

Mr. MacDonald.

WHAKATANE HARBOUR.

[LOCAL BILL.]

ANALYSIS.

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A BILL INTITULED

AN ACT to constitute a Harbour District and a Harbour Board for the Harbour of Whakatane. Title.

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

1. This Act may be cited as the Whakatane Harbour Act, 1912. Short Title.

2. This Act shall be deemed to be a special Act within the meaning of the Harbours Amendment Act, 1908 1910, and the ~~amendments thereof, which Act and all Acts amending the same shall be incorporated with this Act.~~ Harbours Act incorporated.

3. In this Act, if not inconsistent with the context,—
“Board” means the Harbour Board constituted under this Act: Interpretation.

“Harbour” means the Port and Harbour of Whakatane:
“Harbour district” means the Whakatane Harbour District as constituted under this Act:
“The said Act” means the Harbours Act, 1908, ~~and all Acts amending the same.~~

4. A Harbour Board is hereby constituted ~~under the said Act~~ for the Harbour of Whakatane. Such Board shall consist of five members, of whom three shall form a quorum, elected as follows:— Constitution of Board.

(a.) Two members shall be elected by the electors of the Omataroa Riding of the ~~harbour district~~ Whakatane County;

(b.) Two members shall be elected by the electors of the Opouriao Riding of the ~~harbour district~~ Whakatane County;

(c.) One member shall be elected by the electors of the Rangitaikei Riding of the ~~harbour district~~ Whakatane County.

Struck out.

Voter's
qualification.

5. (1.) For the purposes of any election of members of the Board, and of any poll of the voters of any riding alone, every person shall be entitled to be enrolled, and, being enrolled, to vote according to the scale provided by section forty-one of the Counties Act, 1908, who would be entitled to be enrolled for the purposes of a poll under the Local Bodies' Loans Act, 1908, if such riding were a district and the Harbour Board a local authority exercising borrowing-powers in respect of such district under that Act.

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(2.) At every other election or poll held under or for the purposes of this Act every person having any such qualification as is mentioned in the *last preceding* subsection in any riding or ridings shall be entitled to vote according to such scale as aforesaid in respect of every such riding in which he shall have such qualification. Every such vote may be recorded either in that riding in respect of which the qualification exists, or elsewhere in the harbour district.

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Local Election and
Polls Act applied.

6. The Local Elections and Polls Act, 1908, and the amendments thereof, shall apply to every election and poll held under or for the purposes of this Act, and the Board shall be deemed to be a local authority within the meaning of that Act and all Acts amending the same.

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New.

First election of
members.

5A. (1.) The first election of members shall be held in the same manner as members of the County Council are elected, save that each elector shall have and may exercise one vote and no more.

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Duration of office of
first members.

(2.) The first members shall hold office until the next ensuing general election of County Councillors, when they shall retire and thereafter elections of members shall be held at the times and in the manner prescribed by the Harbours Amendment Act, 1910, in the case of elections of members of constituent districts.

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First election.

7. The Governor ~~may by Proclamation~~ shall appoint a day for the election of the first members of the Board, and ~~may also appoint~~ a day for the first meeting of the Board, and ~~by warrant under his hand~~ may shall also appoint some fit person as Returning Officer, ~~who shall fix the necessary polling places~~.

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Harbour district
constituted.

8. (1.) The Whakatane Harbour District is hereby constituted, and shall comprise the Omataroa, Opouriao, and Rangitaiki Ridings, as defined in the Schedule hereto of the Whakatane County.

Struck out.

(2.) The Governor may from time to time, by Order in Council gazetted, on the recommendation of the Board and upon such petition as is hereinafter mentioned, declare that any additional area or areas of land outside the harbour district adjoining any riding shall be added to and become part of such riding, and thenceforth such riding shall include as well such additional area or areas as the area within the boundaries of such riding as defined in the Schedule hereto; such petition as aforesaid shall be signed by, or by the authorized agent of, every person who, not being already an elector for the purposes of this Act of the riding proposed to be so increased, would be entitled to be enrolled as an elector thereof if the proposal to increase the riding were made effectual by Order in Council as aforesaid. The certificate in writing of the Clerk for the time being of the Board that such petition contains the signature of every such person shall be conclusive proof of that fact :

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Struck out.

