

*Mr Douglas*

**AUCKLAND HARBOUR BOARD AND  
WAITEMATA COUNTY COUNCIL EMPOWERING**

(LOCAL)

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**A BILL INTITULED**

**An Act to authorise the Waitemata County Council to reclaim from the sea a certain area vested in the Auckland Harbour Board in the Whau River, Waitemata Harbour, for the purpose of a recreation reserve; and to empower the Board to grant to the Council a lease or leases in respect of such reclaimed land**

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

No. 61—1

*Price 1s.*

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1. **Short Title**—This Act may be cited as the Auckland Harbour Board and Waitemata County Council Empowering Act 1966.

2. **Interpretation**—In this Act, unless the context otherwise requires,— 5

“Board” means the Auckland Harbour Board:

“Corporation” means the Chairman, Councillors, and Inhabitants of the County of Waitemata as constituted under the Counties Act 1956:

“Council” means the Waitemata County Council: 10

“Minister” means the Minister of Marine:

“Recreation reserve” includes a pleasure ground or sports ground.

3. **Special Act**—This Act shall be deemed to be a special Act within the meaning of the Harbours Act 1950. 15

4. **Authority to reclaim**—(1) Subject to the provisions of the Harbours Act 1950, and this Act, the Council may from time to time reclaim from the sea the area described in the First Schedule to this Act or any part or parts thereof for the purpose of a recreation reserve. 20

(2) The Council may, in the name of and on behalf of the Corporation, enter into any contract with any person for the construction of such reclamation or any part or parts thereof and for the execution of all or any works which may be necessary in connection with any such reclamation and 25 for the other purposes of this Act on such terms and conditions as the Council may think fit.

5. **Reclamation to comply with requirements of Board**—  
(1) Before commencing the construction of the reclamation of the said area or any part or parts thereof, the Council 30 shall deposit at the office of the Board a duplicate copy of the plan or plans of the proposed reclamation deposited, or to be deposited, by it at the office of the Marine Department pursuant to section 178 of the Harbours Act 1950.

(2) On receiving such plan or plans the Board may make 35 and notify the Council of such restrictions, conditions, or requirements relating to the construction, maintenance, or protection of the reclamation or any part or parts thereof as it may determine, and may thereafter from time to time

make and notify the Council of such further or other requirements relating to the reclamation as it may determine, and the Council shall comply with such restrictions, conditions, or requirements in all respects to the satisfaction of the Board.

5 (3) Without limiting the generality of subsection (2) of this section the Council shall—

(a) Construct and maintain such enclosing banks as may be required by the Board and in such a manner as to—

10 (i) Provide for adequate protection against wave or tidal action of any enclosing banks that may at any time face the sea;

(ii) Prevent the escape of organic or other material into tidal waters:

15 (b) Construct and maintain such stormwater, sewerage, and other drainage works as may be required by the Board so as to prevent and avoid any flooding or similar damage to any adjoining properties.

20 (4) Nothing in this section shall be construed as limiting the application of the provisions of the Harbours Act 1950, and in particular, sections 175 to 182 of that Act, to any such reclamation or the duties and liabilities of the Council as the constructing authority in respect of such reclamation.

25 **6. Application of provisions of Health Act 1956—**(1) The area described in the Second Schedule to this Act (comprising the area described in the First Schedule to this Act and the areas authorised to be reclaimed by Orders in Council dated the twenty-seventh day of October, nineteen hundred and fifty-four and appearing in the *Gazette* of that year at  
30 page 1725, the eighteenth day of March, nineteen hundred and sixty-three and appearing in the *Gazette* of that year at page 405, and the twenty-third day of March, nineteen hundred and sixty-four and appearing in the *Gazette* of that year at page 393) shall be deemed to be within the district  
35 of the Council for the purposes of the Health Act 1956 and any regulations made thereunder.

