

# Napier Harbour Board Loan Act 1892

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**An Act to give Power to the Napier Harbour Board to carry out certain Harbour Works and Improvements, and to give Borrowing Powers for carrying out such Works.**

**Preamble.**

WHEREAS the Napier Harbour Board is a duly constituted Board under and by virtue of "The Napier Harbour Board Act, 1875:" And whereas by "The Napier Harbour Board Empowering and Loan Act, 1884," the Napier Harbour Board was authorised to raise money for the purpose of constructing and carrying out certain harbour works mentioned in section six thereof, and for that purpose to issue debentures for any sum not exceeding in the aggregate the sum of three hundred thousand pounds, and the Napier Harbour Board was thereby empowered to make and levy a rate upon the rateable property in the Napier Harbour Rating District by such Act constituted, the proceeds whereof should be applied towards payment of the annual charges to accrue in respect of the loan thereby raised, and to provide for a sinking fund as therein mentioned: And whereas the said Board in pursuance of the powers so vested in it has raised the sum of three hundred thousand pounds and issued debentures for the same, and the said sum of three hundred thousand pounds is now owing by the said Board: And whereas by "The Napier Harbour Board Empowering Act, 1885," the said Board was empowered to pay off the sum of seventy-five thousand pounds borrowed by the said Board on the security of debentures made and given under and in pursuance of the powers contained in "The Napier Harbour Board Act, 1875," out of the said sum of three hundred thousand pounds borrowed under the provisions of "The Napier Harbour Board Empowering and Loan Act, 1884:" And whereas the said sum of seventy-five thousand pounds has been paid by the said Board out of the said sum of three hundred thousand pounds raised by the said Board under the provisions of "The Napier Harbour Board Empowering and Loan Act, 1884:" And whereas the growing trade and commerce of the Provincial District of Hawke's Bay requires further and better harbour and wharfage accommodation than was provided and shown on the plan of works submitted by the said Board to the Marine Department prior to the

commencement of the works authorised to be constructed and carried out under the provisions of “The Napier Harbour Board Empowering and Loan Act, 1884.” And whereas the said Board is desirous of providing such further and better harbour and wharfage accommodation, and of giving proper access to and from the works already constructed under “The Napier Harbour Board Empowering and Loan Act, 1884,” or hereafter to be constructed, and of completing and constructing other works for the improvement of the Port of Napier; and in order to raise money for such purposes is desirous of borrowing two hundred thousand pounds:

**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 Napier Harbour Board Loan Act, 1892.”

**2 Special Act.**

This Act shall be deemed to be a special Act within the meaning of “The Harbours Act, 1878,” which Act is hereby incorporated with this Act.

**3 Interpretation.**

In this Act the expression—

“The Board” means the Napier Harbour Board:

“The Chairman” means the Chairman of the Board for the time being:

“The Treasurer” means the Treasurer of the Board for the time being:

“The district” means the Napier Harbour Bating District as constituted and defined by “The Napier Harbour Board Empowering and Loan Act, 1884,” and shall include all existing boroughs and town board districts which at the time of the passing of such Act may have formed part of any of the ridings set out in the Fourth Schedule thereto.

**4 Power to construct harbour works.**

It shall be lawful for the Board, subject to the provisions of “The Harbours Act, 1878,” to construct such works as are defined by the words “harbour works” in the interpretation clause of such Act as shall be by the Board considered necessary for the requirements of the Harbour of Napier, and also to erect and construct all such cranes, sheds, and works for the improvement of the said harbour as shall be judged necessary and proper by the Board for the safety, convenience, or reception of vessels resorting to the said harbour, and for the more convenient loading and unloading of such vessels, or for the safety and protection of any works constructed or proposed to be constructed by the Board, and for providing proper access to and from any such works.

**5 Power to borrow.**

The Board shall have power to borrow, in addition to the sum authorised by any previous Act, subject to the provisions of “The Harbours Act, 1878,” and to the provisions of this Act, any sum not exceeding two hundred thousand pounds, at any rate of interest not exceeding six pounds per centum per annum, to be applied in and about the construction and carrying out of the works mentioned in section four of this Act.

