

Local Authority's management of consent process not unreasonable

Legislation	Ombudsmen Act 1975 , Resource Management Act 1991
Agency	Local authority
Ombudsman	Beverley Wakem
Case number(s)	A12848 (previously unpublished)
Date	2008

Local Authority proposal for Youth Zone to be included in Reserves Management Plan criticised—alleged lack of public consultation—concern that the report recommending inclusion of a Youth Zone was biased and misleading—Ombudsman finds Council did not act unreasonably

A District Council proposed the construction of a Youth Zone, including a skate park, as a part of the Reserves Management Plan for a local park. The complainant approached the Ombudsman due to their concern that there had been an apparent lack of public consultation, and alleged bias in the staff report proposing the Youth Zone. The complainant considered that the staff report did not adequately cover the objections of neighbouring properties and potential adverse effects.

The Ombudsman found that the intention to review the Reserves Management Plan had been publically notified and a working group had been established. The Council also explained that the proposal to include the Youth Zone still needed to be approved by an Independent Commissioner and there was a further opportunity for the public to make submissions during the process. It was also noted that if the plan was approved, it would then need approval under the RMA and budget approval by the Council, both processes with associated further public consultation.

The Ombudsman was of the opinion that in the circumstances, it appeared that the actions taken by the Council had enabled a certain degree of public participation, and it was likely that

there would be opportunities for further public consultation and input before the process was completed.

With regard to allegations that the report presenting the proposal was biased and misleading, the Ombudsman could not sustain this complaint. This was because during a previous discussion about a skate board park (where resource consent was declined), the report on that matter had summarised the concerns raised by neighbours at that time. The Ombudsman further noted that as there were still opportunities for public submissions to be made, both the negative and positive aspects of the proposal would be fully addressed and considered at that stage.

The complainant also raised that the Mayor had submitted her approval for the plan. The Ombudsman noted that a Mayor is able to make submissions in their personal capacity on community issues, such as the Youth Zone. In this case, the Mayor made a submission but also commented in public about the proposal. The Ombudsman was advised that the Commissioner had advised the Mayor that any of her comments not included in her submission would not be taken into consideration. The Ombudsman concluded that in the circumstances, it seemed the Commissioner made his position, and the information he could consider, quite clear to all concerned. The Ombudsman had no authority to look into the Commissioner's decision.

The complaint was not sustained.

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