



5.1 ACTIVITIES ON OPEN PUBLIC PLACES POLICY

Date Adopted	Next Review	Officer Responsible
1 May 2011	30 June 2012	Manager, Sports Recreation & Environment

Policy Purpose:

This policy is aimed at providing a framework of conditions under which activities within the Rotorua District open public place network can take place.

The purpose of the policy for Council, as the administering body of reserves and open public places in general, is to secure optimal use, safety, enjoyment, maintenance, protection and preservation of open public places for the purpose for which it is classified and, at the same time, secure the rights of the general public, using open public space. Lakes wardens are delegated with the responsibility of serving as authorised officers with an educational/advisory/information distribution and monitoring function.

Selected Council Officers with delegated powers and the NZ Police force serve as authorised officers with an enforcement responsibility.

Activities on open public place network includes non-commercial activities, e.g. overnight camping, displays etc. and commercial activities (planned activities) e.g. marathons, concerts, exhibitions etc.

The purpose of the policy is therefore to set a criteria to consider commercial activities and to serve as a tool to regulate general unplanned activities. The policy is to be used by Council Officials, Lakes Wardens, Event Organisers and the general public to familiarise themselves with the framework of conditions within which all activities within the open space network can take place.

Council will take advice and will respond appropriately where issues of cultural significance arise on open public space e.g. a rahui

NOTE: Activities on sportgrounds and cemeteries are covered under separate 'Sportsgrounds/facilities' and 'Cemeteries/Crematorium' policies.

Scope of Policy:

The scope of the policy includes all activities regardless of whether they are commercial/non-commercial/planned or not planned activities on public open spaces. A 'Public Open Space' is defined as: "Any open space under the control of Council, set apart for public recreation purpose inclusive of recreation reserves, freehold land, drainage reserves, esplanade strips and reserves, court, alley, cycle track

and road reserves used for public recreation, excluding exclusive leased land". (The full list of open public spaces is set out in the Rotorua District Council Management Plan).

Glossary:

Administering body- Rotorua District Council, appointed under the Reserves Act to control and manage a reserve.

Authorised Officer – Any person appointed or authorised in writing by the Chief Executive or by Council to act on its behalf and with its authority and includes a member of the police. Regional Council Lakes wardens have an educational /advisory/ and information distribution and monitoring responsibility and delegated Rotorua District Council officers and the NZ police have enforcement responsibilities.

Concession/ concession document – A lease, licence, permit or an easement granted under section 59 (a) of the Reserves Act.

Commercial activities versus non-commercial activities – Commercial activities are distinguished from non-commercial activities by the RDC Parks and Recreation Manager after answers to the following questions are obtained:

- Do participants and or the public pay to attend the event?
- Is it a private event?
- Is the event limited to a select group?
- Does the event have a recreation focus?
- Does the event have a charity focus?
- Who would be benefitting from the proceeds of the event?
- Does the event benefit the local community?
- Has funding been provided to implement the event or programme?

dB – Sound level measured in decibels.

Differentiated charge – Differentiated charges based on commercial versus non-commercial events and the location of reserve used for event is imposed on event organisers.

Lease- 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- Grant that gives a non-exclusive interest in land that makes provision for any activity on the land that the licensee is permitted to carry out.

Lux – The unit of illuminance. Illuminance means the luminous flux falling in one square meter.

Mobile homes – Vehicles used for accommodation purposes and can include campervans, caravans and motor homes.

Open public place – Any open space under the control of Council, set apart for public recreation purpose inclusive of recreation reserves, freehold land, drainage reserves, esplanade strips and reserves, court, alley, cycle track and road reserves used for public recreation, excluding exclusive leased land.

5.1.1 Behaviour On Open Public Places

Policy Purpose:

To ensure socially acceptable behaviour in open public places and to provide a safe environment for the enjoyment of all.

(Please note that conditions and stipulations related to the Rotorua District Council 'General Bylaw 2011' apply to all people on open public places)

Policy:

A person on open public places must behave him / herself in such a manner that would be socially acceptable for most open public place users.

A person who misbehaves must leave the reserve if requested to do so by any authorised officer.

5.1.2 Commercial / Non Commercial Activities On Open Public Places

Policy Purpose:

To outline the requirements, procedures and restrictions placed on organisers hosting an event / activity/ lease / licence / concession on open public place within the Rotorua district.

