

13 June 2017

Hon Dr Nick Smith  
Minister for Building and Construction  
Private Bag 18 888  
Parliament Buildings  
**WELLINGTON 6160**

By email: [n.smith@ministers.govt.nz](mailto:n.smith@ministers.govt.nz)

Dear Minister

### **Supplementary Order Paper No 321, Point England Development Enabling Bill**

I am writing about the proposed amendments to the Point England Development Enabling Bill in Supplementary Order Paper No 321. The amendments deem the management plan for the reserve to be amended to prohibit farming or grazing. The amendments also require Auckland Council to retain the existing sports fields, after around 3 hectares of those fields are taken for housing, and to replace the lost area with new fields built elsewhere in the reserve.

I have a number of concerns with the proposed amendments. First is the matter of precedent. The Bill purports to prescribe to Auckland Council what the council must do with land it owns and administers under the Reserves Act 1977 (albeit with a reversionary interest to the Crown). This prescription is intrusive and uses Parliamentary supremacy to circumvent the statutory powers of a local authority responsible for public reserve land under that Act.

The lack of consultation is simply not acceptable. The public has not been consulted at all. By introducing these provisions by Supplementary Order Paper, Auckland Council and the public have also been denied an opportunity to make submissions to the Local Government and Environment Select Committee.

There has been a total lack of consideration of the technical feasibility, including environmental impacts, which would be required under the Resource Management Act 1991 and the Reserves Act 1977 to develop new sports fields in the reserve. The Ministry of Business, Innovation and Employment have confirmed they have done no technical work to assess the feasibility of establishing new field on the headland. This, along with the lack of consultation, has the clear appearance of this SOP being rushed and ill-considered.

The only available area to place around 3 hectares of new fields will be on the raised coastal headland of the reserve. Due to their size, the new fields would dominate the headland – see attached map.

On 28 July 2016, when Auckland Council responded to the Minister for Treaty of Waitangi Negotiations proposal for land to be set aside for housing development at Point England Reserve, the then Mayor Brown conveyed the views of the Tāmaki-Maungakiekie Local Board on high level requirements for the remaining open space in the reserve. In addition to a neighbourhood park on Elstree Avenue, and an area off Point England Road for sports and active recreation activities, the Board sought a ‘park on the Point England headland with appropriate scale and infrastructure to support a range of ecological, cultural, passive and informal recreation, and landscape values’.

These priorities were provided after careful consideration by the Board and reflected a balance of different reserve values – passive recreation, active recreation, ecological, cultural, landscape, etc. The proposed amendments to the Bill cut across these priorities and the decision making responsibilities of the Board.

As you are aware, a number of threatened shorebird species roost, and in some instances nest, at Point England Reserve. Grazing both reduces grass length for passive recreation and provides habitat for these species. This habitat is important given the shortage of alternative roosting and nesting spots in the Tāmaki Estuary area – public submissions on the Bill raised concerns about this.

As it stands, the Point England Development Enabling Bill, if passed into law, will roughly halve the area currently used by these birds. This further heightens the importance of the headland for these species. Without a full investigation of environmental impacts it is impossible at this stage to determine whether any new sports fields should be located on the headland.

I am also advised that using the Bill to deem provisions into the Reserve Management Plan for additional sports fields may have overlooked the Resource Management Act 1991 requirements to give effect to these provisions. This is likely to require a plan change from Open Space–Informal Recreation Zone to Open Space–Sport and Active Recreation Zone. I am further advised that, on the basis of the competing values in the reserve, especially on the headland, a plan change may not be successful. You need to reconsider whether you are asking Parliament to deem into the reserve management plan something which may be impossible under the Resource Management Act 1991 requirements.

I appreciate your likely intention with the proposed amendment is to meet community concerns about the loss of sports field playing capacity at Point England Reserve. As has been raised previously, an alternative approach to meet these concerns is to lower the total area being taken for housing. A reduction of around two hectares to 9.7 hectares could retain the substantial majority of the existing playing fields, while still providing development land for access from Point England Road, and some housing east of the Point England School grounds on the practice field currently located there. Again, please see the attached map.

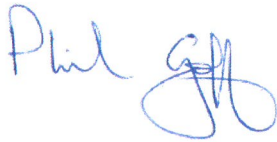
A reduced development area of around 9.7 hectares remains sufficient to meet your stated objective of building 300 new dwellings on the land, and would result in an average density of around 31 dwellings per hectare.



I wish to restate Council's commitment to ensure that the entire proceeds of the sale be reinvested into improved public open space in the Tāmaki area. Council is also committed to a fair Treaty settlement for Ngāti Paoa. If a reduction to the area of development land available to Ngāti Paoa is deemed to impede the Treaty settlement outcomes the Crown seeks, replacement land from elsewhere or other compensation could be provided to Ngāti Paoa.

For all of the above reasons I ask you withdraw the SOP and leave what is essentially a local issue of park management to be dealt with by Auckland Council as would normally be the case. I would appreciate your urgent consideration of this matter.

Yours sincerely



Phil Goff  
**MAYOR OF AUCKLAND**

Copy to: Prime Minister, Bill English  
Minister of Conservation, Maggie Barry