

**Reprint  
as at 15 December 1979**



**Auckland Harbour Board  
(Westhaven) Vesting and  
Empowering Act 1979**

Local Act    1979 No 20  
Date of assent    14 December 1979  
Commencement    14 December 1979

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

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**Schedule**  
**Land vested**

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**An Act to vest in the Auckland Harbour Board a certain part of the Waitemata Harbour, to define the limits of the Westhaven Boat Harbour, and to grant to the Board certain powers for the development and management thereof**

**1 Short Title**

This Act may be cited as the Auckland Harbour Board (Westhaven) Vesting and Empowering Act 1979.

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**Board** means the Auckland Harbour Board

**boat harbour** means a harbour or part of a harbour used for the purpose of mooring, sheltering, or servicing pleasure boats; and includes any land or building used in conjunction therewith or required for access thereto and, without limiting the general import of that term, may include—

- (a) any slipway, launching ramp, dock, pier, swing or pile mooring, marina pier or berth, quay, wharf, jetty, cleaning grid, landing place, hoist, hoist well, bridge, float, pontoon, boatshed, boat repair or building facilities, boatyard, breakwater, wave screen, embankment, marine service station, or fuelling pier or facility, administration facilities, or any other boating or aquatic structure, service, or amenity for the use and convenience of the boating public; and
- (b) any shop, restaurant, car park, club premises, accommodation facilities or any other commercial or recreational service or amenity for the use and convenience of the general public as well as that of the boating public,—

and reference to a boat harbour or to boat harbour purposes shall be deemed to be a reference to all or part of any facility, structure, service, amenity, or use included in a boat harbour

**Westhaven Boat Harbour** shall have the meaning given to those words in section 5.

**3 Special Act**

This Act shall be deemed to be a special Act within the meaning of the Harbours Act 1950.

**4 Vesting**

- (1) The land described in the Schedule and identified as Area Z on Survey Office Plan 53761 (MD (N) 696) is hereby vested in the Board as an estate in fee simple for the purposes of this Act and otherwise subject to the provisions of the Harbours Act 1950.
- (2) The vesting of the land described in the Schedule shall not prejudice or affect any easements, leases, licences, or other rights whatsoever heretofore granted over or in respect of that land or any part thereof and the same are hereby confirmed.

**5 Definition of Westhaven Boat Harbour**

- (1) For the purposes of this Act and subject to subsection (3), the expression **Westhaven Boat Harbour** shall mean and include those areas of land, foreshore, bed of the sea, and waterspace, described and identified as Area A, B, C, D, E, F, G and H on Survey Office Plan 54140 deposited with the Chief Surveyor at Auckland, a copy of which plan is also deposited with the Ministry of Transport at Auckland and additionally numbered MD (N) 679.
- (2) With the prior consent of the Minister of Transport and upon such conditions, if any, as he thinks fit to impose, and subject to the provisions of subsection (3), the Board may from time to time alter the boundaries of the Westhaven Boat Harbour to include further areas required for its proper use and development for boat harbour purposes, or to delete areas no longer required for those purposes.
- (3) Upon any change in the boundaries of the Westhaven Boat Harbour pursuant to subsection (2) the Board shall deposit as aforesaid a new substituted plan defining the new boundaries and the Board shall publicly notify the change in a newspaper

circulating in the Auckland district, and the Minister of Transport shall give notice of the change by notice published in the *Gazette* and thereupon the expression **Westhaven Boat Harbour** shall refer to those areas included in the substituted plan.

- (4) Nothing in this Act shall prevent or affect any present or future use of any part or parts of the Westhaven Boat Harbour for other than boat harbour purposes.

## 6 Authority to develop

The Board may develop and redevelop from time to time the whole or any parts of the Westhaven Boat Harbour for the purposes of a boat harbour and may, subject to the Harbours Act 1950, carry out all works as may be necessary for that purpose and all such works shall be deemed to be harbour works for the purposes of the Harbours Act 1950.

## 7 Authority to acquire land

- (1) The Board may from time to time acquire by purchase, lease, exchange, or otherwise, or take under the provisions of the Public Works Act 1928, any land, buildings, or easements, or any lease or other interest therein, which are within or are adjacent to the Westhaven Boat Harbour and which are required for the development or better utilisation or use of that land for boat harbour purposes or for access to the boat harbour and any such acquisition shall, for the purposes of section 140 of the Harbours Act 1950, be deemed an undertaking the Board is authorised to carry out.
- (2) The rights of compensation conferred by section 141 of the Harbours Act 1950 on every person having an estate or interest in any land taken by the Board under the powers in subsection (1) or being thereby injuriously affected or suffering any damage are hereby confirmed:  
provided that no person shall, by virtue of the exercise of those powers, have any right or be entitled to damages or recompense (other than such compensation as may be obtained under and determined in the manner provided by the Public Works Act 1928) by reason of any breach or alleged breach of any covenant for quiet enjoyment, express or implied, in any lease granted by the Board, or of the breach of any obligation, ex-

press or implied, not to derogate from the grant contained in any such lease.

