must not create a dust nuisance. A dust nuisance will be deemed to occur if:

Activities and uses on public land are also required to obtain permission (such as a lease or a licence) from the Council as the administering authority. Council, as steward of much of the City’s open space, is working to ensure Wellington retains the asset of its open space. All activities will have regard to the relevant provisions of any management plans (for example the Wellington Town Belt Management Plan), the Town Belt Deed or the Reserves Act 1977.

- there is visible evidence of suspended solids in the air beyond the site boundary; or
- there is visible evidence of suspended solids traceable from a dust source settling on the ground, building or structure on a neighbouring site, or water.

A rule relating to the generation of dust is included to avoid, remedy or mitigate problems from this source.

17.1.1.4 Lighting

17.1.1.4.1 Any activity which requires outdoor areas to be lit must ensure that direct or indirect illumination does not exceed 8 lux at the windows of residential buildings within any Residential Area.

17.1.1.4.2 Subject to Rule 17.1.1.4.1, pedestrian routes or carpark areas available for public use during the hours of darkness must be lit at a minimum of 10 lux measured in accordance with NZS CP22:1962 and amendments.

17.1.1.4.3 Any lighting must be installed so that there is no line of sight between the light source and a street or Residential Area.

The lighting rules are designed to ensure that areas of sites available for public use are adequately lit in the interests of public safety, and that where sites on the edge of Open Space sites are lit the amenities of residents in nearby Residential Areas are reasonably protected. "Formalised pedestrian routes" do not include bush tracks or other such walkways.

17.1.1.5 Electromagnetic effects

Activities must be conducted to avoid electromagnetic nuisance and comply with the New Zealand Standard NZS 6609:1990 (Radio Frequency Radiation) and any subsequent amendment.

A rule relating to the generation of electromagnetic effects is included to avoid, remedy or mitigate problems from this source.

17.1.2 Temporary activities and uses are Permitted Activities.

Council uses its powers under the Act to ensure that the general duty under section 17 to avoid, remedy or mitigate any adverse effects of activities on the environment is met.

17.1.3 Concerts at the Basin Reserve are Permitted Activities provided that they comply with the following conditions:

17.1.3.1 That there are no more than 6 concerts per calendar year. Noise from any concert must not exceed:

L1 90dBA

L10 85dBA

when measured over any 15 minute period at the front of the site at No.21 Ellice Street (Lot 10 D.P. 78).

17.1.3.2 Activities covered by this rule do not need to comply with the noise levels stated in Appendix 1.

- 17.1.3.3 Construction work and pulling down fixtures or fittings associated with a concert may occur only between the hours of 8.00am and 6.00pm.

17.1.3.4 Sound testing and tuning of equipment may only commence after 10.00am on the day of the concert, must not last for longer than 3 hours and must stop 2 hours before the concert begins.

17.1.3.5 No concert may operate outside the hours of 6.30pm to 10.30pm.

Council recognises that noise can be a problem with events that attract large crowds, and aims to limit exposure of the community to excessive noise by limiting the number and duration of such events.

17.1.4 Signs are Permitted Activities provided that they comply with the following conditions:

17.1.4.1 For permanent signs:

- signs may have a maximum area of 1m², except for interpretative or directional signs that relate to the open space site which may have a maximum area of 4m²
- subject to rule 17.1.9.2, the maximum height of free-standing signs is 4m.

17.1.4.2 For temporary signs:

- the maximum area must not exceed 6m²
- the maximum height must not exceed 5 metres
- signs must not be erected more than 28 days before and must be removed within 7 days of the completion of the purpose or event for which the sign was erected.

The design and number of signs will be guided by Council policy on the use of open space. Council agreements, such as leases, in relation to the use of land will also contain reference to maintaining the amenity of Open Space areas through appropriate sign design. Any new signage will also be governed by the provisions of any relevant management plans (for example the Wellington Town Belt Management Plan contains a separate consent requirement for establishing new signage on the Inner Town Belt).

17.1.5 The total or partial demolition or removal of buildings and structures (except those listed in the District Plan as heritage items) are 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:

- 17.1.6.1 That the existing ground level is not altered by more than 1.5 metres measured vertically.
- 17.1.6.2 That the ground surface disturbance is less than 100m².
- 17.1.6.3 That earthworks do not take place in Hazard (Flooding) Areas.

For Section 105 Ohariu District, West of Cortina Avenue, Johnsonville refer to Appendix 2

[This rule does not apply to the Chest Hospital Heritage Area (Lot 4 DP 316137). Rule 17.2.5 applies.]^{PC37}

- 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.

17.1.7 Planting and rural activities (excluding factory farming and goat farming) are Permitted Activities in Open Space A and Open Space B.

Plantings and agricultural activities include conservation, amenity and commercial forestry, grazing, pastoral farming and horticulture. Separate provisions cover any associated structures.

