

HUTT CITY COUNCIL

POLICY AND REGULATORY SUBCOMMITTEE

Report of a meeting held in the James Coe 1, Dowse Art Museum,
45 Laings Road, Lower Hutt on
Tuesday 4 August 2015 commencing at 5.30pm and reconvened on
Wednesday 14 October 2015 at 4pm in the Wainuiomata Chambers,
Wainuiomata Library, Queen Street, Wainuiomata, Lower Hutt

PRESENT:

Cr MJ Cousins (Chair)
Cr C Milne

Cr L Bridson
Cr M Willard

APOLOGY:

Cr B Branch

IN ATTENDANCE:

Cr T Lewis
Mr B Hodgins, Divisional Manager, Parks and Gardens
Mr B Cato, Solicitor
Mrs H Clegg, Minute Taker

PUBLIC BUSINESS

1. APOLOGIES

RESOLVED:

Minute No. PRSub 15401

"That the apology received from Cr Branch, be accepted and leave of absence be granted."

2. CONFLICT OF INTEREST DECLARATIONS

There were no conflict of interest declarations.

3. **AVALON PARK PROPOSAL** (15/1071)

a) Avalon Park Proposal (15/1071)

The Divisional Manager, Parks and Gardens elaborated on the report. He explained the land status as shown in the plan, attached as Appendix 5 to the report as follows:

- the area hatched yellow was Council owned recreation reserve land, required to go through the reserves revocation process, which would require the Minister of Conservation's final signoff, should Council recommend the proposal proceed;
- the area hatched pink was owned by Council without a reserve status but managed as reserve; and
- the area hatched green was owned by Council and leased to the Avalon Tennis Club.

He explained that the area proposed to be revoked had been slightly increased following consideration of the practicality of developing the site. The added area was a strip of land along the edge of the internal park road.

He also advised that the first 150m of internal road outlined in blue was intended to be vested as legal road, with no underlying reserve status.

The Divisional Manager, Parks and Gardens advised that most matters raised in the Avalon Tennis Club's (the Club) submission, could be dealt with by way of resource consent conditions or a "no complaints type covenant". He commented that Mr Page's submission seemed to be opposed to the selling of reserve land in general. He explained the total area of reserves land was being reviewed systematically rather than on an ad hoc basis.

In response to a question from a member, the Divisional Manager, Parks and Gardens explained that the existing public tennis court was already classified as reserve.

The Divisional Manager, Parks and Gardens informed members that the Council target for the location of reserves throughout the city was an 8.5 minute walk from a place of residence. He confirmed Council was always actively looking for reserve land throughout the city and had recently purchased reserve land on the hills. He explained the "no complaints covenant" and reverse sensitivity concepts. He further explained that if the Club did not have lights installed prior to this proposal proceeding, the Club would not have Existing Use Rights and that a resource consent application would be required for light installation. He acknowledged concerns around the perceived loss of land generally for reserves. He stated by bringing the green hatched area into reserve status as had been requested by the Club, a sense of

permanency for the Club was created.

b) Hearing of Submissions on the Avalon Park Proposal (15/1130)

Mr G Wells and Mr Richard Massam, President and Secretary of Avalon Tennis Club ('the Club') respectively presented submission SAP15/1. Mr Wells explained the Club's primary aim was to ensure all members had somewhere to enjoy playing tennis for many years to come. The Club believed that future residential development was probably the likely future use of the land and most probably as retirement residential. He accepted Council's offer of six formed and sealed carparks. He explained that the request for an extension to the current lease of the land, along with a change to reserve status of the green hatched area were to provide security for the Club. He further reiterated the Club's concerns regarding the possible installation of lights in the future.

Both Mr Wells and Mr Massam expressed concern about the previous resource consent process. The Chair outlined the resource consent process and advised the Club to ask for advice from Council officers if a resource consent application was contemplated for the subject land.

In response to questions from members, Mr Wells and Mr Massam agreed they were satisfied with the officer's responses both contained in the officer's report and the verbal presentation at the meeting. They understood there would be a number of further processes in the future which the Club was expected to be involved.

Mr D Page presented submission SAP15/2. He expressed concern about the citywide provision of reserve space. He acknowledged the large amount of land set aside for reserves within the city, and believed that it was an attraction to living in Hutt City and should not be disposed of. He noted that there needed to be more reserves in more accessible areas of the city. He was encouraged by the Council initiative to require developers to provide land in lieu of reserves fund contributions.

Mr N Tonkin presented submission SAP15/3. He expressed concern with the proposal to vest the portion of land as public road. He believed it would benefit private individuals and was not for the public good.

4. **MITCHELL PARK REVOCATION PROPOSAL** (15/1087)

a) Mitchell Park Revocation Proposal (15/1087)

The Divisional Manager, Parks and Gardens elaborated on the report. He noted that there was an existing informal pedestrian access through the site. He advised that the four submissions received from members of the Naenae Bowling Club may have been received when there was uncertainty as to the Walter Mildenhall Park proposal. He advised that the other three submissions generally objected to the loss of reserve land. He noted there was an extensive public reserve area to the front of Mitchell Park, along with the Mitchell Park Tennis Club land. He acknowledged there were parts of the suburb which did not have a lot of reserve space and that Council was open to land swap suggestions.

