



7. VESTING OF LAND NEXT TO BROOKLANDS LAGOON AS RESERVE IN THE COUNCIL

General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	Asset and Network Planning Manager
Author:	Derek Roozen, Parks and Waterways Planner

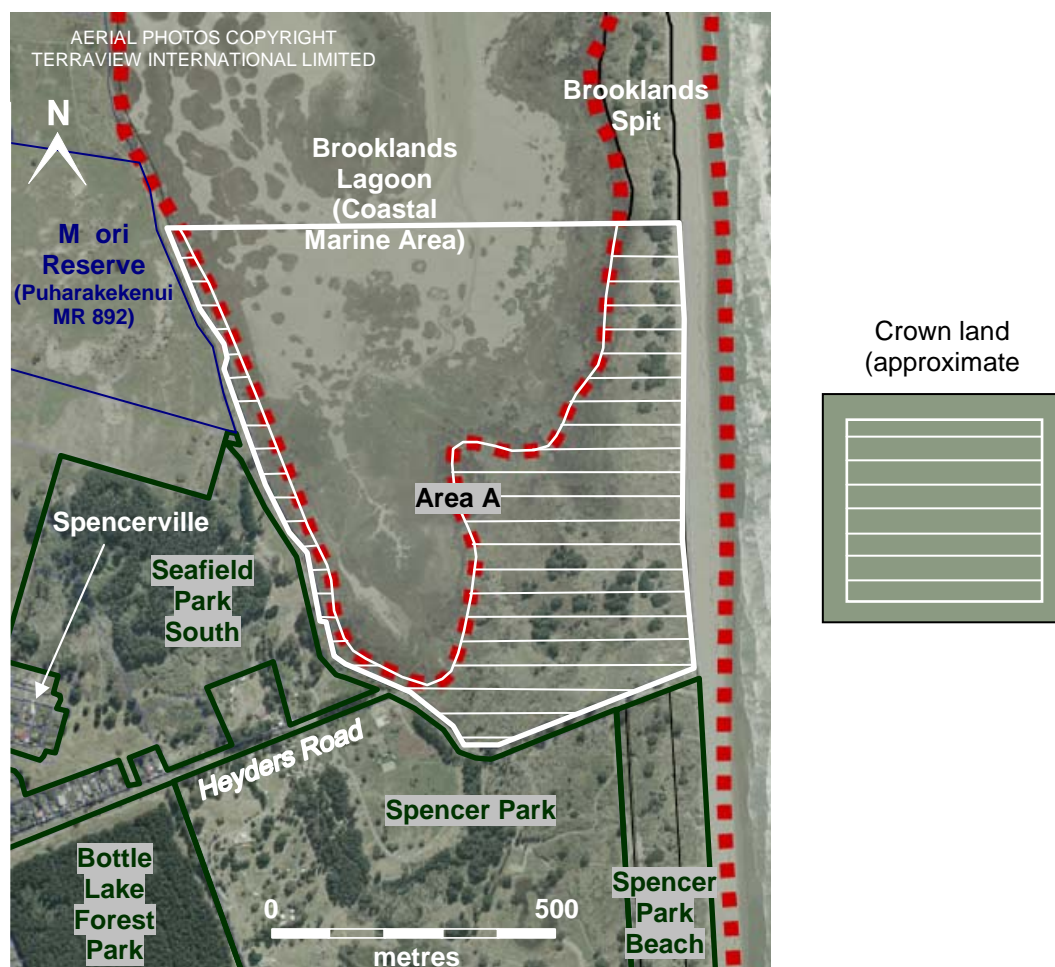
PURPOSE OF REPORT

1. The purpose of this report is to recommend to the Council that it accepts from the Department of Conservation (the Department) the vesting of a parcel of land situated at the southern end of Brooklands Lagoon as scenic reserve.

