



# AGENDA

**Ordinary meeting of the**

**Sports and Recreation Committee**

**Tuesday 2 July 2019  
Commencing at 9.00a.m.  
Council Chamber  
Civic House  
110 Trafalgar Street, Nelson**

**Pat Dougherty  
Chief Executive**

Membership: Councillor Tim Skinner (Chairperson), Her Worship the Mayor Rachel Reese, Ian Barker, Mel Courtney, Bill Dahlberg (Deputy Chairperson), Kate Fulton, Brian McGurk and Stuart Walker

Quorum: 4

Nelson City Council Disclaimer

Please note that the contents of these Council and Committee Agendas have yet to be considered by Council and officer recommendations may be altered or changed by the Council in the process of making the formal Council decision.

Guidelines for councillors attending the meeting, who are not members of the Committee, as set out in Standing Order 12.1:

- All councillors, whether or not they are members of the Committee, may attend Committee meetings
- 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

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 room for discussion and voting on any of these items.

**1. Apologies**

Nil

**2. Confirmation of Order of Business**

**3. Interests**

3.1 Updates to the Interests Register

3.2 Identify any conflicts of interest in the agenda

**4. Public Forum**

**5. Confirmation of Minutes**

5.1 23 May 2019

**6 - 11**

Document number M4242

Recommendation

***That the Sports and Recreation Committee***

- 1. Confirms the minutes of the meeting of the Sports and Recreation Committee, held on 23 May 2019, as a true and correct record.***

**6. Chairperson's Report**

**7. Cawthron Reserve (Cawthron Crescent) -  
Wastewater Easement**

**12 - 19**

Document number R10144

Recommendation

***That the Sports and Recreation Committee***

- 1. Receives the report Cawthron Reserve (Cawthron Crescent) - Wastewater Easement (R10144) and its attachments (A2194740).***

Recommendation to Council

***That the Council***

1. ***Grants the easement in gross, meaning granting the easement to Nelson City Council rather than to property, in favour of Nelson City Council over the area shown in red on the plan (A2194740) of Cawthron Reserve (NL2C/108) for wastewater purposes.***

**8. Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977 20 - 37**

Document number R10254

Recommendation

***That the Sports and Recreation Committee***

1. ***Receives the report Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977 (R10254) and its attachments (A2187890, A2203010 and A2203015); and***
2. ***Approves retrospectively the attached Nelson City Council submission on the proposal to revoke certain delegations to councils for decisions relating to the Reserves Act 1977 (A2187890).***

**PUBLIC EXCLUDED BUSINESS**

**9. Exclusion of the Public**

Recommendation

***That the Council***

1. ***Confirms, in accordance with sections 48(5) and 48(6) of the Local Government Official Information and Meetings Act 1987, that ( ), remain after the public has been excluded, for Item 3 of the Public Excluded agenda (Land Purchase - Grampians Extension, Brook***

**Valley), as he has knowledge relating to the valuation that will assist the meeting.**

Recommendation

***That the Sports and Recreation Committee***

- 1. Excludes the public from the following parts of the proceedings of this meeting.***
- 2. The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:***

<b>Item</b>	<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Particular interests protected (where applicable)</b>
<b>1</b>	<b>Land Purchase - Grampians Extension, Brook Valley</b>	Section 48(1)(a)  The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> <li>• Section 7(2)(a) To protect the privacy of natural persons, including that of a deceased person</li> <li>• Section 7(2)(i) To enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</li> </ul>

**Note:**

- This meeting is expected to continue beyond lunchtime.**
- Lunch will be provided.**
- Youth Councillors Nathan Dunn and Hailey Potts will be in attendance at this meeting.**



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## **Minutes of a meeting of the Sports and Recreation Committee**

**Held in the Council Chamber, Civic House, 110 Trafalgar Street, Nelson**

**On Thursday 23 May 2019, commencing at 1.07p.m.**

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Present: Councillor T Skinner (Chairperson), Her Worship the Mayor R Reese, I Barker, M Courtney, B Dahlberg (Deputy Chairperson), K Fulton, B McGurk and S Walker

In Attendance: Councillors M Lawrey and M Rutledge, Chief Executive (P Dougherty), Group Manager Community Services (R Ball), Governance Adviser (E-J Ruthven), and Youth Councillors (R Martyn and H Smith)

The meeting was adjourned from 1.07p.m to 1.11p.m

### **1. Apologies**

There were no apologies.

### **2. Confirmation of Order of Business**

There was no change to the order of business.

### **3. Interests**

There were no updates to the Interests Register, and no interests with items on the agenda were declared.

### **4. Public Forum**

There was no public forum.

### **5. Confirmation of Minutes**

#### **5.1 6 March 2019**

Document number M4082, agenda pages 6 - 10 refer.

Resolved SPO/2019/012

***That the Sports and Recreation Committee***

- 1. Confirms the minutes of the meeting of the Sports and Recreation Committee, held on 6 March 2019, as a true and correct record.***

McGurk/Dahlberg

Carried

## **6. Chairperson's Report**

The Chairperson gave a verbal update, through which he acknowledged members of the community for submissions to the Annual Plan 2019/20.

He also thanked Sports Codes for their understanding and willingness to manage the restrictions on the use of many of Council's sports fields during drought conditions, and while sports fields were rehabilitated following the drought.

## **7. Fees and Charges relating to Sports and Recreation 2019/20**

Document number R10236, agenda pages 11 - 24 refer.

Manager Parks and Facilities, Rosie Bartlett, and Parks and Facilities Asset Analyst, Jane Loughnan, presented the report.

Ms Bartlett and Ms Loughnan answered questions regarding the fees and charges proposed for circus events, the distinction between commercial and community events and how this was applied, the two-year Consumer Pricing Index (CPI) increased proposed for the marina pending the outcome of a revaluation of marina assets, the Revenue and Financing Policy recovery targets for premier venues, and the use of CPI to inform fees and charges increases, rather than the Local Government Cost Index.

Discussion took place and questions were answered regarding whether the Revenue and Financing Policy's performance targets of 90-100% cost recovery for campgrounds was appropriate in relation to the Brook Camp. It was noted that the management of the Brook Camp would be the subject of an upcoming workshop regarding management options for campgrounds.

During discussion regarding the proposed fees and charges for Trafalgar Park, Mr Ball answered questions regarding flexibility in considering large-scale or multi-day events, with the ability to negotiate both increases and decreases in daily fees in appropriate circumstances.

Attendance: Councillor Fulton left the meeting from 2.04p.m. to 2.11p.m.

There was a further discussion regarding the management contract held by contractors for Council's venues, and the separate fees and charges arising as a result of this. Committee members expressed frustration that organisations hiring Council venues often requested a reduction in hireage fees, in order to make the overall cost of hiring Council venues affordable.

In response to questions, Chief Executive, Pat Dougherty, noted the proposal through the Annual Plan to create a Council fund to which organisations could apply for a reduction in Council venue hireage fees to ensure transparency in this area. It was noted that a workshop regarding Council venue management options was being scheduled.

Attendance: Her Worship the Mayor left the meeting from 2.19p.m. to 2.21p.m.

