

Wellington Harbour Board Reclamation and Empowering Act 1908

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An Act to confer certain Powers upon the Wellington Harbour Board and the Corporation of the Borough of Miramar, and to enable the Wellington Harbour Board to acquire certain Lands, reclaim Lands from the Sea, execute Works, and borrow Moneys.

Preamble

WHEREAS under and by virtue of the powers conferred on it by the Reserves and other Lands Disposal and Public Bodies Empowering Act 1907, the Wellington Harbour Board (hereinafter called the Board) was authorised on obtaining the consents therein referred to to acquire certain lands for the purposes of reclamation at Evans Bay: And whereas the Board, having obtained the said consents, has decided to acquire for the purposes aforesaid the lands described in Schedules 1 and 3 hereto: And whereas it is desirable that the Board should have power to acquire certain other lands in Evans Bay and to carry out reclamations with the object of providing sites upon which engineering and other industries may be carried on: And whereas an agreement has been entered into between the Board and the Corporation of the Borough of Miramar (hereinafter called the Borough) to facilitate the carrying-out of the said reclamations and it is desirable that the Board and the Borough should be respectively empowered to carry out the terms of the said agreement: And whereas by a special order of the Governor in Council dated the twenty-second day of May, nineteen hundred and five, the Board was authorised to reclaim from the sea certain lands therein described as a site for boat-sheds, subject to the conditions therein named: And whereas the Board has complied with the conditions contained in the said Order and it is now desirable that such lands should be vested in the Board: And whereas the Board requires further powers of borrowing in order to find funds for the purposes aforesaid and for the construction of other harbour-works:

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 Wellington Harbour Board Reclamation and Empowering Act 1908.

2 Interpretation

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

The Act means the Harbours Act 1950

The Harbours Act 1908 (1908 No 75) was repealed, as from 1 January 1924, by section 259(1) Harbours Act 1923 (1923 No 40). That Act was in turn repealed, as from 15 October 1950, by section 269(1) Harbours Act 1950 (1950 No 34).

The Board means the Wellington Harbour Board

The Borough means the Mayor, Councillors, and Burgesses of the Borough of Miramar.

3 Special Act

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

4 Vesting of certain lands in Board. Powers of reclamation

The lands described in Schedules 4 and 5 hereto shall vest in the Board, and the Board may from time to time, subject to the provisions of the Act, reclaim the said lands from the sea, and may for that purpose, if it thinks fit, enter into contracts with any persons for the execution of all or any of the works which may be necessary or expedient in or about the filling-up and reclaiming of such lands as aforesaid upon such terms and conditions as may seem to it proper and reasonable:

Provided, however, that where the lands described in Schedules 4 and 5 are bounded to the landward by an existing public road or street, and where such public road or street or any part thereof is of a width of less than sixty-six feet, in every such case the Board shall dedicate as a public street a strip of the said lands of sufficient width and in such position as to allow of the said public road or street or said part thereof being widened to at least sixty-six feet, and the municipal

authority within whose jurisdiction the said public road or street is situate shall take over, construct, and maintain the same.

5 Power to construct streets, &c

The Board may, on any land reclaimed from the sea under the provisions of this Act or acquired under the provisions of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1907, construct such streets, drains, sewers, and watercourses as it may deem necessary, and on such construction in compliance with the reasonable requirements of the municipal authority within whose jurisdiction such streets are situate, dedicate such streets as public streets, and such streets shall thereupon become streets of the borough in which they are situate.

6 Exemption from rates

No lands reclaimed from the sea shall be liable to pay any rates whatever to any municipal authority so long as they remain the property of the Board and are not let or leased.

7 Power to Board and Borough to carry out an agreement

- (1) The several provisions of the deed between the Board and the Borough, a copy whereof is set out in Schedule 10 hereto, shall have effect as if the same were specifically enacted in the terms thereof in this Act, and the several powers and authorities expressed to be conferred by the said deed upon the Board and the Borough respectively may be exercised as provided by the said deed, and the several works, conditions, and obligations expressed by the said deed to be constructed, performed, and undertaken by the Board and the Borough respectively shall be performed by and be binding upon the Board and the Borough respectively.
- (2) The provisions of section one hundred and fifty-four of the Municipal Corporations Act 1908, as to the control, cost of construction, and maintenance of a public highway lying along the boundary of two boroughs shall extend and apply to all existing and future public streets lying along the boundary between the Borough of Miramar and the City of Wellington as the same may be altered or extended consequent upon the

carrying-out of any reclamation and the carrying into effect of the provisions of the said deed.

