

AUCKLAND HARBOUR EDGE BILL

EXPLANATORY NOTE

THIS Bill provides for a co-ordinated approach to the development of the Auckland Harbour Edge Area.

Clause 1 relates to the Short Title.

Clause 2 defines certain terms used in the Bill. Attention is drawn to the definition of the term “Auckland Harbour Edge Area” or “Area”. A description of the Area is set out in the Schedule to the Bill.

Clause 3 provides that the Bill applies to the Auckland Harbour Edge Area.

Clause 4 sets out the purposes of the Bill.

Clause 5 constitutes the Auckland Harbour Edge Area.

Clause 6 provides that the Area may be varied by the Minister of Local Government by notice in the *Gazette*.

PART I

AUCKLAND HARBOUR EDGE BOARD

Clause 7 establishes the Auckland Harbour Edge Board. The Board is established as a body corporate and will be able to acquire and dispose of land and personal property. However, the Board cannot acquire, hold, or dispose of land without the consent of the City Council and the Regional Council.

Clause 8 sets out the functions of the Board. The Bill does not include any planning provisions or impose planning functions. However, regard should be had to the planning provisions in the Resource Management Bill as those provisions will ultimately determine the planning principles applicable to the Area.

The functions of the Board are as follows:

- (a) To facilitate and promote the development of the Area:
- (b) To make submissions to any person or body in respect of any matter affecting the Area:
- (c) To liaise and negotiate with any person or body to promote the development of the Area:

No. 232—1

Price
incl. GST \$2.20

- (d) To make recommendations to the City Council or the Regional Council on the acquisition of land for the development of the Area:
- (e) To promote and carry out surveys, investigations, monitoring, and research:
- (f) To advise the City Council and the Regional Council as to matters desirable to ensure the most effective achievement of the purposes of the Bill:
- (g) To undertake tasks assigned by the City Council and the Regional Council.

Clause 9 gives the Board the powers necessary to enable it to carry out its functions.

Clause 10 provides for the acquisition of land by the City Council or the Regional Council for the purposes of any development within the Area.

Subclause (1) defines certain terms used in the clause.

Subclause (2) provides for applications for the acquisition of land to be made to the Board. The Board can recommend that the City Council or the Regional Council acquire land under this clause.

Subclause (3) sets out the criteria upon which the Board can make a recommendation for the acquisition of land.

Subclause (4) provides that, before making a recommendation, the Board must—

- (a) Be satisfied that the applicant has negotiated in good faith with the owner in an endeavour to purchase the land at current market value; and
- (b) Give the owner of the land or any interest in the land an opportunity to be heard on the matter.

Subclause (5) enables the Board to make a recommendation to the City Council or the Regional Council.

Subclause (6) enables the City Council or the Regional Council to adopt or decline a recommendation.

Subclause (7) requires the appropriate Council to proceed with the acquisition under Part II of the Public Works Act 1981, if it adopts the recommendation.

Subclause (8) authorises the appropriate Council to transfer the land acquired to the applicant.

Subclause (9) provides for an acquisition to be abandoned.

Subclause (10) provides that land shall be offered back to the previous owner if the development is abandoned after the date of acquisition.

Subclause (11) provides that the powers under this section are in addition to those under the Public Works Act 1981.

Clause 11 enables the Board to charge reasonable fees for its services.

Clause 12 specifies the membership of the Board.

Subclause (1) provides that the Board shall consist of 8 members appointed jointly by the City Council and the Regional Council. The members are to be—

- (a) Five persons appointed because of their competence and experience in development, commerce, and finance; and
- (b) Two persons appointed to represent the land owners in the area (1 of whom is to be appointed following consultation with the New Zealand Railways Corporation while it remains a substantial land owner in the area); and
- (c) One person appointed following consultation with Ports of Auckland Limited.

Subclause (2) provides that the City Council and the Regional Council can each appoint only 1 of their own members or officers under paragraph (a) above.

Subclause (3) provides that Board members hold office at the pleasure of the body which appointed them.

Subclause (4) provides that Board members may resign from office at any time by giving written notice.

Subclause (5) provides that any vacancy is to be filled in the manner in which the appointment to the vacant office was originally made.

Subclause (6) provides that the powers of the Board are not affected by any vacancy in its membership.

Clause 13 provides that the Board may appoint committees and subcommittees in accordance with the provisions of sections 114P to 114s of the Local Government Act 1974.

Clause 14 provides that the City Council and the Regional Council may jointly determine the remuneration to be paid to members of the Board.

Clause 15 allows the Board to regulate its own procedure.

Clause 16 provides that 5 members of the Board constitute a quorum for the purposes of transacting business.

Clause 17 provides for the City Council to provide administrative services to the Board and for costs to be shared by the City Council and the Regional Council.

