

# Notice of Motion - 16 October 2018 Devonport-Takapuna Local Board Business Meeting

G Gillon 1 October 2018

## Reserves and Parks

Panuku have also been placing some of our neighbourhood parks under threat of sale. This is clearly a lapse of procedure in this process.<sup>1</sup> Any proposal for disposal must be consulted upon whether the park has been gazetted under the Reserves Act or not. There are clear case law definitions on how consultation must take place. The Office of the Controller and Auditor General states that *“The requirement to act fairly is most relevant to consultation, and this requirement is given particular emphasis. Local authorities must follow proper processes to ensure that those individuals or groups affected by their decisions are given natural justice (or predetermination).”*<sup>2</sup>

However, the Governing Body in 2017 also approved the Local Boards delegated the final decisions on local parks being designated a reserve.<sup>3</sup> Many of the neighbourhood parks that have been identified as ‘surplus’ have not been gazetted as reserves despite the fact the community treat the spaces as parks. I ask that the Board gazette these open space areas so as to better protect them for the community. This would be under the reserves Act 1977, Section 14.<sup>4</sup>

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<sup>1</sup> Subpart 3—Restrictions on disposal of parks, reserves, and endowment properties

### *Parks and reserves*

138 Restriction on disposal of parks (by sale or otherwise)

(1) A local authority proposing to sell or otherwise dispose of a park or part of a park must consult on the proposal before it sells or disposes of, or agrees to sell or dispose of, the park or part of the park.

(2) In this section,—dispose of, in relation to a park, includes the granting of a lease for more than 6 months that has the effect of excluding or substantially interfering with the public’s access to the park  
park—

(a) means land acquired or used principally for community, recreational, environmental, cultural, or spiritual purposes; but

(b) does not include land that is held as a reserve, or part of a reserve, under the reserves Act 1977.

<sup>2</sup> Office of the Controller and Auditor-General, (1998) *Report by the Office of the Controller and Auditor-General on Public Consultation and Decision-making in Local Government*, Wellington: Office of the Controller and Auditor-General p.8.

<sup>3</sup> [http://infocouncil.aucklandcouncil.govt.nz/Open/2017/09/GB\\_20170928\\_MIN\\_7818.htm](http://infocouncil.aucklandcouncil.govt.nz/Open/2017/09/GB_20170928_MIN_7818.htm) Resolution number GB/2017/119

g) approve the delegation of the following Reserves Act 1977 decision-making functions relating to local reserves from the governing body to local boards:

i) the decision to declare a reserve under section 14(1)

ii) the decision to classify a reserve under section 16(1), which has been delegated by the Minister of Conservation to Auckland Council

iii) the decision to classify a reserve under section 16(2A)

iv) the decision to reclassify a reserve under section 24(1)

v) the decision to propose to the Minister of Conservation that the status of a council-owned reserve should be revoked under section 24(1), but only where the reason for the request to revoke is because the local board wishes to manage the land under the Local Government Act 2002

<sup>4</sup> <http://www.legislation.govt.nz/act/public/1977/0066/latest/DLM444482.html>

## Resolution

That the Devonport Takapuna Local Board:

- a) declare as a matter of policy, that it does not support the disposal of park land (or part thereof) within the Devonport Takapuna Local Board area, whether it is gazetted reserve land, or land currently used as (or access to) park land.
- b) append this policy (as stated in clause a) to the Devonport Takapuna Open Space Network Plan and Devonport Takapuna Open Space Management Plan documents once completed.
- c) support in principle the declaration of parcels of land currently being treated by the community as parks / open space as 'local purpose reserve' under the Reserves Act 1977.
- d) request advice from relevant council staff regarding the classification of land generally as 'local purpose reserve' under the Reserves Act 1977, particularly:
  - i) advice as to the costs and the availability of local board budgets to pursue classification under the Reserves Act 1977, noting that local boards now have allocated decision-making to undertake the classification of reserves as provided for by resolution number GB/2017/117; and
  - ii) advice as to the process, timelines and implications of classifying parcels of land currently in use by the community as parks and open space as 'local purpose reserves' under the Reserves Act 1977.
- e) confirms previous resolution (Resolution number DT/2018/118) that the Devonport/Takapuna Local Board considers any proposed sale/disposal proposal involving reserve, park, open space, service and non-service assets in the local board area, to require a full public consultation process.
- f) request that this resolution is forwarded to all Governing Body members, Auckland Council CEO, Independent Māori Statutory Board members, Auckland Transport Board of Director's and Panuku Development Auckland's Board of Directors.

Signed



Grant Gillon

Mover

Signed



Mike Cohen

Seconder