
REPORT 7
(1215/52/IM)

CLASSIFICATION OF LAND UNDER THE RESERVES ACT 1977

1. Purpose of Report

To seek the Committee's approval to publicly notify the recommended reserve declarations and classifications contained in Table 2 (section 5.3) to this report, with the intention of the Council resolving that the sites will be declared and classified as reserve accordingly.

2. Executive Summary

In May 2004 the Council adopted the Outer Green Belt Management Plan (OGBMP).

Not all of the Council land covered by the management plan has been declared reserve under the Reserves Act 1977 (the Act). There are 57 sites out of a total of 161 that are currently described as fee simple and one site that is described as legal road.

The Reserves Act (1977) and the Reserves Act Guide (the Guide) provide a process and methodology for declaring and classifying land as reserve. Section 14 of the Act provides the Council with the statutory authority to pass a resolution to declare any land vested in Council as reserve, subject to compliance with the necessary public notification procedures and ministerial approval.

The OGBMP seeks to declare and classify land as reserve under Policy 4.1.2.5 *Reserve Declarations, Classification and Naming*.

When declaring a piece of land as reserve, the Act provides for assignment of appropriate classifications according to the sites' primary purpose. The possible classifications are specified in sections 17 to 23 of the Act and include but are not limited to Local Purpose, Recreation, Historic, Scenic or Scientific.

A thorough methodology has been followed to determine the appropriate classification categories proposed in Table 2 of this report. The methodology included obtaining acquisition history and visiting the sites to assess the primary and secondary values, the purpose, current and potential use, and the contribution to the wider Outer Green Belt context. This information was assessed against the criteria in the Act and the Guide to determine the most appropriate classification category.

In addition to the Outer Green Belt lands proposed for classification it is proposed that other lands including the ex Miet lands (now part of Makara Peak mountain Bike Park) and land off the end of Rhine Street being part of the Tawatawa ridge reserve are classified at the same time.

3. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Approve the attached sites in Table 2 to be declared and classified as reserve in accordance to Section 14 of the Reserves Act 1977, subject to the public notification process required by the Reserves Act 1977.*
3. *Authorise officers to undertake public notification in accordance with the Reserves Act 1977.*

4. Background

4.1 The Outer Green Belt Management Plan

The Act requires management plans be developed for land held as reserve. In May 2004, Council adopted the Outer Green Belt Management Plan (OGBMP). The role of the management plan is to direct or manage the use of the land classified as reserve under the Act.

Although not a legal requirement, to add to the credibility of the OGBMP it is important that all land managed under the plan is reserve under the Act.

There are 161 land sites covered by the OGBMP. The majority of sites managed under the OGBMP are already reserve under the Act, but there are still 57 sites not declared and classified as reserve.

The OGBMP under Section 4.1.2.5 *Reserve Declarations, Classification and Naming* recognised the importance of the land in the Outer Green Belt and identified the need to provide the land with an extra layer of legislative protection under the Act.

The policy states ...“ *The Council will identify all Wellington City Council properties in the Outer Green Belt which should be reserves but are not, and in accordance with the Reserves Act 1977 and the objectives of the Plan, undertake the necessary reserve declarations, classification and naming*”(page 57 OGBMP)

It also mentions that.....

“Without limiting the consultation and classification process, it is generally intended that all reserves in the Outer Green Belt will be classified as Scenic Reserve unless there are particular reasons for using an alternative classification.

4.2 Reserves Act 1977 Process and guidelines

The Act and the Guide provide a process and methodology for declaring and classifying land as reserve.

Under section 14 of the Act, the Council can, by resolution, that is subject to public notification, and approval of the Minister of Conservation, declare any land vested in it to be a reserve. When Council resolves to declare land reserve it must assign appropriate classification within the framework identified in the Guide.

The determination of an appropriate classification for a reserve should follow a robust methodology and criteria and is a matter the community should have adequate input into.

A classification has been recommended for each of the sites to be declared reserve. The categories are:

- Local purpose reserve
- Recreation reserve
- Historic reserve
- Scenic reserve

Further information about each classification category is provided in Appendix A.

4.3 Methodology

The Reserves Act determines the methodology for classifying reserves.

