

PUBLIC ACCESS

Introduction

This chapter sets out the circumstances and places where Council will seek to require or encourage the provision of public access to and along the District's ~~coastal marine area~~ CMA and margins of specified wetlands and rivers. The maintenance and enhancement of public access to and along the CMA ~~coastal marine area~~ and margins of wetlands, lakes and rivers is identified as a matter of national importance by the RMA. Providing public access enables leisure, recreation activities and conservation activities to occur and also allows people to enjoy the natural character and intrinsic qualities of these areas. Public access to these areas is also highly important to Māori. The objectives and policies in this chapter also apply to subdivision that results in the creation of esplanade reserves and esplanade strips that are for the purpose of providing public access. Council has identified in SCHED11 — Schedule of Public Access Provisions ~~that identifies~~ parts of the CMA ~~coastal marine area~~ and margins of specified wetlands and rivers where public access should be provided.

Advisory note:

It should be noted that there is no general right of public access across private land, and landowner consent must be obtained to access any private properties.¹

Objective

PA-O1 Public access

Public access to and along the CMA ~~coastal marine area~~ and the margins of identified wetlands and rivers is maintained and enhanced, and only restricted where ~~desirable~~ appropriate².

Policies

PA-P1 Benefits of public access

Recognise the benefits of providing public access to and along the CMA ~~coastal marine area~~ and the margins of wetlands and rivers identified SCHED11 — Schedule of Public Access Provisions and the planning maps, including:

1. providing for the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu and toaka, including for mahika kai; and
2. providing public access to enable leisure, recreation activity, conservation activity and enjoyment of the natural character and intrinsic qualities of these areas.

PA-P2 Requirements for public access

Require public access to be provided to and along the CMA ~~coastal marine area~~ and the margins of wetlands and rivers as identified in SCHED11 — Schedule of Public Access Provisions and planning maps where:

1. there is benefit in providing public access as outlined in PA-P1; or
2. it would
 - a. enable the creation of new public walking or cycling tracks; or
 - b. extend existing public walking or cycling tracks; or
 - c. improve connections between existing/proposed public walking or cycling tracks; or
3. it would improve connections to and between public spaces; and
4. the site or development is large enough to adequately accommodate public access without significantly constraining the site's development potential; and

¹ Decision Report Part 1, Section 4.2

² OWL [181.66]

5. enabling public access would not significantly constrain the operation of legally established activities occurring on the site; and
6. there are no significant public safety risks created by the public access; and
7. there is no existing suitable public access points in the vicinity of the site, or the development will place additional demands for public access that is not capable of being met by any existing public access in the vicinity of the site; and
8. Council has budget to compensate the landowner for the public access strip.

PA-P3 Design and construction of public access

Ensure that all public access routes are designed in accordance with Council standards for recreational areas.

PA-P4 Limiting public access

Only allow an exemption for the requirement to provide public access or limiting an existing public access, on a temporary or permanent basis, for one or more of the following reasons:

1. in order to protect:
 - a. sensitive indigenous species and their habitats; or
 - b. sites and activities of cultural value to mana whenua; or
 - c. historic heritage; or
 - d. public health or safety; or
 - e. the natural character values of the CMA coastal marine area, wetland or rivers; or
 - f. the stability, performance, maintenance and operation of regionally significant infrastructure; or
 - g. the natural buffers to coastal erosion or river flooding; or
 - h. dunes and estuaries and other sensitive natural areas; or³
2. in order to enable temporary activities including temporary events.

Rules

Note: Activities not listed in the rules of this chapter are classified as a permitted under this chapter. For certain activities, consent may be required by rules in more than one chapter in the District Plan. Unless expressly stated otherwise by a rule, consent is required under each of those rules. The steps plan users should take to determine what rules apply to any activity, and the status of that activity, are provided in Part 1, HPW — How the Plan Works - General Approach.

PA-R1 Any new land use, subdivision or development		
All sites overlaid or adjoining waterways identified in the Public Access Provision Overlay	Activity status: Permitted	Activity status where compliance not achieved: Controlled Activity
	Where: PER-1 The activity is located in the General Residential Zone and includes the creation of five or less residential units and/or residential allotments, and does not require a discretionary or non-complying activity resource consent in any other chapters of the <u>District Plan</u> ; or	Where: CON-1 1. Public access is proposed in accordance with the Public Access Provision Overlay identified on the planning maps and 20187 , SCHED11 - Schedule of public access provisions. Matters of control are restricted to:

³ Dir. General Conservation [166.78]

PER-2

The activity is located in the General Industrial Zone and is on a site that is less than 5,000m² and does not require a discretionary or non-complying activity resource consent in any other chapters of the District Plan; or

PER-23⁴

The activity is located in other zones and does not require a discretionary or non-complying activity resource consent in any other chapters of the District Plan; or

PER-4

The site has previously obtained resource consent under this rule.⁵

1. the purpose of the public access; and
2. the location, design and width of the proposed public access having regard to Council's public access standards for recreation areas and the need to protect the matters listed under PA-P4.1; and
3. measures to ensure the health and safety of users of the proposed public access; and
4. measures to ensure security of private land from users of the proposed public access; and
5. any necessary restrictions on public access having regard to ~~policy~~ PA-P4; and
6. the legal instrument to ensure public access and the details of that instrument.

Activity status where compliance not achieved with CON-1: Restricted Discretionary

Matters of discretion are restricted to:

1. whether public access should be provided or not, having regard to:
 - a. the benefits of public access as outlined in PA-P1; and
 - b. whether a significant public safety risk is created as a result of the public access; and
 - c. whether there is any existing public access~~es~~ in the vicinity of the site and the suitability of th~~at~~~~ese~~ access~~es~~ to provide public access~~es~~ now and in the future; and
 - d. whether the development will place additional demands for public access that is not capable of being met by any existing public access in the vicinity of the site; and
 - e. whether the site or development is large enough to adequately accommodate public access without significantly constraining the site's development potential; and
 - f. whether enabling public access

⁴ Clause 16(2)

⁵ Silver Fern Farms [172.68] and Alliance Group [173.72]

		<p>would significantly constrain the operation of legally established activities occurring on the site; and</p> <p>g. whether Council has budget to compensate the landowner for the public access strip; <u>and</u></p> <p>2. If public access is required, the matters listed for control under CON-1.</p>
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