

Hon. Mr. Guthrie.

## THORNDON RECLAMATION.

### ANALYSIS.

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### A BILL INTITULED

AN ACT to validate a certain Agreement entered into between the Minister of Railways, acting on behalf of His Majesty the King, and the Wellington Harbour Board in respect of the Work of reclaiming certain Portions of Wellington Harbour and to repeal the Thorndon Esplanade Act, 1891.

WHEREAS by agreement dated the twenty-fourth day of January, nineteen hundred and twenty-two, made between the Honourable David Henry Guthrie, Acting Minister of Railways (hereinafter termed the Minister), acting for and on behalf of His Majesty the King, of the one part, and the Wellington Harbour Board (hereinafter termed the Board) of the other part (a copy of which agreement is set forth in the *First Schedule* hereto) the parties to such agreement agreed, *inter alia*, to undertake the work of reclaiming from the sea the lands shown respectively bordered in pink colour, bordered in blue colour, and bordered in pink colour hatched on the plan deposited in the Office of the Minister of Railways, at Wellington, as number 29919, and thereon marked with the letters X, Y, and Z respectively, such lands being with slight modification, the portion of Wellington Harbour which by the Hutt Railway and Road Improvement Act, 1903, the Minister was authorized to reclaim for the purposes of that Act: And whereas by section two of the Thorndon Esplanade Act, 1891 (hereinafter referred to as the said Act), the land described in the *First Schedule* thereto, and known as the Thorndon Esplanade, was vested in the Crown: And whereas the control and management of the last-mentioned land was by section three of the said Act vested in the Mayor and Councillors for the time being of the City of Wellington (hereinafter referred to as the Council) for the use of the inhabitants of the City of Wellington as a place of public recreation: And whereas by subsection four of

section four of the said Act the Council was authorized to occupy for the purposes of a street such portions of the lands described in the Second Schedule thereto as might be requisite for street purposes: And whereas by section seven of the said Act power is given to resume for railway purposes any portion of the lands described in the First and Second Schedules thereto, but only when land of equal area to the seaward of the lands so resumed is or has been provided for the use and occupation of the Council for the purposes of the said Act: And whereas by section nine of the said Act it is provided that no compensation shall be payable to the Council in respect of the resumption for railway purposes in accordance with the said Act of any such lands by the lawful authority as therein defined: And whereas, in connection with the railway improvements required and intended to be made at Wellington, it will be necessary to use for railway purposes the lands described in the Schedules to the said Act: And whereas the lands described in the said agreement and marked with the letters X, Y, and Z respectively on the aforesaid plan numbered 29919 will, when reclaimed, be required for railway purposes and for Harbour Board purposes, and no part of such land can be set aside for the use and occupation of the Council for the purposes of the said Act: And whereas it is therefore desired to repeal the said Act, and to validate the agreement hereinbefore mentioned:

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

Short Title.

1. This Act may be cited as the Thorndon Reclamation Act, 1921-22.

Validation of agreement as to reclamation of portion of Wellington Harbour.

2. The agreement, a copy whereof is set out in the *First* Schedule hereto, is hereby declared to be valid and binding in all respects, and the parties thereto and each of them shall have full power and authority to carry out the work of reclamation and all works incidental thereto and to do all other things (including the making of further agreements) which may be deemed necessary to give effect to the said agreement:

Provided that the said agreement and all things to be done thereunder shall in all cases be subject to the exigencies of public finance, and if, in the opinion of the Minister, it is necessary or desirable for financial reasons to postpone the commencement or continuance of the works to which the said agreement relates, or of any portion of the said works, the Minister may order such postponement for such period as he may think fit, and the Minister shall not be liable to pay to the Board any sum by way of costs, damages, interest, depreciation, or otherwise howsoever by reason of any such postponement.

Repeal. Certain land vested in His Majesty for railway purposes.

3. The Thorndon Esplanade Act, 1891, is hereby repealed, and the lands described in the Schedules thereto and the lands described in the *Second* Schedule hereto are hereby declared to be vested in His Majesty for railway purposes.

Certain land vested in Wellington Harbour Board

4. The land described in the *Third* Schedule hereto is hereby vested in the Wellington Harbour Board, and shall be held by the Board in trust for harbour purposes.

5. The provisions of section seven of the Railways Authorization Act, 1909, shall not apply to any lands affected by this Act.

Section 7 of Railways Authorization Act, 1909, not applicable.

6. (1.) The Wellington City Council (hereinafter referred to as the Council) shall be entitled to such compensation for the lands described  
5 in the Schedules to the Thorndon Esplanade Act, 1891, as may be agreed upon between the Council on the one hand and the Wellington Harbour Board and the Crown on the other hand.

