

City of Auckland Additional Loan Act 1883

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An Act to authorize the Body Corporate called the Mayor, Councillors, and Citizens of the City of Auckland to borrow a Sum of Two Hundred Thousand Pounds.

Preamble.

WHEREAS under and by Virtue of the provisions of the several Acts recited in the preamble to "The City of Auckland Loans Consolidation Act, 1879," the body corporate called the Mayor, Councillors, and Citizens of the City of Auckland, in exercise of the powers conferred thereby, borrowed certain sums of money therein specified amounting to one hundred and ninety-five thousand pounds: And whereas, under the provisions of, and in exercise of the powers conferred by, the said "City of Auckland Loans Consolidation Act, 1879," the said body corporate borrowed a further sum of fifty-five thousand pounds, making together with the said sum of one hundred and ninety-five thousand pounds the sum of two hundred and fifty thousand pounds authorized by the said Act: And whereas the said sum of two hundred and fifty thousand pounds is the full amount of the indebtedness of the said body corporate upon debentures issued under the authority of the said Acts: And whereas since the passing of "The City of Auckland Loans Consolidation Act, 1879," there have been added to the Borough of the City of Auckland the Highway Districts of Ponsonby, Karangahape, and Grafton: And whereas the said body corporate are desirous of having power to borrow as hereunder mentioned a further sum for the purposes specified in the First Schedule to this Act:

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 is “The City of Auckland Additional Loan Act, 1883.”

2 Interpretation.

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

“The Council,” “the Corporation,” respectively mean the Corporation of the City of Auckland, comprising the body corporate of the Mayor, Councillors, and Citizens of the City of Auckland:

“The revenues” means and includes the entire revenues of the Corporation for the time being of the City of Auckland, from whatsoever source the same may be derived.

3 Loan of £200,000 authorized.

The Corporation may, subject to the provisions of this Act, borrow and take up at interest any sum of money not exceeding in the whole the sum of two hundred thousand pounds, for and to be applied to the several purposes specified in the First Schedule to this Act.

4 Corporation may issue debentures.

In respect of the moneys to be raised as aforesaid, and of the interest for the same, the Corporation may from time to time issue debentures charged upon the revenues, and every such debenture shall be in the form in the Second Schedule to this Act, and shall be numbered consecutively, commencing 1a and following on, keeping the letter “a” following each number, so that no two debentures shall at any time bear the same number, and each debenture shall be for a sum not less than one hundred pounds nor more than one thousand pounds.

5 Time and place of payment.

Every debenture shall be repayable, both as to principal and interest, at a place or places within or without the colony named in such debenture, and at a time named therein being fifty years from the issue thereof.

6 Coupons.

The interest on every debenture shall not exceed five pounds per centum per annum on the amount thereof, and shall be payable half-yearly; and separate coupons for each sum so payable, in the form in the Third Schedule to this Act, and numbered consecutively for each debenture, shall be attached thereto. No debenture shall be sold by the Corporation at such a price as to produce to the purchaser an interest of more than six per centum on the price paid.

7 Debentures and coupons transferable by delivery.

Debentures and coupons respectively shall be transferable by delivery, and payment to any person in possession of any such debenture or coupon of the sum named therein shall discharge the Corporation of all liability in respect of such debenture or coupon. No stamp-duty shall be payable in respect of any such debenture or coupon.

8 Agents for raising loan.

The Corporation may appoint any joint-stock company or any such company, and one or more persons or any two or more persons, within or out of the colony, to be agents for raising and managing the loan authorized to be raised under this Act or any part of the amount thereof, and such agents shall have full power to raise such loan in the following manner, viz.:—

Any sum not exceeding one hundred thousand pounds, at any time during the year one thousand eight hundred and eighty-four;

Any further sum not exceeding twenty-five thousand pounds, at any time during the year one thousand eight hundred and eighty-five;

Any further sum not exceeding twenty-five thousand pounds, at any time during the year one thousand eight hundred and eighty-six;

Any further sum not exceeding twenty-five thousand pounds, at any time during the year one thousand eight hundred and eighty-seven;

Any further sum not exceeding twenty-five thousand pounds, at any time during the year one thousand eight hundred and eighty-eight;

Or at such later times or in such smaller amounts, and upon such terms and conditions, as the Council shall direct.

