

# **NORTHLAND REGIONAL COUNCIL AND FAR NORTH DISTRICT COUNCIL VESTING AND EMPOWERING BILL**

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## **EXPLANATORY NOTE**

THIS Bill vests in the Far North District Council (the District Council) certain assets and liabilities of the Northland Regional Council (the Regional Council) including land vested in the Regional Council under the Local Government (Northland Region) Reorganisation Order 1989, certain harbour and maritime facilities, resource consents and approvals. It also gives the District Council certain authorities and powers in respect of mooring charges. The Northland Harbour Board Act 1965 is repealed.

*Clause 1* relates to the Bill's Short Title and commencement. The Bill comes into force with the close of the 30th day of June 1992.

*Clause 2* defines certain terms used in the Bill.

*Clause 3* provides that land described in the First Schedule to the Bill and certain improvements and property on that land that are the property of the Regional Council are vested in the District Council. This clause sets out the procedure by which certificates of title to certain land will be issued showing the District Council as registered proprietor. Further, any lease or licence granted by the Regional Council to the District Council in respect of any land not vested in the District Council by this Bill, or any land vested in the Crown under the Foreshore and Seabed Endowment Revesting Act 1991, will not be affected by this Bill.

*Clause 4* vests certain property, documents, rights and liabilities of the Regional Council in the District Council. These include wharves, boat ramps, grids, and moorings. The District Council is given some of the functions, duties, and powers of a harbour board in respect of those assets.

*Clause 5* vests resource consents (within the meaning of the Resource Management Act 1991) in the District Council.

*Clause 6* provides that all property and resource consents vested in the District Council by the Bill are subject to existing encumbrances, leases and licences and to the terms and conditions set out or referred to in the Deed.

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*Clause 7* provides that the vesting of any land by the Bill or the application for or issue of certificates of title pursuant to the vesting of such land, or in respect of any land adjoining that land under the Foreshore and Seabed Endowment Revesting Act 1991, will not constitute a subdivision for the purposes of the Resource Management Act 1991.

*Clause 8* empowers the District Council to impose mooring charges in respect of pile or swing moorings at any coastal marine area adjacent to the Far North District. The mooring charges may be collected on the District Council's behalf by the Regional Council in which case an administration charge shall be payable to the Regional Council. The District Council can only apply the mooring charges for the purposes of wharf maintenance, channel dredging and the provision and maintenance of facilities and services such as toilets, carparks, refuse disposal, and water supplies where such wharves, facilities or services are or will be available for the use of persons using vessels entitled to use the moorings.

*Clause 9* provides that certified true copies of the Deed are to be made available for public inspection at the offices of the Regional Council and the District Council. The Regional Council and the District Council may amend the Deed by an amending deed.

*Clause 10* provides that the transfer of any property or resource consent under the Bill does not give rise to any breach of contract or have other adverse effects.

*Clause 11* contains consequential provisions in respect of the transfer of property and resource consents under the Bill.

*Clause 12* contains provisions relating to the application of the Income Tax Act 1976, the Goods and Services Tax Act 1985, the Stamp and Cheque Duties Act 1971 and the Estate and Gift Duties Act 1968, to matters arising under the Bill.

*Clause 13* provides for the apportionment of income and expenses of the Regional Council and the District Council in respect of the property and resource consents to vest in the District Council.

*Clause 14* empowers the District Land Registrar for the North Auckland Land Registration District to do all such things as may be necessary to give effect to the provisions of the Bill.

*Clause 15* repeals the Northland Harbour Board Act 1965.