Compensation for certain lands payable to Wellington City Council.

(2.) The amount of such compensation shall in case of dispute be determined in the manner provided by the Public Works Act, 1908 :

10 Provided that, if both the Crown and the Wellington Harbour Board shall dispute the amount of compensation to be paid to the Council, the assessor to be appointed by the respondent shall be appointed by them jointly.

15 (3.) In respect of any compensation payable to the Council hereunder, the liability of the Crown shall in every case be limited as provided in paragraph 19 of the agreement set forth in the *First* Schedule hereto.

20 (4.) Any sum paid to the Council as compensation hereunder shall be paid by the Council into a separate account, and shall be expended by the Council for the provision of such facilities for recreation for the inhabitants of the City of Wellington as may from time to time be approved in that behalf by the Governor-General in Council.

25 7. Nothing in this Act or in the agreement set out in the *First* Schedule hereto or in any subsequent agreement that may be entered into for the purposes of this Act shall be construed to prejudice any right of resumption vested in the Crown under the Harbours Act, 1908.

Saving of existing rights of resumption.

## SCHEDULES.

Schedules.

### FIRST SCHEDULE.

THIS MEMORANDUM OF AGREEMENT is made the twenty-fourth day of January nineteen hundred and twenty-two between the Honourable David Henry Guthrie, Acting Minister of Railways, in the Dominion of New Zealand acting for and on behalf of His Majesty the King (hereinafter referred to as the Minister) of the one part and the Wellington Harbour Board (hereinafter referred to as the Board) of the other part Whereas the Minister and the Board have subject to the enactment by Parliament of the necessary legislative authority in that behalf agreed to undertake and carry out the reclamation of a certain portion of Wellington Harbour and to apportion the land so reclaimed and certain other land in manner hereinafter appearing and to undertake and carry out certain other works hereinafter mentioned And whereas the Minister and the Board have in the meantime until such legislative authority shall have been enacted as aforesaid agreed to enter into these presents for the purpose of placing and having on record the agreement between them on the various matters hereinafter specifically set out Now therefore these presents witness as follow :—

1. The Board shall commence as soon as is reasonably practicable and as far as it is able with the dredging plant in its possession diligently prosecute to completion the work of reclaiming from Wellington Harbour by dredged material discharged thereinto the areas respectively delineated on plan numbered W. R. 29919 (a copy of which plan is hereunto annexed and is hereinafter referred to as the said plan) and marked thereon as follows : that is to say, the area edged in pink colour and marked with the letter " X " the area edged in blue colour and marked with the letter " Y " and the area edged in pink colour hatched and marked with the letter " Z " the boundary between the said areas marked " X " and " Y " respectively being as shown on the

said plan by a line drawn from the point marked with the letter "B" to the point marked with the letter "G" thence by a line drawn to the point marked with the letter "H" and the boundary between the said areas marked "X" and "Z" respectively being as shown on the said plan by a line drawn from the point marked with the letter "B" to the point marked with the letter "F."

2. The Board shall execute the said work with all reasonable economy and in a proper and efficient manner so as to render the said areas suitable for the purposes herein referred to.

3. Of the areas to be so reclaimed those portions marked with the letters "X" and "Z" respectively shall subject to the provisions of paragraph 5 hereof be taken or resumed by or be vested in His Majesty the King for railway purposes.

4. Of the areas to be so reclaimed that marked with the letter "Y" shall be vested in the Board for the purposes for which the Board is constituted.

5. Should the Board at any time decide to construct a floating dock in the position shown on the said plan a piece of land thirty (30) feet wide from the inner face of the sea-wall mentioned in paragraph 11 hereof commencing from the northern boundary of the area of land marked with the letter "Y" and terminating at the point marked with the letter "C" on the said plan shall be vested in the Board for the purposes for which the Board is constituted.

6. A road reserve 120 feet wide shall be provided as shown coloured yellow and hatched on the said plan the western boundary of which shall be 230 feet and the eastern boundary 110 feet from the line of the inner edge of the sea-wall mentioned in paragraph 10 hereof. Provided however that a piece of land 26 feet wide shall be reserved in the centre of the said road reserve for the full length thereof as a way for railway sidings. The Board shall have the right to lay over the said road reserve such railway sidings as may be necessary to connect any railway siding constructed on the land first mentioned in this proviso with any railway sidings constructed on the land vested in the Board in pursuance of the provisions of paragraph 4 hereof.

7. Crossings for public traffic shall be provided and formed by the Board at suitable intervals on or over the way referred to in the proviso to the last preceding paragraph.

8. On the road reserve referred to in paragraph 6 hereof two roads each with a width of forty-seven (47) feet shall be constructed one on each side of the way referred to in the proviso to paragraph 6 hereof as shown on the said plan.

