

# Whakatane Harbour Act 1921-22

Local Act 1921 No 18  
Date of assent 11 February 1922

## Contents

		Page
	Title	2
1	Short Title, repeals, and savings	2
2	Interpretation	3
3	Constitution of Board	4
4	Elections <i>[Repealed]</i>	4
5	Nomination of Maori member	4
6	Constitution of district <i>[Repealed]</i>	5
7	Dues	5
	<b>Finance</b>	
8	Borrowing	6
9	Conditions restricting borrowing-power	6
10	Acquisition and disposition of land	7
11	Capitalization of interest	8
12	Cancellation of unsold debentures	10
13	Rating-power	10
14	Validating expenditure on harbour-works in excess of authority	10
	<b>Reclamation</b>	
15	Reclamation of land	11
16	Construction of roads, and subdivision of land	11
17	Hire of plant	11
	<b>Schedule 1</b>	11
	<b>Enactments consolidated</b>	
	<b>Schedule 2</b>	12
	<b>Return of Whakatane Harbour Board nominative member by Maori Council for Matatua district</b>	
	<b>Schedule 3</b>	13

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**Schedule 4**

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**An Act to consolidate and amend certain Enactments of the General Assembly relating to the Whakatane Harbour.****BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—****1 Short Title, repeals, and savings**

- (1) This Act may be cited as the Whakatane Harbour Act 1921-22.
- (2) This Act shall be deemed a special Act within the meaning of the Harbours Act 1950.
- (3) The enactments mentioned in Schedule 1 hereto are hereby repealed, and with respect to those enactments the following provisions shall apply:—
  - (a) All orders, Warrants, and regulations duly made thereunder by the Governor-General or Governor-General in Council and subsisting on the coming into operation of this Act;
  - (b) All by-laws duly made by the Whakatane Harbour Board and subsisting as aforesaid;
  - (c) All contracts entered into, rights acquired, and liabilities incurred thereunder and subsisting as aforesaid;
  - (d) All offices created and appointments made thereunder by the Governor-General, the Minister, or the Whakatane Harbour Board, and subsisting as aforesaid;
  - (e) All licenses granted, certificates and instruments issued or executed, and generally all acts of authority duly exercised thereunder by or by the authority of the Governor-General, the Governor-General in Council, the Minister, or the Whakatane Harbour Board, and subsisting as aforesaid; and, generally,
  - (f) All acts of authority which originated thereunder and are subsisting as aforesaid,shall enure for the purposes of this Act as fully and effectually as if they had respectively originated under the corresponding

provisions this Act; and for that purpose shall, where necessary, be deemed have so originated.

- (4) The persons at present acting under the Whakatane Harbour Act 1912, as members of the Whakatane Harbour Board shall be deemed to have been duly and validly elected on the first day of July, nineteen hundred and twenty-one, and shall be the Board under this Act, and the members of the said Board holding office on the coming into operation of this Act shall continue in office until their successors are duly elected or appointed.
- (5) All debentures, bonds, mortgages, or other securities actually issued or made by the Whakatane Harbour Board in respect of moneys borrowed by the Whakatane Harbour Board and not paid or completely paid and discharged on the coming into operation of this Act shall, so far as concerns the holder or owner thereof and his rights and remedies, be deemed to have been and shall continue to be valid securities as if lawfully issued by the Board under this Act.
- (6) All works, matters, and proceedings commenced under any such enactment and in progress on the coming into operation of this Act may be continued and completed under this Act.
- (7) All works authorized by or directed to be made or constructed in accordance with any such enactment, and not commenced, or, if commenced, not completed, on the coming into operation of this Act, shall be deemed to be authorized by and shall be made and constructed in accordance with this Act.

The reference to the Harbours Act 1923 was substituted, as from 1 January 1924, for a reference to the Harbours Act 1908 pursuant to section 259 Harbours Act 1923 (1923 No 40). That reference was in turn substituted, as from 15 October 1950, for a reference to the Harbours Act 1950 pursuant to section 269(1) Harbours Act 1950.