17.1.8 Plantings are Permitted Activities in Open Space C.

Plantings in the Inner Town Belt are permitted. Any planting activities will also be governed by the relevant provisions of the Wellington Town Belt Management Plan.

17.1.9 Buildings and structures for the purposes of recreation activities, car-parking areas, and access drives in Open Space A are Permitted Activities, provided that they comply with the following conditions:

- 17.1.9.1 A minimum yard of 5 metres must be maintained to all site boundaries that abut a Residential Area.
- 17.1.9.2 All parts of a building shall be contained within a 45° plane commencing at a point 2.5 metres above ground level inclined inwards at right angles in plan from all parts of the site's boundaries that abut a Residential Area.
- 17.1.9.3 Buildings, structures, carparking areas and access drives may not exceed a total nett coverage of 10 percent of the site's total area.
- 17.1.9.4 No building or structure may exceed 200m² in gross floor area.
- 17.1.9.5 That no building or structure may exceed a total height of 10 metres.

17.1.10 The construction, alteration of and addition to buildings and structures, for recreation purposes, of less than 30m² in floor area and less than 4m in height in Open Space B and Open Space C are Permitted Activities provided that they comply with the following conditions: *[This rule does not apply to the Chest Hospital Heritage Area (Lot 4 DP 316137). Rule 17.2.5 applies.]*
PC37

- 17.1.10.1 The aggregate area of all structures must not exceed the total nett coverage of 200m² per hectare.

17.1.10.2 No structure may be located within 10 metres of a residential boundary.

17.1.10.3 No structure may be erected within 20m of a Conservation Site.

Any new building works will also be governed by the provisions of any relevant management plans (for example the Wellington Town Belt Management Plan).

17.1.11 Car-parking areas and access drives in Open Space B are Permitted Activities provided that they comply with the following condition:

17.1.11.1 Carparks and access drives must not exceed the total net coverage for the site of 200m² per hectare.

17.1.12 Car-parking areas and access drives in Open Space C are Permitted Activities provided that they comply with the following conditions:

[This rule does not apply to the Chest Hospital Heritage Area (Lot 4 DP 316137). Rule 17.2.5 applies.]
PC37

17.1.12.1 New carparks and new access drives must be associated with a recreational activity, or new access drives must be for the purposes of vegetation management in Open Space A, Open Space B or Open Space C land.

17.1.12.2 New carparks and new access drives must not exceed a total nett coverage for the site of 200m² per hectare within any Open Space C land.

The Council is seeking to restrict the extent of vehicular access through the Inner Town Belt. The Council's primary form of regulation with regard to car-parking areas and access drives in the Inner Town Belt is the Wellington Town Belt Management Plan. The physical formation of new thoroughfares is contrary to the Wellington Town Belt Management Plan and the 1873 Town Belt Deed. Applicants are advised that separate consent may be required under the provisions of the Wellington Town Belt Management Plan.

The District Plan is intended to address the adverse effects associated with the physical formation of new access drives and carparking.

New carparking areas and access drives are only permitted under the District Plan where they are associated with a recreational activity or vegetation management, and they meet the net site coverage requirement.

17.1.13 The storage, use or handling of hazardous substances are Permitted Activities, except in a Hazard Area, provided that they comply with the following conditions:

See Exemptions to the Hazardous Facilities Screening Procedure contained in section 3.5.2

17.1.13.1 For those activities which are not specifically exempted (see Section 3.5.2.2) the cumulative Effect Ratio calculated using the HFSP will be used to determine whether or not those other activities should be Permitted Activities according to the table below.

Location	Either Zone	Either Zone
Effect Ratio	$0.002 < ER^{PC35} \leq 0.02$	≤ 0.002
Conditions applying	17.1.13.2 to 17.1.13.12	17.1.13.9, 17.1.13.11 and 17.1.13.12 only

Activities that do not meet the above Effect Ratio criteria or do not otherwise comply with the applicable conditions will be Discretionary (Unrestricted) Activities.

- 17.1.13.2 Any area where hazardous substances are used, stored or handled in any manner on-site shall have secondary containment (via bunding or otherwise) using materials that are resistant to the hazardous substances contained on-site. [Secondary containment systems also need to comply with any relevant provisions under the Hazardous Substances and New Organisms Act 1996.]^{PC35}
- 17.1.13.3 Any secondary containment system shall be maintained to ensure that it will perform the functions for which it was designed and contain any spill or accidental release.
- 17.1.13.4 Any area(s) where hazardous substances are loaded, unloaded, packaged, mixed, manufactured or otherwise handled shall have a spill containment system [that is compliant with relevant provisions under the Hazardous Substances and New Organisms Act 1996.]^{PC35}
- 17.1.13.5 Secondary containment systems shall be designed to contain any spill or accidental release of hazardous substance, and any storm water and/or fire water that has become contaminated, and prevent any contaminant from entering the environment unless expressly permitted under a resource consent or trade waste permit.
- 17.1.13.6 All stormwater grates, collection structures and inspection chamber covers on the site shall be clearly marked as such.
- 17.1.13.7 Any area where vehicles, equipment or containers that are or may have been contaminated with hazardous substances are washed down shall be designed, constructed and managed to prevent the effluent from the washdown area from discharge into or onto land, entry or discharge into the sewerage or stormwater drainage system unless expressly permitted by a rule in a regional plan, trade waste permit or resource consent.
- 17.1.13.8 Underground tanks for the storage of petroleum products shall be designed, constructed, installed, maintained, operated, managed and at the end of their life removed, to prevent leakage and spills. Compliance with [any relevant provisions under the Hazardous Substances and New Organisms Act 1996 and] ^{PC35} the Code of Practice for the "Design, Installation and Operation of Underground Petroleum Storage Systems" (1992) is a minimum [requirement.]^{PC35}