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*John Carter*

**NORTHLAND REGIONAL COUNCIL AND FAR  
NORTH DISTRICT COUNCIL VESTING AND  
EMPOWERING**

[LOCAL]

ANALYSIS

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A BILL INTITULED

**An Act—**

- 5       **(a) To vest in the Far North District Council certain property, documents, rights and liabilities of the Northland Regional Council including land vested in the Northland Regional Council under The Local Government (Northland Region) Reorganisation Order 1989, certain harbour and maritime facilities, resource consents and approvals; and**
- 10       **(b) To give the Far North District Council certain authorities and powers in respect of mooring charges; and**
- (c) To repeal the Northland Harbour Board Act 1965**

15       **WHEREAS—**

- (a) It is agreed by the Northland Regional Council and the Far North District Council that it is desirable that land and certain other assets and liabilities of the**

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Northland Regional Council should be vested in the Far North District Council:

- (b) It is desirable that the Far North District Council be granted authorities and powers to levy mooring charges: 5
- (c) It is desirable to make special provision in respect of related resource consents and effect of the Resource Management Act 1991 on the land concerned:
- (d) It is desirable to repeal the Northland Harbour Board Act 1965. 10

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

**1. Short Title and commencement**—(1) This Act may be cited as the Northland Regional Council and Far North District Council Vesting and Empowering Act 1992. 15

(2) This Act shall come into force with the close of the 30th day of June 1992.

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

“Deed” means the deed made between the Regional Council and the District Council on the 4th day of February 1992: 20

“District Council” means the Far North District Council:

“District Land Registrar” means the District Land Registrar for the North Auckland Land Registration District: 25

“Regional Council” means the Northland Regional Council.

**3. Vesting of land and improvements**—(1) The land described in the First Schedule to this Act is hereby vested in the District Council as an estate in fee simple, together with all improvements thereon that are the property of the Regional Council, other than the navigation light situated on the land described in clause 8 of that Schedule. 30

(2) The District Council shall cause plans of survey of the land described in clauses 3, 10, 14, 17, 20, 23, and 24 of the First Schedule to this Act to be made and lodge them for deposit in the office of the District Land Registrar. 35

(3) On the deposit of the plans of survey the District Council shall file in the office of the District Land Registrar certificates 40

in the form set out in the **Third** Schedule to this Act certified as correct by the Chief Surveyor.

5 (4) Every such certificate shall have the same effect as a warrant issued under section 12 of the Land Transfer Act 1952, and the District Land Registrar shall accordingly vest the land described in the certificate in fee simple in the District Council by issuing under that Act a certificate of title for the land showing the District Council as the land's registered proprietor. All relevant outstanding certificates of title shall be produced to  
10 the District Land Registrar for partial cancellation and notation as appropriate.

(5) The land comprised in any certificate of title issued pursuant to such a certificate by the Chief Surveyor shall be subject to the Land Transfer Act 1952 as from the date fixed  
15 by the last mentioned certificate as the date of acquisition of title thereto, and that date shall for all purposes whatsoever be deemed to be the ante-vesting date in the same manner as if the ante-vesting date had been inserted in a certificate given in respect of the land under section 116 of the Land Act 1948.

20 (6) The date fixed by the certificate of the Chief Surveyor as the date of acquisition of title to the land comprised in that certificate shall be the date on which the certificate is given.

(7) Every certificate by the Chief Surveyor under this section shall be conclusive evidence to the District Land Registrar of  
25 the matters required by this section to be stated in it.

(8) Nothing in this Act shall affect any lease or licence granted by the Regional Council to the District Council in respect of any land that is not vested in the District Council by this Act or any land that is vested in the Crown by the  
30 Foreshore and Seabed Endowment Revesting Act 1991.

**4. Vesting of other property and documents**—(1) The wharves, boat ramps, grids, pile moorings, and swing moorings specified in the **Second** Schedule to this Act are hereby vested in the District Council.

35 (2) The property and documents specified in the Schedule to the Deed and the rights and liabilities of the Regional Council under them are hereby vested in the District Council.

(3) The District Council shall have the function, duties and powers of a harbour board in respect of the provision and  
40 maintenance of the wharves, boat ramps, grids, pile moorings, and swing moorings vested in it by **subsection (1)** of this section.

