

Reprint  
as at 12 November 2018



## Auckland Improvement Trust Act 1971

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**An Act to consolidate and amend the Auckland Improvement (Albert Barrack Reserves) Act 1872 and its amendments****Preamble**

Whereas certain land in the City of Auckland (in this Preamble referred to as the **said land**) is vested in the Council of the City of Auckland (in this Preamble referred to as **the Council**) subject to the provisions of the Auckland Improvement (Albert Barrack Reserves) Act 1872, the Auckland Improvement Act 1873, and the Auckland Improvement Commissioners' Transfer of Powers Act 1879:

And whereas various difficulties have arisen in connection with the administration of the said land and special provision has been made by section 33 of the Local Legislation Act 1961, section 17 of the Local Legislation Act 1964, section 20 of the Local Legislation Act 1965, and section 22 of the Local Legislation Act 1967, with regard to the said land:

And whereas the part of the land firstly described in Schedule 1 and known as Albert Park is reserved for recreation and amusement:

And whereas the Council is empowered to lease other parts of the said land:

And whereas section 7 of the Auckland Improvement Commissioners' Transfer of Powers Act 1879 provides that the residual purpose for which money received under that Act may be applied is in works of public utility or ornament, or in furtherance of education, science, and art in the City of Auckland, to be determined by the City Council, but not in any way in reduction or aid of rates, ordinary or special:

And whereas since the year 1879 the powers of expenditure conferred upon municipal corporations generally have been considerably enlarged and expanded and it is now difficult to stipulate a purpose for the expenditure of the residue of the income arising from the said land, and it is expedient that the Council should be empowered to apply such income in its discretion for all or any of the purposes set out in section 8:

And whereas the land fourthly described in Schedule 1 and known as Alten Road Reserve became vested in the Council pursuant to the provisions of the Auckland Reserves Exchange and Change of Trust Act 1881 which enacted that the Council might in its discretion enclose, lay out, and plant the same, or erect any building or buildings for ornamental purposes, but not for making a profit therefrom, but should not otherwise deal with the same:

And whereas it is desirable that provision be made in this Act with regard to the Alten Road Reserve:

And whereas part of the land vested in the Council by the Auckland Improvement Commissioners' Transfer of Powers Act 1879 was by subsection (1) of section 2 of the Courthouse Sites Exchange Act 1902 vested in His Majesty the King as part of the site of the Magistrate's Courthouse in the City of Auckland and the land received by the Council in exchange was vested in it for the purposes of a public street, part of which street was later duly stopped:

And whereas part of the stopped street containing 0.5 of a perch, more or less, is included in the residue of the land comprised in certificate of title, Volume 113, folio 13, which residue is part of the land sixthly described in Schedule 1:

And whereas the Council, in the belief that the said part of the stopped street with an area of 0.5 of a perch was part of the said land included it in a lease of parts of the said land:

And whereas it is expedient that the part of stopped street be held by the Council subject to the provisions of this Act and that the leasing of it should be validated:

And whereas in 1956 Her Majesty the Queen acquired for education purposes certain parts of the land vested in the Council by the Auckland Improvement Commissioners' Transfer of Powers Act 1879 and in exchange therefor caused certain other land to be vested in the Council free of any trusts:

And whereas the Council in the belief it had power so to do, sold and exchanged portions of the land last referred to, and the land received by the Council in those latter exchanges was also vested in it free of any trust:

And whereas it is expedient that the said exchanges and sales should be validated and that the balance of the land received by the Council in the said recited exchanges, being the land ninthly described in Schedule 1 should be held by the Council subject to the provisions of this Act:

And whereas it is desirable that the statutory provisions relating to the said land and to the money and investments comprising the capital and income of the Council's Improvement Trust Account should be consolidated.

Preamble: amended, on 8 July 1986, by section 2(2) of the Auckland Improvement Trust Amendment Act 1986 (1986 No 3 (L)).

## 1 Short Title

This Act may be cited as the Auckland Improvement Trust Act 1971.

## 2 Interpretation

(1) In this Act, unless the context otherwise requires,—

**Albert Park** means the land firstly described in Schedule 1

**Albert Park subsoil** means those parts of the subsoil beneath Albert Park and areas immediately adjacent to that subsoil that are eleventhly described in Schedule 1

**Alten Road Reserve** means the land fourthly described in Schedule 1

**Alten Road Reserve subsoil** means those parts of the subsoil beneath Alten Road Reserve and areas immediately adjacent to that subsoil that are twelfthly described in Schedule 1

**Council** means the Auckland City Council and, in sections 4 to 9, includes the Auckland Council established by section 6(1) of the Local Government (Auckland Council) Act 2009

**public passenger transport** includes road-borne and rail-borne passenger transport; but does not include private motor vehicles or taxis

**tunnel complex** means the air-raid tunnel shelter complex that lies partly within the Albert Park subsoil and the Alten Road Reserve subsoil and, if that complex is enlarged or extended, includes all enlargements and extensions to it.