EXECUTIVE SUMMARY

2. The land proposed to be vested in the Council is located at the southern end of the estuary known as Brooklands Lagoon, which is situated in the north-east corner of the Christchurch District. This land is Crown land not administered by the Department. It is part of Rural Section 41137 on Survey Office Plan 16630 (refer to **Attachment 1**), which is 63.3325 hectares in area and shown with a solid white boundary labelled as Area A in Figure 1 below. The part of this rural section lying below Mean High Water Springs (MHWS) is vested as foreshore in the Crown by the enactment of the Foreshore and Seabed Act 2004. The part above MHWS is Crown land. This is shown in Figure 1 as the horizontally hatched area and is estimated to be approximately 28 hectares in area.
3. The line of MHWS shown in Figure 1 as the thick red dashed line is derived from the indicative line of MHWS shown on maps in the Regional Coastal Environment Plan for the Canterbury Region 2005, which is also utilised for the purposes of the City Plan. A possibly more realistic boundary is highlighted in yellow in **Attachment 1**, survey being required to confirm this. MHWS is a line able to be defined by survey and represents the average height of the spring tides in a particular area of the country.
4. Land Information New Zealand (LINZ) and the Department propose to vest the Crown land in the Council free of charge as a reserve subject to the Reserves Act 1977. Council staff believes this to be a logical step to formalise the Council's existing management of the land for recreational and ecological purposes, this being part of the larger coastal regional park resource managed by the Council in the area.
5. Council staff have requested the land be vested in the Council as scenic reserve as defined by Section 19(1)(a) of the Reserves Act 1977, which has been accepted by Department staff.
6. Vesting of the land as scenic reserve in the Council will formalise the management of this land, which is already being administered by the Council through the Council's Regional Parks Operations Team. This management is being undertaken as part of the management of a larger area that encompasses Brooklands Spit, Seafield Park, Spencer Park and other adjoining areas. This action will ensure that the Council legally complies with its financial requirements under the Local Government Act 2002 (the LGA), that being that it has some form of legal occupation rights to the land before expending money on the land.
7. Classification of the land as scenic reserve is in alignment with the Council's current and proposed management practices for the land, which include the protection of all environmental values present, such as wildlife habitat, whilst also allowing appropriate public access for recreational purposes such as by the provision of a walking track. This classification has been foreshadowed in the Draft Brooklands Lagoon/Te Riu o Te Aika Kawa Area Parks Master Plan for the Brooklands Spit, Seafield Park and Spencer Park area. This master plan has been developed as part of the management planning process for the area and, as such, when approved by the Council will be a contract between the Council and its residents for the future management of the area.

Figure 1



FINANCIAL IMPLICATIONS

8. There are minimal financial implications with supporting this vesting. There is no land purchase cost. LINZ will be meeting the cost of survey. The Department has requested the Council to meet the Department's expenses, other than staff costs, in classifying and vesting the land, including the public advertising and gazettal, which are estimated to be approximately \$1,000. These costs are able to be paid for from existing current Council budgets. Maintenance costs for the area are already included in the Spencer Park operational budgets, the main cost being for pest control work. Currently, around \$10,000 per annum is being spent on this work for the whole Brooklands Spit estuary margin north of Heyders Road, which includes the land proposed to be vested in the Council. Other work, including the mowing of tracks, costs a further \$5,000 per annum for the Brooklands Spit area.
9. No capital works are currently being planned for the Crown Land area. The Draft Brooklands Lagoon/Te Riu o Te Aika Kawa Area Parks Master Plan, which was in the process of being placed before the Council for approval at the time of preparation of this report, raises proposals for walking track development on Brooklands Spit. This includes a possible estuary boardwalk across the land it is proposed to vest in the Council, these proposals needing to be included in a future Long Term Council Community Plan before they can be implemented.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

10. Yes, as above.

LEGAL CONSIDERATIONS

11. The Board does not have delegated authority to authorise acceptance of the proposed vesting; such a decision needs to be made by the full Council. The Board has, however, recommendatory powers to the Council.

12. The land is currently Crown land subject to the Land Act 1948. Section 167 of that Act provides that the Minister of Conservation may, with the prior consent in writing of the Minister of Lands, and by notice in the Gazette, set apart as a reserve any Crown land for any purpose which in his or her opinion is desirable in the public interest. At the request of Council staff, and with the support of Department staff, it is proposed that the land be classified scenic reserve pursuant to Section 19(1)(a) of the Reserves Act 1977.
13. The offer to vest the land as scenic reserve in the Council requires the Council to resolve to adopt the recommendation of this report to accept this offer. Upon the notification of the Council's acceptance of the offer to vest the land as scenic reserve, LINZ will arrange for a case to be prepared for signoff by the Minister of Lands to have the land reserved as scenic reserve, and for the survey to be undertaken. Following this, the Department will publicly advertise the proposed vesting of the land as scenic reserve pursuant to Section 26 of the Reserves Act and advise iwi of this, thereby meeting the Crown's statutory obligation in this regard. Provided the outcomes of these requirements are successful, and once the compiled survey plan is approved, the Department will gazette the classification and vesting of the reserve.
14. The vesting of the land in the Council as scenic reserve classified under the Reserve Act 1977 will give the Council the full power to put into effect its management intentions and strategies for the land as embodied in the Draft Brooklands Lagoon/Te Riu o Te Aika Kawa Area Parks Master Plan when this plan is approved by the Council as the operative plan. It will mean the Council will be able to apply the Council's Parks and Reserves Bylaw, and Dog Control Bylaw and Policy, over the land. It will also clear up a legal anomaly, which being the expenditure of Council moneys on land that the Council does not have some form of formal legal occupation rights to.

