

[AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL
GOVERNMENT COMMITTEE]

House of Representatives, 30 March 1995.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 21 June 1995.

Words struck out are shown in italics within double bold round brackets, or with double black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Clem Simich

**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**

No. 24—3

predecessor, the West Tamaki Road Board, subject to special obligations contained in a memorandum of agreement dated (23) the 23rd day of 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. 5

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): 10

“Council” means the Auckland City Council:

“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. 15

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 (other than sections 15, 24, 25, 45, 47, 48, 48A, 50, 52, 59A, 71 to 73, and 75) 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. 20 25

Struck Out

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. 30

New

4. Memorandum of agreement to continue to apply—Subject to sections 3, 5, and 6 of this Act, the said memorandum of agreement dated the 23rd day of September 1904 shall continue to apply to the reserve, and to all other land subject to that memorandum. 35

5 **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.

6. Occupancy of reserve—Notwithstanding anything ~~((in))~~ to the contrary in this Act—

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10 (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:

15 (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:

New

25 (a) The Council may grant leases under section 54 (1) (c) of the Reserves Act 1977 (but not under any other provision of that Act or any other Act) to any of the clubs of those parts of the reserve as are identified on S.O. Plan 66921 as being occupied by the clubs at the date of coming into force of this Act, but any such lease shall not be transferable:

30 *Struck Out*

(b) If any lease granted pursuant to **paragraph (a)** of this section is forfeited, surrendered, or otherwise terminated, the Council may grant a lease of the land concerned under section 54 (1) (c) of the Reserves Act 1977 (but

New

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not under any other provision of that Act or any other Act) to any voluntary organisation, but any such lease shall not be transferable:

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New

(b) If any lease granted pursuant to **paragraph (a)** of this section is forfeited, surrendered, or otherwise terminated, the Council shall have no power to lease or grant any other right of occupancy of the land concerned to any other person or body; and, upon any such forfeiture, surrender, or termination, the Council shall as soon as practicable restore, at its cost, the section of the reserve concerned as recreation grounds (public open space) in accordance with the said memorandum of agreement dated the 23rd day of September 1904:

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(c) Except as is provided in ~~((paragraphs (a) and (b)))~~ **paragraph (a)** 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:

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(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) voluntary organisation))~~ for any change, alteration, or expansion in the use by such clubs ~~((or (successors) organisation))~~ of the areas occupied by them which, in the reasonable opinion of the Council, after public consultation in accordance with the Reserves Act 1977, would either—

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(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))~~

~~organisation)) as stipulated in the lease (or other right of occupancy):~~

(e) It shall be a condition of any lease (or other right of occupancy) granted by the Council under this section that—

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(i) The lessee shall not grant any sub-lease or licence in respect of the premises to any other person; and

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(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:) lessee—

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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:

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New

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but the lessee may make its premises available for the lawful activities of any voluntary organisation (as defined in section 2 (1) of the Reserves Act 1977) so long as those activities do not result in the emission of excessive noise (as defined in section 326 of the Resource Management Act 1991):

(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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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).