

# Use of Hutt City Council Land Policy

Business unit & Division	Parks and Reserves Team, Neighbourhood and Communities Directorate		
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Review period	Every 3 years		
Owner	Head of Parks and Reserves		
Approved by	Hutt City Council		

Archived Version (of adopted policy)	Author	Date	Description
V 1.0	Parks and Reserves	1994	Original policy
V 2.0	Parks and Reserves	2023	Minor amendment to Officer delegations
V 3.0	Parks and Reserves	2026	Full review and update



# Purpose

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1. The purpose of the policy is to describe Hutt City Council's (Council) position on the use of land owned and managed by Council within Te Awa Kairangi ki Tai Lower Hutt. This document outlines the requirements that any individual, group, or organisation must follow when seeking to use Council land. This policy should be used in conjunction with Council's Use of Council Land application guide when undertaking a concession proposal, found at <https://www.huttcity.govt.nz/>.

# Scope

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2. This policy covers the use of Council land, where Council wishes to retain land ownership. This includes:
  - i) facilities;
  - ii) parks and reserves;
  - iii) road reserves (the roading corridor);
  - iv) any other land owned or managed by Council; and
  - v) the space above and below ground level on Council land.

# Definitions

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3. For the purposes of this policy:

**Concession** refers to the collective term for a; Permit, Licence to Occupy, Easement, Encroachment, Lease and Licence.

**Commercial Use** refers to any activity undertaken for profit and/or the benefit to the individual(s) or business(es) carrying on a trade, operation or occupation.

**Community Use** refers to any activity that is not-for-profit, either under the Incorporated Societies Act, Charitable Trust Act , and/or significant benefit to the community by an organisation, group or individual(s) using the space.

**Council Land** refers to any public road, reserve, park, open space, or any other land that Council owns and manages.

**Easement** refers to the legal right to use Council land for a particular purpose, without owning that portion of land, such as a Right of Way (ROW) to pass across reserve land or road, and for services under or over Council land, and are applied to both parties' property titles.

**Encroachment** refers to any private structures, fences, gates, walls, obstacles or open land that encroaches over, under or above Council land.

**Facility** refers to any building and/or asset (or part thereof) that is either owned, managed, or controlled by Council; and is located on land owned, managed or controlled by Council.

**Lease** refers to an agreement between parties under which the terms and conditions are legally binding and typically grants an exclusive interest in whole or part of Council land or facility

**Licence** refers to an agreement between parties under which the terms and conditions are legally binding, and typically grants a non-exclusive interest in whole or part of Council land or facility

**Licence to Occupy** refers to an agreement under which terms and conditions are legally binding and may grant an interest in reserve land, but is not held in perpetuity, with the purpose for passive use, such as fencing, car park, or other smaller structure or asset such as a weather monitoring station or garden shed occupying reserve land.

**Levels of Service** refers to a measure of the quality of service the public can expect around the provision of an element of infrastructure such as the roading corridor, park amenities and facility assets.

**Long-Term** refers to any activity that has a total duration of 5 years or longer.

**Memorandum of Understanding (MoU):** refers to a formal but generally non-binding agreement between two parties to establish roles, responsibilities, objectives, and goals for a collaborative approach for use of public or private land arrangement and are held typically between Council and community groups.

**Permit** refers to an agreement between parties, of which grants a right to carry out an activity that does not typically require an interest in the land, and is temporary in nature.

**Road Reserve** refers to the roading corridor, including the road carriageway, street, footpath, berm or grassed area, and its area from property boundary to boundary.

**Reserve** refers to any park, garden, bush, scenic, historic, recreation, local purpose, drainage reserve, foreshore, riparian margins, beach or sportsground in the boundaries of Te Awa Kairangi ki Tai Lower Hutt.

**Short Term** refers to any activity that is not temporary in nature, and has a total duration of less than 5 years.

**Temporary** refers to any activity that has a total duration up to 10 total days or up to 6 consecutive days within a calendar year.

