

SUBMISSION OF LORIS KING (2076)

1 Introduction.

- 1.1 I have lived in Wanaka for 60 years. I have taken a particular interest in resource management issues, particularly as they relate to public land and reserves.
- 1.2 I am a founding member of Friends of Pembroke Park and have regularly made submissions in relation to management plan and resource management matters.
- 1.3 I have the following concerns about the proposed plan change:
- 1.3.1 It ignores the significance of the Reserves Act and the importance of management plans. Indeed, there is a tendency for council to pay lip service (if any service at all) to the obligation to have management plans for reserves.
 - 1.3.2 It purports to move the management of reserves into the RMA arena when, clearly, any reserve must be managed in accordance with the Reserves Act.
 - 1.3.3 It adds unnecessary complexity to the management of the reserves and the ability of members of the public to participate in the process. Although the Reserves Act clearly contemplates that the RMA will have some application, any district plan provisions should follow the structure (including terminology) of the Reserves Act to enable people to find their way around and, more importantly, to avoid any conflict and confusion arising out of the use of different terminology.

2 Simplification of the process.

- 2.1 It has become increasingly difficult for people such as me to participate in processes such as this.
- 2.2 The initial document produced for Chapter 38 Open Space and Recreation for this round of hearings is over 1000 pages with all areas of the council included in just the one document. I have found it very difficult to find my way around the document.
- 2.3 Not everybody is adept with online documentation. I have found the sheer bulk of documentation online, the different classifications, zones and sub-zones as well as the interrelation between the RMA and the Reserves Act confusing. I also question whether this whole process is necessary and simply over complicates the administration of reserves and creates further potential for conflict.

3 Perceived purpose.

- 3.1 The opening statement on the fact sheet is:

The new zones will apply to parks and reserves and other such as community halls, civic spaces, golf courses and cemeteries that are Council owned or managed.

- 3.2 The fact sheet records:

Currently, these areas are managed using designations and the underlying zoning (usually the Rural or Low-Density Residential Zone). The designation process works well for large scale projects but not for smaller projects such as new parks furniture, toilet blocks or general maintenance.

The designation process is also not available to external parties or commercial operators wishing to locate their activities in parks and reserves, meaning they are usually required to get resource consent based on the underlying zoning rules.

3.3 The proposal is to introduce

“a better way to manage the parks and reserves and activities that are expected to locate within them.”

4 Reserves Act 1977.

4.1 It is my submission that the dominant document for the management of reserve land is the Reserves Act Reserves Act 1977.

4.2 Section 3 of the Reserves Act specifically states that the Act shall be administered **for the purpose** of providing, for the preservation and management for the benefit and enjoyment of the public, areas of New Zealand possessing –:

4.2.1 recreational use or potential, whether active or passive; or

4.2.2 wildlife; or

4.2.3 indigenous flora or fauna; or

4.2.4 environmental and landscape amenity or interest; or

4.2.5 natural, scenic, historic, cultural, archaeological, biological, geological, scientific, educational, community, or other special features or value.

4.3 The Reserves Act defines the various reserve categories and requires that reserve land be classified

To ensure the control management development use maintenance and preservation of reserves for their appropriate purposes...¹.

4.4 Section 17 specifically states that having regard to the general purpose of recreation reserves, every recreation reserve shall be so administered under the appropriate provisions of the Reserves Act. Similar provisions appear for other reserves.

4.5 Although most of the reserve land is “owned” by the council, it is owned in trust for the specific purposes set out in the Reserves Act.

4.6 Council is required by law to have a management plan for any reserve under its “control, management, or administration”.²

4.7 the management plan shall:

¹ Section 16 (1).

² Section 41.

... Provide for and ensure the use, enjoyment, maintenance, protection, and preservation, as the case may require, and, to the extent that the administering body's resources permit, the development, as appropriate, of the reserve for the purposes for which it is classified...³