5 Provided that notice shall have been given of the proposal so to increase the riding by public advertisement once in each of three successive weeks in some newspaper circulating in the area proposed to be added, and provided that a period of at least twenty-one clear days from the day on which the last notice shall be published shall have elapsed, and the Clerk shall not have actually received within that period from any such person whose signature is required any objection in writing to the giving of such certificate.

10 (3.) The Governor may, by Order in Council gazetted, on the recommendation of the Board, declare that any additional area of land outside the harbour district and adjoining some part thereof shall be an additional riding of the harbour district, and thenceforth the harbour district shall include as well such new riding as the
15 ridings mentioned in subsection *one* of this section, provided the consent of a majority of the ratepayers of such new riding shall have been first obtained by a poll. Such new riding shall be represented on the Board by one member, who shall be elected in the first
20 instance as prescribed in section *seven* hereof, and thenceforth the Board shall consist of six members. Such new riding and the electors and ratepayers thereof shall for all intents and purposes be entitled to and vested with the same powers, rights, and privileges, and subject to the same liabilities and obligations, as the other
25 ridings and the electors and ratepayers thereof:

Provided that any rate levied under the provisions of this Act before the inclusion of such new riding shall not as regards the ratepayers thereof commence to accrue until the *first* day of April next succeeding the date of inclusion of such new riding in the harbour district.

30 9. (1.) Subject to the provisions of the said Act, and to the Governor's previous approval of a plan of the works proposed to be constructed, the Board may ~~from time to time~~ borrow ~~any sum~~ moneys not exceeding *in the whole the sum of ten thousand pounds* for the construction or completion of harbour-works in or towards the
35 improvement of the harbour, or for the improvement of the navigation of the Whakatane River, including all arms and lagoons thereof, from the Township of Whakatane to the sea, or for the general protection or conservation of the banks thereof. All such works shall be deemed to be harbour-works within the meaning of the said Act:

40 (1a.) ~~Provided that—~~ No money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than five pounds per centum per annum.

Struck out.

45 (2.) As further security for the money authorized to be borrowed as aforesaid, the Board may make and levy a special rate not exceeding *twopence* in the pound on all rateable property in the Harbour District.

50 (3.) No money shall be borrowed under the authority of this Act except with the consent of the ratepayers of the harbour district, previously obtained in manner prescribed by the Local Bodies' Loans Act, 1908, ~~and its amendments~~, and the provisions of that Act ~~and the amendments thereof~~ shall apply as if the Board were a local authority and the said works were public works within the meaning of Part I of that Act.

Borrowing.

Struck out.

Sinking fund.

10. (1.) For the purpose of providing a sinking fund for the liquidation of the principal moneys raised under the authority of this Act, the Board shall in every year set aside out of the revenue of the Board a sum equal to *ten* shillings per centum on the amount of all unredeemed bonds, debentures, and other securities given by the Board prior to the then current year, and shall pay the same to Sinking Fund Commissioners to be appointed by the Board under the provisions of this Act.

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(2.) Any moneys so paid to the said Commissioners, together with interest and profits to accrue therefrom, may be either invested in such securities as the Board may from time to time determine, or may be, as to the whole or any part thereof accumulated at any time, utilized for the purchase and redemption of any debentures issued under the authority of the said Act or this Act for the time being outstanding.

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(3.) The Board may also at any time appropriate any part of the Harbour Fund not appropriated for any special purpose, and pay the same to the Commissioners hereinbefore mentioned, to be applied to the purposes mentioned in subsections *one* and *two* of this section.

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(4.) The Board shall appoint two or more Commissioners for the purposes in this section mentioned.

Annual estimate to be prepared.