## Policy Principles & Standards

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4. Use of Council land is managed at Council's discretion.
5. Council encourages the role of reserve land to support and enhance the connection and well-being of our diverse communities and environment.
6. Council recognises that a robust partnership with Mana Whenua can help enable and support the protection of the environment, improvement of cultural and heritage spaces, and gathering community together. As such, the principles of Te Tiriti o Waitangi will be adhered to, including active consultation in relation to significant decisions in relation to land or a body of water, and the incorporation of te ao Māori (Māori worldview).
7. Persons using Council land will need to accept responsibility and associated costs for maintaining the Council land or assets in accordance with any legal requirements and to a reasonable standard.
8. Where possible, community assets owned and managed by Council should be optimised with flexible spaces, and proposed sharing arrangements are Council's first preference for the use of facilities.
9. Existing assets within Council land will need to be evaluated against the proposed activity if applicable, to ensure that the activity doesn't hinder the space from providing a high level of service.

10. Any granting of a concession which, in effect, provides a group or individual with rights over public land, must be tested against the purpose and values for which the land is held, such as under the relevant management plan, strategy, and provisions of the relevant legislation.
11. Incompatible activities on, over or under reserve land are generally prohibited, as they are considered to be detrimental to the equity of reserve land for public benefit.
12. **Appendix A** in this document sets out a variety of uses as either major or minor. Major uses require a political decision, and minor uses allow for Council Officers to issue a decision.
13. The table below outlines the most common types of concessions used over Council land:

*Table 1: Various Concessions for Use of Council Land*

<b>Lease</b>	<b>Licence</b>	<b>Permit</b>	<b>Easement</b>
Ground Lease- Tenant owned building is situated over part or whole of Council land.	Licence to Occupy Commercial (mobile) Network Utilities	Special events (weddings, picnics, circus, festival) Hawking/Busking Signage	Right of Way Gas Services Water Services Electricity Services
Premise Lease- Council owns facility and land.	Grazing Encroachment Memorandum of Understanding (MoU)	Vehicle access Filming/photography Collection (seed sourcing/harvesting)	S461 Drainage

## **Reserves**

14. Any land that is held by the Council for public amenity or open space purposes will be treated as if it was land held under the Reserves Act 1977, regardless of classification status.
15. Encroachment licences are not provided for land subject to the Reserves Act 1977. A Licence to Occupy or Easement will typically be more appropriate for any accidental or wilful encroachment over reserve land and will only be considered if the encroachment is unavoidable, unable to be mitigated or serves significant community or critical infrastructure purposes.

16. It is generally acceptable for reserve land to be underdeveloped. While the land may not be generating obvious benefits, there may be potential for future benefit and advantage. Council may take this future value into account in considering any application for land, asset or facility use.
17. Council encourages small to medium scale commercial operations over reserve land as an activity to support and boost the amenity of Council open space. It is imperative that commercial licences are evaluated to be fit for purpose, and if the proposed activity will compete with other existing commercial interests, in order to balance similar operations.

## **Drainage Reserves**

18. In alignment with Tiaki Wai, drainage reserves may be any land set aside for stormwater and/or wastewater management purposes, or water supply reticulation.
19. Proposed uses of drainage reserves such as easements or connections to public or private services must not impede Tiaki Wai and/or Council access or increase pressure on Council and/or Tiaki Wai assets and services. This includes the routine, emergency and future planned maintenance and care of any watercourses, drains and underground pipes within, under or over a drainage reserve.
20. Encroachments over drainage reserves are typically prohibited. Historical or existing encroachments may be considered as permitted, granted that it does not impede access, services, or diminish the qualities of the purpose of the reserve.
21. A S461 Certificate may be required for private connection to Council owned or managed water services, typically within a drainage reserve or under other reserve types, such as Recreation reserve. This certificate provides an exclusive interest in the land that is held in perpetuity and is assessed usually during the subdivision or other land development process.

## **Roading Corridor**

22. Roads are to be used primarily for movement of vehicles, transportation and pedestrian needs, but also may accommodate a variety of other public uses (e.g. utilities). Any proposed concession within the roading corridor must

consider the real or potential adverse effects on neighbouring properties, including possible conflict with utility operations that may be buried and/or overhead.

23. Trading from private vehicles within the roading corridor must occur safely, and only in legally designated parking spaces that do not block, impede or obstruct other vehicle, cycling, or pedestrian pathways, accessways, driveways, shared paths, or mobility spaces, including parking slip lanes.

