

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 6th November, 1945

[AS REPORTED FROM THE LANDS COMMITTEE]

House of Representatives, 21st November, 1945

[Amendment of Lands Committee shown with two bars at margin]

Mr. Armstrong

NAPIER HARBOUR BOARD AND NAPIER
BOROUGH ENABLING

[LOCAL BILL]

ANALYSIS

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A BILL INTITULED

AN ACT to enable the Napier Harbour Board and the Title.

- 5 Napier Borough Council, for the Purpose of providing Areas for Housing and the Expansion of the Borough of Napier, to enter into an Arrangement for the Development and Subdivision of certain Lands belonging to the Board, whereby, in Consideration of the Borough Council developing and subdividing such Lands, Parts Thereof are to be
- 10 transferred to and vested in the Corporation of the Borough; to enable the Borough Council to acquire other Lands and to develop and subdivide

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such Lands and other Lands owned by the Corporation; to enable the Borough Council to dispose of the said Lands in Allotments by way of Sale or Lease; to include the said Lands in the said Borough; and to confer Borrowing-powers on the Borough Council. 5

Preamble.

WHEREAS the Napier Harbour Board is the owner of the greater part of the lands described in the *First* and *Second* Schedules hereto: And whereas another part of the said lands is owned by the Corporation of the Mayor, Councillors, and Burgesses of the Borough of Napier: And whereas other parts of the said lands are privately owned: And whereas parts of the said lands are subject to leases and other limited interests: And whereas the said lands lie outside the Borough of Napier, but are contiguous thereto: And whereas the said lands or parts thereof require reclaiming, raising, filling in, levelling, and draining in order to render the same suitable for subdivision into building allotments: And whereas, in order to provide areas for housing and for the expansion of the said borough, it is desirable that the said lands should be developed and subdivided: And whereas it is desirable that the lands described in the *First* Schedule should be included in the said borough immediately, and that the lands described in the *Second* Schedule hereto should be included in the said borough progressively part by part as the said lands described in the *Second* Schedule hereto may be required for development and subdivision: And whereas the Board and the Napier Borough Council propose to enter into an arrangement whereby, *inter alia*, the Borough Council shall at its own expense carry out the work of reclaiming, raising, filling in, levelling, draining, developing, roading, servicing, and subdividing the whole of such part of the said lands as is owned by the Board in consideration of the Board vesting the fee-simple of part of such lands in the Corporation: And whereas the Borough Council may desire on behalf of the Corporation to acquire the interests of any other persons in such

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parts of the said lands as are not owned by the Board or the Corporation: And whereas the Borough Council is desirous of reclaiming, raising, filling in, levelling, draining, developing, roading, subdividing, and making available for building sites the whole of such part of the lands described in the *First* and *Second* Schedules hereto as are not owned by the Board as and when the same may be required for the expansion of the said borough: And whereas it is necessary or desirable that provision should be made for parks, reserves, and plantations on, in, and through the said lands described in the *First* and *Second* Schedules hereto, and that the Board and the Borough Council should have the powers and authorities in relation thereto conferred by this Act:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Napier Harbour Board and Napier Borough Enabling Act, 1945. Short Title.

2. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1923. Special Act.

3. In this Act, unless the context otherwise requires,— Interpretation.

“ Board ” means the Napier Harbour Board:

25 “ Borough ” means the Borough of Napier:

“ Corporation ” means the Corporation of the Borough of Napier:

“ Council ” means the Napier Borough Council:

30 “ The said lands ” means the lands described in the *First* and *Second* Schedules hereto.

4. (1) The Board may from time to time lease to the Council and the Council may take a lease or leases of such portion of the said lands as is owned by the Board or any part or parts of such lands, at such rental or rentals, for such term or terms, with or without right of renewal, and upon such conditions, as the Board and the Council may agree upon. Powers of Board and Borough Council.

35 (2) The Board may from time to time sell to the Council and the Council, on behalf of the Corporation, may purchase the fee-simple of such portion of the said lands as is owned by the Board or any part or

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parts thereof, at such price or prices and upon such terms of payment as the Board and the Council may agree upon, and the whole or part of the consideration for any such sale may be the reclaiming, raising, filling in, levelling, draining, roading, servicing, and subdividing by the Council of the portion of the said lands retained by the Board or any part or parts thereof. 5

(3) The Board and the Council may enter into and carry out ~~an~~ any agreement or agreements supplemental to or ~~separately and~~ independent of any lease or leases as aforesaid containing a comprehensive scheme or schemes to provide for all or any of the following purposes, that is to say:— 10