**6 Power to issue debentures.**

It shall be lawful for the Board from time to time to issue debentures for any sums of money not being less than twenty pounds nor more than one thousand pounds, and not exceeding in the aggregate the sum of two hundred thousand pounds, repayable on the first day of January, one thousand nine hundred and twenty-eight, bearing interest after a rate therein fixed, but not exceeding six per centum per annum.

**7 Form of debenture. First Schedule.**

Every debenture shall be in the form or to the effect set forth in the First Schedule to this Act, and shall be sealed with the seal of the Board and signed by the Chairman, and countersigned by the Treasurer.

**8 Debentures to be numbered. Coupons to be attached. Second Schedule.**

The debentures shall be numbered consecutively, commencing with number one, and shall have coupons attached thereto signed by the Chairman and countersigned by the Treasurer, in the form in the Second Schedule to this Act, for every half-year’s interest, payable to bearer.

**9 All debenture-holders to rank alike.**

The holder of any debenture shall not have any preference by reason of any priority of date or otherwise, but all debenture-holders shall rank alike and be entitled to equal rights and remedies.

**10 Sinking fund to be provided.**

For the purpose of providing a sinking fund for the liquidation of the loan authorised by this Act, there shall, on the first day of January in each year and every year after the passing of this Act, be set apart by the Board, out of the rates and other moneys hereinafter mentioned upon which the principal and interest of such debentures are to be charged, a sum not exceeding one pound per centum per annum on the aggregate amount for which debentures shall at that time be issued.

**11 Investment of sinking fund.**

The Board shall under its seal appoint two or more Commissioners, within or out of the Colony of New Zealand, to whom shall be paid as soon as

conveniently may be after the first day of January in each and every year after the passing of this Act the sum of money to be set apart as a sinking fund under the preceding section of this Act; and such Commissioners shall invest such moneys, together with the interest and profits accruing therefrom, in such securities as the Board shall from time to time direct.

## **12 Meetings of ratepayers to consider proposal to borrow.**

Before the said loan is raised the consent of the ratepayers in the district shall first be obtained, in the mode hereinafter prescribed. The Chairman shall convene meetings of the ratepayers, to be held within the boroughs, town board districts, and several ridings comprising the district, upon a day not more than seven days after the last publication of a notice to be published as hereinafter mentioned, to consider the said proposal. Such meetings shall be convened by notice published on three consecutive days in a newspaper circulating in the district, and every such notice shall specify the time and place in the boroughs, town board districts, and ridings at which meetings are to be held, and also the following particulars, namely:—

- (1.) The particular works proposed to be undertaken;
- (2.) The sum proposed to be borrowed for such purpose;
- (3.) Any special rate or tolls which it is proposed to pledge as security for such loan, not being moneys received by way of grant from the General Government, or moneys theretofore pledged as security for any loan or appropriated to any special purpose.

## **13 Chairman to appoint presiding officers.**

The Chairman shall appoint one of the members of the Borough Council, Town Board, and of the County Council elected for each riding in the district to preside at each meeting within the borough, town board district, or riding which he represents, if such member shall be willing to act; and if no such member is willing to act, or becomes incapacitated from acting from any cause, then such person as the Chairman thinks fit. The member or person so appointed shall be called “the presiding officer,” and he shall preside at the meeting to be held in the borough, town board district, or riding for which he has been appointed, and shall also preside at the taking of any poll as hereinafter provided. After due consideration and discussion of the proposal, the presiding officer shall give notice that a poll will be taken.

## **14 How poll to be taken.**

The poll shall be taken as follows:—

- (1.) The Chairman shall publish a notice setting forth the day, not less than one nor more than three weeks from the day of the said meetings, on which the poll will be taken:

- (2.) The Chairman shall give notice to the presiding officer requiring him to take the poll upon the day appointed:
- (3.) The presiding officer shall, upon the day so appointed, proceed to take the poll in the manner provided by "The Regulation of Local Elections Act, 1876," for taking a poll at any election, and shall provide voting-papers and all things necessary for taking the poll:

*Voting-papers.*

- (4.) The voting-papers shall be printed in the form in the Third Schedule to this Act, with the words "I vote for the above proposal" and "I vote against the above proposal" legibly printed at the foot of each voting-paper:
- (5.) The voter shall erase one or other of the said lines, and his vote shall be deemed to be given according to the one of the said lines which he leaves un erased:
- (6.) All the provisions of "The Regulation of Local Elections Act, 1876," as regards taking a poll, shall, so far as they are applicable, and except as by this section otherwise provided, apply to the taking of a poll on the proposal to raise a special loan:
- (7.) A separate poll shall be taken in the boroughs, town board districts, and several ridings comprising the district.

