

Auckland War Memorial Museum Site Empowering Bill

Local Bill

As reported from the Government Administration
Committee

Commentary

Recommendation

The Government Administration Committee has examined the Auckland War Memorial Museum Site Empowering Bill, and recommends that it be passed with the amendments shown.

This is a local bill. We have determined that the Standing Orders have been complied with and that the rights and prerogatives of the Crown are not affected.

Introduction

The main purpose of this bill is to validate the lease of land in the Auckland Domain by the Mayor, Councillors and Citizens of the City of Auckland to the Auckland Museum Trust Board for the Auckland War Memorial Museum. The bill will also increase the land area subject to the lease for the redevelopment of the Museum. The bill repeals the Auckland Institute and Museum Site Empowering Act 1918.

Redevelopment of the Museum

The Museum will embark on a \$46.5 million redevelopment in October 2003, subject to the enactment of this bill. We support this bill, as amended, and are pleased the redevelopment will provide much-needed improvements to the Museum's facilities, and new

and enhanced visitor amenities. We look forward with interest to the completion of this work, expected for 2005.

The redevelopment will entail the first significant new additions to the Museum since 1960. It will extend the Museum's interior space by more than 60 percent, with a new seven-level atrium within the Museum linked to a new underground car-park. This will enable the Museum to perform core museological functions, and provide educational, visitor and other services in accordance with its statutory obligations and public expectations. It will also address the lack of accessible and secure parking for Museum visitors.

The Government and the Board will each contribute on a dollar for dollar basis to the redevelopment. The Auckland region's seven territorial local authorities have agreed to increase their total annual contribution to the Museum's operational costs from approximately \$12 million to \$15 million as a consequence of the redevelopment.

We conducted a site visit to the Museum during our consideration of this bill. It was evident that the Museum is constrained by a lack of adequate storage, technical facilities and workshops. However, we acknowledge that these deficiencies do not detract from the Museum fulfilling its role as a war memorial and as guardian of significant collections of New Zealand's inheritance. We also acknowledge the commitment of the staff and the Board to the Museum.

Description of land subject to lease

We recommend that the bill be amended to clarify that the lease includes both the existing area and the proposed lease area. The existing area has a total area of 1.1612 hectares, as illustrated in the Schedule of the bill. The proposed lease area, which surrounds the existing lease area, totals 1.6691 hectares. The intention of the bill is to encompass both areas covering a total of 2.8303 hectares. However, the Office of the Surveyor-General advised us that the description of the area in the bill is inadequate and confusing. It is unclear whether the description refers to the existing lease area, the proposed lease area, or both.

The Surveyor-General advised us that the convention is to describe the original area of the lease by referring to the plan that defined it (SO Plan 20152A), rather than to the latest plan, as currently described in the Schedule, that shows the original area only as an abuttal. The description should also clarify that the freehold interest

in the land is held in Certificate of Title NA75C/138. This is the title for the Auckland Domain.

In view of the above, we consider that the bill be amended to clarify that the lease is for both the existing and proposed lease area, by including a reference to SO Plan 20152A and to the freehold interest in the land held in the Certificate of Title NA75C/138.

We note that the land proposed for the car-park adjoins a water reservoir owned by Watercare Services Limited. The Council advises us that Watercare supports the construction of the adjoining underground car-park.

Retrospective effect

This bill will also correct the discrepancies between the existing location of the Museum building and the legal description of the site leased to the Board for museum purposes in the 1918 Act. The bill will have retrospective effect. It validates the lease granted by the Mayor, Councillors, and Citizens of Auckland to the Board dated 31 March 1920 for the period of its currency up to the enactment of this bill. The land described in the Schedule of the bill is also deemed as always to have been covered by that lease. The proposed lease area includes all of the area the existing Museum building sits on, as well as additional land surrounding it to allow for the new car-park and for minor extensions to the building. The extensions to the eastern and southern ends of the building are for the construction of vehicle and public entranceways and adjoining facilities.