- 4.8 The management plan must also incorporate and ensure compliance with the various principles set out in the act as they relate to the individual classifications.
- 4.9 Section 53 (Recreation Reserves) confers comprehensive powers on the administering body in the exercise of its function. I am attaching a copy of section 53 and section 54.
- 4.10 I find the references to the different zones and other appellations to be confusing particularly when the Reserves Act clearly provide statutory classifications and the activities that may be permitted within each classification.
- 4.11 Proposed Paragraph 38.8.2.9 says:
- Notwithstanding the following rules, the Reserves Act 1977 applies to land vested under section 14 of the Reserves Act 1977. Reserves and land controlled by Council or the Department of Conservation may be subject to further controls under the Reserves Act 1977 or through Reserve Management Plans. Discussion should be held with these agencies as to the existence and nature of these controls.*
- 4.12 All reserves to which the Reserves Act 1977 apply, and I expect this would be most of all reserves within the district, exist because of the provisions of the Reserves Act 1977 and must be managed and administered under that Act.
- 4.13 It is mandatory to have management plans. The whole purpose of the management plan is to provide for how council will control, manage and administer the reserve.
- 4.14 Paragraph 38.8.2.9 refers to the Act as a bit of an afterthought whereas in fact it is, effectively, the founding document for the reserve.
- 4.15 It is wrong to shift the management of reserves to the District Plan particularly given the statutory mandate that reserves are to be managed under the Reserves Act.

5 Management plans.

- 5.1 I believe that the council is downsizing the importance of management plans.
- 5.2 The November 2003 management plan for Lismore Park was a significant booklet with specific objectives and identifiable outcomes.
- 5.3 Council's vision for Lismore Park is now encapsulated in an eleven-page (three of which are photographs) pamphlet entitled "Proposed Reserve Management Plan for the Recreation Reserves Known As: Lismore Park; Kelly's Flat; Allenby Park; Faulks Terrace, Domini Park & Kennedy Crescent.


6 Conclusion

- 6.1 It is inappropriate to talk about "managing" reserves through the Resource Management Act.

³ Section 41 (3)

- 6.2 There is a statute (Reserves Act 1977) which is especially designed to cover reserves, including their control, management and administration. The Reserves Act should be the primary document and should not be mentioned in the district plan as an afterthought.
- 6.3 Whether buildings are permissible should be viewed in the context of the nature of the reserve and the purpose of the building rather than having regard to generalised zoning.
- 6.4 The environmental effects of the building must be considered particularly in the case of sensitive reserves, but the council must make it clear that buildings are not "permitted" as of right.

53 Powers (other than leasing) in respect of recreation reserves

Legislation: Reserves Act 1977 (New Zealand)  | [View all PDF versions](#)

LEGISLATION

CURRENT VERSION (APPLIES FROM 1 OCTOBER 1991)