- (3) The Borough may, and subject to the conditions set forth in the said deed shall, anything contained in the Municipal Corporations Act 1908, to the contrary notwithstanding, from time to time, by resolution, close the public streets on such part of the land described in Schedule 2 hereto as lies beyond the boundaries of the eighty-foot public street referred to in clause two of the said deed; and on the passing of such resolution such streets shall be deemed to be forthwith closed and stopped.
- (4) The Council of the Borough may, in the manner and with the power or intent prescribed by the Local Bodies Loans Act 1908, with respect to the raising by a local authority of a special loan for or in connection with the construction or undertaking of any public work, or the engaging in any undertaking which the said Council is now duly authorised by law to construct, undertake, or engage in, submit to the ratepayers of the Borough of Miramar and take a poll of such ratepayers on a proposal to confirm the said deed, or such clauses thereof as the said Council may deem necessary for the purpose, and to raise a special loan for an amount not exceeding ten thousand dollars for payment thereof to the Board for or in connection with the construction by the Board of the works enumerated in the said deed, and in the manner therein mentioned, as fully and effectually, to all intents and purposes, as if the said works so to be constructed by the Board were a public work or undertaking to be constructed, provided, engaged in, or undertaken by the said Council; and for the purposes hereof the provisions of the Local Bodies Loans Act 1908, or so much thereof as may be necessary or requisite, shall, *mutatis mutandis*, be deemed to extend and apply hereto:

Provided that, in the event of the aforesaid proposal to confirm the said deed and to raise the said special loan not being carried at the poll to be taken thereon as hereinbefore authorised, the said Council may, if it think fit so to do, after an interval, however, of not less than three calendar months from the taking of the first poll, again submit the said proposal

(that is, to confirm the said deed and to raise the said special loan) to and take a further poll of the aforesaid ratepayers thereon, in manner and with the powers as aforesaid.

The reference to “ten thousand dollars” was substituted, as from 10 July 1967, for a reference to “five thousand pounds sterling” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

8 Power to buy, sell, and exchange lands for certain purposes

For the purpose of rectifying boundary-lines, street-levels, and providing access, the Board may sell or give in exchange parts of the lands authorised to be reclaimed under this Act or acquired for the purpose of obtaining spoil for reclamation or otherwise, or may purchase or accept in exchange adjoining lands.

9 Vesting clause

All lands acquired by the Board under this Act and the lands described in Schedules 6 and 7 hereto shall vest in the Board for the purposes for which the Board is constituted subject to the provisions of this Act.

10 Vesting site of boat-sheds

The land described in Schedule 8 hereto, being the land reclaimed under the authority of a special order of the Governor in Council dated the twenty-second day of May, nineteen hundred and five, shall vest in the Board for the purposes for which the Board is constituted.

11 Borrowing-powers

- (1) The Board may borrow any sums of money not exceeding in the whole two million dollars for the several purposes specified in Schedule 9 hereto:
- (2) The yearly interest named in any debentures issued in respect of any moneys borrowed under the authority of this Act shall not exceed five dollars fifty cents per centum per annum, and the Board shall on borrowing such moneys, provide a sinking fund of not less than one dollar per centum per annum thereon. If any of such debentures are issued at a price less than par, the

limit of rate of interest hereby imposed shall not be deemed to be exceeded by reason that the persons applying for or purchasing such debentures may thereby receive a greater rate of interest upon the actual purchase price of such debentures.

Section 11 was amended, as from 5 November 1919, by section 57 Reserves and other Lands Disposal and Public Bodies Empowering Act 1919 (1919 No 54), by substituting the words "five and a half pounds" for the words "five pounds".

Subsection (2) was substituted for the proviso to section 11, as from 11 February 1922, by section 94(1) Reserves and other Lands Disposal and Public Bodies Empowering Act 1921 (1921 No 59).

The references to "two million dollars", "five dollars fifty cents" and "one dollar" were substituted, as from 10 July 1967, for a reference to "one million pounds", "five pounds ten shillings" and "one pound" pursuant to section 7(1) and (2) Decimal Currency Act 1964 (1964 No 27).

12 Power to Board to enter into agreements

It shall be lawful for the Board, before executing any part of the reclamation hereby authorised, or constructing any harbour-works in connection therewith or adjacent thereto, to enter into agreements with any persons or bodies corporate desiring or requiring such reclamation or harbour-works, or likely to benefit thereby, for the payment to the Board of such subsidy, by payment of money or otherwise, as may be mutually agreed upon between the Board and such persons or bodies corporate.

Schedule 1

ALL that piece of land, being part of Section 9 of the Watts Peninsula District, in the Borough of Miramar, and part of the land referred to in certificate of title, Vol cxv, folio 277, registered in the office of the District Land Registrar, in Wellington, containing an area of 9 acres and 5 perches, and being the whole of Section 2, 3, and 26 to 42, both inclusive, and parts of Sections 24 and 25, of Block I, shown on a sub-divisional plan marked 1335 deposited in the office of the District Land Registrar, in Wellington: be the said area a little more or less: as the same is delineated and coloured pink edged with green on a plan deposited in the office of the Marine Department, in

Wellington, and marked MD 3187, and thereon denoted as the First Schedule.