24. Council reserves the right to relocate or prohibit traders, buskers, hawkers or person(s) of similar activity from operating if the activity becomes inconsistent with this policy, bylaws, or presents a health or safety risk, including behaviour of the person(s) or for any other reasonable purposes.

25. Encroachment licences are generally prohibited over the roading corridor. It is imperative to seek an encroachment licence prior to land development or modification and before any works commence. Where there is an existing or historic encroachment it will be considered on its merits as per this policy in order to determine whether the encroachment can continue.

## Implementation

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26. Subject to any statutory right of ongoing use, from the date of enactment, all existing, future or new requests for use of Council land will be treated in accordance with this policy.

## Fees & Charges

27. Fees and charges are set by Council resolution and are typically displayed on the Council's website: [huttcity.govt.nz](http://huttcity.govt.nz). These fees are set at a level that reflects:

- i) relative effects of the activity and;
- ii) equity between the public value of the use of reserve land and/or Council assets against any private benefits accrued.
- iii) benefit to the user and to the wider public and;
- iv) Council cost recovery targets, and local authority charges relating to the land.

28. All outgoings will generally be the responsibility of the user or based on cost-recovery requirements for the reserve and will be determined prior to granting

of a concession. These are likely to include but are not limited to; general facility or grounds care, insurance, maintenance, electricity, water, and if the site needs substantial preparation to avoid or minimise ratepayer subsidy. Any unassessed or unaccounted for outgoings may be under the financial obligation of the applicant or tenant.

## Related Documents

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29. Activities in public spaces must be managed in accordance with the Council's bylaws, policies and District Plan. Any additional compliance matters are outside the scope of this policy. If any part of this policy conflicts with legislation, the legislation will take precedence. The relevant legislation includes, but is not limited to:

- i) [Reserves Act 1977](#)
- ii) [Resource Management Act 1991](#)
- iii) [Local Government Act 2002](#)
- iv) [Local Government Act 1974](#)
- v) [District plan | Hutt City Council](#)
- vi) [Sustainable Growth Strategy/ Rautaki Whakatipi 2025-2055](#)
- vii) [Significance and Engagement Policy](#)
- viii) [Traffic Bylaw](#)
- ix) [Parks & Reserves Bylaw](#)
- x) [Trading in Public Places Bylaw](#)
- xi) [Public Places Bylaw](#)
- xii) [Significance & Engagement Policy](#)
- xiii) [Encroachment & Disposal on Reserves](#)

# Appendix A: Delegations

Council Land Uses will be approved by Officers or Council Committees, as outlined below:

Major Uses (Political Decision-Council Committee)	Minor Uses (Officer Delegation) *
Any real or perceived significant or high-risk commercial/industrial or community activity and/or significant material changes to reserve or other Council land	Structures under 1.2m in height and 30m <sup>2</sup> in square meterage
All applications for use of land Managed as Reserve under the Reserves Act 1977, <b>excluding Minor Use</b>	Garages, parking areas, carports, pads, cable car(s)
Any use involving dangerous goods in areas where it is not a permitted use in the proposed District Plan.	Gardens, lawn(s), garden sheds or structures, and grazing land(s)
Major structures & bridges	Driveways and access ways
Easements <b>excluding</b> easements that will not significantly materially impact or alter the land or neighbouring property in question.	Canopies and building overhangs and café dining
Any new or renewed lease or licence for a period greater than 5 years**	Verandas, balconies, decks
	Underground tanks and minor utilities
	Signs, gates and fences
	Footpaths and berms
	S461 Certificates less than 25m in length.
	Vendor or other trading licences
	Encroachment Licences containing structures under 30m <sup>2</sup>

\* Council officers have delegated authority to decide on an application for a minor or temporary concession when a resource consent is not required or when the type of concession is anticipated in a management plan. if ambiguity arises, the

*encroachment will be treated as major. Council authority is still required for minor concessions if the concession is over five years in continuous duration.*

*\*\*If a concession's initial term is for 5 years or less but contains a Right(s) of Renewal which makes the total term greater than 5 years, then the decision is considered to be a major use and requiring Council or Committee decision.*

*Example: A Lease is proposed for an initial term of 5 years, with two Rights of Renewal of 5 years each, for a total potential term of 15 years. This requires an Officer's Report to Council or Committee for decision.*