

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 3 June 1977.

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Wilkinson

**RODNEY COUNTY COUNCIL (GULF HARBOUR)
VESTING AND EMPOWERING**

[LOCAL]

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A BILL INTITULED

An Act to vest in the County of Rodney a certain part of the Hauraki Gulf, to authorise it to reclaim a certain area thereof and to develop or authorise to be developed such
5 **reclaimed land for the purpose of a boat harbour**

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 Rodney
10 County Council (Gulf Harbour) Vesting and Empowering Act **(1976) 1977.**

No. 89—2

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

“Boat harbour” means a harbour or part of a harbour or an anchorage used for the purpose of mooring, sheltering, or servicing pleasure boats; and includes any land or building used in conjunction therewith and, without limiting the general import of that term, may include— 5

(a) Any slipway, launching ramp, dock, pier, marina pier, quay, wharf, jetty, landing place, hoist, hoist well, bridge, float, pontoon, boatshed, (*boat building shed*) boat repair facilities, boatyard, break-water, wave screen, embankment, marine service station, or fuelling pier, or facility or any other boating or aquatic structure, service, or amenity for the use and convenience of the boating public; and 15

(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,— 20
and reference to a boat harbour shall be deemed to be reference to any part of any facility, structure, service, amenity, or use included in a boat harbour:

“Corporation” means a body corporate known as the Chairman, Councillors, and Inhabitants of the County of Rodney: 25

“Council” means the Rodney County Council.

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

4. Vesting—The land described in the First Schedule to this Act is hereby vested in the Corporation as an estate in fee simple for the purposes of this Act and subject to the provisions of the Harbours Act 1950. 30

5. Authority to reclaim—Subject to the provisions of the Harbours Act 1950 and of this Act, the Council may from time to time reclaim from the sea the whole or any part or parts of the land described in the Second Schedule to this Act: 35

Provided that no work of reclamation shall be commenced until such time as the Council has by resolution certified that in its opinion steps towards the provision of reticulated water 40

and sewage disposal facilities are by then sufficiently advanced and programmed as to ensure that those facilities will be available to service the land before it is occupied for any of the purposes authorised by this Act, and until all necessary rights have been acquired under the Water and Soil Conservation Act 1967 in respect of the discharge of natural water or waste into natural water or for the taking or use of natural water for the purposes of the relevant services referred to in section 6 (b) (ii) of this Act.

10 **6. Authority to develop**—The Council may develop and redevelop from time to time the whole or any part or parts of the land described in the First Schedule to this Act for boat harbour purposes and, without limiting the general power of development as aforesaid, the Council may, in
15 respect of the whole or any part or parts of that land which is from time to time reclaimed from the sea—

(a) Subdivide and resubdivide the whole or any part or parts of such reclaimed land into suitable allotments for boat harbour purposes or any of them:

20 Provided that any such subdivision shall be subject to the appropriate provisions of the Counties Act 1956, and all other relevant statutory provisions, relating to subdivisions:

(b) Construct or provide such public works and amenities as may be deemed necessary or desirable for the use and enjoyment of such reclaimed land for boat harbour purposes, including,—

25 (i) Roads, service lanes, access ways, and other means of communication or access by land as well as by water:

30 (ii) Services for water supply, drainage, sewerage, electric lighting, power, gas, and all other amenities:

35 (iii) All works necessary to comply with any lawful requirement of any local or public authority.

7. Council may permit other persons to carry out reclamation and development—For the purpose of carrying out and constructing the said reclamation or any part or parts thereof, or of developing or redeveloping the said land or
40 any part or parts thereof, the Council may grant a licence to

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or contract with any person or persons or local or public authority to undertake and carry out all or any of the activities relating to such reclamation or development as are authorised by sections 5 and 6 of this Act, or to carry out and construct all or any works which may be necessary or expedient in connection with any such reclamation or development in every case upon such terms and conditions as the Council may think fit. In granting any such licence or entering into any such contract the Council (*may*) shall require the insertion therein of a sufficient penalty or bond to ensure the fulfilment of such licence or contract according to the terms and conditions thereof.

New

7A. Council not authorised to create a nuisance, etc.—
(1) Nothing in section 5, section 6, or section 7 of this Act shall entitle the Council or any other person 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 of Transport pursuant to section 178 of the Harbours Act 1950 or requisition or direction issued in accordance with section 13 (a) of this Act, whether or not the Council or any other person has complied with the same, shall restrict the liability of the Council or any other person for any such nuisance:

Provided that the construction of any reclamation or other necessary works in connection therewith, authorised by this Act, shall not of itself constitute a nuisance.

