

DOC proposal to revoke Reserves Act delegations

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Purpose

- To brief elected members on DOC proposal to revoke most Ministerial delegations to local authorities under the Reserves Act
 - In order to obtain feedback for 26 April deadline, pending confirmation from DOC of an extension to 17 May
 - Draft submission circulated 15 April
 - Feedback required from you by 18 April

The DOC proposal

- Letter to all local authorities proposing to revoke 44 of the 50 Reserves Act delegated Ministerial powers and seeking comment
 - Reasoning less than clear
 - Letter refers to comments on the delegations made by Court of Appeal in its July 2018 decision *Opua Coastal Preservation Inc v Far North District Council*, recently appealed to the Supreme Court
 - DOC view on lawfulness inferred from *Opua*
 - Different reasoning in table, eg re management planning; desire to retain control of decisions on “important” types of reserves

Context

- Reserves Act s 10 provides for delegation of Ministerial powers to local authorities
- Current delegations to local authorities since 2013
 - To better enable local authorities to make decisions affecting reserves: “conservation with communities”
- Delegations primarily exercised by Governing Body, sub-delegated to staff
- Many reserve decisions require both administering body (ie local board) decision and Ministerial decision
- Approx 80% reserves owned by Auckland Council
- Approx 20% Crown reserves administered by council

Key decisions proposed to be revoked:

- Classification (eg recreation, scenic, historic, local purpose)
- Reclassification
- Exchanges
- Management plans
- Easements
- Leases and licences
- Concessions for Crown-owned reserves administered by council
- Vegetation/flora and fauna decisions

Implications

- Impact on local governance of local reserves
 - Reserve decisions currently made within the Auckland Council dual governance structure would need to be approved by DOC officers in Hamilton or Wellington
 - Cuts across intent of better enabling local authorities to make decisions affecting local reserves
 - Implications for local park management planning (omnibus plan) process underway

Implications contd.

- Treaty breach re settlement commitments
 - Eg Tūpuna Maunga Authority
- Delay
 - Based on evidence of current timing of DOC (eg 1 year not unusual)
 - Based on volume of decisions
- Cost
 - DOC cost-recovers (based on recent examples could be \$2000-\$3000 per decision)

Next steps

- Draft submission circulated 15 April for elected member feedback by 18 April
- Feedback incorporated into Auckland Council submission to DOC for 26 April deadline
- Retrospective approval by Environment and Community Committee 14 May
- Participation in LGNZ-led submission
- Consideration of options, should the proposal to revoke the delegations proceed