

# Hutt City Council

## Policy on Commercial Use of Land Managed as Reserves

**PREPARED FOR:**

**Hutt City Council**

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## Foreword

Hutt City Council manages over 300 reserves totalling some 4,228 hectares catering to a wide range of leisure and recreational needs. The Hutt City Council has policy to enhance the business environment and to have rules and processes that do not unnecessarily restrict businesses<sup>1</sup>. This includes commercial activities that encourage wider use of reserves especially where these increase the number of people accessing and using the reserve and where they add to the enjoyment and experience of the reserve user or visitor. Such activities include one-off sporting and other events, recreational and tourism activities, filming, food and retail outlets, markets and fairs.

Use of reserve lands for commercial activities is legislated for in two key Acts. The Conservation Act 1987 provides for recreation activities including tourism on conservation land as long as the activities are consistent with conservation and meet the requirements and processes set out in Part 3B of the Act. The Reserves Act 1977 requires commercial activities to complement the primary purposes of a reserve and to have a concession, usually in the form of a lease or licence, to ensure that the activity has minimal impact on existing reserve users, that environmental matters are taken into account and that any impacts on the environment are addressed.

This document comes under the Reserves Act 1977 in association with reserve management plans and sets the policy for commercial use of reserve land under the authority of Hutt City Council, establishes the process to grant a concession and is a guide for the concession applicant.

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<sup>1</sup> Hutt City Economic Development Strategy July 2002

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# 1. Introduction

A concession grants legal rights to an individual or organisation to carry out visitor services or activities resulting in commercial gain for the individual or organisation where such services and activities complement or promote reserve values. Concessions apply to all the Hutt City's parks and reserves including those held in fee simple by the Council, those vested in the Crown and where the Council is appointed to control and manage, those vested in the Council under the Reserves Act 1977, and Council owned land used for reserve purposes. A concession is normally granted as a lease, licence or easement or "any activity authorized by the concession document" (Reserve Act S 2) on reserve land (refer Appendix 1 for definitions).

The concession system helps the Council ensure that concession activities on public reserves are compatible with the primary purpose of the reserves. This varies depending on the classification of the reserve. In the Hutt City reserves are primarily classified Recreation, Local Purpose, Scenic And Historic (refer Appendix 2).

Before granting a concession the Council must consider the nature of the proposed activity, any adverse effects on people using the reserve, other effects such as access over neighbouring land and noise, and effects on existing reserve infrastructure and facilities and on the values of a reserve. Existing reserve infrastructure includes access ways, tracks, carparks, sportsfields and other facilities for public recreation and enjoyment. Reserve values include natural, ecological, cultural, historic, scenic, landscape, recreation and enjoyment.

If an activity is not consistent with the primary purpose of the reserve the application will most likely be declined. While the Council encourages people to offer services and activities on parks and reserves, it is the applicant's responsibility to provide a detailed description of the activity or service, the potential effects it may have and to consider ways of mitigating or reducing any significant effects on the reserve.

The word 'commercial' in this policy document refers to any activity that requires a payment greater than the cost of the provision of the service with the intention of making a commercial gain for the concessionaire. Network utilities have an element of commercial gain as well as an element of public good and therefore come under this policy. Where there is no intention of making a commercial gain it is not considered to be a concession and

comes under the Council document *Specifications for the Booking of Sports and Recreation Facilities*. Utility servicing of private land such as water pipes requiring access across reserve land are addressed as a licence to occupy and come under Council document *Policy on Private Use of Hutt City Land*.

Concessions might involve cross-boundary lands where either the Department of Conservation or Greater Wellington-The Regional Council own reserve lands that are contiguous to Hutt City reserve lands and applications may need to be considered jointly.

It should be noted lands relating to Belmont Regional Park and East Harbour Regional Park formerly owned by Hutt City Council come under the Greater Wellington-The Regional Council are not included in this policy document. Hutt River lands within the stop banks are managed by Greater Wellington-The Regional Council and are likewise excluded.

## 2. When a Concession is Required

A concession is required for all commercial use of reserve land by non-profit and for-profit organisations and individuals. Non-commercial activities and sporting and recreational bodies requiring a casual booking, allocation or a lease or licence are not included in this document (refer Council documents *Specification for the Booking of Sports and Recreation Facilities* and *Policy on Private Use of Hutt City Council Land*).

The most common activities requiring a concession are:

- 1-off events including sporting events
- Recreational and tourism activities e.g. biking, canoeing, kayaking, rafting, trail biking, four-wheel drive, rifle shooting and golf driving ranges
- Filming/photographing
- Markets and fairs
- Retail/equipment hire
- Easements/accessways

- Structures e.g. bridge, climbing wall, pontoon
- Extraction e.g. timber, boulders, shingle and seed sourcing and plant propagation for commercial purposes.

### 3. Types of Concessions

This section identifies the types of concessions and what should be included in an application:

- Along with providing a full description and details of the proposed activity (refer Appendix 6 Check list to Guide Applicants), applications for concessions need to comply with all relevant legislation and reserve management plans. Depending on the type of concession, an application may include:
  - A detailed environmental impact assessment
  - An audited safety plan possibly including a traffic management plan
  - Evidence of operator experience and qualifications
  - A comprehensive business plan including an operations plan and financial forecast for the operation

The following tables identify the three types of concessions, examples of each and what should be included in an application:

#### 3.1. MAJOR CONCESSIONS

Examples of activities, facilities or services requiring a major concession are mini golf, major sporting or recreational events, telecommunications and utilities. Utilities refer to network infrastructure generally servicing the wider community. Provision for utilities is considered important for their public benefit element and are generally only considered where there is no other viable alternative and the primary purpose of the reserve is not unduly compromised.

| <b>A major concession is required if the service, facility or activity:</b>   | <b>A major concession is likely to:</b>  | <b>The application for major concession:</b>  |
|---|--|---|
| <p>Is a regular use or occupation of Council reserve land (daily or frequently for most of a season or year).</p> <p>May have an impact that is of regional economic, environmental, social and/or community significance or concern.</p> <p>May involve the building of structures and/or significant modifications to the site.</p> | <p>Be one or a combination of a lease, easement or licence,</p> <p>Have a term of between 2 and 20 years,</p> <p>Require resource consent (This is a separate procedure and is not part of the concession application),</p> <p>Take several months to process.</p> | <p>Must include:</p> <ul style="list-style-type: none"> <li>- A detailed application</li> <li>- An assessment of environmental and social effects</li> <li>- A business plan</li> <li>- An audited safety plan including a traffic management plan.</li> </ul> <p>Will be publicly notified and publicly advertised with a period specified for sending written submissions to the Council for consideration.</p> |