## **8 Leases not to constitute subdivision**

- (1) A lease of any land within the Westhaven boat harbour shall be deemed not to be a sale within the meaning of that term as defined in section 270(1) of the Local Government Act 1974.
- (2) The District Land Registrar for the North Auckland Land Registration District is hereby authorised to register any such lease after compliance with such requirements as he may determine for the entry of the lease on the register.

## **9 Authority to license**

- (1) The Board may exercise the powers conferred on it by section 156 of the Harbours Act 1950 to license and permit any part or parts of the Westhaven Boat Harbour, or any building, structure, or facility therein, to be used or occupied for boat harbour purposes, and in respect of any such licence the provisions of that section shall be deemed enlarged accordingly and any provisions of that section or of any other section of the Harbours Act 1950 which are inconsistent shall be deemed modified to the extent necessary to give effect to this section.
- (2) Any licence granted pursuant to subsection (1)—
  - (a) may be for any period not exceeding 21 years or for an initial period including a right or rights of renewal which will not in the aggregate exceed 21 years provided that the period may be extended beyond 21 years, but not exceeding 50 years, if the Board is satisfied that special circumstances exist requiring or justifying a longer term:
  - (b) may grant the right of exclusive use of the water space of any marina berth or pile mooring or the site of a swing mooring:
  - (c) shall be construed as a licence, any rule of law to the contrary notwithstanding:
  - (d) may provide for payment of service fees and for rentals and for those charges to be payable in advance and shall not be deemed in contravention of anything contained in section 118 of the Harbours Act 1950:

- (e) shall contain provisions regulating, controlling, or prohibiting the trading in or the assignment of licences or other authorities conferring the right to use or occupy marina berths or pile or swing moorings or the sites thereof:
  - (f) may be granted notwithstanding that the licensed rights may interfere with or restrict any public right of navigation or the public convenience if it so appears to the Board that special circumstances exist justifying the grant of such a licence for boat harbour purposes.
- (3) Should the Board, pursuant to section 161 of the Harbours Act 1950, revoke any licence in respect of the Westhaven Boat Harbour granted or agreed to before or after the passing of this Act and which provides for refund of rental or fee paid in advance in certain events, then notwithstanding the provisions of the said section 161, the Board shall make to the licensee such refund as is provided for in the licence, as if the revocation was such an event.

#### **10 Authority to lease**

- (1) The Board may in respect of the whole or any part of the land now or hereafter comprised in the Westhaven Boat Harbour exercise all or any leasing powers conferred on the Board under the Harbours Act 1950, the Public Bodies Leases Act 1969, or any other Act and, notwithstanding anything to the contrary contained in those Acts or any of them,—
- (a) the Board, with the prior written approval of the Minister of Local Government, may let such lands for boat harbour purposes on any tenancy or lease not specified in those Acts, whether as to the term granted, or any right or rights of renewal or the terms or aggregate duration thereof or as to the manner in which the rent is to be determined on the grant of the lease or on any renewal thereof or as to any other terms or conditions whatsoever:
  - (b) accept a surrender of any such lease whether as to the whole or to any part of the land comprised therein, and grant to the lessee, or any person or persons with the consent of the lessee, a new lease or new leases of the

whole part or any parts of the land comprised in the surrendered lease for the remainder or any part of the remainder of the term of the surrendered lease, at such rent as may be predetermined for the new lease or new leases in the surrendered lease, or, if no such rent is predetermined, at such rent as the Board may determine, with such right or rights of renewal and on such terms and conditions as are contained in the surrendered lease or as the Board may otherwise think fit.

- (2) Sections 8, 18, and 19 of the Public Bodies Leases Act 1969 shall not apply to the leasing by the Board or to any lease granted by the Board of the whole or any part or parts of such land pursuant to this section.

#### **11 Other Acts not affected**

Nothing in this Act shall be construed as—

- (a) limiting the application of the provisions of the Health Act 1956, the Town and Country Planning Act 1977, the Water and Soil Conservation Act 1967, or (except as provided in section 8 of this Act) the Local Government Act 1974;
- (b) conferring any water right within the meaning of the Water and Soil Conservation Act 1967.

#### **12 Compensation**

Save as provided in section 7(2), nothing in this Act shall deprive any person of any right or remedy he would otherwise have in respect of any loss, detriment, damage, or injury caused by any development or work constructed or carried out under the authority of this Act, whether to property or person and whether in respect of the deprivation of any water frontage or riparian rights or otherwise howsoever.

#### **13 Powers of District Land Registrar**

The District Land Registrar for the North Auckland Land Registration District is hereby authorised, on the deposit with him of such plans as he may require, such plans to be certified as to survey by the Chief Surveyor, and on request by the Board, to issue in the name of the Board a certificate or

certificates of title for the land vested in the Board by section  
4(1).

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**Schedule**

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**Land vested**

North Auckland Land District

Land below mean high water mark in the Waitemata Harbour and reclaimed land situated in Block XVI, Waitemata Survey District: Area 37.2250 hectares, more or less: Identified as Area Z on Survey Office Plan 53761 (MD (N) 696).

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**Notes****1 General**

This is a reprint of the Auckland Harbour Board (Westhaven) Vesting and Empowering Act 1979. The reprint incorporates all the amendments to the Act as at 14 December 1979, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989***

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

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