

# Napier Foreshore Act 1927

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**An Act to enable the Napier Harbour Board to lease to the Mayor, Councillors, and Burgesses of the Borough of Napier a Piece of Land forming Part of the Sea-beach at Napier and now vested in the said Board, and to enable the Corporation of the**

**said Borough to construct Works upon the said Land and other Part of the said Sea-beach.**

### **Preamble**

WHEREAS the land described in Schedule 1 hereto forms portion of the sea-beach adjoining the Borough of Napier and is vested in the Napier Harbour Board under and by virtue of The Napier Harbour Board Empowering and Loan Act 1884: And whereas it is desirable, for the purpose of enabling the Corporation of the said borough to improve the said land and to render the same more suitable for the recreation, use, and enjoyment of the inhabitants of the said borough and of persons visiting the said borough, that the said borough should possess a fixed tenure of the said land and should have power to construct works upon the same: And whereas the Napier Harbour Board are desirous of giving such tenure for the period hereinafter mentioned, and for that purpose it is necessary to obtain the authority of Parliament: And whereas another portion of the said sea-beach, being the land described in Schedule 2 hereto, has been shown on a certain plan deposited in the Land Transfer Office at Napier as forming part and parcel of a public road in the Borough of Napier known as the Marine Parade, but in fact the said piece of land lies to the seaward or outer side of the sea-wall or parapet forming the seaward boundary of the said Marine Parade and consists of sea-beach only, and has never been formed as a road or used as such, and it is not required for such purpose: And whereas it is doubtful whether the title to the said last-mentioned piece of land is vested in the Corporation, but the said title if not vested in the Corporation is vested in the Crown, and in either case it is desirable that the Corporation should have the powers with respect to such piece of land which are hereby conferred:

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

**1 Short Title**

This Act may be cited as the Napier Foreshore Act 1927.

## 2 Interpretation

In this Act the expression—

**Board** means the Napier Harbour Board

**Corporation** means the Mayor, Councillors, and Burgesses of the Borough of Napier

**District Land Registrar** means the District Land Registrar for the Land Registration District of Hawke's Bay, and includes the Assistant Land Registrar.

## 3 Board may grant to Corporation lease of land described in Schedule 1

Notwithstanding anything to the contrary contained in The Harbours Act 1950, or in The Napier Harbour Board Act 1878, or in The Napier Harbour Board Empowering and Loan Act 1884, or in any other Act, or in or upon any certificate or other document of title under which the Board holds the land described in Schedule 1 hereto, the Board is hereby empowered and authorized to lease to the Corporation, for any term not exceeding ninety-nine years, all that piece of land described in Schedule 1 hereto; and it shall not be necessary that any such lease be first submitted for sale by public auction or tender.

The reference to The Harbours Act 1950 was substituted, as from 15 October 1950, for a reference to The Harbours Act 1923 pursuant to section 269(1) Harbours Act 1950 (1950 No 34).

## 4 Terms of lease

In any lease which may be granted by the Board to the Corporation under the provisions hereof the rent to be reserved may be a nominal or peppercorn rent, and such rent may be upon such terms and subject to such conditions as the Board and the Corporation (subject to the provisions of this Act) mutually agree upon, with power to the Corporation at the end or sooner determination of the term of the lease, otherwise than by lawful re-entry or forfeiture on the part of the Board, to remove from the demised premises all or any buildings, engines, and works which the Corporation may have erected or constructed thereon.

**5 Corporation may construct works on such land**

The Corporation shall have power to make, erect, construct, and maintain in, along, or upon the said land described in the said Schedules 1 and 2 hereto a parapet or parapets, and all such banks, pathways, roadways, engines, excavations, devices for amusements, buildings, band-stands, playing-grounds, conveniences, and works as the Corporation may think fit.

**6 Corporation may enclose such land and charge for admission, or may delegate authority to others**

It shall be lawful for the Corporation, for the purpose of or in connection with any fete, carnival, celebration, sport, or entertainment, to enclose or barricade off or to give authority to any person or persons, company, or society to enclose or barricade off the whole or any portion or portions of the lands described in the said Schedules 1 and 2 hereto, or either of them, so as to prevent free access to the same, and to charge for admission to or to grant permission to any person or persons, company, or society from time to time and at various times to charge for admission to the said lands or any part thereof, or any building, tent, or other structure thereon, and to exclude persons from the said lands, and to make and enforce by-laws with respect to the said lands and the use, admission to, and conduct of persons entering or upon the said lands.

**7 Corporation may grant exclusive use of such land to any person, company, or society**

It shall be lawful for the Corporation from time to time and at various times to grant the exclusive use of the said lands described in the Schedules 1 and 2 hereto, or any portion thereof, to any person or persons, company, or society, and also permission to erect buildings, tents, or other structures on the said lands, either gratuitously or at such rental and generally upon such terms and conditions as the Corporation may think fit.

