

8. DELEGATION OF POWERS TO TEMPORARILY CLOSE A PARK FOR A PERIOD LONGER THAN FORTY DAYS PER YEAR; FOR LONGER THAN SIX CONSECUTIVE DAYS; AND FIX CHARGES THAT MAY BE MADE TO ENTER THE CLOSED AREA OF A RECREATION RESERVE

General Manager responsible:	General Manager City Environment DDI 941-8608
Officer responsible:	Asset & Network Planning Manager
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PURPOSE OF REPORT

1. The purpose of this report is to gain Council approval to the delegation of the following powers to the Chief Executive Officer:
 - (a) To determine to temporarily close part or all of a recreation reserve (noting that the Chief Executive must seek consent from the Minister of Conservation as required by section 53(1)(d) or 53 (1)(e) of the Reserves Act 1977 (The Act) where it is proposed to close part or all of the recreation reserve:
 - (i) For a total of number of days in excess of 40 days in any year;
 - (ii) For a single period in excess of six consecutive days.
 - (b) The responsibility to specify the maximum, and specific charges that may be charged for admission to the closed area of a recreation reserve as required under section 53(1)(e) of the Act.
 - (c) The responsibility to approve such other charges being made with respect to a specific reserve either generally or with respect to a specified occasions except for the park temporary hire charges which are part of the LTCCP process.

These delegations will be subject to conditions as set out in the Staff Recommendations section of this report.

EXECUTIVE SUMMARY

2. The Council delegated its authority to 'Grant or decline permits (other than leases and licences) for activities', on parks to the then Parks Manager to administer at its meeting held on 23 October 1996. The delegations made at the time reflected similar delegations put in place by other territorial authorities elsewhere in New Zealand. The reasoning at the time was that in a city the size of Christchurch it is essential, in the interests of good management and effective administration, to encourage the delegation of decision-making to the lowest competent level. This will achieve the best use of the abilities of elected representatives and officers minimising delays experienced by residents in their dealings with the Council. This reasoning still applies today.
3. The author of this report has discussed the extent of the delegations made in 1996 to the then Parks Manager, now absorbed into the position of the Transport & Greenspace Manager, with staff from the Legal Services Unit. At the time the delegations were made, there was a view that some specific delegations made to Local Authorities by the RA and the Minister of Conservation could not be further delegated. These powers include the delegations granted by section 53(2) of the Act, to administering authorities who are local authorities to exercise the Minister of Conservations powers, under section 53(1) (except for two particular powers). This view was further reinforced when the Reserves Act Guide was published in 1999¹.
4. However, since 1996, staff are now of the view that there is a need to better clarify the delegations that were made in 1996. Furthermore since the delegations from the Council were made in 1966, the Local Government Act 2002 (LGA) has come into force. Clause 32 of Schedule 7 of the LGA enables the Council unless expressly provided otherwise, to delegate most of its powers under this Act or any other Act for the purposes of efficiency and.

¹ The *Reserves Act Guide* was published in 1999 being formulated by a committee made up of staff from the Department of Conservation, Local Government New Zealand, and regional and territorial local authorities.

effectiveness in conducting its business to a committee, other subordinate decision-making body, community board, or member or officer of the Council. Since the enactment of the LGA further delegations from the elected arm of Local Authorities have been made

5. A legal opinion has been sought, which has confirmed that the delegations being sought from the Council can be made.
6. Officers are recommending to the Council that they formally delegate the following powers to the Chief Executive Officer:
 - (a) The responsibility for the temporary closure of a recreation reserve for a period longer than 40 days in any one year with consent from the Minister of Conservation as required by section 53(1)(d) of the Act.
 - (b) The responsibility for the temporary closure of a park for a recreation reserve for a period longer than six consecutive days with consent from the Minister of Conservation as required by section 53(1)(e) of the Act.
 - (c) The responsibility to specify the maximum, and specific charges that may be charged for admission to the closed area of a recreation reserve as required under section 53(1)(e) of the Act.
 - (d) The responsibility to approve such other charges being made with respect to a specific reserve either generally or with respect to a specified occasions except for the park temporary hire charges which are set as part of the LTCCP process.

