

Auckland Aotea Centre Empowering Act 1985

Local Act 1985 No 9
Date of assent 17 December 1985

Contents

	Page
Title	2
1 Short Title	2
2 Interpretation	2
3 Land to which Act applies	2
4 Construction of Centre	2
5 Construction costs	3
6 Centre to be held by Auckland City Council on trust	4
7 Centre to be established for a charitable purpose	4
8 Operating costs	4
8A Operating costs and operating profits of premises or facilities other than Centre	4
9 Accounts	5
10 Board of Management	5
11 Members of Board of Management	5
12 Chairman of Board of Management	6
13 Meetings of Board of Management	7
14 Functions and powers of Board of Management	7
15 Allowances to and remuneration of members of Board of Management	9
16 Financial provisions	9
17 Consequences of any final reorganisation scheme	10
18 Protection of name of Centre	10
19 Amendments to other Acts	11
Schedule 1	12
North Auckland Land District—Auckland City	
Schedule 2	12
Schedule 3	13

An Act to authorise the Auckland City Council and other Councils in the Auckland area to share the cost of establishing and maintaining the Aotea Centre in the district of the City of Auckland and to provide for the constitution of a Board of Management for the Centre

BE IT 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 Aotea Centre Empowering Act 1985.

2 Interpretation

In this Act, unless the context otherwise requires,—

Act means the Local Government Act 1974

Auckland Regional District means the Auckland Regional District as constituted by the Auckland Regional Authority Act 1963

Board of Management means the Aotea Centre Board of Management constituted by this Act

Centre means the recreation and cultural centre to be known as the Aotea Centre proposed to be built on the land described in Schedule 1 to this Act

Aotea Centre Trust Board means the Aotea Centre Trust Board incorporated under Part 2 of the Charitable Trusts Act 1957.

3 Land to which Act applies

The land to which this Act applies is the land described in Schedule 1 to this Act (hereinafter referred to as the land).

4 Construction of Centre

- (1) For the avoidance of doubt it is hereby declared that the Auckland City Council, on behalf of itself and the other Councils named in Schedule 2 to this Act, is empowered and shall be deemed always to have been empowered to enter

into such contract or contracts as it considers necessary or expedient for the construction, operation, and maintenance of the Centre and for the furtherance of the purposes of the Centre.

- (2) Any change in the design of the Centre shall be implemented only after the Auckland City Council has consulted duly authorised representatives of the other Councils named in Schedule 2 to this Act.

5 Construction costs

- (1) Subject to subsection (6) of this section, the Auckland City Council shall contribute at least one half of the sum required to construct and commission the Centre, including the cost of furnishings and fittings, and the other Councils named in Schedule 2 to this Act shall collectively contribute thereto in the individual percentages or amounts set out opposite their names in that Schedule:

Provided that, in calculating the percentage or amount to be contributed by the Auckland City Council, credit in the sum of \$3 million shall be given to it for the value of the land disregarding the value of any buildings thereon due for demolition.

- (2) At least one-quarter of the said sum shall be sought by a public appeal by the Aotea Centre Trust Board.
- (3) Any territorial authority which is not named in Schedule 2 or Schedule 3 to this Act may make such grants of money towards the cost of constructing, commissioning, or operating the Centre at such time or times and in such manner as it thinks fit, and any territorial authority so named may make grants of money towards any of those costs that are additional to its obligations under either of these Schedules.
- (4) Notwithstanding anything in any other Act, any local authority constituted under any Act and which is not otherwise empowered to do so, may, having regard to its financial circumstances, make grants of money to assist in funding the Centre, either in respect of construction costs, or operating costs, or both, as the local authority shall think fit.

- (5) Any grant made pursuant to this section shall not of itself involve the donor in accepting any obligations under this Act, nor in acquiring any privileges thereunder.
- (6) Notwithstanding the provisions of subsection (1) of this section, the Auckland City Council's and the other Councils' obligations to contribute to the extent provided therein shall be based on the total sum required, after taking into account contributions received under subsections (2), (3), and (4) of this section.

6 Centre to be held by Auckland City Council on trust

The Auckland City Council shall retain its freehold interest in the land and in the buildings to be erected on it but it shall nevertheless hold the same on trust for the purposes described in section 601 of the Act and as further authorised by the powers conferred upon the Board of Management by section 14 of this Act for the benefit of the whole of the Auckland Regional District.

7 Centre to be established for a charitable purpose

The Centre is hereby declared to be established for a charitable purpose as defined in section 2 of the Charitable Trusts Act 1957.

8 Operating costs

Operating costs of the Centre in any year, after taking receipts into account, shall be borne by the Councils concerned in proportion to the percentages or amounts shown opposite their respective names in Schedule 3 to this Act. Any operating profit shall be shared by them in the same way.

