



RESERVES POLICY

Adopted: 16 March 2017

CONTENTS

Introduction.....	2
Legislative Context.....	2
Objectives.....	3
Section 1 – Reserves and Parks Management and Preservation.....	4
Section 2 – Tree Management.....	7
Section 3 – Reserve Management Committees.....	8
Section 4 – Encroachments on Council-Owned Land.....	10
Section 5 – Voluntary Rubbish/Litter Collection.....	13
Section 6 – Smokefree Reserves, Parks, and Playgrounds.....	14

INTRODUCTION

This is an amalgamation of and supersedes the following policies:

- Reserves and Parks (# 5007)
- Preservation of Reserves (# 5101)
- Naming of Reserves or Walkways (# 5016)
- Management of Trees on Council Land (# 5102)
- Use of Reserve Contributions (# 5100)
- Reserve Management Committees # 5011
- Encroachments on Council-Administered Land (# 5108)
- Voluntary Rubbish/Litter Collection (# 4400)
- Smokefree Parks, Playgrounds and Reserves (# 5014)

LEGISLATIVE CONTEXT

1. Reserves Act 1977

The Reserves Act 1977 (the Act) provides a statutory framework for the management and preservation of areas of public land for the benefit of the public.

The Act also provides for the classification of reserves, relative to their purpose. A reserve should be used for the purpose for which it is classified or the classification changed.

The Act requires that a reserve management plan be developed for any recreational or historic reserve vested in Council. The management plan is to specify how the reserve is to be managed, what development or activities will be allowed on the reserve, and how it will be maintained or enhanced.

The Act also requires the Council to consult with and have regard to the views of the public before undertaking certain actions in respect of reserves, for which it is the administering body.

2. Resource Management Act 1991

In providing reserves within the district, Council shall carry out its functions and powers pursuant to the Resource Management Act, and, in particular, Section 6 of that Act.

The authority to apply levies as a condition of a Resource Consent is contained in Section 407 of the Resource Management Act 1991.

Section 108 of the RMA allows Council to include, as a condition of a resource consent, a "condition requiring that a financial contribution [defined as money, land or works].....be made for purposes specified in the plan [meaning Council's Operative District Plan]". In the absence of a district plan produced under the RMA, the provisions of the six previous territorial authority schemes apply.

Section 411 of the RMA requires Council to "deal with the money in accordance with the requirement of Section 223F of the LGA 1974 and in reasonable accordance with the purposes for which the money was received".

OBJECTIVES

1. To provide for the recreation, leisure and amenity needs of the district whilst protecting the natural and physical resources within the district.
2. To maintain and enhance significant historic, scenic, natural and scientific values.
3. To establish consistent procedures for naming reserves or walkways,
4. To enhance the amenity value of Council's property by the appropriate management of trees and vegetation on reserves and other Council property.
5. To ensure that Council uses money from reserves contribution accounts in reasonable accordance with the purposes for which such monies were collected and in a way which maximises public enjoyment of public reserves.
6. To provide reserve management committees with a clear understanding of their role and reporting requirements.
7. To ensure that the public continues to have actual and perceived free access to areas of public land for their welfare and enjoyment.
8. To protect and preserve open space values in accordance with the Reserves Act 1977, reserve management plans and Council policies and strategies.
9. To progressively identify, document and address all encroachments on Council administered land.
10. To discourage and prevent future encroachment or private use of Council administered land.
11. To provide a standard framework, including options and assessment criteria, for resolving existing encroachments and private use in a consistent and objective manner.
12. To promote a consistent policy of minimising or removing encroachments on Council owned or managed land
13. To initiate an implementation plan that progressively identifies, documents and resolves all illegal encroachments and private use on public land.
14. To ensure that the implementation of transfer station user charges does not act as a disincentive to voluntary collection of litter or refuse in public areas.
15. To demonstrate leadership by promoting a smoke free lifestyle as being desired throughout the Far North District Council. Council will send a positive message that our children's health and the environment should be protected from the effects of smoking.

SECTION 1 – RESERVES AND PARKS MANAGEMENT AND PRESERVATION

BACKGROUND

Reserves and parks are held and managed by Council in trust for the benefit and enjoyment of the public. They contribute significantly to the quality of life in the District, the health of the community, and the sense of place for local residents.