Clause 18 provides for the funding of the Board.

Clause 19 provides for financial accounts to be kept by the Board.

Clause 20 requires the Board's accounts to be audited by the Audit Office.

Clause 21 requires the Board to make an annual report to the Minister of Local Government, the City Council, and the Regional Council.

Clause 22 provides that—

- (a) The City Council and the Regional Council do not have any obligations under Part XIA of the Local Government Act 1974 in respect of the Board's activities; and
- (b) Those Councils are not liable to meet claims by creditors of the Board, and nor is the Crown.

PART II

MISCELLANEOUS

Clause 23 provides for disputes between the City Council and the Regional Council, in cases where the Councils are required to act jointly under this Act and are unable to agree on a matter, to be referred to the Minister of Local Government for settlement.

Clause 24 gives Board members immunity from legal actions in respect of anything done or said in the course of exercising their powers, duties, and functions under this Bill, so long as they act in good faith.

Clause 25 empowers the making of regulations for the purposes of the Bill.

Clause 26 provides that, in the event of the Board ceasing to exist, the Board's assets are to be distributed in such manner as the City Council and the Regional Council agree.

The Schedule describes the Auckland Harbour Edge Area.

Hon. Dr Michael Bassett

AUCKLAND HARBOUR EDGE

ANALYSIS

Title	14. Remuneration
1. Short Title	15. Procedure
2. Interpretation	16. Quorum
3. Application of Act	17. Administrative services, etc.
4. Purposes of Act	18. Funding of Board
5. Constitution of Auckland Harbour Edge Area	19. Accounts
6. Variation of Area	20. Audit
	21. Annual Report
	22. Accountability and accounting
PART I	PART II
AUCKLAND HARBOUR EDGE BOARD	MISCELLANEOUS
7. Auckland Harbour Edge Board	23. Arbitration
8. Functions of Board	24. Members to be protected
9. Powers of Board	25. Regulations
10. Acquisition of land	26. Provision relating to assets of Board
11. Power to charge fees, etc.	Schedule
12. Membership of Board	
13. Committees and subcommittees	

A BILL INTITULED

An Act to provide for and encourage the co-ordinated development of the Auckland Harbour Edge Area

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

5 **1. Short Title**—This Act may be cited as the Auckland Harbour Edge Act 1989.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

10 “Auckland Harbour Edge Area” or “Area” means the Auckland Harbour Edge Area constituted by **section 5** of this Act:

 “Board” means the Auckland Harbour Edge Board established by **section 7** of this Act:

 “City Council” means the Auckland City Council:

15 “Minister” means the Minister of Local Government:

“Regional Council” means the Auckland Regional Council.

(2) Unless the context otherwise requires—

- (a) A reference in this Act to a Part or section is a reference to a Part or section of this Act; and
- (b) A reference in a section to a subsection is a reference to a subsection of that section. 5

3. Application of Act—This Act shall apply to the Auckland Harbour Edge Area.

4. Purposes of Act—The purposes of this Act are as follows: 10

- (a) To provide for and encourage the co-ordinated development of the Auckland Harbour Edge Area;
- (b) To encourage the sustainable management of the natural and physical resources of the Auckland Harbour Edge Area: 15
- (c) To take account of the existing and future needs of the port of Auckland within the Area;
- (d) To provide opportunities for public use and enjoyment of the Area, and especially of the harbour’s edge;
- (e) To promote a co-ordinated relationship between the planning and development of the Area and adjacent land and water areas. 20

5. Constitution of Auckland Harbour Edge Area—

(1) There is hereby constituted an Auckland Harbour Edge Area. 25

(2) The Area shall be the area described in the Schedule to this Act.

6. Variation of Area—(1) The Minister may, after consultation with the City Council and the Regional Council, by notice in the *Gazette*, vary the Auckland Harbour Edge Area by including or excluding any area in or from that Area. 30

(2) In the event of a variation affecting any area below mean high water spring tide mark a variation shall not be made without the consent of the Minister of Conservation.

PART I 35

AUCKLAND HARBOUR EDGE BOARD

7. Auckland Harbour Edge Board—(1) There is hereby established a Board to be called the Auckland Harbour Edge Board.

5 (2) The Board shall be a body corporate with perpetual succession and a common seal, and, subject to **subsection (2)** and to the other provisions of this Act, shall be capable of acquiring, holding, and disposing of real and personal property, of suing and being sued, and of doing and suffering all other acts and things as bodies corporate may do and suffer.

(3) The Board shall not acquire, hold, or dispense with real property unless the consent of both the City Council and the Regional Council have first been obtained.