Outer Green Belt reserves were assessed for their purpose, current use, reserve values and contribution to the wider context of the landscape of the Outer Green Belt. Fee Simple lands not yet declared reserves were assessed in the context of their location in the Outer Green Belt.

Before recommending the appropriate classification, it was necessary to identify any issues that might affect classification of reserves and their management. This involved consulting with the Department of Conservation on issues relating to the Act and Wellington City Council City Records, Wellington City Council

Archives, Parks & Gardens and Capacity to determine acquisition history, current leases and licences and any other current use of lands.

The assigning of classifications to the one site outside the Outer Green Belt Management Plan discussed under heading 4.3 above was a relatively straightforward process, based on an analysis of its current and possible future reserve values, current use and location.

Reserve classifications considered appropriate to the Outer Green Belt sites were Recreation, and Scenic B.

5. Discussion

5.1 *General approach to the Outer Green Belt lands*

The Outer Green Belt plan identifies scenic reserve status as the most appropriate status for most of the Council owned lands. This is because the emphasis of land management in the Outer Green Belt is on the protection of landscapes and ecosystems. Tracks and other facilities are provided primarily to enhance the public's enjoyment of the natural environment.

5.2 Implications of Classification Categories

The process of classification binds the Council and limits (to a greater or lesser extent) the permitted uses of the land. This increases the protection that the land enjoys and the certainty for the community about the future uses that may occur. The following table outlines the opportunities and restrictions of each classification.

Table 1. Implications of Classification under the Reserves Act

Classification Category	Recreation	Scenic B	Historic	Local Purpose
Primary Purpose	Emphasis on the retention of open spaces and on outdoor recreational activities. To provide for the physical welfare and enjoyment of the public particularly through recreation and sporting activities and for protection of the natural environment and beauty	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.	To protect and preserve in perpetuity places, objects and natural features of historic, archaeological, cultural, educational and other special interest.	Managed and developed for local educational, community, social or other local purposes which do not come within any other classification and which are specified in the classification.
Implications:				
on development	Council has high level of decision making authority..	Council makes decisions when development is anticipated in the management plan. This includes pedestrian and cycle access and tracks, necessary structures and facilities e.g. seating, signage, fencing.		Council makes all decisions. Reserves are managed to protect the local purpose. Management and development must be consistent with that local purpose.
on the natural environment	Recreational use and development must be compatible with natural reserve values and open space.	Activities related to the natural environment are anticipated in the management plan allowing Council to make decisions - including plant restoration and re-vegetation, weed, animal and plant pest control.		

	OGBMP policies protect key values e.g. enhancing coastal ecosystems, restoring natural features.		
on authority to grant concessions: leases, licences, permits and easements	Council (as the reserves come under an approved management plan).	DOC – Wellington Conservancy has delegated authority. Possible concessions consistent with the primary purpose include access and sightseeing, filming, service easements, seed collection.	Council

5.3 Declaration of Reserves under Section 14 Reserves Act

The following table outlines the sites on the Outer Green Belt and other lands which are currently not designated as reserve or require a change of reserve status. The previous recommendation, the current recommendation and whether a change is being recommended are highlighted in the final column. Maps showing the areas in the table are attached in Appendix B and C.

Table 2. Sites to be declared Reserve under Section 14 of the Act.

Site Name	ID No.	WCC Site Number	Area (ha)	Legal Description CT/DP/SO	District Plan Zoning	Description	Proposed Classification (from OGB Management Plan) & actions
Old Coach Road Reserves	3.1.14	2527	2.6	Lot 2 DP 320360 CTWN 80654	Outer Residential	Fee simple	Declare and classify Scenic B Reserve , while making provision for the possible McLintock Street extension (refer Northern Growth Management Framework).
Old Coach Road Reserves	3.1.15	2527	16.07	Lot 3 DP 320360 CTWN 80655	Open Space B and Rural	Fee simple	Declare and classify Scenic B reserve
Awarua Street Reserves	3.3.3	1187	8.6527	Pt Sec 9 Kaiwharawhara District SO 11019 CTWN 20D/1109	Conservation 5D and part Open Space B	Fee simple	Declare and classify Scenic B reserve
Awarua Street Reserves	3.3.5	1740	91.6423	Pt Sec 128 Ohariu District SO11030 CTWN 47C/982	Part Conservation 5D and Part Open Space B	Fee Simple	Declare and classify Scenic B reserve

