



AGENDA

Ordinary meeting of the

**Planning and Regulatory Committee to
deliberate on submissions to the
draft Reserves Bylaw**

**Thursday 8 May 2014
Commencing at 9.00am
Council Chamber
Civic House
Trafalgar Street, Nelson**

Membership: Councillor Brian McGurk (Chairperson), Her Worship the Mayor Rachel Reese, Councillors Ian Barker, Ruth Copeland, Eric Davy, Kate Fulton (Deputy Chairperson), Matt Lawrey, and Mike Ward

Guidelines for councillors attending the meeting, who are not members of the Committee, as set out in Standing Orders:

- All councillors, whether or not they are members of the Committee, may attend Committee meetings (SO 2.12.2)
- At the discretion of the Chair, councillors who are not Committee members may speak, or ask questions about a matter.
- Only Committee members may vote on any matter before the Committee (SO 3.14.1)
- It is good practice for both Committee members and non-Committee members to declare any interests in items on the agenda. They should withdraw from the table for discussion and voting on any of these items.

Apologies

1. Interests

- 1.1 Updates to the Interests Register
- 1.2 Identify any conflicts of interest in the agenda

2. Confirmation of Order of Business

3. Confirmation of Minutes – 20 March 2014

5-8

Document number A1161166

Recommendation

THAT the minutes of the meeting of the Nelson City Council – Planning and Regulatory Committee, to hear submissions to the draft Reserves Bylaw, held on 20 March 2014, be confirmed as a true and correct record.

4. Deliberations on the draft Reserves Bylaw

9-35

Document number A1151054

Recommendation

THAT the report Deliberations on the draft Reserves Bylaw (A1151054) and its attachments (A1151971, A495146, A915962 and A1164698) be received;

AND THAT the draft Reserves Bylaw be amended to reflect the Committee's decisions on submissions.

Recommendation to Council

THAT the Reserve Bylaw, as amended to reflect the Planning and Regulatory Committee's decision on submissions, be adopted.

**Minutes of a meeting of the Planning and Regulatory Committee
– to hear submissions to the draft Reserves Bylaw**

**Held in the Council Chamber, Civic House, Trafalgar Street,
Nelson**

On Thursday 20 March 2014, commencing at 1.02pm

Present: Councillor B McGurk (Chairperson), Councillors I Barker, R Copeland, K Fulton, M Lawrey and M Ward

In Attendance: Councillor T Skinner, Manager Environmental Programmes (C Ward), Kaihautū/Acting Manager Community Partnerships (G Mullen), Planning Adviser (D Bradley), Manager Communications (A Ricker), Manager Administration (P Langley), and Administration Adviser (E-J Ruthven)

Apology: Councillor E Davy

1. Apologies

Resolved

***THAT apologies be received and accepted from
Councillor Davy.***

McGurk/Lawrey

Carried

2. Interests

There were no updates to the Interests Register, and no conflicts of interest with any agenda items were declared.

3. Confirmation of Order of Business

There was no change to the order of business.

4. Hearing of Submitters

4.1 Transpower NZ

Submission number 9, pages 12-17 refer.

Mike Hurley tabled a copy of his presentation (A1161233). He noted his concerns that draft Bylaw inadvertently captured Transpower's

activities, which were governed by National Environmental Standards. He said that it was his belief that the Resource Management Act did not allow bylaws to be more stringent than National Environmental Standards.

He suggested that an exemption for Transpower's activities should be included within clause 11 of the draft Bylaw so as not to prevent the operation, maintenance, development and upgrading of the National Grid, and suggested that this exemption be extended to other utility operators as appropriate.

4.2 Helen Black

Submission number 8, page 11 refers.

Helen Black spoke to her submission, and provided a copy of her presentation (A1161241).

She spoke about her experiences of walking her dog on local tracks, and the interactions she had had with mountain bikers moving at speed on such tracks. She emphasised that tracks within parks and reserves should be able to be safely enjoyed by all users, including walkers. She outlined her concerns that downhill mountain biking was not included within the bylaw, and she suggested that bikers moving at speed should be subject to restrictions.

Ms Black suggested that regulations relating to behavioural expectations within parks and reserves should be included within the bylaw. She added that she would like to see a Council-led forum established for the various users of different parks and reserves to be able to discuss issues and encourage good behaviours.

In response to questions, Ms Black suggested that rules should be provided for users of reserves, and that such rules could be enforced by having officers present on trails. She added that tracks could be classified as for walkers only during particular time periods.

4.3 The Friends of Nelson Haven and Tasman Bay

Submission number 5, pages 6-8 refer.

Helen Campbell spoke to the submission, and explained the additions and deletions to the draft Bylaw proposed by the Friends of Nelson Haven and Tasman Bay.

She suggested that particular activities in reserves should be publicly notified, especially those relating to the mineral belt in reserves near to the city, and those involving the use of firearms, traps, toxins, the planting and removal of vegetation, and the erection of memorials and plaques.

She also noted her concerns that river and riparian plantings located adjacent to shared pathways should not be impacted by any users of such pathways.

In response to a question, Ms Campbell suggested that different activities within reserves should attract varying levels of public notification, from consultation to published public notices, depending on the level of public interest in the activities.

4.4 Jackie McGrath

Submission number 1, page 2 refers.

Jackie McGrath spoke to her submission. She noted the definition of motor vehicles provided in the draft bylaw, queried whether it applied to scooters, mobility scooters and electric bikes which she had encountered on the Railway Reserve.

Ms McGrath spoke about issues she encountered as a beach warden at Tahuna Beach, including camping overnight, dumping of rubbish and vehicles driving on the beach. She noted her concerns regarding clauses 7.1, 9.1 and 13.1 of the draft Bylaw, and queried how these provisions would be enforced with regards to the issues she saw at Tahuna Beach.

In response to questions, Ms McGrath said that high transfer station fees may be linked to the amount of rubbish dumped at reserves. She suggested that taking green waste for lower fees to turn into compost, and providing free rubbish bags from the Council could assist with lessening the amount of rubbish dumped at reserves.

4.5 Brook Valley Community Group

Submission number 6, agenda page 9 refers.

Christopher St Johanser spoke to the submission. He said that activities of downhill mountain bikers in The Brook area were causing concern to The Brook community, that walkers were intimidated by mountain bikers, and consequently were deterred from using tracks. He said that Codgers Track was of particular concern.

He suggested that mountain biking should be a controlled activity within the Parks and Reserves Bylaw, and that Council should regulate and enforce the activities of mountain bikers.

Mr St Johanser outlined his concerns at the development of further mountain biking tracks in The Brook area, and suggested that increased use of mountain bikes had deteriorated the track surfaces, so that it became difficult for walkers to navigate, especially in bad weather.

In response to a question, Mr St Johanser explained his preference for tracks to be delegated for use by walkers or mountain bikers only, rather than for shared use. He emphasised his opinion that Codgers Track should be reserved for walkers.

5. Next Steps

Manager Environmental Programmes, Chris Ward, reminded councillors that there currently was no bylaw in place, and therefore no provisions were able to be enforced.

Attendance: Her Worship the Mayor joined the meeting at 2.31pm.

Councillors indicated that they would like to receive further information on the following issues:

- The development of walking and cycling tracks, and how these were approved, and widened;
- Practices in other cities, particularly with regards to conflict between users of shared pathways;
- Options for signage, including whether it was possible to mark particular parts of tracks as "slow zones".

There being no further business the meeting ended at 2.36pm.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date

Deliberations on the draft Reserves Bylaw

1. Purpose of Report

- 1.1 To provide information that helps the Committee make decisions on submissions to the draft Reserves Bylaw.

2. Recommendation

THAT the report Deliberations on the draft Reserves Bylaw (A1151054) and its attachments (A1151971, A495146, A915962 and A1164698) be received;

AND THAT the draft Reserves Bylaw be amended to reflect the Committee's decisions on submissions.

Recommendation to Council

THAT the Reserve Bylaw, as amended to reflect the Planning and Regulatory Committee's decision on submissions, be adopted.

3. Background

- 3.1 On 28 January 2014 the Planning and Regulatory Committee approved the advertising of a Statement of Proposal and draft Reserves Bylaw using the Special Consultative Procedure (section 83 of the Local Government Act).
- 3.2 The submission period ran from 1 February to 3 March 2014 and Council received nine submissions. A list of the submitters is included in Attachment 1 to this report.
- 3.3 On 20 March 2014 five of the submitters spoke at a hearing on the Draft Reserves Bylaw.
- 3.4 The issues raised by submitters were:
- Shared pathways;
 - Mountain bike tracks and mountain bikers;
 - Dumping of rubbish in reserves;

- Playing of golf in reserves;
- Activities requiring permission;
- Exemptions for the operation and development of the national grid;
- Enforcement of the bylaw.

3.5 A summary of the submitters' key points are grouped under these categories in the following discussion.

4. Discussion – Key Points

Shared Pathways - Submissions

- 4.1 Submitter 1 asked whether the 20km speed restriction for motor vehicles applies to bikes and mobility scooters.
- 4.2 Submitter 3 asked for a more obvious sign on the main track to the Centre of New Zealand to make it clear that cycles are not allowed on the main track.
- 4.3 Submitter 4 requested guidelines for shared pathways, including that:
- cyclists be requested to have a bell or device to warn walkers of their approach;
 - walkers on shared pathways be requested to walk on the right so as to face oncoming cyclists and take suitable avoidance tactics, and to allow those cyclists travelling in the same direction space to pass on the left.
- 4.4 Submitter 5 said Council needs to ensure that where there are pathways adjacent to creeks, streams and rivers, that the riparian vegetation is not impacted by use of paths, or by the construction or maintenance of those paths.

Shared Pathways – Officer Comments

- 4.5 The problem with placing a speed limit on bikes in reserves is the practicality of enforcement. Appropriate speeds also differ depending on the time of day and density of use. With regards to motorised cycles, the law is clear – if a cycle is a petrol powered machine it is a moped and is not allowed on shared pathways. Bikes and electric bikes are allowed on shared pathways – as are mobility scooters, which are specifically excluded from the definition of motor vehicle in the Land Transport Act 1998.
- 4.6 The size of signs can be addressed outside of the process to adopt a reserve bylaw.
- 4.7 Council has adopted four key behavioural messages to encourage path users to behave in a predictable and cooperative manner. These are:

- keep left;
 - warn pedestrians before overtaking them;
 - move off the path when stopped;
 - control your dog.
- 4.8 These messages are consistent with other Road Controlling Authorities in New Zealand, and are provided on signage in Nelson’s reserves. More detail about these messages is shown in Attachment 2. In addition, due to the increase in cycle commuter numbers, the Team Leader Roding and Solid Waste is developing a proactive campaign regarding use of shared paths, which will specifically address appropriate speeds.
- 4.9 Regarding riparian vegetation, the current Parks and Activity Management Plan 2012-22 states that care needs to be taken to ensure vegetation around walkways/cycleways does not encroach on paths and reduce available space. Maintenance contracts specify that walkways/cycleways are to be clear of vertical obstructions to a height of 2 metres.
- 4.10 However, wherever possible, riparian vegetation will be maintained and enhanced. This is reflected in the level of service for esplanade reserves in the Parks and Reserves Activity Management Plan 2012-22: “Protect the biodiversity of esplanade and foreshore reserves”.

Mountain Bike Tracks and Mountain Bikers - Submissions

- 4.11 Submitter 6 disagreed with the comment in the Reserves Bylaw Statement of Proposal that mountain biking is not currently a significant issue, and does not need to be controlled through a bylaw. The submitter’s view was that:
- no new mountain bike trails should be developed without public consultation;
 - the Reserves Bylaw should regulate the activities of mountain bikers and Council officers should actively enforce the new bylaw provision.
- 4.12 Submitter 8 said mountain biking has potential to cause harm to pedestrians and a bylaw provision is needed to manage this. Allowing mountain biking to occur without controls is impacting on other users with different preferences for use of parks and reserves. The Sharland Creek Mountain Bike Park and Codgers Track are prime examples of a natural exclusion process that is happening.
- 4.13 Submitter 8 said relying on the national mountain bike code of conduct as a guide to its users in Nelson’s reserves does not work. To have a pleasant walking experience on these tracks is now more about striking it ‘lucky’ than anything else. There is a need for Council to safeguard and

support walking through planning, regulation and enforcement within our parks and reserves.

