



AGENDA

Ordinary meeting of the

**Brook Recreation Reserve Management Plan
Gazettal and Road Stopping Hearing Panel**

**Monday 12 September 2016
Commencing at 9.00am
Council Chamber
Civic House
110 Trafalgar Street, Nelson**

Membership: Peter Reaburn (Chairperson) and Councillors Kate Fulton and Brian McGurk

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.

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2. Interests	3
2.1 Updates to the Interests Register	
2.2 Identify any conflicts of interest in the agenda	
3. Terms of Reference	109-111
3.1 Document number A1608469 – pages 101-103	
3.2 As this is the first meeting of the Panel, the Terms of Reference are attached for information. It should be noted that the membership of the Hearing Panel was amended at the Council meeting of 28 July 2016 (refer to A1608469 page 104).	
4. Reference Documents	
4.1 Summary memo from Alec Louverdis, Group Manager Infrastructure	5-8
Document A1621359 (and its attachment, A1621388, an aerial photograph showing the areas covered by the RMP)	
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- Extract from minutes of Council meeting held 28 July 2016 page 104 **112**
- Council report dated 15 October 2015 (pages 105-110) **113-118**
- Extract from minutes of Council meeting held 15 October 2015 (pages 111-112) **119-120**

5. **Hearing Schedule**

To be tabled at the Hearing.

2 September 2016

Memo To: Hearings Panel

Memo From: Alec Louverdis

Group Manager Infrastructure

Subject: Brook Recreation Reserve Management Plan – Gazettal and Road Stopping Summary for Hearings Panel

1. On 11 June 2015 Council publicly notified a draft Brook Recreation Reserve Management Plan in accordance with section 41 (6) of the Reserves Act 1977. That Hearings Panel comprising an independent chair (Peter Reaburn) and Councillors Matheson and Noonan heard and deliberated on submissions and to make recommendations to Council.
2. A total of 45 submissions were made, with 8 submitters wishing to be heard. The hearing took place on 2 September and the panel met to deliberate on submissions on 22 September 2015.
3. The key issues that submitters raised were in relation to:
 - The vision;
 - Road stopping;
 - Gazettal of the reserve;
 - Administration of the reserve; and
 - Residential Camping.

The road stopping and gazettal are covered as they relate to the issue at hand.

Road Stopping - Due to widespread support from submitters, the panel recommended that the road be stopped and the land given reserve status.

Gazettal of Reserve - The draft Reserve Management Plan suggested Gazettal of the entire reserve as a Recreation Reserve. Gazettal was supported by the majority of submitters. However, the Department of Conservation (DOC) suggested that a more appropriate classification would be as a Local Purpose Reserve (Recreation). This view was supported by the Panel for the reason that it offers appropriate flexibility in delivering the vision and outcomes identified in the RMP in compliance with the Reserves Act. The panel subsequently recommended:

- Stopping the road reserve;

- Removing the reserve classification of the plot of land currently Gazetted as Recreation Reserve;
- Classifying the whole area covered by the RMP as Local Purpose Reserve (Recreation);
- Classifying the road reserve which extends into the Sanctuary lease area as Local Purpose Reserve (Wildlife Sanctuary). This is not covered by the RMP but is a consequence of the recommendation to stop the road and will avoid an isolated road section;

4. Following consideration of the submissions and objections, Council formally adopted the panel's recommendations on 15 October 2015 and resolved as follows:

AND THAT the Brook Recreation Reserve Management Plan, as amended by the Hearing Panel following consideration of submissions, be adopted in principle;

AND THAT the Chief Executive be delegated authority to proceed to stop the following two sections of formed legal road as shown on plan (A1438749);

AND THAT the Chief Executive be delegated authority to Gazette the entire area covered by the Brook Recreation Reserve Management Plan, as shown on plan (A1438749), as a Local Purpose Reserve (Recreation); and the road reserve which extends into the Sanctuary lease area as Local Purpose Reserve (Wildlife Sanctuary);

AND THAT, once the Gazettal process is complete, a report be brought back to Council to enable the Brook Recreation Reserve Management Plan to take effect;

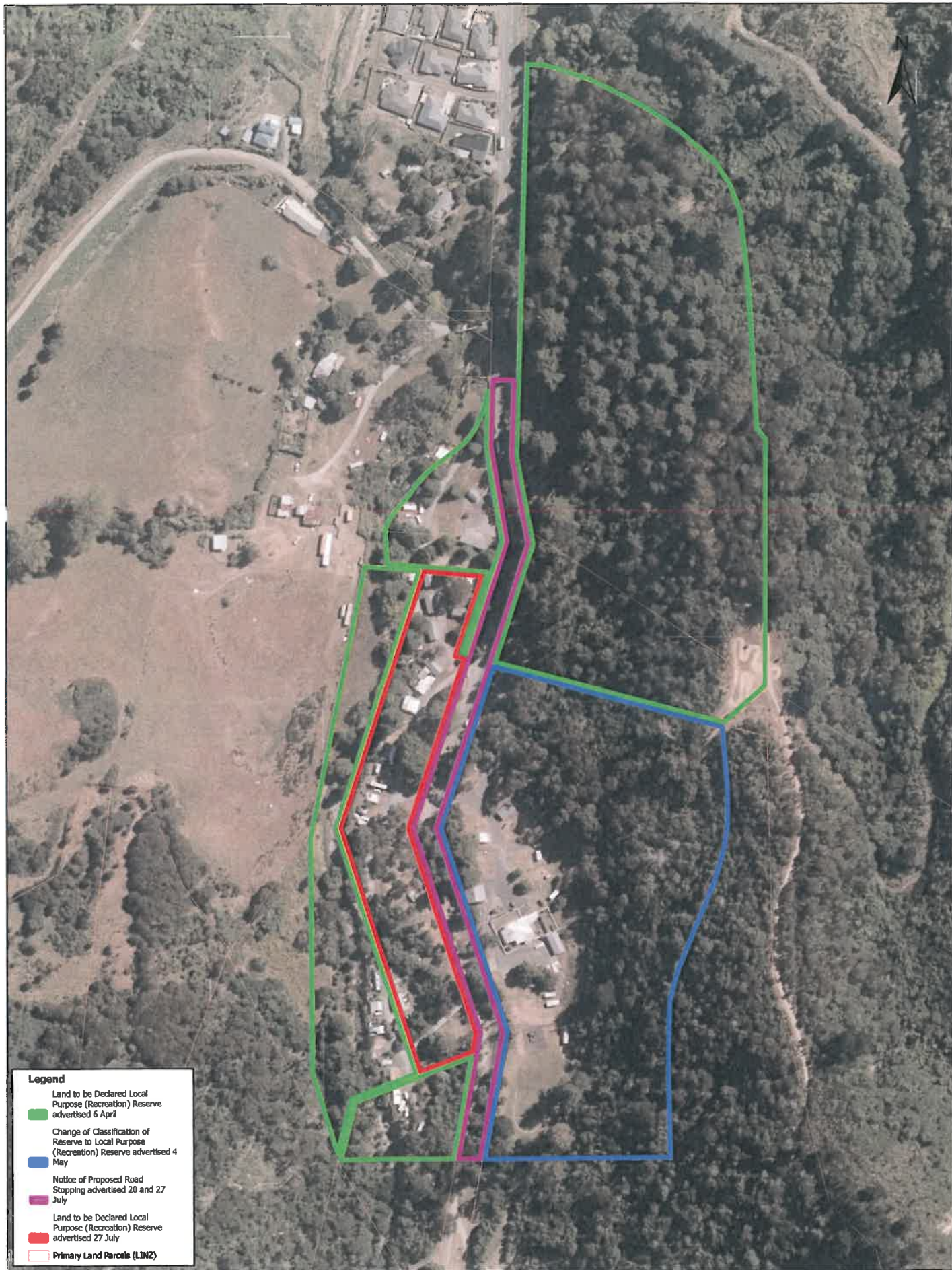
AND THAT Officers prepare a Comprehensive Development Plan for the area covered by the Brook Recreation Reserve Management Plan.

5. The draft Brook Recreation Reserve Management Plan (The RMP) has only been **adopted in principle**. It will only be fully and finally adopted when the Gazettal is confirmed. The RMP can then take effect for the whole reserve, without having to re-consult on the whole management plan, subject to a subsequent Council resolution.
6. The RMP covers the areas shown on the attached aerial photograph (A1621388) as:
- Blue – existing Recreation Reserve vested in Council;
 - Green - fee simple land owned by Council- proposed to be declared reserve;
 - Red - land owned by Council – which is proposed to be declared reserve (DOC advise status as reserve uncertain and suggest declaration to remove any uncertainty);
 - Purple - Road proposed to be stopped.

7. The RMP has no status under the Reserves Act with respect to any land other than the land that is already reserve (the blue land) until the other land (red green and purple) becomes reserve. Adopting the RMP is therefore awaiting the outcome of this hearing.
8. The process for road stopping and gazettal are set out in the Local Government Act 1974 and the Reserves Act 1977 respectively. This procedure have been followed and in both cases have involved publicly notifying the proposed changes, calling for objections, hearing submissions and then deliberating.
9. For ease of administration, Council agreed to set up a hearings panel to hear and deliberate on these two processes at the same time.
10. The change in classification of the existing recreation reserve and declaration of the reserve, if approved, will allow the red and blue land to be administered as local purpose reserve in accordance with the objectives and policy set out in section 7.4 of the RMP. The status of local purpose Reserve (Recreation) is consistent with the issues and uses of the land contemplated by and provided for in the draft RMP publicly notified and the vision and outcomes identified in the RMP adopted in principle.
11. The road (the purple area) is entirely surrounded by the other land proposed to become local purpose reserve recreation and leads to Local Purpose Reserve (Wildlife Sanctuary) vested in the Council referred to in 4 above The road area which formerly extended into the sanctuary has previously been stopped and added to the Local Purpose Reserve (Wildlife Sanctuary).
12. Access to the Local Purpose Reserve (Wildlife Sanctuary) will be provided through the Local Purpose Reserve (Recreation). The RMP provides for development of a comprehensive development plan which includes requirements:
 - a. to provide for services and facilities required to manage, operate and service the Brook Waimarama Sanctuary (7.3.2, (4) b).
 - b. for a redeveloped roading network to suit the uses to be provided for in the detailed development plan (including those detailed in a.)

Provision of continued public access to the Wildlife Sanctuary is consistent with both the proposed terms of the comprehensive development plan, when developed, and the general policies and permitted activities provided for in the RMP. Council proposes formulating an interim arrangement for continued access to the Wildlife Sanctuary in consultation with the Sanctuary Trustees pending finalising the comprehensive Development Plan.

13. The road cannot be added to the Local Purpose Reserve (Recreation) until and unless it is first stopped. This is a separate process. Following stopping and pending completion of that process Council would have full authority pursuant to section 345 of the Local Government Act 1974 to apply the land to any purpose the Council may apply land under the Local Government Act or any other Act (which would include the power to use it for the purposes of the Reserve to provide access to the Wildlife Sanctuary).



Legend

- Land to be Declared Local Purpose (Recreation) Reserve advertised 6 April
- Change of Classification of Reserve to Local Purpose (Recreation) Reserve advertised 4 May
- Notice of Proposed Road Stopping advertised 20 and 27 July
- Land to be Declared Local Purpose (Recreation) Reserve advertised 27 July
- Primary Land Parcels (LINZ)



VERSION CONTROL	1	2	3	4	5	6	7	8	9	10
<small>Property boundaries sourced from LINZ http://data.linz.govt.nz/layer/772-nz-primary-parcels and licensed by LINZ for re-use under the Creative Commons Attribution 3.0 New Zealand license. Property boundaries accuracy: +/-1m in urban areas, +/-30m in rural areas. Aerial Imagery sourced from the LINZ https://data.linz.govt.nz/layer/1872-waikato-05m-rural-aerial-photos-2012-2013/ and licensed by Waikato Regional Aerial Photography Service (WRAPS) 2012 for re-use under the CC 3.0 NZ licence. Areas are approximate and subject to survey.</small>										
PREPARED BY	Alix Vezina			DATE	15/08/2016			SHEET	1 OF 1	

Brook Valley Reserves & Road Stopping
 New boundaries as per new sections on SO 498803



TPG REF 713469 A3 Scale 1:2,000



Corporate Property Advisors and Negotiators®

The Property Group Limited

Nelson
PO Box 1551 Nelson 7040
Level 1, 4 Akersten St
Nelson 7010

30 August 2016

Our Reference: 713469

Alec Louverdis
Group Manager Infrastructure
Nelson City Council
NELSON 7040

By Email: alec.louverdis@ncc.govt.nz

Dear Alec,

BROOK RECREATION RESERVE - NOTICES AND SUBMISSIONS

Please find below a list of notices and submissions, with relevant contact details of the submitting parties.

6 April 2016, Nelson Mail		Land to be Declared Reserve	Submission deadline 6 May 2016		
Submitting Party	Spokesperson / Chairman	Contact Details	Submission received	Position regarding notice	Wishes to be heard
Brook Valley Community Group (Inc.)	Christopher St Johanser	63 Brook Street Nelson 7010 Phone 545 9201 cisj@kinect.co.nz	4 May 2016	Oppose	Yes – one presentation for all issues.
4 May 2016, Nelson Mail		Change of Classification of Reserve	Submission deadline 6 June 2016		
Submitting Party	Spokesperson / Chairman	Contact Details	Submission received	Position regarding re-classification	Wishes to be heard
Nelson GreyPower	Dan McGuire	45 Domett St Nelson Ph: 548 3458 Dan.sullivan@kinect.co.nz	5 May 2016	Oppose	Yes – they wish to be present when the

Department of Conservation	Mark Townsend Operations Manager	Nelson Office Private Bag 5 Nelson 7042 Attn: Lionel Solly	20 May 2016	Agree	Brook Valley Community Group gives their presentation. No
Brook Valley Community Group (Inc.)	Christopher St Johanser	63 Brook Street, Nelson 7010, Phone 03 545 9201 cisj@kinect.co.nz	31 May 2016	Oppose	Yes – one presentation for all issues.

20 July 2016, Nelson Mail Proposed Stopping of Road (LGA)

Submission deadline 29 August
2016

Submitting Party	Spokesperson / Chairman	Contact Details	Submission received	Position regarding re- classification	Wishes to be heard
Brook Valley Community Group (Inc.)	Christopher St Johanser	63 Brook Street, Nelson 7010, Phone 03 545 9201 cisj@kinect.co.nz		Oppose	Yes – one presentation for all issues.
Steve Cross 8 Bisley Ave Moana Nelson 7011	Steve Cross	Steve Cross 8 Bisley Ave Moana Nelson 7011	29.08.2016	Oppose.	No
Justine MacDonald	Justine MacDonald	mcdandosfarm@xtra.co.nz	24.08.2016	Oppose	No
Department of Conservation	Mark Townsend Operations Manager	Nelson Office Private Bag 5 Nelson 7042 Attn: Lionel Solly	29 August 2016	Agree	No
The Brook Waimarama Sanctuary Trust	Hudson Dodd	PO Box 744 Nelson Phone 03 546 2422 Hudson.dodd@brooksanctuary.org	29 August 2016	Agree	Yes


27 July, Nelson Mail

Land to be Declared Reserve

Submission deadline 29 August 2016

Submitting Party	Spokesperson / Chairman	Contact Details	Submission received	Position regarding re-classification	Wishes to be heard
Brook Valley Community Group (Inc.)	Christopher St Johanser	63 Brook Street, Nelson 7010, Phone cisj@kinect.co.nz	Linked to above submissions	Oppose	Yes – one presentation for all issues.
Department of Conservation	Mark Townsend Operations Manager	Nelson Office Private Bag 5 Nelson 7042 Attn: Lionel Solly	29 August 2016	Agree	No

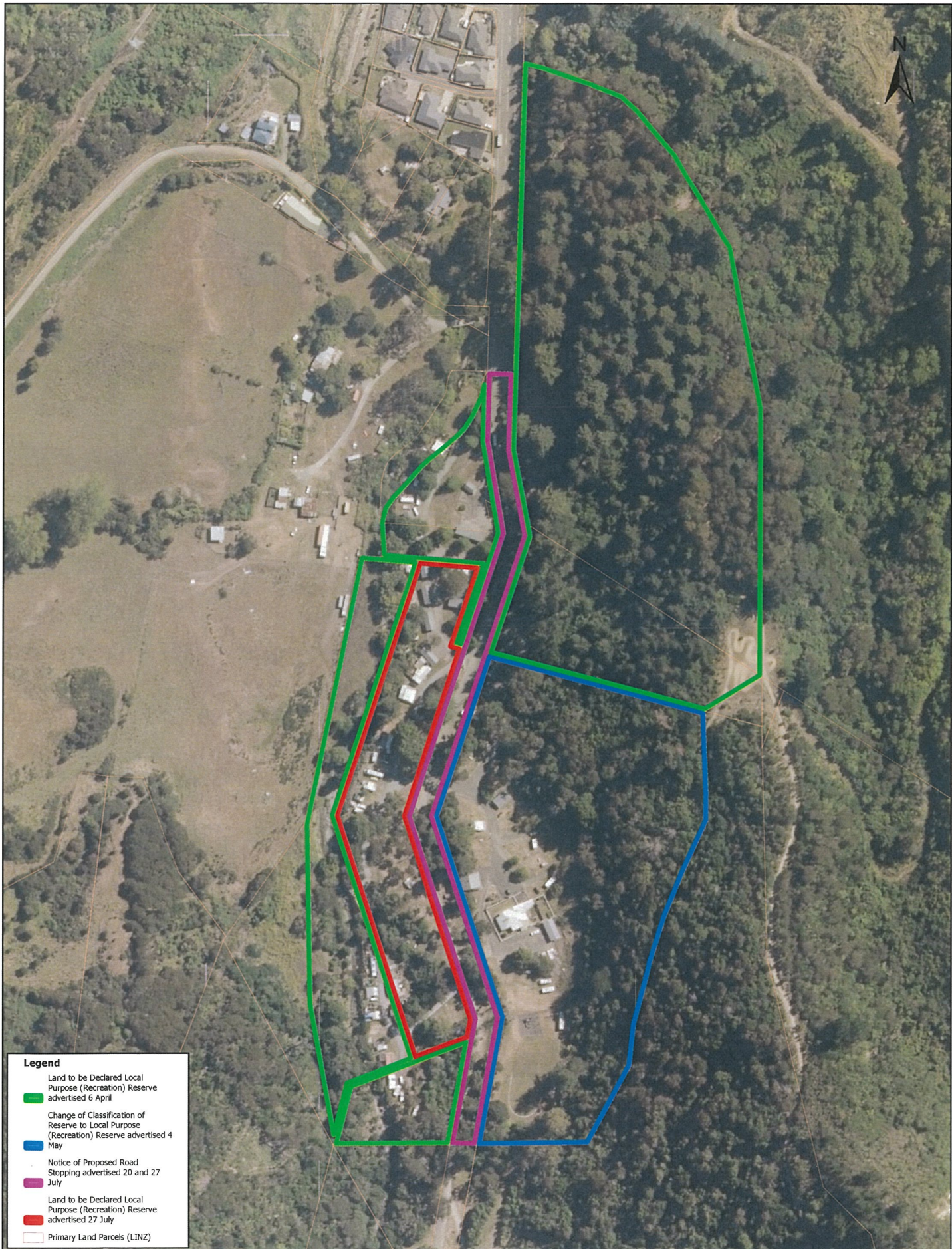
Yours sincerely


NICKY MITCHELL

Property Consultant

03 548 2346 / 027 510 7601

Nmittchell@propertygroup.co.nz



Legend

- █ Land to be Declared Local Purpose (Recreation) Reserve advertised 6 April
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PREPARED BY	Alix Vezina			DATE	16/08/2016			SHEET	1 OF 1		TPG REF	713469	

Brook Valley Reserves & Road Stopping

New boundaries as per new sections on SO 498803

A3 Scale 1:2,000



Land to Be Declared Local Purpose (Recreation) Reserve

Advertised in Nelson Mail – 6 April 2016

6 April 2016



LAND TO BE DECLARED RESERVE, BROOK VALLEY

Notice is given that the Nelson City Council proposes to resolve that the pieces of land held by the Council in fee simple, as detailed in the schedule and shown on the plan below, be declared a Local Purpose Reserve (Recreation) pursuant to Section 14 of the Reserves Act 1977.

Once the land has been declared Reserve, the reserve will remain vested in the Nelson City Council and be managed in accordance with the Nelson City Council's Brook Recreation Reserve Management Plan 2015 – 2025.