Kilmister Tops	4.1.3	2342	18.1284	Pt Sec 57 Makara District CTWN 22B/793	Rural	Fee Simple	Declare and classify Scenic B reserve
Kilmister Tops	4.1.4	2342	28.0585	(Formerly Pt Sec 11 Kaiwharawhara District) Part Application Plan 336 CTWN 22B/443	Open Space B	Fee Simple	Declare and classify Scenic B reserve
Kilmister Tops	4.1.5	2342	13.4823	Pt A2 Otari Block CTWN 94/29	Rural	Fee Simple	Declare and classify Scenic B reserve
Kilmister tops	4.1.6	2342	11.9091	Pt A3 Otari Block CtWN 115/275	Conservation 5G	Fee Simple	Declare and classify Scenic B reserve
Access to Johnson Hill Scenic Reserve	4.3.6	472	0.4510	Pt Sec 37 Karori District CTWN 20B/1256	Open Space B	Fee Simple	Declare and classify Scenic B reserve
Access to Karori Park from Sunshine Avenue	5.1.9	552 & 553	0.0232	Lot 204 DP 49090 CTWN 35B/303	Outer Residential	Fee simple for access way purposes	Declare reserve and classify as Local Purpose (Park Access)
Water Reservoir	5.2.2	101	1.4292	Pt Sec 42 Karori District and being also Pt Lot 1 Plan A/2142 CTWN 942/12	Rural	Fee Simple	Declare reserve and classify as Local Purpose (Water Reservoir))
Makara Peak Mountain Bike Park	5.2.4	2074	2.0477	Lot 1 DP 48353 CtWN 20B/198	Rural	Fee Simple	Declare and classify Scenic B reserve
Makara Peak Mountain Bike Park	5.2.8	2073	11.5491	Pt Lot 2 Plan A/2142 and Pt Lot 2 Plan A/2539 and Pt Sec 85 Karori District CTWN 49C/580	Rural	Fee Simple	Declare and classify Scenic B reserve
Makara Peak Mountain Bike Park	5.2.9	2073	4.8487	Lot 12 DP 82980 CTWN 49C/578	Part Open Space part Rural	Fee Simple	Declare and classify Scenic B reserve
Makara Peak Mountain Bike Park	5.2.10	2073	12.3213	Pt Sec 49 Makara District CTWN 49C/579	Rural	Fee Simple	Declare and classify Scenic B reserve
Makara Peak Mountain Bike Park	5.2.12	2076	109.7403	Pt Sec 47 & 48 Makara District and Pt Sec 53 Karori District CTWN 31A/318	Open Space B	Fee Simple	Declare and classify Scenic B reserve
Ex-Fletcher Residential land, 190 South Karori Road (part)	5.2.13	1320	5.6059	Pt Sec 43 Karori District CTWN 46B/836	Open Space B	Fee Simple	Declare and classify Scenic B reserve
Ex-Fletcher Residential land, 190 South Karori Road (part)	5.2.14 and 6.1.1	1320	75.7731	Part Sec 45-46 Karori District, and Part Sec 55 Karori District CTWN 46B/837	Open Space B	Fee Simple	Declare and classify Scenic B reserve
Ex-Fletcher Residential land, 190 South Karori Road (part)	6.1.2	1320	16.9318	Pt Sec 46 and 55, Karori District CTWN 46B/835	Open Space B	Fee Simple	Declare and classify Scenic B reserve

Croyden park	6.2.6	1392	0.5846	Part Section 2 Upper Kaiwharawhara District CTWN 22D/469 pt	Open Space B	Fee Simple for the purpose of a pleasure ground	Declare reserve and classify Recreation Reserve
Land off the end of Rhine Street		1078	6.8797	Lot 610 DP 817 CTWN 529/181	Open Space B	Fee Simple	Declare and classify Scenic B reserve
Ex Miet lands			9.5882	Lot 1 DP 16122 and Pt Sec 43 Karori District CtWN 648/13	Rural	Fee Simple	Declare and classify Scenic B reserve

5.3 Sites requiring further work

5.3.1 Public Works Act 1981:

Following research into the acquisition history of the sites, it appears that some of the sites may be affected by the Public Works Act 1981 because they were acquired for public works purposes.