(2) The Council shall comply with all directions or requisitions of the Director-General of Health or other proper officer or employee of the Department of Health relating to the  
40 construction, maintenance, or protection of the reclamation of the said area or any part or parts thereof, including directions or requisitions relating to—

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- (a) The material to be used in the construction of any such reclamation;
- (b) The protection or covering over of any material used in the construction of any such reclamation.

7. **Council not authorised to create a nuisance**—Nothing in this Act shall entitle the Council to create a nuisance or shall deprive any person of any right or remedy he would otherwise have against the Council or any other person in respect of any such nuisance, and no restriction or condition imposed by the Minister pursuant to section 178 of the Harbours Act 1950 or any restriction, condition, or requirement of the Board made pursuant to section 5 of this Act or requisition or direction of the Health authorities given pursuant to section 6 of this Act, whether or not the Council has complied with the same, shall restrict the liability of the Council for any such nuisance. 5  
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8. **Council responsible for all damage**—The Council shall be responsible for all loss, detriment, damage, or injury caused by the construction or maintenance of the reclamation whether to any property or to any person and whether in respect of riparian rights, rights of access by water, or otherwise howsoever and shall at all times save harmless and indemnify and keep indemnified the Board against all claims and expenses of whatsoever kind arising out of the reclamation or the construction or maintenance thereof. 20  
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9. **Authority for Board to subdivide**—(1) The Board is hereby authorised to divide and separate from its existing title and subdivide the whole or any part or parts of the area described in the Second Schedule to this Act which has been or will be reclaimed from the sea under the authority of this Act or of the Orders in Council referred to in section 6 of this Act in such manner as it may think fit, subject however to the provisions of Part II of the Counties Amendment Act 1961 as modified by section 10 of this Act, and may do all things necessary for that purpose. 30  
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(2) The District Land Registrar for the North Auckland Land Registration District is hereby authorised and directed to accept such plans for deposit, to accept such documents for registration, and to make such entries in the register, and do all such other things, as may be necessary to give effect to the provisions of this section. 40

**10. Application of section 29 of the Counties Amendment Act 1961**—(1) Notwithstanding anything to the contrary in subsection (1) of section 29 of the Counties Amendment Act 1961, on any scheme plan or plans submitted to the Council  
5 by the Board under section 9 of this Act, but for so long only as any such land reclaimed from the sea is set aside or proposed to be set aside for the purpose of a recreation reserve pursuant to this Act, it shall be sufficient for the purposes of that subsection to set aside as a reserve for public purposes a strip of  
10 land not less than twenty feet in width along the mean high-water mark of the sea:

Provided that the Council, with the consent of the Minister of Lands, may nevertheless approve the reduction of the width of such strip of land to a width of not less than ten feet  
15 pursuant to the first proviso to that subsection:

Provided also, that with the consent of the Minister of Lands it shall not be necessary to set aside as a reserve for public purposes a strip of land as aforesaid where the land or foreshore adjoining the mean high-water mark of the sea  
20 is to be used or developed by the Council or the Board for the purpose of facilities for pleasure boats.

(2) Subsection (2) of section 29 of the Counties Amendment Act 1961 shall not apply to any scheme plan or plans submitted to the Council by the Board under section 9 of  
25 this Act or to the setting aside of a strip of land as a reserve for public purposes pursuant to subsection (1) of this section.

**11. Power of Board to grant leases**—(1) Notwithstanding anything contained in the Harbours Act 1950, or the Public Bodies Leases Act 1908, or in any other Act, the Board may  
30 grant to the Council a lease of the whole or any part or parts of the area described in the Second Schedule to this Act which has been or will be reclaimed from the sea whether under the authority of this Act or of an Order in Council referred to in section 6 of this Act for the purpose of enabling  
35 the Council to develop and maintain the land so leased as a recreation reserve at such rent and, subject to subsection (2) of this section, containing such terms and conditions as may be determined by the Board and without offering such reclaimed land for lease by public application or selling the  
40 lease by public auction or public tender.

