

1. SOUTHSHORE SPIT - RESERVE CLASSIFICATION

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The purpose of this report is to seek the Council's approval to request the Minister of Conservation to classify Southshore Spit as a scenic reserve.

CONTEXT OF THE REPORT

The Council holds, in trust for recreation purposes (NZ Gazette 1969 p 1671), the land at the end of Rocking Horse Road, known as Southshore Spit. This land was formerly held by the Crown as a reserve for a beacon or lighthouse or other purpose of public utility or convenience connected with the Government of New Zealand.

The Council does not have the delegation from the Minister of Conservation to gazette the classification but can request the Department of Conservation to place a notice in the New Zealand Gazette of the intended classification.

BACKGROUND

In July 2000, the Council approved the Southshore Spit Development Plan. The plan, which covered the undeveloped dune area south of the houses at the end of the Spit, incorporated options for development intended to maintain and enhance the natural character and protective function of the Spit. Incorporated within the plan was the provision for closing the existing legal unformed road and amalgamating the road area (including the accretion) to the reserve.

The plan also incorporated the request of the Burwood/Pegasus Community Board to have the reserve gazetted as scenic reserve. The community groups involved in the formulation of the development plan considered that the change from recreation to scenic reserve to be vital as an instrument to maintain the integrity of the reserve for its natural values.

Prior to this gazettal action being carried out it has been necessary to have a survey completed to define those areas above water and to produce a plan for road stopping action. The legal unformed road (being the continuation of Ebbitide Street) has now been formally stopped. This means that all the land above mean high water springs that currently makes up the Southshore Spit can now be formally classified as scenic reserve as intended by the development plan. The Department of Conservation approved a waiver of the esplanade reserve requirements on stopping of the road subject to the land above mean high water springs being held as scenic reserve and the vesting of the reserve and stopped road below mean high water springs in the Crown as sea bed.

DESCRIPTION OF PROPOSAL

The action proposed by this report (legalisation plans SO 301770 and SO 319488) is to classify as scenic reserve, under Section 19(1)(b) of the Reserves Act 1977, all that land incorporating part of the Council's Title, stopped road and accretion to stopped road above mean high water springs.

The Reserves Act 1977 provides for two sub-classifications of scenic reserve. The sub-classification proposed under Section 19(1)(b) of the Act can be summarised as providing and developing areas of scenic reserve for public appreciation where the vegetation may be exotic or indigenous as opposed to only natural which is the case for scenic reserves under Section 19(1)(a).

The classification under Section 19(1)(b) is less restrictive on the administering body, as there is no requirement for maintaining the reserve free of exotic vegetation which is a requirement under Section 19(1)(a).

Although dominated by introduced plant species the Spit retains considerable natural character and provides excellent opportunities to observe birds roosting at high tides. The Spit is used extensively for recreation particularly walking along the beach and dog exercising and this activity causes some wildlife disturbance. The intended classification as scenic reserve is being promulgated to prevent inappropriate vehicle access along the beach and to ensure recreational activities are compatible with the natural character and ecological values of the Spit. The sub-classification of Section 19(1)(b) is the most appropriate sub-classification of scenic reserve for the Spit. Currently none of the land making up Southshore Spit is formally classified as reserve, although the land held in the Council's Title is held in trust for recreation purposes.

The new classification as scenic reserve will require public notification in accordance with Section 119 of the Reserves Act, and this will be carried out following the Council's resolution. After completion of public notification the intention to gazette the area as scenic reserve will be referred to the Department of Conservation for ratification and publication in the New Zealand Gazette.

CONSULTATION WITH IWI

The Title to the Spit is subject to Part 9 of the Ngai Tahu Claims Settlement Act 1998. This memorial relates to Ngai Tahu's first right of refusal under certain disposals. Preliminary consultation has been undertaken with Ngai Tahu on the intention to gazette the Spit scenic reserve. It is considered that the intended classification will certainly have no negative impact on the cultural values of the Spit and will probably afford greater protection to any cultural values that may exist than is the case at present. Ngai Tahu advise that if the Rununga, Ngai Tuahuriri has any concerns about the re-classification these will be raised when the department of Conservation consults with them as part of their Reserves Act consultation process.

The Department of Conservation has confirmed that, as the intended classification is the department's prerogative to gazette, the department will carry out the consultation on being requested by the Council to classify the Spit as scenic reserve. The Rununga will also be sent a copy of the public notification.

SEA BED VESTING

The debate on ownership and customary rights of foreshore and seabed remains unresolved. While the outcome of this topical issue remains unclear it would seem inappropriate to promulgate action to vest in the Crown that part of the Spit now below water as seabed. This action can be revisited at the appropriate time.

CONCLUSION

This report is the formal process to complete an action intended by the Southshore Spit Development Plan. All parties and communities involved in preparing the development plan, including the Burwood/Pegasus Community Board, have in the past indicated their support for the intended classification of Southshore Spit as scenic reserve. While it was intended in conjunction with this classification to tidy up the tenure of the Spit by having the area below mean high water springs vested as seabed, it is prudent that this action be withheld at this time.

- Recommendations:**
1. That, pursuant to Section 16(1) of the Reserves Act 1977 and subject to prior notification, the Council request the Minister of Conservation to classify as scenic reserve under Section 19(1)(b) of the Reserves Act 1977, Southshore Spit being that land legally described as section 1, SO Plan 301770 (7.9660 ha) and section 1 SO Plan 319488 (11.9830 ha).
 2. That action to gazette the balance area below mean high water springs as Crown sea bed, being legally described as section 2 SO Plan 301770 (2.2400 ha) and section 2 SO Plan 319488 (8.0470 ha), be withheld pending the outcome of the Government's policy/legislation on the foreshore and seabed.