



ANALYSIS

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1968, No. 6—*Local*

An Act to vest in the Auckland Harbour Board a certain part of the Tamaki Estuary in the Waitemata Harbour; to authorise the Board to reclaim a certain area thereof and to develop such reclaimed land for the purpose of a boat harbour; and to authorise the Board or the Manukau City Council to reclaim a further area thereof and the Board to transfer such reclaimed land to the Council
[17 September 1968]

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 Auckland Harbour Board (Half Moon Bay) Vesting and Empowering Act 1968.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Board” means the Auckland Harbour Board:

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

“Council” means the Manukau City Council:

“Boat harbour” means a harbour or part of a harbour or an anchorage used for the purpose of mooring, sheltering, or servicing pleasure boats and includes any land or building used in conjunction therewith and, without limiting the general import of that term, may include—

(a) Any slip-way, launching ramp, dock, pier, marina pier, quay, wharf, jetty, landing place, hoist, hoist well, bridge, float, pontoon, boat-shed, boat-building shed, boat-yard, breakwater, wave screen, embankment, marine service station or fueling pier, or facility or any other boating or aquatic structure, service, or amenity for the use and convenience of the boating public; and

(b) Any shop, restaurant, car park, club premises, or facility or any other commercial or recreational amenity for the use and convenience of the general public as well as that of the boating public,—

and reference to a boat harbour shall be deemed to be reference to any part of, or facility, structure, service, amenity, or use included in a boat harbour.

3. Special Act—This Act shall be deemed to be a special Act within the meaning of the Harbours Act 1950.

4. Vesting—The land described in the First Schedule to this Act is hereby vested in the Board as an estate in fee simple for the purposes of this Act and subject to the provisions of the Harbours Act 1950.

5. Authority to reclaim—Subject to the provisions of the Harbours Act 1950, and of this Act, but notwithstanding anything contained in subsection (3) of section 175 of the Harbours Act 1950, the Board may reclaim from the sea the land described in the Second Schedule to this Act or any part or parts thereof.

6. Authority to develop—The Board may develop and redevelop from time to time the whole or any part or parts of the land described in the First Schedule to this Act for boat harbour, commercial and recreational purposes and, without limiting the general power of development as aforesaid, the Board may, in respect of the whole or any part or parts of the land described in the Second Schedule to this Act which is from time to time reclaimed from the sea,—

- (a) Subdivide and resubdivide the whole or any part or parts of such reclaimed land into suitable allotments for boat harbour, commercial and recreational purposes:

Provided that any such subdivision shall be subject to the appropriate provisions of the Public Works Act 1928 and the Municipal Corporations Act 1954:

- (b) Construct or provide such public works and amenities as may be deemed necessary or desirable for the use and enjoyment of such reclaimed land for boat harbour, commercial or recreational purposes, including—
- (i) Streets, service lanes, access ways, and other means of communication or access;
 - (ii) Services for water supply, drainage, sewerage, electric lighting, power, gas, and all other amenities;
 - (iii) All works necessary to comply with any lawful requirement of any local or public authority.

7. Board may permit other persons to carry out reclamation and development—For the purpose of carrying out and constructing the said reclamation or any part or parts thereof or developing or redeveloping the said land or any part or parts thereof the Board may grant any licence or licences to, or enter into any contract or contracts with, any person or persons or local or public authority to carry out and construct such reclamation or to develop the said land or any part or parts thereof, or to carry out and construct all or any works which may be necessary or expedient in connection with any such reclamation or development upon such terms and conditions as the Board may think fit.

8. Authority to licence—(1) In addition to all other licensing powers conferred on the Board under the Harbours Act 1950, or any other Act, the Board may licence or permit

any part of the land or any building or structure thereon or any part of the foreshore or the bed of the harbour vested in it under this Act to be used or occupied for boat harbour, commercial or recreational purposes for such period and upon such terms and conditions as the Board may think fit.

(2) The provisions of sections 157 and 160 of the Harbours Act 1950, as far as they are applicable, shall apply to any licence or permit granted under this section as if the licence or permit had been granted under section 156 of that Act.

(3) In granting any licence or permit under this section the Board shall ensure, by the insertion in the licence or permit of appropriate terms and conditions, that the effect of the licence or permit is not to deny the public reasonable access over the whole or part of the land described in the First Schedule to this Act in any case where it is reasonable and practicable for the public to have such access:

Provided that no licence or permit granted under this section shall be invalidated by any failure to comply with this subsection.