Schedule

Nelson Land District – Nelson City

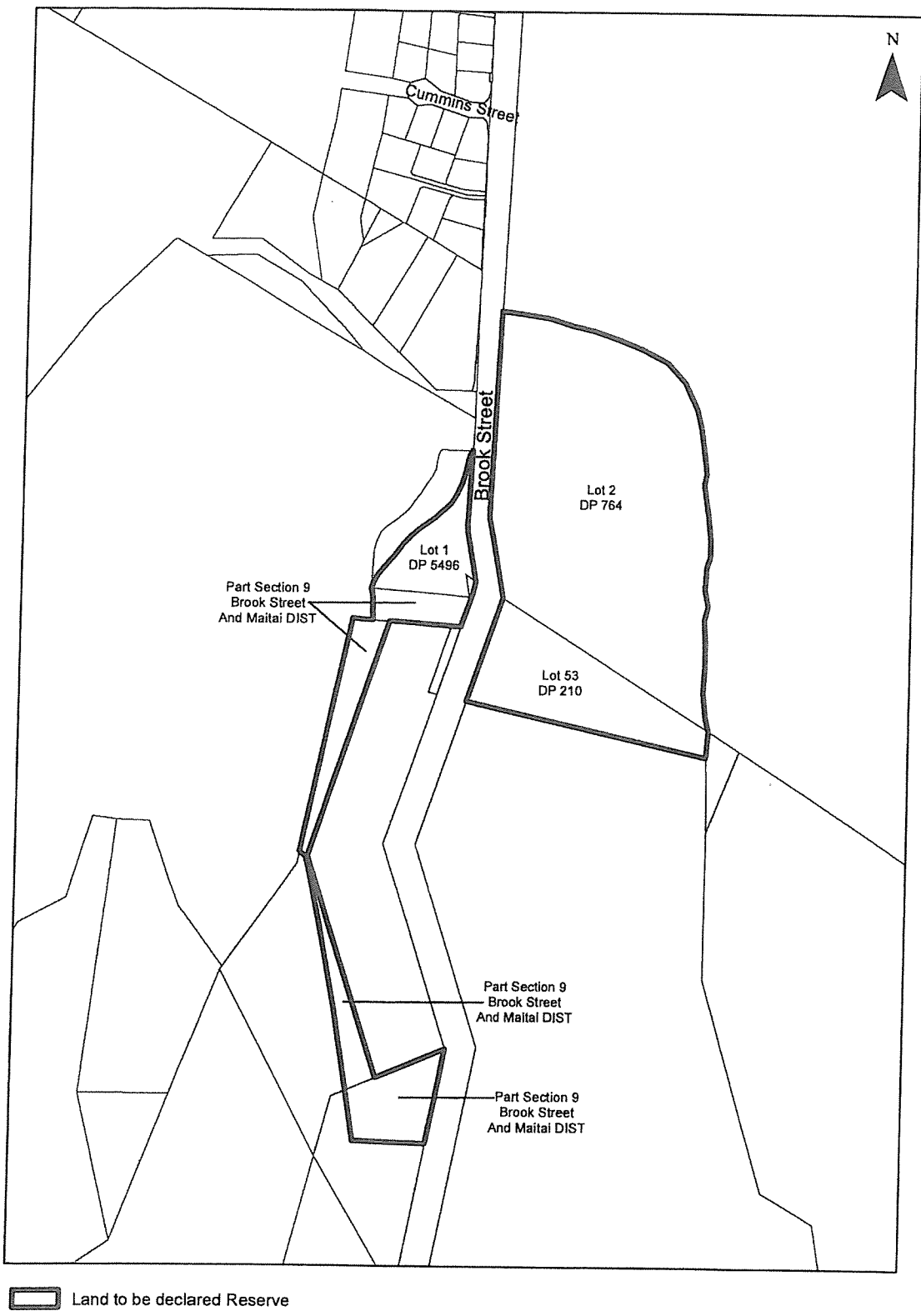
Legal Description	Title Reference
Part Lot 2 DP 764	NL43/244
Lot 53 DP 210	NL29/102
Part Section 9 District of Brook St and Maitai District	NL69/288
Part Section 9 District of Brook St and Maitai District	NL81/54
Part Section 9 District of Brook St and Maitai District	53911
Lot 1 DP 5496	NL133/27

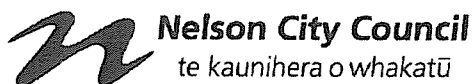
Total land area 4.4400 hectares approximately

Any person wishing to make a submission on this proposal should do so in writing to the undersigned prior to 4 pm on 6 May 2016.

Nelson City Council
C/- The Property Group Limited
PO Box 1551
Nelson 7040

For enquiries email Nicky Mitchell (nmitchell@propertygroup.co.nz).





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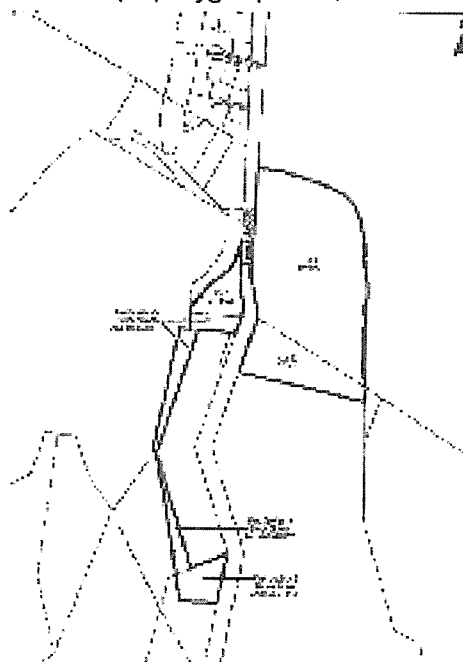
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Nelson City Council
C/- The Property Group Limited
PO Box 1551
Nelson 7040

For enquiries email Nicky Mitchell
(nmitchell@propertygroup.co.nz).



63 Brook Street,
The Brook,
Nelson 7010.

Wednesday, May 4, 2016

In the matter of Land to be Declared Reserve, Brook Valley, the Brook Valley Community Group (Inc.) submits as follows.

1. We wish to place on record our dissatisfaction at the process by which this intention has been arrived.

BACKGROUND

2. On Thursday I May 2014, Lisa Gibellini, the Council's Senior Planning Adviser, wrote, in an email to Hugh Kettlewell and Greg Carlyon:
3. "(ii) The existing lease for the BWST also extends over the boundary of the Wildlife Reserve (sic) and into the Recreation Reserve that contains the campground, but excludes the area of the campground"
4. "(iii) The current applications for resource consents RM145062 and RM145063 by NMIT and BWST to erect ranger education and training centre buildings and associated infrastructure within the campground is a non-complying activity in the NRMP and is likely to be publicly notified, will need to be heard by an independent commissioner, and is *an activity not supported by the purpose of Recreation Reserves*, (our emphasis) and for which any lease will need to be subject to public consultation".
5. Ms. Gibellini's email contains other pertinent information, and is provided as an attachment.
6. In response to a notice of intention to prepare a Management Plan for "The Brook Recreation Reserve",

printed in the Nelson Mail on 24 November 2014, calling for suggestions, the Brook Valley Community Group, not then incorporated, wrote to the Nelson City Council, in part, as follows, under the heading Suggestions:

7. I. The Nelson City Council rescind its resolution of 30 September 2004, which reads in part: "AND THAT staff continue investigations into actions necessary to modify the status and Reserves Act classification of the subject land to adequately reflect the purpose for which the land is held *and to provide for full management control to the Brook Sanctuary Trust* (our emphasis)".

8. 2. The Brook Valley Community Group is supportive of an intention to establish a Brook Recreation Reserve covering those packets of land listed in the public notice and others not so listed. To that end, we suggest that the proposal to develop a Management Plan be revisited entirely, in order that the formal procedure of establishing an expanded Recreation Reserve under the Reserves Act be followed, including gazetting by the Minister. Among many other benefits will be that of proper attention being paid to the conditions of deeds of gift.

9. 11. With regard to the internal memorandum provided to the Council by Lisa Gibellini, Senior Planning Adviser on 29 March (sic) we suggested, *inter alia*, that particular attention be returned to her advice under s2.12 that: "it (was) quite plain that acceptance of her principal recommendation has been based upon her s2.6 referring to s.54 of the Reserves Act, and secondly, to her s.216 on (h), a subclause of the Resource Management Act referring to Reserve Management Plans", referring to an intended employment of these clauses to permit activities otherwise deemed inappropriate or inconsistent with the purposes of the Reserves Act.

10. Ms. Gibellini's advice in general appears to set limitations on the Council's power to take the action which it has desired its staff to take (as above). In concurring with her views, the Brook Valley Community Group has been doing no more than she; that is, requiring that the Council act according to its responsibilities under s12(3) and s.13 of the Local Government Act, in which the capacity of the local authority is subject to "any other enactment and the general law", and, in the performance of its functions under other enactments, is required to ensure that the application of provisions is "not inconsistent with the other enactment".
11. The Council engaged the services of Rob Greenaway and Associates to prepare a Draft Brook Recreation Reserve Management Plan 2015-16. A Draft for Consultation was printed in June 2015.
12. As its title states, this document delivered a Draft Management Plan for the Brook Recreation Reserve (A1426062). It is just such a management plan that was foreshadowed in Ms. Gibellini's advice [in her s.216, quoted above], as a possible means (under the Resource Management Act) of permitting 'activities otherwise deemed inappropriate or inconsistent with the purposes of the Reserves Act'.
13. To simplify, it would seem that the dutiful Ms. Gibellini has said: "Well, you could get around it (that is, the inappropriateness and inconsistencies of activities, including those referred to in our bullet points 3 and 4 above) this way, but (as is made clear elsewhere) I wouldn't advise it". Hence the significance of a Management Plan.
14. The Draft Management Plan was deliberated upon by a Brook Recreation Reserve Management Plan Panel, which reported (A1426062) on 22 September 2015,

having been delegated authority by Council to hear submissions and make recommendations to Council.

15. It recommended that the draft Brook Recreation Reserve Management Plan (A1365018), *as amended following submissions* (our emphasis), be adopted.
16. Under 2.3 **Gazettal**, the Panel noted first that: "There was no opposition to this proposal".
17. It is respectfully submitted that there was no opposition precisely because, up to this point, there was never any question or discussion as to any possible re-designation of the land in question as a Local Purposes Reserve. The possibility was simply not raised, and so was not present in the text of the Management Plan, developed, it will be remembered, for a Brook Recreation Reserve.
18. On page 92 of the Draft for Consultation, under the heading 9.3 Reserve land status, acquisition and disposal, there is the following: "Consultation indicates a desire to gazette the Reserve as recreation reserve. This draft management plan adopts that policy".
19. Only at this late stage does any possibility of re-classification into a Local Purposes Reserve enter the narrative, and it does so because of its inclusion within a submission of the Department of Conservation, which is extracted into the Panel's Report in the following words, quoted here in entirety.
20. *In the department's comments upon the proposal to establish a management plan for the Brook Recreation Reserve (letter to Nelson City Council, dated 15 January 2015) it was suggested that Council may wish to consider formally gazetting the freehold land as recreation reserve to provide certainty of*

purpose and administration under the Reserves Act. This has now been proposed in the draft management plan.

21. *Having considered this further, and taking the various facilities and uses that are proposed for the reserve into account, I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.*
22. *Local purpose reserve (under section 23 RA) is probably a more suitable classification to enable all the activities that the draft management plan identifies. A more specific purpose can also be given, such as 'Amenity-Brook', 'Community Use-Brook' or 'Recreation-Brook'. The provisions of section 24 RA would also need to be taken into account for reclassification of the existing recreation reserve.*
23. *Classification as local purpose reserve would still provide certainty of purpose and administration under the Reserves Act, and ensure that the public interest in the land is maintained. It would also allow Council to issue leases or other authorisations for the range of activities and uses proposed in the draft management plan.*
24. *I would therefore encourage Council to reconsider this proposal in favour of gazettal of the freehold land, and reclassification of the existing recreation reserve, as local purpose reserve.*
25. *Once the reclassification, classification and gazettal has occurred, then the management plan can*

be approved and will apply to all the land in question.

26. *I also note that part of the gazetted recreation reserve, which is leased to the Brook Waimarama Sanctuary Trust, is excluded from the current draft management plan. The use of that part of the recreation reserve may also not be entirely consistent with its current classification and statutory purpose. This could also be addressed as part of the process for rationalising the status of land in the adjoining 'Brook Recreation Reserve'.*
27. Mr Greenaway is then reported to have held further discussions on this proposed reclassification with the Department, but not, we observe, with the public at large.
28. On page 7 of the Deliberations on the draft Brook Recreation Reserve Management Plan (a1426062) under 2.7 **Department of Conservation submission** "The Department's submission (21) includes several technical edits and clarifications that do not change the intent of any policy or *are subsequent to choosing a gazetted option for the Reserve* (our emphasis)".
29. Such a subsequential choice was evidently made without further public consultation in the adoption of the Plan. This had important consequences. For now, it can be stated that the management horse has by this non-public choice been firmly placed behind its statutory cart.

THE CART AND THE HORSE

30. An article published in the Nelson Mail of October 10, 2015, noted that; "(The Brook Valley Community Group) is perturbed by a recommendation

that the council amend the draft plan by changing the area's status from a recreation reserve to a local purposes reserve. It argues that the public has not been consulted on this change, and that if it goes ahead the council will be avoiding its responsibilities under the Local Government Act....The recommended local purpose status responded to "technical issues", Rob Greenaway said.

31. Our Group disputes this unfounded assertion, and here submits that the issues involved were and are not 'technical' in nature, in the connotation that word sometimes carries of 'insignificant' or 'don't worry about it'. They are issues of statutory status and civic responsibility. As we stated then, "a change in status for the land would affect its proposed uses. It could allow changes that would not be permitted in recreation reserves".
32. Unsurprisingly, it is precisely the intention to allow such changes (including the lease already negotiated with the Waimarama Brook Sanctuary Trust} that has driven this process from its inception and continues to do so.
33. On 16 October 2015, in a press release entitled "Brook Recreation Reserve Plan Adopted", it was stated that "As recommended by the hearing panel, Council agreed to change the reserve's status from Recreation Reserve to Local Purpose Reserve (Recreation) to ensure people's requests through consultation could be achieved...Gazetting the land for Local Purposes Reserve (Recreation) will require further consultation with the community, as well as stopping the road through the reserve and into the area leased to the Sanctuary, and transferring it to reserve status...Residential camping is allowed under the Plan within an area of the reserve yet to be designated as a relocatable home park for up to 25 sites, which will be reviewed every three years".
34. It is now plain that Ms. Gibellini's original advice, reiterated by ourselves in the process of

consultation, was at the last moment, in an acknowledged change of position, supported by the Department of Conservation. Otherwise, throughout the entire process of consultation and consideration of a Draft Plan, it was assumed, quite incorrectly, that *the various facilities and uses that (were) proposed for the reserve* could be accommodated within the provisions of the Reserves Act for Recreation Reserves.

35. In the opinion of the author of the DoC submission, (and here we repeat for clarity): *"I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.*

36. It might now seem apparent that the Council has seen the wisdom of consulting with the public upon a proposed change of status for the Recreation Reserve. The damage, however, has already been done. A Management Plan has been adopted which has been entirely predicated upon debate and consideration of the land as Recreation Reserve.

37. Any proposal to change the status of the existing Recreation Reserve now, in order to accommodate the adopted Plan, is to fail to acknowledge:

38. (a) that the inclusion of, in DoC's words, *"some of the proposed uses of the reserve appear(ing) to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves"* is a powerful argument that they should not have been included in an adopted Plan, which, only after all consultation had already taken place, gave any consideration whatsoever to any possible change of

status, together with its necessary separate consultation; and

39. (b) that the Plan itself should not have been adopted at all. Again, in DoC's words, "*Once the reclassification, classification and gazettal has occurred, then the management plan can be approved and will apply to all the land in question*". It will be noted that DoC would have the horse before its cart, as it should properly be, and we concur.
40. In the press release of 16 October referred to above, it is stated (and again we repeat for clarity) that, : "As recommended by the hearing panel, Council agreed to change the reserve's status from Recreation Reserve to Local Purpose Reserve (Recreation) to ensure people's requests through consultation could be achieved...Gazetting the land for Local Purposes Reserve (Recreation) will require further consultation with the community..."
41. The Council had no business to ensure people's requests through consultation could be achieved when, within the framework of the consultation as it was established, i.e., for a Recreation Reserve Management Plan [and not a Local Purposes Reserve (Recreation)], it was absolutely not proper for them to be achieved.
42. Let us be clear. The principal 'persons' driving this entire process from its inception are organisations either already in possession of a dubious lease (the Sanctuary Trust) or intending to obtain such leases in order that they may undertake uses and activities "*inconsistent with RA provisions relating to the purpose and administration of recreation reserves*", once more to iterate the words of the DoC submitter. This latter group includes DoC itself, NMIT, and this entity describing itself as the Nelson Cycle Lift Society, appararently intent on riding Council's romantic enthusiasm for the development of a tourist hub in the Upper Brook to the end of building a gondola for private gain on public money.

43. It is not our intention here to rumble on about the foolishness and inappropriateness of acceding to these combined attacks upon the public's recreational spaces. We have in fact already done so in our disregarded submissions. Our requests through the consultative process have certainly not been heeded, and we include in that strong messages conveyed by way of public meetings.
44. The Council now acknowledges that gazetting the land for Local Purposes Reserve (Recreation) will require further consultation with the community. It seems disinclined- we suppose because it has from the start been an enthusiastic supporter of these developments- to recognise that the adopted Management Plan, for reasons given above, cannot provide a basis for seeking consent from the public to any such process of gazettal.

ANOTHER CART, ANOTHER HORSE

45. We note that our current submission is in response to a public notice posted having regard to those blocks of land which are peripheral to the gazetted Recreation Reserve. We have received no notification, despite our request, of any planning for the public notification of a process by which the reclassification of the Recreation Reserve itself will be put forward for public consultation.
46. As the situation stands, a second cart is being placed before a second horse. Suppose the proposed gazettal to succeed. Then there would be a Local Purposes Reserve (Recreation) located around the boundaries of the existing Recreation Reserve, a fact which could then be employed to develop a strong argument, say, that for the sake of consistency, and in order to complete projects already under way, such as the granting of leases in respect of areas newly classified as Local Purposes Reserve (Recreation), it has become necessary beyond expediency, to proceed with reclassification of the existing Recreation Reserve.

47. This situation ought now to be a familiar one. It is, indeed, the same situation as we have been discussing to this point. A value is placed upon the end being pursued such that the means by which it is to be obtained are considered subsidiary, 'technical'. This is not good law. Nor is it good administration.
48. The Brook Valley Community Group opposes an intention to resolve that the pieces of land held by the Council in fee simple, as detailed in the schedule and shown on the plan published by The Property Group Limited, be declared a Local Purpose Reserve (Recreation).
49. Our principal, but not sole, grounds for doing so are: (a) that the Nelson City Council's Brook Recreation Reserve Management Plan 2015-2025 was adopted without the public having been consulted upon the highly significant matter of reclassification; and (b) that the Plan wrongly incorporated uses and activities which have now tacitly been acknowledged inconsistent and inappropriate with the purposes of Recreation Reserve land.
50. It had evidently been intended by proponents that the development of a Management Plan would itself provide grounds by which these uses and activities might be legitimated under the Resource Management Act, as advised by Ms. Gibellini, one imagines somewhat reluctantly.
51. The Management Plan as adopted being no longer fit for that, or any other, purpose, the Nelson City Council should pay further heed to the DoC submission, and note well the cost of its own failure to take the advice of its author that: *"Once the reclassification, classification and gazettal has occurred, then the management plan can be approved and will apply to all the land in question"*.
52. DoC had the horse back before the cart. The Plan has been adopted despite this excellent advice,

seemingly considered by the Council to be like the curate's egg, good in parts only. We are all left with a continuingly unsatisfactory situation, which is why we began our submission in the manner that we have.

We do wish to be heard upon this submission.

Christopher St Johanser M.Phil.(English), M.A.(Applied),
Chair,
Brook Valley Community Group (Incorporated).

Change of Classification of Reserve

Advertised in Nelson Mail – 4 May 2016

4 May 2016
Nelson Mail



CHANGE OF CLASSIFICATION OF RESERVE, BROOK VALLEY

Notice is given pursuant to Section 24 of the Reserves Act 1977 that the Nelson City Council proposes to change the classification of part of the Recreation Reserve described below to Local Purpose Reserve (Recreation). The reason for the proposed change is to provide for the better management of the reserve in keeping with its current use.

Once the land has been reclassified, the reserve will remain vested in the Nelson City Council and be managed in accordance with the Brook Recreation Reserve Management Plan 2015 – 2025.

Schedule

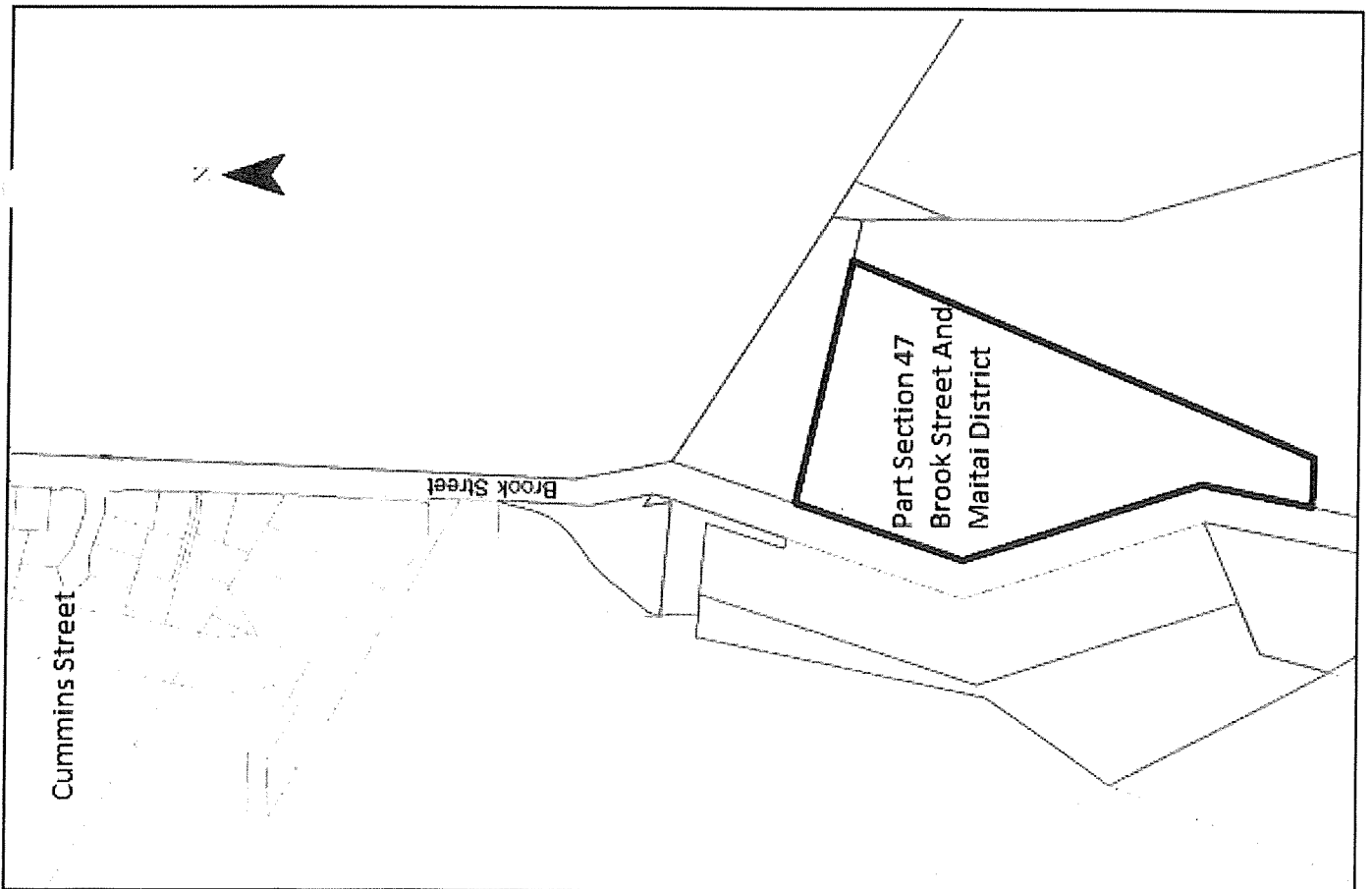
Nelson Land District – Nelson City

**2.4400 hectares (subject to survey) being part Section 47, Brook Street and Maitai District.
Part New Zealand Gazette 1979 page 90**

Any person wishing to make a submission on this proposal should do so in writing to the undersigned prior to 4 pm on 6 June 2016.