The discrepancy between the lease area in the 1918 Act and the actual location of the Museum building may have remained undetected but for a survey for the proposed car-park. During the survey it became apparent that the Museum occupies a site that differs from the site defined in the 1918 Act. Specifically, the northeastern and northwestern extremities of the Museum building extend beyond the area defined in the 1918 Act as subject to the lease.

We understand that the Board, as promoter of the bill, explored the desirability of either amending or repealing the 1918 Act, and concluded that a new bill was required to provide clarity and certainty. Submissions from the Council and the Territorial Local Authority Electoral College (Museums) strongly supported this view. They also supported the redevelopment of the Museum.

The Council considered that the total lease area in the bill is largely within the area set aside in the District Scheme for 'Museum Purposes' within the Auckland Domain. We are also advised that all development in the Auckland Domain is subject to extensive controls in the District Plan in terms of archaeology, heritage, landscape, and visual sight lines. The Council told us the Museum site is previously modified land and there are no known archeological or visual amenity issues affecting its use for museum purposes. We note that the Council has issued a resource consent for the redevelopment, which was supported by the Historic Places Trust.

The Museum has stood in the Auckland Domain for more than 70 years and is a significant landmark to all New Zealanders. We consider there is no other viable option but for new legislation to have a retrospective effect. We endorse the need for the 1918 Act to be repealed and replaced with this bill as amended. This should result in a greater degree of clarity and certainty for the parties concerned, secure the Museum's future, and facilitate its redevelopment.

Roadways adjacent to Museum

The proposed lease area includes existing and proposed roadways immediately adjacent to the Museum building. The Council advised us that all roadways in the Auckland Domain, including those adjacent to the Museum building, fall under the provisions of the Auckland Domain Act. Currently, this effectively means that all roadways within the Auckland Domain remain in the ownership of the Council, which has responsibility for their upkeep and maintenance.

We recommend that the bill be amended to ensure that roadways on the proposed lease area, as detailed in the Schedule, are subject to section 5 of the Auckland Domain Act. This is to ensure that roadways on the lease area remain the Council's responsibility, in line with all other roadways in the Auckland Domain. We are aware that this exemption is already the subject of an agreement between the Council and the Board and that amending the bill as such will further enforce this.

Consequential amendment

We recommend a new clause 8 to provide for a consequential amendment to section 3 of the Auckland Domain Act. Section 3

currently refers to section 6 of the 1918 Act. As this bill will repeal the 1918 Act, a consequential amendment is required to section 3 of the Auckland Domain Act to omit the reference to the 1918 Act and substitute a reference to the Auckland War Memorial Museum Site Empowering Act 2003. This will also ensure that this bill is read with reference to the Auckland Domain Act, in particular that Act's section 5 provision on roads.

Restriction on activities on volcanic sites

The Museum is situated on a volcanic cone. The promoter of the bill sought to exclude the Museum area from law restricting activities on the side or slope of volcanic sites. Section 5 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1915 restricts quarrying, excavations, terrace or cutting on the side or slope of volcanic cones or hills bounded by or abutting a public reserve. The Board submits that the 1915 Act, on the face of it, does not apply to the Museum site or the proposed car-park, as they sit on top of a volcanic cone, not on its side or slope. The Board also notes that the 1915 Act was not an issue when the Museum was extended in 1929 and 1960. However, the Board considers it prudent to put beyond doubt that the area covered by the lease is exempt from the requirements of the 1915 Act. We agree.

We note the Council's submission that any development in the Auckland Domain is subject to wide public and expert scrutiny. The Council has also issued a resource consent for the Museum's redevelopment, which was supported by the Historic Places Trust. We are therefore satisfied that adequate measures are in place to protect the geological integrity of the site. We consider that the lease area should be exempt from section 5 of the 1915 Act, and recommend that a new clause 5(3) to this effect be inserted in the bill.

Appendix

Committee process

The Auckland War Memorial Museum Site Empowering Bill was referred to the committee on 25 June 2003. The closing date for submissions was 18 July 2003. We received and considered three submissions from interested groups and individuals. We heard three submissions, which included a site visit and holding hearings in Auckland. Hearing of evidence took 40 minutes and consideration took two hours and five minutes.

