



ANALYSIS

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1981, No. 9—*Local*

An Act—

- (a) To give the Otago Harbour Board contingent authority to reclaim certain land; and
- (b) To vest in the Otago Harbour Board that part of the land to be reclaimed which is not already vested in it; and
- (c) To give the Otago Harbour Board contingent authority, for the purpose of an aluminium smelter and for other purposes, to develop, subdivide, and resubdivide the land to be reclaimed and certain land adjacent thereto; and
- (d) To give the Otago Harbour Board special powers to lease the land to be reclaimed and certain land adjacent to the land to be reclaimed; and

**(e) To make provision incidental to the powers conferred
on the Otago Harbour Board by this Act**

[23 October 1981

WHEREAS interest has been expressed in developing and using, for the purposes of an aluminium smelter and certain other works, certain land situated at Aramoana: And whereas it will be desirable, if the construction of an aluminium smelter at Aramoana is approved, to reclaim from the waters of the Otago harbour certain land at Aramoana: And whereas part of the land in respect of which reclamation will so be desirable is vested in the Otago Harbour Board by the Otago Harbour Board Indemnity and Lands Vesting Act 1888 and another part of that land is vested in that Board by the Otago Harbour Board Lands Vesting Act 1910: And whereas the remainder of the land in respect of which reclamation will so be desirable is a piece of Crown land with an area of 1.6 hectares: And whereas it is desirable that provision be made for the vesting in the Otago Harbour Board of that piece of Crown land: And whereas it is desirable that the proposal to construct an aluminium smelter at Aramoana should be considered both in relation to the land proposed to be reclaimed and in relation to certain other land which is adjacent thereto and which is vested in the Otago Harbour Board: And whereas the aluminium smelter, if it is constructed, will be constructed in part on the land proposed to be reclaimed and in part on other land which is adjacent thereto and which is vested in the Otago Harbour Board: And whereas it is desirable that powers in relation to development, subdivision, resubdivision, and leasing be conferred both in respect of the land to be reclaimed and in respect of certain land adjacent thereto and vested in the Otago Harbour Board: And whereas it is desirable that the conferring of those powers should be contingent on the construction of an aluminium smelter at Aramoana being approved or on the reclamation being carried out or on both:

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 Otago Harbour Board Vesting, Reclamation, and Empowering Act 1981.

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

“Aluminium smelter” includes all related works and any harbour works associated with a smelter or with any such related works:

“Board” means the Otago Harbour Board:

“District scheme” means the district scheme of the Silverpeaks County Council.

3. Special Act—This Act is a special Act within the meaning of the Harbours Act 1950.

4. Vesting—That part of the land described in the Schedule to this Act containing 1.6 hectares, more or less, and identified as area C on Survey Office Plan 19779 is hereby vested in the Board for an estate in fee simple.

5. Authority for Board to reclaim—(1) Subject to the provisions of the Harbours Act 1950 (other than section 175 thereof), and of this Act, the Board is hereby authorised and empowered to reclaim from the waters of the Otago Harbour from time to time the land described in the Schedule to this Act, or any part or parts thereof.

(2) Notwithstanding anything in subsection (1) of this section, the reclamation authorised by that subsection shall not be commenced until the construction of an aluminium smelter (either alone or together with related works or together with harbour works or together with works for other industries) on the land referred to in section 6 (1) of this Act, or on any part or parts thereof, has either—

- (a) Been authorised or permitted by consents granted under the National Development Act 1979; or
- (b) Been approved or consented to, or otherwise included as a permitted use in the district scheme, pursuant to the provisions of the Town and Country Planning Act 1977.

6. Power to develop reclaimed land and adjacent land—

(1) Subject to section 15 of this Act, the Board is hereby empowered to develop for the purposes of an aluminium smelter and for other industrial purposes all or any part or parts of—

- (a) The land described in the Schedule to this Act; and

(b) Any land which is adjacent to the land described in the Schedule to this Act and which is vested in the Board by the Otago Harbour Board Indemnity and Lands Vesting Act 1888 or by the Otago Harbour Board Lands Vesting Act 1910; and

(c) Any stopped road adjacent to the land described in paragraph (a) or paragraph (b) of this subsection which is vested in the Board.