9. Authority to lease—(1) In addition to all other leasing powers conferred on the Board under the Harbours Act 1950, the Public Bodies' Leases Act 1908, or any other Act, the Board may, in respect of the whole or any part or parts of the land described in the Second Schedule to this Act which is from time to time reclaimed from the sea,—

(a) Lease the whole or any part or parts of such reclaimed land to any person or persons for boat harbour, commercial or recreational purposes for any term with such right or rights of renewal and on such terms and conditions as the Board may think fit:

(b) Accept a surrender of any such lease, whether as to the whole or to any part of the land comprised therein, and grant to the lessee, or any person or persons with the consent of the lessee, a new lease or new leases of the whole or any part or parts of the land comprised in the surrendered lease for the remainder or any part of the remainder of the term of the surrendered lease, at such rent as may be predetermined for the new lease or new leases in the surrendered lease, or, if no such rent is predetermined, at such rent as the Board may determine, with such right or rights of renewal and on such terms and conditions as are contained in

the surrendered lease or as the Board may otherwise think fit.

(2) Sections 5, 8, 9, and 10 of the Public Bodies' Leases Act 1908, shall not apply to the leasing by the Board or to any lease granted by the Board of the whole or any part or parts of such reclaimed land pursuant to this section.

10. Authority for Board or Council to reclaim further land—(1) Subject to the provisions of the Harbours Act 1950, and this Act, but notwithstanding anything contained in subsection (3) of section 175 of the Harbours Act 1950, the Board, or the Council with the approval of the Board and on such terms and conditions as the Board may think fit, may reclaim from the sea the land described in the Third Schedule to this Act or any part or parts thereof.

(2) The Board or the Council, as the case may be, may enter into any contract or contracts with any person or persons for the construction of such reclamation or any part or parts thereof and for all or any works which may be necessary or expedient in connection with such reclamation upon such terms and conditions as the Board or the Council, as the case may be, may think fit.

11. Board may transfer reclaimed land to Council—Notwithstanding anything to the contrary contained in this Act, at such time as the land described in the Third Schedule to this Act or any part or parts thereof has been reclaimed from the sea or at any time thereafter, the Board may transfer the fee simple of such reclaimed land or any part or parts thereof, as the case may be, to the Council whether with or without consideration for the purposes of a recreation reserve under and subject to the Reserves and Domains Act 1953 without further authority than this section.

12. Reclamation to comply with requirements of the Board—(1) In the event of the Council constructing any reclamation pursuant to section 10 of this Act, the Council shall before commencing the construction of such reclamation, deposit at the office of the Board a duplicate copy of the plan or plans of the proposed reclamation deposited or to be deposited by it at the office of the Marine Department pursuant to section 178 of the Harbours Act 1950.

(2) On receiving such plan or plans the Board may make and notify the Council of such restrictions, conditions, or requirements relating to the construction, maintenance, or protection of the reclamation, or any part or parts thereof, as it may determine, and may thereafter from time to time make and notify the Council of such further or other requirements relating to the reclamation as it may determine, and the Council shall comply with such restrictions, conditions, or requirements in all respects to the satisfaction of the Board.

(3) Without limiting the generality of subsection (2) of this section the Council shall—

(a) Construct and maintain such enclosing banks as may be required by the Board and in such a manner as to:

(i) Provide for adequate protection against wave or tidal action of any enclosing banks that may at any time face the sea; and

(ii) Prevent the escape of organic or other material into tidal waters:

(b) Construct and maintain such stormwater, sewerage, and other drainage works as may be required by the Board so as to prevent or avoid any flooding or similar damage to any adjoining properties.

(4) Nothing in this section shall be construed as limiting the application of the provisions of the Harbours Act 1950 and in particular, sections 175 to 182 of that Act, to any such reclamation or the duties and liabilities of the Council as the constructing authority in respect of such reclamation.

13. Application of the provisions of the Health Act 1956 and the Town and Country Planning Act 1953—Nothing in this Act shall be construed as limiting—

(a) The powers of the Director-General of Health or other proper officer of the Department of Health to make and issue directions and requisitions relating to the materials to be used in any reclamation constructed under the authority of this Act and the method of construction covering the protection and maintenance of such reclamation, or in respect of any other matter authorised in the Health Act 1956, or in any other Act:

(b) The application of the provisions of the Town and Country Planning Act 1953, or of Part XXV of the Municipal Corporations Act 1954.

14. Compensation—(1) Nothing in this Act shall deprive any person of any right or remedy he would otherwise have in respect of any loss, detriment, damage, or injury caused by any reclamation, development, or work constructed or carried out under the authority of this Act, whether to property or person and whether in respect of the deprivation of any water frontage or riparian rights or otherwise howsoever.

(2) The Council shall pay to the King George V Memorial Children's Health Camp Federation such compensation as may be agreed to by the Council and the Federation for any loss of water frontage or riparian rights suffered by the Federation in respect of the land described in subsection (3) of this section whether as a result of any reclamation, development, or work constructed or carried out under the authority of this Act or as a result of any reclamation, development, road, or work constructed or carried out by the Council on or adjacent to that land whether under the authority of this Act or not and notwithstanding that any such reclamation, development, road, or work may have been constructed or carried out by the Council before the commencement of this Act:

Provided that in the event of the Council and the Federation being unable to agree as to the amount of the compensation (if any) to be paid by the Council to the Federation under this subsection, the amount of that compensation shall be determined by the Land Valuation Court and any amount so determined shall be paid by the Council accordingly.