Councillor Courtney, seconded by Councillor McGurk, moved the recommendations in the officer report. Following further discussion, and with the agreement of the meeting, the wording of the recommendation to Council was amended to:

*That the Council*

1. *Approves the proposed fees and charges as per Attachment 1 (A2157708) of Report 10236, effective from 1 July 2019, with the exception of the fees and charges relating to the Brook Camp.*

Resolved SPO/2019/013

***That the Sports and Recreation Committee***

1. ***Receives the report Fees and Charges relating to Sports and Recreation 2019/20 (R10236) and its attachment (A2157708).***

Courtney/McGurk

Carried

Resolved SPO/2019/014

***That the Council***

1. ***Approves the proposed fees and charges as per Attachment 1 (A2157708) of Report 10236, effective from 1 July 2019, with the exception of the fees and charges relating to the Brook Camp.***

Courtney/McGurk

Carried

**8. Sports and Recreation Committee Quarterly Report to 31 March 2019**

Document number R10102, agenda pages 25 - 49 refer.

Manager Parks and Facilities, Rosie Bartlett, Parks and Facilities Asset Analyst, Jane Loughnan, and Property and Facilities Asset Planner, Paul Harrington, presented the report.

Ms Bartlett explained that the reference to the Annual Residents Survey on page 36 should refer to it being carried out in the fourth quarter. It was further noted that the reference to Codgers Mountain Bike Park, on page 26, should be to Codgers Trails.

Ms Loughnan answered questions regarding the business case currently underway for the Sea Sports building at the marina, including potential years for construction, and Ms Bartlett answered questions regarding the marina hardstand project.

Attendance: Councillor Fulton left the meeting from 2.34p.m. to 2.35p.m.

Ms Bartlett, Mr Harrington and Ms Loughnan answered further questions regarding the effect of the February fires on native plantings and subsequent replanting undertaken, the Rutherford Park playspace, and levels of service and performance indicators for the Trafalgar Centre, including event and patronage targets.

Attendance: Councillor Walker left the meeting from 2.42p.m. to 2.43p.m. Councillor McGurk left the meeting from 2.43p.m. to 2.45p.m, and Her Worship the Mayor left the meeting at 2.46p.m.

Ms Loughnan answered further questions regarding progress on the proposed Water Sports building at the marina, and the proposed timeframe for consultation on Reserve Management Plans.

Resolved SPO/2019/017

***That the Sports and Recreation Committee***

- 1. Receives the report Sports and Recreation Committee Quarterly Report to 31 March 2019 (R10102) and its attachments (A2173517 and A2175406).***

McGurk/Walker

Carried

**9. Exclusion of the Public**

Resolved SPO/2019/018

***That the Sports and Recreation Committee***

- 1. *Excludes the public from the following parts of the proceedings of this meeting.***
- 2. *The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:***

Barker/Courtney

Carried

<b>Item</b>	<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Particular interests protected (where applicable)</b>
<b>1</b>	<b>Sports and Recreation Committee Meeting - Public Excluded Minutes - 6 March 2019</b>	Section 48(1)(a)  The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7.	The withholding of the information is necessary: <ul style="list-style-type: none"> <li>• Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</li> </ul>
<b>2</b>	<b>Sports and Recreation Committee Public Excluded Status Report</b>	Section 48(1)(a)  The public conduct of this matter would be likely to result in disclosure of information for which good reason exists under section 7	The withholding of the information is necessary: <ul style="list-style-type: none"> <li>• Section 7(2)(h) To enable the local authority to carry out, without prejudice or disadvantage, commercial activities</li> </ul>

The meeting went into public excluded session at 2.57p.m. and resumed in public session at 3.01p.m.

Please note that, as no decisions were made in public excluded aside from the confirmation of minutes and receipt of the public excluded Status Report, the record of the public excluded part of the meeting has been included in the public minutes.

## **10. Confirmation of Minutes - Public Excluded**

6 March 2019

Document number M4084, public excluded agenda pages 4 – 7 refer.

Resolved SPO/2019/019

***That the Sports and Recreation Committee***

- 1. Confirms the minutes of part of the meeting of the Sports and Recreation Committee, held with the public excluded on 6 March 2019, as a true and correct record.***

Barker/Fulton

Carried

**11. Sports and Recreation Committee Public Excluded Status Report**

Document number R10196, agenda pages 8 0 10 refer.

Resolved SPO/2019/020

***That the Sports and Recreation Committee***

- 1. Receives the report Sports and Recreation Committee Public Excluded Status Report (R10196) and its attachment (A1661548); and***
- 2. Agrees that the report Sports and Recreation Committee Public Excluded Status Report (R10196), and Attachment (A1661548) be excluded from public release at this time.***

Fulton/Barker

Carried

**12. Re-admittance of the Public**

Resolved SPO/2019/021

***That the Sports and Recreation Committee***

- 1. Re-admits the public to the meeting.***

Courtney/Walker

Carried

There being no further business the meeting ended at 3.01pm.

Confirmed as a correct record of proceedings:

\_\_\_\_\_ Chairperson \_\_\_\_\_ Date



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## **Cawthron Reserve (Cawthron Crescent) - Wastewater Easement**

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### **1. Purpose of Report**

- 1.1 To approve the granting of an easement to Nelson City Council (Council) over Cawthron Reserve for wastewater infrastructure, subject to Council consent.

### **2. Summary**

- 2.1 Council's Gracefield Sewer Diversion project is a multi-year project to upgrade sewer infrastructure between the Wakatu catchment and Quarantine Road. This was approved in the 2016/17 Annual Plan and subsequently included in the Long Term Plan 2018-28.
- 2.2 The project requires a connection between Whakatu Drive and Cawthron Crescent. In order to keep the wastewater infrastructure in Council control an easement through the Council controlled Cawthron Reserve is planned, subject to Council approval.
- 2.3 Cawthron Reserve is not a reserve under the Reserves Act 1977 and is not deemed a Reserve due to any Reserve Management Plan. It is held as a 'park' under the Local Government Act 2002 (LGA2002).
- 2.4 Granting an easement to Council over Cawthron Reserve for wastewater infrastructure is recommended.

### **3. Recommendation**

***That the Sports and Recreation Committee***

- 1. Receives the report Cawthron Reserve (Cawthron Crescent) - Wastewater Easement (R10144) and its attachments (A2194740).***

## Item 7: Cawthron Reserve (Cawthron Crescent) - Wastewater Easement

Recommendation to Council

### ***That the Council***

- 1. Grants the easement in gross, meaning granting the easement to Nelson City Council rather than to property, in favour of Nelson City Council over the area shown in red on the plan (A2194740) of Cawthron Reserve (NL2C/108) for wastewater purposes.***

#### **4. Background**

- 4.1 The Gracefield Sewer Diversion project will address overflow problems on private property in the Gracefield Street area and allow property developments to proceed. Network capacity is currently constrained and this upgrade will provide necessary pipe upgrades to accommodate catchment design flows for future expected growth. It is a multi-year project with design currently underway, tendering scheduled for late 2019 and construction to commence in the second quarter of 2020.
- 4.2 The project involves the installation of a 300mm diameter sewer gravity main between a new manhole on Whakatu Drive (behind 16 Cawthron Crescent) to the existing manhole at the corner of Quarantine Road and the Railway Reserve. The pipeline runs from Whakatu Drive to Quarantine Road via Cawthron Crescent, Stafford Avenue, Annesbrook Drive and Quarantine Road. (Attachment One.)
- 4.3 The project requires a connection between Whakatu Drive and Cawthron Crescent. There are no existing easements between the two roads that can be utilised. Any other route between the two roads would require the purchase of property or property rights. (Attachment Two.)
- 4.4 The pipeline will also need to pass through two private properties between Cawthron Crescent and Stafford Avenue. Initial discussions with the landowner (Office of Treaty Settlements) have been positive and will proceed over the next few months.
- 4.5 Allowing the infrastructure to be installed in Cawthron Reserve will ensure that the majority of the pipeline remains under Council control and protection and is easily accessible for repairs and maintenance.
- 4.6 An easement is required to record and protect the infrastructure under Cawthron Reserve.