Policy:

1. Council will consider allowing activities to occur on open public places provided that the primary focus is on the provision of recreational opportunities or enjoyment to open public place users.
2. Activity organisers are advised to contact the Parks and Recreation Department a minimum of six weeks prior to an event and complete the required Reserve Booking Form / Event Interest documentation.
3. From time to time reserves may be closed to the public and a rental charged for entry by an organisation staging a special event subject to Section 53(1) e of the Reserves Act. Notice of this closure must be given in a local newspaper twice within two weeks prior to the closure.
4. Organisers of events on water need to notify the Bay of Plenty / Rotorua Lakes Harbour Master of the intention to do so at least 14 days prior to the day the activity is to take place.
5. An event or activity on any lake in the Rotorua District needs to be conducted in accordance with the Bay of Plenty Regional Navigation Safety Bylaw.
6. A differentiated charge is to be imposed for the use of Council's open public places and facilities based on the facility to be used. A higher fee will be payable if a commercial activity (where entrance fees are charged) is to be hosted on open public place as per the Parks and Recreation Fee Structure.
7. All costs incurred to host the activity will be met by the organiser/ applicant. These include but are not limited to reserve hireage, but include all associated advertising, permit charges etc.

8. A bond, as per the Parks and Recreation Fee Structure, is to be imposed for the use of open public places and facilities and is to be refunded upon completion of the activity minus any extra costs incurred by the organiser or Council as a result of noncompliance with the conditions of use as stipulated in the letter of approval.
9. The provision of toilet facilities as stipulated in the Rotorua District Council General Bylaw 2011 shall form part of any approval for an activity to be allowed on open public places. These requirements are for activities with a period greater than 4 hours in duration, attracting more than 500 people, and are considered additional to any toilet facilities that may already be provided as permanent structures.
10. The responsibility rests on the organiser of an activity to clear the site from all rubbish / litter. The bond as per clause 8 will only be refunded after the removal of all rubbish / litter.
11. The following conditions relating to noise control will be imposed on all activities occurring on open public places:
 - (i) Acceptable levels of day time noise are limited to 50-55 dB and night time to 40-45 dB on any residential site boundary, or as allowed for by the granting of a consent under the District Plan. (Day time is after sunrise and night time after sunset).
 - (ii) The 'Measuring of Sound' will be done in accordance with the provisions of New Zealand Standards 6801 acoustics measurement of environmental sound.
 - (iii) All organised events on open public places are limited to a specific curfew of 10.00 pm, including the dismantling of facilities and/ or infrastructure. This is consistent with the 10.00 pm 'night -time' usually observed in noise codes and standards. The Parks and Recreation Manager may grant extensions to organised events to exceed the 10.00 pm curfew upon application. In the discretion of the Parks and Recreation Manager noise restriction can also be uplifted for aquatic power boat events held on lake Rotorua and Lake Tikitapu/ Blue Lake upon request.
 - (iv) The usual 'community' performances are to be permitted to operate at their usual hours (such as New Year's Eve Mardi Gras & Lakeside Concerts).
 - (v) No person may operate a motorised vessel on any lake if the vessel's exhaust does not discharge through a silencing device suitably muffled to restrict excessive noise of the vessel's engine (particularly relevant inboard motors, jet skis and out board motors that are modified for extra performance).
12. The following provides conditions to be enforced on activity organisers on open public places protecting the general public from any activity that may result in light spill, glare or stray light emissions.

(This section should be read in conjunction with stipulations as per the Rotorua District Plan)

 - (i) Activities shall be managed so that direct or indirect illumination measures not more than 8 lux on any residential site boundary.
 - (ii) All luminance levels shall be measured vertically and horizontally in accordance with professional illumination engineering practice.
 - (iii) Lighting shall be aimed no higher than 30° below the horizontal and shall be aimed, hooded or screened, to minimise glare.

The Delegated Council Officer will have the ability to grant exceptions after consultation with affected parties for specific activities upon request.

13. The following provides conditions for the erection of temporary structures associated with and necessary for the use of open public places for events.

(The conditions and stipulations related to the erecting of temporary structures are to be read in conjunction with Schedule 1 of the Building Act 2004)

- (i) Activity organisers erecting structures on open public places shall comply with all relevant legislation, standards and manufacturers' instructions when erecting structures on public open space.
- (ii) A building consent will be required for:
 - (a) Any tent, marquee or structure not excluded in terms of Schedule 1 of the Building Act 2004 and any amendments to the said Act;
 - (b) Any stage structure platform not excluded from obtaining a building consent in terms of the Building Act 2004.
- (iii) Any structure must be erected by a suitably qualified organisation which is required to provide certification verifying compliance with relevant standards.

