

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2016-AKL-

IN THE MATTER

of the Local Government Act (Auckland
Transitional Provisions) Act 2010
("**LGATPA**") and the Resource
Management Act 1991 ("**RMA**")

AND

IN THE MATTER

of an appeal under section 156(1) of the
LGATPA

AND

IN THE MATTER

of Hearing Topic 058 - Open Space

BETWEEN

FRIENDS OF CHURCHILL PARK

Appellant

AND

AUCKLAND COUNCIL

Respondent

NOTICE OF APPEAL

16 SEPTEMBER 2016

RUSSELL McVEAGH

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FRIENDS OF CHURCHILL PARK ("Friends"), an unincorporated body, appeal against part of the decision of the Auckland Council ("**Council**") in respect of the Proposed Auckland Unitary Plan ("**Unitary Plan**"), insofar as it relates to Churchill Park, Glendowie.

Decision

1. The Friends have the right to appeal under section 156(1) of the LGATPA because the Council rejected a recommendation of the Auckland Unitary Plan Independent Hearings Panel ("**Panel**") in relation to a provision or matter that the Friends addressed in their submission on the Unitary Plan (submission number 5090). The Council rejected the Panel's recommendation and decided on an alternative solution, which resulted in a provision being included in the Unitary Plan or a matter being excluded from the Unitary Plan.
2. The Friends received notice of the Panel's recommendation on the Unitary Plan on 27 July 2016, and notice of the Council's decision on 19 August 2016.
3. The Friends are not trade competitors for the purposes of section 308D of the RMA.

Nature of appeal

4. The Friends appeal the part of the Decision that rejects the Panel's recommendation on the activity status for buildings and the associated standards in the Open Space zones. Specifically, the Friends appeal the Council's alternative solution to:
 - (a) amend H7.9.1 Activity Table - Open Space zones to provide for new buildings as a permitted activity, rather than the discretionary activity status recommended by the Panel;
 - (b) amend standard H7.11.5 Gross floor area threshold to provide a 100m² threshold in the Informal Recreation zone, rather than the 50m² threshold recommended by the Panel.
5. The Friends' appeal is limited to the above provisions insofar as they relate to the Open Space - Informal Recreation zone at Churchill Park, and the relief being sought is restricted just to Churchill Park.

General reasons for appeal

6. The reasons for this appeal are that the Decision:
 - (a) will not promote the sustainable management of natural resources, will not achieve the purpose of the RMA, and is contrary to Part 2 and other provisions of the RMA;
 - (b) will not meet the reasonably foreseeable needs of future generations for undeveloped informal open space within urban areas;

- (c) does not manage the use of Churchill Park (a scarce natural resource) in a way that enables people and communities to provide for their economic and social well-being;
- (d) is otherwise contrary to the purposes and provisions of the RMA and other relevant planning documents, including other parts of the Unitary Plan;
- (e) does not avoid, remedy or mitigate the adverse effects on the environment; and
- (f) is not the most appropriate way to achieve the objectives of the Unitary Plan in terms of section 32 of the RMA.

Specific reasons for appeal

7. In particular and without limiting the generality of paragraph 6 above, specific reasons for the Friends' appeal of the Decision are provided below.

New buildings

8. The Council Decision rejected the recommendation that new buildings in the Open Space zones require resource consent as a discretionary activity (with the exception of buildings for public amenities). Under the Council's alternative solution, all new buildings in the Open Space zones are permitted, unless a development standard is breached.
9. The reason given for the Decision is that:¹
- (i) The recommendation does not appropriately balance the need to use public open space effectively (and manage pressure to use open spaces as population increases), with the need to manage impacts on neighbours.
10. The Friends oppose this part of the Decision and submit that the alternative solution is inappropriate. Providing for all new buildings as permitted activities will not appropriately balance the need to use public open space effectively with the need to manage impacts on neighbours, as suggested by the Decision. Instead, the permitted activity status provides the potential for public open space for informal recreation to be eroded over time. Furthermore, the potential for impacts on neighbours is not the only effect of buildings in Open Space zones that needs to be managed. A key effect of the development of such buildings is the loss of open space for informal recreation, which is suffered by the community as a whole.
11. Providing no restriction on the development of buildings is an inappropriate outcome for the Open Space - Informal Recreation zone, which has a zone description that states:²

...

These open spaces are generally characterised by few buildings and structures. Limiting development in these areas

¹ Auckland Council Decisions Report, 19 August 2016, paragraph 39.2(a).
² H.5.2.1 Zone Description.

maintains the open space character and amenity values, and enables opportunities for a range of informal recreation activities to occur.

Buildings and structures are limited to those that support the enjoyment of the open space for informal recreation and small-scale community buildings and structures.

12. The change in activity status to permitted is also in direct conflict with the objectives and policies of the Open Space - Informal Recreation zone. In particular, Objective 3 of the zone provides:³

(3) Buildings and exclusive-use activities are limited to maintain public use and open space for informal recreation.

13. Policy 4 provides:⁴

(4) Limit buildings, structures and activities to those necessary to enhance people's ability to use and enjoy the open space for informal recreation.

14. Enabling new buildings to establish as permitted activities is directly contrary to the clear intention of the above objective and policy of **limiting** buildings to those that maintain or enhance open space for informal recreation purposes. Rather, the enabling approach to new buildings (along with permissive development standards) encourages the development of any buildings, with no ability to assess whether the ability to use open space for informal recreation is protected.

15. The most appropriate way to achieve the objective of limiting buildings to maintain public use and open space is by enabling a case-by-case assessment, through a discretionary activity status. That is the very conclusion that the Panel drew, after having heard all the evidence on the Open Space zones. It reasoned:⁵

The Panel accepts that open space will be under greater pressure from a growing and more dense Auckland, and that as a result open space will need to be multi-functional. Notwithstanding this, the Panel is recommending changes to the provisions such that most buildings (other than small-scale public amenity and parks infrastructure buildings) and activities seeking exclusive use of open space, particularly publicly-owned open space, would generally require resource consents. The main policy approach is that effects on the open space itself, and the ability of the public to use that space, will need to be assessed on a case-by-case basis. An example is the following policy in the Open Space - Informal Recreation Zone:

Buildings and exclusive-use activities are limited to maintain public use and open space.

16. This is particularly the case where, as in Churchill Park, activities are managed by a Reserve Management Plan. Under a discretionary activity consent, such a plan would clearly be a relevant consideration under section 104(1)(c) of the RMA. The Council's alternative solution would -

³ H7.5.2(3).

⁴ H7.5.3(4).

⁵ Independent Hearings Panel Report to Auckland Council on Topic 058 Open Space zones, at page 8.

at least in the context of Churchill Park - mean the construction of one or a series of buildings could occur as a permitted activity, despite that being contrary to the Reserves Management Plan.

17. The importance of protecting Churchill Park for informal recreation is highlighted by the residential intensification proposed for Auckland under the Unitary Plan. Significant intensification is proposed for Glendowie and its surrounding suburbs, with many neighbourhoods being upzoned from the low intensity Residential 5 zone under the Auckland Council District Plan (Isthmus Section), to the intensive Mixed Housing Suburban zone. This intensification and its associated growth in the local population will only increase demand for places like Churchill Park for informal recreation.

18. The Friends therefore submit that this part of the Council's Decision should be overturned and the Panel's recommendation be reinstated insofar as it applies to Churchill Park.

Gross floor area standard

19. The Council Decision rejected the recommendation that the gross floor area of buildings in the Open Space - Informal Recreation zone be limited to 50m². The Council's alternative solution doubles the limit to 100m².

20. The reason given for the Decision is that:⁶

- (ii) The recommendation imposes a single approach across all Open Space zones and does not appropriately recognise the values and purpose of each zone.

21. The Friends oppose this part of the Decision and submit that the alternative solution is inappropriate. There is no justification for the Council's Decision doubling of the recommended standard as it relates to the Open Space - Informal Recreation zone at Churchill Park.

22. In combination with the Council's permitted activity status for new buildings, the relaxation of the standard would enable a wide range of buildings to be constructed as of right. Such an approach is inconsistent with both the description of the Open Space - Informal Recreation zone that applies at Churchill Park and the objectives and policies of the Churchill Park Reserve Management Plan. This position is compounded by the wide range of activities enabled by the Informal Recreation zone, the majority of which are inconsistent with the Reserve Management Plan. In section 32 terms, it is not efficient and presents excessive risk and uncertainty to rely on the Council's administration of the Reserve Management Plan to thwart activities permitted by the Unitary Plan.

23. As also identified above, the objectives and policies of the Open Space - Informal Recreation zone seek to limit buildings to those that enhance people's ability to use and enjoy open space for informal recreation. Providing an opportunity for a range of larger buildings to establish as permitted activities is therefore inconsistent with the objective and policy framework.

⁶ Auckland Council Decisions Report, 19 August 2016, paragraph 39.2(a).

24. Even if the Council is correct that the Panel's 50m² standard did not adequately reflect the different values and purposes of each of the Open Space zones, that does not mean that it is not the correct standard for the Informal Recreation zone (which is the second most restrictive zone in terms of the objectives and policies for development). In the context of the Informal Recreation zone's objectives and policies, the standards for building coverage should be at the lowest end of the range and therefore 50m² is appropriate.
25. The Friends therefore submit that this part of the Council's Decision should be overturned and the Panel's recommendation of 50m² be reinstated insofar as it applies to Churchill Park.

Relief sought

26. The Friends seek the following relief:
- (a) that the Open Space zone provisions be amended to:
 - (i) require resource consent as a discretionary activity for new buildings in the Open Space - Informal Recreation zone at Churchill Park;
 - (ii) limit gross floor area of buildings in the Open Space - Informal Recreation zone at Churchill Park to 50m²;
 - (b) such alternative, consequential or related relief as may be necessary to address the Friends' concerns; and
 - (c) costs.

Service

27. An electronic copy of this notice is being served today by email on the Auckland Council at unitaryplan@aucklandcouncil.govt.nz. Waivers and directions have been made by the Environment Court in relation to the usual requirements of the RMA as to service of this notice on other persons.

Attachments

28. Copies of the following documents are attached to this notice:
- (a) The Friends' submission.
 - (b) The Panel's recommendation Report for Topic 058 - Open Space and the relevant parts of the recommendation text.
 - (c) The relevant parts of the Decision, including the track changes version showing the amendments made by the Council to the recommendation text.

FRIENDS OF CHURCHILL PARK by their
solicitors and authorised agents Russell
McVeagh:



Signature: ~~Balthazar Matheson~~ / Michael Doesburg

Date: 16 September 2016

Address for Service: C/- Michael Doesburg
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AUCKLAND

Telephone: (09) 367 8000

Email: michael.doesburg@russellmcveagh.com

TO: The Registrar of the Environment Court at Auckland.

AND TO: Auckland Council.