## **5. Discussion**

### **Cawthron Reserve**

- 5.1 Cawthron Reserve consists of 812 m<sup>2</sup> of freehold land purchased before the Reserves Act enactment in 1977. It has not been formally classified as a reserve and is not deemed a Reserve due to any Reserve Management Plan. It is held as a 'neighbourhood park' under the Local Government Act 2002.
- 5.2 LGA2002 sec 138 (2) (a) definition of a park is –
- land acquired or used principally for community, recreational, environmental, cultural, or spiritual purposes;*
- 5.3 Council has a stewardship role with regard to community amenities, such as parks, and the public are unlikely to make a distinction between a reserve and a park. However, unlike the Reserves Act the LGA2002 does not include criteria or a process to consider and grant easements.
- 5.4 A decision on the use of a park for a purpose inconsistent with LGA2002 sec 138 (2) (a) should be made in accordance with local government decision making principles.
- 5.5 A project to classify and Gazette a number of neighbourhood parks, including Cawthron Reserve, as reserves under the Reserves Act may be undertaken in the future, dependent on resources being available.

### **Impacts of granting an easement**

- 5.6 The proposed wastewater easement will enable the construction of the Gracefield Sewer Diversion Project.
- 5.7 The proposed pipeline route has been designed to avoid damaging the mature trees on the Whakatu Drive boundary of the Reserve or to the hedgerow on its northern boundary and the infrastructure will be underground.
- 5.8 Public notice will be given of the works in the Reserve; all appropriate health and safety measures will be put in place to keep users of the Reserve safe while the work is being undertaken, including the potential provision of an alternative pathway and the Reserve will be left in a similar state at the works completion as it was before the pipeline was installed.
- 5.9 Therefore Cawthron Reserve is unlikely to be materially altered or permanently damaged by allowing the easement; and the rights of the public in respect of the reserve are unlikely to be permanently affected.

## 6. Options

- 6.1 The options are to either grant the easement (recommended option) or to not grant the easement through Cawthron Reserve.

<b>Option 1: Grant the easement</b>	
Advantages	<ul style="list-style-type: none"> <li>• Council infrastructure protected and easily accessible for repairs</li> <li>• Upgraded wastewater services for the Wakatu catchment</li> <li>• Supports future development in the catchment</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>• Short term disruption to public enjoyment of Cawthron Crescent during installation and repairs</li> </ul>
<b>Option 2: Decline the easement</b>	
Advantages	<ul style="list-style-type: none"> <li>• No works located in Cawthron Reserve</li> <li>• No disruption to public use of the Reserve</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>• Private landowners may also decline to grant an easement</li> <li>• Council unable to link wastewater services between Whakatu Drive and Cawthron Crescent</li> <li>• Wastewater services lack capacity for future development and expected growth</li> </ul>

## 7. Conclusion

- 7.1 Once completed the Gracefield Sewer Diversion project will provide an enhanced level wastewater service for the Wakatu catchment.
- 7.2 Approval of the easement in gross (granting rights to Nelson City Council rather than to a property) to Nelson City Council to have a right to drain wastewater through Cawthron Reserve enables Council to formalise access for the installation and maintenance of the pipe.

## 8. Next Steps

- 8.1 The final design of the project is dependent on approval of the easement route and gaining approval from the private landowners at 51 Cawthron Crescent and 3 Stafford Avenue. Once design work is completed the project will be tendered in late 2019 with construction planned for the second quarter of 2020.

Item 7: Cawthron Reserve (Cawthron Crescent) - Wastewater Easement

**Author:**        **Peter Hunter, Team Leader Property**

**Attachments**

Attachment 1: A2204302 - Gracefield Sewer Diversion Pipe Route - Indicative - 06Jun2019 [↓](#)

Attachment 2: A2194740 - Gracefield Sewer Diversion - Cawthron Reserve Pipe Route [↓](#)

<b>Important considerations for decision making</b>	
<b>1. Fit with Purpose of Local Government</b>	The decision facilitates wastewater infrastructure and increased sewer capacity for the Nelson community.
<b>2. Consistency with Community Outcomes and Council Policy</b>	Our infrastructure is efficient, cost effective and meets current and future needs.
<b>3. Risk</b>	Low risk of adverse consequences.
<b>4. Financial impact</b>	Costs for the easement and physical works over Cawthron Reserve are within the budget for the Gracefield Sewer Diversion project.
<b>5. Degree of significance and level of engagement</b>	This matter is of low significance because it does not materially affect or impact the public or Council's use of Cawthron Reserve.
<b>6. Inclusion of Māori in the decision making process</b>	No engagement with Māori has been undertaken in preparing this report.
<b>7. Delegations</b>	<p>The Sports and Recreation Committee has the following delegations to consider an easement across Cawthron Reserve -</p> <p><i>Areas of Responsibility:</i></p> <ul style="list-style-type: none"><li>• <i>Parks and Reserves</i></li><li>• <i>All land and buildings relating to the areas of responsibility of the committee, including the acquisition, lease, sale or disposal, maintenance, management or development of any land or buildings</i></li></ul> <p><i>Powers to Recommend:</i></p> <ul style="list-style-type: none"><li>• <i>Property transactions for any land or buildings relating to the areas of responsibility of the committee, including the acquisition, lease, sale or disposal, maintenance, management or development of any land or buildings.</i></li></ul> <p><i>Powers to Decide:</i></p> <ul style="list-style-type: none"><li>• <i>n/a</i></li></ul>



- NOTES**
1. MANHOLE LOCATIONS NOT YET CONFIRMED
  2. PROPERTY BOUNDARIES ARE FROM NCC GIS, AND ARE AN INDICATION ONLY.
  3. THE PIPELINE ROUTE SHOWN IS APPROXIMATE AND MAY VARY DURING COMPLETION OF THE DETAILED DESIGN. ASPECTS WHICH MAY INFLUENCE THE PIPELINE ROUTE WILL BE COMPLETION OF THE SERVICE LOCATION POTHOLING, ACCOMMODATING A NEW STORMWATER PIPE IN CAWTHRON CRESCENT, FINALISING THE LAND PLANS FOR THE SEWER ROUTE THROUGH PROPERTIES 3 STAFFORD AVENUE AND 51 CAWTHRON CRESCENT, AND SERVICE TRACING (NETWORK TASMAN AND CHORUS).