FINANCIAL IMPLICATIONS

7. There are no financial implications to the Council with the proposed delegations of the Council's powers to the Chief Executive Officer. Savings in staff time will eventuate, because of not being required to formally report to the Council whenever an application is received to temporarily close a park for an extended period for a recreational activity to take place, or set the maximum charges that may be made to enter the closed area of a recreation reserve, or such other charges that the Council sees fit to be made. This delegation will greatly reduce the time it takes to respond to such applications.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

8. Yes – see above.

LEGAL CONSIDERATIONS

9. Section 53(1)(d) of the Act allows the administering body of a recreation reserve (e.g. the Council) to prescribe not more than 40 days in any one year as it thinks fit, that the public shall not be entitled to have admission to a park or to any part or parts thereof set aside for a particular purpose or purposes unless the public makes a payment to enter the closed area.

With the prior consent of the Minister of Conservation this number of days may be increased.

10. Section 53(1)(e) of the Act allows the administering body of a recreation reserve (e.g. the Council) to grant temporary exclusive use of part or all of a park for up to six consecutive days.

Again with the prior consent of the Minister this consecutive number of days may be increased.

11. Section 53(1)(e) also permits the Minister of Conservation to specify from time to time the maximum amounts that can be charged to enter the closed area; and such other charges in relation to a specific reserve either generally or with respect to a specific occasion that the Minister thinks fit.

12. However, by virtue of section 53(2) of the RA the Council is not required to obtain the consent of the Minister of Conservation as set out in section 53(1) except for prescribing more than 40 days as set out in the first proviso in 53(1)(d), and prescribe more than six consecutive days as set out in the second proviso in 53(1)(e).
13. Clause 32 in Schedule 7 of the LGA enables the Council unless expressly provided otherwise, to delegate most of its powers under the LGA or any other Act for the purposes of efficiency and effectiveness in conducting its business to a committee, other subordinate decision-making body, community board, or member or officer of the Council.
14. The practice since the LGA has been put in place is for the Council to delegate the powers that it decides to delegate to the Chief Executive Officer, who has the legal power to further sub-delegate these powers to other officers of the Council as he or she thinks fit, for the efficient running of the Council business ⁽²⁾.
15. The legal opinion indicates that the Council can delegate all its functions to officers under section 53 of the RA, however it will still be necessary for officers to get the Minister of Conservation's consent to increase the maximum number of days in any one year a specific area of a recreation reserve where the recreation reserve is temporarily closed to the public without the payment of a fee for more than 40 days in any one year in the case of section 53(1)(d), or more than six consecutive days in the case of section 53(1)(e).

Have you considered the legal implications of the issue under consideration

16. Yes - see above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

17. The LTCCP's strong communities strategic directions section prioritises: providing accessible and welcoming public buildings, spaces and facilities; providing parks, public buildings, and other facilities that are accessible, safe, welcoming and enjoyable to use; working with partners to reduce crime, help people avoid injury and help people feel safer; providing and supporting a range of arts, festivals and events; and protecting and promoting the heritage character and history of the city. The holding of different events on parks and reserves supports and adds to the range of experiences people are able to enjoy and experience, within the City be that of a temporary, nature.
18. The LTCCP's healthy environment strategic directions section prioritises: providing a variety of safe, accessible and welcoming local parks, open spaces and waterways; providing street landscapes and open spaces that enhance the character of the city; and protecting and enhancing significant areas of open spaces within the metropolitan area. The holding of events on parks enhances the character of parks for a period, be that of a temporary nature.
19. The LTCCP's liveable city strategic directions section prioritises: improving the way in which public and private spaces work together. The holding of events on parks and reserves adds temporarily to the private infrastructure on the particular park thereby improving the value of the experiences members of the public can have at the park.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

20. Yes – see above.

ALIGNMENT WITH STRATEGIES

The proposed delegations support the following strategies:

21. The Christchurch Active Living Strategy, by adding value through mental stimulation, the general public will gain from attending the event that the park or reserve is closed for.

² Section 32 clause 3 and section 32B of schedule 7 of the Local Government Act.

22. The Christchurch Visitor Strategy because often events held on Council owned or managed and controlled parks and reserves attract visitors to Christchurch from other parts of New Zealand, with resulting economic spin offs for the private sector within the City
23. The holding of events on parks is in alignment with the Council's Strategic Direction to support Strong Communities, It encourages residents to enjoy living in the city and to have fun, thereby supporting Christchurch as being a good place to live.

Do the recommendations align with the Council's strategies?

