

Auckland Improvement Trust Amendment Act 2001

Local Act 2001 No 5
Date of assent 8 October 2001

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Auckland Improvement Trust Amendment Act 2001.
- (2) In this Act, the Auckland Improvement Trust Act 1971 is called “the principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is to enable—

- (a) the Auckland City Council to explore, develop, reconstruct, enlarge, excavate, and use areas within the subsoil beneath parts of Alten Road Reserve and Albert Park, which include an air-raid tunnel shelter complex; and
- (b) the Auckland City Council to grant a lease or licence, for certain purposes, of part or parts of the subsoil beneath Albert Park and Alten Road Reserve, including that air-raid tunnel shelter complex, to a person or organisation other than the Council; and
- (c) the development, modification, and use of the main tunnel and parts of the smaller tunnels for a public passenger transport route.

4 Interpretation

- (1) Section 2 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**Albert Park** means the land firstly described in the First Schedule

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

“**Alten Road Reserve** means the land fourthly described in the First Schedule

“**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 the First Schedule

“**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) Section 2 of the principal Act is amended by adding, as subsection (2), the following subsection:

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

“**lease** includes a licence to occupy

“**tenant** includes a licensee.”

5 Albert Park

(1) Section 4(1) of the principal Act is amended by omitting the word “The”, and substituting the words “Except as permitted by subsection (1A), the”.

(2) Section 4 of the principal Act is amended by inserting, after subsection (1), the following subsections:

“(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:
 - “(iii) the financial benefit that is derived by the tenant:
 - “(iv) any other relevant matters:
- “(c) the net proceeds of the lease must be applied in the manner described in section 8:
- “(d) the permitted use is for those activities permitted by subsection (1A)(a) that are approved by the Council, in its sole discretion:
- “(e) the lease may allow for the extension or enlargement of existing tunnels or the creation of new tunnels by the tenant if it has the prior written approval of the Council:
- “(f) the lease may allow for the use by the tenant of entrance portals, ventilation shafts, and other services constructed or installed for the benefit of the tunnel complex:
- “(g) the lessee may, with the prior written consent of the Council, sublet part of the tunnel complex for a term and subject to such conditions and restrictions as the Council considers appropriate:
- “(h) the Council may include any other conditions in the lease that are not inconsistent with the provisions of this section and that it considers appropriate in the circumstances.

“(1C) The fee simple of the Albert Park subsoil may not be alienated by the Council.

“(1D) Nothing in subsection (1A) or subsection (1B) affects the application of the Resource Management Act 1991 or the Building Act 1991 to any work proposed to be carried out or any

activities proposed to be conducted under those provisions, except that any lease or sublease authorised by subsection (1B) is not a subdivision for the purposes of Part X of the Resource Management Act 1991.”

6 Alten Road Reserve

- (1) Section 5(1) of the principal Act is amended by inserting, after the word “but”, the words “, except as permitted by subsection (1A),”.
- (2) Section 5 of the principal Act is amended by inserting, after subsection (1), the following subsections:
 - “(1A) Despite any other provisions of this Act, the Council may explore and investigate those parts of the tunnel complex that lie beneath Alten Road Reserve and—
 - “(a) develop, reconstruct, enlarge, excavate, and use all or any part of the tunnel complex and adjacent areas of the Alten Road Reserve 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 Alten Road Reserve 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 Alten Road Reserve subsoil to any person or organisation as if the Alten Road Reserve 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:
 - “(iii) the financial benefit that is derived by the tenant:
 - “(iv) any other relevant matters:
 - “(c) the net proceeds of the lease must be applied in the manner described in section 8:
 - “(d) the permitted use is for those activities permitted by subsection (1A)(a) that are approved by the Council, in its sole discretion:
 - “(e) the lease may allow for the extension or enlargement of existing tunnels or the creation of new tunnels by the tenant if it has the prior written approval of the Council:
 - “(f) the lease may allow for the use by the tenant of entrance portals, ventilation shafts, and other services constructed or installed for the benefit of the tunnel complex:
 - “(g) the lessee may, with the prior written consent of the Council, sublet part of the tunnel complex for a term and subject to such conditions and restrictions as the Council considers appropriate:
 - “(h) the Council may include any other conditions in the lease that are not inconsistent with the provisions of this section and that it considers appropriate in the circumstances.
- “(1C) The fee simple of the Alten Road Reserve subsoil may not be alienated by the Council.
- “(1D) Nothing in subsection (1A) or subsection (1B) affects the application of the Resource Management Act 1991 or the Building Act 1991 to any work proposed to be carried out or any activities proposed to be conducted under those provisions, except that any lease or sublease authorised by subsection (1B)

is not a subdivision for the purposes of Part X of the Resource Management Act 1991.”

7 General powers of Council in relation to land to which this Act applies

- (1) Section 6(1) of the principal Act is amended—
- (a) by omitting the word “The”, and substituting the words “Except as provided in subsection (1A), the”;
 - (b) by omitting the words “(other than Albert Park and Alten Road Reserve and the buildings and curtilages thereof and the land thirdly described in the First Schedule to this Act)”.
- (2) Section 6 of the principal Act is amended by inserting, after subsection (1), the following subsection:
- “(1A) With the exception of the Albert Park subsoil and Alten Road Reserve subsoil, the powers referred to in subsection (1) do not apply to Albert Park or Alten Road Reserve, or the buildings on the Park or Reserve or their curtilages, or the land thirdly described in the First Schedule.”

8 Schedule 1 amended

- (1) Schedule 1 of the principal Act is amended by omitting from the first paragraph the expression “(Section 4(1))”, and substituting the words “(including the land eleventhly described in this schedule) (sections 2 and 4(1))”.
- (2) Schedule 1 of the principal Act is amended by omitting from the fourth paragraph the expression “(Section 5)”, and substituting the words “(including the land twelfthly described in this schedule) (sections 2 and 4(1))”.
- (3) Schedule 1 of the principal Act is amended by adding the following paragraphs:
- “Eleventhly, that part of the land firstly described in this schedule that is also described as Areas A, B, C, D, E, F, G, H, I, J, Q, and R on SO Plan 69920 lodged in the office of the Chief Surveyor, Auckland.
- “Twelfthly, that part of the land secondly described in this schedule that is also described as Areas K, L, M, N, O, P, and S on SO Plan 69920 lodged in the office of the Chief Surveyor, Auckland.”

Legislative history

17 October 2000	Introduction (Bill 71-1)
8 November 2000	First reading and referral to Local Government and Environment Committee
27 July 2001	Reported from Local Government and Environment Committee
29 August 2001	Second reading
3 October 2001	Committee of the whole House, third reading