4.14 Submitter 8 requested:

- an unbiased forum of groups and individuals which meet to nut things out, together with Council;
- inclusion of a provision in the bylaw relating to acceptable downhill cycling behaviour;
- random checking of cyclist behaviour on the tracks (downhill mountain biking), and enforcement to set an example;
- an online/Live Nelson forum to raise issues related to the other shared paths.

Mountain Bike Tracks and Mountain Bikers – Officer Comments

4.15 Since January 2012, Council has logged only 4 complaints about mountain bike use on walking tracks.

4.16 The Nelson Mountain Bike Club has over 800 members and there are believed to be many more recreational riders who are not members of the club. The vast majority cycle responsibly and with respect for other users.

4.17 The extension of the Mountain Bike Network was signalled and consulted upon in the Long Term Plan 2012-22, which was informed by the Parks and Reserves Activity Management Plan 2012-22. It states:

4.17.1 "Walking for recreation is the most popular form of physical activity for adults in the Tasman region (which includes Nelson) with 68.4% participation (SPARC Active NZ Survey 2007/08). Cycling was also popular at 36.2% participation."

4.17.2 "An important subset of cycling is mountain biking. A collaborative working relationship has been established between Council, Sport Tasman and the Nelson Mountain Bike Club to consider mountain biking issues."

4.17.3 "With accessible hill reserves close to the city centre and the trends towards more informal, flexible recreation, mountain biking is growing in popularity. It has an important role to play both as a recreational activity for Nelson residents and as a valuable tourism opportunity. Nelson and the wider region are developing a reputation both nationally, and increasingly internationally, as a biking destination."

4.17.4 "Nelson's mountain bike tracks are mostly located in the conservation and landscape reserves, with a small number in esplanade and foreshore reserves. Most tracks are dual use walking and mountain biking, with several single use tracks developed for mountain biking only."

- 4.17.5 "With the number of mountain bike tracks already available in reserves ... the primary focus has been in formalising and identifying the existing tracks and completing links where necessary, rather than building new tracks."
- 4.17.6 "In 2010, the Government provided funding of \$500,000 to develop the Dun Mountain cycle trail as part of the National Cycleway Project. This is one of two cycleways in the Nelson/Tasman region to receive funding. The 43km trail is an intermediate cycle track and begins and ends in the Brook."
- 4.17.7 "Issues around the shared use of tracks and conflict arising between walkers and cyclists may see consideration given to increasing path width or separating use on tracks where particular risks exist eg. downhill sections being used by mountain bikers."
- 4.18 The Parks & Reserves Activity Management Plan (page 81) includes the following level of service: "Provide a connected network of mountain bike tracks that cater for a range of riding abilities."
- 4.19 Parks and Recreation officers meet once a month with the Nelson Mountain Bike Club and the club has provided maps showing suggestions for mountain bike tracks. Currently, officers assess those proposals against the objectives in the Parks & Reserves Activity Management Plan to identify suitable new routes.
- 4.20 In considering options thought was given to bringing information on new tracks to the Council table for decisions, however this would not seem to be an efficient way of dealing with the issue.
- 4.21 This is a matter that sits outside the Reserves Bylaw. Options for making decisions about suggested new tracks are to:
- continue the existing approach where decisions about whether or not to develop suggested tracks is made by the Parks and Recreation officers, following the guidance in the Activity Management Plan;
 - seek informal feedback on suggested new tracks from walking groups and interested individuals;
 - provide a report to Council outlining the Nelson Mountain Bike Club's suggested tracks and including recommendations from Council officers.
- 4.22 Options for addressing the issue of conflicts between walkers and mountain bikers riding at speed downhill are:
- separate mountain bike tracks and walking tracks (for example the city side of the Botanics has been designated as a walkers only track and the Maitai side as a bikers only track);

- allocate some funding to consider and amend the design of popular shared tracks. This could include reconfiguring the entry points of some tracks (for example where bike tracks join the Codgers Track), so that cyclists do not arrive at the more general walking/cycling tracks at full speed; use of chicanes to slow riders down; more signs about safely sharing tracks; widening tracks (for example the Dun Mountain Trail). All design elements need to be considered in the context of specific tracks as there is a potential for unintended consequences eg faster bike speeds if tracks are widened. Council officers recommend this group of options because design is crucial to resolving this issue;
- include messages on the Nelson Mountain Bike Club website and the Nelson City Council website promoting courteous sharing of paths;
- hold a meeting for mountain bikers and walkers to discuss the issues about the use of shared paths;
- ask people to act as voluntary wardens monitoring issues on shared paths. Council officers do not recommend this option because, depending on the motivations of the wardens, it could increase the conflict between the two user groups;
- inclusion of a bylaw provision describing the type of mountain biking behaviour that is not permitted in Nelson's reserves.

4.23 Note: Sharlands Creek mountain bike park (referred to in clause 4.12 of this report) is on private land and is not under any control by Nelson City Council.

Dumping of Rubbish in Reserves - Submissions

- 4.24 Submitter 1 said that rubbish dumping in reserves is an issue (including dumping in the trees at Tahunanui Beach). She said this is likely to be linked to the high cost of dumping a load of rubbish (\$35), regardless of the size of the load. She asked Council to consider reducing the fee, particularly for green waste.
- 4.25 Submitter 8 requested inclusion of a clause in the bylaw addressing the dumping of green and other waste in the region. She said one way to address this would be to review whether the current fee structure at the transfer station was affordable.

Dumping of Rubbish in Reserves – Officer Comments

- 4.26 Council operates a sliding charging scale based on the volume of waste being deposited, and the type of waste. For small quantities (up to 60l) there is a charge of \$2. Above that minimum, segregated green waste is cheaper to dispose of than mixed general waste.

4.27 Options to manage fly tipping are:

- manage this under the Litter Act. This option is recommended because \$200 instant fines can be issued, and the Act applies wherever the dumping occurs (not only in reserves);
- include a provision in the Reserves Bylaw.