9 How debentures to be signed.

All such debentures shall be issued under the common seal of the said Corporation, and shall be signed by the Mayor and countersigned by the Town Clerk for the time being of the said Corporation or the person acting as such.

10 Hypothecation.

Pending the raising of any such loan the Council may borrow any sum or sums of money not exceeding the whole amount authorized to be borrowed by the hypothecation or mortgage of any debentures hereby authorized to be issued, with power of sale in case of default, at such a price as to produce to the purchaser an interest of not more than six per centum per annum on the price paid. All moneys so borrowed shall be a first charge upon and shall be repaid out of the loan when raised, and the rate of interest on moneys so borrowed shall in no case exceed eight per centum per annum; and the moneys to be borrowed shall be applied in like manner as the moneys authorized to be raised by sale of the debentures.

11 Register of debentures to be kept.

There shall be kept at the office of the Council a register of all debentures from time to time issued under the authority of this Act, and after the issue of any debenture an entry shall be made in the register of the number and date thereof as stated in the debenture, and every such register shall be open to public inspection during office hours at the said office, without fee or reward, and any clerk or other person having the custody of the same refusing to allow such inspection shall be liable to a penalty not exceeding twenty pounds; and a certificate in the form or to the effect set forth in the Fourth Schedule of this Act, under the common seal of the Corporation, and purporting to be signed by the Mayor and Town Clerk respectively for the time being of the said city, stating the amount previously borrowed upon the security of this Act and then outstanding and unpaid, shall be conclusive evidence in any Court of judicature as against the said Corporation that no more than the total sum of money mentioned in the said certificate had at the date of such certificate been previously borrowed and then remained outstanding and unpaid; and a certificate in the form or to the effect set forth in the Fifth Schedule of this Act, under the common seal of the Corporation, and purporting to be signed by the Mayor and Town Clerk respectively for the time being of the said city, shall be conclusive evidence in any Court of judicature as against the said Corporation that all conditions required by the law to enable and empower the said Council to borrow the sum or sums of money named in such certificate had been duly performed, observed, and fulfilled.

12 Agents to forward notice of issue of debentures by them.

If any agents shall raise any loan authorized to be raised under this Act they shall, within fourteen days after the issue of any debenture by them, forward notice in writing thereof and of the number and date of such debenture to the Corporation; and the Treasurer of the Corporation shall, within fourteen days after the receipt of such notice by him, or, in the case of any debenture issued by the Corporation, within fourteen days after the issue thereof, cause an entry to be made thereof as provided by the last-preceding section; and if such agents shall neglect or fail to forward such notice in writing as aforesaid within the time aforesaid they shall be liable to a penalty not exceeding twenty pounds; and if such Treasurer shall neglect or fail to make such entry as aforesaid within the time aforesaid he shall be liable to a penalty not exceeding twenty pounds.

13 Sinking Fund.

The Council shall, from and out of the revenues in each and every year from the first raising of any sums of money under the authority of this Act until the whole amount so raised and the interest thereon shall have been duly paid, set apart as a sinking fund such sums of money as shall be sufficient to pay the amount of the principal money so raised in fifty years, and such sums

shall be paid over by the Council as soon as they shall be so set apart to three Commissioners to be appointed by the Council (who may from time to time remove them or any of them, and appoint another or others in the room of the Commissioner or Commissioners so removed), and shall be invested, together with all interest and profits accruing therefrom, in such securities as the Council may from time to time direct.