Signage

- 17.1.13.9 [All facilities must display signage to indicate the nature of the hazardous substances present (compliance with the provisions of the Hazardous Substances and New Organisms Act 1996 and the requirements of the Building Code (F8) or the Code of Practice “Signage for Premises Storing Hazardous Substances and Dangerous Goods” of the New Zealand Chemical Industry Council (Nov 2004) is a minimum requirement).]^{PC35}

Waste Management

- 17.1.13.10 Any process waste or waste containing hazardous substances shall be stored in a manner which complies with 17.1.13.1 to 17.1.13.9 above.
- 17.1.13.11 Any hazardous facility generating wastes containing hazardous substances shall dispose of these wastes to facilities which, or waste disposal contractors who, meet all the requirements of regional and district rules for discharges to the environment [and also the provisions of the Hazardous Substances and New Organisms Act 1996].^{PC35}

Other

- 17.1.13.12 Council must be informed of the activity’s location, the nature of the activity and when the activity commences and ceases.

[The on-site disposal of hazardous substances will be controlled through Council’s Waste Management Strategy, through obtaining the appropriate discharge consents from the Regional Council or trade waste permits, and through relevant controls on disposal of hazardous substances by the Hazardous Substances and New Organisms Act 1996.]

^{PC35}

[In addition to the provisions of the Plan, all activities which involve the use, storage, handling or transportation of hazardous substances are regulated for on-site and off-site effects by a range of other legislation and regulations, and associated standards and codes of practice which should be complied with. Key pieces of legislation include:

- *the Hazardous Substance and New Organisms Act 1996*
- *legislation, rules and standards relating to the transportation of hazardous substances (Land Transport Act 1993, Land Transport Rule: Dangerous Goods 1999 and New Zealand Standard 5433:1999)*
- *Building Act 1991*
- *Health Act 1956*
- *Fire Service Act 1975*
- *Health and Safety in Employment Act 1992*
- *Radiation Protection Act 1965*
- *Agricultural Compounds and Veterinary Medicines Act 1997]*^{PC35}

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

17.1.15 In Open Space B and Open Space C Areas the modification, damage, removal or destruction of indigenous vegetation is permitted subject to meeting any one of the following conditions:

- 17.1.15.1 That the vegetation is on land held subject to the Conservation Act 1987 or any Act listed in the First Schedule to that Act.

- 17.1.15.2 That the vegetation is wind thrown trees, standing dead trees that have died as a result of natural causes, or vegetation that has become dangerous to human life or property as a result of natural causes.
- 17.1.15.3 That the activity does not involve modification, damage, removal or destruction of vegetation more than 100m² over a 5 calendar year period.
- 17.1.15.4 The activity is associated with the creation and maintenance of pedestrian tracks not exceeding 1.5 metres in width.
- 17.1.15.5 The activity involves pruning around existing structures including utility structures.

The presence of ecological values is one of the primary purposes of identifying areas as Open Space B in the Plan. Activities affecting indigenous vegetation are permitted where that land is subject to protected area legislation such as the Reserves Act 1977. Activities involving indigenous vegetation are already addressed by protected area legislation and further control is considered unnecessary. Some small scale damage or modification of existing vegetation is permitted as activities on this scale are unlikely to adversely affect the ecological values of a site and are often essential for safety reasons. In Open Space C the removal of vegetation is also governed by the provisions of the Wellington Town Belt Management Plan.

17.1.16 The modification, damage, removal or destruction of indigenous vegetation is a Permitted Activity in Open Space A.

[17.1.17 In the Chest Hospital Heritage Area (Lot 4 DP 316137), any activity, except for:

- **Those activities specified as Discretionary Activities (Restricted) under Rule 17.2.5**

is a Permitted Activity provided that it complies with all other relevant permitted activity conditions of the Open Space rules chapter and the following condition in respect of noise:

17.1.17.1 Noise

17.1.17.1.1 Noise emission levels when measured on any residential site boundary in the Inner Residential Area must not exceed:

- Monday to Saturday 7am to 10pm 50dBA (L10)
- All other times 40dBA (L10)
- All days 10pm to 7am 65dBA (Lmax).