Playing Golf in Reserves - Submissions

4.28 Submitter 3 said at least once a week, when walking across the Botanics Reserve, he has to stay at the very edge of the grounds to avoid being hit by a golf ball, when people are playing golf.

4.29 Submitter 8 said golf in reserves has the potential to cause harm to other users of reserves.

Playing Golf in Reserves – Officer Comments

4.30 Options:

- do not include a provision controlling golf in Council reserves;
- only allow golf to be practised in a specific area at Neale Park (as provided for in the Reserves Bylaw 2006). This option is recommended because there is the potential for golf balls to travel a long way and at speed, and often in an unpredictable direction. Not permitting golf in any Council reserves (other than the golf course) would mean there was nowhere to practice golf without paying to do so. This option is reflected in the amended draft bylaw, shown in Attachment 3;
- do not allow golf to be practised in any Council reserves (other than the golf course).

Activities Requiring Permission - Submissions

4.31 Submitter 5 suggested the following amendments (shown in strikethrough and underlining below) to the 'Activities Requiring Permission' section of the bylaw:

- use of chainsaws or other tree felling implements;
- possession of firearms of any kind or the killing of any animals, including shooting of game birds and control of animal pests. This includes the use of traps and toxins;
- ~~planting of seeds or shrubs~~ or removal of vegetation;
- grazing of livestock;
- placing or erection of memorials including plaques.

4.32 Suggested footnotes:

- as noted in Section 4 of this Bylaw, reserves may be managed under other legislation, plans etc. Before any activity is undertaken on a reserve, as defined, contact with NCC reserves staff is essential;
- written permission is required for volunteer restoration and enhancement projects which Council encourages;
- some activities, for example, exploration for, or the mining of minerals, may require a public consultation process to be undertaken at the applicant's cost.

Activities Requiring Permission – Officer Comments

- 4.33 The suggested changes to the 'activities requiring permission' section of the bylaw improve the clarity of this section of the bylaw. They are all shown in the amended draft bylaw, included as Attachment 3 to this report.
- 4.34 Council officers do not recommend including the suggested explanatory notes, as these would have no regulatory effect and so are not well suited to inclusion in the bylaw. However, these types of messages could be communicated on the Council's website, in Live Nelson or in other explanatory material associated with the bylaw.
- 4.35 Submitter 5 also suggested minor changes to sections 2 and 4 of the draft Reserves Bylaw and these are reflected in Attachment 3.

Exemptions for the National Grid - Submissions

- 4.36 Submitter 9 requested that an additional exemption be included in the exemptions section of the draft bylaw as follows: "Nothing in this bylaw shall prevent the operation, maintenance, development, and upgrading of the national grid where it is otherwise permitted or approved by the Council or other legislation".
- 4.37 The submitter pointed out that under section 43E of the Resource Management Act 1991, a bylaw can only be more stringent than a National Environment Standard (NES) if the NES states that a bylaw may be more stringent than the NES.
- 4.38 There is nothing in the NES for Electricity Transmission Activities (NESETA) that provides for any bylaw to be more stringent than NESETA.
- 4.39 The submitter also suggested this exemption could be extended to other network utility operators.

Exemptions for the National Grid – Officer Comments

- 4.40 The suggested exemption for Transpower and other network utilities is shown in the amended draft bylaw, in Attachment 3 to this report. This exemption ensures the bylaw is not more stringent than the National Environmental Standard for Electricity Transmission Activities, and also ensures maintenance and upgrading of other network utilities will not be subject to an additional approval process. To avoid confusion, a definition for network utilities is also included in the amended draft bylaw.

Enforcement of the Bylaw - Submissions

- 4.41 Submitter 1 asked how the Council was going to enforce sections 7, 9 and 13 of the draft bylaw. These sections relate to hazard to reserve users and damage to reserves, respect for other users of reserves, and penalties. She noted there are very few people policing reserves, and very few voluntary beach wardens at Tahunanui Reserve.
- 4.42 Submitter 6 said enforcement needs to happen so that all people can use tracks such as Codger’s Track. He suggested a system of wardens, but also emphasised that Council should be responsible for enforcement rather than relying on volunteers to do this work.
- 4.43 Submitter 8 requested that Council officers have a random presence on tracks, observing cyclist behaviour and setting an example by carrying out enforcement.

Enforcement of the Bylaw – Officer Comments

- 4.44 Council’s preferred approach is to use education as the main tool for ensuring user safety. This can be achieved by appropriate signage and messages delivered through media and publications. Any enforcement action needs to be scaled to the size of the problem. Genuine complaints will always be investigated. In relation to mountain bike/pedestrian conflict, Council has received only 4 such complaints since January 2012.
- 4.45 Council could decide to adopt a different approach to this bylaw. This would have significant resourcing implications and could result in other enforcement activities having to be scaled back. Councillors would have to consider if the scale of the issues warranted such action.
- 4.46 Enforcement of the previous bylaw was managed by the Team Leader Parks, with support from contractors on issues such as rubbish dumping in parks and freedom camping issues, the Police on issues such as disorderly behaviour in parks, vandalism to park assets, graffiti, and motor vehicles on the beach and in other reserves, and with the Water Reserve caretakers on poaching, and the Harbourmaster on foreshore issues.

5. Additional Information to Support Decision Making

5.1 Following the hearing of submitters, the Committee asked for the following information to be provided in this report:

- a review of the mountain biking situation in the Brook area;
- whether it is possible to clearly mark parts of tracks as go slow zones;
- clarification on the current approval process for new mountain bike tracks;
- what other councils have done to manage conflicts between mountain biking and walking;
- enforcement.

Mountain Biking in the Brook Area

5.2 The Codgers Track area, which is accessed from Brook Street, is at capacity. Future tracks in the Fringed Hill area may take the pressure off Codgers Track. However, these tracks will mainly be accessed via Brook Street, as is the Dun Mountain cycle trail referred to in clause 4.15.6 of this report.

Go Slow Zones

5.3 As outlined in clause 4.19 of this report, the use of chicanes would achieve the go slow zones where mountain bike tracks join shared walking and cycling tracks. Signage in appropriate locations could be used to re-enforce shared trails.