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**5. Resource consents vested**—Every resource consent within the meaning of the Resource Management Act 1991 granted in favour of the Regional Council (including all coastal permits deemed to be granted under section 384 of that Act) and relating to any property vested by this Act is hereby vested in the District Council irrespective of whether or not the resource consent is otherwise able to be transferred. 5

**6. Conditions relating to vesting of land and other property**—The real and personal property and resource consents vested in the District Council by virtue of this Act shall be so vested subject to all existing encumbrances, leases, and licences, and subject to the terms and conditions set out or referred to in the Deed. 10

**7. Application of Resource Management Act 1991**—  
(1) Notwithstanding anything in section 218 of the Resource Management Act 1991,— 15  
(a) The vesting of any land by this Act; or  
(b) The application for or issue of a certificate of title pursuant to such vesting in the name of the District Council; or 20  
(c) The issue of any certificate of title to the Crown in respect of any land adjoining that land under the Foreshore and Seabed Endowment Revesting Act 1991— shall not constitute a subdivision for the purposes of the Resource Management Act 1991. 25

(2) Section 11 and Part X of the Resource Management Act 1991 shall not apply to any land vested in the District Council under this Act, nor shall the Regional Council or the District Council be required to apply for a subdivision consent under Part VI of the Resource Management Act 1991 in respect of the vesting of any such land by virtue of this Act. 30

**8. Mooring charges**—(1) The District Council may, by bylaw made under the Local Government Act 1974, impose charges payable by persons (other than the District Council or Regional Council) who use or have the right to use any pile or swing mooring within any coastal marine area (as that term is defined in the Resource Management Act 1991) that adjoins the district of the District Council. 35

(2) Any such charges may be collected by the Regional Council on behalf of the District Council; and the Regional 40

Council shall specify in its invoices that the charge is being collected on behalf of the District Council.

5 (3) Where any such charges are collected by the Regional Council on behalf of the District Council pursuant to subsection (2) of this section then the Regional Council shall be entitled to retain 5 percent of the charges so collected, or such other amount as may be agreed from time to time, as an administration charge.

10 (4) The charges imposed under the authority of this section shall be applied by the District Council for the purpose of wharf maintenance, dredging, or the provision or maintenance of facilities or services that are or will become available for the use of persons using vessels entitled to use the moorings, and not for any other purposes.

15 **9. Provisions relating to Deed**—(1) Certified true copies of the Deed shall be kept available for public inspection, free of charge, during ordinary office hours at:

(a) The offices of the Regional Council at Whangarei;

(b) The offices of the District Council at Kaikohe.

20 (2) The Deed may be amended from time to time by the parties to the Deed by an amending deed and this Act shall apply in respect of any such amendment as if it was and always had been part of the original Deed.

25 **10. Certain matters not affected by transfers**—No transfer of real or personal property or any resource consent under this Act—

30 (a) Shall be regarded as placing the Regional Council or the District Council, or any other person, in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or

(b) Shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or

35 (c) Shall be regarded as placing the Regional Council or the District Council, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or

40 (d) Shall release any surety wholly or in part from all or any obligation; or

(e) Shall invalidate or discharge any contract or security.

**11. Consequential provisions**—Where any real or personal property, any document, or any resource consent is vested in the District Council pursuant to this Act—

- (a) A reference (express or implied) to the Regional Council in any Act or instrument relating to the property, document, or resource consent shall be read and construed as a reference to the District Council; 5
- (b) All contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices, (whether or not in writing) relating to the property, document, or resource consent, entered into by, made with, given to or by, or addressed to the Regional Council (whether alone or with any other person) subsisting immediately before the vesting shall, to the extent that they were previously binding on and enforceable by, against, or in favour of the Regional Council, thenceforth be binding on and enforceable by, against, or in favour of the District Council as fully and effectually in every respect as if, instead of the Regional Council, the District Council had been the person by whom they were entered into, with whom they were made or to or by whom they were given or addressed, as the case may be. 10 15 20 25

**12. Taxation and duties provisions**—(1) The vesting in the District Council by sections 3 and 4 of this Act of the real and personal property and documents specified in this Act and the Schedule to the Deed, and the resource consents vested under section 5 of this Act and the rights and obligations of the Regional Council under them, and anything done by the Regional Council or the District Council to give effect to such vesting,— 30

- (a) Shall not, for the purposes of the Income Tax Act 1976, be treated as or giving rise to a sale or other disposition, distribution, or transfer of any property or any liability of the Regional Council: 35
- (b) Shall not, for the purposes of the Goods and Services Tax Act 1985, be treated as a supply of any goods and services: 40



(c) Shall not, for the purposes of the Stamp and Cheque Duties Act 1971, be treated as a conveyance of any property:

5 (d) Shall not, for the purposes of the Estate and Gift Duties Act 1968, be treated as a dutiable gift.