11. (1.) The Board shall in each year cause an estimate to be prepared, in such manner and according to such method as the Board approves of, the anticipated revenue of the year and of the anticipated expenditure of the year (~~including the annual charges and sinking fund payments upon the moneys borrowed under the authority of this Act, but~~ exclusive of capital expenditure on Loan Account), and shall upon such estimate determine the deficiency of revenue required to meet such expenditure.

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(2.) The Board shall make and levy in each year such rate *not exceeding two pence in the pound on the rateable property within the harbour district* as it deems sufficient to provide such deficiency.

Struck out.

Rate not to be questioned.

12. No rate made under this Act shall be set aside or quashed by any proceeding in any Court or otherwise, and no defect in the same or the making thereof shall be set up as a defence to any action which may be brought to recover the same.

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Differential dues may be levied.

13. Notwithstanding any provisions contained in the Harbours Act, 1908, it shall be lawful for the Board to make and levy harbour dues, to be charged and collected in respect of goods produced or manufactured outside and brought into the harbour district for any person, not being an elector of the harbour district or any riding thereof, residing outside the harbour district, and in respect of goods shipped on behalf of any person, not being an elector as aforesaid, residing outside the harbour district in excess of the dues to be made and levied in respect of the same goods if produced or manufactured within the harbour district, or brought into the same for or shipped on behalf of any person residing within the harbour district:

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Provided that such excess dues shall be payable equally in respect of the same description of goods wheresoever outside the harbour district the same are produced or manufactured, and wheresoever outside the harbour district the person on behalf of or for whom the same are brought into the harbour district or shipped may reside.

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14. (1.) From the first meeting of the Board the Whakatane County Council shall cease to have control of the harbour and to exercise the powers of the Whakatane Harbour Board, but nevertheless all by-laws and regulations in force at the date of the said meeting shall remain in full force and effect until altered or revoked by the Board.

County Council's control to cease.

New.

(2.) The Second Schedule to the Harbours Amendment Act, 1910, is hereby amended by omitting the words "Whakatane Harbour Board."

15. (1.) All wharves, jetties, sheds, and buildings within the harbour district at the date of such meeting under the control, and all assets and liabilities, rights, powers, functions, duties, and authorities, of the Whakatane County Council, as or in the capacity of a Harbour Board only, are hereby vested in the Board as from the date of its first meeting without the necessity of any further or other transfer or assurance.

Wharves, &c., to vest in Board.

(2.) The Governor after making such inquiry as he thinks fit may, if necessary, determine what constitute the wharves, jetties, sheds, buildings, assets, liabilities, real and personal property, and rights of action to become vested in the Board under this section; and may also do or direct to be done whatever he may deem requisite in order that the same wharves, jetties, buildings, sheds, assets, liabilities, real and personal property, and rights of action may be effectively transferred to and vested in the Board; and such determination shall be final and binding.

16. All such wharves, jetties, sheds, buildings, assets, liabilities, and real and personal property as are mentioned in section *fifteen* of this Act, and all lands hereby vested in the Board, shall be vested in the Board subject to any contracts, leases, mortgages, or other debts, obligations, or charges for the time being affecting the same; and the Board constituted under this Act shall be liable for the payment of such mortgages, debts, obligations, or charges, and in respect of such contracts and leases accordingly.

Saving of existing rights, &c.

17. All land reclaimed by the Whakatane County Council up to the passing of this Act, with the rights of the said Council to all buildings, erections, and fixtures thereon, and all other rights, powers, privileges, functions, and authorities whatsoever vested in the said Council by the Whakatane Foreshore Reclamation Act, 1908, including the right and privilege of making further reclamations under that Act, are hereby vested in the Board as from the first meeting of the Board, and therewith are likewise transferred to and vested in the Board all liabilities and obligations whatsoever of the said Council incurred under that Act, whether incidental to such land, rights, powers, and privileges, or otherwise.

Reclamations to vest in Board, with powers under Whakatane Foreshore Reclamation Act, 1908.

