

**Reprint
as at 13 August 2004**

Wellington City Council (Te Aro Reclamation) Act 1879

Private Act	1879 No 6
Date of assent	19 December 1879
Commencement	19 December 1879

Act name: amended, on 13 August 2004, by section 3(2) of the Wellington City Council (Te Aro Reclamation) Amendment Act 2004 (2004 No 2 (L)).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

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An Act to authorise the reclamation of land in the Harbour of Port Nicholson

Preamble

Whereas by a grant from the Crown dated 24 June 1874, a piece of land described in the Schedule was granted to the Mayor, Councillors, and Citizens of the City of Wellington (hereinafter called the **Corporation**), upon trust for reclamation and for purposes of public utility:

And whereas the said land is situated below high-water mark and the greater part thereof is usually covered by water, and the Corporation is desirous of reclaiming the same and it is expedient that they should have power to do so, and to raise money for that purpose, and to do other things as hereinafter mentioned.

1 Short Title

The Short Title of this Act is the Wellington City Council (Te Aro Reclamation) Act 1879.

Section 1: amended, on 13 August 2004, by section 3(2) of the Wellington City Council (Te Aro Reclamation) Amendment Act 2004 (2004 No 2 (L)).

2 Interpretation

In the construction of this Act the words **Corporation** and **Council** shall respectively mean the Mayor, Councillors, and Citizens of the City of Wellington incorporated under the Municipal Corporations Act 1876; the words **undertaking** shall mean the works to be carried out under the provisions of this Act, and any necessary works in connection therewith.

3 Corporation may reclaim land, and enter into contracts for that purpose

The Corporation may from time to time fill up and reclaim the land described in the said grant or any part thereof, and may for that purpose, if they think fit and expedient, enter into any contract or contracts with any person or persons for the execution of the said work, or of any other works under this Act, upon such terms and conditions as may seem to them proper and reasonable; and

may also from time to time, either by themselves or by any contractor for the time being for the execution of the said works, take from any convenient place within the city not being private property, or from any private property within or without the city, with the consent of the owner and of any occupier for the time being thereof, any soil or materials which may be necessary for the said works, and may also by purchase acquire any land from which it may be necessary or expedient to take any such materials as aforesaid, and may from time to time execute and carry out all such other works as they may think expedient, or which may be necessary in connection with and for the purposes of the undertaking.

4 Council to make compensation

The Corporation shall make to every person having any estate or interest in any land injuriously affected by the execution of the works authorised by this Act, and to every person who may suffer any loss or damage from the exercise of any of the powers hereby given, full compensation for the same, and such compensation shall be ascertained in the manner pointed out in Part 3 of the Public Works Act 1876, which Part for that and for all other purposes, in so far as the same may be applicable to and not inconsistent with the provisions of this Act, shall be deemed to be incorporated with and to form part of this Act, and apply to the works and other matters authorised by this Act; the word “borough” being read therein instead of the words “county” or “road district” or “district”, and the words “Borough Council” instead of the words “County Council” or “Road Board” or “Board”:

provided always that in ascertaining and determining the title of any claimant to compensation, the Compensation Court shall not be bound to regard strict legal rights only, but may award such compensation in respect of any claim which the court may consider reasonable and just having regard to all the circumstances.

5 Compensation may be in money or in land

Compensation in respect of any such claim as aforesaid may be made or awarded either out of the land reclaimed under the provisions of this Act, or in money, as the Corporation may think fit; and, where the Corporation shall elect to make such compensation in land, the value of the land to be given shall be ascertained either by agreement between the claimant and the Corporation, or, in case of difference, by the court acting under the provisions of the Public Works Act 1876, in the matter of such claim.

6 Council may raise special loan for purposes of undertaking

The Council may, for the purpose of defraying the cost of any undertaking entered upon under section 3, and for the payment of any costs, charges, and expenses attending or incidental to the passing of this Act, and of paying any compensation payable under this Act, and of the costs of any proceedings or

matters connected with the ascertainment of such compensation, raise by way of special loan, as defined by the Municipal Corporations Act 1876, such sums as may be necessary, subject to all the provisions of the Municipal Corporations Act 1876, in respect of special loans, except that it shall be imperative upon the Council to make provision for the repayment of all sums borrowed for the purposes aforesaid, or any of them, by means of a sinking fund, in manner provided in that behalf by the said Act and this Act.

