

New Zealand.



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1932-33, No. 7.—*Local and Personal.*

AN ACT to enable the Napier Harbour Board to sell certain Areas of Land, and to adjust the Boundaries and Contour, both External and Internal, of the Ahuriri Lagoon. Title.
[4th March, 1933.]

WHEREAS it is expedient that the Napier Harbour Board (hereinafter referred to as the Board) should have power to sell certain areas of land in order to provide funds to improve and render saleable those areas and to render revenue-producing certain other areas of land: And whereas the earthquake which occurred in Hawke's Bay on the third day of February, nineteen hundred and thirty-one, had the effect of raising the level of the bottom of the Ahuriri Lagoon (being an endowment reserved and set aside for the use, benefit, and endowment of, and vested in, the Board by the Napier Harbour Board Act, Preamble.

1874, as amended by the Napier Harbour Board Amendment and Endowment Improvement Act, 1887, which last-mentioned Act is hereinafter referred to as the 1887 Act), thereby reclaiming from the sea large areas of the said lagoon, and confusing the boundaries, both external and internal, thereof: And whereas the description of the Ahuriri Lagoon as set out in the Second Schedule to the 1887 Act excludes certain islands lying within the outside boundaries of the lagoon, called therein Roro-o-kuri, Parapara, Te Ihuotikei, Uruwiri, Poroporo, Tiro-whangahe, Tuteranuku, Awa-a-waka, and Matawhero respectively, of which all except Roro-o-kuri (now owned by Europeans) and Te Ihuotikei and Parapara (both now owned by the Napier Borough Council, the Hastings Borough Council, and the Hawke's Bay County Council) are Native land the title to which has never been investigated, ascertained, or determined: And whereas it is expedient in the interests of the Board that the Board should be afforded the facilities and possess the powers by this Act given and conferred in relation to the Ahuriri Lagoon and the islands lying within the outside boundaries thereof as aforesaid:

BE IT THEREFORE 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 Napier Harbour Board Empowering Act, 1932-33.

Special Act.

2. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1923, which Act is hereby incorporated in this Act.

Interpretation.

3. In this Act—

“The Board” means the Napier Harbour Board:

“The said area of twenty-eight acres” means the parcel of land first described in the First Schedule hereto, and “the said area of ninety-two acres” means the parcel of land secondly described in the same Schedule:

“The Ahuriri Lagoon” means that portion of the area of land containing seven thousand nine hundred acres, more or less, comprised in the Second Schedule to the 1887 Act, which is more particularly described in the Second Schedule hereto.

4. The Board shall have power to sell by public auction or public tender, in such parcels, upon such terms and conditions as to payment of the purchase-price, security for unpaid purchase-moneys, and otherwise, as it shall think fit, portions, limited as hereinafter provided, of the said area of twenty-eight acres, and of the said area of ninety-two acres, and to apply the purchase-moneys arising from any such sale, in or towards the costs and expenses of surveying, subdividing, levelling, roading, draining, and otherwise improving and rendering revenue-producing the said area of twenty-eight acres and the said area of ninety-two acres, or either of them, including the costs and expenses appertaining to the rendering saleable to the best advantage of the portions of the said areas respectively to which the power of sale hereby conferred shall apply :

Power to sell
certain land.

Provided always and it is hereby declared as follows :—

- (a) The power of sale hereby conferred upon the Board shall not apply to more than one-third of the total area, exclusive of roads, of each of the said areas of twenty-eight acres and ninety-two acres respectively ; but no purchaser from the Board shall be concerned to see or inquire as to whether the Board has exceeded the limit aforesaid, nor shall his title be invalidated or impeached by reason of the Board having exceeded such limit, nor shall he be bound to see or inquire as to the application of his purchase-moneys, or be responsible for the misapplication thereof ; and a recital in any instrument of alienation executed by the Board in favour of a purchaser that such instrument is entered into under the authority of this Act shall be conclusive evidence for the purposes of such instrument that the Board is acting within the limits of the authority hereby conferred.
- (b) If the Board shall offer any of the lands to which this section applies for sale by public auction or public tender it shall publish in some newspaper circulating in the towns of Napier and Hastings once at least not less than thirty

days before the day appointed for the auction, or before the last day appointed for making a tender, as the case may be, and twice at least after such first publication and before the day so appointed, a notice setting out sufficient particulars of the land proposed to be offered for sale, and of the terms for payment of the purchase-moneys.