Have you considered the legal implications of the issue under consideration?

15. The legal implication of the Council accepting the proposed vesting of the land as scenic reserve is that it will formalise the Council's current management of the land for the purposes provided for in the proposed reserve classification. It will give the Council the power of administration of the land, enabling the Council to better achieve its objectives for the land consistent with the reserve classification.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

16. The vesting of the land as classified reserve and its addition to the similarly protected public open space and natural area resource around Brooklands Lagoon will contribute further to the Council being able to ensure the best provision of activities and services for Parks, Open Spaces and Waterways to meet community and environmental needs for open space, protect natural resources and scenic values, beautify the city and manage the land drainage network (page 117 of the LTCCP 2009-19).

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

17. The recommendation to accept the land vesting supports the LTCCP activity, whereby a network of regional parks is maintained by the Council to protect the region's natural landscapes (page 117 of the LTCCP 2009-19). It contributes to the Council being able to provide and manage regional parks to protect outstanding natural landscapes; recognise and restore indigenous biodiversity, including mahinga kai; work with iwi, landowners and others to protect and enhance biodiversity; provide a wilderness experience within easy reach of urban areas; promote the sustainable use of natural resources for recreation; and encourage involvement in restoring the natural environment (page 126 of the LTCCP 2009-19).

ALIGNMENT WITH STRATEGIES

18. The vesting of the land in the Council as scenic reserve is consistent with the Council's strategy of appropriately managing the resources in the Conservation 1A (Coastal margins) Zone, including ensuring the natural character of the coastal environment remains substantially unchanged whilst providing for a range of values present on the land including recreational, ecological, scenic, educational, cultural and heritage values. It is also consistent with meeting the Greater Christchurch Urban Development Strategy's strategic directions to enrich lifestyles by developing an open space network and providing additional recreational opportunities in parks and natural areas, and to enhance environments by recognising the value of, and protecting, the coastline, estuaries, wetlands and waterways. Furthermore, it contributes in part

to the vision in the Draft Christchurch City Council Public Open Space Strategy 2010–2040, being about maintaining and enhancing the city's environmental quality, landscape character and cultural heritage through the public open space system (page 9 of the draft strategy), and meets the overriding open space priority for Christchurch City specified in the draft strategy to protect and enhance the City identity including its Garden City attributes, high quality landscapes and indigenous biodiversity (page 11 of the draft strategy).

Do the recommendations align with the Council's strategies?

19. The Council's acceptance of the offer to vest the land as scenic reserve in the Council will be implementing Proposal 25 in the Draft Brooklands Lagoon/Te Riu o Te Aika Kawa Area Parks Master Plan, which is to initiate procedures to have the Crown land area at the southern end of Brooklands Lagoon transferred to the Council for the purpose of adding to a proposed future scenic reserve covering Brooklands Spit (page 94 of the final master plan).

CONSULTATION FULFILMENT

20. The possibility of the Council having vested in it the Crown land area as a scenic reserve was raised as a proposal in the Draft Brooklands Lagoon/Te Riu o Te Aika Kawa Area Parks Master Plan (see paragraph 19 above). Key stakeholders were involved in the preparation of, or commented on, the draft plan before it was publicly notified in June 2009. These included Te Ranga o Ng i Tahu, through Mahaanui Kurataiao Ltd, and staff of Environment Canterbury and the Department of Conservation. Public consultation in compliance with Section 41 of the Reserves Act 1977 has now been completed on the draft master plan and two associated draft management plans.
21. The Department will be giving public notice of its intention to classify the Crown land scenic reserve under Section 19(1)(a) of the Reserves Act 1977, and to vest the classified reserve in the Council, this including advising iwi regarding the proposed vesting. No further consultation is required of the Council with respect to this proposed vesting.

STAFF RECOMMENDATION

That the Board recommends to the Council that:

- (a) It accepts the vesting of the balance of Rural Section 41137 on Survey Office Plan 16630, lying above Mean High Water Springs, estimated subject to survey to be approximately 28 hectares in area, presently owned by the Crown and located within the Shirley/Papanui ward, in the Council as scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.
- (b) It notes that the Council and the Department of Conservation are to meet their own legal and processing costs, the Council reimbursing the Department for the costs of public advertising of the proposed vesting, and for the gazettal of the classification and vesting of the scenic reserve in the New Zealand Gazette.
- (c) It notes that the Council already maintains the area to be vested and that there is existing budget within the LTCCP to cover this expenditure.

CHAIRPERSON'S RECOMMENDATION

That the staff recommendation be adopted.

