

*Hon. Richard Prebble*

## AUCKLAND IMPROVEMENT TRUST AMENDMENT

[LOCAL]

### ANALYSIS

Title	
1. Short Title	4. General powers of Council
2. Interpretation	5. Application of income
3. Old Synagogue building and curtilage	6. Existing rights preserved

### A BILL INTITULED

#### **An Act to amend the Auckland Improvement Trust Act 1971**

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

10 **1. Short Title**—This Act may be cited as the Auckland Improvement Trust Amendment Act 1985, and shall be read together with and deemed part of the Auckland Improvement Trust Act 1971 (hereinafter referred to as the principal Act).

**2. Interpretation**—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the term “Corporation”.

15 (2) The principal Act is hereby amended by omitting the word “Corporation” wherever it occurs, and substituting in each case the word “Council”.

**3. Old Synagogue building and curtilage**—Section 4 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsections:

20 “(6) Until the Council passes a resolution under subsection (5) of this section in respect of the land thirdly described in

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the First Schedule to this Act (old Synagogue site), or in respect of any part of it, the Council may let or lease the same or any remaining part to which such a resolution has not been applied, for such professional, commercial, cultural, or community purposes as the Council considers will be likely to require 5 minimum interference with the external appearance of the old Synagogue building, yet will ensure that the building is kept in constant use.

“(6A) Any such letting or leasing may permit the tenant or lessee, subject to the Council’s supervision, to make alterations 10 or additions to that building, within the foregoing limitations, but the Council may nevertheless permit the demolition or replacement of any other building on the said land if, in the Council’s opinion, such demolition or replacement would enhance the appearance or impact of the old Synagogue 15 building and will assist with the financial viability of the use to which the property is to be put.

“(6B) Any use of the said land and of any building on it, and any proposed alteration to the old Synagogue building, shall comply with the provisions of the Town and Country 20 Planning Act 1977 and of the Historic Places Act 1980.

“(6C) Notwithstanding anything to the contrary in this Act, any lease granted pursuant to **subsection (6)** of this section may be for such term, either less or more than 21 years, as the Council thinks fit, but any lease for a total term in excess of 25 the period authorised by section 4A (1) (b) of this Act shall contain a provision that it may be terminated by the Council at any time after the expiration of the maximum period stated in that section (which shall run from the date of commencement of that lease or any earlier lease granted pursuant to this Act) 30 after having given not less than 12 month’s notice in writing of intention so to do, if in the Council’s opinion it is in the public interest that the lease should be terminated so as to make the property available for the public in general.

“(6D) Any termination of a lease under **subsection (6C)** of this 35 section shall be subject to the payment of compensation by the Council to the lessee for the fair market value of the undertaking as a going concern and, in determining the fair market value, regard shall be had to such matters as may be appropriate including, but not by way of limitation, the 40 following matters:

“(a) The value of the lessee’s improvements (as defined in section 2 of the Valuation of Land Act 1951) at the time of termination:

“(b) The value of chattels, fixtures, and fittings:

“(c) The value of goodwill.

“(6E) In case of disagreement, the fair market value shall be determined by arbitration in accordance with the Arbitration Act 1908.

5 “(6F) Section 4A (1) (g) of this Act shall be read subject to the provisions of subsections (6A) and (6C) of this section.

“(6G) Any tenant or lessee of the said land or any part of it may, with the prior written consent of the Council, sublet or sublease a portion of the land for such term and subject to  
10 such conditions and restrictions as the Council may stipulate.

“(6H) Any resolution passed pursuant to subsection (5) of this section, and any letting or leasing or subletting or subleasing as authorised by this section, shall be deemed not to be a subdivision of the land thirdly described in the First Schedule  
15 to this Act for the purposes of Part XX of the Local Government Act 1974 or for any other purpose.”

**4. General powers of Council**—(1) Section 6 (1) of the principal Act (as amended by section 4 of the Auckland Improvement Trust Amendment Act 1973) is hereby amended  
20 by omitting the words “and the buildings and curtilages thereof and the old Synagogue building referred to in subsection (6) of section 4 of this Act”, and substituting the words “and the buildings and curtilages thereof and the land thirdly described in the First Schedule to this Act”.

25 (2) Section 4 of the Auckland Improvement Trust Amendment Act 1973 is hereby consequentially repealed.

**5. Application of income**—Section 8 of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

30 “(c) In works of public utility or ornament in the City of Auckland, or in furtherance of recreation, education, science, and art, or for the improvement of any form of culture, or for the improvement or development of amenities for the public.”

35 **6. Existing rights preserved**—Nothing in section 3 of this Act shall deprive any person of any rights of occupancy of any part of the land thirdly described in the First Schedule to the principal Act in existence on the commencement of this Act, or prejudice any such rights; and the powers conferred by the  
40 said section 3 shall not be exercised in respect of any part of the said land to which any such rights apply until those rights have been extinguished.