Hon. Philip Woollaston

HARBOUR BOARDS DRY LAND ENDOWMENT REVESTING

ANALYSIS

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A BILL INTITULED

An Act to provide for certain endowments of dry harbour land to be revested in the Crown or reserved for certain purposes, and to amend certain enactments

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

1. Short Title—This Act may be cited as the Harbour Boards Dry Land Endowment Revesting Act **1990**.

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

"Chief Surveyor" has the same meaning as in the Survey Act 1986:

"Controlling authority" means,—

(a) In relation to any land specified in **Part A** or **Part B** of the Schedule to this Act, the Minister:

(b) In relation to any land specified in **Part C** of the Schedule to this Act, the local authority or Harbour Board in which the land is for the time being vested:

"Harbour Board" means any Harbour Board constituted under the Harbours Act 1950 or any other enactment:

"Local authority" has the same meaning as in the Local Government Act 1974:

"Minister" means the Minister of Conservation.

3. Land to be revested in the Crown or held by local authority as reserve—(1) Notwithstanding anything in the Local Government Act 1974 or in any other enactment but subject to **subsections (2) to (8)** of this section, the Governor-General may from time to time, by Order in Council,—

(a) Declare any area of land specified in **Part A** of the Schedule to this Act that is for the time being vested in a local authority or a Harbour Board, or any part of any such land, to be revested in the Crown and held for conservation purposes and such other purpose or purposes under the Conservation Act 1987 as may be specified in the order:

(b) Declare the land specified in **Part B** of the Schedule to this Act, or any part of that land, to be revested in the Crown and held for such purposes as may be specified in the order:

(c) Declare any area of land specified in **Part C** of the Schedule to this Act that is for the time being vested in a local authority or a Harbour Board, or any part of any such land, to be a reserve and to be classified for such purposes under the Reserves Act 1977 as may be specified in the order.

(2) Any strip of land not exceeding 20 metres in width that is revested in the Crown by an Order in Council made under **subsection (1) (a)** of this section may be declared by the order to be held as a marginal strip for the purposes of the Conservation Act 1987.

(3) Where any land is declared under **subsection (1) or subsection (2)** of this section to be held for any purpose under the Conservation Act 1987, the provisions of that Act, with any necessary modifications, shall thereafter apply to that land,—

(a) In the case of land declared to be held for conservation purposes, as if the declaration had been notified under section 7 of that Act; and

(b) In the case of land declared to be held for any other specified purpose or purposes under that Act, as if the declaration had been notified under section 18 of that Act; and

(c) In the case of land declared to be held as a marginal strip, as if the land were reserved as a marginal strip by section 24 of that Act.

(4) Where any land is declared under **paragraph (b) of subsection (1)** of this section to be revested in the Crown and held for any purpose not referred to in **paragraph (a)** of that subsection, the order shall have effect according to its tenor.

(5) Where any land is declared under **subsection (1) (c)** of this section to be a reserve and to be classified for any purpose under the Reserves Act 1977, the provisions of that Act, with any necessary modifications, shall thereafter apply to that land as if the classification had been notified under section 16 of that Act.

(6) No Order in Council shall be made under **subsection (1)** of this section in respect of any land that is for the time being identified as a port related commercial undertaking on a port company plan under the Port Companies Act 1988 or any land that has been transferred to a port company under that Act.

(7) Upon the revesting of any land in the Crown under this section,—

(a) Every vesting of that land in a local authority or Harbour Board by or under any enactment in force at any time before the date of the revesting shall be deemed to be revoked; and

(b) That land shall be deemed to be revested in the Crown as if it had never been alienated from the Crown and free from all subsequent trusts, reservations, restrictions, and conditions.

(8) No Order in Council shall be made under **subsection (1)** of this section in respect of any specified land unless the land has been identified for the purposes of this section on a plan that is lodged in the office of the Chief Surveyor and is certified as correct for the purposes of this section by the Chief Surveyor.

4. Endowments of dry harbour land not to be sold without approval of Minister—(1) Any land that may be subject to an Order in Council made under **section 3 (1)** of this Act, but is not for the time being subject to an Order in Council made under that section, may be sold or otherwise disposed of only with the approval in writing of the Minister.