(2) For the purposes of any Act, the property vested in the District Council in accordance with this Act and the Deed shall be deemed to have been acquired by the District Council at the value attributed to that property in the books of the Regional Council on the 30th day of June 1992.

**13. Apportionment of income and expenses—**(1) The income and expenses of the Regional Council and the District Council in respect of the real or personal property, documents, and resource consents vested in the District Council by this Act shall, by agreement between the Councils, be apportioned between them, as at the close of the 30th day of June 1992.

(2) If the agreement referred to in subsection (1) of this section is not entered into by the 1st day of December 1992, either Council may refer the matter to arbitration.

20 (3) Where either the Regional Council or the District Council so refers the matter to arbitration,—

(a) One assessor shall be appointed by each of the Councils; and

25 (b) The assessors shall, within 7 days after their appointment, and before entering upon their reference, appoint a person to act as arbitrator between the assessors.

(4) Any matters upon which the assessors cannot reach agreement shall be referred from time to time to the arbitrator for decision and that decision shall form part of the assessors' determination.

30 (5) In the exercise of their powers under this section, the assessors may identify the income and expenses to be transferred, which income and expenses shall include all amounts and items that ought properly to be treated as being of the same character irrespective of how they may be described in the accounts or records of either Council.

(6) The determination of the assessors shall be final and shall have the same force as if it were an agreement between the Councils.

40 (7) For the purposes of arbitration under this section, the assessors and arbitrator shall have access at all reasonable times to any relevant books, papers, accounts, or documents of the

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Regional Council and the District Council, and the Councils shall allow or authorise the assessors and the arbitrator to have access thereto for the purposes of this section.

**14. Powers of District Land Registrar**—The District Land Registrar is hereby authorised and directed to make all such entries in the District Land Registrar's register, and do all such other things, as may be necessary to give effect to the provisions of this Act. 5

**15. Repeals**—(1) The Northland Harbour Board Act 1965 is hereby repealed. 10

(2) Section 7 of the Northland Harbour Board Vesting and Empowering Act 1967 is hereby consequentially repealed.

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**SCHEDULES**

**FIRST SCHEDULE**

**Section 3 (1), (2)**

**LAND VESTED IN DISTRICT COUNCIL**

1. **Opuā**—An area of 1.7905 hectares being Lots 1, 2 and 3, DP 59479, and Part Section 36, Block V Russell Survey District and being all of the land comprised in certificate of title 408/281.
2. **Opuā**—An area of 6.1543 hectares being Sections 47, 48, 49 and 60, Block V Russell Survey District and being all of the land comprised in certificate of title 35D/396.
3. **Opuā**—An area of 3.9629 hectares being Section 63, Block V Russell Survey District and being all of the land comprised in certificate of title 43B/839 but excluding any land revested in the Crown by virtue of section 5 (b) of the Foreshore and Seabed Endowment Revesting Act 1991.
4. **Opuā**—An area of 3010 square metres being Sections 7, 8 and 9, Block XXVII, Town of Opuā, and being all of the land comprised in certificate of title 60D/17.
5. **Opuā**—An area of 8979 square metres being Section 38, Block V Russell Survey District, and being all of the land comprised in certificate of title 55A/356.
6. **Opuā**—The lessee's interest in Railway Leases 48492 and 42716.
7. **English Bay**—An area of 9862 square metres being Lots 1 to 12, DP 34284, and being all of the land comprised in certificates of title 23C/1336, 24C/1193 and 25C/1240 to 1249 inclusive.
8. **English Bay**—An area of 9.1529 hectares being Part of Allotment 202, Parish of Kawakawa, and being all of the land comprised in certificate of title 360/170.
9. **Paihia**—An area of 2303 square metres being Lot 1, DP 74742, and being all of the land comprised in certificate of title 51C/212.
10. **Paihia**—An area of 1.5831 hectares being the balance of the land described in the Ninth Schedule to the Northland Harbour Board Vesting and Empowering Act 1967 but excluding any land revested in the Crown by virtue of section 5 (b) of the Foreshore and Seabed Endowment Revesting Act 1991.
11. **Paihia**—An area of 7441 square metres being Lots 1 to 5, DP 57340, and being all of the land comprised in certificates of title 12C/305 to 309 inclusive.
12. **Paihia**—An area of 1920 square metres being Lot 1 and Part Lot 27, DP 11040, and being all of the land comprised in certificate of title 343/255.