Schedule 2

ALL that piece of land, being part of Section 9 of the Watts Peninsula District, in the Borough of Miramar, containing an area of about 6 acres 2 roods, consisting of the whole of the roadway known as Queen's Terrace, and such part of the roadway known as Miramar Quay as lies between the southern side of Miramar Avenue extended to high-water mark at Evans Bay, and the north-eastern boundary of Section 43, Block I, shown on a subdivisional plan marked 1335 deposited in the office of the District Land Registrar, in Wellington, extended to high-water mark at Evans Bay: be the said area a little more or less: as the same is delineated and coloured buff edged with red on a plan deposited in the office of the Marine Department, in Wellington, and marked MD 3187, and thereon denoted as the Second Schedule.

Schedule 3

ALL that piece of land, being a part of Section 7 of the Evans Bay District, in the City of Wellington, and lying to the north of Seatoun Road, containing an area of about 4 acres 2 roods 22 perches: commencing at the point **a** as shown on the plan hereinafter referred to, the said point being distant 50.5 links on a bearing of $349^{\circ} 27'$ from a survey-peg numbered LV shown on a plan marked 93/40 deposited in the District Lands and Survey Office, in Wellington, the said peg being distant 10578.3 links south and 11968.4 links east from the trig station at Mount Cook; thence 449.16 links on a bearing of $264^{\circ} 30'$ to the point **b**; thence 433.5 links on a bearing of $261^{\circ} 58'$ to the point **c**; thence 401.8 links on a bearing of $230^{\circ} 46'$ to the point **d**: thence 100 links on a bearing of $284^{\circ} 28' 30''$ to the point **e**; thence about 296 links on a bearing of $14^{\circ} 28' 30''$ to high-water mark at the point **f**; thence generally in a north-easterly and easterly direction along high-water mark to the point **g**; thence about 309 links on a bearing of $253^{\circ} 41'$ to the starting-point at **a**: be the said area, bearings, and

distances a little more or less: as the same is delineated and coloured pink edged with blue on a plan deposited in the office of the Marine Department, in Wellington, and marked MD 3187, and thereon denoted as the Fourth Schedule.

Schedule 4

ALL that piece of land, being a portion of the bed of the Harbour of Port Nicholson, situated in Evans Bay, containing an area of about 128 acres 3 roods: commencing at a point I, as shown on the plan hereinafter referred to, the said point being on high-water mark and distant 45 links on a bearing of 120° from a survey-peg numbered XXXV shown on a plan marked 71/12 deposited in the District Lands and Survey Office, in Wellington, the said peg being distant 4083.99 links south and 9245.76 links east from the trig station at Mount Cook; thence 405 links on a bearing of 120° to the point H; thence 550 links on a bearing of 210° to the point G; thence 2930 links due south to the point F; thence 650 links on a bearing of 140° to the point E; thence 800 links on a bearing of 125° to the point D; thence 2950 links on a bearing of 110° to the point C; thence 2039-37 links on a bearing of 34° to the point B; thence 189.7 links on a bearing of $119^{\circ} 31' 20''$ to the point A, the said point being on high-water mark and distant 57.69 links on a bearing of $3^{\circ} 20' 21''$ from a survey-peg numbered XLVIII shown on a plan marked 93/40 deposited in the District Lands and Survey Office, in Wellington, the said peg being distant 8141.4 links south and 14507.8 links east from the trig station at Mount Cook; thence generally in a south-westerly and westerly direction along high-water mark to the point CC, the said high-water mark in part being as shown on plans marked 71/62 and 71/63 deposited in the District Lands and Survey Office, in Wellington; thence 58.4 links on a bearing of $14^{\circ} 31'$ to the point DD, and thence 254.5 links on a bearing of $2^{\circ} 5'$ to the point EE, the said two lines being the eastern boundaries of the area vested in the Wellington City Corporation under the Wellington City Reclamation and Empowering Act 1906, and shown on a plan marked MD 2940 deposited in the office of the Marine Department, in Wellington; thence generally in a north-easterly and northerly direction partly along the seaward boundary of the Evans Bay Road and partly along high-water mark

to the starting-point at I: be the said area, bearings, and distances a little more or less: as the same is delineated and coloured blue edged with brown on a plan deposited at the office of the Marine Department, in Wellington, and marked MD 3187, and thereon denoted as the Fifth Schedule.

Schedule 5

ALL that piece of land, being a portion of the bed of the Harbour of Port Nicholson, situated in Evans Bay, containing an area of about 28 acres: commencing at a point M as shown on the plan hereinafter referred to, the said point being on high-water mark and distant 43.9 links due east from a survey-peg numbered XXVI shown on a plan marked 71/12 deposited in the District Lands and Survey Office, in Wellington, the said peg being distant 756.26 links north and 11946.27 links east from the trig station at Mount Cook; thence 135 links due east to the point L; thence 3136.15 links due south to the point K; thence 2130 links on a bearing of $244^{\circ} 1'$ to the point J; thence 1150 links on a bearing of 210° to the point H; thence 405 links on a bearing of 300° to the point I, the said point being on high-water mark and distant 45 links on a bearing of 120° from a survey-peg numbered XXXV shown on the aforesaid plan marked 71/12, the said peg being distant 4083.99 links south and 9245.76 links east from the trig station at Mount Cook; thence generally in a northerly and north-easterly direction partly along high-water mark and partly along the seaward boundary of Evans Bay Road to the starting-point at M: be the said area, bearings, and distances a little more or less: as the same is delineated and coloured blue edged with red on a plan deposited in the office of the Marine Department, in Wellington, and marked MD 3187, and thereon denoted as the Ninth Schedule.