**15 Number of votes ratepayers entitled to.**

Every ratepayer in every borough, town board district, or riding in the district shall be entitled to vote in every such borough, town board district, or riding, according to the following scale

- (1.) If the actual value of his property on any assessment-roll in force for the time being in any borough, town board district, or road or outlying district forming part of a riding in the district, is not more than one thousand pounds, he shall have one vote:
- (2.) If more than one thousand pounds, but not more than two thousand pounds, he shall have two votes:
- (3.) If more than two thousand pounds, but not more than three thousand pounds, he shall have three votes:
- (4.) If more than three thousand pounds, but not more than seven thousand five hundred pounds, he shall have four-votes:
- (5.) If more than seven thousand five hundred pounds he shall have five votes.

**16 When resolution to be deemed carried.**

If the number of votes given for the proposal within the district exceeds the number given against it by one-fourth or more than one-fourth the resolution in favour of the proposal shall be deemed to be carried, and the Board may proceed with the proposal accordingly, but if the number of votes given for

the proposal does not exceed by one-fourth the number given against it the resolution shall be deemed to be rejected, and the Board shall not so proceed.

**17 Chairman to declare result of poll.**

As soon as conveniently may be after the result of the poll has been ascertained, the Chairman shall give public notice of the number of votes recorded for and against the proposal as above provided, and shall declare the resolution to be carried or rejected as the case may be.

**18 Result of poll to be sent to Colonial Secretary. *Gazette* notice final.**

When any such resolution is carried the Chairman shall send a notice thereof to the Colonial Secretary, who shall publish the same in the *Gazette*; and such notice so gazetted shall be final that the raising of the loan to which it refers has been duly authorised under the provisions of this Act, notwithstanding any omission or irregularity in any provision, matter, or thing required to be done hereunder or under "The Regulation of Local Elections Act, 1876."

**19 Board may rate district to provide interest and sinking fund.**

The Board, after the passing of this Act, shall, if the resolution in favour of the proposal be carried as aforesaid, make and levy a rate, in the proportions in the different parts of the district hereinafter mentioned, upon all rateable property in the Napier Harbour Rating District, and the proceeds of such rate shall be applied towards payment of the annual charges to accrue in respect of any loans to be raised under this Act, and to provide for the sinking fund hereinbefore mentioned.

**20 Amount of rate.**

The amount to be levied by the Board in each year shall not exceed such amount as is required to provide for the payment of the interest on the aggregate amount for which debentures shall at that time be issued, and in addition one pound per centum per annum on such aggregate amount, to be appropriated for the purposes of the sinking fund hereinbefore mentioned, after taking into account the amount (if any) which may be estimated as available for the current year from the revenue of the Board, having regard to all existing charges on such revenue, towards payment of interest and sinking fund on the loan hereby authorised to be made.

**21 Proportions of rate.**

The rate to be levied under this Act on the rateable property in the Borough of Napier shall be double the rate to be levied on the rateable property in the remainder of the district.

**22 No rate to be quashed.**

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

**23 Actual value appearing in assessment-rolls to be rateable value.**

The actual value appearing on the assessment-rolls under “The Land and Income Assessment Act, 1891,” and its amendments in force for the time being, as regards all real property in the district shall be the rateable value of all such properties for the purpose of this Act.

**24 Board to have power of local bodies for levying rates.**

For the purpose of making, levying, and recovering the rates hereby authorised to be made and levied the Board shall have and may exercise all the powers of making, levying, and recovering rates in the boroughs, town board districts, and each riding within the district, which any local body having rating powers within such boroughs, town board districts, or riding shall or may have under the law for the time being in force regulating the recovery of the rates therein respectively.

