

# Taranaki Botanic Garden Act 1876

Public Act 1876 No 24  
Date of assent 29 September 1876

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**An Act to constitute a Board of Trustees, and vest in it certain Public Reserves at New Plymouth, for the purposes of a Botanic Garden and Public Recreation Grounds.**

## Preamble

The Preamble to this Act was repealed, as from 19 November 1907, by section 2 Statutes Repeal Act 1907 (1907 No 40).

## **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**

The Short Title of this Act shall be the Taranaki Botanic Garden Act 1876.

### **2 Land in Schedule 1 vested in Board of Trustees**

The lands specified in Schedule 1 hereto, shall, subject to any leases or agreements affecting the same already entered into, be vested in and held by the Board of Trustees for public recreation herein constituted, in trust for a botanic garden and public recreation grounds, without any conveyance or assurance.

Section 2 was amended, as from 19 November 1907, by section 2 Statutes Repeal Act 1907 (1907 No 40) by omitting the words “From and after the passing of this Act” and “and comprised in the said recited deed of grant”.

### **3 Lands in Schedule 2 vested in Board of Trustees**

The lands described in Schedule 2 hereto, and held upon trust by the Superintendent as public thoroughfares, shall be, without any conveyance or assurance, vested in and held by the said Board in trust for a like purpose. . . .

Section 3 was amended, as from 19 November 1907, by section 2 Statutes Repeal Act 1907 (1907 No 40) by omitting the words “comprised in the said recited deed of grant,” and the words “Notwithstanding anything herein contained, such portions of Davy and Wakefield Streets as are described in Schedule 2 hereto shall not vest in the Board until the owners of the land adjoining such portions shall have given their consent by deed to such vesting, or until such adjoining land shall have been conveyed to the Board.” after the words “for a like purpose”.

### **4 Constitution of Board of Trustees**

The Board shall consist of seven members, to be appointed by the Governor, and notified by Proclamation in the New Zealand Gazette, of whom four shall be a quorum, and the

members of such Board shall hold office until they die, resign, or become disqualified under the provisions of this Act.

**5      Board a corporate body**

The Board so constituted shall be a corporate body in fact and in law by the name of the **Board of Trustees for Public Recreation**, with perpetual succession and a common seal, and with full power and authority by that name to sue and be sued, plead and be impleaded, defend and be defended in all Courts, and in all cases and suits at law or in equity whatsoever, with power to take purchase and hold all goods chattels and personal property whatsoever which may be required for carrying out the provisions of this Act, and also to take and hold all such land hereditaments and premises as may be transferred to or vested in the Board for the purpose of public recreation, or as endowments for the Board, or for any other purpose in connection with the improvement or management of any lands vested in the Board for the purposes of this Act.

**6      Disqualification of members**

If any member of the Board shall be directly or indirectly concerned in any contract with the Board, or shall receive or be entitled to receive any money or emolument for any work done or to be done for the Board, or shall be absent from three consecutive meetings without the consent of the Board, or shall be adjudicated a bankrupt or insolvent, or take the benefit of or be brought under the operation of any Act relating to bankrupt or insolvent debtors, or shall become a public defaulter, or shall become convicted of felony, his seat in such Board shall become vacant.

**7      Members may resign**

It shall be lawful for any member, by writing under his hand addressed to the Governor, to resign his seat in the Board, and upon the receipt by the Governor of such resignation, the seat of such member shall become vacant.

**8 Vacancies**

If a vacancy occurs in the Board through death or through any of the reasons aforesaid, it shall be lawful for the Governor to appoint a fit and proper person to fill the vacancy.

**9 Powers of Board**

The Board so constituted may exercise all or any of the following powers:—

- (1) Lay out enclose and plant the land held by the Board, and build thereon in such manner as they shall think fit, and sell give or exchange any spare plants seeds or specimens they may have in their possession.
- (2) Cause such parts of the said lands to be laid out for carriage-ways, and such parts thereof for foot-ways, as they may think proper.
- (3) From time to time to make stop up divert widen or alter any bridge-ways or watercourses in upon through across or over any part of the said lands.
- (4) Do anything which may be requisite for the proper and beneficial management and administration of the said lands or any part thereof.

**10 By-laws**

It shall be lawful for the Board from time to time, with the consent of the Governor, to make alter and repeal by-laws for the safety and preservation of the property upon the lands vested or to be vested in them, and for repressing such impropriety in the conduct of visitors as may tend to immorality profanity injury breach of the peace or discomfort of other visitors, and otherwise for the more efficient and regular government of the said lands, and such by-laws shall be published in the New Zealand Gazette, and in some newspaper circulating in the Town of New Plymouth, and shall come into operation on the date to be fixed thereby, not less than one month from the approval of such by-laws by the Governor.

**11 Application of moneys**

All sums of money which shall be received by the Board, whether by grant or by donation, or in any manner howsoever in respect of the lands vested or to be vested in them, shall be applied in managing administering and improving such lands, and generally for carrying into effect the purposes of this Act.

**12 Board may lease land**

It shall be lawful for the Board to lease any of the lands vested or to be vested in them, not exceeding one-tenth of the whole thereof, for any term not exceeding twenty-one years, subject to such rents and conditions and in such manner and form as the Board shall think fit.

