

Submission on the Buller District Council Draft Reserves Management Plan 2026

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3 August 2026

Introduction

Herenga ā Nuku Aotearoa, the Outdoor Access Commission, is the Crown agent responsible for providing leadership on outdoor access issues. Our role is to advise on and advocate for free, certain, enduring, and practical access to the outdoors.

The Commission plays a key role through its statutory leadership in negotiating, establishing and improving outdoor access for New Zealanders. This includes making people and organisations aware of existing public access and ensuring that access endures over time.

Overview

We support the overall vision of the Draft Reserves Management Plan 2026 (RMP) – that the reserves of the Buller District will be vibrant, accessible, and environmentally sustainable spaces that enhance community well-being, recreation, and cultural heritage. We endorse the objective that reserves should be community-centred spaces that are welcoming to all, enhance recreational opportunities, and have the flexibility to adapt to the changing needs of the community.

However, we are concerned that several provisions in the Draft Plan, and an existing licence to occupy issued over part of the Ngakawau-Hector reserve, could allow public access to reserves to be quietly diminished without adequate community scrutiny. We make this submission to ask Council to strengthen those provisions before the plan is adopted.

1. Leases pose a great risk to public access and should be subject to stronger safeguards

Among the means of authorising activities on reserves in the Draft RMP, leases pose the greatest risk to public access. Section 5.4.3 (Leases) acknowledges in policy 1 that any exclusive use of a reserve, including buildings, will be subject to a lease. By definition, exclusive use excludes the general public. On a recreation reserve – land held under the Reserves Act 1977 specifically for the recreation and enjoyment of the public – exclusive use should be the exception, requiring strong justification, not a routine management tool.

We are concerned that the current lease provisions in the Draft RMP do not adequately reflect this. While section 5.4.3 contains useful procedural requirements, it does not establish public access and recreational

use as the primary values against which any proposed lease must be assessed before it is granted or renewed.

1.1 The explanatory text in section 5.4.3 recognises the problem but does not resolve it

The explanation accompanying section 5.4.3 clearly states that leasing reserves to a specific entity "restricts the uses to which it can be put and usually limits use of the land by the general public" and that "the needs of the local community should take precedence over the wishes of particular organisations." We strongly endorse these statements. However, they appear only in explanatory text, which does not carry the same policy weight as the numbered policies themselves.

We submit that a principle as important as community need and public access must take precedence over organisational interests and should be expressed as a binding policy commitment, rather than left as an explanatory observation.

Proposed wording

New Policy 5.4.3 - 10

The needs of the local community, including public access, must take precedence over the wishes of particular organisations where those wishes may unnecessarily restrict community needs or public access.

1.2 Existing and expired leases require scrutiny before renewal

Section 5.4.3 policy 4 provides that where users have occupied reserves without formal leases, or where previous leases have expired, Council will review the use, sustainability, and suitability of the occupation before issuing a new agreement. We support this provision but submit that it does not go far enough.

The policy does not require Council to consider whether the proposed lease use is consistent with the primary recreational purpose of the reserve, and whether the area subject to the lease could instead be returned to full public access and enjoyment. A review that focuses on the sustainability and suitability of the occupier's use may inadvertently treat continuation of existing commercial or exclusive use as the default, rather than asking whether that use should continue at all.

We ask Council to amend policy 4 to make explicit that, before renewing or issuing any lease, Council must first satisfy itself that the proposed use is genuinely compatible with the reserve's classification and recreational purpose under the Reserves Act 1977, and that any loss of public access to the leased area is justified by a clear and demonstrable community benefit that cannot be achieved by any less restrictive means.

Proposed amended wording

5.4.3 - 4. **For any proposed new use**, or for existing use where users have occupied reserves without formal leases or where previous leases have expired, Council will review the use, sustainability and suitability of the occupation prior to issuing a new occupancy agreement **to ensure that the proposed use is genuinely compatible with the reserve's classification and recreational purpose under the Reserves Act 1977, and that any loss of public access to the leased area is justified by a clear and demonstrable community benefit that cannot be achieved by any less restrictive means.**

1.3 Leases should carry an explicit public access obligation wherever possible

The Draft Plan is silent on whether leases should, as a standard condition, preserve any form of public access through or to the leased area. Where a lease covers land forming part of a wider reserve through

which the public would otherwise walk, gather, or benefit from quiet enjoyment of nature, the complete exclusion of public access is a significant loss that may not be recoverable once a long-term lease is established.

We ask Council to include a policy requiring that, at the time of application or renewal, all leases be assessed to determine whether any public access through or to the leased area would be lost. The possible loss of public access, in whole or in part, must be treated as a last resort, requiring specific justification and inclusion in public notification, rather than as a standard consequence of granting exclusive use.

Proposed wording (moving current policy 2 to 3)

5.4.3 - 2. All leases, whether issued as renewals or for the first time, will be assessed to ascertain if any public access through or to the leased area would be lost. The exclusion of public access, in whole or in part, must be treated as a last resort and require specific justification; the associated risk must be included in the public notification.

1.4 Lease areas should be the minimum necessary

The explanation in section 5.4.3 notes that, for sports clubs, it is preferred that only clubroom building footprints are leased, rather than a ground lease for a larger area. This is a sound principle, but it appears only in explanatory text.

We ask Council to elevate the explanatory note to a binding policy: the area subject to any lease must be the minimum necessary for the purpose of the lease, and the remainder of the reserve must remain open to the public, with suitable conditions, such as excluding dogs from playing field areas.

Proposed wording

New Policy 5.4.3 - 11

For sports clubs, the area subject to any lease must be the minimum necessary for the purpose of the lease, and the remainder of the reserve must remain open to the public.

1.5 Caution on long lease terms

The Draft Plan does not address lease duration. Long lease terms can effectively remove land from flexible public use for a generation or more. Once granted, they are difficult to revisit, even if community needs change, if the leaseholder's use lessens or ends, or if a different use would better support the reserve's recreational purpose. This is inconsistent with the need for future planning and adaptive use identified in Section 4.2.

Lease duration needs careful consideration. Where a community recreational organisation, such as a sports club or other recreation provider, needs sufficient security of tenure to justify investment in facilities, a longer term may be appropriate if that investment will improve the reserve and benefit the wider public. The aim should be to protect and enhance public enjoyment of the reserve for all users, including informal users and organised sports clubs, while ensuring that any non-recreational use that may restrict or otherwise impact public access is subject to particularly close control.

We ask Council to include a policy that lease terms should be as short as reasonably practicable while still enabling the best community outcomes for the reserve. In setting a lease term, Council should consider whether the proposed use supports the reserve's recreational purpose, protects informal public access and enjoyment, and, where relevant, provides sufficient tenure to enable investment in facilities that will benefit both organised recreational users and the wider public.

Proposed wording

New Policy 5.4.3 - 12

The term of a new or renewed lease will be as short as reasonably practicable to minimise any adverse effects on public use and enjoyment of the reserve. All leases must include a periodic review clause, at least every five years, enabling Council to assess whether the lease use remains consistent with the reserve's recreational purpose, whether public access and enjoyment are being protected, and whether the use continues to meet current community needs. Where a lease permits activities unrelated to recreation, the lease conditions, review requirements, and termination provisions should be especially robust. Council retains the ability to cancel or vary a lease where the use no longer delivers clear public benefit or is no longer appropriate for the reserve.

Summary of requests on leases

We ask Council to amend section 5.4.3 to:

- I. Elevate the principle that community recreational needs and public access take precedence over organisational interests from explanatory text to a binding policy statement;
- II. Require, before any lease is granted or renewed, that the proposed use is genuinely compatible with the reserve's recreational purpose, and that any loss of public access is justified by a clear community benefit that cannot be achieved by less restrictive means;
- III. Require assessment of whether public access through or to any leased area can be preserved as a condition of the lease, with removal of public access treated as a last resort requiring specific justification and inclusion in public notification;
- IV. Elevate the minimum-area principle – that only the footprint strictly necessary for the lease purpose should be leased – from explanatory text to a binding policy; and
- V. Require that lease terms be as short as practicable and include periodic review at least every five years to assess continued compatibility with the reserve's recreational purpose.

2. Missing third area of reserve and vague health and safety clause

The Draft RMP, at section 8.19, does not appear to include Section 13 Block I Ngakawau SD in the legal description of the Ngakawau-Hector Recreation Reserves or in the highlighted areas in the aerial image map.

We have reviewed the two-page Licence to Occupy between the Ngakawau-Hector Reserve Board and BT Mining Ltd, although we have not seen any Schedules to the licence, which presumably define areas covered by permit 3715002 under the Coal Mines Act 1979.

Clause 14 of that licence states that the licensee shall not restrict public access over the land "unless for the purposes of Health & Safety." We acknowledge that the licensed occupation comprises significant industrial infrastructure and the use of a road through the reserve. However, we submit that this clause is unacceptably vague. It aims to grant the licensee the practical ability to exclude the public from a portion of a recreation reserve at its own discretion, without any requirement to notify Council, justify the restriction, limit it in time or area, or seek independent sign-off.