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FIRST SCHEDULE—*continued*

LAND VESTED IN DISTRICT COUNCIL—*continued*

13. **Whangaroa**—An area of 579 square metres being Lot 1, DP 62897, and being all of the land comprised in certificate of title 19B/460.

14. **Whangaroa**—An area of 1.6908 hectares being Lot 1, DP 62495, and being all of the land comprised in certificate of title 35A/602 but excluding any land revested in the Crown by virtue of section 5 (b) of the Foreshore and Seabed Endowment Revesting Act 1991.

15. **Whangaroa**—An area of 1922 square metres being Lot 2, Deeds Plan C34, and being all of the land comprised in certificate of title 764/221.

16. **Totara North**—An area of 1871 square metres being Lot 1, DP 65554, and being all of the land comprised in certificate of title 40C/751.

17. **Mangonui**—An area of 1.5275 hectares being Lot 1, DP 74135, and being all of the land comprised in certificate of title 29D/1407 but excluding any land revested in the Crown by virtue of section 5 (b) of the Foreshore and Seabed Endowment Revesting Act 1991.

18. **Unahi**—An area of 4785 square metres being Lot 1, DP 91978, and being all of the land comprised in certificate of title 48D/91.

19. **Unahi**—An area of 9650 square metres being Lot 2, DP 91978, and being all of the land comprised in certificate of title 48D/92.

20. **Pukenui**—An area of 1.1129 hectares being Section 22, Block XI Houhora East Survey District and being all of the land comprised in certificate of title 43B/774 but excluding any land revested in the Crown by virtue of section 5 (b) of the Foreshore and Seabed Endowment Revesting Act 1991.

21. **Paua**—An area of 4047 square metres being Lot 1, DP 91881, and being all of the land comprised in certificate of title 48A/1320.

22. **Paua**—An area of 9650 square metres being Lot 2, DP 91881 and being all of the land comprised in certificate of title 48A/1321.

23. **The Narrows**—An area of 2.0133 hectares being Section 128 Block X Mangamuka Survey District and being all of the land comprised in certificate of title 43B/842 but excluding any land revested in the Crown by virtue of section 5 (b) of the Foreshore and Seabed Endowment Revesting Act 1991.

24. **Rawene**—An area of 5438 square metres being Allotment 20 Block XIV Mangamuka Survey District and being all of the land comprised in certificate of title 46C/103 but excluding any land revested in the Crown by virtue of section 5 (b) of the Foreshore and Seabed Endowment Revesting Act 1991.

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SECOND SCHEDULE

Section 4(1)