(2) The approval of the Minister under **subsection (1)** of this section—

(a) May be given subject to such exceptions, restrictions, and conditions as the Minister thinks fit, including any condition or restriction requiring the vendor to deal with money received by the vendor from the sale or exchange of land in a manner specified by the Minister, or requiring the vendor to obtain the

consent of the Minister to the terms of any agreement or of any specified kind of agreement proposed to be entered into by the vendor in the exercise of the powers to which the approval relates; and

(b) Shall be notified in the *Gazette*; and

(c) Shall take effect on the date of publication of such notice or such other date as the Minister may specify in the notice.

(3) Every agreement to sell or otherwise dispose of any such land, that is entered into without the approval of the Minister under this section, shall be unlawful and shall have no effect.

(4) Nothing in this Act shall apply to any land sold or otherwise disposed of in accordance with this section.

5. Protection of endowments of dry harbour land—(1) Except with the approval in writing of the Minister, no person shall destroy, damage, or modify, or cause to be destroyed, damaged, or modified—

(a) The whole or any part of any area of land specified in the Schedule to this Act that has not been sold or otherwise disposed of under **section 4** of this Act; or

(b) Any of the natural resources of any such area.

(2) The Minister may grant an approval under **subsection (1)** of this section subject to such conditions as he or she thinks fit, or may decline to grant an approval.

(3) Every person commits an offence against this Act who—

(a) Contravenes **subsection (1)** of this section; or

(b) Is in breach of any condition imposed by the Minister under **subsection (2)** of this section.

(4) In this section, "natural resources" has the same meaning as in the Conservation Act 1987.

6. Existing licences, etc., preserved—(1) Every lease, licence, permit, consent, or other authority validly granted in respect of any land in respect of which an Order in Council is made under **section 3 (1)** of this Act, that is in force immediately before the commencement of the order, shall continue in force according to its tenor.

(2) The controlling authority may grant renewals of any such lease, licence, permit, consent, or other authority.

(3) The controlling authority may take all such proceedings as may be necessary to enforce any condition in any such lease, licence, permit, consent, or other authority as if the controlling authority had granted the authority.

(4) Nothing in any Order in Council made under **section 3 (1)** of this Act shall affect any interest that any person has in any personal property that, at the commencement of the order, is fixed to the land to which the order applies.

(5) The owner of any personal property referred to in **subsection (4)** of this section—

(a) Shall have access to the property; and

(b) May, after giving reasonable notice to the controlling authority, remove the property.

7. Provisions relating to existing certificates of title—(1) Every existing certificate of title in respect of any land revested in the Crown by an Order in Council made under **section 3 (1)** of this Act that is not subject to any current registered lease or registered licence shall, on the request in writing of the Minister and without further authority than this subsection, be cancelled by the appropriate District Land Registrar.

(2) Where the certificate of title for any such land is subject to such a lease or licence, the appropriate District Land Registrar shall, on the request in writing of the Minister and without further authority than this subsection, make any necessary endorsements on the certificate of title, and the certificate of title shall thereafter enure the name of Her Majesty the Queen in right of New Zealand for the purposes of this Act until the expiration or sooner determination of the lease or licence, and shall then be cancelled by the District Land Registrar.

(3) Where the Minister makes any request under **subsection (1) or subsection (2)** of this section, the Minister shall also—

(a) Produce the duplicate of the certificate of title concerned to the District Land Registrar for cancellation or endorsement, as the case may require; or

(b) Certify that the duplicate is unavailable by reason of loss or damage.

8. Minister may apply for new certificates of title—(1) The Minister may cause a plan of survey of any land revested in the Crown by an Order in Council made under **section 3 (1)** of this Act to be made by a registered surveyor and approved by the Chief Surveyor, and lodge it for deposit at the office of the appropriate District Land Registrar.

(2) On or after the deposit of a plan of survey approved by the Chief Surveyor, the District Land Registrar shall, notwithstanding anything in the Land Transfer Act 1952, issue

to Her Majesty the Queen in right of New Zealand for the purposes of this Act a certificate of title under that Act in respect of the area to which the plan relates.

