
REPORT 6
(1215/12/IM)

RESOLUTION TO CLASSIFY LAND VESTED IN THE COUNCIL AS RESERVE

1. Recommendations

It is recommended that the Tawa Community Board:

1. *Receive the information.*
2. *Endorse the recommendations contained in the report to be considered by the Strategy and Policy Committee on Thursday 5 November 2009.*

Attached is the report which the meeting of the Strategy and Policy Committee will be considering at its meeting on Thursday 5 November 2009.

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RESOLUTION TO CLASSIFY LAND VESTED IN THE COUNCIL THROUGH SUBDIVISION AS RESERVE LAND

1. Purpose of Report

To recommend to the Committee that the Council classifies the land as listed in Schedules 1, and 2, and as shown in Appendices A and B as reserve land according to its primary purpose as stipulated in each schedule, under the Reserves Act 1977.

2. Executive Summary

Land vested in the Council requires subsequent classification under the appropriate legislation. While seeking the Minister of Conservation's approval of the Northern Reserves Management Plan, it has been identified that land vested in the Council as a reserve on subdivision had not been classified as reserve in accordance with the Reserves Act 1977.

The parcels of land in Schedule 1 and shown on aerial maps in Appendix A were vested in the Council according to their primary purpose, mostly as Recreation Reserve. The proposed classifications for these parcels of land are consistent with the purpose as stated on the deposited plan, and can be classified by way of resolution of the Council under section 14 of the Reserves Act 1977. Classification of land under section 14 does not require public consultation.

The parcels of land in schedule 2 and shown on aerial maps in Appendix B were originally vested in the Council as Recreation Reserve. This was because this classification permits a wide range of activities on the land. After further investigation of these land parcels it was determined they have more appropriate primary purposes than Recreation Reserve, and they therefore require classification under section 16 of the Reserves Act 1977. Classification of land under section 16 requires public consultation.

In addition to the classification of the land in Schedules 1 and 2, all other land acquired as a reserve by the Council in the same manner will be checked and where necessary classified in accordance with the Reserves Act 1977. Officers have implemented new processes to ensure that in future land vesting as a reserve on subdivision follows the correct classification procedure.

3. Recommendations

It is recommended that the Committee:

1. *Receives the information.*
2. *Recommends to the Council that:*
 - *It resolves under section 14 of the Reserves Act 1977 that the land vested in the Council as reserve under section 239 of the Resource Management Act 1991 as described in Schedule 1 and on aerial maps in Appendix A be classified as reserve land according to its primary use or purpose.*
 - *It approves under section 16(2A) of the Reserves Act 1977 that the land vested in the Council as reserve under section 239 of the Resource Management Act 1991 as described in Schedule 2 and on aerial maps in Appendix B to be classified as reserve land according to its primary purpose, subject to the public notification process required by the Reserves Act 1977.*
 - *Notes that the parcels of land in schedule 2 and on aerial maps in appendix B were originally vested in the Council as Recreation Reserve. The proposed classifications of these parcels are now different, and thus require classification under section 14 of the Reserves Act 1977.*

4. Background

The Northern Reserves Management Plan (the Plan) was approved by the Council on 29 August 2008. Under section 41 of the Reserves Act 1977 (Reserves Act) the Council is required to obtain approval from the Minister of Conservation prior to implementing any Reserves Management Plan. This is done through the Department of Conservation (DOC), which reviews the Plan and provides any necessary feedback prior to obtaining approval from the Minister. The Minister's approval will allow the Council to manage the reserve land under the Plan without seeking further approval in regard to leasing or licensing the land and easements over the land.

On reviewing the Plan, DOC identified a parcel of land which had not been gazetted as scenic reserve land by the Council and therefore declined to approve the Plan until the classification process had been completed. As a result of the subsequent investigation by officers, 66 parcels of land vested in the Council, were identified within the Plan as requiring classification.

5. Schedule 1

Land Vested in the Council, proposed to be classified according to its primary purpose under section 14 of the Reserves Act