Schedule 6

ALL that piece of land, being a portion of the bed of the Harbour of Port Nicholson, situated in Evans Bay, containing an area of about 69 acres: commencing at a point V as shown on the plan hereinafter referred to, the said point being on low-water mark and distant 121.58

links on a bearing of $103^{\circ} 58' 8''$ from a survey-peg numbered XXIV, shown on a plan marked 71/12 deposited in the District Lands and Survey Office, in Wellington, the said peg being distant 1029.35 links north and 11537.01 links east from the trig station at Mount Cook; thence 840 links due east to the point U; thence 5000 links due south to the point T; thence 850 links due west to the point S; thence 700 links due south to the point P; thence 1332.28 links due west to the point Q; thence 1165 links on a bearing of 300° to the point R, the said point being on low-water mark and distant 67.02 links on a bearing of 120° from a survey-peg numbered XXXV shown on the aforesaid plan marked 71/12, the said peg being distant 4083.99 links south and 9245.76 links east from the trig station at Mount Cook; thence generally in a northerly and north-easterly direction along low-water mark to the point W; thence 1735 links on a bearing of $154^{\circ} 1'$ to the point X, thence 607 links on a bearing of $64^{\circ} 1'$ to the point Y, and thence 1590 links on a bearing of $334^{\circ} 1'$ to the point Z, the said three boundaries being part of the south-western boundary, the south-eastern boundary, and part of the north-eastern boundary respectively of the reserve marked B on the plan of the Evans Bay District, as the same is shown on a plan marked MD 22 deposited in the office of the Marine Department, in Wellington, the said reserve being vested in the Wellington Patent Slip Company (Limited), and the said points W and Z being the points in which the south-western and the north-eastern boundaries respectively of the said reserve cross low-water mark; thence generally in a north-easterly, easterly, and northerly direction along low-water mark to the starting-point at V: be the said area, bearings, and distances a little more or less: as the same is delineated and coloured blue edged with blue on a plan deposited at the office of the Marine Department, in Wellington, and marked MD 3187, and thereon denoted as the Tenth Schedule.

Schedule 7

ALL that piece of land, being a portion of the bed of the Harbour of Port Nicholson, situated in Evans Bay, containing an area of about 245 acres 3 roods: commencing at a point R as shown on the plan hereinafter referred to, the said point being on low-water mark and distant 67.02 links on a bearing of 120° from a survey-peg num-

bered XXXV shown on a plan marked 71/12 deposited in the District Lands and Survey Office, in Wellington, the said peg being distant 4083.99 links south and 9245.76 links east from the trig station at Mount Cook; thence 1165 links on a bearing of 120° to the point Q; thence 1332.28 links due east to the point P; thence 2800 links due south to the point O; thence 3000 links due east to the point N, the said point being on low-water mark and distant 100.12 links on a bearing of $329^\circ 18' 40''$ from a survey-peg numbered XLVII shown on a plan marked 93/40 deposited in the District Lands and Survey Office, in Wellington, the said peg being distant 7586.1 links south and 14696.1 links east from the trig station at Mount Cook; thence generally in a south-westerly and westerly direction along low-water mark to the point AA; thence 1550 links on a bearing of $2^\circ 5'$ to the point BB, the said boundary being part of the eastern boundary of the area vested in the Wellington City Corporation under the Wellington City Reclamation and Empowering Act 1906, shown on a plan marked MD 2940 deposited in the office of the Marine Department, in Wellington; thence generally in a north-easterly direction along low-water mark to the starting-point at R: be the said area, bearings, and distances a little more or less: as the same is delineated and coloured blue edged with green on a plan deposited at the office of the Marine Department, in Wellington, and marked MD 3187, and thereon denoted as the Eleventh Schedule.

Schedule 8

ALL that piece of land, situated on the northern side of Clyde Quay, in the City of Wellington, containing an area of 1 acre 4.3 perches: commencing at a point A as shown on the plan hereinafter referred to, the said point being on the seaward boundary of Clyde Quay, at the intersection thereof with the seaward side of the road approach to Clyde Quay Wharf, and distant 141.61 links on a bearing of $22^\circ 40' 30''$ from a Government Standard Survey block numbered CCLXXXVII A in the roadway of Clyde Quay, the said block being distant 4290.36 links north and 3958.32 links east from the trig station at Mount Cook; thence 48.93 links on a bearing of $314^\circ 57'$ to the point B; thence 48.41 links on a bearing of $84^\circ 5'$ to the point C; thence 34.03 links on a bearing of $20^\circ 53'$ to the point D; thence

