

*Hon. Richard Prebble*

**AUCKLAND HARBOUR BOARD (DEVONPORT WHARF) VESTING AND EMPOWERING**

[LOCAL]

ANALYSIS

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A BILL INTITULED

**An Act to make provision for leasing land to Ports of Auckland Limited and to vest in the Auckland Harbour Board land constituting part of the bed of the Waitemata Harbour**

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title**—This Act may be cited as the Auckland Harbour Board (Devonport Wharf) Vesting and Empowering Act 1989.

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

“Act” means the Harbours Act 1950:

“Board” means the Auckland Harbour Board:

“Company” means Ports of Auckland Limited:

“Devonport Wharf Redevelopment Area” means and includes those areas of land, foreshore, seabed, waterspace, and airspace described in the **First, Second, and Third Schedules** to this Act.

No. 186—1

*Price*  
*incl. GST \$2.20*

**3. Special Act**—This Act is declared to be a special Act within the meaning of the Act.

**4. Vesting**—The land described in the **First** Schedule to this Act is hereby vested in the Board for an estate in fee simple free from all encumbrances. 5

**5. Authority to lease**—(1) Subject to **subsection (2)** of this section and notwithstanding anything in any other enactment, it shall be lawful for the Board to lease by private contract to the Company the whole or any part of the land described in the **First, Second, and Third** Schedules to this Act for such term of years and on such terms and conditions (including the right to sublet or license) as are approved by the Board; and from time to time to accept the surrender or vary the terms and conditions of any such lease upon such terms and conditions as are approved by the Board. 10 15

(2) Any such lease granted to the Company shall not be assignable by the Company other than to a subsidiary of the Company as defined in section 2 of the Port Companies Act 1988 or to any person from time to time operating the Port of Auckland. 20

(3) The Public Bodies Leases Act 1969 and sections 150 and 173 (f) of the Act shall not apply in respect of any lease granted under the authority of **subsection (1)** of this section.

**6. Subdivision and development provisions not to apply**—(1) Part XX of the Local Government Act 1974 shall not apply to— 25

(a) Any subdivision required to enable the land described in the **First** Schedule to this Act to be vested in the Board:

(b) Any subdivision required to enable a separate certificate of title to issue for the land described in the **Second** Schedule to this Act: 30

(c) Any lease granted under the authority of **section 5** of this Act:

(d) Any lease, sublease, or licence granted by the Company of the whole or any part of the land described in the **First, Second, and Third** Schedules to this Act. 35

(2) Sections 281, 289, 291, 292, 294 (1) (b) and (c), 294A (7), and 327 of the Local Government Act 1974 shall not apply to the development of the whole or any part of the land described in the **First, Second, and Third** Schedules to this Act. 40

**7. Modification of application of Shop Trading Hours**

**Act 1977** —(1) The Devonport Wharf Redevelopment Area shall be deemed to be an “area” and a “shop” within the meaning of the Shop Trading Hours Act 1977 notwithstanding that, at the time of lodging of any application for exemption from the provisions of that Act, goods may not be kept, exposed, or offered for sale at retail.

(2) For the purposes of section 18 (2) of the Shop Trading Hours Act 1977 and in addition thereto, any lessee or licensee of the Devonport Wharf Redevelopment Area or any part of it may, upon being granted or entering into an agreement to take a lease or licence pursuant to **section 5** of this Act, apply to the Shop Trading Hours Commission for an exemption from the provisions of that Act notwithstanding that, at the time of making application, the shops or markets to which the application relates have not been established or are not operating.

**8. Powers of District Land Registrar**—Notwithstanding the requirements of any other Act, the District Land Registrar for the North Auckland Land Registration District is hereby authorised and directed—

- (a) To issue a certificate of title in the name of the Board for the whole or any part of the land described in the **First** Schedule to this Act; and
  - (b) To issue a certificate of title in the name of the Board for the whole or any part of the land described in the **Second** Schedule to this Act; and
  - (c) To issue a certificate of title for the lot resulting from the amalgamation of the land described in the **First, Second, and Third** Schedules to this Act; and
  - (d) To register any lease or sub-lease granted under this Act, and any sub-lease granted by the Company of any lease granted under this Act and presented for registration—
- on the completion of such surveys and the deposit of such plans as the District Land Registrar may require for the issue of a certificate of title or for the entry of any lease on the register, as the case may be.

**9. Other Acts not affected**—Nothing in this Act shall be construed as—

- (a) Limiting the application of—
  - (i) The Conservation Act 1987:

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- (ii) Sections 175 to 188 and 203 to 207 of the Harbours Act 1950:
  - (iii) The Health Act 1956:
  - (iv) The Historic Places Act 1980:
  - (v) The Local Government Act 1974 (except as 5 otherwise provided in this Act):
  - (vi) The Town and Country Planning Act 1977:
  - (vii) The Water and Soil Conservation Act 1967.
- (b) Conferring any water right within the meaning of the Water and Soil Conservation Act 1967: 10

**10. Compensation**—Nothing in this Act shall deprive any person of any right or remedy that person would otherwise have in respect of any loss, detriment, damage, or injury caused by any development or work constructed or carried out under authority of this Act, whether to property or person or 15 otherwise howsoever.

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**SCHEDULES**

**FIRST SCHEDULE**

**Sections 2, 4, 5 (1), 6 (a), (d), (2), 8 (a), (c)**

ALL that area comprising 8701m<sup>2</sup>, more or less, being part bed of Waitemata Harbour, situated in Block VI, Rangitoto Survey District, and being the area marked "A" on S.O. plan 63952.

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**SECOND SCHEDULE**

**Sections 2, 5 (1), 6 (b), (d), (2), 8 (b), (c)**

ALL that area comprising 1.3000 hectares, more or less, being Lot 1 on Deposited Plan 131569, being a subdivision of part of the bed of the Waitemata Harbour, and being part of the land comprised and described in certificate of title, Volume 12A, folio 786 (North Auckland Registry).

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**THIRD SCHEDULE**

**Sections 2, 5 (1), 6 (d), (2), 8 (c)**

ALL that area comprising 260m<sup>2</sup>, more or less, being Lot 2 on Deposited Plan 22936, being portion of the bed of the Waitemata Harbour, and being all of the land comprised and described in certificate of title, Volume 616, folio 105 (North Auckland Registry).