

LOCAL LEGISLATION BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title.

Clause 2 authorises the Auckland Harbour Board to lease the old Ferry Buildings without complying with certain requirements of the Public Bodies Leases Act 1969. Those requirements (which are applied to Harbour Boards by section 144 of the Harbours Act 1950) are first that when a Board wishes to grant a lease of any land it must offer the lease for public application or ballot, or sell the lease by public auction or tender, secondly that the lease must take effect in possession within 6 months of its granting or the making of a contract for its granting, and thirdly that the rent must be a rack rent.

Clause 3 enables the granting of a lease to the Northcote and Birkenhead Yacht Club of 2 adjacent pieces of land, one vested in the Auckland Harbour Board and one vested (as a reserve) in the Birkenhead City Council, without compliance with certain requirements of the Public Bodies Leases Act 1969. Those requirements (which are applied to Harbour Boards by section 144 of the Harbours Act 1950 and to City Councils by section 231 of the Local Government Act 1974) are first that when a Board or Council wishes to grant a lease of any land it must offer the lease for public application or ballot, or sell the lease by public auction or tender, and secondly that the rent must be a rack rent.

Subclause (1) empowers the Harbour Board to lease its land to the City Council. *Subclause (2)* empowers the City Council to lease its land, and sublease the Harbour Board's land, to the Yacht Club. *Subclause (3)* provides that the lease to the City Council of the Harbour Board's land will be determined if the City Council does not grant the contemplated lease and sublease to the Yacht Club within 12 months of the commencement of the Act, or if the lease or sublease to the Yacht Club is determined.

Clause 4 validates a special rate unlawfully levied by the Havelock North Borough Council in respect of the 1981-82 financial year. The rate exceeded the limit imposed by section 47 (1) of the Local Authorities Loans Act 1956, which empowers a council to levy a special rate sufficient for the repayment of the annual charges for any loan, plus 10 percent. The Council purported to use the special rate to clear a deficit in its special rates account as well as for the authorised purpose.

Clause 5 authorises the Wellington City Council to lease certain land to the Public Trustee, as trustee of the Plimmer Trust, without complying with certain requirements of the Public Bodies Leases Act 1969. Those requirements (which

are applied to City Councils by section 231 of the Local Government Act 1974) are first that when a Council wishes to grant a lease of any land, it must offer the lease for public application or ballot, or sell the lease by public auction or tender, and secondly that the rent must be a rack rent. The Wellington City Council is the sole beneficiary of the Plimmer Trust.

Hon. Dr Michael Bassett

LOCAL LEGISLATION

ANALYSIS

Title	
1. Short Title	
2. Auckland Harbour Board: Authorising lease of Ferry Building	
	3. Auckland Harbour Board and Birkenhead City Council: Authorising lease to Northcote and Birkenhead Yacht Club
	4. Havelock North Borough Council: Validation of excessive special rate
	5. Wellington City Council: Authorising lease to Public Trustee

A BILL INTITULED

An Act to confer certain powers on certain public bodies and to validate certain transactions and other matters

BE IT ENACTED by the General Assembly of New Zealand
5 in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Local Legislation Act 1985.

2. Auckland Harbour Board: Authorising lease of Ferry Building—(1) Notwithstanding section 144 of the Harbours Act
10 1950, the Auckland Harbour Board—

(a) May—

(i) At such rent and upon such terms and conditions as it thinks fit; and

15 (ii) Without offering a lease for public application or ballot, or selling a lease by public auction or tender,—

grant to any person it thinks fit a lease of the land described in **subsection (2)** of this section, or any buildings situated on it, or both:

- (b) May grant such a lease taking effect in possession more than 6 months after its granting: 5
- (c) May enter into a contract to grant such a lease that is not to be executed, and take effect in possession, within 6 months of the making of that contract.

(2) The said land comprises all that part of the bed of the Waitemata Harbour containing 1031 m², more or less, being part Block VIII, Rangitoto Survey District, and being part Deeds Index 33A/198, and being all the land shown marked "A" on SO Plan 58870. 10

3. Auckland Harbour Board and Birkenhead City Council: Authorising lease to Northcote and Birkenhead Yacht Club—(1) Notwithstanding section 144 of the Harbours Act 1950, the Auckland Harbour Board may at any time within 12 months of the commencement of this Act— 15

- (a) At such rent and upon such terms and conditions as it thinks fit; and 20
- (b) Without offering a lease for public application or ballot, or selling a lease by public auction or tender,— grant to the Birkenhead City Council a lease of the land first described in **subsection (4)** of this section.

(2) Notwithstanding section 231 of the Local Government Act 1974, but subject to the Reserves Act 1977, the Birkenhead Borough Council may— 25

- (a) At such rent and upon such terms and conditions as it thinks fit; and
- (b) Without offering a lease or sublease for public application or ballot, or selling a lease or sublease by public auction or tender,— 30

grant to the Northcote and Birkenhead Yacht Club Incorporated a lease of the land secondly described in **subsection (4)** of this section and a sublease of the land first described in that subsection. 35

(3) Any lease granted under **subsection (1)** of this section shall, notwithstanding its terms, be determined—

- (a) If, within the period of 12 months after the commencement of this Act, the Birkenhead Borough Council has not granted a lease and sublease under **subsection (3)** of this section, upon the expiration of that period: 40
- (b) Upon the determination of any such lease or sublease.

(4) The said land comprises first all that part of the bed of the Waitemata Harbour containing 115m², more or less, being part Block XII, Waitemata Survey District, and being part of the land in certificate of title No. 12A/786 (North Auckland Registry) limited as to parcels, and being all the land shown marked "A" on SO plan 58848 and secondly all that parcel of land containing 189m², more or less, being Allotment 673 Parish of Takapuna, and being all the land in certificate of title No. 55A/124 (North Auckland Registry).

10 **4. Havelock North Borough Council: Validation of excessive special rate**—Notwithstanding that the special rate on the land value of all rateable property in the Borough of Havelock North of 0.41 cents in the dollar resolved to be made and levied in respect of the year that ended with the 31st day of March 1982 by the Havelock North Borough Council at a duly notified meeting held on the 29th day of June 1981 was invalid by virtue of its exceeding the limit imposed by section 47 (1) of the Local Authorities Loans Act 1956,—

20 (a) The said rate is hereby validated and deemed to have been lawfully made:

(b) All actions of the said Council in levying and collecting the said rate are hereby validated and deemed to have been lawful:

25 (c) All money received by the said Council in payment of the said rate is hereby deemed to have been lawfully paid to and received by it:

30 (d) Such part of the said rate as has not yet been paid to the said Council is hereby deemed to be lawfully payable, and capable of being collected as if it had always been lawfully payable.

5. Wellington City Council: Authorising lease to Public Trustee—(1) Notwithstanding section 231 of the Local Government Act 1974, the Wellington City Council may—

35 (a) At such rent and upon such terms and conditions as it thinks fit; and

(b) Without offering a lease for public application or ballot, or selling a lease by public auction or public tender,—grant to the Public Trustee, as trustee of the trust known as the Plimmer Trust, a lease of the land described in subsection 40 (2) of this section, or any buildings situated on it, or both.

(2) The said land comprises all that parcel of land situated in the City of Wellington containing 1150m², more or less, being Lots 1, 2, 3, and 4, D.P. 26068, and being part Block VI, Port Nicholson Survey District, and being all the land in certificate of title No. 277/190 (Wellington Registry), subject to the easement created by transfer No. 269742. 5