



An Introduction to The Reserves Act 1977 and Its Origins

Current Act

The current Act for administering public reserves is the Reserves Act 1977.

The long title of the Act describes it as:

“An Act to consolidate and amend certain enactments of the Parliament of New Zealand relating to public reserves, to make further provision for their acquisition, control, management, maintenance, preservation (including the protection of the natural environment), development, and use, and to make provision for public access to the coastline and the countryside.”

Purposes of the Reserves Act

The general purpose of the Reserves Act is set out in s.3 of the Act. Among other things, the Act deals with the powers and responsibilities of a local authority as the administering body of a reserve. The principles and objectives that lay behind the Reserves Act are described in Chapter 1.

This is a summary of the purposes of the Act, as set out in s.3:

- providing for the preservation and management of areas for the benefit and enjoyment of the public
- ensuring, as far as possible, the survival of all indigenous species of flora and fauna
- ensuring, as far as possible, the preservation of access for the public
- providing for the preservation of representative samples of all classes of natural ecosystems and landscape
- promoting the protection of the natural character of the coastal environment and the margins of lakes and rivers.



Areas are provided and managed as reserves under the Act to protect a range of special features or values, including recreational, historical and community ones.

Greater detail on the application of the Act and its relationship to other statutes is provided in Chapter 3.

Guiding Principles

The guiding principles for the 1977 Act when it was conceived were that¹:

- the number of types of reserve should be reduced to an absolute minimum
- each classification of reserve should have its own philosophy, purpose, and management principles
- management planning should provide for the best use of each reserve
- administering bodies should be enabled to implement the plans once approved.

Objectives

There was also another important principle driving the concept, namely that the Act should achieve the following objectives:

- emphasise retention of open space for outdoor recreation
- maximise freedom of access to reserves for all people rather than just a few
- encourage multiple use of reserve land and facilities when feasible and appropriate
- facilitate greater involvement of the public in reserves administration and decision making.

Reserves Amendment Act 1979

This amendment to the 1977 Act was driven largely by local authority concern about:

- inadequate devolution of powers to local authorities
- insufficient integration with Town and Country Planning Act requirements
- delays caused by mandatory public notice.

¹ "The Reserves Act 1977: Some Aspects of the New legislation". Anonymous. Published in "Landscape" in 1978.



The amendment gave seven new statutory powers to local authorities. That brought the statutory powers unique to territorial authorities under the principal Act to a total of 26 (see Chapter 2).



Some of the powers are conditional on management planning for reserves, and others on a reserve being vested in a local authority, rather than being held under an appointment to control and manage. (See Chapters 6 and 10.)

No other type of reserve administering body enjoys those powers, nor that same level of autonomy.

In 1999, under the provisions of s.10 Reserves Act 1977, some of the powers of the Minister of Conservation were delegated to territorial authorities (see Chapter 2).

The other concerns of local authorities (listed above) were also addressed in the 1979 Amendment Act. The differing roles of the Reserves Act and the Town and Country Planning Act (both passed in the same year) were however recognised as a barrier to greater integration. (See Chapter 3 in relation to the Resource Management Act 1991.)

Another important change was to require each government and local purpose reserve to be sub-classified to specify a particular purpose or purposes.

Reserves Amendment Act 1996

The main amendment was to the lease, licence, easement and permit regime under the Act (see Chapter 7).

The regime for reserves vested in the Crown (including any reserve controlled and managed by an administering body) changed. The concessions provisions of the Conservation Act 1987 now apply to those reserves, in addition to any residual provisions from the former regime (eg s.74(1)(b)(i)).

The regime for reserves vested in administering bodies remained the same.

Origins of Public Reserves in New Zealand

The concept of the Government of New Zealand granting land in trust to public or corporate bodies first appeared in the New Zealand Act 1840 (Imperial).

The term “reserve” was used in Royal instructions of 1840 to Governor Hobson.

There then followed a chain of legislation (see below) enabling the creation of reserves by the Crown, or local government, or as a result of the subdivision of land.

Legislative Background

Practitioners using the Reserves Act 1977 need to be aware of previous legislation when dealing with such actions under the 1977 Act as:

- disposal of land following the revocation of reserves (s.25)
- classification of reserves by local authorities (s.16(2A))



- classification of reserves by the Minister of Conservation (s.16(1))
- notification of a change of purpose of a local purpose reserve (s.24(7)).

It may also be significant to leasing actions, for example, as to whether or not a reserve is vested in the Crown or a local authority.

An outline of previous Acts has therefore been set out below. Chapter 5 provides further guidance on the significance of these repealed provisions.

Previous Acts – General

The first general legislation providing for the establishment and administration of public reserves was the Public Reserves Act 1854.

Among other things it allowed the Crown to grant public utility reserves to the Superintendent of the province concerned. The provincial era ended in 1876 and some of the reserves passed to municipalities under the Municipal Corporations Act 1876.

The Municipal Reserves Act 1874 had also authorised the making of municipal reserves and endowments.

The Public Reserves Act 1877 allowed for Crown grants or vestings of land for reserves, and provided for recreation reserves to be brought under the Public Domains Act 1860.

Vesting provisions continued to be provided for in the Public Reserves Act 1881, the Public Reserves and Domains Act 1908, and the Public Reserves, Domains and National Parks Act 1928. The latter Act was the first to introduce the concept of a vesting of control as an alternative to a vesting of land.

The Reserves and Domains Act 1953 replaced the 1928 Act. The 1953 Act provided for both vesting of land as reserve, and appointments to control and manage reserves – including the appointment of domain boards.

The 1953 Act was replaced by the Reserves Act 1977.

Previous Acts – Reserves on Subdivision

Previous Acts providing areas for public purposes on the subdivision of Crown or private land that became ‘reserves’ under the Reserves Act 1977 were:

- Plans of Towns Regulations Act 1875
- Land Acts 1885, 1892, 1908, 1924
- Land Laws Amendment Act 1920



- Land Subdivision in Counties Act 1946 (first to include commercial or industrial subdivisions with residential ones)
- Municipal Corporations Act 1954 (made the first provision for vesting reserves in local authorities on deposit of a plan of subdivision)
- Counties Amendment Act 1961 (included provision for vesting reserves in local authorities on deposit of a plan)
- Local Government Act 1974 (provision now replaced by Part X of the Resource Management Act 1991).

Conservation Act 1987

The Conservation Act 1987 established the present Department of Conservation, formed to integrate conservation management functions into one department. The Conservation Act 1987 sets out the majority of the Department's responsibilities and roles.

The Conservation Act 1987 promotes the conservation of New Zealand's natural and historic resources.

The Reserves Act 1977 is listed in the First Schedule of the Conservation Act 1987 as one of the enactments administered by the Department of Conservation².

S.4 of the Conservation Act applies to the interpretation and administration of the Reserves Act (see Chapter 4 regarding obligations under the Treaty of Waitangi and the Conservation Act). Part IIIB of the Conservation Act provides detailed provisions for concessions (see Chapter 7).



2 One of the consequences is that "Commissioner" in the Reserves Act is now defined as "an officer designated by the Director-General [of Conservation] for the purposes of the Act". It no longer applies to the Commissioner of Crown Lands. This is relevant, for example, to the process in Chapter 9.

