

Mr. Hockly.

WHAKATANE HARBOUR.

[LOCAL BILL.]

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A BILL INTITLED

AN ACT to consolidate and amend certain enactments of the General Assembly relating to the Whakatane Harbour. Title.

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

1. (1.) This Act may be cited as the Whakatane Harbour Act, 1921. Short Title, repeals, and savings

(2.) This Act shall be deemed a special Act within the meaning of the Harbours Act, 1908.

10 (3.) The enactments mentioned in the *First* Schedule hereto are hereby repealed, and with respect to those enactments the following provisions shall apply:—

15 (a.) All orders, Warrants, and regulations duly made thereunder by the Governor-General or Governor-General in Council and subsisting as aforesaid *on the coming into operation of this Act*;

(b.) All by-laws duly made *by the Whakatane Harbour Board and subsisting as aforesaid*;

20 (c.) All contracts entered into, rights acquired, and liabilities incurred thereunder and subsisting as aforesaid;

(d.) All offices created and appointments made thereunder by the Governor-General, the Minister, or the Whakatane Harbour Board, and subsisting as aforesaid;

25 (e.) All licenses granted, certificates and instruments issued or executed, and generally all acts of authority duly exercised thereunder by or by the authority of the Governor-General, the Governor-General in Council, the Minister, or the Whakatane Harbour Board, and subsisting as aforesaid; and, generally,

(f.) All acts of authority which originated thereunder and are subsisting as aforesaid, shall enure for the purposes of this Act as fully and effectually as if they had respectively originated under the corresponding provisions of this Act; and for that purpose shall, where necessary, be deemed to have so originated. 5

(4.) ~~The Whakatane Harbour Board subsisting on the coming into operation of this Act~~ *The persons at present acting under the Whakatane Harbour Act, 1912, as members of the Whakatane Harbour Board* shall be deemed to be ~~the same~~ *have been duly and validly elected on the first day of July, nineteen hundred and twenty-one, and shall be the* Board under this Act, ~~without change of corporate entity or otherwise,~~ and the members of the ~~Whakatane Harbour~~ *said* Board holding office on the coming into operation of this Act shall continue in office until their successors ~~under this Act come into office in the year nineteen hundred and twenty-four~~ *are* duly elected or appointed. 10 15

(5.) All debentures, bonds, mortgages, or other securities actually issued or made by the Whakatane Harbour Board in respect of moneys borrowed by the Whakatane Harbour Board and not paid or completely paid and discharged on the coming into operation of this Act shall, so far as concerns the holder or owner thereof and his rights and remedies, be deemed to have been ~~valid securities and to have been properly issued or made in all respects under this Act~~ *and shall continue to be valid securities as if lawfully issued by the Board under this Act.* 20

(6.) All works, matters, and proceedings commenced under any such enactment and in progress on the coming ~~in to~~ *into* operation of this Act may be continued and completed under this Act. 25

(7.) All works authorized by or directed to be made or constructed in accordance with any such enactment, and not commenced, or, if commenced, not completed on the coming into operation of this Act, shall be deemed to be authorized by and shall be made and constructed in accordance with this Act. 30

Interpretation.

2. In this Act, if not inconsistent with the context,—

“Board” means the Harbour Board constituted under this Act: 35

“Harbour” means the harbour area within the control of the Board as defined by Warrant dated the tenth day of June, nineteen hundred and nineteen, or such other area as may at any time be defined by the Governor-General by Warrant pursuant to the provisions in that behalf of the Harbours Act, 1908: 40

“Harbour district” means the Whakatane Harbour District as constituted under this Act.

Constitution of Board.

3. (1.) A Harbour Board is hereby constituted for the Harbour of Whakatane. Such Harbour Board shall consist of nine elective members and one nominative member, who shall hold office until their successors are duly elected and appointed. 45

(2.) Five members shall form a quorum, and the Chairman shall have a deliberative vote, and, in case of an equality of votes, a casting vote. 50

(3.) The elective members shall be elected in manner prescribed by the Local Elections and Polls Act, 1908, and its amendments, by

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the electors of the harbour districts, and the said electors shall be all the ratepayers of the harbour district, except those ratepayers other than electors who are entitled to vote for a Maori member of the House of Representatives; and the qualification required by any elective member shall be that he is at the time of his election one of the electors as defined and limited aforesaid.