SECTOR 1: West Tawa

Site name	Land Area ha	Legal description	CT reference	Recommended Reserve Classification
Main Road- Porirua Stream	0.0158	Lot 3 DP 70329	WN9A/1353	Local Purpose Reserve (Esplanade)
Oxford Street Reserve	0.0059	Lot 3 DP 80931	WN47B/985	Local Purpose Reserve (Esplanade)
Porirua Stream/Oxford Street Reserve	0.0036	Lot 3 DP 87293	WN54D/736	Local Purpose Reserve (Esplanade)
	0.138	Lot 2 DP 66557	WN36C/292	Local Purpose Reserve (Esplanade)
	0.0036	Lot 3 DP 82825	WN49C/215	Local Purpose Reserve (Esplanade)
	0.082	Lot 5 DP 70008	WN41C/307	Local Purpose Reserve (Esplanade)
	0.0064	Lot 4 DP 82706	WN49A/949	Local Purpose Reserve (Esplanade)
	0.0035	Lot 3 DP88094	WN55C/886	Local Purpose Reserve (Esplanade)
	0.0028	Lot 3 DP 76763	WN43A/404	Local Purpose Reserve (Esplanade)
	0.116	Lot 4 DP 66557	WN36C/293	Local Purpose Reserve (Esplanade)
	0.1015	Lot 2 DP 70008	WN41C/304	Local Purpose Reserve (Esplanade)
	0.0167	Lots 5-6 DP 68979	WN32C/836	Local Purpose Reserve (Esplanade)
Willowbank Reserve	0.0078	Lot 87 DP 34328	WN10B/1186	Recreation Reserve
	1.3506	Lot 80 DP 33022	WN6C/1335	Recreation Reserve
	0.4325	Lot 81 DP 33022	WN6C/1335	Utility Reserve

SECTOR 2: Takapu Valley, Eastern Tawa, Grenada North

Site name	Land Area ha	Legal description	CT reference	Recommended Reserve Classification
Grenada North Reserve	7.1345	Lot 5 DP 54434	WN23C/210	Recreation Reserve
	6.66	Lot 2 DP 64240	WN34C/627	Recreation Reserve
Kilkelly	0.0008, 0.0006	Lots 107 & 108 DP 384648	338420 & 338421	Local Purpose Reserve (Isolation Strip)
Kilkelly Close Reserve	0.255	Lot 1 DP 87309	WN52C/990	Recreation Reserve
Pikitanga Close	0.654	Lot 12 DP 90311	WN57D/361	Recreation Reserve
Pikitanga Recreation Reserve	1.494	Lot 105 DP 397890	390940	Recreation Reserve
	0.7275	Lot 1 DP 81513	48A/690	Recreation Reserve
Wilf Mexted Scenic Res	2.342	Lot 10 DP 88281	WN55B/538	Scenic Reserve
Wilf Mexted Recreation Res	0.1067	Lot 54 DP 371702	342412	Recreation Reserve
Woodburn Reserve ROW	0.0731	Lot 53 DP 371702	342411	Recreation Reserve
Woodman Drive Lookout	0.7458	Lot 1 DP 82612	WN49A/659	Recreation Reserve

SECTOR 3: Churton Park, Stebbings, Glenside

Site name	Land Area ha	Legal description	CT reference	Recommended Reserve Classification
Burbank Crescent play area	0.2125	Lot 1 DP 53495	WN26B/105	Recreation Reserve
	0.2015	Lot 78 DP 63076	WN32D/708	Local Purpose Reserve (accessway)
	0.0572	Lot 79 DP 63076	WN32D/709	Recreation Reserve
Churton Park & play area	0.1202	Lot 1 DP 47752	WN19A/1277	Recreation Reserve
	1.3108	Lot 1 DP 54252	WN24C/499	Recreation Reserve

	0.0507	Lot 3 DP 73175	WN41C/497	Recreation Reserve
Rowells Road Reserve	0.6388	Lot 2 DP 79549	WN46A/260	Local Purpose Reserve (Esplanade)
Lakewood Reserve	0.1997	Lot 1 DP 76508	WN43B/101	Recreation Reserve
	3.3284	Lot 1 DP 49752	15A/85	Recreation Reserve
	0.2288	Lot 19 DP 63920	WN33D/740	Recreation Reserve
	0.2404	Lot 4 DP 311793	46529	Recreation Reserve
	0.0077	Lot 18 DP 63920	WN33D/739	Recreation Reserve
	0.0986	Lot 3 DP 53873	WN24A/953	Recreation Reserve
	0.4155	Lot 18 DP 74198	WN38D/460	Recreation Reserve

SECTOR 4: Lincolnshire Farm, Grenada Village,

Site name	Land Area ha	Legal description	CT reference	Recommended Reserve Classification
Water Reservoir, Woodridge Drive	0.1668	Lot 1 DP 88853	WN56B/867	Local purpose Reserve (Reservoir)
Kentwood Drive Reserve	2.6754	Lot 441 DP 352897	216702	Recreation Reserve
Ring Lane Recreation Reserve	0.1116	Lot 32 DP 86292	WN54A/122	Recreation Reserve

SECTOR 5: Johnsonville

Site name	Land Area ha	Legal description	CT reference	Recommended Reserve Classification
Helston Park and play area	3.4	Lot 1 DP 74009	WN41C/20	Recreation Reserve
Old Coach Road Reserve	0.0007	Lot 3 DP 313848	54742	Local Purpose Reserve (Isolation Strip)

