

Hon. Richard Prebble

AUCKLAND DOMAIN

[LOCAL]

ANALYSIS

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A BILL INTITULED

An Act to consolidate and amend the law relating to the control, management, and use of the Auckland Domain in the district of the Auckland City Council

5 BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Auckland Domain Act 1987.

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

10 “Council” means the Auckland City Council:

“Cricket-ground” means that part of the Domain as is defined in the Auckland City Loans Consolidation and Empowering Act 1921:

15 “Domain” means the land first described in the First Schedule to this Act:

“Publicly notified” has the same meaning as in section 2 of the Local Government Act 1974.

3. Land to which this Act applies—This Act applies to the whole of the Domain:

No. 134—1

Price \$1.50
incl. GST \$1.65

Provided that nothing in this Act shall in any way derogate from the provisions of section 6 of the Auckland Institute and Museum Site Empowering Act 1918 nor from the provisions of the Auckland War Memorial Museum Maintenance Act 1979.

4. Status of Domain—(1) The Domain shall continue to be held by the Council upon trust as a place of public recreation and enjoyment, including at all times free access to and egress from the Domain in favour of all persons, subject to the provisions of this Act. 5

(2) None of the provisions of this Act shall be applied in a way that would interfere with the public's right of free access to and egress from the Auckland War Memorial Museum. 10

5. Roadways within Domain—(1) All existing roadways within the Domain are hereby declared to be roads for the purposes of the Transport Act 1962 and of the Local Government Act 1974. 15

(2) The Council may by resolution publicly notified prohibit the entry into any part of the Domain of goods service vehicles (subject to such exceptions as it may specify in the resolution), and, if it does so, shall erect appropriate signs to that effect as required by regulations made pursuant to the provisions of the Transport Act 1962. 20

6. General powers of Council with respect to Domain—In furtherance of the Council's obligation to make the Domain available as a place of public recreation and enjoyment, the Council may— 25

(a) Prescribe the games, sports, or other activities for public recreation or enjoyment which may take place in the Domain or in any specified part of it, and regulate the use of the Domain for those games, sports, and other activities, and prohibit altogether the playing of any particular game, sport, or other activity in the domain or any specified part of it: 30

(b) At any time and from time to time to set apart any part of the Domain for gardens, open spaces, footpaths, roadways, or picnic grounds, and for the provision of any other like facilities for public recreation or enjoyment or for facilities and amenities necessary for the public using the Domain; and construct or develop those gardens, open spaces, footpaths, roadways, picnic grounds and other facilities for 35 40

public recreation or enjoyment or facilities and amenities necessary for the public using the Domain:

(c) In the case of the cricket-ground, from time to time, for any period or periods, whether or not including Sundays, but not exceeding 7 consecutive days on any occasion or 20 days in any year, upon application by any person, body, or society (whether incorporated or not) and payment of any sum the Council thinks fit, either unconditionally or subject to any conditions which the Council thinks fit to impose,—

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(i) Grant to the applicant the exclusive use and control of the cricket-ground for the purpose of holding there any particular sport, game, or other recreational function or any community, cultural, or religious function, or any function falling into 2 or more of those categories:

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(ii) Permit the applicant to place any buildings or structures on the cricket-ground;—
and in that case, notwithstanding anything in this Act or any other enactment, but subject to any conditions the Council has imposed, for the period or periods concerned, the applicant—

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(iii) Shall (for the purpose only of preparing for, holding, and dealing with the consequences of the function or functions concerned) have exclusive use and control of the cricket-ground; and

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(iv) May place and maintain on the cricket-ground any buildings or structures permitted by the Council; and

(v) Shall be deemed to be in lawful occupation of the cricket-ground, and to be the only person in lawful occupation of the cricket-ground:

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Provided that any person authorised in that behalf by the Council may at any time enter the cricket-ground for the purpose of ascertaining whether or not any conditions imposed by the Council have been or are being complied with by the applicant.