- (a) The reservation from sale or long-term or renewable lease by the Board of such parts of the said lands as are owned by the Board and the contracting by the Board with the Council to keep and make available as required for the expansion of the borough such parts of the said lands as may from time to time be necessary to enable the carrying-out of the scheme of development contemplated by the Board and the Council; 15
- (b) The reclaiming, raising, filling in, levelling, draining, roading, servicing, and subdividing by the Council of such portion of the said lands as is owned by the Board or any part or parts thereof; 20
- (c) The dedication of portions of the said lands for streets; 30
- (d) The transferring to the Corporation of portions of the said lands for reserves and parks;
- (e) The establishment of plantations on parts of the said lands, either permanently or for a period; 35
- (f) The sale of any part or parts of the said lands to the Corporation; and
- (g) Generally all such other matters as the Board and the Council may think necessary for the development, improvement, and beautifying of the said lands or any portions thereof and the making of the same or any portions thereof suitable for building sites. 40

(4) Without prejudice to the generality of the foregoing powers, the Board and the Council may in any such lease or in any such agreement make provision for and agree upon all or any of the following
5 acts, matters, and things:—

10 (a) That the Board shall dedicate to the Corporation, and the Corporation shall accept dedication for streets of such portions of the said lands owned by the Board as the Board and the Council may agree upon, and that each such dedication shall be made and accepted although the land included therein may not be formed as provided in subsection
15 five of section one hundred and twenty-five of the Public Works Act, 1928; and this Act shall be sufficient authority for the District Land Registrar to register any such dedication:

20 (b) That the Council shall rebate the payment of any rates or portion of the rates payable by the Board to the Council in respect of the whole or any part or parts of the said lands, and shall pay and indemnify the Board against payment of the rates or portion of
25 the rates which shall be levied by the Council or by any other rating authority in respect of the said lands or any part or parts thereof for such period as the Council and the Board may in any such agreement agree upon:

30 (c) Such other provisions (including a provision for payment of damages on default) as the Board and the Council may agree upon.

5. The Board and the Council may do and perform
35 and carry out all works, matters, obligations, and things which in and by any such lease and in and by any such agreement they respectively undertake to do, perform, and carry out, and also all works, matters, acts, and things ancillary to or which by them respectively may be deemed advisable or necessary for the
40 purposes contained in any such lease and in any such agreement, and any such lease and any such agreement shall be valid and binding upon the parties thereto.

Ancillary
powers.

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Struck out

6. Every transfer or lease from the Board to the Corporation pursuant to this Act, and any agreement between the Board and the Corporation entered into, executed, or registered pursuant to this Act, shall be exempt from all stamp duties under the Stamp Duties Act, 1923.

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New

Provision as to
stamp duties.

6A. (1) The stamp duty on any lease or agreement to lease from the Board to the Corporation pursuant to this Act shall not exceed the duty chargeable on a deed not otherwise charged.

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(2) For the purposes of the assessment of stamp duty on any transfer, or on any agreement for the transfer, from the Board to the Corporation pursuant to this Act of any land included in the *First* Schedule hereto, the value of the land shall be taken to be the value as ascertained, on the basis of area, from the district valuation roll in force on the passing of this Act.

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(3) For the purposes of the assessment of stamp duty on any transfer, or on any agreement for the transfer, from the Board to the Corporation pursuant to this Act of any land included in the *Second* Schedule hereto, the value of the land shall be taken to be the value as ascertained, on the basis of area, from the district valuation roll in force on the date when the land became included in the borough or on the date of the transfer or agreement, whichever is the earlier.

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Struck out

Part III of
Servicemen's
Settlement and
Land Sales Act
not to apply in
certain cases.

7. Nothing in Part III of the Servicemen's Settlement and Land Sales Act, 1943, shall apply to any lease, sale, or transfer or agreement to lease, sell, or transfer from the Board to the Corporation executed pursuant to the powers conferred by this Act.

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Powers of
Borough
Council.

8. (1) ~~The~~ *For the purposes of this Act the* Council, on behalf of the Corporation, may acquire, purchase, or take under the provisions of the Public Works Act, 1928, ~~the fee-simple in~~ any part of the said lands not owned by the Board or the Corporation, and may acquire, purchase, or take under the provisions of that Act any leasehold or other interest less than the fee-simple in any part of the said lands, whether owned by the Board

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or the Corporation or not. *All works which the Council is under this Act authorized to carry out shall be deemed to be public works within the meaning of the Public Works Act, 1928.*

- 5 (2) The Council may carry out works for the reclamation, raising, filling in, levelling, draining, roading, servicing, and subdividing of the whole or any part of the said lands now or hereafter owned or acquired by the Corporation and (without in any way
10 limiting the foregoing provisions hereof) may lay out, construct, and dedicate, or accept dedication of, streets and footpaths, and may construct drains, sewers, water-supply, and any other works necessary or desirable for the subdivision and sale of the said lands
15 or any part or parts thereof.

