

# City of Christchurch Empowering Act 1911

Local Act 1911 No 11  
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**An Act to amend the City of Christchurch Loan Act, 1871, and to enable the Mayor, Councillors, and Citizens of the City of Christchurch to acquire Lands for Street-widening and other Purposes, and to borrow the Necessary Funds.**

**Preamble.**

WHEREAS in exercise of the powers conferred upon it by the City of Christchurch Loan Act, 1871, the Christchurch City Council did borrow and take up at interest for the purpose of carrying out certain permanent works and undertakings connected with the sewerage and drainage of the City of Christchurch as then constituted the sum of thirty-five thousand pounds, upon the security of a special rate on the rateable property within the said city as then constituted, and did issue debentures charged upon the said special rate to the lenders of the said sum of thirty-five thousand pounds, and did also establish a sinking fund to provide for repayment of the said loan at maturity in accordance with the terms of the said debentures: And whereas the said sinking fund in the hands of the Sinking Fund Commissioners appointed by the said city, under the provisions of the Municipal Corporations Act, 1886, on the thirty-first day of March, nineteen hundred and eleven, amounted to thirty-four thousand one hundred and twenty-three pounds seven shillings and five pence: And whereas the said loan of thirty-five thousand pounds is repayable by yearly instalments, the first of which is payable on the first day of April, nineteen hundred and twenty-two, and the last on the fourteenth day of February, nineteen hundred and twenty-six: And whereas it is expedient that, after fully providing for repayment of the said loan, the interest thereafter to be received by the said Commissioners in respect of the said accumulated sinking fund should be used in or towards payment of the interest due to the holders of the said debentures: And whereas there are in the City of Christchurch several streets less than one chain in width: And whereas it may become necessary from time to time, in order to meet the requirements of the traffic thereon, to widen the same and also to widen streets which are already of the width of one chain: And whereas for the purpose of meeting the financial requirements of such street-widening it is expedient that the Corporation of the said city have power from time to time to acquire lands other than those required for the actual widening of any such street, and to deal in manner herein appearing with any lands so acquired, and also to borrow money for all or any of the purposes aforesaid:

**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 City of Christchurch Empowering Act, 1911.

## **2 Interpretation.**

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

“Land” includes any estate or interest in land:

“The Corporation” means the Mayor, Councillors, and Citizens of the City of Christchurch:

“The Council” means the Christchurch City Council:

“The Loans Act” means and includes the Local Bodies’ Loans Act, 1908, and every amendment thereof:

“The Municipal Corporations Act” means and includes the Municipal Corporations Act, 1908, and every amendment thereof:

“The Public Works Act” means and includes the Public Works Act, 1908, and every amendment thereof:

“The surplus land” means the land acquired on either side of any street under or by virtue of this Act or any other Act and for the time being vested in the Corporation, other than the land used for widening such street.

## **3 Maximum amount of sinking fund.**

When the said sinking fund and accumulations in the hands of the said Commissioners shall have accumulated to the sum of forty thousand pounds, the accumulation of the said fund shall cease, and all interest thereafter received by the said Commissioners in respect of the accumulated sinking fund shall be paid and applied by the said Commissioners in or towards payment from time to time of the interest payable on the said debentures; and it shall not be obligatory on the said City Council to collect such special rate as aforesaid in any year during the currency of the said debentures, unless the interest received by the said Commissioners in that year shall not be sufficient to provide in full the interest payable to the holders of the said debentures, and then only as far as may be required to satisfy such deficiency; and if in any year the interest received by the said Commissioners as aforesaid shall be more than sufficient to satisfy the interest payable to the holders of the said debentures, such surplus interest shall be added to and form part of the accumulated sinking fund, and be accumulated therewith.

## **4 Provisions of Municipal Corporations, Local Bodies’ Loans, and Public Works Acts incorporated.**

Subject and without prejudice to the provisions of this Act, the provisions of the Municipal Corporations Act and of the Loans Act and of the Public Works Act shall, so far as the same are applicable to the objects and purposes of this Act, be deemed to be incorporated herein, and to have effect as if the same were, *mutatis mutandis*, herein repeated.