**LEGEND**

- PROPOSED SEWER
- - - - - PROPERTY BOUNDARIES

ORIGINAL SIZE A1  
20mm DO NOT SCALE: IF IN DOUBT, ASK

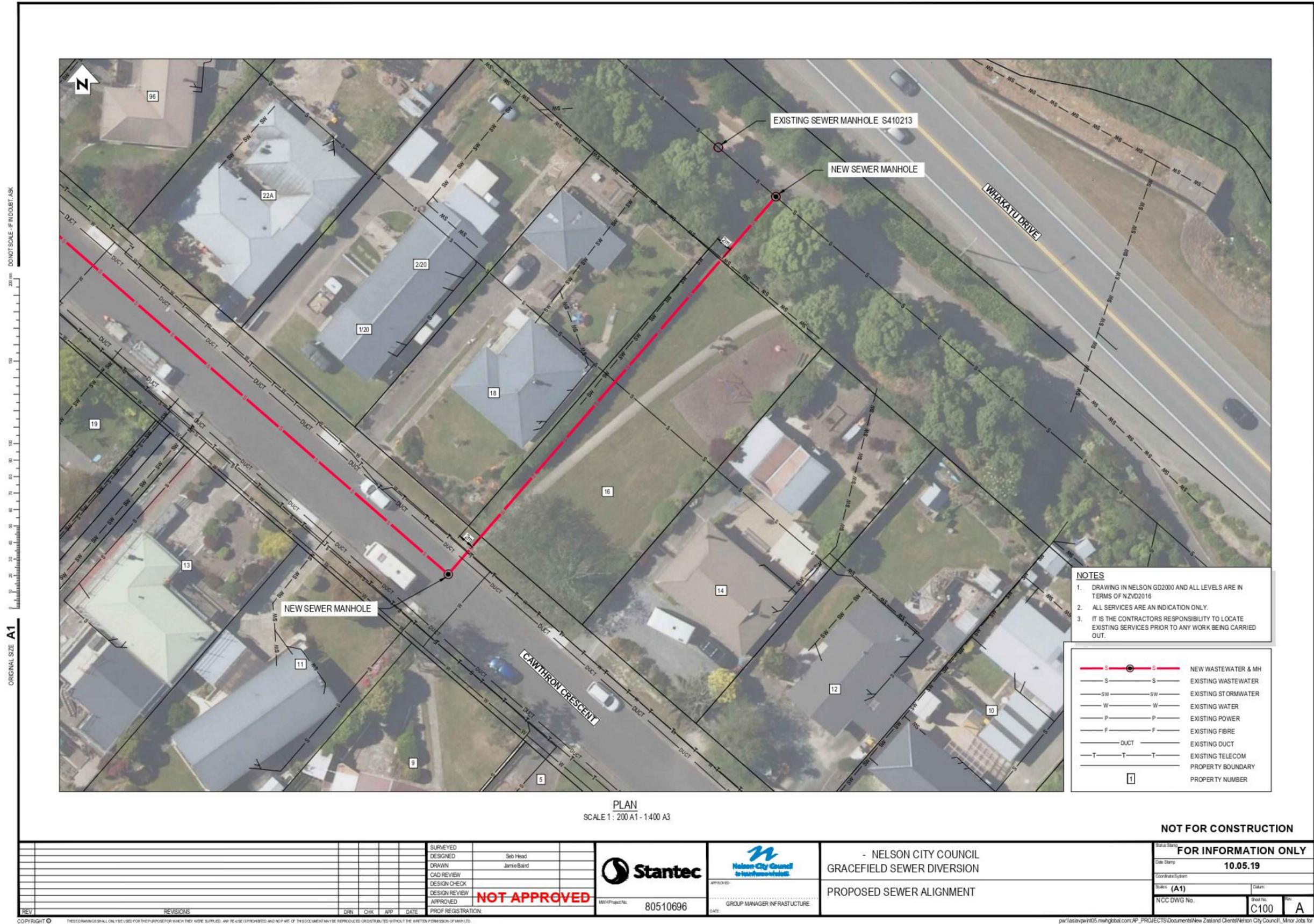
10 0 10 20 30 40 50m  
SCALE 1:1000

PLAN  
SCALE: 1:1000(A1) 1:2000(A3)

ISSUED FOR INFORMATION		REVISIONS		EC	SH	LL	06.06.19	SURVEYED DESIGNED DRAWN CAD REVIEW DESIGN CHECK DESIGN REVIEW APPROVED PROF REGISTRATION			EC3975 - WHAKATU DRIVE SEWER DIVERSION CAWTHRON CRESCENT TO QUARANTINE ROAD  SEWER DIVERSION PIPELINE ROUTE (INDICATIVE)	WORKING PLOT 06.06.2019	
A	REV			DRN	CHK	APP	DATE	DATE	DATE			DATE	DATE

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A2204302



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## Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977

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### 1. Purpose of Report

1.1 To present the Council's submission on the following topic for retrospective approval:

- Proposal to revoke certain delegations to Councils for decisions relating to the Reserves Act 1977.

### 2. Recommendation

***That the Sports and Recreation Committee***

1. ***Receives the report Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977 (R10254) and its attachments (A2187890, A2203010 and A2203015); and***
2. ***Approves retrospectively the attached Nelson City Council submission on the proposal to revoke certain delegations to councils for decisions relating to the Reserves Act 1977 (A2187890).***

### 3. Background

3.1 Council's proforma submission on the above-mentioned topic was submitted in May 2019 subject to Council's approval. A copy of the submission is attached.

### 4. Discussion

4.1 The Department of Conservation sought submissions on its proposal to revoke certain delegations to councils for decisions relating to the Reserves Act 1977. Council's submission (Attachment 1) was in support of the comprehensive submission made by Local Government New Zealand and the Local Authority Property Association (Attachment 2 and Attachment 3).

Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977

4.2 The submission also included additional Council comments on leases, easements, concessions etc and the impact of the changes.

## **5. Options**

5.1 The Committee can approve the submission or decide not to approve. As it is not possible to amend the submission at this stage, a decision not to approve the submission will result in that submission being withdrawn.

