



ANALYSIS

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. Special Act. 4. Power granted to Board to borrow £3,550,000 for works set out in First Schedule. 5. Further security for loans. 6. Co-ordination of harbour works with works of Lyttelton Borough Council. | <ol style="list-style-type: none"> 7. Board may establish and conduct business as wharfingers and stevedores and may license wharfingers and stevedores. 8. Board may require Lyttelton Borough Council to supply harbour works with supply of fresh water. 9. Lands to vest in Board. 10. Repeals.
Schedules. |
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1955, No. 5—*Local*

Title.

AN ACT to authorize the Lyttelton Harbour Board to construct certain harbour works, to borrow money for the purpose of the construction of such harbour works, to repeal certain Acts affecting the Board, to confirm the vesting of lands, and to vest further powers in the Lyttelton Harbour Board. [30 September 1955]

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

Short Title.

1. This Act may be cited as the Lyttelton Harbour Board Loan and Empowering Act 1955.

2. In this Act, unless the context otherwise requires, the term "Board" means the Lyttelton Harbour Board. Interpretation.

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

4. It shall be lawful for the Board from time to time to borrow, in addition to the sums authorized by any previous Acts, subject to the provisions of the Harbours Act 1950 and of this Act and of the Local Government Loans Board Act 1926, any sum or sums of money not exceeding in the aggregate the sum of three million five hundred and fifty thousand pounds, to be applied for the purposes of carrying out, subject to the provisions of the Harbours Act 1950, the works specified in the First Schedule to this Act: Power granted to Board to borrow £3,550,000 for works set out in First Schedule.

Provided that where the amount specified in the said First Schedule against any particular work is more than sufficient for that particular work and leaves a surplus remaining after the completion of that particular work, the surplus may be applied in the completion of any other of the said works specified in the said First Schedule if the amount appropriated to any such work is not sufficient for its completion.

5. (1) For the purposes of providing for the repayment of loans raised or to be raised by the Board under this Act and under any other special Act (except the Lyttelton Harbour Board Loan Act 1949), and for the payment of annual charges in respect thereof, the Board shall establish a special fund, and shall from time to time appropriate to the fund— Further security for loans.

- (a) All money received by the Board from any harbour improvement rate levied (whether before or after the passing of this Act) under section six of the Lyttelton Harbour Board Empowering Act 1951:
- (b) All money received by the Board from any harbour improvement rate levied under subsection two of this section:
- (c) In every financial year until the loan raised under this Act is repaid, a sum of not less than fifty thousand pounds from the Harbour Fund, the first such sum to be so appropriated in the financial year that ends with the thirtieth day of September, nineteen hundred and fifty-six.

(2) For the purposes of this section, the Board may levy, in accordance with section one hundred and twenty of the Harbours Act 1950, a harbour improvement rate not exceeding one shilling and threepence a ton by weight or by measurement upon all or any goods discharged at or shipped from the Port of Lyttelton, and may pledge the rate as further security for the loan authorized by this Act. The amount of any rate levied under this subsection shall not be in addition to, and shall be deemed part of, the maximum amount of the harbour improvement rates that may be levied by the Board pursuant to the said section one hundred and twenty.

(3) Nothing in section ninety-seven of the Harbours Act 1950 shall apply—

(a) To any harbour improvement rate levied under subsection two of this section:

(b) To any other harbour dues made by the Board, pursuant to that Act, in order to provide funds for appropriation to the special fund under paragraph (c) of subsection one of this section.

(4) The Board may from time to time invest any money in the special fund in any manner authorized by section fifty-three of the Harbours Act 1950. All interest accruing from any such investments, and the proceeds of the realization of any such investment, shall be appropriated to the special fund.

(5) All money for the time being in the special fund, and all investments for the time being representing the special fund or any part thereof, shall be applied for the purposes of the repayment of the loans referred to in subsection one of this section, and the payment of annual charges in respect of those loans, in accordance with the Harbours Act 1950.

(6) Section six of the Lyttelton Harbour Board Empowering Act 1951 is hereby amended by repealing subsection three.

(7) Nothing in this section shall affect in any way the rights or remedies of any debenture holder or creditor of the Board in respect of any loan heretofore raised by the Board, or any security given to any such debenture holder or creditor as aforesaid.

6. (1) If for the purpose of executing or completing any of the harbour works authorized by this Act, or of ensuring the full and proper use of the harbour works when completed, it is necessary at any time to remove, replace, reconstruct, alter, extend, or widen any building, structure, drain, sewer, water main, gas main, street, or other property vested in the Corporation of the Borough of Lyttelton, or to modify or extend any other works executed or being executed by the Lyttelton Borough Council, the Board and the Council may agree in writing upon what each of them will do for the purpose of carrying out such work as may be necessary as aforesaid.

Co-ordination
of harbour
works with
works of
Lyttelton
Borough
Council.

(2) Notwithstanding anything in any enactment, any agreement made under this section may make such provision as the parties think desirable—

- (a) For the location, nature, and extent of any work necessary for the purposes of this section, and the integration of any such work with any of the harbour works authorized by this Act:
- (b) For the doing by the Corporation or by the Board of any work necessary for the purposes of this section:
- (c) For the cost of any such work as aforesaid to be allocated between the parties and to be payable in such manner and at such times and subject to such liquidated damages for default as may be specified in the agreement:
- (d) For such other matters as may be necessary to give full effect to the provisions of this section.

(3) If any dispute arises between the Board and the Council as to the necessity for any such work as aforesaid or as to any matter relating to any such work, including any amount to be payable by either party in respect of the work, the dispute shall be referred to arbitration, and for that purpose this section shall be deemed to be a submission within the meaning of the Arbitration Act 1908 and the reference shall be deemed to be to two arbitrators.

(4) Where pursuant to any agreement or award under this section any amount is payable by the Board in respect of any work under this section or is required to be expended by the Board in the doing of any such work, the Board may pay that amount either out of money borrowed pursuant to this Act or out of the Harbour Fund.

(5) Where pursuant to any agreement or award under this section any amount is payable by the Lyttelton Borough Council in respect of any work under this section or is required to be expended by the Council in the doing of any such work, the Council may raise that amount or any part thereof by way of special loan under the Local Bodies' Loans Act 1926 and, notwithstanding anything in section nine of that Act, by special order and without the prior consent of the ratepayers.

Board may establish and conduct business as wharfingers and stevedores and may license wharfingers and stevedores.

7. The Board may establish and conduct business as wharfingers, stevedores, warehousemen, or any of such businesses, and may make such reasonable charges for any services rendered by the Board in any such business as may be prescribed by by-laws made under and pursuant to the provisions of section two hundred and thirty-two of the Harbours Act 1950, or may, subject to by-laws made as aforesaid, license any persons to act as wharfingers, stevedores, warehousemen, or any of such businesses, and to make such reasonable charges as may from time to time be approved by the Board for any services rendered in any such business.

Board may require Lyttelton Borough Council to supply harbour works with supply of fresh water.

8. Whereas by the Second Schedule to the Lyttelton Waterworks Transfer Act 1878 it was enacted that the Board should have and be supplied by the Corporation of the Borough of Lyttelton with water for the purposes and use of the Board and not for sale, and without charge, and that at all times thereafter the charge to be made by the said Corporation to the shipping in the Harbour of Lyttelton for such water as might be supplied should not exceed eight shillings per ton: Be it therefore enacted as follows:

(1) It shall be the duty of the Corporation of the Borough of Lyttelton—

(a) To provide, instal, repair, and maintain to the satisfaction of the Board, water mains and all other plant and equipment from time to time necessary to supply all existing and future harbour works and any extensions thereof with an adequate and efficient supply of fresh water for general purposes, use, and protection against fire of the said harbour works and of the persons and shipping making use of the same:

(b) To submit all plans and specifications for such provision, installation, repair, and maintenance to the Board for its information.

(2) The Corporation shall supply water as aforesaid without charge to the Board.

(3) The Corporation shall be entitled to charge for all water supplied to the shipping in the Harbour of Lyttelton by means of the said water mains and all other plant and equipment, and, notwithstanding the provisions of the Second Schedule to the Lyttelton Waterworks Transfer Act 1878, such charge shall be payable to the Corporation by and be recoverable by the Corporation from the persons liable to pay harbour dues under section one hundred and four of the Harbours Act 1950.