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

1. You may become a party to the appeal if you are one of the persons described in section 274(1) of the RMA.
2. To become a party to the appeal, you must, within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003) with the Environment Court by email (to unitaryplan.ecappeals@justice.govt.nz) and serve copies of your notice by email on the Auckland Council (to unitaryplan@aucklandcouncil.govt.nz) and the appellant.
3. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the RMA.
4. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003).

Advice

5. If you have any questions about this notice, contact the Environment Court in Auckland.

Attachment 1: The Friends' submission

[Note: pages 6/8 and 7/8 are duplicates of pages 4/8 and 5/8 and should be ignored.]

5090

Proposed Auckland Unitary Plan Submission Form Sections 123 and 125, Local Government (Auckland Transitional Provisions Act 2010) FORM 2	
Correspondence to: Attn: Unitary Plan Submission Team Auckland Council Freepost Authority 237170 Auckland 1142	For office use only Submission No: Receipt Date

Submitter details

Organisation Name: The Friends of Churchill Park

Address for Service of the Submitter
Dr E Walton
44 Robley Crescent,
Glendowie
Auckland 1071

28 FEB 2014
AUCKLAND COUNCIL

Email: eric.walton@otago.ac.nz

Scope of submission
This is a submission to: Proposed Auckland Unitary Plan

The specific provisions that my submission relate to are:

Provisions: Part 2, Chapter D, Public Open Space Zones, 2.2 Informal Recreational Zone and planning maps for Churchill Park

Submission

Our submission is: We **oppose** the specific provisions identified above to the extent set out in the following submission.

The reasons for our views are:

1. Churchill Park comprises approximately 45 hectares in Glendowie in Auckland's eastern suburbs. The Park is valued highly by the local residents, who have a history of resisting its allocation to inappropriate uses over a number of generations. It is gazetted as recreation reserve under the Reserves Act 1977 and operates predominantly as a farm park comprising pasture and regenerating bush managed in accordance with an operative reserves management plan. Small areas are occupied by active recreation clubs (bowls, tennis) and community uses (scouts, guides, pre-school). Under the operative district plan the Park is largely zoned Open Space 2 (informal Recreation) with the areas occupied by community use buildings zoned Open Space 4 (Community). There is an anomaly in that the sports clubs are not zoned Open Space 3 (Organised Recreation). This aside, the historical pattern of usage is generally supported by the community. The Friends of Churchill Park in partnership with the council and community are actively engaged in replanting and maintaining parts of the Park identified for re-vegetation in the reserves management plan and a related landscape concept plan.

2. Zoning those parts of the Park used for informal recreational activities (walking, running, cycling, dog exercise, ecological remediation, nature observation/enjoyment, relaxing, socialising) and grazing for land management purposes as Informal Recreation in the Unitary Plan is supported. The Friends also support the area zoned Sport and Active Recreation

1/8

Zone. Ironically, the Unitary Plan omits to zone the existing community uses as Open Space Community Zone. This needs to be rectified.

3. The objectives and policies for the Informal Recreation Zone require amendment in the manner set out in Attachment A to better meet the purpose and principles of the Resource Management Act 1991 (the Act) and Part 2 of the Act, higher order Unitary plan provisions and to align with the operative Churchill Park Reserve Management Plan, community use and values.

4. The rules and methods applicable to the Informal Recreation Zone also require amendment in the manner set out in Attachment A below to better meet the purpose and principles of the Resource Management Act 1991 (the Act), Part 2 and to better implement relevant objectives and policies and s. 32 of the Act. More specifically, amendments are required to the Activity Table, restricted discretionary activity matters for discretion, related assessment criteria and zoning map.

5. In terms of s.32 of the Act, the Friends consider that the objectives of the Informal Recreation Zone as framed in the proposed Unitary Plan are not the most appropriate way to achieve the purpose of the Act and that the policies and rules as framed are not the most appropriate for achieving the objectives having regard to their likely efficiency, effectiveness, costs and benefits.

6. While broadly appropriate for those parts of Churchill Park used for informal recreation, the Plan's Informal Recreation Zone enables specific activities and has development controls that are entirely unsuitable in the Park given relevant provisions of the Act (Part 2), community expectations, usage and values, the provisions of the operative Reserves Management Plan and related Landscape Concept Plan. It is difficult to escape the conclusion that the Unitary Plan proposes a pan Auckland approach that is insensitive to and insufficiently fine grained to reflect local requirements and community understandings forged with the antecedent council.

We seek the following decision from Auckland Council: accept the proposed Plan with amendments as outlined in Attachment A below.

We wish to be heard in support of this submission.



27 Feb, 2014

Signature of Submitter

Date

For the Friends of Churchill Park.

AUCKLAND COUNCIL
28 FEB 2014
CENTRAL GRAMMART

ATTACHMENT A

SPECIFIC AMENDMENTS SOUGHT BY THE FRIENDS OF CHURCHILL PARK TO THE INFORMAL RECREATION ZONE

1. Planning Maps

Zone the areas in Churchill Park occupied by community use buildings (scouts, guides, pre-school) as Public Open Space (Community).

3

2. Part 2, Chapter D: Zone Objectives and Policies

2.2 Informal Recreation Zone

Amend the following objective as shown:

- 2. "The open and spacious appearance of public open space is protected to maintain and enhance the amenity values, character and any historic and natural values of the public open space and surrounding area."

4

Reason: The Reserve Management and Landscape Concept Plans allow for the removal of exotics and substantial re-vegetation of grazed gullies and riparian margins with native trees. Such work is actively underway. It is appropriate that the objective provide expressly for the adverse effects of past management to be remedied and mitigated by the "enhancement" of relevant resources and values.

Add a fourth objective as follows;

- 4. "Protect the natural and amenity values of, and public access to, Churchill Park's Informal Recreation Zone by not enabling buildings unless required for council operational purposes or provided for in the adopted reserve management plan."

5

Reason: Experience with the farm park shows that few if any additional buildings are required for either this purpose or the informal recreational activities conducted in the Park. Buildings are not allowed to any significant extent under the operative district plan Open Space (2) zone. The same situation exists under the adopted reserve management plan. It is accepted that the possibility of Council requiring a building for future park operational purposes should not be precluded. As the operative district plan has park-specific provisions the objective is not novel in the sense of referring to Churchill Park.

Re-zoning the land in Churchill Park occupied by existing community uses as Open Space (Community) will recognise and provide for these activities and associated buildings. It will also avoid the need to provide for inappropriate activities and buildings in the Open Space (Informal Recreation) Zone in Churchill Park.

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28 FEB 2014
COUNCIL ADMINISTRATOR

Amend the following Policies as shown:

- 4. Restrict buildings and structures to those where there is a demonstrated need to enhance the ability of the general public to use and enjoy public open space for informal recreation. | 6

Reason: the emphasis is properly on limiting buildings to those ancillary to informal recreation by the general public as opposed to specific user groups.

- 5. Require the location, scale and design of buildings and structures to complement the open and spacious character and function of the public open space, not prevent public use of open space by allocating areas for exclusive use, enable opportunities for passive surveillance, enhance amenity values, protect any natural or historic heritage values and be compatible with development in the surrounding area. | 7

Reason: it is not appropriate to enable buildings and structures on land zoned Informal Recreation if they are for the exclusive use of specific groups, and where this would exclude the general public.

3. Part 3, Chapter I, Public Open Space Zones

3.1 Activity Table

The following amendments to the Activity Table and Informal Recreation Zone column are sought:

- a) Amend "accessory building" by adding "less than 40 m2 floor area and single storey where incidental to a permitted activity". | 8
- b) Make "camping grounds" a non complying (NC) activity in Churchill Park. | 9
- c) Make "single workers' accommodation" a non complying (NC) activity in Churchill Park. | 10
- d) Make "visitor accommodation – huts and lodges only" a non complying (NC) activity in Churchill Park. | 11
- e) Make "visitors centre" a non complying (NC) activity in Churchill Park. | 12
- f) Make "community centres and halls" a non complying (NC) activity in Churchill Park. | 13
- g) Make "early childhood learning services up to 100m2 in an existing building" a non complying (NC) activity in Churchill Park. | 14
- h) Make "arts and cultural centres" a non complying (NC) activity in Churchill Park. | 15
- i) Make "clubrooms", libraries and grandstands" non complying (NC) activities in Churchill Park. | 16

AUCKLAND COUNCIL

28 FEB 2016

COMMUNITY DEVELOPMENT

- j) Make "offices and administration accessory to permitted activity" a non complying (NC) activity in Churchill Park. | 17
- k) Make "organised sport and recreation" a prohibited activity in Churchill Park and "organised sport and recreation that does not require permanent buildings, structures or infrastructure" a controlled activity in Churchill Park. | 18
- l) Amend "Public amenities" so that "Public amenities excluding public toilets" are a permitted activity in Churchill Park". | 19
- m) Amend "Recreation facilities" to read "Recreation facilities available to the general public and not for the exclusive use of groups or persons engaged in organised recreational activities" in Churchill Park. | 20
- n) Make "Markets" a non complying (NC) activity in Churchill Park. | 21
- o) Make "Restaurants and cafes" of any description non complying (NC) activities in Churchill Park. | 22
- p) Make "Retail" of any description a non complying (NC) activity in Churchill Park. | 23
- q) Amend "Parks depots, storage and maintenance" to read in Churchill Park "Council Parks depots, storage and maintenance essential for park operational purposes". | 24
- r) Make "Vehicle parking and associated vehicle access" a restricted discretionary activity in Churchill Park. | 25
- s) Make "Marae complex" a non complying (NC) activity in Churchill Park. | 26
- t) Make all "New buildings other than those enabled at (q) above" in the Informal Recreation Zone in Churchill Park a NC activity. | 27
- u) Make "Non-security floodlighting, fittings and supports and towers 18 m high or less" a non complying (NC) activity in Churchill Park. | 28
- v) Amend "Gardens, including botanic" to read "Gardens, including botanic gardens in Churchill Park located in accordance with an adopted reserve management plan". | 29
- w) Make "Maimais – erection, use, alteration, maintenance and demolition associated with lawful gamebird hunting" a prohibited activity in Churchill Park. | 30
- x) Amend "Observation areas, viewing platforms and related structures" to read "Observation areas, viewing platforms and related structures in Churchill Park located in accordance with an adopted reserve management plan or related landscape concept plan". | 31
- y) Amend both ³²["Parks infrastructure"] and ³³["Sport and recreation structures"] by adding to both "..... excluding in Churchill Park permanent buildings, structures and | 32+33

Amend the following Policies as shown:

4. Restrict buildings and structures to those where there is a demonstrated need to enhance the ability of the general public to use and enjoy public open space for informal recreation.

Reason: the emphasis is properly on limiting buildings to those ancillary to informal recreation by the general public as opposed to specific user groups.