(3) The land referred to in subsection (2) of this section is more particularly described as all that land containing by admeasurement 20 acres, more or less, being Lot 1 on Deposited Plan Number 30452, and being part of Allotment 62, Parish of Pakuranga, and being all the land comprised and described in certificate of title, Volume 780, folio 35, North Auckland Registry.

15. Reclaimed land to form part of Manukau City—

(1) Upon the completion of the reclamation of any land under the authority of this Act, such reclaimed land shall without further or other authority than this section be included within the district of the Manukau City and any such alteration of the boundary or boundaries of the City shall be deemed to have been effected pursuant to the Municipal Corporations Act 1954.

(2) Without in any way limiting the effect of subsection (1) of this section, such altered boundary or boundaries shall from time to time on written application on behalf of the Council and without further authority or procedure be formally recorded by notice in the *Gazette* under the hand of the Secretary for Internal Affairs.

16. Powers of the District Land Registrar—The District Land Registrar for the North Auckland Land Registration is hereby authorised, on the deposit with him of such plans as he may require and on request by the Board, to issue in the name of the Board a certificate or certificates of title for the land vested in the Board by section 4 of this Act.

SCHEDULES

FIRST SCHEDULE

LAND VESTED

ALL that piece of land containing by admeasurement 59 acres 3 roods 1 perch, more or less, being land situated below mean high-water mark in the Tamaki River, and being the land shown edged red on Survey Office Plan 45669.

SECOND SCHEDULE

LAND TO BE RECLAIMED BY BOARD

ALL that piece of land containing by admeasurement 20 acres 1 rood 16 perches, more or less, being land situated below mean high-water mark in the Tamaki River, bounded by a line commencing at a point on mean high-water mark being the north-eastern extremity of Pigeon Mountain Road; thence proceeding along the eastern and northern boundaries of the land shown on Survey Office Plan 45178; firstly by proceeding on a bearing of $344^{\circ} 38'$ for a distance of 110 links, more or less; and secondly by proceeding on a bearing of $297^{\circ} 07'$ for a distance of 903.3 links, more or less; thence proceeding along the eastern boundary of the land shown on Land Transfer Plan 57609 by proceeding on a bearing of $32^{\circ} 00'$ for a distance of 391.5 links, more or less; thence proceeding on a bearing of $313^{\circ} 27'$ for a distance of 85 links, more or less; thence proceeding on a bearing of $1^{\circ} 30'$ for a distance of 675 links, more or less; thence proceeding along a curved line in an easterly direction at radius 45.5 links for an arc distance of 142.8 links, more or less; thence proceeding on a bearing of $181^{\circ} 30'$ for a distance of 660 links, more or less; thence proceeding on a bearing of $115^{\circ} 00'$ for a distance of 1165 links, more or less; thence proceeding along a

SECOND SCHEDULE—continued

curved line in an easterly direction at a radius of 50 links for an arc distance of 78.5 links, more or less; thence proceeding on a bearing of $25^{\circ} 00'$ for a distance of 630 links, more or less; thence proceeding on a bearing of $295^{\circ} 00'$ for a distance of 335 links, more or less; thence proceeding on a bearing of $25^{\circ} 00'$ for a distance of 580 links, more or less; thence proceeding on a bearing of $353^{\circ} 00'$ for a distance of 195 links, more or less; thence proceeding on a bearing of $295^{\circ} 00'$ for a distance of 475 links, more or less; thence proceeding along a curved line in a northerly direction at a radius of 56.0 links for an arc distance of 107.5 links, more or less; thence proceeding on a bearing of $45^{\circ} 00'$ for a distance of 975 links, more or less; thence proceeding on a right line bearing $56^{\circ} 45'$ to a point where it meets mean high-water mark; thence proceeding in a south-westerly direction along mean high-water mark to the point of commencement, being part of the land below mean high-water mark in the Tamaki River, and being part of the area shown edged red on a plan marked and numbered M.D. 12701 and deposited in the office of the Marine Department, Wellington.

THIRD SCHEDULE**LAND TO BE RECLAIMED BY BOARD OR COUNCIL**

ALL that piece of land containing by admeasurement 1 acre 2 roods 33 perches, more or less, being land situated below mean high-water mark in the Tamaki River, bounded by a line commencing at a point on mean high-water mark at the south-west corner of the land shown on Land Transfer Plan 57609; thence proceeding on a bearing of $5^{\circ} 16' 30''$ for a distance of 435 links, more or less; thence proceeding on a bearing of $274^{\circ} 45'$ for a distance of 310 links, more or less; thence proceeding on a bearing of $203^{\circ} 00'$ to a point where it meets mean high-water mark as shown on Deposited Plan 30452; thence proceeding in an easterly direction along that mean high-water mark to the point of commencement; and being part of the land below mean high-water mark in the Tamaki River, and being part of the area shown edged red on a plan marked and numbered M.D. 12701 and deposited in the office of the Marine Department, Wellington.
