

New Zealand.

ANALYSIS.

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1929, No. 1.—*Local and Personal.*

AN ACT to confer on the New Plymouth Borough Council certain Title.
Additional Powers in regard to the Supply of Electrical Energy ;
to authorize the said Council to pay out of its General Account
the Annual Charges in respect of Interest and Sinking Fund on a
certain Special Loan ; to authorize the said Council to accept
Money in lieu of requiring the making of Reserves upon the
Subdivision of Land ; to change the Purpose of certain Moneys
held by the said Council ; and to authorize the said Council to
establish Funds for the Purchase, Repair, and Renewal of
Depreciable Plant and Appliances. [1st November, 1929.]

WHEREAS the New Plymouth Borough Council (hereinafter called Preamble.
the Council) has, pursuant to the powers vested in it in
that behalf, established electric light and power works and has under-
taken the supply of electrical energy to consumers within and without
the Borough of New Plymouth : And whereas it is expedient that the
Council should have certain additional powers in respect to the said
electrical supply : And whereas the Council, pursuant to the powers
vested in it in that behalf, raised a certain special loan, particulars
whereof are set out in the Schedule hereto : And whereas it is
expedient, in the interests of the Borough of New Plymouth, that the
Council should be empowered to pay the annual charges in respect of
interest and sinking fund on the said loan out of its General Account :
And whereas in the subdivision of land within the Borough of New
Plymouth it is found that it is not always possible or desirable to
provide suitable reserves for recreation purposes on the particular land
subdivided, and it is expedient that in certain cases the Council should
be empowered to accept a payment of money in lieu of the provision

of such reserves, and therewith establish a fund for the purchase of more suitable lands to be held for recreation purposes: And whereas by section six of the New Plymouth Borough and New Plymouth Harbour Board Exchange Act, 1924, certain moneys received by the Council by way of equality of exchange were required to be expended only for the purpose of effecting improvements upon the lands vested in the Council by the said Act: And whereas the said lands have since been leased for building purposes, and the moneys are no longer required for the purposes for which they were set aside: And whereas it is now expedient that the Council be empowered to use the said moneys for other purposes: And whereas it is deemed expedient to grant to the Council power to establish a fund or funds for the purchase, repair, renewal, replacement, or improvement of depreciable property, plant, or appliances:

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 New Plymouth Borough Council Empowering Act, 1929.

Interpretation.

2. For the purposes of this and the two next succeeding sections, unless the context otherwise requires,—

Cf. 1928, No. 21,
s. 319 (3)

“Electric line” or “electric wire” means a wire or wires, conductor, or other means used for conveying, transmitting, or distributing electricity for power, lighting, or heating purposes, and includes any instrument, insulator, casing, tubing, pipe-covering, or post enclosing or supporting an electric line or electric wire, or anything connected therewith:

“Supply area of the Council” means the area or areas within which the Council is for the time being authorized to supply electricity in terms of a license or of licenses under the Public Works Act, 1928.

Power to erect
electric lines on
private lands.
Cf. 1925, No. 38,
ss. 84, 88

3. (1) The Council may erect an electric line or lines on any land within the supply area of the Council without being bound to acquire such land, and the authority hereby granted shall be deemed to include a right of way by the best available route over such land for the Council, its servants, workmen, and agents from time to time and at all times, with or without any suitable or available means of conveyance, and with all such tools, machinery, articles, and materials as may be necessary for the erection of any such line or lines, or for the maintenance or repair of the same, or for the doing of anything hereby authorized. The Council may also deposit and store from time to time upon any lands adjoining any such line or lines all such machinery and material of any kind as may be used in the erection, maintenance, or repair thereof.

(2) The Council shall, before exercising in relation to any land any authority conferred by this section, except in the case of accident to the electric works requiring immediate repair, give to the owner or occupier not less than twenty-one days' notice in writing, and shall state in such notice the use proposed to be made of such land.