(2) In exercising the power conferred on it by subsection (1) of this section, the Board may, subject to subsection (3) of this section, subdivide and resubdivide any land to which subsection (1) of this section relates, or any part or parts of that land, into allotments suitable for the purpose for which that land or the part or parts are to be developed.

(3) Except as provided in section 9 of this Act and in any other Act, any subdivision or resubdivision effected pursuant to subsection (2) of this section shall be subject to the statutory provisions relating to the subdivision of land (including the relevant provisions of the Local Government Act 1974).

(4) In exercising the power conferred by subsection (1) of this section, the Board may construct or provide such harbour works and such public works or amenities as the Board deems necessary or desirable for the use, convenience, or enjoyment of the land referred to in that subsection, or any part or parts of that land, which works and amenities may include—

(a) The vesting, creation, or provision of roads, service lanes, access ways, rights of way, and other means of communication and access:

(b) Services for water supply, drainage, sewerage, electric lighting, power, gas, and other amenities:

(c) A boat launching ramp:

(d) Works necessary to comply with any lawful requirement of any local or public authority.

7. Authority for Board to license—(1) In addition to all other powers conferred on the Board under this Act, or any other Act, the Board may during the reclamation or development of all or any part of the land referred to in section 6 (1) of this Act grant licences in respect of the whole or any part thereof to such persons and upon such terms and conditions as the Board may think fit.

(2) The provisions of section 157 of the Harbours Act 1950 shall not apply to any licence granted under this Act.

8. Authority for Board to lease—(1) In addition to all other leasing powers conferred on the Board under the Public Bodies Leases Act 1969, or any other Act, the Board may in respect of the land referred to in section 6 (1) of this Act, or any part or parts thereof,—

(a) Lease the whole or any part or parts of such land to any person or persons for the purpose of an aluminium smelter for any term not exceeding 50 years, and with such right or rights of renewal not exceeding 21 years, 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 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 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 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 (in the case of terms and conditions other than those conferring rights of renewal) otherwise think fit.

(2) The Board shall not grant a lease pursuant to this section of any land described in the Schedule to this Act which has not first been reclaimed from the waters of the Otago Harbour.

(3) Sections 7, 8, 17, 18, and 19 of the Public Bodies Leases Act 1969 shall not apply to the leasing by the Board or to any lease granted by the Board pursuant to this section.

9. Reserves provision not to apply—Section 289 of the Local Government Act 1974 shall not apply to the land referred to in section 6 (1) of this Act nor to any subdivision or resubdivision of that land.

10. Land Settlement Promotion and Land Acquisition Act 1952 not to apply—The Land Settlement Promotion and Land Acquisition Act 1952 shall not apply to the leasing by the Board of the whole or any part or parts of the land referred to in section 6 (1) of this Act.

11. Reclamation and development not to affect other powers and rights—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 materials to be used in any reclamation constructed under the authority of this Act and the methods of construction, covering, protection, and maintenance of such reclamation, or in respect of any other matters authorised in the Health Act 1956, or in any other Act:
- (b) The application of the provisions of—
 - (i) The Public Works Act 1928:
 - (ii) The National Development Act 1979:
 - (iii) The Town and Country Planning Act 1977:
 - (iv) The Local Government Act 1974 (except as provided in section 9 of this Act):
 - (v) The Water and Soil Conservation Act 1967.

12. Board not authorised to create a nuisance, etc.—Nothing in this Act shall entitle the Board to create a nuisance or shall deprive any person of any right or remedy he would otherwise have against the Board in respect of any such nuisance, and no restrictions or conditions imposed by the Minister of Transport pursuant to section 178 of the Harbours Act 1950 or requisition or direction issued in accordance with section 11 (a) of this Act, whether or not the Board or any other person has complied with the same, shall restrict the liability of the Board or any other person for any such nuisance:

Provided that the construction of any reclamation or other necessary works in connection therewith as authorised by this Act shall not of itself constitute a nuisance.

13. Compensation—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.

14. Powers of District Land Registrar—The District Land Registrar for the Otago Land Registration District is hereby authorised to deposit all such plans, issue all such certificates of title, accept all such documents for registration, make all such entries in the register, and do all such other things as may be necessary to give effect to the provisions of this Act or of any Order in Council made under section 17 of this Act.

