

Reprint
as at 12 November 2018



Auckland Harbour Board (Westhaven) Vesting and Empowering Act 1979

Local Act 1979 No 20
Date of assent 14 December 1979
Commencement 14 December 1979

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

An Act to vest in the Auckland Harbour Board a certain part of the Waitemata Harbour, to define the limits of the Westhaven Boat Harbour, and to grant to the Board certain powers for the development and management thereof

1 Short Title

This Act may be cited as the Auckland Harbour Board (Westhaven) Vesting and Empowering Act 1979.

2 Interpretation

In this Act, unless the context otherwise requires,—

Board means the Auckland Harbour Board

boat harbour means a harbour or part of a harbour used for the purpose of mooring, sheltering, or servicing pleasure boats; and includes any land or building used in conjunction therewith or required for access thereto and, without limiting the general import of that term, may include—

- (a) any slipway, launching ramp, dock, pier, swing or pile mooring, marina pier or berth, quay, wharf, jetty, cleaning grid, landing place, hoist, hoist well, bridge, float, pontoon, boatshed, boat repair or building facilities, boatyard, breakwater, wave screen, embankment, marine service station, or fuelling pier or facility, administration facilities, or any other boating or aquatic structure, service, or amenity for the use and convenience of the boating public; and
- (b) any shop, restaurant, car park, club premises, accommodation facilities or any other commercial or recreational service or amenity for the use and convenience of the general public as well as that of the boating public,—

and reference to a boat harbour or to boat harbour purposes shall be deemed to be a reference to all or part of any facility, structure, service, amenity, or use included in a boat harbour

Westhaven Boat Harbour shall have the meaning given to those words in section 5.

3 Special Act

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

4 Vesting

- (1) The land described in the Schedule and identified as Area Z on Survey Office Plan 53761 (MD (N) 696) is hereby vested in the Board as an estate in fee simple for the purposes of this Act and otherwise subject to the provisions of the Harbours Act 1950.

- (2) The vesting of the land described in the Schedule shall not prejudice or affect any easements, leases, licences, or other rights whatsoever heretofore granted over or in respect of that land or any part thereof and the same are hereby confirmed.

5 Definition of Westhaven Boat Harbour

- (1) For the purposes of this Act and subject to subsection (3), the expression **Westhaven Boat Harbour** shall mean and include those areas of land, foreshore, bed of the sea, and waterspace, described and identified as Area A, B, C, D, E, F, G and H on Survey Office Plan 54140 deposited with the Chief Surveyor at Auckland, a copy of which plan is also deposited with the Ministry of Transport at Auckland and additionally numbered MD (N) 679.
- (2) With the prior consent of the Minister of Transport and upon such conditions, if any, as he thinks fit to impose, and subject to the provisions of subsection (3), the Board may from time to time alter the boundaries of the Westhaven Boat Harbour to include further areas required for its proper use and development for boat harbour purposes, or to delete areas no longer required for those purposes.
- (3) Upon any change in the boundaries of the Westhaven Boat Harbour pursuant to subsection (2) the Board shall deposit as aforesaid a new substituted plan defining the new boundaries and the Board shall publicly notify the change in a newspaper circulating in the Auckland district, and the Minister of Transport shall give notice of the change by notice published in the *Gazette* and thereupon the expression **Westhaven Boat Harbour** shall refer to those areas included in the substituted plan.
- (4) Nothing in this Act shall prevent or affect any present or future use of any part or parts of the Westhaven Boat Harbour for other than boat harbour purposes.

6 Authority to develop

The Board may develop and redevelop from time to time the whole or any parts of the Westhaven Boat Harbour for the purposes of a boat harbour and may, subject to the Harbours Act 1950, carry out all works as may be necessary for that purpose and all such works shall be deemed to be harbour works for the purposes of the Harbours Act 1950.

7 Authority to acquire land

- (1) The Board may from time to time acquire by purchase, lease, exchange, or otherwise, or take under the provisions of the Public Works Act 1928, any land, buildings, or easements, or any lease or other interest therein, which are within or are adjacent to the Westhaven Boat Harbour and which are required for the development or better utilisation or use of that land for boat harbour purposes or for access to the boat harbour and any such acquisition shall, for the purposes of section 140 of the Harbours Act 1950, be deemed an undertaking the Board is authorised to carry out.

- (2) The rights of compensation conferred by section 141 of the Harbours Act 1950 on every person having an estate or interest in any land taken by the Board under the powers in subsection (1) or being thereby injuriously affected or suffering any damage are hereby confirmed:

provided that no person shall, by virtue of the exercise of those powers, have any right or be entitled to damages or recompense (other than such compensation as may be obtained under and determined in the manner provided by the Public Works Act 1928) by reason of any breach or alleged breach of any covenant for quiet enjoyment, express or implied, in any lease granted by the Board, or of the breach of any obligation, express or implied, not to derogate from the grant contained in any such lease.

8 Leases not to constitute subdivision

- (1) A lease of any land within the Westhaven boat harbour shall be deemed not to be a sale within the meaning of that term as defined in section 270(1) of the Local Government Act 1974.
- (2) The Registrar-General of Land is hereby authorised to register any such lease after compliance with such requirements as he may determine for the entry of the lease on the register.

Section 8(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

9 Authority to license

- (1) The Board may exercise the powers conferred on it by section 156 of the Harbours Act 1950 to license and permit any part or parts of the Westhaven Boat Harbour, or any building, structure, or facility therein, to be used or occupied for boat harbour purposes, and in respect of any such licence the provisions of that section shall be deemed enlarged accordingly and any provisions of that section or of any other section of the Harbours Act 1950 which are inconsistent shall be deemed modified to the extent necessary to give effect to this section.
- (2) Any licence granted pursuant to subsection (1)—
- (a) may be for any period not exceeding 21 years or for an initial period including a right or rights of renewal which will not in the aggregate exceed 21 years provided that the period may be extended beyond 21 years, but not exceeding 50 years, if the Board is satisfied that special circumstances exist requiring or justifying a longer term:
 - (b) may grant the right of exclusive use of the water space of any marina berth or pile mooring or the site of a swing mooring:
 - (c) shall be construed as a licence, any rule of law to the contrary notwithstanding:
 - (d) may provide for payment of service fees and for rentals and for those charges to be payable in advance and shall not be deemed in contravention of anything contained in section 118 of the Harbours Act 1950: