



ANALYSIS

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1965, No. 7—*Local*

An Act to constitute the Northland Harbour Board, and to dissolve the Whangarei, Bay of Islands, Whangaroa, and Mangawai Harbour Boards, and the Waipu River Board, and to divest the Hokianga County Council of control of the Hokianga Harbour and the Mangonui County Council of control of the harbours of Mangonui, Awanui, and Houhora
 [30 August 1965]

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 Northland Harbour Board Act 1965.

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

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

“Board” means the Northland Harbour Board constituted by this Act:

“Date of constitution” means the first day of September, nineteen hundred and sixty-five:

“Date of dissolution” means the thirtieth day of September, nineteen hundred and sixty-five:

“District” means the Northland Harbour District as constituted by this Act:

“Dissolved Boards” means the Whangarei, Bay of Islands, Mangawai, and Whangaroa Harbour Boards, and the Waipu River Board:

“Divested Councils” means the Hokianga and the Mangonui County Councils acting as Harbour Boards:

“Local authority” means a County Council, City or Borough Council, Town Council, or Road Board; and includes the body corporate which any such Council or Board represents:

“Primary produce” means butter, buttermilk powder, skim milk powder, whole milk powder, cheese, casein, wool, meat (whether fresh, frozen, freeze dried, or chilled), and fruit, being produce for marketing in an overseas country.

4. Constitution of Northland Harbour Board—The Northland Harbour Board is hereby constituted as a harbour board under the Harbours Act 1950 as at the first day of September, nineteen hundred and sixty-five, for the harbours described in the First Schedule to this Act.

5. Northland Harbour District—There is hereby constituted, on the date of constitution, a district to be called the Northland Harbour District comprising the whole of the following local districts:

(a) The City of Whangarei:

(b) The Boroughs of Kaikohe and Kaitia:

(c) The Counties of Whangarei, Otamatea, Bay of Islands, Hokianga, Whangaroa, and Mangonui:

(d) The Town Districts of Hikurangi and Kawakawa.

6. Members of Board and election thereof—(1) Notwithstanding the provisions of sections 14 and 15 of the Harbours Act 1950 or of any other Act,—

(a) Until the thirty-first day of October, nineteen hundred and sixty-five, the Board shall consist of eighteen members of whom before the date of constitution nine members shall be appointed by the Whangarei Harbour Board and nine members shall be appointed by the Bay of Islands Harbour Board:

(b) All appointed members of the Board in office on the said thirty-first day of October, nineteen hundred and sixty-five, shall go out of office at the end of that day; and on and after the first day of November, nineteen hundred and sixty-five, the Board shall be constituted as provided in the First Schedule to the Harbours Act 1950, as substituted by section 20 (1) of the Harbours Amendment Act 1959 and amended by subsection (2) of this section:

(c) The first members to be elected to the Board as it is to be constituted on and after the first day of November, nineteen hundred and sixty-five shall be elected at the local body elections to be held in the month of October, nineteen hundred and sixty-five.

(2) The said First Schedule to the Harbours Act 1950 is hereby amended by inserting, after the item relating to the Nelson Harbour Board, the following item:

<p>“Northland Harbour Board. Twelve members.</p>	<p>Four by the electors of the City of Whangarei; three by the electors of the County of Whangarei and of the Town District of Hikurangi; two by the electors of the County of Bay of Islands and of the Borough of Kaikohe and of the Town District of Kawakawa; one by the electors of the County of Mangonui and of the Borough of Kaitaia; one by the electors of the County of Hokianga; and one by the electors of the County of Whangaroa.”</p>
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7. Chairman and Deputy Chairman—The members of the Board shall elect a Chairman and a Deputy Chairman, of whom one shall be a member elected by the electors of the City of Whangarei or a member elected by the electors of the

County of Whangarei and of the Town District of Hikurangi, and the other shall be one of the members of the Board who is elected by any other electors.