(3) Where a new certificate of title is issued for the purposes of this Act, the District Land Registrar shall cancel any other certificate of title in respect of the land concerned or partially cancel that other certificate of title, as the case may require.

(4) The District Land Registrar shall record against every such new certificate of title the order of priority of any registered leases or registered licences in respect of the land to which the certificate of title relates.

(5) Nothing in this section shall prevent the Minister applying in accordance with the provisions of the Land Transfer Act 1952 for the issue of a new certificate of title in respect of any area revested in the Crown by any Order in Council made under **section 3 (1)** of this Act.

9. Penalties—Every person who commits an offence against this Act is liable,—

(a) In the case of an individual, to imprisonment for a term not exceeding 1 year or to a fine not exceeding $10,000, and, where the offence is a continuing one, to a further fine not exceeding $1,000 for every day on which the offence has continued:

(b) In the case of a corporation, to a fine not exceeding $80,000, and, where the offence is a continuing one, to a further fine not exceeding $10,000 for every day on which the offence has continued.

10. Offenders liable for loss or damage—(1) Every person convicted of an offence against this Act shall be liable for any loss or damage or expenses arising from or caused by the act constituting the offence in addition to the penalty for the offence; and the amount payable in respect of the loss or damage or expense may be awarded by the Court in fixing the penalty and may be recovered as a fine.

(2) In assessing any amount payable under **subsection (1)** of this section, the Court may take into account salaries, wages, and incidental expenses incurred in the investigation of the act constituting the offence or in remedying the loss or damage caused by the act, and shall take into account all other relevant factors.

11. Amendment to Conservation Act 1987—The Conservation Act 1987 is hereby amended by inserting in the

First Schedule, in its appropriate alphabetical order, the following item:

"The Harbour Boards Dry Land Endowment Revesting Act **1990**".

12. Repeals—The following enactments are hereby repealed:

(a) Section 7 (1) of the Greymouth Harbour Board Act 1884:

(b) Section 74 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1912:

(c) Section 13 (10) of the Reserves and Other Lands Disposal Act 1982.

SCHEDULE

Section 3 (1) (a)

PART A

DESCRIPTION OF LAND THAT MAY BE REVESTED IN THE CROWN FOR CONSERVATION PURPOSES

Blacksmith Creek Sandspit: All that land containing 2.6911 hectares, more or less, and being all the land comprised and described in certificate of title No. 46C/105, North Auckland Registry.

Busby Head: All that land described in section 5 (2) of the Reserves and Other Lands Disposal Act 1942.

Havelock Harbour lands: All that land described in section 7 of the Havelock Harbour Board Act 1905 and in the First Schedule to that Act.

Jess Road Saltmarsh: All that land containing 10.9430 hectares, more or less, and being all the land comprised and described in certificate of title No. 21D/1031, South Auckland Registry.

Kerikeri Wharf: All that land described in the Schedule to the Proclamation published in the *Gazette*, 1941, No. 80, at p. 3189.

Motueka Harbour lands: All that land—

(a) Described in relation to the Port of Motueka in the *Gazette*, 1882, No. 74, at p. 1225:

(b) Referred to in section 5 (b) of the Motueka Harbour Board Act 1905.

Napier Harbour lands: All that land described in the Schedule to the Napier Harbour Board Act 1878.

Nelson Harbour lands: All those portions of the land referred to in section 4 (a) of the Nelson Harbour Act 1905 and described in the First Schedule to that Act, known as the Boulder Bank, No-Mans Island, and Whakapuaka Sandflat.

New Plymouth Harbour lands: All that land containing 733 acres, more or less, and being all the land comprised and described in certificate of title, Volume 144, folio 101, Taranaki Registry.

Otago Harbour lands: All that land—

(a) Described in the Schedule to the Otago Harbour Board Indemnity and Lands Vesting Act 1888:

(b) Described in the First and Second Schedules to the Otago Harbour Board Lands Vesting Act 1910.

Patea Harbour lands: All that land described in sections 2 and 3 of the Patea Harbour Board Foreshore Act 1903.