BACKGROUND (THE ISSUES)

22. There has been a history of consideration of protection of an area at the southern end of the Brooklands Lagoon estuary, equating approximately to Area A in Figure 1 above, for wildlife habitat purposes. In the late 1970's there were discussions between the Department of Lands and Survey, Acclimatisation Society and Wildlife Service for the creation of a wildlife refuge or reserve at this end of the estuary. The Minister of Lands in 1979 approved in principle the setting apart of 58.5 hectares as a Government purpose (wildlife refuge) reserve. This, though, was never been put into effect.
23. In mid 2009 the Council publicly consulted on the Draft Brooklands Lagoon/Te Riu o Te Aika Kawa Area Parks Master Plan, which promotes arranging to have the land based part (that is, the part above MHWS) of Area A in Figure 1 above shifted to the Council to manage as a future scenic reserve. The Council through its Regional Parks Operations Team already maintains

this area of land, including an existing track passing through the land to other Council managed land.

24. More recently, the Department approached Council staff with a proposal raised by LINZ to vest the land in the Council as reserve. The Department had suggested this be reserve classified as local purpose (wetland management) reserve, upon which Council staff put a case to have the land instead classified scenic reserve, to which the Department has agreed.
25. The reserve classification proposed (scenic reserve subject to section 19(1)(a) of the Reserves Act 1977) provides primarily for protecting and preserving, for their intrinsic worth and for the benefit, enjoyment, and use of the public, areas of scenic interest, beauty, or natural features or landscape. Council staff consider this classification to best reflect the current and intended future values, use and management of the land (see paragraph 7 above). This vesting is also proposed in the draft parks master plan for the land, as referred to in paragraph 19 above. After the Council accepts the proposed classification and vesting of the reserve in the Council, the Department is able to complete the classification and gazettal processes, thereupon vesting the reserve in the Council to hold and administer the land and expend money thereon for the particular purpose for which the reserve is classified.
26. The classification of the land as a scenic reserve, thereby protecting existing high natural and scenic values, aligns with the values and uses of this land currently, and the way in which the land has been and will continue to be managed for the protection and enhancement of the natural environment and outdoor recreational access values in the future. The land is part of the highly scenic natural landscape at the southern end of the ecologically important Brooklands Lagoon estuary environment, serves as a protective buffer to that environment and itself contains important habitat for the marsh bird species of bittern and marsh crane. It lies within the City Plan zoning of Conservation 1A (Coastal margins), which covers areas of scenic, ecological or heritage significance, and straddles two ecological heritage sites (EHS 5.01 (which covers estuary wetland and riparian areas containing salt marsh vegetation that is specifically noted for its ecological heritage value) and EHS 14.09 (covering the coastal dune grasslands from the Waimakariri River to South Brighton Spit)).

THE OBJECTIVES

27. For the Council to acquire ownership and control of a parcel of land classified as scenic reserve under the Reserves Act 1977 to formalise the Council's existing and intended management of, and expenditure of funds upon, this parcel of land for the purposes inherent in this classification, as part of an integrated regional park resource in the Brooklands Lagoon area.

THE OPTIONS

Option 1

28. Accept the offer from the Department of Conservation to vest the Crown land, being the balance of Rural Section 41137 on Survey Office Plan 16630, lying above Mean High Water Springs, estimated subject to survey to be approximately 28 hectares in area and located within the Shirley/Papanui ward, in the Council as scenic reserve subject to section 19(1)(a) of the Reserves Act 1977. This will give the Council the power of administration of a reserve that it currently manages, and intends to continue to manage, for the purposes for which the reserve is proposed to be classified. It will allow the Council to apply the Council's bylaws over this land.

Option 2 – Status Quo

29. Not accept the vesting in the Council of the land as scenic reserve. By doing this, the Council will continue to be in the position of managing, and expending funds on, land over which it has no formal legal occupation rights to. The Council remains limited in its ability to make decisions on management, law enforcement and compliance, and development that protect the environmental values contained within, and enhance the recreational opportunities, on the land.

THE PREFERRED OPTION

Option 1

30. Accept the offer from the Department of Conservation to vest the Crown land, being the balance of Rural Section 41137 on Survey Office Plan 16630, lying above Mean High Water Springs, estimated subject to survey to be approximately 28 hectares in area and located within the

Shirley/Papanui ward, in the Council as scenic reserve subject to section 19(1)(a) of the Reserves Act 1977. The Council and the Department of Conservation to meet their own legal and processing costs, with the Council reimbursing the Department for the costs of publicly advertising the proposed classification and vesting, and for the gazettal of the classification and vesting of the scenic reserve in the New Zealand Gazette.