174.88 links on a bearing of $83^{\circ} 43'$ to the point E; thence 35.77 links on a bearing of $139^{\circ} 23'$ to the point F; thence 9 links on a bearing of $83^{\circ} 48'$ to the point G; thence 34.19 links on a bearing of $24^{\circ} 11'$ to the point H; thence 194.97 links on a bearing of $83^{\circ} 33'$ to the point J; thence 36.51 links on a bearing of $139^{\circ} 28'$ to the point K; thence 12.65 links on a bearing of $83^{\circ} 41'$ to the point L; thence 38.76 links on a bearing of $32^{\circ} 56'$ to the point M; thence 218.39 links on a bearing $83^{\circ} 39'$ to the point N; thence 38.23 links on a bearing of $135^{\circ} 1'$ to the point O; thence 11.6 links on a bearing of $83^{\circ} 41'$ to the point P; thence 36.03 links on a bearing of 31° to the point Q; thence 241.56 links on a bearing of $78^{\circ} 45'$ to the point R; thence 46.7 links on a bearing of $119^{\circ} 8'$ to the point S; thence 12.2 links on a bearing of $60^{\circ} 54'$ to the point T; thence 39.07 links on a bearing of $10^{\circ} 19'$ to the point U; thence 152.83 links on a bearing of $60^{\circ} 47'$ to the point V; thence 36.46 links on bearing of $117^{\circ} 42'$ to the point W; thence 55.8 links on a bearing of $60^{\circ} 54'$ to the point X; thence 55.02 links on a bearing of $151^{\circ} 7'$ to the point Y, the said point being on the seaward boundary of Clyde Quay; thence generally in a westerly direction along the seaward boundary of Clyde Quay to the starting-point at A: be the said area, bearings, and distances a little more or less: as the same is delineated and coloured red on a plan deposited in the office of the Marine Department, in Wellington, and marked MD 3188, and thereon denoted as the Twelfth Schedule.

Schedule 9

To construct, execute, perform, and pay for the following works, acts, matters, and things, or such of them as the Board may in its discretion think fit, with such modification and amendment as to the Board may seem meet:—

- 1**

The purchase or acquisition of any lands, buildings, machinery, plant, or assets authorised to be purchased or acquired by any Act of the General Assembly of New Zealand, including expenses of acquisition.
- 2**

The construction and equipment of patent slips.

- 3 The installation of workshops, plant, and machinery in connection with graving-docks and slips.
- 4 The reclamation of any lands which the Board is or may be authorised to reclaim, including the purchase of all lands necessary in the opinion of the Board for such reclamation either for spoil purposes or for purposes of providing access to or road frontages for such reclamations, including the cost of retaining-walls, the construction of sewers and watercourses, and of streets.
- 5 Dredging, and the purchase, hire, and maintenance of dredging appliances, and other expenditure connected therewith.
- 6 The construction of quays and quay-walls, pitched slopes, and works of a like nature.
- 7 The extension of existing wharves and stores, and the construction of new wharves, jetties, sheds, offices, and stores, and of cranes and of other machinery, plant, and appliances.
- 8 Other harbour-works.
- 9 The expenses of the flotation of the loan, or any portion thereof.

Schedule 10

Preamble

This Deed made this twenty-first day of September, nineteen hundred and eight, between the Wellington Harbour Board (hereinafter called the Board) of the one part, and the Mayor, Councillors, and Burgesses of the Borough of Miramar (hereinafter called the Borough) of the other part:

Whereas under section 54 of an Act of the General Assembly of New Zealand intituled the Reserves and other Lands Disposal and Public Bodies Empowering Act 1907, the Board was empowered, subject to certain consents being given to acquire land, *inter alia*, for the purpose of obtaining spoil for carrying out the reclamation therein referred to: And whereas the Board has decided, *inter alia*, to acquire the land described in Schedule 1 hereto, and has obtained the necessary consents to such acquisition: And whereas adjacent to the said land and giving access thereto there are certain public streets of the Borough of Miramar, of which some (owing to the present configuration of the ground) are of excessive widths and others (when the spoil has been excavated and removed from the said land described in the said Schedule) will cease to serve as useful accesses thereto: And whereas the Borough desires that the existing Miramar Wharf should be considerably enlarged and improved, and that certain public streets contiguous thereto should for the purpose of providing better access be lowered and formed: And whereas the excavation and removal of the spoil from the said land, and the enlarging and improving of the said wharf, and the lowering and forming of the said streets will prove of material advantage to the Borough of Miramar: And whereas on the first day of May, nineteen hundred and eight, the parties hereto entered into an agreement to facilitate the carrying-out of certain reclamation therein referred to and the lowering and forming of the said streets, which agreement they now desire to modify, alter, and amend: And whereas the Board has promoted in the present session of Parliament a Local Bill (No 53) intituled the Wellington Harbour Board Reclamation and Empowering Act 1908, under which it seeks power, *inter alia*, to reclaim from the sea certain lands more particularly shown on a plan deposited in the office of the Marine Department, in Wellington, and marked MD 3187, and thereon denoted as the Fifth and Ninth Schedules, and also to obtain payment from each and every person having any estate or interest in lands within the area of land described therein (which said area of land includes the Borough of Miramar) of a sum of money equal to the increase in value of his land which should be caused by the Board exercising any of the powers of reclamation sought thereunder to be obtained, or executing any works on any of the lands referred to therein and authorised thereby or by any other Act: And whereas the Miramar Borough Council (whilst generally recognising the princi-

ple that if through the expenditure by a local authority of moneys in the execution of public works lands in the vicinity of such works are directly benefited, then the owners of such lands should pay to such local authority for or towards the cost of the execution of such works a rate, subsidy, or sum of money) considers that if the power to obtain the payment of a subsidy or sum of money from those directly benefited by the works of the Board in the manner set out in the aforesaid Bill were vested in the Board it would prove detrimental to the general interests of the Borough of Miramar and of the owners of land therein, and has therefore requested the Board to refrain from seeking such power in any such form, and desires the Board to carry out the works herein enumerated within the period herein stated, which the Board (but without prejudice to its right to seek statutory power to obtain payment for betterment as hereinafter provided) has agreed to do upon the Borough paying to it the sums of money herein set out and executing these presents: Now these presents witness, and the Board and Borough do each with the other covenant in manner following, that is to say:—

1

The Borough will, so soon as the Board has acquired the fee-simple of all the land described in Schedule 1 hereto, close the public street known as Queen's Terrace; and also, so soon as the Board has acquired such fee-simple and has also complied with the conditions set forth in clauses two, three, and five hereof, close so much of the remainder of the streets on the land described in Schedule 2 hereto as lies beyond the boundaries of the eighty-foot public street referred to in clause two hereof; and will forthwith thereafter transfer to the Board so much of the land described in Schedule 2 as lies beyond the boundaries of the said eighty-foot street.

2

The Board will excavate and lower, and forthwith thereafter construct in the manner hereunder described, at a level of fifty feet above the level known as the Wellington City datum, and to an uniform width of sixty-six feet, such portion of the western end of the public street known as Miramar Avenue as is or may be found to be above such level (the southern boundary of such lowered and constructed portion thereof to coincide with the southern boundary of the said public street as the

same is shown on a plan marked 1335 deposited in the office of the District Land Registrar in Wellington); and the Board will also construct across the lands described in the First and Second Schedules hereto, or across reclaimed land immediately adjacent thereto, from the southern to the northern boundaries thereof, and in continuation of the existing roadway known as Miramar Quay abutting on to the southern boundary thereof, and at the same level as and so as to connect with the constructed portion of Miramar Avenue hereinbefore referred to, but suitably graded so as to connect with existing roadways, a public street of an uniform width of eighty feet; and the Board may for purposes of access construct across such portions of the lands described in the First and Second Schedules hereto as are from time to time in it vested, and across any reclaimed land immediately adjacent thereto, and in continuation (with the consents of the owners) thereof across adjacent lands, such streets of an uniform width of not less than sixty-six feet as may from time to time to it seem necessary or desirable: Provided, however, that all streets referred to in this clause shall be constructed by the Board in accordance with the specifications this day signed for identification by the Town Clerk to the Borough and the Acting-Secretary to the Board; and the Borough will, on construction of the said streets in accordance with this proviso, take over and maintain and light the same: Provided further that during the construction of the works the Board will use its best endeavours to facilitate traffic over the said streets.

3

The Board will, when constructing the western end of the Miramar Avenue as aforesaid, and constructing the said eighty-foot public street, provide and lay therein sewage drains of sufficient size and suitable for the requirements of the lands described in the First and Second Schedules hereto, and of any reclaimed land immediately adjacent thereto; and, further, will lay therein such water-service pipes, fire-plugs, stop-cocks, and accessories thereto (hereinafter called water-pipes) suitable for the requirements of the aforesaid lands as the Borough may desire, provided the Borough supply to the Board, on or before the thirty-first day of March, nineteen hundred and nine,

details as to the sizes and positions of the said sewage-drains and water-pipes, and further supply the said water-pipes within six calendar months after receiving notice in writing from the Board that the same are required for the purpose of being laid; and if the Borough should fail or neglect to supply the said details by the date aforesaid, or the said water-pipes after receiving notice as aforesaid, then the Board shall be entirely freed from the obligations or either of them incurred by it under the provisions of this clause and in respect of which failure or neglect, as the case may be, on behalf of the Borough has taken place.

4

The Board will, immediately after the provisions of clause two hereof have been given full effect to, transfer to the Borough for the purposes of a public thoroughfare, and to be subsequently dedicated as a public street, to give access between the public streets known as the Old Farm Road and Miramar Quay as constructed hereunder, a strip of land sixty-six feet wide at the southern end of the lands described in the First and Second Schedules hereto (such strip being shown on the aforesaid plan marked MD 3187); and the Borough will take over, and if and when it thinks fit construct, maintain, and light the same.

