

AUCKLAND DOMAIN (TEMPORARY CLOSURE FOR APEC) BILL

AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL
GOVERNMENT COMMITTEE

COMMENTARY

Recommendation

The Internal Affairs and Local Government Committee has examined the Auckland Domain (Temporary Closure for APEC) Bill and recommends that it be passed with the amendments shown in the bill.

Conduct of the examination

The Auckland Domain (Temporary Closure for APEC) Bill was referred to the Internal Affairs and Local Government Committee on 20 April 1999. The closing date for submissions was 5 May 1999. We received and considered nine submissions from interested groups and individuals. We heard six submissions orally at a meeting in Auckland on 11 May 1999. Hearing evidence took three hours and 33 minutes, and consideration took one hour and 16 minutes.

We received advice from the Ministry of Foreign Affairs and Trade (in particular the APEC Task Force) and from the Police. In the course of their briefing we visited the Auckland Domain to view the Auckland War Memorial Museum that will serve as the venue for the APEC leaders' retreat.

We applied to the Business Committee for an extension of four days to the date by which we had to report to the House. This extension was granted.

This commentary sets out the details of our consideration of the bill and the major issues we addressed.

Background

In September 1999 Auckland is host to the Asia-Pacific Economic Co-operation (APEC) summit. It is customary for APEC leaders to go into retreat for one day of their summit. Their retreat this year is set down for Monday 13 September, to be

held at the Auckland Domain. They will meet in the War Memorial Museum, and lunch at the Wintergarden pavilion. For security reasons, it is necessary to close the whole Domain to the public for a period of 48 hours before and during this retreat.

This bill enables the Commissioner of Police to close the Domain for that period and only for that purpose.

Committee's consideration

Auckland City's request for reimbursement

Auckland City is very concerned at the cost it may have to bear in hosting the APEC summit. For example, in a year of already intense financial pressure it estimates the cost of road and pavement improvements and general beautification in the Central Business District (CBD) to be almost \$3 million. Auckland City estimates the total cost to local authorities in the Auckland region of hosting the summit to be \$5.215 million. When the bid to host the summit was made the Government agreed that "the cost of hosting APEC meetings will be borne by central government". Auckland City accepted that agreement in good faith.

Manukau City Council estimates its costs to be around \$705,000.

For its part, the Ministry of Foreign Affairs and Trade was surprised at the extent of the costs that Auckland City was claiming. But it expressed a willingness to explore a consensus with Auckland City on the matter.

We are concerned that no formal agreement has been made between Auckland City and central government to establish the scope of the work required and where the cost for that work should fall. While we realise that the issue of reimbursement is beyond the scope of this bill, we strongly encourage all parties to undertake a process of negotiation in good faith, to clarify the costs involved, and to reach agreement well before the summit is held.

The need to use all of the Domain for the leaders' retreat

Free access to the Domain is of paramount importance to the people of Auckland. It is even enshrined in legislation, the Auckland Domain Act 1987. The provisions in the bill override that Act, and some submitters object to the rights of Auckland residents being removed, even temporarily. They suggest that another venue for the leaders' retreat could be found.

The APEC Task Force explained that they had considered other venues, but none was as suitable as the Domain. The retreat venue needs to provide an informal, secluded and quiet environment. It must have a large room for meetings and reception space. It must have another room in close proximity for security and translators. It must also have a lunch venue nearby. Furthermore, it must make a visual statement that is unique to the host country. An inner city hotel cannot meet these criteria, but the Domain—with its greenery, museum and Wintergarden pavilion—meets all these requirements. It is also in close proximity to the leaders' hotels, which allows for less disruption within Auckland than would be caused by a more remote venue.

For these reasons we accept the Domain venue is appropriate and support the bill accordingly.

Some submitters believe that not all of the Domain needs to be closed and that protest could be held in some remote area of it.

We accept the advice provided by the Police that this would create legal uncertainty about the boundary to be closed; that erecting a temporary boundary could damage the Domain; and that the security parameters should fully enclose the areas of bush to allow those securing the area an unobstructed view of people's movements. For security reasons it is paramount that no publicly accessible areas have line-of-sight vision to the locations where the leaders are likely to be. Permitting some parts of the Domain to remain open could pose significant risks in this regard. Nonetheless, we welcome Police assurances that provision will be made for legitimate protest in an area close to the Domain.