**25 In case of default by Board, Supreme Court may appoint a Receiver.**

When and so often as the Board shall fail to pay at the proper time and place for so paying either the principal sum secured by the debentures to be issued under this Act or the coupons for interest payable thereon, then immediately on default being made any person to whom any such sum is owing may apply *ex parte* by petition in a summary way to a Judge of the Supreme Court for relief under this Act, and the Judge may, if satisfied of the truth of the matters alleged in such petition, appoint, upon such terms as to security and remuneration as he shall think fit, a Receiver of the rate hereby authorised to be levied.

**26 Rate to vest in Receiver.**

From and after the date of such appointment, and upon its being advertised by publication in the *Gazette* and in the newspapers circulating in the district for such time as the said Judge shall order, the said rate shall vest in the Receiver, and shall cease to be vested in the Board.

**27 Powers of Board exercisable by Receiver.**

All powers vested in the Board for the making, levying, and recovering the said rate shall, after the appointment of the Receiver, and upon its being publicly notified in such manner as directed by the previous section of this Act, cease to be exercised by the Board and shall be exercised by the Receiver.

**28 Moneys received by Receiver, how applied.**

All moneys received by the Receiver shall be applied,—

- (1.) In payment of the costs of the application and order;
- (2.) In payment of the Receiver's remuneration, to be fixed as aforesaid;
- (3.) In payment *pro ratâ* of the sums then overdue by the Board which are secured by the said rate;
- (4.) The residue (if any) to be paid to the Board.

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

**29 When Receiver's powers cease.**

When all sums overdue are paid, or at any time on the application of the Board, a Judge of the Supreme Court may order the powers of the Receiver to cease; and he shall thereupon pay over to the Board any moneys then in his hands, and the Board shall again be capable of exercising the powers of which the appointment of Receiver had deprived them.

**30 Priority of debentures.**

The debentures to be issued under this Act, and the interest thereon, shall be a first charge on the rates hereby authorised to be levied and on the revenue of the Board, subject, however, with regard to such revenue to the priority of all existing charges thereon, whether by way of debentures or otherwise, and including the annual charges in respect of the loan raised under "The Napier Harbour Board Empowering and Loan Act, 1884," and also to all expenditure therefrom for works that may be deemed necessary by the Board.

**SCHEDULES****FIRST SCHEDULE**

Napier Harbour Board Loan, 1892, of £200,000

No.        Debenture for £        , payable in        .

Issued by the Napier Harbour Board under an Act of the General Assembly of New Zealand intituled "The Napier Harbour Board Loan Act, 1892."

Secured on the rates of the Napier Harbour Rating District, as defined by "The Napier Harbour Loan Act, 1892," and the surplus revenue of the Napier Harbour Board funds (if any), after providing for all previously-existing charges thereon.

N.B.—The holder of this debenture has no claim in respect thereof on the public revenues of New Zealand, or on the General Government thereof.

On presentation of this debenture at        , on or after the        day of        , 19, the bearer will be entitled to receive £        , and in the meantime interest thereon at the rate of £        per centum per annum by half-yearly payments. Interest on this debenture will cease after the day when the payment falls due, unless default be made in payment.

Issued under the seal of the Napier Harbour Board.

(L.S.)

Chairman of the Board.

Treasurer of the Board.

**SECOND SCHEDULE**

Debenture No. \_\_\_\_\_, of the Harbour Board of Napier, New Zealand, issued under  
“The Napier Harbour Board Loan Act, 1892.”

Secured on the rates of the Napier Harbour Rating District, as defined by “The Napier  
Harbour Board Loan Act, 1892,” and the surplus revenue of the Napier Harbour  
Board funds (if any), after providing for all previously-existing charges thereon.

On presentation of this coupon at \_\_\_\_\_, on or after the \_\_\_\_\_ day of \_\_\_\_\_, the bearer  
will be entitled to receive £ \_\_\_\_\_.

Chairman of the Board.

Treasurer of the Board.

**THIRD SCHEDULE**

## Form of Voting-Paper for Special Loan

Proposal to raise a Special Loan, upon which a poll will be taken on the day of           , 189   .

*[Insert notice required by section 12.]*

- (1.) I vote for the above proposal.
- (2.) I vote against the above proposal.

Priority of debentures.