



AGENDA

Ordinary meeting of the

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

**Thursday 19 June 2014
Commencing at the conclusion of the Planning and Regulatory
Committee meeting
Council Chamber
Civic House
Trafalgar Street, Nelson**

Membership: Councillor B 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.

19 June 2014

A1203686

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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. Analysis of Submissions on the Draft Reserves Bylaw

4-41

Document number A1198273

Recommendation

THAT the report Analysis of Submissions on the Draft Reserves Bylaw (A1198273) and its attachments (A1183067 and A915962) be received;

AND THAT the draft Reserves Bylaw (No. 222) be amended to reflect the Committee's decisions on submissions

AND THAT a list of walking and cycling only tracks be reported to the Committee for consideration at a future date.

4. Recommendation to Council

THAT the Reserves Bylaw (No. 222), as amended to reflect the Planning and Regulatory Committee's decisions on submissions, be adopted.

Analysis of Submissions on the Draft Reserves Bylaw

1. Purpose of Report

- 1.1 To provide an analysis of the submissions on the draft Reserves Bylaw to assist the Committee's decision making process.

2. Recommendation

THAT the report Analysis of Submissions on the Draft Reserves Bylaw (A1198273) and its attachments (A1183067 and A915962) be received;

AND THAT the draft Reserves Bylaw (No. 222) be amended to reflect the Committee's decisions on submissions;

AND THAT a list of walking and cycling only tracks be reported to the Committee for consideration at a future date.

Recommendation to Council

THAT the Reserves Bylaw (No. 222), as amended to reflect the Planning and Regulatory Committee's decisions 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 2002).
- 3.2 The submission period ran from 1 February to 3 March 2014 and Council received nine submissions. On 20 March 2014 five of the submitters spoke in support of their submissions at a hearing on the Draft Reserves Bylaw.
- 3.3 On 8 May 2014 the Planning & Regulatory Committee considered the issues raised in submissions, before adjourning the meeting to enable more analysis to be completed. The report presented to that meeting is attached (Attachment 1).

- 3.4 Officers met with the chair and deputy chair of the Planning and Regulatory Committee. This report, and its recommendations, were agreed with them.
- 3.5 To assist decision making, section 4 of this report lists each submission point followed by options considered, a recommended option and reasons for the recommendation. Section 5 of this report provides responses to issues raised by the Committee at the 8 May meeting that are not addressed in section 4. The amended Reserves Bylaw in Attachment 2 to this report identifies the recommended changes in underlining and strikethrough.
- 3.6 As indicated in the previous report, Council's general approach is to use information and education as the main tools in encouraging appropriate behaviour. Any community expectation that Council is able to resolve every conflict or to provide enhanced enforcement is unrealistic.

4. Discussion – submissions and recommendations

Submitter 1 – Jackie McGrath

4.1 Submitter Issue 1.1 – signage

4.2 Decision requested: The submitter requested clear signage prohibiting vehicles from using areas other than designated parking areas or formed roads in reserves.

4.3 Options considered:

- A) Install more 'no vehicles/no parking' signs in reserves.
- B) Do not install more 'no vehicles/no parking' signs in reserves.

4.4 Recommended option: Option B.

4.5 Reasons for recommendation: More signage is not recommended, as vehicles and parking are not permitted in most areas in reserves. Option A would result in a proliferation of signs in Council reserves.

4.6 **Submitter Issue 1.2** – Rubbish dumping in reserves is a concern (including dumping in the trees at Tahunanui Beach). The submitter 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.

4.7 Decision requested: Consider reducing the fee for rubbish disposal, particularly for green waste.

4.8 Options considered:

- A) Manage unauthorised dumping of rubbish under the Litter Act 1979.
- B) Include a provision in the Reserves Bylaw.

4.9 Recommended option: Option A.

- 4.10 Reasons for recommendation: The Litter Act 1979 enables \$200 instant fines to be issued, and the Act applies wherever the dumping occurs (not only in reserves).
- 4.11 The current charges at the transfer station are not considered a deterrent to taking waste there. Council operates a sliding charging scale based on the volume of waste being deposited, and the type of waste. For small quantities (up to 60 litres) there is a charge of \$2. Above that minimum, segregated green waste is cheaper to dispose of than mixed general waste.
- 4.12 **Submitter Issue 1.3** – At the hearing, the submitter asked how the Council was going to enforce sections 7, 9 and 13 of the draft bylaw. These sections relate to hazards 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.
- 4.13 Decision requested: Consider increasing enforcement of activities in reserves.
- 4.14 Options considered
- A) Increase enforcement of activities in reserves.
- B) Continue the current level of enforcement of activities in reserves.
- 4.15 Recommended option: Option B.
- 4.16 Reasons for recommendation: Council’s preferred approach is to use education as the main tool for managing activities in reserves. 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.
- 4.17 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.
- 4.18 Council could decide to adopt a different approach to enforcement of 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.
- 4.19 **Note**: The submitter asked if there is anything in the draft Reserves Bylaw that will change the use of reserves for dog walkers and their pets from the provisions agreed to previously. Nothing covered by the Control