Nelson City Council
C/- The Property Group Limited
PO Box 1551
Nelson 7040

For enquiries email Nicky Mitchell (nmitchell@propertygroup.co.nz).



Nicky Mitchell

From: dan.sullivan@kinect.co.nz
Sent: 10 August 2016 18:52
To: Nicky Mitchell
Subject: Fw: Change of Classification of Reserve, Brook Valley: Submission from Nelson Grey Power

Hi Nicky,

This is the original email I sent to both you and NCC, in response to the notice in the Nelson Mail on May 4.

Nelson Grey Power wishes to express its view on this matter. We would like to be present at the time the Brook Community Group gives its submission.

Thank you.

Dan McGuire

From: dan.sullivan@kinect.co.nz
Sent: Thursday, May 05, 2016 1:37 PM
To: nmitchell@propertygroup.co.nz
Subject: Change of Classification of Reserve, Brook Valley: Submission from Nelson Grey Power

Attn: Nelson City Council, c/- The Property Group

This submission is given on behalf of **Nelson Grey Power**. Although I have not had time to put it onto Grey Power letterhead, it has been cleared by NGP with the comment that council has not given sufficient notification.

The Nelson City Council's Brook Recreation Reserve Management Plan 2015-2025 was adopted without the public having been consulted upon the highly significant matter of reclassification; and (b) that the Plan wrongly incorporated uses and activities which have now tacitly been acknowledged inconsistent and inappropriate with the purposes of Recreation Reserve land.

1. There has been no notification of any current intention to reclassify the existing Recreation Reserve. This leads to an anomalous situation in which an existing Recreation Reserve may be surrounded by Local Purpose reserve.
2. In the Draft for Consultation, under the heading 9.3 Reserve land status, acquisition and disposal, there is the following: "Consultation indicates a desire to gazette the Reserve as recreation reserve. This draft management plan adopts that policy".
3. The suggestion that the Management Plan be amended came only after cautionary notes were sounded by DOC. No public input has yet been heard as to whether a reclassification of the Reserve land, including these lots now under consideration, should be undertaken. The draft Plan was simply amended by the Panel, and the amended version adopted by Council, plainly in order to accommodate uses and activities

that should not have been accepted as legitimate in terms of the relevant provisions of the Reserves Act for Recreation reserves.

4. Argument should now be heard as to whether in these circumstances it is proper for these lots to be gazetted as Local Purpose Reserve (Recreation). That argument should be heard by the Minister.

5. There is apparent nepotism and conflict of interest behind this application, and the ratepayers will learn of it.

Dan McGuire for **Nelson Grey Power**
45 Domett St.
Nelson ph.5483458



The Nelson City Council's Brook Recreation Reserve Management Plan 2015-2025 was adopted without the public having been consulted upon the highly significant matter of reclassification; and (b) that the Plan wrongly incorporated uses and activities which have now tacitly been acknowledged inconsistent and inappropriate with the purposes of Recreation Reserve land.

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3. The suggestion that the Management Plan be amended came only after cautionary notes were sounded by DOC. No public input has yet been heard as to whether a reclassification of the Reserve land, including these lots now under consideration, should be undertaken. The draft Plan was simply amended by the Panel, and the amended version adopted by Council, plainly in order to accommodate uses and activities that should not have been accepted as legitimate in terms of the relevant provisions of the Reserves Act for Recreation reserves.
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Dan McGuire for Nelson Grey Power
 45 Domett St.
 Nelson ph.5483458



PAR-10-11-08-01
DOC-2780960

20 May 2016

Nelson City Council
C/- The Property Group Limited
PO Box 1551
Nelson 7040

Email: nmitchell@propertygroup.co.nz

Dear Sir or Madam

Change of Classification of Reserve, Brook Valley

Please find enclosed a submission in respect of the proposal to change the classification of part of the Brook Recreation Reserve (part Section 47, Brook Street and Maitai District) to Local Purpose (Recreation) Reserve.

The Department of Conservation does not wish to be heard when the Council considers submissions. However, please contact the undersigned if you wish to discuss any of the matters raised in the submission.

Kind regards

Lionel Solly
Community Ranger

DDI 03 546 3162 | Email lsolly@doc.govt.nz

Department of Conservation Te Papa Atawhai
Whakatū/Nelson Office
Private Bag 5, Nelson 7042
www.doc.govt.nz

Reserves Act 1977 & Local Government Act 2002

To: Nelson City Council

Submission on: Proposal pursuant to section 24 of the Reserves Act 1977 to change the classification of part of the Recreation Reserve described below to Local Purpose (Recreation) Reserve

2.4400 ha (subject to survey), being part Section 47, Brook Street and Maitai District ("Brook Recreation Reserve")

Name: Mark Townsend, Operations Manager, Department of Conservation

Pursuant to section 24(2) of the Reserves Act 1977 (the RA), and acting upon delegations from the Minister and Director-General of Conservation, I make the following submission in respect of the above.

I agree that the change in classification is appropriate, for the reasons previously set out in the Department of Conservation's submission (dated 14 August 2015) on the draft Brook Recreation Reserve Management Plan. The relevant excerpt from that submission is reproduced below:

"Whilst it is sensible for the management plan to include all parts of the 'Brook Recreation Reserve', the different land tenures/classifications result in a more complex process, both for preparation of the management plan and administration of the land more generally.

In the Department's comments on the proposal to establish a management plan for the Brook Recreation Reserve (letter to Nelson City Council, dated 15 January 2015) it was suggested that Council may wish to consider formally gazetting the freehold land as recreation reserve to provide certainty of purpose and administration under the Reserves Act. This has now been proposed in the draft management plan.

Having considered this further, and taking the various facilities and uses that are proposed for the reserve into account, I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.

Local purpose reserve (under section 23 RA) is probably a more suitable classification to enable all the activities that the draft management plan identifies. A more specific purpose can also be given, such as 'Amenity – Brook', 'Community Use – Brook' or 'Recreation – Brook'. The provisions of section 24 RA would also need to be taken into account for reclassification of the existing recreation reserve.

Classification as local purpose reserve would still provide certainty of purpose and administration under the Reserves Act, and ensure that the public interest in the land is maintained. It would also allow Council to issue leases or other authorisations for the range of activities and uses proposed in the draft management plan.

I would therefore encourage Council to re-consider this proposal in favour of gazettal of the freehold land, and reclassification of the existing recreation reserve, as local purpose reserve."

I note that the proposed change of classification is provided for in (and consistent with) the final Brook Recreation Reserve Management Plan 2015 – 2025, which was adopted in principle by Nelson City Council on 15 October 2015.

I do not wish to be heard in support of this submission.

Dated at Motueka this 20th day of May 2016



Mark Townsend
Operations Manager, Motueka
Northern South Island Region

Acting pursuant to delegated authority

Address for service: Department of Conservation
Whakatū / Nelson Office
Private Bag 5
Nelson 7042

Attn: Lionel Solly

Submission Received from Brook Valley Community Group (Inc) – the same as submission to previous Notice except for minor changes, (highlighted orange for ease of reference)

63 Brook Street,
The Brook,
Nelson 7010.

Tuesday, May 31, 2016

In the matter of a Proposed Change of Classification of Reserve, Brook Valley, the Brook Valley Community Group (Inc.) submits as follows.

1. We wish to place on record our dissatisfaction at the process by which this intention has been arrived.
2. We refer you to our previous submission in regard to Land declared to be Reserve, Brook Valley. The argument presented there is repeated and modified here, as conditions are similar in some regards for these two proposals, though different in others. For your convenience, new text is highlighted, as here.

BACKGROUND

3. On Thursday 1 May 2014, Lisa Gibellini, the Council's Senior Planning Adviser, wrote, in an email to Hugh Kettlewell and Greg Carlyon:
4. "(ii) The existing lease for the BWST also extends over the boundary of the Wildlife Reserve (sic) and into the Recreation Reserve that contains the campground, but excludes the area of the campground"
5. "(iii) The current applications for resource consents RM145062 and RM145063 by NMIT and BWST to erect ranger education and training centre buildings and associated infrastructure within the campground is a non-complying activity in the NRMP and is likely to be publicly notified, will need to be heard by an independent commissioner, and is *an activity not supported by the purpose of Recreation Reserves*, (our emphasis) and for which any lease will need to be subject to public consultation".
6. Ms. Gibellini's email contains other pertinent information, and is provided as an attachment to our earlier objection.

7. In response to a notice of intention to prepare a Management Plan for “The Brook Recreation Reserve”, printed in the Nelson Mail on 24 November 2014, calling for suggestions, the Brook Valley Community Group, not then incorporated, wrote to the Nelson City Council, in part, as follows, under the heading Suggestions:
8. 1. The Nelson City Council rescind its resolution of 30 September 2004, which reads in part: “AND THAT staff continue investigations into actions necessary to modify the status and Reserves Act classification of the subject land to adequately reflect the purpose for which the land is held *and to provide for full management control to the Brook Sanctuary Trust* (our emphasis)”.
9. 2. The Brook Valley Community Group is supportive of an intention to establish a Brook Recreation Reserve covering those packets of land listed in the public notice and others not so listed. To that end, we suggest that the proposal to develop a Management Plan be revisited entirely, in order that the formal procedure of establishing an expanded Recreation Reserve under the Reserves Act be followed, including gazetting by the Minister. Among many other benefits will be that of proper attention being paid to the conditions of deeds of gift.
10. 11. With regard to the internal memorandum provided to the Council by Lisa Gibellini, Senior Planning Adviser on 29 March (sic) we suggested, *inter alia*, that particular attention be returned to her advice under s2.12 that: “it (was) quite plain that acceptance of her principal recommendation has been based upon her s2.6 referring to s.54 of the Reserves Act, and secondly, to her s.216 on (h), a subclause of the Resource Management Act referring to Reserve Management Plans”, referring to an intended employment of these clauses to permit activities otherwise deemed inappropriate or inconsistent with the purposes of the Reserves Act.
11. Ms. Gibellini’s advice in general appears to set limitations on the Council’s power to take the action which it has desired its staff to take (as above). In concurring with her views, the Brook Valley Community Group has been doing no more than she; that is, requiring that the Council act according to its responsibilities under

s12(3) and s.13 of the Local Government Act, in which the capacity of the local authority is subject to “any other enactment and the general law”, and, in the performance of its functions under other enactments, is required to ensure that the application of provisions is “not inconsistent with the other enactment”.

12. The Council engaged the services of Rob Greenaway and Associates to prepare a Draft Brook Recreation Reserve Management Plan 2015–16. A Draft for Consultation was printed in June 2015.
13. As its title states, this document delivered a Draft Management Plan for the Brook Recreation Reserve (A1426062). It is just such a management plan that was foreshadowed in Ms. Gibellini’s advice [in her s.216, quoted above], as a possible means (under the Resource Management Act) of permitting ‘activities otherwise deemed inappropriate or inconsistent with the purposes of the Reserves Act’.
14. To simplify, it would seem that the dutiful Ms. Gibellini has said: “Well, you could get around it (that is, the inappropriateness and inconsistencies of activities, including those referred to in our bullet points 3 and 4 above) this way, but (as is made clear elsewhere) I wouldn’t advise it”. Hence the significance of a Management Plan.
15. The Draft Management Plan was deliberated upon by a Brook Recreation Reserve Management Plan Panel, which reported (A1426062) on 22 September 2015, having been delegated authority by Council to hear submissions and make recommendations to Council.
16. It recommended that the draft Brook Recreation Reserve Management Plan (A1365018), *as amended following submissions* (our emphasis), be adopted.
17. Under 2.3 **Gazettal**, the Panel noted first that: “There was no opposition to this proposal”.

18. It is respectfully submitted that there was no opposition precisely because, up to this point, there was never any question or discussion as to any possible re-designation of the land in question as a Local Purposes Reserve. The possibility was simply not raised, and so was not present in the text of the Management Plan, developed, it will be remembered, for a Brook Recreation Reserve.
19. On page 92 of the Draft for Consultation, under the heading 9.3 Reserve land status, acquisition and disposal, there is the following: “Consultation indicates a desire to gazette the Reserve as recreation reserve. This draft management plan adopts that policy”.
20. Only at this late stage does any possibility of re-classification into a Local Purposes Reserve enter the narrative, and it does so because of its inclusion within a submission of the Department of Conservation, which is extracted into the Panel’s Report in the following words, quoted here in entirety. *We now understand this submission to have been authored by Mike Townsend, Conservation Senior Manager.*
21. *In the department’s comments upon the proposal to establish a management plan for the Brook Recreation Reserve (letter to Nelson City Council, dated 15 January 2015) it was suggested that Council may wish to consider formally gazetting the freehold land as recreation reserve to provide certainty of purpose and administration under the Reserves Act. This has now been proposed in the draft management plan.*
22. *Having considered this further, and taking the various facilities and uses that are proposed for the reserve into account, I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.*
23. *Local purpose reserve (under section 23 RA) is probably a more suitable classification to enable all the activities that the draft*

management plan identifies. A more specific purpose can also be given, such as 'Amenity-Brook', 'Community Use-Brook' or 'Recreation-Brook'. The provisions of section 24 RA would also need to be taken into account for reclassification of the existing recreation reserve.

24. *Classification as local purpose reserve would still provide certainty of purpose and administration under the Reserves Act, and ensure that the public interest in the land is maintained. It would also allow Council to issue leases or other authorisations for the range of activities and uses proposed in the draft management plan.*
25. *I would therefore encourage Council to re-consider this proposal in favour of gazettal of the freehold land, and reclassification of the existing recreation reserve, as local purpose reserve.*
26. *Once the reclassification, classification and gazettal has occurred, then the management plan can be approved and will apply to all the land in question.*
27. *I also note that part of the gazetted recreation reserve, which is leased to the Brook Waimarama Sanctuary Trust, is excluded from the current draft management plan. The use of that part of the recreation reserve may also not be entirely consistent with its current classification and statutory purpose. This could also be addressed as part of the process for rationalising the status of land in the adjoining 'Brook Recreation Reserve'.*
28. Mr Greenaway is then reported to have held further discussions on this proposed reclassification with the Department, but not, we observe, with the public at large.
29. On page 7 of the Deliberations on the draft Brook Recreation Reserve Management Plan (a1426062) under 2.7 **Department of Conservation submission** "The Department's submission (21) includes several technical edits and clarifications that do not change the intent of any policy or *are subsequent to choosing a gazettal option for the Reserve* (our emphasis)".

30. Such a subsequential choice was evidently made without further public consultation in the adoption of the Plan. This had important consequences. For now, it can be stated that the management horse has by this non-public choice been firmly placed behind its statutory cart.

THE CART AND THE HORSE

31. An article published in the Nelson Mail of October 10, 2015, noted that; "(The Brook Valley Community Group) is perturbed by a recommendation that the council amend the draft plan by changing the area's status from a recreation reserve to a local purposes reserve. It argues that the public has not been consulted on this change, and that if it goes ahead the council will be avoiding its responsibilities under the Local Government Act....The recommended local purpose status responded to "technical issues", Rob Greenaway said.
32. Our Group disputes this unfounded assertion, and here submits that the issues involved were and are not 'technical' in nature, in the connotation that word sometimes carries of 'insignificant' or 'don't worry about it'. They are issues of statutory status and civic responsibility. As we stated then, "a change in status for the land would affect its proposed uses. It could allow changes that would not be permitted in recreation reserves".
33. Unsurprisingly, it is precisely the intention to allow such changes (including the lease already negotiated with the Waimarama Brook Sanctuary Trust} that has driven this process from its inception and continues to do so.
34. On 16 October 2015, in a press release entitled "Brook Recreation Reserve Plan Adopted", it was stated that "As recommended by the hearing panel, Council agreed to change the reserve's status from Recreation Reserve to Local Purpose Reserve (Recreation) to ensure people's requests through consultation could be achieved...Gazetting the land for Local Purposes Reserve (Recreation) will require further consultation with the community, as well as stopping the road through the reserve and into the area

leased to the Sanctuary, and transferring it to reserve status...Residential camping is allowed under the Plan within an area of the reserve yet to be designated as a relocatable home park for up to 25 sites, which will be reviewed every three years”.

35. It is now plain that Ms. Gibellini’s original advice, reiterated by ourselves in the process of consultation, was at the last moment, in an acknowledged change of position, supported by the Department of Conservation. Otherwise, throughout the entire process of consultation and consideration of a Draft Plan, it was assumed, quite incorrectly, that *the various facilities and uses that (were) proposed for the reserve* could be accommodated within the provisions of the Reserves Act for Recreation Reserves.
36. In the opinion of the author of the DoC submission, (and here we repeat for clarity): *“I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.*
37. It might now seem apparent that the Council has seen the wisdom of consulting with the public upon a proposed change of status for the Recreation Reserve. The damage, however, has already been done. A Management Plan has been adopted which has been entirely predicated upon debate and consideration of the land as Recreation Reserve.
38. Any proposal to change the status of the existing Recreation Reserve now, in order to accommodate the adopted Plan, is to fail to acknowledge:
39. (a) that the inclusion of, in DoC’s words, *“some of the proposed uses of the reserve appear(ing) to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves”* is a powerful argument that they should not have been included in an adopted Plan, which, only after all consultation had already taken place, gave any consideration whatsoever to any

possible change of status, together with its necessary separate consultation; and

40. (b) that the Plan itself should not have been adopted at all. Again, in DoC's words, "*Once the reclassification, classification and gazettal has occurred, then the management plan can be approved and will apply to all the land in question*". It will be noted that DoC would have the horse before its cart, as it should properly be, and we concur.
41. In the press release of 16 October referred to above, it is stated (and again we repeat for clarity) that: "As recommended by the hearing panel, Council agreed to change the reserve's status from Recreation Reserve to Local Purpose Reserve (Recreation) to ensure people's requests through consultation could be achieved...Gazetting the land for Local Purposes Reserve (Recreation) will require further consultation with the community..."
42. The Council had no business to ensure people's requests through consultation could be achieved when, within the framework of the consultation as it was established, i.e., for a Recreation Reserve Management Plan [and not a Local Purposes Reserve (Recreation)], it was absolutely not proper for them to be achieved.
43. Let us be clear. The principal 'persons' driving this entire process from its inception are organisations either already in possession of a dubious lease (the Sanctuary Trust) or intending to obtain such leases in order that they may undertake uses and activities "*inconsistent with RA provisions relating to the purpose and administration of recreation reserves*", once more to iterate the words of **Mr. Townsend**. This latter group includes DoC itself, NMIT, and this entity describing itself as the Nelson Cycle Lift Society, apparently intent on riding Council's romantic enthusiasm for the development of a tourist hub in the Upper Brook to the end of building a gondola for private gain on public money.
44. It is not our intention here to rumble on about the foolishness and inappropriateness of acceding to these combined attacks upon the public's recreational spaces. We have in fact already done so in our disregarded submissions. Our requests through the consultative process have certainly not been heeded, and we include in that strong messages conveyed by way of public meetings.

45. The Council now acknowledges that gazetting the land for Local Purposes Reserve (Recreation) will require further consultation with the community. It seems disinclined– we suppose because it has from the start been an enthusiastic supporter of these developments– to recognise that the adopted Management Plan, for reasons given above, cannot provide a basis for seeking consent from the public to any such process of gazettal.
46. We note that our current submission is in response to a second public notice posted, this time having regard to the gazetted Recreation Reserve. We have received only this notification of any planning for the reclassification of the Recreation Reserve. We submit that this process is insufficiently robust to obtain the views of the public.
47. This situation ought now to be a familiar one. It is, indeed, the same situation as we have discussed in our previous submission to the earlier notice concerning freehold lots. A value is placed upon the end being pursued such that the means by which it is to be obtained are considered subsidiary, ‘technical’. This is not good law. Nor is it good administration.
48. The Brook Valley Community Group opposes an intention to resolve that the Recreation Reserve and shown on the plan published by The Property Group Limited, be declared a Local Purpose Reserve (Recreation).
49. Our principal, but not sole, grounds for doing so are: (a) that the Nelson City Council’s Brook Recreation Reserve Management Plan 2015–2025 was adopted without the public having been consulted upon the highly significant matter of reclassification; and (b) that the Plan wrongly incorporated uses and activities which have now tacitly been acknowledged inconsistent and inappropriate with the purposes of Recreation Reserve land.
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51. The Management Plan as adopted being no longer fit for that, or any other, purpose, the Nelson City Council should pay further heed

to the DoC submission, and note well the cost of its own failure to take the advice of **Mr. Townsend** that: *“Once the reclassification, classification and gazettal has occurred, then the management plan can be approved and will apply to all the land in question”*.

52. DoC had the horse back before the cart. The Plan has been adopted despite this excellent advice, seemingly considered by the Council to be like the curate’s egg, good in parts only. We are all left with a continually unsatisfactory situation, which is why we began our submission in the manner that we have.

We do wish to be heard upon this submission.

Christopher St Johanser M.Phil.(English), M.A.(Applied),
Chair,
Brook Valley Community Group (Incorporated).