The permitted activity rule for the Chest Hospital Heritage Area is part of a package of measures that controls the effects from the use and development of this site. While the permitted activity rule allows for any use of the site to occur provided certain environmental conditions are met, there are other methods outside the Plan that also control the use of the site.

These methods include landowner control (Council is landowner), lease agreements under the Local Government Act, and the Reserves Management Plan for the site. These controls will provide adequate control over the range of activities that occur on this site.

As any activity is permitted in the Chest Hospital Heritage Area, it is not appropriate to apply the noise conditions for recreational activities in Open Space Areas to the Chest Hospital Heritage Area. Noise from recreational activities (permitted under Rule 17.1.1) is likely to be different from the types of activities that are possible in the Chest Hospital Heritage Area. The noise controls used in the Inner Residential Area is considered to be a better control mechanism.]^{PC37}

17.2 Discretionary Activities (Restricted)

Section 17.2 describes which activities are Discretionary Activities (Restricted) in Open Space Areas. Consent may be refused or granted subject to conditions. Grounds for refusal and conditions will be restricted to the matters specified in rules 17.2.1 – 17.2.4. The decision on whether or not a resource consent application will be notified will be made in accordance with the provisions on notification in the Act.

17.2.1 Recreation activities which do not meet the conditions for Permitted Activities are Discretionary Activities (Restricted) in respect of:

17.2.1.1 dust

17.2.1.2 lighting.

Non-notification

The written approval of affected persons will not be necessary in respect of items 17.2.1.1 and 17.2.1.2. [Notice of applications need not be served on affected persons]^{PC28} and applications need not be notified.

Standards and Terms

Except for the matters specified in rule 17.2.1 this activity must comply with all relevant conditions specified for activities in rule 17.1.1.

The conditions for rule 17.1.1 may be waived totally, except that:

- rule 17.1.1.4, maximum lighting levels, must not be exceeded by more than 20 percent.

Assessment Criteria

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

17.2.1.3 Dust

The extent to which existing amenities are protected. Council will seek to ensure that dust nuisances are mitigated as far as practical.

There may be instances where it may be impractical to prevent dust nuisance in view of the variable weather conditions experienced by Wellington. Such proposals will be carefully considered to ensure that any dust nuisance is of a minor nature.

Activities and uses on public land are also required to obtain permission (such as a lease or a licence) from the Council as the administering authority. Council, as steward of much of the City's open space, is working to ensure Wellington retains the asset of its open space. All activities will have regard to the relevant provisions of any management plans (for example the Wellington Town Belt Management Plan), the Town Belt Deed or the Reserves Act 1977.

17.2.1.4.2 The consideration of applications to provide less intensive lighting on site areas open to public use will take into account the nature of the activities on the site, the extent of public use and whether other measures will be taken to maintain public safety.

The diversity of development and the nature of landforms in and around Open Space Areas is such that in some cases extra illumination can be achieved without affecting residents. Applications to exceed the permitted levels will therefore be considered. Similarly, there may also be circumstances where the lighting of publicly used areas need not comply with the specified standards.

17.2.2 Signs are Discretionary Activities (Restricted) if they do not comply with the conditions for Permitted Activities in respect of:

17.2.2.1 the area and height of signs.

Non-notification

The written approval of affected persons will not be necessary in respect of item 17.2.2.1. [Notice of applications need not be served on affected persons]^{PC28} and applications need not be notified.

Standards and Terms

Except for the matters specified in rule 17.2.2, this activity must comply with all the conditions specified for activities in rule 17.1.4.

The conditions relating to any sign dimension specified in rule 17.1.4 may not be exceeded by more than 50 percent.

Assessment Criteria

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

- 17.2.2.2 Whether signs are obtrusively visible from any Rural Area, public space or Conservation Site.
- 17.2.2.3 Whether signs are in scale with associated activities or building development and are compatible with the visual character of the area in which they are situated.

In some circumstances, larger signs may be required to identify activities or particular attributes of the site. In such cases, signs will be carefully assessed to ensure that visual amenities are maintained. Any new signage will also be governed by the provisions of any relevant management plans (for example the Wellington Town Belt Management Plan contains separate requirements for establishing new signage on the Inner Town Belt).

17.2.3 Buildings and structures in Open Space A for the purposes of recreation which do not meet the conditions for Permitted Activities are Discretionary Activities (Restricted) in respect of:

17.2.3.1 yards

17.2.3.2 sunlight access

17.2.3.3 site coverage

17.2.3.4 floor area.

Non-notification

The written approval of affected persons will not be necessary in respect of item 17.2.3.1. [Notice of applications need not be served on affected persons]^{PC28} and applications need not be notified.

Standards and Terms

Except for the matters specified in rule 17.2.3 this activity must comply with all conditions specified for activities in rule 17.1.9, except that:

- rule 17.1.9.1, yards, may be waived totally
- rule 17.1.9.2, sunlight access, must not be exceeded by more than 3 metres
- rules 17.1.9.3 and 17.1.9.4 must not be exceeded by more than 20 percent.