14. The following condition applies for the selling of liquor on open public places.

- (i) Vendors of liquor operating from open public places are to obtain a licence to do so from Rotorua District Council in terms of the Sale of Liquor Act 1989. In addition to the Sale of Liquor Act, conditions stipulated in the Rotorua District Council public places liquor control bylaw and the Rotorua District Council General Bylaw are to be adhered to.

15. The following condition applies for the manufacture, preparation and sale of food products for activities offered on open public places.

- (i) Food vendors operating from open public places are to obtain a licence from Rotorua District Council. These vendors need to meet the health criteria for manufacture, preparation and sale of food as determined by Rotorua District Council.

16. The following conditions for offering activities on open public space apply:

- (i) **Exhibitions:** The following criteria for accommodating a retail focussed exhibition on an open public space will be considered:
 - (a) Is the expo inclusive? Does it involve multiple exhibitors to increase customer exposure to different options?
 - (b) Is there a theme e.g. House and Garden, Big Boys Toys, sporting and recreational equipment, forestry, machinery or farm equipment, boats, cars etc?
 - (c) Does it involve a collection of products not normally available in one place at one time in Rotorua?
 - (d) Does it have entertainment value to the viewing public, and be an attraction in its own right?
 - (e) Is a new product promoted that is currently unavailable in Rotorua?
 - (f) Is it intended to promote products that have a recreational focus?

- (g) Is it an activity such as the Craft Market, Gypsy Fair, Tinkers and Traders, that is traditionally considered under this category?
 - (h) Is the proposed exhibition consistent with the classification of the public space, i.e. recreation reserve?
- (ii) **Events:** These are generally whole-day duration, activity based, e.g. marathons, cycle races, motor rallies, concerts, festivals etc and do not involve retail activity other than to support the event and participants, e.g. refreshments, souvenirs etc. Events will also need to:
 - (a) be consistent with the classification of the public space, i.e. recreation reserve, and
 - (b) have entertainment value to the viewing public and be an attraction in their own right.
 - (iii) **Displays:** These have a primary purpose of displaying a collection of items of general interest to the public, and specific interest to collectors e.g. vintage and veteran cars, motorcycles.
 - (a) Any retail activity must be secondary to the main purpose of the activity.
 - (iv) **Vendors:** These are activities that involve the selling of any product on open public places and are generally of a short term duration on site.
 - (a) All relevant licences will need to be granted by Rotorua District Council e.g. Mobile Stall Holders Licence. The duration of the licence to operate from the public space may be for a period of not greater than 36 months.
 - (v) **Grazing:** Areas of open public places that are not needed immediately for recreational purposes or are uneconomic to maintain in other ways may be leased out for the purpose of grazing. This can be either through a tender process or invited interested parties or some other method that is allowed by the Rotorua District Council Procurement Manual that best reflects the circumstances.
17. All other commercial activities must be conducted primarily for the entertainment and amusement of the public e.g. sideshows, circuses, pony rides, inflatable slides, bouncy castles, etc, or for the benefit of the public, e.g. refreshments, and would need to be consistent with the classification of the public space (duration can vary from a single day to annual licence and in terms of a lease to consecutive years of not more than 10 years in total).
18. Commercial activities will always be treated by the administering body as secondary to the rights of public use of any open public place.

5.1.3 Dogs On Open Public Places

Policy Purpose:

To draw dog owners' attention to where dogs can be walked on reserve land, where dogs are prohibited, where dogs are allowed on a leash and where dogs can be exercised.

(Please note that conditions and stipulations related to the Rotorua District Council 'Dog Policy' apply to dogs on reserves).

5.1.4 Traffic Control and Parking Arrangements

Policy Purpose:

To allow for temporary road closures and ways of avoiding, remedying or mitigating adverse effects that activities on open public places might have on the safety of people and normal traffic flow. This includes orderly parking arrangements and usage of reserves by pedestrians. Activities on open public places are to be arranged / managed in such a manner that there is minimum inconvenience to the road users, and a safe environment for all is secured.