- (c) It shall not be necessary in any such sale by public auction or public tender for the Board to accept the highest or any bid or tender.
- (d) Notwithstanding anything in this section, land that has been offered for sale as aforesaid and not sold may at any time within twelve months after the day of the auction, or after the last day for the delivery of tenders for the same, as the case may be, be sold by private contract at a price not less than the upset price at which the land was so offered, and upon terms and conditions as to payment of the purchase-price, security for unpaid purchase-moneys, and otherwise, coinciding with the original terms and conditions in these respects, or differing therefrom, as the Board shall decide. Provided always that nothing shall prevent the Board from again offering the said land for sale by public auction or public tender in manner hereinbefore provided before the expiration of the said period of twelve months conditionally on such offer not being made at an earlier date than three months after the last preceding abortive attempt to effect a sale in that way, and these provisions shall continue to apply notwithstanding any previous abortive attempts to sell by public auction or public tender.
- (e) If there shall be any surplus moneys arising from sales of land hereby authorized after completion of the purposes for which the power of sale is hereby conferred upon the Board, the same may be applied by the Board in or towards payment of purchase-moneys, compensation, costs, charges, and expenses

incurred in, or incidental to, the carrying-out of the powers hereinafter conferred upon the Board in relation to the Ahuriri Lagoon; and if there shall still be an ultimate surplus the same shall be applied by the Board in or towards payment of the principal moneys owing by the Board in respect of any loan obtained on the security of, *inter alia*, the said area of twenty-eight acres and the said area of ninety-two acres under the authority of the Napier Harbour Board Amendment and Endowment Improvement Act, 1912.

- (f) Nothing herein contained shall be deemed to deprive the Board of any powers it may possess as a leasing authority under the Public Bodies' Leases Act, 1908, in respect of the whole or any part of the said area of twenty-eight acres, and the said area of ninety-two acres respectively.

5. For the purpose of adjusting the boundaries, both external and internal, of the Ahuriri Lagoon Endowment, the Board shall have and possess the following powers, that is to say:—

Powers of the Board in relation to the Ahuriri Lagoon.

- (a) To acquire by purchase any areas of land lying adjacent to the Ahuriri Lagoon, or being within the outside boundaries thereof, including the before-mentioned islands, or any of them, or any part thereof respectively:
- (b) To sell any areas of land the property of the Board lying on or adjacent to the outside boundary-lines of the Ahuriri Lagoon:
- (c) To exchange any areas of land, being parts of the Ahuriri Lagoon endowment, for any other areas of land lying adjacent to the Ahuriri Lagoon, or being within the outside boundaries thereof, including the before-mentioned islands, or any of them, or any part thereof respectively, and to pay or receive moneys for equality of exchange:
- (d) To take, or contract for the purchase of, in manner provided by the Public Works Act, 1928, and under the provisions of that Act, any areas of land lying adjacent to the Ahuriri

Lagoon, or being within the outside boundaries thereof, including the before-mentioned islands, or any of them, or any part thereof respectively; for which purposes the objects for which such areas of land are taken as aforesaid shall be deemed to be a "public work", and the land so taken shall be deemed to be land required for a "public work", within the meaning of the said Act:

- (e) To layout, make, form, metal, and dedicate as a public road any area of land the property of the Board for the purposes of affording a road-frontage to any land alienated by the Board for any of the purposes aforesaid; or to grant rights of way over any area of land the property of the Board for the purpose of giving any alienee from the Board means of access to a public road.

A recital contained in any instrument of alienation executed by the Board expressing that such instrument is entered into in conformity with this Act shall be conclusive evidence for the purposes of such instrument that the Board is acting within the bounds of the authority hereby conferred.

Dealing with
Native land.