### 3.2. MINOR CONCESSIONS

Examples of activities, facilities or services requiring a minor concession are some nature or sightseeing tours, some longer term filming with temporary structures or sets, and occasional transport services.

| <b>A minor concession is required if the service, facility or activity:</b>   | <b>A minor concession is likely to:</b>  | <b>The application for a minor concession:</b>   |
|---|--|--|
| <p>Is a regular small-scale operation e.g. food vendor operating on a reserve weekly.</p> <p>Is an occasional operation that operates on a site more than twice a year but not daily or frequently throughout a season or year.</p> <p>Is an operation that is not building substantial structures or facilities or modifying the site e.g. a utility meter box not exceeding 1 cubic metre in size and sited according to good design practice.</p> <p>Has little impact on the site or beyond it.</p> | <p>Be a licence,</p> <p>Have a term of up to five years,</p> <p>May require resource consent (This is a separate procedure and is not a part of the concession application).</p> | <p>Must include:</p> <ul style="list-style-type: none"> <li>- A detailed application</li> <li>- An assessment of environmental and social effects</li> <li>- A business plan</li> <li>- An audited safety plan including a traffic management plan.</li> </ul> |



### 3.3. TEMPORARY CONCESSIONS

Examples of activities, facilities or services requiring a temporary concession are one-off commercial sporting or other events and one-off filming.

| A temporary concession is required if the service, facility or activity is:                    | A temporary concession is likely to:  | The application for a temporary concession:  |
|--|---|--|
| A single event within a six-month period,<br>With low impact, and<br>With no fixed structures. | Be a permit or written agreement.<br>Be for a maximum of six months.<br>A temporary concession is unlikely to require resource consent. | Must include:<br>- A detailed application<br>- An assessment of environmental and social effects<br>- Possibly an audited safety plan<br>- Possibly a business plan. |

## 4. Types of Reserves and Associated Activities

This section is designed to guide Council when making decisions on applications for concessions. It applies to all Council reserve land including classified lands and lands held by the Council, used for reserve purposes but not classified.

The section identifies groupings of reserves in Hutt City and types of reserves in each grouping, and includes a table showing the types of activities that are acceptable on the different types of reserves.

### 4.1. TYPES OF RESERVES

The 300 reserves the Hutt City Council manages are categorised into four types according to their primary use and/or characteristics. The four types are passive, active, conservation and special. Some reserves contain some of the other characteristics but these are secondary and generally insignificant. These types are generic only and do not reflect the classification status the reserves may have under the Reserves Act 1977:

#### Passive Reserves

- **Neighbourhood** (sites for amenity, playgrounds, kick-a-ball etc)

- **Amenity Horticulture** (gardens, shrubberies, annual and perennial beds, fine turf, indoor plant displays and specimen trees etc)
- **Destination** (e.g. Williams Park, Petone Foreshore, Percy Scenic Reserve, Avalon Park, Speldhurst Park)

### **Active Reserves**

- **Sportsgrounds** (sportsfields, pitches etc e.g. The Petone Recreation Ground, The Hutt Recreation Ground, Fraser Park, Frederick Wise Park, Mary Crowther Park)

### **Conservation Reserves**

- **Esplanade** (harbour, coast, river, stream)
- **Bush** (general regeneration areas)
- **Scenic** (bush etc of high scenic quality)
- **Heritage** (historic grounds, sites, etc)

### **Special Reserves**

- **Cemeteries**
- **Utility** (water catchment, drainage, sewage, defence etc)
- **Facility** (ball courts, pools, community centres etc)

**Examples of Commercial Activities that May be Acceptable to Types of Reserves**

| Types of Reserves |                      |             |                 |         |                       |      |        |                  |            | Examples of Possible Commercial Activities |          |   |
|-------------------|----------------------|-------------|-----------------|---------|-----------------------|------|--------|------------------|------------|--|----------|---|
| Passive Reserves  |                      |             | Active Reserves |         | Conservation Reserves |      |        | Special Reserves |            |  |          |   |
| Neighbourhood     | Amenity Horticulture | Destination | Sportsgrounds   | Premier | Esplanade             | Bush | Scenic | Heritage         | Cemeteries | Utility                                    | Facility |   |
|                   |                      |             |                 |         |                       |      |        |                  |            |  |          | <b>Access for sightseeing</b>   |
|                   |                      |             |                 |         |                       |      |        |                  |            |  |          | <b>Kayaking/Canoeing</b><br>(access only)   |
|                   |                      |             |                 |         |                       |      |        |                  |            |  |          | <b>Filming</b><br>e.g. advertising, features  |
|                   |                      |             |                 |         |                       |      |        |                  |            |  |          | <b>Events</b><br>e.g. fairs & markets, promotions, concerts appropriate to the purpose of the reserve |
|                   |                      |             |                 |         |                       |      |        |                  |            |  |          | <b>Retail/Equipment hire</b><br>e.g. bikes, skates, crocodile bikes                                   |
|                   |                      |             |                 |         |                       |      |        |                  |            |  |          | <b>Tourist/Recreation</b><br>(ventures requiring structures or buildings)<br>e.g. bungy, grass skiing |
|                   |                      |             |                 |         |                       |      |        |                  |            |  |          | <b>Accommodation</b><br>e.g. camping, lodges  |
|                   |                      |             |                 |         |                       |      |        |                  |            |  |          | <b>Extraction</b><br>e.g. seed collection (for commercial use)  |
|                   |                      |             |                 |         |                       |      |        |                  |            |  |          | <b>Food outlets</b>   |

## 5. Management of Effects

Use of reserve land must be compatible with the primary purpose of the reserve and before granting a concession the Council must consider the nature and effect of the proposed activity on the reserve. Reserve management plans play a key role when applicants and council officers assess the effects of a proposed activity as they have objectives and detailed policies to ensure that adverse effects of activities on reserves are either mitigated or avoided so the use and values of a reserve are not compromised. Concession applicants are therefore advised to consult the relevant management plan as it is the responsibility of the concession applicant to provide a detailed description of the activity, the potential effect and to reduce, avoid and mitigate the effects in the form of an Environmental Impact Assessment (EIA).

For some minor and some temporary concessions the space provided on the Council's application form should provide enough information for the Council to make a decision on an application. For major concessions a separate EIA report will be required.

The following table identifies low impact activities, which if anticipated in a management plan do not require public notification. It is not a comprehensive list and gives examples only. Identifying low impact commercial activities and associated criteria will be further developed as an amendment to the management plans. High impact activities require public notification.