(Please note that conditions and stipulations related to 'The Transport (Vehicular Traffic Road Closure) Regulation 1965' to be read with Schedule 10 of the Local Government Act 1974 and the Rotorua District Council 'Traffic Bylaw 2008' applies when an activity is offered on public open space. This Policy should further be read in conjunction with other relevant legislation, the District Plan and Bylaws which may include controls on land use on public open places. Authorisations or consents to undertake an activity may be required under other legislation, the District Plan and Bylaws)

Policy:

1. A person must not take, ride or drive a motor vehicle, unless authorised to do so by the Delegated Council Officer, into or in a public space except on any part of the open public place set aside by the Rotorua District Council for vehicular traffic.
2. A person must not take, ride, or drive a motor vehicle or animal into or on a reserve unless it is an emergency vehicle or it is authorised by Council.
3. Car parking is confined to dedicated car parking areas.
4. A person must not park a motor vehicle on a public space except in a place set aside by the Rotorua District Council for the parking of vehicles.
5. A person must not stop a motor vehicle in a public space so that the vehicle obstructs an entrance to or part or track in the open public place.
6. The conditions stipulated in the Schedule 10 of the Local Government Act 1978 and would apply in the case of a request for temporary road closures (A processing fee is payable).

5.1.5 Open Fires On Open Public Places

Policy Purpose:

To prevent open fires on open public places, minimising risk not only to reserve users and neighbours but also to the environment. A further purpose is to provide guidelines for barbeque facilities provided for safe and hygienic usage on reserves.

Policy:

1. No lighting of any open fire, including pizza oven, brazier, charcoal fuelled barbeque etc on an open public place is allowed. Outdoor cooking is to be undertaken only on existing Council provided barbeque facilities or privately owned gas operated equipment.

2. Council owned barbeques are to be cleaned after use and left in a state that would allow the next person to enjoy the facility.

5.1.6 Overnight Camping on Open Public Places

Policy Purpose:

To regulate overnight camping on open public places (within Rotorua District Council boundaries) to comply with Section 44 of the Reserves Act, where it is stipulated that Council as administering body, for a number of reasons (including health/sanitary reasons) may not allow a person to use a reserve for the purposes of permanent, temporary or personal accommodation.

Policy:

1. Overnight camping will not be permitted on open public places except in the following circumstances:

Mobile homes be allowed for overnight camping on reserves equipped with toilet facilities as listed in 1(a) provided that:

- (a) The reserve has a specific camping ground set aside for the purpose, namely Guy Roe Reserve, Boyes Beach Reserve, Trout Pools Reserve, Lake Okaro Reserve and Vaile Rd Reserve. New and alternative sites can be added to designated sites as and when the need arises provided that proper consultation is undertaken by Rotorua District Council. Designated overnight camping sites will not be considered that are situated less than 5 kilometres by road from a commercial privately owned holiday park.
 - (b) Campers are permitted to stay for a maximum of two nights per calendar month in any one location.
 - (c) A maximum of six mobile homes will be permitted in any one permitted location on any one night (unless otherwise expressly approved or provided for through the sign on the reserve). Eligibility to stay in any permitted location is determined by ranking in order of time of arrival.
 - (d) Mobile homes/ campers are only permitted to camp within the existing defined car parking areas.
 - (e) Overnight camping in tents is not allowed at designated sites unless otherwise expressly approved or provided for through the sign on the reserve.
 - (f) Permission is obtained from the Parks and Recreation Manager for specific events such as yachting regattas, craft markets, side shows, circuses, etc, when permission may be granted for example, to protect equipment etc.
 - (g) Overnight camping is an intrinsic part of the attraction of the event e.g. Gypsy Fairs, Motor Caravan Association rallies.
2. Mobile home/ campers are not permitted to stay overnight in any public places (including recreation and road reserves) other than those listed under clause 1 (a) of this policy. Offenders will be referred to sites that operate as commercial holiday parks.

3. That camping by the use of tents also be allowed for on the following reserves provided that:
 - A specific area be set aside for the purpose of allowing overnight camping including the use of tents at Lake Okaro Reserve.
3. Council will take responsibility for erecting signs advising where camping is permitted (and length of stay/maximum number). Signage will be erected at popular destinations where overnight camping is not allowed directing campers to designated areas.
4. A fee comparable to Department of Conservation fees for overnight camping determined from time to time will be applicable. Revenue from fees generated will be used for overnight camping related education / advice/ information and monitoring and managing environmental and social impacts.
5. There is no obligation to provide additional amenities to cater for mobile home use in the locations identified in clause 1(a).

RELEVANT/RELATED LEGISLATION/BYLAWS AND POLICIES

Legislation/bylaws and policies relevant to activities on reserves are listed in alphabetical order:

Bay of Plenty Regional Navigation Safety Bylaw

This Bay of Plenty Bylaw regulates all activities on water at any lake in the Rotorua District.

Building Act 2004

Schedule 1; “Exempt Building Work”

Schedule 1 lists structures for which no building consent is required. Most structures to be erected on reserves are of a temporary nature.