SECTOR 6: Harbour Escarpment

Site name	Land Area ha	Legal description	CT reference	Recommended Reserve Classification
Brandons Rock Access	0.1335	Lot 23 DP 89499	WN56D/645	Recreation Reserve
	0.3677	Lot 23 DP 89611	WN56D/813	Recreation Reserve
Glanmire Road Reserve	0.002	Lot 26 DP 89611	WN56D/814	Local Purpose Reserve (Isolation Strip)
	0.0019	Lot 22 DP 89611	WN56D/812	Local Purpose Reserve (Isolation Strip)

6. Schedule 2

Land Vested in the Council, Proposed to be classified according to its primary purpose under section 16(2A) of the Reserves Act

Site name	Land Area ha	Legal description	CT reference	Recommended Reserve Classification
79 Kentwood Drive	0.902	Lot 3 DP 385115	341008	Scenic B
Belmont Reserve (GW)	3.1353	Lot 7 DP 49151	WN26B/975	Scenic B
Caribbean Avenue reserve	79.123	Pt Section 168 Porirua District and Pt Section 41 Horokiwi Road District	WN/34C/629	Scenic B
Cromwell Point	0.2987	Lot 66 DP 397825	390597	Scenic B
Dungarven Road Reserve	0.339	Lot 20 DP 89841	WN56D/931	Scenic B
	1.708	Lot 19 DP 89841	WN56D/930	Scenic B
Erlestoke Crescent	0.5219	Lot 200 DP 314946	58953	Scenic B
Gilberd Bush	2.1005	Lot 1 DP 58085	WN32C/828	Scenic B
	8.052	Pt Lot 1 DP 34856	WN32A/476	Scenic B
	4.8660	Lot 1 DP 74154	WN39C/530	Scenic B
	0.4275	Lot 12 DP 45301	WN32C/827	Scenic B

Handley Grove Reserve	0.8599	Lot 401 DP 311748	46395	Scenic B
Sedgley Grove Reserve	0.3116	Lot 1 DP 360298	245139	Scenic B
Tamworth Crescent Reserve	0.6027	Lot 68 DP 340021	164452	Scenic B
White Pine Avenue	0.7715	Lot 1 DP 385115	341006	Scenic B
Woodman Drive Extension	2.1425	Lot 1 DP 80235	WN47A/14	Scenic B
Woodridge Reserve	2.2677	Lot 2 DP 84214	WN51B/932	Scenic B

6. Discussion

6.1 Classification of Reserve land

The parcels of land shown in schedule 1 have been vested in the Council, over a number of years, as reserve land as part of the subdivision process under section 239 of the Resource Management Act 1991 (RMA) and earlier legislation. The land that was vested in the Council had a specific purpose/s which is recorded on the individual deposited plan. This purpose is identified by officers in Parks and Gardens during the subdivision process. Officers consider the primary purpose of the land is given the location, nature, and current management of adjoining/surrounding land. The primary purpose of the land is applied to the vesting of the land and this is recorded on the deposited plan.

The parcels of land shown in Schedule 2 were vested in the Council as Recreation Reserve. After investigation and consideration of the location, nature, and use of/management of the land, officers recommend that these parcels of land be classified as Scenic B Reserve. Scenic B Reserve is land that has high ecology and/or landscape values, and is comparatively low in recreation values or accessibility. A list of classifications and descriptions is located in Appendix C.

The purpose of each piece of land (be it Recreation Reserve or other) is stated on each deposited plan, and therefore Council officers had interpreted section 239 of the RMA to imply that the land was automatically classified as a reserve under the Reserves Act. However after seeking legal advice, it has been identified that reserve land vested under section 239 of the RMA does not complete the classification process and the Council must undertake a separate action to classify the reserve in accordance with sections 14 and 16 of the Reserves Act.

There is no specific deadline to classify reserve land but certain transactions, such as the granting of leases, licences, and easements cannot be undertaken without the prior consent of DOC, until the approval of the Plan is granted. This approval will not be granted until the classification process is completed. The

Council must follow the processes set out in the Reserves Act to classify the land in schedule 1 and 2.

Additional steps have been put in place to ensure land vesting as reserve under section 239 of the RMA will be classified under the Reserves Act in future. Upon deposit of a plan including land to be vested as a reserve, officers will now recommend a Council resolution to classify land as Reserve (according to its primary purpose) and notification in the *Gazette*.