53 Powers (other than leasing) in respect of recreation reserves


- (1) The administering body of a recreation reserve may from time to time, in the exercise of its functions under section 40 of this Act and to the extent necessary to give effect to the principles set out in section 17 of this Act,—
- (a) Enclose the reserve, or any part thereof, which it may at any time decide is necessary or desirable—
- (i) To lay down or renew in grass or to plant or improve; or
- (ii) To farm or graze or afforest as a part of a development, improvement, or management programme,
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- and may lay down or renew in grass, or plant or improve, or, as the case may be, farm or graze or afforest, the reserve or that part: Provided that the administering body shall not afforest the reserve or any part thereof except in accordance with section 75 of this Act:
- (b) Prohibit from time to time the public from entering or encroaching on any part of the reserve so laid down, renewed in grass, planted, improved, grazed, farmed, or afforested:
- (c) Prescribe the games, sports, or other activities for public recreation or enjoyment which may take place in the reserve or in any specified part thereof, and regulate the use of the reserve for those games, sports, and other activities, and prohibit altogether the playing of any particular game, sport, or other activity therein:
- (d) Prescribe, as to not more than 40 days in any year as it thinks fit, that the public shall not be entitled to have admission to the reserve or to any part or parts thereof set apart for a particular purpose or purposes unless on payment of a charge or charges as hereinafter mentioned: Provided that with the prior consent of the Minister the number of days that the public shall not be entitled to have admission as aforesaid may be increased: Provided also that this paragraph shall not apply to any part of the reserve to which paragraph (h) of this subsection applies or to any lease granted under the authority of section 54(1)(a) of this Act or a lease or licence granted under the authority of section 54(1)(d) of this Act:
- (e) Grant the exclusive use of the reserve or any part thereof on any one or more of the days provided for in paragraph (d) of this subsection, but not for more than 6 days consecutively at any time, to any person, body, voluntary organisation, or society (whether incorporated or not) for the purpose of particular games, sports, or other activities or for public recreation or enjoyment, with authority for that person, body, organisation, or society to demand a fee or charge for admission on that day or those days to the reserve or part thereof so granted and also to any stand or enclosure, not exceeding the amount or amounts from time to time specified by the Minister: Provided that the Minister may from time to time approve with respect to any specified reserve the fixing of such other charges as he thinks fit, either generally or with respect to specified occasions: Provided also that the Minister may consent to an increase in the number of consecutive days specified in this paragraph for the purposes of any specified occasion or event:
- (f) Enter into an agreement with any such person, body, society, or voluntary organisation for the use by him or it of the reserve or any specified part thereof on a specified number of days in each year during the term of the agreement, which (save as otherwise authorised by the Minister in any particular case) shall not be for a longer period than 10 years at any one time, subject to—
- (i) The limitations imposed by paragraphs (d) and (e) of this subsection; and
- (ii) No buildings being permitted under the terms of the agreement other than buildings of a temporary nature required during the period of use in any particular year:
- (g) Erect on some portion of the reserve stands, pavilions, gymnasiums, or other buildings and structures associated with and necessary for the use of the reserve for outdoor recreation, and (subject to paragraphs (d) and (e) of this subsection as to the number of days on which a charge may be made for admission to any such building or structure) may fix reasonable charges for the use of and generally regulate the use and custody of and admission to any such buildings or structures: Provided that where the Minister considers it to be in the public interest, the administering body may, with the prior consent of the Minister, erect buildings and structures for public recreation and enjoyment not directly associated with outdoor recreation:
- (h) At any time and from time to time set apart any part or parts of the reserve—
- (i) For gardens, open spaces, footpaths, driveways, or picnic grounds, or for the provision of any other like facilities for public recreation or enjoyment or for facilities and amenities necessary for the public using the reserve; and construct or develop those gardens, open spaces, footpaths, driveways, picnic grounds, or other facilities for public recreation or enjoyment or facilities and amenities necessary for

the public using the reserve; and fix reasonable charges for the use of those picnic grounds, facilities, and amenities:

- (ii) With the prior consent of the Minister, for baths, camping grounds, parking places for vehicles, or mooring places for boats, necessary for the convenience of persons using the reserve, and construct and develop such baths, camping grounds, and parking or mooring places, and fix reasonable charges for the use of such baths, camping grounds, and parking or mooring places:
 - (iii) With the prior consent of the Minister, for compounds for animals for display to persons using the reserve, and construct and develop such compounds, and fix reasonable charges for viewing the animals therein:
- (i) Make, stop, divert, widen, or alter any bridges, ways, or watercourses in, upon, through, across, or over any part of the reserve, subject to the payment of compensation for damage thereby to adjacent land: [Provided that any such power in relation to watercourses shall be exercised subject to the Resource Management Act 1991:]
 - (j) With the prior consent of the Minister [and subject to the Resource Management Act 1991], and having regard to the need to conserve the natural beauty of any sea, lake, river, or stream bounding the reserve or of any lake, river, or stream within the reserve, do all such things on the reserve as it considers necessary, including the erection of buildings and structures on the reserve, to enable the public to obtain the maximum recreational use and enjoyment of that sea, lake, river, or stream:
 - (k) With the prior consent of the Minister, set apart and use any part of the reserve as sites for residences for officers or servants of the administering body or of rangers or for other buildings considered desirable or necessary for the proper and beneficial management, administration, control, protection, and maintenance of the reserve:
 - (l) Appoint officers and servants, whether paid or unpaid:
 - (m) With the prior consent of the Minister, erect or authorise the erection of huts for the use of officers of any department of State or other persons engaged under lawful authority in the destruction or eradication of introduced flora and fauna:
 - (n) Subject to any lease or licence granted pursuant to section 54(1)(d) of this Act, prohibit or regulate the carrying on of any trade, business, or occupation within the reserve:
 - (o) Do such other things as may be considered desirable or necessary for the proper and beneficial management, administration, and control of the reserve.
- (2) Notwithstanding anything in subsection (1) of this section, but subject to the first proviso to paragraph (d) of that subsection and to the second proviso to paragraph (e) of that subsection, where the administering body is a local authority it shall not be necessary for that administering body to obtain the consent, authority, or approval of the Minister, and it may exercise any power or discretion vested in the Minister by virtue of that subsection: Provided that the administering body shall not afforest the reserve or any part thereof except in accordance with section 75 of this Act.

