

Report 11.385
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Committee Council
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Classifying Baring Head as Scenic Reserve

1. Purpose

To consider the submissions on the intention to reserve Baring Head as Scenic Reserve (1)(a) and to make a decision on the final declaration.

2. Significance of the decision

The matter requiring decision in this report has been considered by officers against the requirements of Part 6 of the Local Government Act 2002.

Officers have considered the significance of the matter, taking into account the Council's significance policy and decision-making guidelines. Officers recommend that the matter be considered to have medium significance. The matters being considered in this report determine the reserve classification of a new section of Greater Wellington's park network. The management plan, yet to be developed, will provide more detail and must be consistent with the reserve classification.

Section 14 of the Reserves Act 1977 explicitly sets out the decision-making process that must be followed when declaring land as a reserve. The decision-making process is set out in Section 3 of this report.

3. Process

The process of reserving the remnant under the Reserves Act 1977 (Section 14) is detailed below.

In declaring land to be a reserve, the first step is to call for objections to reserving the area or to the reserve classification. Once those objections have been received, Council considers these and decides whether or not to declare the area a reserve (under Section 24A(2)). If it resolves to do so, the resolution and any objections are passed to the Commissioner (i.e. the Department of Conservation representative for the Minister of Conservation). If the Commissioner agrees to the proposal by not sustaining any objections, the gazettal is finalised by publishing a gazette notice.

On 24 May, Council agreed to consult on the Council's intention to reserve Baring Head (as shown in Map 1) as a Scenic Reserve (1)(a) under Section 14 of the Reserves Act (**Report 11.215**). The intent to classify Baring Head as Scenic Reserve was notified in *The Dominion Post* and *Hutt News* newspapers on 31 May and 1 June 2011. Interested individuals, groups and funding contributors were notified in writing of the proposed classification. Submissions closed on Friday 1 July 2011, with a total of 15 submissions received (including late submissions).

The Council now needs to consider any objections and to make a decision on the reserve classification.

Land to be reserved as Scenic Reserve

Property parcel Lot DP 59276



Map 1 : Land to be reserve (shown in green)

4. Submissions

Attached is the summary of submissions (**Attachment 1**). There were ten submissions in support and five opposing the Scenic Reserve classification. Those in support agree that the classification is appropriate given the ecological, historic, landscape and recreation values of the area. A number of submitters reminded the Council that this was a precondition of purchase (i.e. that funding was given for purchase on condition that it was made Scenic Reserve).

Those who opposed the reserve were concerned about the following:

- Restrictions on the types of activities that could occur on the land (specifically hunting, fishing, camping, horse riding and dog walking)
- The impacts on adjacent landowners.

4.1 Impact on activities

Classifying Baring Head as Scenic Reserve does not prohibit any of the activities specifically mentioned by submitters outright. There are examples of other Scenic Reserves around the country that specifically provide for horse riding and dog walking. Camping may be provided for under a Scenic Reserve classification if this is seen as an appropriate activity in the particular circumstances of the reserve.

In the case of Baring Head, there is less likely to be camping provided as there are good quality facilities only a short distance away at Catchpool Valley Conservation Campsite (a reserve managed by the Department of Conservation). Accommodation at the lighthouse compound is an option mooted in the report by Tourism Resource Consultants. This warrants further consideration in the development of a management plan, but is not located on the land proposed for Scenic Reserve.

With regard to hunting and fishing, under a Scenic Reserve classification exotic species should be removed from the reserve as far as possible. It is likely that the majority of pest animals will be removed through Greater Wellington's biosecurity efforts so it is unlikely that there would be any need to issue hunting permits for pigs, deer or goats.

This leaves game bird hunting and fishing (surf casting is allowed in the road reserve which extends along the Baring Head coast). Section 50 of the Reserves Act 1977 refers to the taking and killing of fauna on a reserve. Authorizing the take or kill of non-protected exotic fauna is within the limitation of powers delegated to local authorities. In other words, Greater Wellington has the delegated power to approve game bird hunting and angling in a Scenic Reserve. This could be specified within the management plan (as a general authorization) or through a permit process.

With regard to fishing, a permit provides access only and anglers would still be required to have a licence from Fish and Game. The Department of Conservation (DOC) has adopted a similar approach on the Waikanae River reserve which is popular for catching Kahawai. DOC has provided a general authorization allowing fishing of some species but have some limits on the types of trapping devices (e.g. rods, no nets) to protect other species.

