

## 5.2 PARKS AND RESERVES POLICY DEVELOPMENT

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### TAKE PŪRONGO / PURPOSE OF THE REPORT

To recommend to Council that the draft Parks and Reserves Policy be adopted.

### WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- On 30 July 2020, the Strategy and Policy Committee determined that new general policies for the management of parks and reserves be developed.
- The new policy will replace the Reserves Policy 2017.
- Consultation and workshops took place between December 2020 and November 2021.
- This report seeks the Strategy and Policy Committee's approval of the draft Parks and Reserves Policy and recommend that Council adopt the policy.

### TŪTOHUNGA / RECOMMENDATION

**That the Strategy and Policy Committee recommend that Council adopt the Parks and Reserves Policy.**

### 1) TĀHUHU KŌRERO / BACKGROUND

The previous Reserves Bylaw 2010 expired in 2017. New options to enable the regulation of activities on both Council controlled parks and reserves were presented to Council in an options report on 21 May 2020. The Council determined that (Resolution 2020/28 refers):

**That Council agree:**

- a) that a bylaw, under the Local Government Act, is the most appropriate way of addressing the problems of nuisance, health and safety and offensive behaviour on Council controlled parks and reserves.**
- b) that administration draft a statement of proposal for the Council to make a bylaw to regulate activities on Council controlled parks and reserves, and develop non-regulatory options such as guidelines, education programmes and signage to support the implementation of an adopted bylaw.**

In 2020, staff considered non-regulatory options per resolution (b) above. This resulted in a review of the Reserves Policy 2017 that determined that it was deemed not fit for purpose and that a new policy should be developed.

On 30 July 2020, the Strategy and Policy Committee determined that (Resolution 2020/3 refers):

**“The Strategy and Policy Committee agrees and recommends to Council that new general policies for the management of parks and reserves be developed”.**

The new Parks and Reserves Policy at Attachment 1 is now presented for approval.

## 2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

The options for the provision of guidance to Council and staff for the operation and management of Council controlled parks and reserves were outlined in the Options Report presented to the Committee on 30 July 2020, as follows:

1. Do nothing / maintain the status quo (retain the Reserves Policy 2017).
2. Develop a new general policies document for parks and reserves.

The Options Report recorded that *“Option 2 had been assessed as meeting the objectives and purpose of policy development, including providing a well- developed statement of position on ongoing or recurring matters and direction for responses or actions for staff, or for decisions of Council or a Committee. Option 2 would demonstrate consistency with legislation and Council plans and provide for all Council owned and administered open spaces (parks and reserves). In addition, the development of a new policy would benefit the review and development of Reserve Management Plans by reducing duplication of provisions while allowing the development of locally relevant policies.”*

Subsequent workshops held with staff across the various Council groups, elected members, and a questionnaire conducted with the Domain Boards and Reserve Management Committees has highlighted a wide range of issues being experienced with the management of the Council’s parks and reserves. These workshops, together with further research has reinforced the conclusions outlined in the 30 July 2020 Options Report.

In conclusion, the recommended option to adopt a new parks and reserves policy remains appropriate.

### Issues with current policy

The Reserves Policy 2017 was an amalgamation of several reserve related policies as listed below:

- Reserves and Parks Management and Preservation
- Tree Management
- Reserve Management Committees
- Encroachments on Council-Owned Land
- Voluntary Rubbish and Litter Collection
- Smoke-free Reserves, Parks and Playgrounds

The Reserves Policy 2017 is missing content, contains ambiguous terminology, does not include parks, and includes policy statements affecting non reserves land e.g. roads, trees on Council properties and naming etc. The policy lacks guidance for Council and staff in management and operational matters that are often being experienced on parks and reserves, resulting in ad hoc decision-making affecting numerous topics, including the following:

- Leasing and licencing.
- Acquisition, disposal, and land exchange.
- Granting of easements.
- Encroachments
- Structures
- Lacks guidance on the provision of reserve management plans

## **Parks and reserves policy content**

The new policy aligns with the current legislative framework and contains policy statements that address the following topics:

- Te Tiriti o Waitangi / Treaty of Waitangi
- Easements
- Acquisition, Disposal and Land Exchange
- Connectivity
- Structures
- Domain Boards and Reserve Management Committees
- Encroachments
- Reserves Management Plans
- Leases and Licences
- Esplanade Reserves and Esplanade Strips
- Application of Revenue
- Financial and development Contributions.