Council provides a range of parks and recreational facilities and protects the natural environment through the provision of local playgrounds for children to play on, multi-use sports fields, gardens and large un-spoilt wilderness areas. Parks also support sporting and recreational events that gather people together and sometimes draw large crowds to the Far North.

There are a number of buildings and facilities in Council parks that have been developed by community or sporting groups; to maximise the opportunity to access non-Council funds, there is often a need to provide security of tenure for these groups.

Reserves and parks can be subject to pressure for development from the public. The community may have conflicting views about how a reserve should be developed, or a sporting group may wish to develop a particular recreational facility that benefits a specific group.

The Council has delegated to the Community Board a number of responsibilities that shape and influence reserves and parks management contained in the Community Board Delegations.

The purpose of the Resource Management Act 1991 is to promote the sustainable management of natural and physical resources. The Far North District Plan (FNDP) has land zoned for recreation and conservation purposes to provide opportunities for recreation and to protect areas of high conservation value, including indigenous vegetation and habitats of indigenous fauna.

The District Plan rules recognise that recreational activities may have off-site or other adverse effects that need to be managed. The zone rules complement the Reserves Act provisions and require management plans to be prepared for all Council reserves stating the purpose/s of the reserve and including a concept plan.

POLICIES

RESERVE MANAGEMENT

1. Council will continue to ensure that a range of recreational opportunities be available to the residents of and visitors to the district through land acquisition, accepting gifts or endowment properties, requiring contributions on subdivisions or developments, and partnering with community and sporting groups and with Crown agencies, such as the Ministry of Education.
2. Council will consult and liaise with iwi/hapu and other stakeholder groups, as appropriate, regarding the management, development and use of reserves and parks.



3. Council will promote co-ordination and co-operation between user groups and the development and maintenance of shared facilities by user groups.
4. Council will, where practicable, work to develop facilities within reserves and parks that cater to the whole of the community, including those with disabilities and the aged. This will be achieved through working with the Disability Action Group to identify practicable opportunities.
5. Council will consider contributing funds towards joint projects on reserves, provided they are multi-use facilities and suitable arrangements are made regarding public access and ongoing site management.
6. Council wishes that reserves enjoy maximum public access and use. However, some activities require a permanent base on recreation reserves, which may limit public access.
7. Council will, from time to time, set charges for the use of reserves and parks.
8. Council will, from time to time, appoint suitable persons to be voluntary reserve wardens to promote general safety and enjoyment of reserves and beach areas.
9. Council wishes to ensure that recreational activities establishing headquarters or facilities on reserve land are treated alike and, to this end, develop a standard form of lease.
 - a. Leases will include a requirement to insure improvements on reserves, have public liability insurance, pay all utility charges including but not limited to water rates.
 - b. Community or sporting groups wanting a permanent base on a reserve will be offered a short term license if the proposed use does not require development of significant facilities and a longer term lease if a significant financial investment in facilities is required by the group.
10. Organisations granted leases for buildings on Council land and engaged in commercial activities (e.g. liquor sales) to supplement income will be required to pay a "commercial rental" for the area that is used commercially (i.e. liquor licensed area).
11. Income derived from leases of Council reserves will be used to offset maintenance costs or develop reserves.

RESERVE PRESERVATION

12. Council may use any or all of the following mechanisms to provide reserves within the district:
 - a. Require reserve land as financial contributions on subdivision and development;
 - b. Require money as financial contributions on subdivision and development for buying reserve land or for funding other organisations; and/or



- c. Require works be done on land as financial contributions on subdivision and development.
13. In carrying out its functions and powers pursuant to Section 6 of the Resource Management Act, Council shall give consideration to the aspirations of individual communities.
14. Council shall continue to encourage other bodies and individuals to meet the requirements of the Resource Management Act, and in particular Section 6, through the application of Council's [rates relief policies](#).
15. In providing for the recreation, leisure and amenity needs of the district, Council shall consider:
 - a. Existing and possible future recreation and amenity facilities and needs in the district
 - b. Opportunities provided to acquire reserves when land is subdivided or when resource consents are granted or an activity established where land is being developed
16. Council may encourage other bodies and individuals to meet the recreation, leisure, and amenity needs of the district by providing land, works and services, and funding
17. Where appropriate, Council shall investigate exchanging some Council owned reserves for reserves provided by other bodies (e.g. Department of Conservation to maximise community benefit and administrative efficiency and minimise management costs.
18. Where Maori Land is concerned, Council, in considering reserve requirements, shall take account of Te Ture Whenua Maori Act.