14 Commissioners to furnish accounts.

Such Commissioners shall send to the Council, at such times as the Council shall direct, accounts of all moneys and all securities in their hands, and shall, immediately after the thirty-first day of March in each year, send to the Council a balance-sheet showing all transactions in respect of such moneys or securities during the year ending on such day. Such Commissioners shall, together with such balance-sheet, send to the Council a certificate under their hands of all the securities held by the Commissioners, and shall, if required, verify the same by statutory declaration.

15 Fund to be applied in payment of loan.

When the principal moneys of the loan shall become payable, the accumulations of such sinking fund shall be applied in or towards payment thereof.

16 Special rate.

The Council may, whenever necessary for the purpose of paying the sinking fund and the annual interest payable upon all or any part of the moneys secured by any debentures issued under the provisions of this Act or "The City of Auckland Loans Consolidation Act, 1879," or any Act which that Act was intended to supersede, and in lieu of the special rate authorized by section seventeen of that Act, make a special rate upon all rateable property in the City of Auckland, as the boundaries of such city are set out and defined in a Proclamation issued by His Excellency Sir James Prendergast, the Administrator of the Government of New Zealand, dated the twenty-sixth day of October, one thousand eight hundred and eighty-two, and published in the *New Zealand Gazette* for that year, number eighty-eight, to an amount not exceeding in any one year the sum of two shillings in the pound of the annual value of such property, and such special rate shall, as near as practicable, be in the form prescribed in respect to special rates in "The Municipal Corporations Act, 1876," but shall not commence until the first day of June, one thousand eight hundred and eighty-four.

17 Special rate to continue until moneys paid off.

Every such special rate shall be payable at such intervals not exceeding one year as the Council shall in and by the special order for making such rate appoint, and every such special rate shall, without any further proceeding by the Council or otherwise, be and continue to be an annual recurring rate upon

every rateable tenement at any time situated within the area of the city at the time of the making of such special rate according to the annual value of each such tenement as appearing by the valuation last made affecting such tenements, until all moneys owing in respect of the moneys raised under the authority of this Act and of "The City of Auckland Loans Consolidation Act, 1879," shall have been paid off and discharged; and the Council may from time to time amend such special rate by increasing or diminishing the same if necessary so that the annual produce shall suffice to provide the interest and sinking fund on account of the loan.

18 Provisions of "Municipal Corporations Act, 1876," to apply.

Save where it is herein otherwise expressly provided, or there is something in the context repugnant thereto, all the provisions contained in "The Municipal Corporations Act, 1876," and any Act or Acts amending or substituted for the same relating to special rates, shall apply to every such special rate as aforesaid.

19 Limits of rates extended.

Notwithstanding anything in "The Municipal Corporations Act, 1876," to the contrary, the limit of rates to be made and levied within the said City of Auckland as fixed by the said Act may be exceeded by the Council for the purposes of this Act and the said "City of Auckland Loans Consolidation Act, 1879," to the extent authorized by this Act, and the said Council may levy a rate for general municipal purposes as well as the special rate authorized to be levied hereunder, but so always that there shall not be leviable by the said Council in the said City of Auckland a greater amount for rates in any one year than two shillings in the pound on the annual value of the rateable property in the city.

20 Supreme Court may direct rate to be levied for payment of interest.

It shall be lawful for the Supreme Court of New Zealand, upon application duly made by the holder of any debenture or coupon issued under the authority of this Act, if the interest payable in respect of such debenture or coupon shall be in arrear or unpaid, by a rule or order of the said Court, to require the Corporation to show cause why such interest should not be forthwith paid, and, failing such payment, why a writ of *mandamus* should not issue requiring the said Council to levy a special rate to insure and provide for such payment; and it shall be lawful for the said Supreme Court, upon cause being shown to the said rule or order, or upon proof of the due service of the same, if the Corporation shall not appear to show cause, to pronounce such decision thereon, and make such order as to costs, and by and to whom the same shall be paid, as may to the said Court appear to be just and right.

