

**154 TITLE TO PROPERTY**

Any reference, express or implied, to any former authority in any instrument or other document, or in any entry or record made in any register in relation to any property vested in the Opotiki District Council by clause 153 of this order shall, unless the context otherwise requires, be read as a reference to "The Opotiki District Council".

**PART IX*****Bay of Plenty Harbour Board*****155 VESTING OF PROPERTY**

(1) This clause shall apply to that property, real and personal, vested in the Bay of Plenty Harbour Board as at the 31st day of October 1989.

(2) Subject to subclauses (6), (8), (9) and (10) of this clause, all property:

(a) Which is vested in the Bay of Plenty Harbour Board as at the 31st day of October 1989; and

(b) Which—

(i) Is a reserve under the Reserves Act 1977; or

(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 territorial authority, in whose district it is situated, 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 that territorial authority.

(3) Subject to clauses (6), (8), (9) and (10) of this clause, all that property which is vested in the Bay of Plenty Harbour Board as at the 31st day of October 1989 which is situated in any district of a territorial authority, as constituted by this order, and which is adjacent to any harbour or the sea is hereby vested in the territorial authority in whose district it is situated.

(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 Bay of Plenty 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 Bay of Plenty 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 Bay of Plenty Harbour Board as at the 31st day of October 1989 and which is below the mean high water mark is hereby vested in the Bay of Plenty Regional Council.

(7) For the purposes of this clause, any property which is fixed to, or under or over, any land 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 district of a territorial authority constituted by this order is hereby transferred to that territorial authority 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:

(a) That land described in the Fourth Schedule to this order shall vest without cost in the Tauranga District Council:

(b) That land described in the Fifth Schedule to this order shall vest without cost in the Western Bay of Plenty District Council:

(c) That land described in the Sixth Schedule to this order shall vest without cost in the Bay of Plenty Regional Council,

and, notwithstanding paragraphs (a) and (b) of this subclause, in respect of the harbour facilities described in Part I of the Fourth Schedule and the land described in Part II of the Fifth Schedule the vesting shall include:

(i) Any outstanding income and expenditure; and

(ii) Any stores, materials, plant and equipment,

relating to those facilities, and that land.

(9) If any of the land specified in the Fourth, Fifth or Sixth Schedule to this order is, between the 9th day of June 1989 and the 31st day of October 1989, allocated to the Port of Tauranga Limited 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 local authority in which it has been vested by this clause.

(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 Port of Tauranga Limited, the local authority which has received that property shall transfer such property to the Port of Tauranga Limited 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 Port of Tauranga Limited; 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 Bay of Plenty Harbour Board, that property shall be allocated under this order as if the property had been owned by the Bay of Plenty Harbour Board on the 31st day of October 1989.

**156 TITLE TO PROPERTY**

Any reference, express or implied, to the Bay of Plenty Harbour Board in any instrument or other document whatsoever, or in any entry or record made in any register made 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.

**157 PORT OF TAURANGA LIMITED**

(1) All those shares in the Port of Tauranga Limited that are held by the Bay of Plenty Harbour Board as at the 31st day of October 1989 are hereby vested in the Bay of Plenty Regional Council and the Waikato Regional Council as follows:

Ten-thirteenths of the number of those shares shall be vested in the Bay of Plenty Regional Council:

Three-thirteenths of the number of those shares shall be vested in the Waikato Regional Council.

(2) Fifty-one percent of the shares vested in each local authority by subclause (1) of this clause shall be shares that belong to the class of shares referred to in section 7(1) of the Port Companies Act 1988.

(3) The other 49 percent of the shares vested in each local authority by subclause (1) of this clause shall be shares:

(a) Which carry voting rights; but

(b) Which do not belong to the class of shares referred to in section 7(1) of the Port Companies Act 1988.