Assessment Criteria

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

- 17.2.3.5 The extent to which the amenities of nearby Residential Areas can be maintained.
- 17.2.3.6 Whether the size or coverage of buildings or structures will adversely affect the public enjoyment of the site's recreational potential.
- 17.2.3.7 Whether the size of the structure is out of character with the Open Space Area.
- 17.2.3.8 Whether established public access or the possibility of such access is maintained.

17.2.4 The modification, damage, removal or destruction of indigenous vegetation not provided for as a Permitted Activity is a Discretionary Activity (Restricted) in respect of:

17.2.4.1 the area or extent of vegetation to be affected

17.2.4.2 the species, age and condition of the vegetation to be affected**17.2.4.3 where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.***Non-notification*

The written approval of affected parties will not be necessary in respect of items 17.2.4.1, 17.2.4.2 and 17.2.4.3. [Notice of applications need not be served on affected persons]^{PC28} and applications need not be notified.

Assessment Criteria

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

- 17.2.4.4 The significance of the affected vegetation in terms of ecological and amenity values.
- 17.2.4.5 The relationship of the affected vegetation with other areas of indigenous vegetation.
- 17.2.4.6 Whether it is necessary to remove vegetation to maintain or enhance the Open Space B or Open Space C Area.

The presence of ecological values is one of the primary purposes of identifying areas as Open Space B Areas in the Plan. Proposals to modify, damage, remove or destroy indigenous vegetation in Open Space B or Open Space C Areas should be assessed.

[17.2.5 In the Chest Hospital Heritage Area (Lot 4 DP 316137):

- the alteration of and addition to listed heritage buildings and their site surrounds; and
- the construction of new buildings or structures in the Chest Hospital Heritage Area; and
- the modification of existing open space; and

any activities which do not comply with the conditions for a Permitted Activity are Discretionary Activities (Restricted) in respect of:

17.2.5.1 Design, appearance and heritage fabric**17.2.5.2 Siting****17.2.5.3 Landscaping****17.2.5.4 Open space and heritage values**

Non-notification

The written approval of affected persons will not be necessary in respect of Items 17.2.5.1 – 17.2.5.4. Notice of applications need not be served on affected persons and the applications need not be notified.

Standards and Terms

Maximum site coverage is 35%.

Additional hard surfaces must not exceed a total of 400 m² for all of Lot 4 DP 316137 except that; expressly for the purposes of an outdoor yard area associated with accommodation for the welfare of animals, an additional area of hard surfacing of no greater than 400m² may be developed. Examples of hard surfaces include asphalt, concrete and paving.

New buildings and structures shall not be higher than the height of adjacent listed heritage buildings.

No demolition of listed heritage buildings.

Assessment Criteria

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

- 17.2.5.5 Whether the proposal is compatible with the character-defining features of the Heritage Area and any adjacent or nearby heritage features.
- 17.2.5.6 Whether the colours, textures, materials, fenestration, decorative features and details, height, scale, massing and methods of construction, landscaping and boundary treatment are compatible with the other features of the Heritage Area.
- 17.2.5.7 Whether the proposed work is necessary for the effective use of the former Chest Hospital buildings.
- 17.2.5.8 Whether any alteration to the Area can be made that retains the heritage values in the Chest Hospital Heritage Area while accommodating the objectives of the applicant.
- 17.2.5.9 Whether the development works are designed and located so as to be visually unobtrusive.
- 17.2.5.10 The extent to which any reduction in the existing natural ground cover affects the open space values of the Area; and whether landscaping can be used to screen/mitigate the loss of any existing natural ground cover.
- 17.2.5.11 Whether the Chest Hospital Heritage Area's open space character is maintained and whether the proposal restricts the conversion to open space in the future.
- 17.2.5.12 Whether established public access or the possibility of such access is maintained.
- 17.2.5.13 The principles of the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value.
- 17.2.5.14 Any Conservation Plan for the former Chest Hospital.
- 17.2.5.15 In respect of noise, the extent to which noise emissions will be intrusive. Council will seek to ensure that the best practicable option is used to mitigate noise and that adverse effects are minor.

- 17.2.5.16 The extent to which any earth cut or fill will remove existing vegetation, alter existing landforms, affect water quality, or affect existing natural features.
- 17.2.5.17 Where the activity is within a Maori Precinct, the outcome of consultation with tangata whenua and other Maori.

Explanation

Given the open space and heritage values associated with this Heritage Area, it is important to control building and site development to ensure those open space and heritage values are maintained and enhanced where possible. Therefore, control is specifically exercised over the addition and alterations to the listed heritage buildings; the design, appearance and siting of any new buildings or structures; and any proposals that modify the existing open space areas of the site.]^{PC37}

17.3 Discretionary Activities (Unrestricted)

Section 17.3 describes those activities that are Discretionary Activities (Unrestricted) in Open Space Areas. The decision on whether or not a resource consent application will be notified will be made in accordance with the provisions on notification in the Act.