WHARVES, BOAT RAMPS, GRIDS, PILE MOORINGS, AND SWING MOORINGS  
VESTED IN DISTRICT COUNCIL

Those wharves situated at—

Opua, Bay of Islands  
Paihia, Bay of Islands  
Russell, Bay of Islands  
Waitangi (2), Bay of Islands  
Kerikeri, Bay of Islands  
Waipapa, Bay of Islands  
Whangaroa (2), Whangaroa Harbour  
Totara North, Whangaroa Harbour  
Mangonui, Mangonui Harbour  
Mill Bay, Mangonui Harbour  
Unahi, Rangaunu Harbour  
Pukenui, Houhora Harbour  
Paua, Parengarenga Harbour  
Te Hapua, Parengarenga Harbour  
Tangaoko Landing, Parengarenga Harbour  
Kohukohu, Hokianga Harbour  
Horeke, Hokianga Harbour  
Opononi, Hokianga Harbour  
The Narrows, Hokianga Harbour  
Rawene, Hokianga Harbour  
Rawene Pontoon, Hokianga Harbour  
Te Karaka, Hokianga Harbour  
Mangungu, Hokianga Harbour  
Kohukohu, Hokianga Harbour  
Omapere, Hokianga Harbour  
Motuti Walkway, Hokianga Harbour

Those boat ramps situated at—

Okiato Vehicular Ferry, Bay of Islands  
Russell, Bay of Islands  
Tapeka, Bay of Islands  
Waitangi, Bay of Islands  
Opito Bay, Bay of Islands  
Rangitane, Bay of Islands  
Totara North, Whangaroa Harbour  
Mangonui, Mangonui Harbour  
Mill Bay, Mangonui Harbour  
Taipa, Taipa River  
Tokerau Beach, Doubtless Bay  
Hihi Beach, Doubtless Bay  
Unahi, Rangaunu Harbour  
Pukenui, Houhora Harbour  
Pukenui Dinghy, Houhora Harbour  
Omapere, Hokianga Harbour  
Opononi, Hokianga Harbour  
Rawene, Hokianga Harbour  
Rawene Ferry, Hokianga Harbour

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SECOND SCHEDULE—*continued*

WHARVES, BOAT RAMPS, GRIDS, PILE MOORINGS, AND SWING MOORINGS  
VESTED IN DISTRICT COUNCIL—*continued*

Narrows Ferry, Hokianga Harbour  
Horeke, Hokianga Harbour  
Kohukohu, Hokianga Harbour

Those grids situated at—  
Mill Bay, Mangonui Harbour  
Taipa, Taipa River  
Unahi, Rangaunu Harbour  
Pukenui, Houhora Harbour  
Rawene, Hokianga Harbour

Those pile moorings at—  
Kawakawa River, Bay of Islands (19)  
Waitangi, Bay of Islands (67)  
Kerikeri, Bay of Islands (76)  
Waipapa, Bay of Islands (42)  
Doves Bay, Bay of Islands (48)  
Taipa, Taipa River (18)  
Unahi, Rangaunu Harbour (14)

Those swing moorings at—  
Kawakawa River, Bay of Islands (14) Numbers 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,  
12, 13, 14 and 15  
Tapu Point, Bay of Islands (17) Numbers 16, 18, 19, 20, 21, 22, 23, 24,  
25, 26, 29, 419, 466, 979, 983, 1436 (Quarantine Mooring) and 1451  
(very large tug mooring)  
Whangaroa, Whangaroa Harbour (3) Numbers 1, 47 and 48  
Mangonui, Mangonui Harbour (6) Numbers 292, 293, 294, 296, 299 and  
306  
Omapere, Hokianga Harbour (1)  
Rawene, Hokianga Harbour (1)  
Pukenui, Houhora Harbour (2)

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13

THIRD SCHEDULE

Section 3 (3)

CERTIFICATE UNDER SECTION 3 (3) OF THE NORTHLAND REGIONAL COUNCIL  
AND FAR NORTH DISTRICT COUNCIL VESTING AND EMPOWERING ACT 1992  
FOR THE ISSUE OF A CERTIFICATE OF TITLE UNDER THE LAND TRANSFER  
ACT 1952

The Far North District Council is entitled to the issue under the Land Transfer Act 1952 of a certificate of title in its name pursuant to section 3 of the Northland Regional Council and Far North District Council Vesting and Empowering Act 1992.

Area and description of land:

Date from which entitled:

I hereby certify that the above particulars are correct, and the District Land Registrar is hereby authorised to issue accordingly a certificate of title under the Land Transfer Act 1952.

Chief Surveyor

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