21 How moneys to be applied.

The moneys to be borrowed under the provisions of this Act shall be applied to the several purposes specified in the First Schedule to this Act, in the proportions therein set forth, and to no other purposes whatsoever.

22 Separate accounts to be kept.

The Council shall keep separate accounts of all moneys received and expended under the provisions of this Act for each of the purposes therein mentioned, and such accounts shall be balanced twice at least in every year.

23 Purchaser of debentures not concerned to see to application of moneys.

No purchaser of a debenture or debentures issued under the provisions of this Act shall in any manner be concerned to see to the application of the moneys paid for the same, or be in anywise chargeable or accountable for the loss, misapplication, or non-application of the same, or to inquire as to the necessity for raising the same.

24 Payment of debentures.

When any money shall become due and payable as principal money secured by any debentures issued under this Act, the Council shall apply the accumulated sinking fund and all other moneys for the time being in their hands available for that purpose to the payment of the debentures upon which such principal moneys shall have so become due and payable.

25 Holder of debenture may apply to a Judge of the Supreme Court for the appointment of a Receiver.

If, at the expiration of fourteen days from the time when any principal money has become due upon any debenture issued under this Act, and after presentation of such debenture at the place where the same is payable, it shall not be paid, the holder of such debenture may, without prejudice to any other mode of recovery, apply to a Judge of the Supreme Court of New Zealand, by petition, in a summary way, for the appointment of a Receiver; and the Judge is hereby empowered, if satisfied of the truth of the matters alleged in such petition, to appoint some fit person to collect and receive the whole or a competent part of the revenues, until such principal and any interest due or to accrue due thereon, together with costs of the application and the costs of collection, are fully paid; and, upon such appointment being made, all securities held by the Council or by any Commissioners appointed under this Act as accumulated sinking fund for the payment of such loan shall vest in the Receiver so appointed, and shall cease to be vested in the Corporation or the said Commissioners; and all moneys arising from the revenues or such competent part of the revenues as the Court shall order, until payment of such principal and interest and the costs of the application and the costs of collection as aforesaid, shall be paid to the

Receiver so appointed, and when so paid shall be rateably apportioned between the debenture-holders.

26 Powers for recovery of rates to vest in Receiver.

All powers for the recovery of rates, tolls, rents, or other moneys of the Corporation shall, after the appointment of a Receiver, and in respect to all moneys so to be invested in him, cease to be exercised by the Council, and shall be vested in the Receiver.

27 Power of Receiver to amend special rate.

The Receiver shall, in respect of any special rates vested in him, have the power given to the Council to amend a special rate as provided by the one hundred and thirteenth section of "The Municipal Corporations Act, 1876," but such power shall be exercised only upon an order by a Judge of the Supreme Court.

28 Receiver to give security.

Every Receiver shall, before entering on his office, give such security for the faithful execution thereof as the Judge shall direct.

29 Application of money by Receiver.

All moneys received by the Receiver shall be applied only under the order of a Judge of the Supreme Court, as follows:—

- (1.) In the payment of the expenses of the application and order;
- (2.) In the payment of such remuneration to the Receiver and in such expenses of his office as the Judge directs;
- (3.) In the payment of the principal and interest of the loan;
- (4.) The residue, after payment of the above, shall be paid into the Borough Fund, for the use of the Corporation.

And the Receiver shall account for all such moneys in such manner as the Judge shall direct.

30 When loan paid off, Receiver's powers to cease.

When all the principal and interest of the loan are paid, or at any other time, by an order of the Judge, the powers of the Receiver shall cease and shall revert in the Council, and he shall forthwith pay any moneys in his hands into the Borough Fund Account.

31 Holders of debentures to have no claim on colonial revenue.

No holder of any debenture or coupon to be issued under the authority of this Act shall have any claim in respect thereof upon the public revenues of the Colony of New Zealand.