## **6. Conclusion**

6.1 Approval of the attached submission is recommended.

**Author: Mark Tregurtha, Manager Strategy**

### **Attachments**

Attachment 1: A2187890 - Nelson City Council submission on proposal to revoke delegations Reserves Act 1977 [↓](#)

Attachment 2: A2203010 - LAPA Final reponse to proposal to revoke certain delegations under the Reserves Act 1977 [↓](#)

Attachment 3: A2203015 - LAPA Draft Table of Responses for DoC [↓](#)

Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977

<b>Important considerations for decision making</b>
<b>1. Fit with Purpose of Local Government</b> <p>The report supports Council’s ability to influence central government policy and legislation that will impact on its ability to deliver services to the community.</p> <p>Furthermore, the retention of delegated powers by Council under the Reserves Act 1977 enables Council to make decisions and undertake actions for and on behalf of the Nelson community, as well as undertake regulatory functions in a cost-effective way.</p>
<b>2. Consistency with Community Outcomes and Council Policy</b> <p>The attached submission supports Council’s ability to make decisions which contribute to the following community outcomes:</p> <ul style="list-style-type: none"><li>• Our unique natural environment is healthy and protected</li><li>• Our communities have access to a range of social, educational and recreational facilities and activities</li><li>• Our Council provides leadership and fosters partnerships, a regional perspective, and community engagement</li></ul>
<b>3. Risk</b> <p>Approval of Council’s submission is of low risk to Council because the submission primarily endorses the LGNZ and LAPA submission.</p>
<b>4. Financial impact</b> <p>The contents of the report does not result in any financial impact. If the Minister of Conservation decides to revoke existing delegations to councils, then there would be increased administration costs.</p>
<b>5. Degree of significance and level of engagement</b> <p>The retrospective approval of the submission is of low significance and community engagement has not been undertaken.</p>
<b>6. Inclusion of Māori in the decision making process</b> <p>No engagement with Māori has been undertaken in preparing this report.</p>
<p>The Sports and Recreation Committee has the following delegations to consider the submission.</p> <p><i>Areas of Responsibility:</i></p>

Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977

- Parks and Reserves

*Powers to Decide:*

- Submissions to external bodies relevant to the areas of responsibility

Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977: Attachment 1



**REF:** A2187890

16 May 2019

Marie Long

Director: Planning, Permissions, and

Land Department of Conservation

PO Box 10420

Wellington 6143

Civic House, 110 Trafalgar Street  
PO Box 645, Nelson 7040, New  
Zealand

P 03 546 0200

E mark.tregurtha@ncc.govt.nz

**nelson.govt.nz**

Dear Marie

**PROPOSAL TO REVOKE CERTAIN DELEGATIONS – RESERVES ACT 1977**

Thank you for the opportunity to provide a submission on the proposal to revoke certain delegations to Councils for decisions relating to the Reserves Act 1977 as outlined in correspondence sent to Chief Executives of Territorial Authorities dated 14 March 2019.

Nelson City Council supports the submission made by LGNZ and LAPA, with the following additional comments:

**Council processes to ensure appropriate use of the delegations**

Nelson City Council has a number of processes in place to ensure appropriate use of delegations made by the Minister to local authorities under the Reserves Act 1977, these include:

1. Requests for use of the delegated powers are generally received by the Parks and Facilities unit. There is an initial assessment of requests for easements, leases and concessions by this team, and then a separate review is also undertaken by the Property team. These checks include review against the objectives in any relevant Reserve Management Plan and checking of certificates of title for relevant information.
2. Council approval is also sought through formal reports, for example, for commercial leases.

**Effect on Council's processes**

Council presumes that under the proposed changes officers would still need to seek some level of Council approval before completing a DOC application process. Therefore, the proposed changes would increase Council's workload and also create an additional administrative level that would be undertaken by DOC.

The following outlines the processes that might be effected by the proposed change in delegations.

**Leases**

Nelson City Council has an estimated 75 active leases, either commercial or community, on Council administered Reserves. We have not analysed rent or

Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977: Attachment 1

lease renewal timing but any change to delegations is likely to increase the workload and/or create delays and uncertainty for any renewals.

**Easements**

Year	Number
2018 -19	2
2017 - 18	3
2016 - 17	5
2015 - 16	1

**Concessions**

Council manages approximately 20 concessions on Council administered Reserves. These are generally seasonal and are labour intensive.

Council has noted that the LGNZ/LAPA submission comments that, if it "*becomes more difficult for local authorities to make local decisions on reserve land, then less local authorities will want to declare land to be reserve*". Responding to changing community needs is an important role of Council, and continuing to hold land as fee simple would be one factor in the decision making process.

Finally, thank you again for the opportunity to have input in this process, and please note that due to scheduling issues this submission has not yet been approved by Council and should be considered as pro forma.

Yours faithfully



**Cr Tim Skinner**

Chair Nelson City Council Sports and Recreation

Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977: Attachment 2



Who's  
putting local  
issues on  
the national  
agenda?

**We are.  
LGNZ.**  
Te Kāhui Kaunihera o Aotearoa.

7 May 2019

Marie Long  
Director: Planning, Permissions, and Land  
Department of Conservation  
PO Box 10420  
Wellington 6143

Dear Marie

**Proposal to revoke certain delegations – Reserves Act 1977**

Thank you for alerting the Local Authority Property Association (LAPA) to the correspondence sent to all Chief Executives of Territorial Authorities dated 14 March 2019.

This response is jointly made by LAPA and Local Government New Zealand (LGNZ).

The response below is intended to represent the broad range of views of LAPA members, and has been made available to all members and to all local authorities.

LGNZ and LAPA would open by commenting that the case in question (*Opua Coastal Preservation Society v Far North District Council*) is far from typical and should not invoke a wide-reaching response based on one complex set of circumstances.

**Background to delegations**

There have been extensive delegations to local authorities from as early as 1997. A joint working party between Local Government New Zealand and the Department of Conservation (DOC) was set up in 1997. The outcome of that review was that three primary needs were identified:

- Devolution of a high level of decision making to local authorities;
- Greater flexibility in approaches to management; and
- Standardisation and updating of processes and terminology.

The first of those points resulted in the first set of delegations to local authorities in 1999.

The *Reserves Act Guide* was published around the same time, and provided guidance to local authorities on best practice management of reserves.

In 2013 the existing delegations were implemented. They expanded the former delegations (last updated in 2004) resulting in more comprehensive delegations and the ability for local authorities to make decisions at a local level.

## Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977: Attachment 2

As an appendix to the 2013 delegations, DOC issued a Guide *Exercising the Delegation of Consent to Local Authorities – The Minister’s Role* that recognised the different roles of Council when considering the merits of a proposal as administering body, contrasted with the Minister’s decision, which was described as being a “supervisory role in ensuring that the decision was arrived at in compliance with the requirements of the Reserves Act”.

Local authorities have adopted the delegations regime and have implemented systems (which have now been in place for nearly 20 years) to ensure that the delegations are appropriately exercised in accordance with the law.

### Analysis of cases

There have been instances in the past where the exercise of delegations by local authorities have been specifically considered by the Courts, and their legality was not questioned.

In *Gibbs v New Plymouth District Council* CIV 2004-443-115 the High Court specifically considered the exercise of a delegated authority by New Plymouth District Council to grant a lease of recreation reserve under section 73(3) of the Reserves Act. The Court stated at paragraphs [21] and [22]:

*Viewed in isolation, s73(1) can be seen as separating out functions of national and local interest respectively. The Minister is responsible for matters of national public interest while the administering authority deals with administrative or local concerns. That interpretation is consistent with s73(3) which distinguishes between the decision whether to make recreation reserve land available for leasing (a Ministerial decision) and the formal execution of any leases granted (by the administering body).*

*While that separation of powers is readily understandable, the differing functions have been merged as a result of the exercise of broad powers of delegation under s10 of the Act. The Minister’s decision making powers under s73(3) have been delegated to the Council. The Council now wears both hats in the s73(3) decision making process.*

At paragraph [66] the Court commented on the apparent conflict faced by the Council when exercising dual roles and stated:

*While it may have been open to the Council to decline to exercise delegated powers to make a decision on the grant or otherwise of a lease to bach holders (the Minister being better placed to make a decision having regard to the public interest generally, for example issues of public access to foreshore), it is clear that the Council’s dual role in considering local and national issues was appreciated by the Minister when the power to make that decision was delegated. In those circumstances, contrary to Mr Laurenson’s submission, I am satisfied that the principles enunciated in *Jefferies and NZI Financial Corporation Ltd* lead to the conclusion that the conflict did not vitiate the Council’s ability to deal with the issue.*

This decision (which directly addressed the Council’s dual role) supports a conclusion that the Ministerial delegations are in fact lawful.