8A Operating costs and operating profits of premises or facilities other than Centre

The Councils (other than the Auckland City Council) are not—

(a) required to contribute in any way to the operating costs of any premises or facilities referred to in section 14(1)(b); and

- (b) entitled to share in the operating profits of those premises or facilities.

Section 8A was inserted, as from 9 October 2001, by section 3 Auckland Aotea Centre Empowering Amendment Act 2001 (2001 No 4(L)).

9 Accounts

- (1) The Auckland City Council shall be responsible for keeping proper accounts in respect of the activities of the Centre and in so doing it shall abide by such of the requirements of Part 12 of the Act as are appropriate.
- (2) The provisions of section 204(2) of the Act shall apply in favour of any elector in the district of a territorial local authority contributing towards the cost of the construction or operation of the Centre.
- (3) A copy of the annual financial statement relating to the transactions of the Centre shall be sent by the Auckland City Council to each of the territorial authorities named in Schedules 2 and 3 to this Act and to contributors acting under section 5(3) and (4) of this Act.
- (4) Within 6 months after the end of each financial year the Auckland City Council shall prepare such financial statements as are necessary to show fully the financial position in respect of the Centre and the financial results of the operation of the Centre during that financial year.
- (5) The financial statements must be audited by the Auditor-General who for the purpose has and may exercise all the functions and powers of the Auditor-General under the Public Audit Act 2001.

Subsection (5) was substituted, as from 1 July 2001, by section 53 Public Audit Act 2001 (2001 No 10).

10 Board of Management

There is hereby established a Board to be known as the Aotea Centre Board of Management.

11 Members of Board of Management

- (1) The Board of Management shall consist of—
- (a) At least 3 persons to be appointed by the Auckland City Council:

- (b) A number of persons to be appointed by the other Councils named in Schedule 3 to this Act, the number (compared with the number appointed by the Auckland City Council) to be in the proportion at the time of appointment that the aggregate percentage of their liability to contribute towards operating costs bears to the percentage liability of the Auckland City Council therefor. Appointments under this paragraph shall be made after consultation between the other Councils, and, without in any way imposing an obligation upon them, they shall take into account the preferences of the Councils which are the major contributors within their number:
- Provided that, if the other Councils named in the said Schedule 3 are unable to agree upon any such appointment or appointments, they shall decide the appointment or appointments by vote, the value of their respective votes being in proportion to their individual financial commitments towards operating costs at the time of voting.
- (2) An appointee need not be a member of an appointing Council.
- (3) Every member of the Board of Management who is appointed by the Auckland City Council shall hold office during its pleasure, and every member appointed by the other Councils may be removed from office by a joint resolution of those Councils to that effect.
- (4) Every member of the Board of Management shall hold office for a term of 3 years, unless the member sooner resigns or is removed from office, but shall be eligible for reappointment.
- (5) In the event of a vacancy occurring it shall forthwith be filled by the Auckland City Council, or by the other Councils, as the case may require.
- (6) Sections 97 and 98 of the Local Government Act 1974, with the necessary modifications, shall apply to every member of the Board of Management.

12 Chairman of Board of Management

The Chairman of the Board of Management shall be elected by it from among its members at the first meeting held after the

commencement of this Act and thereafter at the first meeting of the Board of Management after every triennial general election of members of the Councils concerned.

13 Meetings of Board of Management

- (1) Meetings of the Board of Management shall be held at such times and places as it may from time to time appoint, and the Board of Management may make its own rules for regulating the conduct of its business.
- (2) Part 5 of the Local Government Act 1974, with the necessary modifications, shall apply in respect of every meeting of the Board of Management.

14 Functions and powers of Board of Management

- (1) The principal functions of the Board of Management are—
 - (a) to control, manage, and maintain the Centre; and
 - (b) subject to, and in accordance with, any agreement from time to time entered into between the Board of Management and the Auckland City Council, to control, manage, and maintain any recreational, entertainment, cultural, conference, or civic premises or facilities that are owned or controlled by the Auckland City Council; and
 - (c) to promote the use of the Centre and the premises or facilities referred to in paragraph (b) for any permitted purpose.
- (2) The Board of Management shall have all such powers, rights, and privileges as may be reasonably necessary or expedient to enable it to carry out those functions, and, in particular, it may from time to time—
 - (a) Make provision generally for the administration of this Act:
 - (b) Acquire and hold, for the purposes of this Act, any on-licence within the meaning of the Sale of Liquor Act 1989 in respect of any premises or facilities under the control or management of the Board of Management, or authorise any tenant or lessee to acquire and hold any such licence:
 - (c) Use or allow to be used the facilities and equipment under its control in such manner as it thinks fit for the

purpose of promoting and assisting in the development and carrying on of the arts, educational, cultural, and civic pursuits, and in its discretion grant concessions, discounts, and other preferential privileges to individuals or groups in the community considered by the Board of Management to be deserving of the same:

- (d) Organise, or arrange for the carrying on of, concerts and entertainments for the general public or any section of the general public:
- (e) Organise, or arrange for or authorise the holding of, exhibitions, conferences, conventions, and functions of a like nature:
- (f) Exercise as the agent of the Auckland City Council and on its behalf the powers of letting conferred by section 227 of the Act:

Provided that any proposal to enter into a lease for a term exceeding 5 years shall require the prior written approval of the Auckland City Council:

- (g) Publish or arrange for the publication of such periodicals, pamphlets, or other publications as it considers to be of interest to the general public relative to the administration and affairs of the Board of Management, the facilities offered by the Centre and any other premises or facilities under the control or management of the Board of Management, and the concerts and entertainments organised and presented by the Board of Management or by any person authorised by it to do so:
- (h) Establish and operate in the Centre and elsewhere booking offices for reservations at any function in the Centre and at any other venue:
- (i) Associate with any other organisation or entrepreneur in organising the visit of touring concert and entertainment companies or individuals:
- (j) Appoint a Secretary and such other officers or employees as it thinks necessary for the efficient carrying out of its functions under this Act.

Subsection (1) was substituted, as from 9 October 2001, by section 4(1) Auckland Aotea Centre Empowering Amendment Act 2001 (2001 No 4(L)).

Subsection (2)(b) was amended, as from 1 April 1990, by section 230(1) Sale of Liquor Act 1989 (1989 No 63) by substituting the words “on-licence within the meaning of the Sale of Liquor Act 1989” for the words “restaurant licence or food and entertainment licence within the meaning of the Sale of Liquor Act 1962”.

Subsection (2)(b) was further amended, as from 9 October 2001, by section 4(2)(a) Auckland Aotea Centre Empowering Amendment Act 2001 (2001 No 4(L)), by substituting the words “any premises or facilities under the control or management of the Board of Management” for the words “the premises”.

Subsection (2)(c) was amended, as from 9 October 2001, by section 4(2)(b) Auckland Aotea Centre Empowering Amendment Act 2001 (2001 No 4(L)), by substituting the words “, educational, cultural, and civic” for the words “and educational and cultural,”.

Subsection (2)(g) was amended, as from 9 October 2001, by section 4(2)(c) Auckland Aotea Centre Empowering Amendment Act 2001 (2001 No 4(L)), by inserting the words “of Management” after the word “Board” in both places where it appears.

Subsection (2)(g) was amended, as from 9 October 2001, by section 4(2)(d) Auckland Aotea Centre Empowering Amendment Act 2001 (2001 No 4(L)), by inserting the words “and any other premises or facilities under the control or management of the Board of Management” after the word “Centre”.

15 Allowances to and remuneration of members of Board of Management

- (1) The Board of Management is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951; and the members thereof may be paid travelling allowances and expenses in accordance with that Act, which shall apply accordingly.
- (2) Payments of allowances and remuneration to members of the Board of Management shall be made by the Auckland City Council and shall be treated as a cost in the operation of the Centre or any other premises or facilities under the control or management of the Board of Management, as the case may be.

Subsection (2) was amended, as from 9 October 2001, by section 5 Auckland Aotea Centre Empowering Amendment Act 2001 (2001 No 4(L)), by inserting, after the words “the Centre”, the words “or any other premises or facilities under the control or management of the Board of Management, as the case may be”.

16 Financial provisions

- (1) Notwithstanding anything in this Act, all money contributed pursuant to this Act, all money received or receivable from the use or letting or leasing of the Centre or any part of it,

and all money due from any other source, shall be received, administered, and paid out by the Auckland City Council; and the Board of Management shall account to the Auckland City Council for any such money coming into its hands in the first instance.

- (2) All officers and employees of the Board of Management shall be paid by the Auckland City Council on behalf of the Board.

17 Consequences of any final reorganisation scheme

The provisions of Part 1 of the Act relating to the apportionment of assets and liabilities consequent upon the bringing into force of a final reorganisation scheme shall apply to any commitment entered into by any Council pursuant to section 5(1) or section 8 of this Act.