Approval Process For New Mountain Bike Tracks

5.4 The approval process for new tracks is currently managed at a Council officer level, with the level of provision (and funding) signalled in the LTP and Parks and Reserves Activity Management Plan.

Other Councils' Approaches to Managing Shared Paths

5.5 Some councils (including Auckland, Wellington, Upper Hutt and Palmerston North) do not have any bylaw provisions specifically related to cycling.

5.6 Hamilton, Christchurch, Napier, Dunedin, Porirua and Taupo councils include bicycles in their definitions of 'vehicle' and have provisions relating to where bicycles can be ridden and/or controlling cycling that is either dangerous or a nuisance to other park users.

5.7 A summary of other councils' bylaw provisions regarding mountain bike tracks and mountain bikers is shown in Attachment 4 to this report.

Enforcement

- 5.8 Enforcement has previously been managed by Parks and Recreation officers on a complaints basis. Council may choose to consider other options, as outlined in clause 4.45.

6. Conclusion

- 6.1 Adoption of a reserves bylaw will enable Council to manage activities in reserves. However, the value of the new bylaw to the Council and the community is dependent on how the activities it regulates are monitored and enforced.

Chris Ward

Manager Environmental Programmes

Attachments

- Attachment 1: Draft Reserves Bylaw – Index by Submitter Number – [A1151971](#)
- Attachment 2: Shared Path Behavioural Signs – [A495146](#)
- Attachment 3: Draft Reserves Bylaw (No 222) with suggested amendments – [A915962](#)
- Attachment 4: Other councils’ bylaw provisions regarding mountain bike tracks and mountain bikers – [A1164698](#)

Supporting information follows.

Supporting Information

1. Fit with Purpose of Local Government

The development of a reserves bylaw in a consultative manner is aligned with the purpose of the Local Government Act related to democratic local decision-making.

The requirement to perform regulatory functions in a way that is most cost-effective for households and businesses also needs to be considered when making decisions related to a reserves bylaw.

2. Fit with Community Outcomes and Council Priorities

Community outcomes:

People-friendly places - urban and rural areas are designed to be child, family and people friendly.

Kind, healthy people – we are part of a welcoming, safe, inclusive and healthy community.

Council priorities:

Easy access to an active lifestyle.

3. Fit with Strategic Documents

Relevant plans prepared since 2006, and which have informed the development of the draft Reserves Bylaw, include:

- Esplanade and Foreshore Reserves Management Plan
- Conservation and Landscape Reserves Management Plan
- Nelson Tasman Physical Activity Plan 2006

The Parks and Reserves Activity Management Plan 2012 includes a walking and cycling chapter and the following level of service: "provide a connected network of mountain bike tracks that cater for a range of riding abilities", with a target of "at least one entry level track in both the city and Stoke by 2015".

4. Sustainability

The draft Reserves Bylaw enables Council to control activities in reserves in order to maintain community safety (for both people and property).

5. Consistency with other Council policies

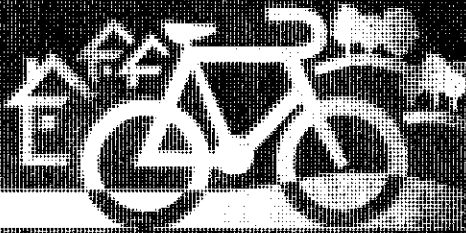
The policies in the Parks and Reserves Activity Management Plan, Reserve Management Plans and the Nelson Resource Management Plan were taken into account during the development of the draft bylaw.

Clause 14.2 of the Council's Parking and Vehicle Control Bylaw states that: "Where any land has been set aside or designated or otherwise reserved as a shared path any person using that shared path shall have full regard for other users, with pedestrians having the right of way."

<p>6. Long Term Plan/Annual Plan reference and financial impact</p> <p>Page 155 of the Long Term Plan: "New and increasing use of parks and reserves can result in conflict between different uses. This is monitored by staff and booking systems. Bylaws and booking systems may be adjusted in response."</p>
<p>7. Decision-making significance</p> <p>This is not a significant decision in terms of the Council's Significance Policy.</p>
<p>8. Consultation</p> <p>Use of the special consultative procedure gave everyone an opportunity to comment on the draft bylaw.</p>
<p>9. Inclusion of Māori in the decision making process</p> <p>Early, informal consultation was carried out with iwi and the opportunity for wider consultation with Māori was provided for through the special consultative procedure.</p>
<p>10. Delegation register reference</p> <p>The Planning and Regulatory Committee is delegated the power: to hear and deliberate on submissions for special consultative procedures falling within their areas of responsibility to recommend adoption of a draft bylaw.</p>

Submissions Index – Reserves Bylaw

Page No.	Submission No.	Full Name	Organisation	Do you wish to speak at the hearing?
2	01	Jackie McGrath		Yes
3	02	Matt Hippolite	Ngati Koata Trust	No
4	03	Dan McGuire		No
5	04	Queenie Ballance	National Council of Women	No
6	05	Helen Campbell	The Friends of Nelson Haven and Tasman Bay	Yes
9	06	Christopher St Johanser	The Brook Valley Community Group	No
10	07	Patrick Gerard	Nelson Youth Council	No
11	08	Helen Black		Yes
12	09	Mike Hurley	Transpower NZ Limited	Yes



Cycle Notes

No. 10 July 2001

Shared Path Behavioural Signs

Welcome to CYCLE NOTES No. 10. The purpose of CYCLE NOTES is to provide information on the design of bicycle facilities for engineers and planners.

CYCLE NOTES should be read in conjunction with:

- Austroads Guide to Traffic Engineering Practice, Part 14 - Bicycles, and
- Australian Standard 1742.9, Manual of Uniform Traffic Control Devices, Part 9 Bicycle Facilities.

Introduction

These guidelines have been developed to assist agencies and organisations that manage shared paths. They provide a framework for delivering behavioural messages with the aim of reducing conflicts between path users and encouraging co-operative behaviour.

With the increasing popularity of cycling and walking, existing shared paths are being more heavily used. New paths are also being constructed, and networks of paths are being created. Due to the paths higher use, there is an increased need to encourage people to behave in a predictable manner.