40 **7. Special provisions as to leasing certain parts of the Domain**—Whereas pursuant to section 6 of the Reserves and Other Lands Disposal Act 1974 and to the other enactments referred to in that section, the Council is empowered to grant leases to the Auckland Bowling Club (Incorporated), to the Auckland Lawn Tennis Association (Incorporated), and to the

Auckland Rugby League (Incorporated) of parts of the Domain as are described in the said section 6: And whereas it is desirable to empower the Council to grant a renewal of each of those leases for a further term or terms not exceeding 21 years from the expiry of the current leases together with a further option of renewal for not more than 21 years if such renewals are requested and if the requests are granted: And whereas for many years past the Parnell Lawn Tennis Club (Incorporated) has occupied a part of the Domain with the permission of the Council but merely as a licensee, the part so occupied being thirdly described in the First Schedule to this Act: And whereas it is desirable to empower the Council to grant to the Parnell Lawn Tennis Club (Incorporated) a lease of the land occupied by it for a term not exceeding 21 years together with an option of renewal at the discretion of the Council for not more than 21 years at such rental and upon such conditions as the Council thinks fit: And whereas the house in the Domain adjacent to the duck ponds which was built as an "Ideal Home" for the Great Industrial Exhibition of 1912-1913 has since that time been known and used as the Domain Tea Kiosk and has been let out for that purpose: And whereas it is desirable to empower the Council to grant a lease of the Domain Tea Kiosk and its curtilage for a term not exceeding 21 years together with an option of renewal for not more than 21 years (the house and its curtilage occupying the land secondly described in the First Schedule to this Act): And whereas it is expedient to make provision accordingly: BE IT THEREFORE ENACTED as follows:

(1) Notwithstanding anything in any other enactment, the Council is hereby empowered to grant—

- (a) To the Auckland Bowling Club (Incorporated) a further lease of the land occupied by it of the land first described in section 6 (3) of the Reserves and Other Lands Disposal Act 1974, the term of such lease to commence on the expiry of the current lease, and to be for a term or terms not exceeding in the aggregate 21 years:
- (b) To the Auckland Lawn Tennis Association (Incorporated) a further lease of the land occupied by it of the land secondly described in section 6 (3) of the Reserves and Other Lands Disposal Act 1974, the term of such lease to commence on the expiry of the current lease, and to be for a term or terms not exceeding in the aggregate 21 years:

- 5 (c) To the Auckland Rugby League (Incorporated) a further lease of the land occupied by it of the land thirdly described in section 6 (3) of the Reserves and Other Lands Disposal Act 1974, the term of such lease to commence on the expiry of the current lease, and to be for a term or terms not exceeding in the aggregate 21 years:
- 10 (d) To the Parnell Lawn Tennis Club (Incorporated) a lease of the land thirdly described in the First Schedule to this Act for a term or terms not exceeding in the aggregate 21 years from the date of the commencement of this Act, and upon such terms and conditions as the Council thinks fit, but excluding payment of compensation for improvements on the expiration of any such lease:
- 15 (e) A lease of the land described in the First Schedule to this Act for a term or terms not exceeding in the aggregate 21 years from the date of commencement of this Act, and upon such terms and conditions as the Council thinks fit.
- 20 (2) Each of the leases referred to in subsection (1) of this section may at the discretion of the Council, and at the request of the lessee, be renewed for a further period not exceeding in the aggregate 21 years, upon such terms and conditions as the Council thinks fit.
- 25 (3) Except as provided in this section, the Council shall not have power to grant a lease or leases of any other part or parts of the Domain.

30 **8. Grant of easements**—The council may grant easements across the Domain, on such conditions as it thinks fit, for the purpose of accommodating underground public facilities.

35 **9. Charges for certain functions**—(1) The Council may, in its absolute discretion and subject to such conditions as it thinks fit, permit any person holding a function on the cricket-ground pursuant to an authorisation under section 6 (c) of this Act, or in the buildings known as the Winter Gardens, to make a charge for admission to that function.