7 Council may lay out streets, etc

The Council may, so soon as any part of the said land shall be reclaimed from the sea, lay out and construct streets and squares, or other thoroughfares or public places, through or within any part of the same, or appropriate any part of the same to any other public purpose of utility for the benefit of the city.

8 Council has power to deal with reclaimed land

- (1) The Council has the power to deal with any reclaimed land or any part of it, for example, by selling or leasing it.
- (2) The power referred to in subsection (1) must be exercised under, and in accordance with, section 12 of the Local Government Act 2002.
- (3) For the purposes of subsection (1), **reclaimed land** means any land that is reclaimed under this Act.

Section 8: replaced, on 13 August 2004, by section 4 of the Wellington City Council (Te Aro Reclamation) Amendment Act 2004 (2004 No 2 (L)).

9 Council may let

[Repealed]

Section 9: repealed, on 13 August 2004, by section 4 of the Wellington City Council (Te Aro Reclamation) Amendment Act 2004 (2004 No 2 (L)).

10 Land to be held under Corporations Acts

Subject to the special provisions of this Act, the land granted by the said recited grant or such part shall be part of the property of the Council, held by them under the provisions of the Municipal Corporations Act 1876, and any other Acts for the time being relating to Municipal Corporations in New Zealand.

11 Application of Harbours Act 1878 to this Act

[Repealed]

Section 11: repealed, on 10 June 1887, by section 5 of the Reclamation within the Harbour of Wellington Act 1887 (1887 No 2 (L)).

12 Public Works Act 1876 to apply

Nothing in this Act or in the Municipal Corporations Act 1876, contained shall prevent the Minister, in the case of Government works, from taking and acquiring from time to time any part of the lands which shall have been reclaimed

under the provisions of this Act for any of the purposes mentioned in the Public Works Act 1876, in manner pointed out by Part 2 of that Act, subject nevertheless to the payment of compensation in respect of the land so taken and acquired, such compensation to be ascertained and paid in manner pointed out by Part 3 of that Act:

provided always that in respect of any of the said land which may be so taken and acquired within 2 years after the reclamation thereof, the amount of compensation to be paid to the Corporation shall be the cost of reclamation only and no more:

provided also that all money paid to the Corporation by way of compensation as aforesaid shall be appropriated to the purposes of the sinking fund directed to be formed as aforesaid.

13 Officers may be appointed

It shall be lawful for the Council, by instruments under the seal of the Council, to appoint any officers or persons whom they shall think necessary for the purpose of superintending the carrying out of or conducting the undertaking, or for any purpose connected therewith, and every person so appointed shall have and possess and may exercise, so far as may be necessary for the purposes of the undertaking, all such powers and authorities as shall be given to him or her or them by any such instrument.

14 Legal proceedings

No writ or process shall be sued out against the Council, or any member thereof, or any officer or person whomsoever appointed as aforesaid and acting under the direction of the Council, for anything done or intended to be done under the provisions of this Act until the expiration of 1 month next after notice in writing shall have been delivered to the Council or other person as aforesaid, clearly and explicitly stating the cause of action, and the name and place of abode of the intended plaintiff and of his or her attorney or agent in the action; and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the last-mentioned notice, and unless such notice be proved the jury shall find for the Council or other defendant; and every such action shall be brought or commenced within 6 months next after the accrual of the cause of action and not afterwards, and shall be tried in the jurisdiction where the cause of action occurred and not elsewhere; and the Council or other defendant shall be at liberty to plead a general denial of the material allegations in the declaration (hereafter called the **general issue**), and give this Act and all special matter in evidence thereunder; and the Council or any person to whom such notice of action is given as aforesaid may tender amends to the plaintiff, his or her attorney or agent, at any time within 1 month after service of such notice, and in case the same be not accepted may plead such tender in bar with the general issue; and if the jury find generally for the Council or other defendant, or if the plaintiff be nonsuited or dis-

continue, or if judgment be given for the Council or other defendant, then the Council or other defendant shall be entitled to the full amount of costs of defence, and have judgment accordingly; and in case amends have not been tendered as aforesaid, or in case the amount tendered be insufficient, the Council or other defendant may, by leave of the court, at any time before trial, pay into court, under plea, such sum of money as they or he or she may think proper, and by the like leave may, together with such plea, plead the general issue or any special plea or pleas, any rule of court or practice to the contrary notwithstanding.

15 False oath under Act perjury

Every person who upon any examination on oath under the provisions of this Act shall wilfully and corruptly give false evidence shall be liable to the penalties inflicted upon persons guilty of wilful and corrupt perjury.