(2) Any lease granted under the authority of this section shall be for a term not exceeding thirty-three years with a perpetual right of renewal for the same or any shorter term but with no right of acquiring the fee simple and the Board may accept a surrender of any lease granted under this section, whether with respect to the whole or to any part of the land comprised in the lease. 5

**12. Application of provisions of Reserves and Domains Act 1953—**(1) Any land reclaimed from the sea under the authority of this Act or of an Order in Council referred to in section 6 of this Act, and leased to the Council by the Board under section 11 of this Act, shall be held and administered by the Council for the purpose of a recreation reserve. 10

(2) Any such land shall be deemed a public reserve within the meaning of the Reserves and Domains Act 1953, and the provisions of that Act, and of any other Act (other than section 38 of the Health Act 1956), shall, subject to the provisions of this Act, apply thereto and the Council shall have and may exercise over such reserve all such rights, powers, duties, and functions and expend all such moneys thereon as if the reserve had been vested in it under the Reserves and Domains Act 1953. 15 20

(3) In the event of the reservation of any such land held and administered by the Council for the purposes of a recreation reserve being revoked for any reason whatsoever, the lease of that land shall be surrendered by the Council to the Board forthwith with respect to the whole of the land comprised in the lease if the reservation of the whole of the land as a recreation reserve has been revoked or that part or parts of the land comprised in the lease in respect of which the reservation as a recreation reserve has been revoked, as the case may be, and subsection (5) of section 18 of the Reserves and Domains Act 1953 shall not apply thereto. 25 30

**13. Existing esplanade reserve to be part of recreation reserve—**Notwithstanding anything in the Reserves and Domains Act 1953 to the contrary, once any land reclaimed from the sea and adjacent to the land described in the Third Schedule to this Act, comprising a strip of land set aside for the purpose of an esplanade reserve pursuant to section 29 of the Counties Amendment Act 1961, is held and administered 35 40

by the Council for the purpose of a recreation reserve and the provisions of section 29 of the Counties Amendment Act 1961 as modified by section 10 of this Act have been met to the satisfaction of the Minister of Lands, such esplanade reserve  
5 shall be deemed to be part of the recreation reserve and the Council shall have and may exercise over the esplanade reserve all such rights, powers, duties, and functions and expend all such moneys thereon as if it was part of the recreation reserve.

**14. Application of provisions of Auckland Harbour Development Act 1949**—(1) The reclamation of the area described in the Second Schedule to this Act for the purpose of a recreation reserve and the leasing by the Board to the Council of the land so reclaimed for that purpose is hereby declared to be within the scope of any trust, or the purpose  
15 or purposes of any trust, affecting the said area or any part thereof whether pursuant to the Auckland Harbour Development Act 1949, or any other Act, or to any deed or trust or conveyance or otherwise howsoever.

(2) Sections 5 to 10 of the Auckland Harbour Development Act 1949 shall not apply to the area described in the Second Schedule to this Act.  
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**15. Application of provisions of Town and Country Planning Act 1953 to area to be reclaimed**—The area described in the Second Schedule to this Act is hereby declared to be  
25 included in the district of the Waitemata County Council for the purposes of the Town and Country Planning Act 1953, and the provisions of that Act shall apply to the whole of that area, whether or not it has been reclaimed.

**16. Reclaimed land to form part of Waitemata County**—  
30 Any land which has been reclaimed under the authority of this Act or of an Order in Council referred to in section 6 of this Act shall for all purposes be deemed to be included within the Waitemata County and the boundaries of the County shall be deemed to be altered accordingly and such  
35 altered boundaries shall from time to time, without further authority or procedure, be defined by notice in the *Gazette* under the hand of the Secretary for Internal Affairs.

