

[AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL
GOVERNMENT COMMITTEE]

House of Representatives, 26 June 1990.

Words struck out 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 single rule, or with single rule before first line and after last line.

Hon. Philip Woollaston

AUCKLAND HARBOUR EDGE

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A BILL INTITULED

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

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

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

No. 232—2

Price
incl. GST \$2.20

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

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

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

“City Council” means the Auckland City Council:

“Minister” means the Minister of Local Government:

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“Planning Committee” means the Auckland Harbour Edge Planning Committee established under **section 22A** of this Act:

“Regional Council” means the Auckland Regional Council.

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(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. 20

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:

(a) To provide for and encourage the co-ordinated planning and development of the Auckland Harbour Edge Area: 25

(b) To (*encourage*) promote the sustainable management of the natural and physical resources of the Auckland Harbour Edge Area: 30

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(c) To take account of the existing and future needs of the port of Auckland within the Area:

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(c) To make proper provision in the Area for the operational port activities undertaken at the Port of Auckland:

- 5 (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.

5. Constitution of Auckland Harbour Edge Area—

- 10 (1) There is hereby constituted an Auckland Harbour Edge Area.
(2) The Area shall be the area described in the Schedule to this Act.

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- 15 **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.
20 (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

AUCKLAND HARBOUR EDGE BOARD

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

30 (2) The Board shall be a body corporate with perpetual succession and a common seal, and, subject to ~~subsection (2)~~ (3) of this section 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.

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

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

- (a) To facilitate and promote the development of the Auckland Harbour Edge Area:

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- (aa) To prepare an outline or concept for the development of the Area:

- (b) To make submissions to any person or body in respect of any matter affecting the Area:

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- (c) To liaise and negotiate with any person or body as the Board considers desirable to promote the development of the Area:

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- (c) To liaise and consult with such persons or bodies, including the tangata whenua, as the Board considers practicable and appropriate:

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- (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:

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- (e) To promote and carry out surveys, investigations, monitoring, and research to encourage the development and use of the Area:

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- (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:

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5 (f) To give and make to the City Council and the Regional Council such advice and recommendations on town planning and other matters as the Board considers desirable to ensure the most effective achievement of the purposes of this Act:

(g) To undertake such tasks as are assigned to it by the City Council and the Regional Council.

10 **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.

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15 (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.

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20 (2) Without limiting the generality of **subsection (1)** of this section and notwithstanding **section 17 (1)** of this Act, the Board may—

(a) Engage such consultants and other persons to provide assistance, and employ such persons under contract, as the Board considers necessary to enable it to carry out its functions:

25 (b) Charge a reasonable fee in respect of any services provided by the Board in carrying out any of its functions under this Act.

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30 **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:

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- “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. 5
- (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.
- (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 15
- (c) It is likely that the development will proceed if the land is acquired; and
- (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. 30
- (5) Subject to **subsection (3)**, the Board may recommend that land be acquired by the City Council or the Regional Council.
- (6) The City Council or the Regional Council, as the case may be, may adopt or decline any recommendation made by the Board. 35
- (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

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

10 (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,—

15 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

20 (b) The land ceases for any reason to be necessary for the development,—

25 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.

(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.

30 **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**.

35 **12. Membership of Board**—

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- (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 5
 - (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 10
 - (c) One person to be appointed following consultation with Ports of Auckland Limited.

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- (1) The Board shall consist of the following members:
- (a) A Chairperson appointed by the Minister following consultation with such persons and organisations as the Minister considers to be representative of the Area: 20
 - (b) Eight persons appointed by the City Council and the Regional Council acting jointly, of whom—
 - (i) Four persons shall be appointed because of their competence and experience in the development, commercial, or financial areas; and 25
 - (ii) Three persons shall be appointed to represent the land owners in the Area, and one of those persons shall be appointed following consultation with the New Zealand Railways Corporation while the Corporation is a substantial land owner in the Area; and 30
 - (iii) One person shall 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)) subsection (1) (b) (i)*** of this section. 35

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(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.

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(3) The members of the Board shall hold office for 3 years, and may from time to time be reappointed.

10 (4) Any member of the Board may at any time be removed from office for bankruptcy, disability, neglect of duty, or misconduct. The Chairperson shall be so removable by the Minister and other members shall be so removable by the City Council and the Regional Council acting jointly.

15 (4A) Any member of the Board may resign from office by notice in writing given,—

(a) In the case of a person appointed as Chairperson, to the Minister:

20 (b) In the case of any other member, to the City Council and the Regional Council.

(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.

25 (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.

30 **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.

35 **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.

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. 5

(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. 10

(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: 15

(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: 20

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(c) Any charges fixed by the Board in considering applications to compulsorily acquire land under **section 10**: 25

(d) Any money received by the Board from the City Council and the Regional Council under **subsection (2) of this section**.

(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. 30

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. 35

(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.

5 (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.

10 (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.

15 **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.

20 (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.

25 **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.

30 **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.

(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.

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PART 1A

AUCKLAND HARBOUR EDGE PLANNING COMMITTEE

22A. Auckland Harbour Edge Planning Committee—
There is hereby established a committee to be called the Auckland Harbour Edge Planning Committee.

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- 22B. Functions of Planning Committee**—(1) The principal function of the Planning Committee shall be to consider and recommend to the City Council and the Regional Council changes to the following schemes: 5
- (a) The Auckland Regional Planning Scheme;
 - (b) The Waitemata Harbour Maritime Planning Scheme;
 - (c) The Auckland City District Scheme.
- (2) The Planning Committee shall carry out such other functions as may be delegated to it by the City Council or the Regional Council. 10
- (3) The Planning Committee shall carry out its principal function within 12 months after the commencement of this Act.
- 22c. Powers of Planning Committee**—The Planning Committee shall have such powers as are reasonably necessary or expedient to enable it to carry out its functions. 15
- 22D. Membership of Planning Committee**—(1) The Planning Committee shall consist of the following members: 20
- (a) Not more than 3 persons appointed by the City Council, who shall be elected members of the Council;
 - (b) Not more than 3 persons appointed by the Regional Council, who shall be elected members of the Council.
- (2) The members of the Planning Committee shall appoint one of their number to preside at meetings of the Committee. 25
- 22E. Committees and subcommittees**—The provisions of sections 114P to 114s of the Local Government Act 1974 shall apply to the Planning Committee as if it were a local authority constituted under that Act. 30
- 22F. 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 Planning Committee to carry out its functions.
- (2) The costs and expenses incurred by the Planning Committee in carrying out its functions shall be apportioned equally between the City Council and the Regional Council. 35

PART II

MISCELLANEOUS

5 **23. Settlement of disputes**—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.

10 **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.

15 **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.

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20 **25A. Act not to derogate from other Acts**—The provisions of this Act shall be in addition to and not in derogation of the provisions of the Town and Country Planning Act 1977 or any other Act.

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.

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; and as more particularly delineated on a plan lodged with the Department of Survey and Land Information under No. S.O. 65192.

(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; and as more particularly delineated on a plan lodged with the Department of Survey and Land Information under No. S.O. 65193.