10 **8. Functions of Board**—The Board shall have the following functions:

- 15 (a) To facilitate and promote the development of the Auckland Harbour Edge Area:
- (b) To make submissions to any person or body in respect of any matter affecting the Area:
- 20 (c) To liaise and negotiate with any person or body as the Board considers desirable to promote the development of the Area:
- (d) To make recommendations to the City Council or the Regional Council on the acquisition of land for development of the Area and on public works required within the Area:
- 25 (e) To promote and carry out surveys, investigations, monitoring, and research to encourage the development and use of the Area:
- (f) To advise the City Council and the Regional Council from time to time as to matters desirable to ensure the most effective achievement of the purposes of this Act:
- 30 (g) To undertake such tasks as are assigned to it by the City Council and the Regional Council.

9. Powers of Board—(1) The Board shall have such powers as are reasonably necessary or expedient to enable it to carry out its functions.

35 (2) Notwithstanding **section 17 (1)**, the Board may engage such consultants and other assistance and employ such persons under contract as the Board considers necessary to enable it to carry out its functions.

40 **10. Acquisition of land**—(1) In this section—
“Applicant” means a person who has made an application to the Board under **subsection (2)**; and includes that person’s successors and assigns:

“Development” means a development that is situated within the Area and is permitted by or under any enactment:

“Land” includes land that is part of a development.

(2) Subject to **subsection (4) (a)**, any person proposing to undertake a development may apply to the Board for a recommendation that land be acquired by the City Council or the Regional Council. 5

(3) The Board may make a recommendation under **subsection (5)** that land be acquired if, in the opinion of the Board,— 10

(a) Acquisition of the land is necessary to enable the development to proceed; and

(b) It is desirable that the development proceed because of public benefits which would arise from it; and

(c) It is likely that the development will proceed if the land is acquired; and 15

(d) The applicant has substantial control of the other land necessary for the development; and

(e) The development is in accordance with the purposes of this Act. 20

(4) The Board shall not make a recommendation under **subsection (5)** that land be acquired unless—

(a) It is satisfied that prior to making the application the applicant has negotiated in good faith with the owner of the land in an endeavour to purchase it for its current market value; and 25

(b) It has given the owner of the land or any interest in the land an opportunity to be heard in relation to the application.

(5) Subject to **subsection (3)**, the Board may recommend that land be acquired by the City Council or the Regional Council. 30

(6) The City Council or the Regional Council, as the case may be, may adopt or decline any recommendation made by the Board.

(7) If the City Council or the Regional Council adopts the recommendations made by the Board, the City Council or the Regional Council shall proceed to acquire the land, and the provisions of Part II of the Public Works Act 1981, starting at section 18, shall apply as if the land were to be acquired for a public work under that Act. 40

(8) If the land is acquired, the City Council or the Regional Council shall, notwithstanding any provisions of the Public Works Act 1981, transfer the land to the applicant provided that the applicant has first paid to the City Council or the Regional Council all costs and expenses (including goods and 45

services tax payable under the Goods and Services Tax Act 1985) relating to its acquisition.

5 (9) If at any time after the Board has made a recommendation under subsection (5) and before the land has been acquired—

- (a) The applicant abandons any development proposal; or
- (b) The land ceases for any reason to be necessary for the development,—

10 the land shall not be acquired by the City Council or the Regional Council.

(10) If at any time after the land has been acquired by the City Council or the Regional Council—

- (a) The applicant abandons any development proposal; or
- (b) The land ceases for any reason to be necessary for the development,—

15 the land shall be offered back to the person or persons from whom it was acquired and the provisions of sections 40, 42, 43, and 44 of the Public Works Act 1981 shall, as far as they are applicable and with the necessary modifications, apply accordingly.

20 (11) The powers given to the City Council and the Regional Council by this section shall be in addition to and shall not limit their powers under the Public Works Act 1981.

25 **11. Power to charge fees, etc.**—(1) The Board may charge a reasonable fee in respect of any services provided by the Board in carrying out any of its functions under this Act.

(2) The Board may fix a reasonable charge for considering any application to compulsorily acquire land under section 10.

30 **12. Membership of Board**—(1) The members of the Board shall be appointed jointly by the City Council and the Regional Council, and the Board shall consist of—

- (a) Five persons to be appointed because of their competence and experience in the development, commercial, or financial areas; and
- 35 (b) Two persons to be appointed to represent the land owners in the Area, of whom one shall be appointed following consultation with the New Zealand Railways Corporation while the Corporation is a substantial land owner in the Area; and
- 40 (c) One person to be appointed following consultation with Ports of Auckland Limited.

(2) The City Council and the Regional Council shall not appoint more than one member or officer of each Council to be a member of the Board under **subsection (1) (a)**.

(3) The members of the Board shall hold office at the pleasure of the body which appointed them. 5

(4) Any member of the Board may resign from office at any time by written notice given to the body which appointed him or her.

(5) If any member dies, resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. 10

(6) The powers of the Board shall not be affected by any vacancy in its membership.

13. Committees and subcommittees—The provisions of sections 114P to 114s of the Local Government Act 1974 shall apply to the Board as if it were a local authority constituted under that Act. 15

14. Remuneration—The City Council and the Regional Council jointly may from time to time determine the remuneration to be paid to members of the Board and of any committee or subcommittee of the Board by way of fees, salary, or allowances, and travelling allowances or expenses. 20

15. Procedure—Subject to the provisions of this Act, the Board and its committees may regulate their own procedure.

16. Quorum—At meetings of the Board the quorum necessary for the transaction of business shall be 5 members. 25

17. Administrative services, etc.—(1) The City Council shall provide such secretarial, accounting, technical, and other administrative facilities and services as are necessary to enable the Board and its committees to carry out their functions. 30

(2) The costs and expenses incurred by the Board and its committees in carrying out their functions shall be apportioned equally between the City Council and the Regional Council so far as those costs and expenses are not met by income received by the Board. 35

(3) Any document required to be served on, lodged with, or sent to the Board shall be served on, lodged with, or sent to the chief executive officer of the City Council.

18. Funding of Board—(1) The funding of the Board shall be provided as follows: 40

- (a) Any money received by the Board by way of grants, donations, contributions, or from any other source:
- (b) All money received by the Board by way of fees for services provided by the Board in carrying out its functions under this Act:
- 5 (c) Any charges fixed by the Board in considering applications to compulsorily acquire land under **section 10**:
- (d) Any money received by the Board from the City Council and the Regional Council under **subsection (2)**.
- 10 (2) The City Council and the Regional Council shall provide the Board with such funds as the Councils jointly consider necessary to enable the Board to carry out its functions under this Act.

15 **19. Accounts**—(1) The Board shall keep correct financial accounts in respect of its functions under this Act.

(2) The financial year for the Board shall end with the 30th day of June in each year.

20 (3) The Board shall cause estimates to be prepared in respect of each financial year and those estimates shall show fully—

(a) The estimated receipts and payments in respect of the activities of the Board for that financial year; and

(b) The estimated funding that may be required from the City Council and the Regional Council.

25 (4) The estimates shall be presented by the Board to the City Council and the Regional Council for consideration and approval not later than the 31st day of March in the year prior to the financial year to which they relate.

30 (5) The Board shall not, in any financial year, expend or incur any liability to expend any sums not included in the estimates approved by the City Council and the Regional Council, unless the prior consent of the City Council and the Regional Council has been obtained.

35 **20. Audit**—(1) As soon as practicable after the end of each financial year, the Board shall prepare and submit to the Audit Office full and true statements and accounts of all its income and expenditure in that year.

40 (2) The statements and accounts shall be audited by the Audit Office which, for that purpose, shall have the same powers as it has under the Public Finance Act 1977 in respect of public money and stores and the audit of local authorities' accounts.

21. Annual Report—Within two months after the end of each financial year, the Board shall deliver to the Minister, the City Council, and the Regional Council a report of its operations during the preceding year.

22. Accountability and accounting—(1) The City Council and the Regional Council shall not have any obligations under Part XIA of the Local Government Act 1974 in respect of the activities of the Board. 5

(2) No claim of any creditor of the Board shall attach to or be paid out of the general revenues of the City Council or the Regional Council, or attach to or be paid by the Crown. 10

PART II

MISCELLANEOUS

23. Arbitration—In any case where the City Council and the Regional Council must jointly exercise powers under or in relation to this Act and are unable to reach agreement, the matter in dispute shall be referred to the Minister whose decision shall be final and binding on both parties. 15

24. Members to be protected—So long as they act in good faith in the performance of their duties no action shall lie against the members of the Board or any of them for anything they may say or do in the exercise of the powers, duties, and functions under this Act. 20

25. Regulations—The Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration. 25

26. Provision relating to assets of Board—In the event of the Board ceasing to exist, the assets of the Board shall be distributed in such manner as the City Council and the Regional Council agree. 30

SCHEDULE

Section 5 (2)

AUCKLAND HARBOUR EDGE AREA

(1) That part of the City of Auckland bounded on the West by the Harbour Bridge approach motorway and Beaumont Street; on the South by the northern boundary of Fanshawe Street, Sturdee Street, Customs Street West, Customs Street East, Beach Road, Ronayne Street, The Strand, the bottom of the cliff line between The Strand and Judges Bay and the southern shore of Judges Bay; on the East by the Parnell Baths Pedestrian overbridge; on the North by mean high spring water mark.

(2) That part of the bed of the Waitemata Harbour below mean high spring water mark lying to the North of the first described land.