Preliminary legal advice has confirmed that further legal investigation is required for such sites. If these sites are subject to the Public Works Act, a resolution and gazette notice will be necessary to declare that the public work for which the land is held has changed to reserve, before the land can be formally declared and classified as reserve under the Act. Therefore they are not included in the list to be declared and classified at this stage, but may be at a future date once further investigation has been completed and the necessary steps taken under the Public Works Act.

The sites include:

- Spicer Forest Properties (Sites 1.1.1 to 1.1.3)
- Burrows Avenue Reserve (6.1.9)
- Birdwood reserve (6.2.5)
- Carey's Gully (7.2.1 to 7.2.5)
- Otari Wilton's Bush (4.2.12 to 4.2.13)
- Part of the lands known as Tawatawa Ridge./ Preston's Gully between Murchison road and Quebec Street.

5.3.2 Old Coach Road (3.1.13):

Action needed on this historic road is identified as follows in the Outer Green Belt Plan:

'Consider road closure and creation of historic reserve excluding any section needed for the possible McLintock Street extension (refer Northern Growth Management Plan). Redefine any part not needed for roading purposes as Heritage Area in District Plan, where not already defined'

A decision on whether to proceed with classification as historic reserve will be taken following consultation with Historic Places Trust. This will require a road stopping process to take place prior to the classification process. This work can start once a final decision has been made on the McLintock Street extension. In the meantime it is intended to gain Council approval under the traffic bylaws to restrict use of the road to authorised vehicles only.

5.3.3 Further consultation:

Karori Sanctuary Wildlife Sanctuary and Boundary Properties (6.2.2 and 6.2.3) adjoin the western side of the Sanctuary. The land is outside the fence and

leased area but provides an important buffer to the Sanctuary. There are some issues that need resolving prior to declaration as reserve. The OGBMP states;

“This land (6.2.2) bordering Versailles Street has been the subject of discussion as to its best use and status. As public land purchased for sanctuary purposes by Wellington City Council it should be protected. However it has been maintained and used in common by Versailles street residents for many years as an open green strip bordering 10 or more houses on the eastern side of the street. The present title boundary runs very close to some of these houses and the area may not work well as a reserve without some rationalisation of this boundary and clear definition of its use and management. The land provides excellent views into the valley and should be retained for public enjoyment and as a buffer to the Sanctuary.”

In addition OGB site number 6.2.3 has some encroachment issues that need resolving prior to its declaration as reserve.

5.3.4 Future disposal:

There are two sites not included at this stage pending further investigation as to their future development and possible part disposal

- *Airstrip block (1.3)* The 28 hectare block of land was purchased in 2001 for addition to the Outer Green Belt. It is adjacent to Spicer Forest and contains a 25 hectare block of pines, airstrip and dwelling. The OGBMP proposes the following actions: *Seek to divest house block subject to provision of alternative road access and subdivision. Initiate process to rezone top of the property as Open Space B. Initiate reserve declaration (scenic) following subdivision*. It is recommended that this proposed subdivision is put on hold pending the development of long term plans for the Upper Stebbings Subdivision and Spicer Forest.
- *Kilmister Tops (4.1.2)* The land was purchased from Brian Kilmister in March 1999. It was proposed that the rear of the property would be subdivided and on sold following protection of key natural values and securing of access rights for the proposed Thorndon to Makara track. This work is almost complete. Part of the delay in resolution of this issue relates to the divestment of Otari Farms by Probatas to Council and a private owner. This land is adjacent to the Kilmister Tops. Officers plan to come back to Council in 2008 with a proposed resolution for the long term management and/or disposal of part of this block.

6. District Plan Zoning

Throughout the process of assessing the land for reserve classification the District Plan zoning was also considered. The following areas will be considered by the District Planning Team to assess whether a zone change to Open Space is appropriate.