4. The elective members of the Board shall be elected as follows :— Elections.

(a.) One member shall be elected by the electors of the Omataroa Ward of the harbour district.

10 (b.) Two members shall be elected by the electors of the Opouriao Ward of the harbour district.

(c.) Three members shall be elected by the electors of the Rangitaikei Ward of the harbour district.

15 (d.) One member shall be elected by the electors of the Waimana Ward of the harbour district.

(e.) Two members shall be elected by the electors of the Whakatane Ward of the harbour district.

5. (1.) ~~Subject to the provisions of section five of the Harbours Amendment Act, 1910, the~~ Nominative member shall be nominated in writing on the form set out in the *Second Schedule* hereto by a majority of the members of the Maori Council for the Matatua District, and shall be appointed by the Governor-General pursuant to section five of the *Harbours Amendment Act, 1910*. Nominations of Maori member.

Struck out.

25 (2.) In the month of March, nineteen hundred and twenty-four, and in the same month in each third year thereafter, the said Maori Council shall proceed to nominate a person to represent on the Board the interests of the Maoris resident in the harbour district, and the said form shall be signed by the majority of the members of the said Maori Council, sealed with the seal of the said Council, and countersigned by the Chairman or Acting-Chairman, who shall transmit it to the Board, and the Board shall forthwith transmit the same to the proper authority so that a Warrant may issue under section five of the *Harbours Amendment Act, 1910*. The member so appointed shall hold office until the appointment of his successor as hereinafter provided.

Struck out.

(3.) The said form, purporting to be so made, signed, and countersigned, shall be conclusive evidence that the person therein named is the nominative member of the Board.

New.

(3.) In the month of March, nineteen hundred and twenty-four, and in the same month in each third year thereafter, the said Maori Council shall proceed to nominate a person to represent on the Board the interests of the Maoris resident in the harbour district, and with respect to such nomination the foregoing provisions of this section shall apply.

(4.) If the nominative member becomes disqualified, dies, or resigns, then and in such event the Board shall forthwith notify the Chairman of the said Council, who shall proceed forthwith to summon a meeting of the said Council and proceed to nominate a successor in manner aforesaid.

Struck out.

6. The elective members of the Board shall be elected triennially in the month of March, the first of such elections to be held in the month of March, nineteen hundred and twenty-four. Elections to be triennial.

Constitution of district.

7. The Whakatane Harbour District is hereby constituted, and shall comprise the Omataroa, Opouriao, Rangitaiki, Waimana, and Whakatane Wards as defined in the *Third* Schedule hereto.

Dues.

8. Notwithstanding any provision 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 and manufactured outside and brought into the harbour district for any person, not being a ratepayer of the harbour district or any ward thereof, residing outside the harbour district, and in respect of goods shipped on behalf of any person not being a ratepayer 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 and manufactured within the harbour district or brought into the same for, or shipped on behalf of, any person residing within the harbour district: 5 10

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. 15

Finance.

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Struck out.

Incorporating Local Bodies' Loans Act, 1913.

9. The words "local authority" and "district" as respectively defined by the Local Bodies' Loans Act, 1913, shall be deemed to have always included the Whakatane Harbour Board and Whakatane Harbour District as constituted by the Whakatane Harbour Act, 1912, and shall be deemed to include the Board and district; and the word "existing" in paragraph (a) of section sixteen of the said Local Bodies' Loans Act, 1913, shall mean "existing at the time of the passing of this Act." 25

Borrowing.

10. The Board may borrow moneys not exceeding in the whole *two hundred and fifty thousand* pounds for expenditure upon harbour-works within the harbour, and, in particular, for the construction and completion of all works directed towards the improvement of navigation, the protection and conservation of river-banks, the erection of buildings and structures for promoting and facilitating maritime trade and commerce, and to ensure the safety and accommodation of shipping, and to provide increased facilities for maritime trade; and for the employment of experts and the obtaining of information and surveys as to the desirability or practicability of any works contemplated; and for the reclamation of land. 30 35 40

Conditions restricting borrowing-power.

