

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 3 July 1969.

Words struck out by the Committee 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 double rule, or with double rule before first line and after last line.

Mr Walsh

TAURANGA CITY COUNCIL EMPOWERING

[LOCAL]

ANALYSIS

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A BILL INTITULED

An Act to confer certain powers on the Tauranga City Council

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 Empowering Act 1968.

2. **Special Act**—This Act shall be deemed to be a special Act within the meaning of the Harbours Act 1950.

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

“Board” means the Tauranga Harbour Board:

“Corporation” means the Mayor, Councillors, and Citizens of the City of Tauranga constituted under the Municipal Corporations Act 1954:

“Council” means the Council of the Corporation:

“Minister” means the Minister of Marine.

No. 112—2

Price 5c

4. Authority to reclaim land—*(It shall be lawful for the Corporation)* The Corporation is hereby authorised, notwithstanding anything in section 175 of the Harbours Act 1950 but subject to the provisions (of sections 178 to 182 of that Act) of this Act and of sections 176 to 182 of that Act and to the Water and Soil Conservation Act 1967, to fill up and reclaim from the sea the land described in the Schedule to this Act (hereinafter referred to as “the said land”), being portion of the Waikareao Estuary within the bounds of the Tauranga Harbour, and the Council may for that purpose, if it thinks fit, enter into any contract or contracts with any person for the execution of all or any of the works which may be necessary or expedient in or about the filling up or reclamation of the said land upon such terms and conditions as may seem to it proper and reasonable.

5. Filling material—The filling material to be used for that reclamation up to the level of mean high water shall be taken only from the bed of the Waikareao Estuary or any other part of the Tauranga Harbour.

6. Endowment for Board—The *(Council) Corporation* shall, within a period of ten years from the date of the passing of this Act, reclaim such part of the said land at the southern end thereof as the Council shall determine having an area of approximately twenty-five acres (hereinafter referred to as “the Board’s land”) *(which shall, on completion of its reclamation, vest in the Board as endowment land.)*

7. Reclamation to be carried out in stages—(1) The Corporation may reclaim the remainder of the said land in stages, and details of each such stage as the Council proposes from time to time, supported by engineering plans showing the scope and extent of the proposed reclamation, shall first be submitted to the Minister for his approval, upon the granting of which the work may proceed.

New

(2) The details of each such stage shall be accompanied by a statement which shall—

- (a) Contain an up-to-date estimate by the Council of how much of the said land will need to be sold as residential sections to reimburse the Corporation for the cost of the reclamation of the said land; and

New

- 5 (b) State what part of the land proposed to be reclaimed during that stage of the reclamation will be available for vesting in the Corporation for recreation purposes.

Struck Out

10 **8. Land to be vested in Corporation**—(1) So much of the said land (other than the Board's land) as the Council shall reasonably estimate will, by the sale thereof as residential sections, provide sufficient money to reimburse the Corporation for the cost of reclamation of the said land and the other costs and charges referred to in section 12 of this Act (hereinafter referred to as "the Corporation's land") shall be vested in the Corporation, and the details of each stage of reclamation
15 may include such part of the Corporation's land as the Council reasonably estimates will by sale as residential sections meet the cost of that and the next succeeding stage of reclamation.

20 (2) Upon the grant of approval of the Minister to a stage of reclamation, that part of the Corporation's land included therein shall vest in the Corporation for an estate in fee simple free from all trusts and restrictions heretofore affecting the same and the balance of the said land included in such stage shall vest in the Corporation as a reserve for recreational purposes under the Reserves and Domains Act 1953.

25 (3) The District Land Registrar for the South Auckland Land Registration District is hereby authorised and directed to issue to the Corporation such certificates of title as may be necessary to give effect to the provisions of this section.

New

30 **8. Vesting of land**—(1) The Council may from time to time, whenever any part exceeding five acres of the said land has been effectively reclaimed from the sea, give written notice of the reclamation of any such part to the Minister, and, if the Minister is satisfied that the land described in the
35 notice has been so reclaimed, he shall thereupon by notice in the *Gazette*,—

40 (a) If the land is part of the Board's land, vest that land in the Board for an estate in fee simple as an endowment, subject nevertheless to the same reservations and restrictions as are imposed by section 59 of the Land Act 1948; or

New

(b) If the land is not part of the Board's land, declare that the whole or any part of that land is no longer vested in the Board (if necessary) and vest the whole or any part of that land in the Corporation— 5

(i) For an estate in fee simple, subject nevertheless to the same reservations and restrictions as are imposed by section 59 of the Land Act 1948; or

(ii) For an estate in fee simple as a reserve for recreation purposes, subject to the Reserves and Domains Act 1953 and to the same reservations and restrictions as are imposed by section 59 of the Land Act 1948. 10

(2) The parts of the said land vested in the Corporation from time to time pursuant to subparagraph (i) of paragraph (b) of subsection (1) of this section shall be such parts as will by their sale as residential sections be sufficient, in the opinion of the Minister, to reimburse the Corporation for the cost of reclaiming the said land to the end and intent that the greatest possible part of the said land shall be vested in the Corporation for recreation purposes. 15 20

(3) Where any land is vested in the Board or the Corporation by a notice published in the *Gazette* pursuant to subsection (1) of this section so much of that land as is subject to the provisions of the Tauranga Foreshore Vesting and Endowment Act 1915 shall cease to be subject to the provisions of that Act, and every such notice shall be deemed to be an enactment within the meaning of section 99A of the Land Transfer Act 1952 and the provisions of that section shall apply accordingly. 25 30

8A. Compensation for injury—(1) The Corporation shall be liable to pay compensation to the owner of any land adjoining the said land in respect of any loss or injury suffered by such owner by reason of—

(a) The means of access from the owner's land to the waters of the Tauranga Harbour being materially affected by any reclamation carried out under the authority of this Act; or 35

(b) The free use of the foreshore fronting any such owner's land being materially affected by any such reclamation. 40

New

(2) The amount of such compensation shall, in default of agreement between the parties, be determined in the manner provided by the Public Works Act 1928.