9. The Minister shall resume for railway purposes that parcel of land described in the First Schedule of the Thorndon Esplanade Act, 1891, and delineated on the said plan and thereon shown bordered in green colour containing an area of six acres one rood eight perches or thereabouts the control and management of which parcel of land is by the said Act vested in the Corporation of the City of Wellington.

10. The main sea-wall shall be constructed from the point marked "A" to the point marked "B" shown on the said plan in line of the existing sea-wall south of the point marked "A" as aforesaid and shall be so designed as to be suitable for use as a portion of a breastwork for the berthage of vessels.

11. A sea-wall from the point marked "B" to the point marked "D" shall be constructed in the line shown on the said plan.

12. A temporary sea-wall from the point marked "D" to the point marked "E" as shown on the said plan shall be constructed by the Minister for the purpose of retaining reclamation material.

13. The cost of the reclamation works to be carried out by the Board in pursuance hereof shall be made up of and shall include—

- (a.) The actual cost of all salaries and wages of all persons employed on the said reclamation works, materials, coal and other stores, together with the actual cost of spoil distributing-pipes and temporary works which may be required for the execution of the said reclamation works.
- (b.) The actual cost of all repairs to the plant used by the Board in connection with the said reclamation works as far as such repairs are rendered necessary by such use.
- (c.) Interest at the rate of 5½ per centum per annum on the capital value of the plant for the period such plant is actually used in connection with the said reclamation works. For the purpose of computing the value of the said plant, the value of the Board's dredge shall be assessed at £46,000 and the capital value of any other plant used as aforesaid shall be as shown in the books of the Board.

- (d.) An allowance for depreciation at the rate of 5 per centum per annum on the capital value of the plant belonging to the Board and employed for the purpose of the said reclamation works as such value is assessed in the manner provided in subparagraph (c) preceding.
- (e.) To cover office and engineering expenses a charge of 2½ per centum on the total cost of the said reclamation works excluding however from such cost any sums payable by way of interest or on account of depreciation under the provision of subparagraphs (c) and (d) hereof respectively.
- (f.) The actual cost of all surveys necessary to ascertain the area and extent of the said reclamation works.

Should it be necessary at any time for reasons other than repairs to the plant to stop the work of reclamation no charges under subparagraphs (c) and (d) hereof shall be debited to the reclamation works during the period of such stoppage.

14. All material deposited in the areas reclaimed or to be reclaimed in pursuance hereof shall be for the mutual benefit of the Minister and of the Board and the cost of any material so deposited other than that deposited from dredgings shall be charged to the said reclamation works. Provided however that any such cost being in excess of the average cost of the material deposited as aforesaid from dredgings shall to the extent of such excess cost be borne by the Minister. For the purpose of estimating such excess cost all materials deposited as aforesaid other than dredge materials shall be calculated at two-thirds of the actual loose measurement of the materials so deposited.

15. The cost of the sea-walls to be constructed in pursuance hereof shall be apportioned as follows:—

- (1.) The cost of the construction of the main sea-wall referred to in paragraph 10 from the point marked "A" to the point marked "B" on the said plan including the cost of dredging necessary for the foundations thereof shall be borne by the Minister and by the Board respectively in the proportion of the areas in the parcels of land marked respectively "X" and "Y" and the parcel of land mentioned in paragraph 9 hereof to be vested in each, that is to say, on the part of the Minister the area marked "X" bordered in pink colour on the said plan together with the area mentioned in paragraph 9 hereof bordered in green colour on the said plan and on the part of the Board the area marked "Y" bordered in blue colour on the said plan.
- (2.) The cost of the construction of the sea-wall referred to in paragraph 11 hereof from the point marked "B" to the point marked "D" on the said plan including the cost of dredging necessary for the foundations thereof shall be borne by the Minister. Provided however that should the piece of land referred to in paragraph 5 hereof be vested in the Board in pursuance of the said paragraph such cost shall be borne by the Minister and by the Board in the proportion of the areas of the portions of the parcel of land marked "Z" on the said plan vested in each.
- (3.) The cost of the temporary sea-wall referred to in paragraph 12 hereof from the point marked "D" to the point marked "E" on the said plan shall be borne by the Minister.
- (4.) The dredging necessary for the foundations of the sea-wall mentioned in paragraphs 10 and 11 hereof respectively shall be carried out by the Board and the cost thereof shall be assessed as specified in paragraph 13 hereof.

