Far North District Council
Te Kaunihera o Tai Tokerau ki te Raki

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CREATING GREAT PLACES
Supporting our people

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To:	Shaun Clarke	Department:	Chief Executive
CC:	Darrell Sargent	Department:	Strategic Planning and Policy
From:	Rachael Pull	Department:	Strategic Planning and Policy
Date:	16 August 2019		
Subject:	Kerikeri Domain Governance		

1) Introduction

Kerikeri Domain is located in Central Kerikeri off Cobham Road. It is the only significant green space in the urban area of Kerikeri and is therefore multi-purpose, fulfilling the needs of many different users from sports codes to pedestrian routes.

The site was originally part of the 'peoples reserve/children's land', set aside for tangata whenua, however it was taken under the Bay of islands Settlement Act 1858. It started being developed for recreation purposes in 1928. The first community group to manage it, the Kerikeri Recreation Reserve (Inc) Society was formed in 1934. In 1953 the Kerikeri Domain was transferred to the Crown and the Kerikeri Domain Board was set up to administer it. Until 2012, it was managed by the Kerikeri Domain Charitable Trust.

The Kerikeri Domain is just over 3 hectares and is made up of several lots owned by the Department of Conservation (on behalf of the Crown) and the Far North District Council. Part of an adjoining field is owned by the Ministry of Education and is often treated as part of the Kerikeri Domain, although management remains with the Kerikeri High School.

Kerikeri Domain is currently identified as a significant district wide asset, meaning that decisions relating to the maintenance and development are the responsibility of Council.

The purpose of this document is to provide elected members with an overview of the current management situation with Kerikeri Domain and to set out the options for an alternative governance body as set out in the June 2019 Council minutes.

5 BAY OF ISLANDS-WHANGAROA COMMUNITY BOARD

5.1 ADOPTION OF THE KERIKERI DOMAIN RESERVE MANAGEMENT PLAN

Agenda item 6.1 document number A2478426, pages 20 - 25 refers

RESOLUTION 2019/16

Moved: Mayor John Carter
Seconded: Cr Ann Court

That Council:

a) **adopts the Draft Kerikeri Domain Reserve Management Plan 2019 pursuant to its powers under section 41 of the Reserves Act 1977**

b) **urgently establishes a reserve management committee for the Kerikeri Domain, to manage the domain and its use**

c) **direct the CEO to report back on the options for the establishment of a management committee**

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2) Background

The Kerikeri Domain has a long history of being managed by the community. From 1928 to 2012 (when the Kerikeri Domain Charitable Trust was deregistered) the Kerikeri Domain has been managed by a mix of the public and Council representatives. The makeup of the last board was:

- The Mayor
- A Councillor
- A Community Board member
- A sport representative
- A school representative
- A Kerikeri residents representative
- Chair

Since 2012, the governance of the Kerikeri Domain has rested solely with the Far North District Council. On 27 June 2019, the Council adopted the Kerikeri Domain Reserve Management Plan to manage and develop the Kerikeri Domain over the next ten years. At the same time, it was resolved to explore the option of a governing body for the Kerikeri Domain.

2.1 Kerikeri Domain Reserve Management Plan

The Reserves Act 1977 (section 41) requires that Council owned or managed reserves (unless they are classified as a local purpose reserve), must have a reserve management plan; and that such plans are under continuous review (although it is best practice to review at least once every ten years).

The process to create the Kerikeri Domain Reserve Management Plan (Management Plan) was an opportunity to consolidate the future direction of Kerikeri Domain and the roles and responsibilities for leading and shaping that direction.

It is the responsibility of Council to implement the Management Plan. This will be achieved by working with administration and any governance body to prioritise the actions and ensure that the Kerikeri Domain is being maintained to an agreed standard. It also provides certainly for community groups wanting to achieve the actions within the Management Plan by fundraising or organising volunteer events because there is a clear process to follow.

The Management Plan also provided an opportunity to align the development of Kerikeri Domain with other strategic initiatives; particularly the Far North 2100 Strategy (in the Management Plan known as Sustainable District Strategy) and the 2014 Northland Sports Facilities Plan.

3) Roles and Responsibilities

The purpose of this section is to define different governance bodies to ensure Council has the information to make an informed decision about the governance of the Kerikeri Domain.

The first action in the Management Plan is for Council to *'…consider the establishment of an incorporated society representing the community to manage and oversee the Domain'*. The Council item refers to *"…a reserve management committee for the Kerikeri Domain, to manage the domain and its use"*. These are two different governance bodies for the Kerikeri Domain which are discussed below along with the internal options.

