

# **Point England Development Enabling Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The purpose of the Bill is to enable housing development on 11.69 hectares of land (the **development land**) on the Point England Recreation Reserve in Tāmaki in east Auckland. The Point England Recreation Reserve comprises 45.43 hectares, and includes sports fields, a walkway, and other facilities for recreation. A portion of the reserve, of at least 18 hectares, has had very little investment, and public use is restricted as it is fenced for grazing. Auckland Council administers the reserve together with an adjacent Council-owned beach reserve of 2.92 hectares. The land is zoned under the current Auckland district plan and the new Auckland combined plan as Public Open Space.

The development land is Crown-owned but vested in Auckland Council as a recreation reserve under the Reserves Act 1977. The land's reserve status and zoning mean its use is restricted to reserve activities. The Bill enables housing to be built on development land by creating a new land parcel from within the reserve with separate title, revoking that parcel's reserve status, setting it apart for State housing purposes, and rezoning it as Residential – Mixed Housing Urban to allow appropriate residential development to occur. The balance of the reserve, 32.92 hectares, will remain as a recreation reserve, as will the Council-owned beach reserve.

The development land will be connected by road to Point England Road and Elstree Avenue, will not encroach on the elevated headland or the eastern sports fields adjacent to the Council-owned beach reserve, and will be set back from Omaru Creek.

The development land adjoins housing owned by the Tāmaki Redevelopment Company that is due for redevelopment as part of the regeneration of the Tāmaki area. A new housing development on the development land will result in new homes being made available that could rehouse existing Tāmaki Redevelopment Company tenants and therefore assist the regeneration. The new housing will also contribute to an increase in housing supply in the local area and Auckland, better utilise Crown land,

and provide for mixed communities of social, affordable, and market-value housing in a desirable location near to public transport, with excellent access to the central business district and other employment centres.

The Bill will preserve existing interests in the land (both on the development land and the remainder of the reserve), which will continue on their current terms. These interests include a licence to the Tāmaki Model Aircraft Club and a right of first refusal under the Ngā Mana Whenua o Tāmaki Makaurau Redress Act 2014 and the deed that it gives effect to. After enactment of the Bill, the Crown intends to enter into a contract with a developer to provide housing on the development land that is consistent with the Crown’s Treaty settlement obligations.

### **Departmental disclosure statement**

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=223>

### **Regulatory impact statement**

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 21 October 2016 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.mbie.govt.nz/publications-research/publications/housing-and-property/ris-point-england-development-enabling-bill.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* provides for this Bill to come into force on the day after the date on which it receives the Royal assent.

*Clause 3* defines terms used in the Bill.

*Clause 4* provides that the Bill will bind the Crown.

*Clause 5* provides for any transitional, savings, and related provisions to be set out in *Schedule 1*. Although there are currently no provisions of that sort, this clause and *Schedule 1* are now standard provisions that are included to accommodate any such provisions that might be required as a result of future amendments.

*Clause 6* provides that, when the Bill comes into force, the following occur in relation to the development land:

- it is subdivided from the remaining reserve land:
- its reserve status is revoked:
- title to it vests in the Crown:
- it is set aside for State housing purposes, and therefore becomes State housing land under the Housing Act 1955:
- it is rezoned from Public Open Space to Residential – Mixed Housing Urban.

*Clause 6* also provides that the provisions of the Resource Management Act 1991 relating to subdivisions do not apply to the subdivision of the development land, and that the provisions of the Reserves Act 1977 relating to the revocation do not apply to the lifting of its reserve status. It also provides that the Bill does not affect any other interests in the development land or any interests in the remaining reserve land.

*Clause 7* requires the Registrar-General of Land to create new computer freehold registers for the development land and the remaining reserve land.

*Clause 8* requires the Auckland Council to update the Auckland combined plan to reflect the rezoning of the land. The fact that the development land is being statutorily rezoned by the Bill does not prevent it being further rezoned in the future through the normal processes for district plan changes.

*Clause 9* relates to the performance and exercise of ministerial functions, powers, and duties under the Housing Act 1955. Before performing or exercising those functions, powers, or duties in relation to the development land, the Minister responsible for administering that Act must consult with the Auckland Council, the Tāmaki Redevelopment Company Limited, and the Maungakiekie–Tāmaki Local Board.