18. The Whakatane Foreshore Reclamation Act, 1908, shall be read with and form part of this Act, and shall be read and construed as if the words "the Whakatane Harbour Board" had been inserted therein in lieu of the words "the Whakatane County Council," and the words "the Board" in lieu of the words "the Council," and the said last-mentioned Act is hereby amended accordingly:

Amendment.

Provided that if and so far as the last-mentioned Act is repugnant to or inconsistent with the provisions of this Act the provisions of this Act shall prevail.

19. Section three of the said last-mentioned Act is hereby amended by substituting the word "Harbour" in lieu of the word "County," and all the words after the word "Fund" shall be deleted.

Section 3 of Whakatane Foreshore Reclamation Act, 1908, amended.

Struck out.

Schedule.

SCHEDULE.

OMATAROA RIDING.

ALL that area in the Auckland Land District, commencing at the northernmost corner of Allotment 28, Parish of Rangitaiki, at high-water mark, Bay of Plenty; bounded towards the north-east generally by high-water mark, Bay of Plenty, to the Whakane-Ohiwa Beach Road; towards the south-east by the aforesaid road to the north-west corner of Small Grazing-run No. 6; towards the east generally by Small Grazing-runs Nos. 6 and 5, by the eastern boundaries of Allotments 361, 352, 348, and 345A, Waimana Parish, by the road from the south-east corner of Allotment 345A aforesaid to the south-east corner of Allotment 322 of Waimana Parish aforesaid; towards the south generally by the southern boundaries of Allotments 322 aforesaid and 342, and by the road forming the south-western boundaries of the last-mentioned allotment and Allotments 332 and 331 of Waimana Parish aforesaid, and by the road forming the southern boundary of Section 8, Block IX, Whakatane Survey District, and by the Taneatua Village and Section 23 of last-mentioned block across and by the Whakatane River to the northern boundary of Block XIII, Whakatane Survey District, and by that block and Block XII of same district and part of Block XVI, Rangitaiki Upper Survey District, to the western boundary of Allotment 33, Rangitaiki Parish, and towards the west generally by the western boundaries of Allotments 33 aforesaid and Allotments 32, 31, 38, 30, 29, and 28 of Rangitaiki Parish aforesaid to the place of commencement.

OPOURIAO RIDING.

All that area in the Auckland Land District, bounded towards the north generally by the Omataroa Riding, previously described, to the north-west corner of Allotment 346, Waimana Parish, and the northern boundary of that allotment; towards the east generally by Allotments 330, 316, 317, 328, and 329, Waimana Parish, and by the road intersecting Allotment 307 of that parish to Allotment 307A (closed road), and by the general eastern boundary of Allotment 307A aforesaid and the crossing of a public road to the Waimana River, by the said river to the confiscation boundary-line, and by that line to the western boundary of Block III, Waimana Survey District, by that block and Blocks VII, XI, XV of the said survey district, and Blocks III, VII, XI, and XV, Uriwera Survey District; towards the south by the southern boundaries of Blocks XIV and XIII of the last-mentioned survey district, and Blocks XVI, XV, and part XIV, Galatea Survey District, to the East Taupo County boundary; and towards the west generally by the aforesaid county boundary to the Kuhawaea No. 1 Block, by that block and Waiohau Nos. 1B, 1A, and 2 Blocks, the Tuararangaia No. 1B Block, and Allotments 60c and 60B, Rangitaiki Parish.

RANGITAIKI RIDING.

All that area in the Auckland Land District, bounded towards the north-east by high-water mark, Bay of Plenty, to the Omataroa Riding previously described; towards the south-east generally by the last-mentioned riding to the southernmost corner of Allotment 94, Rangitaiki Parish; towards the south-west generally by part 89A and 93 of aforesaid parish, and by the road forming the southern boundary of Allotment 83 to Allotment 83A, and towards the north-west generally by Allotment 83A aforesaid and Allotments 85, 82, 78, 76, 72, 70, 67, and 65 of Rangitaiki Parish aforesaid, and the production of the south-east boundary of the last-mentioned allotment to the high-water mark, Bay of Plenty.