3.1 Bay of Islands- Whangaroa Community Board

Kerikeri Domain is currently set out as having district wide significance, meaning that it is the responsibility of the whole of Council, as opposed to the Community Board that manages the ward. For the purposes of developing the Management Plan, the Bay of Islands-Whangaroa Community Board (Community Board) was delegated the responsibility to hear, consider and make a recommendation based on submissions to Council.

The advantage of having the Kerikeri Domain governed by the Community Board is the reduction of red tape. The only decision making body for new activities is the Community Board. Also there is more local

voices making the decisions as the Community Board members are drawn from the ward they represent as opposed to the Council which is made up of representatives from the district at large.

3.2 Council

Council is responsible for making key strategic decisions around the governance of the Kerikeri Domain. This includes financial planning and significant procurement. Because the Kerikeri Domain is at district wide significance, it is also responsible for:

- Appointing a governing body if they deem it necessary for the Kerikeri Domain;
- Approving the Management Plan (the ability to hear and consider was delegated to the Bay of Islands-Whangaroa Community Board); and
- Approve or refuse the use and/or lease of the Kerikeri Domain (where the issue is not covered by the Management Plan).

Therefore the decision to appoint a governing body and what type is with Council to consider.

The advantage of having the Kerikeri Domain governed by Council is that the costs of governance and maintenance remain the same. The only decision making body for new activities would be the Council who would be limited to the matters in the Management Plan. The adoption of the Management Plan has reduced the delays in implementing actions on the Kerikeri Domain that existed previously, as actions stated within the Management Plan no longer need to go to Council or be notified to the public.

3.3 Council Administration

Administration are responsible for implementing and keeping in continuous review the Management Plan and currently for scheduling regular maintenance of Kerikeri Domain. Any proposed changes to who implements these objectives will need to be set out by the agreement between Council and governing body appointed by Council. Administration would provide professional support and guidance to the governance body in addition to leading any Council processes necessary to implement it.

It is envisioned that the governing body would have the responsibility for (currently with administration):

- Basic maintenance of the Domain (as set out in any agreement reached);
- Provide regular advice to Council on the on-going management;
- Ensure that the Domain is managed to promote the vision and objectives of the Kerikeri Domain Reserve Management Plan by reviewing actions not in the Management Plan and providing a recommendation to Council;
- Managing the booking of the facilities;
- Managing the operational expenditure including water, pan charges, power, telephone, cleaning and minor maintenance and repairs of the assets on the Kerikeri Domain;
- Providing a reviewed annual statement on the financial accounts and activity report; and
- Inform Council of major maintenance and capital improvements.

They will not have responsibility over (remaining with administration and Council):

- The Procter Library (due to its significance as part of the ongoing Library Strategy);
- Setting the budget to manage the Kerikeri Domain;
- The administration of leases on the Kerikeri Domain;
- Approval of development within the Kerikeri Domain Reserve Management Plan; or
- Reviewing the Kerikeri Domain Reserve Management Plan.

Depending on the governing body selected and the formal agreement reached with Council, these responsibilities may change.

The Council would contribute an annual grant towards the services provided by the governance body. For most reserve management committees this sum is $5,000 per annum. The incorporated society in charge of Lindvart Park receives $40,000 per annum from Council due to their wider responsibilities. In return, Council would receive on an annual basis, a copy of the accounts which include the items of expenditure and income for the governing body.

3.4 Kerikeri Domain Reserve Management Committee

Under the provisions of the Local Government Act 2002 (LGA), a Council can establish various committees to fulfil specific purposes. A reserve management committee (committee) is formally set up as a committee of Council. It is disestablished at the end of each election cycle. Specifically, Schedule 7 clause 30(7) of the LGA reads as follows:

"A committee, subcommittee, or other subordinate decision-making body is, unless the local authority resolves otherwise, deemed to be discharged on the coming into office of the members of the local authority elected or appointed at, or following, the triennial general election of members next after the appointment of the committee, subcommittee, or other subordinate decision-making body."

Therefore the committee will have to be re-appointed after each election by the Council.

The Reserves Policy recommends 4 or more members, including a Community Board member. The submissions on the Kerikeri Domain Reserve Management Plan that requested this committee suggested representatives from Iwi, the High School and the high users (Rugby League, Cricket, Bowling Club, dog walkers, Mai Life). The Charitable Trust that previously managed the Domain also contained the Mayor, a Councillor and a Community Board member.