5. Require the location, scale and design of buildings and structures to complement the open and spacious character and function of the public open space, not prevent public use of open space by allocating areas for exclusive use, enable opportunities for passive surveillance, enhance amenity values, protect any natural or historic heritage values and be compatible with development in the surrounding area.

Reason: it is not appropriate to enable buildings and structures on land zoned Informal Recreation if they are for the exclusive use of specific groups, and where this would exclude the general public.

3. Part 3, Chapter I, Public Open Space Zones

3.1 Activity Table

The following amendments to the Activity Table and Informal Recreation Zone column are sought:

- a) Amend "accessory building" by adding "less than 40 m² floor area and single storey where incidental to a permitted activity".
- b) Make "camping grounds" a non complying (NC) activity in Churchill Park.
- c) Make "single workers' accommodation" a non complying (NC) activity in Churchill Park.
- d) Make "visitor accommodation – huts and lodges only" a non complying (NC) activity in Churchill Park.
- e) Make "visitors centre" a non complying (NC) activity in Churchill Park.
- f) Make "community centres and halls" a non complying (NC) activity in Churchill Park.
- g) Make "early childhood learning services up to 100m² in an existing building" a non complying (NC) activity in Churchill Park.
- h) Make "arts and cultural centres" a non complying (NC) activity in Churchill Park.
- i) Make "clubrooms", libraries and grandstands" non complying (NC) activities in Churchill Park.

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28 FEB 2014

CITY OF AUCKLAND

- j) Make "offices and administration accessory to permitted activity" a non complying (NC) activity in Churchill Park.
- k) Make "organised sport and recreation" a prohibited activity in Churchill Park and "organised sport and recreation that does not require permanent buildings, structures or infrastructure" a controlled activity in Churchill Park.
- l) Amend "Public amenities" so that "Public amenities excluding public toilets" are a permitted activity in Churchill Park".
- m) Amend "Recreation facilities" to read "Recreation facilities available to the general public and not for the exclusive use of groups or persons engaged in organised recreational activities" in Churchill Park.
- n) Make "Markets" a non complying (NC) activity in Churchill Park.
- o) Make "Restaurants and cafes" of any description non complying (NC) activities in Churchill Park.
- p) Make "Retail" of any description a non complying (NC) activity in Churchill Park.
- q) Amend "Parks depots, storage and maintenance" to read in Churchill Park "Council Parks depots, storage and maintenance essential for park operational purposes".
- r) Make "Vehicle parking and associated vehicle access" a restricted discretionary activity in Churchill Park.
- s) Make "Marae complex" a non complying (NC) activity in Churchill Park.
- t) Make all "New buildings other than those enabled at (q) above" in the Informal Recreation Zone in Churchill Park a NC activity.
- u) Make "Non-security floodlighting, fittings and supports and towers 18 m high or less" a non complying (NC) activity in Churchill Park.
- v) Amend "Gardens, including botanic" to read "Gardens, including botanic gardens in Churchill Park located in accordance with an adopted reserve management plan".
- w) Make "Maimais – erection, use, alteration, maintenance and demolition associated with lawful gamebird hunting" a prohibited activity in Churchill Park.
- x) Amend "Observation areas, viewing platforms and related structures" to read "Observation areas, viewing platforms and related structures in Churchill Park located in accordance with an adopted reserve management plan or related landscape concept plan".
- y) Amend both "Parks infrastructure" and "Sport and recreation structures" by adding to both "..... excluding in Churchill Park permanent buildings, structures and

COUNCIL OF CHURCHILL

28 FEB 2016

COUNCIL OF CHURCHILL

infrastructure for organised recreational activities not available to the general public". | 32+33
cont.

- 4. Part 3 – Regional and District Rules: Chapter 1 - Zone Rules: I-2 Public Open Space Zones: 3 - Development Controls,

3.4 Building Height – amend Table 1 by deleting 8 m in the Informal Recreation Zone row and inserting 5 m in Churchill Park. | 34

3.6 Yards – amend Table 2 by deleting 6 m in the “side and rear yards” row for the Informal Recreation Zone and insert 15 m in Churchill Park. | 35

3.8 Gross Floor Area threshold – amend Table 3 by deleting 100 m2 in the Informal Recreation Zone and inserting 40 m2 in Churchill Park. | 36

3.9 Maximum site coverage – amend Table 4 by deleting 10% in the Informal Recreation Zone column and inserting a lesser percentage figure that better fits the circumstances of Churchill Park. | 37

- 5. Part 3 – Regional and District Rules: Chapter 1 - Zone Rules: I-2 Public Open Space Zones: 3 - Development Controls – **4.1 Matters of discretion**

a) For activities (2) and (3) add the following additional assessment criteria: | 38
- traffic and parking effects on neighbouring streets.

b) For activity (4) add the following additional assessment criteria: | 39
- 2c, 2d, 2e, and 2f
- traffic and parking effects on neighbouring streets.
- the discharge of contaminants, including odour.

- 6. Part 3 – Regional and District Rules: Chapter 1 - Zone Rules: I-2 Public Open Space Zones: 3 - Development Controls – **4.2 Assessment criteria**

a) Amend 4.2(h)(ii) by adding “except where the Local Board has subsequently resolved to confirm the provisions of the plan”. | 40

b) Add an “Other Method” that reads “Council requires local boards to review reserve management plans more than 10 years old in consultation with the local community”. | 41

- 7. Such other or further relief as the Hearing Committee deems appropriate in the circumstances to meet the purposes and principles of the Act.

AUCKLAND COUNCIL
28 FEB 2016
CITY ENGINEER

Attachment 2: Panel's Recommendation Report on Topic 058 - Open Space

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

**Report to Auckland Council
Hearing topic 058**

Open space

July 2016

Report to Auckland Council – Hearing topic 058 Open space

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1. Hearing topic overview

1.1. Topic description

Topic 058 addresses the district plan provisions of the Proposed Unitary Plan relating to open space:

Topic	Proposed Auckland Unitary Plan reference	Independent hearings Panel reference
Open Space: Conservation Zone Informal Recreation Zone Sports and Active Recreation Zone Civic Spaces Zone Community Zone	Chapter D2 – Zone objectives and policies Chapter I – Zone rules	H7 Open Space zones

Under the Local Government (Auckland Transitional Provisions) Act 2010, section 144 (8) (c) requires the Panel to set out:

the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to—

- (i) the provisions of the proposed plan to which they relate; or
- (ii) the matters to which they relate.

This report covers all of the submissions in the Submission Points Pathways report (SPP) for this topic. The Panel has grouped all of the submissions in terms of (c) (i) and (ii) and, while individual submissions and points may not be expressly referred to, all points have nevertheless been taken into account when making the Panel's recommendations.

1.2. Summary of the Panel's recommended changes to the proposed Auckland Unitary Plan

The Panel accepts the five zones proposed to manage activities on open space. These zones are:

- i. Open Space - Conservation Zone;
- ii. Open Space - Informal Recreation Zone;
- iii. Open Space - Sport and Active Recreation Zone;
- iv. Open Space - Civic Spaces Zone;
- v. Open Space - Community Zone.

The Panel has amended the provisions of the above zones (objectives, policies and rules) to provide for more appropriate management of open space as follows:

- i. requiring resource consents for most buildings (other than small-scale public amenity buildings and buildings required for parks infrastructure) and activities seeking exclusive use of open space;
- ii. deleting the permitted activity status of buildings, other than the small-scale buildings in i. above, in the Open Space - Sport and Active Recreation Zone and requiring a resource consent;
- iii. deleting the permitted activity rule that permits activities if they comply with reserve management plans;
- iv. ensuring the space in the Open Space - Civic Spaces Zone is kept for outdoor civic functions and only buildings that support that function are considered appropriate.

The Panel has amended the provisions to refer to 'open space' rather than 'public open space' to reflect that some of the land in these open space zones is privately owned and/or that public access is not always available.

1.3. Overview

The Panel accepts the five zones proposed to manage activities on open space but, in the Panel's view, having so few zones has created issues of the appropriate management of all open space across Auckland.

The Panel accepts that there is a relationship between the Resource Management Act 1991 and the Reserves Act 1977, and in particular reserve management plans. However for the reasons set out later in this report, the Panel does not accept the notified Plan provision or the Council's amended position that activities be permitted as set out in the reserve management plans, where the approved date of that plan is in the rule.

The Panel has amended the provisions of the zones (objectives, policies and rules). These amendments are set out in the revised Unitary Plan, and provide for what the Panel considers more appropriate management of open space than provided for in the notified Plan, or in the amendments proposed by Council and some submitters (generally those seeking more intensive use of open space, particularly in relation to buildings and exclusive uses).

The Panel generally agrees with those submitters seeking that open space, and in particular publicly-owned open space, remains open, as much as possible, as a 'first principle'. The

Panel accepts that open space will be under greater pressure from a growing and more intensified Auckland and that as a result open space will need to be multi-functional. Notwithstanding this, the Panel is recommending changes to the provisions such that most buildings (other than small-scale public amenity and parks infrastructure buildings) and activities seeking exclusive use of open space would generally require resource consents. The main policy approach is that effects on the open space itself and the ability of the public to use that space, will need to be assessed on a case-by-case basis.

Related to the above is the issue raised by submitter A and A Broughton (5650) who challenged the appropriateness of the Open Space - Sport and Active Recreation Zone and its spatial distribution. This zone is applied to the larger sport venues as well as a number of smaller reserves within more developed urban/suburban situations where there are significant existing residential neighbourhoods (such as Saint Heliers). The Panel finds that the permitted scale of buildings (including a 15 metre height) in these neighbourhoods would potentially have significant adverse effects on the amenity and character of these areas. The Panel has recommended deleting the permitted activity status of these buildings and requiring a resource consent.

The Panel has also amended the provisions of the Open Space - Civic Spaces Zone. It was drafted with the same approach to the other zones in relation to permitting a range of buildings. However on closer inspection of their locations (e.g. Aotea Square) and purpose, buildings were not to be encouraged (as they would compromise the purpose of the zone). The policy direction is to ensure the space is kept for outdoor civic functions and only buildings that support that function are considered appropriate.

The Panel has made amendments across all the open space provisions to refer to 'open space' rather than 'public open space'. This reflects that some of the land in these open space zones is privately owned and/or that public access is not always available.

1.4. Scope

The Panel considers that the recommendations in 1.2 above and the changes made to the provisions relating to this topic (see 1.1 above) are within scope of submissions.

For an explanation of the Panel's approach to scope, see the Panel's Report to Auckland Council – Overview of recommendations July 2016.

1.5. Documents relied on

Documents relied on by the Panel in making its recommendations are listed below in section 8 Reference documents.

2. Relationship between the Reserves Act 1977 and the Resource Management Act 1991

2.1. Statement of issue

The relationship between the Reserves Act 1977 and the Resource Management Act 1991 and whether the proposed Auckland Unitary Plan appropriately integrates with the Reserves Act 1977. Also whether the Plan provisions should permit activities where they are provided for in a reserves management plan.