NAMING OF RESERVES AND WALKWAYS

19. Official names are approved by Council resolution. The public will be given one month to comment on the proposed official name.
20. Where possible, the name of a reserve should reflect the relevance of the site, its history and use, and the purpose for which was reserved. If there is a strong Maori cultural connection to a reserve, a Maori name should be considered in consultation with tangata whenua. Likewise, a strong European cultural connection to a reserve should result in an appropriate European name.
21. Where appropriate, both Maori and European names will be used on signage and in documentation. Maori names will be identified in consultation with tangata whenua.
22. Official names for reserves will be established after consultation with tangata whenua, reserve users, reserve neighbours, and any other identified affected and interested parties.

SECTION 2 – TREE MANAGEMENT

BACKGROUND

There are a number of areas in which Council has a responsibility in relation to trees. These are Council recreational reserves, esplanade reserves and other Council-owned land, such as sites for housing for the elderly and cemeteries.

POLICIES

1. No person shall prune, fell, or otherwise take action with any trees without the authority of a Council staff member.
2. Pruning will not be carried out for any aesthetic reason, and trees will only be pruned back to the property boundary.
3. A tree shall be removed for no other reason than that it is a risk to health and safety, neighbouring private property, or to another Council-owned asset.
4. Where trees are designated for removal, the work may be contracted out by the staff member to either minimise cost of removal or obtain a return from the timber or firewood value in the trees.
5. Any work contracted out must be to a Council Health and Safety-approved contractor.
6. New planting of parks and reserves should take account of maintenance difficulties and costs, e.g. fast growing trees under power lines, and widely dispersed plantings that make mowing slower, more difficult, and expensive. Persons involved in preparation of Reserves Management Plans are required to consult with Council staff in relation to new plantings.
7. Decisions made by Council officers may be appealed by applying to the ward's community board. The decision of the community board is final.
8. When consensus cannot be reached on tree and vegetation management, a "tree assessment form" is to be completed as a prelude to the formal decision-making process. This process provides for:
 - an inspection by a nominated technical officer to identify the problems;
 - consultation with the local community/adjoining property owner;
 - the tree assessment form to be completed and reviewed;
 - remedial work to be carried out in compliance with sound arboriculture practices (costs of which may be shared between parties or at the cost of the complainant)
 - removal of the tree should Council staff deem remedial work to be unsatisfactory
 - mediation to be initiated
9. In the event that the Council officer does not agree to corrective pruning or the removal of the tree and mediation is unsuccessful, the issue shall be referred to the Elected Members of Council for formal consideration.

SECTION 3 – RESERVE MANAGEMENT COMMITTEES

BACKGROUND

Committees are set up under Schedule 7 (30-31) of the Local Government Act 2002. The role of rural domain committees is primarily to provide basic maintenance of rural domains (e.g. mowing, rubbish collection, toilet cleaning) and to advise Council on domain management. Reserve management committees have also been set up to manage some reserves, such as Lindvart Park and Russell Sports Ground.

Community Boards provide funding to these committees to carry out their work. The arrangement is beneficial to Council as the domains are generally remote and are more efficient to manage locally. The arrangement also provides local employment and provides local input into the ongoing management of these reserves.

Rural Domain or Reserve management committees are not decision-making bodies. The overall management of reserves rests with Council.

POLICIES

1. The role of rural domain or reserve management committees is to:
 - a. provide administration and basic maintenance of reserves as agreed between each committee and the local community board
 - b. provide advice to the local community board on on-going domain management
2. Management committees shall ensure the land they administer is used in the first instance to foster and promote sport and recreation.
3. The administration of leases is a matter for Council as the administering body and not with management committees. The management committee may negotiate lease terms and conditions as it sees fit and recommend these to the Community Board.
4. Council is responsible for deciding reserve management plans.
5. Council will establish a service level agreement with each management committee and Council may provide an operational grant.
6. Council will monitor the work of management committees and ensure that any funding is appropriately spent.
7. Management committees should be encouraged to be incorporated societies. Annual General Meetings will be held every year and all committees shall be comprised of four or more members, including a local Community Board representative to be appointed at the beginning of each electoral term.
8. Each management committee shall get their accounts independently reviewed by a suitably qualified person. A copy of the reviewed financial accounts and an activity report shall be



submitted to the Council annually, prior to allocation of the year's funding. The accounts shall also be available for Council review upon request.