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SCHEDULES

Section 4

FIRST SCHEDULE

AUTHORISED RECLAMATION

ALL that area containing by admeasurement 15 acres, more or less, being land situated below mean high-water mark in the harbour of Auckland, commencing from a point, 265 links on a bearing of  $334^{\circ} 09'$  from the eastern extremity of the authorised reclamation shown on a plan marked and numbered M.D. 11461 and deposited in the office of the Marine Department, Wellington; thence for a distance of 690 links, more or less, on a bearing of  $12^{\circ}$ ; thence for a distance of 595 links on a bearing of  $315^{\circ}$ ; thence for a distance of 2440 links on a bearing of  $332^{\circ}$ ; thence for a distance of 680 links on a bearing of  $238^{\circ} 30'$  to meet mean high-water mark; thence following mean high-water mark generally south-eastwards to meet the northwestern corner of the area shown on a plan marked and numbered M.D. 11461 and deposited in the office of the Marine Department, Wellington, where it meets mean high-water mark; thence following the boundaries of the area shown on the said plan marked and numbered M.D. 11461 and deposited in the office of the Marine Department, Wellington, on a bearing of  $104^{\circ} 30'$  for 190 links; thence on a bearing of  $141^{\circ} 30'$  for 530 links; thence on a bearing of  $145^{\circ} 30'$  for 380 links; thence on a bearing of  $154^{\circ} 09'$  for a distance of 245 links to meet the point of commencement, and being part of the land below mean high-water mark, Auckland Harbour, vested in the Auckland Harbour Board by the Auckland Harbour Board Development Act 1949, and being the area edged green on the plan marked and numbered M.D. 12318 and deposited in the office of the Marine Department, Wellington.

Sections 6, 9, 11,  
14, and 15

SECOND SCHEDULE

RECREATION RESERVE

ALL that area containing by admeasurement 23 acres 1 rood 31 perches, more or less, being land situated below mean high-water mark in the harbour of Auckland or reclaimed land formerly situated below mean high-water mark in the harbour of Auckland, commencing from a point where the southernmost corner of the area shown on a plan marked and numbered M.D. 9760 and deposited in the office of the Marine Department, Wellington meets mean high-water mark; thence following former mean high-water mark generally south-eastwards to the point where the south-eastern corner of the area shown on a plan marked and numbered M.D. 11725 and deposited in the office of the Marine Department, Wellington meets mean high-water; thence for a distance of 530 links, more or less, on a bearing of  $348^{\circ}$ ; thence for a distance of 295 links, more or less, on a bearing of  $334^{\circ} 09'$ ; thence for a distance of 690 links, more or less, on a bearing of  $12^{\circ}$ ; thence for a distance of



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SECOND SCHEDULE—*continued*

595 links on a bearing of  $315^{\circ}$ ; thence for a distance of 2440 links on a bearing of  $332^{\circ}$ ; thence for a distance of 680 links on a bearing of  $238^{\circ} 30'$  to meet the mean high-water mark; thence following mean high-water mark generally south-eastwards to meet the north-western corner of the area shown on a plan marked and numbered M.D. 11461 and deposited in the office of the Marine Department, Wellington where it meets mean high-water mark; thence following former mean high-water mark to meet the point of commencement, and being part of the land below mean high-water mark, Auckland Harbour, vested in the Auckland Harbour Board by the Auckland Harbour Board Development Act 1949, and being part of the land formerly below mean high-water mark, Auckland Harbour, vested in the Auckland Harbour Board by the Auckland Harbour Board Development Act 1949, and being the areas shown edged green on the plans marked and numbered M.D. 9760, M.D. 11461, and M.D. 12318 and coloured green on the plan marked and numbered M.D. 11725 and deposited in the office of the Marine Department, Wellington.

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THIRD SCHEDULE

Section 13

ESPLANADE RESERVE

ALL that area of approximately 3 acres and 25 perches, being Lot 22, D.P. 49750, Esplanade Reserve, together with that part of Lot 161, D.P. 48920, Esplanade Reserve, which is east of the production to mean high-water mark of the north-eastern boundary of Lot 64, D.P. 48920.