

## Local Authority unreasonably failed to consult with residents about building relocation

<b>Legislation</b>	Ombudsmen Act 1975
<b>Agency</b>	Tasman District Council
<b>Ombudsman</b>	David McGee
<b>Case number(s)</b>	307860
<b>Date</b>	December 2012

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*Local Authority allowed relocation of building without providing for adequate consultation process with the local community—Ombudsman upheld complaint*

The complainant lived in a property adjoining a recreation reserve managed by a committee under the Council's Reserve Management plan. A lodge on the reserve had been used as a scout den and located next to the tennis courts.

In May 2009, the Council's Community Services Committee passed a resolution to increase the number of tennis courts. Public notice was given of the proposed change and submissions were called for. Following a hearing of the submissions the Committee resolved that the lodge be moved within the reserve to allow for the four new tennis courts.

In early September 2009, members of the Committee, lodge representatives and Council staff met on site and the land adjoining the complainant's property was identified as the preferred site to relocate the Lodge. The Council engaged a private company to obtain all the required consents and to re-site and complete the building. This company was also asked to consult with the affected neighbouring property owners and it was clear from an email sent from the company to the Council that it had agreed to do so, albeit on a very limited basis.

However, it became apparent that no 'consultation', even of the limited nature proposed by the private company, ever took place and, in April 2010, work began to move the Lodge.

The owner of the property adjoining the reserve contacted the Council to complain about the failure to notify him about the relocation of the Lodge and later asked the Council to cease

further work. The Council said that it had left consultation to a contractor who had not consulted with affected neighbours and, as such, the Council agreed that it had failed to consult properly. Some months later, the Council carried out public consultation on the future location of the Lodge, the outcome of which was that the majority of submitters supported it remaining in its new position.

Although the complainant had sought relocation of the building, the Ombudsman noted that his investigation was focused on the consultation process or the Council's failure to consult about the relocation of the lodge. As such, any recommendation would be directed at the shortcomings in this process. In light of the steps already taken by the Council, however, the Ombudsman did not find it necessary to make any formal recommendation and concluded his investigation accordingly. However, in his letter to the Council, the Ombudsman asked that the Council give careful consideration to his comments about the delegation of responsibility to consult with affected parties.

*This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*