Dog Control Act 1996

Section 10; “Duty of territorial authorities to adopt policy on dogs”

Section 10 raises the expectation of all councils to regulate dogs in its jurisdiction i.e. indicates what areas dogs are allowed, relevant conditions for dogs to be allowed in an area and in which areas dogs are prohibited.

Health Act 1956

Section 23, “General powers and duties of local authorities in respect of public health”

Section 23 makes provision for inspections to ascertain if nuisances exist and if they do, indicates what steps are to be taken dealing with the issue.

Section 29; “Nuisances defined for purposes of this Act”

Section 29 indicates that noise levels or vibrations are to be controlled where it is emitted from any building, premises or land to a degree that is likely to be injurious to health.

Local Government Act 1974

Section 10; “Temporary prohibition of traffic”

(Schedule 10 is to be read with Transport (Vehicular Traffic Road Closure) Regulations 1965)

Clause 11 stipulates that Council, subject to conditions as it deems fit (including the imposition of a reasonable bond), and after consultation with Police and Ministry of Transport, allow for a road to be closed, for example, for a fair, show, market, concert, film-making, race or other sport event, or public function.

Local Government act 2002

Section 3; “Purpose of Act”

Stipulates that local authorities play a broad role in promoting the social, economic, environmental and cultural well-being of their communities.

Reserves Act 1977

Section 40; “Functions of administering body”

Clause 1 of section 40 stipulates that: “The administering body shall be charged with the duty of administering, managing and controlling the reserve under its control and management in accordance with the appropriate provisions of the Act and in terms of its appointment and the means at its disposal, so as to ensure the use, enjoyment, development, maintenance, protection and preservation as the case may require of the reserve for the purpose for which it is classified.”

Section 44; “Unauthorised use of reserve”

Clause 1 of Section 44 stipulates that: “Except with the consent of the Minister, no person shall use a reserve or any building, vehicle, boat, caravan, tent or structure situated thereon, for the purposes of permanent or temporary personal accommodation.”

Section 53; “Powers (other than leasing) in respect of recreation reserves”

The use of reserves for commercial activities is controlled under Sections 53 and 54 of the Reserves Act.

Section 53 allows Council to grant exclusive use of parts of the reserve (with restrictions) to others for the purpose of public recreation or enjoyment and gives authority for them to demand a fee or charge for admission. Section 53 further allows for the erection of temporary structures or other buildings and structures associated with and necessary for the use of the reserve for outdoor recreation.

Section 54; “Leasing powers in respect of recreation reserves (except farming, grazing or afforestation leases)”

Section 54 allows Council to grant a licence for the carrying out of any trade or business, provided that the trade or business is necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of reserve users.

Resource Management Act 1991

Section 16; “Duty to avoid unreasonable noise”

Section 16 requires every occupier of land and every person carrying out an activity to adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.

Section 326; “Meaning of ‘excessive noise’”

Section 326 defines ‘excessive’ noise as noise that is under human control and of such a nature as to unreasonably interfere with the peace, comfort, and convenience of any person. Noise as per definition might include musical instruments, person or group of persons etc.

Rotorua District Council Traffic Bylaw 2008

The objective of this Bylaw is to set the requirements for the parking and associated control of vehicular or other traffic on any road in the district.

Rotorua District Council Procurement Manual 2010

The document serves as the overarching procurement strategy of the Rotorua District Council and supports this with the necessary policy, principles and procedures to be used by officers when making or planning to make a financial commitment on behalf of Council.

Rotorua District Council General Bylaw 2011

The purpose of this Bylaw is to make provisions which are of a general specified nature and common to, and form part of, all other Bylaws either in force in the Rotorua District as the commencement date of this Bylaw or that come into force after that date.

Rotorua District Council Dog Policy

The purpose of this policy is to provide dog owners with guidelines on permitted and non permitted activities within the Rotorua District Council's jurisdiction.

Public Place Liquor Control Bylaw 2009

The purpose of this Bylaw is to provide for liquor control in specified public places in the Rotorua District in order to protect the public from nuisance, enhance public safety, and minimise the potential for offensive behaviour. Specifically, this Bylaw is intended to address problems associated with dangerous littering, disorderly behaviour, wilful damage and physical assaults arising from the possession or consumption or liquor in certain public places in the Rotorua District.

Sale of Liquor Act 1989

Section 73; "Special licences"

Section 73 requires that a special licence be obtained to authorise the holder of the licence to sell and supply liquor, on the premises or conveyance described in the licence, to any person attending any occasion or event or series of occasions or events described in the licence.