8. Annual allowance to Chairman and Deputy Chairman—

(1) Notwithstanding the provisions of subsection (1) of section 36 of the Harbours Act 1950 (as substituted by subsection (1) of section 7 of the Harbours Amendment Act 1961) and of any other Act, the Chairman and the Deputy Chairman of the Board may each be paid an annual allowance of such amount as the Board may from time to time determine:

Provided that the total amount of the allowances so paid to them both in any year shall not exceed one thousand pounds.

(2) No alteration in the amounts of any allowance so payable shall take place during the term of office of the Chairman or the Deputy Chairman to whom the allowance is payable.

(3) For the purposes of this section a person re-elected as Chairman or Deputy Chairman shall be considered a new Chairman or Deputy Chairman.

(4) The foregoing provisions of this section shall continue in force until the date of the triennial general elections of members of Harbour Boards in the year nineteen hundred and sixty-eight, and shall then expire.

9. Unauthorised expenditure—Notwithstanding the provisions of subsection (2) of section 92 of the Public Revenues Act 1953 (as substituted by section 6 of the Public Revenues Amendment Act 1962), the Board may, in any financial year of the Board, expend out of its Harbour Fund for purposes not authorised by any law for the time being in force any sum or sums not exceeding in the aggregate two thousand two hundred and fifty pounds.

10. Money to be paid to Harbour Fund—All money standing to the credit in the Harbour Funds of any dissolved board or divested council as at the date of dissolution shall be paid into the Harbour Fund of the Board as at that date.

11. Costs of formation of Board—All costs and expenses incurred by any of the dissolved boards or divested councils in promoting the formation of the Northland Harbour Board shall be a first charge on the Harbour Fund of the Board.

12. Dissolution of existing Harbour Boards and divesting of Councils—(1) The Whangarei, Bay of Islands, Mangawai, and Whangaroa Harbour Boards, and the Waipu River Board, are hereby dissolved on the thirtieth day of September, nineteen hundred and sixty-five.

(2) The Hokianga County Council shall, on the date of dissolution, cease to have control of the Hokianga Harbour and to exercise the powers of the former Hokianga Harbour Board, and on the same date the Mangonui County Council shall cease to have control of the Mangonui, Awanui, and Houhora Harbours and to exercise the powers of the Mangonui Harbour Board.

(3) Notwithstanding the prior constitution of the Board, the said harbours shall remain under the jurisdiction and control of their respective Boards and County Councils until the date of dissolution.

(4) The harbour districts of Bay of Islands, Whangarei, Mangawai, and Whangaroa, and the Waipu River District are hereby abolished on the thirtieth day of September, nineteen hundred and sixty-five.

13. Board's responsibility to maintain and develop ports—(1) Except upon the authority of a special resolution of the Board to the contrary,—

(a) It shall be the duty of the Northland Harbour Board (subject to any higher standards hereafter specified in this Act in respect of any particular ports) to maintain all wharves, aids to navigation, channels, and other harbour installations and works existing within its harbour district at the date of constitution in at least as good a condition as they may be in at that date:

(b) The Board shall not at any time after its constitution take or omit to take any steps which will cause the Ports of Whangarei and Bay of Islands or either of them to cease to be named as export ports for primary produce and will at all times maintain, develop, equip, operate, and man the Ports of Whangarei and Bay of Islands to such standard and on and subject to such bylaws and conditions as will qualify those ports to be named as export ports in any freight contract made by any statutory producer board for the carriage from New Zealand of primary produce:

(c) The Board shall take all steps in its power to ensure at all times after its constitution that all produce and any increase in the volume thereof that would normally have been shipped through each of the ports of Whangarei and the Bay of Islands if this Act had not been passed shall continue to be shipped through that port.

(2) For the purposes of this section and of section 22 of this Act a special resolution shall be one showing at least ten votes in favour of the resolution.