Notice of Proposed Road Stopping - LGA

Advertised in Nelson Mail – 20 and 27 July 2016

20 July 2016
27 July 2016



Nelson City Council
te kaunihera o whakatū

ROAD STOPPING PROPOSAL

**Proposed Stopping of Road
Brook Campground**

PUBLIC NOTICE IS HEREBY GIVEN that pursuant to Section 342(1)(a) of the Local Government Act 1974 and the Tenth Schedule thereto the Nelson City Council proposes to stop the road described in the schedule to this notice.

SCHEDULE

Nelson Land District

Description:

7173m² adjoining or passing through Lot 1 DP 5496 (CFR NL133/27); Lot 2 DP 764 (CFR NL43/244); Lot 53 DP 210 (CFR NL29/102); Lot 49 DP 210 (CFR NL34/283); Section 47 Brook Street and Maitai District (Gazette 1980 p.90); Part Section 9 Brook Street and Maitai District (CFR 53911) shown as Section 1 on SO Plan 498803.


The parcel of road is to be stopped to enable Council to manage the land comprising the road, and the surrounding Council-owned land in a more cohesive manner. When stopped, the land will be amalgamated into the adjoining Local Purpose (Recreation) Reserve which is vested in the Nelson City Council held in Computer Freehold Register NL34/283.

A copy of SO Plan 498803 is available for inspection at the office of the Nelson City Council, 110 Trafalgar Street, Nelson during normal office hours.

Any person objecting to this proposal is called upon to lodge an objection in writing at The Nelson City Council, PO Box 645, Nelson 7040 on or before 29 August 2016.

Clare Hadley
Chief Executive
Nelson City Council

Nelson Mail
27.7.16



Nelson City Council
te kaunihera o whakatū

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Clare Hadley
Chief Executive
Nelson City Council

Nicky Mitchell

From: Christopher <cistj@kinect.co.nz>
Sent: 10 August 2016 10:03
To: Nicky Mitchell
Subject: Re: contact phone number

Dear Nicky,

I can be reached on 5459201 most mornings, 9-10 is best.

Please take this message as a pro forma objection to the proposed road stoppage, in addition to the two other lodged objections you have received. I shall deal with all three in one address. There are differences of course, but they can be taken into account at the time of the Hearing, I think. If this is not acceptable, I understand I have until 27th to lodge an objection on behalf of our group.

We have not finalised our arrangements for the Hearing, not knowing a date as yet. I do expect that I shall be accompanied by supporters, but they have left it to me to speak to these matters. I shall notify them. At the same time, I am not only aware of but in touch with two other objectors, with whom I expect to be coordinating our presentations.

Keeping the faith,

Christopher

----- Original Message -----

From:
"Nicky Mitchell" <NMitchell@propertygroup.co.nz>

To:
"Christopher" <cistj@kinect.co.nz>
Cc:

Sent:
Tue, 9 Aug 2016 15:03:02 +1200
Subject:
contact phone number

Dear Christopher,

Are you able to provide a contact phone number, which I can pass on to Council so that someone can get in touch with regards to scheduling the hearing on matters concerning the Brook Recreation Reserve area. Are there any other people in the community group who wish to be heard, or will it just be yourself? If so, can you please provide their names and contact details.

Many thanks,

Nicky Mitchell

From: Christopher [mailto:cistj@kinect.co.nz]
Sent: 24 August 2016 12:29
To: Nicky Mitchell
Subject: RE: contact phone number

Dear Nicky,

Herewith text referring to the road stoppage proposal. Thanks for your help.

63 Brook Street,
 The Brook,
 Nelson 7010

Wednesday 24 August 2016

Dear Sir or Madam,

re: Road Stopping Proposal: Proposed stopping of road Brook Campground.

As called upon in the Public Notice, I wish to lodge an objection, on behalf of the Brook Valley Community Group.

I am given to understand that this matter will be heard in conjunction with two other proposals. We have lodged objections to those proposed reclassifications of land. These can be taken to contain argument which applies also to this current proposal to stop a road.

I wish now, formally, to make objection to the text of the Public Notice, in which it is stated that:

"When stopped, the land will be amalgamated into the adjoining Local Purposes (Recreation) Reserve which is vested in the Nelson City Council held in Computer Freehold Register NL34/283."

In correspondence with Heather Bryant, it has been established that this vestment is presumptive, i.e., "Yes, the reference to this [registration] is presumptive (i.e. it doesn't exist yet)."

It is equally the case that no such Local Purposes (Recreation) Reserve exists.

It is necessary, it seems, to instruct the Nelson City Council that it is failing in its obligations to its citizens when a Public Notice makes this presumption at a time when a quasi-judicial process is underway to determine whether or not a Local Purposes (Recreation) Reserve should exist at all. The fact, indisputably, is that objections have been called to these proposals which have yet to be heard. We have made such objections and are greatly concerned that the effect of this Notice is to presume the outcome of that Hearing. These demonstrations of systemic bias prejudice the independence of those appointed to hear our objections.

Unfortunately, this slackness in attending to proper procedure (if indeed it is not policy) has been demonstrated to be endemic within many of the processes conducted in respect of the existing Recreation Reserve. As a result, a Management Plan was adopted which took a very significant departure from the subject of public consultation. I beg to remind you, as evidence of what could be taken to be a breach of good faith, that the Plan is still entitled the Brook Recreation Reserve Management Plan.

I wish to speak to these concerns.

Keeping the faith,

Christopher St Johanser
 Chair
 Brook Valley Community Group (Inc.)

From: Steve Cross <stevecross@xtra.co.nz>
Sent: Friday, 26 August 2016 8:47 a.m.
To: Council Enquiries (Enquiry)
Subject: Objection to Proposed Road Stoppage

Dear Sir or Madam,

re: Road Stopping Proposal: Proposed stopping of road near Brook Campground.

As called upon in the public notice, I wish to lodge an objection to the proposed road stoppage in the vicinity of the Brook Campground.

I object on the basis that proper process has not been followed with this proposal. The proposal is presumptive on the outcome of a separate hearing that is yet to occur on the creation of a Local Purposes (Recreation) Reserve. The very act of advertising the road closure prior to the reserve hearing shows bias and predetermination by Council.

I am also concerned about the potential for alienation of public land; the commercialisation of public land; and the failure to fully engage with the Brook Community and take on their concerns.

I support the submission that Christopher St Johanser will be making on behalf of the Brook Valley Community Group Inc when the hearings into the road closure and reserves reclassification are heard.

Sincerely
Steve Cross
8 Bisley Ave
Moana
Nelson 7011

From: Justine McDonald
Sent: Wednesday, 24 August 2016 3:45 p.m.
To: Clare Hadley
Subject: Proposed Road Stoppage - Brook Camp

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Frequent flyers

Dear Clare

I wish to object to the proposal and the main arguments for my objection will be presented by Christopher St Johanser, acting on behalf of the Brook Valley Community Group Inc., in conjunction as discussed with argument against the proposed reclassifications of reserve and other land.

Yours sincerely
Justine Dando McDonald.

Heather Bryant

From: Lionel Solly <lsolly@doc.govt.nz>
Sent: Monday, 29 August 2016 10:03 a.m.
To: Heather Bryant
Cc: Mark Townsend
Subject: RE: Brook Reserve & Road Stopping Proposals
Attachments: Submission on draft Brook Recreation Reserve Management Plan - DOC-2562228.pdf

Hi Heather

I write in response to your email of 12 August 2016 regarding:

1. The proposed stopping of road within the Brook Campground; and
2. The proposal to declare land (Lot 49 DP 210) as Local Purpose (Recreation) Reserve.

The Department's position and comments in respect of these matters are as set out in our previous submission on the draft Brook Recreation Reserve Management Plan. A copy of that submission is attached, and relevant extracts are reproduced below :

What do you think about changing the status of the legal road within the Reserve to another form of public land, such as recreation reserve?

I note that the location and status of the legal road imposes some constraints on future management of, and re-configuration of facilities within, the Reserve. Although outside the area covered by the draft management plan, the continuation of legal road into the Brook Waimarama Sanctuary is also problematic, given that public access will be prevented by the predator-proof fence, and access into the Sanctuary will be regulated and managed in accordance with the lease to the Brook Waimarama Sanctuary Trust. It may then be advantageous to change the status of the legal road to provide for greater flexibility of management. Nevertheless, access to the Brook Waimarama Sanctuary is currently provided through the Brook Recreation Reserve on legal road, and this legal right of access should be maintained. If the legal road is stopped the land in question should therefore be reclassified as a public reserve that provides for continued public access and use.

What do you think about the idea to gazette the entire Reserve as recreation reserve under the Reserves Act 1977?

I note that only part of the area covered by the draft management plan is currently gazetted as recreation reserve and subject to the provisions of the RA; and that the remaining titles are freehold land owned by Nelson City Council, or legal road.

Whilst it is sensible for the management plan to include all parts of the 'Brook Recreation Reserve', the different land tenures/classifications result in a more complex process, both for preparation of the management plan and administration of the land more generally.

In the Department's comments on the proposal to establish a management plan for the Brook Recreation Reserve (letter to Nelson City Council, dated 15 January 2015) it was suggested that Council may wish to consider formally gazetting the freehold land as recreation reserve to provide certainty of purpose and administration under the Reserves Act. This has now been proposed in the draft management plan.

Having considered this further, and taking the various facilities and uses that are proposed for the reserve into account, I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.

Local purpose reserve (under section 23 RA) is probably a more suitable classification to enable all the activities that the draft management plan identifies. A more specific purpose can also be given, such as 'Amenity – Brook', 'Community Use – Brook' or 'Recreation – Brook'. The provisions of section 24 RA would also need to be taken into account for reclassification of the existing recreation reserve.

Classification as local purpose reserve would still provide certainty of purpose and administration under the Reserves Act, and ensure that the public interest in the land is maintained. It would also allow Council to issue leases or other authorisations for the range of activities and uses proposed in the draft management plan.

I would therefore encourage Council to re-consider this proposal in favour of gazettal of the freehold land, and reclassification of the existing recreation reserve, as local purpose reserve.

Please give me a call if you have any questions in relation to the above.

Regards
Lionel

Lionel Solly
Senior Ranger, Community – Kaitiaki Matua, Ao Hāpori
Department of Conservation – Te Papa Atawhai
DDI: +64 3 546 3162 | VPN: 5062

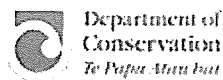
Whakatū/Nelson Office
Monro State Building, 186 Bridge Street, Nelson 7010 | Private Bag 5, Nelson 7042

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Conservation Week
10-18 SEPTEMBER 2016
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HEALTHY People





PAR-10-11-08-01
DOC-2562228

14 August 2015

Nelson City Council
PO Box 645
Nelson 7040

Email: submissions@nelson.govt.nz

Dear Sir or Madam

Draft Brook Recreation Reserve Management Plan

Please find enclosed a submission in respect of the above publicly notified draft management plan for the Brook Recreation Reserve. This follows on from the Department of Conservation's comments on the proposal to establish a management plan for the reserve (letter to Nelson City Council, dated 15 January 2015).

The Department of Conservation does not wish to be heard when the Council considers submissions. However, please contact the undersigned if you wish to discuss any of the matters raised in the submission.

Kind regards

Lionel Solly
Ranger, Partnerships – *Kaitiaki Manutātaki*

DDI 03 546 3162 | Email lsolly@doc.govt.nz

Department of Conservation *Te Papa Atawhai*
Whakatū/Nelson Office
Private Bag 5, Nelson 7042
www.doc.govt.nz

Reserves Act 1977 & Local Government Act 2002

To: Nelson City Council

Submission on: Draft Brook Recreation Reserve Management Plan 2015-2025

Name: Mark Townsend, Conservation Services Manager, Department of Conservation

Pursuant to section 83(1)(g) of the Local Government Act 2002 and section 41(6) of the Reserves Act 1977, and acting upon delegations from the Minister and Director-General of Conservation, I make the following submissions in respect of the above.

My submission is structured as follows:

- (i) The questions posed on Council's submission form are addressed, where relevant.
- (ii) Submissions and comments on other matters, and on specific provisions of the draft management plan, are then set out using the same system of headings, numbering and page numbers as that contained in the draft management plan.

The following abbreviations are used in the submission:

The Department	Department of Conservation
NCC/Council	Nelson City Council
LGA	Local Government Act 2002
RA	Reserves Act 1977

GENERAL SUBMISSION

I **support** the development of a management plan for the area known as the 'Brook Recreation Reserve' and commend Council's commitment to this process. The draft management plan is a useful document that sets out the context, history and issues associated with management of the Reserve; and which establishes a preferred vision and approach for managing the Reserve to address those issues as far as practicable.

The approach adopted in the draft management plan is generally **supported**, unless specific submissions or comments (as set out below) state otherwise. The implementation of this document is considered important in achieving NCC's responsibilities under the LGA and the RA.

QUESTIONS POSED ON COUNCIL SUBMISSION FORM

1. **Do you favour Vision 1, which is Council's preferred vision (a recreation, education and tourism hub), Vision 2 (a recreation and education hub) or neither option?**

I have no preferred view on this matter. However, I **support** the provision, included in both Visions, for:

- (i) Facilities and services which support the activities of the Brook Waimarama Sanctuary; and
- (ii) Facilities and services associated with the Brook Conservation Education Centre.

2. How do you think the Reserve should be administered? Why?

I submit that the reserve should continue to be administered by Nelson City Council, and do not believe that establishment of a Reserve Board to control and manage the reserve is necessary or appropriate in this instance.

Council may then choose to lease the whole or parts of the reserve to one or more agencies or organisations, with or without provision for sub-leasing, in accordance with the reserve's classification (discussed below).

Note that the Minister of Conservation's powers to directly appoint a reserve board can only be exercised in relation to reserves that are vested in the Crown (section 30(1) RA).

However, the Minister may, by notice in the *Gazette*, authorise the Commissioner¹ to appoint such persons as the Commissioner thinks fit to be a reserves board to control and manage any reserve specified in the *Gazette* notice (section 30(2) RA). The Commissioner (rather than the Minister) would then have the powers set out in sections 30(2) – (6) RA.

3. What do you think about changing the status of the legal road within the Reserve to another form of public land, such as recreation reserve?

I note that the location and status of the legal road imposes some constraints on future management of, and re-configuration of facilities within, the Reserve. Although outside the area covered by the draft management plan, the continuation of legal road into the Brook Waimarama Sanctuary is also problematic, given that public access will be prevented by the predator-proof fence, and access into the Sanctuary will be regulated and managed in accordance with the lease to the Brook Waimarama Sanctuary Trust. It may then be advantageous to change the status of the legal road to provide for greater flexibility of management. Nevertheless, access to the Brook Waimarama Sanctuary is currently provided through the Brook Recreation Reserve on legal road, and this legal right of access should be maintained. If the legal road is stopped the land in question should therefore be reclassified as a public reserve that provides for continued public access and use.

4. What do you think about the idea to gazette the entire Reserve as recreation reserve under the Reserves Act 1977?

I note that only part of the area covered by the draft management plan is currently gazetted as recreation reserve and subject to the provisions of the RA; and that the remaining titles are freehold land owned by Nelson City Council, or legal road.

Whilst it is sensible for the management plan to include all parts of the 'Brook Recreation Reserve', the different land tenures/classifications result in a more complex process, both for preparation of the management plan and administration of the land more generally.

¹ The Commissioner (in relation to any reserve) is an officer designated by the Director-General of Conservation for the purposes of the RA.

In the Department's comments on the proposal to establish a management plan for the Brook Recreation Reserve (letter to Nelson City Council, dated 15 January 2015) it was suggested that Council may wish to consider formally gazetting the freehold land as recreation reserve to provide certainty of purpose and administration under the Reserves Act. This has now been proposed in the draft management plan.

Having considered this further, and taking the various facilities and uses that are proposed for the reserve into account, I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.

Local purpose reserve (under section 23 RA) is probably a more suitable classification to enable all the activities that the draft management plan identifies. A more specific purpose can also be given, such as 'Amenity – Brook', 'Community Use – Brook' or 'Recreation – Brook'. The provisions of section 24 RA would also need to be taken into account for reclassification of the existing recreation reserve.

Classification as local purpose reserve would still provide certainty of purpose and administration under the Reserves Act, and ensure that the public interest in the land is maintained. It would also allow Council to issue leases or other authorisations for the range of activities and uses proposed in the draft management plan.

I would therefore encourage Council to re-consider this proposal in favour of gazettal of the freehold land, and reclassification of the existing recreation reserve, as local purpose reserve.

Once the reclassification, classification and gazettal has occurred, then the management plan can be approved and will apply to all the land in question (even though a management plan may not be required, see section 41(16) RA).

I also note that part of the gazetted recreation reserve, which is leased to the Brook Waimarama Sanctuary Trust, is excluded from the current draft management plan. The use of that part of the recreation reserve may also not be entirely consistent with its current classification and statutory purpose. This could also be addressed² as part of the process for rationalising the status of land in the adjoining 'Brook Recreation Reserve'.

5. Many different uses of the Reserve have been identified in the draft plan.

a) What uses do you support and why?

b) What uses do you not support and why?

I have no particular view on the majority of uses identified in the draft plan. However, I **support** provision for:

- (i) Facilities and services which support the activities of the Brook Waimarama Sanctuary;
- (ii) Facilities and services associated with the Brook Conservation Education Centre;
- (iii) Access to these facilities (including parking); and
- (iv) Enhancement of riparian habitat and access to and along Brook Stream.

² E.g. by reclassifying this part of the recreation reserve as 'local purpose reserve – wildlife sanctuary', consistent with the classification of other reserve land leased to the Trust.

Comments on each of these are set out below.

Brook Waimarama Sanctuary

The Brook Recreation Reserve is adjacent to land leased to the Brook Waimarama Sanctuary Trust (the Trust) for the purposes of a fenced wildlife sanctuary.

Works to construct the predator proof fence have now commenced and are due to be completed in 2016. The Department understands that the Sanctuary will formally open in 2017, following eradication of pest animals within the fenced area.

Whilst the proposed Brook Recreation Reserve Management Plan excludes areas leased to the Trust, it is the Department's view that management of the Brook Recreation Reserve should complement, and support, the objectives and management of the adjacent Sanctuary. I am therefore pleased that the draft management plan provides for this.

Provision for facilities associated with the Sanctuary may require a change of classification of the existing recreation reserve (in whole or in part), as such facilities may not be entirely consistent with the purpose and powers associated a recreation reserve. This is discussed above in the context of Question 4.

Brook Conservation Education Centre

The Brook Conservation Education Centre is a collaborative project between the Department, the Trust and the Nelson Marlborough Institute of Technology (NMIT), with support from Nelson City Council, and was established near the Sanctuary entrance in the Brook Valley in 2010. The proximity of the Sanctuary was one of the reasons the Centre was established in Nelson.

The Department has contracted NMIT to deliver the national Trainee Ranger programme and other practical conservation training courses. These training courses are open to Departmental staff, Council staff, community conservation groups and members of the public generally. The location of the Centre, and the partnership with NMIT and the Trust, provides opportunities to use the Sanctuary for training purposes, and for students to engage in projects that directly benefit the Sanctuary.

Unfortunately, the site used for the Conservation Education Centre has since been found to have slope stability problems and is currently unable to be used.

I therefore **support** the proposal to re-locate the Centre to an appropriate site within the Brook Recreation Reserve, and management plan provisions to this effect. This would enable the facilities to again support the training and education goals of the Department, NMIT and the Trust.

Provision for facilities associated with the Conservation Education Centre may require a change of classification of the existing recreation reserve (in whole or in part), as such facilities may not be entirely consistent with the purpose and powers associated a recreation reserve. This is discussed above in the context of Question 4. See also comments on section 7.5.2 of the draft management plan (below).

Access

As noted above, access to the Sanctuary is through the Brook Recreation Reserve (currently on legal road). I therefore support provision for the maintenance and, where necessary, enhancement of this access corridor. Provision should also be made for appropriate parking and safe access to the Sanctuary for cyclists and pedestrians.

I note that there are constraints on the number of parking sites that can be provided, given the size and configuration of the reserve and the understandable desire to accommodate a range of other uses. I also note that there may be opportunities to utilise the site currently occupied by the Brook Conservation Education Centre for additional parking space. I **support** this change of use, subject to relocation of the Conservation Education Centre (discussed above), and provision of pedestrian/cycling access from that site to the Brook Recreation Reserve and Brook Waimarama Sanctuary.

I also note that the current site of the Brook Conservation Education Centre falls outside the area covered by the draft management plan, and would encourage Council to include it within the proposed 'comprehensive development plan'. This would ensure that development within the reserve is integrated with parking provision outside the reserve.

Brook Stream

The Brook Stream passes through the Brook Recreation Reserve, largely within the freehold land owned by Nelson City Council. Upstream of the Recreation Reserve the stream is within the Brook Conservation Reserve (vested in Council and leased to the Brook Waimarama Sanctuary Trust); and downstream it is within the Brook Stream Esplanade Reserve (vested in Council).

The management plan for the Brook Recreation Reserve provides an opportunity to set clear objectives and actions for management of the stream and its margins, and to enhance connectivity between the upstream and downstream reserves. I **support** specific provisions to maintain and improve riparian habitat, and to enhance public access to and along the stream. Such actions support Council's Project Maitai/Mahitahi programme, including projects MRP4, MRP7 and MRP12.

6. A number of items have been proposed to be included in the comprehensive development plan (section 9.2).

Please state the items you think should be removed from the comprehensive development plan and state why:

Please state the items that should be added to the comprehensive development plan and state why:

Please state the items in the comprehensive development plan that should be changed and state how and why:

I **support** the proposal to prepare a comprehensive development plan for the reserve, and generally support the items to be included in the plan, subject to the comments in response to question 5 above.

I note that item 4(l) in section 9.2 specifies that the campground shall provide a minimum of 65 camping sites, which is the number that would be provided under Vision option 2 (ref page 85 of the draft plan). Vision option 1 (Council's preferred option) would only provide for 55 camp sites.