### **Examples of Low and High Impact Commercial Activities:**

| <i><b>Examples of low impact activities not requiring public notification when anticipated in a management plan</b></i> | <i><b>Examples of high impact activities requiring public notification</b></i> |
|---|--|
| <i>Short guided walks and climbing</i>  | <i>Structures and/or modifications to the site</i>                             |
| <i>Small, one-off irregular activities</i>  | <i>Low impact activities in sensitive locations</i>                            |
| <i>Rafting, canoeing, kayaking</i>  | <i>Noisy events close to residential areas</i>                                 |
| <i>Some filming</i>   | <i>Large scale and/or long term filming</i>                                    |
| <i>Some easements</i>   | <i>Traffic</i>   |
| <i>Grazing</i>  | <i>Light</i>   |
| <i>Small one-off events</i>   | <i>Large, annual sporting recreational events</i>                              |

## 6. Fees and Charges

Fees and charges will be reviewed annually and publicly notified through the Annual Plan process to keep pace with changes that may occur. Reviews will take into account charges of other agencies such as the Greater Wellington-The Regional Council and Department of Conservation who have land adjoining Council parks and reserves and criteria as set out below (Also refer Appendix 4 for the Schedule of Fees and Charges).

### 6.1. CRITERIA FOR SETTING FEES AND CHARGES

When setting fees and charges the Council considers:

- Relative effects of the activity
- Relevant market rates of similar activities in the Wellington region and New Zealand wide
- Willingness to pay i.e if there is a strong demand for the proposed concession fees are likely to be higher
- Wider benefits to the public such as bringing greater public awareness of recreation opportunities and encouraging recreation activities
- Council cost recovery targets.

### 6.2. COUNCIL APPROACH TO FEES AND CHARGES

Access to parks and reserves for informal use is free and commercial use is over and above informal use. Commercial use relates to the provision of services and facilities that complement the primary use of the reserve and require additional costs to develop and manage. Fees and charges are to offset additional Council resources needed to set up and manage a commercial concession. Council's approach is that those who benefit directly from such services and facilities should contribute financially towards the associated costs. Therefore charges for commercial concessions reflect full or almost full cost recovery to avoid or minimize ratepayer subsidy of private gain.

Fees and charges also reflect that some activities produce more environmental impacts than others and additional Council resources are needed to manage, avoid or mitigate these impacts or repair damage. Fees and charges mean that the public is recompensed for impacts that cause some inconvenience even if temporary such as noise. Such activities

include 4WD, mountain bike and endurance events, and some filming especially large feature films. It is difficult to accurately cost impacts from different use as a number of variables come into play, including weather prior to or during the activity, number of participants, duration of the activity and the area the activity takes place in. Therefore a simple and practical approach to setting fees has been adopted.

All fees and charges arising from concessions will go towards offsetting the costs of providing for and managing reserves as required by the Reserves Act 1977.

## 7. Provision for Bonds

The Council may require a concessionaire to pay a bond to mitigate any adverse effects arising from the concession but not anticipated when the concession was approved, or when the concessionaire has not carried out work stated in the conditions of the concession. The bond is used to carry out work to mitigate the adverse effects and restore the site.

When setting the bond the Council estimates costs to repair or make good likely potential damage on a specific site based on current market costs. Before setting the bond the Council discusses it with the concession applicant.

A bond may be waived if the concession contributes to the management of, or public interest in the lands, or there is any non-commercial public benefit from the activity.

## 8. Processing Applications

The system for processing concession applications is based on requirements set out in the Reserves Act 1977 with cross-referencing to the Conservation Act 1987. The following steps aim to make the processing effective and transparent with clear criteria to guide council officer decisions. For action and notes on each step in the process refer Appendix 3.

## **STEPS FOR PROCESSING APPLICATIONS**

### **INITIAL ENQUIRY FROM POTENTIAL APPLICANT**

Applicant discusses initial idea with council officer and receives information on Council policy and guidelines on commercial use of reserve land.

Park Services Division may call for expressions of interest.



### **APPLICANT REFINES IDEA AND SUBMITS APPLICATION**

Applicant refines idea, and has further discussion with council officer to ensure both parties are informed and understand the nature of the proposed activity and any compliance issues affecting the activity.

Application submitted and application fee paid.



### **COUNCIL MAKES INITIAL ASSESSMENT AND PRODUCES PROCESSING PLAN**

Council officer makes decision on type of concession, confirms all information submitted, produces processing plan identifying any information shortfalls, timeframe for processing an application, any additional processing charges.



### **APPLICATION PROCESSED**

Detailed assessment of concession proposal and/or council officer decision on a trial period if appropriate.



### **DECISION-MAKING**

Council acceptance of concession if non-notified or decision deferred pending outcome of public notification process if required, or application declined.

Public notification process started if required.

Council makes a final decision following public notification and submission process, and approves any conditions and charges, including trial period if appropriate.



### **FINALISING THE CONCESSION**

Concessionaire and council officer formalise the offer of concession, concession charges and any conditions.



### **CONCESSION MONITORING**

Council officer monitors concession to ensure conditions are met, effects are mitigated and any unanticipated adverse effects identified, reviews and renews the concession if appropriate.

Council officer reviews trialed activity at end of trial period and makes recommendation on issue of concession. Application then processed following steps above.

Note: From time to time it is appropriate to invite applicants for existing concessions.

## 9. Health, Safety and Insurance Requirements

Concessionaires are responsible for the health and safety of their staff and customers, as well as other reserve users where they are affected by activities arising from the concession and shall operate within any safety guidelines or standards set by relevant agencies.

For recreation and tourism activities these include the relevant national bodies, New Zealand Mountain and Water Safety Councils and the Police (Search and Rescue). Concessions are also required to comply with the provisions of the Health and Safety in Employment Act 1992, and any approved code of practice or regulations made under the Act. In most cases they will need to provide an audited safety plan.

Concessionaires shall have \$1,000,0000 public liability insurance to indemnify the Council against any claims arising from the operation of the concession.

## 10. Trial Period

Where the impacts of a commercial venture on a park or reserve are difficult to assess, a concession may be given a trial period and the concession reassessed after the stated period.

A trial period may also be considered for a new business with significant capital investment and uncertain return before a full concession is completed. In this case, all impacts will need to be assessed and agreed measures put in place to address impacts during the trial period. Conditions may be applied during the trial period as impacts are better understood and necessary mitigation established.

Trial periods for minor concessions vary from one month to a year, and for major concessions may extend to two years with a review after the first season.

## 11. Review and Renewal Process

The process of renewing a commercial concession is subject to a formal review and a re-application and includes public notification of the intention to renew the concession where this is identified in the lease, licence easement or permit. Public notification occurs when there is a competitive market and the Council wishes to provide the best standard or most



cost effective level of service to reserve users. All applications include a clause that identifies the review and renewal process, including public notification, except in special circumstances.