Compare: 1953 No 69 ss 32, 49; 1964 No 108 s 2(1), (3)

54 Leasing powers in respect of recreation reserves (except farming, grazing, or afforestation leases)

Legislation: Reserves Act 1977 (New Zealand)  | [View all PDF versions](#)

LEGISLATION

CURRENT VERSION (APPLIES FROM 1 AUGUST 2003)

54 Leasing powers in respect of recreation reserves (except farming, grazing, or afforestation leases)

- (1) With the prior consent of the Minister, the administering body, in the case of a recreation reserve that is vested in the administering body, may from time to time, in the exercise of its functions under section 40 of this Act, may from time to time, to the extent necessary to give effect to the principles set out in section 17 of this Act,—
 - (a) Lease to any person, body, voluntary organisation, or society (whether incorporated or not) any area set apart under section 53(1)(h) of this Act for baths, a camping ground, a parking or mooring place, or other facilities for public recreation or enjoyment. The lease—
 - (i) May require the lessee to construct, develop, control, and manage the baths, camping ground, parking or mooring place, or other facilities for public recreation or enjoyment, or may require the lessee to control and manage those provided by the administering body; and
 - (ii)

Shall be subject to the further provisions set out in Schedule 1 to this Act relating to leases of recreation reserves issued pursuant to this paragraph:

- (b) Lease to any voluntary organisation part of the reserve for the erection of stands, pavilions, gymnasiums, and, subject to sections 44 and 45 of this Act, other buildings and structures associated with and necessary for the use of the reserve for outdoor sports, games, or other recreational activities, or lease to any voluntary organisation any such stands, pavilions, gymnasiums, and, subject to section 44 of this Act, other buildings or structures already on the reserve, which lease shall be subject to the further provisions set out in Schedule 1 to this Act relating to leases of recreation reserves issued pursuant to this paragraph: Provided that a lease granted by the administering body may, with the prior consent of the Minister given on the ground that he considers it to be in the public interest, permit the erection of buildings and structures for sports, games, or public recreation not directly associated with outdoor recreation:
- (c) Lease to any voluntary organisation the whole or part of the reserve for the playing of any outdoor sport, games, or other recreational activity where the preparation and maintenance of the area for such sport, games, or other recreational activity requires the voluntary organisation to spend a sum of money that in the opinion of the administering body is substantial. The lease shall be subject to the further provisions set out in Schedule 1 to this Act relating to leases of recreation reserves issued pursuant to this paragraph:
- (d) Grant leases or licences for the carrying on of any trade, business, or occupation on any specified site within the reserve, subject to the provisions set out in Schedule 1 to this Act relating to leases or licences of recreation reserves issued pursuant to this paragraph: Provided that the trade, business, or occupation must be necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve: Provided also that the prior consent of the Minister shall not be required to a lease or licence under this paragraph where the trade, business, or occupation is to be carried on in the reserve only temporarily and the term of the lease or licence does not exceed 6 consecutive days.

[(1A) Notwithstanding subsection (1) of this section, where—

[[a) the administering body of a recreation reserve is a territorial authority or a regional council; and]]

[[b) that reserve is vested in that territorial authority or regional council; and]]

(c) A management plan for that reserve has been approved in accordance with section 41 of this Act; and

(d) The lease or licence is in conformity with and contemplated by that management plan,

the prior consent of the Minister shall not be required before the administering body grants a lease or licence under subsection (1) of this section.]

(2) Before granting any lease or licence under subsection (1) of this section (other than a lease or licence to which the second proviso to paragraph (d) applies), the administering body shall give public notice in accordance with section 119 of this Act specifying the lease or licence proposed to be granted, and shall give full consideration in accordance with section 120 of this Act to all objections and submissions in relation to the proposal received pursuant to the said section 120.

[(2A) Nothing in subsection (2) of this section shall apply in any case where the proposal—

(a) Is in conformity with and contemplated by the approved management plan for the reserve; or

[[b) Is made following the granting of a resource consent under the Resource Management Act 1991 where the application for the resource consent was notified in accordance with [section 93(2)] of that Act.]]]

(3) *Repealed.*

Compare: 1953 No 69 s 27(2) - (9)