11. (1.) In computing the amount of two hundred and fifty thousand pounds under the *last preceding* section, all moneys already borrowed by the Board shall be included.

(2.) No money shall be borrowed under the *last preceding* section—

(a.) Except with the consent of a majority of the ratepayers of the district previously obtained in manner prescribed by the Local Bodies' Loans Act, 1908 1913, and all the provisions of that Act shall apply with respect to the said loan as if the Board were a local authority and the harbour district were a district within the meaning of that Act: 45 50

(b.) So as to produce to the lender or to the purchaser of a debenture a greater rate than is provided by the Harbours Act, 1908.

Acquisition and disposition of land.

12. (1.) The Board shall have power to acquire by purchase, or by taking the same under the provisions of the Public Works Act, 1908, 55

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any lands or rights in land for the purpose of all or any of the following works, namely: For a quarry, for facilitating drainage, reclamation, filling-in or levelling, or for addition to any land intended to be subdivided into parcels or allotments, or for the roading of or affording
 5 access to such last-mentioned land, or connecting any such last-mentioned land with any public highway, or to enable the Board to recover in some measure the value of its riparian improvements, or for the construction of any harbour-works thereon, or for the reclamation or improvement of any land so acquired; and for this purpose the foregoing works
 10 respectively shall be deemed to be a "public work" within the meaning of that term as used in the said Act:

Provided always that it shall not be incumbent on the vendor to the Board of lands so acquired by the Board, or upon any compensation Court held under the provisions of the said last-mentioned Act, or upon
 15 any other person or persons whomsoever or whatsoever, to inquire as to whether any lands acquired by the Board under the authority of these provisions are necessary or suitable for the purposes aforesaid or any of them; and the resolution of the Board that the land so acquired be acquired or taken for the purposes aforesaid or any of them shall be
 20 sufficient evidence for all purposes that their acquisition by the Board is lawful.

(2.) The Board shall have power to sell and dispose of any lands acquired by the Board under the *foregoing* subsection hereof, ~~or any equivalent or reasonable equivalent area of other lands of the Board,~~
 25 in such parcels, at such price or respective prices, and upon such terms as it may think proper; and a recital in the conveyance or transfer to the purchaser that the sale or disposition is made in pursuance of the powers contained in this section of this Act shall be conclusive evidence, so far as such purchaser and the title acquired by him is concerned, that
 30 such sale or disposition is lawful.

(3.) Nothing in this section shall be deemed to limit, restrict, or abridge any powers, rights, or authorities possessed by the Board under the Public Works Act, 1908, the Public Bodies' Leases Act, 1908, the Harbours Act, 1908, and its amendments, or any other
 35 statute.

13. Whereas the Board owes the Public Trustee the sum of eighty-four thousand six hundred pounds for money lent at different times in the following sums, namely: Thirty-six thousand pounds, and three thousand six hundred pounds, and thirty-five thousand pounds, and
 40 three thousand five hundred pounds, and six thousand five hundred pounds: And whereas on the first day of December, nineteen hundred and twenty-one, there will be owing and payable to the Public Trustee the sum of three thousand four hundred and thirty pounds seventeen shillings and sixpence by way of interest on the said money lent:
 45 And whereas the Board has requested the Public Trustee to capitalize the said sum of three thousand four hundred and thirty pounds seventeen shillings and sixpence, which the Public Trustee has agreed to do subject to the Board issuing to the Public Trustee in a form approved by him debentures securing the repayment of the
 50 said sum of three thousand four hundred and thirty pounds seventeen shillings and sixpence, together with interest thereon at the rate ruling in the Public Trust Office at the time the said debentures are issued charged generally on the Harbour Fund and on a special rate leviable by the Board without consent of the ratepayers of the district
 55 charged on the property of the ratepayers of the district for such an amount and to be paid in such manner as is deemed necessary to secure the repayment of the sum or sums secured by the said debentures

Capitalization of interest.