17.3.1 Activities or structures in Open Space A not specifically provided for as Permitted Activities are Discretionary Activities (Unrestricted).

Assessment Criteria

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

- 17.3.1.1 The impact that the activity will have on the surrounding environment.
- 17.3.1.2 Whether any structures are needed for the public enjoyment of the site's recreational potential.
- 17.3.1.3 Whether the site's recreational potential is maintained or enhanced.
- 17.3.1.4 Any relevant provisions of any of the following:
 - Reserves Act 1977 and any amendments to that Act
 - Queen Elizabeth II National Trust Act 1977 and any amendments to that Act
 - any management plan prepared for the site.
- 17.3.1.5 The extent to which the proposal affects current or future access.
- 17.3.1.6 [The extent that buildings and structures are sited and designed in ways that are sensitive to landform and other natural features where located within identified ridgelines and hilltops.]^{PC33}

Activities and uses on public land are required to obtain permission (a lease or a licence) from Council as the administering authority. Council, as steward of much of the City's open space, is working to ensure Wellington retains the asset of its open spaces. [The management of built form on identified ridgelines and hilltops is a key resource management issue for Wellington. Therefore activities will be carefully assessed to ensure that where development is proposed in these areas, it is done in a comprehensive and sensitive manner responsive to the local natural features.]^{PC33}

17.3.2 Any recreational and other activities in Open Space B or Open Space C not specifically provided for as Permitted Activities; and any construction, alteration of and additions to buildings and structures in Open Space B or Open Space C not specifically provided for as Permitted Activities are Discretionary Activities

Activities and uses on public land are also required to obtain permission (such as a lease or a licence) from the Council as the administering authority. Council, as steward of much of the City's open space, is working to ensure Wellington retains the asset of its open space. All activities will have regard to the relevant provisions of any management plans (for example the Wellington Town Belt Management Plan), the Town Belt Deed or the Reserves Act 1977.

[This rule does not apply to the Chest Hospital Heritage Area (Lot 4 DP 316137). Rules 17.1.17 and 17.2.5 apply.]^{PC37}

(Unrestricted).*Assessment Criteria*

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

- 17.3.2.1 [Whether the structure is designed and located so as to be visually unobtrusive.]^{PC33}
- 17.3.2.2 [The extent that buildings and structures within identified ridgelines and hilltops are sited and designed in ways that avoid visually obtrusive development by:
- ensuring visual continuity is achieved on the upper slopes up to the apex of the ridgeline or hilltop
 - ensuring that the visibility of buildings, structures and earthworks is mitigated by appropriate siting and design, and planting and/or screening when viewed from district wide, community wide and neighbouring land
 - minimising skyline effects by ensuring that buildings and structures will be seen against a landform backdrop when viewed from district wide, community wide and neighbouring land]^{PC33}
- 17.3.2.3 Whether the structure is needed for the public enjoyment of the site's recreational potential
- 17.3.2.4 Whether the site's open space character is maintained.
- 17.3.2.5 Any relevant provisions of:
- Reserves Act 1977 and any amendments to that Act
 - Queen Elizabeth II National Trust Act 1977 and any amendments to that Act
 - any management plan prepared for the site e.g. Belmont Regional Park Management Plan and the Wellington Town Belt Management Plan
 - the Town Belt Deed 1873.
- 17.3.2.6 Whether established public access or the possibility of such access is maintained.
- 17.3.2.7 Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.
- 17.3.2.8 The extent to which any adverse effects of any new accessway or carparking, or change in use of any existing accessway or carparking, can be avoided, remedied or mitigated.
- [17.3.2.9 Where a structure or building is located within a Hazard (Fault Line) Area, the degree to which measures have been adopted to mitigate the potential adverse effects from a fault rupture hazard event.]^{PC22}

In general, structures on Open Space B or Open Space C are viewed unfavourably unless there is a need for public facilities that cannot reasonably be satisfied by using other land. Council will pay particular attention to this point in decisions on the use of Inner Town Belt land. Any new building works will also be governed by the provisions of any relevant management plans (for example the Wellington Town Belt Management Plan).

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, [identified] ^{PC33} ridgelines [and hilltops] ^{PC33}, cliffs, escarpments and waterbodies. [Where located within identified ridgelines and hilltops, the extent that earthworks are sited and designed in ways that avoid being visually obtrusive by:
- minimising the visibility of earthworks in relation to district wide, community wide and neighbouring views
 - mitigating the visibility of earthworks by appropriate planting and/or screening] ^{PC33}
- 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.

17.3.4 Any subdivision of land 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:

- 17.3.4.1 Whether the proposed allotments are capable of accommodating Permitted, Controlled or other Discretionary Activities in compliance with the Open Space rules.
- 17.3.4.2 The extent of compliance with Council's Code of Practice for Land Development.
- 17.3.4.3 Where the activity is within a Maori precinct, the outcome of consultation with tangata whenua and other Maori.