Fair and humane treatment of those normally resident in the Domain

There is concern among the homeless community, and those who work with them, that the Police will “criminalise homelessness” with a heavy-handed approach of issuing trespass notices in and around the Domain, and during the period leading up to the summit.

The Police assure us that this will not be the case. Despite reports in *The New Zealand Herald* to the contrary, they inform us that no trespass warnings have been issued and that they will not be targeting the homeless in the Domain before the summit. Moreover, they will be removing people only from the Domain and only during the period of its closure. There will be no “social cleansing” around the Domain. And the trespass notice will be a step of last resort. They inform us they have a good relationship with the homeless community and anticipate full co-operation with them.

We were also told that temporary food and shelter will be available for the homeless. Auckland City estimates the cost of this to be \$30,000, but only if those organisations who work with the poor have to be relocated from the CBD. The Police inform us that such relocation will not be necessary.

We accept these reassurances from the Police and have every confidence that they will secure the Domain in a way that is respectful to all its inhabitants.

Although it is outside the scope of the bill, a number of submitters expressed concern about homeless people in the wider city. We are reassured by the Police that such people will be treated with dignity.

Also, one submitter expressed concern for the wildlife of the Domain. We are told that they will be fed during the Domain's closure.

Emergency vehicles will be allowed free access

Given the proximity of Auckland Hospital to the Domain, some submitters fear that emergency vehicles—ambulances and helicopters—will not be allowed free access to the hospital.

We accept reassurances from the Police that free access for emergency vehicles will be allowed at all times during the Domain's closure.

Traffic and sporting events will not be overly disrupted

The Police make it clear that some disruption to traffic flow and sporting events will be inevitable, and they have asked Auckland residents to modify their activities at the relevant times. So far, the community has responded positively and co-operatively. The Police will attempt to minimise traffic disruption and residents have been asked to avoid certain parts of the city at certain times. Likewise, sporting fixtures in the Domain will not be affected on Saturday 11 September, and, in co-operation with the APEC taskforce, sporting groups are

making other arrangements for Sunday 12 September, when the Domain will be closed.

Committee's recommended amendments

In response to the submissions it has heard, the committee recommends that the following amendments be made to the bill.

The Act is to expire on 21 September

Some submitters query the need for the Act to expire on 31 December 1999 when APEC is over by mid-September. Auckland City is worried that the late expiry may interfere with planned millennium celebrations in the Domain. It suggests that the bill expire at an earlier date.

Advisers explained that the late expiry date simply reflects an earlier phase of planning, when it was not certain when the APEC summit would be held. They have no objection to an earlier expiry date.

We recommend that clause 2 be amended to allow for the expiry of the Act on 21 September 1999.

The time limit is to be 48 hours, with a seven-hour extension if necessary

The bill limits the length of time for which the Domain may be closed to no more than three days. Most submitters feel that this is unnecessarily long. They suggest a closure of only 48 hours, with an extension of seven hours only if necessary.

The Police explained that they intend to close the Domain from 6.00 pm Saturday to 6.00 pm Monday. This is a period of only 48 hours, but it could be said to extend over three days (Saturday, Sunday and Monday). To prevent a legal challenge on these grounds, the bill provides for no more than three days. But the Police can accept a reduced time limit of 48 hours, with the option of a seven-hour extension at the discretion of the Commissioner of Police. They need all of that time to search and secure the entire Domain.

Therefore, we recommend that clause 6(2) be amended to limit the time of closure to 48 hours with, if necessary, the option of a seven-hour extension at the discretion of the Commissioner of Police.

Seven days' notice of closure is to be given

The bill provides for the Commissioner of Police to give at least two days' notice of Domain closure. Most submitters feel that this period of notice is too short. They prefer a period of at least seven days' notice.

We agree with the submitters' suggestion. We recommend that clause 6(3) be amended to provide for at least seven days' notice of Domain closure.

Technical amendment

An amendment to the definition of Auckland Domain to clarify the status of roads within it is necessary.

KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

Struck Out (Unanimous)

Subject to this Act,

Text struck out unanimously

New (Unanimous)

Subject to this Act,

Text inserted unanimously

~~(Subject to this Act,)~~

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Rt Hon Don McKinnon

**AUCKLAND DOMAIN (TEMPORARY CLOSURE
FOR APEC)**

ANALYSIS

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A BILL INTITULED

An Act to provide for the temporary closure of the Auckland Domain for the purposes of the leaders' meeting of Asia-Pacific Economic Co-operation to be held in Auckland in September 1999

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

1. Short Title and commencement—(1) This Act may be cited as the Auckland Domain (Temporary Closure for APEC) Act 1999.

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

2. Expiry—This Act expires on the close of (31 December) 21 September 1999.

PART 1

PRELIMINARY PROVISIONS

3. Interpretation—In this Act, unless the context otherwise requires,—

*Auckland Domain (Temporary Closure
for APEC)*

“APEC” means the Asia-Pacific Economic Co-operation:

“Auckland Domain” means the land described in the First Schedule of the Auckland Domain Act 1987 (*; but does not include any road within the meaning of the Local Government Act 1974 or the Land Transport Act 1998*): 5

“Commissioner” means the Commissioner of Police:

“Public notice” means a notice printed in a newspaper circulating in the Auckland area.

4. Purpose—The purpose of this Act is to enable the closure of the Auckland Domain to facilitate the holding of a leaders’ meeting of APEC to be held in Auckland in September 1999. 10

5. Act to prevail—If there is any inconsistency between this Act and the Auckland Domain Act 1987 or between this Act and any other enactment, agreement, or document, this Act prevails. 15

PART 2

TEMPORARY CLOSURE OF AUCKLAND DOMAIN

Struck Out (Unanimous)

6. Temporary closure of Auckland Domain—(1) The Commissioner may from time to time direct the closure of all or any part of the Auckland Domain on any day or days (including part of any day) in September 1999 if the Commissioner considers that the closure of all or any part of the Auckland Domain is desirable to facilitate the holding of the leaders’ meeting of APEC. 20 25

(2) Despite **subsection (1)**, the Commissioner may not, under that subsection, direct that all or any part of the Auckland Domain be closed for more than 3 days in total.

(3) If the Commissioner directs the closure of all or any part of the Auckland Domain under **subsection (1)**, the Commissioner must ensure that public notice of the period of closure and the part or parts of the Auckland Domain that are to be closed is given at least 2 days before the period of closure commences. 30

(4) A failure to comply with **subsection (3)** does not affect the validity of any direction given under **subsection (1)**. 35

New (Unanimous)

- 6. Temporary closure of Auckland Domain**—(1) The Commissioner may from time to time direct the closure of all or any part of the Auckland Domain on any day or days (including part of any day) in the period commencing on 1 September 1999 and concluding with the close of 21 September 1999 if the Commissioner considers that the closure of all or any part of the Auckland Domain is desirable to facilitate the holding of the leaders' meeting of APEC.
- (2) Despite **subsection (1)**, the Commissioner may not, under that subsection, direct that all or any part of the Auckland Domain be closed for more than 48 hours in total, unless **subsection (3)** applies.
- (3) However, if the Commissioner, having given a direction under **subsection (1)**, considers that the closure of all or any part of the Auckland Domain after the expiry of the maximum period of closure permitted by **subsection (2)** is desirable in order to facilitate the holding of the leaders' meeting of APEC,—
- (a) He or she may, before the expiry of the period specified in **subsection (2)**, direct under **subsection (1)** that all or any part of the Auckland Domain be closed for a further period not exceeding 7 hours; and
- (b) The further period of closure referred to in **paragraph (a)** commences with the expiry of the period specified in **subsection (2)**.
- (4) If the Commissioner directs the closure of all or any part of the Auckland Domain under **subsection (1)**, the Commissioner must ensure that public notice of the period of closure and the part or parts of the Auckland Domain that are to be closed is given at least 7 days before the period of closure commences.
- (5) **Subsection (4)** does not apply to a direction given by the Commissioner under **subsection (1)** for the closure of all or any part of the Auckland Domain for a further period not exceeding 7 hours that is to commence with the expiry of the maximum period of closure specified in **subsection (2)**.
- (6) A failure to comply with **subsection (4)** does not affect the validity of any direction given under **subsection (1)**.

- 7. Entry to Auckland Domain during period of closure**—A person may enter or remain in any part of the Auckland Domain while it is closed as a consequence of a

direction given under **section 6 (1)** only with the permission of a member of the police.

8. Application of Trespass Act 1980—While any part of the Auckland Domain is closed as a consequence of a direction given under **section 6 (1)**,—

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- (a) The Commissioner is to be treated as the occupier of that part of the Auckland Domain for the purposes of the Trespass Act 1980; and
- (b) Any member of the police may, in relation to that land, exercise the powers given by that Act to the occupier.

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