**8 Corporation may charge for admission to any playing-grounds constructed thereon**

It shall be lawful for the Corporation to make such charges as the Corporation may think fit for the use of or admission to any playing-grounds or place of entertainment constructed upon the said lands described in the Schedules 1 and 2 hereto.

**9 Consent of Board and Governor-General in Council required before Corporation deals with such land**

Save as in this Act expressly provided it shall not be lawful for the Corporation to sell, lease or sublease, mortgage, charge, or otherwise dispose of the lands described in Schedule 1 hereto or any part thereof respectively, or the rights of the Corporation with respect to the same, without the consent of the Board and the Governor-General in Council having been first obtained.

**10 Surrender of lease, & c**

- (1) The Board and the Corporation respectively may at any time accept a surrender of any lease or sublease, license, or right of user granted by either of the said bodies respectively under the powers hereby conferred, upon such terms and conditions as the body accepting such surrender thinks proper.
- (2) On the surrender by the Corporation of the lease from the Board the rights hereby conferred upon the Corporation with respect to the land described in Schedule 2 hereto shall, *ipso facto*, determine so far as the Corporation is concerned.

**11 On surrender, & c, of land before expiry of lease Board to have with respect thereto same powers as conferred on Corporation by this Act**

In case the land leased by the Board to the Corporation shall by reason of re-entry, forfeiture, surrender, or otherwise revert to the Board before the expiration of the term of such lease, the Board in the case of re-entry or forfeiture shall (and in any other case shall unless otherwise arranged between the Board and the Corporation and upon and subject to such terms and conditions as the Board and the Corporation agree upon) possess and have during the balance of the term originally granted to the Corporation and may exercise (but without

in any way being compellable so to do) the same rights, powers, and liberties, *mutatis mutandis*, with respect to the lands described in the Schedules 1 and 2 hereto as are hereby conferred upon the Corporation; and in the aforesaid cases may carry on, construct, and do such operations, works, and things, or any of them, as the Corporation is hereby empowered to carry on, construct, and do, and (without prejudice as aforesaid) may grant leases, licenses, and rights to any tenant or respective tenants, person or persons, for any term or respective terms, period or respective periods, not exceeding in the aggregate the balance of the term originally granted to the Corporation, at such rental or respective rentals, or for such other consideration or respective considerations, and upon such terms and conditions, not being inconsistent with this Act, as the Board thinks fit; and may make and enforce such by-laws and regulations (not being inconsistent with this Act) in connection with the premises and the protection of the interests of the Board, or to ensure that the conduct of any tenant, licensee, or person having the right to be or being upon the lands described in the First and Second Schedules hereto, or any part or parts thereof, shall be law-abiding, peaceable, and decorous.

**12 Power to execute instruments and registration of same**

The Board and the Corporation are hereby authorized and empowered to make and execute, according to due form of law, all leases and other deeds and instruments necessary or proper for carrying out the purposes of this Act, and the District Land Registrar is authorized and empowered to register all such instruments.

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**Schedule 1**

ALL that piece or parcel of land situate in the Borough of Napier, containing 1 acre 3 roods 2 perches, more or less, and being part of Town Section 664 on a plan deposited in the Land Transfer Office at Napier numbered 1066, bounded as follows: Commencing at the north-eastern corner of Town Section 633, and proceeding

1512.77 links on a bearing  $3^{\circ} 46' 54''$  to the south-eastern corner of Lot 1, deposited plan No 2183 (baths site); thence along the southern boundary of the said Lot 1 for 114.82 links on a bearing  $274^{\circ} 9'$  to the south-eastern corner of Lot 2, deposited plan No 2183; thence along the eastern boundary of unformed part of the Marine Parade for 1521.30 links on a bearing  $183^{\circ} 53' 30''$  to the northern boundary of Town Section 633; thence along the northern boundary of Town Section 633 for 118 links on a bearing  $90^{\circ}$  to the point of commencement.

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## **Schedule 2**

ALL that piece or parcel of land situate in the Borough of Napier, containing 2 roods 15 perches, more or less, lying between the land described in Schedule 1 hereto and the formed portion of the Marine Parade, bounded as follows: Commencing at the north-western corner of Town Section 633, and proceeding thence along the northern boundary of that section for 41.35 links on a bearing of  $90^{\circ}$ ; thence along the western boundary of Town Section 664 for 1521.30 links on a bearing  $3^{\circ} 53' 30''$  to the south-eastern corner of Lot 2, deposited plan No 2183 (baths site); thence along the southern boundary of said Lot 2, deposited plan No 2183, for 36.7 links on a bearing  $274^{\circ} 9'$  to the sea-wall; thence along the sea-wall for 1524.14 links on a bearing of  $184^{\circ} 9'$  to the point of commencement.