- (3) The Council may use and employ any part or parts of the said lands owned or acquired by the Corporation for any lawful purpose for which land vested in a municipal corporation may be used and
20 employed; and the Corporation is hereby empowered to sell or lease the same or any part or parts thereof *by public application and ballot at fixed prices or rentals* or by public auction or by public tender and may give time for payment of purchase-moneys; and the Council
25 may subdivide the same or any part or parts thereof into allotments, lay out, make, form, and metal roads and streets through or along the same, erect workers' dwellings or other buildings on the same, lay out and maintain reserves on the same, and generally make and
30 do in connection with the same all such works, acts, and things as are conducive to any of the objects before mentioned or to any other lawful object:

- Provided that the Council shall not lease otherwise than from year to year or any lesser term any of the
35 said lands now owned by the Board and hereafter acquired by the Corporation from the Board pursuant to this Act.

- (4) All moneys received by the Council in respect of any sale or sales of land made under the provisions
40 of this section shall be utilized in repayment of any loan or loans raised under the provisions of the *next succeeding* section, and if any such a loan shall have

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been raised and a sinking fund provided in respect thereof such moneys shall be paid to the Sinking Fund Commissioners appointed in respect of such loan:

Provided that if the moneys received by the Council in respect of such sale or sales shall exceed the amount 5 of the loan or loans raised as aforesaid and remaining owing at the time of the receipt of such moneys by the Council, then such excess *on the completion of the scheme of works* shall be paid to the general funds of the Corporation. 10

Power to
borough to
borrow
moneys.

9. (1) The Council may from time to time, under and subject to the provisions of the Local Bodies' Loans Act, 1926, *by special order and without taking the steps prescribed by sections nine to thirteen of that Act*, raise a special loan or special loans for the purpose 15 of any of the works, matters, or things which the Corporation or the Council is by this Act or by any lease or agreement entered into pursuant to this Act authorized to carry out or undertake, including (but without in any way limiting the foregoing) the acquisition and taking of land and all legal, survey, and 20 other costs of and in connection with the preparation of this Act and the promotion thereof, the preparation and completion of all leases, agreements, and transfers pursuant to this Act, the exercise of any of the powers 25 conferred by this Act and the raising of the said loan or loans.

Struck out

The Council may pay any moneys out of its general fund for any such purpose or purposes and 30 may reimburse the general fund out of any such special loan or loans.

The Council may create the whole or any portion or portions of the said lands, whether continuous or not, a special-rating area in respect of 35 any loan to be raised for the purpose of providing a sewerage system to serve such lands.

Struck out

(2) Without limiting the power to borrow set forth in the *last preceding* subsection, the Council may raise 40 any special loan or special loans for all or any of the purposes set forth in the said subsections, not exceeding in the aggregate a sum of fifty thousand pounds by special order or special orders under the Local Bodies' Loans Act, 1926, without taking the steps prescribed in 50 sections nine to thirteen of that Act.

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10. (1) On the passing of this Act the lands described in the *First* Schedule hereto shall, by virtue of this Act, without any further authority or procedure, be and become, *ipso facto*, included in the borough, and the boundaries of the borough as altered by this subsection of this Act shall be forthwith defined by notice in the *Gazette* under the hand of the Minister of Internal Affairs pursuant to section one hundred and forty-seven of the Municipal Corporations Act, 1933.
- (2) The whole or any part of the lands described in the *Second* Schedule hereto may at any time be included in the borough in the manner prescribed by section one hundred and thirty-six of the Municipal Corporations Act, 1933, on the petition of the Council as if such petition were a petition of electors as required by paragraph (a) of the said section one hundred and thirty-six.

Inclusion of
lands in
borough.

SCHEDULES

Schedules.

FIRST SCHEDULE

Struck out

ALL the land containing approximately 278 acres and bounded as follows:

New

ALL that land in the Hawke's Bay Land District containing approximately 278 acres, being Part Ahuriri Lagoon Reserve, Part Blocks 47, 100, 121, Blocks 122, 124, and 125, Puketapu Crown Grant District, and Sections 6 and 16, and Part Section 7, Block IV, Heretaunga Survey District, and parts of public roads bounded as follows:

Commencing at the northernmost point of the block at the north-east corner of the junction of Taradale and Riverbend Roads at the boundary of the Borough of Napier, and proceeding in a south-easterly direction along the north-east side of Riverbend Road for a distance of 5522 links; thence in a south-westerly direction for a distance of 1100 links on a bearing of $251^{\circ} 46'$; thence in a south-easterly direction for a distance of 29.7 links on a bearing of $161^{\circ} 46'$; thence continuing in a south-westerly direction for a distance of 6085.6 links on a bearing of $228^{\circ} 22'$ to the centre of Meeanee Drain; thence following the centre of this drain in a north-westerly direction for a distance of 5104.7 links on a bearing of $340^{\circ} 37'$ to the south-east side of Taradale

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Road; and thence following the south-east side of the Taradale Road in a general north-easterly direction for a distance of 4348·2 links, back to the commencement, *as the same is delineated on plan marked M.D. 8427 deposited in the office of the Marine Department at Wellington and thereon edged yellow.*

Except where the above lines follow actual road-lines, the bearings and distances are approximately only and subject to correction after survey.

