

Mayor and Councillors
COUNCIL

17 APRIL 2014

Meeting Status: **Public**

Purpose of Report: For Decision

RESERVE TYPE CLASSIFICATION OF MARINE GARDENS

PURPOSE OF REPORT

- 1 This report seeks the Council's approval to classify the Marine Gardens Reserve as a Recreation Reserve.

SIGNIFICANCE OF DECISION

- 2 This report does not trigger the Council's Significance Policy.

BACKGROUND

- 3 The land at Marine Gardens in Raumati (appendix 1) is a reserve currently vested in the Crown through the Department of Conservation (DOC). Kāpiti Coast District Council is the administering body with an appointment to control and manage the land under Section 26 of the Reserves Act 1977 (the Act). The park has an adopted reserve management plan.
- 4 Investigations have shown the land has never been given a classification as required under the Act. The classification of a reserve under the Act determines how the reserve is controlled, managed, developed, used, maintained and preserved for appropriate purposes. The classifications available under the Act are:
 - Recreation reserve;
 - Historic reserve;
 - Scenic reserve;
 - Nature reserve;
 - Scientific reserve;
 - Government purpose reserve;
 - Local purpose reserve.
- 5 The park should have been classified by the Council of the day when the Act came into effect in 1977. The park has been controlled and managed under the guiding provisions set out for recreation reserves as the default position for reserves in existence prior to the commencement of the Act.

CONSIDERATIONS

Issues

- 6 DOC has confirmed the Council can classify the land as recreation reserve under section 16(1) of the Act by exercising an existing delegation from the Minister of Conservation. This requires a Council resolution to exercise the delegation and to classify the land as recreation reserve.

- 7 DOC advises that there is no requirement for public notification under section 16(4) of the Act, unless the Council decides that it wants to select an alternative classification, other than recreation reserve. This is because the recreation reserve classification is for the same purpose for which the reserve was held and administered immediately before the commencement of the Act.
- 8 Under the Act a recreation reserve is:

“for the purpose of providing areas for the recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside, with emphasis on the retention of open spaces and on outdoor recreational activities, including recreational tracks in the countryside.”
- 9 If the Council resolves to classify the land as recreation reserve this resolution will be published in the New Zealand Gazette. Once classified the land will be deemed to be vested in the Council.
- 10 The existing management plan is written as if the reserve were classified as recreation reserve. The management plan remains valid as the default management for unclassified domains existing before commencement of the Act under the Reserves and Domains Act 1953 is recreation reserve.
- 11 Following classification, the published Gazette Notice and evidence of Council's appointment to control and manage the reserve will need to be forwarded to Land Information New Zealand as an edealing to record against the Computer Freehold Register (CFR). This will record that the land that it is now classified as recreation reserve and is vested in the Council under section 26A of the Reserves Act. The title will then be transferred into the Council's name.
- 12 This process will clear up an important anomaly within the Council's portfolio of parks and open space.

Financial Considerations

- 13 The total costs of NZ Gazette notice publication, edealings lodgement and legal fees are estimated to be \$7,000 – \$8,000 and these costs will be met from existing budgets. Costs to date are \$6,575 for investigative work by solicitors Simpson Grierson.

Legal Considerations

- 14 Classification of a Reserve is a mandatory process under section 16 of the Act. There are no legal issues.

Delegation

- 15 Authority for exercising the Minister's power to classify the land is under a June 2013 Instrument of Delegation which enables Council to classify the land as the administering body of the reserve under an appointment to control and manage under the Act.

Consultation

- 16 Public notification is not deemed necessary under the Act. Community Boards/community/other agencies have not been consulted in this matter as the classification is an administrative process only and does not have any implications for community use of the park.

Policy Implications

- 17 There are no policy implications.

Tāngata Whenua Considerations

- 18 There are no known issues for consideration relating to iwi or the Treaty of Waitangi.

Publicity Considerations

- 19 Publicity should be considered to explain the situation as the public may be concerned or confused if they see the NZ Gazette notice.

RECOMMENDATIONS

- 20 That the Kapiti Coast District Council resolves pursuant to section 16(1) of the Reserves Act 1977, and to a delegation from the Minister of Conservation, that the land described in Schedule One is classified as recreation reserve under the Reserves Act 1977.

Schedule One

Wellington Land District – Kapiti Coast District

<i>Area (ha)</i>	<i>Appellation</i>	<i>Computer Freehold Register</i>
3.2557 hectares	Lot 1 Deposited Plan 16665	WN601/21
0.2364 hectares	Lot 2 Deposited Plan 16665	WN601/21

Report prepared by:

Nathan Mourie

**Leisure and Open
Space Planner**

Approved for submission by:

Tamsin Evans

**Group Manager
Community Services**

Sean Mallon

**Group Manager
Infrastructure Services**

ATTACHMENTS:

Appendix 1 Marine Gardens Reserve land at Raumati

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