Further detailed schedules are provided for greater guidance and to streamline decision making on the following:

- Easement agreement bond and easement fee
- Criteria of acquisition, disposal, and land exchange (for parks and reserves only)
- Criteria for decisions for establishment of structures
- Role of Domain Boards and Reserve management Committees
- General provisions for building facilities.

The following content of the Reserves Policy 2017 does not carry over into the new policy:

- Naming – the naming of parks and reserves will be addressed within a new naming policy that will apply across the full spectrum of Council property, assets and District wide spaces and places.
- Tree management – a policy to address trees on all Council property is being considered.
- Voluntary rubbish and litter collection – addressed through the Litter Infringement Policy 2017.
- Smoke free reserves, parks, and playgrounds – to be reviewed and a new policy created to cover all Council property.

The following matters are not included in the new policy for the reasons outlined:

- Fencing – addressed in the Fencing Act 1978.
- Vehicles on beaches – to be addressed within the new parks and reserves bylaw and the road use bylaw.
- Growth demand / Gap analysis – to be considered during the development of the open spaces' strategy, growth strategy and spatial planning.

- Noxious plant control – to be addressed together with tree management.
- Animals – addressed under the Dog Management Policy 2018, Dog Management Bylaw 2018, and Part 5 of the Reserves Act 1977 and will be assessed as part of proposed new animal management bylaw.
- Nuisance behaviour – to be addressed in the new parks and reserves bylaw, the Health Act 2006, or via the existing offences and infringement provisions in Part 5 of the Reserves Act 1977.
- Freedom camping – to be considered upon issue of the proposed amendments to the Freedom Camping Act 2011. There is potential to include within the new parks and reserves bylaw.
- Community gardens – addressed in the Community Gardens Policy 2013.
- Roads (formed and unformed) – no activities associated with any aspect of a legal road are included in the new policy. Council is currently making a Road Use Bylaw for the regulation of activities in the road corridor.
- Town halls and community centres – addressed in the Community Halls Policy 2016.
- Cemeteries – addressed in the Cemeteries Policy 2016.
- Campgrounds – addressed in the Council Owned Campgrounds Policy 2016.

### **Relevant legislation and policies**

A Parks and Reserves Policy is necessary as a non-regulatory tool to provide guidance to the Council and staff for the operation and management of parks and reserves. The policy accords with several statues including the Reserves Act 1977, Local Government Act 2002, Resource Management Act 1991, Public Works Act 1981, and aligns with other Council strategic documents.

The new policy applies to all parks and reserves that are owned by the Council or where the administration, control and management of the park or reserve is vested in the Council.

The policy does not address matters of enforcement, these are either addressed through the existing offences and infringement provisions in Part 5 of the Reserves Act 1977, whilst the planned new parks and reserves bylaw will provide additional offences and infringement controls.

The Parks and Reserves Policy is the higher order document that will inform the proposed bylaw.

The Strategy and Policy Team has programmed to prepare an open spaces strategy that will also be informed by the parks and reserves policy and extend to cover other non-parks and reserves and, Council owned land holdings that are utilised by the public as open space, e.g. beaches, unformed roads etc.

### **Significance and engagement**

A review in line with the Council's Significance and Engagement Policy concluded that there is high public interest in the topic of parks and reserves. However, the criteria for significance needs to be considered in relation to the content of the policy, and not parks and reserves themselves.

Therefore, the level of significance is low to medium, and Council is not obliged to publicly consult on the attached policy.

The Reserves Policy 2017 was adopted without consultation so it would be consistent to adopt the new policy without formal public consultation as appropriate project engagement has taken place.

Public consultation will occur during the development of the Open Spaces Strategy.

## Policy and strategy considerations

Council staff have addressed the appropriateness of the form and content of the new policy by:

- not including provisions that duplicate legislation or existing Council policy instruments (e.g., District Plan)
- following best practice drafting standards (as advocated by the Parliamentary Counsel Office)
- acknowledging policy will be subject to continuous review and may need to be revised with future legislation (e.g., Climate Adaptation Act), and Council strategic planning documents (e.g., adopted District Plan and climate change policy etc).

## Implications for Māori

The new policy aligns with the principles and requirements of Parts 2 and 6 of the Local Government Act 2002 by facilitating participation of Māori in decision making relating to parks and reserves.

It requires the Council to give effect to Iwi Hapū Management Plans and general partnership principles when conducting operational and strategic decision making for all matters relating to parks and reserves. It also requires the Council to have consideration to the cultural significance of parks and reserves land – mana whenua iwi worldview and cultural impact assessments when preparing reserve management plans and making strategic decisions that may affect these lands.

