



## ANALYSIS

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1976, No. 6—*Local*

**An Act to empower the Auckland City Council to sell or lease all or part or parts of its freehold land bounded by Victoria, Drake, and Union Streets, formerly used as its depot for municipal services and undertakings, to preserve certain parts thereof, or to use or permit them to be used for amenity or community purposes, and generally to use or permit the use of the property for such other purposes as it shall think fit, but in all cases within the limits authorised by its district planning scheme** [19 November 1976]

WHEREAS the land in the City of Auckland lying between Victoria Street, Drake Street, and Union Street as described in the Schedule hereto is vested in fee simple in the Corporation of the City of Auckland (in this preamble called the Corporation): And whereas for many years past that land and the buildings thereon was used by the Auckland City Council (in this preamble called the Council) as its depot for a variety of municipal services and undertakings: And whereas a portion of that land was vested in the Corporation pursuant

to the provisions of the Public Reserves Act 1854 and in terms thereof that portion was conveyed to the Corporation in trust for municipal purposes: And whereas the Municipal Reserves Act 1874 was enacted to set at rest doubts that had hitherto existed as to the validity of reserves previously created for municipal purposes and accordingly it declared that any reserve made generally for municipal purposes for any municipal corporation should be deemed to be made either wholly or partly for the endowment of that Corporation: And whereas that land is no longer required by that Council for depot purposes: And whereas the Council is of opinion firstly, that certain of the buildings and structures on that land are worthy of preservation as examples of Victorian industrial design and, secondly, that parts of that land (including buildings and structures intended for preservation) should be made available for suitable cultural and community purposes on a non-profit-making basis and, thirdly, that other portions should be redeveloped on a normal commercial basis for such purposes as might be authorised by the Corporation's district planning scheme:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Auckland City Council (Old Victoria Street Depot Site) Empowering Act 1976.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Corporation” means the body corporate of the Mayor, Councillors, and Citizens of the City of Auckland:

“Council” means the Auckland City Council.

**3. Land to which this Act applies**—The land to which this Act applies is the land described in the Schedule to this Act (which is hereinafter referred to as the said land).

**4. Fee simple may be sold or may be retained by the Corporation so as to form part of the capital of the Improvement Trust Account**—(1) The Council on behalf of the Corporation may sell the whole of the said land in one or more parcels as it shall think fit, free of any trust or endowment reservation and on such terms and conditions as it

shall consider appropriate, but subject to the consent of the Minister of Local Government given in terms of section 150 (4) of the Municipal Corporations Act 1954 in respect of the part thereof that is vested in the Corporation as an endowment; and it may be made a condition of any such sale that the purchaser or purchasers or his or their successors in title shall, at his or their cost, and for so long as the Council shall consider it practicable for him or them to do so, use any particular building or structure on the land so sold, for one or more of the purposes described in section 6 (1) of this Act, as the Council shall decide.

(2) As an alternative to the sale of the whole or any part of the said land, the Council may by resolution decide to retain the Corporation's freehold interest in the whole or such part thereof as may not have been sold, whereupon the said land or part thereof so retained shall be vested in the Corporation subject to the provisions of the Auckland Improvement Trust Act 1971 and they shall form part of the capital of the Improvement Trust Account freed of any hitherto existing trust or endowment reservation.

**5. Land to be used only for purposes authorised by district planning scheme or by the Town and Country Planning Act 1953**—The Council shall not use or permit the said land or any part thereof to be used for any purpose that would be contrary to the provisions of its district planning scheme prepared in accordance with the provisions of the Town and Country Planning Act 1953 and of this Act unless such use shall have been authorised by an appropriate application for a departure from that scheme made and granted in terms of the said first-mentioned Act.

