



ANALYSIS

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1974, No. 5—*Private*

An Act to enable the Marlborough Agricultural and Pastoral Association to dispose of certain land in the Borough of Blenheim and to enter into arrangements with the Blenheim Borough Council for the use of the land [2 November 1974

WHEREAS the Marlborough Agricultural and Pastoral Association is registered as proprietor of an estate in fee simple in the land described in the First and Second Schedules to this Act which is situated within the Borough of Blenheim: And whereas the Association is a duly constituted society pursuant to the Agricultural and Pastoral Societies Act 1908: And whereas the Blenheim Borough Council desires to acquire the said land for recreational sport, parkland, and other purposes: And whereas the Association holds the land subject to the provisions of

that Act which prohibits the intended sale of the land to the Council: And whereas at a special general meeting of the Association held in Blenheim on the 21st day of September 1971 the Association requested the Council to apply for legislative authority to enable the Association to transfer the land to the Council on condition that the Association will continue to have the use thereof for a number of days each year without charge: And whereas the Association wishes to invest the proceeds of the sale of the land subject to certain restrictions: And whereas by virtue of section 7 of that Act the requisite authority enabling the Association to dispose of the proceeds of the sale of the land as it desires is attainable only by legislation:

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

1. Short Title—This Act may be cited as the Marlborough Agricultural and Pastoral Association Empowering Act 1974.

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

“Association” means the Marlborough Agricultural and Pastoral Association:

“Council” means the Blenheim Borough Council:

“Showground” means the land described in the First Schedule to this Act together with all buildings, fences, structures, appointments, and facilities thereon:

“Fund” means the A & P Centennial Trust Fund established under section 9 of this Act:

“Trustees” means the trustees for the time being of the A & P Centennial Trust Fund.

3. Transfer of land by Association—Notwithstanding the provisions of section 7 of the Agricultural and Pastoral Societies Act 1908 or of the rules of the Association but subject to the provisions of this Act, the Association is hereby empowered to and shall transfer the land described in the First and Second Schedules to this Act and all improvements thereon free of all encumbrances and charges to the Mayor, Councillors, and Citizens of the Borough of Blenheim.

4. Creation of recreation reserve—On the registration of the transfer from the Association to the Council the showground shall forthwith become a recreation reserve within the meaning of the Reserves and Domains Act 1953.

5. Use of reserve by Association for shows, etc.—Notwithstanding the provisions of section 33 of the Reserves and Domains Act 1953—

- (a) The Council is hereby authorised to and shall, if it receives notice of the Association's requirements by the 31st day of December in each year, grant to the Association the exclusive use of the showground and all buildings thereon (other than buildings erected after the commencement of this Act and buildings which are for the time being the subject of a lease, licence, or permit granted in favour of any person other than the Association) free of charge in all respects for the purpose of conducting its annual show; and the Council shall also grant to the Association the exclusive use of the showground free of charge in all respects for the purpose of conducting such livestock fairs as may be approved by the Council:
- (b) The Association shall be entitled to make such charges as it thinks fit to exhibitors and members of the public for use of or entry to the showground during such periods as it shall have such exclusive use of the showground:
- (c) The Association shall be entitled to access to the showground for a reasonable number of days before and after its shows and fairs for the purposes of the preparation for and termination thereof.

6. Nomination of member to controlling committee—On and after the date of the transfer of the showground to the Council, the Association shall be entitled in each year to nominate one of its members to the committee of the Council for the time being concerned with the management or control of parks and reserves within the Borough of Blenheim, and such member shall be entitled to attend and be heard but not vote at meetings of such Committee while it is considering any matter relating to the showground.

7. Arrangements if Association ceases to hold its customary shows—(1) If the Association either notifies the Council that it has terminated its activities, or fails to hold an annual show at the showground for a period of 4 consecutive years, the Council may, after giving 1 year's notice in writing to the last-known Secretary of the Association, by resolution terminate the rights of the Association in respect of the showground; and on the making of the resolution the rights of the Association shall absolutely cease and determine and no claim for compensation shall lie against the Council in respect of such termination:

Provided that if the failure of the Association to hold its annual show arises by reason of a state of national civil defence emergency under the Civil Defence Act 1962, the Association shall be deemed not to have failed to hold its annual show during such time or times as the state of such emergency continues.

(2) Subject to the provisions of subsection (1) of this section, if the Association notifies the Council that it proposes to cease holding annual shows and to adopt a different means of fostering the improvement of the flocks and herds or the agricultural and pastoral industries of the district, the Council may in its discretion approve or disapprove such different means to the extent that such different means relate to the use of the showground, and any approval granted by the Council shall be subject to such conditions as the Council may impose relating to the extent of the use of the showground and the facilities then existing thereon.

8. Agricultural and Pastoral Societies Act 1908 to apply—Subject to the express provisions of this Act, while the Association is occupying the showground for the purpose of conducting its shows and livestock fairs, the provisions of the Agricultural and Pastoral Societies Act 1908, shall apply in all respects as if the showground were vested in the Association under that Act.

9. Investment of proceeds of sale—The purchase money received by the Association from the Council shall, after meeting all liabilities to or arising from the obligations of the Association to the Council, be held by the Association upon the following trusts:

- (a) The said sum shall be known as the A & P Centennial Trust Fund:
- (b) The fund shall be administered only by the committee of management for the time being of the Association, which committee shall constitute the trustees of the fund with power for the trustees to act in all matters and things howsoever in relation to the trusts and for the carrying out of the terms, aims and objects of the trusts contained herein:
- (c) The trustees shall stand in relation to the said fund as trustees both in law and in equity notwithstanding that the Association of which the trustees are members shall participate in both the capital and income of the said fund in the manner hereinafter provided:
- (d) The trustees shall stand possessed of the fund and shall invest the same in any mode of investment from time to time available for the investment of trust moneys in New Zealand and shall stand possessed of the income arising from such investments upon the following trusts:
 - (i) To pay to the Association for its general purposes an amount equal to 90 percent of the income arising from the fund in any one year after first deducting therefrom all expenses incurred by the trustees in producing the said income:
 - (ii) To add the balance of the said income to the capital of the fund to be held upon like investments and subject to the same trusts as are herein provided:
- (e) If authorised by a resolution of two-thirds of the members of the Association present and voting at a special meeting called in terms of the Association's rules, the trustees shall out of the trust fund and to the extent that the fund allows purchase such land as the Association shall specify in the resolution to be held by the trustees upon and subject to the same trusts as are herein provided:
 - (i) Such land shall be used substantially for the purposes of a showground and shall be used by the Association substantially for the objects set out in section 10 of the Agricultural and Pastoral Societies Act 1908:

(ii) The trustees shall not be liable for any expense of whatsoever nature incidental to the use and occupation of the land by the Association:

- (f) At any time after the 1st day of January 1976, the trustees, on the request of two-thirds of the members of the Association present and voting at a special meeting, shall act as guarantor for the Association in respect of any amount of money which the Association may wish to borrow not exceeding an amount equal to 25 percent of the capital and accumulated income of the fund:

Provided that the trustees may in their discretion guarantee an advance to the Association in excess of 25 percent of the value of the fund as herein provided:

Provided also that the trustees may only act as guarantor pursuant to this paragraph in respect of an advance repayable by instalments over a period not exceeding 5 years:

- (g) The trustees may advance to the Association, on such security and at such rate of interest as they consider fit, an amount not exceeding 25 percent of the capital and accumulated income of the fund, on the condition that it be repaid in full to the trustees by regular quarterly instalments over a period not exceeding 5 years:
- (h) The trustees shall not make any advance to the Association pursuant to the provisions of this section while there is current any guarantee pursuant to the provisions hereof, nor shall the trustees give any such guarantee while an advance is current.