of Dogs Bylaw will change as a result of the adoption of the Reserves Bylaw.

- 4.20 The submitter also asked whether the 20km speed restriction for motor vehicles applies to bikes and mobility scooters.
- 4.21 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.

Submitter 2 – Matt Hippolite (Ngati Koata Trust)

- 4.22 **Submitter Issue 2.1** – The submitter confirmed that the proposed change to the bylaw (discussed during the informal consultation stage), addressed his concern that the Reserves Bylaw could be in conflict with Iwi rights under the Deeds of Settlement.
- 4.23 Decision requested: to accept the proposed inclusion of the following clause: “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.”
- 4.24 Options:
- A) Retain this clause in the draft bylaw.
 - B) Delete this clause from the draft bylaw.
- 4.25 Recommended option: Option A.
- 4.26 Reasons for recommendation: There were no submissions in opposition to this provision and it ensures the Reserves Bylaw is not in conflict with any Deeds of Settlement.

Submitter 3 – Dan McGuire

- 4.27 **Submitter Issue 3.1** – The submitter 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.
- 4.28 Options considered:
- A) Do not include a provision controlling golf in Council reserves.
 - B) Only allow golf to be practised in a specific area at Neale Park (as provided for in the Reserves Bylaw 2006).

- C) Do not allow golf to be practised in any Council reserves (other than the golf course).
- 4.29 Recommended option: Option C.
- 4.30 Reasons for recommendation: There is the potential for golf balls to travel a long way and at speed, and often in an unpredictable direction. Council recognises this means there is nowhere to practise free of charge, and may consider setting aside a free area at the Council's Waahi Taakaro golf course in future.
- 4.31 **Submitter Issue 3.2** - signage
- 4.32 Decision requested: A more obvious sign on the main track to the Centre of New Zealand to make it clear that cycles are not allowed on this track.
- 4.33 Options considered:
- A) Retain existing sign.
- B) Install a new, larger sign.
- C) Review this sign as part of a larger project of establishing a number of walking or cycling only tracks.
- 4.34 Recommended option: Option C.
- 4.35 Reasons for recommendation: The Council proposes to develop a list of tracks for walkers or cyclists only, and will review the Centre of New Zealand sign as part of this process to ensure consistent signage for all such tracks.

Submitter 4 – Queenie Ballance (National Council of Women)

- 4.36 **Submitter Issue 4.1** – number of policy documents
- 4.37 Decision requested: The submitter said it would be helpful if at some stage all the plethora of relevant legislation, bylaws (including this one) and related documents were amalgamated into one document.
- 4.38 Options:
- A) Continue current approach of listing all strategies, plans, policies, reports and studies in one place on the Council website:
<http://nelson.govt.nz/council/plans-strategies-policies/strategies-plans-policies-reports-and-studies-a-z/>.
- B) Amalgamate all these documents as one document.
- 4.39 Recommendation: Option A.
- 4.40 Reasons: This request is outside of the scope of the Reserve Bylaw. While some amalgamation is desirable, it is not realistic to bring all Council documents and the relevant legislation into one document.

- 4.41 **Submitter Issue 4.2** – problems between users of shared pathways.
- 4.42 Decision requested: Develop 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 to pass on the left.
- 4.43 Options considered:
- A) Develop new guidelines for shared pathways.
- B) Continue to use the shared path behavioural messages that are consistent with other Road Controlling Authorities in New Zealand, and which are provided on existing signage in Nelson’s reserves.
- 4.44 Recommended option: Option B.
- 4.45 Reasons for recommendation: Changing the message (for example, to walk on the right of the path) would create confusion. It is better to continue to use the existing shared path behavioural signs that encourage path users to behave in a predictable and cooperative manner:
- keep left
 - warn when approaching
 - move off path when stopped
 - control your dog.