15. Authority to reclaim and develop to lapse—If, by the 1st day of January 1987, the reclamation authorised by section 5 of this Act has not been substantially completed, the authority conferred on the Board by that section and section 6 of this Act shall lapse on that day, and no reclamation or development, or no further reclamation or further development, as the case may require, shall be undertaken by the Board, on or after that day, pursuant to either of those sections.

16. Amending Otago Harbour Board Indemnity and Lands Vesting Act 1888—Section 7 of the Otago Harbour Board Indemnity and Lands Vesting Act 1888 is hereby amended by omitting the words “, but such lands shall not be capable of being charged with the payment of any borrowed moneys, or with the debts of the Board”.

17. Stopping of roads—(1) Notwithstanding anything in the Local Government Act 1974 or in any other enactment, the Governor-General, from time to time, by Order in Council on the advice of the Minister of Local Government, may stop all or any part of any road, as defined in section 315 of the Local Government Act 1974, which is adjacent to any of the land referred to in section 6 (1) (a) and (b) of this Act.

(2) An Order in Council shall not be made under subsection (1) of this section unless the construction of an aluminium smelter (either alone or together with related works or

together with harbour works) on the land referred to in section 6 (1) of this Act, or on any part or parts thereof, has either—

- (a) Been authorised or permitted by consents granted under the National Development Act 1979; or
- (b) Been approved or consented to, or otherwise included as a permitted use in the district scheme, pursuant to the provisions of the Town and Country Planning Act 1977.

(3) If a road or part of a road has been stopped under subsection (1) of this section, the land comprising the stopped road may be dealt with by the Silverpeaks County Council in the same manner and in all respects as if the road had been stopped pursuant to the Local Government Act 1974.

(4) The provisions of section 17 of the National Development Act 1979 shall apply in respect of any Order in Council made or purporting to be made under subsection (1) of this section as if it had been made or purported to have been made under the National Development Act 1979.

(5) Notwithstanding anything to the contrary in any other Act or rule of law, if any person wishes to bring any proceedings in any Court, or make an application to any Court, which in any way touch or touches upon or relate or relates to—

- (a) The status of all or part of any road or land purported to be road which is adjacent to any of the land referred to in section 6 (1) (a) and (b) of this Act; or
- (b) Any road stopped or purported to have been stopped under subsection (1) of this section; or
- (c) Any dealing, under subsection (3) of this section, with the land comprising any such stopped road or road purporting to have been so stopped—

the proceedings or application shall be brought in or made to the Court of Appeal—

- (d) Not later than the 1st day of November 1981, if paragraph (a) of this subsection is applicable:
- (e) Not later than 21 days after the date on which the Order in Council stopping the road came into force, if paragraph (b) of this subsection is applicable:

(f) Not later than 21 days after the date on which the dealing in question took place, if paragraph (c) of this section is applicable—

and the Court shall not entertain any proceedings or application brought or made after that date or after that period has elapsed, as the case may be.

(6) The provisions of subsections (6) to (9) of section 17 of the National Development Act 1979, with the necessary modifications, shall apply to all proceedings and applications referred to in subsection (5) of this section.

(7) All proceedings which have been brought in the High Court or District Court, and every application which has been made to the High Court or District Court, before the commencement of this section, to which subsections (5) and (6) of this section would have applied if this section had been in force before the proceedings were brought or the application made, are or is hereby removed into the Court of Appeal subject to such directions relating to the procedure for such removal as may be given by the Court of Appeal or a Judge thereof; and the proceedings or application shall thereafter be dealt with in accordance with and subject to the said subsections (5) and (6).

18. Inquiry under National Development Act 1979 may be conducted in respect of land not owned by applicants—The Planning Tribunal may conduct an inquiry and make a report and recommendation under the National Development Act 1979 in respect of the consents sought in the application referred to in the National Development Order (No. 2) 1981, and the Governor-General in Council may grant those consents under that Act, notwithstanding that parts of the land in respect of which the consents are sought are roads as defined in section 315 of the Local Government Act 1974 and are not owned by either of the applicants.

SCHEDULE

All those pieces of land situated in the Otago Land Registration District, and in Block V, North Harbour and Blueskin District, containing together 31.1 hectares, more or less, and being identified on Survey Office Plan 19779 and on Plan M.D. 16063, deposited in the office of the Ministry of Transport at Wellington, as area A (6.5 hectares), area B (23 hectares), and area C (1.6 hectares).
