

Napier Harbour Board Empowering and Loan Act 1914

Local Act 1914 No 14
Date of assent 2 November 1914

Contents

	Page
Title	1
1 Short Title.	2
2 Special Act.	2
3 Interpretation.	2
4 Alteration in constitution of Board.	2
5 Board to have power to assist in making of tramways.	3
6 Power for Board to acquire lands to facilitate reclamation, &c.	4
7 Power to construct harbour-works.	5
8 Power to borrow moneys.	5
9 Local Bodies' Loans Act to apply, with modifications.	6
10 Poll of ratepayers, and preparation of roll.	6
11 Debentures, how secured.	6
12 Sinking fund to be provided.	7
13 Receiver may make and levy special rate.	7
14 Reclamations previously authorized.	8
15 Power to invest trust funds in Board's securities.	8
16 Former Act amended.	8
FIRST SCHEDULE	8
SECOND SCHEDULE	10

An Act to enable the Napier Harbour Board to execute and construct Harbour-works, and to borrow Money for carrying out such Works, and altering the

Constitution of, and providing for certain other Matters affecting, the Napier Harbour Board.

BE IT 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 Napier Harbour Board Empowering and Loan Act, 1914.

2 Special Act.

This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1908, which Act and the amendments thereof are hereinafter referred to as the said Act, and are hereby incorporated in this Act.

3 Interpretation.

In this Act—

“The Board” means the Napier Harbour Board:

“The Chairman” means the Chairman 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 boroughs and town districts now or hereafter for the time being existing 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 Alteration in constitution of Board.

(1.) The constitution of the Board as enacted by section four of the Harbours Amendment Act, 1910 (in this section referred to as the before-mentioned Act), shall be and the same is hereby altered as follows, and the provisions of the before-mentioned Act are hereby modified accordingly, that is to say:—

(a.) That portion of the Birst Schedule to the before-mentioned Act which has reference to the election of the elective members of the Napier Harbour Board shall be altered as follows, that is to say:—

(i.) The words “three by the electors of the Borough of Napier” shall be eliminated therefrom, and the words “three by the electors of the Borough of Napier and the Napier South Town District” shall be substituted for the words so eliminated:

(ii.) The words “one by the electors of the Taradale Town District” shall be eliminated therefrom, and the words “one by the electors of the Taradale Town District and the Meeanee Biding of the County of Hawke’s Bay” shall be substituted for the words so eliminated:

- (iii.) After the words “and those of the electors of the County of Hawke’s Bay whose qualifications are within the harbour district” shall be added the words “saving those of such last-mentioned electors whose qualifications are within the Meeanee Biding of the said last-mentioned county.”
 - (b.) The alteration effected by subparagraph (i) hereof shall take effect on and for the purposes of the next ensuing election as for a combined district, the principal authority of which is a Borough Council, of the elective members of the Board, and shall apply to all subsequent elections of the elective members of the Board.
 - (c.) The alteration effected by subparagraphs (ii) and (iii) hereof shall take effect on and for the purposes of the next ensuing election as for a combined district, the principal authority of which is not a Borough Council, of the elective members of the Board, and shall apply to all subsequent elections of the elective members of the Board.
 - (d.) For the purposes of the next ensuing election of the elective members of the Board and, unless and until the Governor shall by Order in Council otherwise appoint, for all subsequent such elections, the Borough Council of the Borough of Napier shall, in relation to the combined district by subparagraph (i) hereof created, and the Town Board of the Taradale Town District shall, in relation to the combined district by subparagraphs (ii) and (iii) hereof created, be the “principal authority” within the meaning of section seven of the before-mentioned Act for the purposes of elections of members of the Board.
- (2.) The entity of the Board shall not be hereby affected.

5 Board to have power to assist in making of tramways.

- (1.) It shall be lawful for the Board, without any further authority than this Act, to contribute sums, not exceeding in the aggregate five thousand pounds, to the cost of construction or maintenance of any tramway, within the meaning of the word “tramway” as defined in the Tramways Act, 1908, the line of which tramway traverses, or runs along any outside boundary of, or along any public road intersecting, any area or areas of land owned by or vested in the Board in so far as such area or areas of land lie within and form part of the district under the jurisdiction of the Hawke’s Bay County Council; and for such purpose and for any incidental purpose to enter into, carry out, and perform all such contracts, agreements, undertakings, and other instruments and writings with any “local authority” or “promoters,” within the meaning of these terms as defined in such last-mentioned Act, as the Board may think fit; and, without prejudice to the generality of the foregoing, the Board shall have power to set apart and maintain, and to bind itself with any such local authority or promoters to set apart and maintain, any portion or portions of the lands of the Board which in the opinion of the Board shall be suitable

for the purpose as and for the permanent-way for tramway-lines, and as and for sites for tramway stations, sheds, power-houses, depots, sidings, or other purposes connected with the carrying-on of tramway services, and to erect and maintain, or join in erecting and maintaining, or permit or suffer to be erected and maintained, thereon all necessary buildings, structures, and works.