6. (1) The Native Land Court is hereby empowered to issue an order or orders vesting the legal estate of any of the islands mentioned in the Preamble of this Act, or any other island situated in the Ahuriri Lagoon, which is Native land, and of which the title has not been heretofore investigated, in such persons as the Court shall appoint for the purpose, and thereupon the land mentioned in such order shall vest in such persons in the same manner as if the land had been then granted to those persons by the Crown, and the land shall be deemed to have been so granted accordingly, shall cease to be customary land, and shall become Native freehold land within the meaning of the Native Land Act, 1931.

(2) The persons mentioned in any such order shall be deemed to be trustees, and shall have the power to sell, mortgage, lease, exchange, or otherwise deal with the land as fully as if they were the beneficial owners thereof.

(3) The Native Land Court may by order appoint a new trustee or trustees either in substitution for or in addition to any existing trustee and whether there is any existing trustee or not at the time of the making of the order. Any person so appointed shall have the same rights and powers as he would have had if appointed by a decree of the Supreme Court in an action duly instituted, and the trust property shall vest in the trustees for the time being without any conveyance, transfer, assignment, or assurance.

(4) The trustees shall hold the said lands or the proceeds of any alienation thereof or any compensation therefor upon such trusts as the Native Land Court shall from time to time declare.

(5) It shall be lawful for the Board to purchase, exchange, or otherwise acquire any of the said land from the said trustees, and no transfer or other document shall require to be confirmed under Part XIII of the Native Land Act, 1931, but shall take effect according to its tenor, and shall, except in the case of fraud, be deemed to be valid and may be registered accordingly.

(6) Any Native land taken by the Board under the Public Works Act, 1928, may be taken in the manner prescribed by Part IV of that Act, and compensation shall be payable accordingly. All the provisions of that part of the Act as to ascertainment of compensation shall apply. If the Native Land Court has not theretofore made an order in accordance with subsection one hereof in respect of any land taken it may appoint trustees, who shall be entitled to be paid the compensation and who shall hold the same upon trusts to be declared by the Court from time to time. The provisions of subsection three hereof relating to the appointment of new trustees shall apply to the trustees appointed under this subsection.

7. In respect of any areas of land alienated or acquired by the Board for the purpose of adjusting the boundaries of that part of the Ahuriri Lagoon, containing five hundred and forty-three acres, more or less, which is described in the Second Schedule to the said Napier Harbour Board Amendment and Endowment Improvement Act, 1912, the areas so alienated shall by force of this Act, and without further assurance,

Areas alienated and acquired respectively released from and subject to debenture security.

be released from, and the areas so acquired shall by force of this Act, and without further assurance, become subject to, the debenture security comprising seventy-two debentures each for seven hundred and sixty-six pounds twelve shillings and one penny, bearing date the twenty-first day of February, nineteen hundred and twenty-eight, given by the Board to the Australian Mutual Provident Society under the authority of the said Act, of which said debentures sixty-three are now subsisting, and any person taking title to any area of land so alienated by the Board shall be entitled to assume that there is no such security as aforesaid in existence affecting that area.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

FIRST, all that parcel of land situated in the Borough of Napier, in the Hawke's Bay Land District, comprising portions of the Napier Harbour Board's Te Whare-o-Maraenui and Ahuriri Lagoon Reserves, containing 28 acres, more or less, and bounded as follows: Commencing at the point of intersection of the south-eastern side of the Napier-Taradale Road and the southern side of the East Coast Railway reserve; thence northerly and north-westerly by the southern and south-eastern side of that railway, 2259.53 links, to the north-western corner of Lot 4 on a plan deposited in the Land Registration Office at Napier, and numbered 4985; thence south-easterly by the south-western boundaries of the said Lot 4 and Lots 1, 2, and 3 on the said plan numbered 4985, a closed road, a public road, and a closed road, 240.92 links and 463.16 links, to the south-western side of George's Drive; then again south-easterly by that side of George's Drive, 1200 links, to the right bank of the Tutaekuri River; thence generally north-westerly by that bank of the Tutaekuri River to the south-eastern side of the Napier-Taradale Road; and thence north-easterly by that side of the said Napier-Taradale Road to the commencing-point.