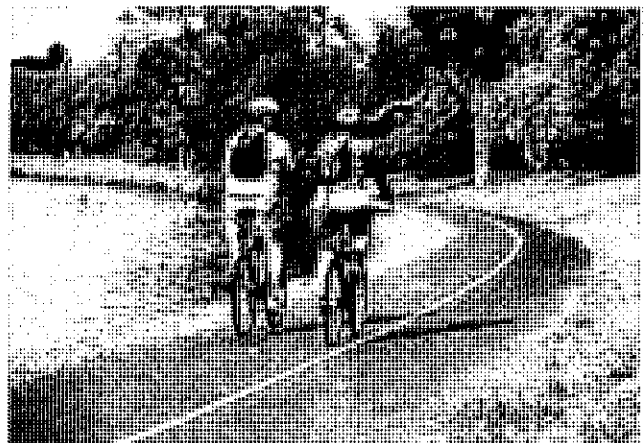
What is a Shared Path?

Shared paths and their use are governed by the road rules. The road rules explain that a shared path is an area designated with "shared path" signs, that is open to public use by the riders of bicycles and pedestrians.

- Whilst shared paths are for use by pedestrians, the definition in the road rules for pedestrians covers a number of different categories. Pedestrians are defined as including people in motorised and non-motorised wheel chairs, people using wheeled recreational devices such as rollerblades, rollerskates and skateboards, and people using wheeled toys such as a child's pedal car, scooter or tricycle.

Begin With Good Design

Conflicts on shared paths can be reduced through good design. The four key design elements that make up shared path design are adequate width, appropriate clearance to obstacles, and sight distances and path curvatures that match the bicycle design speed. Shared path behavioural messages and signs will not compensate for poor designs. Refer to Cycle Notes No 3 and Austroads, Guide to Traffic Engineering Practice, Bicycles - Part 14 for guidance on the shared path design.



Good design includes adequate path width, clearance to obstacles and appropriate sight distances

Four Key Behavioural Messages

To encourage shared path users to behave in a predictable and co-operative manner, four key behavioural messages have been developed. If path users adhere to the practice of keeping to the left, warning before overtaking others, moving off the path when stopped, and controlling their dog, people will be able to use the paths co-operatively.

1. Keep Left

For the orderly use of shared paths, users should keep to the left of the path. By keeping left, conflicts will be reduced.

Path users can be advised to keep left, by marking a centre line on the path, along with pavement logos of a bicycle, a pedestrian, and a directional arrow as shown in Figure 1.

Australian Standard AS 1742.9, Manual of Uniform Traffic Control Devices, Part 9, Bicycle Facilities, describes shared path centre lines as being white, 80 mm wide, 1 metre long and at 7 metre spacings. AS 1742.9 also provides details of the bicycle, pedestrian, and arrow pavement symbols.

A white, 80 mm wide unbroken line, should be used on curves where sight distance is poor, in high volume locations, and on approaches to path/path intersections.

Shared path users may also be advised to keep to the left on the path by the use of "Keep Left" signs as shown in Figure 2.

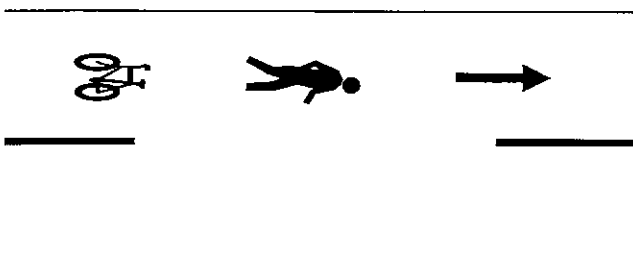


Figure 1: A centre line along with pavement symbols advises path users to keep left



Figure 2: "Keep Left" signs encourage all path users to travel on the left (Size 250 W x 330 H)

2. Warn When Approaching

In the interests of sharing the paths safely, it is appropriate that faster moving, and often quieter users such as cyclists and rollerbladers, warn pedestrians before overtaking them. Calling out "passing", or a cyclist ringing their bell will alert pedestrians that they are about to be overtaken.

To encourage path users to warn others when they are going to overtake them, the "Warn When Approaching" sign shown in Figure 3 can be used.



Figure 3: "Warn When Approaching" signs encourage path users to call out or ring their bells (Size 250 W x 330 H)

3. Move Off Path When Stopped

Shared paths usually offer a relaxed and casual environment for pedestrians and cyclists. In this environment, path users often stop to talk to others, to admire views, or to rest. Path users should be encouraged not to stop on the path as it can interfere with the passage of others.

Path users can be encouraged not to stop on the path by installing "Move Off Path When Stopped" signs as shown in Figure 4.

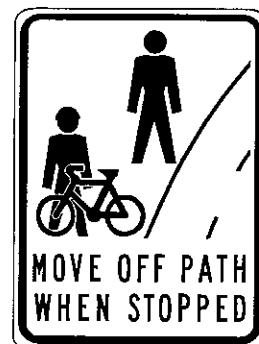


Figure 4: "Stop Off Path" signs encourage path users to keep the path clear (Size 250 W x 330 H)

4. Control your Dog

Shared path users include those people who are walking dogs. Some dogs can get excited in the presence of moving bicycles, children, or other people. Owners should ensure their dogs do not unduly impact on other path users.

To encourage people to minimise their dogs' impact on other path users, a "Control Your Dog" sign as shown in Figure 5 can be used.

In areas where dogs do not need to be on a leash, the sign in Figure 5 can be used, but without a leash.



Figure 5: "Control Your Dog" signs remind dog owners of their responsibilities (Size 250 W x 330 H)



Providing linemarking on paths encourages users to keep to the left and to share the path

Installing Shared Path Behavioural Messages

When providing shared path behavioural messages, a balance between what may appear to be regulation and what should be education needs to be achieved. Excessive signs should be avoided as they increase visual clutter, have reduced effectiveness, and are an unnecessary capital and maintenance cost.

To assist in the management of shared paths and the provision of behavioural messages, a framework with increasing levels of messages has been developed.

Level 1 Messages

Level 1 shared path behavioural messages are for use on paths where there are a relatively low numbers of users, but there are some reported or observed path user conflicts.