9. (1) The lands described in the Second Schedule to this Act are hereby vested in the Board for an estate in fee simple in trust for harbour purposes. Lands to vest in Board.

(2) The District Land Registrar for the Land Registration District of Canterbury is hereby authorized and directed, on the deposit with him of such plan or plans as he may require, and on payment of the prescribed fees, to issue to the Board a certificate of title in respect of the said lands, and to make such entries in the register-books and do all such things as may be necessary to give effect to the provisions of this section.

10. (1) The enactments specified in the Third Schedule to this Act are hereby repealed. Repeals.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any documents made or any thing whatsoever done under the provision so repealed or under any corresponding former provision.

(3) All lands set aside or authorized to be set aside under any of the enactments hereby repealed as endowments for the Board and remaining undisposed of or vested in the Board under any of the enactments hereby repealed shall be deemed to be set aside or may be set aside or shall be deemed to be vested under the Harbours Act 1950 for the same purposes for which the lands were respectively so set aside or authorized to be set aside or vested.



Schedules.

SCHEDULES

FIRST SCHEDULE

Section 4

HARBOUR WORKS

THE reclamation from the waters of Lyttelton Harbour of 39 acres, more or less, being the lands shown on the plan marked M.D. 9932 and thereon coloured purple and sepia, together with breakwater and all works necessary for or incidental to such reclamation	£ 1,289,000
The dredging of the area shown on the plan marked M.D. 9932 and thereon coloured yellow, and works necessary for or incidental to such dredging	553,000
The construction of berthage, contiguous to such reclamation as aforesaid, together with sheds, cranes, and all works or equipment necessary or incidental to such construction	1,385,000
Contingencies, including any money payable by the Board pursuant to section 6 of this Act	323,000
Total	<u>£3,550,000</u>

SECOND SCHEDULE

Section 9

LANDS TO VEST IN BOARD

ALL that area situated in the Lyttelton Harbour containing 140 acres, more or less, and bounded as follows:

Commencing at a point in Block I, Pigeon Bay Survey District, the said point bearing 115 degrees 15 minutes from iron spike XXVIII, D.P. 9983, and distant 1312 links therefrom; thence south-easterly, south-westerly, north-westerly, and again south-westerly along right lines bearing 170 degrees 39 minutes, 3210 links, 260 degrees 39 minutes, 1863.7 links, 350 degrees 39 minutes, 2301 links and 260 degrees 39 minutes, 4300 links; thence north-westerly along a tangential line to the boundary of the area vested in the Lyttelton Harbour Board by "The Lyttelton Harbour Board Land Act 1877"; thence generally north-easterly along the last-mentioned boundary to and along the southern boundary of Reserve 4244 (Railway Land by *New Zealand Gazette* 1922, page 570) to its easternmost point; thence again north-easterly generally to and along the mean high-water mark of Lyttelton Harbour to its intersection with a right line bearing 25 degrees 30 minutes from the commencing point; thence south-westerly along the last-mentioned line to the commencing point.

As is more particularly delineated on the plan marked M.D. 9933 deposited in the Head Office of the Marine Department at Wellington and thereon edged green.

THIRD SCHEDULE

ENACTMENTS REPEALED

Section 10

- 1877 (Local), No. 26—
 The Lyttelton Harbour Board Land Act 1877.
- 1877 (Local), No. 87—
 The Lyttelton Harbour Works Compensation Act 1877.
- 1878 (Local), No. 27—
 The Lyttelton Harbour Board Amendment Act 1878.
- 1882 (Local), No. 17—
 The Lyttelton Harbour Board Act 1882.
- 1897 (Local), No. 4—
 The Lyttelton Harbour Board Loan Act 1897.
- 1905 (Local), No. 35—
 The Lyttelton Harbour Board Land Act 1905.
- 1920 (Local), No. 5—
 The Lyttelton Harbour Board Loan Act 1920.
- 1926 (Local), No. 18—
 The Lyttelton Harbour Board Loan Act 1926:
- 1928 (Local), No. 8—
 The Lyttelton Harbour Board Loan Enabling Act 1928.
- 1929 (Local), No. 2—
 The Lyttelton Harbour Board Reclamation Validation Act 1929.
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