



Reserve Administering Bodies

General

The Department of Conservation administers the Reserves Act 1977 but does not have direct responsibility for every reserve. Many reserves have their own administering body.

There are three possible forms of administration by an administering body, as follows:

- a “vesting”
- an “appointment to control and manage”
- held in fee simple as reserve.

Where there is no administering body for a reserve (s.62(1)) the “Commissioner” (within the Department) has the powers, functions and duties of an administering body for the reserve.

These terms are described in turn below and the functions of an administering body are then set out.

Vesting

Vesting is a form of administration of reserves which dated back to 1877 (see Chapter 1). All vestings continue until they are (or were) cancelled under the provisions of the Reserves Act, or an earlier Act, or by specific legislation.

Reserves can, today, be vested in an administering body under a number of statutory provisions, as set out below.

If a reserve is land of or owned by the Crown, then the Minister of Conservation (s.26) can vest it (unless it is a Government purpose reserve) in any local authority, or in any trustees.



The vesting authorises the administering body to “hold and administer the land and expend money thereon for the particular purpose for which the reserve is classified” (s.26(1)). Classification must therefore take place before a vesting is notified in the *Gazette* (see Chapter 8).

The land must be held in trust for the particular purpose for which the reserve is classified and under such special conditions or restrictions as may be specified in the notification of the vesting in the *Gazette* (s.26(2)). It does not convey a right, interest or title in the land. A reserve cannot therefore be transferred or sold by its administering body (see Chapters 5 and 9).

The ministerial **policy** for using s.26 vestings is as follows:

- (i) Vesting must be for the better carrying out of the purpose(s) of the reserve (s.26(1) of the Act).
- (ii) Subject to the above, the decision to vest must give effect to the principles of the Treaty of Waitangi (s.4 Conservation Act 1987 – see Chapter 4).
- (iii) The appropriateness of the current purpose of the reserve must be considered before vesting is pursued.
- (iv) Vesting is limited to reserves classified for recreation or local purpose or cases where a reserve adjoins another reserve already vested in the same administering body.
- (v) Subject to the above, the territorial authority is the preferred administering body for a vesting.
- (iv) The relevant conservation board must be consulted.

Each case is considered on its merits. Vesting may not be favoured if the reserve is of more than local use and interest or if it has strategic conservation value in terms of protection of indigenous bio-diversity.

A proposal to vest a recreation reserve or a local purpose reserve in a local authority under s.26 does not have to be publicly notified for objections and submissions. Vestings under s.26 in other situations may require such a public notice by the Minister (see s.26(3) and (4)).

Any reserve which is held:

- by the Council (only if it is a territorial authority) under an appointment to control and manage which pre-dates 1 January 1980; and:
- is classified as a recreation or local purpose reserve;
 - automatically vests in the Council at the point of classification.

A Council can apply for a title to such reserves (s.26A(3) of the Act) subject to the trust (but see Section 9.1 for disposal information).

Reserves may also be vested in territorial authorities or other administering bodies under the provisions of legislation other than the Reserves Act (eg reserves on subdivision under the provisions of the Resource Management Act).

Any vesting of a reserve which was previously the property of the Crown may be cancelled by the Minister of Conservation (s.27). This action may be taken in the following circumstances:

- by agreement with the administering body (the most common reason)
- in the event of a breach of trust, or a failure by the administering body to comply with the provisions of the Act
- in the period 5 years after a vesting if the land is not being used for the purpose for which it is vested.

In the latter two circumstances, the consultation process to be followed by the Minister is set out in s.27(3) and (4) of the Act.

After cancellation, the land re-vests in the Crown.

Appointment to Control and Manage

Reserves which are held by an administering body under an appointment to control and manage remain vested in the Crown for the purpose of the Act.

Provisions in legislation for appointments to control and manage dated back to 1928 (see Chapter 1).

The current Reserves Act has different provisions for different types of reserve administering body. They are:

- s.28 local authority
- s.29 voluntary organisations
- s.30 boards (Reserves Board, Trust, Trust Board or other special Board)
- s.35 trustees
- s.36 Minister of the Crown.

All appointments (except boards) are made under the authority of the Minister of Conservation. Certain Reserves Boards are appointed by the Commissioner (s.30(1) of the Act).

The ministerial **policy** for making appointments to control and manage is as follows:

- (i) the appointment must be for the better carrying out of the purpose(s) of the reserve



- (ii) subject to the above, the decision to appoint must give effect to the principles of the Treaty of Waitangi
- (iii) the appropriateness of the current purpose of the reserve must be considered before the appointment is pursued.

Any appointment is subject to the reserve being controlled and managed for the purpose for which it is classified. The reserve must therefore be classified before the appointment takes place (see Chapter 8).

Any special conditions or restrictions on the appointment are specified in the notice of the appointment in the *Gazette* (see Chapter 5).

Any appointment can be revoked by the Minister of Conservation (eg s.28(2) of the Act).

Any special conditions on the appointment can also be revoked or amended by notice of the Minister in the *Gazette*.

Land Held in Fee Simple as Reserve

Councils may hold land in fee simple which is subject to the Act. This land may have been declared to be a reserve of a particular class/type under the provisions of s.14 of the Act, or been acquired by the Council in trust as a reserve (see definition of “reserve” in s.2 of the Act). This land is, for the purposes of administration of the Act (s.54), treated as “vested” in the reserve’s administering body.

Commissioner

The Reserves Act provides (s.62) that where a reserve does not have an administering body, the “Commissioner” has the duties of an administering body for the reserve and may exercise all the powers of an administering body for the reserve.

The “Commissioner”, in relation to any reserve, means an officer in the Department of Conservation designated for that purpose by the Director-General of Conservation (s.2). [A “Commissioner” also has other duties under the Act – see Chapter 2.]

Functions of an Administering Body

The administering body’s function is directed at managing a reserve for the purpose for which it is classified (s.40). Management may provide, as appropriate, for:

- use
- enjoyment
- development
- maintenance
- protection
- preservation.

Chapter 2 deals with the powers of an administering body.

