

Version
as at 28 October 2021



Tauranga District Council (Waikareao Estuary Expressway) Empowering Act 1989

Local Act 1989 No 10
Date of assent 29 December 1989
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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

Schedule 2

7

**Certificate under section 6 of the Tauranga District Council
(Waikareao Estuary Expressway) Empowering Act 1989 for
the issue of a certificate of title under the Land Transfer Act
1952**

An Act to authorise and empower the Tauranga District Council to reclaim land for the purpose of constructing a road generally along the eastern foreshore of the Waikareao Estuary in the Tauranga Harbour

1 Short Title

This Act may be cited as the Tauranga District Council (Waikareao Estuary Expressway) Empowering Act 1989.

2 Interpretation

In this Act, unless the context otherwise requires,—

Council means the Tauranga District Council

road means the expressway to be constructed generally along the eastern foreshore of the Waikareao Estuary in the Tauranga Harbour; and includes all the necessary approaches, buildings, erections and other works.

3 Special Act

This Act is declared to be a special Act within the meaning of the Harbours Act 1950.

4 Authority to reclaim

Subject to the provisions of the Harbours Act 1950 (other than section 175) and of section 5, the Council, for the purposes of constructing the road, is hereby authorised and empowered to reclaim from the sea the area described in Schedule 1 or any part or parts of it.

5 Expiry of authority to reclaim

- (1) The authority to reclaim conferred by section 4 shall be in force only—
 - (a) for the period of 5 years beginning with the date of commencement of this Act; and
 - (b) for such further period or periods (not exceeding 5 years in total) as the Minister of Conservation may determine.
- (2) No period determined by the Minister of Conservation under subsection (1)(b) shall expire more than 10 years after the date of commencement of this Act and no reclamation or no further reclamation, as the case may be, shall be undertaken under the authority of section 4, more than 10 years after that date.

- (3) A determination under subsection (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication The maker must publish it in the *Gazette* LA19 ss 73, 74(1)(a),
Sch 1 cl 14

Presentation It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019 LA19 s 114, Sch 1
cl 32(1)(a)

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116

This note is not part of the Act.

Section 5(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 5(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

6 Vesting of land in Council

- (1) On completion of the reclamation of the land described in Schedule 1, or any part of it, in accordance with plans approved pursuant to section 178 of the Harbours Act 1950, the Council shall cause a plan of survey thereof to be made and lodge it for deposit in the office of the District Land Registrar for the South Auckland Land Registration District.
- (2) On the deposit of the plan of survey the Council shall file in the office of the District Land Registrar a certificate in the form set out in Schedule 2 certified as correct by the chief executive of the Department of Survey and Land Information or by the Chief Surveyor of the South Auckland Land District.
- (3) Every such certificate shall have the same effect as a warrant issued under section 12 of the Land Transfer Act 1952, and the District Land Registrar shall accordingly vest the land in fee simple in the Council by issuing under that Act a certificate of title for the land in the name of the Council.
- (4) The land comprised in any certificate of title issued pursuant to such a certificate shall be subject to the Land Transfer Act 1952 as from the date fixed by the last-mentioned certificate as the date of acquisition of title thereto, and that date shall for all purposes whatsoever be deemed the ante-vesting date in the same manner as if the ante-vesting date had been inserted in a certificate given in respect of the land under section 116 of the Land Act 1948.
- (5) The date fixed by the certificate of the chief executive of the Department of Survey and Land Information or the Chief Surveyor as the date of acquisition of title to the land comprised in that certificate shall be the date on which the certificate is given.
- (6) Every certificate by the chief executive of the Department of Survey and Land Information or the Chief Surveyor under this section shall be conclusive evidence to the District Land Registrar of the matters required by this section to be therein stated.

- (7) On the issue of a certificate of title under this section, so much of the land comprised and described in that certificate of title as is subject to the provisions of the Tauranga Foreshore Vesting and Endowment Act 1915 shall cease to be so subject.

7 Rights preserved

Except as provided in this section, nothing in this Act shall deprive any person of any right or remedy otherwise available to that person in respect of any loss caused by any reclamation carried out under this Act or by the vesting of land in the Council pursuant to section 6; but nothing in this Act shall entitle the Crown or any local authority to payment or compensation for any land belonging to the Crown or the local authority which is reclaimed or vested in the Council pursuant to this Act.