Item 4(m) also refers to a relocatable home park for a maximum of 25 sites. It is unclear whether these sites are in addition to the number of camping sites referenced under item 4(l), or are included within that number. If the latter, the number of sites available for general public camping would be reduced accordingly, i.e. 30 under Option 1 and 40 under Option 2.

These matters should be addressed or clarified when the management plan is finalised.

7. Other comments:

Specific comments on other matters are set out below.

SUBMISSIONS AND COMMENTS ON OTHER MATTERS

Section 2

2nd paragraph, 1st sentence:

Note that a management plan is not required for a government purpose reserve, as well as a local purpose reserve, unless the reserve is vested in an administering body or an administering body is appointed to control and manage the reserve, and the Minister directs that a management plan is required (section 41(16) RA). This has implications with respect to my comments on whether or not recreation reserve classification is the best solution for the area covered by the draft management plan.

3rd paragraph, 1st sentence:

Section 41(3) RA also states that a management plan should provide for and ensure “*to the extent that the administering body's resources permit, the development, as appropriate, of the reserve for the purposes for which it is classified*”. This is particularly pertinent given the purpose of the management plan in guiding the future development of the area.

Section 4.2.1

Mention could be made that the recreation reserve was classified as such by the Minister of Lands in January 1979, subject to the provisions of the RA, and was then vested by the Minister of Lands in the Nelson City Council in trust for a reserve for recreation purposes in December 1979. There were no terms and conditions associated with this vesting.

Section 5.1

Note that there is a discrepancy between the approximate areas stated in the three bullet points (combined total area of 91,780 m², or 9.178 ha) and the area of the Reserve stated on page 11 (section 3) of the draft management plan (10.112 ha).

Section 5.3

3rd paragraph, 2nd bullet:

Reference should also be made to the Wildlife Act 1953 and Heritage New Zealand Pouhere Taonga Act 2014 provisions that apply (section 17(2)(b) RA).

Section 5.3.1

1st sentence:

As stated above, section 41(16) RA does not require a management plan for government purpose or local purpose reserves, unless directed by the Minister.

Section 5.3.2

2nd sentence:

This has incorrectly combined two separate sub-clauses of section 54(1) RA, which state that Nelson City Council (as the administering body) can:

- (a) *lease to any person, body, voluntary organisation, or society (whether incorporated or not) any area set apart under section 53(1)(h) for baths, a camping ground, a parking or mooring place, or other facilities for public recreation or enjoyment. The lease—*
- (i) *may require the lessee to construct, develop, control, and manage the baths, camping ground, parking or mooring place, or other facilities for public recreation or enjoyment, or may require the lessee to control and manage those provided by the administering body; and*
 - (ii) *shall be subject to the further provisions set out in Schedule 1 relating to leases of recreation reserves issued pursuant to this paragraph:*
- (b) *lease to any voluntary organisation part of the reserve for the erection of stands, pavilions, gymnasiums, and, subject to sections 44 and 45, other buildings and structures associated with and necessary for the use of the reserve for outdoor sports, games, or other recreational activities, or lease to any voluntary organisation any such stands, pavilions, gymnasiums, and, subject to section 44, other buildings or structures already on the reserve, which lease shall be subject to the further provisions set out in Schedule 1 relating to leases of recreation reserves issued pursuant to this paragraph: provided that a lease granted by the administering body may, with the prior consent of the Minister given on the ground that he or she considers it to be in the public interest, permit the erection of buildings and structures for sports, games, or public recreation not directly associated with outdoor recreation:*

[Extracts used in the draft management plan have been highlighted]

Sub-clause (a) sets out what can be leased to any person, body, voluntary organisation or society, while sub-clause (b) sets out what can be leased to any voluntary organisation only.

The ability to grant leases or licences for the carrying on of “any trade, business, or occupation” is addressed separately in sub-clause (d).

Section 5.9.2

Note that the Nelson Biodiversity Strategy has been subject to two reviews since it was first published in 2007. The most recent review was in 2013, and adopted by Council in 2014. The Strategy’s Vision, Goals and Objectives have remained the same; but the priority actions have been amended and updated.

Section 7.1.1

Page 51, 1st bullet point relating to the RA, last sentence:

The Camping-Ground Regulations do not supersede the RA provisions for the recreation reserve. Therefore section 44(2) RA still applies to that area.

Section 7.5.2

Page 64:

Note that whilst section 53(1)(g) RA provides for the erection of buildings and structures that are not directly associated with outdoor recreation, those buildings and structures must still be for “*public recreation and enjoyment*” (e.g. an indoor sports hall).

Section 53(1)(k) RA also provides for the use any part of a recreation reserve “*for other buildings considered desirable or necessary for the proper and beneficial management,*

administration, control, protection, and maintenance of the reserve". Importantly, such buildings must be desirable or necessary for the management etc. of the recreation reserve in which they are situated; and this provision does not facilitate erection of buildings associated with the management etc. of other reserves in the vicinity of the recreation reserve.

Some of the arguments that buildings and structures associated with the Brook Conservation Education Centre are consistent with the purpose of a recreation reserve are therefore tenuous, as those buildings and structures do not directly benefit the recreation reserve itself. The Conservation Education Centre would instead benefit the "*management, administration, control, protection, and maintenance*" of an adjacent reserve that has a different classification (local purpose reserve – wildlife sanctuary). See also comments on section 7.8.1 below.

Section 7.8.1

Page 75, 3rd bullet point, 2nd sentence:

While the leasing powers in respect of recreation reserves are quite broad under section 54 RA, the underlying purpose still needs to relate to the reserve, that is:

- (i) for public recreation or enjoyment (subsection 54(1)(a));
- (ii) for buildings and structures associated with and necessary for the use of the reserve for outdoor sports, games, or other recreational activities, with an exception that it may not need to be directly associated with outdoor recreation (subsection 54(1)(b)); or
- (iii) a trade, business or occupation necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve (subsection 54(1)(d)).

Page 76, paragraph relating to section 41 RA, 5th-7th sentences:

This incorrectly interprets subsection 41(5A) RA. The 'exemption' provided for by this subsection only applies to the public notification of the intention to prepare a management plan, not to subsection 41(6). While the intent of the management plan is to guide the management of all the lands in question, statutorily (under the RA) it can only apply to the land that is gazetted recreation reserve at the time of the plan's approval.

Therefore, all the land in question would need to be reclassified/classified/gazetted before the plan is approved, unless Council chooses to apply subsection 41(9). This provides for a change (i.e. adding new land to the reserve that is covered by the plan) not involving a comprehensive review and not requiring public notification under subsections 41(5) and 41(6). However, this would need to be clearly set out for the public in order that this course of action is understood, and the Council would need to follow a clear decision making process that acknowledges this approach.

Section 7.8.3

As noted previously, I submit that **local purpose reserve** (under section 23 RA) is a more suitable classification to enable all the activities that the draft management plan identifies. A more specific purpose can also be given, such as 'Amenity – Brook', 'Community Use – Brook' or 'Recreation – Brook'. The provisions of section 24 RA would also need to be taken into account in relation to reclassification of the existing recreation reserve.

Once the reclassification, classification and gazettal has occurred, then the plan can be approved and will apply to all the land in question (even though a management plan may not then be required, see section 41(16) RA).

Classification as local purpose reserve would negate some of my previous comments regarding powers to undertake or authorise certain activities within the reserve, as such matters would then be governed by section 61 RA, rather than sections 53 and 54.

Section 8.3

Reference is made to the number of camp sites provided under Options 1 and 2, and these are shown on Figure 27. Figure 27 does not show the proposed 'relocatable home park', but Figure 19 indicates that this overlaps with some of the camping sites shown on Figure 27.

The proposed relocatable home park provides for a maximum of 25 sites. It is unclear whether these sites are in addition to the number of camping sites referenced in section 8.3, or are included within those numbers. If the latter, the number of sites available for general public camping would be reduced accordingly, i.e. 30 under Option 1 and 40 under Option 2.

Section 9.1.2

Policy 1:

Note that the Minister of Conservation's powers to directly appoint a reserve board can only be exercised in relation to reserves that are vested in the Crown (section 30(1) RA).

However, the Minister may, by notice in the *Gazette*, authorise the Commissioner to appoint such persons as the Commissioner thinks fit to be a reserves board to control and manage any reserve specified in the *Gazette* notice (section 30(2) RA). The Commissioner (rather than the Minister) would then have the powers set out in sections 30(2) – (6) RA.

As previously noted, I do not favour establishment of a reserve board in this instance and submit that the reserve should continue to be administered by Nelson City Council.

Section 9.3.2

Policy 1:

See previous comments in respect of reserve classification.

Section 9.4

2nd sentence:

Reference to section 59A RA should be changed to section 54 RA; noting, however, that this reference would need to be amended to section 61 RA if the land is classified as local purpose reserve (as suggested in these submissions).

Section 9.7

1st paragraph, last sentence:

Section 65 RA applies only to recreation reserves set apart for racecourse purposes, and thus is not applicable. Provisions relating to bylaws for other reserves are set out in sections 106 – 108 RA.

Section 9.7.2

Policy 1(t):

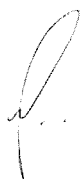
See previous comment.

Appendices

The addition of a **glossary** or other means of defining terms in the plan would be helpful. This is particularly important for the policies in section 9.7.2 that identify activities that are not permitted in the reserve.

I do not wish to be heard in support of this submission.

Dated at Nelson this 14th day of August 2015



Mark Townsend
Conservation Services Manager, Motueka
North & Western South Island Region

Acting pursuant to delegated authority

Address for service: Department of Conservation
Whakatū / Nelson Office
Private Bag 5
Nelson 7042

Attn: Lionel Solly



26 August 2016

**SUBMISSION TO:
NELSON CITY COUNCIL RE: ROAD-STOPPING PROPOSAL AT BROOK RESERVE**

The Brook Waimarama Sanctuary Trust appreciates the opportunity to submit comments on Council's proposal under the Local Government Act to formally stop the parcel of legal road (Brook Street) passing through the Brook Recreation Reserve. The Trust understands this proposal is an outcome of the Brook Reserve Management Plan adopted by Council in principal in October 2015, dependent upon this road stopping process and a related gazettal process being completed.

The Trust supported Council's decision to undertake a comprehensive planning approach to the future of the Brook Recreation Reserve and made a formal submission to the management plan process in support of the vision option that was supported by Council and included in the final Plan:

“The Brook Recreation Reserve serves as a centre for environmental, education and conservation and as a destination for camping and outdoor recreation, including appropriately-scaled and complementary commercial recreation and tourism development.”

Support for Road Stopping

The Trust acknowledges and agrees with the Plan's finding that “This option allows for the following main developments on the Reserve (subject to agreement on a comprehensive development plan):

- Facilities and services which support the activities of the Brook Waimarama Sanctuary,
- Facilities and services associated with the Brook Conservation Education Centre,
- Eureka Park,
- A commercial camping ground,
- Commercial tourism and recreation developments of a scale and type which complement the natural, social and existing commercial values of the Reserve,
- Developments for casual local recreation opportunities and events, such as improved access to the Brook Stream and play and picnic facilities, and
- A relocatable home park.”

The Trust further acknowledges and agrees with the Plan's description of the process for Council to undertake the Comprehensive Development Plan, and that the development plan will provide for:

- a. An attractive entrance to the Reserve to encourage visitors,
- b. Facilities and services required to manage, operate and service the Brook Waimarama Sanctuary,
- c. The relocation of the Brook Conservation Education Centre facilities and services to within the Reserve, including only those activities permitted by the resource consent held for the current location of the Centre,
- d. Design flexibility to allow for the incorporation of commercial recreation or tourism activities which are consistent with the Vision for the Reserve,
- e. Parking management provisions for drivers seeking parking spaces within the Reserve to reduce needless traffic activity, speed, and the parking of cars in inappropriate locations, and to create a pedestrian-friendly setting throughout the Reserve,
- f. Off-road pedestrian and cycle access to any parking spaces provided for Reserve visitors outside the Reserve,
- g. Protection and interpretation of heritage features within the Reserve, including the Kidson memorial and its associated native vegetation, reservoir, and the trout rearing ponds if they prove to be of any heritage value,

The Brook Waimarama Sanctuary Trust | PO Box 744 | Nelson | New Zealand
info@brooksanctuary.org.nz | www.brooksanctuary.org.nz | 03 546 2422

- h. Accessibility provisions for people with disabilities, including inclusive camping opportunities,
- i. Responses to flood, earthquake and other natural hazards on and near the Reserve,
- j. Capacity for shared use of existing and proposed built facilities by commercial and community agencies to minimise land coverage by structures, including the potential relocation of the camping ground office to near the Reserve entrance area, and its operation as a combined ticketing and information office, as well as alternative uses of the existing camping ground office and building,
- k. Walking tracks and information services for Eureka Park, developed in consultation with the promoters of that park,
- l. Cycle and walking tracks giving access to new and existing recreation routes to the east and south of the Reserve,
- m. A campground providing a minimum of 65 camping sites (or a number defined as sustainable by a business plan), including levels of service for toilets, kitchen facilities and other activities which comply with the Camping-Ground Regulations 1985,
- n. A relocatable home park providing for a maximum of 25 sites designed to comply with the Camping-Ground Regulations 1985 (see also Policies 7.7.2 and 7.8.2),
- o. Facilities and services to provide security and safety for campers and other Reserve users and facilities, developed in consultation with the NZ Fire Service and any other relevant emergency service provider,
- p. Retention of the landscape trees and woodland defined in the NRMP, and other vegetation identified in Figure 19 of this Plan, as far as is possible,
- q. Maintenance and improvement of the cultural health of the Reserve, primarily via managing for biodiversity and stream health in the Brook Stream,
- r. An area of open space suitable for general community recreational use, small community events, play facilities and picnicking; and providing easy access to the Brook Stream for play and environmental education purposes,
- s. Consideration of the effects of the implementation of the NRMP Enner Glynn and Upper Brook Valley Structure Plan (Figure 17 page 38),
- t. The allocation of space so that camping and other open public recreation areas are separated, as much as possible, from potentially busy commercial activities and built visitor services,
- u. A redeveloped roading network to suit the uses described above, providing for pedestrian, cycle, car and bus access, and emergency evacuation,
- v. Other requirements of the NRMP and applicable legislation.”

The Trust notes item “u” above references the need for a redeveloped roading network to provide access for the various facilities and areas outlined in the Plan’s vision, and to provide for pedestrian, cycle, car and bus access, and emergency evacuation. As it is our understanding that the proposed road-stopping of the existing legal road is intended to facilitate this proposed redevelopment of a suitable roading network for the Reserve, we support the proposed road stopping.

Interim Access to Sanctuary Site

The Trust notes that the Council process for undertaking the Comprehensive Development Plan for the Reserve will follow the road stopping process, and will take some period of time. During that process, and following the adoption of a development plan but prior to the realisation of such developments as allowed for under the development plan, it is important for members of the Trust and the general public to continue to be able to access the Brook Waimarama Sanctuary site, which is only accessible through the Reserve, to carry out the activities associated with maintaining and developing the Sanctuary site and providing public access as a visitor attraction.

We therefore request that Council provide assurance in the form of a legal mechanism for public access (passing and re-passing) through the Reserve to the Sanctuary site during the interim period until a Comprehensive Development Plan is adopted and any roading network redevelopment for the Reserve is undertaken. Clearly such interim access will need to provide for pedestrian safety and

public access to the Reserve itself, as well as providing for visitor flows and parking opportunities for the Sanctuary.

Urgency for Reserve Comprehensive Development Plan

The Trust also wishes to again emphasise that the proposed relocation the Brook Conservation Education Centre to a portion of the Reserve, with the goal of continuing and sustaining this nationally significant joint initiative between the Trust, Nelson Marlborough Institute of Technology (NMIT) and the Department of Conservation, has urgency. The Centre has now been closed (due to a landslip proximate to the current campus location) since 2011, and since that time the national Trainee Ranger program has been being delivered out of the NMIT Richmond campus, which all parties agree is not an ideal scenario. Quite the contrary, the Centre has always been envisioned to provide an appropriate location for environmental education, juxtaposed with the Brook Waimarama Sanctuary for educational immersion opportunities in the Sanctuary's restored ecosystems.

Upon the closure of the Centre's current location, NMIT and the Trust jointly approached Council with the proposal to relocate the Centre to a portion of the Reserve, and Council issued a resolution in August 2013 approving the proposed relocation. Since that time three additional annual cohorts of students for the Trainee Ranger program have received their training without the benefit of the Centre's location adjacent to the Sanctuary.

The Centre will also serve the vital role of providing facilities for the Trust's education program, providing science, ecology, and conservation educational programs to the region's school students. In recent years the Trust's program has served over 100 groups per year totalling over 3,500 students. Currently this program operates out of the Sanctuary's Visitor Centre, which will become increasingly challenging to accommodate as the Visitor Centre becomes the primary facility for the Sanctuary's operation as a visitor attraction.

The Trust therefore requests that Council urgently undertake the Comprehensive Development Plan process with the goal of achieving an agreed Plan that would provide the opportunity for the physical works to be undertaken to relocate the Centre into the Reserve prior to the next intake of Trainee Ranger students in June 2017.

The Trust is grateful for the ongoing support and commitment shown by Nelson City Council in support of the Brook Waimarama Sanctuary project. We also thank Council staff and consultant Rob Greenaway for their work to develop the Reserve Management Plan.

Opportunity to Be Heard

The Trust requests the opportunity to be heard in support of this submission.

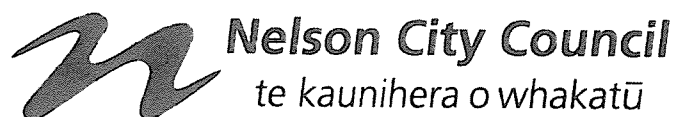


Hudson Dodd
General Manager

Land to Be Declared Local Purpose (Recreation) Reserve

Advertised in Nelson Mail – 27 July 2016

27 July 2016



LAND TO BE DECLARED RESERVE, BROOK VALLEY

Notice is given that the Nelson City Council proposes to resolve that the parcel of land held by the Council in fee simple, as detailed in the schedule be declared a Local Purpose (Recreation) Reserve pursuant to Section 14 of the Reserves Act 1977.

Once the land has been declared Reserve, the reserve will remain vested in the Nelson City Council and be managed in accordance with the Nelson City Council's Brook Recreation Reserve Management Plan 2015 – 2025.

Schedule

Nelson Land District – Nelson City


Area	Legal Description	Title Reference
1.1736ha	Lot 49 DP 210	NL34/283

Any person wishing to make a submission on this proposal should do so in writing to the undersigned prior to 4.00 pm on 29 August 2016.

Nelson City Council
 C/- The Property Group Limited
 PO Box 1551
 Nelson 7040

For enquiries email Nicky Mitchell (nmitchell@propertygroup.co.nz).

Nelson Mail
27-7-16

 **Nelson City Council**
te kaunihera o whakatū

LAND TO BE DECLARED RESERVE, BROOK VALLEY

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Nelson City Council
C/- The Property Group Limited
PO Box 1551
Nelson 7040

For enquiries email Nicky Mitchell
(nmitchell@propertygroup.co.nz).

Nicky Mitchell

From: Christopher <cistj@kinect.co.nz>
Sent: 10 August 2016 10:03
To: Nicky Mitchell
Subject: Re: contact phone number

Dear Nicky,

I can be reached on 5459201 most mornings, 9-10 is best.

Please take this message as a pro forma objection to the proposed road stoppage, in addition to the two other lodged objections you have received. I shall deal with all three in one address. There are differences of course, but they can be taken into account at the time of the Hearing, I think. If this is not acceptable, I understand I have until 27th to lodge an objection on behalf of our group.

We have not finalised our arrangements for the Hearing, not knowing a date as yet. I do expect that I shall be accompanied by supporters, but they have left it to me to speak to these matters. I shall notify them. At the same time, I am not only aware of but in touch with two other objectors, with whom I expect to be coordinating our presentations.

Keeping the faith,

Christopher

----- Original Message -----

From:
 "Nicky Mitchell" <NMitchell@propertygroup.co.nz>

To:
 "Christopher" <cistj@kinect.co.nz>
Cc:

Sent:
 Tue, 9 Aug 2016 15:03:02 +1200
Subject:
 contact phone number

Dear Christopher,

Are you able to provide a contact phone number, which I can pass on to Council so that someone can get in touch with regards to scheduling the hearing on matters concerning the Brook Recreation Reserve area. Are there any other people in the community group who wish to be heard, or will it just be yourself? If so, can you please provide their names and contact details.

Many thanks,

Nicky Mitchell

63 Brook Street,
The Brook,
Nelson 7010.

Wednesday, May 4, 2016

In the matter of Land to be Declared Reserve, Brook Valley, the Brook Valley Community Group (Inc.) submits as follows.

1. We wish to place on record our dissatisfaction at the process by which this intention has been arrived.

BACKGROUND

2. On Thursday I May 2014, Lisa Gibellini, the Council's Senior Planning Adviser, wrote, in an email to Hugh Kettlewell and Greg Carlyon:
3. "(ii) The existing lease for the BWST also extends over the boundary of the Wildlife Reserve (sic) and into the Recreation Reserve that contains the campground, but excludes the area of the campground"
4. "(iii) The current applications for resource consents RM145062 and RM145063 by NMIT and BWST to erect ranger education and training centre buildings and associated infrastructure within the campground is a non-complying activity in the NRMP and is likely to be publicly notified, will need to be heard by an independent commissioner, and is *an activity not supported by the purpose of Recreation Reserves*, (our emphasis) and for which any lease will need to be subject to public consultation".
5. Ms. Gibellini's email contains other pertinent information, and is provided as an attachment.
6. In response to a notice of intention to prepare a Management Plan for "The Brook Recreation Reserve",

printed in the Nelson Mail on 24 November 2014, calling for suggestions, the Brook Valley Community Group, not then incorporated, wrote to the Nelson City Council, in part, as follows, under the heading Suggestions:

7. I. The Nelson City Council rescind its resolution of 30 September 2004, which reads in part: "AND THAT staff continue investigations into actions necessary to modify the status and Reserves Act classification of the subject land to adequately reflect the purpose for which the land is held *and to provide for full management control to the Brook Sanctuary Trust* (our emphasis)".
8. 2. The Brook Valley Community Group is supportive of an intention to establish a Brook Recreation Reserve covering those packets of land listed in the public notice and others not so listed. To that end, we suggest that the proposal to develop a Management Plan be revisited entirely, in order that the formal procedure of establishing an expanded Recreation Reserve under the Reserves Act be followed, including gazetting by the Minister. Among many other benefits will be that of proper attention being paid to the conditions of deeds of gift.
9. 11. With regard to the internal memorandum provided to the Council by Lisa Gibellini, Senior Planning Adviser on 29 March (sic) we suggested, *inter alia*, that particular attention be returned to her advice under s2.12 that: "it (was) quite plain that acceptance of her principal recommendation has been based upon her s2.6 referring to s.54 of the Reserves Act, and secondly, to her s.216 on (h), a subclause of the Resource Management Act referring to Reserve Management Plans", referring to an intended employment of these clauses to permit activities otherwise deemed inappropriate or inconsistent with the purposes of the Reserves Act.

