

Mr Aderman

**WAITARA BOROUGH AND NEW PLYMOUTH CITY
VALIDATION AND EMPOWERING**

[LOCAL]

ANALYSIS

Title	1. Short title
Preamble	2. Validation of Agreement Schedule

A BILL INTITULED

- An Act to validate an Agreement dated the second day of March, nineteen hundred and sixty-four, and made between the Mayor, Councillors, and Citizens of the Borough of Waitara of the one part, and the Mayor, Councillors, and Citizens of the City of New Plymouth of the other part, and to empower the Waitara Borough Council and the New Plymouth City Council to carry out the terms and conditions of the said Agreement**
- 5
- 10 **WHEREAS** by an Order in Council made on the seventh day of January, nineteen hundred and twenty-five, in pursuance and exercise of the powers conferred by the Public Works Amendment Act 1911, the Waitara Borough Council was authorised, subject to the conditions set forth in the
- 15 **Schedule** thereto and to the regulations made under section 2 of the aforesaid Act and dated the ninth day of October, nineteen hundred and twenty-two, published in the *Gazette* of the twelfth of the same month, or any regulations thereafter made in amendment thereof or in substitution therefor,

No. 31—1

Price 6d.

to erect and maintain electric lines for lighting power and heating purposes within the area of supply therein mentioned being the district of the Borough of Waitara as then constituted: And whereas the said district of the Borough of Waitara is within the outer area of the Taranaki Electric Power Board and is supplied with electrical power by such Board for the purposes of the powers conferred by the said Order in Council: And whereas it has been agreed by the said Agreement that, upon and subject to the terms and conditions contained therein and to the statutory validation hereinafter mentioned being obtained, the Mayor, Councillors, and Citizens of the Borough of Waitara (hereinafter called "the Waitara Borough") shall sell, transfer, and assign to the Mayor, Councillors, and Citizens of the City of New Plymouth (hereinafter called "the New Plymouth City") and the New Plymouth City shall purchase from the Waitara Borough the whole of the Waitara Borough's undertaking for the supply of electricity to the residents of the Borough of Waitara under the said licence together with all the property and assets, whether real or personal, and all stock, chattels, and things, and all rights of all kinds belonging to or held or used in connection with such electricity undertaking, excluding however the property and assets specified in the said Agreement and subject to and upon the terms and conditions contained therein:

BE IT THEREFORE 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 Waitara Borough and New Plymouth City Validation and Empowering Act 1964.

2. Validation of Agreement—(1) Notwithstanding anything contained in the Municipal Corporations Act 1954, the Public Works Act 1928, the Electricity Act 1945, the Electric Power Boards Act 1925, or any other Act or in any statutory regulation or in the licence contained in the said Order in Council made on the seventh day of June, nineteen hundred and twenty-five (hereinafter called "the Waitara licence") or in the New Plymouth City Council Water Power and Electric Lines Licence 1962 made by Order in Council on the twenty-fourth day of July, nineteen hundred and sixty-two, (hereinafter referred to as "the New Plymouth Licence") and in

the area of supply described in the First Schedule to the New Plymouth Licence or in any Proclamation under section 3 of the Electric Power Boards Act 1925 affecting the said Taranaki Electric Power Board or any licence under section 5 319 of the Public Works Act 1928, the said Agreement dated the second day of March, nineteen hundred and sixty-four, a copy of which is set out in the Schedule to this Act (hereinafter referred to as "the said Agreement") is hereby declared to be and to have always been effective valid and 10 binding in all respects according to its tenor.

(2) The Waitara Borough and the New Plymouth City are hereby authorised and empowered to carry out the terms and conditions of the said Agreement and to do all things necessary to give full effect to it.

SCHEDULE

THIS AGREEMENT is made this second day of March, one thousand nine hundred and sixty-four (1964) between the Mayor Councillors and Citizens of the Borough of Waitara (hereinafter called "the Waitara Borough") of the one part and the Mayor Councillors and Citizens of the City of New Plymouth (hereinafter called "the New Plymouth City") of the other part Whereas by licence (hereinafter referred to as "the said licence") made by Order in Council on the 7th day of January, 1925, pursuant to the powers conferred by the Public Works Amendment Act, 1911, the Waitara Borough was authorised to erect and maintain electric lines for lighting, power and heating purposes within the area of supply described in the Schedule hereto subject to the conditions set forth in the schedule to the said licence and to the regulations made under section 2 of the said Act and dated the 9th day of October, 1922, or any regulations thereafter made in amendment thereof or in substitution therefor.

And whereas the Waitara Borough is at present supplied with electrical power for the purpose of the powers conferred in the said licence by the Taranaki Electric Power Board.

