

- (ii) Is principally used for recreational purposes, whether or not it is a reserve under the Reserves Act 1977; or
- (iii) Is a marina, wharf, jetty, boat ramp or other harbour facility used principally for recreational purposes; or
- (iv) Is an item of plant or equipment used principally in association with the maintenance, use or operation of the facilities referred to in subparagraphs (i), or (ii) or (iii) of this paragraph—

is hereby vested in the Whangarei District Council for the purpose for which it is so reserved, or, where there is no such purpose, for the purposes of any function transferred by this order to the Whangarei District Council.

(3) Subject to subclauses (6), (8), (9) and (10) of this clause, all that property which is vested in the Northland Harbour Board as at the 31st day of October 1989 which is situated in the Whangarei District as constituted by this order and which is adjacent to any harbour or the sea is hereby vested in the Whangarei District Council.

(4) Where there is any dispute over whether any property comes within a category of property referred to in this clause, the matter shall be referred to the Local Government Commission for determination.

(5) Subject to subclauses (8) to (10) of this clause, any property which is vested in the Northland Harbour Board as at the 31st day of October 1989 and which does not come within a category of property referred to in subclause (2) or subclause (3) of this clause is hereby vested in the Northland Regional Council.

(6) Notwithstanding anything in subclauses (2) and (3) of this clause, but subject to subclauses (9) and (10) of this clause, any land which is vested in the Northland Harbour Board as at the 31st day of October 1989 and which is below the mean high water mark is hereby vested in the Northland Regional Council.

(7) For the purposes of this clause, any property which is fixed to, or under or over, any land and which is below the mean high water mark, and which is used for, or in conjunction with, any purpose referred to in subclause (2) of this clause and which is situated in the Whangarei District as constituted by this order is hereby transferred to the Whangarei District Council, whether or not any interest in the land is also transferred.

(8) Without limiting the provisions of subclauses (2), (3), (5) and (6) of this clause, but subject to subclauses (9) and (10) of this clause, the property described in the Fourth Schedule to this order and, in respect of the harbour facilities described in Part I of that Schedule, including:

- (a) Any loan liabilities, sinking funds, unexpended loan money and cash balances; and
- (b) Any outstanding income and expenditure; and
- (c) Any stores, materials, plant and equipment,

relating to those facilities shall, subject to paragraphs (a) and (b) of this subclause, vest without cost in the Whangarei District Council.

(9) If any of the land specified in the Fourth Schedule to this order is, between the 9th day of June 1989 and the 31st day of October 1989, allocated to the Northland Port Corporation (NZ) Ltd pursuant to an approved port company plan within the meaning of the Port Companies Act 1988 then, notwithstanding subclause (8) of this clause, that land shall not vest in the Whangarei District Council.

(10) Notwithstanding anything in this clause, if, after the 31st day of October 1989—

(a) The Minister of Transport approves a port company plan within the meaning of the Port Companies Act 1988 pursuant to which any of the property, real or personal, identified in this clause is liable to be transferred to the Northland Port Corporation (NZ) Ltd, the Northland Regional

Council or the Whangarei District Council shall transfer such property to the Northland Port Corporation (NZ) Ltd at the cost of that company, subject to any appropriate adjustment for incomings and outgoings in relation to such property for the period beginning on the 1st day of November 1989 and ending on the date of the transfer of the property to the Northland Port Corporation (NZ) Ltd; or

(b) Any approved port company plan is cancelled, withdrawn, re-issued or in any way altered and, as a result, property is deemed to be returned to the ownership (notional or otherwise) of the Northland Harbour Board, that property shall be allocated under this order as if the property had been owned by the Northland Harbour Board on the 31st day of October 1989.

111 TITLE TO PROPERTY

Any reference, express or implied, to the Northland Harbour Board in any instrument or other document whatsoever, or in any entry or record made in any register in relation to any property whatsoever vested in any local authority by this order shall, unless the context otherwise requires, be read as a reference to that local authority.

112 NORTHLAND PORT CORPORATION (NZ) LTD

All those shares in the Northland Port Corporation (NZ) Ltd that are held by the Northland Harbour Board as at the 31st day of October 1989 are hereby vested in the Northland Regional Council.

113 LIABILITIES IN RESPECT OF PORT RELATED COMMERCIAL UNDERTAKINGS

(1) All those liabilities of the former Northland Harbour Board as determined under section 29 of the Port Companies Act 1988 shall become liabilities of the Northland Regional Council.

(2) All those debt securities issued by the Northland Port Corporation (NZ) Ltd to the former Northland Harbour Board under section 29 of the Port Companies Act 1988 are hereby transferred to the Northland Regional Council.

114 RESIDUAL ASSETS AND LIABILITIES

All the assets and liabilities of the former Northland Harbour Board for which provision for vesting is not otherwise made in this order are declared to be assets and liabilities of the Northland Regional Council.

PART VII

General

115 TRANSFER OF RESPONSIBILITIES

(1) Except as otherwise provided in this order, a local authority constituted by this order shall, in respect of the district of that local authority:

(a) Have and may exercise and be responsible for all the powers, duties, acts of authority and functions which were previously exercised, or which could have been so exercised, by the former authorities had they not been dissolved; and

(b) Have and may exercise and be responsible for all liabilities, obligations, engagements and contracts which previously were, or which would have been, the responsibility of the former authorities had they not been dissolved; and

(c) Have and may exercise and be responsible for all actions, suits, and proceedings pending by or against, or which would have been the responsibility of the former authorities had they not been dissolved; and

(d) Succeed to the bylaws which are in force in the districts of the former authorities. Until revoked or altered by the newly constituted local authority each such bylaw shall remain in force in the area to which it applied immediately before the constitution of the district, and every bylaw which cannot be