SCHEDULES**FIRST SCHEDULE**

	£
1. For formation and drainage works in the Ponsonby Ward	28,000
2. For formation and drainage works in the Karangahape Ward	18,000
3. For formation and drainage works in the Grafton Ward	14,000
4. For formation and drainage works in the North Ward	20,000
5. For formation and drainage works in the South Ward	20,000
6. For formation and drainage works in the East Ward	20,000
	<hr/> £120,000
7. To erect a town hall and Corporation offices, free public library and art gallery, and purchase of site or additions to the site for town hall	20,000
8. To extend the waterworks, by laying mains, constructing additional reservoirs, and doing all necessary works incident thereto	60,000
	<hr/> £200,000

SECOND SCHEDULE

Colony of New Zealand.—“The City of Auckland Additional Loan Act, 1883.” £200,000 Loan. Secured on the Revenues of the Corporation of the City of Auckland.

Debenture for £ . Redeemable, , 19 . No. a.

Issued by the Corporation of the City of Auckland, New Zealand, under an Act of the General Assembly of New Zealand intituled “The City of Auckland Additional Loan Act, 1883.”

On presentation of this debenture at , on or after the day of , 19 , the bearer hereof will be entitled to receive the sum of £ sterling.

Interest on this debenture will cease after the day when the payment falls due, unless default is made in payment on presentation.

Issued under the seal of the Corporation of the City of Auckland, New Zealand, this day of , 18 .

(L.S.)

Mayor.

Town Clerk.

Note.—The holder of this debenture has no claim in respect thereof upon the public revenues of the Colony of New Zealand.

N.B.—The holder of this debenture and the coupons attached may obtain payment thereof respectively, at maturity, in the Cities of Wellington, Auckland, Dunedin, London, Melbourne, or Sydney, by giving to the said Municipal Council three months’ previous notice in writing in that behalf.

THIRD SCHEDULE

“The City of Auckland Additional Loan Act, 1883.”

Coupon. Debenture No. *A.*

On presentation of this coupon at [*State place of payment*], on or after the day
of , 1 , the bearer thereof will be entitled to receive £ .

(L.S.)

Mayor.

Town Clerk.

FOURTH SCHEDULE

“The City of Auckland Additional Loan Act, 1883.” £200,000 Loan

Certificate of existing Liabilities of Mortgage and Debentures.

This is to certify that, prior to this day of , 18 , the Corporation of the City of Auckland has borrowed, upon the security of the revenues (within the meaning of the above-mentioned Act), the sum of £ , and no more; and that the debentures issued in respect of the moneys so borrowed, and now outstanding and unpaid, do not exceed in the whole the sum of £ . And it is further certified that, of the sum of £200,000 authorized by law to be raised by the said Corporation of the City of Auckland upon the security of the revenues, there yet remains to be raised and borrowed the sum of £ .

Issued under the seal of the Corporation of the City of Auckland, this day of , 18 .

(L.S.)

Mayor.

Town Clerk.

FIFTH SCHEDULE

“The City of Auckland Additional Loan Act, 1883.” £200,000 Loan

Certificate of Authority given by the Corporation of the City of Auckland to borrow Money.

This is to certify that, at a meeting of the Council of the Corporation of the City of Auckland, specially called for the purpose, and at which meeting two-thirds of the members of such Council were present, a resolution was made and passed authorizing and directing that the sum of £ should be borrowed upon the security of the revenues of the said Corporation, and that debentures bearing interest at the rate of per centum per annum, payable half-yearly, should be issued as security for the repayment of the moneys authorized and directed to be borrowed as aforesaid; and it is hereby further certified that all conditions required by law to enable the Council of the said Corporation to borrow the said sum of £ have been duly performed, observed, and fulfilled.

Issued under the seal of the Corporation of the City of Auckland, this day of , 18 .

(L.S.)

Mayor.

Town Clerk.