

*Mr Townshend*

**TAURANGA CITY COUNCIL AND MOUNT  
MAUNGANUI BOROUGH COUNCIL (TAURANGA  
HARBOUR BRIDGE) EMPOWERING AMENDMENT**

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[LOCAL]

ANALYSIS

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A BILL INTITULED

**An Act to amend the Tauranga City Council and Mount  
Maunganui Borough Council (Tauranga Harbour  
Bridge) Empowering Act 1972**

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

10 **1. Short Title**—This Act may be cited as the Tauranga City  
Council and Mount Maunganui Borough Council (Tauranga  
Harbour Bridge) Empowering Amendment Act **1985**, and shall  
be read together with and deemed part of the Tauranga City  
Council and Mount Maunganui Borough Council (Tauranga  
Harbour Bridge) Empowering Act 1972 (hereinafter referred  
to as the principal Act).

No. 80—1

**2. Interpretation**—Section 2 of the principal Act is hereby amended by repealing the definition of the term “united Councils”, and substituting the following definition:

“ ‘United Councils’ means the City Council, the Borough Council, and the Harbour Board united for the purposes of this Act in accordance with section 239 of the Local Government Act 1974:”.

**3. Empowering Harbour Board to unite with City Council and Borough Council in construction, etc., of bridge**—The principal Act is hereby amended by inserting, after section 3, the following section:

“3A. (1) The City Council, the Borough Council, and the Harbour Board shall each have, and shall each be deemed always to have had, all such powers as are necessary or expedient for giving effect to the purposes of this Act.

“(2) Without limiting the generality of subsection (1) of this section, the City Council, the Borough Council, and the Harbour Board shall each have, and shall each be deemed always to have had, the following powers:

“(a) To unite, pursuant to section 239 of the Local Government Act 1974, for the purposes of this Act:

“(b) To unite, pursuant to section 105 of the Local Government Act 1974, in appointing a joint standing or special committee for the purposes of this Act:

“(c) To enter into the deed set out in the Schedule to this Act, and to do all such acts and things as are necessary or expedient for giving effect to the deed:

“(d) With the consent of the Minister of Local Government, to agree to amend the deed set out in the Schedule to this Act:

“(e) Subject to the Local Authorities Loans Act 1956, to borrow money for the purposes of the construction or operation of the bridge:

“(f) To pay money towards the operation of the bridge, including the payment of interest and other debt charges.”

**4. Bylaws**—Section 21 of the principal Act is hereby amended by adding the following subsection:

“(3) Except as may be otherwise provided in the bylaw, every bylaw made pursuant to this section shall apply in respect of the whole bridge, and shall be enforceable at the action of any

one of the City Council, the Borough Council, or the Harbour Board notwithstanding that a breach of the bylaw may occur on any part of the bridge not within the district of that local authority.”

- 5 **5. New Schedule substituted**—The principal Act is hereby amended by repealing the Schedule, and substituting the Schedule set out in the Schedule to this Act.

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SCHEDULE

Section 5

NEW SCHEDULE TO PRINCIPAL ACT

“SCHEDULE

Section 3A (2) (c), (d)

DEED made this 27th day of November 1984 between the Tauranga City Council (hereinafter called “the City Council”) of the first part and the Mount Maunganui Borough Council (hereinafter called the Borough Council”) of the second part and the Bay of Plenty Harbour Board (hereinafter called “the Board”) of the third part: Whereas the parties are joint promoters of a Local Bill to amend the Tauranga City Council and Mount Maunganui Borough Council (Tauranga Harbour Bridge) Empowering Act 1972 (hereinafter called “the Act”): And whereas the parties have agreed to establish a joint committee comprising representatives from each of the parties for the construction, maintenance, management and control of the Tauranga Harbour Bridge and to share the cost of the bridge in a certain manner: Now therefore this deed witnesseth as follows:

1. The parties hereto shall forthwith upon the passage of the said Local Bill through the House of Parliament establish a joint committee to be called the Tauranga Harbour Bridge Committee (hereinafter called “the Committee”) which shall be constituted as follows:

- (i) The Committee shall consist of 9 persons, 3 of whom shall be appointed by each of the parties hereto from their respective members and such appointments shall be made within two (2) months after the date of the passage of the said Bill.
- (ii) **Appointment**—The members of the Committee shall be appointed after the first appointment within two (2) months next after each triennial local body elections and the members shall continue in office until their successors are appointed provided that any party may at any time revoke the appointment of any of its members and appoint another member in his stead.
- (iii) **Resignation, etc., of members**—A member of the Committee may resign his office at any time by notice in writing addressed to the Secretary of the Committee and in that event or in the event of his death or in the event of his ceasing to be a member of the City Council, the Borough Council or the Board, the vacancy thus occurring shall be filled forthwith by that party whose appointee had so resigned, ceased to be a member, or died. The

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SCHEDULE—*continued*

person filling the vacancy thus occurring shall, subject as aforesaid, continue in office for the residue of the term of the person so ceasing to be a member.