at the time or times when such sum or sums respectively become payable; and subject also to the payment of interest by the Board to the Public Trustee on the said sum of three thousand four hundred and thirty pounds seventeen shillings and sixpence at the rate of ~~seven pounds by the hundred pounds by the year~~ *ruling in the Public Trust Office at the time*, computed from the time that each respective sum constituting the said three thousand four hundred and thirty pounds seventeen shillings and sixpence became payable until the date when the said debentures are issued: Now, therefore, the Board is authorized and empowered—

(a.) To capitalize the sum of three thousand four hundred and thirty pounds seventeen shillings and sixpence now owing as interest on loans by the Board to the Public Trustee and to issue to the Public Trustee in a form approved by him debentures securing the repayment of the said sum of three thousand four hundred and thirty pounds seventeen shillings and sixpence, together with interest thereon at the rate ruling in the Public Trust Office at the time the said debentures are issued, charged generally on the Harbour Fund and on a special rate provided for in the *next succeeding* paragraph.

(b.) To levy a special rate without obtaining the consent of the ratepayers of the harbour district for such an amount and to be paid in such manner as is found necessary to secure the repayment of the sum or sums secured by the said debentures at the time or times when such sum or sums respectively become payable.

(c.) To pay interest on the said sum of three thousand four hundred and thirty pounds seventeen shillings and sixpence at the rate of ~~seven pounds by the hundred pounds~~ *ruling in the Public Trust Office at the time*, computed from the time that each respective sum constituting the said three thousand four hundred and thirty pounds seventeen shillings and sixpence became payable until the date when the said debentures are issued.

Cancellation of unsold debentures.

14. Where any debentures have been issued by the Board in connection with any loan duly authorized to be raised, but where such debentures have not been sold or disposed of (except by way of hypothecation or mortgage thereof), the Board shall have power, when raising any further loan for the same or similar purposes as the former loan was authorized to be raised, to make provision for the payment of any moneys raised by such hypothecation or mortgage and interest thereon, and to pay such moneys out of the said further loan, and to cancel the debentures issued in connection with such former loan.

Rating-power.

15. The Board may for any purpose connected with the harbour make and levy in each year a general rate sufficient to produce the amount that would be provided by a rate of twopence in the pound on the capital value of the rateable property within the harbour district.

Reclamation.

Reclamation of land.

16. The Board may from time to time, in such parts and subdivisions as it thinks fit, reclaim ~~from the sea and (or) river within the harbour~~ the land more particularly described in the ~~Third~~ *Fourth* Schedule hereto.

Construction of roads, and subdivision of land

17. The Board may from time to time at its own expense lay out and construct roads, streets, and drains on and (or) through the land reclaimed, and may subdivide the land reclaimed.

Hire of plant

18. The Board may, whenever its plant is not required for harbour-work, hire the same ~~by public tender~~.

SCHEDULES.

Schedules. 1395

FIRST SCHEDULE.

ENACTMENTS CONSOLIDATED.

- 1908, No. 41 (Local).—The Whakatane Foreshore Reclamation Act, 1908.
 1912, No. 18 (Local).—The Whakatane Harbour Act, 1912.
 1915, No. 2 (Local).—The Whakatane Harbour Amendment and Empowering Act, 1915.
 1916, No. 12 (Local).—The Whakatane Harbour Amendment Act, 1916.
 1917, No. 13 (Local).—The Whakatane Harbour Amendment Act, 1917.
 1920, No. 9 (Local).—The Whakatane Harbour Amendment Act, 1920.

Struck out.

SECOND SCHEDULE.

RETURN OF WHAKATANE HARBOUR BOARD NOMINATIVE MEMBER BY MAORI COUNCIL FOR MATATUA DISTRICT.

PURSUANT to section *five* of the Whakatane Harbour Act, 1921, we, the undersigned members of the Maori Council for the Matatua District, hereby nominate _____, of _____, to be the nominative member of the Whakatane Harbour Board until his successor be appointed in terms of the said Act.

Dated at _____ this _____ day of _____, 192 ____ .
 [Signatures of members of Council.]

Countersigned— _____, Chairman.

THIRD SCHEDULE.

OMATAROA WARD.