Tauranga Harbour lands: All that land containing 1.6 hectares, more or less, and being all the land comprised and described in certificate of title No. 21D/1033, South Auckland Registry.

Wairoa Harbour lands: All that land described in the Third and Fourth Schedules to the Wairoa Harbour Act 1946.

Walker Island: All that land described in the Schedule to the Order in Council made on the 26th day of July 1950 vesting the land in the Awanui Harbour Board (*Gazette*, 1950, No. 47, at p. 1031).

Wanganui Harbour lands: All that land described in section 53 of the Wanganui Harbour and River Conservators Board Act 1876, and in the Schedule to that Act.

SCHEDULE—*continued*

PART A—*continued*

DESCRIPTION OF LAND THAT MAY BE REVESTED IN THE CROWN FOR CONSERVATION PURPOSES—*continued*

Whakatane Harbour lands: All that land described in section 25 (2) of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1920.

Whangarei Harbour lands: All that land—

(a) Containing 38.4451 hectares, more or less, and being all the land comprised and described in certificate of title, Volume 80, folio 128, Auckland Registry:

(b) Containing 40.9053 hectares, more or less, and being all the land comprised and described in certificate of title, Volume 117, folio 222, Auckland Registry:

(c) Containing 18.6155 hectares, more or less, and being all the land comprised and described in certificate of title, Volume 80, folio 132, Auckland Registry:

(d) Containing 5513 square metres, more or less, and being all the land comprised and described in certificate of title No. 43B/945, North Auckland Registry:

(e) Described in the Third Schedule to the Whangarei Harbour Board Vesting and Empowering Act 1962:

(f) Described in the Second Schedule to the Whangarei Harbour Act 1907.

Whangaruru Harbour lands: All that land—

(a) Described in the Second Schedule to the Whangarei Harbour Board Vesting Act 1928:

(b) Described in section 3 (3) of the Reserves and Other Lands Disposal Act 1944:

PART B **Section 3 (1) (b)**

DESCRIPTION OF LAND THAT MAY BE REVESTED IN THE CROWN FOR ANY PURPOSES

Manukau Harbour lands: All that land containing 36.6198 hectares, more or less, and being all the land comprised and described in certificates of title, Volume 408, folio 119, and Volume 417, folio 196, Auckland Registry.

PART C **Section 3 (1) (c)**

DESCRIPTION OF LAND THAT MAY BE DECLARED TO BE RESERVE

Chapel Street lands, Tauranga: All that land—

(a) Containing 3253 square metres, more or less, and being all the land comprised and described in certificate of title No. 19A/358, South Auckland Registry:

(b) Containing 2480 square metres, more or less, and being all the land comprised and described in certificate of title No. 19A/359, South Auckland Registry:

(c) Containing 1097 square metres, more or less, and being all the land comprised and described in certificate of title No. 17B/894, South Auckland Registry:

SCHEDULE—*continued*

PART C—*continued*

DESCRIPTION OF LAND THAT MAY BE DECLARED TO BE RESERVE—*continued*

(d) Containing 657 square metres, more or less, and being all the land comprised and described in certificate of title No. 17B/977, South Auckland Registry:

(e) Containing 354 square metres, more or less, and being all the land comprised and described in certificate of title No. 12A/179, South Auckland Registry:

(f) Containing 2.2637 hectares, more or less, and being all the land comprised and described in certificate of title, Volume 1224, folio 47, Auckland Registry.

Greymouth Harbour lands: All that land described in section 13 (16) of the Reserves and Other Lands Disposal Act 1982.

Grey River Mouth land: All that land—

(a) Containing 2 acres and 8.1 perches, more or less, and being all the land comprised and described in certificate of title No. 2A/817, Westland Registry:

(b) Containing 3.9580 hectares, more or less, and being all the land comprised and described in certificate of title No. 5C/707, Westland Registry.

Invercargill Harbour lands: All that land described in the Schedule to the New River Pilot Station Reserve Act 1879.

Lyttelton Harbour lands: All that land described in the Schedule to the Lyttelton Harbour Board Reclamation and Empowering Act 1910.