(2) In granting any approval under section 178 of the Harbours Act 1950 to the carrying out of any work authorised by section 5 of this Act, the Minister of Transport shall impose such conditions as he considers necessary to ensure that waste water or silt or other debris is not discharged into the sea or allowed to enter it in circumstances that would detract from the amenities of the locality.

8. Authority to license—(1) In addition to all other powers conferred on the Council under the Harbours Act 1950, or any other Act, the Council on behalf of the Corporation may license or permit any part of the land vested in it under this Act (including any part of the foreshore or of the bed of the sea) or any building or structure thereon, to be

used or occupied for boat harbour purposes for such period and upon such terms and conditions as the Council may think fit.

(2) The provisions of sections 157 and 160 of the Harbours Act 1950, as far as they are applicable, shall apply to any licence or permit granted under section 156 of that Act.

Struck Out

(3) In granting any licence or permit under this section the Council shall ensure, by the insertion in the licence or permit of appropriate terms and conditions, that the effect of the licence or permit is not to deny the public reasonable access over the whole or part of the land described in the First Schedule to this Act in any case where it is reasonable and practicable for the public to have such access, and the provisions of section 159 of the said Act (insofar as they relate to wharves or landing places) shall be read subject to the provisions of this section:

Provided that no licence or permit granted under this section shall be invalidated by any failure to comply with this subsection.

9. Authority to lease—(1) In addition to all other leasing powers conferred on the Council under the Counties Act 1956, the Public Bodies Leases Act 1969, or any other Act, the Council may, in respect of the whole or any part of the land described in the Second Schedule to this Act which is from time to time reclaimed from the sea,—

(a) Lease the whole or any part or parts of such reclaimed land to any person or persons for boat harbour purposes for any term with such right or rights of renewal and on such terms and conditions as the Council may think fit:

(b) 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 or any part or 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 predetermined for the new lease or new leases in the surrendered lease, or, if no such rent is predetermined, at such rent as the Council may determine, with such right or rights of renewal and

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on such terms and conditions as are contained in the surrendered lease or as the Council may otherwise think fit.

(2) Sections 7, 8, 18, and 19 of the Public Bodies Leases Act 1969 shall not apply to the leasing by the Council or to any lease granted by the Council of the whole or any part or parts of such reclaimed land pursuant to this section. 5

New

9A. **Public's right of access**—Notwithstanding the powers conferred on the Council under section 8 or section 9 of this Act or under any other enactment, the public shall have the right of access on to the whole of the land described in the Second Schedule to this Act (but not into any building erected on that land) subject to the provisions of any bylaw made under section 11 of this Act restricting that right; and any licence or permit or lease granted in respect of any part of that land shall be read and construed accordingly. 10
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10. **Council to maintain waterways**—The Council shall undertake, or contract for, the efficient maintenance and dredging of all waterways within the area vested in it and within any adjacent area providing access thereto. 20

11. **Authority for council to make bylaws**—(1) In addition to any other powers to make bylaws conferred on the Council by any other Act, the Council (*may from time to time*) shall, before any facilities constructed on the land described in the First Schedule to this Act come into use, and may from time to time thereafter, make such bylaws as it thinks necessary or expedient for the more effectual carrying out of the objects of this Act. 25

(2) Without limiting the generality of the power to make bylaws conferred by subsection (1) of this section the Council (*may*) shall make bylaws for and in respect of any boat harbour or waterway to which this Act applies for all or any of the following purposes: 30

(a) Regulating and controlling the use of any such boat harbour or waterway, and preventing or abating nuisances therein: 35

(b) Regulating and controlling the speed and navigation of any vessel using any such boat harbour or waterway: 40

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- (c) Regulating, controlling, or prohibiting the mooring, anchoring, or placing of any vessel in any such boat harbour or waterway, or any part of such boat harbour or waterway:
- 5 (d) Regulating all matters relating to the protection of life or property in or on vessels using any such boat harbour or waterway:
- (e) Protecting and safeguarding any such waterway or boat harbour against damage, pollution, obstruction, disturbance, or misuse of any kind whatsoever:
- 10 (f) Regulating, controlling, or prohibiting the discharge of stormwater into any such boat harbour or waterway and the discharge of effluent from boats' toilets into the same:
- 15 (g) Providing for the proper conduct of persons using, occupying, or frequenting any such boat harbour or waterway:

Struck Out

- 20 (h) Fixing fees, charges, rents or payments for the use of moorings, mooring sites, piers, marina piers, sheds, or any other structures included in a boat harbour and provided or erected by the Council.

New

- 25 (h) Fixing fees, charges, rents, or payments for the use, allocation, or re-allocation of moorings, mooring sites, piers, marina piers, sheds, or any other structures included in a boat harbour:
- 30 (i) Regulating, controlling, or prohibiting the trading in or the assignment of licences or other authorities conferring the right to use or occupy all or any of the facilities described in paragraph (h) of this subsection, and regulating and controlling the issue and re-issue and the term of such licences and other authorities and the right to obtain them.
- 35 (3) For the purposes of subsection (2) of this section the word "vessel" shall have the meaning ascribed to it in section 2 of the Harbours Act 1950.
- 40 (4) Any bylaw made under this section which relates to a boat harbour or waterway or to the use thereof shall not come into force until it has been approved by the Minister of Transport by notice in the *Gazette*.

12. District planning scheme to be extended—As soon as practicable after the passing of this Act, the Council shall, in compliance with the requirements of the Town and Country Planning Act 1953, change its district scheme so as to make provision therein for the use of the land authorised by this Act to be reclaimed: and the proposed change shall be publicly notified before any reclamation work is started. be (*publicly notified*) operative before any reclamation work is started. 5

13. Other Acts not affected—Nothing in this Act shall be construed as— 10

- (a) Limiting the powers of the Director-General of Health or other proper officer of the Department of Health to make and issue directions and requisitions relating to the materials to be used in any reclamation constructed under the authority of this Act and the method of construction, covering, protection, and maintenance of such reclamation, or in respect of any other matter authorised in the Health Act 1956, or in any other Act; 15 20
- (b) Limiting the application of the provisions of the Town and Country Planning Act 1953, of the Water and Soil Conservation Act 1967, or of the Counties Act 1956;
- (c) Conferring any water right within the meaning of the Water and Soil Conservation Act 1967; 25

New

(d) Imposing any obligation in law or otherwise on the Auckland Regional Authority to provide or assist in the provision of bulk water or bulk sewage and drainage facilities in respect of the land to which this Act applies or of any adjacent land at a time earlier than when those facilities or any of them might have been supplied if this Act had not been passed. 30

14. 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 reclamation, 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. 35 40

15. Reclaimed land to form part of Rodney County—

(1) Upon the completion of the reclamation of any land under the authority of this Act, such reclaimed land shall, without further or other authority than this section, be
5 included within the district of the Council, and any such alteration of the boundary or boundaries of the county shall be deemed to have been effected pursuant to the Counties Act 1956.

(2) Without in any way limiting the effect of subsection (1)
10 of this section, such altered boundary or boundaries shall from time to time on written application on behalf of the Council and without further authority or procedure be formally recorded by notice in the *Gazette* under the hand of the Secretary for Local Government.

15 **16. Powers of District Land Registrar—**The District Land Registrar for the North Auckland Land Registration District is hereby authorised, on the deposit with him of such plans as he may require, such plans to be certified as to survey by
20 in the name of the Corporation a certificate or certificates of title for the land vested in the Corporation by section 4 of this Act.

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SCHEDULES

FIRST SCHEDULE

LAND VESTED

ALL those parcels of land containing together an area of 39.15 hectares, more or less, being—

- (a) Part of the bed of Hobbs Bay, situated in Block IV, Tiritiri Survey District: Area 14.56 hectares, more or less, as more particularly shown marked A on S.O. Plan 51272, lodged in the office of the Chief Surveyor at Auckland;
- (b) Part of the bed of Hobbs Bay, situated in Block IV, Tiritiri Survey District: Area 1.13 hectares, more or less, as more particularly shown marked B on S.O. Plan 51272, lodged in the office of the Chief Surveyor at Auckland;
- (c) Part of the bed of Hobbs Bay, situated in Block IV, Tiritiri Survey District: Area 23.46 hectares, more or less, as more particularly shown marked C on S.O. Plan 51272, lodged in the office of the Chief Surveyor at Auckland.

SECOND SCHEDULE

LAND AUTHORISED TO BE RECLAIMED BY COUNCIL

ALL those parcels of land containing together an area of 15.69 hectares, more or less, being—

- (a) Part of the bed of Hobbs Bay, situated in Block IV, Tiritiri Survey District: Area 14.56 hectares, more or less, as more particularly shown marked A on S.O. Plan 51272, lodged in the office of the Chief Surveyor at Auckland;
- (b) Part of the bed of Hobbs Bay, situated in Block IV, Tiritiri Survey District: Area 1.13 hectares, more or less, as more particularly shown marked B on S.O. Plan 51272, lodged in the office of the Chief Surveyor at Auckland.