

2. REVIEW OF PUBLIC WORKS ACT

Officer responsible Legal Services Manager	Author Karilyn Shutt, DDI 371-1577
Corporate Plan Output: Public Accountability – Decision-making	

The purpose of this report is to submit for approval the Council's submission on Land Information New Zealand's "Review of the Public Works Act – Issues and Options – Public Discussion Paper, December 2000".

The Council's draft submission was considered by the Legislation Subcommittee on 20 April 2001. The Council has delegated authority to the Subcommittee to approve submissions on proposed legislation where time does not permit the Council to approve such submissions. However, as submissions do not close until 30 May it is not necessary for the delegation to be exercised on this occasion. A copy of this submission has been separately circulated to Councillors.

The Land Information New Zealand discussion paper considers whether a review of the Public Works Act 1981 is necessary and, if so, the matters which need to be amended. In particular, the discussion paper considers:

- The definition of public work and who can use the Act;
- The present acquisition and compensation provisions;
- The provisions concerning the disposal of Public Works Act land; and
- Other matters including reference to Treaty of Waitangi provisions, roading provisions and compliance issues.

In essence, the Council has submitted that the key problem with the Public Works Act 1981 lies in its offer back provisions. The Council has submitted that there needs to be urgent reform of those offer back provisions, and this should be done on an interim basis pending the outcome of the full review.

In regard to the full review, the Council has submitted that:

1. The present definition of public work is appropriate, as is the present process for determining who has access to the 1981 Act.
2. The acquisition and compensation provisions are reasonably sound. There are only minor amendments required in this area.
3. The Public Works Act's offer back provisions are unduly onerous to disposing entities (such as the Council). These provisions need to be clarified and the obligations on disposing entities need to be reduced.
4. The Crown should not be absolved from fulfilling reasonable duties as landowner or from fully interacting with local authorities in terms of statutory requirements for managing its land (such as through the Resource Management Act 1991, the Building Act 1991 or the Local Government Act 1974).
5. There is very little land within the Council's boundaries which is classified as Maori land under Te Ture Whenua Maori Act 1993. The Council has therefore not commented in any detail on Maori land issues.
6. The review of the 1981 Act should be consistent with other reviews presently being undertaken, particularly the review of the Local Government Act 1974.

Recommendation: That the submission be approved.