

# Certification of Land Description

## Auckland Harbour Board and Takapuna Borough Council Empowering Act Amendment Bill

### Certifier

Chief Executive (**CE**) of Toitū Te Whenua Land Information New Zealand (**LINZ**).

### Authority

Clause 9 ('Bills dealing with land') of Appendix C of the Standing Orders of the House of Representatives 2023.

### Certification

In relation to the Auckland Harbour Board and Takapuna Borough Council Empowering Act Amendment Bill (the **Bill**), the Certifier:

- Certifies the correctness of the description of land set out in the updated Schedule of the Bill, being the description recommended by LINZ for the reasons set out in Appendix 1 and as set out below:

All that area of land in the North Auckland Land District containing 0.0463 hectares located at 17 Sir Peter Blake Parade, Bayswater, Auckland described as Lot 1 Deposited Plan 20033 as contained in Record of Title NA455/236.

- Certifies that a true copy of the plan of the affected land is not required because the Bill deals with land comprised in a record of title issued under the Land Transfer Act 2017 (that is, NA455/236).

### Execution

**Signed** by the **Chief Executive, Toitū Te Whenua Land Information New Zealand**



9 May 2024

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Richard Hawke

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Date

## Appendix 1 - Notice detailing the recommendation to change the wording in Schedule 1 of the Bill.

- 1 A certification under Clause 9(1) of the Standing Orders that a description of the land is correct would in our view not be appropriate as part of the land described in Schedule 1 of the Auckland Harbour Board and Takapuna Borough Council Empowering Act 1923 was affected by a revesting under the Foreshore and Seabed Endowment Revesting Act 1991 and subsequent legislation. The revesting actions and any subsequent actions were not registered against Record of Title (RT NA389/73). A certification as to description of land can be made in terms of parcels that were surveyed and defined after the act came into force. In this case a certification in terms of Lot 1 DP 20033 held in RT NA455/236 in the ownership of the Takapuna Boating Club (Incorporated) would be acceptable as there is an exact and unambiguous description of the land available.

### Detailed explanation

- 2 The land (which included some harbour bed) described in Schedule 1 of the Auckland Harbour Board and Takapuna Borough Council Empowering Act 1923 was described in that schedule by a metes and bounds description and was delineated on Marine Department (MD) Plan 5678. Also in 1923, The same land was defined on a Land Transfer Survey plan being Deposited Plan 17189. DP 17189 showed two lots. Lot 1 covered the public baths and Lot 2 covered the boat sheds. Certificate of Title 389/73 (now referred to as Record of Title NA389/73) issued for Lots 1 & 2 DP 17189 in the name of the Mayor, Councillors and Burgesses of the Borough of Takapuna which later vested in Auckland Council. Section 5 of the aforementioned act stated the purposes that the land in Schedule 1 could be used for, being boating sheds, public swimming baths, social hall and any similar or incidental purpose.
- 3 Schedule 2 of the aforementioned act described which part of the land covered in Schedule 1 could be used, conveyed, transferred, granted or leased to an incorporated club or society as per Section 6 of the act. This too was covered by metes and bounds description on MD 5678. It was subsequently defined as Lot 2 DP 17189 which covered the boat sheds and Certificate of Title 389/73 continued to remain live for Lots 1 & 2 DP 17189. Three years later in 1926 Lot 1 DP 178189 was subdivided into Lots 1 and 2 on DP 20033. Lot 1 DP 20033 contained approximately 96% of what was Lot 1 DP 17189 and covered the boat club building, wooden landing and most if not all of an iron shed as stood at the time. The reason for showing a new Lot 2 for a 3.33m x 5.90m 20m<sup>2</sup> rectangular piece is not obvious. It is also not clear whether the iron shed at the time extended over this piece or if it was only the eaves of iron shed that was over Lot 2. A new Certificate of Title with reference 455/236 (Now RT NA455/236) issued in the name of the Takapuna Boating Club (Incorporated) for Lot 1 DP 20033. No new certificate of title issued for Lot 2 DP 20033 though, this approximate 4% remaining portion of the land described in Schedule 2 remained in RT NA389/73 in the name of the Council.

- 4 Lot 1 DP 20033 held in RT NA455/236 remains live today for the Takapuna Boating Club but in 1991 part of the land held by Council as described in Schedule 1 was revested in the Crown pursuant to the Foreshore and Seabed Endowment Revesting Act 1991. This portion came out of Lot 1 DP 17189 and was identified as Area C on SO 67504 with an area of 490m<sup>2</sup> which was below Mean High Water Springs. The remainder of Lot 1 DP 17189 with a deduced area of 223m<sup>2</sup> remained in RT NA389/73. It is not clear though what the current status is of the 490m<sup>2</sup> portion that was revested in 1991. There was no registration of the revesting action in 1991 on RT NA389/73. The vesting in 1991 was repealed by Section 30 of the Foreshore and Seabed Act 2004. In the absence of any registration on RT NA389/73 we are not sure as to the current status/ownership of the portion defined as Area C SO 67504. An interpretation of Section 30 and subsequent legislation such as the Marine and Coastal Area Act 2011 may be required to confirm the current status.
- 5 Due to the uncertainty in status/ownership of Area C SO 67504, it would in our view not be appropriate to certify that the land described in Schedule 1 is a true and accurate description. Also, it would not seem appropriate to certify that the land in Schedule 2 as a true and accurate description as we know part of that (Lot 2 DP 20033) remains in Council ownership while most (Approximately 96% of it being Lot 1 DP 20033) is with the Boat club.
- 6 In order to avoid any uncertainty, a certification in terms of Lot 1 DP 20033 held in RT NA455/236 for the Boat club land would be an exact description and would not require a certified true copy of the plan as that requirement is exempted under Clause 9(2)(a) of the Standing Orders. It would seem desirable to amend the draft bill to refer to the land exactly as described in the certifications instead of referring to "part" of the land in Schedule 1 without a specific description/identification of that "part"

### **Recommendation**

- 7 The description in Schedule 1 be replaced with the following description:

All that area of land in the North Auckland Land District containing 0.0463 hectares located at 17 Sir Peter Blake Parade, Bayswater, Auckland described as Lot 1 Deposited Plan 20033 as contained in Record of Title NA455/236