All subdivision is a Discretionary Activity to enable any special aspects to be assessed. Subdivision of Open Space land will not commonly occur. With regard to the Inner Town Belt, the Council's power to alienate the land is constrained by the provisions of the 1873 Town Belt Deed and subsequent legislation.

17.3.5 The storage, use, handling or disposal of hazardous substances that do not meet the conditions for Permitted Activities are Discretionary Activities (Unrestricted).

See Exemptions to the Hazardous Facilities Screening Procedure contained in section 3.5.2

Standards and Terms

This rule applies where:

- the cumulative effects ratio as assessed under the Hazardous Facilities Screening Procedure for the site where the activity is to occur is **less than or equal to 1** but does not meet the conditions in rules 17.1.13.
- the hazardous facility is located in a Hazard Area, the cumulative Effect Ratio as assessed under the Hazardous Facilities Screening Procedure for the site where the activity is to occur is **less than or equal to 0.1** and does not meet the conditions in rules 17.1.13.

Assessment Criteria

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

- 17.3.5.1 Site design and management to avoid, remedy or mitigate any adverse effects of the activity.
- 17.3.5.2 The adequacy of the design, construction and management of any part of a hazardous facility site where hazardous substances are used for their intended function, stored, manufactured, mixed, packaged, loaded, unloaded or otherwise handled such that:
- any significant adverse effects of the intended use from occurring outside the intended use, handling or storage area is prevented
 - the contamination of any land in the event of a spill or other unintentional release of hazardous substances is prevented
 - the entry or discharge of the hazardous substances into surface or groundwater, the stormwater drainage system or into the sewerage system (unless permitted under a regional plan, resource consent or trade waste permit) is prevented.
- 17.3.5.3 Location of the facility in relation to the nearest waterbody or the coastal marine area.

- 17.3.5.4 Access routes to the facility, location and separation distance between the facility and sensitive activities and uses, sensitive environments and areas of high population density.
- 17.3.5.5 Existing and proposed (if any currently under consideration by Council) neighbouring uses.
- 17.3.5.6 Potential cumulative hazards presented in conjunction with nearby facilities.
- 17.3.5.7 Transport of hazardous substances to and from the site.
- 17.3.5.8 Potential for contamination of the surroundings of the site and sensitivity of the surrounding environment.
- 17.3.5.9 Whether the site has adequate signage to indicate the presence of hazardous substances.
- 17.3.5.10 Whether adequate arrangement has been made for the environmentally safe disposal of any hazardous substance or hazardous wastes generated.
- 17.3.5.11 Whether the site design has been subject to risk analysis, such as Hazop (Hazard and Operabilities Studies), to identify the potential hazards, failure modes and exposure pathways.
- 17.3.5.12 Where the hazardous facility is located within a Hazard Area, any additional requirements to mitigate the potential effect of natural hazard event.
- 17.3.5.13 Type and nature of the existing facility.
- 17.3.5.14 Where the activity is within a Maori Precinct, the outcome of consultation with tangata whenua and other Maori.
- [17.3.5.15 Whether appropriate contingency measures and emergency plans are in place.]^{PC35}
- [17.3.5.16 Whether the facility complies with the provisions of the Hazardous Substances and New Organisms Act 1996, and whether more stringent controls are required to take account of site-specific conditions.]^{PC35}

To reduce the potential adverse effects, Council will require the production of a Site Management Plan or Environmental Management System when a resource consent application is made, this will be before hazardous substances are brought onto the hazardous facility. In addition, Council will require the design of the site to include measures which will prevent the accidental releases of any hazardous substances into the environment. Through this process, Council seeks to protect the surrounding environment from any adverse effects of the hazardous facility.

17.4 Non-Complying Activities

Activities that contravene a rule in the Plan, and which have not been provided for as Discretionary Activities (Restricted) or Discretionary Activities (Unrestricted) are Non-Complying Activities. Resource consents will be assessed in terms of section 105(2A)(b) of the Act.

The decision on whether or not a resource consent application will be notified will be made in accordance with the provisions on notification in the Act.

Appendix 1. Noise

Activities must comply with the following noise limits.

Residential (Inner)

Noise emission levels when measured on any residential site in the Inner Residential Area must not exceed:

<i>Monday to Saturday 7am to 10pm</i>	<i>50dBA (L10)</i>
<i>All other times</i>	<i>40dBA (L10)</i>
<i>All days 10pm to 7am</i>	<i>65dBA (Lmax)</i>

Where it is impractical to measure outside a dwelling, then measurements shall be made inside (with windows closed). Where indoor measurements are made the noise limits stated above shall be reduced by 15dBA.

Residential (Outer)

Noise emission levels when measured on any residential site in the Outer Residential Area must not exceed:

<i>Monday to Saturday 7am to 10pm</i>	<i>45dBA (L10)</i>
<i>All other times</i>	<i>40dBA (L10)</i>
<i>All days 10pm to 7am</i>	<i>65dBA (Lmax)</i>

Where it is impractical to measure outside a dwelling, then measurements shall be made inside (with windows closed). Where indoor measurements are made the noise limits stated above shall be reduced by 15dBA.

Rural Area

Noise emission levels when measured at or within the boundary of any site (other than the site from which the noise is generated) in the Rural Area must not exceed:

<i>At all times</i>	<i>55dBA (L10)</i>
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and

noise emission levels when measured on any Conceptual Boundary of a residential building must not exceed:

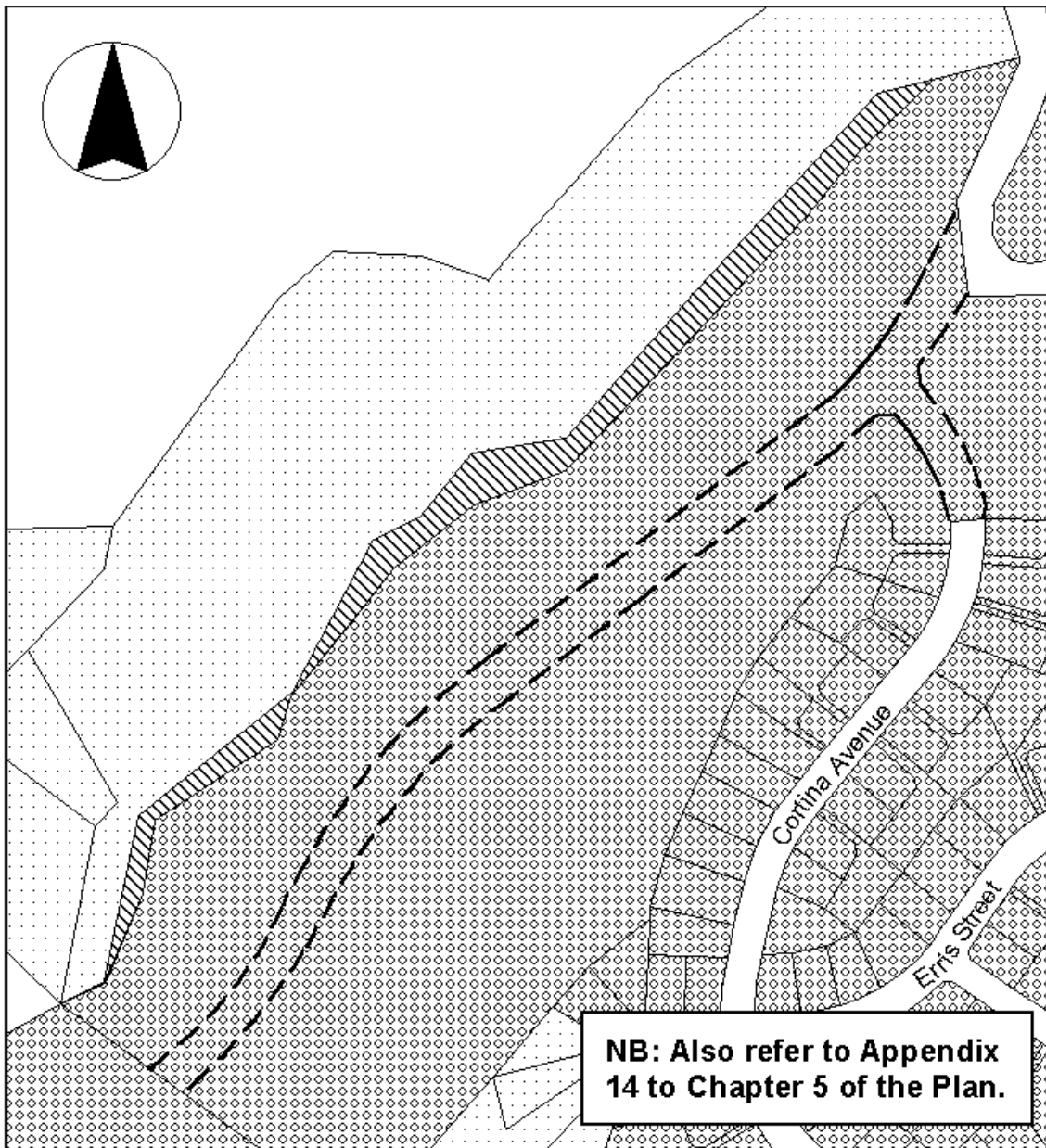
<i>Monday to Saturday 7am to 8pm</i>	<i>45dBA (L10)</i>	
<i>At all other times</i>	<i>35dBA (L10)</i>	
<i>All days 8pm to 7am</i>	<i>60dBA</i>	<i>(Lmax)</i>






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 in the area will be subject to the relevant provisions of Chapters 4 and 5 (residential provisions) 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.