The most recent decision by the Court of Appeal in *Opua Coastal Preservation Incorporated v Far North District Council* [2018] NZCA 262 which has prompted the DOC proposal to revoke the delegations included *obiter* comments by the Court that referred to the local authority delegations as “highly unusual”. However, the legality of the delegations was not argued before the Court as it had been in *Gibbs*, and in making that comment the Court had no evidence as to the method of undertaking the two separate decisions that the Council had undertaken.

## Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977: Attachment 2

Leave to appeal has been granted by the Supreme Court on the wide ground of “whether the Court of Appeal was correct to allow the appeal”. Given the potential breadth of the ground that *might* be argued before the Supreme Court (which may or may not address the delegation issue), it is premature to revoke the delegations until a decision is reached by the Supreme Court.

### **Council approach to decision making**

It is the nature of local authority decision making that Councils are routinely required to manage different decision making roles with respect to a single proposal.

This has statutory recognition in section 39(c) of the Local Government Act 2002 (LGA) which states:

*A local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities;*

Therefore, it is inherent in the requirement to separate these different roles that local authorities, as a matter of course, have processes in place to ensure that they manage these dual functions in a transparent and lawful manner.

The situation is by no means unique. For example, any development or work carried out by a local authority on its own land requires that Council to make decisions as both landowner and as a regulatory authority under the Resource Management Act. As a matter of course, relevant decisions are made by separate managers, committees or commissioners who act independently.

The power for the Minister’s delegations to local authorities is found in section 10 of the Reserves Act. Section 10(3), recognises that the delegations can be subject to “*any general or special directions*” by the Minister. As noted above, the current delegations include specific directions by the Minister as to the exercise of the role of the Minister under delegation and the primary considerations to be taken into account.

To the extent that a local authority might be concerned that any particular decision should properly be made by the Minister and not under delegation, it is able to defer to the Minister and elect not to exercise the delegation. For any number of reasons, some local authorities may prefer to refer decisions to DOC and it may be appropriate to incorporate some guidance on that point in an updated version of the *Reserves Act Guide*.

For completeness, if the Supreme Court did determine that the delegations are unlawful, or if the Minister decides to revoke them in any event, we address specific concerns regarding the consequences of the revocation below.

### **Alternatives to revocation of delegations as proposed.**

Much reserve land is non-Crown derived and constitutes land vested in Councils as reserve on subdivision, or fee simple land that Councils have declared to be reserve without Crown compulsion. As was recognised by the Working Group in 1997, to recognise the desirability of the devolution of decision making to local authorities, wherever possible, decisions should continue to be made at a local level. Therefore, in our view, if DOC considers it must revoke the delegations in their current form (and the Supreme Court has not determined that they are unlawful in totality), there should be some exceptions.

## Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977: Attachment 2

In particular, while we have made specific comments in the table, as a general comment, for all of these proposals:

- (a) The delegations should be retained for non-Crown derived reserves; and
- (b) The delegations should be retained where there has been a public notification process followed under the Reserves Act.

As noted above, the existing delegation regime can be made more robust by redrafting the existing supporting Ministerial directions to reflect that Councils may request that the decision be made by the Minister or the Departmental delegate.

### **Legislative reform**

LAPA has been advocating for legislative reform of the Reserves Act since at least 2017 and has written to, and met with DOC to discuss primary concerns. The current issues reinforce the need for a comprehensive review.

Ideally, as part of a comprehensive review of the Reserves Act, it may be more appropriate for certain decisions that are currently subject to Ministerial oversight to be carried out autonomously by territorial authorities as administering bodies. This would reflect the principles of local government reform undertaken in 2002.

In certain limited cases, such as where there is an element of national significance, it is recognised that the Minister should be the final decision maker.

### **Concerns if delegations are revoked as proposed**

If the proposed revocation of delegations proceeds, we have a number of concerns regarding how future decisions will be resourced and carried out.

- Currently many Councils absorb much of the cost of the decisions made with respect to proposed activities on reserve land. However, if the new regime will incur an external cost (whether by way of administration fee or otherwise) charged by DOC, we would expect it to be passed on to the applicant, resulting in many cases in additional cost to the end customer, or to the ratepayer.
- These changes will inevitably require additional resources within DOC but no explanation or assurances have been given that a sufficient resource will be provided to manage the very significant additional workload.
- As a result of restructuring and loss of local resources at DOC regional offices (including statutory land management) capacity and capability at a local DOC level has significantly reduced. Rather, the local expertise is now generally found within local authorities as this is where the work is currently being undertaken. This presents a very real risk that local decisions will be made at a remote location, without an understanding of the relevant local issues. In our view that cannot improve the quality of decision-making for our local communities.
- There would be related issues around the timeliness of decisions. Our members have commented that, prior to the updates to the delegations in 2013, there were concerns with respect to response and turnaround times within DOC. It is difficult to see that removing the delegations will not result in even greater delays to applicants than were previously experienced.

Item 8: Council submission on the Proposal to Revoke Certain Delegations under the Reserves Act 1977: Attachment 2

- The proposed revocation of delegation would have implications for current proposals that are underway at present, where parties have relied on the existing regime in setting their timeframes and processes. Some clarity is needed to determine when any proposed new regime might come into force, and the impact of that on processes currently underway.
- If the delegations are revoked, and DOC becomes needlessly involved in local reserve management decisions, this may potentially lead to Councils creating fewer reserves, and instead preferring to hold land under the LGA.

**Summary**

The removal of the delegations would be a backward step for local communities. The more difficult it becomes for local authorities to make local decisions on reserve land, the less local authorities will want to declare land to be reserve. Some local authorities may consider it more expedient to simply hand Crown-derived reserves back to DOC, whether or not it is required for reserve purposes (in which case it would still have Reserves Act protection).

Our preference is that DOC focuses on improving guidance available to local authorities. We are aware a review of the *Reserves Act Guide 2004* has been pending for several years. Local government has offered to be part of the review of the *Guide* but to our knowledge, no meaningful progress has been made.

LGNZ and LAPA remain committed to working with DOC on this issue and more widely on the promulgation of new Guidelines and (in our view) long overdue reform of the Reserves Act.