Manukau Harbour lands: All that land described in paragraphs 1 and 4 of the First Schedule to the Manukau Harbour Control Act 1911.

Sulphur Point, Tauranga: All that land containing 7.6610 hectares, more or less, and being all the land comprised and described in certificate of title No. 35C/139, South Auckland Registry.

Tauranga City Marginal Strips: All that land—

(a) Containing 1011 square metres, more or less, and being all the land comprised and described in certificates of title Nos. 13B/964 and 13B/965, South Auckland Registry:

(b) Containing 3135 square metres, more or less, and being all the land comprised and described in certificate of title No. 13B/967, South Auckland Registry:

(c) Containing 775 square metres, more or less, and being all the land comprised and described in certificate of title No. 27D/136, South Auckland Registry:

(d) Containing 582 square metres, more or less, and being all the land comprised and described in certificate of title No. 13B/966, South Auckland Registry.

Tauranga Harbour lands: All that land—

(a) Containing 3.83 hectares, more or less, and being all the land comprised and described in certificate of title No. 37A/439, South Auckland Registry:

(b) Being Allotment 108, Block II, Katikati Survey District (S.O. Plan 24628):

(c) Being Section 10A, Block IX, Katikati Survey District (S.O. Plan 414):

SCHEDULE—*continued*

PART C—*continued*

DESCRIPTION OF LAND THAT MAY BE DECLARED TO BE RESERVE—*continued*

(d) Containing 0.25 hectares, more or less, and being all the land comprised and described in certificate of title, Volume 375, folio 41, Auckland Registry:

(e) Being Allotment 31A, Block II, Aongatete Survey District (S.O. Plan 18315):

(f) Containing 19.9307 hectares, more or less, and being all the land comprised and described in certificate of title No. 7A/904, South Auckland Registry:

(g) Containing 1.2949 hectares, more or less, being all the land comprised and described in certificate of title No. 29A/262, South Auckland Registry:

(h) Containing 708 square metres, more or less, and being all the land comprised and described in certificate of title, Volume 149, folio 270:

(i) Being Allotment 133, Block VI, Aongatete Survey District (S.O. Plan 18315):

(j) Being Allotment 216, Block III, Aongatete Survey District (S.O. Plan 18315):

(k) Containing 18.98 hectares, more or less, and being all the land comprised and described in certificates of title Nos. 14A/15 and 23B/280, South Auckland Registry:

(l) Containing 5.0637 hectares, more or less, and being all the land comprised and described in certificate of title No. 14C/983, South Auckland Registry:

(m) Being Allotment 237, Block VIII, Tauranga Survey District:

(n) Containing 13.0196 hectares, more or less, and being all the land comprised and described in certificate of title No. 37C/668, South Auckland Registry:

(o) Containing 0.4048 hectares, more or less, and being all the land comprised and described in certificate of title, Volume 575, folio 24, Auckland Registry.

Waimakariri Harbour lands: All that land described in the First Schedule to the Waimakariri Harbour Act 1946.

Wairoa Harbour lands: All that land—

(a) Containing 18.24 hectares, more or less, and being all the lands comprised and described in certificates of title, Volume 30, folios 150 and 170, and Volume 30, folio 168, Hawke's Bay Registry:

(b) Being landing reserve (*Gazette,* 1902, at page 1909) and Part Allotment 181, Block II, Tauranga Survey District:

(c) Containing 23 acres 1 rood 37 perches, being river margins, and being Part Section 9, Block II, Clyde Survey District:

(d) Being Section 1, Block V, Clyde Survey District:

(e) Being Section 831, Borough of Wairoa, Township of Clyde:

(f) Being Lot 2, Deposited Plan 3350, Part Rural Section 17, Block V, Clyde Survey District.

Wanganui Harbour lands: All that land containing 7.7 hectares, more or less, and being all the land comprised and described in certificate of title No. SD/124, Wellington Registry.

Whakatane Harbour lands: All that land described in the Schedule to the Whakatane Harbour Board Vesting Act 1933.

Whatipu Endowment: All that land situated within Manukau Harbour described in the First Schedule to the Manukau Harbour Control Act 1911.

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