

1. Can you please supply MDCA with the definitions for each reserve type (Scenic, Historic, Recreation & Local Purpose) please.

The tables below from the Department of Conservation's publication 'Reserves Act Guide' show the similarities or contrasts between the categories of protected areas under the Act that are relevant to the management of land held under the Reserves Act by local authorities.

The tables note the purpose and relevant section under the Reserves Act along with brief statements about the primary and secondary objectives of management; guidance for selection of the category for classification; and the typical organisation responsible for management of land in the category.

A summary of each classification:

Scenic Reserve A (Natural s.19(1)(a)) - Area of land (or land and water) possessing significant qualities of scenic interest or beauty or significant features or landscapes

Scenic Reserve B (Modified s.19(1)(b)) - A suitable area of land (or land and water) which by development and the introduction of flora, whether indigenous or exotic, will become of significant scenic interest or beauty.

Historic Reserve - An area of land (or land and water) possessing places, objects and natural features as are of historic, archaeological, cultural, educational and other special interest.

Recreation Reserve - An area of land (or land and water) possessing open space, and outdoor recreational values especially suitable for recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside, including recreational tracks in the countryside.

Local Purpose Reserve - An area of land (or land and water) suitable for a specified local educational or community purpose which does not duplicate any other reserve purpose.

Esplanade Reserve - A fixed linear area of riverbank, lakeshore or seashore of at least three metres or greater width (usually 20m) either in a natural or modified state available primarily for conservation and public access.

I've updated our website with the above list.

Scenic Reserve A (Natural s.19(1)(a))

Purpose (s.19(1)(a))	Area of land (or land and water) possessing significant qualities of scenic interest or beauty or significant features or landscapes
Objectives of Management (s.19)	<p>Primary</p> <ul style="list-style-type: none"> • Manage for their intrinsic worth and for the benefit, enjoyment and use of the public • Preserve indigenous flora and fauna, biological associations and the natural environment as far as possible • Exterminate exotic flora and fauna as far as possible • Allow the public freedom of entry and access subject to conditions and restrictions necessary for the protection and wellbeing of the reserve and for the protection and control of the public using it <p>Secondary – if applicable</p> <ul style="list-style-type: none"> • Develop open portions for amenities and facilities where these are necessary to enable the public to obtain benefit and enjoyment from the reserve • Manage and protect historic, archaeological, geological, biological, or other scientific features
Guidance for Selection	<ul style="list-style-type: none"> • Area should contain one or more natural or associated cultural or heritage features of special significance, or natural landscape of high scenic quality • Area should be large enough to protect the integrity of the features and its immediately related surroundings
Organisational Responsibility	<ul style="list-style-type: none"> • Owned by the Crown or vested in an administering body • Controlled and managed by DOC unless an administering body would better carry out the purposes of the reserve

Scenic Reserve B (Modified s.19(1)(b))

Purpose (s.19(1)(b))	A suitable area of land (or land and water) which by development and the introduction of flora, whether indigenous or exotic, will become of significant scenic interest or beauty
Objectives of Management (s.19)	<p>Primary</p> <ul style="list-style-type: none">• As appropriate to the purpose, preserve the indigenous flora and fauna, biological associations, and natural environment and beauty as far as possible• As appropriate, exterminate exotic fauna and (to be extent consistent with purpose) exotic flora as far as possible; allow the public freedom of entry and access subject to conditions and restrictions necessary for the protection and well-being of the reserve and for the protection and control of the public using it <p>Secondary</p> <ul style="list-style-type: none">• Develop open portions for amenities and facilities where these are necessary to enable the public to obtain benefit and enjoyment from the reserve• Manage and protect historic, archaeological, geological, biological or other scientific features• Maintain value as a soil, water and forest conservation area
Guidance for Selection	<ul style="list-style-type: none">• Degraded natural or semi-natural areas where the public interest warrants restoration or conversion as a scenic attraction• Area will generally be small
Organisational Responsibility	As for recreation reserve

Historic Reserve

Purpose (s.18)	An area of land (or land and water) possessing places, objects and natural features as are of historic, archaeological, cultural, educational and other special interest
Objectives of Management (s.18)	<p>Primary</p> <ul style="list-style-type: none"> • Manage structures, objects and sites to illustrate with integrity the history of New Zealand • Allow the public freedom of entry and access subject to such conditions and restrictions as are necessary for the protection and general wellbeing of the reserve and for the protection and control of the public using it • As appropriate, preserve the indigenous flora and fauna and natural environment as far as possible <p>Secondary – if applicable</p> <ul style="list-style-type: none"> • Manage and protect scenic, archaeological, geological, biological, or other scientific features, or indigenous flora and fauna, or wildlife • Maintain value as a soil, water, and forest conservation area
Guidance for Selection	<ul style="list-style-type: none"> • Area should be sufficiently large to preserve all the significant historic or archaeological features associated with the place, object or natural feature • Area should include sufficient additional land as a buffer against incompatible development or as unobtrusive sites for necessary services for management and public use • The primary value should be traditional, historic or archaeological – through an association with major events, or Maori tradition • Area should have immediate interest to the visitor, or be important as a key for continuing research and interpretation of New Zealand history
Organisational Responsibility	<ul style="list-style-type: none"> • Owned by the Crown or vested in an administering body • Controlled and managed by DOC unless an administering body would better carry out the purposes of the reserve

Recreation Reserve

Purpose (s.17)	An area of land (or land and water) possessing open space, and outdoor recreational values especially suitable for recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside, including recreational tracks in the countryside
Objectives of Management (s.17)	<p>Primary</p> <ul style="list-style-type: none"> • Allow the public freedom of entry and access subject to such conditions as are necessary for the protection and wellbeing of the reserve and for the protection and control of the public using it • Conserve those qualities which contribute to the pleasantness, harmony and cohesion of the natural environment and to the better use and enjoyment of the reserve <p>Secondary</p> <ul style="list-style-type: none"> • Manage and protect scenic, historic, archaeological, biological, geological or other scientific features or indigenous flora or fauna or wildlife • Maintain value as a soil, water and forest conservation area
Guidance for Selection	<ul style="list-style-type: none"> • Area may be totally modified eg suitable for sports fields • Area may be in a partly natural conditions eg suitable for picnic or camp sites or like development • Area may be lineal eg suitable for recreational walking and/or vehicle use
Organisational Responsibility	<ul style="list-style-type: none"> • Owned by the Crown or vested in a territorial authority or other administering body • Under the control and management of DOC unless an administering body would better carry out the purpose of the reserve

Local Purpose Reserve

Purpose (s.23)	An area of land (or land and water) suitable for a specified local educational or community purpose which does not duplicate any other reserve purpose
Objectives of Management (s.23)	<p>Primary</p> <ul style="list-style-type: none"> • Determined by the purpose • Prohibit access to the whole or any part of the reserve except by permit where appropriate <p>Secondary</p> <ul style="list-style-type: none"> • Manage and protect scenic, historic, archaeological, biological or natural features • Maintain value as a soil, water, and forest conservation area
Guidance for Selection	Depends on purpose (but generally very small, modified areas)
Organisational Responsibility	As for historic reserve

What Types of Local Purpose Can a Council Use?

The Act does not specifically restrict the types of local purpose. In general they should be:

- consistent with the general purposes of the Act
- not duplicate any of the primary purposes in ss.17 to 21
- allow flexibility of community use as far as possible.

The following types are suggested as the ones a council would mainly use: aerodrome, environmental and landscape protection, cemetery, community buildings, esplanade, health, plantation, public hall, public utility, soil conservation and river control.

Proliferation of types should be avoided if at all possible.

Esplanade Reserve

Purpose	A fixed linear area of riverbank, lakeshore or seashore of at least three metres or greater width (usually 20m) either in a natural or modified state available primarily for conservation and public access
Objectives of Management	<p>Primary (one or more; refer s.229 RMA)</p> <ul style="list-style-type: none"> • Maintain or enhance the natural functioning of the adjacent sea, river or lake • Maintain or enhance aquatic habitats • Protect associated natural values • Mitigate natural hazards • Enable the public access to or along any sea, river or lake <p>Secondary (s.23)</p> <ul style="list-style-type: none"> • Manage and protect scenic, historic, archaeological, biological or natural features • Maintain value as a soil, water and forest conservation area
Guidance for Selection	<ul style="list-style-type: none"> • Selected on subdivision of land, under the provisions of the RMA, as alternatives to "esplanade strips". Apply to allotments of less than 4ha (or in some cases 4ha or more, s.237F RMA) adjoining: the sea (MHWM), along the bank of any river with a bed of average width of 3m or more; or the margin of any lake whose bed has an area of 8ha or more. • Otherwise selection is determined by the provisions of policy statements and district plans in accordance with Part II of the Second Schedule to the RMA
Organisational Responsibility	<ul style="list-style-type: none"> • Vested in the territorial authority for the district (s.231 RMA) • Administered by the territorial authority for the district (s.231 RMA)

2. Can you please explain why there are reserves that are managed by TDC's Parks & Reserves yet not subject to the Reserves Act 1977?

Several park/'reserve' areas that Council administers in the Mouere-Waimea Ward are not subject to the Reserves Act 1977. Most of these were purchased (or gifted to Council) with fee simple title and have never been formally declared to be a reserve under the Act. These 47 land parcels, representing 23 separate park areas, are listed under 'Further information' on this webpage: <https://www.tasman.govt.nz/my-council/public-consultation/current-consultations/proposals-to-classify-reserves-in-mouere-waimea-ward/>.

While these areas form key parts of Council's open space network in Mouere-Waimea Ward, we intend to retain them as is (i.e. not declare them as reserves under the Act) at this point in time. However, all 47 parcels will be included within the Draft Mouere-Waimea Ward Reserve Management Plan, to provide management guidance for these areas.

The reason for not declaring these areas as reserves now is that Wakatū Inc has asked Council to defer any processes that may result in changes to land status (e.g. declaring land as reserve) until the High Court has made its determination regarding the Nelson Tenth's Reserves.

Information about the Nelson Tenth's Reserves case

On 28 February 2017, the Supreme Court released its decision in *Proprietors of Wakatū & Rore Stafford v Attorney-General* [2017] NZSC 17, allowing the appeal, and sending the case back to the High Court to determine matters of breach, loss and remedy.

The case relates to the creation of the Nelson Tenth's Reserves, in the early days of colonial New Zealand. It seeks to secure the return of land from the Crown to make up the full 'tenth' that was guaranteed to Māori, but which the Crown never reserved in full.

This is not a Treaty claim. It is a private law claim centred on the establishment of Nelson/Tasman by the New Zealand Company in 1839-1845. It is about the rights of Māori customary landowners to hold the Crown to account in circumstances where the Crown agreed to act on their behalf in fulfilling the terms of the Spain award. Under the Spain award, land amounting to one-tenth of the recommended grant to the Company was to be reserved for the benefit of the original Māori owners. Only 5,100 acres of the 15,100 acres of tenth reserves were identified and reserved at the time of the award.

The Supreme Court did not finally decide the case, on the basis that the High Court still needs to make findings on the extent to which the Crown has acted in breach of its fiduciary duties, and on what remedies should be granted for those breaches. The case has been referred back to the High Court to decide these further points. The Supreme Court's decision is significant because it is the first time a New Zealand court has found that the Crown owes fiduciary duties to Māori landowners to protect their property rights.

3. The reserves that are not subject to the Reserves Act does this mean these reserves do not have the same level of protection from being sold or future treaty claims?

Park and reserve land is also zoned under the Tasman Resource Management Plan (TRMP). These zones, along with their governing objectives and policies, are set out in the TRMP. Most of the Council's park and reserve land is either zoned 'Recreation' or 'Open Space', while some areas with significant biodiversity values are zoned 'Conservation'. Regardless of whether these land parcels are subject to the Reserves Act or not, where they are zoned as

such, this creates a public expectation that these areas are to be managed as parks and reserves. A separate process (Omnibus Plan Change) is currently underway to review TRMP zoning of several parks and reserves in the District where that zoning is no longer fit for purpose (e.g. some are currently zoned 'Rural' or other zones that reflected the land status prior to their acquisition as a Council reserve).

Subpart 3 of the Local Government Act 2002 also provides additional protection to park land that is not subject to the Reserves Act, by requiring consultation to take place before a local authority can sell or dispose of such land, or lease it for more than six months:

"Subpart 3—Restrictions on disposal of parks, reserves, and endowment properties

Parks and reserves

Section 138 - Restriction on disposal of parks (by sale or otherwise)

(1) A local authority proposing to sell or otherwise dispose of a park or part of a park must consult on the proposal before it sells or disposes of, or agrees to sell or dispose of, the park or part of the park.

(2) In this section,—

dispose of, in relation to a park, includes the granting of a lease for more than 6 months that has the effect of excluding or substantially interfering with the public's access to the park

park—

(a) means land acquired or used principally for community, recreational, environmental, cultural, or spiritual purposes; but

(b) does not include land that is held as a reserve, or part of a reserve, under the Reserves Act 1977."