

# **Napier Harbour Board and Napier Borough Enabling Act 1926**

Local Act 1926 No 14  
Date of assent 11 September 1926

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**An Act to enable the Napier Harbour Board to sell a certain Area of Land, and the Mayor, Councillors, and Burgesses of the Borough of Napier to purchase and reclaim the same, and to borrow Moneys for such Purposes.**

### **Preamble**

WHEREAS the Napier Harbour Board (hereinafter referred to as the Board) is the owner of the area of land described in the Schedule hereto, which area adjoins the Borough of Napier and lies at the approach into the said borough from the Napier-Taradale Road: And

whereas the said area consists in large part of a backwater from the sea into which the main storm-water drain of the Borough of Napier discharges, and constitutes an unsightly and malodorous approach to the Town of Napier: And whereas the filling-in, reclamation, and levelling of the said area, and the extension of the said main storm-water drain through the same, would be beneficial both to the Board and to the Borough of Napier: And whereas the Mayor, Councillors, and Burgesses of the Borough of Napier (hereinafter referred to as the Corporation) are desirous of acquiring the said area, and the Board is desirous of selling the same to the Corporation for the considerations and in manner by this Act provided:

**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 Harbour Board and Napier Borough Enabling Act 1926.

**2 Special Act**

This Act shall be deemed to be a special Act within the meaning of the Harbours Act 1950.

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) of the Harbours Act 1950 (1950 No 34).

The term special Act was omitted from the Harbours Act 1950, as from 1 December 1961, by section 2 Harbours Amendment Act 1961 (1961 No 114).

**3 Board to sell and borough to purchase**

The Board may sell, and the Corporation may purchase, the area of land described in the said Schedule hereto.

**4 Purchase price, how ascertained**

The purchase price on the sale and purchase aforesaid shall, as soon as possible after the passing of this Act, be ascertained by reference to two arbitrators, one to be appointed by each party, or their umpire, in manner provided by the Arbitration Act 1996, for which purpose this Act shall be deemed to be

a **submission** within the meaning of that Act, and, subject hereto, the provisions of that Act shall apply accordingly. The costs of the reference and award shall be borne and paid by the parties to the reference in equal proportions.

The reference to the Arbitration Act 1996 was substituted, as from 1 July 1997, for a reference to the Arbitration Act 1908 pursuant to section 18 Arbitration Act 1996 (1996 No 99).

## **5 Payment of purchase price, title, etc**

- (1) The Corporation shall pay to the Board the purchase price ascertained as aforesaid on or before the expiration of one year after the making and publication of the award, with liberty to pay the same in one sum or in sums of not less than five hundred dollars at any one payment; and upon payment of the whole purchase price the Board shall execute a valid transfer of the said area to the Corporation for an estate in fee-simple free from encumbrances.
- (2) The purchase price for the said area shall be paid by the Board, as and when the same shall be received, to the Sinking Fund Commissioners for the loan raised by the Board under the authority of the Napier Harbour Board Amendment and Endowment Improvement Act 1912, or for any loan raised by the Board for the redemption of that loan, and from and after payment as aforesaid of any such moneys the Board shall not be liable to pay to the Sinking Fund Commissioners any further moneys for sinking fund in respect of the moneys so paid to them; and the Sinking Fund Commissioners shall be bound until the sinking fund shall be applied in redemption of the debentures for the loan to pay to the Board, as and when received by them, all interest earned on the moneys so paid to them, and such interest shall be applied as part of the ordinary revenues of the Board.
- (3) This Act shall be a sufficient authority to the District Land Registrar to issue a certificate of title under the provisions of the Land Transfer Act 1952, for the said area, and to register the transfer aforesaid.
- (4) Notwithstanding as aforesaid, the Board may, at the request of the Corporation, extend the time for payment of the said purchase price or any part thereof, upon such terms as to

payment of interest or without payment of interest thereon and otherwise as may be mutually agreed upon.

The reference to the Land Transfer Act 1952 was substituted, as from 1 January 1953, for a reference to the Land Transfer Act 1915 pursuant to section 245(1) Land Transfer Act 1952 (1952 No 52).

The words “five hundred dollars” were substituted, as from 10 July 1967, for the words “two hundred and fifty pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

## **6 Area to become part of borough**

When and so soon as the Corporation shall become the registered proprietor under the Land Transfer Act 1952, of the said area, the same shall by virtue of this Act, and without any further authority or procedure, become *ipso facto* included in the Borough of Napier.

The reference to the Land Transfer Act 1952 was substituted, as from 1 January 1953, for a reference to the Land Transfer Act 1915 pursuant to section 245(1) Land Transfer Act 1952 (1952 No 52).

## **7 Powers of borough to reclaim, etc**

It shall be lawful for the Corporation properly to fill up, reclaim, and level the said area to a height not less than that of the adjacent lands within the borough, and to extend the said main storm-water drain through the same.

## **8 Obligations of borough to reclaim, etc**

- (1) In the event of the Corporation becoming the purchaser of the said area in terms of this Act, the Corporation shall be under obligation to the Board (whether or not it shall have received title to the said area) properly to fill up, reclaim, and level the said area to a height not less than that of the adjacent lands within the borough, and properly to extend the said storm-water drain through the same, at its own sole expense, within a period of not more than three years after the making and publishing of the award referred to in sections four and five hereof, and the Corporation is hereby empowered to proceed with such work notwithstanding that the purchase price for the said area shall not have been paid or wholly paid.
- (2) Notwithstanding as aforesaid, it shall be competent for, but not obligatory upon, the Board, at the request of the Corporation,

to extend the period aforesaid for a further period of two years, or for any lesser period.

