

**Reprint  
as at 21 October 1981**



**Bay of Plenty Harbour Board  
(Sulphur Point) Vesting and  
Empowering Act 1981**

Local Act    1981 No 8  
Date of assent    20 October 1981  
Commencement    20 October 1981

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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

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**An Act to vest in the Bay of Plenty Harbour Board a certain part of the Tauranga Harbour, to define the limits of the Tauranga Marina, and to grant to the Board certain powers for the development and management thereof**

**1 Short Title**

This Act may be cited as the Bay of Plenty Harbour Board (Sulphur Point) Vesting and Empowering Act 1981.

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**Board** means the Bay of Plenty Harbour Board

**boat harbour** means a harbour or part of a harbour or an anchorage used for the purpose of constructing, fitting out, mooring, sheltering, or servicing boats; and includes any land or building used in conjunction therewith and, without limiting the general import of that term, includes—

- (a) any slipway, launching ramp, dock, pier, marina pier, quay, wharf, jetty, landing place, hoist, hoist-well, bridge, float, pontoon, boatshed, boat repair facilities, boatyard, breakwater, wave screen, embankment, marine service station, or fuelling pier or facility, facilities for the hire, sale, or dry storage of boats and for the sale of marine equipment and accessories, including ship's chandlery, 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, or facility, or any other commercial or recreational amenity for the use and convenience of the general public as well as that of the boating public—

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

**Council** means the Tauranga City Council

**Tauranga Marina** shall have the meaning given to that term in section 5.

**3 Special Act**

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

**4 Vesting**

- (1) Those parts of the land described in the Schedule which, immediately before the commencement of this Act, were vested in the Crown are hereby vested in the Board for an estate in fee simple.
- (2) The District Land Registrar for the South Auckland Land Registration District, on receipt of written notice from the Minister of Transport that the whole or any defined part of the land described in the Schedule has been effectively reclaimed from the sea and on the deposit of such plans as he may require, may issue a certificate of title in the name of the Board for the said land or part of the said land, as the case may be.
- (3) *Amendment(s) incorporated in the Act(s).*

**5 Definition of Tauranga Marina**

- (1) For the purposes of this Act the term **Tauranga Marina** means and includes those areas of land, foreshore, bed of the sea, and water space, first described in the Schedule.
- (2) Nothing in this Act shall prevent or affect any present or future use of any part or parts of the Tauranga Marina for harbour purposes.

**6 Authority to develop**

Subject to Part 20 of the Local Government Act 1974, the Board may develop and redevelop from time to time the whole or any parts of the Tauranga Marina for the purposes of a boat harbour and may, subject to the Harbours Act 1950, carry out all such 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 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 Tauranga Marina 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 to be enlarged accordingly and any provisions of that section or of any other section of the Harbours Act 1950 which are inconsistent shall be deemed to be 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 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.
- (3) Should the Board, pursuant to section 161 of the Harbours Act 1950, revoke any licence in respect of the Tauranga Marina 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.

## **8 Authority to lease**

- (1) The Board may in respect of the whole or any part of the land now or hereafter comprised in the Tauranga Marina 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 Transport, 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 or 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) the Board may 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 pre-determined for the new lease or new leases in the surrendered lease, or, if no such rent is pre-determined, 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.

**9 Board may vest reserve**

- (1) Notwithstanding anything contained in any other enactment, the Board is hereby authorised to transfer to the Council and the Council is authorised to accept, the land secondly and fourthly described in the Schedule to be vested in the Council as reserves for recreation purposes.
- (2) Notwithstanding anything contained in any other enactment, the land so transferred shall be in full satisfaction of all reserve or reserve fund contributions of all types required under the Local Government Act 1974 to which Her Majesty the Queen, the Council, or any other local authority may be entitled in respect of any subdivision, whether past, present, or future, carried out by the Board at any time within the area first and fifthly described in the Schedule.
- (3) The Board is hereby authorised to transfer to the Council for dedication as road the area thirdly described in the Schedule, and upon the Council constructing such road the Board is authorised to pay to the Council such proportion of the cost of construction as the Board and the Council may agree.

**10 Other Acts not affected**

Nothing in this Act shall be construed as—

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

**11 Compensation**

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.

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## Schedule

- 1 All that area in the South Auckland Land District, Tauranga County, situated in Block VI, Tauranga Survey District, containing 23.5240 hectares, more or less, being land below low water mark (part Tauranga Harbour Bed) vested in the Crown, and part Tauranga Harbour Foreshore vested in the Bay of Plenty Harbour Board, and proposed reclamation, as shown marked A on the plan numbered MD 16081 deposited in the office of the Ministry of Transport at Wellington (SO 51719).
- 2 All that area in the South Auckland Land District, Tauranga City and Tauranga County, situated in Blocks VI and X, Tauranga Survey District, containing 9.4090 hectares, more or less, being part Allotment 420, Section 1, Town of Tauranga, and part Tauranga Harbour Foreshore vested in the Bay of Plenty Harbour Board, and proposed reclamation, as shown marked B on the plan numbered MD 16081 deposited in the office of the Ministry of Transport at Wellington (SO 51719).
- 3 All that area in the South Auckland Land District, Tauranga County, situated in Block VI, Tauranga Survey District, containing 1.1208 hectares, more or less, being part Allotment 420, Section 1, Town of Tauranga and part Tauranga Harbour Foreshore vested in the Bay of Plenty Harbour Board, and proposed reclamation, as shown marked C on the plan numbered MD 16081 deposited in the office of the Ministry of Transport at Wellington (SO 51719).
- 4 All that area in the South Auckland Land District, Tauranga County, situated in Block VI, Tauranga Survey District, containing 1.3212 hectares, more or less, being part Allotment 420, Section 1, Town of Tauranga, and part Tauranga Harbour Foreshore vested in the Bay of Plenty Harbour Board, and proposed reclamation, as shown marked D on the plan numbered MD 16081 deposited in the office of the Ministry of Transport at Wellington (SO 51719).
- 5 All that area in the South Auckland Land District, Tauranga City and Tauranga County, situated in Blocks VI and X, Tauranga Survey District, containing 70.5178 hectares, more or less, being land below low water mark (part Tauranga Harbour Bed) vested in the Crown, and part Allotments 397, 401, 402, 418, and 420, Section 1, Town of Tauranga, and part Tauranga



Harbour and Foreshore vested in the Bay of Plenty Harbour Board, and proposed reclamation, as shown marked E on the plan numbered MD 16081 deposited in the office of the Ministry of Transport at Wellington (SO 51719).

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## Notes

### 1 *General*

This is a reprint of the Bay of Plenty Harbour Board (Sulphur Point) Vesting and Empowering Act 1981. The reprint incorporates all the amendments to the Act as at 21 October 1981, 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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