**5 Power to widen, by special order, roads under 66 ft wide.**

The Council may by special order widen any street the width whereof before such widening is less than sixty-six feet.

**6 Power to acquire land.**

The Council may, on behalf of the Corporation, take, purchase, or otherwise acquire the land necessary for widening any street as aforesaid, and also such other land on either side of such street as the Council shall by resolution determine.

**7 Land to be acquired under Public Works Act.**

The land hereby authorized to be acquired shall be taken, purchased, or otherwise acquired in one or other of the ways provided by the Public Works Act.

**8 Land to become vested in the Corporation.**

All the land acquired by virtue of this Act shall, notwithstanding anything contained in the Public Works Act, become vested in the Corporation for an estate in fee-simple for the purposes of this Act; and it shall be sufficient in any Proclamation under the Public Works Act declaring such land to have been so taken to state that the land is taken for the purposes of this Act.

**9 Poll to be held when land exceeds £5,000 in value.**

Before acquiring any land pursuant to the preceding provisions, the Council shall procure from the Valuer-General or a District Valuer a certificate of value or a valuation of such land under the Valuation of Land Act, 1908, and if the capital value of the said land as shown in such certificate or valuation shall exceed five thousand pounds, then, but not otherwise, the Council shall, before acquiring such land, obtain the consent of the ratepayers of the city to the undertaking, and for that purpose a poll of the ratepayers of the city shall be taken.

- (a.) Such poll shall be held on a day to be fixed by the Mayor of the city, who shall fourteen days at least before the day so fixed publish a notice of the intention to hold such poll.
- (b.) The voting-paper shall be in the form numbered 2 in the Schedule hereto or to the like effect.
- (c.) The poll shall be taken in such polling-booths as shall be appointed on each occasion by the Council.
- (d.) Subject as aforesaid, such poll shall be held in the manner provided by section eleven of the Loans Act.
- (e.) If a majority of the total number of valid votes recorded at the poll is recorded in favour of the proposal, then the proposal shall be deemed to be carried, and the Council may proceed with the undertaking accord-

ingly; but if the proposal is not carried, then the Council shall not so proceed.

- (f.) The result of the poll shall be notified as provided by section thirteen of the Loans Act; and, if the proposal is carried, the notice thereof in the *Gazette* shall be conclusive evidence that the consent of the ratepayers to the undertaking has been duly given, and that all proceedings and things under this Act in relation thereto have been lawfully taken and done.

#### **10 Power to borrow.**

- (1.) If the proposal is carried the Council may, on behalf of the Corporation, from time to time borrow at interest by way of overdraft, or by issue of debentures, or temporary loan, such sum or sums as it may deem requisite in or incidental to the exercise of all or any of the powers herein contained and as it may by special order (and without taking the steps prescribed by sections seven to thirteen of the Loans Act) determine, but so that the total of such loans borrowed and outstanding shall not at any one time in the aggregate exceed fifty thousand pounds; and no money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than five pounds per centum per annum.
- (2.) For the purpose of securing the payment of any moneys borrowed as aforesaid and the interest thereon, the Council may appropriate and pledge as such security any one or more of the following:—
- (a.) The surplus land and (subject as is hereinafter provided) the net revenues therefrom, and the net proceeds from the sale or sales of the surplus land or any part or parts thereof:
- (b.) A special rate made and levied as hereinafter provided:
- (c.) The general revenues of the city, but not including moneys received or receivable by way of grant from the Government, and as to such general revenues subject to all existing pledges thereof.
- (3.) The pledge of the surplus land as aforesaid shall not prevent the exercise of the powers by this Act conferred upon the Council until the appointment of a Receiver, and shall be subject to the exercise of such powers.
- (4.) The debentures and coupons issued under the provisions of this Act shall be in such form as the Council may determine, and may be in or to the effect of the form of debenture and coupon prescribed by the Loans Act, except that this Act be referred to therein instead of the Loans Act.
- (5.) The debentures representing the loan or loans hereby authorized, whether created at one time or as successive issues, shall rank *pari passu*, and have no preference or priority the one over the other by reason of date of issue or otherwise.

- (6.) The Council may, out of any moneys borrowed by virtue of this Act, pay any preliminary expenses in connection with the undertaking for which the loan is raised, and also the first year's interest.
- (7.) The Council shall have power from time to time, by special order, and without taking the steps prescribed by sections seven to thirteen of the Loans Act, to re-borrow moneys under the provisions of this Act for the purpose of repaying moneys previously borrowed by virtue of this Act.
- (8.) Upon the appointment of a Receiver by virtue of the provisions contained or incorporated in this Act, the Judge making the appointment may vest in such Receiver such powers of management and leasing of land over the surplus land as he shall think fit, including any of the powers hereby conferred on the Council, and may direct in what manner the revenues therefrom shall be applied.
- (9.) Every loan raised by virtue of this Act may be raised without the issue of debentures; and the Council may agree with any lender that all or any of the powers and authorities applicable for securing the repayment of moneys borrowed as a special loan under the Loans Act shall and may be applicable to securing any loan raised under the provisions of this Act without the issue of debentures.

#### **11 How to deal with surplus land.**

The Council may, in the name and on behalf of the Corporation, manage, demise, sell, and otherwise deal with the surplus land acquired under this Act in such manner as it may by resolution determine, and as private persons may in respect of lands vested in them, and in particular may erect, pull down, and repair buildings, including shops and dwellings, party and other fences and walls, and may lay off passages and ways, drain and otherwise improve the surplus land, but so that every such sale shall be by public auction or public tender; and every such demise shall be subject to all the provisions of Part XIX of the Municipal Corporations Act, 1908.

#### **12 Net proceeds of sales and revenues to be paid to Sinking Fund Commissioner.**

If and so long as any moneys borrowed under the authority of this Act remain unpaid, the Council shall pay to the Sinking Fund Commissioner for the time being appointed under the Loans Act the net proceeds of any sale or sales of the surplus land or any part or parts thereof, and also the net revenues therefrom, after deducting from such revenues a sum equivalent to the municipal rates which would be payable in respect of the surplus land if the same were not vested in the Corporation, except where such rates shall be payable by the respective lessees or tenants thereof, and also, after deducting the outgoings in respect of the surplus land, including interest payable on the moneys borrowed by virtue hereof, the expenses of and incidental to the management of the surplus land, and all other outlay in connection therewith (whether in the nature

of capital expenditure or not), but so, nevertheless, that the said interest shall be a first charge on the said revenues.

**13 Separate account.**

All moneys received on account of any separate rate, loan, or loans raised under the foregoing provisions of this Act—the net proceeds of the sale of surplus land—shall be paid into a separate account to be opened and kept with the bankers of the Council, and the Council shall apply and expend such moneys from time to time in the manner herein provided.

**14 How insurance-moneys to be dealt with.**

All insurance-moneys received by the Council in respect of any buildings or other erections upon any surplus land or any part thereof shall, at the option of the Council, either be applied in or towards re-erecting or repairing the premises destroyed or damaged or in re-erecting any other building or buildings, or shall be paid to the Sinking Fund Commissioner as aforesaid.

**15 Sinking fund.**

The moneys paid to the Sinking Fund Commissioner as aforesaid shall be applied by him as a sinking fund for the repayment in the first instance of the loan raised in connection with the undertaking out of which such moneys shall have arisen respectively, and, subject thereto, such moneys and fund shall be applied in or towards paying off any other special loan or loans borrowed under the provisions of this Act, as the Council shall by special order determine:

Provided always as follows:—

- (a.) It shall be lawful for the Council, with the written consent of the Sinking Fund Commissioner, in lieu of paying any such proceeds of sales to him, to apply the same in or towards any capital expenditure desired by it in or about the surplus land or any part thereof:
- (b.) The Sinking Fund Commissioner may from time to time repay to the Council any part of the said fund for the purpose of being applied by the Council in or towards any such capital expenditure as aforesaid:
- (c.) The decision of the Sinking Fund Commissioner as to what is capital expenditure shall be final, and he shall not be under any liability to see to the expenditure of any such moneys as aforesaid:
- (d.) If and whenever the Sinking Fund Commissioner is of opinion that (after taking into credit future payments into the sinking fund for any loan raised under the provisions of this Act not then payable, and taking into account all other securities, if any, for the repayment of such loan) the funds in his hands in respect of such loan are more than are required as security for such loan, he may pay the surplus to the Council to be applied for the general purposes of the Council or such special purpose as the Council and the Sinking Fund Commissioner may agree upon.

**16 Application of compensation-moneys.**

All moneys received by the Corporation under or by virtue of the Christchurch City Betterment Act, 1908, in respect of land taken or works done under the provisions of this Act, may, notwithstanding anything in that Act to the contrary, be paid to the Sinking Fund Commissioner, and become moneys received by him under section twelve of this Act.

**17 Power to appoint agents.**

The Council may by resolution appoint any bank or company, or person or persons, in New Zealand or elsewhere to be an agent or agents for the purposes and with the powers contained in sections twenty-four and twenty-five of the Local Bodies' Loans Act, 1908; and an instrument purporting to be under the seal of the Corporation shall be sufficient proof of such appointment, and bind the Council and the Corporation accordingly.

**18 Copy of special order to be proof of loan being duly authorized.**

A copy of any special order passed pursuant to the preceding provisions hereof and purporting to be under the common seal of the Corporation shall, without further authentication, be sufficient proof to any person lending any money to the Council or the Corporation that the loan referred to therein is duly authorized, and shall bind the Corporation and the Council accordingly; and no lender of any money borrowed under the provisions of this Act, whether by the issue of debentures or otherwise, shall be concerned to inquire as to the purpose for which the same is raised, nor as to the proposed expenditure thereof; and the issue of a debenture or of the receipt of the Council or any of its officers for any such money shall effectually discharge the lender from being concerned to see to the application thereof. A certificate under the seal of the Corporation that the amount of a loan proposed to be raised under this Act will not when added to the amount of all prior loans raised under this Act and then outstanding exceed fifty thousand pounds shall be conclusive evidence of this fact so far as the persons advancing the money for such loan are concerned.

**19 Power to levy special rate.**

For the purpose of providing the interest payable in respect of any moneys borrowed by virtue of this Act, the Council may from time to time make and levy by special order or orders, in the form numbered 1 in the Schedule hereto or to the like effect, but otherwise in the manner provided by the Loans Act, a special rate or special rates on all rateable property within the city upon the rateable value thereof as defined by the Rating Act, 1908, but so, nevertheless, that it shall not be obligatory upon the Council to collect such special rate except when and so far as the same shall be necessary to make up any deficiency in the revenues from the surplus land.

**20 Special rate not to be quashed.**

No special rate shall be quashed by any proceedings in Court or otherwise, and the production of a copy of the *Gazette* containing the special order making the same shall be conclusive proof of the validity thereof.

**21 Result of amalgamations with boroughs.**

In the event of the city being united with any borough or boroughs, all the powers hereby conferred on the Council and the Corporation respectively shall become vested in the Council and Corporation of such united city.

**22 Exercise of prior statutory powers.**

Nothing in this Act shall be deemed to prevent the exercise by the Council or Corporation of any statutory powers which would have been exercisable if this Act had not been passed.

## Schedule

### Form No. 1.

#### Special Order making Special Rate

In pursuance and exercise of the powers vested in it in that behalf by the City of Christchurch Empowering Act, 1911, the Christchurch City Council hereby resolves as follows: That, for the purpose of providing the interest and other charges on a loan of [*Amount of loan*] authorized to be raised by the said Council under the above-mentioned Act, the said Council hereby makes and levies a special rate of [*State amount in the pound*] upon the rateable value (being unimproved value) of all rateable property in the said city; and that such special rate shall be an annual recurring rate during the currency of such loan, and be payable (subject to the provisions of the said Act) yearly on the        day of        in each year during the currency of such loan, being a period of [*State number*] years, or until the loan is fully paid off.

### Form No. 2.

#### City of Christchurch

#### *Voting-paper*

In connection with the undertaking proposed by the Christchurch City Council as authorized by the City of Christchurch Empowering Act, 1911, and relating to the widening of        Road,—

1. I vote FOR the above proposal.
2. I vote AGAINST the above proposal.

(N.B.)—If the voter wishes to vote for the proposal, he must erase the line marked 2; but if he wishes to vote against the proposal, he must erase the line marked 1. 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.