24. Yes –see above.

CONSULTATION FULFILMENT

25. Public consultation is not required under section 53 of the Reserves Act 1977 before the Council resolves to temporarily close part of, or a whole park for a temporary period to enable an event to be held, even if the Minister of Conservation consents to an extension to the time periods as required by sections 53(1)(d), and 53(1)(e) of the RA.
26. On some parks, a temporary event will disrupt other programmed organised activities that are held on the park. Officers' work with these organisations, usually sports orientated, to temporarily relocate their activities to another area of the park or another park for the duration of the temporary event.
27. In some cases the temporary activity will disrupt a transport route, for example cycle route through the park or something similar. In these cases Council staff work with any representative bodies of the activity, for example 'Spokes' in the case of cycling, to find alternatives, for example temporary alternative cycle routes, to minimise the disruption caused by the temporary park closure.

CONCLUSION

28. The Council is legally able to delegate its powers to officers of the Council to approve the temporary closure of a part or all of a recreation reserve for a period up to 40 days in one year, six of which can be consecutive, and with the Minister of Conservations consent for periods longer than this. The Council is also able to delegate to officers the decision on the maximum charges that may be made for admission to the closed off area, the specific charges that may be made to enter the closed off section of a recreation reserve, and any other charges in relation to the hire of the recreation reserve that it thinks fit.
29. In accordance with current Council practice since the LGA has been put in place the Council should delegate the powers that they decide to delegate to the Chief Executive, who has the legal power to further sub-delegate as he/she think fit to other officers of the Council, for the efficient running of the Council business.

STAFF RECOMMENDATIONS

That Council delegate its powers as detailed below to the Chief Executive Officer.

- (a) To determine to temporarily close part or all of a recreation reserve (noting that the Chief Executive must seek consent from the Minister of Conservation as required by section 53(1)(d) or 53(1)(e) of the Reserves Act 1977 where it is proposed to close part or all of the recreation reserve:
 - (i) For a total of number of days in excess of 40 days in any year;
 - (ii) For a single period in excess of six consecutive days.

- (c) The responsibility to specify the maximum, and specific charges that may be charged for admission to the closed area of a recreation reserve as required under section 53(1)(e) of the Reserves Act 1977.
- (d) The responsibility to approve such other charges being made with respect to a specific reserve either generally or with respect to a specified occasions except for the park temporary hire charges which are part of the LTCCP process.

The above delegations are subject to the following conditions.

- (i) Liaising with organisations that have programmed organised activities on the park or reserve, which will be affected by the temporary closure, to temporarily relocate their activities to another area of the park, or another park for the duration of the temporary closure.
- (ii) Liaising with other organisations whose activities will be disrupted by the temporary closure of the park to minimise disruption to their activities by finding acceptable alternatives for the duration of the park closure.

BACKGROUND

31. Officers have been required to report to the Council to get approval for the specific delegations being requested, because there have been no specific delegations to Council officers in place to enable staff to make these decisions on behalf of the Council.
32. The Council has twice been required to close an area of a recreation reserve temporarily for more than 40 days in one year, this being for a single event, that being the North Hagley Events Area for the Ellerslie Flower Show, this period included the time taken to set up, hold, and dismantle the event, followed by reinstatement of the park. It has however been necessary to close a particular area of more than one recreation reserve for more than six consecutive days on a number of occasions.

THE OBJECTIVES

33. To obtain the delegation from the Council to the Chief Executive Officer of its powers to temporarily close a recreation reserve held under the Act for periods longer than a total of 40 days in any one year; more than six consecutive days; and the responsibility to specify, the maximum and specific charges that may be made for admission, to the closed area of the recreation reserve, and such other charges to be made with respect to a specific reserve either generally or with respect to a specified occasions, as delegated to the Council the administering body by section 53(2) of the Act.

THE OPTIONS

34. To approve that delegations as set out in section 30 of this report above, be made to the Chief Executive, thereby saving staff time, through not needing to formally report to the Council for a decision whenever an application is received to temporarily close a recreation reserve which requires such decisions to be made. This delegation will greatly reduce the time it takes to respond to third parties applications to temporarily use recreation reserves held under the Act for the benefit of the city.
35. To not approve the delegations as set out in section 30 of this report above, be made to the Chief Executive, thereby requiring staff time, to formally report to the Council whenever an application is received to temporarily close a recreation reserve which requires such decisions to be made. By not approving the proposed delegation this will maintain the status quo, which officers believe unnecessarily greatly increases the time it takes to respond to third parties applications to temporarily close a recreation reserve held under the Act for the benefit of the citizens of Christchurch.

PREFERRED OPTION

36. To approve the application, thereby increasing the administering efficiency of the Council as elaborated upon in section 34 above.