## 12. Tendering for a Concession

From time to time Council may tender for certain commercial activities on a particular reserve or reserves if a need has been identified e.g. food vendors in reserves such as Avalon Park, Fraser Park and Petone Foreshore.

In this case, Council will advertise for registrations of interest and suitable applicants will be invited to submit a tender for a concession on a competitive basis and follow the process set out in this document.

## 13. Exclusivity

Exclusive commercial rights which gives an operator a monopoly will be rarely granted, and only where environmental and social/cultural values outweigh the benefits or principles of competition. Film companies may be granted short-term exclusive use of a specified area.

## 14. Suspension or Termination of a Concession

Concessionaires will be liable for any breach of the concession agreement by them or their tenants, staff or agents. Interest in a concession shall not be transferred, sublet or disposed of.

The Council may suspend or terminate a concession agreement for non-compliance with the conditions of the agreement or other statutory requirements. A concession may also be suspended or terminated if concession monitoring establishes unanticipated adverse effects on other park users and/or the environment leading to major damage requiring significant cost and long-term rehabilitation or significant loss of enjoyment by reserve visitors. On suspension or termination of the agreement, the concessionaire shall not be released from liability contained within the agreement until such time as all obligations of the concessionaire have been met, discharged and satisfied.

Where access is made available over Council roads, tracks or rivers, continual availability is not guaranteed.

Concession agreements that are not used within a period of two years for major concessions, and one year for other concessions from the date of commencement shall expire.

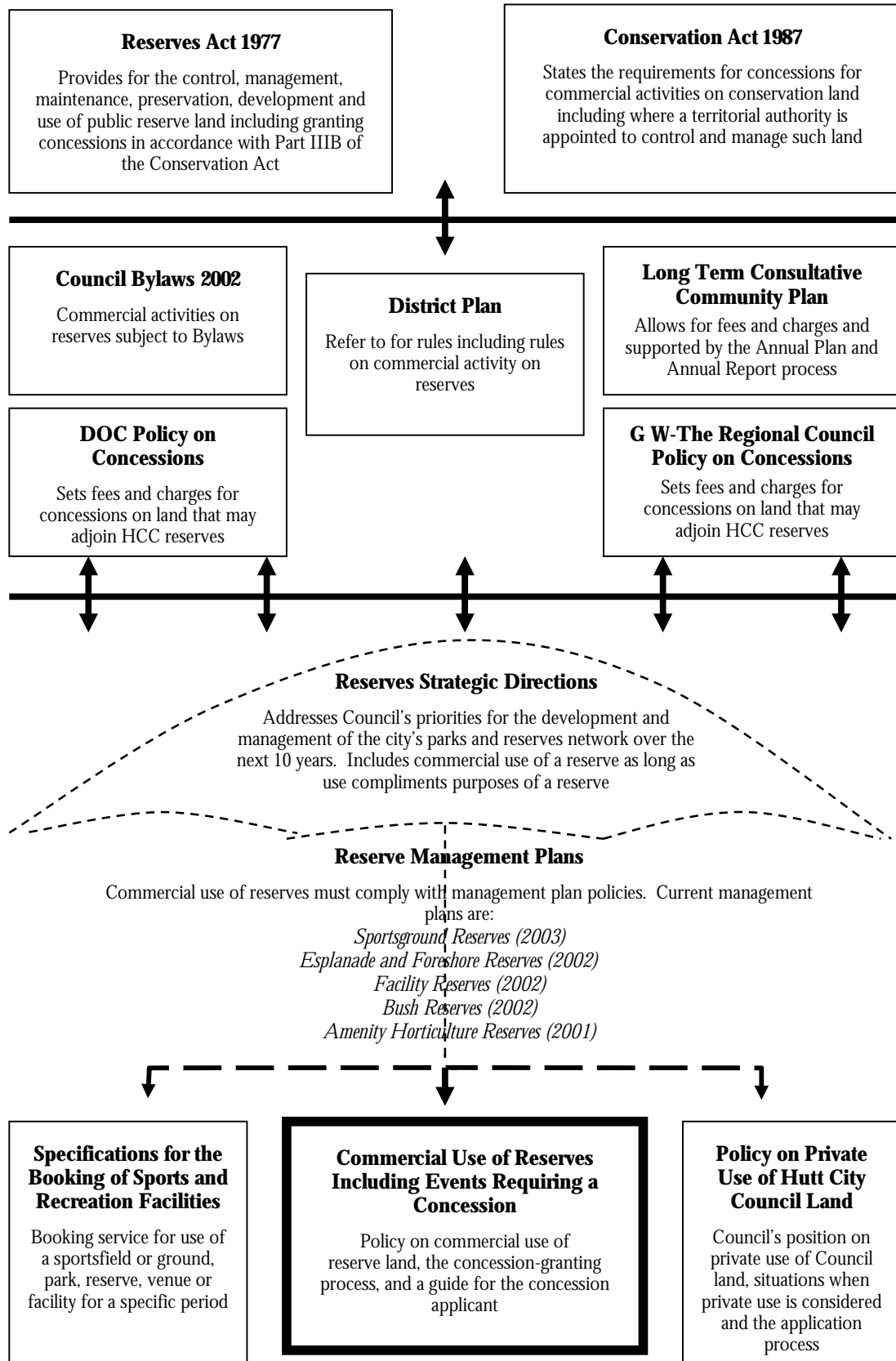
## 15. Officer Delegation

A Council officer has delegated authority to make a decision 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.

Minor or temporary concessions for which Council officers have delegated authority are small-scale operations, have no fixed structures, have little impact on the site or beyond it or are for less than three years. Council authority is still required for minor concessions if the concession is over three years (refer Section 3).

## 16. Relationship with Other Legislation, Providers, Council Plans, Policy and Documents

The following diagram shows the relationship between this document and other relevant legislation, other providers and other Council plans, policy and documents. For details refer Appendix 5.



## Reference List

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## Appendix 1

Definition of a Concession

Definitions of Leases, Licences and Permits

**DEFINITION OF A CONCESSION**

A concession means a lease, licence, permit or easement granted under Section 59A of the Reserve Act 1977 and includes activities authorised by the concession<sup>2</sup>.