ALL that area in the Auckland Land District bounded towards the north-east generally by high-water mark, Bay of Plenty, from the northernmost corner of Allotment 28, Parish of Rangitaiki, to the Whakatane - 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: but excluding therefrom all the area within the Borough of Whakatane, and including all the area in the Land District of Auckland of the chart of Whakatane known as Whale Island, containing 354 acres, more or less.

OPOURIAO WARD.

All that area in the Auckland Land District bounded towards the north generally by the Omataroa Ward, hereinbefore described, from the eastern boundary of Allotment 60B, Rangitaiki Parish, 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 eastern side of 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, and 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, to the place of commencement.

RANGITAIKI WARD.

All that area in the Auckland Land District bounded towards the east generally by the western boundaries of the Omataroa and Opouriao Wards, as defined in the Schedule to the principal Act *hereinbefore described*, from the sea to a point in the boundary between East Taupo and Whakatane Counties where the eastern boundary of Kuhawaea No. 1 Block intersects that boundary; towards the south and west generally by the East Taupo and Rotorua Counties to Trig. No. 18 (Maungawhakamana); towards the north-west by the confiscation boundary-line to the west bank of the Tarawera River; and again towards the west by the west bank of the aforesaid river to the north-western corner of Allotment 4, Block III, Awa-o-te-atua Survey District; and thence in a northerly direction along the western bank of the proposed Tarawera outlet to the high-water mark, Bay of Plenty; and thence towards the north-east by the sea to the place of commencement.

WAIMANA WARD.

All that area in the Auckland Land District bounded towards the west, north, and north-west generally by the Opouriao Ward, ~~of the Whakatane Harbour District hereinbefore described~~, and a portion of a closed road (Allotment 307A, Parish of Waimana); towards the east generally by Allotment 8 of Section 307 of the Parish of Waimana and 18 of the Waimana Estate to the main road through the Waimana Village, and by that road and Allotments 24, 23, and 41 of the said village and a road to the south-west corner of Allotment 14 of the Waimana Estate, and by Allotment 1B, and the production of the western boundary of Allotment 1B to the southern boundary of Allotment 1C of the Parish of Waimana; and towards the south by the said southern boundary of No. 1C and the southern boundaries of Nos. 1C No. 2 and 1C No. 3 to the eastern boundary of the Opouriao Ward.

WHAKATANE WARD.

All that area comprised in the Borough of Whakatane.

FOURTH SCHEDULE.

1. ALL that piece or parcel of land situate at the Township of Whakatane, on the Whakatane River, in the County of Whakatane, containing forty-nine acres two roods, more or less, commencing at the north-western corner of Section 296, Parish of Waimana, and bounded as follows—towards the west by lines 1,096, 546, 300, 455, and 115 links; towards the north by low-water mark of Whakatane River; towards the east by lines 83.6 and 478 links; towards the south generally by high-water mark adjacent to traverse lines 1706, 806.1, 1135, 403.4, 282.8 and 660.2 links; thence by high-water mark and by part of line 1844 links, being part of the northern boundary of said Section 296, to the commencing-point: all in Block II, Whakatane Survey District: as the same is shown on the plan marked M.D. 2981, deposited in the office of the Marine Department, at Wellington, and thereon edged red and coloured green.

2. All that piece of land situate adjacent to the Town of Whakatane, in the Auckland Land District, containing 9 acres and 6 perches, more or less, between high-water mark and low-water mark on the right bank of the Whakatane River, extending from the eastern end of the land comprised in plan marked M.D. 2981, deposited at the office of the Marine Department, at Wellington, and therein edged red and coloured green; north-easterly to the Whakatane River Heads, as shown on plan marked M.D. 4511, deposited at the office of the Marine Department, at Wellington, edged with a green tint, and bounded with a red dotted line, as follows—commencing at O.P. II; thence north-easterly by the red dotted line along the boundary of the road to P. V. at the northern end of the road; thence north-easterly by the red dotted line past P. VI, VII, VIII, to P. IX; thence easterly by the red dotted line to P. X; thence south-easterly by the red dotted line past P. XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, to O.P. XXII; thence south-easterly by the red dotted line to the starting-point.