In response to questions from members, the Divisional Manager Parks and Gardens outlined what information would be provided to the Department of Conservation and noted that the Minister could request more information. He said that if Council was to retain the land and it was not used for bowls, then there could be a significant financial input required to find a re-use.

Members discussed the issue of legal access.

b) Hearing of Submissions on the Mitchell Park Revocation Proposal (15/1134)

Mr D Page presented submission SPM15/5. He expressed concern that Council appeared to have ignored the PAOS report (formerly Parks and Open Spaces Ltd) suggesting other uses for the land to maintain the proportionality of reserve land. He believed open green space did have a significant amount of amenity value and contributed hugely to the aesthetic value of the City.

In response to questions from members, Mr Page acknowledged there were some reserve areas which were not used by residents. He said that rather than looking at a "like for like" land swap, he envisaged several small blocks of reserve land could be scattered around the area, rather than one large block.

Mr N Tonkin presented submission SPM15/7. He stressed that Council's job was to look after future generations. He stated previous Councils had accumulated reserve land knowing future generations would make use of it and said it was a flawed argument to say people were not using land for recreation now, so the reserve status should be revoked. Mr Tonkin expressed concern that the recommendations were to be considered in Public Excluded Business and would seek further clarification on this. He further stated that he believed Council was

corrupting the purpose of the Act and he highlighted inconsistencies with the Copeland Street Reserve decision. He believed much of the reserve land in the city was not useable reserve land, and that quality reserve land should be retained.

Mr Tonkin also expressed concern that there was no paper evidence to show the two hospitals were interested in the land and he could find no evidence to support the officer's recommendations (iii) a), b), or c). He cited the PAOS report as providing suggestions for alternative uses for the land. He further disagreed with the legal advice and informed members that he had requested the Department of Conservation (DoC) to send him any guidelines or policies it referred to when assessing a revocation application. He cited the Churchill Park case in Gisborne as being one revocation application that was declined by DoC as DoC was not convinced it was surplus to the City's requirements.

In response to questions from members, Mr Tonkin explained he was still awaiting an Ombudsman ruling regarding the Copeland Street Reserve revocation proposal and process. He said his definition of "surplus land" would be land with no likelihood of it being used in future.

Members asked officers to respond to the issues raised by submitters.

The Divisional Manager Parks and Gardens noted that the concerns of the Avalon Tennis Club could be addressed by way of a Memorandum of Understanding (MoU). With regards to the possible future use of all reserves in the city, he explained the standard Council lease had an out-clause of six months with Council to make best endeavours to find alternative accommodation for lessees. He said having reserve status for the tennis club would give the Club more surety. He informed members that the Mitchell Park Tennis Club or the Squash Club had no desire to expand onto the Mitchell Park land and that the PAOS report suggested a rehabilitation use might be an appropriate use of the site.

With regards to the selling of Council reserve land, the Divisional Manager Parks and Gardens reiterated that a strategic approach was being taken to investigate possible surplus reserve land in the city, and that intensification of residential areas was of major concern. He repeated that acquiring more space throughout the city in certain areas was a priority. He said that this land was surplus and the proceeds of its sale would be used to offset the development of other reserve areas in the City.

The Solicitor elaborated on Council's Reserve Guideline. He said this outlined how Council acquired and disposed of reserves and that independent assessors were employed to undertake assessments in every case. He explained that the Reserves Act 1977 puts different restrictions and tests on the different classifications of reserve land and that Council had introduced its own test for reserve land being 'surplus to requirements'. He advised that he was not familiar with the case law introduced by Mr Tonkin, and requested time to receive a copy to consider. He advised that deliberating in Public

Excluded Business was appropriate.

In response to questions from members, the Divisional Manager Parks and Gardens explained the value of a piece of reserve was a subjective matter, but there were a set of guidelines that Council followed, including landscape, open space, ecological, and visual values amongst others. He further explained reserve land use was changing over time. He clarified that Council engaged PAOS once land had been identified by Council officers as possibly being surplus.

The Chair advised that based on legal advice she had received, the Subcommittee would hold its deliberations in private.

RESOLVED:

Minute No. PResub 15402

“That the public be excluded from the following parts of the proceedings of this meeting, namely:

The deliberations in relation to Avalon Park Proposal and Mitchell Park Revocation Proposal:

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

(A)	(B)	(C)
<i>General subject of the matter to be considered.</i>	<i>Reason for passing this resolution in relation to each matter.</i>	<i>Ground under section 48(1) for the passing of this resolution.</i>
<i>Avalon Park Proposal and Mitchell Park Revocation Proposal deliberations</i>	<i>The matter of these proceedings is subject to appeal (s48(1)(d)).</i>	<i>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exist.</i>

This resolution is made in reliance on section 48(1) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or 7 of that Act which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as specified above.”

The meeting adjourned at 8.30pm.