6.2 Public Consultation

Public consultation is not required where land is vested as reserve land and the classification of the land is consistent with the primary purpose as stated on the deposited plan, pursuant to section 16(5)c of the Reserves Act. The parcels of land in schedule 1 fall into this category.

Consultation is required where there is inconsistency between the purpose of the land as stated on the deposited plan and the proposed classification. The proposed classifications of the parcels of land in schedule 2 are different from the original purpose on the deposit plan; therefore Council is required to consult on this matter.

6.3 Next Steps

If the committee agrees with the recommendations in this report then officers will proceed with formal consultation. This process is set out by sections 119 and 120 of the Reserves Act, and will include 2 public notices in the Our Wellington Page in the Dominion Post, and two public notices in local newspapers. The information will be accessible from the Council's website and in hard copy from our Customer Service Centre, and can be posted if requested. Specific communities of interest will be sent notification directly.

An information package will be prepared for consultation based on the contents of this, and other, reports. It will describe the methodology used to determine the classification for each parcel of land, and provide aerial maps showing the location.

If the committee approves the recommendations in this report then officers intend to undertake the consultation in November 2009. Submissions will close on 1 February 2010. Oral submissions will be heard after this date and then all submissions will be considered.

Officers will report back to the committee by May 2010.

6.4 Other Reserve lands to be Classified

Since the original advice from DOC which highlighted an incomplete process, officers have identified other land, vested as reserve on subdivision that has not been classified in accordance with the Reserves Act. Officers have been working to identify such parcels of land and will present further reports to this Committee relating to particular geographical areas.

7. Conclusion

The Council needs to complete classification of parcels of land in schedule 1 that were vested in the Council following subdivision under section 239 of the Resource Management Act. Consultation is not required for these parcels prior to classification.

Parcels of land in schedule 2 also require classification under the Reserves Act. Given that the purpose for which these parcels were vested has been assessed as different from their current purpose, public consultation under section 16(2A) is required prior to classification.

Contact Officer: *Heather Cotton, Property Advisor; Megan Duncan, Recreation Planner; and Mike Oates, Manager, Open Space and Recreation Planning.*

Supporting Information

1) Strategic Fit / Strategic Outcome

This resolution will allow alignment of the Council's internal processes with the requirements of the Reserves Act 1977. It will also allow implementation of the Northern Reserves Management Plan.

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

While there will be legal costs associated with the research of information, undertaking public consultation, and publication in the Gazette, this expenditure is necessary to ensure compliance with legislation.

3) Treaty of Waitangi considerations

This resolution will rectify an existing process that is incomplete. Mana Whenua are not affected by a change in the Council's classification process.

Iwi have been consulted and will have another opportunity to make submissions via the public consultation process.

4) Decision-Making

This resolution will bring the Council's subdivision process in line with the requirements under the Reserves Act 1977. It rectifies an existing issue with parcels of land that have been vested in the Council as reserve but have not been classified.

Under law, the land must be classified, and the views of affected persons, including Mana Whenua, will be sought via public consultation.

5) Consultation

a) General Consultation

The Building Consents and Licensing, Parks and Gardens, and Enterprise Data Management teams have been involved with the preparation of this report.

Council is required under legislation to consult with the public on this matter (relating to the lands in schedule 2). There will be an opportunity for any person or group to make a submission, both in writing and orally.

All submissions must be considered, and will be addressed before reporting back to the Committee as to a final recommendation on classifying parcels of land.

6) Legal Implications

Reserve land is subject to the provisions of the Reserves Act 1977. Completion of the classification process for land that has been vested as reserve will ensure the land is afforded proper protection.

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

7) Consistency with existing policy

This correction will rectify a legal anomaly and ensure that the Council complies with existing legislation.

Appendix A

**All parcels of land in schedule 1 and 2 that require
classification**

Appendix B

Parcels of land that require public consultation prior to classification

Appendix C

Implications of Classification under the Reserves Act 1977

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. Management plans provide for day-to-day management and development such as erecting appropriate buildings, removing or cutting back trees, constructing and maintaining tracks.	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. Where development is not anticipated by a management plan, approval from the Minister of Conservation must be sought.		Council makes decisions regarding how reserves are managed to protect the local purpose. Management and development must be consistent with that local purpose.

<p>on the natural environment</p>	<p>Recreational use and development must be compatible with natural reserve values and open space. Management plans protect key values e.g. enhancing coastal ecosystems, restoring natural features.</p>	<p>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.</p>	
<p>on authority to grant concessions: leases, licences, permits and easements</p>	<p>Council (as the reserves come under an approved management plan).</p>	<p>DOC – Wellington Conservancy has delegated authority. Possible concessions consistent with the primary purpose include access and sightseeing, filming, service easements, seed collection.</p>	<p>Council</p>