Submitter 5 - Helen Campbell, The Friends of Nelson Haven & Tasman Bay

- 4.46 **Submitter Issue 5.1** – Improvements to the wording of the bylaw.
- 4.47 Decision requested: Submitter 5 suggested minor changes to sections 2 and 4 of the draft Reserves Bylaw:
- i) In section 2, state what the term of the Reserves Bylaw 2014 will be.
 - ii) In section 4, delete “and which may apply where this bylaw is silent”. Add to the list “Local Government Act” and “Trading in Public Places Bylaw No. 213”. Add after the list “and any other legislation, bylaws and related documents including reserve management plans that are current”.

iii) Alternatively: delete all text under section 4 and replace with: "The management of reserves may be regulated or controlled by legislation, plans and other bylaws. Consultation with NCC Reserves staff will clarify requirements".

4.48 Options:

- A) Make most of the wording changes as outlined in (i) and (ii) above.
- B) Make the wording changes as outlined in (i) and (iii) above.
- C) Do not change the existing wording of the draft bylaw.

4.49 Recommendation: Option A, as outlined below.

Amend sections 2 and 4 of the draft bylaw as follows:

2. The bylaw came into effect on [day and date] and will be reviewed by 1 July 2019.

4. 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.~~

Add the following to the list in section 4:

Local Government Act 2002

Trading in Public Places Bylaw 2007

4.50 Reasons for recommendation: The suggested changes add useful information to the bylaw. The reason for not including the suggested clause about "any other legislation, bylaws and other documents that are current" is that it is not specific enough to be included in a legally enforceable bylaw.

4.51 Similarly, the alternative suggestion outlined in (iii) is not recommended as it lacks specific information.

Submitter Issue 5.2 – activities requiring permission.

4.52 Decision requested: the submitter suggested the following amendments to the 'Activities Requiring Permission' section of the bylaw (shown in strikethrough and underlining below):

- 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.

4.53 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.

4.54 Options considered:

- A) Make the wording changes as above.
- B) Make some of the changes to the existing wording of the draft bylaw.
- C) Do not change the existing wording of the draft bylaw.

4.55 Recommended option: Option B – make some of the changes to the existing wording of the draft bylaw, as follows:

~~The following activities must not be undertaken in any reserve without the written permission of Council:~~
Permission to undertake the following activities in reserves can be granted, but they do require the written permission of Council:

- 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, spraying of seeds or shrubs or removal of vegetation
- grazing of livestock
- placing or erection of memorials including plaques.

4.56 Reasons for recommendation: The suggested changes to the 'activities requiring permission' section of the bylaw improve its clarity. The changes are sufficiently minor not to require re-consultation on these matters.

4.57 Including the suggested explanatory notes is not recommended, as these would have no regulatory effect and so are not well suited to inclusion in

the bylaw. However, the introductory wording to this provision has been amended to provide a more positive message about these types of activities.

- 4.58 The requirement for a public consultation process in some specific cases prior to Council approval could be included in permit criteria. These can be developed once the bylaw is adopted. This option is discussed further in section 5 of this report.
- 4.59 **Submitter Issue 5.3** – protection of riparian vegetation.
- 4.60 Decision requested: 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.
- 4.61 Options considered:
- A) Prioritise natural values of riparian vegetation.
 - B) Prioritise vegetation clearance for safety reasons.
 - C) Achieve both safety and protection of riparian vegetation.
- 4.62 Recommended option: Option C.
- 4.63 Reasons for recommendation: Safety and riparian vegetation are both important values, and wherever possible both will be protected through walkway design and choice of plants.

Submitter 6 - Christopher St Johanser (Brook Valley Community Group)

- 4.64 **Submitter Issue 6.1** – the submitter disagreed with the statement 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.
- 4.65 At the hearing the submitter said enforcement needs to happen so that all people can use tracks such as Codgers Track. He suggested a system of voluntary wardens, but also emphasised that Council should be responsible for enforcement rather than relying on volunteers to do this work.
- 4.66 Decision requested: Change the Reserves Bylaw to regulate the activities of mountain bikers, and actively enforce the new bylaw provision.
- 4.67 Options considered:
- A) Use education as the main tool for ensuring user safety.
 - B) Allocate 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; and 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 such as faster bike speeds if tracks are widened.

- C) 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).
- D) Hold a meeting for mountain bikers and walkers to discuss the issues about the use of shared paths.
- E) 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.
- F) Include a bylaw provision describing the type of mountain biking behaviour that is not permitted in Nelson's reserves.