**6. General powers of Corporation in relation to land to which this Act applies**—(1) Subject to the provisions of section 5 of this Act, the Council may preserve and use any building or buildings or any part thereof or any other structure on the said land as examples of Victorian industrial design and as a repository of Victorian memorabilia, and the Council may pay the cost of maintaining any building or other structure for that purpose out of the Corporation's Improvement Trust Account, or it may use or permit the same to be used as a community hall or cultural centre or as public tea rooms or refreshment rooms or similar amenities upon such terms and conditions as the Council may think fit;

and the Corporation is hereby empowered to pay the cost of establishing and maintaining any such amenity out of the capital or income of its Improvement Trust Account.

(2) Subject to the provisions of the said section 5, the Council on behalf of the Corporation may also subdivide, let, or lease the said land or any part or parts thereof for such residential, professional, commercial, industrial, cultural, or community purposes as the Council shall think fit.

(3) The Council may also on behalf of the Corporation widen or alter, either in direction or level, any street abutting or intersecting the said land, and to this end may legalise any part of the said land as street, accessway, or service lane or part of a street, accessway, or service lane.

**7. Special provisions as to letting or leasing land or buildings—**(1) Where, under this or any other Act, the said land or any part thereof, or any building or part of a building thereon, may be let or leased, the following provisions shall apply:

- (a) The letting may be made for short periods by private contract as provided in section 155 of the Municipal Corporations Act 1954:
- (b) The lease may be for any of the purposes authorised by this Act and for such terms and upon such conditions with such right or rights of renewal as the Council may think fit:
- (c) The Council may fix for any tenancy or for the original or renewed term of any lease such rent as it thinks fair and reasonable, having regard to the purpose for which the premises are to be used, the extent of the benefit that may be conferred upon the community by the activities of the tenant or lessee thereof, the financial standing of the tenant or lessee, and any other relevant matter:
- (d) The Council may at any time during the currency of a lease reduce the rent to be paid thereunder during the remainder or any part of the remainder of the term, and the Council may at any time or times during the currency or after the determination of a lease, compromise with the lessee for any rent due to the Corporation:
- (e) The net proceeds of any such lease or of any letting shall be applied in the manner described in section 8 of the Auckland Improvement Trust Act 1971:

- (f) The lease may, with the approval of the Council, be surrendered on such terms as may be agreed upon between the lessee and the Council and in particular the Council may accept or contract to accept a surrender of any lease if preliminary site investigations by the lessee disclose that the land or existing buildings are unsuitable for the purpose for which the lessee had intended to use them:
- (g) The Council may impose such further or other conditions in any letting or lease not inconsistent with the provisions of this section which it considers to be appropriate to the circumstances.

(2) Nothing in the Public Bodies Leases Act 1969 nor in the Municipal Corporations Act 1954 shall apply to a lease granted under this Act.

**8. Special provisions as to the council's district planning scheme—**(1) The Council shall as soon as practicable introduce an appropriate amendment to its district planning scheme that will provide for the development and use of all of the said land on a comprehensive basis and not for severed parts thereof:

Provided that nothing herein contained or implied shall deprive any person (including the Council) of the right to make application in an appropriate case under section 35 or section 30B of the Town and Country Planning Act 1953, and the power of the Council or of the Town and Country Planning Appeal Board (as the case may be) to grant or refuse any such application shall not be limited by the provisions of this subsection.

(2) The Council is hereby empowered (notwithstanding any rule of law to the contrary) to negotiate with any proposed purchaser or purchasers or lessee or lessees of the said land or any part thereof with a view to reaching provisional agreement upon a mutually acceptable comprehensive planning scheme for all the said land, and the fact that such negotiations may have taken place prior to the recommendation by the Council of a proposed change in its district planning scheme to give effect to any such provisional agreement shall not of itself be a ground for challenging in any Court the validity of the Council's actions in that regard.

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**SCHEDULE**

Section 3

**NORTH AUCKLAND LAND DISTRICT, AUCKLAND CITY**

Lot 1, D.P. No. 45668, being Allotment 19 and Part Allotment 16, Section 41, City of Auckland and Part Old Bed Waitemata Harbour, situated in Block XVI, Waitemata Survey District: Area, 8111 square metres (2 acres and 00.7 perches) more or less. All Certificate of Title, Volume 2D, folio 225.

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