- Old Coach Road Reserves (3.1.14, 3.1.15, 3.1.16)
- Kilmister tops (4.1.2, 4.1.3, 4.1.5)
- Access to Sunshine Avenue (5.1.9)
- Makara Peak Mountain Bike Park (5.2.1, 5.2.4, 5.2.8 – 5.2.10)
- Ex Miet land

7. Next steps

Public Notice

- If the committee agrees with the recommendations in this report then officers will proceed with formal consultation early in the new year.

Public consultation and submission requirements are prescribed in sections 119 and 120 of the Act. Steps which the Council will need to take are:

- (i) to advertise its notice of intention to pass a resolution declaring the sites to be reserve and calling for objections (the public notification period is one month, with additional requirements if notification occurs over the Christmas period);

Officers will also prepare an information package for consultation based on the contents of this report. This will describe each site, the methodology used to determine the classification categories and the proposed classification category. The public notice will be in local papers and available on the Council's web site. Specific communities of interest will be sent notification and an information pack.

Specific communities of interest include community and residents groups who have an interest in the Outer Green Belt or the other lands. Iwi consultation will be undertaken by officers at the same time and in conjunction with the public consultation process described above.

- (ii) to receive any objections and submissions and give objectors and submitters a right to be heard. Therefore a hearing may need to be held for this purpose;
- (iii) to consider submissions and objections and if appropriate pass a resolution under section 14 to declare the sites set out in Table 2 of this report to be reserve according to the classifications set out in that Table.
- (iv) to then refer all objections and the Council's decision (including the extent to which it has accepted or not accepted any objections and its reasons) to the Department of Conservation for a Ministerial decision.

If the Minister upholds the Council's decision, the Council then has delegated authority to formally gazette the sites as reserve. The process is not completed,

and the sites will not be reserve until a gazette notice is published in the *New Zealand Gazette*.

8. Conclusion

This report recommends 23 sites to be declared reserve and proposes an appropriate classification category for each site.

Declaring and classifying land reserve under the Act will allow for added protection and guidance of management decisions for that land and will more accurately reflect the character of the land involved.

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Supporting Information

1) Strategic Fit / Strategic Outcome

It fits under the Environment Strategy and portfolio.
This work has been done in accordance with the SCMP policy 6.13

2) LTCCP/Annual Plan reference and long term financial impact

A004

3) Treaty of Waitangi considerations

Officers have engaged with Local Iwi

4) Decision-Making

The report sets out a number of options and reflects the views and preferences of those with an interest in this matter who have been consulted with.

5) Consultation

a) General Consultation

Once committee approval has been obtained then officers will publicly notify under the Reserves Act.

b) Consultation with Maori

Officers have engaged with Local Iwi

6) Legal Implications

Council's lawyers have been consulted during the development of this report.

7) Consistency with existing policy

Consistent with the policies in the OGBMP

List of Appendices.

Appendix A Information on the classification categories from the
Reserves Act 1977

Appendix B Maps showing site locations

Appendix C Aerials of each site

Appendix A - Reserve Classification Categories

Local Purpose Reserve

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

Historic Reserve

Purpose	An area of land (or land and water) possessing places, objects and natural features 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

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<p>Guidance for Selection</p>	<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
<p>Organisational Responsibility</p>	<ul style="list-style-type: none"> • Owned by the Crown or vested in an administering body; or • Controlled and managed by DOC unless an administering body would better carry out the purposes of the reserve

Recreation Reserve

Purpose	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	<p>Area may be totally modified eg suitable for sports fields</p> <p>Area may be in a partly natural conditions eg suitable for picnic or camp sites or like development</p> <p>Area may be lineal eg suitable for recreational walking and/or vehicle use</p>
Organisational Responsibility	<p>Owned by the Crown or vested in a territorial authority or other administering body</p> <p>Under the control and management of DOC unless an administering body would better carry out the purpose of the reserve</p>

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

Purpose	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(1)(b))	<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 the 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	<p>Degraded natural or semi-natural areas where the public interest warrants restoration or conversion as a scenic attraction</p> <p>Area will generally be small</p>

Organisational Responsibility	As for recreation reserve
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