- (iv) **Election**—At the first meeting of the Committee, and at the first meeting of the Committee after every succeeding triennial local body elections, the Committee shall elect one of its members to be Chairman of the Committee who shall hold office for one year, when a new election shall take place. At every meeting for the election of a Chairman the Secretary shall preside and in the case of an equality of votes the Chairman shall be determined by lot in such manner as the Secretary shall decide.
- (v) **Voting**—
- (a) All questions before the Committee shall be determined by a majority of votes cast but the Chairman shall not be entitled to exercise a casting vote.
- (b) The members present representing each party at a meeting of the Committee shall be entitled to exercise the full number of votes to which all the members appointed by such party would have been entitled whether or not they are all present.
- (vi) **Quorum**—No business shall be transacted by the Committee except at meetings at which there is a quorum which shall consist of not less than two members from each party.
- (vii) **Substitutes**—In the event of any member of the Committee not being able to attend a meeting the Mayor or Chairman of the party which appointed him may by notice to the Secretary of the Committee, appoint a substitute for such member from the members of that party and such substitute shall at the meetings at which he or she attends have all the rights and powers of a member of the Committee.
- (viii) **Secretary**—The Committee shall appoint a Secretary who shall record all minutes of decisions and proceedings of the Committee and such minutes and all correspondence and documents of the Committee shall be available for inspection at any time by any member of the City Council or of the Borough Council or of the Board or by any officer of the parties duly appointed for that purpose.
- (ix) **Notices**—Notices of meetings of the Committee shall be sent to each member of the Committee not less than 48 hours prior thereto and shall contain reasonable information as to the business to be transacted thereat. Members present may by unanimous decision consider any ordinary business introduced without notice. Each party shall have the right to have any of its executive staff present at all meetings except where they are excluded by resolution of the Committee.
- (x) **Powers of Committee**—The Committee shall not have the power to take or acquire land, to hold licences, to borrow money, or to levy rates but such land and buildings as may be requisite or expedient to be acquired and held shall be acquired and held by the parties hereto as tenants in common in the proportionate

SCHEDULE—*continued*

shares hereinafter mentioned and upon and subject to the purposes and conditions of these presents but if the parties agree may be held by any party solely or in unequal shares.

- (xi) **Function of Committee**—The parties hereby delegate to the Committee such powers and functions and authorities as they shall jointly vest in the Committee subject however to the provisions of section 104 of the Local Government Act 1974 and section 38 of the Harbours Act 1950.
- (xii) **Reports**—The Committee shall make regular reports to and submit copies of all minutes and reports on all business to each of the parties hereto and shall receive and consider all comments and recommendations made to it by any of the parties hereto.
- (xiii) **Banking account**—The Committee shall open a general bank account and such accounts as the Audit Office may approve into which shall be paid all moneys received by the Committee and all payments shall be made by cheque or other negotiable instrument. The Committee shall from time to time authorise an officer or member of the Committee to endorse cheques or other negotiable instruments payable to the Committee and any two persons of whom at least one shall be a member of the Committee and the other a member or officer of the Committee or an officer of one of the parties to sign cheques and withdrawals from such accounts.
- (xiv) **Accounts**—The accounts of the Committee shall be maintained as from time to time agreed by the parties with the approval of the Controller and Auditor-General but subject to the following: All preliminary expenses, costs of raising loans and interest on loan money raised prior to the opening of the Bridge shall be paid from loan money so far as may be provided for in the consent of the Minister of Finance under section 3 of the Local Authorities Loans Act 1956.

**2. Details of allocation of costs**—The Committee shall at all times keep the parties hereto fully informed of all details of the proposed works and the cost thereof and the parties hereto agree that these costs, together with the preliminary expenses including all proper expenses already incurred by the parties shall be paid or repaid as the case may be from loan moneys raised pursuant to the Empowering Act the parties accepting responsibility for such loans in the proportionate shares.

**3. Charges on revenue**—Revenue from the bridge operations shall be allocated in the following order of priorities:

1. Operating expenses of the bridge.
2. Interest charges on loans.
3. Capital repayment of loans in such priority as the committee determines (or sinking funds).
4. Any surplus to be divided in the proportionate shares.

With the consent of all the parties the above priorities may be altered or added to.

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SCHEDULE—*continued*

**4. Promotion of legislation**—The parties agree to take all such steps as may be necessary or desirable to support and promote the enactment of all legislation or other authorities which may be required to give full effect to and validate the provisions of this deed and of the said Local Bill and the various operations specified therein.

**5. Deficits and surpluses**—Any net deficit and any net surplus from the operations of the Committee shall be shared between the parties hereto in the proportionate shares.

**6. Proportionate share shall mean—**

- (a) In the case of the City Council a one-half share.
- (b) In the case of the Board a one-third share.
- (c) In the case of the Borough Council a one-sixth share.

**7. Amendment**—The terms of this deed may be amended from time to time by agreement between the parties hereto with the consent of the Minister of Internal Affairs.

**8. Arbitration**—All differences and disputes which shall arise between the parties hereto touching or concerning the premises or any act, deed, matter, or thing to be done, suffered, or remitted in pursuance hereof or touching or concerning the construction of these presents shall be referred to Arbitration in accordance with the provisions of the Arbitration Act 1908 or any amendment thereto or re-enactment thereof for the time being in force. The arbitration shall be conducted by one arbitrator if the parties agree and if not then by three arbitrators one to be appointed by each party and the umpire appointed by such arbitrators immediately after they are themselves appointed.

In witness whereof these presents have been executed the day and year first hereinbefore appearing.

The Common Seal of the Tauranga  
City Council was hereto affixed by  
and in the presence of—

[L.S.]

N. F. Pope, Mayor.  
M. C. Montacute, City Manager.

The Common Seal of the Mount  
Maunganui Borough Council was  
hereto affixed by and in the presence  
of—

[L.S.]

W. D. Moultrie, Mayor.  
K. Clarke, Councillor.  
V. B. Cunningham, Town Clerk.

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SCHEDULE—*continued*

The Common Seal of the Bay of  
Plenty Harbour Board was hereunto  
affixed pursuant to a resolution of the  
Board in the presence of—

[L.s.]

F. G. McKenzie, Chairman.

A. W. Grayburn, Member.

A. J. Herbert, Secretary.