The Draft RMP acknowledges at section 8.19 that the regenerating bush area of the Ngakawau-Hector reserve is currently "licensed to Bathurst Resources Ltd", and we presume that this is referring to the

missing third section of reserve. It provides no information about the terms of that licence, what public access rights are protected or affected, or when it is subject to review.

Council should note in the RMP that the existing occupation of part of the Ngakawau-Hector reserve by Bathurst Resources Ltd is authorised by permit 3715002 under the Coal Mines Act 1979, expiring 31 March 2027, and that the separate informal licence to occupy issued by the Reserve Board sits alongside but does not substitute for that statutory authority.

Assuming that the Council is the administering authority for this part of the reserve, and that a separate third party is not the reserve administering body, the RMP is incomplete and should be updated. The third missing part of the Ngakawau-Hector Recreation Reserve should be included in the map and a clear commitment given that, when the Coal Mines Act permit expires, any proposed continuation of the occupation under the Crown Minerals Act framework will:

- a. be assessed against the reserve's recreational classification and the Council's obligations under the Reserves Act, including full public notification and the right to submit under section 54, and
- b. ensure that safe public access to the unoccupied areas of the reserve will be considered and ideally restored and clearly marked.

We acknowledge that the Fast-Track application expected soon from Bathurst Resources Ltd relating to this operation may limit or remove the standard public notification and submission processes that would otherwise take place under the Reserves Act.

We ask Council, should this be the case, to represent community interests and access in this recreation reserve, where it may be safe and practical.

We ask that, if the current informal Reserve Board licence has any standing, it be reviewed to remove the open-ended health and safety access exclusion, regardless of the permit position, since that exclusion lacks a proper legal basis and exceeds anything the Coal Mines Act permit requires. It should also have a fixed term, and review and renewal clauses. However, we expect that a new and more appropriate form of approved occupation would be considered and issued after due process, to be in place once the Coal Mines Act permit expires.

We ask Council to:

- Include the missing third area of the Ngakawau-Hector Recreation Reserve on the RMP map, per Designation #52 of the Buller District Plan Schedule of Designated Lands, along with an explanation regarding the current Licence to Occupy, long-term intentions for this area and information about public access.
- Ensure that no future licence, occupation agreement, or lease over any recreation reserve contains a health and safety or any other access exclusion that is left to the licensee's own determination; and
- Require that any reference to health and safety or other concern with the intention to restrict public access on a reserve must be specific, time-limited, documented in writing, and approved by Council or a delegated officer – not simply asserted by the licensee.

3. The RMP consultation is the public's primary opportunity to limit leases and licences to avoid restricting public access; subcommittee delegations must be clearly defined

The Draft Plan's provisions on leases and licences are broad enough that, once adopted, they could be interpreted as encompassing a wide range of exclusive-use arrangements.

Section 54 of the Reserves Act 1977 requires that before any lease or licence of a recreation reserve is granted, the administering body must give public notice and provide the public with the right to submit and be heard. However, that requirement does not apply where the proposed lease or licence is already contemplated by an approved management plan. The RMP consultation is therefore the public's primary – and in many cases, the only – opportunity to set the boundaries for what may be leased or licensed without further notification.

We ask Council to ensure that the lease and licence provisions in the Draft Plan are drawn narrowly, so that only clearly defined and limited categories of use and occupation are contemplated by the plan. Broad or open-ended authorisations, including any authorisation that restricts public access, should be subject to consultation with the local community. The RMP should state explicitly that any proposed lease or licence that would restrict public access to any part of a recreation reserve, or that involves a commercial operator, other than for short-term events, will be publicly notified as required by section 54, regardless of whether it falls within the general categories described in the plan.

Proposed wording

New Policy 5.4.1 - 1d

Public notification of new or renewed leases or licences under section 54 (2) Reserves Act, including specific reference to any restrictions on public access, recreation or enjoyment.

This concern is compounded by the lack of definition of the roles or authorities of subcommittees to grant licences or leases independently of the Council. Commercial leases or licences could be granted over public land, resulting in the loss of public access without the Council or the broader community being made aware of or given input.

We understand from Council minutes that the Terms of Reference and Delegations for the Ngakawau-Hector Reserve Subcommittee allow the issuing of Licences to Occupy. The Council's document, *Governance Structure - Terms of Reference and Delegations for Council, and Committees of Council 2022-2025*, defines this more clearly for all Reserves and Halls Subcommittees. Such subcommittees are delegated: "The negotiation of Licences to Occupy for the reserve provided such licence shall be temporary in nature (up to 3 years) and capable of being terminated on no more than one month's notice and be in accordance with the Reserves Act 1977 Section 74 Licences to Occupy reserves temporarily".

