

Wellington City Council (Te Aro Reclamation) Amendment Bill

Local Bill

As reported from the Local Government and Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Wellington City Council (Te Aro Reclamation) Amendment Bill and unanimously recommends that it be passed with the amendment shown.

Introduction

This is a local bill that applies only to the Wellington City Council. The Council owns certain parcels of reclaimed land on the Wellington foreshore pursuant to the Te Aro Reclamation Act 1879. That Act permits the Council to sell or lease the land provided that any sale or letting is by public auction, after not less than 2 months notice of the auction. The Act also requires that the proceeds of sale are paid into a sinking fund to be used to repay money borrowed to undertake the reclamation.

The Council's other land holdings, which are not subject to the Te Aro Reclamation Act, can be sold or leased without a notified public auction. All money borrowed for the purposes of reclamation under the Act has been repaid.

Purpose

The purpose of the bill is to repeal sections 8 and 9 of the Te Aro Reclamation Act 1879 in order to remove the constraints on the Council when selling or leasing land reclaimed under the Act. Clause 4 of the bill replaces sections 8 and 9 with a power for the Council to freely deal with the land in question.

Council's power to deal with the land is subject to the Local Government Act 2002

We recommend amending clause 4 to ensure that the Council's power to deal with the affected land is exercised in accordance with the provisions of the Local Government Act 2002, and any other relevant legislation. Some submitters are concerned that the wording of clause 4, as introduced, allows the Council to deal with the land despite any other enactment. They consider this removes the Council's obligation to follow the decision-making requirements of the Local Government Act 2002. We agree that clause 4, as introduced, is unnecessarily broad in the discretion it gives to the Council. We consider the proposed amendment will maintain the intent of the bill by removing the specific constraints on the Council, while ensuring that any sale or lease of the land is undertaken in accordance with the relevant provisions of the Local Government Act 2002, and any other relevant legislation.

Land does not hold reserve status

We note that the land in question does not hold reserve status under the Reserves Act 1977. The explanatory note attached to the bill, as introduced, states that the bill will allow the Council to deal with the land without being constrained by enactments such as the Reserves Act 1977. The Department of Conservation has advised that this reference is misleading as the 1879 Act effectively removed any reserve status that may have applied to the land. It is not possible to amend the explanatory note. However, we wish to clarify here that the Reserves Act does not currently restrain the sale or leasing of the land.

Treaty of Waitangi considerations

In order to determine if there are any Treaty of Waitangi issues associated with the affected land, the departmental advisers to the

committee consulted with Te Puni Kōkiri, the Department of Conservation and the Historic Places Trust. These agencies were not aware of any wāhi tapu or sites of significance registered within the land in question.

The advisers also consulted the Office of Treaty Settlements regarding what impact, if any, the bill may have on the settlement process for Wellington claims following the publication of the Waitangi Tribunal's report *Te Whanganui A Tara Me Ona Takiwa*. They advised that the land concerned is Council owned and is therefore not available for use in the settlement of historical claims. They also advised that the Crown believes it has sufficient land available in the Wellington area to form an offer to settle Wellington claims.

Appendix

Committee process

The Wellington City Council (Te Aro Reclamation) Amendment Bill was referred to the committee on 14 May 2003. We received and considered six submissions on the bill. Four of these were heard orally. We received advice from the Department of Internal Affairs. The Parliamentary Counsel Office drafted the amendment recommended by the committee.

Committee membership

Jeanette Fitzsimons (Chairperson)

David Parker (Deputy Chairperson)

Larry Baldock

Dr Ashraf Choudhary

Sandra Goudie

Ann Hartley

Dave Hereora

Nanaia Mahuta

Jim Peters

Hon Ken Shirley

Hon Clem Simich

Hon Dr Nick Smith

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

█ Subject to this Act, █	Text struck out unanimously
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New (unanimous)

▭ Subject to this Act, ▭	Text inserted unanimously
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<i>{Subject to this Act,}</i>	Words struck out unanimously
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<u>Subject to this Act,</u>	Words inserted unanimously
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Hon Marian Hobbs

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Contents

1	Title	4	New section 8 substituted
2	Commencement	8	Council has power to deal with reclaimed land
3	Name of principal Act changed		

The Parliament of New Zealand enacts as follows:

1 Title

(1) This Act is the Wellington City Council (Te Aro Reclamation) Amendment Act **2003**.

(2) In this Act, the Act that was previously called the Te Aro Reclamation Act 1879¹ is called the principal Act.

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¹ 1879 No 6 (P)

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Name of principal Act changed

(1) After the commencement of this Act, the principal Act is called the Wellington City Council (Te Aro Reclamation) Act 1879.

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(2) The Short Title of the principal Act is consequentially amended by omitting the words “Te Aro Reclamation”, and substituting the words “Wellington City Council (Te Aro Reclamation)”.

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(3) Every reference in any enactment or in any document to the Te Aro Reclamation Act 1879 is consequentially amended by omitting the words “Te Aro Reclamation”, and substituting the words “Wellington City Council (Te Aro Reclamation)”.

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4 New section 8 substituted

The principal Act is amended by repealing sections 8 and 9, and substituting the following section:

“8 **Council (*may sell or lease*) has power to deal with reclaimed land**

Struck out (unanimous)

- “(1) Despite anything to the contrary in any other enactment or rule of law, the Council may—
- “(a) sell all or any part of any reclaimed land for the price, and on any terms, that it thinks fit; or
- “(b) lease all or any part of any reclaimed land for the term, rent, and on any terms, that it thinks fit.

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New (unanimous)

- “(1) The Council has the power to deal with any reclaimed land or any part of it, for example, by selling or leasing it.
- “(1A) The power referred to in **subsection (1)** must be exercised under, and in accordance with, section 12 of the Local Government Act 2002.

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- “(2) For the purposes of **subsection (1), reclaimed land** means any land that is reclaimed under this Act.”

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Legislative history

29 April 2003
14 May 2003

Introduction (Bill 43-1)
First reading and referral to the Local Government
and Environment Committee