

Local Authority unreasonable to allow change to Management Plan without public notification

Legislation	Ombudsmen Act 1975, Reserves Act 1977
Agency	Local authority
Ombudsman	Anand Satyanand
Case number(s)	A4425
Date	1995

Local Authority administering a park, agreed to a non-notified change in its Management Plan and allowed a sports club to expand its building at the park—local resident objected to lack of public consultation—Ombudsman found vague reference in the Plan to sport’s club hoped to expand its facilities, but given the scale and nature of the proposed building, the Local Authority’s decision not to notify a change to the management plan was unreasonable— Authority agreed with decision and commenced notification process

A local resident became concerned when the local authority approved the construction of an indoor sports facility on a local park. The park was a recreation reserve administered by the Council and included sports fields, club rooms, a leisure centre, sports complexes and carparks. The complainant believed that the local authority had acted unreasonably in not publicly notifying a change to the Management Plan for the park, thereby precluding public input into the proposal.

A sports club which already had facilities at the park had applied for permission to construct a new indoor facility. The proposed structure was significant: 40 metres by 11 metres by 4.5 metres. The proposal was put to the local Community Board. A report by the local authority advised that the proposal complied with the draft Management Plan which made reference to the club’s intention ‘to extend the facilities in the near future’. Both the park committee and the Community Board rejected the proposal, but the local authority’s Community Activities Committee approved the application. This decision appeared to have been based in part on the abovementioned reference in the management plan to the club’s proposal. The local authority had also taken legal advice on the matter.

The Management Plan had been prepared by the local authority in accordance with section 41 of the *Reserves Act 1977*. Subsection (9) of that section provides:

'Where under subsection (4) of this section, the administering body considers any change not involving a comprehensive review to its management plan is required, it may, if it thinks fit, follow the procedure specified in subsections (5) and (6) of this section.'

Subsections (5) and (6) outline the procedures to be followed in preparing a management plan; for example, a local authority must give public notice of its intention, invite input from interested parties and consider any comments received when preparing the plan.

The Management Plan for the park referred to the need to consider the park from an holistic point of view; to develop an integrated approach to management and development. Although the Plan referred to proposed future developments, the Club's proposal was not mentioned in this section. There was only one reference to the Club's proposal in the plan – *'the club is looking to extend the facilities in the near future'*. In the context of the Plan, the phrase appeared to signal a vague intention rather than a concrete proposal, especially when compared to other references to planned future developments.

Given the scale and nature of the proposed building, the impact it would have on car parking and the visual landscape, and the fact that it appeared to require an amendment to the lease, the local authority's decision not to publicly notify a change to the Management Plan appeared to be unreasonable. This view was put to the local authority which advised it was prepared to give notice and invite submissions. It also advised that as a result of the investigation it was taking steps to ensure that in future public comment would be sought before applications of this nature were considered.

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