SECOND SCHEDULE

Struck out

ALL the land containing approximately 787 acres and bounded as follows:

New

ALL that land in the Hawke's Bay Land District containing approximately 787 acres, being Part Ahuriri Lagoon Reserve, Part Te Whare-o-Maraenui Block, Blocks 96 and 123, Part Blocks 47, 95, 100, 101, 121, Puketapu Crown Grant District, Part Section 1, Meeanee Suburban Sections, and parts public roads and part of an old stream-bed and part Section 7, Block IV, Heretaunga Survey District, bounded as follows: Commencing at the south-eastern corner of Taradale and Hyderabad Roads at the boundary of the Borough of Napier, and proceeding in a north-westerly direction along the borough boundary across Taradale Road for a distance of 113·3 links; thence in a south-westerly direction along the north-western side of Taradale Road for a distance of approximately 1300 links, to and across the old Tutae-kuri River bed; thence in a general westerly direction along the left bank of the old Tutae-kuri River bed for a distance of approximately 4010 links, thence in a south-westerly direction for a distance of 1750 links on a bearing of $195^{\circ} 30'$, and a distance of approximately 1910 links on a bearing of $223^{\circ} 30'$, to and across the Meeanee Drain; thence in a south-easterly direction for a distance of approximately 940 links on a bearing of $137^{\circ} 30'$; thence in a south-westerly direction for a distance of approximately 500 links on a bearing of $227^{\circ} 30'$ a distance of 4250 links on a bearing of $217^{\circ} 30'$, and a distance of 4850 links on a bearing of $193^{\circ} 44'$; thence in a south-easterly direction to and across Taradale Road and Kennedy Road Extension, and continuing for a total distance of 7740 links on a bearing of $101^{\circ} 16'$; thence in a north-easterly direction for a distance of approximately 2600 links on a bearing of $20^{\circ} 30'$, a distance of approximately 1780 links on a bearing of $37^{\circ} 30'$; and a distance of approximately 1800 links on a bearing of $81^{\circ} 30'$; thence in a north-westerly direction for a distance of approximately 150 links on a bearing of $337^{\circ} 50'$; thence in a north-easterly direction for a distance of approximately 500 links on a bearing of $67^{\circ} 50'$ to the south-western side of Riverbend Road; thence following this western side of

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Riverbend Road in a general northerly direction for a distance of approximately 3152 links; thence in a south-easterly direction across Riverbend Road for a distance of 1159 115·9 links on a bearing of $137^{\circ} 30'$ to the eastern side of Riverbend Road at its junction with Geddis Avenue on the boundary of the Borough of Napier; thence following the boundary of the borough along the eastern side of Riverbend Road in a north-easterly direction for a distance of 681·9 links ~~and round the left bank of the early river channel in a~~; *thence easterly on a bearing of $90^{\circ} 56'$ and distance of 43·25 links; thence by the left bank of an old bed of the Tutaekuri River in a general northerly, westerly, and south-westerly direction for a distance of approximately 5875 links back to the eastern side of Riverbend Road; thence in a south-easterly direction along the north-eastern side of Riverbend Road for a distance of 1288·5 links to the most easterly corner of the land referred to in the First Schedule; thence in a south-westerly direction across Riverbend Road and continuing for a total distance of 1100 links on a bearing of $251^{\circ} 46'$; thence in a south-easterly direction for a distance of 29·7 links on a bearing of $161^{\circ} 46'$; thence in a south-westerly direction for a distance of 6085·6 links on a bearing of $228^{\circ} 22'$ to the centre of the Meeanee Drain; thence following this drain in a north-westerly direction for a distance of 5104·7 links on a bearing of $340^{\circ} 37'$ to the south-eastern side of the Taradale Road; and thence following this south-eastern side of Taradale Road in a north-easterly direction for a distance of approximately 8950 links, back to the commencement, as the same is delineated on plan marked M.D. 8427 deposited in the office of the Marine Department at Wellington and thereon edged red.*

Except where the above lines follow actual road-lines, the bearings and distances are approximately only and subject to correction after survey.