## 2 Interpretation

In this Act, if not inconsistent with the context,—

**Board** means the Harbour Board constituted under this Act

**Harbour** means the harbour area within the control of the Board as defined by Warrant dated the tenth day of June, nineteen hundred and nineteen, or such other area as may at any time be defined by the Governor-General by Warrant

pursuant to the provisions in that behalf of the Harbours Act 1950

The reference to the Harbours Act 1923 was substituted, as from 1 January 1924, for a reference to the Harbours Act 1908 pursuant to section 259 Harbours Act 1923 (1923 No 40). That reference was in turn substituted, as from 15 October 1950, for a reference to the Harbours Act 1950 pursuant to section 269(1) Harbours Act 1950.

**Harbour district** means the Whakatane Harbour District as constituted under this Act.

The definition of “elector”, which was inserted, as from 17 October 1922, was repealed, as from 19 September 1928, by section 2(1) Whakatane Harbour Amendment Act 1928 (1928 No 11(L)).

### **3 Constitution of Board**

A Harbour Board is hereby constituted for the Harbour of Whakatane. Such Harbour Board shall consist of nine elective members and one nominative member .

Section 3 was amended , as from 1 January 1924, by repealing all the words after “nominative member” pursuant to section 259 Harbours Act 1923 (1923 No 40).

### **4 Elections**

*[Repealed]*

Section 4 was repealed, as from 1 January 1924, by section 259 Harbours Act 1923 (1923 No 40).

### **5 Nomination of Maori member**

- (1) The nominative member shall be nominated in writing on the form set out in Schedule 2 hereto by a majority of the members of the Maori Council for the Matatua District, and shall be appointed by the Governor-General pursuant to section five of the Harbours Amendment Act 1910.
- (2) The said form shall be signed by the majority of the members of the said Maori Council, sealed with the seal of the said Council, and countersigned by the Chairman or Acting-Chairman, who shall transmit it to the Board, and the Board shall forthwith transmit the same to the proper authority so that a Warrant may issue under section five of the Harbours Amendment Act 1910. The member so appointed shall hold office until the appointment of his successor as hereinafter provided.

- (3) In the month of March, nineteen hundred and twenty-three, and in the same month in each third year thereafter, the said Maori Council shall proceed to nominate a person to represent on the Board the interests of the Maoris resident in the harbour district, and with respect to such nomination the foregoing provisions of this section shall apply.
- (4) If the nominative member becomes disqualified, dies, or resigns, then and in such event the Board shall forthwith notify the Chairman of the said Council, who shall proceed forthwith to summon a meeting of the said Council and proceed to nominate a successor in manner aforesaid.

Subsection (3) was amended, as from 17 October 1922 by substituting a reference to “twenty-three” for a reference to “twenty-four” pursuant to section 3 Whakatane Harbour Amendment Act 1922 (1922 No 7(L)).

## **6 Constitution of district**

*[Repealed]*

Section 6 was repealed, as from 19 September 1928, by section 3(2) Whakatane Harbour Amendment Act 1928 (1928 No 11(L)).

## **7 Dues**

Notwithstanding any provision contained in the Harbours Act 1950, it shall be lawful for the Board to make and levy harbour dues to be charged and collected in respect of goods produced and manufactured outside and brought into the harbour district for any person, not being a ratepayer of the harbour district or any ward thereof, residing outside the harbour district, and in respect of goods shipped on behalf of any person not being a ratepayer as aforesaid residing outside the harbour district, in excess of the dues to be made and levied in respect of the same goods if produced and manufactured within the harbour district or brought into the same for, or shipped on behalf of, any person residing within the harbour district:

Provided that such excess dues shall be payable equally in respect of the same description of goods wheresoever outside the harbour district the same are produced or manufactured, and wheresoever outside the harbour district the person on behalf of or for whom the same are brought into the harbour district or shipped may reside.

The reference to the Harbours Act 1923 was substituted, as from 1 January 1924, for a reference to the Harbours Act 1908 pursuant to section 259 Harbours

Act 1923 (1923 No 40). That reference was in turn substituted, as from 15 October 1950, for a reference to the Harbours Act 1950 pursuant to section 269(1) Harbours Act 1950.

## Finance

### 8 Borrowing

The Board may borrow moneys, not exceeding in the whole five hundred thousand dollars, for expenditure upon harbour-works within the harbour, and, in particular, for the construction and completion of all works directed towards the improvement of navigation, the protection and conservation of river-banks, the erection of buildings and structures for promoting and facilitating maritime trade and commerce, and to ensure the safety and accommodation of shipping, and to provide increased facilities for maritime trade; and for the employment of experts and the obtaining of information and surveys as to the desirability or practicability of any works contemplated; and for the reclamation of land.