## **9 Powers of borough**

- (1) When the said area shall have become vested in the Corporation for an estate in fee-simple, and shall have been filled up, reclaimed, and levelled as aforesaid, and the said storm-water drain shall have been extended through the same as aforesaid, the Corporation may use and employ the said area for any lawful purpose for which land vested in a Municipal Corporation may be used and employed; and without prejudice as aforesaid, the Corporation is hereby empowered to sell or lease the said area, by public auction or by public tender, or any part or parts thereof; and may, without prejudice as aforesaid, subdivide the said area, or any part or parts thereof, into allotments, lay out, make, form, and metal roads through or along the same, construct covered drains through or along the same, erect workers' dwellings or other buildings on the same, lay out and maintain reserves on the same, and generally make and do on or in connection with the same all such works, acts, and things as are conducive to any of the objects before mentioned or to any other lawful object; and the powers and objects aforesaid shall be exercisable with respect and be applicable to any portion of the said area which shall have been properly and completely filled up, reclaimed, levelled, and drained in accordance with the requirements of this Act, notwithstanding that the whole of such area may not at the time have been completely filled up, reclaimed, levelled, and drained in accordance with the requirements aforesaid:

Provided always that nothing herein shall prejudice or affect the obligation of the Corporation to the Board properly and completely to fill up, reclaim, and level the whole of the said area, and properly to extend the said storm-water drain through the same, in accordance with the provisions hereinbefore contained.

- (2) All moneys received by the Corporation in respect of any sale or sales of land made under the provisions of this section shall be utilized in repayment of any loan raised under the

provisions of the next succeeding section, and, if such a loan is raised, shall be paid to Sinking Fund Commissioners appointed in respect of such loan:

Provided, however, that if the moneys received in respect of such sale or sales shall exceed the amount of such loan, then such excess shall be paid to the general funds of the Corporation.

#### **10 Power to borough to borrow moneys**

The Corporation may, in the manner prescribed by the Local Authorities Loans Act 1956, where not inconsistent with this Act, raise a special loan for all or any of the purposes following, namely: The payment of the purchase-money for the said area; the filling-up, reclaiming, and levelling, and the extension of the said storm-water drain through the said area; and the exercise of all or any of the powers and the doing of all or any of the acts and things referred to in the last preceding section hereof.

The reference to the Local Authorities Loans Act 1956 was substituted, as from 1 April 1957, for a reference to the Local Bodies' Loans Act 1913 pursuant to section 135(1) of the Local Authorities Loans Act 1956 (1956 No 63).

#### **11 Power to Board and borough to enter into agreements as to roads**

It shall be lawful for the Board, in consideration of the Corporation, at the request of the Board, adopting a route for any public road or street through or along the said area or any part thereof which would, in the opinion of the Board, be an advantageous route to the Board in connection with the roading or anticipated roading of its adjacent or contiguous areas of land, to enter into and carry out any agreement with the Corporation whereby the Board would agree to contribute, either by means of labour, supply of material, share of outlay, or otherwise, to the formation, making, and metalling of such road or street; and, in addition, in any case where it would, in the opinion of the Board, be an advantage that a public road or street should follow the boundary-line between the said area and adjacent lands of the Board, or any part of that boundary-line, the Board shall have power to sell to the

Corporation, and the Corporation shall have power to acquire, for the purposes of such road or street, upon such terms as shall be agreed upon, any portion or respective portions of such adjacent lands of the Board which could conveniently or advantageously be included in the area of such road or street.

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### **Schedule**

ALL that piece or parcel of land in the Hawke's Bay Land District, containing 6 acres 3 roods 19.6 perches, more or less, being part of Lot 1 of Te Whare-o-maraenui Block and Ahuriri Lagoon Reserve, as shown on plan 4206, deposited in the Land Transfer Office at Napier, and bounded as follows: Commencing at the north-western corner of Taradale and Hyderabad Roads—bounded on the north by a piece of closed road, 71.2 links bearing  $112^{\circ} 45'$ , 417.5 links bearing  $94^{\circ} 14'$ , and 207.64 links bearing  $81^{\circ} 39'$ , to Hyderabad Road; thence easterly along that road, 202.77 links bearing  $89^{\circ} 51' 20''$ , 260.97 links bearing  $89^{\circ} 41' 50''$ , and 303.03 links bearing  $87^{\circ} 22'$ , to Section 694, Napier South; thence by the south-western boundary-line of that section, 235 links bearing  $138^{\circ} 00'$ , to an area dedicated as a public road but not used as such; thence along the south-western boundary-line of that area, 159.5 links bearing  $161^{\circ} 00' 45''$ , to the railway reserve; thence along that reserve generally westerly, 208.49 links bearing  $258^{\circ} 42'$ , 444.8 links bearing  $262^{\circ} 35' 52''$ , 444.31 links bearing  $266^{\circ} 52' 21''$ , 63.9 links bearing  $269^{\circ} 01'$ , 305.56 links bearing  $273^{\circ} 32' 19''$ , 305.56 links bearing  $282^{\circ} 28'$ , and 209.22 links bearing  $291^{\circ} 53' 10''$ , to Taradale Road; thence north-easterly along that road, 414 links bearing  $223^{\circ} 34' 30''$ , to the commencing-point.