The Policy and Regulatory Subcommittee reconvened in public business on **Wednesday 14 October 2015 at 4.00pm** in the Wainuiomata Chambers, Wainuiomata Library, Queen Street, Wainuiomata, Lower Hutt.

PRESENT: Cr MJ Cousins (Chair) Cr L Bridson
Cr C Milne

APOLOGY: Cr M Willard

IN ATTENDANCE: Mr B Hodgins, Divisional Manager, Parks and Gardens
Ms K Glanville, Senior Committee Advisor

PUBLIC BUSINESS

APOLOGIES

RESOLVED: **Minute No. PRSub 15403**

"That the apology received from Cr Willard, be accepted and leave of absence be granted."

3. **AVALON PARK PROPOSAL** (15/1071)

Avalon Park Proposal (15/1071)

Following consideration of the objections and the advice of officers, members believed that the officer's report, in particular recommendation (iii)(a), (b) and (c), provided compelling evidence for members to support the proposal.

<u>RECOMMENDED:</u>	Minute No. PRSub 15404
<i>"That the Subcommittee recommends that Council:</i>	
(i)	<i>considers the matters raised by the three objectors/submitters to the proposal;</i>
(ii)	<i>notes that Council is required to determine whether objections to the reserve revocation will be allowed /accepted or disallowed/not accepted, in part or in whole, and the reasons for Council's decision;</i>
(iii)	<i>agrees that the objections be not accepted for the following reasons;</i>
(a)	<i>that the land is not required for future recreational purposes, noting that the balance of the park comprises some 12 hectares of developed reserve which is sufficient to meet long term future demand, particularly for local use ;</i>
(b)	<i>that the concerns expressed by the Avalon Tennis Club, as the party most affected by the proposal, are able to be resolved through a resource consent and "no complaints covenant" and that the Club has indicated if these issues can be appropriately mitigated (along with agreement on the other matters which it has put forward), it will withdraw the objection; and</i>
(c)	<i>that the revocation and disposal of the land will benefit ratepayers by reducing the level of borrowing required to undertake the upgrade of Avalon Park;</i>
(iv)	<i>agrees that, subject to the Department of Conservation ratifying the revocation, followed by a plan change and subdivision being undertaken, the land that was formerly recreation reserve as shown in yellow on the plan attached as Appendix 5, be declared surplus and be made available for sale;</i>
(v)	<i>agrees that the land managed as reserve and described as Lot 1 DP 49170 as shown in pink on the plan attached as Appendix 5, be declared surplus to parks requirements subject to a plan change and subdivision being undertaken, and made available for sale;</i>
(vi)	<i>notes that the proceeds of sale of all of this land will be credited to the Council's Reserves Purchase and Development Fund and would thereby be available to offset part of the cost of the \$5M upgrade of Avalon Park, including development of six car parks in front of the public tennis court;</i>
(vii)	<i>agrees to consider, following public notification as required by the Reserves Act 1977, a new long term lease with the Avalon Tennis Club for the land it occupies, being Lot 2 DP 49170;</i>
(viii)	<i>agrees to publicly notify as required by the Reserves Act 1977, an intent to</i>

declare and classify as recreation reserve the property at Lot 2 DP 49170; and

(ix) *agrees, subject to approval from the Minister of Conservation, that 150 metres of the internal park road from its junction with Taita Drive be declared legal road under section 114 of the Public Works Act 1981."*

4. **MITCHELL PARK REVOCATION PROPOSAL** (15/1087)

Mitchell Park Revocation Proposal (15/1087)

Following consideration of the objections and the advice of officers, members believed that the officer's report, in particular recommendation (iv)(a), (b) and (c), provided compelling evidence for members to support the proposal.

<u>RECOMMENDED:</u>	Minute No. PSub 15405
<i>"That the Subcommittee recommends that Council:</i>	
(i) <i>agrees to maintain public access from Witako Street to the District Health Board site for pedestrians;</i>	
(ii) <i>considers the matters raised by the objectors to the proposal;</i>	
(iii) <i>notes that Council is required to determine whether objections to the proposed reserve revocation will be allowed/accepted or disallowed/not accepted, in part or in whole, and the reasons for Council's decision;</i>	
(iv) <i>agrees that the objections be not accepted for the following reasons:</i>	
(a) <i>that the land is not required for a specific identified recreational purpose once bowling vacates the site;</i>	
(b) <i>that the revocation and disposal of the land will benefit the City by enabling hospital services to be expanded to meet future community health needs; and</i>	
(c) <i>that there is overall community benefit in being able to reinvest the capital from the sale of the land into upgrading Walter Mildenhall Park;</i>	
(v) <i>agrees that, subject to the Department of Conservation ratifying the revocation and Council achieving a successful plan change, the land be declared surplus and made available for sale;</i>	
(vi) <i>notes that the proceeds of sale of the land will be credited to the Council's Reserves Purchase and Development Fund for future reserve development; and</i>	
(vii) <i>agrees that if the land, once surplus to Council's use, is not required for health purposes that Council reconsiders the use of the land."</i>	

The meeting closed at 4.25pm.

Cr MJ Cousins
CHAIR

CONFIRMED as a true and correct record
Dated this 15th day of December 2015