There have been requests from the public about having a public nomination process for the committee. Council can either appoint members directly or invite the community to nominate suitable people, but Council would still decide who would be appointed.

The advantage of having a reserve management committee is that Council can appoint the members directly every election cycle meaning that it can ensure that the committee represents the users of the Kerikeri Domain. An elected member will also sit on the committee to make sure that it is maintaining the Kerikeri Domain to the level required by the community.

3.5 Kerikeri Domain Incorporated Society

It was recommended in the action section of the Management Plan that the governing body be an incorporated society. The advantages of an incorporated society are:

- It becomes a separate legal entity;
- It can enter into a contract in its own name;
- It can continue as a separate entity even though its membership changes; and
- There will be certainty in the way the society is run (to meet the requirements in the Incorporated Societies Act 1908).

The Community Board specifically stated incorporated society in the action as they wished the governing body to be able to fundraise to implement the actions within the Management Plan and not be solely dependent on Council for funding. They also envisioned the group taking on more responsibility than the maintenance and day to day operation than most reserve management committees.

Lindvart Park is managed by an incorporated society (Kaikohe and Districts Sportsville). The society is made up of representatives of the main sports codes that use Lindvart Park. The users are harder to define for the Kerikeri Domain as many users do not belong to a club (dog walkers, casual walkers, users of the playground, skate park).

Therefore if this option was chosen by Council, administration would have to work with the community to determine how the different users and interest groups of the Kerikeri Domain would be represented. This would have to be formalised in either the constitution of the incorporated society or the agreement with Council to prevent the governance from not representing all users. Because of this additional work, this option would take the longest to establish.

3.6 Discussion of governance options

The purpose of looking at alternative governance bodies has come out of several factors:

- The special significance of Kerikeri Domain;
- The previous difficultly in providing new infrastructure and activities in the Kerikeri Domain;
- The potential for the governance body to fundraise to implement the actions in the Management Plan; and
- The long history of the Kerikeri Domain being manged directly by the public.

The Management Plan has set out a clear process to allow community groups and administration to implement actions approved within it. This addresses some of the concern surrounding the request for a governance body. However the consultation on the Management Plan identified a strong wish by the public to have more direct governance of the Kerikeri Domain. This is reflected in the action in the Management Plan which states that the Council makes the decision regarding governance in partnership with the community and Community Board.

If the Kerikeri Domain is governed by either Council or the Community Board, the maintenance work can continue to be managed by administration which is cost effective. The ability for the community to have input is limited to annual plan/ten year plan submissions and speaking at the start of elected member meetings. Decisions on new actions are made by the one delegated authority (Council or the Community Board).

If a reserve management committee is established, it will have to be renewed every three years and its members appointed by Council. There is Council representation within the group. This method allows for as many members as Council wants and it can control who is on the committee to ensure it is a fair representation of Kerikeri Domain users. However a reserve management committee lacks the ability to fundraise and implement actions within the Management Plan outside Council funding.

If an incorporated society is chosen by the Council, a process will need to begin to create the society and appoint their members. For Kaikohe and Districts Sportsville this took over a year. Until the society is incorporated and formally appointed by Council, the governance would remain with Council. An incorporated society recognises the significance of the Kerikeri Domain, maximises community management and allows for the development of the Kerikeri Domain by community fundraising rather than being solely dependent on Council funds.

Administration received legal advice in 2017 recommending against reserve management committees being registered as incorporated societies as it would be ultra vires. It would no longer be a committee under the Local Government Act 2002. A copy of this legal advice is attached.

It is recommended that an incorporated society is established. This would involve calling for expressions of interest from the public and working with administration to set up an incorporated society that will represent the Kerikeri Domain users. Council would then enter into a formal agreement with them on their responsibilities and how much Council will contribute. This would minimise the costs of implementing the Management Plan and maximise community governance.

4. Next Steps

Should the Council decide to establish an incorporated society, the table below provides a summary of the next steps.

Task	Decision Maker	Completion date
Complete Management Plan.	Community Board to recommend Decision to Council	June 2019 (Completed)
Council resolve to establish an incorporated society	Council	3 October 2019
Administration to call for expressions of interest.	Administration	December 2019
Administration to work with community members who expressed interest to establish an incorporated society and create a formal agreement between it and Council.	Incorporated Society	June 2020
Council to approve the formal agreement for service between the incorporated society and Council for the Kerikeri Domain.	Council	March 2020

Yours sincerely

Rachael Pull
Specialist Planner – Urban Design

Attached: Legal Advice regarding committees.