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**AUCKLAND CITY COUNCIL (ST HELIERS BAY
RESERVE)**

[LOCAL]

ANALYSIS

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A BILL INTITULED

5 **An Act to validate the occupancy of parts of the reserve,
known as the St Heliers Bay Reserve or Vellenoweth
Green, by certain sporting clubs and their successors
whilst regulating the ability of those clubs to intensify
their use of the reserve in acknowledgement of the fact
that the reserve was transferred to the Council's
predecessor, the West Tamaki Road Board, subject to
special obligations contained in a memorandum of
10 agreement dated 23 September 1904**

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Auckland City Council (St Heliers Bay Reserve) Act 1994.

15 **2. Interpretation**—In this Act, unless the context otherwise requires,—

“Clubs” means the St Heliers Bowling Club (Incorporated), the St Heliers Tennis Club (Incorporated) and the St Heliers Bay Croquet Club (Incorporated);

“Council” means the Auckland City Council;

20 “Reserve” means the land known as the St Heliers Bay Reserve or Vellenoweth Green which is vested in the Council and described in the First Schedule to this Act.

No. 24—1

3. Land deemed to be reserve—Subject to **sections 4 and 6** of this Act, the reserve is hereby vested in the Council as a reserve within the meaning of the Reserves Act 1977 and shall be held as a recreation reserve under section 17 of that Act; and the provisions of that Act shall apply in respect of the reserve in the same manner as if the Council had, pursuant to section 14 of that Act, declared the reserve to be a reserve to be held for recreation purposes. 5

4. Powers in relation to reserve—Subject to **sections 5 and 6** of this Act, the provisions of section 5 (2) (b) of the Reserves Act 1977 shall apply to the reserve. 10

5. Validation of previous occupancies—Any licence or right to occupy or use any part of parts of the reserve granted to or exercised by any of the Clubs before the coming into force of this Act is hereby validated and declared to have been lawfully granted and exercised. 15

6. Occupancy of reserve—Notwithstanding anything in the contrary in this Act—

- (a) The Council shall have the power to grant leases or other rights of occupancy to any of the Clubs over those parts of the Reserve as are identified on SO Plan 66921 as being occupied by those Clubs at the date of coming into force of this Act, but such leases or rights shall be non-transferable: 20
- (b) If any lease or other right of occupancy granted pursuant to **paragraph (a)** of this section is forfeited, surrendered, or otherwise terminated, the Council shall have the power to lease or grant some other right of occupancy of the land to any person or body, so long as any such person or body proposes to limit the use of the land to passive or active recreational use: 25 30
- (c) Except as is provided in **paragraphs (a)** and **(b)** of this section, the Council shall not grant any lease or tenancy in respect of any part of the reserve to any of the Clubs or to any other person: 35
- (d) The Council, in its capacity as owner of the reserve, shall not consent to any proposal by any of the Clubs or any successors to the Clubs for any change, alteration, or expansion in the use by such Clubs or successors of the areas occupied by them which, in the reasonable opinion of the Council, would either— 40

- (i) Result in a material increase in the intensity or scale of that use or a change to its character; or
- (ii) Not be in pursuance of or ancillary to the activities of the Clubs or their successors as stipulated in the lease or other right of occupancy:
- 5 (e) It shall be a condition of any lease or other right of occupancy granted by the Council under this section that—
- (i) The lessee shall not grant any sub-lease or licence in respect of the premises to any other person; and
- 10 (ii) The premises shall at all times be used only for purposes related to, or ancillary to, the principal sporting activity of the Club concerned or any successor:
- 15 Provided that nothing in this paragraph shall prevent any Club or its successor making its premises available for the lawful activities of any community-based group or member of the Club or its successor in the same manner as has occurred prior to the commencement of this Act:
- 20 (f) Any management plan which is prepared by the Council in relation to the reserve shall reflect and provide for the provisions contained in this section.
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4 *Auckland City Council (St Heliers Bay Reserve)*

Section 2

SCHEDULE

All that piece of land containing 3.3750 hectares, more or less, being part of Allotments 24, 25, and 26 in the District of Tamaki, being part of the land shown on Deposited Plan 3206, and being the land comprised and described in part certificate of title 123/8 (North Auckland Registry).