18 Protection of name of Centre

- (1) No company or other body corporate shall be incorporated or registered under any enactment in New Zealand under the name “Auckland Aotea Centre” or “Aotea Centre” or under any other name that in the opinion of the Registrar of Companies so resembles the name of the Centre as to be calculated to deceive.
- (2) No person other than the Board of Management shall, by himself or with any other person or persons,—
- (a) Trade or carry on business under; or
 - (b) In any other way use as the name or description of any unincorporated body or organisation—
- the name “Auckland Aotea Centre” or “Aotea Centre” or any other name so resembling the name of the Centre as to be calculated to deceive.
- (3) Any person who contravenes subsection (2) of this section commits an offence and shall be liable on summary conviction to a fine not exceeding \$1,000 and to a further fine not exceeding \$100 for every day during which the offence has continued.

19 Amendments to other Acts

- (1) Part 2 of Schedule 1 to the Public Bodies Contracts Act 1959 is hereby amended by inserting in its appropriate alphabetical order the following item:

The Aotea Centre Board of Management 1985, No 9 (Local)—The Auckland Aotea Centre Empowering Act 1985.

(2)

- (3) Part 2 of Schedule 1 to the Local Authorities (Employment Protection) Act 1963 is hereby amended by inserting in its appropriate alphabetical order the following item:

The Aotea Centre Board of Management 1985, No 9 (Local)—The Auckland Aotea Centre Empowering Act 1985.

- (4) Part 2 of Schedule 1 to the Local Authorities (Members' Interests) Act 1968 is hereby amended by inserting in its appropriate alphabetical order the following item:

The Aotea Centre Board of Management 1985, No 9 (Local)—The Auckland Aotea Centre Empowering Act 1985.

(5)

(6)

- (7) Part 3 of Schedule 1 to the Ombudsmen Act 1975 is hereby amended by inserting in its appropriate alphabetical order the following item:

“The Aotea Centre Board of Management.”

Subsection (2) was repealed, as from 1 March 1988, by section 58(1) Local Government (Official Information and Meetings) Act 1987 (1987 No 174).

Subsection (5) was repealed, as from 6 June 1989, by section 41(8)(f) Local Government Amendment Act (No 2) 1989 (1989 No 29).

Subsection (6) was repealed, as from 1 July 1992, by section 72(2)(b) Local Government Amendment Act 1992 (1992 No 42).

Schedule 1

Section 3

**North Auckland Land
District—Auckland City****1**

6507 hectares, more or less, being part Lot 13 and Lot 14, DP 21520, Lot 2, DP 86062, part Lot 3, DP 86062, Lot 3, DP 87203, part Allotment 24, Section 30, City of Auckland, part Allotment 29, Section 31, City of Auckland, part Allotment 31, Section 31, City of Auckland, situated in Block XVI, Waitemata Survey District. Part certificates of title 1168/42, 43D/644, 21A/669, and 26C/1375, and all certificates of title 43D/643, 44D/945 and 40C/643. Shown marked A on SO Plan 58840 lodged in the office of the Chief Surveyor at Auckland.

Schedule 2

Council	Contribution to Council Capital Costs Per Annum Percentage or Amount
	\$
Birkenhead City Council.....	563,000
Ellerslie Borough Council.....	167,000
Glen Eden Borough Council	212,000
Henderson Borough Council.....	190,000
Howick Borough Council	250,000
Mt Albert City Council	657,000
Mt Roskill Borough Council	864,000 or 1.372 percent ¹
Mt Wellington Borough Council	585,000
New Lynn Borough Council	266,000

¹ Whichever is the lesser

Council	Contribution to Council Capital Costs Per Annum Percentage or Amount
Newmarket Borough Council	98,000
Northcote Borough Council	272,000
Onehunga Borough Council.....	448,000
Newmarket Borough Council	98,000
One Tree Hill Borough Council .	436,000 or 0.692 percent ¹
Otahuhu Borough Council	269,000
Papatoetoe City Council.....	527,000
Takapuna City Council.....	1,000,000

Schedule 3

Council	Contribution to Council Operating Costs Per Annum
Auckland City Council.....	Not less than 50 percent
Ellerslie Borough Council.....	0.530 percent
Henderson Borough Council....	0.602 percent
Mt Wellington Borough Council.....	1.856 percent
New Lynn Borough Council	0.844 percent
Newmarket Borough Council ..	0.210 percent

Council	Contribution to Council Operating Costs Per Annum
Northcote Borough Council ²	0.864 percent
Onehunga Borough Council.....	1.422 percent
One Tree Hill Borough Council	0.692 percent
Otahuhu Borough Council ³	0.854 percent
Papatoetoe City Council ⁴	1.674 percent

² Limit of 0.864 percent of operating losses to a maximum of 0.864 percent of \$545,000 for a period of 5 years after the Centre comes into operation, at which time this commitment shall be reviewed by the Council concerned and the Auckland City Council.

³ 0.854 percent of operating losses with a limit of \$8,000 for the first 3 years after the Centre comes into operation.

⁴ 1.674 percent with a limit of \$10,000 per annum.