A significant improvement in shared path user behaviour can be achieved if all users keep to the left. It is recommended that the level 1 behavioural message be "Keep Left", and that this be conveyed using a path centre line along with bicycle, pedestrian, and arrow pavement symbols as shown in Figure 1. The bicycle, pedestrian and arrow pavement symbols should be located at the beginning of paths and adjacent to path access points as shown in Figure 6.

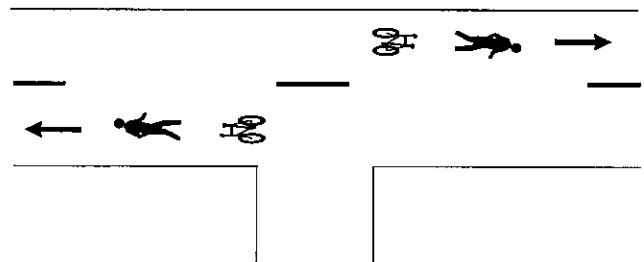


Figure 6: Bicycle, pedestrian, and arrow pavement symbols should be located adjacent to the path access points

Level 2 Messages

For shared paths with higher numbers of users, additional behavioural messages may be required to supplement the level 1 "Keep Left" messages. Due to the higher path usage, the "Warn When Approaching" message becomes important along with reinforcing the "Keep Left" message. It may also be appropriate to introduce the "Control Your Dog" and "Move Off Path When Stopped" messages at a few key locations.

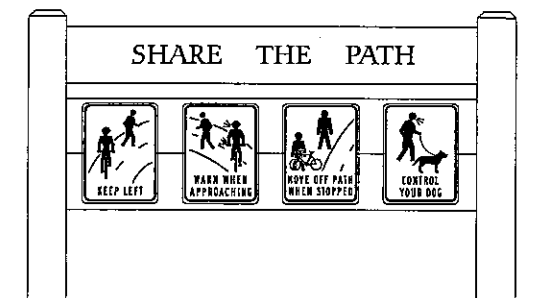
It is recommended that level 2 behavioural messages comprise of:

1. Path centre line along with bicycle, pedestrian and arrow pavement symbols as described above in level 1 messages;
2. "Keep Left" and "Warn When Approaching" signs installed along the path between path access points or at approximately 500 metre intervals. Both signs can be mounted on the one totem as shown in Figure 7; and

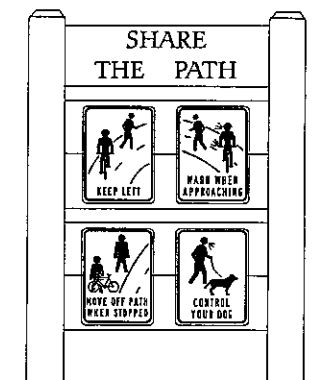


Figure 7: "Keep Left" and "Warn When Approaching" signs used as a level 2 behavioural message

3. A group sign comprising of all four behavioural messages installed at a few key locations such as major trail access points or major trail intersections. In keeping with standard path sign designs, the group sign shown in Figure 8a is recommended. However, in locations where space is limited, the group sign in Figure 8b may be appropriate.



(a) Preferred group sign design



(b) Alternative design where space is limited

Figure 8: Group signs should be located at a few key path locations

Level 3 Messages

Level 3 messages should be used in addition to level 1 and level 2 behavioural messages. They are intended to address specific issues at particular locations along the path using the "Control Your Dog", and "Move Off Path When Stopped" signs. If appropriate "Keep Left" and "Warn When Approaching" signs could also be used.

For example, if a particular section of the path is frequently used by people walking their dogs, the "Control Your Dog" sign could be used in this area. There also may be sections of path where people frequently stop to use nearby amenities such as a drinking fountain or to visit a kiosk. If there is a problem with people not moving off the path when stopped, the "Move Off Path When Stopped" sign would be appropriate.

All four behavioural message signs as shown in Figure 9, can be installed individually to address site specific problems.

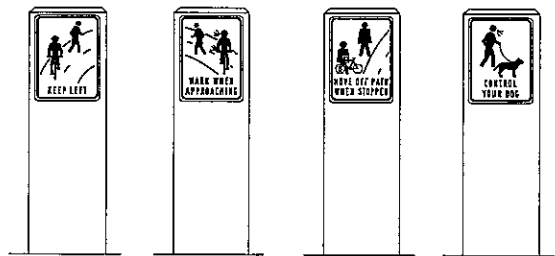


Figure 9: Individual signs can be used to address site specific problems

Using Behavioural Messages

The above three levels of behavioural messages provide a framework for installing signs to encourage increased sharing and co-operation on shared paths. Choosing the appropriate level of messages to suit a particular path, requires an understanding of the types of path users, and some information on the predominant types of conflicts.

It is recommended that an incremental "bottom up" approach be used when installing the signs. Begin with the level 1 behavioural messages described above. These may be sufficient to significantly improve user behaviour and reduce conflicts to an acceptable low level. Allow path users to get used to these level 1 messages and if necessary make some observations or obtain feedback from path users. If further education of path users is required, consider introducing level 2 messages and then if appropriate, site specific level 3 messages.

For further information, contact:

Manager - Bicycle Programs

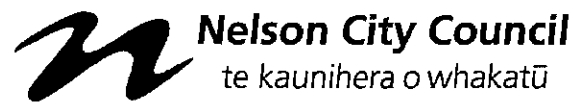
VicRoads

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**DRAFT RESERVES BYLAW
(NO. 222) –
with suggested amendments**

May 2014

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- 14. Penalties**

1 TITLE

The title of this bylaw is the 'Reserves Bylaw 2014'.

2 COMMENCEMENT AND REVIEW DATE

The bylaw came into effect on [day and date], and will be reviewed by July 2019.

3 PURPOSE

The purpose of the bylaw is to manage activities which may impact on other users of reserves, to ensure public safety and to avoid damage to reserves.