40 (2) The Council may, pursuant to clause 11B of the Tenth Schedule to the Local Government Act 1974, impose charges for the entry of persons or vehicles to the area of any roadway within the Domain that has been temporarily closed under clause 11 (e) of that Schedule, and the promoter of the function concerned shall account to the Council for the charges due to it.

10. Minor commercial enterprises within Domain—

The Council may permit any specified part of the Domain to be used temporarily as a stall for the sale of refreshments, or as a place for the hiring out of bicycles, and for the provision of other services or amenities for the public upon such terms and conditions as the Council thinks fit. 5

11. Bylaws—(1) The Council may, for the purposes of this Act, make bylaws for all or any of the following purposes:

- (a) The management, safety, preservation, and use of the Domain or any part of it, the preservation of the flora and fauna in the Domain, and the preservation of the natural environment of the Domain: 10
- (b) The exclusion of dogs or other animals from the Domain, and their impounding if intruding in the Domain: 15
- (c) Regulating the times of admission to the buildings known as the Winter Gardens and to the adjacent fernery; and the terms and conditions under which the Winter Gardens may be reserved for the holding of any particular function: 20
- (d) Prohibiting the bringing into the Domain, or the possession or consumption therein, of intoxicating liquor, either generally or on specified occasions or during specified periods: 25
- (e) Generally regulating the use of the Domain and providing for the preservation of order therein, the prevention of any nuisance therein, and for the safety of people using the Domain. 25

(2) The powers conferred by this section are in addition to the powers conferred on the Council by any other Act.

12. Damage by fire—Every person commits an offence against this Act who, without being authorised by the Council, lights on any part of the Domain or permits to be lighted thereon, a fire which spreads into and destroys any bush or natural growth on or damages the Domain in any way. 30

13. Offences and penalties—Every person who fails to comply with any of the requirements of this Act or acts in breach of any bylaw made thereunder commits an offence and is liable on summary conviction to a fine not exceeding \$500 and, if the offence is a continuing one, to a further fine not exceeding \$50 for every day or part of a day during which the offence has continued. 35 40

14. Reserves Act 1977 not to apply—(1) The provisions of the Reserves Act 1977 shall not apply to the Domain.

(2) The classification of the Domain as a reserve for recreation purposes by notice in *Gazette*, 1980, Volume I, page 5 220 is hereby revoked.

15. Repeals—The enactments specified in the **Second Schedule** to this Act are hereby repealed.

SCHEDULES

FIRST SCHEDULE

Sections 2, 7

NORTH AUCKLAND LAND DISTRICT—AUCKLAND CITY

1. ALL that piece of land containing 75.0424 hectares, more or less, being parts Auckland Domain shown on Deposited Plan 21515, Lot 1, Deposited Plan 29608, Lots 2 and 4, Deposited Plan 51818, part Section 96, parts Section 98 and parts Allotments 1, Section 99, Suburbs of Auckland, and parts Auckland Domain situated in Block VIII, Rangitoto Survey District. All certificates of title 479/229, 730/30, 6C/1343, and 37A/190 (North Auckland Registry). (Shown marked "A" on S.O. Plan 61333).

2. ALL that piece of land containing 382 square metres, more or less, being part Auckland Domain, situated in Block VIII, Rangitoto Survey District. Part certificate of title 37A/190 (North Auckland Registry). (Shown marked "B" on S.O. Plan 61334).

3. ALL that piece of land containing 6078 square metres, more or less, being part Auckland Domain, situated in Block VIII, Rangitoto Survey District. Part Certificate of title 37A/190 (North Auckland Registry). (Shown marked "C" on S.O. Plan 61334).

SECOND SCHEDULE

Section 15

ENACTMENTS REPEALED

1893, No. 25 (Local)—The Auckland Domain Vesting Act 1893.

1986, No. 6 (Local)—The Auckland Domain Vesting Amendment Act 1986.