4.68 Recommended option: Options A, B and C.

4.69 Reasons for recommendation: The recommended 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 four such complaints since January 2012.

4.70 Council officers also recommend Option B because design is crucial to resolving this issue.

4.71 Option C will enable separation of cycling and walking where there are safety concerns, such as in the Brook Valley area. This approach is proposed to be managed through signage, rather than through the Reserves Bylaw.

4.72 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.

Submitter issue 6.2 – new mountain bike trails.

4.73 Decision requested: Do not develop any new mountain bike trails without public consultation.

4.74 Options considered:

- A) 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 Parks and Reserves Activity Management Plan 2012-22.
 - B) Seek informal feedback on suggested new tracks from walking groups and interested individuals.
 - C) Provide a report to Council outlining the Nelson Mountain Bike Club's suggested tracks and including recommendations from Council officers.
- 4.75 Recommended option: Option C.
- 4.76 Reasons for recommendation: This option provides the greatest opportunity for Councillors to review the proposed approach, and to consider whether public consultation is desirable before making a decision. It provides the opportunity for wider consultation process on new tracks than currently occurs.

Submitter 7 – Patrick Gerard (Nelson Youth Council)

- 4.77 Nelson Youth Council supported the implementation of the Draft Reserves Bylaw. No changes were requested.

Submitter 8 – Helen Black

- 4.78 **Submitter Issue 8.1** – dumping of rubbish in reserves.
- 4.79 Decision requested: Inclusion of a clause in the bylaw addressing the dumping of green and other waste in the region. The submitter suggested reviewing whether the current fee structure at the transfer station was affordable.
- 4.80 Options considered:
- A) Manage this issue under the Litter Act 1979.
 - B) Include a provision in the Reserves Bylaw 2014.
 - C) Change the current fee structure at the transfer station.
- 4.81 Recommended option: Option A.
- 4.82 Reasons for recommendation: This option is recommended because the Litter Act 1979 enables \$200 instant fines to be issued, and the Act applies wherever the dumping occurs (not only in reserves).
- 4.83 Option C is not recommended because the current charges are not considered a deterrent to taking waste to the transfer station. Council operates a sliding charging scale based on the volume of waste being deposited, and the type of waste. For small quantities (up to 60 litres) there is a charge of \$2. Above that minimum, segregated green waste is cheaper to dispose of than mixed general waste.

- 4.84 **Submitter Issue 8.2** – 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.
- 4.85 The submitter also said relying on the national mountain bike code of conduct as a guide to its users in Nelson’s reserves does not work.
- 4.86 Decison 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.
 - Council officers having a random presence on tracks, observing cyclist behaviour and setting an example by carrying out enforcement.
- 4.87 Options considered:
- A) Use education as the main tool for ensuring user safety.
 - B) Allocate 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; and 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 such as faster bike speeds if tracks are widened.
 - C) 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).
 - D) Hold a meeting for mountain bikers and walkers to discuss the issues about the use of shared paths.
 - E) 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.

- F) Include a bylaw provision describing the type of mountain biking behaviour that is not permitted in Nelson's reserves.
- 4.88 Recommended option: Options A, B and C.
- 4.89 Reasons for recommendation: The recommended 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 four such complaints since January 2012.
- 4.90 Council officers also recommend Option B because design is crucial to resolving this issue.
- 4.91 Option C will enable separation of cycling and walking where there are safety concerns, such as in the Brook Valley area. This approach is proposed to be managed through signage, rather than through the Reserves Bylaw.
- 4.92 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.
- 4.93 Note: Sharlands Creek mountain bike park is on private land and is not under any control by Nelson City Council.
- 4.94 **Submitter Issue 8.3** - Golf in reserves has the potential to cause harm to other users of reserves.
- 4.95 Decision requested (inferred): Restrict the playing of golf in reserves.
- 4.96 Options considered:
- A) Do not include a provision controlling golf in Council reserves.
 - B) Only allow golf to be practised in a specific area at Neale Park (as provided for in the Reserves Bylaw 2006).
 - C) Do not allow golf to be practised in any Council reserves (other than the golf course).
- 4.97 Recommended option: Option C.
- 4.98 Reasons for recommendation: There is the potential for golf balls to travel a long way and at speed, and often in an unpredictable direction. Council recognises this means there is nowhere to practise free of charge, and may consider setting aside a free area at the Council's Waahi Taakaro golf course in future.