2.2. Panel recommendation and reasons

The relationship between the Reserves Act 1977 and the Resource Management Act 1991 was extensively addressed in the evidence of Ms Rebecca Eng and the Council's opening legal submissions. It was also addressed at the hearing on Topic 080 Rezoning and precincts (general). The Council's primary submission, which the Panel accepts, is that the two Acts are complementary; neither statute takes precedence over the other and both statutes need to be complied with.

A number of submitters (including A Roche (5279), A and M Kirk (6610), Little Shoal Bay Protection Society incorporated (7391) and A Holman (5358 and FS 1189)) raised the issue whether activities permitted by a reserves management plan should be permitted in a Resource Management Act 1991 plan such as the Unitary Plan. The main concern was that reserves management plans are developed for a different purpose (and generally manage day-to day-activities) than resource management plans, and can be changed more simply than plans under the Resource Management Act 1991. To permit activities that are permitted in the reserves management plans, could effectively change the activities permitted under the Unitary Plan. The Panel has concerns about this, such that it has deleted the permitted activity rule.

The Panel finds that nothing arose during the hearing to undermine the validity of the position held by the Council, and that in preparing the Plan, the Council is required under section 74(2)(b) to have regard to any relevant reserve management plan. The Panel understands this was done. However this does not change the Panel's view that the reserves management plan provisions should not effectively determine what is permitted in the Unitary Plan.

The Panel raised a number of issues with the Council witnesses and submitters on this subject. These included whether the adopted relevant reserve management plans were reviewed and considered during the preparation of the zone provisions, and what the Council's commitment was to the these plans and their review.

The Panel was concerned by some of the Council witnesses responsible for the operation and review of the parks management plans. It appeared that many of the plans were out of date, with no clear commitment to their review. It also appeared that some witnesses did not agree with the existing reserves management plans. As an example Dr Stewart, in relation to Churchill Park, said in answer to a question from the Panel that she did not support the "countryside in the city" concept embodied in that Plan.

Mr Reidy, for the council, confirmed that a review of the reserve management plans had occurred as part of the consideration of the preparation of the zone provisions. However he accepted that there could be a perceived conflict between the Plan and reserve management plans in that an activity might be permitted by the Plan but not provided for, or specifically prohibited, in the reserve management plan. He stated in these circumstances both sets of controls still need to be complied with, consistent with the approach that the Reserves Act 1977 does not take precedence over the Resource Management Act 1991, and vice versa.

The Panel also queried whether the proposed permitted activity rule for "any activity in accordance with an adopted reserve management plan, conservation management strategy or conservation management plan" was *ultra vires* the Resource Management Act 1991. The concern was that by defining a permitted activity in terms of an approved management plan under another statute the rule would allow the Plan to be amended without a plan change, in contravention of Schedule 1 of the Resource Management Act 1991.

The Council's response was to limit the adopted management plans to the date of notification of the Plan. For the reasons set out above the Panel does not accept this.

The Panel's concern about the use of reserve management plan provisions to determine what is permitted in the open space zones of the Unitary Plan was reinforced by the Council's closing remarks (section 9) for Topic 080 Rezoning and precincts (General) in respect of public open space and special purpose zones such as tertiary education and schools. In the closing remarks it was stated that:

9.3 Reserve management plans are prepared and administered under the Reserves Act 1977 and that Act specifies the process for the development of new plans. Under the existing Auckland Council governance structure Local Boards are responsible for these plans. The Council's long term intention is to develop management plans for all parks and reserves; however, there is no current programme in place to do so. In that context it is important to note that:

- (a) The Council is responsible for the management of 3055 parks and it is estimated that approximately 43% of these parks do not have existing reserve management plans. Given the number and diversity of parks, the development of new plans is a significant investment of resources;
- (b) The timeframe for the preparation of management plans is subject to resource availability, and at this time, allocation of resources to the development of management plans is at local board discretion;
- (c) It is anticipated that future management plans will primarily be omnibus plans, which include multiple parks and reserves of a similar type within a given local board area;
- (d) Local boards may choose to prepare site specific management plans as and when they consider that approach appropriate.

9.4 As an initial step, the Council is developing a standardised suite of non-statutory management policies to streamline the delivery of statutory management plans. These management policies will guide decision making as an interim

measure on parks that do not have a management plan.

9.5 The interim policies prepared by Council will address current issues, and the Council will assist Local Boards to prepare full management plans on the basis of already completed policy and template work.

It is clear that many parks (43 per cent) do not have existing reserve management plans, that there is no current programme in place to develop these plans for all parks and reserves, that the commitment to preparing them is subject to resource availability, and that they are likely to be 'omnibus plans' covering multiple parks. Due to this and the other reasons set out above, the Panel's clear view is that it is inappropriate in section 32 and 32AA terms to link what is permitted in the reserves management plans to those activities permitted in the open space zones of the Unitary Plan.

3. Open space and intensification

3.1. Statement of issue

Pressure on open space from growth and proposed intensification of Auckland and the extent to which additional development and intensification on open space should be enabled.

3.2. Panel recommendation and reasons

The Panel considers that this issue was the most significant and contentious. There was a philosophical divide amongst submitters; the difference separated two broad groups of submitters.

- i. The Council, with submitters, 6980 -the Auckland Kindergarten Association, 3727 -Friends of the Regional Park and 7862 -Sport New Zealand (representing a large number of sports clubs).

This group considered that the pressure on open space from growth and proposed intensification of Auckland would be best catered for by enabling additional development and intensification on open space. They argued that the level of development was to be commensurate with the type of open space, but would involve some additional development particularly in the Informal Recreation and Sport and Active Recreation zones. The Council and these submitters generally supported the approach taken by the Council and the amended provisions proposed by the Council at the opening of the hearing.

- ii. A number of community groups and individual submitters (including 5279 - A Roche, 6610 -A and M Kirk, 7391 - Little Shoal Bay Protection Society incorporated, 5358 and FS 1189 - A Holman).

This group sought that development on open space (mainly the conservation, informal and community zones) be constrained and the land retain its open, green nature, as this type of land resource will become more scarce as intensification occurred. These submitters set out in some detail the policy

approach they sought and the activity status that should be applied to particular activities.

This group of submitters also raised concerns about the existing lack of public open space (for example in Mount Eden and Takapuna) and the council programme for acquisition of new public open space. While the council provided evidence about the council's acquisition programme and budget, the Panel notes that this issue is outside the scope of the district plan provisions to manage land zoned as public open space.

The Panel understands both positions, and finds that they are not mutually exclusive. One of the key issues in the Plan is the need to accommodate growth. Auckland is predicted to grow significantly. This will place pressure on open space and some additional development and intensification on open space is inevitable.

However the community groups and individual submitters considered that because there will be increased pressure on open space resources from growth this meant open space would become more important, and therefore should be retained for open space as a 'first principle'. They argued that open space should not be allowed to have a proliferation of buildings and exclusive use activities at the expense of more casual use by the public of these spaces. They generally sought a stricter activity status for buildings and exclusive use activities, and that applications for resource consent generally be publicly notified.

The Council's position in relation to the appropriate activity status and notification did not alter as a result of the hearing process. In the Council's submission the evidence of the Council planner, Mr Reidy, provided the most comprehensive expert planning opinion on these matters. His evidence considered which activity status was the most appropriate means to achieve the objectives and what level of regulation for each zone best matches the objectives and policies.

The Panel acknowledges Mr Reidy's opinion, but is more persuaded by the arguments posed by those submitters seeking that open space, particularly that which is publicly owned, remains open as much as possible, and that greater use of resource consents is required to determine the appropriate range of activities within areas zoned open space.

The Panel accepts that open space will be under greater pressure from a growing and more dense Auckland, and that as a result open space will need to be multi-functional. Notwithstanding this, the Panel is recommending changes to the provisions such that most buildings (other than small-scale public amenity and parks infrastructure buildings) and activities seeking exclusive use of open space, particularly publicly-owned open space, would generally require resource consents. The main policy approach is that effects on the open space itself, and the ability of the public to use that space, will need to be assessed on a case-by- case basis. An example is the following policy in the Open Space - Informal Recreation Zone:

Buildings and exclusive-use activities are limited to maintain public use and open space.

The Panel notes here that the definition of 'parks infrastructure' has been amended to add buildings for storage and maintenance purposes. This is a consequence of the change to the

activity status of buildings, to enable small scale buildings necessary to maintain the park as permitted activities.

As a consequence of the recommended approach set out above, the Panel has also separated activities and buildings. This is set out in the activity table. The Panel found the Plan as notified confusing in this respect. There is a need to be able to address separately the effects of buildings and activities (which may or may not be in a building) in terms of their effect, both positive and adverse, on open space values and on enabling people and communities to provide for their social, cultural and economic well-being.

The approach recommended by the Panel does not preclude additional development and intensification on open space. However applicants will need to demonstrate that any additional development or intensification on open space, especially if it requires exclusive use of that space, is appropriate.

4. Open Space - Sport and Recreation Zone

4.1. Statement of issue

The appropriateness of the spatial distribution of the Open Space - Sport and Active Recreation Zone as well as the permitted height of buildings.

4.2. Panel recommendation and reasons

Submitter A and A Broughton (5650) provided comprehensive evidence on the appropriateness of the spatial distribution of the Open Space - Sport and Active Recreation Zone as well as the permitted height of buildings. This zone is applied to the larger sport venues as well as to a number of smaller reserves within developed urban/suburban situations where there are significant existing residential neighbourhoods, such as Saint Heliers. The Broughton submission stated:

The specific provisions of the proposed Auckland Unitary Plan (PAUP), our submission concerns is the Public Open Space: Sport and Active Recreation Zone, development controls relating to the maximum building height on the southern part of the Vellenoweth Green. The matter we are concerned about is the proposed maximum building height of 15 meters. The specific site our submission relates to is the land situated on the north side of Goldie Street, St Heliers, being the southern part of Vellenoweth Green, occupied by the St Heliers Tennis Club, the St Heliers Bowling Club and the St Heliers Croquet Club. We consider that the maximum building height needs to be the same as that specified for the rest of the Vellenoweth Green. A 15 meter high building or recreational structure would result in a significant loss of sunlight, day light, views and have a significant adverse effect on the visual amenity of the adjacent residential area.

The Council addressed this matter in its closing statement (paras 4.3 to 4.5) saying:

4.3 One development control of particular concern to some submitters and the Panel was the maximum height in the Sport and Active Recreation Zone. The height limit in the notified plan is 15m which allows a three storey building or larger recreation facilities such as swimming pools, indoor recreation centres and gymnasias. These are

expected developments in the Sports and Active Recreation Zone. A three storey height limit also encourages multipurpose buildings to be developed and achieves Policies 3 and 5 of the Zone regarding that matter. Mr Reidy, in answer to questions from the Panel, considers that the effects of any 15m high buildings on adjoining properties will be mitigated through the setbacks and height in relation to boundary controls.