9. Management committees will inform the Council of the need for major maintenance and capital improvements, which will then assess these requests on a priority-needs basis as part of Council's Long Term Plan process.
10. If, in the future, there is insufficient membership to continue a management committee or the committee is unable to function in its required capacity, the committee will be dissolved and the operation will be taken over by the Council.
11. The following Reserve or Domain Management Committees have been appointed by Council:
 - Lindvart Park
 - Simson Park
 - Maromaku Domain
 - Russell Sports Ground
 - Kawakawa Domain
 - Kaeo Domain
12. Maromaku Domain Board, Russell Sports Club Inc, and Kawakawa Domain currently receive a \$5,000 grant towards maintenance.
13. Payment of grants is made after a Letter of Agreement is exchanged and after the presentation of the annual report to the Community Board.
14. Kawakawa Domain committee includes the oversight of the land used by Kawakawa Bowling Club, United Kawakawa Rugby Football Club, and the old Domain.
15. Each Community Board will review and confirm the membership of the management committees at the beginning of each electoral term.
16. The Community Board will appoint a Board member to the management committee at the beginning of each electoral term.

SECTION 4 – ENCROACHMENTS ON COUNCIL-OWNED LAND

BACKGROUND

There are some encroachments by private landowners onto Council administered land. This land may be formed or un-formed legal road, public reserves held pursuant to the Reserves Act 1977, or other pieces of land acquired for utility purposes under the Public Works Act provisions.

Encroachments and private uses usually arise from the adjoining properties and vary from private access ways (permanent, semi permanent, or casual) to building or other permanent structures, including walls, decks, garages, carports, patios, or just garden extensions with landscaping. In some instances the encroachments are substantial.

More minor encroachments onto public roads for such things as retaining walls or underground tanks are managed under a staff delegation by requiring the property owner to enter into a “Licence to Occupy” agreement for the structure.

Landowners sometimes contact Council staff and request that these encroachments be formalised by Council. To enable the requests to be actioned there is a need for a Council policy to be in place, which will ensure consistency and provide support to Council staff in the stance taken. It will also aid in ensuring a balance between resolving the issue in a way that will positively discourage encroachment but that is also not too heavy-handed in the eyes of the public.

POLICIES

1. Council will seek to resolve all illegal encroachments and private use on public land by either removing or formalising the encroachment on a case by case basis.
2. Council will decline all future requests for private use of public land for access or occupation unless such use provides a benefit to the proper use and enjoyment of the public land.
3. Council will give consideration to the context of the public land when considering the resolution options.
4. Council will take into account the effect of the encroachment on members of the public.
5. Council will require encroachments to be recorded on LIMs where applicable.
6. These policies will not be applied to existing public utility works such as power poles and power lines, sewage pump stations etc.
7. This policy will be reviewed five years from its approval.

RESOLUTION OPTIONS

8. Council will seek long term resolution of illegal encroachments or private use of public land. Council's preferred resolution is removal or cessation and reinstatement of the encroached or utilised land as that is the best outcome for the public at large and meets the objectives of the policy.
9. Each encroachment will be put before Council on a case by case basis for a decision with recommendations of:
 - Removal of the encroachment; or
 - Licence to occupy for an encroachment onto legal road for a fee; or
 - Licence to occupy or lease with market rent or rates being charged for the period of the encroachment; or
 - Land exchange at no cost to the Council; or
 - Land disposal at market rates.

REMOVAL

10. A timetable should be established for resolution. The transgressor shall be required to remove whatever item or structure encroaches or discontinue use either immediately, within 12 months, or within an agreed period of time specified by licence or documentation.
11. Removal of all encroaching features is the responsibility of the occupier concerned. Should the occupier fail to comply within the time constraints, the work shall be carried out by Council at the occupier's expense.
12. Where boundaries are disputed by the transgressor, Council will instruct a surveyor to determine legal boundaries. Where the surveyor's findings support the Council's view that there is an encroachment, surveyors costs will generally be required to be paid by the transgressor.
13. Requirements to remove encroachments will be followed up and enforced by Council.

