



## ANALYSIS

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1983, No. 4—*Local*

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

[26 August 1983]

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

**1. Short Title**—This Act may be cited as the Northland Harbour Board (Tutukaka) Vesting and Empowering Act 1983.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Board” means the Northland 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:

“Tutukaka Marina” shall have the meaning given to that term in section 5 of this Act.

**3. Special Act**—This Act is a special Act within the meaning of the Harbours Act 1950.

**4. Vesting**—(1) The land described in the First Schedule to this Act is hereby vested in the Board for an estate in fee simple in trust for harbour purposes.

(2) The District Land Registrar for the North Auckland Land Registration District is hereby authorised and directed, on receipt of a request from the Board and on completion of such surveys and deposit of such plans as he may require, to 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.

**5. Definition of Tutukaka Marina**—(1) For the purposes of this Act the term “Tutukaka Marina” means and includes those areas of land, foreshore, bed of the sea, and waterspace, described in the Second Schedule to this Act.

(2) Nothing in this Act shall prevent or affect any present or future use of any part or parts of the Tutukaka Marina for harbour purposes.

**6. Authority to develop**—Subject to Part XX of the Local Government Act 1974, the Board may develop and redevelop from time to time the whole or any parts of the Tutukaka 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 Tutukaka 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) of this section—

- (a) May be for any period not exceeding 14 years together with a right or rights of renewal which will not in the aggregate exceed 28 years, provided that the period including a right or rights of renewal may be extended beyond 28 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 Tutukaka 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 Tutukaka 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 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) 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. Management committee**—(1) Notwithstanding anything in section 38 of the Harbours Act 1950, the Board may from time to time appoint a special committee consisting of members or employees of the Board and persons representing licensees or lessees of any land or facility within the Tutukaka Marina and persons representing those persons residing in the locality of that marina.

(2) Subject to section 38 of the Harbours Act 1950, the Board may delegate to such committee such of the powers and duties

conferred or imposed upon the Board by this Act and the Harbours Act 1950 in relation to the management and control of the Tutukaka Marina as it thinks fit.

(3) Every such committee shall be subject in all things to the control of the Board and shall carry out all directions, general or special, of the Board given in relation to the committee or its affairs.

(4) The Board, in appointing any such committee, may appoint a member of the committee to be the Chairman of it and, if no such appointment is made, the committee may make the appointment. The Board may from time to time remove the Chairman, and appoint another in his place.

(5) The Board may from time to time discharge, alter, continue, or reconstitute any committee appointed by it under this section.

**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) 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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**SCHEDULES**

Section 4 (1)

**FIRST SCHEDULE****LAND VESTED***North Auckland Land District—Whangarei County*

ALL that piece of land containing 7.75 hectares, more or less, being part of the bed of the Tutukaka Harbour situated in Block IV, Whangarei Survey District; as more particularly shown on S.O. Plan 57192 lodged in the office of the Chief Surveyor at Auckland and thereon marked A.

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Section 5 (1)

**SECOND SCHEDULE****TUTUKAKA MARINA***North Auckland Land District—Whangarei County*

ALL that piece of land containing 9.12 hectares, more or less, being part Lot 1, D.P. 89635 (part certificate of title 46D/420), Section 10, Block IV, Whangarei Survey District (all certificate of title 43B/770), and part of the bed of the Tutukaka Harbour situated in Block IV, Whangarei Survey District; as more particularly shown on S.O. Plan 57193 lodged in the office of the Chief Surveyor at Auckland and thereon marked A, but excluding that part marked B.

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