4.4 The Council therefore considers that the 15m height limit is appropriate on Sport and Active recreation zoned sites, especially on larger sites, in order to cater for the potential intensive use and that the adverse effects can be appropriately mitigated.

4.5 However, if the Panel retained concerns about the appropriateness of the height limit on smaller sites a potential solution could be that a lower height limit of 10m could apply to sites that are smaller than 1ha while the 15m limit is retained for sites that are 1ha or larger. The Council would prefer this amendment to the rezoning of smaller Sport and Active Recreation sites to other Open Space zones, like Informal Recreation, as such rezoning might conflict with the purpose of those other zones which do not positively provide for sport and activity recreation.

In response to the matter addressed in 4.5 (which had not been raised in the hearing), the Panel sought clarification from the Council on the number, location and size of sites zoned Open Space - Sport and Active Recreation Zone that were less than 1 hectare in area (Memorandum dated - 24 August 2015 - Topic 058 - Public Open Space: Closing Statement from Auckland Council).

The response was that there were 121 reserves in this category. This is a large number of reserves and changing the height would have been a significant change to that zone based upon no evidence. Accordingly the Panel has not recommended this change. It is also relevant to note that the Vellenoweth Green reserve is larger than 1 hectare and was not included in the list provided by the Council. Accordingly the concerns raised by the Broughtons would not have been addressed by the Council's suggested amendment.

The Panel finds that the permitted scale of buildings, including a 15 metre height limit, in these neighbourhoods has the potential to have significant adverse effects. The Panel does not accept that the height in relation in boundary would mitigate the potential impacts as suggested by the Council planner. As noted earlier, the Council's decision to have a limited number of zones has meant that for some locations the zoning framework is not the most appropriate. The Council's suggestion that the smaller areas zoned Open Space - Active Sport and Recreation have a different height appears to reinforce this point.

For all the reasons set out above and those in section 3 of this report (Open space and intensification), the Panel has recommended deleting the permitted activity status of these buildings, including deleting the height requirement, and requiring a resource consent to assess the effects of any development on a case-by-case basis.

5. Amendments to the Open Space - Civic Spaces Zone

5.1. Statement of issue

This zone applies to open spaces such as squares and plazas in centres and other urban areas. The Plan as notified sought to enable buildings in these spaces. However it became apparent at the hearing that these areas are relatively limited in number (e.g. Aotea Square, Hurstmere Road Takapuna, King and Seddon St Pukekohe) and are open space squares and plazas as opposed to enclosed spaces with buildings.

5.2. Panel recommendation and reasons

The Panel accepts that these spaces are becoming increasingly important as Auckland grows and becomes more compact and access to open spaces for civic purposes is needed for residents, workers and visitors.

The Panel has recommended a policy shift, in accordance with those submitters who seek that public open space remain so, to limit buildings and structures to those that are necessary to support the purpose of the zone and, where this is demonstrated, ensure that they enhance the amenity values, functionality and use of the zone.

6. Open space

6.1. Statement of issue

Land zoned public open space includes some privately owned land so the term 'public open space' is incorrect.

6.2. Panel recommendation and reasons

At the hearing on Topic 080 Rezoning and precincts (General) the Council sought to amend the introductory section of the public open space provisions to make clear that while most of the land zoned public open space was vested in the Council or the Crown, some was privately owned (e.g. some golf courses). Wording has been added to the provisions to make this clear.

However the Panel was of the view that the term 'public open space' was not appropriate – and it was more correctly 'open space'. The plan provisions have been amended accordingly to reflect this.

7. Consequential changes

7.1. Changes to other parts of the plan

As a result of the Panel's recommendations on this topic, there are consequential changes to other parts of the Plan as listed below.

- i. Where the term public open space is used in other parts of the Plan this will be changed to open space where appropriate.

- ii. The definition of 'parks infrastructure' has been amended to add buildings for storage and maintenance purposes. This is a consequence of the change to the activity status of buildings within land zoned open space, to enable small-scale buildings necessary to maintain the park as permitted activities.

7.2. Changes to provisions in this topic

As a result of the Panel's recommendations on other topics, there are consequential changes to the provisions in this part of the Plan as set out below.

- i. It is noted that a set of general objectives and policies have been included at the beginning of the public open space provisions. These are provisions that have been 'dropped down' from the regional policy statement. The reasons for this have been set out in the Panel's Report to Auckland Council – Overview of recommendations July 2016, namely that the regional policy statement is to be a 'standalone' document and not tagged as being regional policy statement as well as regional and district plan provisions.

8. Reference documents

The following documents, as well as the submissions and evidence presented to the Panel on this topic, have been relied upon by the Panel in making its recommendations.

The documents can be located on the aupihp website (www.aupihp.govt.nz) on the hearings page under the relevant hearing topic number and name.

You can use the links provided to locate the documents, or you can go to the website and search for the document by name or date loaded.

(The date in brackets after the document link refers to the date the document was loaded onto the aupihp website. Note this may not be the same as the date of the document referred to in the report.)

8.1. General topic documents

Panel documents

[058-Submission Point Pathway Report - 31 August 2015](#) (2 Sep 2015)

[058-Parties and Issues Report -1 May 2015](#) (1 May 2015)

[058 - Mediation Joint Statement - Session 1, 2 and 3 \(13, 18 and 19 May 2015\)](#)(25 May 2015)

[058 - Post Hrg – Memorandum – Panel request to Auckland Council for additional information - Sport and Recreation Zone - Spatial Extent and Height](#) (25 August 2015)

Auckland Council marked up version

[058 - Hrg - \(Juliana Cox\) – Planning – Objectives and Policies – Attachment B – Marked-Up Version](#) (2 June 2015)

058 - Hrg - (Juliana Cox) – Planning – Objectives and Policies – Attachment C – Marked-Up Version – Legacy Zone Equivalents of proposed Auckland Unitary Plan - Public Open Space Zones (2 June 2015)

058- Proposed marked-up version (Activity Table and Controls) - LATE (07 May 2015)

058- Proposed marked-up version (D2, 2.1, 2.2, 2.3, 2.4 and 2.5 Objectives and Policies) - LATE (7 May 2015)

058 - Hrg - (Juliana Cox) – Planning – Objectives and Policies – REBUTTAL – Attachment A – Marked-up Version (25 June 2015)

Auckland Council closing statements

058 - Hrg – CLOSING STATEMENT (23 Jul 2015)

058 - Hrg – CLOSING STATEMENT -Attachment A -Example of Regional Parks with designations (23 Jul 2015)

058 - Hrg – CLOSING STATEMENT -Attachment B -Regional Parks With Overlays (23 Jul 2015)

058 - Hrg – CLOSING STATEMENT -Attachment C1 - Marked up Version (Objectives and Policies) (23 Jul 2015)

058 - Hrg – CLOSING STATEMENT -Attachment C2 - Marked up Version (Rules) (23 Jul 2015)

8.2. Specific evidence

Alex and Andrea Broughton

058 - Hrg 12 June 2015

058 - Hrg - Attachment 1 - Location Plan and PAUP Zones (12 June 2015)

058 - Hrg – Attachment 2 - St Heliers Bay Reserve Act 1995 SO Plan (12 June 2015)

058 - Hrg – Attachment 3 - Vellenoweth Green Uses Structures (12 June 2015)

058 - Hrg - Attachment 4 - Auckland City Council - St Heliers Bay Reserve Act 1995 (12 June 2015)

A Holman

058 - Hrg (3 July 2015)

A and M Kirk

058 - Hrg (15 June 2015)

058 - Hrg - Attachment - Activity Table (15 June 2015)

A Roche

058 - Hrg (12 June 2015)

Auckland Council

058 - Hrg - (Rebecca Eng) – Planning – Parks and Recreation Policy (2 June 2015)

058 - Hrg - (Tony Reidy) – Planning – Public Open Space Zones Rules (2 June 2015)

058 - Hrg - (Tony Reidy) – Planning – Public Open Space Zones Rules – Attachment B – Marked-Up Version (2 June 2015)

058 - Hrg - (Tony Reidy) – Planning – Public Open Space Zones Rules – Attachment C – Examples of Buildings and Structures on Public Open Space in the Auckland Region (2 June 2015)

058 - Hrg - (Tony Reidy) – Planning – Public Open Space Zones Rules – Attachment D – Legacy District Plan Combined Activity Table v PAUP Activity Table (2 June 2015)

058 - Post Hrg – Memorandum – Panel request to Auckland Council for additional information - Sport and Recreation Zone - Spatial Extent and Height – Auckland Council Response - Analysis for hearings panel (9 September 2015)

058 - Post Hrg – Memorandum – Panel request to Auckland Council for additional information - Sport and Recreation Zone - Spatial Extent and Height – Auckland Council Response -Hearings Panel Table including cities and suburbs (9 September 2015)

058 - Post Hrg – Memorandum – Panel request to Auckland Council for additional information - Sport and Recreation Zone - Spatial Extent and Height – Auckland Council Response -Index map for hearings panel (9 September 2015)

Auckland Kindergarten Association

058 - Hrg - (Catherine Richards) – Planning – Attachment A – Sites zoned Public open space – Informal recreation in the PAUP – LATE (15 June 2015)

058 - Hrg - (Catherine Richards) – Planning – Attachment B – Proposed Amendments to D.2 and I.2 – LATE (15 June 2015)

058 - Hrg - (Catherine Richards) – Planning – LATE (15 June 2015)

058 - Hrg - (Richard Hall) – Corporate (12 June 2015)

Friends of regional parks

058 - Hrg - Summary Statement (3 July 2015)

Little Shoal Bay Protection Society Incorporated

058 - Hrg - LATE (22 June 2015)

058- Hrg – Attachment 1 - LATE (22 June 2015)

058 - Hrg - Summary Statement (3 July 2015)

Sport New Zealand

058 - Hrg - (Mark Vinall) – Planning - LATE (16 June 2015)

Attachment 3: Unitary Plan Open Space zone provisions - Recommendations Version

H7. Open Space zones

H7.1. Background

The majority of land zoned as open space is vested in the Council or is owned by the Crown. However some areas zoned open space are privately owned. While the open space zones generally provide for public use, some privately owned, or Crown-owned sites may restrict public use and access.

Five zones are used to manage activities on land zoned open space:

- Open Space – Conservation Zone;
- Open Space – Informal Recreation Zone;
- Open Space – Sports and Active Recreation Zone;
- Open Space – Civic Spaces Zone; and
- Open Space – Community Zone.

H7.2. Objectives – All Zones

In addition to the specific objectives that apply to each open space zone, the following objectives apply generally to open space areas.

- (1) Recreational needs are met through the provision of a range of quality open space areas that provide for both passive and active activities.
- (2) The adverse effects of use and development of open space areas on residents, communities and the environment are avoided, remedied or mitigated.

H7.3. Policies – General

In addition to the specific policies that apply to each open space zone, the following policies apply generally to open space areas.

- (1) Design, develop, manage and maintain open spaces to:
 - (a) provide for the needs of the wider community as well as the needs of the community in which they are located;
 - (b) achieve the objectives for the open space zone;
 - (c) use resources efficiently and where appropriate be adaptable and multifunctional;
 - (d) provide for people of differing ages and abilities;
 - (e) be safe and attractive to users; and
 - (f) where appropriate for the zone, reflect the natural, heritage and landscape values of the area.
- (2) Develop open spaces which reflect Mana Whenua values where appropriate, including through:

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- (a) restoring and enhancing ecosystems and indigenous biodiversity, particularly taonga species;
 - (b) providing natural resources for customary use; and
 - (c) providing opportunities for residents and visitors to experience Māori cultural heritage, while protecting Māori cultural heritage and sites and features of significance to Mana Whenua.
- (3) Enable the provision of infrastructure necessary to service open spaces and recreation facilities.
- (4) Enable the construction operation, maintenance, repair and minor upgrading of infrastructure located on open spaces.

H7.4. Open Space – Conservation Zone

H7.4.1. Zone description

The Open Space – Conservation Zone applies to open spaces with natural, ecological, landscape, and cultural and historic heritage values. These areas include volcanic cones, bush reserves, headlands, natural wetlands and coastline and play an important role in protecting and increasing the populations of threatened and endangered species. They also include some of the most pristine beaches and coastlines that provide opportunities for informal recreation.

The Open Space – Conservation Zone also applies to cemeteries that are no longer operational to recognise their cultural heritage values.

To protect the values of the zone, recreation activities and development are limited in scale and intensity. Buildings and activities provided for relate to conservation, land management, recreation, education, park management and visitor information.

Activities in the zone need to be managed to ensure Mana Whenua values are maintained, and that adverse effects on scheduled Sites and Places of Significance to Mana Whenua are avoided.

H7.4.2. Objectives

- (1) The natural, ecological, landscape, Mana Whenua and historic heritage values of the zone are enhanced and protected from adverse effects of use and development.
- (2) Use and development complements and protects the conservation values and natural qualities of the zone.

H7.4.3. Policies

- (1) Enable appropriate use and development that conserves, protects and enhances the natural, landscape, and historic heritage values of the zone.
- (2) Protect and enhance ecological values, including habitats, significant ecological areas and any unique features present within the zone.

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- (3) Manage the use of the open space to protect and enhance Mana Whenua values, and enable appropriate activities which support and re-establish the relationship of Mana Whenua and their culture and traditions to their ancestral lands, water, sites, wāhi tapu and other taonga.
- (4) Limit activities, buildings and structures to those necessary to maintain or enhance the use or values of the zone.
- (5) Locate and design new buildings, structures and additions to:
 - (a) complement the context, character and values of the zone; and
 - (b) ensure that there is minimal disturbance to existing landform, vegetation and vulnerable habitats.
- (6) Locate and design vehicle access and parking to have minimal impact on the values of the zone through all of the following:
 - (a) ensuring there is minimal disturbance to the existing landform and vegetation;
 - (b) locating parking areas in proximity to public streets and/or internal roads to avoid intrusion into the open space and encourage shared parking;
 - (c) using unformed and unsealed areas for parking, particularly for peak periods during summer months;
 - (d) using smaller, conveniently located parking areas in preference to large expanses of parking; and
 - (e) locating parking areas so that the character of the zone and adjoining properties are not adversely affected by noise or visual effects.
- (7) Require areas surrounding buildings, structures and parking areas to be landscaped to mitigate visual impacts.

H7.5. Open Space – Informal Recreation Zone

H7.5.1. Zone description

The Open Space – Informal Recreation Zone applies to open spaces that range in size from small local parks to large regional parks. These areas are used for a variety of outdoor informal recreation activities and community uses, such as walking, running, cycling, relaxing and socialising, picnics, playing and enjoying the environment.

Some of these open spaces adjoin the coast, harbours, lakes, rivers and streams and play a key role in providing access to and along these areas. They may also contain sites with natural and/or historic heritage values and form an important part of Auckland's walkway and cycleway network.

These open spaces are generally characterised by few buildings and structures. Limiting development in these areas maintains the open space character and

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amenity values, and enables opportunities for a range of informal recreation activities to occur.

Buildings and structures are limited to those that support the enjoyment of the open space for informal recreation and small-scale community buildings and structures.

Larger open spaces such as Auckland's regional parks may include visitor information facilities and limited retail such as cafes.

H7.5.2. Objectives

- (1) The open and spacious character, amenity values and any historic, Mana Whenua, and natural values of the zone are maintained.
- (2) Informal recreation activities are the predominant use of the zone.
- (3) Buildings and exclusive-use activities are limited to maintain public use and open space for informal recreation.
- (4) Small-scale, informal land-based water-related recreational facilities are provided for while maintaining and enhancing public access to and along the coast.

H7.5.3. Policies

- (1) Provide for a variety of informal recreation activities, including small-scale community uses and accessory activities.
- (2) Maintain or enhance the natural character values of open spaces by retaining significant vegetation (where appropriate and practical) and through weed removal, new planting and landscaping.
- (3) Require development, including new buildings and structures, located near scheduled Sites or Places of Significance to Mana Whenua to recognise the relationship of Mana Whenua to the area.
- (4) Limit buildings, structures and activities to those necessary to enhance people's ability to use and enjoy the open space for informal recreation.
- (5) Locate and design buildings and structures to:
 - (a) complement the open and spacious character, function and amenity values of the zone;
 - (b) maintain public accessibility and minimise areas for exclusive use; and
 - (c) protect any natural or historic heritage values.
- (6) Use the street network and internal roads for parking in preference to on-site parking, and where it is necessary to provide on-site vehicle access and parking, ensure the character of the zone is maintained.
- (7) Manage the intensity of activities to minimise adverse effects such as noise, glare and traffic on the amenity values of the surrounding area.

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- (8) Limit activities and their associated facilities adjoining the coast or water bodies to those that have a functional or operational need for a coastal location.
- (9) Avoid use and development in locations adjoining the coast or water bodies where they will have more than minor adverse effects on any of the following:
 - (a) public access;
 - (b) the visual amenity values of the coast and water bodies;
 - (c) areas of high natural or historic heritage value; or
 - (d) Mana Whenua values.

H7.6. Open Space – Sport and Active Recreation Zone

H7.6.1. Zone description

The Open Space – Sport and Active Recreation Zone applies to open spaces used for indoor and outdoor organised sports, active recreation and community activities. It includes facilities such as sports fields, hard-court areas and greens, recreational and multi-sport facilities, and marine-related activities such as ramps, jetties, slipways, hardstand areas. These spaces often include buildings and structures such as grandstands, sport and community clubrooms and toilets and changing facilities associated with these uses. Most of these open spaces are also available for informal recreation activities such as walking, jogging and informal games when not used for sport and active recreation.

Commercial activities accessory to sport and active recreation activities may be undertaken in appropriate locations. These activities can provide economic benefits as well as social benefits, such as providing food or beverage to support recreational use and by adding to safety through passive surveillance.

The more intensive use of these open spaces can attract large numbers of people. This can generate high levels of traffic, noise, glare and other adverse effects that need to be managed.

H7.6.2. Objectives

- (1) Indoor and outdoor sport and active recreation opportunities are provided for efficiently, while avoiding or mitigating any significant adverse effects on nearby residents, communities and the surrounding areas.
- (2) Activities accessory to active sport and recreation activities are provided for in appropriate locations and enhance the use and enjoyment of areas for active sport and recreation.
- (3) Larger scale, or clusters of land-based marine-related recreation facilities, are recognised and provided for while maintaining and enhancing public access to and along the coast.

H7.6.3. Policies

- (1) Enable indoor and outdoor organised sports, active recreation, recreation facilities, community activities, accessory activities and associated buildings and structures.
- (2) Enable accessory activities that enhance the use and enjoyment of the public open space and that relate to the primary activities on the site.
- (3) Design and locate buildings and structures (including additions) to be compatible with the surrounding environment in which they are located, particularly residential environments, and to avoid or mitigate any adverse effects, including visual, dominance, overlooking and shading.
- (4) Design and locate buildings, structures and activities so that any adverse effects, including noise, glare and traffic effects, are managed to maintain a reasonable level of amenity value for nearby residents, communities and the surrounding environment.
- (5) Maximise the use of indoor and outdoor recreation facilities including through multifunctional use and adaptable designs to increase the capacity and use of the open space.
- (6) Limit activities and associated facilities on open space adjoining the coast or a water body to those that have a functional or operational requirement for a coastal location.
- (7) Require activities and development in locations adjoining the coast or a water body to meet all of the following:
 - (a) maintain public access, unless access is to be excluded for safety and security reasons;
 - (b) maintain the visual amenity of the coastal environment and water bodies;
 - (c) avoid areas scheduled for their outstanding natural landscape, outstanding or high natural character or historic heritage values; and
 - (d) recognise Mana Whenua values.

H7.7. Open Space – Civic Spaces Zone

H7.7.1. Zone description

The Open Space – Civic Spaces Zone applies to open spaces such as squares and plazas in centres and other urban areas. Civic spaces are becoming increasingly important as Auckland grows and becomes more compact, and access to high amenity open spaces is needed for residents, workers and visitors.

Civic spaces contribute to the character of centres and urban areas and provide opportunities for informal recreation, social interaction and community gatherings and events. They also support local character and sense of identity.

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H7.7.2. Objective

- (1) Civic spaces are used for civic and community functions, events and informal recreation.

H7.7.3. Policies

- (1) Enable civic and community functions and events, and informal recreation activities.
- (2) Limit buildings and structures to those that are necessary to support the purpose of the zone, and where this is demonstrated, ensure that they enhance the amenity values, functionality and use of the zone.
- (3) Manage the effects of activities to avoid or mitigate any adverse effects on the environment and on the amenity values of the nearby residents, communities and the surrounding environment.
- (4) Enable public amenities that enhance the use and enjoyment of civic and community open spaces, and the installation of artworks and interpretive signs.

H7.8. Open Space – Community Zone

H7.8.1. Zone Description

The Open Space – Community Zone primarily accommodates community buildings and activities. These include libraries, arts and cultural centres, marae, community houses, halls, early childhood learning facilities and recreation centres. This zone is situated in centres, suburban and rural areas.

H7.8.2. Objective

- (1) Community activities are provided for and meet the social needs of local communities.