And whereas it has been agreed between the Waitara Borough and the New Plymouth City that upon and subject to the terms and conditions hereinafter mentioned and also subject to the statutory validation hereinafter referred to being obtained the Waitara Borough shall sell, transfer and assign to the New Plymouth City the Waitara Borough's electricity undertaking and the property and assets hereinafter described.

Now this Agreement witnesseth in pursuance of the premises and in consideration of the terms and conditions hereinafter mentioned as follows:

1. As soon as is practicable after these presents shall have been executed by the parties hereto the New Plymouth City shall at its own cost and expense take such action as may be necessary to obtain statutory validation of this Agreement so as to ensure that notwithstanding anything contained in the Municipal Corporations Act, 1954, or in any other Act or in any regulation made under any Act or

SCHEDULE—*continued*

in any rule of law the Waitara Borough and the New Plymouth City shall be respectively deemed to have been at all times authorised and empowered to enter into and execute and complete this Agreement and also to ensure that this Agreement shall be binding on the parties hereto and shall for all purposes be effective according to its tenor and the Waitara Borough hereby agrees that it will give all assistance reasonably within its power to enable such statutory validation to be obtained.

2. The Waitara Borough agrees to sell transfer and assign to the New Plymouth City and the New Plymouth City agrees to purchase from the Waitara Borough the whole of the Waitara Borough's electricity undertaking for the supply of electricity to the citizens of the Borough of Waitara under the said licence together with all the property and assets whether real or personal and all stock chattels and things and all rights of all kinds belonging to or held or used in connection with the said electricity undertaking Provided however that there shall be excluded from such sale and purchase and remain the sole property of the Waitara Borough the following:

- (1) The Waitara Borough Council Electric Light Depreciation Fund:
- (2) All moneys standing to the credit of the current account of the Waitara Borough Electricity Account at the Bank of New Zealand at the date of completion hereinafter mentioned and all cash in hand held by the Waitara Borough Council at that date:
- (3) All debts owing to the Waitara Borough in respect of its said electricity undertaking at the date of completion hereinafter mentioned:
- (4) The property situated in Queen Street Waitara being Section 8 of Block 96 in the Town of Waitara West and being the whole of the land comprised in certificate of title registered in Register Book Volume 58 folio 43 (Taranaki Registry) together with all buildings thereon:
- (5) The property situated in Browne Street Waitara being Section 7 of Block 94 Town of Waitara West and being the whole of the land comprised in certificate of title registered in Register Book Volume 58 folio 121 (Taranaki Registry) together with all buildings thereon:
- (6) The property situated in Queen Street Waitara being Section 9 of Block 97 of the Town of Waitara West and being the whole of the land comprised in certificate of title registered in Register Book Volume 153 folio 144 (Taranaki Registry) together with all buildings thereon:
- (7) The property situated in Browne Street Waitara being Lot 2 on Deposited Plan Number 7787 and being part of Block CXII Town of Waitara West and being the whole of the land comprised in certificate of title registered in Register Book Volume 205 folio 78 (Taranaki Registry) together with all buildings thereon:
- (8) The property situated at West Quay Waitara being Lot 1 on Deposited Plan Number 4846 and part of the West Waitara Harbour Reserve Town of Waitara West and also being part of the land comprised in certificate of title registered in Register Book Volume 86 folio 42 (Taranaki Registry) together with the substation and other buildings thereon and also all machinery plant fittings and fixtures in or on the said property.

SCHEDULE—*continued*

3. The date of completion of the sale and purchase hereunder shall be such date not being later than the 31st day of March, 1966, as shall be appointed by the New Plymouth City by at least one month's notice in writing given to the Waitara Borough and possession of all property included in such sale and purchase shall be given and taken on the date so appointed such date being herein referred to as the date of completion.

4. (1) The price to be paid by the New Plymouth City for the purchase of the said electricity undertaking, property and assets mentioned in clause 2 hereof excepting only stock in hand, lines stock, meters, tools and equipment shall be the sum of £50,000— which shall be payable as hereinafter mentioned:

Provided that the same amount of £50,000— shall be increased by the amount of any increase in the value of the said electricity undertaking, property and assets that may have taken place between the 1st day of August 1963 and the date of completion:

(2) The price to be paid for the purchase of the stock in hand, lines stock, meters, tools and equipment shall be determined by the parties provided that if the parties shall be unable to agree, the price shall be determined by arbitration in accordance with the provisions of clause 14 hereof:

(3) The amount payable under the preceding subclauses (1) and (2) shall be paid not later than ten (10) years from the date of completion provided that the New Plymouth City shall be entitled in its discretion to pay at any time or from time to time prior to the date of completion the whole or any part of the amount for the time being remaining unpaid.

