

New Zealand.



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1905, No. 23.—*Local.*

Title.

AN ACT to enable the Body corporate called "The Mayor, Councillors, and Burgesses of the Borough of Birkenhead" (hereinafter called "the Corporation") to co-operate with the Auckland Harbour Board (hereinafter called "the Board") in the Construction and Completion of certain Reclamation-works in the Auckland Harbour, upon the said Harbour-frontage of the Borough of Birkenhead.
23rd October, 1905.

Preamble.

WHEREAS the Corporation and the Board are desirous of entering into a certain undertaking for the improvement of the Borough of Birkenhead and of the Auckland Harbour by the making of a certain reclamation upon the said harbour-frontage of the Borough of Birkenhead with earth to be supplied and deposited by the Corporation, and the erection of a retaining-wall by the Board for the purposes of such reclamation and to enable the same to be so made, and the erection of a certain wharf by the Board in connection with such reclamation and retaining-wall, for the benefit and advantage of the inhabitants of the Borough of Birkenhead: And whereas the provisions of such undertaking are set out and defined in the draft agreement set out in the Schedule hereto, but which agreement it is considered doubtful whether the Corporation can legally enter into, execute, or complete until the obtaining by the Corporation of legislative authority enabling it so to do: And whereas the ratepayers of the Borough of Birkenhead have expressed their approbation of such undertaking as aforesaid by having, at a poll of such ratepayers held on the twenty-seventh day of March, one thousand nine hundred and five, carried a proposal to borrow under "The Local Bodies' Loans Act, 1901," and its amendments, the sum of three thousand five hundred pounds for the following purposes—namely, to provide for the necessary cutting, filling, general construction, kerbing, channelling, acquiring land, compensation (if any), and incidental works rendered necessary in

the carrying-out of the scheme for providing a suitable grade from the proposed wharf along the main road to a point at the upper side of Bath Road in the said borough: And whereas the result of such poll is duly gazetted in the *New Zealand Gazette* of the eighteenth day of May, one thousand nine hundred and five: And whereas the Board is about to make the necessary application for an Order in Council in terms of the agreement set out in the Schedule hereto: And whereas a copy of the plan referred to in the Schedule hereto is lodged in the District Lands and Survey Office at Auckland under number 13409:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Borough of Birkenhead Enabling Act, 1905." Short Title.

2. The Corporation is hereby authorised and empowered to enter into, make, and execute an agreement with the Board in the terms of the draft set out in the Schedule hereto upon or at any time after the granting to the Board or issue of such Order in Council, and such agreement when executed shall effectually and legally bind the Corporation; and power is hereby expressly conferred upon the Corporation to make and complete the work specifically mentioned in the said draft agreement as to be made and completed by the Corporation. Corporation empowered to enter into agreement with Board.

SCHEDULE.

Schedule.

MEMORANDUM of agreement, made the _____ day of _____, one thousand nine hundred and _____, between the Auckland Harbour Board (hereinafter termed "the Board") of the one part, and the Mayor, Councillors, and Burgesses of the Borough of Birkenhead (hereinafter termed "the Corporation") of the other part: Whereas the Board has applied for and obtained an Order in Council under the provisions of "The Harbours Act 1878 Amendment Act, 1883," authorising the making of the reclamation and wharf shown on the plan hereto annexed marked "E" (being the reclamation and wharf referred to in "The Borough of Birkenhead Enabling Act, 1905"): And whereas the Corporation has procured the passing of the said Act rendering the obligations hereby entered into by the Corporation of binding effect and conferring upon the Corporation power to do, make, and execute the works hereby agreed to be done, made, and executed by the Corporation: Now it is hereby agreed as follows:—

1. The Board will proceed with and will with all reasonable despatch complete the construction of the retaining-wall and wharf shown on the said plan.

2. The Corporation will at such times and in such manner as may be required by the Board, at its own cost, make and complete the reclamation of filling in with earth as shown on the said plan, and, upon the execution by the Board of a deed of dedication, take over as a public road that portion of the proposed reclamation shown on the said plan as a road.

3. In the event of the Corporation not making and completing the said reclamation of filling in with earth as herein provided the Board may make and complete the same at the cost of the Corporation.

4. The Corporation will indemnify the Board from all claims and damages on the part of any person or corporation in respect of the deprivation by the said wall and reclamation of any right of water-frontage or access by water.