8 Other Acts not affected

Nothing in this Act shall be construed as—

- (a) limiting the application of—
- (i) the Health Act 1956; or
 - (ii) the Water and Soil Conservation Act 1967; or
 - (iii) the Local Government Act 1974; or
 - (iv) the Reserves Act 1977; or
 - (v) the Town and Country Planning Act 1977:
- (b) conferring any water right within the meaning of the Water and Soil Conservation Act 1967.

9 Tolls for use of road

- (1) For the purpose of paying costs, charges, and expenses incurred under the authority of this Act and incurred in constructing and maintaining the road, the Council may collect tolls in accordance with the provisions of this Act in respect of the use of the road.
- (2) For the purpose of collecting tolls, the Council may construct on any road or other land owned by the Council such toll gates, toll houses, and other works as it considers necessary.
- (3) Tolls payable under this Act shall be at such rate or rates and shall be payable in respect of such persons and vehicles as may from time to time be prescribed by bylaws under this Act.
- (4) The scale of tolls for the time being in force shall be clearly exhibited in a conspicuous place at or near the place where the toll is payable.
- (5) Every person who is in charge or control of any vehicle in respect of which a toll is payable shall be liable for the payment of the tolls, and, if any person refuses or neglects to pay a toll payable under this Act, the Council may refuse

to allow that person to travel or enter on to the road or may recover as a debt from that person the amount of the toll, together with all expenses involved in the collection of the toll.

- (6) No toll shall be payable by or in respect of any of the following persons or in respect of any vehicle engaged solely in carrying any such person, namely,—
- (a) the Governor-General and every person in attendance on the Governor-General:
 - (b) every member of any of the armed forces of Her Majesty when on duty or going to or returning from duty and in the uniform of that member's corps:
 - (c) every constable on duty, and every prisoner in the custody of a constable, and every traffic officer on duty:
 - (d) any Minister or any officer or servant of the Crown whilst engaged on business connected with the road or with the administration of this Act:
 - (e) such other persons as may be prescribed in bylaws made under this Act.
- (7) Tolls shall not be payable in respect of fire engines and vehicles used for the extinction of fires, or in respect of ambulances, or in respect of the drivers or occupants of any such vehicles.

10 Bylaws

The Council may from time to time make such bylaws, not inconsistent with this Act or with any other Act, as it thinks fit for all or any of the following purposes:

- (a) protecting any property belonging to the Council and used for the purposes of the road:
- (b) conserving public health, safety, and convenience, and preventing and abating nuisances on the road:
- (c) regulating and preventing the taking on to or over the road of any noxious or dangerous goods or anything which may cause pollution in the Waikareao Estuary:
- (d) regulating the speed of traffic using the road:
- (e) regulating the weights of vehicles which may use the road:
- (f) fixing the amounts of, and levying and collecting, tolls in respect of the use of the road in respect of one or both directions of travel:
- (g) regulating or prohibiting the passage of loose horses, cattle, sheep, pigs, or other animals over the road:
- (h) generally for regulating the travelling upon, the using of, and the proper and efficient control and management of the road.

Schedule 1

Land authorised to be reclaimed

s 4

All that piece of land containing approximately 14 hectares, being that portion of the eastern side of the Waikareao Estuary in the Tauranga Harbour lying between Marsh Street to the northernmost extremity, being grid reference NZMS 260 Sheet U14 894 869 and Waihi Road Judea, to the southernmost extremity, being grid reference NZMS 260 Sheet U14 884 848, and being also the area shown hatched on the Tauranga District Council plan entitled “Waikareao Estuary Expressway (Route P)” and numbered 3508 deposited in the office of the Council at Tauranga.

Schedule 2

Certificate under section 6 of the Tauranga District Council (Waikareao Estuary Expressway) Empowering Act 1989 for the issue of a certificate of title under the Land Transfer Act 1952

s 6

The Tauranga District Council is entitled to the issue under the Land Transfer Act 1952 of a certificate of title in its name pursuant to section 6 of the Tauranga District Council (Waikareao Estuary Expressway) Empowering Act 1989.

Area and description of land:

Date from which entitled:

I hereby certify that the above particulars are correct, and the District Land Registrar is hereby authorised to issue accordingly a certificate of title under the Land Transfer Act 1952.

Chief Executive of the Department of
Survey and Land Information

or

Chief Surveyor

Notes

1 *General*

This is a consolidation of the Tauranga District Council (Waikareao Estuary Expressway) Empowering Act 1989 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3