(4) The New Plymouth City shall pay the Waitara Borough interest on the amount of the total purchase price for the time being remaining unpaid at the rate of interest fixed for loans made under the Local Authorities Loans Act 1956 or any Act hereafter passed in substitution therefor by the Local Authorities Loans Board in force at the date of completion, and such interest shall be paid free of exchange at the end of each period of six months from the date of completion.

5. It is agreed that from the date of completion the charges payable by consumers (including the Waitara Borough Council) of electrical power in the district of the Waitara Borough including the charges payable for lighting under shop and other verandahs shall be the charges payable at the date of completion by consumers in the present area of supply of the New Plymouth City.

6. It is also agreed that the provision of service-lines to consumers shall be in accordance with the provisions of regulation 21-42 of the Electrical Supply Regulations 1935.

7. (1) Subject to the proviso hereto from the date of completion the Waitara Borough agrees to receive payments on behalf of the New Plymouth City of all payments due to the New Plymouth City for electrical power supplied to consumers in the Waitara Borough district and for the sale to such consumers of electrical goods and to issue receipts for such payments on official forms supplied by the New Plymouth City and the Waitara Borough will account monthly to the New Plymouth City for all moneys received and pay the same

SCHEDULE—*continued*

to the New Plymouth City subject however to a deduction calculated at the rate of one and a half per centum on the amount so received which shall be retained by the Waitara Borough as a fee for its services under this subclause:

Provided however that on giving three calendar months' notice in writing to the Waitara Borough of its intention so to do the New Plymouth City shall be entitled at any time to cancel the agreement contained in this subclause and to take over the collection of all moneys owing by such consumers and for that purpose to have and maintain a suitable office in the Waitara Borough district.

(2) The New Plymouth City will give reasonable assistance through its meter readers or otherwise as may be required by the Waitara Borough in the collection of any debts owing to the Waitara Borough at the date of settlement in respect of its electricity undertaking and the New Plymouth City will account monthly to the Waitara Borough for all moneys so collected subject however to a deduction of five per centum on the amount collected which shall be retained by the New Plymouth City as a fee for its services under this subclause.

8. (1) The Waitara Borough shall pay the New Plymouth City a charge at the rate of £4- per annum or a proportionate part thereof for any part of a year for each street light installed in the district of the Waitara Borough such charge to be payable annually on the fifteenth day of February in each year.

(2) The Waitara Borough may from time to time require the New Plymouth City to install an additional street light or lights and the New Plymouth City will thereupon install such additional light or lights and make any electrical main extension that may be necessary the cost of such installation and extension to be payable by the Waitara Borough Council.

(3) All such street lights shall be maintained by and at the cost of the New Plymouth City.

(4) Subject to the provisions of regulation 21-42 of the Electrical Supply Regulations 1935 the New Plymouth City agrees that on the subdivision of any land in the Waitara Borough the New Plymouth City will at its own cost and expense install all overhead distribution lines that may be required as a result of such subdivision, but if the owner of the said land shall require such distribution lines to be installed underground, he shall be required as a condition of such installation to pay to the New Plymouth City the extra cost and expense that will be incurred thereby by the New Plymouth City.

9. The New Plymouth City will at its sole cost and expense erect install and dismantle and supply the electrical power for any temporary lighting that may be reasonably required by the Waitara Borough for decorative purposes during the Christmas and New Year period and also for any civic function or occasion Provided that the necessary lines and fittings shall be available And the New Plymouth City hereby agrees that it will use all reasonable endeavours to ensure that such lines and fittings shall be available.

10. (1) The New Plymouth City agrees that it will continue to employ for the purposes of its Electrical Undertaking all persons who shall be employed at the date of completion by the Waitara Borough for

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subject to the provisions as to arbitration contained in such Act or any statutory modification or re-enactment thereof and this Agreement shall accordingly be deemed to be a submission within the meaning of the said Act.

SCHEDULE

Area of Supply

THE Borough of Waitara as constituted at the said date of the said Order in Council, and more particularly delineated on the plan marked P.W.D. 60232 and deposited in the office of the Minister of Works at Wellington.

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

Sealed with the Common Seal of the Mayor Councillors and Citizens of the City of New Plymouth and signed by two Members of the New Plymouth City Council on behalf of and by direction of the said Council in the presence of: } SEAL

R. U. ANDERSON, Assistant Town Clerk, New Plymouth.

J. H. DAVEY, Councillor.
F. P. GRUNDY, Councillor.

The Common Seal of the Mayor, Councillors and Citizens of the Borough of Waitara was hereunto affixed by Order of the Council in the presence of: } SEAL

W. R. YARDLEY, Mayor.
A. D. WILSON }
H. V. S. LARSEN } Councillors.
C. R. TOO HILL, Town Clerk.