(3) Without in any way limiting, restricting, or affecting the rights, remedies, and powers of any person which would exist if this subsection had not been passed the obligations imposed by this section shall be enforceable against the Board by injunction, mandamus, or any of the remedies provided by the Declaratory Judgments Act 1908 on the application of either—

(a) A majority of the local authorities whose districts are for the time being wholly or partly within the area known immediately before the date of dissolution as the Whangarei Harbour District; or

(b) A majority of the local authorities whose districts are for the time being wholly or partly within the area known immediately before the date of dissolution as the Bay of Islands Harbour District.

14. Board to take over assets and liabilities of dissolved Boards and divested Councils—(1) All the undertakings, agreements, assets, and liabilities of the dissolved Boards (other than the Mangawai Harbour Board) and the undertakings, agreements, assets, and liabilities of the divested Councils, with all lands, buildings, ships, plant, and other assets of whatsoever kind or description vested in or controlled by the dissolved Board or vested in or controlled by the divested Councils, subject to all charges, encumbrances, estates, and interests affecting the same, and with the benefit and subject to the burden of all contracts and obligations of the said dissolved Boards and of the divested Councils, are hereby vested in the Board on the date of dissolution.

(2) All agreements, contracts, and leases entered into or executed by any dissolved Board or divested Council shall be deemed to have been entered into or executed by the Board; and the provisions of this Act shall, with the necessary modifications and subject to the express provisions thereof apply to those contracts, agreements, and leases as if they

had been entered into or executed by the Board; and the Board may enforce or have enforced against it without production of any further authority all covenants, conditions, restrictions, and provisions contained in any such agreement, contract, or lease.

(3) Funds representing accumulated sand royalties vested in the Mangawai Harbour Board at the date of dissolution are hereby vested in the Board on the date of dissolution; and all the other undertakings, agreements, assets, and liabilities of the Mangawai Harbour Board, with all lands, buildings, ships, plant, and other assets of whatsoever kind or description vested in or controlled by that Board, subject to all charges, encumbrances, estates, and interests affecting the same, and with the benefit and subject to the burden of all contracts and obligations of that Board, are hereby vested in the Chairman, Councillors, and Inhabitants of the County of Otamatea on the date of dissolution.

(4) On production to the District Land Registrar for the North Auckland Land Registration District of a statutory declaration by the Secretary of the Board that any of the land of the dissolved Boards or divested Councils has become vested in the Board, or of a statutory declaration by the County Clerk of the Otamatea County Council that any of the land of the Mangawai Harbour Board has become vested in the Chairman, Councillors, and Inhabitants of the County of Otamatea, together in either case with such plans and documents as that District Land Registrar may require, that District Land Registrar shall record the vesting in the Board or the said Chairman, Councillors, and Inhabitants of the County of Otamatea, as the case may be, on the relevant certificate of title or other instrument of title.

(5) No stamp duty under the Stamp Duties Act 1954 shall be payable in respect of any vesting of any real or personal property in the Board or the Chairman, Councillors, and Inhabitants of the County of Otamatea under this section.

(6) All proceedings pending by or against any of the dissolved Boards or the divested Councils may be carried on or prosecuted by or against the Board or the Chairman, Councillors, and Inhabitants of the County of Otamatea.

15. Debentures, stocks, and securities—(1) All stock, debentures, and other securities issued or executed by the dissolved Boards or divested Councils shall be deemed to have been issued or executed by the Board, and the provisions of this Act shall, with the necessary modifications and subject

to the express provisions thereof, apply to those stock, debentures, and securities as if they had been issued or executed by the Board.

(2) Nothing in this Act or in any stock, debentures, or other securities issued pursuant thereto shall affect or prejudice the rights of the holders of any stock, debentures, or other securities executed or issued before the date of dissolution by the dissolved Boards or divested Councils pursuant to any special Act.

16. Saving as to existing loans and special rates therefor—(1) Notwithstanding anything in this Act, any special rate made by any of the dissolved Boards or divested Councils as security for the principal and interest in respect of any loan raised before the passing of this Act shall remain in force and shall apply only to rateable property within the Harbour District of the dissolved Board as its district was constituted immediately before the passing of this Act.

(2) The Board shall be responsible for the payment of the principal and interest of all loans owing by the dissolved Boards or divested Councils at the date of dissolution, and the Board shall indemnify the ratepayers of the area which comprised the Bay of Islands Harbour District immediately before the commencement of this Act, against the collection of any rate made in respect of any such loan.

17. Powers conferred by other Acts to continue—All rights, powers, functions, duties, and authorities conferred or imposed upon the dissolved Boards or divested Councils before the date of dissolution by any Act, whether a special Act or not, and subsisting on the date of dissolution, may be exercised and performed by the Board, and the provisions of any such Act, where not inconsistent with the provisions of this Act and within the jurisdiction conferred by that Act, shall continue in force in as full and effectual manner as if that Act had been originated by or in respect of the Board and shall, where necessary, be deemed to have so originated.

18. Existing bylaws to continue in force—All bylaws made by the dissolved Boards and the divested Councils and subsisting and in force on the date of dissolution shall continue in force in respect of the harbours and within the jurisdiction to which those bylaws applied at the date of dissolution, and those bylaws may thereafter be enforced, amended, or repealed by the Board, and all acts of authority done by the

dissolved Boards or divested Councils under the powers conferred by the bylaws shall, after the date of dissolution, enure for the purposes of the Board as fully and effectually as if the bylaws had been originated and the acts had been done by the Board and shall where necessary be deemed to have so originated and been so done.

19. Harbour dues in respect of primary produce exported from Ports of Whangarei and Bay of Islands to be the same—The same scale of harbour dues (as defined in the Harbours Act 1950) shall be fixed from time to time by the Board for the harbours of both Whangarei and the Bay of Islands in respect of ships entering those harbours or either of them for the purpose of loading primary produce for discharge from those ships in an overseas country.

20. Saving of appointments, records, and acts of authority—All Proclamations, Orders in Council, warrants, regulations, sanctions, offices, appointments, resolutions, agreements, licences, lists, rolls, rate-books, records, documents, and generally all acts of authority which originated before the date of dissolution in relation to any dissolved Board or divested Council and which are in force on that date shall enure for the purposes of the Board as fully and effectually as if they had been originated by or in respect of the Board, and accordingly (where necessary) shall be deemed to have so originated.

21. Protection of existing staff—(1) The Board shall take over and continue the employment of all members of the staff of the dissolved Boards and divested Councils, and no person shall have his or her employment terminated or salary reduced by reason only of the formation of the Board, nor shall any such person be compelled to change his or her place of residence to Whangarei or to the Bay of Islands.

(2) Subject to subsection (1) of this section, the provisions of the Local Authorities (Employment Protection) Act 1963 shall apply in connection with the constitution of the Northland Harbour District.

22. Restricting Board from promoting amendments to Act or seeking rating powers—The Board shall not promote any amendment to this Act or the repeal thereof or, after the date of dissolution, seek any authority to make any special rate as security for the repayment of any loan except upon the authority of a special resolution of the Board.

23. Dissolution of Board on application of local authorities—Notwithstanding anything in this Act or in any other Act, the Local Government Commission shall, after hearing all the parties concerned, have power to dissolve the Board and may reconstitute the dissolved Boards and the Harbour Districts abolished by subsection (4) of section 12 of this Act on a date to be specified by the Local Government Commission if at any time prior to the thirtieth day of September, nineteen hundred and seventy, either—

(a) A majority of the local authorities whose districts are for the time being wholly or partly within the area known immediately before the date of dissolution as the Whangarei Harbour District; or

(b) A majority of the local authorities whose districts are for the time being wholly or partly within the area known immediately before the date of dissolution as the Bay of Islands Harbour District—

apply to the Local Government Commission so to do; and upon such reconstitution accounts shall be taken as between the Board and the reconstituted Boards, and all assets and liabilities of the Board shall be apportioned and vested by order of the Local Government Commission in each of the reconstituted Boards and the divested Councils, as the case may be, so that the reconstituted Boards and the Councils shall be placed so far as it may be possible in the same financial position as if this Act had not been passed, and the membership of the reconstituted Boards shall thereupon be appointed by the relevant local authorities in the numbers applicable to the respective Boards prior to the formation of the Board, and the members of the reconstituted Boards shall remain in office until the following local body elections.