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

### 9 Conditions restricting borrowing-power

- (1) In computing the amount of five hundred thousand dollars under the last preceding section all moneys already borrowed by the Board shall be included.
- (2) No money shall be borrowed under the last preceding section—
  - (a) Except with the consent of the ratepayers of the district previously obtained in manner prescribed by the Local Authorities Loans Act 1956; and all the provisions of that Act shall apply with respect to the said loan as if the Board were a local authority and the harbour district were a district within the meaning of that Act:
  - (b) So as to produce to the lender or to the purchaser of a debenture a greater rate than is provided by the Harbours Act 1950.

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

The reference to the Harbours Act 1923 was substituted, as from 1 January 1924, for a reference to the Harbours Act 1908 pursuant to section 259 Harbours Act 1923 (1923 No 40). That reference was in turn substituted, as from 15 October 1950, for a reference to the Harbours Act 1950 pursuant to section 269(1) Harbours Act 1950.

The reference to the Local Bodies' Loans Act 1926 was substituted, as from 1 October 1926, for a reference to the Local Bodies' Loans Act 1913 pursuant to section 126(1) Local Bodies' Loans Act 1926 (1926 No 14). That Act was in turn substituted, as from 1 April 1957, pursuant to section 135(1) Local Authorities Loans Act 1956 (1956 No 63).

## **10 Acquisition and disposition of land**

- (1) The Board shall have power to acquire by purchase, or by taking the same under the provisions of the Public Works Act 1981, any lands or rights in land for the purpose of all or any of the following works, namely: For a quarry, for facilitating drainage, reclamation, filling-in or levelling, or for addition to any land intended to be subdivided into parcels or allotments, or for the roading of or affording access to such last-mentioned land, or connecting any such last-mentioned land with any public highway, or to enable the Board to recover in some measure the value of its riparian improvements, or for the construction of any harbour-works thereon, or for the reclamation or improvement of any land so acquired; and for this purpose the foregoing works respectively shall be deemed to be a "public work" within the meaning of that term as used in the said Act:

Provided always that it shall not be incumbent on the vendor to the Board of lands so acquired by the Board, or upon any compensation Court held under the provisions of the said last-mentioned Act, or upon any other person or persons whomsoever or whatsoever, to inquire as to whether any lands acquired by the Board under the authority of these provisions are necessary or suitable for the purposes aforesaid or any of them; and the resolution of the Board that the land so acquired be acquired or taken for the purposes aforesaid or any of them shall be sufficient evidence for all purposes that their acquisition by the Board is lawful.

- (2) The Board shall have power to sell and dispose of any lands acquired by the Board under the foregoing subsection hereof in such parcels, at such price or respective prices, and upon such

terms as it may think proper; and a recital in the conveyance or transfer to the purchaser that the sale or disposition is made in pursuance of the powers contained in this section of this Act shall be conclusive evidence, so far as such purchaser and the title acquired by him is concerned, that such sale or disposition is lawful.

- (3) Nothing in this section shall be deemed to limit, restrict, or abridge any powers, rights, or authorities possessed by the Board under the Public Works Act 1981, the Public Bodies Leases Act 1969, the Harbours Act 1950, and its amendments, or any other statute.

The reference to the Public Works Act 1928 was substituted, as from 1 January 1929, for a reference to the Public Works Act 1908 pursuant to section 346(1) Public Works Act 1928 (1928 No 21). The Public Works Act 1981 was in turn substituted for the repealed Public Works Act 1928, as from 1 February 1982, by section 248(1) Public Works Act 1981 (1981 No 35).

The reference to the Public Bodies Leases Act 1969 in subsection (1) was substituted, as from 1 January 1970, for a reference to the Public Bodies' Leases Act 1908 by section 28(1) Public Bodies Leases Act 1969 (1969 No 141).

The reference to the Harbours Act 1923 was substituted, as from 1 January 1924, for a reference to the Harbours Act 1908 pursuant to section 259 Harbours Act 1923 (1923 No 40). That reference was in turn substituted, as from 15 October 1950, for a reference to the Harbours Act 1950 pursuant to section 269(1) Harbours Act 1950.