16 Offences

The following shall be deemed to be offences against this Act, in addition to any other offences therein expressly specified:

wilfully or carelessly breaking or injuring any of the property or works belonging to or under the management or control of the Council, or of any contractor with the Council under this Act:

generally the doing or permitting or suffering to be done any act or thing whatsoever whereby the undertaking or any works connected therewith shall be injured.

17 Penalties

And every person guilty of any such offence shall for every such offence be liable to a penalty not exceeding £50, and a further penalty not exceeding £10 for each day whilst the offence is continued.

18 Recovery of penalties

All penalties imposed by this Act may be sued for and recovered in manner for the time being provided by law for the recovery of penalties by any Act of the General Assembly of New Zealand, but no such penalty shall be recovered at the suit of any person other than a party aggrieved or the Council, without the consent in writing of the Attorney-General for New Zealand first had and obtained.

19 Proceedings not to be void for want of form

No proceeding under or in pursuance of this Act shall be quashed or vacated for want of form, nor shall the same be removed by *certiorari* or otherwise into the Supreme Court.

20 Limitation of proceedings

No penalty imposed by this Act shall be recovered unless proceedings for the recovery thereof shall have been commenced within 6 months after the commission or occurrence of the offence upon which the penalty attaches.

21 Application of penalties

The court by which any penalty under this Act shall be imposed on any person shall in all cases award one-half of the same to be paid to the Council, to be by them placed to the account hereinbefore mentioned, and the other half shall be paid to Her Majesty, and be applied in manner provided by law for the application of penalties of the like nature.

22 Liability not discharged by penalty in certain cases

Notwithstanding the liability of any person to any penalty under the provisions of this Act, he or she shall not be relieved from any other liability to which he or she would have been subject if this Act had not been passed.

23 Rights of Her Majesty saved

Nothing in this Act contained shall prejudice, or be deemed to prejudice or affect, any right, title, or interest of Her Majesty, her heirs and successors.

Schedule

All that parcel of land in the Provincial District of Wellington, and Colony of New Zealand, containing by admeasurement seventy (70) acres, more or less, situate in the Harbour of Port Nicholson, and being the reserve marked “K” on the plan of the City of Wellington. Bounded towards the north-east by land included in a Crown grant to his Honour the Superintendent of Wellington, dated 20 June 1862, one hundred and sixty (160) links, and by other parts of the said Harbour of Port Nicholson one thousand two hundred and two (1 202) links, one thousand two hundred and two (1 202) links, one thousand two hundred and two (1 202) links, and one thousand two hundred and two (1 202) links; towards the east by other part of the said harbour, nine hundred and seven (907) links; towards the south-east by Clyde Quay nine hundred and forty-one (941) links, and by Sections numbered two hundred and twenty-two (222), two hundred and twenty-three (223), two hundred and twenty-four (224), and two hundred and twenty-five (225), eight hundred and sixteen (816) links; towards the south-west by Sections numbered two hundred and eighteen (218), two hundred and nineteen (219), two hundred and twenty (220), and two hundred and twenty-one (221), eight hundred (800) links; by Sections numbered two hundred and twelve (212), two hundred and thirteen (213), two hundred and fourteen (214), two hundred and fifteen (215), two hundred and sixteen (216), and two hundred and seventeen (217), and by Reserve numbered nine (9), one thousand four hundred and thirty-five (1 435) links; by Sections numbered two hundred and eight (208), two hundred and nine (209), two hundred and ten (210), and two hundred and eleven (211), eight hundred and fifty-four (854) links; and by Sections numbered two hundred and five (205), two hundred and six (206), and two hundred and seven (207), five hundred and fifty (550) links; and towards the north-west by land reclaimed by Sir George Grey six hundred and thirty-six (636) links, by said land granted to his Honour the Superintendent of Wellington one thousand eight hundred and seventy-three (1 873) links, and by other part of the said harbour five hundred and thirty-two (532) links; excepting always the piece of land one hundred and fifty (150) links wide extending along the whole northern front of the said land.

Reprints notes

1 *General*

This is a reprint of the Wellington City Council (Te Aro Reclamation) Act 1879 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Wellington City Council (Te Aro Reclamation) Amendment Act 2004 (2004 No 2 (L))

Reclamation within the Harbour of Wellington Act 1887 (1887 No 2 (L)): section 5