H7.8.3. Policies

- (1) Enable community activities and early childhood learning services and associated buildings and structures.
- (2) Design and locate buildings, structures and activities so that any adverse effects, including noise, glare and traffic effects, are managed to maintain a reasonable level of amenity value for nearby residents, communities and the surrounding environment.
- (3) Maximise the use of buildings including through multifunctional use and adaptable designs.

H7.9. Activity table

Table H7.9.1 specifies the activity status of land use activities in the open space zones pursuant to section 9(3) of the Resource Management Act 1991. Notwithstanding the following rules, the Reserves Act 1977 applies to land vested under section 14 of that Act.

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A blank in Table H7.9.1 Activity Table below means that the Auckland-wide provisions apply.

H7.9.1. Activity Table – Open Space Zones

Activity		Activity Status				
		Conservation Zone	Informal Recreation Zone	Sport and Active Recreation Zone	Civic Spaces Zone	Community Zone
Use						
(A1)	Activities not provided for	NC	NC	NC	NC	NC
Residential						
(A2)	Camping grounds	D	D	NC	NC	NC
(A3)	A single workers' accommodation	P	P	P	NC	P
(A4)	Visitor accommodation - huts and lodges	D	D	NC	NC	NC
Community						
(A5)	Visitor centres	D	D	NC	D	P
(A6)	Community centres and halls	NC	D	D	D	P
(A7)	Early childhood learning services	NC	NC	D	NC	P
(A8)	Education and research facilities directly related to the open space	P	P	P	P	P
(A9)	Art galleries, arts and cultural centres	NC	D	D	D	P
(A10)	Clubrooms	D	D	P	NC	P
(A11)	Libraries	NC	NC	NC	NC	P
(A12)	Grandstands	NC	NC	RD	NC	NC
(A13)	Informal recreation	P	P	P	P	P
(A14)	Information facilities accessory to a permitted activity	P	P	P	P	P
(A15)	Organised sport and recreation	NC	RD	P	NC	P
(A16)	Public amenities	P	P	P	P	P
(A17)	Recreation facilities	NC	D	P	D	P
(A18)	Gardens, including botanic and community gardens	P	P	P	P	P

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Coastal						
(A19)	Coastal navigational aids	P	P	P	P	P
Commerce						
(A20)	Markets	NC	RD	RD	P	P
(A21)	Restaurants and cafes, excluding a drive-through facility, that are accessory to a permitted activity and are located further than 50m from a residential zone	D	RD	P	RD	P
(A22)	Restaurants and cafes, excluding a drive-through facility, that are accessory to a permitted activity and located within 50m of a residential zone	D	D	RD	D	D
(A23)	Retail accessory to a permitted activity	D	P	P	P	P
(A24)	Retail not otherwise provided for	NC	D	D	D	D
Industry						
(A25)	Parks depot, storage and maintenance	RD	RD	P	NC	NC
Rural						
(A26)	Conservation planting	P	P	P	P	P
(A27)	Farming or grazing as part of a management programme for the open space	P	P	P	NC	NC
(A28)	Forestry	D	D	D	NC	NC
Mana Whenua						
(A29)	Customary use	P	P	P	P	P
(A30)	Marae complex	D	D	D	D	P
Development						
(A31)	Accessory buildings	P	P	P	P	P
(A32)	Artworks	P	P	P	P	P
(A33)	Demolition of buildings	P	P	P	P	P
(A34)	Internal additions and alterations to existing buildings	P	P	P	P	P
(A35)	External additions to existing buildings that	P	P	P	P	P

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	comply with the standards					
(A36)	Buildings for public amenities	P	P	P	P	P
(A37)	New buildings and external additions to existing buildings that do not comply with one or more standards	D	D	D	D	P
(A38)	Non-security floodlighting, fittings and supports and towers up to 18m high	NC	P	P	P	NC
(A39)	Non-security floodlighting, fittings and support towers more than 18m high	NC	RD	RD	RD	NC
(A40)	Fences on the front boundary more than 50 per cent transparent	P	P	P	P	P
(A41)	Fences on the front boundary less than 50 per cent transparent	RD	RD	RD	RD	RD
(A42)	Maimais (erection, use, alteration, maintenance and demolition) associated with lawful game-bird hunting	P	P	NC	NC	NC
(A43)	Observation areas, viewing platforms and related structures	RD	P	P	P	P
(A44)	Parks infrastructure	P	P	P	P	P
(A45)	Sport and recreation structures	NC	P	P	NC	NC
(A46)	Parks maintenance	P	P	P	P	P
(A47)	Recreational trails	P	P	P	P	P
(A48)	Construction of vehicle access and parking areas	D	D			

H7.10. Notification

- (1) Any application for resource consent for an activity listed in Table H7.9.1 will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (2) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

H7.11. Standards

All activities listed as a permitted activity or restricted discretionary activity in Table H7.9.1 must comply with the following standards.

Where an open space comprises multiple sites but has a common open space zoning, the entire zone will be treated as a single site for the purpose of applying the standards listed below.

H7.11.1. Building height

Purpose: To manage the height of buildings to retain the particular open space character of the zone, minimise visual dominance effects, and maintain a reasonable standard of amenity for adjoining sites.

- (1) Buildings must not exceed the height limits specified in Table H7.11.1.1.

Table H7.11.1.1 Building height

Zone	Buildings for public amenities or parks infrastructure	Other buildings
Open Space – Conservation Zone	4m	NA
Open Space – Informal Recreation Zone	4m	NA
Open Space – Sport and Active Recreation Zone	4m	NA
Open Space – Civic Spaces Zone	4m	NA
Open Space – Community Zone	8m	8m

H7.11.2. Height in relation to boundary

Purpose: To ensure buildings on the periphery of the open space do not dominate neighbouring areas, particularly residential areas, and maintain a reasonable level of amenity for adjoining sites.

- (1) Where an open space directly adjoins a site in another zone, the height in relation to boundary standard that applies in the adjoining zone applies to the adjoining open space boundary.
- (2) Where an adjoining zone does not specify a height in relation to boundary standard, the yard and/or setback standards that apply in the adjoining zone apply to the boundary directly adjoining the open space boundary.

H7.11.3. Yards

Purpose: To provide a reasonable standard of visual amenity between open space zones when viewed from the street and a buffer between open space zones and neighbouring residential and special purpose zones.

- (1) Buildings, or parts of buildings, must be set back from the relevant boundary by the minimum distance listed in Table H7.11.3.1.

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Table H7.11.3.1 Yards

Yard	Conservation Zone	Informal Recreation Zone	Sport and Active Recreation Zone	Civic Spaces Zone	Community Zone
Front yard	5m	5m or the average of the setback of buildings on adjacent front sites, whichever is lesser	5m	The average setback of buildings on adjacent front sites	The average setback of buildings on adjacent front sites
Side and rear yards	6m where the open space zone adjoins a residential zone, special purpose zone or the Future Urban Zone otherwise 3m No side and rear yards are required where the open space zone adjoins a business zone			3m where the open space zone adjoins a residential zone	3m where the open space zone adjoins a residential zone
Riparian yard	10m from the edge of permanent and intermittent streams			10m from the edge of permanent and intermittent stream	10m from the edge of permanent and intermittent streams
Coastal protection yard	25m from mean high water springs	20m from mean high water springs	10m from mean high water springs	10m from mean high water springs	10m from mean high water springs

H7.11.4. Screening

Purpose: To ensure rubbish and/or storage areas are screened from neighbouring sensitive land uses.

- (1) Any outdoor storage or rubbish collection areas that directly face and are visible from a residential zone, Special Purpose – School Zone, rural zone or business zone adjoining a boundary with, or on the opposite side of the road from, an open space zone, must be screened from those areas by a solid wall or fence at least 1.8m high.

H7.11.5. Gross floor area threshold

Purpose: To limit the size of buildings within open spaces to retain their open space character and to maintain a reasonable standard of amenity for adjoining sites.

- (1) The gross floor area of individual buildings must not be more than the following:
 - (a) Open Space – Conservation Zone: 50m²;
 - (b) Open Space – Informal Recreation Zone: 50m²;
 - (c) Open Space – Sports and Active Recreation Zone: 50m²;

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(d) Open Space – Civic Spaces Zone: 50m²; and

(e) Open Space – Community Zone: 300m².

H7.11.6. Maximum site coverage

Purpose: To limit the extent of building and development so that an open and spacious character is retained as well as to maintain a reasonable standard of amenity for adjoining sites.

(1) The maximum permitted site coverage per site, or cumulative total area of buildings, must not exceed the following limits:

(a) Open Space – Conservation Zone: one per cent;

(b) Open Space – Informal Recreation Zone: 10 per cent;

(c) Open Space – Sports and Active Recreation Zone: 30 per cent;

(d) Open Space – Civic Spaces Zone: five per cent; and

(e) Open Space – Community Zone: 50 per cent.

H7.11.7. Maximum impervious area

Purpose: To restrict the maximum impervious area to manage the amount of stormwater runoff generated by a development, and ensure that adverse effects on water quality, quantity, amenity values are avoided or mitigated.

(1) The maximum impervious area per site must not exceed the following limits:

(a) Open Space – Conservation Zone: lesser of 10 per cent or 5000m²;

(b) Open Space – Informal Recreation Zone: lesser of 10 per cent or 5000m²;

(c) Open Space – Sports and Active Recreation Zone: 40 per cent;

(d) Open Space – Civic Spaces Zone: no limit; and

(e) Open Space – Community Zone: 70 per cent where the adjacent zone is a residential zone, Business – Business Park Zone or Business – General Business Zone. No limit in the Business – Mixed Use Zone or the business centre zones.

H7.11.8. Non-security floodlighting, fittings and supports and towers up to 18m high

(1) Lighting must meet the permitted activity standards for lighting in Chapter E24 Lighting.

H7.11.9. Maimai

(1) A maimai must be no more than 10m² in area.

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- (2) A maimai must not exceed 3m in height above mean high water springs or ground level.

H7.12. Assessment – controlled activities

There are no controlled activities in these zones.

H7.13. Assessment – restricted discretionary activities

H7.13.1. Matters of discretion

The Council will restrict its discretion to the following matters when assessing a restricted discretionary resource consent application.

H7.13.1.1. Organised sport and recreation

- (1) The effects of the intensity, scale and duration of the events on informal recreational use of the open space.
- (2) The effects on the amenity value of adjoining sites.
- (3) The extent the activity is consistent with any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan for the area.

H7.13.1.2. Markets

- (1) The effects the intensity and scale of the activity will have on recreational use and amenity values.
- (2) The effects on public access to, and use of, the open space.
- (3) The effects from the development design, external appearance and landscaping.
- (4) The effects on any scheduled historic heritage values.
- (5) The effects on natural values, including landform and vegetation.
- (6) The extent the activity is consistent with any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan for the area.