Secondly, all that parcel of land situated in Block IV, Heretaunga Survey District, in the Hawke's Bay Land District, comprising portions of the Napier Harbour Board's Te Whare-o-Maraenui and Ahuriri Lagoon Reserves, containing 92 acres, more or less, and bounded as follows: Commencing at the point of intersection of the south-eastern side of the Taradale-Napier Road and the north-eastern side of the

Maraenui Road ; thence south-easterly by that side of Maraenui Road, 4615 links ; thence north-easterly by the north-western side of the Maraenui Road, 30.6 links, and by a line bearing $51^{\circ} 16'$ true meridian, 2120 links, to the left bank of the Tutaekuri River ; thence generally north-westerly by that bank of the Tutaekuri River to the south-eastern side of the Taradale-Napier Road ; and thence south-westerly by that side of the said road, 1320 links, to the commencing-point.

SECOND SCHEDULE.

ALL that parcel of land situate in the Hawke's Bay Land District, comprising 7,075 acres, more or less, being part of the Ahuriri Lagoon Reserve, the boundaries whereof are as follows : Commencing at the intersection of the Napier-Taradale Road and the Napier-Wairoa Railway ; thence by that railway and the shore of the Ahuriri Lagoon to the mouth of the River Esk ; thence by a line across that river to the southernmost corner of Block 84, as shown on the plan of the western side of the Harbour suburban sections ; thence towards the north-east by Blocks 84, 49, 48, 47, and 46 on the said plan ; thence towards the north-west by Blocks 45 and 44 on the said plan ; thence towards the south-west generally by Blocks 43, 34, 33, 32, and 29 on the said plan ; thence towards the east by Blocks 30 and 31 on the said plan ; thence towards the west by Blocks 31 and 30 on the said plan ; thence towards the north-west by Blocks 29 and 28 on the said plan, a public road through Blocks 27, 26, and 25, and by Block 10 on the said plan ; thence on the south-east by Blocks 9, 7, and 6 on the said plan ; thence on the north-west by Blocks 6 and 7 on the said plan ; thence on the south-east by Blocks 3 and 2 on the said plan ; thence on the south-west by Block 1 on the said plan ; thence on the north-west by Blocks 2, 3, 4, and 5 on the said plan ; thence on the south-west by the Wharerangi Block ; thence generally on the south and west by Blocks 14, 13, 12, 11, 10, 9, 8, 7, 6, 5, and 4 as shown on the plan of the Ahuriri Harbour suburban sections ; thence by a line to the northernmost point of Block 2, Park's Island ; thence by the northern, eastern, and southern shores of that island to its junction with Block 94, as shown on the plan of the Meeanee suburban sections ; thence by the eastern boundary of that block to its south-eastern corner ; thence on the south-east by a line to the north-west point of Block 48 on the said plan of the Meeanee suburban sections ; thence by the northern boundary of Block 48 to its north-east corner ; thence on the north-west by a line to the northernmost point of Block 95 on the said plan of the Meeanee suburban sections ; thence on the west and south by Block 95 ; thence towards the east by the Napier-Taradale Road and Blocks 47 and 96 ; thence towards the south-east by Blocks 96 and 47 on the said plan of the Meeanee suburban sections to the intersection with the Napier-Taradale Road ; thence towards the south-east by that road to a point opposite the north-west corner of Block 124 on the said plan of the Meeanee suburban sections ; thence generally towards the south by Blocks 124 and 122 on the plan

of the Meeanee suburban sections; thence generally towards the west by Blocks 122 and 47 on the said plan of the Meeanee suburban sections; thence generally towards the south by Block 123 on the said plan of the Meeanee suburban sections and Blocks 68 and 69 on the same plan; thence generally towards the east by Blocks 100 and 101 on the said plan of the Meeanee suburban sections; thence towards the south by Block 101 to the bank of the Tutaekuri River; thence across that river by a line bearing due east to the boundary of the Te Whare-o-Maraenui Block; thence generally towards the north-east by the Te Whare-o-Maraenui Block to the westernmost corner of that block; thence towards the south-east by the same block to the north-western side of the Napier-Taradale Road; thence again towards the south-east by that side of that road to its intersection with the Napier-Wairoa Railway, the point of commencement: excluding the islands called Roro-o-kuri, Parapara, Te Ihutikei, Uruwiri, Poroporo, Tirowhangahe, Tuteranuku, Awa-a-waka, and Matawhero.