- (2.) The foregoing provisions shall enable the Board to enter into conditional contracts with any local authority or local authorities dependent upon such local authority or authorities obtaining an authorizing order for the construction of any tramway, or subject to any such other conditions precedent as the Board may think fit.

6 Power for Board to acquire lands to facilitate reclamation, &c.

- (1.) The Board shall have power to acquire by purchase, or by taking the same under the provisions of the Public Works Act, 1908, any lands adjoining or adjacent to any lands vested in the Board for the purpose of all or any of the following works, namely: facilitating the draining, reclamation, or filling-in, or levelling, or the subdivision into parcels or allotments, or the roading of, or affording access to, such last-mentioned lands, or connecting any such last-mentioned lands with any tramway or public highway; and for this purpose the foregoing works respectively shall be deemed to be a “public work” within the meaning of that term as used in the last-mentioned Act:

Provided always that it shall not be incumbent upon any vendor to the Board of lands so acquired by the Board, or upon any Compensation Court held under the provisions of the said last-mentioned Act, or upon any other person or persons or authority whomsoever or whatsoever, to inquire as to whether any lands acquired by the Board under the authority of these provisions are necessary or suitable for the purposes aforesaid or any of them; and the resolution of the Board that the lands so acquired be acquired or taken for the purposes aforesaid or any of them shall be sufficient evidence for all purposes that their acquisition by the Board is lawful.

- (2.) The Board shall have power to sell and dispose of any lands acquired by the Board under the foregoing subsection hereof, or any equivalent or reasonably equivalent area of other lands of the Board, in such parcels, at such price or respective prices, and upon such terms as it may think proper; and a recital in the conveyance or transfer to the purchaser that the sale or disposition is made in pursuance of the powers contained in this section of this Act shall be conclusive evidence, so far as such purchaser and the title acquired by him is concerned, that such sale or disposition is lawful.
- (3.) Nothing in this section shall be deemed to limit, restrict, or abridge any powers, rights, or authorities possessed by the Board under the Public Works Act, 1908, the Public Bodies’ Leases Act, 1908, the Harbours Act, 1908, or any other statute.

7 Power to construct harbour-works.

It shall be lawful for the Board, subject to the provisions of the said Act and of this Act, to construct such works as are defined by the words “harbour works” in the said Act as shall by the Board be considered necessary for the requirements of the Harbour of Napier in and about the construction, completion, development, and improvement of the inner-harbour portion of the said harbour, such inner-harbour portion being wholly or mainly comprised within the areas (being endowments of the Board) mentioned in the First Schedule hereto, but nevertheless without confining within such limits the operations of the Board in relation to such inner-harbour portion of the said harbour if it shall be necessary that any such operations shall extend to any waters or locality outside such limits but within the jurisdiction of the Board; and also (but without limiting the generality of the foregoing provisions or any powers already possessed by the Board) to erect and construct all such cranes, sheds, weirs, embankments, flood-gates, dams, and works for the improvement of the said harbour or the carrying-out of the operations or safeguarding the interests of the Board 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, or of any contiguous or adjacent lands of the Board or of any other person or persons, or as shall be in any way incidental or ancillary to the main operations of the Board hereby authorized.

8 Power to borrow moneys.

The Board shall have power to borrow, in addition to the sums authorized by any previous Acts, subject to the provisions of the said Act and of this Act, any sum or respective sums, not exceeding in the aggregate three hundred thousand pounds, at any rate of interest not exceeding five per centum per annum, to be applied in and about the construction, execution, and carrying-out of the works mentioned in the last preceding section hereof:

Provided always that out of the moneys so authorized to be borrowed the Board shall be entitled to expend a sum of not exceeding fifty thousand pounds in and about the following works, that is to say: repairing or renewing the present quays known as “West Quay” and “Iron Pot Quay” respectively, or such parts thereof respectively, or of the structures appertaining thereto respectively, as shall be decayed, unstable, or insufficient; and to that end rebuilding, reconstructing, or strengthening such quays, or the structures appertaining thereto respectively, so as to bring such quays up to date and of sufficient strength and capacity to cope with the present and anticipated requirements of the Harbour of Napier in so far as such requirements appertain to the premises, erecting new sheds, or enlarging or extending the present sheds, and generally supplying extra shed accommodation, in, upon, about, or in connection with the present inner-harbour portion of the Harbour of Napier;

laying railway-lines upon the said West Quay and Iron Pot Quay, and any other quays appertaining to the present inner-harbour portion of the Harbour of Napier; purchasing all necessary material for all or any of the aforesaid purposes; and purchasing a new reclamation dredger, and the pipe-lines and all necessary equipment therefor.

9 Local Bodies' Loans Act to apply, with modifications.

All moneys hereby authorized to be raised may be raised in the manner prescribed by the Local Bodies' Loans Act, 1913; and the provisions of such Act shall, where not inconsistent with this Act, apply as if the Board were a local authority within the meaning of Part I of that Act, subject, however, to the modification that where anything is required to be done by special order it may be done by the Board by resolution, and subject, also, to the provisions contained in section ten of this Act.

10 Poll of ratepayers, and preparation of roll.

The poll of ratepayers of the district required to be taken by section ten of the Local Bodies' Loans Act, 1913, shall be taken in manner following:—

- (a.) A roll for the district shall be prepared and delivered to the Returning Officer in manner provided by clauses three and four of the First Schedule to the Napier Harbour Board Loan Act, 1909, and the said clauses three and four of the said First Schedule to that Act are hereby incorporated herein.
- (b.) The poll of the ratepayers of the district shall (subject to the variations hereafter mentioned) be taken in manner provided by clause five of the said First Schedule to the Napier Harbour Board Loan Act, 1909, and the said clause five of the said First Schedule to that Act and also the Second Schedule to that Act are hereby incorporated herein, subject to the following variations, that is to say: the said clause five shall be altered by eliminating in paragraph (a) thereof the words "of the said meetings," and substituting therefor the words "publication of the notice mentioned in section nine of the Local Bodies' Loans Act, 1913"; and by substituting the words "Returning Officer" for the words "Presiding Officer" wherever such last-mentioned words occur; and the said Second Schedule shall be altered by substituting the words "section 9 of the Local Bodies' Loans Act, 1913," for the words "section 8 of the Local Bodies' Loans Act, 1908."
- (c.) Each ratepayer shall be entitled to one vote and no more.

11 Debentures, how secured.

The debentures issued under the authority of this Act, and the interest thereon, shall be a first charge on the Harbour Fund of the Board, subject, however, to the priority of all existing charges thereon, whether by way of debentures or otherwise.

12 Sinking fund to be provided.

For the purpose of providing for the repayment of the moneys hereby authorized to be borrowed the Board shall permanently appropriate and set apart as a sinking fund a sum equal to one-half per centum per annum on the aggregate amount of debentures which shall for the time being be issued under this Act, and the same shall be paid to Commissioners to be appointed for the purpose in accordance with the provisions in that behalf contained in the Harbours Act, 1908; and the provisions of that Act in relation to the appointment, removal, powers, and duties of Sinking Fund Commissioners, and otherwise in relation to sinking funds and the investment and application thereof, shall apply to this Act. All vacancies occurring in the office of Sinking Fund Commissioners owing to death, mental incapacity, absence from the Dominion of New Zealand, refusal to act, removal, or otherwise, shall be filled up as they arise by new appointments to be made by the Board; and a resolution of the Board declaring the office of Sinking Fund Commissioner held by any person to be vacant shall be conclusive proof of such vacancy having occurred.

13 Receiver may make and levy special rate.

- (1.) If the poll of ratepayers hereinbefore provided for shall be carried, and any moneys shall be raised which shall be authorized by such poll, then, both in respect of the moneys so raised and in respect of any moneys raised under this Act for the purpose of raising which no poll of ratepayers is required, and notwithstanding anything elsewhere contained in this Act, any Receiver appointed as provided by section two hundred and three of the Harbours Act, 1908, shall, by virtue of his office, and without any further authority than this Act, and without prejudice to any other securities available to him, have power to make and levy from time to time, and as often has occasion shall require, a special rate on all rateable property in the district, in such proportions as that the rate to be levied 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, and the provisions of section two hundred and twenty of the Harbours Act, 1908, shall apply as if the Receiver were the Board.
- (2.) The amount to be levied in each year by means of such special rate shall not exceed such amount as is required to provide for payment of interest on the aggregate amount for which debentures shall at that time be issued in pursuance of this Act, with the addition of the sinking fund hereinbefore provided for, and the expenses of making, levying, and recovering such special rate, and the remuneration of the Receiver, after taking into account whatever sum of money may be available from the revenue of the Board for the previous year for payment of such charges. Subject as aforesaid, the provisions of section two hundred and twenty-one of the Harbours Act, 1908, shall apply as if the Receiver were the Board.
- (3.) No rate to be made in pursuance of the foregoing provisions shall be capable of being set aside or quashed by any proceeding of any Court or otherwise, and

no defect in the same, or excessive amount of the same, shall be set up as a defence to any action to recover the same.

- (4.) Notwithstanding the withdrawal of such Receiver, and that the functions and duties for which he was appointed shall be at an end, any special rate made by him in pursuance of the foregoing provisions shall nevertheless be a good, valid, and subsisting rate, and may be recovered by the Board as if the Board had been authorized by this Act to make, levy, and recover the same, and had made and levied the same accordingly.
- (5.) The provisions set out in the Second Schedule hereto shall apply in the case of every special rate made and levied by the Receiver.

14 Reclamations previously authorized.

Without prejudice to the generality of the powers hereinbefore conferred, the Board shall have the power to expend any part of the moneys hereby authorized to be borrowed, in and about the filling-up and reclamation of all or any part or parts of all or any of the areas described in the Third Schedule to the Napier Harbour Board Amendment and Endowment Improvement Act, 1912, and by that Act authorized to be filled up and reclaimed.

15 Power to invest trust funds in Board's securities.

The provisions of section ninety-five of the Trustee Act, 1908, shall, both in respect of trusts heretofore and hereafter created, apply to all bonds, debentures, or other securities issued or to be issued by the Board and forming the whole or any portion or portions of any loan which has been, or may hereafter be, raised by the Board under the authority of any Act or Acts of the General Assembly of New Zealand, including this present and any future Act.

16 Former Act amended.

- (1.) The Napier Harbour Board Amendment and Endowment Improvement Act, 1912, is hereby amended by adding to section seven thereof the following words, namely: "and the words 'Returning Officer' are substituted for the words 'Presiding Officer' wherever the latter words occur in the said paragraph (6)."
- (2.) This amendment shall take effect as and from the passing of the said last-mentioned Act.

SCHEDULES

FIRST SCHEDULE

That area comprising 7,900 acres, more or less, described in the Second Schedule to the Napier Harbour Board Amendment and Endowment Improvement Act, 1887.

That area of 835 acres 3 roods 27 perches, more or less, comprised in certificate of title issued to the Napier Harbour Board, registered in Register-book, Volume 36, folio 18, of the Land Transfer Office at Napier.

That area of 260 acres, more or less, described in the Schedule to the Napier Harbour Board Act, 1876, at pages 604 and 605.

SECOND SCHEDULE

Any special rate to be made and levied by the Receiver shall have a currency of one year only, dating from the 1st day of January.

It shall be applied by the Receiver for the purposes set out in section 14 of this Act.

It shall be payable by equal half-yearly payments on the 30th day of June and the 31st day of December, or by one yearly payment on the 31st day of December, as the Receiver shall appoint in the notice next mentioned.

It shall be made by notice gazetted in the *New Zealand Gazette*, which notice shall be in the form or to the effect following, that is to say:—

Notice is hereby given that, in pursuance and exercise of the powers vested in me in this behalf by the Napier Harbour Board Empowering and Loan Act, 1914 (hereinafter called the said Act), I, the undersigned [*Name in full of Receiver*], being the Receiver appointed under the Harbours Act, 1908, and the said Act on behalf of the debenture-holders under the said Act, hereby make and levy a special rate for the year commencing on the 1st day of January, [*State year*], of [*State amount in the pound*] upon the rateable value of all rateable property in that portion of the Napier Harbour Rating District which consists of the Borough of Napier, and [*State amount in the pound*] upon the rateable value of all other rateable property in the said district; and that the said special rates shall be payable by equal half-yearly payments on the 30th day of June and the 31st day of December in the year [*State year*] [or, by one yearly payment on the 31st day of December in the year (*State year*)].

Dated at , this day of , 19 .

[*Signature of Receiver.*]

There shall be vested in the Receiver all such rights, powers, discretions, and remedies (not being inconsistent with this Act) for and incidental to the making, levying, and recovering of any such rate as would, *mutatis mutandis*, be vested in the Board for the making, levying, and recovering of the same if the Board had by this Act been authorized to make, levy, and recover the same, and had made and levied the same accordingly; and the Receiver may exercise any such rights, powers, discretions, and remedies as aforesaid either in his own name or in the name of the Board.

Without prejudice to the generality of anything hereinbefore contained, the Receiver shall have, and may exercise, in his own person all such powers, authorities, and discretions for and incidental to the making, publishing, and signing of a rate-book as are by the Rating Act, 1908, vested in a local authority in the same manner and to as full an extent as if he were himself a local authority under that Act.

In the exercise of the powers, authorities, and discretions hereinbefore conferred upon the Receiver (but without prejudice to the generality thereof) it shall be lawful for the Receiver—

- (a.) To use, either wholly or partially, any rate-book of the Board which may then be in force relating to any other special rate for the time being made and levied by the Board; or
- (b.) To compile a rate-book, either wholly or partially, from any rate-book of the Board which may then be or may theretofore have been in force relating to any other special rate made and levied by the Board.