Yours faithfully



Karen Bartlett  
President  
LAPA



Dave Cull  
President,  
LGNZ

**DRAFT VERSION TO INSERT COMMENTS**

**Attachment 1 – Proposed Delegations for Revocation**

Section Heading	Power Delegated	Reason	Comment <sup>1</sup>
Section 14 Local authority may declare land vested in it to be a reserve for certain purposes	Section 14(4) Minister must consider resolution and cause it to be gazetted or refuse to do so	The Council would be double dipping - i.e. making a resolution and then considering it again in the shoes of the Minister	The reason for these decisions is to protect the land for the community.  It is not clear how the Minister could add value to this decision. The declaration of the land as reserve has the effect of limiting the Council's powers and such decisions are not undertaken lightly.  The delegation should remain.
Section 15 Minister may authorise exchange of reserves for other land	Section 15(1) Minister may authorise exchange provided that Minister not exercise power in respect of a reserve vested in an administering body except pursuant to a resolution of that body requesting exchange  Section 15(3) The Minister or the administering body, as the case may require, may do all things necessary to effect any exchange, including the payment of money	The delegation enables the Council to control the outcome  This delegation is not necessary as s15(3) already authorises the administering body to do these things	See footnote 1.  This is necessary if the delegation in section 15(1) is removed (eg signing documents etc).
Section 24 Change of classification or purpose or revocation of reserve	Section 24(1) If Minister considers the change of classification or purpose advisable or if the local authority notifies Commissioner that pursuant to a resolution of the local authority of proposed changes, Minister may make changes  Section 24(2)(e) Before classification or purpose is changed or reservation revoked, the Minister must consider proposal and, in the case of objections made to an administering body, the administering body's resolution	The delegation enables the local authority to make the resolution seeking the changes It also enables it to exercise the Minister's powers to agree to the changes.  The delegation to a Council is inappropriate It would be exercising the Minister's powers to consider objections made to the administering body's own resolution	See footnote 1  See footnote 1
Section 41 Management Plans	Section 41(1)	The delegation seems inappropriate.	See footnote 1

<sup>1</sup> As a minimum (and as stated in our submission) we consider that all delegations should remain for non-Crown derived reserves and where public notification under the Reserves Act has occurred.

	Administering body must prepare and submit to Minister a management for approval	The administering body ends up preparing the plan and approving it. The intention is that there be a separation of powers	
Section 42 Preservation of trees and bush	Section 42(1) The destruction of trees and bush on any historic, scenic, nature or scientific reserve may not occur without a permit granted under s 48A or with the express consent of the Minister	As noted below it would not be appropriate to delegate to administering bodies the Minister's power under s 48A(3) to impose conditions	The comment is unclear. Aside from that, at a practical level an administering body ought properly be able to determine when vegetation should be cleared and any conditions that should apply. The delegation should remain.
Section 45 Erection of shelters, cabins and lodges	Section 45(1) The administering body may with the Minister's prior consent approve certain things	The delegation is inappropriate The administering body makes both the initial decision and the Minister's decision	It is difficult to see how the Minister would add value to what is essentially an operational decision within the confines of the reserve classification and the specific directions within the section.  The delegation should remain.
Section 48 Grants of rights of way and other easements	Section 48(1) Where reserve vested in administering body, it may with the consent of the Minister grant rights of ways and easements	The delegation is inappropriate The administering body makes both the initial decision and the Minister's decision	See footnote 1  This delegation is exercised on a very frequent basis and revocation would have a very significant impact.
Section 48A Use of reserve for communication station	Section 48A(1) The administering body of a reserve vested in it acting with the consent of the Minister may grant a licence for certain things  Section 48A(3) A licence issued under s 48A(1) must be subject to such terms and conditions as the administering body imposes with the approval of the Minister	The delegation is inappropriate The administering body can give itself consent by exercising the delegation  The delegation is inappropriate The administering body makes the initial decision on terms and conditions and can then ratify it by exercising the delegated power.	See footnote 1
Section 51 Introduction of flora and fauna	Section 51(1) For the purpose of restoring, promoting or developing certain reserves, the Minister may authorise the administering body to introduce flora or fauna	The delegation is inappropriate In exercising the power of the Minister, the administering body is able to act in its own interests.	It is difficult to see how the Minister would add value to what is essentially an operational decision within the confines of the reserve classification and the specific directions within the section.  The delegation should remain.
Section 53 Powers (other than leasing) in respect of recreation reserves	Section 53(1)(d) Administering body may prescribe not more than 40 days in any year that the public shall not be entitled to have admission to reserve unless on payment of charges provided that with the Minister's prior consent the number of days may be increased	The delegation is inappropriate. The administering body is able to increase the maximum number of days to exclude the public from a reserve unless they pay money; and then confirm the decision by exercising the delegated power.	The comments (ss (d) and (e)) seem to misunderstand the role of local authorities and their accountability to local communities. This would only occur with community support.  The delegation should remain.

	<p>Section 53(1)(e) The administering body may grant exclusive use of reserve but not for more than 6 consecutive days, with power for licensee to charge admission fees provided that the Minister may consent to an increase in the number of consecutive days</p>	<p>The delegation is inappropriate. The administering body makes the initial decision on closure and can then increase the period by exercising the Minister's powers.</p>	
<p>Section 54 Leasing powers in respect of recreation reserves (except farming, grazing, or afforestation leases)</p>	<p>Section 54(1) With the prior consent of the Minister the administering body in which a reserve is vested may lease parts of a reserve to a third party</p>	<p>The delegation is inappropriate. The administering body makes an initial decision to lease and then exercises the Minister's powers to grant prior consent.</p>	<p>See footnote 1.</p> <p>Of all the delegations, the leasing powers and particularly section 54, are the ones that are most commonly exercised on a daily basis.</p> <p>The significance of revoking this delegation and he impact on local decision making cannot be over-emphasised.</p>
<p>Section 55 Powers (other than leasing) in respect of reserves</p>	<p>Section 55(2)(a) The administering body of a scenic reserve may, with the prior consent of the Minister, enclose open parts of the reserve.</p> <p>Section 55(2)(d) The administering body of a scenic reserve may, with the prior consent of the Minister, set apart areas for gardens, baths, picnic grounds etc for the public.</p> <p>Section 55(2)(e) The administering body of the scenic reserve may, with the Minister's prior consent, erect buildings on the reserve</p> <p>Section 55(2)(f) The administering body of the scenic reserve may, with the prior consent of the Minister, do such things as it considers necessary, including the erection of buildings and structures for public use to obtain the enjoyment of the sea, lake, river or stream</p> <p>Section 55(2)(g) The administering body of a scenic reserve may, with the prior consent of the Minister, set apart and use part of the reserves as sites for residences etc for the proper and beneficial management and administration of the reserve</p>	<p>The delegation is inappropriate. The administering body makes both the initial decision and the Minister's decision</p> <p>The delegation is inappropriate The administering body makes both the initial decision and the Minister's decision</p> <p>The delegation is inappropriate The administering body makes both the initial decision and the Minister's decision</p> <p>The delegation is inappropriate The administering body makes both the initial decision and the Minister's decision</p> <p>The delegation is inappropriate The administering body makes both the initial decision and the Minister's decision</p>	<p>These delegations are appropriate for the day-to-day administration of the reserves (whether Crown derived or not). These are primarily operational decisions.</p>

Section 56 Leasing powers in respect of scenic reserves	Section 56(1) With prior consent of the Minister, the administering body in the case of a scenic reserve may grant leases or licences  Section 56(2) Before granting a lease, the administering body must give public notice	The administering body makes both the initial decision and the Minister's decision  This delegation is not necessary	See footnote 1
Section 58 Powers in respect of historic reserves	Section 58(b) With prior consent of the Minister, the administering body may set apart and use part of an historic reserve for residences for officers and staff	The administering body makes both the initial decision and the Minister's decision	See footnote 1
Section 58A Leasing powers in respect of historic reserves	Section 58A(1) With prior consent of the Minister, the administering body of an historic reserve may grant leases or licences	The administering body makes both the initial decision and the Minister's decision	See footnote 1
Section 59A Granting of concessions on reserves administered by Crown	Section 59A(1) The administering body may grant concessions	This seems inappropriate. If administering bodies of vested reserves need the prior consent to Minister to grant leases and licences, why should administering bodies of controlled and managed reserves be able to grant concessions?	Feedback from local authorities is that prior to this delegation being put in place, the granting of such concessions to community organisations was a problem for DOC under its concession regime which is predominantly designed for commercial activities. Councils are better able to accommodate community uses.  The delegation should remain.
Section 67 Leasing	Section 67(1)(b) With prior consent of the Minister, the administering body may lease a recreation reserve set apart for racecourse purposes to a racing club	The administering body makes both the initial decision and the Minister's decision	The lease gives effect to the classification.  The delegation should remain.
Section 72 Farming by another person or body	Section 72(1) Where a recreation reserve or local purpose reserve is not required for purposes of classification the administering body may enter into an agreement or lease with the Minister to provide for a third party to carry out farming	The delegation is inappropriate as the administering body would end up entering into an agreement with itself	To our knowledge, this section is rarely used, but we appreciate the circularity issue identified in the comment.
Section 73	Section 73(1) Where recreation reserve not currently required for purposes of its classification, the administering body	The administering body makes both the initial decision and the Minister's decision	See footnote 1.

<p>Leasing of recreation reserves for purposes of farming, grazing, afforestation or other purposes</p>	<p>may with the prior consent of the Minister if reserve vested in the administering body, grant a lease, otherwise only Minister can grant leases</p> <p>Section 73(2) Likewise, for afforestation</p> <p>Section 73(3) Leases of recreation reserves where inadvisable or inexpedient to revoke reservation of recreation reserve</p> <p>Section 73(5) Prior consent of Minister before any member of administering body becomes the lessee of land under control of administering body</p> <p>Section 73(6) Any lease under s 73 may with approval of administering body be surrendered</p>	<p>The administering body makes both the initial decision and the Minister's decision</p> <p>The administering body makes both the initial decision and the Minister's decision</p> <p>Delegation is inappropriate</p> <p>Delegation is unnecessary</p>	<p>These delegations are appropriate for the day-to-day administration of the reserves (whether Crown derived or not). These are primarily operational decisions.</p>
<p>Section 74 Licences to occupy reserves temporarily</p>	<p>Section 74(1)(b)(ii) Licences may be granted in the case of any reserve except a nature reserve by the Commissioner</p>	<p>This delegation is misconceived. This power relates to Crown vested reserves managed by the Department</p>	<p>Agree</p>
<p>Section 75 Afforestation by administering body</p>	<p>Section 75(1) With prior consent of the Minister an administering body of a recreation reserve may afforest it.</p> <p>Section 75(2) Minister may refuse to give consent</p>	<p>The administering body makes both the initial decision and the Minister's decision</p> <p>The administering body makes both the initial decision and the Minister's decision</p>	<p>See footnote 1.</p> <p>Section 75(2) sets out very clear guidelines as to the basis on which decisions should be made.</p> <p>The delegation should remain.</p>
<p>Section 16 Classification of reserves</p>	<p>Section 16(1) Minister must by GN classify reserves according to their primary purpose provided that where reserves are controlled or managed by a Council the Minister must not classify without consulting it</p> <p>Section 16(4) Before classifying a reserve, the Minister must give public notice</p>	<p>The delegation effectively means the Council consults with itself.</p> <p>If the previous delegation is revoked this will need to be revoked as well</p>	<p>See footnote 1.</p> <p>If Crown derived reserve is classified for the purpose for which it is currently held the delegation should remain. The original purpose is simply being reconfirmed.</p>

<p>Section 18 Historic reserves</p>	<p>Section 18(2)(e) Except where the Minister otherwise determines, the indigenous flora and fauna and natural environment of an historic reserve shall as far as possible be preserved</p>	<p>The Minister may wish to maintain control of these decisions</p>	<p>See footnote 1.  This is an operational decision.</p>
<p>Section 19 Scenic reserves</p>	<p>Section 19(2)(a) Except where the Minister otherwise determines, the indigenous flora and fauna and natural environment of a scenic reserve classified for its scenic values shall as far as possible be preserved and exotic fauna and flora shall be exterminated</p> <p>Section 19(3)(a) Except where the Minister otherwise determines, the flora and fauna, ecological associations and natural environment and beauty of a scenic reserve classified for the purpose of providing suitable areas to develop for purposes of generating scenic beauty or interest, shall as far as possible be preserved</p>	<p>The Minister may wish to maintain control of these decisions</p> <p>The Minister may wish to maintain control of these decisions</p>	<p>See footnote 1.  These are operational decisions.</p>
<p>Section 24 Change of classification or purpose or revocation of reserve</p>	<p>Section 24(3) No change of classification or purpose of a scenic, nature or scientific reserve to a recreation, historic, government purpose or local purpose should be made except where the Minister considers the purpose etc no longer appropriate because of destruction of bush or natural features</p> <p>Section 24(5) Minister may change the classification or purpose or revoke the reservation of an historic reserve by reason of destruction of historic features</p>	<p>The Minister may wish to maintain control of these decisions given the importance of the type of reserve</p> <p>The Minister may wish to maintain control of these decisions given the relative importance of historic reserves</p>	<p>It is accepted that these type of reserves and issues may have more than local significance so that Ministerial oversight is valid.</p> <p>Not opposed to these delegations being revoked.</p>
<p>Section 42 Preservation of trees and bush</p>	<p>Section 42(1) Minister must consent to cutting or destruction of bush on any historic, scenic, nature or scientific reserve except in accordance with a permit under s 48A or with the express consent of the Minister and subject to any terms and conditions the Minister chooses to impose</p>	<p>The section 48A permit issue has been dealt with in the table above The Minister may wish to maintain control over the circumstances of providing express consent to destroying or cutting down bush.</p>	<p>At a practical level an administering body ought properly be able to determine when vegetation should be cleared and any conditions that should apply. The delegation should remain.</p>

<p>Section 50 Taking or killing of fauna</p>	<p>Section 50(1) The Minister in the case of a scenic, historic, nature or scientific reserve and the administering body of any recreation, government purpose or local purpose reserve may grant any qualified person authorisation to take and kill any specified type of fauna and authorise the use of firearms etc.</p>	<p>The Minister may wish to maintain control over authorisations on the killing etc of fauna on scenic, historic, nature and scientific reserves</p>	<p>At a practical level an administering body ought properly be able to manage pests as part of its standard land management and control.  The delegation should remain.</p>
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**Attachment 2 – Proposals to amend / expand delegations**

Section Heading	Power Delegated	Reason	Comment