The issue of redress and disposition of lands has been raised through the various workshops. To address this matter, the following condition precedent applying to the future disposal of all parks and reserves land has been included:

*“The Council will engage, discuss and listen to local Iwi on proposals to dispose of park or reserve land and will offer the land to Iwi, as a first right of refusal to purchase when the Council is not legally required to offer land for sale to the former owner under the Public Works Act offer back regime”.*

It is anticipated that market valuation conditions would apply to the first right of refusal.

## Implementation Actions

Approval of the policy will enable and give life to an associated work streams e.g., a review of delegations, classification of reserves, review of fees and charges, development of reserve management plans, and review of leases and licenses etc.

## Take Tūtohunga / Reason for the recommendation

A Parks and Reserves Policy is necessary to provide staff, elected members, and the public with clear guidance on management issues associated with the Council's parks and reserves, to accord with the Reserves Act 1977, Local Government Act 2002, Resource Management Act 1991, Public Works Act 1981, and to align with other Council strategic documents.

The proposal in Attachment 1 is the culmination of further review, staff inter group and elected member workshop(s) and questionnaire with the Domain Boards and Reserve Management Committees.

Council staff recommend that the Committee:

- approves the proposal in Attachment 1.
- recommends to the governing body of the Council that the proposal in Attachment 1 be adopted.

**3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION**

The costs of implementing the policy will be met from existing budgets.

**ĀPITIHINGA / ATTACHMENTS**

1. **Draft Parks and Reserves Policy V17 - A3524684** [↓](#) 

**Hōtaka Take Ōkawa / Compliance Schedule:**

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
  - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - b) Assess the options in terms of their advantages and disadvantages; and
  - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
<p>State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a></p>	<p>In line with the Significance and Engagement Policy the recommendation to adopt the policy will have little effect on financial thresholds, ratepayers, specific demographics, or levels of service.</p> <p>We acknowledge that there is high public interest in the topic of parks and reserves. However, we must consider the criteria for significance in relation to the content of the policy, and not parks and reserves themselves. The risk of consultation outweighs the benefits at this time. Public consultation will occur during the development of the Open Spaces Strategy.</p> <p>Therefore, the level of significance is low to medium, and Council is not obliged to publicly consult.</p>
<p>State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.</p>	<p>The Local Government Act 2002, Reserves Act 1977, Resource Management Act 1991, Public works Act 1981, Reserve Management Plans, and Iwi Hapū Management Plans apply to the decision recommended in this report.</p>
<p>State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.</p>	<p>The policy has District wide relevance. The views of the Community Boards were considered during a workshop held with elected members.</p>
<p>State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.</p>	<p>The policy in Section 1 stipulates that Council will give effect to the principles of Te Tiriti o Waitangi, Iwi Hapū Management Plans and general partnership principles when conducting operational and strategic decision making for all matters relating to parks and reserves.</p> <p>Further that Council will have consideration to the cultural significance of parks and reserves land – mana whenua iwi worldview and cultural impact assessments</p>

<p>State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.</p>	<p>when preparing reserve management plans and making strategic decisions that may affect these lands.</p> <p>The only trigger of significance in relation to the content of the policy is the criterion “Of specific interest to Māori”. This is because of the inclusion of a statement under schedule 2 that states:</p> <p>“Council will engage, discuss and listen to local iwi on proposals to dispose of park or reserve land and will offer the land to iwi, as a first right of refusal to purchase when the Council is not legally required to offer land for sale to the former owners under the Public Works Act offer back regime.”</p> <p>This addition is positive. It acknowledges Council obligations under Te Tiriti. For this reason, direct engagement with Iwi / Hapū is appropriate.</p> <p>Te Hono has provided advice that the policy does not need to be subject to specific Iwi / Hapū consultation.</p>
<p>Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).</p>	<p>The following affected or interested people were directly notified on the policy development:</p> <ul style="list-style-type: none"> <li>• Council internal groups including, Strategy and Policy, Infrastructure and Asset Management, Corporate Services, Democracy Services.</li> <li>• Councillors and Community Board elected members (workshop)</li> <li>• Domain Boards and Reserve Management Committees.</li> <li>• Department of Conservation.</li> </ul>
<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>The cost of the policy development is covered by current operational budgets.</p>
<p>Chief Financial Officer review.</p>	<p>This report has been reviewed by the Chief Financial Officer.</p>