*Hon Dr Nick Smith*

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Point England Development Enabling Act **2016**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent. 5

## Part 1

### Preliminary provisions

#### 3 Interpretation

In this Act, unless the context otherwise requires,—

**Auckland combined plan** has the same meaning as in section 116(1) of the Local Government (Auckland Transitional Provisions) Act 2010 5

**Auckland Council** has the same meaning as in section 4(1) of the Local Government (Auckland Council) Act 2009

**commencement date** means the date on which this Act comes into force

**development land** means the land that is 11.6921 hectares, more or less, being Section 1 Survey Office Plan 503726 10

**Housing Act Minister** means the Minister of the Crown responsible for the administration of the Housing Act 1955

**Point England Reserve** means the land that is 45.4259 hectares, more or less, being Lot 1 Deposited Plan 44920, all computer freehold register NA26B/1115 15

**remaining reserve land** means the land that is 32.9213 hectares, more or less, being Section 2 Survey Office Plan 503726.

#### 4 Act binds the Crown

This Act binds the Crown.

#### 5 Transitional, savings, and related provisions 20

The transitional, savings, and related provisions (if any) set out in **Schedule 1** have effect according to their terms.

## Part 2

### Provisions to facilitate development

#### 6 Development land to be available for housing development 25

(1) On the commencement date,—

(a) the Point England Reserve is subdivided into the development land and the remaining reserve land; and

(b) the reservation of the development land as a recreation reserve subject to the Reserves Act 1977 is revoked; and 30

(c) the fee simple estate in the development land vests in the Crown; and

(d) the development land is set apart for State housing purposes (as defined in section 2(1) of the Housing Act 1955) and becomes State housing land under that Act; and

- (e) the Auckland combined plan is deemed to be amended to change the zoning of the development land to Residential – Mixed Housing Urban.
- (2) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the subdivision under **subsection (1)(a)**.
- (3) Sections 24 and 25 of the Reserves Act 1977 do not apply to the revocation under **subsection (1)(b)**. 5
- (4) Nothing in this Act affects—
- (a) any other interest in or affecting the development land (for example, any existing lease or licence); or
- (b) any interest in or affecting the remaining reserve land. 10
- 7 Computer freehold registers**
- (1) As soon as practicable after the commencement date, the chief executive of the department responsible for the administration of this Act must apply in writing to the Registrar-General of Land for computer freehold registers to be prepared in accordance with this section. 15
- (2) On receipt of the application, the Registrar-General must create separate computer freehold registers for the development land and the remaining reserve land.
- (3) On the register for the development land, the Registrar-General must record the following: 20
- (a) that the Crown is the registered proprietor of the fee simple estate in the land:
- (b) that the land is set apart for State housing purposes for the purposes of the Housing Act 1955:
- (c) a memorial under section 148 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 as if the chief executive of LINZ had issued a certificate under that section specifying that the development land is RFR land (as defined in section 118 of that Act): 25
- (d) any other interest that is registered, notified, or notifiable and is described in the application. 30
- (4) On the register for the remaining reserve land, the Registrar-General must record the following:
- (a) that the land is a recreation reserve subject to the Reserves Act 1977:
- (b) that the Auckland Council is the registered proprietor of the land:
- (c) a memorial under section 148 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 as if the chief executive of LINZ had issued a certificate under that section specifying that the remaining reserve land is RFR land (as defined in section 118 of that Act): 35

- (d) any other interest that is registered, notified, or notifiable and is described in the application.

## **8 Rezoning**

- (1) As soon as practicable after the commencement date, the Auckland Council must amend the Auckland combined plan to reflect the amendment deemed to have been made by **section 6(1)(e)**. 5
- (2) The Auckland Council must do so without using the process in Schedule 1 of the Resource Management Act 1991.
- (3) **Section 6(1)(e)** and this section do not prevent any subsequent amendment of the Auckland combined plan to further change the zoning of the development land in accordance with the Resource Management Act 1991 or any other enactment. 10

## **9 Exercise of powers under Housing Act 1955**

The Housing Act Minister must not perform or exercise any of the functions, powers, or duties that he or she has under the Housing Act 1955 (other than section 2A(1) of that Act) in relation to any proposed development of the development land unless the Housing Act Minister has consulted the following bodies about the proposed development: 15

- (a) the Auckland Council:
- (b) the Tāmaki Redevelopment Company Limited: 20
- (c) the Maungakiekie–Tāmaki Local Board established under section 10 of the Local Government (Auckland Council) Act 2009.



**Schedule**  
**Transitional, savings, and related provisions**

**s 5**

**Part 1**  
**Provisions relating to this Act as enacted**

5

There are no transitional, savings, or related provisions relating to this Act as enacted.