Submitter 9 – Mike Hurley (Transpower NZ Ltd)

- 4.99 **Submitter Issue 9.1** - 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.
- 4.100 There is nothing in the NES for Electricity Transmission Activities (NESETA) that provides for any bylaw to be more stringent than NESETA.
- 4.101 The submitter also suggested an exemption could be extended to other network utility operators.
- 4.102 Decision 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".
- 4.103 Options considered:
- A) Include suggested exemption.
- B) Do not include suggested exemption.
- 4.104 Recommended option: Option A.
- 4.105 Reasons for recommendation: The suggested exemption for Transpower and other network utilities ensures the bylaw is not more stringent than the National Environmental Standard for Electricity Transmission Activities, and that 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.

5. Review of issues raised at previous meeting

- 5.1 At the 8 May Planning & Regulatory meeting the Councillors raised a number of issues for further consideration, which have not been addressed in the analysis of submissions above. These matters are listed below, alongside a recommended response.

Issue	Recommended response
Consider developing a draft schedule of tracks that could potentially be classed as 'shared tracks' and those that could be classified as 'walking only' or 'cycling only'.	Council officers will report back to Councillors on recommended tracks for walking or cycling only. Process can be managed outside of the Reserves Bylaw, and implemented through informative, creatively presented signage. This will provide valuable information on the community's level of support for restrictions on some tracks. If there is public support for a schedule of walking or cycling only tracks and a non-regulatory approach proves to be ineffective, a schedule could be included in a bylaw in future.
Advice on whether consultation would need to be reopened if the committee were of a mind to include a schedule of walking or cycling only tracks in the draft bylaw.	The legal advice is that Council would have to re-consult on any schedule which restricted paths to walking or cycling only.
Further information regarding non-regulatory methods of encouraging and monitoring appropriate behaviour by all users of tracks.	The Team Leader Roding and Solid Waste has reviewed the signage approaches taken around the country. She has advised that Nelson is leading the way with its messages. Bicycle Nelson Bays are keen to work with the Council on this issue, but this work is currently on hold.
What are the criteria for giving permission under section 4 of the draft bylaw - 'activities requiring permission'?	Publishing a list of formal criteria would provide transparency on the implementation of this bylaw. These should be developed following the adoption of a Reserves Bylaw, and published on the Council website.
Consider expanding the 'activities requiring permission' section of the draft bylaw to clarify that in appropriate circumstances there may be an obligation to publicly consult.	The criteria discussed above could provide information on the situations in which public consultation could be required.

6. Conclusion

- 6.1 Decisions on submissions and adoption of a Reserves Bylaw will enhance the Council's ability to manage activities in reserves, for the benefit of all users of reserves.

Chris Ward
Manager Environmental Programmes

Attachments

Attachment 1: Previous Report: Deliberations on the draft Reserves Bylaw
[A1151054](#)

Attachment 2: Draft Reserves Bylaw (No 222) with suggested amendments –
[A1198272](#)

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 2012-22, the Nelson Resource Management Plan and in reserve management plans 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.”

6. Long Term Plan/Annual Plan reference and financial impact

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."

7. Decision-making significance

This is not a significant decision in terms of the Council's Significance Policy.

8. Consultation

Use of the special consultative procedure gave everyone an opportunity to comment on the draft bylaw.

9. Inclusion of Māori in the decision making process

Early, informal consultation was carried out with iwi and the opportunity for wider consultation with Māori was provided for through the special consultative procedure.

10. Delegation register reference

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.

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 Roading 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 Botanic 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

Previous report

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.

previous report

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."

6. Long Term Plan/Annual Plan reference and financial impact

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."

7. Decision-making significance

This is not a significant decision in terms of the Council's Significance Policy.

8. Consultation

Use of the special consultative procedure gave everyone an opportunity to comment on the draft bylaw.

9. Inclusion of Māori in the decision making process

Early, informal consultation was carried out with iwi and the opportunity for wider consultation with Māori was provided for through the special consultative procedure.

10. Delegation register reference

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.



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

June 2014

CONTENTS

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- 12. Exemptions**
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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 1 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 legislation, bylaws and management plans listed below are also relevant to the management of reserves.

- 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.

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.

9 ACTIVITIES REQUIRING PERMISSION

- 9.1 Permission to undertake the following activities in reserves can be granted, but they do require 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, spraying or removal of vegetation
- grazing of livestock
- landing of recreational motorised aircraft
- placing or erection of memorials including plaques.

- 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.