We principally received advice from the Department of Internal Affairs. The Office of the Surveyor-General also provided advice on certain aspects of the bill.

Committee membership

Dianne Yates (Chairperson)

Pansy Wong (Deputy Chairperson)

Steve Chadwick

Judith Collins

Hon David Cunliffe

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

Hon Judith Tizard

Auckland War Memorial Museum Site Empowering Bill

Local Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Auckland War Memorial Museum Site Empowering Act **2003**.

Part 1 Preliminary provisions

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

- 3 Purposes of Act**
The purposes of this Act are— 10
- (a) to repeal the Auckland Institute and Museum Site Empowering Act 1918; and
 - (b) to empower the leasing of land in the Domain to the Board and to extend the area of the Domain subject to the lease; and 15

- (c) to set out the correct legal description of the land that is subject to the lease, including the extension to that area of land; and
- (d) to validate the lease for the period of its currency to the commencement of this Act.

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4 Interpretation

In this Act—

Board means the Auckland Museum Trust Board continued under section 3 of the Auckland War Memorial Museum Act 1996

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Corporation has the meaning it is given in section 2 of the Auckland Institute and Museum Site Empowering Act 1918

Council means the Auckland City Council

Domain has the meaning set out in section 2 of the Auckland Domain Act 1987

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lease means the lease granted by the Corporation to the Board dated 31 March 1920

Museum has the meaning set out in section 2 of the Auckland War Memorial Museum Act 1996.

Part 2

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Power to lease land in Domain

5 Power to lease land in Domain

- (1) Despite **section 7(3)** of the Auckland Domain Act 1987, the Council has the power to grant a lease to the Board in respect of the area of land described in the Schedule.
- (2) The land described in the Schedule must be used—
 - (a) exclusively as a site for the Museum; and
 - (b) on the terms and conditions, including terms as to public access to the Museum site through the Domain, that the Council considers appropriate and in the public interest; and
 - (c) at an annual rent of not more than \$2.00 per year.

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New (unanimous)

- (3) To avoid doubt,—

New (unanimous)

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| <p>(a) section 5 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1915 does not apply, and is deemed never to have applied, to the land described in the Schedule; and</p> <p>(b) section 5 of the Auckland Domain Act 1987 applies in respect of the land described in the Schedule.</p> | 5 |
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Part 3
Validation and repeal

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| <p>6 Validation of lease</p> <p>The lease is deemed to be, and to have always been, as valid and effectual as if all the land that is subject to the lease had been that land described in the Schedule.</p> | 10 |
| <p>7 Repeal of Auckland Institute and Museum Site Empowering Act 1918</p> <p>The Auckland Institute and Museum Site Empowering Act 1918 is repealed.</p> | 15 |

New (unanimous)

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| <p>8 Consequential amendment</p> <p>Section 3 of the Auckland Domain Act 1987 is consequentially amended by omitting the words “section 6 of the Auckland Institute and Museum Site Empowering Act 1918”, and substituting the words “the Auckland War Memorial Museum Site Empowering Act 2003”.</p> | 20 |
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Schedule
Land comprising Auckland War Memorial
Museum site

Struck out (unanimous)

All that piece of land being part of the land described in the First Schedule to the Auckland Domain Act 1987, and being the part occupied by the Auckland War Memorial Museum building containing 1.6691 hectares, more or less, bounded by other parts of that land and as more particularly shown marked "Auckland Museum" on SO 70808.

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New (unanimous)

Parts of the land described in Schedule 1 of the Auckland Domain Act 1987, being the parts occupied by the Auckland War Memorial Museum building and surrounding land and being comprised in part of computer freehold register NA75C/138, being—

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- (a) all that portion of land containing 1.1612 hectares, more or less, marked "Proposed Institute and Museum Site" on SO Plan 20152A and marked "Existing Lease" on SO Plan 70808 held by Land Information New Zealand; and
- (b) all that portion of land containing 1.6691 hectares, more or less, marked "A" on SO Plan 70808 held by Land Information New Zealand.

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Legislative history

12 June 2003

Introduction (Bill 55bar-1)

25 June 2003

First reading and referral to Government Administration Committee