- (2) In sections 4(1A) and (1B) and 5(1A) and (1B),—

**lease** includes a licence to occupy

**tenant** includes a licensee.

Section 2(1) **Albert Park**: inserted, on 9 October 2001, by section 4(1) of the Auckland Improvement Trust Amendment Act 2001 (2001 No 5 (L)).

Section 2(1) **Albert Park subsoil**: inserted, on 9 October 2001, by section 4(1) of the Auckland Improvement Trust Amendment Act 2001 (2001 No 5 (L)).

Section 2(1) **Alten Road Reserve**: inserted, on 9 October 2001, by section 4(1) of the Auckland Improvement Trust Amendment Act 2001 (2001 No 5 (L)).

Section 2(1) **Alten Road Reserve subsoil**: inserted, on 9 October 2001, by section 4(1) of the Auckland Improvement Trust Amendment Act 2001 (2001 No 5 (L)).

Section 2(1) **Corporation**: repealed, on 8 July 1986, by section 2(1) of the Auckland Improvement Trust Amendment Act 1986 (1986 No 3 (L)).

Section 2(1) **Council**: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 2(1) **public passenger transport**: inserted, on 9 October 2001, by section 4(1) of the Auckland Improvement Trust Amendment Act 2001 (2001 No 5 (L)).

Section 2(1) **tunnel complex**: inserted, on 9 October 2001, by section 4(1) of the Auckland Improvement Trust Amendment Act 2001 (2001 No 5 (L)).

Section 2(2): inserted, on 9 October 2001, by section 4(2) of the Auckland Improvement Trust Amendment Act 2001 (2001 No 5 (L)).

### 3 Land to which this Act applies

- (1) The land to which this Act applies is—
- (a) the land described in Schedule 1:
  - (b) any other land for the time being held by the Council and purchased by it with money held as capital in its Improvement Trust Account or exchanged by the Council for land so held.
- (2) The land described in Schedule 1 is hereby declared to be vested in the Council for an estate in fee simple subject to the provisions of this Act and to all leases, agreements to lease, and easements existing in respect of any part of that land at the commencement of this Act, but otherwise freed and discharged from all trusts and reservations affecting the same.

- (3) On the registration of any transfer which completes the sale or exchange of any land to which this Act applies the land comprised in the transfer shall cease to be land to which this Act applies.

Section 3(1)(b): amended, on 8 July 1986, by section 2(2) of the Auckland Improvement Trust Amendment Act 1986 (1986 No 3 (L)).

Section 3(2): amended, on 8 July 1986, by section 2(2) of the Auckland Improvement Trust Amendment Act 1986 (1986 No 3 (L)).

#### **4 Albert Park**

- (1) Except as permitted by subsection (1A), the Council shall have no power to alienate the whole or any part of the piece of land firstly described in Schedule 1 and known as Albert Park, or any interest therein, and that piece of land shall continue to be held by the Council as ground for recreation and amusement.
- (1A) Despite any other provisions of this Act, the Council may explore and investigate those parts of the tunnel complex that lie beneath Albert Park, and—
- (a) develop, reconstruct, enlarge, excavate, and use all or any part of the tunnel complex and adjacent areas of the Albert Park subsoil for any activities, whether commercial or non-commercial, including—
    - (i) a museum that recognises the historic character of the tunnel complex; and
    - (ii) other tourist-related purposes that are permitted under the District Plan or any designation or resource consent:
  - (b) develop, reconstruct, enlarge, and modify the alignment of the main tunnel and parts of the smaller tunnels of the tunnel complex, and create a new tunnel or tunnels, for a public passenger transport route that passes through the Albert Park subsoil:
  - (c) construct and instal entrance portals, ventilation ducts, and all other services and improvements that may be required in order to allow for the safe and efficient use of the tunnel complex for any purpose specified in paragraph (a) or paragraph (b).
- (1B) The Council may grant a lease of all or any part or parts of the Albert Park subsoil to any person or organisation as if the Albert Park subsoil were vested in the Council in fee simple and not as a public reserve under the Reserves Act 1977, but the following provisions apply to any such lease:
- (a) the term, including rights of renewal, may not exceed 63 years:
  - (b) the rent for the original or any renewed term of the lease, which must be reviewed at intervals of not less than 3 years, must be a rent that is fair and reasonable, having regard to—
    - (i) the purpose for which the premises are to be used:
    - (ii) the extent of the benefit that is conferred on the community by the activities of the tenant: