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Chairperson – Local Government Commission
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Dear Sue

Local Government Act 2002 review

Greater Wellington 'Parks' (**GW Parks**) is part of the Water Supply, Parks and Forests division of Greater Wellington Regional Council (**Greater Wellington**). Greater Wellington would like to thank the Local Government Commission for the opportunity to provide comment on its review of the Local Government Act 2002.

Greater Wellington staff have read and are familiar with the industry-wide submissions made by Local Government New Zealand (**LGNZ**) and the Society of Local Government Managers (**SOLGM**), as well as the submission made by Auckland Regional Council dated 24 September 2007. The following issues have been identified by Council officer's as items to be considered as part of the LGA 2002 review:

1. **Section 147 – power of regional councils to make bylaws for liquor control purposes**
2. **Part 7, subpart 3 - restrictions on disposal of parks, reserves, and endowment properties**
 - a. Exemption from Gift Duty
 - b. Restriction on disposal of parks (by sale or otherwise)
 - i. The relevance of section 138
 - ii. The Local Government Act 2002 Amendment Act 2006 amended section 138 to provide a definition of 'dispose of
 - c. Classification of parks
 - d. Management plans

The next full Council meeting is scheduled for 25 February 2008. The Council stance in relation to items 2b, 2c and 2d will be confirmed at this time, and a formal submission from Greater Wellington will be presented at the beginning of March 2008.

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Water, air, earth and energy: elements in Greater Wellington's logo that combine to create and sustain life. Greater Wellington promotes Quality for Life by ensuring our environment is protected while meeting the economic, cultural and social needs of the community.



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Items 1 and 2a are discussed below and are officer recommendations only at this time to be confirmed in the formal Greater Wellington submission.

1. Section 147 - power for regional councils to make bylaws for liquor control purposes

- 1.1 Greater Wellington supports both SOLGM's and Auckland Regional Council's recommendation that regional councils be given the ability to make bylaws for liquor control purposes on land that they own and/or manage.
- 1.2 Greater Wellington's powers as landowner/manager are limited. It is unable to make liquor control bylaws or enforce an alcohol ban in any of its regional parks, as such powers are restricted to territorial authorities under section 147 of the Local Government Act 2002.
- 1.3 Greater Wellington staff have been required to deal with increasing numbers of incidents resulting from alcohol and disorderly behaviour. As a result of fewer places being available for people to drink to excess, pressure is increasing to undertake this activity in Greater Wellington owned and controlled land - in particular regional parks.
- 1.4 Alcohol often leads to aggressive and undesirable behaviour. In some locations at certain times of the year, Greater Wellington requires the ability to control the possession of alcohol in order to safely manage use of its land by the public. In the last few years, a number of health and safety issues have arisen as a result of alcohol being consumed within regional parks. This has included domestic violence, assaults (for instance a man being struck in the face with an iron bar), threats to other parks users and large group fights. Greater Wellington staff have also been threatened and assaulted by drunk and aggressive groups of people.
- 1.5 Without the ability to control liquor, Greater Wellington staff have been forced to rely on alternative and less adequate ways of dealing with this issue. These have included hiring additional security guards and increasing staff presence, especially on New Year's eve.
- 1.6 In addition to staff resources on the night of New Year's eve (experience has shown that staff presence needs to be increased approximately six fold), a significant cost is incurred (in terms of staff resources, time and money) cleaning up the following day. Sometimes it has taken weeks to clean up the broken glass. Police resourcing and interest is minimal over the Christmas/New Year period as they are often too busy. Lack of Police presence may also be exacerbated by the rural location of many of Wellington's regional parks.
- 1.7 These issues have the potential to affect an increasing amount of land within Wellington's regional parks network in the future.
- 1.8 At council officer level, the ability for Greater Wellington to make liquor control bylaws (including alcohol bans) is actively supported by Kapiti Coast District Council, Hutt City

Council. Wellington City Council, Porirua City Council. Upper Hutt City Council has not expressed any opposition.

1.9 Greater Wellington recognises that other tools and mechanisms exists which might be used to deal with the issue of alcohol and its associated behavioural issues.

1.10 Under section 161 of the Local Government Act 2002, a territorial authority has the ability to transfer all or any of its powers to make bylaws to an overlapping regional council. This is an option which Greater Wellington has investigated in the past, but it relies on the agreement of relevant territorial authorities. Greater Wellington believes this is not an efficient solution to the issue.

1.11 The Trespass Act 1980 can also be used to remove a trespasser, however the use of this legislation is complex when dealing with land to which there is a general right of access, as the 'implied licence' granted to all members of the public must first be revoked (on reasonable grounds) prior to invoking the power to take steps under the Trespass Act. Greater Wellington understands also that there are complex Bill of Rights issues also involved. The Summary Offences Act 1981 relies on Greater Wellington staff laying a compliant with the Police and, as a consequence, generally becomes relevant only for serious incidents.

1.12 Greater Wellington believes the most transparent way of managing the issue of alcohol is to empower the making of liquor control bylaws and imposing alcohol bans where appropriate. It is anticipated that bans would only be used in certain locations on certain dates and times to manage gatherings of people where alcohol has the potential to inflame. It would be used in conjunction with the physical presence of Greater Wellington staff and, if possible, the Police.

1.13 Greater Wellington strongly supports a change to section 147 to allow regional councils the same powers as those held by territorial authorities to place controls on the consumption and possession of alcohol on land owned or controlled by it - including regional parks.

2. Part 7, subpart 3 - restrictions on disposal of parks, reserves, and endowment Properties

a) Exemption from Gift Duty

2.1 Greater Wellington supports Auckland Regional Council's submission that Part 7, subpart 3 of the Local Government Act 2002 should be amended so that land gifted to regional councils to be held for certain purposes is exempted from Gift Duty under section 73(1) of the Estate and Gift Duties Act 1968.

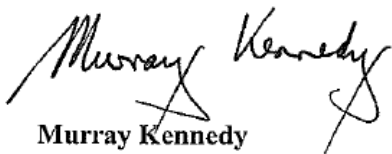
2.2 Greater Wellington considers it is important that potential donors of land to regional councils for use by the public are not discouraged by Gift Duty.

2.3 Greater Wellington supports Auckland Regional Council's recommendation to provide (at a minimum) an exemption from the liability to pay Gift Duty where land is gifted to a regional council to be held as open space, provided that such land is made subject to:

- o An Order in Council under section 139 of the Local Government Act 2002; and
- o In the event that such land is no longer required by a regional council for the purposes for which it was gifted and the Order in Council is able to be uplifted, it must be offered back to the donor or donor's family for no consideration.

If you would like to discuss any of the issues raised in this letter, please respond to Victoria McGregor, Advisor Planning and Policy, Parks in the first instance (04 381 7753).

Yours sincerely,



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