

Rotoiti Validation Act 1909

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Date of assent 24 December 1909

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An Act to validate certain Proceedings for the Taking of Land for Public Works.

Preamble

WHEREAS since the year eighteen hundred and ninety-nine the Crown has been in possession of the land described in Schedule 1 hereto, and has used the same for electric-lighting purposes, and has for those purposes erected certain works and made other improvements on that land: And whereas doubts were subsequently raised as to the title of the Crown to the said land: And whereas by Order in Council dated the nineteenth day of March, nineteen hundred and seven, and published in the *Gazette* of the twenty-first day of the same month, the said land was declared to be taken under the Public Works Act 1905, for electric-lighting purposes

as from the twenty-first day of April, nineteen hundred and seven: And whereas the Court of Appeal has decided that the procedure appropriate for the taking of the said land has not been adopted, and that consequently the said land has not been duly taken under the provisions of the said Act: And whereas the like error may have been made in other cases of the taking of the land of Maori for public works: And whereas it is expedient that all such proceedings should be declared valid and effectual notwithstanding any such erroneous procedure: And whereas the land described in Schedule 2 hereto was on the twenty-fifth day of January, eighteen hundred and ninety-nine, taken (along with certain other land) as a road by warrant of the Governor purporting to be issued under section ninety-two of the Public Works Act 1894: And whereas doubts have arisen whether the said land described in Schedule 2 hereto has been validly taken as a road, and it is expedient to validate the taking thereof:

The reference to “Maori” was substituted, as from 27 November 1947, for a reference to “Natives” pursuant to section 2(2) Maori Purposes Act 1947 (1947 No 59).

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 Rotoiti Validation Act 1909.

2 Order in Council validated

The said Order in Council of the nineteenth day of March, nineteen hundred and seven, is hereby validated, and shall for all purposes be deemed to have taken full effect according to its tenor as from the twenty-first day of April, nineteen hundred and seven; and the land described in Schedule 1 hereto is hereby vested accordingly in His Majesty the King for electric-lighting purposes, and shall be deemed to have been so vested as from the last-mentioned date, free and discharged from all mortgages, charges, claims, estates, and interests whatever affecting the same.

3 A sum of \$6,000 to be paid by way of compensation out the Public Works Fund

- (1) The Minister of Finance shall, without further appropriation than this Act, pay out of the Public Works Fund the sum of six thousand dollars by way of compensation for the taking of the land described in Schedule 1 hereto.
- (2) The said sum shall be paid to the Public Trustee, and shall be held by him in trust to distribute the same among the Maori owners and other persons interested in the said land in accordance with orders of the Maori Land Court to be made in that behalf in accordance with the provisions hereinafter contained.
- (3) No fees or commission shall be chargeable by the Public Trustees in respect of the receipt or distribution of the said sum, nor shall any interest be payable by the Public Trustee in respect of the share to which any person is entitled in the distribution of that sum for the period elapsing before the amount of that share has been determined by the Maori Land Court.

The references to “\$6,000”, and “six thousand dollars” were substituted, as from 10 July 1967, for references to “£3,000”, and “three thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

The reference to “Maori” was substituted, as from 27 November 1947, for a reference to “Native” pursuant to section 2(2) Maori Purposes Act 1947 (1947 No 59).

4 Compensation to be apportioned among claimants by the Maori Land Court

- (1) The Minister of Public Works shall as soon as practicable after the passing of this Act cause application to be made to the Maori Land Court to ascertain the persons who are entitled to the sum so payable by way of compensation and the shares in which they are so entitled, and the said Court shall have jurisdiction to determine the same accordingly.
- (2) The Maori Land Court shall deduct from the share of compensation so receivable by any person any sum which that person or his predecessor in title has already received from the Public Account in respect of his interest in the said land, and all sums so deducted shall be paid by the Public Trustee into the Consolidated Fund.

- (3) The Maori Land Court may, if it thinks fit, in the exercise of its jurisdiction under this section, order any part of the compensation so receivable by any person to be paid by the Public Trustee to the solicitor of that person on account of any costs hereinbefore incurred in connection with legal proceedings in respect of the said land, instead of being paid to that person himself.

The reference to “Maori” was substituted, as from 27 November 1947, for a reference to “Native” pursuant to section 2(2) Maori Purposes Act 1947 (1947 No 59).

5 Similar Orders in Council declared valid

No Order in Council heretofore made under section ninety of the Public Works Act 1908, or under the corresponding provisions of any former Act relating to the compulsory acquisition of Maori land, shall, in any proceedings or in any Court, be questioned or held invalid on the ground that the land purporting to be thereby taken was not Maori land within the meaning of the Act under which the Order in Council was made; and every such Order in Council shall take effect and be deemed at all times to have taken effect according to its tenor, notwithstanding any error, defect, or irregularity whatsoever in the procedure by which the land was so taken.

The reference to “Maori” was substituted, as from 27 November 1947, for a reference to “Native” pursuant to section 2(2) Maori Purposes Act 1947 (1947 No 59).

6 Land in Schedule 2 declared to be a road

The land described in Schedule 2 hereto is hereby declared to be, and at all times since the twenty-fifth day of January, eighteen hundred and ninety-nine, to have been, a public road vested in His Majesty the King.

Schedule 1

ALL those parcels of land, situated in the Land District of Auckland and in Block VI of the Survey District of Rotoiti, containing respectively and approximately 10 acres and 17 perches, 5 acres 1 rood 28 perches, and 26 acres 2 roods 27 perches, and being portions of the Te

Taheke Block: as the same are delineated on the plan marked PWD 21695, deposited in the office of the Minister of Public Works, at Wellington, and thereon coloured red and blue.

Schedule 2

ALL that parcel of land, situated in the Land District of Auckland and in Block VI of the Survey District of Rotoiti, containing approximately 1 acre and 22 perches, and being portion of the Te Taheke Block: as the same is delineated on the map No 5516A, deposited in the office of the Lands and Survey Department, at Auckland, and thereon coloured pink.