



## ANALYSIS

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1995, No. 4—*Local*

**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 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 agreement dated the 23rd day of September 1904** [25 July 1995]

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 1995.

**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;

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

**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.

**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.

**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 to the contrary in this Act—

- (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:
- (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:
- (c) Except as is provided in 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:

- (d) The Council, in its capacity as owner of the reserve, shall not consent to any proposal by any of the clubs for any change, alteration, or expansion in the use by such clubs 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—
- (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 as stipulated in the lease:
- (e) It shall be a condition of any lease 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
  - (ii) The premises shall at all times be used only for purposes related to, or ancillary to, the principal sporting activity of the lessee—  
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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## SCHEDULE

Section 2

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).

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