It should be noted that officers are waiting for further advice from DOC on how this applies to white baiting, as this is covered by the *White Baiting Regulations 2010*, however this is not considered to be a barrier to confirming the reserve classification.

4.2 Impact on landowners

Greater Wellington is in dialogue with adjacent landowners and will continue to talk with them as the management plan is developed. Landowners are concerned about an increase in public awareness of Baring Head and any potential negative effects (such as stealing, depositing rubbish or going to the toilet) on their land. It is important that the management regime for Baring

Head provides adequate facilities for the public (security, car parking, toilet facilities and signage) to alleviate potential negative effects.

Landowners around the Fitzroy Bay area (between Baring Head and Parangarahu Lakes) already experience trespass on their land. Hutt City Council is talking with these owners about what recreational access might be appropriate in the future and how this can be managed.

The Scenic Reserve classification has little direct bearing on these issues which can be adequately dealt with in the management plan and ongoing operational management.

4.3 Consultation with iwi

Iwi have been informed of the intention to classify as Scenic Reserve but have not provided any comment.

Greater Wellington is having ongoing communication with iwi (including the adjacent Maori landowners) over this period of management plan development.

4.4 Lighthouse reserve: recreation or historic?

Another issue raised by submitters was with regard to the smaller area of recreation reserve land containing the lighthouse keepers' houses (known as the lighthouse compound). A couple of submitters suggested that this be reclassified as historic reserve. This matter does not have to be resolved through the current process but may be considered following the completion of the management plan.

The lighthouse compound (which is vested in Greater Wellington) could qualify for a historic reserve classification, in that it is a place with immediate interest to the visitor and has historic value. Whilst it is small in area, the surrounding land on three sides will be reserved, thus providing a buffer against incompatible development. These are important considerations in determining if a historic reserve is an appropriate classification.

There are not many historic reserves under the jurisdiction of a local authority. The historic reserve classification gives added responsibility to the administering body when compared to a recreation, scenic or local purpose reserve. This is clear in the primary purpose of the classification with the words "...preserving in perpetuity..." denoting the administering body's obligation to retain the historic value of the site as it is forever, or as long as the reserve remains as an historic reserve. Once an historic reserve it is difficult to reclassify or revoke.

It is important then, that further discussion with Council on the future of the lighthouse keepers' houses takes place first, before considering any change in classification. If a decision was made to remove the houses, this would not be possible under a historic reserve classification. Alternatively if a decision was reached to keep the houses, or even use them as accommodation, officers consider that this could be achieved in a reserve with a recreation or historic classification.

5. Summary

The reserve classification proposed by the Council is Scenic Reserve 19(1)(a) that is, a reserve:

19(1)(a) For the purpose of protecting and preserving in perpetuity for their intrinsic worth and for the benefit, enjoyment, and use of the public, suitable areas possessing such qualities of scenic interest, beauty, or natural features or landscape that their protection and preservation are desirable in the public interest.

Officers are satisfied that this Scenic Reserve classification provides appropriate protection to the values within the property. Further, that the objections raised focus on issues that may be considered through the subsequent development of a management plan. As stated in **Report 11.125** this classification is in accordance with advice from officers of the Department of Conservation and is supported by officers of Hutt City Council.

Officers also note that the classification of the land as Scenic Reserve was a condition of the purchase so that by adopting the resolution, Council is fulfilling its obligations to the other funding contributors.

5.1 Public Participation

The Reserves Act does not require a hearings process for objections to be considered.

6. Communication

The resolution of the Council will be communicated to the Commissioner (Department of Conservation). A gazette notice will be published in due course.

All submitters will be informed of the outcome of this decision.

7. Recommendations

That the Council:

1. ***Receives the report.***
2. ***Notes the content of the report.***
3. ***Agrees to resolve that the piece of land described in the attached Schedule shall be hereby declared to be a Scenic Reserve for the purposes specified in Section 19(1)(a) of the Reserve Act 1977 and is deemed pursuant to Section 16(2) to be classified for that purpose within the meaning of the Act, and furthermore the Council acting pursuant to statutory powers contained in Section 16(10) of the Act declares the said reserve to be part of the East Harbour Regional Park.***

Report prepared by:

Report approved by

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Attachment 1: Summary of submissions

Attachment 2: Schedule of land to be classified as reserve

Attachment 3: Submissions received