10. Arrangements if the Association shall be wound up, etc.—If the Association should be wound up, liquidated, or for any reason cease to exist as a society within the meaning of the Agricultural and Pastoral Societies Act 1908, the trustees for the time being shall stand possessed of both the capital and income of the fund upon and subject to the following charitable trusts:

- (a) The income of the fund shall be applied in establishing and maintaining scholarships to be called the A & P Centennial Scholarships to be awarded to such

persons as the trustees in their sole and absolute discretion think fit having regard to the objects of the former Association:

Provided that the trustees shall not be bound to award a scholarship or scholarships in any given year if they are satisfied that there are no candidates of sufficient merit:

- (b) The nature of the scholarship shall be such as the trustees consider expedient having regard to the amount of the income and the needs of the person or persons decided upon pursuant to paragraph (a) of this section:
- (c) Any residue of the said income remaining after satisfying the said purposes shall be accumulated and added to the capital of the fund and be dealt with as part of such capital:

Provided that the trustees may at any time if they think fit apply the accumulation or any part thereof as if it were income arising in the then current year.

11. Appointment of auditor—The trustees shall in each and every year, in respect of the A & P Centennial Trust Fund, appoint an auditor who shall be a chartered accountant in public practice and who shall report to the trustees.

12. Appointment of new trustees—In addition to the powers contained in the Trustee Act 1956, the trustees shall have the following powers:

- (a) On the happening of any of the events specified in section 10 of this Act, the trustees may by deed appoint any person or persons including any body of persons whether corporate or unincorporate to be trustees of the trust; and such person or persons may act as trustees either solely or together with the existing trustees:
- (b) The trustees may from time to time, on the resolution of two-thirds of the members of the former Association present and voting at a special meeting called for the purpose, select new purposes and objects for the trusts if such purposes and objects are associated with or incidental to general educational purposes within the provincial district of Marlborough:

- (c) If the trustees do not exercise the powers of appointment specified in this section and if the last survivor of the trustees refuses to act or being incapable of so acting whether by death, infirmity, or otherwise, then the following persons shall, subject to their written acceptance in each case, become the trustees of the trust in the same manner as if they had been so appointed:
- (i) Three persons to be nominated by the President for the time being of the New Zealand Society of Accountants (Marlborough Branch), by the President for the time being of the Marlborough District Law Society, and by the Mayor of Blenheim, each of whom shall nominate one person:
 - (ii) Two persons to be nominated by the President for the time being of the Federated Farmers (Marlborough Branch):
- (d) In the event of 3 or more of the abovenamed refusing to so act as trustees then the trustees thereof shall be such persons as the Supreme Court shall appoint.

13. Trustees to be a charitable trust board—Notwithstanding anything to the contrary in this Act, the trustees of the fund shall for all purposes be deemed to be a charitable trust board within the meaning of the Charitable Trusts Act 1957, known as the A & P Centennial Trust Board.

14. Charitable Trusts Act 1957 to apply—Unless inconsistent with the provisions of this Act, the provisions of the Charitable Trusts Act 1957 shall apply to the trusts referred to in section 10 of this Act as if the trustees had applied for incorporation under the said Act and had been registered pursuant to section 11 thereof.

15. Private Act—This Act is hereby declared to be a private Act.

SCHEDULES

FIRST SCHEDULE

ALL that parcel of land situated in the Borough of Blenheim containing 9.4503 hectares, more or less, being part of Section 4, Omaka Registration District, and being also part of Lots 1 and 2 on Deposited Plan No. 1145 and being part of the land comprised in certificate of title, Volume 2A, folio 16 (Marlborough Registry), bounded by the certificate of title boundary to the north, Maxwell Road to the west, Alabama Road to the south, and on the east by the prolongation of the western boundary line of the Lots shown on Deposited Plan No. 3511.

SECOND SCHEDULE

ALL those parcels of land situated in the Borough of Blenheim containing together 2,616.3 square metres, more or less, being part of Section 4, Omaka Registration District, and being also part of Lots 1 and 2 on Deposited Plan No. 1145 and being part of the land comprised in certificate of title, Volume 2A, folio 16 (Marlborough Registry), bounded to the east by Howick Road, to the west by the prolongation of the western boundary of the Lots shown on Deposited Plan No. 3511 and situated between Lots 5 and 6, Lots 8 and 9 and Lot 12 and Alabama Road on the said Deposited Plan No. 3511.