5

The Board will alter or add to the existing Miramar Wharf in such manner as to provide sufficient and suitable wharf accommodation for at least one inter-colonial going coal-carrying steamer, one coastal timber-carrying vessel, and one harbour ferry steamer to lie thereat and discharge and receive cargo and set down and take on passengers at one and the same time (the longest berth thereat to be three hundred and fifty feet in length with a minimum depth of water alongside—if such be reasonably obtainable—of twenty-eight feet below mean low-water level); and the Board will lay thereon on each side thereof (except at the berth for ferry steamers) a narrow-gauge double line of tram-rails suitable for the carriage in trucks thereon of coal, timber, bricks, or other cargo, and will extend the same to the seaward boundary of the public street on to which the said wharf abuts, such tram-rails to be and remain under the

sole control of the Board, and to be for the use (without extra charge specially imposed therefor, but subject to such regulations and restrictions as may from time to time be made under the by-laws of the Board) of all persons receiving or forwarding coal, timber, bricks, or other cargo at or from the said wharf, and desiring to convey the same from or to a vessel lying thereat in trucks; and the Borough will (subject to the provisions of the Tramways Act 1908, or any other statutory provision controlling the Borough in that respect) grant reasonable facilities upon reasonable terms to any person or company desiring to lay rails upon the following public streets in the Borough of Miramar—namely, Miramar Avenue to its junction with King’s Road, Miramar Quay, King’s Road, and any new streets that may hereafter be constructed by the Board in accordance with the terms of these presents, and upon such other public streets in the Borough of Miramar as the Borough may from time to time think fit to connect with the aforesaid rails laid by the Board on the said wharf; or the Borough may itself lay such rails and grant the use thereof to any such person or company upon reasonable terms for such use: Provided, however, that the provisions of this clause as to the Borough granting facilities for the laying of rails upon the public streets of the Borough of Miramar may at any time hereafter be revoked or altered (but without prejudice to any then existing contracts granting such facilities entered into by the Borough) by agreement between the parties, or in the event of their failing to agree, then upon such terms as shall be fixed by the Minister for the time being in charge of the Public Works Department acting as umpire between the parties, whose decision thereon shall be final and binding upon both parties.

6

The Borough will, if and so long as it is in a position to supply water to its ratepayers (but subject to such rules and regulations as to the laying of the necessary pipes as are at the time in force under the by-laws of the Borough), supply to the Board at the said wharf or at any other wharf abutting or that may abut on to land within the Borough of Miramar, and for uses in connection with any such wharf, or for sale by the Board (at such prices as may from time to time to the Board seem

just and reasonable, but not, however, to bring to the Board a greater net profit than ten per centum) to vessels lying thereat, water at a price per thousand gallons to be from time to time determined by the Borough, such rate, however, at no time to exceed an advance of five per centum on the rate per thousand gallons charged by the Borough at such time to manufacturers within the Borough of Miramar for an **extraordinary** supply of water measured by meter or otherwise.

7

The Board may, upon such terms as to payment and otherwise as may be agreed upon, grant to the Borough or to any person or company owning or having any interest in property within the Borough of Miramar the right to lay down and maintain under or through any of the works of the Board pipes for the conveyance of sea-water from or to the harbour.

8

The Borough hereby consents that all or any part of the reclamation shown on the said plan marked MD 3187 that may be carried out by the Board may be included within the boundaries of the City of Wellington, save and except such portion thereof as lies to the north-eastward of a right line drawn from the point C on the said plan marked MD 3187 to the westernmost point of the lands described in Schedule 2 hereto, which said portion shall form a part of the Borough of Miramar. But the provisions of section 154 of the Municipal Corporations Act 1908, as to the control, cost of construction, and maintenance of a public highway lying along the boundary of two boroughs shall extend and apply to all existing and future public streets lying along the boundary between the Borough of Miramar and the City of Wellington, as the same may be altered or extended consequent upon the carrying-out of any reclamation and the carrying into effect of the provisions of this clause.

9

The whole of the lands described in the First and Second Schedules hereto, together with such part of any land as may hereafter be reclaimed and be within the Borough of Miramar, shall be liable to the Borough for rates; provided, however, that so long as any portion of such lands remains

the property of the Board, and is neither let nor leased, such portion shall, if contained within the area of land described in Schedule 1 hereto, be only liable for rates on the basis of the values obtaining at the date of these presents (a schedule whereof is hereto attached, and for purposes of identification signed by the Town Clerk to the Borough and the Acting-Secretary to the Board), but if contained within the area of land described in Schedule 2 hereto or the area of reclaimed land referred to above be wholly exempt from rates.

10

The Board will, prior to the thirty-first day of December, nineteen hundred and nine (provided that the special loan referred to in clause twelve hereof shall have been sanctioned), actually commence and will thenceforth proceed with and use all proper and necessary diligence to have the same completely finished within eighteen calendar months from the said thirty-first day of December, nineteen hundred and nine, the following works—namely, the excavating, lowering, and forming to a width of sixty-six feet of the western end of Miramar Avenue; the constructing and forming of the eighty-foot public street in continuation of Miramar Quay; and the constructing of additions and improvements to the existing Miramar Wharf—as the same are respectively described in clauses two, three, and five of these presents.