16. The cost of the reclamation works carried out in pursuance hereof shall be borne by the Minister and by the Board respectively in proportion of the actual quantities of material deposited on the areas to be vested in each respectively that is to say the cost of reclaiming the areas marked "X" and "Z" respectively on the said plan shall be borne by the Minister and the cost of reclaiming the area marked "Y" on the said plan shall be borne by the Board. Provided however that should that portion of the area marked "Z" on the said plan which is referred to in paragraph 5 hereof be vested in the Board the cost of reclaiming such portion shall be borne by the Board.

17. The quantities of material deposited in the execution of the said reclamation works shall be ascertained by surveys and sections of the areas reclaimed.

18. The Minister shall bear the cost of all roadways and stormwater culverts which may be constructed on or under the lands to be vested in His Majesty for railway purposes in pursuance hereof and the Board shall bear the cost of similar works which may be constructed on or under the lands to be so vested in the Board.

19. In the event of any compensation being or becoming payable to the Corporation of the City of Wellington for or in respect of the land mentioned in paragraph 9 hereof or of the omission to provide an equal area of land on the resumption by His Majesty of such first-mentioned land as required by the provisions of section 7 of the Thorndon Esplanade Act, 1891, the liability of the Minister in respect of such compensation shall be limited to the cost of reclaiming such equal area of land and for the purpose of computing such cost it shall be assumed that such equal area of land is that of 6 acres 1 rood 8 perches immediately to the seaward of and adjoining the line shown on said plan drawn from the point marked "G" to the point marked "H" for the full length thereof, and there shall be included in such cost in addition to the actual cost of reclaiming such area—

- (a.) A proportion of the cost of constructing the sea-wall mentioned in paragraph 10 hereof, such proportion being the proportion which the area of the parcel of land in this paragraph first mentioned that is to say 6 acres 1 rood 8 perches bears to the aggregate area of the parcels of land shown on the said plan marked with the letters "X" and "Y" respectively; and
- (b.) The cost of such lengths of stormwater culverts as may be actually laid on the parcel of land which under the provisions of this paragraph shall be assumed to be the land the cost of reclaiming which shall be the limit of the Minister's liability as aforesaid.

Any sum which may be or become payable to the said Corporation by way of compensation as aforesaid in excess of that for the payment of which the Minister may be liable as hereinbefore provided shall as between the Minister and the Board be paid by the Board.

20. The Board shall bear the cost of providing the way for railway sidings mentioned in paragraph 6 hereof.

21. Any railway sidings to be constructed in connection with the wharves or in connection with any coaling or other plant or the working thereof shall be provided on terms to be arranged between the Minister and the Board.

22. The Minister and the Board shall except as provided herein mutually agree as to the time and manner of the construction of the sea-walls and culverts and other works herein provided for and the execution of the necessary surveys.

23. During the construction of the works herein provided for statements showing the cost of the works undertaken by the Minister and by the Board respectively shall be prepared for and at the end of each period of four weeks such statements to show the apportionments of the cost of such works on the basis provided for herein Payments shown by such statements to be due by either party to the other shall be made with all reasonable despatch and a final adjustment of payments between the parties shall be made on completion of such works or at such time as such works may be stopped by mutual consent.

24. During the execution of the works referred to in this agreement the cost of which is to be borne partly by the Minister and partly by the Board the authorized officers of the Minister and of the Board respectively shall have access to all books and accounts and other records in connection therewith.

25. The Minister hereby undertakes to introduce legislation for the purpose of validating and giving effect to this agreement.

In witness whereof these presents have been executed by the parties hereto the day and year first above written.

Signed by the Honourable David Henry Guthrie, Acting } D. H. GUTHRIE.  
Minister of Railways

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

JOSEPH G. HARKNESS, Chairman. } (L.S.)  
CHARLES E. DANIELL, } Members.  
J. W. McEWAN, }  
H. E. NICHOLLS, Secretary. }

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SECOND SCHEDULE.

ALL that parcel of land containing an area of 48 acres 1 rood 16 perches, more or less, being portion of Wellington Harbour, as the same is delineated on the plan numbered 29919, deposited in the office of the Minister of Railways, at Wellington, and thereon shown bordered in pink colour and marked with the letter X; and all that parcel of land containing an area of 8 acres 2 roods 24 perches, more or less, being portion of Wellington Harbour: as the same is delineated on the plan last hereinbefore mentioned and thereon shown bordered in pink colour hatched, and marked with the letter Z.

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THIRD SCHEDULE.

ALL that piece or parcel of land, containing an area of 11 acres 2 roods 32·5 perches, more or less, being portion of Wellington Harbour, as the same is more particularly delineated on the plan numbered 29919, deposited in the office of the Minister of Railways, at Wellington, and thereon shown edged in blue colour and marked with the letter Y.

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By Authority: MARCUS F. MARKS, Government Printer, Wellington.—1922.