**DEFINITIONS OF LEASES, LICENCES AND PERMITS<sup>3</sup>**

| <b>Type</b> | <b>Description</b>  |
|-------------|---|
| Lease       | This means a grant of an interest in land that gives exclusive possession of the land and makes provision for any activity on the land that the lessee is permitted to carry out.                               |
| Licence     | This means a grant (including a <i>profit à prendre</i> ) that gives a non-exclusive interest in land or a grant that makes provision for any activity on the land that the licensee is permitted to carry out. |
| Permit      | This means a grant of rights to carry out an activity that does not require an interest in land (in relation to section 59A of the Reserves Act).   |

The Council has authority under the Reserves Act 1977 to grant leases, licences and permits over reserves that the Council has been appointed to control and manage and has delegated power under the Reserves Act. Where a reserve is vested in the Council, the Council has power to grant a lease, licence and permit over Local Purpose Reserves and Recreation Reserves when a Recreation Reserve has an approved management plan. For concessions on Scenic and Historic Reserves and on Recreation Reserves where there is no approved management plan the consent of the Minister of Conservation is required.

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<sup>2</sup> Reserves Act 1977 section 2

<sup>3</sup> Reserves Act 1977 section 2

## Appendix 2

Reserve Administering Bodies  
Authority to Grant Concessions  
Primary Purposes of Reserves

## RESERVE ADMINISTERING BODIES

When the Council receives an application for a concession for a commercial activity on a reserve it must first ascertain whether the Council has the authority to control and manage the reserve. Possible forms of administration are:

| <b>Reserve Ownership and Administration</b>   | <b>Administering Body</b>  |
|---|--|
| Owned by the Crown and vested in the Department of Conservation with the Council appointed to control and manage. | Council  |
| Owned by the Crown and vested in the Council with an appointment to control and manage.                           | Council  |
| Owned by the Crown and vested in the Council but without an appointment to control and manage.                    | Council for reserves classified Recreation or Local Purpose only<br>Department of Conservation for reserves with other classifications |
| Council owned land used for reserve purposes but undeclared as a reserve.   | Council  |

## AUTHORITY TO GRANT CONCESSIONS

For some classes of reserves the Council is authorised to grant a concession and for others the Reserves Act requires the consent of the Minister of Conservation. When the Council receives an application for a concession on a reserve that is vested in the Council but which the Council has not been appointed to control and manage, the Council is advised to seek legal opinion (refer Appendix 7 for details on authority to grant a concession in such cases under the Reserves Act). The following table shows over which classes of reserves the Council may grant a concession:



| <b>Class of Reserve</b>                             | <b>Authority to Grant a Concession</b> |
|---|--|
| <b>Scenic</b>                                       | Minister of Conservation               |
| <b>Historic</b>                                     | Minister of Conservation               |
| <b>Recreation:</b>                                  |  |
| • With an approved management plan                  | Council                                |
| • Without an approved management plan               | Minister of Conservation               |
| <b>Local Purpose</b>                                | Council                                |
| <b>Council-owned land used for reserve purposes</b> | Council                                |

### **PRIMARY PURPOSES OF RESERVES**

The Council must also consider whether the proposed concession activity is consistent with the primary purpose of the reserve based on the reserve's classification under the Reserves Act. Primary purposes of reserves in the Hutt Valley are as follows<sup>4</sup>:

#### **Recreation Reserves**

The main purpose is the provision of areas for recreation and sporting activities. This is to provide for the physical welfare and enjoyment of the public and for protection of the natural environment and beauty.

#### **Historic Reserves**

These reserves are established primarily to protect and preserve in perpetuity places, objects and natural features of historic, archaeological, cultural, educational and other special interest.

#### **Local Purpose Reserve**

These are held for the particular purposes specified.

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<sup>4</sup> Reserve Act 1977 *Types of Reserves* retrieved 17 May 2004, <http://www.doc.govt.nz/About-DOC/002~reserves-Act-1977.asp>, refer also sections 17,18,19 & 23 of the Reserves Act 1977.

### **Scenic Reserves**

These reserves are established to protect and preserve in perpetuity, for their intrinsic worth and for the public benefit, enjoyment and use, areas of scenic interest or beauty or features worthy of protection in the public interest.

## Appendix 3

### Steps When Processing an Application

## STEPS WHEN PROCESSING APPLICATION

### 1. INITIAL ENQUIRY FROM POTENTIAL APPLICANT

| Action  | Notes  |
|---|--|
| The applicant discusses ideas on a potential concession with the council officer and is given the brochure with guidelines on commercial use of reserve land.   | <i>The brochure informs the potential applicant that activities on reserves must be authorised by a concession according to Part IIIB of the Conservation Act 1987. It clarifies the different types of concessions, the process, possible time frame and costs and enables him/her to decide whether to continue with a proposal.</i> |
| The council officer confirms whether the Council has authority to grant a concession on the reserve for which the concession is sought.   | <i>This establishes which authority can formally grant a concession and ensures the appropriate authority is dealing with the application as laid out in the Reserves Act 1977.</i>  |
| Where the Council cannot formally grant a concession the council officer refers the potential applicant onto the relevant authority (Department of Conservation (DOC) or Greater Wellington-The Regional Council (GWRC)). | <i>The council officer discusses the application with DOC or GWRC. The likelihood of these authorities granting the proposed concession and likely requirements are also considered.</i>   |

### 2. APPLICANT REFINES IDEA AND SUBMITS APPLICATION

| Action  | Notes  |
|---|--|
| The applicant considers the brochure, discusses details of the proposal with the council officer and receives initial feedback.   | <i>Discussion at this early stage is for the applicant to inform the Council, and for the council officer to clarify the nature of the information the applicant is required to supply with the application.</i>   |
| The council officer ascertains the classification of the reserve and whether the proposed activity is consistent with the primary purpose of the reserve, meets the requirements of the reserve management plan, and whether there are any District Plan or Bylaw implications. | <i>When the proposed activity is not consistent with the primary purpose of a reserve or does not meet the requirements of the management plan as required in the Reserves Act 1977, the officer advises the applicant of this and the alternatives available if any including refusing to consider the application further.</i> |
| The council officer and applicant finalise the general nature and dimensions of the proposed activity and address any   | <i>This is to ensure both parties are informed and understand the exact nature of the activity and any compliance issues affecting the activity. The applicant</i>   |

compliance issues.

*may be asked to consult with specific interest parties to gain a better understanding of the site and how proposals may affect users e.g. local environmental and recreational groups.*

The applicant completes and submits an application for a concession along with an application fee.

*This stage formalizes the proposal. The application fee is to offset Council time and resources needed to make an initial assessment of the application and develop a processing plan. In special circumstances the application fee may be refunded or used to offset the cost of processing where there is a high level of public good, or a significant benefit to the use and enjoyment of a reserve.*

*If the application does not comply with or is inconsistent with the provisions of the Reserves Act and the associated requirements of the Conservation Act or management plan and the application is declined, the applicant must be informed of the decision within 20 working days<sup>5</sup>.*

### 3. COUNCIL MAKES INITIAL ASSESSMENT AND PRODUCES PROCESSING PLAN

#### Action

#### Notes

The concession application is received and a decision is made whether it is a major, minor or temporary concession.