11

The Borough will, in consideration of the improvements to the Borough of Miramar and benefits to the individual owners of land therein arising or that may arise from or out of the completion of the works enumerated in the last preceding clause within the time therein intended, and the reclaiming of any land necessary for the full completion of the said works, pay to the Board by way of subsidy on completion of the said works, but not prior to the thirtieth day of June, nineteen hundred and eleven, the sum of two thousand dollars; and will also pay to the Board on the thirtieth day of June in each of the four succeeding years—namely, nineteen hundred and twelve to nineteen hundred and fifteen, both inclusive, a like sum of two thousand dollars; and the Board on its part, in consideration of such payment, will not at any time hereafter claim or

levy (even if it should obtain statutory powers so to do), either from the Borough or from any person, company, or corporation owning any land or interest in land within the Borough of Miramar, any further sum of money, rate, toll, or charge in respect of the improvements and benefits aforesaid.

The reference to “two thousand dollars” was substituted, as from 10 July 1967, for a reference to “one thousand pounds sterling” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

12

The Borough will, within a period of six calendar months from the passing of an Act empowering the carrying-out of these presents, cause a poll of the rate-payers of the Borough of Miramar to be taken in the manner provided under the Municipal Corporations Act 1908, or the Local Bodies Loans Act 1908, with the view of confirming these presents or such portions or clauses thereof as the Miramar Borough Council may deem necessary, and the sanctioning by such ratepayers of a special loan of ten thousand dollars (or such lesser sum as to the Miramar Borough Council may seem necessary, provided the said Council produces to the Board satisfactory evidence of its ability to meet the balance), out of which it can meet the liabilities incurred by it under the last preceding clause; and the Board will insert a clause in the said Local Bill authorising the submission by the Borough to such ratepayers of the question of such confirmation and the raising of such special loan.

The reference to “ten thousand dollars” was substituted, as from 10 July 1967, for a reference to “five thousand pounds sterling” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

13

The Board will not at any time prior to the thirtieth day of June, nineteen hundred and sixteen (even if then), levy higher rates, dues, or other charges at the wharf referred to in clause five hereof than it is at such time levying at the wharves in Lambton Harbour from ships or on similar classes of goods.

14

The Board will withdraw section twelve of the said Local Bill (No 53), but without prejudice to its right at any future time to seek statutory power to obtain payment for betterment arising out of reclamations or works other than those set out in

clauses ten and eleven hereof in some other manner, and also without prejudice to the right of the Borough or its Council to fully oppose the granting of any such power, notwithstanding anything herein contained.

15

The Borough will actively assist the Board in every possible manner (otherwise than financially) in its endeavours to have enacted during the present or the next ensuing session of Parliament the said Local Bill, amended however in accordance with the provisions and spirit hereof, but with power to the parties hereto to carry out the terms of this deed in lieu of those of the said agreement of the first day of May, nineteen hundred and eight; and in the event of the said Bill amended as above not being enacted during the present session of Parliament, then the Board will promote during the next ensuing session of Parliament a like Bill similarly amended, and use its best endeavours to have the same enacted; but nothing herein contained shall be deemed to limit the right of the Board to use its discretion as to the area over which it shall seek powers of reclamation. The First and Second Schedules of any such Bill shall be the same as the First and Second Schedules hereto.

16

This deed is entered into upon the express terms that—

- (a) If the Board is unable for any reason whatsoever (other than any act or default on its own part) during the present or the next ensuing session of Parliament to obtain the statutory powers necessary to enable the terms of these presents to be carried out by the parties hereto; or
- (b) If the ratepayers of the Borough of Miramar refuse to confirm these presents and to sanction the raising of the special loan herein referred to,—

then and in either of such cases these presents shall cease to be of any force or effect, and the agreements herein contained shall be deemed to have been rescinded, and that without the necessity of the execution of any deed or document by the parties hereto; provided, however, and it is hereby expressly agreed and declare by and between the parties hereto, and these presents are upon this express condition, that as from the date hereof the said agreement of the first day of May, nineteen

hundred and eight, shall be deemed to be in abeyance (but not rescinded), and that in the event of these presents ceasing to be of any force or effect in manner aforesaid, then the said agreement of the first day of May, nineteen hundred and eight, shall thereupon receive and again become of full force and effect to all intents and purposes between the parties as if these presents had not been entered into.

In witness whereof the parties hereto have executed these presents, the day and year first hereinbefore written.

The common seal of the Mayor,
Councillors, and Burgesses of the
Borough of Miramar was hereunto
affixed in the presence of—

C J CRAWFORD, Mayor.

[LS]

NORRIS W BELL,
Councillor.

R E BENNETT, TOWN
Clerk:

The common seal of the Wellington
Harbour Board was hereunto affixed by
order of the said Board, in the presence
of—

THOMAS M WILFORD,
Chairman.

[LS]

R
FLETCHER,

F G BOLTON, Members.

H E NICHOLLS,
Acting-Secretary.