LICENCE TO OCCUPY

14. Encroachments on public land may be allowed to protect public safety.
15. Encroachments that enhance the use of Council land and improve visual and physical access to public land will be allowed, provided that:
 - Public access is maintained
 - Improvements do not indicate private ownership to users of the public land adjacent
 - Perception of public access such as ramps, jetties, and steps is maintained
16. Council may allow encroachments for structures where removal of the encroachment would necessitate partial demolition of the house or significantly impair the privacy and security of the occupants. Considerations will also be given to previous Council resolutions and/or records or approvals for use.



17. Any permitted continuance of encroachment or new request should be subject to a formal arrangement for fair market consideration determined by Council. All legal and administration costs will be met by the applicant.
18. Major structures and uses must be approved by Council and are charged on a cost recovery basis. These include:
 - Bridges
 - Easements
 - Significant commercial/industrial activity
 - Use involving dangerous goods where not permitted in the proposed district plan
 - Any exclusive use lease or license for a period greater than 5 years
 - All applications for use of land managed as a reserve under the Reserves Act 1977, excluding gardens, lawns and grazing
19. Minor uses on legal roads or esplanades may be approved by Council officers at no cost. These include:
 - Utilities
 - Café dining
 - Jetties
 - Lawns and grazing land
 - Underground tanks
 - Signs and fences
 - Driveways and access ways
 - Verandas, balconies, decks
 - Footpaths, walkways, stairs or tracks
 - Garages, parking areas, carports, pads
 - Gardens, garden sheds and garden structures
 - Canopies and building overhangs
20. Council will negotiate the terms of occupation with each land owner. All legal and administration costs will be met by the applicant. The final decision is made by Council.
21. The ability to use or occupy Council lands gives an increased value to the private occupier/owner. Payment of rates on the area of land encroached will be at the current rateable value of the adjoining land.

EXCHANGING OR SELLING LAND

22. Where Council considers that removal of the encroachment or cessation of use would add little recreational or visual benefit to the reserve/open space portfolio, and/or public benefit may be enhanced by permanently resolving the existing or proposed private use, the Council may consider exchanging or selling the land as long as permitted by legislation.
23. Other land with comparable or increased reserve or open space values, or improved access to the balance of the Council lands or improvement to view corridors or the like could all be factors influencing an exchange proposal.
24. Similarly, the selling of land to enable acquisition of more suitable land from the same or other parties may be an influencing consideration.



SECTION 5 – VOLUNTARY RUBBISH AND LITTER COLLECTION

BACKGROUND

Council implemented user charges for the disposal of refuse at its transfer stations in July 2002. It is possible that the charges could act as a disincentive to those individuals and groups who regularly perform public service by collecting litter from public areas and transporting it to a transfer station for disposal. Accordingly, Council has implemented the following policy in order to enable these organisations to continue the practice without being financially disadvantaged by user charges at transfer stations.

POLICIES

1. The Chief Executive may authorise the waiving of refuse charges at transfer stations from community groups or organisations that clean up public areas, or organisations disposing of leftovers from charitable collections.
2. Refuse must be from a Council lands (excluding road reserves) or from a registered charitable organisation's collection which is unable to be recycled or re-used (general day-to-day operational refuse is not included).
3. All recyclable materials are to be separated and put into the recycling system.
4. Volunteers shall not include their personal household refuse.
5. The collected refuse is to be put into plastic bags provided by Council. Refuse not in these bags will be charged for.
6. Council is to be notified in advance of the date, time, and number of bags before rubbish delivery either at a pick-up point or manned transfer station.
7. Refuse taken to a manned transfer station will be checked by the operator for compliance with these conditions and the quantity recorded. The operator will advise the contract supervisor, who may wish to inspect the refuse for compliance.
8. Council reserves the right to revoke permission where these conditions are not complied with.



SECTION 6 – SMOKEFREE RESERVES, PARKS, AND PLAYGROUNDS

BACKGROUND

Council's goal is to have smokefree parks, playgrounds & reserves.

POLICY

1. Council owned parks, playgrounds and reserves will be promoted as smoke free areas through signage and publicity.