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8b. Rights preserved—(1) Except as provided in section 8c of this Act, nothing in this Act shall deprive any person of any right or remedy he would otherwise have in respect of any loss caused by any reclamation carried out under the
10 authority of this Act or by the vesting of land in the Corporation or the Board pursuant to section 8 of this Act; but this section shall not entitle the Crown to payment or compensation for any land belonging to the Crown which is vested in the Corporation or the Board pursuant to section 8 of this Act.

15 (2) For the purposes of subsection (1) of this section the term “loss” includes loss of property and any detriment, damage, or injury to property or person, whether that loss, detriment, damage, or injury is due to deprivation of or interference with the rights of any riparian owner or otherwise
20 howsoever.

8c. Board's rights affected—The Board shall not be entitled to payment or compensation for any loss caused by the vesting of any part of the said land in the Corporation
25 pursuant to section 8 of this Act or for any detriment or damage to any part of the said land caused by any reclamation carried out under the authority of this Act.

9. Provision of roads and streets—Notwithstanding anything in this Act or in the Reserves and Domains Act 1953 or
30 any other Act, the Governor-General may by Order in Council authorise the Council, with the consent of the Minister of Lands, to set aside and lay out upon the said land (other than the Board's land) such roads and streets as may be necessary for servicing of sections and for such arterial roads as may be
35 provided for in the *(Tauranga City operative district scheme,)* Council's operative district scheme for the time being in force under the Town and Country Planning Act 1953, and such roads and streets may thereupon be proclaimed as such under the provisions of the Public Works Act 1928.

10. Advances from Corporation—The Council is hereby authorised to advance money from the Corporation's general or other funds from time to time to meet costs of reclamation work as it proceeds, and advances so made, together with interest thereon at *(the rate of six dollars percent per annum, shall be repaid from the proceeds of sales of the Corporation's land.)* a rate which equals the maximum rate determined for the time being by the Minister of Finance for the purposes of section 9 of the Local Authorities Loans Act 1956, shall be repaid in accordance with section 12 of this Act.

11. Power to borrow—The Council may from time to time, under and subject to the provisions of the Local Authorities Loans Act 1956, by special order raise a special loan or special loans for the purpose of any of the works, matters, or things which the Corporation or the Council is by this Act authorised to carry out or undertake.

12. Corporation's land to be sold—The Council shall, as may be expedient, sell *(the Corporation's land)* any land vested in the Corporation pursuant to subparagraph (i) of paragraph (b) of subsection (1) of section 8 of this Act in such manner as the Council may think most advantageous within its powers under the Municipal Corporations Act 1954, and the money arising from the sales thereof shall be applied so far as *(they)* it will extend, firstly in repayment of advances made from the general or other funds of the Corporation, secondly in payment of *(interest upon those advances calculated at the rate of six dollars percent per annum for the period or respective periods of those advances,)* the interest provided for in section 10 of this Act, thirdly in repayment of any special loan or special loans which may be raised under authority of this Act and interest thereon, fourthly in payment of all costs of subdivision, roading for servicing sections in *(the Corporation's land)* any land vested in the Corporation pursuant to subparagraph (i) of paragraph (b) of subsection (1) of section 8 of this Act other necessary developmental expenses in connection with subdivision, and legal and other expenses in respect of subdivision and sales, and all costs of reclamation not already paid by way of advances from the Corporation's funds; and, if there should be a surplus

after payment of the foregoing charges, that surplus shall be divided equally between the Corporation and the Board; but, if there should ultimately be insufficient funds from sales as aforesaid to meet the charges in full, the deficiency shall be met from the general or other funds of the Corporation.

Struck Out

10 **13. Acquisition by the Board of recreation reserves as endowment land**—Should the Minister of Lands, at the request of the Corporation, at any time revoke the reservation upon any part of the recreation reserve under section 18 of the Reserves and Domains Act 1953 and authorise the disposal of that part as the Corporation may think fit, the Corporation shall thereupon, at the request of the Board sell that part to the Board and the Board is hereby authorised to purchase the same at a price equal to the cost to the Corporation of reclamation of that part as disclosed by the records of the Corporation, and the Board shall thereafter hold the said part as endowment land.

New

20 **13. Acquisition by the Board of recreation reserves as endowment land**—If the Minister of Lands, pursuant to section 18 of the Reserves and Domains Act 1953, at any time revokes the reservation of any land vested in the Corporation pursuant to subparagraph (ii) of paragraph (b) of subsection
25 (1) of section 8 of this Act, he shall authorise the disposal of that land by the Corporation at its then current market value in such manner and for such purpose as the Corporation thinks fit, and thereupon the Corporation shall notify the Board of the revocation and authorisation and, if the Board
30 so requests at any time within two months after the date when it is so notified, the Corporation shall, on payment of that value by the Board, transfer that land to the Board as an endowment.

SCHEDULE

ALL those pieces of land in the South Auckland Land District, Tauranga City, situated in Block X, Tauranga Survey District, containing together 342.1 acres, more or less, being parts of the Tauranga Harbour (Waikareao Estuary), as shown on Survey Office Plans 43392 and 43393, and thereon bordered red.

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