H7.13.1.3. Restaurants and cafes accessory to a permitted activity (further than 50m from a residential zone or within 50m of a residential zone in the Open Space – Sport and Active Recreation Zone)

- (1) The effects of the intensity and scale of the activity on recreational use and amenity values.
- (2) The effects on public access to, and use of, the open space.
- (3) The effects from the development design, external appearance and landscaping.

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- (4) The effects on any scheduled historic heritage values.
- (5) The effects on natural values, including landform and vegetation.
- (6) The extent the activity is consistent with any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan for the area.

H7.13.1.4. Parks depot, storage and maintenance

- (1) The effects of the intensity and scale of the activity on residential amenity.
- (2) The effects on public access to, and use of, the open space.
- (3) The effects from the development design, external appearance and landscaping.
- (4) The effects on any scheduled historic heritage values.
- (5) The effects on natural values, including landform and vegetation.
- (6) The extent the activity is consistent with any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan for the area.

H7.13.1.5. Grandstands

- (1) The effects of the intensity and scale of the activity on residential amenity.
- (2) The extent a grandstand will enhance and maximise use of the site.
- (3) The effects from the development design, external appearance and landscaping.
- (4) The extent the activity is consistent with any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan for the area.

H7.13.1.6. Non-security floodlighting, fittings and supports and towers more than 18m in height

- (1) The effects on the amenity value of adjoining sites.
- (2) The hours of operation.
- (3) The height and scale of the structure.
- (4) The extent the activity is consistent with any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan for the area.

H7.13.1.7. Fences on the front boundary less than 50 per cent transparent

- (1) The effects on visibility to and from the open space, including effects on public safety.
- (2) The extent the activity is consistent with any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan for the area.

H7.13.1.8. Observation areas, viewing platforms and related structures

- (1) The effects of the location and design on natural character and landscape values.
- (2) The effects on any identified historic heritage values.
- (3) The effects associated with the construction and use of the structures, including effects to landform and vegetation.
- (4) The extent the activity is consistent with any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan for the area.

H7.13.2. Assessment criteria

The Council will consider the relevant assessment criteria for restricted discretionary activities from the list below.

H7.13.2.1. Organised sport and recreation

- (1) The extent to which the intensity, scale and duration of the events will adversely affect the use of the open space area for informal recreational use and whether any adverse effects can be remedied or mitigated.
- (2) The extent to which the effects are contained within the open space area and do not significantly detract from the amenity value of adjoining properties, particularly residential areas.
- (3) Whether the proposal is consistent with the outcomes sought in any relevant adopted reserve management plan, conservation management strategy or conservation management plan and the ability to avoid, remedy or mitigate any adverse effects resulting from any inconsistency with the relevant management plan.

H7.13.2.2. Markets

- (1) The extent to which the intensity and scale of the market will adversely affect recreational use of the open space and amenity values of neighbouring properties, and the measures to remedy or mitigate any adverse effects.
- (2) Whether the market is located to minimise any adverse effects on public access and takes into account pedestrian safety, access for people of all

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ages and abilities where practical, and the efficient use of existing access, parking, circulation and utility networks.

- (3) Whether the development design and external appearance or any buildings, and any landscaping:
 - (a) is compatible with the character and use of the site;
 - (b) minimises any adverse effects, including through use of building materials and colour; and
 - (c) complements the existing landscape character of the area.
- (4) Whether the activity will have any adverse effects of any scheduled historic heritage values, and the extent to which these can be remedied or mitigated.
- (5) Whether the activity will result in any land disturbance or vegetation removal and the extent to which any adverse effects can be remedied or mitigated.
- (6) Whether the proposal is consistent with the outcomes sought in any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan and the ability to avoid, remedy or mitigate any adverse effects resulting from any inconsistency with the relevant management plan.

H7.13.2.3. Restaurants and cafes accessory to a permitted activity

- (1) The extent to which the intensity and scale of the activity will adversely affect recreational use of the open space and amenity values of neighbouring properties, and the measures to remedy or mitigate any adverse effects.
- (2) Whether the activity is located to minimise any adverse effects on public access and takes into account pedestrian safety, access for people of all ages and abilities where practical, and the efficient use of existing access, parking, circulation and utility networks.
- (3) Whether the development design and external appearance or any buildings, and any landscaping:
 - (a) is compatible with the character and use of the site;
 - (b) minimises any adverse effects, including through use of building materials and colour; and
 - (c) complements the existing landscape character of the area.

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- (4) Whether the activity will have any adverse effects on any scheduled historic heritage values, and the extent to which these can be remedied or mitigated.
- (5) Whether the activity will result in any land disturbance or vegetation removal, and the extent to which any adverse effects can be remedied or mitigated.
- (6) Whether the proposal is consistent with the outcomes sought in any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan and the ability to avoid, remedy or mitigate any adverse effects resulting from any inconsistency with the relevant management plan.

H7.13.2.4. Parks depot, storage and maintenance

- (1) The extent to which the intensity and scale of the activity will detract from the amenity value of any adjoining residential areas, and the measures to remedy or mitigate any adverse effects.
- (2) Whether any buildings or activities are located in minimise adverse effects on public access to and use of the open space.
- (3) The extent to which any disturbance to existing landform and vegetation is minimised.
- (4) The extent to which any adverse effects on natural values or amenity values are avoided, remedied or mitigated through location, design, external appearance and landscaping.

H7.13.2.5. Grandstands

- (1) The extent to which the structure and the intensity of use will detract from the amenity value of any adjoining residential areas, and the measures to remedy or mitigate any adverse effects.
- (2) The extent to which a grandstand will enhance and the use and capacity of the site for recreational use.
- (3) Whether the proposal is consistent with the outcomes sought in any relevant adopted reserve management plan, conservation management strategy or conservation management plan and the ability to avoid, remedy or mitigate any adverse effects resulting from any inconsistency with the relevant management plan.

H7.13.2.6. Non-security floodlighting, fittings and supports and towers more than 18m in height

- (1) The extent to which the floodlighting and structure will detract from the amenity value of any adjoining residential areas, and the measures to

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remedy or mitigate any adverse effects, including through the location of the structure and hours of operation.

- (2) Whether the proposal is consistent with the outcomes sought in any relevant adopted reserve management plan, conservation management strategy or conservation management plan and the ability to avoid, remedy or mitigate any adverse effects resulting from any inconsistency with the relevant management plan.

H7.13.2.7. Fences on the front boundary less than 50 per cent transparent

- (1) The extent to which the fence will have an adverse effect on visibility to and from the open space, including the visual connection to and from the open space and the adjacent streets.
- (2) The extent to which any loss of visibility will have any adverse effects on public safety.
- (3) Whether the proposal is consistent with the outcomes sought in any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan and the ability to avoid, remedy or mitigate any adverse effects resulting from any inconsistency with the relevant management plan.

H7.13.2.8. Observation areas, viewing platforms and related structures

- (1) Whether the structure is located and designed to minimise any adverse effects on the natural and landscape values while providing for viewing.
- (2) The extent to which any adverse effects to landform and vegetation associated with the construction or use of the structures can be avoided, remedied or mitigated.
- (3) Whether the proposal is consistent with the outcomes sought in any relevant adopted Reserve Management Plan, Conservation Management Strategy or Conservation Management Plan and the ability to avoid, remedy or mitigate any adverse effects resulting from any inconsistency with the relevant management plan.

H7.14. Special information requirements

There are no special information requirements for these zones.

Attachment 4: Extract of Council's decision on the Open Space zone provisions

39. Council decisions relating to Panel report entitled “Report to Auckland Council Hearing Topic 058 (Open space), July 2016”

Panel recommendations accepted:

39.1 The Council has accepted all the recommendations of the Panel contained in the Panel report for Hearing Topic 058 (Open space), as they relate to the content of the PAUP, and also the associated recommendations as they appear in the plan and the maps except as listed below at paragraph 39.2.

Panel recommendations rejected:

39.2 The Council has rejected the Panel recommendations in relation to Hearing Topic 058 (Open space) as listed below, with accompanying reasons, alternative solutions and section 32AA evaluation (where necessary):

(a) Amending the activity status for new buildings and additions, and the height and gross floor area standards for the Open Space zones

Reasons	
(i) The recommendation does not appropriately balance the need to use public open space effectively (and manage pressure to use open spaces as population increases), with the need to manage impacts on neighbours.	
(ii) The recommendation imposes a single approach across all Open Space zones and does not appropriately recognise the values and purpose of each zone.	
Alternative solution	See Attachment A
Section 32AA evaluation	See Attachment B

Attachment 5: Council's amendments to the Open Space zone provisions

Topic 058

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H7. Open Space zones

H7.1. Background

The majority...

H7.9. Activity table

Table H7.9.1 ...

H7.9.1. Activity Table – Open Space Zones

Activity		Activity Status				
		Conservation Zone	Informal Recreation Zone	Sport and Active Recreation Zone	Civic Spaces Zone	Community Zone
Use						
(A1)	...					
Development						
(A31)	...					
(A35)	External additions to existing buildings that comply with the standards	P	P	P	P	P
(A36)	External additions to existing buildings that do not comply with one or more standards	<u>D</u>	<u>D</u>	<u>D</u>	<u>D</u>	<u>D</u>
(A36) (A37)	Buildings for public amenities	P	P	P	P	P
(A38)	New buildings that comply with the standards	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
(A37) (A39)	New buildings and external additions to existing buildings that do not comply with one or more standards	D	D	D	D	<u>P</u> <u>D</u>
(A38) (A40)	...					

H7.11. Standards

All activities...

H7.11.1. Building height

Purpose: To manage the height of buildings to retain the particular open space character of the zone, minimise visual dominance effects, and maintain a reasonable standard of amenity for adjoining sites.

(1) Buildings must not exceed the height limits specified in Table H7.11.1.1.

Table H7.11.1.1 Building height

Zone	Buildings for public amenities or parks infrastructure	Other <u>All</u> buildings
Open Space – Conservation Zone	4m	NA <u>4m</u>
Open Space – Informal Recreation Zone	4m	NA <u>8m</u>
Open Space – Sport and Active Recreation Zone	4m	NA <u>10m</u>
Open Space – Civic Spaces Zone	4m	NA <u>4m</u>
Open Space – Community Zone	8m	8m

H7.11.2. Height in relation to boundary

Purpose: ...

H7.11.5. Gross floor area threshold

Purpose: To limit the size of buildings within open spaces to retain their open space character and to maintain a reasonable standard of amenity for adjoining sites.

- (1) The gross floor area of individual buildings must not be more than the following:
- (a) Open Space – Conservation Zone: 50m²;
 - (b) Open Space – Informal Recreation Zone: ~~50m²~~ 100m²;
 - (c) Open Space – Sports and Active Recreation Zone: ~~50m²~~ 150m²
 - (d) Open Space – Civic Spaces Zone: 50m²; and
 - (e) Open Space – Community Zone: 300m².

H7.11.6. Maximum site coverage

Purpose: ...