4 OTHER RELEVANT LEGISLATION, BYLAWS AND RELATED DOCUMENTS

The following documents do not form part of this bylaw but are also relevant to management of reserves. However, they do ~~contain provisions which regulate the use of reserves and which may apply where this bylaw is silent.~~

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- Reserves Act 1977
- Local Government Act 2002
- Freedom Camping Act 2011
- Litter Act 1979
- Land Transport Act 1998
- Resource Management Act 1991
- Nelson Resource Management Plan
- Nelson City Council Land Development Manual 2010 (section 12)
- Control of Dogs Bylaw 2013 (No. 221)
- Trading in Public Places Bylaw 2007
- Control of Drinking in Public Places Bylaw 2003 (No. 206)
- Parking and Vehicle Control Bylaw 2011 (No. 207)
- Conservation and Landscape Reserves Management Plan
- Esplanade and Foreshore Reserves Management Plan

- Saxton Field Reserve Management Plan
- Rutherford and Trafalgar Parks Reserves Management Plan
- Tahunanui Reserves Management Plan
- Haven Holes Esplanade Reserve Management Plan

5 DEFINITIONS

Authorised officer means any member of the staff of the Council, a Police Officer or any other person appointed by the Council to act on its behalf and with its authority.

Council means Nelson City Council.

Motor vehicle has the same meaning as in the Land Transport Act 1998.

Network utility has the same meaning as in the Resource Management Act 1991.

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Reserve means any land which is owned by or under the control of the Council and which is set aside for public enjoyment as a reserve, park, garden or open space. It does not include road reserve.

6 MOTOR VEHICLE USE

- 6.1 No person shall, without the prior permission of an authorised officer, drive a motor vehicle in excess of 20km/h in a reserve.
- 6.2 No person shall drive, ride or park any motor vehicle on any area of any reserve except:
- on those areas developed and/or set aside specifically for that purpose, or
 - where signs or markings indicate that motor vehicles are permitted, or
 - at the direction or with the permission of any authorised officer.

7 HAZARD OR DAMAGE

- 7.1 No person is permitted to undertake any activity in any reserve which causes, or is likely to cause, a hazard to users of the

reserve or damage to any part of the reserve or any structure on a reserve.

8 GOLF

- 8.1 No person shall practice or play golf on any area of any reserve other than on the Waahi Taakaro Golf Course and the designated area in Neale Park.

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9 ACTIVITIES REQUIRING PERMISSION

- 9.1 The following activities must not be undertaken in any reserve without the written permission of Council:

- use of chainsaws or other tree felling implements
- taking of rocks, minerals and sand
- possession of firearms of any kind or the killing of any animals, including shooting of game birds and control of animal pests. This includes the use of traps and toxins
- planting of seeds or shrubs or removal of vegetation
- grazing of livestock
- placing or erection of memorials including plaques
- landing of recreational motorised aircraft.

- 9.2 Any permission given under this Bylaw may be subject to such terms and conditions as Council sees fit, and may be revoked at any time where those terms and conditions are not complied with.

10 RESPECT FOR OTHER USERS

- 10.1 No user of any reserve shall impact on the safety and legitimate enjoyment of the reserve by others. In addition to any other action which may be initiated, anyone who does not comply with this requirement may be requested by an authorised officer to leave the reserve.

11 PUBLIC ACCESS TO RESERVES

- 11.1 No person shall enter or remain in any reserve during any time that the Council has determined that the reserve should be closed to the public. Reasons for access restrictions include fire risk, health and safety, and ecological restoration.

12. EXEMPTIONS

- 12.1 Nothing in this bylaw shall prevent authorised officers from carrying out activities in reserves.
- 12.2 Nothing in this bylaw shall prevent Iwi from carrying out activities in reserves which are provided for in any Deeds of Settlement between Iwi and the Crown.
- 12.3 Nothing in this bylaw shall prevent the operation, maintenance, development, and upgrading of network utilities where this is otherwise permitted or approved by the Council or other legislation.

13. BREACH OF BYLAW

- 13.1 Any person who breaches this Bylaw must, on request by an authorised officer, immediately stop the activity, and leave the reserve if requested by the authorised officer to do so.
- 13.2 Any person failing to promptly comply with a request under sub clause 12.1 commits a further offence against this Bylaw.

14. PENALTIES

- 14.1 Any person convicted of an offence against this bylaw is liable to a fine not exceeding \$20,000.

Reserves Bylaw - other councils' bylaw provisions regarding mountain bike tracks and mountain bikers

Wellington City Council, Upper Hutt City Council, Palmerston North City Council and Auckland Council do not have any bylaw provisions specifically related to cycling. However, Auckland Council has a general provision related to not injuring persons and not unreasonably interfering with the comfort or enjoyment of the public.

Hamilton City Council's bylaw includes the following provision: "No person shall use any vehicle including a bicycle, skateboard, roller skates or roller blades or similar devices, recklessly or in a manner which may damage a park or intimidate or be dangerous, injurious or cause a nuisance to persons in the park.

Christchurch City Council's bylaw includes bicycles within its definition of vehicle. It includes a provision that:

- No person may take, ride or drive any vehicle into or on any reserve except in areas where vehicles are allowed, such as driveways, parking areas or cycle tracks
- In addition, no person may drive or ride a vehicle within any reserve area where vehicles are allowed in a manner which is or might be dangerous to the public or to any person.

Napier City Council's bylaw has two relevant provisions:

- No Person must, on any part of the area to which this bylaw applies, ride any cycle at a speed or in a manner which is or might be dangerous, or which causes or might cause inconvenience to any Person enjoying the use of the area.
- No Person must construct or attempt to construct any track, jump, obstacle or other similar structure for the purpose of mountain biking, unless the area is designated for such purpose.

Dunedin City Council's definition of vehicle includes bicycles. It includes a restriction on the driving or riding of any vehicle (including bicycles), on any part of any reserve except upon parts which have been clearly set aside for such purposes.

Porirua City Council's definition of vehicle also includes bicycles. It includes the following provisions:

- No person may take or ride any vehicle or animal into or on any reserve except on defined tracks and roads provided for the purpose
- A person must not take, ride or drive a vehicle or animal into or in the reserve in a dangerous manner
- No person may exceed the speed of 10 kilometres per hour.

Taupo District Council's bylaw states that no person shall:

- act in a manner which would be likely to interfere with the safety, use and enjoyment of the reserve by other persons lawfully using the reserve
- drive or ride a vehicle in a manner that compromised the safety of other reserve users.