*In making a decision council officer follows criteria in Section 3 Types of Concessions.*

The council officer confirms that all details and information have been submitted and produces a processing plan that gives the applicant an estimate of time, any charges in addition to the application fee associated with processing the concession application, and steps to processing the application.

*This will be in the form of a check list with space for officer comments based on the criteria in Section 3 and will generally apply to major concessions. It is aimed to inform applicants of the necessary time frames to avoid frustration and misunderstandings regarding process, and to identify any shortfall in the information supplied by the applicant.*

The applicant pays any additional application processing charges including costs of advertising if public notification is required.

*The processing charges relate to any additional costs of processing the application such as additional officer time, advertising etc.*

Where there is a shortfall in information the applicant reviews and resubmits the

*The Council may also seek advice, a report on or a review of information provided by the applicant at the*

<sup>5</sup> Refer Conservation Act 1987 [17T(2)].

<sup>6</sup> Refer Conservation Act 1987 [17S(4)]

proposal and pays the processing charges. *expense of the applicant<sup>6</sup>. This step only occurs where there is missing information otherwise the applicant pays processing charges prior to processing.*

#### 4. APPLICATION PROCESSED

##### Action

The officer processes the application.

##### Notes

*This step involves a detailed assessment of the concession proposal to establish whether the application complies with all requirements and any adverse effects have been avoided or mitigated. Any further constraints on the concession are also set along with concession charges (refer Section 6 Fees and Charges).*

*Trial period set if appropriate (refer Section 10 Trial Period).*

#### 5. DECISION-MAKING

##### Action

The application is formally accepted and where required public notification is instigated, or the application is declined.

##### Notes

*The council officer starts the public notification process if required. Note that the only situation when an application is not publicly notified is when it is foreseen in a reserve management plan or for some minor and temporary concessions (refer Section 3 Types of Concessions).*

*Declining an application at this stage may arise because the proposed concession does not comply with requirements and it is not possible to place conditions on the concession that will enable it to do so.*

Note: A council officer has delegated authority to make a decision on an application for certain concessions

*A Council officer may approve some concessions if they are minor or temporary and foreseen in a reserve management plan (refer Section 15 Officer Delegation).*

## 6. PUBLIC NOTIFICATION

### Action

The council officer publicly notifies the intention to grant a concession, fully considers submissions and writes a final report for the decision-making committee to consider.

### Notes

*When taking this step the council office is guided by the management plan under the Reserves Act and the District Plan. Where a concession requires public notice because it is not foreseen in a management plan under the Reserves Act and requires notified resource consent under the District Plan, the process for both are run concurrently.*

## 7. FINAL DECISION MAKING

### Action

The decision-making committee approves the concession and any conditions to be added to the concession. The full Council makes a final approval of the concession including concession charges.

### Notes

*The committee considers the council officer's report, receives representation as necessary and makes the final decision on the concession including any conditions added to the concession.*

Where the authority of the Minister of Conservation is required the decision of the decision-making committee is forwarded to DOC.

*If the Council has delegated authority under the Reserves Act 1977 the full Council is authorised to approve a concession. If the concession affects a Scenic Reserve, Historic Reserve or is not contemplated in the management plan of a Recreation Reserve, Council must have the concession formally approved by the DOC Conservator who has delegated authority on behalf of the Minister of Conservation for final approval.*

## 8. FINALISING THE CONCESSION

| <b>Action</b>   | <b>Notes</b>   |
|---|--|
| <p>The applicant and others are advised of the decision including any conditions. The concessionaire and the council officer sign the approved application.</p> | <p><i>As well as informing the applicant about the final decision all submitters are informed of the decision including any conditions.</i></p> <p><i>This step ensures that the offer of the concession, the concession charges and any conditions are formally accepted. The concession must be signed within one month of the concessionaire receiving written notice that the application has been approved.</i></p> |

## 9. CONCESSION MONITORING

| <b>Action</b>  | <b>Notes</b>  |
|--|---|
| <p>The concession is monitored and reviewed or renewed as appropriate.</p>   | <p><i>The council officer monitors the concession to ensure conditions are met, that the effects of the concession are within those set out in the concession application and that there are no unanticipated adverse affects on other park users and/on the environment.</i></p> |
| <p>Note: Where a concession is found to not be complying with the conditions of the agreement or has unanticipated effects, it may be suspended or terminated.</p> | <p><i>Unanticipated adverse effects may become apparent when a council officer is monitoring the concession or responding to a complaint.</i></p>   |
| <p>Where a concession is trialed, the concession is reviewed at the end of the set trial period.</p>   | <p><i>The council officer reviews the concession and prepares a report outlining the results of the trial and recommends that the idea is refined and/or an application for a concession be submitted. The application is then processed as per the steps above.</i></p>          |



## Appendix 4

Schedule of Application Fees and Charges for  
Processing Application and Concession Operation

## SCHEDULE OF APPLICATION FEES AND CHARGES FOR PROCESSING APPLICATION AND CONCESSION OPERATION

For explanation and assumptions regarding fees and charges refer section 7.

| Use   | Charges  |
|---|--|
| To cover the initial cost of assessment and ensure concession applicants have thoroughly considered a proposal. | \$175 non-refundable fee for new applications and renewals (renewal rate may be reduced at the discretion of the Manager Parks based on estimated work involved in renewing the application).  |
| To cover the cost of processing the application.  | Charges based on an estimate of staff costs, public notification, consultation or any other costs.   |
| Site occupation or use for events e.g. a circus   | Market rental for space occupied and/or 10% of gross receipts or negotiated flat fee.<br>NB Concession charges for events may be negotiated depending on the duration of an event.   |
| Commercial use for non-mechanised e.g. guided walks   | Negotiated flat fee.   |
| 4WD bikes and trail bikes   | \$12 per bike per trip   |
| 4WDs  | \$25 per vehicle per trip  |
| Mobile food shops, food stalls  | \$225 (discount \$150)   |
| Hawker  | \$50   |
| <b>Filming</b>  | Filming rates apply during filming and where the film company has exclusive possession of the site.<br><br>Charges are based on estimate of staff costs, public notification, consultation or any other costs. These will be assessed and discussed with you when you apply.<br><br>A bond may be required depending on potential effects. |
| Advertising commercials   | This is dependent on type of filming but set at a minimum of one-day charge and at the discretion of the Manager Parks.  |

|   |   |
|---|---|
| Feature film, television drama, sports events (commercial purposes) | \$500 per day   |
| Conservation/recreation promotion, commercial still photography     | \$300 per day   |
| News/current events   | No charge   |
| Urgent applications   | \$250 surcharge. NB This applies only to concessions that do not need Council approval.                   |
| Preparation and clean-up costs                                      | Negotiated depending on size and nature of filming. All actual costs are to be met by the concessionaire. |

## Appendix 5

Details of Relationship with Legislation, Other Providers and Other Council Documents, Policy and Plans

## RELATIONSHIP WITH LEGISLATION

This section relates this policy document to relevant legislation.