10. Ms. Gibellini's advice in general appears to set limitations on the Council's power to take the action which it has desired its staff to take (as above). In concurring with her views, the Brook Valley Community Group has been doing no more than she; that is, requiring that the Council act according to its responsibilities under s12(3) and s.13 of the Local Government Act, in which the capacity of the local authority is subject to "any other enactment and the general law", and, in the performance of its functions under other enactments, is required to ensure that the application of provisions is "not inconsistent with the other enactment".
11. The Council engaged the services of Rob Greenaway and Associates to prepare a Draft Brook Recreation Reserve Management Plan 2015-16. A Draft for Consultation was printed in June 2015.
12. As its title states, this document delivered a Draft Management Plan for the Brook Recreation Reserve (A1426062). It is just such a management plan that was foreshadowed in Ms. Gibellini's advice [in her s.216, quoted above], as a possible means (under the Resource Management Act) of permitting 'activities otherwise deemed inappropriate or inconsistent with the purposes of the Reserves Act'.
13. To simplify, it would seem that the dutiful Ms. Gibellini has said: "Well, you could get around it (that is, the inappropriateness and inconsistencies of activities, including those referred to in our bullet points 3 and 4 above) this way, but (as is made clear elsewhere) I wouldn't advise it". Hence the significance of a Management Plan.
14. The Draft Management Plan was deliberated upon by a Brook Recreation Reserve Management Plan Panel, which reported (A1426062) on 22 September 2015,

having been delegated authority by Council to hear submissions and make recommendations to Council.

15. It recommended that the draft Brook Recreation Reserve Management Plan (A1365018), *as amended following submissions* (our emphasis), be adopted.
16. Under 2.3 **Gazettal**, the Panel noted first that: "There was no opposition to this proposal".
17. It is respectfully submitted that there was no opposition precisely because, up to this point, there was never any question or discussion as to any possible re-designation of the land in question as a Local Purposes Reserve. The possibility was simply not raised, and so was not present in the text of the Management Plan, developed, it will be remembered, for a Brook Recreation Reserve.
18. On page 92 of the Draft for Consultation, under the heading 9.3 Reserve land status, acquisition and disposal, there is the following: "Consultation indicates a desire to gazette the Reserve as recreation reserve. This draft management plan adopts that policy".
19. Only at this late stage does any possibility of re-classification into a Local Purposes Reserve enter the narrative, and it does so because of its inclusion within a submission of the Department of Conservation, which is extracted into the Panel's Report in the following words, quoted here in entirety.
20. *In the department's comments upon the proposal to establish a management plan for the Brook Recreation Reserve (letter to Nelson City Council, dated 15 January 2015) it was suggested that Council may wish to consider formally gazetting the freehold land as recreation reserve to provide certainty of*

purpose and administration under the Reserves Act. This has now been proposed in the draft management plan.

21. *Having considered this further, and taking the various facilities and uses that are proposed for the reserve into account, I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.*
22. *Local purpose reserve (under section 23 RA) is probably a more suitable classification to enable all the activities that the draft management plan identifies. A more specific purpose can also be given, such as 'Amenity-Brook', 'Community Use-Brook' or 'Recreation-Brook'. The provisions of section 24 RA would also need to be taken into account for reclassification of the existing recreation reserve.*
23. *Classification as local purpose reserve would still provide certainty of purpose and administration under the Reserves Act, and ensure that the public interest in the land is maintained. It would also allow Council to issue leases or other authorisations for the range of activities and uses proposed in the draft management plan.*
24. *I would therefore encourage Council to reconsider this proposal in favour of gazettal of the freehold land, and reclassification of the existing recreation reserve, as local purpose reserve.*
25. *Once the reclassification, classification and gazettal has occurred, then the management plan can*

be approved and will apply to all the land in question.

26. I also note that part of the gazetted recreation reserve, which is leased to the Brook Waimarama Sanctuary Trust, is excluded from the current draft management plan. The use of that part of the recreation reserve may also not be entirely consistent with its current classification and statutory purpose. This could also be addressed as part of the process for rationalising the status of land in the adjoining 'Brook Recreation Reserve'.
27. Mr Greenaway is then reported to have held further discussions on this proposed reclassification with the Department, but not, we observe, with the public at large.
28. On page 7 of the Deliberations on the draft Brook Recreation Reserve Management Plan (a1426062) under 2.7 **Department of Conservation submission** "The Department's submission (21) includes several technical edits and clarifications that do not change the intent of any policy or are *subsequent to choosing a gazettal option for the Reserve* (our emphasis)".
29. Such a subsequential choice was evidently made without further public consultation in the adoption of the Plan. This had important consequences. For now, it can be stated that the management horse has by this non-public choice been firmly placed behind its statutory cart.

THE CART AND THE HORSE

30. An article published in the Nelson Mail of October 10, 2015, noted that; "(The Brook Valley Community Group) is perturbed by a recommendation

that the council amend the draft plan by changing the area's status from a recreation reserve to a local purposes reserve. It argues that the public has not been consulted on this change, and that if it goes ahead the council will be avoiding its responsibilities under the Local Government Act....The recommended local purpose status responded to "technical issues", Rob Greenaway said.

31. Our Group disputes this unfounded assertion, and here submits that the issues involved were and are not 'technical' in nature, in the connotation that word sometimes carries of 'insignificant' or 'don't worry about it'. They are issues of statutory status and civic responsibility. As we stated then, "a change in status for the land would affect its proposed uses. It could allow changes that would not be permitted in recreation reserves".

32. Unsurprisingly, it is precisely the intention to allow such changes (including the lease already negotiated with the Waimarama Brook Sanctuary Trust} that has driven this process from its inception and continues to do so.

33. On 16 October 2015, in a press release entitled "Brook Recreation Reserve Plan Adopted", it was stated that "As recommended by the hearing panel, Council agreed to change the reserve's status from Recreation Reserve to Local Purpose Reserve (Recreation) to ensure people's requests through consultation could be achieved...Gazetting the land for Local Purposes Reserve (Recreation) will require further consultation with the community, as well as stopping the road through the reserve and into the area leased to the Sanctuary, and transferring it to reserve status...Residential camping is allowed under the Plan within an area of the reserve yet to be designated as a relocatable home park for up to 25 sites, which will be reviewed every three years".

34. It is now plain that Ms. Gibellini's original advice, reiterated by ourselves in the process of

consultation, was at the last moment, in an acknowledged change of position, supported by the Department of Conservation. Otherwise, throughout the entire process of consultation and consideration of a Draft Plan, it was assumed, quite incorrectly, that *the various facilities and uses that (were) proposed for the reserve could be accommodated within the provisions of the Reserves Act for Recreation Reserves.*

35. In the opinion of the author of the DoC submission, (and here we repeat for clarity): *"I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.*
36. It might now seem apparent that the Council has seen the wisdom of consulting with the public upon a proposed change of status for the Recreation Reserve. The damage, however, has already been done. A Management Plan has been adopted which has been entirely predicated upon debate and consideration of the land as Recreation Reserve.
37. Any proposal to change the status of the existing Recreation Reserve now, in order to accommodate the adopted Plan, is to fail to acknowledge:
38. (a) that the inclusion of, in DoC's words, *"some of the proposed uses of the reserve appear(ing) to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves"* is a powerful argument that they should not have been included in an adopted Plan, which, only after all consultation had already taken place, gave any consideration whatsoever to any possible change of

status, together with its necessary separate consultation; and

39. (b) that the Plan itself should not have been adopted at all. Again, in DoC's words, "*Once the reclassification, classification and gazettal has occurred, then the management plan can be approved and will apply to all the land in question*". It will be noted that DoC would have the horse before its cart, as it should properly be, and we concur.
40. In the press release of 16 October referred to above, it is stated (and again we repeat for clarity) that, : "As recommended by the hearing panel, Council agreed to change the reserve's status from Recreation Reserve to Local Purpose Reserve (Recreation) to ensure people's requests through consultation could be achieved...Gazetting the land for Local Purposes Reserve (Recreation) will require further consultation with the community..."
41. The Council had no business to ensure people's requests through consultation could be achieved when, within the framework of the consultation as it was established, i.e., for a Recreation Reserve Management Plan [and not a Local Purposes Reserve (Recreation)], it was absolutely not proper for them to be achieved.
42. Let us be clear. The principal 'persons' driving this entire process from its inception are organisations either already in possession of a dubious lease (the Sanctuary Trust) or intending to obtain such leases in order that they may undertake uses and activities "*inconsistent with RA provisions relating to the purpose and administration of recreation reserves*", once more to iterate the words of the DoC submitter. This latter group includes DoC itself, NMIT, and this entity describing itself as the Nelson Cycle Lift Society, appararently intent on riding Council's romantic enthusiasm for the development of a tourist hub in the Upper Brook to the end of building a gondola for private gain on public money.

43. It is not our intention here to rumble on about the foolishness and inappropriateness of acceding to these combined attacks upon the public's recreational spaces. We have in fact already done so in our disregarded submissions. Our requests through the consultative process have certainly not been heeded, and we include in that strong messages conveyed by way of public meetings.
44. The Council now acknowledges that gazetting the land for Local Purposes Reserve (Recreation) will require further consultation with the community. It seems disinclined- we suppose because it has from the start been an enthusiastic supporter of these developments- to recognise that the adopted Management Plan, for reasons given above, cannot provide a basis for seeking consent from the public to any such process of gazettal.

ANOTHER CART, ANOTHER HORSE

45. We note that our current submission is in response to a public notice posted having regard to those blocks of land which are peripheral to the gazetted Recreation Reserve. We have received no notification, despite our request, of any planning for the public notification of a process by which the reclassification of the Recreation Reserve itself will be put forward for public consultation.
46. As the situation stands, a second cart is being placed before a second horse. Suppose the proposed gazettal to succeed. Then there would be a Local Purposes Reserve (Recreation) located around the boundaries of the existing Recreation Reserve, a fact which could then be employed to develop a strong argument, say, that for the sake of consistency, and in order to complete projects already under way, such as the granting of leases in respect of areas newly classified as Local Purposes Reserve (Recreation), it has become necessary beyond expediency, to proceed with reclassification of the existing Recreation Reserve.

47. This situation ought now to be a familiar one. It is, indeed, the same situation as we have been discussing to this point. A value is placed upon the end being pursued such that the means by which it is to be obtained are considered subsidiary, 'technical'. This is not good law. Nor is it good administration.
48. The Brook Valley Community Group opposes an intention to resolve that the pieces of land held by the Council in fee simple, as detailed in the schedule and shown on the plan published by The Property Group Limited, be declared a Local Purpose Reserve (Recreation).
49. Our principal, but not sole, grounds for doing so are: (a) that the Nelson City Council's Brook Recreation Reserve Management Plan 2015-2025 was adopted without the public having been consulted upon the highly significant matter of reclassification; and (b) that the Plan wrongly incorporated uses and activities which have now tacitly been acknowledged inconsistent and inappropriate with the purposes of Recreation Reserve land.
50. It had evidently been intended by proponents that the development of a Management Plan would itself provide grounds by which these uses and activities might be legitimated under the Resource Management Act, as advised by Ms. Gibellini, one imagines somewhat reluctantly.
51. The Management Plan as adopted being no longer fit for that, or any other, purpose, the Nelson City Council should pay further heed to the DoC submission, and note well the cost of its own failure to take the advice of its author that: *"Once the reclassification, classification and gazettal has occurred, then the management plan can be approved and will apply to all the land in question"*.
52. DoC had the horse back before the cart. The Plan has been adopted despite this excellent advice,

seemingly considered by the Council to be like the curate's egg, good in parts only. We are all left with a continuingly unsatisfactory situation, which is why we began our submission in the manner that we have.

We do wish to be heard upon this submission.

Christopher St Johanser M.Phil.(English), M.A.(Applied),
Chair,
Brook Valley Community Group (Incorporated).

Heather Bryant

From: Lionel Solly <lsolly@doc.govt.nz>
Sent: Monday, 29 August 2016 10:03 a.m.
To: Heather Bryant
Cc: Mark Townsend
Subject: RE: Brook Reserve & Road Stopping Proposals
Attachments: Submission on draft Brook Recreation Reserve Management Plan - DOC-2562228.pdf

Hi Heather

I write in response to your email of 12 August 2016 regarding:

1. The proposed stopping of road within the Brook Campground; and
2. The proposal to declare land (Lot 49 DP 210) as Local Purpose (Recreation) Reserve.

The Department's position and comments in respect of these matters are as set out in our previous submission on the draft Brook Recreation Reserve Management Plan. A copy of that submission is attached, and relevant extracts are reproduced below :

What do you think about changing the status of the legal road within the Reserve to another form of public land, such as recreation reserve?

I note that the location and status of the legal road imposes some constraints on future management of, and re-configuration of facilities within, the Reserve. Although outside the area covered by the draft management plan, the continuation of legal road into the Brook Waimarama Sanctuary is also problematic, given that public access will be prevented by the predator-proof fence, and access into the Sanctuary will be regulated and managed in accordance with the lease to the Brook Waimarama Sanctuary Trust. It may then be advantageous to change the status of the legal road to provide for greater flexibility of management. Nevertheless, access to the Brook Waimarama Sanctuary is currently provided through the Brook Recreation Reserve on legal road, and this legal right of access should be maintained. If the legal road is stopped the land in question should therefore be reclassified as a public reserve that provides for continued public access and use.

What do you think about the idea to gazette the entire Reserve as recreation reserve under the Reserves Act 1977?

I note that only part of the area covered by the draft management plan is currently gazetted as recreation reserve and subject to the provisions of the RA; and that the remaining titles are freehold land owned by Nelson City Council, or legal road.

Whilst it is sensible for the management plan to include all parts of the 'Brook Recreation Reserve', the different land tenures/classifications result in a more complex process, both for preparation of the management plan and administration of the land more generally.

In the Department's comments on the proposal to establish a management plan for the Brook Recreation Reserve (letter to Nelson City Council, dated 15 January 2015) it was suggested that Council may wish to consider formally gazetting the freehold land as recreation reserve to provide certainty of purpose and administration under the Reserves Act. This has now been proposed in the draft management plan.

Having considered this further, and taking the various facilities and uses that are proposed for the reserve into account, I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.

Local purpose reserve (under section 23 RA) is probably a more suitable classification to enable all the activities that the draft management plan identifies. A more specific purpose can also be given, such as 'Amenity – Brook', 'Community Use – Brook' or 'Recreation – Brook'. The provisions of section 24 RA would also need to be taken into account for reclassification of the existing recreation reserve.

Classification as local purpose reserve would still provide certainty of purpose and administration under the Reserves Act, and ensure that the public interest in the land is maintained. It would also allow Council to issue leases or other authorisations for the range of activities and uses proposed in the draft management plan.

I would therefore encourage Council to re-consider this proposal in favour of gazettal of the freehold land, and reclassification of the existing recreation reserve, as local purpose reserve.

Please give me a call if you have any questions in relation to the above.

Regards
Lionel

Lionel Solly
Senior Ranger, Community – Kaitiaki Matua, Ao Hāpori
Department of Conservation – Te Papa Atawhai
DDI: +64 3 546 3162 | VPN: 5062

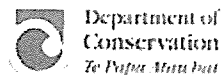
Whakatū/Nelson Office
Monro State Building, 186 Bridge Street, Nelson 7010 | Private Bag 5, Nelson 7042

Conservation leadership for our nature *Tākina te hī, tiakina te hā, o te ao tūroa*
www.doc.govt.nz



Conservation Week
10-18 SEPTEMBER 2016
ConservationWeek.org.nz

Healthy NATURE
HEALTHY People





Department of
Conservation
Te Papa Atawhai

PAR-10-11-08-01
DOC-2780960

20 May 2016

Nelson City Council
C/- The Property Group Limited
PO Box 1551
Nelson 7040

Email: nmitchell@propertygroup.co.nz

Dear Sir or Madam

Change of Classification of Reserve, Brook Valley

Please find enclosed a submission in respect of the proposal to change the classification of part of the Brook Recreation Reserve (part Section 47, Brook Street and Maitai District) to Local Purpose (Recreation) Reserve.

The Department of Conservation does not wish to be heard when the Council considers submissions. However, please contact the undersigned if you wish to discuss any of the matters raised in the submission.

Kind regards

Lionel Solly
Community Ranger

DDI 03 546 3162 | Email lsolly@doc.govt.nz

Department of Conservation *Te Papa Atawhai*
Whakatū/Nelson Office
Private Bag 5, Nelson 7042
www.doc.govt.nz

Reserves Act 1977 & Local Government Act 2002

To: Nelson City Council

Submission on: Proposal pursuant to section 24 of the Reserves Act 1977 to change the classification of part of the Recreation Reserve described below to Local Purpose (Recreation) Reserve

2.4400 ha (subject to survey), being part Section 47, Brook Street and Maitai District ("Brook Recreation Reserve")

Name: Mark Townsend, Operations Manager, Department of Conservation

Pursuant to section 24(2) of the Reserves Act 1977 (the RA), and acting upon delegations from the Minister and Director-General of Conservation, I make the following submission in respect of the above.

I agree that the change in classification is appropriate, for the reasons previously set out in the Department of Conservation's submission (dated 14 August 2015) on the draft Brook Recreation Reserve Management Plan. The relevant excerpt from that submission is reproduced below:

"Whilst it is sensible for the management plan to include all parts of the 'Brook Recreation Reserve', the different land tenures/classifications result in a more complex process, both for preparation of the management plan and administration of the land more generally.

In the Department's comments on the proposal to establish a management plan for the Brook Recreation Reserve (letter to Nelson City Council, dated 15 January 2015) it was suggested that Council may wish to consider formally gazetting the freehold land as recreation reserve to provide certainty of purpose and administration under the Reserves Act. This has now been proposed in the draft management plan.

Having considered this further, and taking the various facilities and uses that are proposed for the reserve into account, I am now of the view that recreation reserve would not be the most appropriate classification for the land in question. In particular, some of the proposed uses of the reserve appear to be inconsistent with RA provisions relating to the purpose and administration of recreation reserves. This applies both for the freehold land, and for the land that is already gazetted as recreation reserve.

Local purpose reserve (under section 23 RA) is probably a more suitable classification to enable all the activities that the draft management plan identifies. A more specific purpose can also be given, such as 'Amenity – Brook', 'Community Use – Brook' or 'Recreation – Brook'. The provisions of section 24 RA would also need to be taken into account for reclassification of the existing recreation reserve.

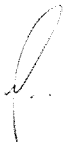
Classification as local purpose reserve would still provide certainty of purpose and administration under the Reserves Act, and ensure that the public interest in the land is maintained. It would also allow Council to issue leases or other authorisations for the range of activities and uses proposed in the draft management plan.

I would therefore encourage Council to re-consider this proposal in favour of gazettal of the freehold land, and reclassification of the existing recreation reserve, as local purpose reserve."

I note that the proposed change of classification is provided for in (and consistent with) the final Brook Recreation Reserve Management Plan 2015 – 2025, which was adopted in principle by Nelson City Council on 15 October 2015.

I do not wish to be heard in support of this submission.