## 11 Capitalization of interest

Whereas the Board owes the Public Trustee the sum of one hundred and sixty-nine thousand two hundred dollars for money lent at different times in the following sums, namely: seventy-two thousand dollars, and seven thousand two hundred dollars, and seventy thousand dollars, and seven thousand dollars, and thirteen thousand dollars: And whereas on the first day of December, nineteen hundred and twenty-one, there will be owing and payable to the Public Trustee the sum of six thousand eight hundred and sixty-one dollars and seventy-five cents by way of interest on the said money lent: And whereas the Board has requested the Public Trustee to capitalize the said sum of six thousand eight hundred and sixty-one dollars and seventy-five cents, which the Public Trustee has agreed to do subject to the Board issuing to the Public Trustee, in a form approved by him, debentures securing the repayment of the said sum of six thousand eight



hundred and sixty-one dollars and seventy-five cents, together with interest thereon at the rate ruling in the Public Trust Office at the time the said debentures are issued, charged generally on the Harbour Fund, and on a special rate, leviable by the Board without consent of the ratepayers of the district, charged on the property of the ratepayers of the district for such an amount and to be paid in such manner as is deemed necessary to secure the repayment of the sum or sums secured by the said debentures at the time or times when such sum or sums respectively become payable; and subject also to the payment of interest by the Board to the Public Trustee on the said sum of six thousand eight hundred and sixty-one dollars and seventy-five cents at the rate ruling in the Public Trust Office at the time, computed from the time that each respective sum constituting the said six thousand eight hundred and sixty-one dollars and seventy-five cents became payable until the date when the said debentures are issued: Now, therefore, the Board is authorized and empowered—

- (a) To capitalize the sum of six thousand eight hundred and sixty-one dollars and seventy-five cents now owing as interest on loans by the Board to the Public Trustee, and to issue to the Public Trustee, in a form approved by him, debentures securing the repayment of the said sum of six thousand eight hundred and sixty-one dollars and seventy-five cents, together with interest thereon at the rate ruling in the Public Trust Office at the time the said debentures are issued, charged generally on the Harbour Fund and on a special rate provided for in the next succeeding paragraph.
- (b) To levy a special rate without obtaining the consent of the ratepayers of the harbour district for such an amount and to be paid in such manner as is found necessary to secure the repayment of the sum or sums secured by the said debentures at the time or times when such sum or sums respectively become payable.
- (c) To pay interest on the said sum of six thousand eight hundred and sixty-one dollars and seventy-five cents at the rate ruling in the Public Trust Office at the time, computed from the time that each respective sum con-

stituting the said six thousand eight hundred and sixty-one dollars and seventy-five cents became payable until the date when the said debentures are issued.

The words “one hundred and sixty-nine thousand two hundred dollars”, “seventy-two thousand dollars”, “seven thousand two hundred dollars”, “seventy thousand dollars”, “seven thousand dollars”, and “six thousand eight hundred and sixty-one dollars and seventy-five cents” were substituted, as from 10 July 1967, for the words “eighty-four thousand pounds”, “thirty-six thousand pounds”, “three thousand six hundred pounds”, “thirty-five thousand pounds”, “three thousand five hundred pounds”, “six thousand five hundred pounds” and “three thousand four hundred and thirty pounds seventeen shillings and sixpence” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

## **12 Cancellation of unsold debentures**

Where any debentures have been issued by the Board in connection with any loan duly authorized to be raised, but where such debentures have not been sold or disposed of (except by way of hypothecation or mortgage thereof), the Board shall have power, when raising any further loan for the same or similar purposes as the former loan was authorized to be raised, to make provision for the payment of any moneys raised by such hypothecation or mortgage and interest thereon, and to pay such moneys out of the said further loan, and to cancel the debentures issued in connection with such former loan.

## **13 Rating-power**

The Board may for any purpose connected with the harbour make and levy in each year a general rate sufficient to produce the amount that would be provided by a rate of five-sixths of a cent in the dollar on the capital value of the rateable property within the harbour district.

The words “five-sixths of a cent in the dollar” was substituted, as from 10 July 1967, for the words “twopence in the pound” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

## **14 Validating expenditure on harbour-works in excess of authority**

- (1) The expenditure heretofore incurred by the Board for harbour-works in excess of the amount authorized to be expended for such purposes, to an extent not exceeding eight thousand dollars, is hereby validated.