### **Reserves Act 1977**

The Reserves Act provides for the control, management, maintenance, preservation, development and use of public reserve lands. The general purpose of the Act includes providing for the preservation and management for the benefit and enjoyment of the public of reserve land that has active and passive recreational use, environmental and landscape amenity or interest, or natural, scenic, historic, cultural, archaeological, biological, geological, scientific, educational, community or other special features or value (refer Reserves Act 1977, s.3).

The Act provides for the granting of concessions on reserves administered by the Crown in accordance with Part IIIB of the Conservation Act 1987, including a reserve that is controlled and managed by an administering body such as the Council (refer section 59A of the Reserves Act).

Under the Reserves Act, if the Council is the administering body of a reserve, has delegated authority for vested lands under the Reserves Act, a reserve is covered by an approved management plan and for reserves classified Local Purpose, the Council has the authority to assess and approve concessions for commercial activities and events in the form of leases, licences, permits and easement. In other cases the Department of Conservation assesses and approves the application for a concession.

In the case when a reserve is vested in the Council but the Council has not been appointed to control and manage the reserve, the Council is advised to seek legal opinion before deciding which authority assesses and has the power to approve a concession and the terms and conditions of the concession, due to the complex nature of ascertaining who has the authority (refer Appendix 7 Leases, Licences and Easements over Reserves).

**Conservation Act 1987**

This Act promotes the conservation of natural and historic resources and includes conservation parks, wilderness, ecological, sanctuary and watercourse areas, marginal strips along the sea, lakes or rivers to enable public access and recreational use, and some former State Forest land held for conservation purposes. Conservation lands include reserve lands vested in the Crown and in the case of concessions where the conservation lands have been transferred to a territorial or local authority to control and manage.

The Act has a number of functions, but the function most relevant to commercial use of reserves is fostering recreation and allowing for tourism on conservation land, providing such activities are consistent with conservation. The Act requires that all activities on conservation land have a concession in the form of a lease, licence, permit or easement, granted by the Minister (refer Appendix 8 Part IIIB - Concessions).

Part IIIB of the Act sets out the contents of an application for concession, the process for completing an application, the matters that need to be considered when assessing an application for concession, limitations on concessions and leases over marginal strips and that the concession must be consistent with a reserve management plan. It also grants the Minister of Conservation the power to impose conditions on a concession including requiring a concessionaire to provide a bond and to pay fees and charges. It sets out the terms of concessions as well as other matters such as requiring a concessionaire to provide a statement of audited financial accounts for an activity carried out under a concession, the process for varying conditions of a concession and the timeframe for a concession applicant to sign a concession document and exercise the concession.

The Act also requires that all leases and licences, permits and easements in a conservation area are publicly notified with regard to the effects of the concession when this is considered appropriate.

**Local Government Act 2002**

This Act sets the purpose of local government and the role of local authorities.

It requires a Long-Term Consultative Community Plan (LTCCP) that is reviewed through the annual report process and provides for fees and charges as a source of funding of operating and capital expenditure (refer section 103 of the Act).

**Other Relevant Legislation**

Health Act 1956

Health and Safety in Employment Act 1992

**RELATIONSHIP WITH OTHER PROVIDERS**

This section relates this policy document to Department of Conservation (DOC) and Greater Wellington-The Regional Council (GWRC) policy and to other divisions of the Council. In developing the Hutt City Council's policy document on commercial use of reserves care has been taken to ensure policies and processes align and are consistent where appropriate.

**Department of Conservation Concession Policies**

The Department investigated their Concessions System in 2001 to ascertain what worked well in concession management and to identify what areas needed improvement. Around 80 interviews were conducted with stakeholders and departmental staff. The investigation found that there was opportunity to improve management of concessions in particular in the areas of internal roles and accountabilities, staff capacity and skills, strategy and direction, management of effects, and relationship management.

A holistic review of the Concessions System was consequently undertaken to recommend improvements. This was released in June 2004.

**Greater Wellington-The Regional Council Policy on Concessions**

GWRC has developed a policy document on the management of commercial and non-commercial recreation and tourism in the Council's parks and forests (refer Policy for Recreation and Tourism in Wellington Regional Council Parks and Forests 2001). As Council has reserves adjacent to GWRC regional parks and forests the GWRC policy document was consulted during the preparation of Council policy on commercial use of reserves.

### **Interface Between Commercial Concession Activities on Water and Land and the Appropriate Authorities**

Reserves adjacent to water bodies, including the harbour, rivers and streams involve DOC and GWRC as well as Hutt City Council. The following table clarifies the areas the three authorities are responsible for:

| <b>Water Bodies (sea, rivers and streams)</b>   | <b>Responsible Authority</b>            |
|---|---|
| Activities affecting the surface of water bodies e.g. boat hire, commercial yachting, water skiing, canoeing and kayaking, wind surfing   | Greater Wellington-The Regional Council |
| Activities affecting the sea bed e.g. diving attractions such as an artificial reef and boat anchoring points Activities on Marginal Strips (areas that are held by DOC adjoining the sea, lakes or rivers) | Department of Conservation              |
| Activities on land adjacent to water bodies e.g. commercial water sports training schools, selling and hiring equipment   | Hutt City Council                       |

In some cases all three agencies may need to be consulted to ensure all aspects are taken into account.

### **RELATIONSHIP WITH OTHER COUNCIL DOCUMENTS, PLANS AND POLICY**

This section relates this policy document to other Council plans, policy and documents.

#### **District Plan**

All commercial activity in Council reserves must comply with the Hutt City District Plan rules. The District Plan allows commercial recreational development provided it does not compromise the proper operation, functioning and amenity values of the reserve.

Signs for commercial activities in parks and reserves must comply with District Plan rules on signage. The District Plan's overall objective on signs is that signs do not adversely affect



visual amenity values of the area they are located in. The District Plan, therefore, controls the size, location and frequency of signs in areas with sensitive and protected amenity values (refer District Plan 14B Signs).

The District Plan identifies general and special open space and recreation activity areas that provide for informal and organized recreation and visual amenity value. General recreation activity areas include reserves. Petone Foreshore is identified as having a distinctive character that needs to be recognised and maintained. Any concession activities will need to be congruent with the open space values and special character of these general and special recreation activity areas (refer District Plan 7(a) & (b)).