Dated at Motueka this 20th day of May 2016



Mark Townsend
Operations Manager, Motueka
Northern South Island Region

Acting pursuant to delegated authority

Address for service: Department of Conservation
Whakatū / Nelson Office
Private Bag 5
Nelson 7042

Attn: Lionel Solly

Supporting documents

- Title Plan – SO 498803
- Council report dated 28 July 2016
- Extract from minutes of Council meeting held 28 July 2016
- Council report dated 15 October 2015
- Extract from minutes of Council meeting held 15 October 2015



Title Plan - SO 498803

Survey Number SO 498803
Surveyor Reference M94
Surveyor John Douglas William Batt
Survey Firm Tasman Gowland Surveyors Ltd
Surveyor Declaration I John Douglas William Batt, being a licensed cadastral surveyor, certify that:
 (a) this dataset provided by me and its related survey are accurate, correct and in accordance with the Cadastral Survey Act 2002 and the Rules for Cadastral Survey 2010, and
 (b) the survey was undertaken by me or under my personal direction.
 Declared on 28 Jun 2016 02:40 PM

Survey Details

Dataset Description Sections 1 - 15
Status Approved as to Survey
Land District Nelson **Survey Class** Class B
Submitted Date 28/06/2016 **Survey Approval Date** 29/06/2016
Deposit Date

Territorial Authorities

Nelson City

Comprised In

CT NL29/102
 CT NL43/244
 CT NL69/288 Ltd
 CT NL81/54
 GN 1980 p.90

Created Parcels

Parcels	Parcel Intent	Area	CT Reference
Section 1 Survey Office Plan 498803	Legalisation	0.7173 Ha	
Section 2 Survey Office Plan 498803	Legalisation	0.2124 Ha	
Section 3 Survey Office Plan 498803	Legalisation	0.0358 Ha	
Section 4 Survey Office Plan 498803	Legalisation	0.3226 Ha	
Section 5 Survey Office Plan 498803	Legalisation	0.0031 Ha	
Section 6 Survey Office Plan 498803	Legalisation	3.9105 Ha	
Section 7 Survey Office Plan 498803	Fee Simple Title	81.3400 Ha	
Section 8 Survey Office Plan 498803	Legalisation	0.8047 Ha	
Section 9 Survey Office Plan 498803	Fee Simple Title	0.0486 Ha	
Section 10 Survey Office Plan 498803	Legalisation	3.1093 Ha	
Section 11 Survey Office Plan 498803	Fee Simple Title	9.3691 Ha	
Section 12 Survey Office Plan 498803	Legalisation	0.3253 Ha	
Section 13 Survey Office Plan 498803	Fee Simple Title	4.0256 Ha	
Section 14 Survey Office Plan 498803	Legalisation	1.0412 Ha	
Section 15 Survey Office Plan 498803	Fee Simple Title	14.5169 Ha	
Area A Survey Office Plan 498803	Easement		



Title Plan - SO 498803

Created Parcels

Parcels	Parcel Intent	Area	CT Reference
	Hydro	0.0057 Ha	
	Hydro	0.0093 Ha	
	Hydro	0.0188 Ha	
	Hydro	0.0268 Ha	
	Hydro	0.0143 Ha	
	Road		
Total Area		<hr/> 119.8573 Ha	

Schedule / Memorandum

Land Registration District

Nelson

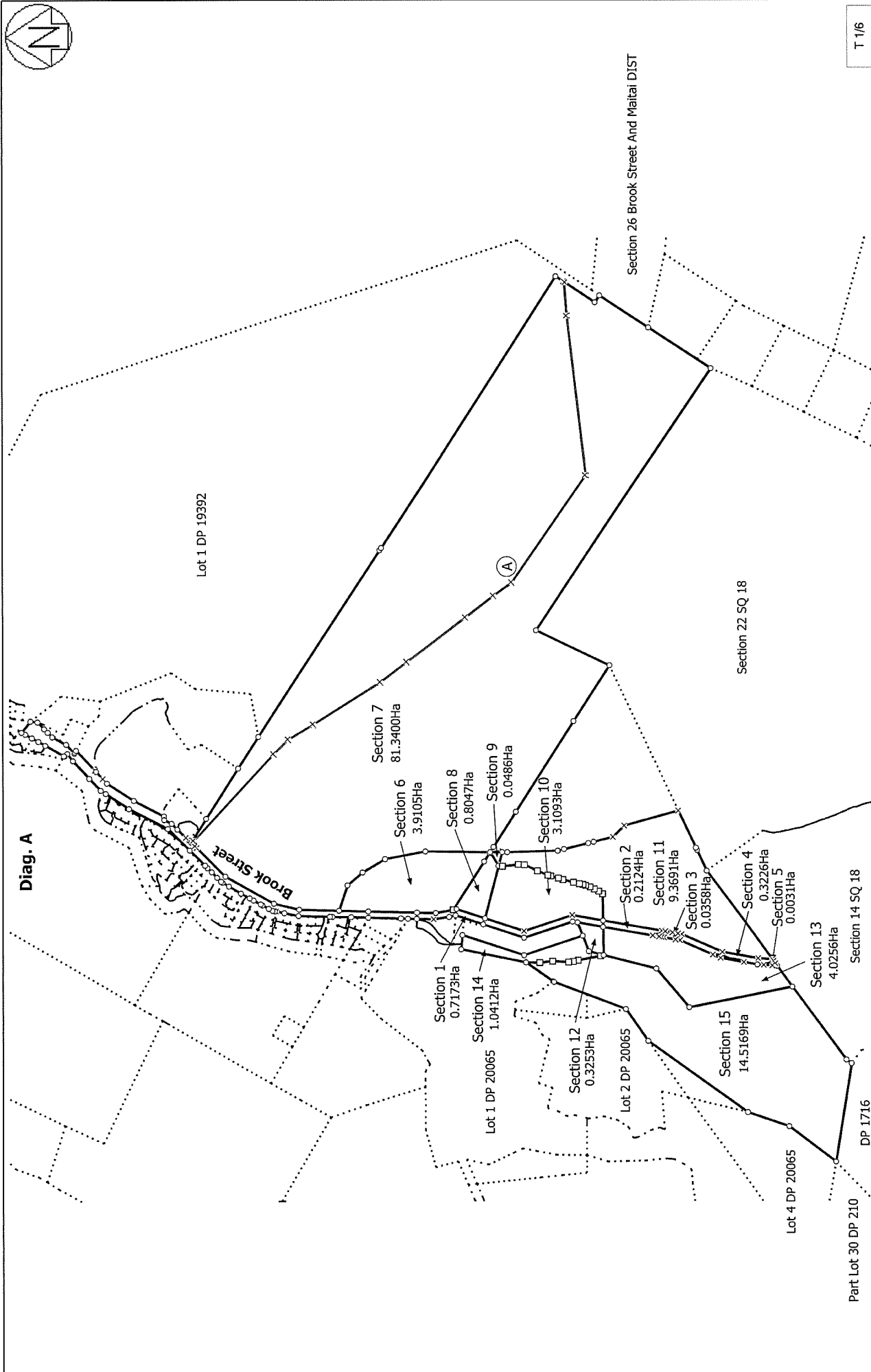
Plan Number

SO 498803

Territorial Authority (the Council)

Nelson City

Schedule of Existing Easements			
Purpose	Shown	Servient Tenement	Document
Convey Electricity	A	Section 7 hereon	Lease 5072379.2
Electricity			Lease 5144022.1



T 1/6

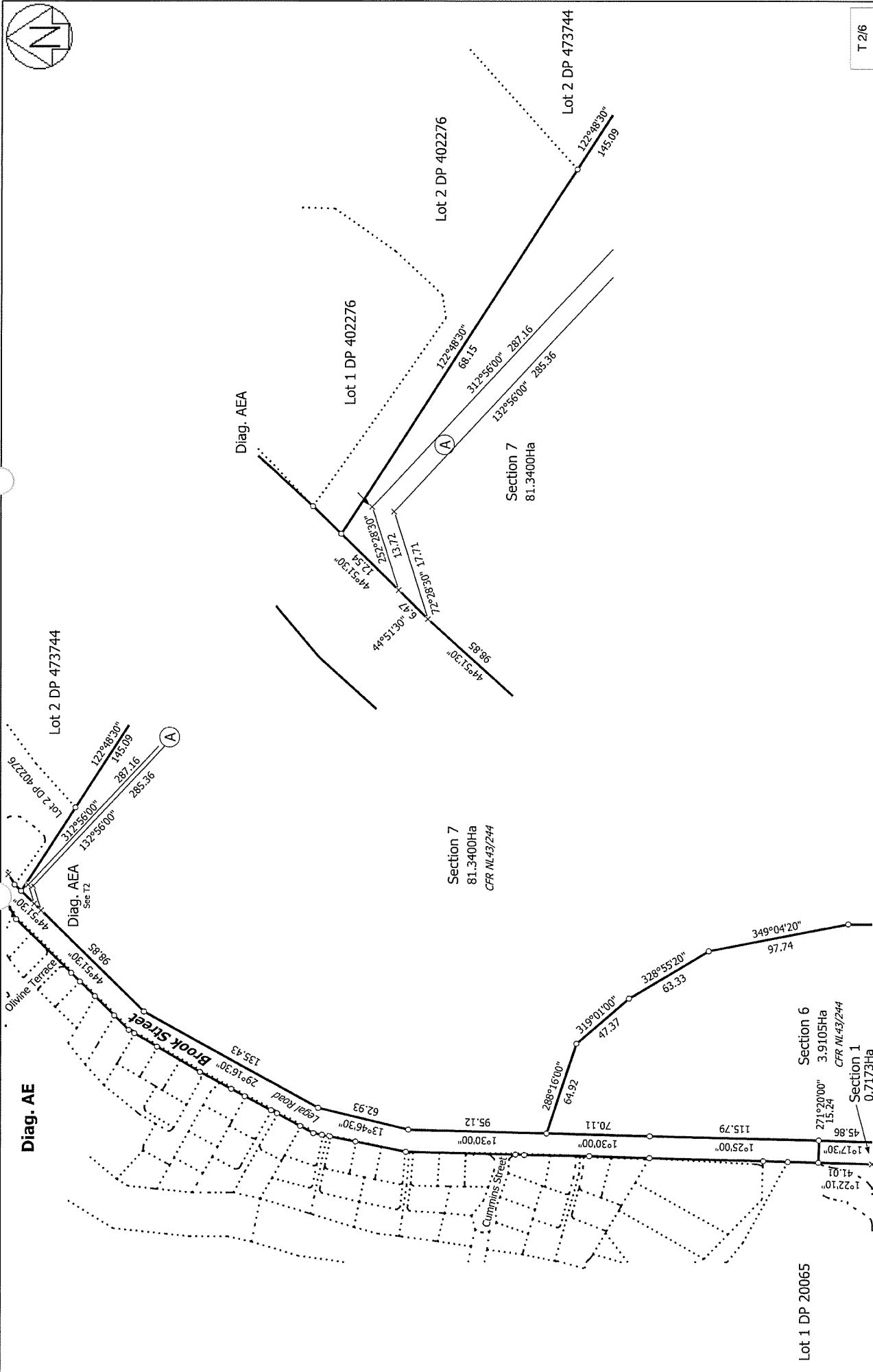
Title Plan
 SO 498803
 Approved on: 29/06/2016

Surveyor: John Douglas William Batt
 Firm: Tasman Gowland Surveyors Ltd

Sections 1 - 15

Land District: Nelson

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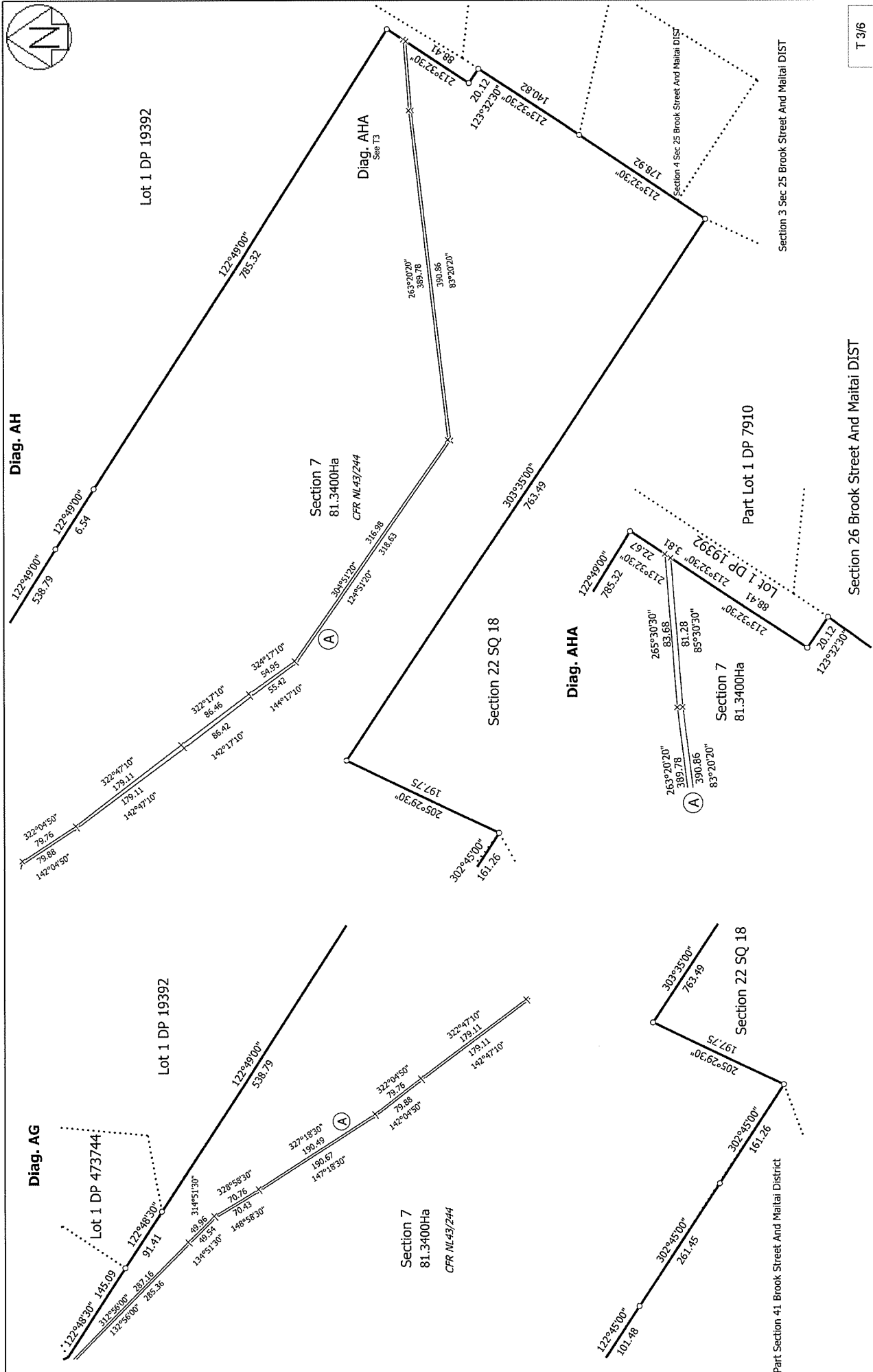
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 Firm: Tasman Gowland Surveyors Ltd
 Title Plan
 SO 498803
 Approved on: 29/06/2016

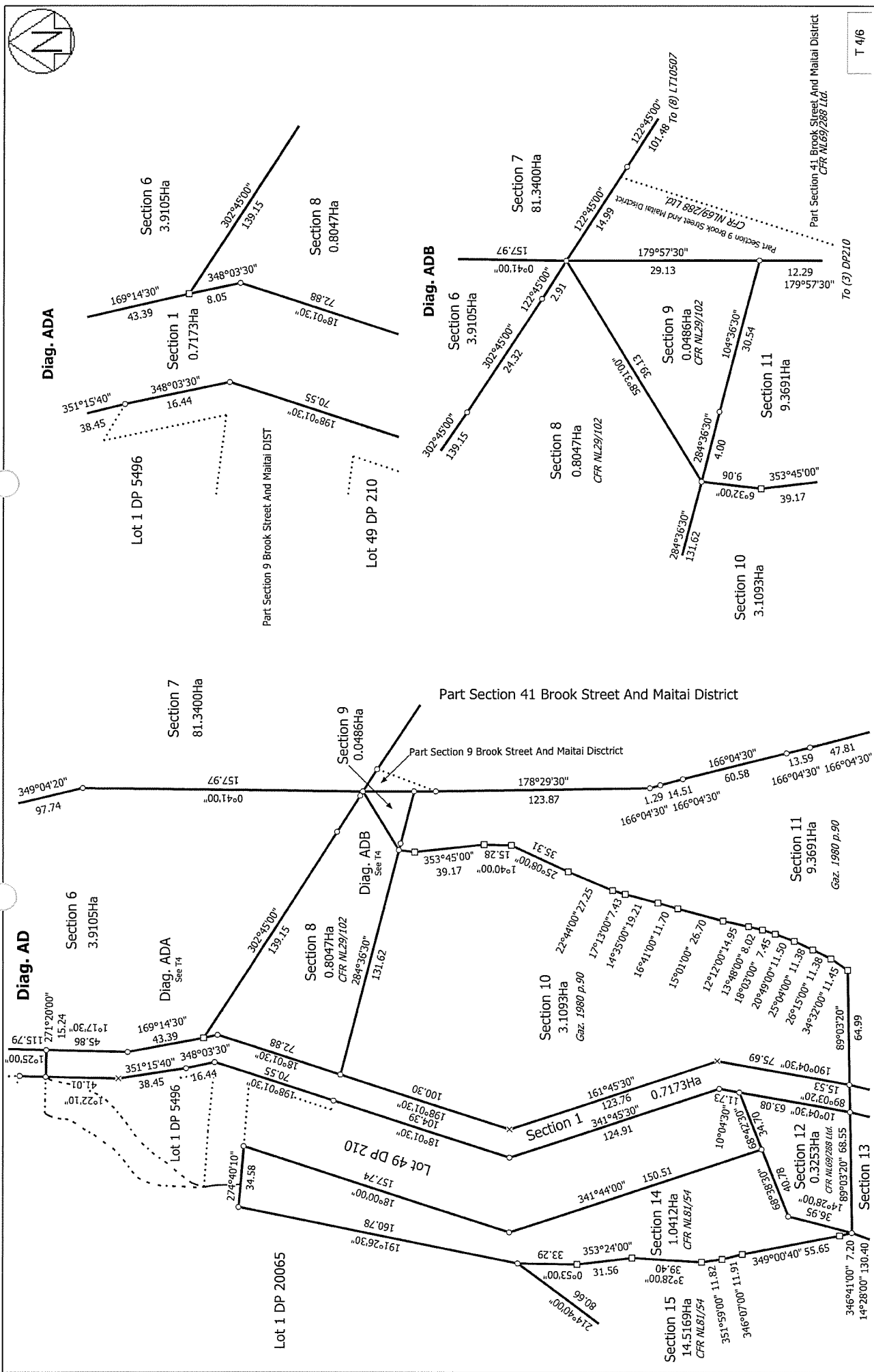
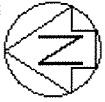
Sections 1 - 15

Land District: Nelson

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Section 1 - 15		Section 26 Brook Street And Maitai DIST		Section 3 Sec 25 Brook Street And Maitai DIST	
Land District: Nelson		Surveyor: John Douglas William Batt Firm: Tasman Gowland Surveyors Ltd		Title Plan SO 498803 Approved on: 29/06/2016	
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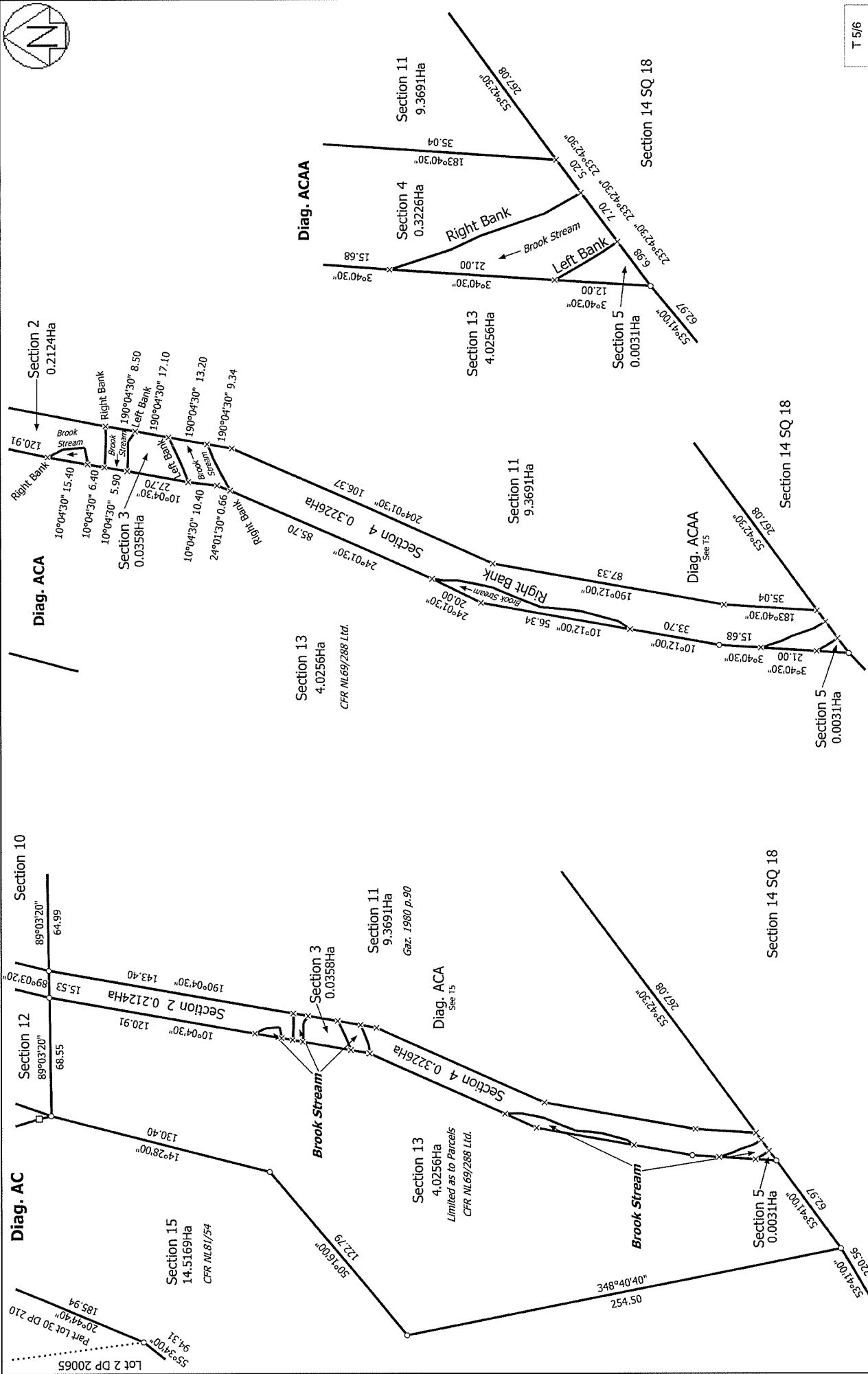
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Title Plan
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Sections 1 - 15

Land District: Nelson
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 Generated on: 29/06/2016 2:02pm Page 7 of 9



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Title Plan
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Sections 1 - 15

Land District: Nelson

Digitally Generated Plan
 Generated on: 29/06/2016 2:02pm Page 8 of 9



Part Section 41 Brook Street And Maitai District

Diag. AF

178°29'30" 123.87 1.29 14.51 166°04'30" 60.58 166°04'30" 13.59 166°04'30" 47.81 166°04'30" 38.83

Section 11
9.3691Ha

164°18'30" 134.24

Section 22 SQ 18

245°06'30" 59.53

245°06'30" 6.40

245°06'30" 54.98

53°42'30" 26.108

Section 14 SQ 18

T 6/6

Title Plan
SO 498803
Approved on: 29/06/2016

Surveyor: John Douglas William Batt
Firm: Tasman Gowland Surveyors Ltd

Sections 1 - 15

Land District: Nelson

Digitally Generated Plan
Generated on: 29/06/2016 2:02pm Page 9 of 9

Diag. AA

53°31'00" 94.31

Section 13
4.02566Ha
Limited as to Parcels

Section 15
14.5169Ha
CFR NL81/54

Lot 2 DP 20065

Part Lot 30 DP 210

216°10'00" 294.39

216°10'00" 216.10

348°40'40" 254.50

53°41'00" 63.97

Section 14 SQ 18

53°41'00" 220.55

35°09'00" 15.09

99°01'30" 242.25

DP 1716

Lot 4 DP 20065

198°36'30" 106.98

217°18'00" 142.49

Part Lot 30 DP 210

Diag. AB

Lot 1 DP 20065

21°44'00" 80.66

34°40'00" 2.52

Part Lot 47 DP 210

20°44'40" 185.94

Section 15
14.5169Ha

Part Lot 30 DP 210

53°31'00" 94.31

Lot 2 DP 20065

216°10'00" 294.39

53°31'00" 94.31

REPORT R5902

Brook Recreation Reserve Management Plan - Gazettal and Road Stopping Hearings Panel

1. Purpose of Report

- 1.1 To agree a process and Terms of Reference to consider how objections received with respect to the gazettal and road stopping process relating to the Brook Recreation Reserve Management Plan adopted in principle by Council are to be handled.

