

12. PROPOSED REMIT TO LOCAL GOVERNMENT NEW ZEALAND CONFERENCE 2003

Officer responsible Director of Policy	Author Allan Watson, DDI 941-8303
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The purpose of this report is to seek Council support for submission of a remit through Zone 5 seeking the expedition of a review of the Reserves Act 1977.

Following the deliberations of the Reserves Hearing Panel in March this year, the Parks and Waterways Policy and Leasing Administrator, Mr John Allen, was requested to prepare a report supporting a remit to the Local Government New Zealand Conference that sought expedition of the review of the Reserves Act 1977. Mr Allen reported as follows:

"I have set out below a possible remit to go forward to the Annual Conference of the Local Government Association as you requested.

"That the Local Government Association make representation to Central Government to have the Reserves Act 1977 reviewed to ensure (a) that duplication between the Resource Management Act 1991, the Local Government Act 2002 and the Reserves Act is minimised (b) that the inconsistencies within the present act are resolved, and (c) that the legislation is appropriate for present day circumstances."

In support of this remit we cite the following situation which occurred recently and highlight some other examples that call for changes or clarification.

The Christchurch City Council approved an application to lease approximately 2400 square metres of Heathcote Domain, a classified recreation reserve in the south west of the city to enable the Canterbury Society of Model and Experimental Engineers to establish a model railway track, and associated infrastructure upon the Domain. The Council's intention was publicly advertised as required by Section 54(2) of the Reserves Act 1977, (Act) from which one submission in opposition to the proposal was received. The submitter objected to the proposal on the grounds that the water from the roofs of the associated infrastructure (152 square metres approximately) would add to flooding problems being experienced in the downstream Henderson's Basin Catchment which is located in the headwaters of the Heathcote River, the main river flowing through the south of Christchurch.

This is an effect of development that should clearly be considered in accordance with the City Plan and the requirements of the Resource Management Act 1991. The Environmental Planning staff who administer the City Plan, deemed however that the proposal would not affect adjacent residents and the application was treated as a non-notified application. No opportunity was available therefore to hear and consider the submitters' concerns under the Resource Management Act 1991. Because there are minimal links between the Act, and the Resource Management Act 1991, (no exclusions in this case in the Act), the submission was required to be heard by a Reserves Hearing Panel and considered in accordance with the values as set out in Section 17 of the Act. This is considered an unsatisfactory situation.

Another example concerns Section 48A of the Act which is the appropriate section to use to license parts of reserves to enable third parties to establish communications stations on reserves. In 1996 a further subsection was added which in effect precluded the operation of this section unless the land was vested from the Crown (Section 26 of the Act). Most of the reserves recently acquired by the Council have been as a result of subdivision and therefore this section of the Act is not applicable. Generally the industry considers this to be a result of bad drafting of new legislation and unnecessarily restricting the ordered development of the city to meet the aspirations of its citizens.

Section 41(13) of the Act allows, where the reserve is vested in the local authority, or where the local authority is appointed to manage and control the reserve, for a management plan to be developed without the necessity for that management plan to be approved by the Minister of Conservation. Section 41(15) of the Act, however, allows the Minister, should he/she so choose to refuse to grant consent or approval for an action to proceed where the Minister's approval or consent is required, unless the management plan for the reserve is submitted and approved by the Minister, even if this is not required under Section 13 of the Act. This clause is seen by some in the industry as being inconsistent with the authority being delegated to local authorities and recognised elsewhere in the Act.

There has been amending legislation prepared and waiting since 1999 to be brought into the House to amend the Act. It is understood that the present Minister of Conservation now intends to bring this legislation into the House. These amendments will address some of the problems alluded to above. However with the enactment of the Local Government Act 2002 it is suspected that the amendments will not address some of the duplication and other issues that will probably exist between these two acts. It is therefore recommended that the Local Authority Association proceed with requesting a review of the Act as proposed above."

It should be noted that because of time constraints the Council has delegated to the Strategy and Finance Committee, on a one off basis, the power to approve the submission of this remit.

Staff

Recommendation: That the following be submitted to Zone 5 for consideration for inclusion as a remit to the Local Government New Zealand Conference, 2003:

"That the Local Government Association make representation to the Government of New Zealand to have the Reserves Act 1977 reviewed to ensure (a) that duplication between the Resource Management Act 1991, the Local Government Act 2002 and the Reserves Act is minimised (b) that the inconsistencies within the present act are resolved, and (c) that the legislation is appropriate for present day circumstances."

Chair's

Recommendation: That the above recommendation be adopted.