**13 Offences**

Whoever shall do or attempt to do any of the following things upon or within the boundaries of the said lands, without the permission of the Board, shall be liable to a penalty over and above the damage done not exceeding ten dollars:—

- Light a fire.
- Wilfully break a fence or part of any fence.
- Wilfully break or cut any tree or plant.
- Shoot at any bird or animal with a gun or other instrument.
- Wilfully dig or cut the sod, or damage any dam or watercourse.
- Wilfully take away destroy or injure any bird or animal being upon the said lands, or any egg of any bird.
- Take away any wood shrub plant or any other thing.

The expression “ten dollars” was substituted, as from 10 July 1967, for the expression “five pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**14 Penalties**

Any person who shall be convicted of any breach of any bylaw made by the Board under the powers contained in the tenth section of this Act shall be liable to a penalty of not less than ten cents and not exceeding ten dollars.

The expressions “ten cents”, and “ten dollars” were substituted, as from 10 July 1967, for the expressions “one shilling”, and “five pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**15    Penalties how recovered and applied**

All penalties and forfeitures under this Act may be recovered in a summary way by any person appointed in that behalf by the Board to sue for the same, and shall be applied as other moneys under this Act are directed to be applied.

**16    Annual statement to be forwarded to Governor**

In the month of December in each year the Board shall forward to the Governor a statement of all moneys received or expended by them during the preceding year, and of all moneys at such date in the hands or under the control of the Board, and the Governor may, if he shall think fit, order such statement to be published in the Provincial *Gazette*.

**17    Board may exchange lands with the consent of the Governor**

It shall be lawful for the Board, with the consent of the Governor, to exchange portions of the land described in Schedule 1 hereto for other land adjoining such land: Provided that the land received in exchange shall be of the same value or extent as that given by the Board; and for the purpose of effecting such exchange it shall be lawful for the Board to execute such conveyances and instruments as may be deemed necessary.

**18    Governor may dissolve Board**

The Governor may, on the petition of the majority of the members for the time being of the Board, or of two-thirds of the rate-payers of the Borough of New Plymouth, dissolve the said Board, and on such dissolution the said lands vested by this Act shall vest in the Borough of New Plymouth, and be managed by the said Borough as the Board is authorized to manage the said lands.

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## **Schedule 1**

A      R      P      A      R      P

ALL those town allotments,  
containing by admeasure-  
ment 30 acres 3 roods 38  
perches, numbered respect-  
ively 1047, 1048, 1064,  
1066, 1085, 1087, 1104,  
1105, part of 1106, part  
of 1109, 1110, 1111, 1112,  
1113, 1114, 1115, 1116,  
1118, 1124, 1125, part of  
1126, part of 1129, 1130,  
1131, 1132, 1133, 1134,  
1136, 1140, 1143, 1144,  
1145, 1146, 1147, 1148,  
1149, 1150, 1151, 1152,  
1153, 1154, 1155, 1156,  
1157, 1161, 1162, 1163,  
1164, 1165, 1166, 1167,  
1168, 1169, 1170, 1171,  
1173, 1174, 1176, 1177,  
1180, 1182, 1185, 1186,  
1187, 1188, 1189, 1190,  
1191, 1192, 1193, 1194,  
1195, 1203, 1204, 1205,  
1206, 1207, 1208, 1209,  
1210, 1211, 1212, 1218,  
1219, 1220, 1221, 1222,  
1223, 1224, 1225, 1226,  
1227, 1234, 1235, 1236,  
1237, 1238, 1239, 1240,  
1241, 1242, 1243, part of  
1244, 1254, 1255, 1256,  
1257, 1258, 1259, 1260,  
1261, 1262, 1263, 1264.....

30      2      38

	A	R	P	A	R	P
All those pieces or parcels of land containing by admeasurement 10 acres 1 rood 37 perches, being town allotments:—						
L .....	2	3	37			
Part of M .....	0	1	10			
X.....	7	1	0			
				10	2	7
				41	1	5

**Schedule 2**

All those streets containing by admeasurement 7 acres 0 roods 14 perches, comprising:—Liardet Street, from town boundary to Fillis Street; Davy Street, from Carrington Road to eastern boundary of Section 1133; Wakefield Street, from Carrington Road to eastern boundary of Section 1173; Bell Street, from Carrington Road to western boundary of M; Shortland Street, from Carrington Road to eastern boundary of Section 1264 ...

7	0	14
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John Street, from Gover Street to L.....

0	0	13
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All those streets containing by admeasurement 7 acres 0 roods 14 perches, comprising:—Liardet Street, from town boundary to Fillis Street; Davy Street, from Carrington Road to eastern boundary of Section 1133; Wakefield Street, from Carrington Road to eastern boundary of Section 1173; Bell Street, from Carrington Road to western boundary of M; Shortland Street, from Carrington Road to eastern boundary of Section 1264 ...	7	0	14
Davy Street, from L to eastern boundary of allotment 1133 .....	0	1	14
Total.....	7	2	1
	48	3	6