24. District of Northland—All that portion of the North Island of New Zealand north of the southern boundary of Otamatea County, as that county is for the time being constituted, shall henceforth be known as Northland.

25. Consequential amendments—The enactments specified in the Second Schedule to this Act are hereby amended as from the date of dissolution in the manner indicated in that Schedule.

SCHEDULES

FIRST SCHEDULE

Section 4

HARBOURS

- Whangarei Harbour—The limits of which are defined in the First Schedule to the Whangarei Harbour Act 1907 (as amended by section 9 of the Whangarei Harbour Board Vesting and Empowering Act 1961) and extended as described in the Second Schedule to the Whangarei Harbour Board Vesting and Empowering Act 1961.
- Bay of Islands Harbour—The limits of which are defined in Warrant of 1 December 1936, *Gazette* 3 December 1936, p. 2331.
- Ngunguru Harbour—The limits of which are defined in the First Schedule to the Whangarei Harbour Board Vesting Act 1928.
- Tutukaka, Whangaruru, and Whananaki Harbours—The limits of which are defined in the Schedule to the Tutukaka, Whangaruru, and Whananaki Harbours Control Act 1926.
- Pataua Harbour—The limits of which are defined in the Eighth Schedule to the Whangarei Harbour Board Vesting and Empowering Act 1963.
- Hokianga Harbour—The limits of which are defined in Order in Council of 20 November 1868, *Gazette* 23 November 1868, p. 549.
- Whangaroa Harbour—The limits of which are defined in Order in Council of 20 November 1868, *Gazette* 23 November 1868, p. 549.
- Mangonui Harbour—The limits of which are defined in Order in Council of 20 November 1868, *Gazette* 23 November 1868, p. 549.
- Awanui Harbour—The limits of which are defined in Order in Council of 11 October 1926, *Gazette* 21 October 1926, p. 2962.
- Houhora Harbour—The limits of which are defined in Order in Council of 20 November 1868, *Gazette* 23 November 1868, p. 549.
- Mangawai Harbour—The limits of which are defined in Order in Council of 20 November 1868, *Gazette* 23 November 1868, p. 549.
- Waipu Harbour—The limits of which are defined by Order in Council of 30 June 1965, *Gazette* 8 July 1965, p. 1093.

Section 25

SECOND SCHEDULE

CONSEQUENTIAL AMENDMENTS

Title of Act	Nature of Amendment
1950, No. 34—The Harbours Act 1950	<p>By omitting from paragraph (c) of subsection (1) of section 36 (as substituted by subsection (1) of section 7 of the Harbours Amendment Act 1961) the words “Wanganui and Whangarei”, and substituting the words “and Wanganui”.</p> <p>By repealing so much of the First Schedule (as substituted by subsection (1) of section 20 of the Harbours Amendment Act 1959) as relates to the Bay of Islands Harbour Board, the Whangarei Harbour Board, and the Mangawai Harbour Board.</p> <p>By omitting from the Second Schedule the reference to the Whangaroa Harbour Board.</p>
1952, No. 22 (Local)—The Bay of Islands Harbour Board Empowering Act 1952	<p>By repealing the definition of the term “harbour district” in section 3.</p> <p>By repealing sections 4 and 5.</p>
1956, No. 61 — The Trustee Act 1956	<p>By inserting in paragraph (d) of subsection (1) of section 4 of the Trustee Act 1956, after the words “Napier Harbour Board”, the words “Northland Harbour Board”.</p>
1956, No. 12 (Local)—The Bay of Islands Harbour Board Empowering Act 1956	<p>By repealing section 8.</p>
1959, No. 6—The Harbours Amendment Act 1959	<p>By repealing section 20 (2).</p>