

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 2 April 1985.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Mr Townshend

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

[LOCAL]

ANALYSIS

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City Council and Borough Council in
construction, etc., of bridge
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Schedule

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:

1. **Short Title**—This Act may be cited as the Tauranga City
Council and Mount Maunganui Borough Council (Tauranga
10 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—2

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2. Interpretation—(1) 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*) Authorities’ 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:” 5

New

(2) The principal Act is hereby amended by omitting the words “united Councils” wherever they occur, and substituting in each case the words “united Authorities”. 10

2A. Special Act—Section 3 of the principal Act is hereby amended by omitting the words “within the meaning”, and substituting the words “for the purposes”.

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: 15

“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. 20

“(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: 25

“(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: 30

“(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: 35

Struck Out

“(d) With the consent of the Minister of Local Government, to agree to amend the deed set out in the Schedule to this Act: 35

Struck Out

- “(e) Subject to the Local Authorities Loans Act 1956, to borrow money for the purposes of the construction or operation of the bridge:
- 5 “(f) To pay money towards the operation of the bridge, including the payment of interest and other debt charges.”

New

- 10 “(d) 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, maintenance, and operation of the bridge:
- 15 “(f) To pay money towards the construction, maintenance, and operation of the bridge, including the payment of interest and other debt charges.”

3A. United Authorities to comply with requirements of Harbours Act 1950—Section 10 of the principal Act is hereby amended by omitting the word “In”, and substituting the words

20 “Subject to the provisions of this Act, in”.

3B. Cost of bridge—The principal Act is hereby amended by repealing section 18, and substituting the following section:

“18. (1) The cost of constructing the bridge shall be paid from money received by the united Authorities for the purposes of

25 the bridge or borrowed by the City Council, the Borough Council, and the Harbour Board for that purpose.

“ (2) For the purposes of this section the Harbour Board shall be deemed to be a local authority to which section 22 of the Local Authorities Loans Act 1956 applies.

30 “ (3) Subject to section 30 of the Local Authorities Loans 1956, all preliminary expenses, costs of raising loans, and interest on loans raised before the receipt of revenue from the bridge shall be paid, repaid, or reimbursed by the united Authorities from money received by the united Authorities for the purposes

35 of the bridge or from loan money in accordance with any conditions imposed by the Minister of Finance when giving his consent under section 3 of the said Act.

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New

“(4) Except as provided in **subsection (3)** of this section, the costs of maintaining and operating the bridge (including the amount of all sinking funds, interest, and other debt charges payable in respect of money borrowed) shall be paid from revenue derived by the united Authorities from tolls, from other charges authorised by this Act, and from other money received by the united Authorities for the purposes of the bridge. 5

“(5) All money received by the City Council or the Borough Council or the Harbour Board for the purposes of the bridge shall be deemed to have been received by the united Authorities and shall be held and applied accordingly.” 10

4. Bylaws—Section 21 of the principal Act is hereby amended by adding the following subsection: 15

Struck Out

“(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.” 20

New

“(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 by any one of the City Council, the Borough Council, or the Harbour Board notwithstanding that the alleged breach of the bylaw may have occurred on any part of the bridge not within the district of that local authority.” 25 30

4A. Provisions of Local Government Act 1974 applicable to bylaws—The principal Act is hereby amended by repealing section 22, and substituting the following section:

“22. The provisions of sections 681 to 683, 687, 689, 690A, and 692 of the Local Government Act 1974, with the necessary modifications, shall apply in respect of bylaws made or to be 35

New

made under the authority of this Act as if they had been made or were to be made under and pursuant to the powers contained in section 690 of that Act.”

- 5 **4B. Financial records, etc.**—The principal Act is hereby amended by inserting, after section 22, the following section:
- “22A. (1) The provisions of the Local Government Act 1974 and of the regulations in force under that Act relating to the keeping of financial records, the keeping of accounts, and the
10 custody and payment of money, with the necessary modifications, shall apply in respect of the keeping of financial records and accounts and the custody and payment of money by the united Authorities in respect of the bridge.
- “ (2) Within 6 months after the end of each financial year
15 the united Authorities shall prepare such financial statements as are necessary to show fully the financial position in respect of the bridge and the financial results of the operation of the bridge during that financial year.”

- 20 **4C. Arbitration in the event of disputes**—Section 24 of the principal Act is hereby amended by omitting the words “the Arbitration Act 1908”, and substituting the words “clause 8 of the deed set out in the Schedule to this Act and any amendments to that clause made in accordance with clause 7 of that deed”.

- 25 **5. New Schedule substituted**—(1) The principal Act is hereby amended by repealing the Schedule, and substituting the Schedule set out in the Schedule to this Act.

New

- (2) For all purposes the deed set out in the Schedule to the
30 principal Act (as substituted by **subsection (1)** of this section) shall be read as if—
- (a) In clause 1 (xiii) there were substituted for the words “such accounts as the Audit Office may approve” the words “such other accounts as it thinks fit”;
- 35 (b) In clause 1 (xiv) the words “with the approval of the Controller and Auditor-General” were omitted;
- (c) In clause 7 the words “with the consent of the Minister of Internal Affairs” were omitted.

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Section 5

SCHEDULE

NEW SCHEDULE TO PRINCIPAL ACT

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

“SCHEDULE

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 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.

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SCHEDULE—*continued*

- (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 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.

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SCHEDULE—*continued*

- (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.

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.

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SCHEDULE—*continued*

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.

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.