2. Delegations

- 2.1 The Works and Infrastructure Committee has powers to hear and consider all road stoppings. In order to address all issues at the same time the Works and Infrastructure Committee resolved on 23 June 2016 to delegate their road stopping powers to Council.
- 2.2 The Community Services Committee has previously referred its responsibilities relating to the Brook Recreation Reserve Management Plan to Council, therefore gazettal of the reserve is a matter for Council.

3. Recommendation

THAT the report Brook Recreation Reserve Management Plan - Gazettal and Road Stopping Hearings Panel (R5902) and its attachment (A1546914) be received;

AND THAT a Hearing Panel consisting of an independent chair (Peter Reaburn) and two councillors hear and deliberate on the objections received with respect to the gazettal and road stopping processes required as a result of the adoption in principle by Council of the Brook Reserve Management Plan;

AND THAT those two councillors be selected from Deputy Mayor Matheson, Councillors Noonan, Barker and McGurk, by her Worship the Mayor or the Chief Executive Officer based on the availability of members when the meetings are scheduled;

AND THAT the draft Terms of Reference for the Hearing Panel as per Attachment A1546914 be adopted.

4. Background

4.1 On 11 June 2015 Council released a draft Brook Recreation Reserve Management Plan for public consultation. A Hearing Panel comprising of an independent chair (Peter Reaburn) and Councillors Matheson and Noonan was appointed to hear and deliberate on submissions and to make recommendations to Council.

4.2 Council formally resolved on 15 October 2015 to adopt the Brook Recreation Reserve Management Plan in principle and also resolved as follows:

AND THAT the Chief Executive be delegated authority to proceed to stop the following two sections of formed legal road as shown on plan (A1438749);

AND THAT the Chief Executive be delegated authority to Gazette the entire area covered by the Brook Recreation Reserve Management Plan, as shown on plan (A1438749), as a Local Purpose Reserve (Recreation); and the road reserve which extends into the Sanctuary lease area as Local Purpose Reserve (Wildlife Sanctuary);

AND THAT, once the Gazettal process is complete, a report be brought back to Council to enable the Brook Recreation Reserve Management Plan to take effect;

AND THAT Officers prepare a Comprehensive Development Plan for the area covered by the Brook Recreation Reserve Management Plan.

4.3 This report deals with the first two parts of the resolution, namely the gazettal and road stopping process.

4.4 On completion of these pieces of work, the last two recommendations will be given effect.

5. Discussion

Gazettal of Reserve

5.1 As noted in the 15 October 2015 Council report, the gazettal process approved by Council included:

5.1.1 Stopping the road reserve and declaring it as Local Purpose (Recreation) Reserve;

- 5.1.2 Reclassifying the plot of land currently held as Recreation Reserve as Local Purpose (Recreation Reserve);
- 5.1.3 Declaring the sections of freehold land as Local Purpose (Recreation) Reserve.
- 5.2 The process for making these changes is set out in s14 and s24 of the Reserves Act 1977. In both cases Council needs to publicly notify proposed changes in the land status, call for objections and then publish a notice in the Gazette.
- 5.3 The proposed Reserves Act actions were formally advertised as follows:
 - 5.3.1 Declaring freehold land to be Local Purpose (Recreation) Reserve – advertised on 6 April 2016, submissions closed 6 May 2016. One submission was received.
 - 5.3.2 Reclassifying the plot of land currently held as Recreation Reserve as Local Purpose (Recreation Reserve) – advertised 4 May 2016, submissions closed 4 June 2016. At time of writing one submission in support was received.
- 5.4 The proposed road stopping was advertised on 20 July and submissions will close 29 August 2016.

6. Options

Gazettal process

- 6.1 Under S120 of the Reserves Act 1977, submitters or objectors who indicate they would like to be heard have the right to be heard. This can be via full Council, a committee or a person nominated by the Council.
- 6.2 Officers recommend that a Hearings Panel comprising Peter Reaburn (as independent chair) and two councillors be appointed to hear the objections and to make recommendations to Council.
- 6.3 All costs in this matter will be Council's.

Road stopping

- 6.4 Previous legal advice on how to deal with objections received for road stoppings included consideration by a Hearing Panel and if the objections are not withdrawn following the hearing then it will proceed to the Environment Court.
- 6.5 Officers recommend that this matter be heard at the same time as the Gazettal process and therefore by the same Hearings Panel.
- 6.6 The Works and Infrastructure Committee has powers to hear and consider all road stoppings. In order to address all issues at the same time the Works and Infrastructure Committee resolved on 23 June 2015 to delegate their road stopping powers to Council.

6.7 All costs in this matter will be Council's.

6.8 In this matter Terms of Reference for both are required and a draft Terms of Reference is shown in Attachment 1.

7. Alignment with relevant Council policy

7.1 The work as part of this report is as a direct result of the Council decision to adopt, in principle, the Brook Reserve Management Plan.

8. Assessment of Significance against the Council's Significance and Engagement Policy

8.1 This work, in itself is not significant in terms of Council's Significance and Engagement Policy.

8.2 The gazettal and road stopping procedure are processes required under the Reserves Act, Local Government Act and Public Works Act 1981.

9. Consultation

9.1 Comprehensive consultation was carried out with respect to the Brook Reserve Management Plan.

9.2 The gazettal and road stopping processes require formal advertising as legally required.

10. Inclusion of Māori in the decision making process

10.1 Maori were not specifically consulted in this matter.

11. Conclusion

11.1 The Brook Reserve Management Plan has been adopted in principle by Council.

11.2 This requires formal processes to formally gazette land and to stop legal road.

11.3 Officers recommend that these all be heard at the same time and that the Hearing Panel and Terms of Reference be adopted.

Alec Louverdis
Group Manager Infrastructure

Attachments

Attachment 1: A1546914 - Brook Recreation Reserve Management Plan
Gazettal and Road Stopping Hearings Panel Terms of Reference

***Brook Recreation Reserve Management Plan
Gazettal and Road Stopping
Hearings Panel
Terms of Reference***

1. Purpose

- 1.1 Council formally resolved on 15 October 2015 to approve in principle The Brook Recreation Reserve Management Plan.
- 1.2 Part of this requires the following legal works to be undertaken:
- Stopping the road reserve and declaring it as Local Purpose (Recreation) Reserve;
 - Reclassifying the plot of land currently held as Recreation Reserve as Local Purpose (Recreation) Reserve;
 - Declaring the sections of freehold land as Local Purpose (Recreation) Reserve.
- 1.3 The process for making these changes is set out in s14 and s24 of the Reserves Act. In both cases Council needs to publicly notify proposed changes in the land status, call for objections and then publish a notice in the New Zealand Gazette.
- 1.4 The process for stopping the road is set out in s342 and schedule 10 of the Local Government Act 1974.
- 1.5 The purpose of this Panel is to hear objections and make recommendations to Council.

2. Membership

The Panel is comprised of an Independent Commissioner Peter Reaburn (Chairperson), and two Councillors.

The two Councillors are to be selected from Deputy Mayor Matheson, Councillors Noonan, Barker and McGurk, by Her Worship the Mayor or the Chief Executive based on availability of members when the meetings are scheduled.

The appointment of an independent chairperson to the panel is not covered by Council's Selection, Appointment and Remuneration Policy for External Appointees on Council Committees.

3. Quorum

Quorum for the Panel is set at three members and must include the Chairperson.

4. **Areas of Responsibility**

The Panel is to hear all objections received with respect to the gazettal and road stopping as described in section 1.2 above, and make recommendations to Council.

5. **Powers to decide**

None.

6. **Powers to recommend**

The Panel has the power to recommend to Council approval or otherwise with respect to the gazettal and road stopping process.

7. **Role of the Chairperson**

The role of the Chairperson is to:

- Chair meetings according to the agreed agenda and to assist the Panel to reach consensus on issues and options
- Act as spokesperson for the Panel
- Confirm that the recommendations of the Panel are captured in the officer report to Council.

8. **Role of officers**

Officers provide technical expertise, project management and administrative support to the Panel. Their role is to:

- Provide advice and reports to enable full consideration of the options before the Panel;
- Providing advice to the Panel on legal and statutory issues and obligations
- Provide technical advice to the Panel to support discussions on options under consideration
- Manage project resources (budget and officers time)
- Manage project issues, risks, changes and advise the Panel Chairperson of issues as they arise
- Provide officers reports to meetings at decision making points
- Organising and managing engagement with key stakeholders and the wider community
- Keeping Panel members briefed on key communications with key stakeholders and the public;
- Prepare and distribute agendas for Panel meetings
- Maintain records of process used, options considered, key decisions made by the Panel and reasons for decisions, so that the decision making process can be clearly understood.
- Prepare a draft of the recommendations from the Panel to Council for the Panel to review.

9. Conflicts of Interest

Conflicts of interest should be declared at the start of Panel meetings.

10. Reporting and Procedures

For the purposes of complying with the Local Government Official Information and Meetings Act 1987 (Part 7, 45(1)) Panel meetings will be treated as public meetings as the Panel is delegated to perform duties as outlined in the Reserves Act in relation to preparing management plans and the proposed change in land status.

Minutes of Panel meetings will be taken.

A report to Council with recommendations will be prepared by officers on behalf of the Panel summarising the options considered and the reasons supporting the recommended option.

Extract from Minutes from Council meeting held 28 July 2016

11. Brook Recreation Reserve Management Plan - Gazettal and Road Stopping Hearings Panel

Document number R5902, agenda pages 103 - 109 refer.
Group Manager Infrastructure, Alec Louverdis, presented the report.

Her Worship the Mayor moved the motion with the inclusion of Councillor Fulton in the Hearing Panel membership list.

Resolved CL/2016/001

THAT the report Brook Recreation Reserve Management Plan - Gazettal and Road Stopping Hearings Panel (R5902) and its attachment (A1546914) be received;

AND THAT a Hearing Panel consisting of an independent chair (Peter Reaburn) and two councillors hear and deliberate on the objections received with respect to the gazettal and road stopping processes required as a result of the adoption in principle by Council of the Brook Reserve Management Plan;

AND THAT those two councillors be selected from Deputy Mayor Matheson, Councillors Noonan, Barker, McGurk and Fulton, by her Worship the Mayor or the Chief Executive Officer based on the availability of members when the meetings are scheduled;

AND THAT the draft Terms of Reference for the Hearing Panel as per Attachment A1546914 be adopted.

Her Worship the Mayor/Rainey

Carried

REPORT R4142

Adoption of the Brook Recreation Reserve Management Plan

1. Purpose of Report

- 1.1 To receive recommendations from the Brook Recreation Reserve Management Plan Hearing Panel.
- 1.2 To adopt, in principle, the Brook Recreation Reserve Management Plan.
- 1.3 To decide to formally stop sections of road reserve within the Brook Recreation Reserve.
- 1.4 To decide on formally Gazetting the area covered by the Brook Recreation Reserve Management Plan as a Local Purpose Reserve (Recreation).

2. Delegations

- 2.1 The Community Services Committee has referred this matter to Council due to the level of public interest; therefore this is a decision for Council.

3. Recommendation

THAT the report Adoption of the Brook Recreation Reserve Management Plan (R4142) and its attachments (A1436078 and A1438749) be received;

AND THAT the Brook Recreation Reserve Management Plan, as amended by the Hearing Panel following consideration of submissions, be adopted in principle;

AND THAT the Chief Executive be delegated authority to proceed to stop the following two sections of formed legal road as shown on plan (A1438749);

AND THAT the Chief Executive be delegated authority to Gazette the entire area covered by the Brook Recreation Reserve Management Plan, as shown on plan (A1438749), as a Local

Purpose Reserve (Recreation); and the road reserve which extends into the Sanctuary lease area as Local Purpose Reserve (Wildlife Sanctuary);

AND THAT, once the Gazettal process is complete, a report be brought back to Council to enable the Brook Recreation Reserve Management Plan to take effect;

AND THAT Officers prepare a Comprehensive Development Plan for the area covered by the Brook Recreation Reserve Management Plan.

4. Background

- 4.1 On 11 June Council released a draft Brook Recreation Reserve Management Plan for public consultation. A Hearing Panel comprising of an independent chair (Peter Raeburn) and Councillors Matheson and Noonan was appointed to hear and deliberate on submissions and to make recommendations to Council.
- 4.2 A total of 45 submissions were made, with 8 submitters wishing to be heard. The hearing took place on 2 September and the panel met to deliberate on submissions on 22 September 2015.
- 4.3 Following deliberations a revised plan containing the recommended changes from the panel has been prepared (attachment 1).

5. Discussion

Summary of key changes/recommendations

- 5.1 The key issues that submitters raised were in relation to:

- The vision;
- Road stopping;
- Gazettal of the reserve;
- Administration of the reserve; and
- Residential Camping

The Vision

- 5.2 Council put out a draft RMP with two visions and had indicated a preference for vision 1:

The Brook Recreation Reserve is a significant destination for domestic and international visitors to Nelson and Tasman and operates as a

tourism hub, while also serving the local community as an environmental education, outdoor recreation and conservation landmark.

- 5.3 The Panel heard submissions both for and against this vision and felt that whilst tourism was important, any such development needed to complement the other uses of the reserve. The Panel recommends that the final vision be as follows:

The Brook Recreation Reserve serves the community as a centre for environmental education and conservation and as a destination for camping and outdoor recreation, including appropriately-scaled and complementary commercial recreation and tourism development.

Road Stopping

- 5.4 Due to widespread support from submitters, the Panel recommend that the road is stopped and the land is given Reserve status.

Gazettal of Reserve

- 5.5 The draft Reserve Management Plan suggested Gazettal of the entire reserve as a Recreation Reserve. Gazettal was supported by the majority of submitters. However the Department of Conservation suggested that a more appropriate classification would be as a Local Purpose Reserve (Recreation). This view was supported by the Panel. It recommends:

- Stopping the road reserve
- Removing the reserve classification of the plot of land currently Gazetted as Recreation Reserve
- Classifying the whole area covered by the RMP as Local Purpose Reserve (Recreation).
- Classifying the road reserve which extends into the Sanctuary lease area as Local Purpose Reserve (Wildlife Sanctuary). (This is not covered by the RMP but is a consequence of the recommendation to stop the road and will avoid an isolated road section.)

The reason for this recommendation is that it offers appropriate flexibility in delivering the vision and outcomes identified in the RMP in compliance with the Reserves Act.

- 5.6 As originally indicated, the Management Plan can be fully and finally adopted when Gazettal is confirmed (as per the requirements of the Reserves Act). The RMP can then take effect for the whole reserve, without having to re-consult on the whole management plan, subject to a subsequent Council resolution.
- 5.7 The process for making these changes is set out in s14 and s24 of the Reserves Act. In both cases Council would publicly notify proposed changes in the Gazettal status, call for objections and then post a notice in the Gazette.

Reserve Administration

- 5.8 The Panel considered options presented in the draft Plan and recommends that Council remain as the administering body. There were a range of views from submitters and the Panel felt that this option would give most flexibility to Council, which could consider issuing one or more leases for different activities on the reserve.

Residential Camping

- 5.9 The Panel recommend that residential camping is provided for in the reserve within an area to be designated as a relocatable home park. The Panel considered a sinking lid policy for the number of residents but decided instead to recommend that residential occupation should be limited to one site per occupation agreement up to a maximum of 25 sites. The Panel recommends that this be reviewed on a three yearly basis and that the occupation agreements contain suitable wording that should not convey long term expectations.

Other changes

- 5.10 Other changes that are recommended include:

- Making consequential changes based on the above recommendations
- Removing descriptions of options that were for consultation purposes
- Removing the area limitation on commercial development and allowing instead for:

'Commercial tourism and recreation developments of a scale and type which complement the natural , social and existing commercial values of the reserve'.

- Support for provision to protect the native trees planted as part of the Kidson Memorial

6. Next steps

Road Stopping and Gazettal of Reserve

- 6.1 If Council agrees with the Panel's recommendations officers need to commence with the road stopping and reclassification of the reserves. These processes are set out in the Local Government Act 1974 and the Reserves Act 1977 respectively.

Comprehensive Development Plan

- 6.2 The RMP identifies that a Comprehensive Development Plan needs to be developed. This is a spatial plan to set out how the different activities fit together within the area of the reserve. It is recommended that Council provide funding for this as a priority. The Comprehensive Development Plan should inform Council's Annual Plan for 2016/17.

- 6.3 As part of the Comprehensive Development Plan process, a transition plan is required that sets out the requirements for the relocatable home park.
- 6.4 Once these requirements are understood, the site needs to be prepared and the residents informed of a date by which any relocations needs to take place.
- 6.5 The Panel discussed that Council might want to provide lifting and shifting equipment on a particular day to aid with the transition.

Campground management

- 6.6 Council needs to consider how best to manage the existing campground whilst the comprehensive development plan is being drafted. If the Panel recommendations are adopted by Council then staff will bring a subsequent report back to the Community Services Committee with management options.
- 6.7 Subsequently, Council will need to consider long-term management of the entire camping ground, including the relocatable home park, potentially via a lease arrangement. Relevant parties should be invited to offer expressions of interest in the near future.

7. Options

- 7.1 Council has delegated authority to the Hearing Panel to hear, deliberate and make recommendations to Council on changes to the draft Brook Recreation Reserve Management Plan following submissions.
- 7.2 Council can accept or reject the recommendations.

8. Alignment with relevant Council policy

- 8.1 The draft Reserve Management Plan has been developed following Council direction, and is not inconsistent with Council policy. Once the final Plan is adopted there will need to be provision made for its implementation. The level of provision will depend on the decisions following the public consultation period.
- 8.2 As noted in the draft Plan, the draft supports several of the Nelson 2060 goals, including:
- We are all able to be involved in decisions
 - Our natural environment - air, land, rivers and sea - is protected and healthy
 - We are able to rapidly adapt to change
 - Our economy thrives and contributes to a vibrant and sustainable Nelson

- Nelson is a centre of learning and practice in Kaitiakitanga and sustainable development
- Everyone in our community has their essential needs met.

9. Assessment of Significance against the Council's Significance and Engagement Policy

9.1 This is not a significant decision for Council under the Council's Significance and Engagement Policy. However, previous decisions relating to the Brook Camp have generated widespread public interest. It is believed that the level of engagement that has been carried out in the development of this Plan has been appropriate.

10. Consultation

10.1 Significant consultation has been carried out. In addition to the prescribed process under the Reserves Act, officers and contractors have engaged with various stakeholders, including camp residents, in order to explain the process and to seek feedback on the various issues and options.

10.2 Further consultation will be required if Council adopts the recommendations from the Panel.

11. Inclusion of Māori in the decision making process

11.1 Iwi have been included at each stage of consultation.

12. Conclusion

12.1 Council has the opportunity to consider the draft Brook Recreation Reserve Management Plan as amended by the Panel following hearings and deliberations on submissions.

Chris Ward
Group Manager Community Services

Attachments

Attachment 1: A1436078 - Draft Brook Recreation Reserve Management Plan for adoption in principle (*Circulated separately*)

Attachment 2: A1438749 - Map - Proposed local purpose reserve - road to be stopped

Extract from Minutes of a Council meeting held 15 October 2015

**16. Adoption of the Brook Recreation Reserve Management Plan
(continued)**

Attendance: Councillor Davy left the meeting from 2.25pm to 2.27pm; Councillor Noonan returned to the meeting at 2.26pm.

Mr Greenaway advised that even if a gondola proposal was permitted under the Plan, if it was to create soil and greenery disturbance then a resource consent would be required. He confirmed that nothing in the draft Plan was more or less supportive towards the gondola proposal than the original Plan which was consulted on.

Resolved CL/2015/001

THAT the report Adoption of the Brook Recreation Reserve Management Plan (R4142) and its attachments (A1436078 and A1438749) be received;

AND THAT the Brook Recreation Reserve Management Plan, as amended by the Hearing Panel following consideration of submissions, be adopted in principle;

AND THAT the vision be amended to 'The Brook Recreation Reserve serves as a centre for environmental education and conservation and as a destination for camping and outdoor recreation, including appropriately-scaled and complementary commercial recreation and tourism development';

AND THAT the Chief Executive be delegated authority to proceed to stop the following two sections of formed legal road as shown on plan (A1438749);

AND THAT the Chief Executive be delegated authority to Gazette the entire area covered by the Brook Recreation Reserve Management Plan, as shown on plan (A1438749), as a Local Purpose Reserve (Recreation); and the road reserve which extends into the Sanctuary lease area as Local Purpose Reserve (Wildlife Sanctuary), noting this will be subject to separate statutory processes under the Reserves Act 1977;

AND THAT, once the Gazettal process is complete, a report be brought back to Council to enable the Brook Recreation Reserve Management Plan to take effect;

AND THAT Officers prepare a Comprehensive Development Plan for the area covered by the Brook Recreation Reserve Management Plan.

Fulton/Ward

Carried