### **Long Term Consultative Community Plan (LTCCP)**

This plan sets out proposed plans and activities in Hutt City over the next 10 years and includes key Council policies. It allows for Council fees and charges that are reviewed annually through the annual plan and annual report process.

### **Council Bylaws**

Activities on reserves are subject to Hutt City Council Bylaws 1997 unless a concession allows for a particular activity.

### **Reserves Strategic Directions**

This policy document identifies the growing demand for recreational services and activities through entrepreneurial ventures and that these can be done on a concession basis. Policy in the document states that the Council advocates and facilitates greater community involvement in parks and reserves, including the commercial sector as long as activities complement the purposes of a reserve (refer *Reserves Strategic Directions* Section 7 Commercial Operators pg 38).

### **Council Reserve Management Plans**

Management plans have objectives and detailed policies for the management, use and development of a particular reserve or group of reserves and include policy on leases and licences on parks and reserves. Management plans allow leases and licences provided that activities are consistent with the activity of a reserve. For example facilities on sportsfields may be leased where the use of the facility is primarily for sporting activities (*Sportsground Reserves Management Plan Review* 2003 (6.9 (i) pg 12). The same management plan has policy allowing retail and commercial activities where the activity complements public recreation

and does not undermine the “proper functioning and amenity values of the sportsground” (6.26 Policy ( ii )).

The management plans also have policy that does not permit activities that disturb or inconvenience neighbours and other users (for example refer *Facility Reserves Management Plan* 2002, Policy 5.9 ( v ), pg 9).

Council management plans to date are:

Sportsground Reserves (2003)

Bush Reserves Management Plan (2002)

Esplanade and Foreshore Reserves (2002)

Facility Reserves (2002)

Neighbourhood Reserves (2001)

Amenity Horticulture Reserves (2001)

### **Specifications for the Booking of Sports and Recreation Facilities**

This document differentiates between casual bookings for one-off events and allocation bookings for a sports ground over a season. Bookings have conditions and include bookings for TV and film shoots and ‘special occasions’ such as significant events that attract over 500 people. Williams Park, Eastbourne, and the Conservatory and Orchid House in Riddiford Gardens have additional conditions.

*Note: It is recommended that the above policy document be reviewed in light of this new policy document on commercial use of reserves to avoid cross-over between the documents that could confuse e.g. both documents have policy on TV and film.*

### **Policy on Private Use of Hutt City Council Land**

This policy includes applications from third parties for private use of reserves. It does not apply to short-term use of land e.g. one or two day events. Overall policy towards private use of Council land is that use of Council land is discretionary and the specific purposes for which Council manages Council land takes priority over proposed private uses that are contrary to these specific uses.

*Note: It is recommended that the above policy document be reviewed in light of this new policy document on commercial use of reserves e.g. Policy on Private Use of Hutt City Council Land includes commercial activities.*

## Appendix 6

### Check list to Guide Applicants

## CHECK LIST TO GUIDE APPLICANTS

*This check list is for an applicant to determine if an application contains enough information for the Council to begin processing.*

### **1. The Application Form**

Does the application have a thorough description of:

- Who is applying for the concession?
- Previous concessions, membership of professional organisations and relevant qualifications? (You may be asked for testimonials.)
- Where you want to operate? (You may be asked to locate the proposed activity on a map or reserve plan.)
- What activities you wish to undertake?
- The term of the activities e.g. dates, starting and finishing times, alternative dates?
- Reasons why exclusive use is necessary (if relevant) for the duration of the concession e.g. for public safety?
- What type of concession you are applying for? (Refer section 3)

### **2. Is the proposed activity:**

- Consistent with relevant legislation, policy and plans? (Refer section 16)
- Consistent with the primary purpose of the reserve according to its classification e.g. Recreation Reserve? (Refer Primary Purposes of Reserves Appendix 2)
- Consistent with reserve management plans? (Plans and strategies can be viewed at the Council and public libraries)
- In compliance with the District Plan and other relevant Council Policy documents? (Refer section 16)

***Note that council officers will be able to assist you with the above.***

### 3. Have you included an assessment of environmental and social effects? <sup>7</sup>

***Note that this is one of the important factors that will determine the Council's decision on your application.***

- Have you described the existing natural environment of the location? (This includes natural features, habitats of indigenous plants and animals, areas of important vegetation or species - birds, plants, insects and invertebrates.)
- Have you described the existing social environment of the location? (This includes what kinds of activities take place in the area, the likely attitude of existing visitors to your proposal and any other concession activities operating in the area.)
- Have you described any heritage and cultural sites and issues in the area? (These include archaeological or historic sites, areas of Maori history and spiritual and environmental significance or concern for Maori e.g. to do with water use, plants and animals.)
- Have you identified the actual and potential effects of your activity on the area?
- Have you proposed mitigation measures for each effect?
- Have you discussed alternative locations or timing for your activity?<sup>8</sup>
- Have you outlined an ongoing monitoring programme for your activity?
- Are the results of consultation with affected parties and tangata whenua included in your application? (If required)

### 3. Have you included:

- A business plan? (For major and minor concessions and for some temporary concessions)
- An audited safety plan<sup>9</sup>? (For major and minor concessions and for some temporary concessions)
- A resource consent application if required? (For major concessions and some minor concessions)

<sup>7</sup> For a guide on preparing an Environmental Impact Assessment (EIA) refer to *The Guide to Preparing Your Environmental Impact Assessment (EIA) for Concession Applications*, department of Conservation, [www.doc.govt.nz/About-DOC/Concessions](http://www.doc.govt.nz/About-DOC/Concessions)

<sup>8</sup> If you are proposing to build a structure or facility or to extend an existing building on conservation land you must first satisfy the Minister that the activity can not be reasonably be undertaken outside the conservation area, in another part of the area where there would be fewer adverse effects, or use an existing structure or facility (Conservation Act 1987 [17U4(a)(b)]).

<sup>9</sup> For a guide on preparing a safety plan refer *Concession Safety Plan*, department of Conservation, [www.doc.govt.nz/About-DOC/Concessions/Concessionaire-Safety-Plans.asp](http://www.doc.govt.nz/About-DOC/Concessions/Concessionaire-Safety-Plans.asp)

**4. Have you attached:**

- Any required additional details?
- The application fee?

## Appendix 7

Reserves Act Guide - Leases, Licences, and  
Easements over Vested Reserves

**RESERVES ACT GUIDE - LEASES, LICENCES, AND EASEMENTS OVER VESTED RESERVES**



## Appendix 8

### Conservation Act 1987 - Part 3B Concessions

**CONSERVATION ACT 1987 - PART 3B CONCESSIONS**