

Minutes of a meeting of the Brook Recreation Reserve Management Plan Gazettal and Road Stopping Hearings Panel Deliberations

Held in the Council Chamber, Civic House, 110 Trafalgar St, Nelson

On Tuesday 13 September 2016, commencing at 9.09am

Present: P Reaburn (Chairperson) and Councillors K Fulton and B McGurk

In Attendance: Group Manager Infrastructure (A Louverdis), Contractor The Property Group (P Graham) and Administration Advisor (J McDougall)

1. Confirmation of Minutes – 12 September 2016

The draft minutes of the Brook Recreation Reserve Management Plan Gazettal and Road Stopping Hearings Panel hearing on Monday 12 September 2016 were tabled (A1626927), and the Panel requested the following amendments:

- Clarification of Mr St Johanser's concerns outlined in his submission regarding a lack of consultation in relation to the proposed change of the classification of the land to Local Purpose Reserve (Recreation) from Recreation Reserve;
- Additional detail to be provided regarding Mr St Johanser's letter of 12 January 2015, and his assertion that the New Zealand Bill of Rights Act had been breached;
- The addition of Mr Dodd's advice that he considered the community had assumed that all land would have Recreation Reserve status, as in the draft Reserve Management Plan;
- Clarification that a question from the Chair related to maintaining access through the Reserve; and
- Inclusion of a list of documents requested and provided to the Panel by officers.

2. Deliberations

It was noted that the Panel had been provided with copies of the following documents, to assist with deliberations:

- The officer deliberations report (A1622464);
- Copy of consultation on the draft Brook Recreation Reserve Management Plan dated June 2015 (A1365018) that went out for consultation and the draft reserve Management Plan dated 15 October 2015, which was adopted in principle by Council (A1436078);
- Copies of two submissions: one from Mr St Johanser and one from the Brook Valley Community Group to the June 2015 draft Reserve Management Plan (A1377708 2 September 2015 hearings, p.32 and p.129);
- Copies of minutes of the hearings (2 September 2015 A1417691) and deliberation meetings (22 September 2015 A1433818) of the June 2015 draft Reserve Management Plan process;
- Map of the area leased by the Brook Waimarama Sanctuary Trust – Brook Valley (A661405); and
- An email dated 12 September 2016 noting differences between permitted uses on recreation Reserve and Local Purpose Reserves (A1628293).

The Hearings Panel considered the three aspects separately as below;

1. Reclassification of Recreation Reserve to Local Purpose Reserve (Recreation) – blue area on map (A1621388)
2. Declare fee simple to Local Purpose Reserve (Recreation) – orange and green areas on map (A1621388)
3. Road stopping – purple area on map A1621388

2.1. **Reclassification of Recreation Reserve to Local Purpose Reserve (Recreation) – blue area on map (A1621388)**

The Panel discussed the consultation process for the June 2015 draft Reserve Management Plan (preliminary draft RMP), and whether it was appropriate that the current Recreation Reserve status be altered to Local Purpose Reserve (Recreation) as a result.

The Panel agreed that the preliminary draft RMP had been developed on the basis of the land having Recreation Reserve status, and only the Department of Conservation submission had suggested reclassifying the land to Local Purpose Reserve (Recreation). Attention was drawn to the following pages of the preliminary draft RMP:

- Page 6 – refers to the status of the land being proposed as Recreation Reserve;
- Pages 28-30 – the draft RMP does not propose sale of the land;

- Page 34 – Includes section 5(3) of the Reserves Act, including a reference to Recreation Reserve;
- Page 66 – the gondola would be on Recreation Reserve;
- Page 75 – the Department of Conservation considered Recreation Reserve to be the appropriate classification;
- Page 92 – Recreation Reserve status adopted as Policy
- An indication that the education site could be on Recreation Reserve and the Recreation Centre was an appropriate use of land.

Panel member Councillor Fulton was concerned that:

- during consultation on the preliminary draft RMP in 2015, the community had not been advised of the proposed change in status from Recreation Reserve to Local Purpose Reserve (Recreation);
- there was no clear rationale as to why all of the land required the same reserve status or that a change in status was required;
- principles of natural justice had not been adhered to, with submitters being declined the opportunity to present to public forum, in accordance with Standing Orders, at the 15 October 2015 Council meeting when the draft RMP had been adopted by Council in principle; and
- these process issues had then become an understandable focus of submissions on the current processes.

The Panel Chairperson and Panel member Councillor McGurk, agreed that the preliminary draft RMP did not indicate a change to the existing classification, but noted it was a document available for consultation and a submission from the Department of Conservation raised a concern about that classification potentially not being consistent with the activities sought to be provided for in the preliminary draft RMP.

They both agreed that:

- while it was unfortunate that the Department of Conservation appeared to have changed its position as expressed in the preliminary draft RMP, it was entitled to do so and have that matter addressed in future processes;
- a Local Purpose Reserve (Recreation) was more appropriate with regard to the types of activities that could be undertaken consistent with the RMP, the issue of activities to be allowed having been widely consulted upon;
- the current re-classification process had allowed substantive issues to be raised, however submissions had focused on process and there was no basis for not considering reclassification of the land to Local Purpose Reserve (Recreation) as being appropriate.
- It was further noted that the gazettal process ensured that the draft RMP adopted in principle could not become operative until the entire process was complete.

The Chair requested that the minutes reflect that two Panel members (Chair Reaburn and Councillor McGurk) agreed that the land should be reclassified Local Purpose Reserve (Recreation) and that one Panel member, Councillor Fulton, opposed the reclassification.

In summary, Councillor Fulton requested the minutes reflect her reason for not supporting the reclassification was that she considered the community had not had adequate opportunity to comment on the change of reserve status of the land to a status that may offer lesser protection.

The Panel, by a majority view, agreed to recommend to Council:

That the land in question (in blue on map A1621388) be re-classified from Recreation Reserve to Local Purpose Reserve (Recreation).

2.2 Declare fee simple land to Local Purpose Reserve (Recreation) - orange and green areas on map A1621388.

The Panel discussion concluded that a declaration of the land to be Local Purpose Reserve (Recreation) was appropriate, given that this land was not currently a reserve – i.e. had no existing classification. Subject to an RMP being in place, this allowed for more robust planning and management of the area, consistent with the final draft RMP.

The Panel agreed to recommend to Council:

That declaration of the fee simple land (orange and green areas in map A1621388) to Local Purpose Reserve (Recreation) be approved, with the following conditions:

- a. that there is one Reserve Management Plan for the areas covered within map A1621388;***
- b. that the principles of the deed of gift are recognised in the Reserve Management Plan.***

2.3. Road stopping - purple area on map A1621388.

The Panel agreed that the road stopping public notice had been legally sound, although the wording of the public notice could have better alerted the public to the required separate process for classifying the land as Local Purpose (Recreation) Reserve.

It was noted that no submitters had opposed the proposed road stopping per se.

With respect to the Brook Waimarama Sanctuary Trust's (BWST) request for maintaining certainty of access in the interim, it was

noted that access was likely to be maintained and Council should consider appropriate means to give this assurance to the BWST.

The Panel agreed:

That the road stopping (purple area in map A1621388) be approved.

There being no further business the meeting ended at 11.20am.

Confirmed as a correct record of proceedings:

_____ Chairperson _____ Date