- (2) For the purpose of paying off the bank overdraft incurred by the Board for the purposes aforesaid the Board may raise a special loan, not exceeding eight thousand dollars, under the Local Authorities Loans Act 1956, but without taking the steps described in sections eight to twelve of that Act, and for the purpose of securing the repayment of the loan and the payment of interest thereon the Board may make and levy in accordance with the said Act a special rate over all rateable property in the harbour district.

The words “eight thousand dollars” were substituted, as from 10 July 1967, for the words “four thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

The reference to the Local Bodies’ Loans Act 1926 was substituted, as from 1 October 1926, for a reference to the Local Bodies’ Loans Act 1913 pursuant to section 126(1) Local Bodies’ Loans Act 1926 (1926 No 14). That Act was in turn substituted, as from 1 April 1957, pursuant to section 135(1) Local Authorities Loans Act 1956 (1956 No 63).

## **Reclamation**

### **15 Reclamation of land**

The Board may from time to time, in such parts and subdivisions as it thinks fit, reclaim the land more particularly described in Schedule 4 hereto.

### **16 Construction of roads, and subdivision of land**

The Board may from time to time at its own expense lay out and construct roads, streets, and drains on and through the land reclaimed, and may subdivide the land reclaimed.

### **17 Hire of plant**

The Board may, whenever its plant is not required for harbour-work, hire the same.

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## **Schedule 1**

### **Enactments consolidated**

1908, No 41 (Local).—The Whakatane Foreshore Reclamation Act 1908.

1912, No 18 (Local).—The Whakatane Harbour Act 1912.

1915, No 2 (Local).—The Whakatane Harbour Amendment and Empowering Act 1915.

1916, No 12 (Local).—The Whakatane Harbour Amendment Act 1916.

1917, No 13 (Local).—The Whakatane Harbour Amendment Act 1917.

1920, No 9 (Local).—The Whakatane Harbour Amendment Act 1920.

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**Schedule 2**  
**Return of Whakatane Harbour Board**  
**nominative member by Maori Council for**  
**Matatua district**

PURSUANT to section five of the Whakatane Harbour Act 1921-22, we, the undersigned members of the Maori Council for the Matatua District, hereby nominate , of , to be the nominative member of the Whakatane Harbour Board until his successor be appointed in terms of the said Act.

Dated at this day of , 192 .

Signatures of members of Council.

Countersigned—

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### 3

*[Repealed]*

Schedule 3 was repealed, as from 19 September 1928, by section 3(2) Whakatane Harbour Amendment Act 1928 (1928 No 11(L)).

*[Repealed]*

### Schedule 4

1

ALL that piece or parcel of land situate at the Township of Whakatane, on the Whakatane River, in the County of Whakatane, containing forty-nine acres two roods, more or less, commencing at the north-western corner of Section 296, Parish of Waimana, and bounded as follows: Towards the west by lines, 1096, 546, 300, 455, and 115 links; towards the north by low-water mark of Whakatane River; towards the east by lines, 83.6 and 478 links; towards the south generally by high-water mark adjacent to traverse lines, 1706, 806.1, 1135, 403.4, 282.8, and 660.2 links; thence by high-water mark and by part of line, 1844 links, being part of the northern boundary of said Section 296, to the commencing-point: all in Block II, Whakatane Survey District: as the same is shown on the plan marked MD 2981, deposited in the office of the Marine Department, at Wellington, and thereon edged red and coloured green.

2

All that piece of land situate adjacent to the Town of Whakatane, in the Auckland Land District, containing 9 acres and 6 perches, more or less, between high-water mark and low-water mark on the right bank of the Whakatane River, extending from the eastern end of the land comprised in plan marked MD 2981, deposited at the office of the Marine Department, at Wellington, and therein edged red and coloured green; north-easterly to the Whakatane River Heads, as shown on plan marked MD 4511, deposited at the office of the Marine Department, at Wellington, edged with a green tint, and bounded with a red dotted line, as follows—commencing at OP II; thence north-easterly by the red dotted line along the boundary of the road to PV at the northern end of the

road; thence north-easterly by the red dotted line past P VI, VII, VIII, to P IX; thence easterly by the red dotted line to PX; thence south-easterly by the red dotted line past P XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, to OP XXII; thence south-easterly by the red dotted line to the starting-point.