We ask Council to include a reference to the *Governance Structure* document in the RMP and add a clear statement that subcommittees do not have delegated authority to grant, renew, or vary licences or occupation agreements that would or could restrict public access without the approval of Council or a formally delegated Council officer, and that all such agreements must comply with the public notification requirements of the Reserves Act 1977.

Proposed wording

New Policy 5.4.1 - 1e

Council document *Governance Structure - Terms of Reference and Delegations for Council, and Committees of Council 2022-2025* delegates the following to Reserves and Halls Subcommittees: "The negotiation of Licences to Occupy for the reserve provided such licence shall be temporary in nature (up to 3 years) and capable of being terminated on no more than one month's notice and be in accordance with the Reserves Act 1977 Section 74 Licences to occupy reserves temporarily". Such delegated authority does not authorise the granting, renewal, or variation of licences or occupation agreements that would alter public access without the approval of Council or a formally delegated Council officer. Any such agreements

must comply with the public notification requirements of section 54(2) of the Reserves Act 1977 and include specific reference to any restrictions on public access, recreation or enjoyment.

4. Public access is not adequately protected in the licences policy

Section 5.4.4 (Licences) provides that licences "will include provision for public access (subject to conditions) where this is appropriate and desirable." We believe that this language is insufficient. The phrase "where this is appropriate and desirable" is discretionary, meaning that public access could lawfully be excluded from a licensed area of a recreation reserve without the need for justification.

Recreation reserves exist under the Reserves Act 1977 for the recreation and enjoyment of the public. That purpose should be the starting point.

We ask Council to amend section 5.4.4 to require that (a) public access be maintained as an explicit and non-discretionary condition of all licences, (b) that any restriction on public access be specific in its location, limited in duration, and subject to Council approval rather than licensee discretion, and (c) where a proposed licence would reduce public access, other than for short-term events, public consultation will be required.

Proposed amended wording

5.4.4 - 1. Licences may be granted subject to an assessment ~~on~~ **of** the likely impacts of existing reserve users and the likely benefits of the proposed activity in terms of recreation and reserve promotion or use.

5.4.4 - 3. ~~Licences will include provision for public access (subject to conditions) where this is appropriate and desirable.~~ As a priority, licences will aim to maintain public access. Where it cannot be maintained, any restriction on public access will be minimised, specific in its location, limited in duration, and subject to Council approval. Any such agreements must comply with the public notification requirements of section 54(2) of the Reserves Act 1977 and include specific reference to any restrictions on public access, recreation or enjoyment.

Summary of all requests

We ask Council to amend the Draft RMP to:

1. Strengthen the lease provisions in section 5.4.3, as set out in the lease summary above (our section 1), by making public access and recreational purpose the binding threshold criteria for any lease decision;
2. Review the occupation by Bathurst Resources Ltd at Ngakawau-Hector under the Coal Mines Act when it expires, as well as the Licence to Occupy issued by the Reserve Board to better manage the occupation of the recreation reserve;
3. Ensure no future agreement contains an open-ended access exclusion left to the licensee's discretion, for example, on the grounds of health and safety;
4. Define the lease and licence provisions narrowly so that agreements restricting public access or involving commercial operators will be notified publicly under section 54 of the Reserves Act 1977, and the notification will identify any risk of restriction on public access, unless for short-term events;

5. Define and constrain the authority of subcommittees to grant or vary licences or other occupation agreements, requiring Council sign-off for any use that would or could restrict public access, recreation or enjoyment.
6. Make the preservation of public access an explicit, non-discretionary condition of all leases and licences, with any access restriction requiring specific justification, time limits, and Council approval.

While we acknowledge a variety of existing uses, including significant industrial infrastructure, we wish to emphasise the fundamental purpose of reserves: the recreation, physical welfare and enjoyment of the public. This must be considered in every decision that could affect the public use and enjoyment of reserves.

Herenga ā Nuku Aotearoa values the important role councils play in planning and managing access for their communities and recognises the complex range of interests that must often be balanced. We are committed to working collaboratively with councils to support practical, well-informed access outcomes that benefit both local communities and visitors.

As the national organisation with responsibility for public access, we can provide specialist advice, technical expertise, and access to New Zealand's most comprehensive public access mapping and information tools. We would be pleased to support Council not only in relation to the matters raised in this submission, but also with any future projects, planning processes, or policy initiatives where public access is a consideration. We welcome the opportunity to work together to achieve and to protect enduring access outcomes that reflect local priorities while enhancing opportunities for people to enjoy and connect with the outdoors.

We are willing to appear in support of this submission at the Council's hearings and would welcome the opportunity to address these points in person or via a video link. Our contact details are inger.perkins@herengaanuku.govt.nz and 027 370 1876.



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