

Napier Public Baths Act 1908

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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, as a Site for Public Baths, a Piece of Land forming Part of the Foreshore at Napier and now vested in the said Board, and to enable the Council of the said Borough to erect upon the said Land and other Part of the said Foreshore Public Baths.

Preamble

WHEREAS under authority of the Napier Harbour Board Empowering and Loan Act 1884, the Governor did grant to the Napier Harbour Board the portion of the foreshore and land under tidal waters in Hawke's Bay described in Schedule 1 to the

said Act for an estate in fee-simple in trust for the use, benefit, and endowment of the Harbour of Napier, but subject to all the provisions of the Harbours Act 1878, relating to lands vested in Harbour Boards, and the said lands are still vested in the said Napier Harbour Board for such estate upon such trusts and subject as aforesaid: And whereas it is desirable for the well-being and enjoyment of the inhabitants of the Borough of Napier and of persons visiting the said borough, and in the interests of the said borough as a health resort, that the said borough should be possessed of convenient and commodious salt-water baths, and no convenient and suitable site for such baths can be obtained except upon some portion of the lands so granted to the Napier Harbour Board as aforesaid and the land described in Schedule 2 hereto and hereinafter referred to: And whereas the said Napier Harbour Board and the Mayor, Councillors, and Burgesses of the Borough of Napier have agreed that the portion of the said foreshore so vested in the Board as aforesaid, which is described in Schedule 1 hereto (and which lies above high-water mark of ordinary tides) is, with the piece of land described in Schedule 2 hereto, a suitable and convenient site for such baths, and the Board is desirous that the said piece of land described in Schedule 1 should be made available for such purpose, and the Corporation is desirous of erecting and maintaining such baths on the lands described in the First and Second Schedules if its tenure of such site can be rendered secure: And whereas so far as concerns the land described in Schedule 1 the Board is unable to afford the Corporation such security of tenure as aforesaid without the authority of Parliament, and it is expedient that for the purposes aforesaid the Board be authorised to lease the said land to the Corporation as hereinafter provided: And whereas that other portion of the said foreshore which is 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 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 necessary for the purpose of carrying out the objects of this Act 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 Public Baths Act 1908.

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 constituted under the Land Transfer Act 1908, and includes the Assistant Land Registrar.

3 Napier Harbour Board empowered to lease part of foreshore to Napier Corporation

Notwithstanding anything to the contrary contained in the Harbours Act 1908, or in the Napier Harbour Act 1875, 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 said land, the Board is hereby empowered and authorised to lease to the Corporation, for any term not exceeding ninety-nine years, all that piece of land, being part of the foreshore, described in Schedule 1 hereto, for the purpose of erecting and maintaining public baths and bath-houses thereon and for no other purpose; and it shall not be necessary that any such lease be first submitted for sale by public auction or tender.

4 Corporation to have rights over land in Schedule 2

On the granting of the lease mentioned in the preceding section hereof the Corporation shall have the rights with respect to the piece of land described in Schedule 2 hereto which are hereby conferred.

5 Terms of lease

- (1) 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 lease 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, and with power for the Board to consent to, and for the Corporation with such consent to grant, subleases of the premises comprised in any such lease, upon such terms as the Board and the Corporation may agree upon, but so that it shall be an essential condition of any such sublease that the demised premises shall be used only for the purposes mentioned in section three hereof. The Corporation may also grant to any sublessee the same or more limited rights with respect to the land described in Schedule 2 hereto as are hereby conferred upon the Corporation.
- (2) Save as in this Act expressly provided, it shall not be lawful for the Corporation to sell, lease or sublease, mortgage, or otherwise dispose of the lands described in Schedules 1 and 2 hereto, or the rights of the Corporation with respect to the same, without the consent of the Board and of the Governor in Council having been first obtained.

6 Power to Corporation to construct and carry on baths

The Corporation shall have power to make, erect, construct, and maintain in and upon the lands described in Schedules 1 and 2 hereto all excavations, buildings, roads, ways, engines, and works which in the opinion of the Council of the said

borough may be necessary or proper for and in connection with such baths and bath-houses, and to use the said premises during the continuance of any lease granted as aforesaid by the Board as and for the purposes of public baths, with liberty to license or allow persons to enter upon the said premises for the purpose of using the said baths or for other legitimate purposes, and to exclude persons from the said premises, and with liberty also to make and enforce such charges for the use of the said baths and admission to the said premises or any part thereof as the said Council determines, and generally with liberty to make such by-laws and do and suffer all such acts and things as are usual and proper in connection with the carrying-on of municipal public baths.

7 Power to Board and Corporation to accept surrenders

- (1) The Board and the Corporation respectively may at any time accept a surrender of any lease or sublease 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 piece of land described in Schedule 2 hereto shall *ipso facto* determine so far as the Corporation is concerned.

8 Powers of Board in case of determination of lease

In case the land leased by the Board to the Corporation, by reason of the re-entry, surrender, or otherwise, reverts to the Board before the expiration of the said lease, the said Board in the case of re-entry 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 the same rights and liberties, *mutatis mutandis*, with respect to the said lands described in Schedules 1 and 2 hereto as are hereby conferred upon the Corporation; and in the aforesaid cases may carry on and maintain the said baths as such, or may lease the said baths for the like purpose to any tenant or respective

tenants, for any term or respective terms not exceeding in the aggregate the balance of the term originally granted to the Corporation, at such rental or respective rentals, and upon such terms and conditions, not being inconsistent with this Act, as the Board thinks fit.

9 Power to execute deeds

The Board and the Corporation are hereby authorised 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 authorised and empowered to register all such instruments.

Schedule 1

ALL that piece or parcel of land situate in the Hawke's Bay Land District, containing by admeasurement 1 rood 16 perches, more or less, being part of the foreshore at Napier, shown and numbered Lot 1 on a plan deposited in the Land Transfer Office at Napier under No 2183, and being part of the land comprised in certificate of title, Vol 36, folio 18, which said piece of land is bounded as follows: towards the north by other part of the said foreshore, by a line bearing $94^{\circ} 9'$, 116.20 links; towards the east by other part of the said foreshore, by a line bearing $4^{\circ} 9'$, 303.05 links; towards the south by other part of the said foreshore, by a line bearing $94^{\circ} 9'$, 114.82 links; and towards the west by other part of the foreshore, by a line bearing $3^{\circ} 53' 30''$, 303.05 links.

Schedule 2

ALL that piece or parcel of land situate in the Hawke's Bay Land District, containing by admeasurement 17.46 perches, more or less, being part of the foreshore at Napier lying between the land described in Schedule 1 hereto and the sea-wall to the seaward side of the Marine Parade, and numbered Lot 2 on the said plan, and bounded as follows: towards the north by other part of the foreshore, by a line

bearing $94^{\circ} 9'$, 35.32 links; towards the east by the land described in Schedule 1, 303.05 links; towards the south by other part of the said foreshore, by a line bearing $94^{\circ} 9'$, 36.7 links; and towards the west by the said sea-wall, 303.05 links.