(3) The said owner or occupier may, within ten days after receiving such notice, and after giving notice to the Council of his intention so to do, apply to any Justice, who may thereupon summon the Council

to make appearance before two Justices at a time and place to be named in the summons.

(4) If it appears to the Justices that the use proposed to be made of the said land is unreasonable and unnecessary, or that other neighbouring lands are more fitting to be used for the purpose proposed, the Justices may, by writing under their hands, order that the land in question shall not be occupied or used in the manner proposed.

(5) If it appears to the Justices that the use proposed to be made of the said land is reasonable and necessary, they may in like manner order that the said land may be occupied and used in such manner, and to such extent only, and subject to such limitations and restrictions as they think fit; and all persons concerned shall be bound by any such order.

(6) Every person suffering any damage whatever from the exercise of any of the powers conferred by this section shall be entitled to full compensation for the same from the Council. Such compensation may be claimed and shall be determined in the manner provided by the Public Works Act, 1928.

4. Where in the exercise of any powers it thereunto enabling the Council has, whether before or after the passing of this Act, installed any motor, electric wires, electric lamps, or other fittings or equipment on any land or in any building thereon, the cost of any such motor, electric wires, electric lamps, and other fittings and equipment, and of the installation thereof, or any rent payable for the use of any such fittings or equipment, shall be a charge upon such land, and may be recovered as rates are recovered under the Rating Act, 1925, and the provisions of that Act as to the recovery of rates shall apply accordingly :

Cost of installation of electrical equipment to be charged on land.
Cf. 1925, No. 38, s. 119
1928, No. 41, s. 7

Provided that where the cost of any fittings and equipment installed by the Council on any land or in any building thereon, together with the cost of installation, exceeds thirty pounds, the amount payable to the Council in respect of such cost or as rent for the use of any such fittings or equipment shall not be a charge on the land or recoverable as a rate unless, prior to such installation, consent in writing is given thereto by or on behalf of the owner of such land, and, where the land is subject to any duly registered mortgage, is also given by or on behalf of the mortgagee or mortgagees.

5. The Council may out of its General Account, without further authority than this section, by resolution, decide to pay the annual charges accruing after the thirtieth day of January, nineteen hundred and thirty, in respect of interest and sinking fund on the special loan mentioned in the Schedule to this Act, and, to the extent to which the payments authorized by this section are made, it shall not be necessary for the Council to collect the special rates made for the purpose of providing for the payment of the said charges :

Power to pay interest and sinking fund from General Account.

Provided that nothing herein shall affect the rights of the holders of the debentures issued in respect of the said loan.

6. (1) Where under the provisions of section three hundred and thirty-five of the Municipal Corporations Act, 1920, or any amendment or re-enactment thereof, a plan of subdivision of land of an area of not less than four acres is submitted to the Council for approval, and the Council is of the opinion that, owing to configuration of the land

Power to accept money in lieu of requiring the making of reserves.

proposed to be subdivided, or to the proximity of other reserves, a monetary payment would be more in the public interest than the making of reserves, the Council, in lieu of requiring the making of reserves, may accept a payment in money from the owner :

Provided that all moneys from time to time so received by the Council shall be kept in a separate account of the Council, and shall be applied to the purchase from time to time of lands within the borough to be held by the Council for the purposes of pleasure-grounds, children's playgrounds, or for any other purpose of public enjoyment or recreation.

(2) Nothing in this section shall extend the existing powers of the Council to require the owner to make provision for the making of reserves, or shall compel the owner to comply with a demand from the Council for a monetary payment to the prejudice of his right of appeal under subsection three of the said section three hundred and thirty-five of the Municipal Corporations Act, 1920.

Changing purpose of certain moneys held by the Council.

7. Section six of the New Plymouth Borough and New Plymouth Harbour Board Exchange Act, 1924, is hereby repealed, and the sum of three hundred and sixty-seven pounds therein referred to may be applied either to the purchase of lands within the borough, to be held by the Council for the purposes of public enjoyment or recreation, or to the improvement of reserves already vested in the Council for the purposes aforesaid.

Power to establish funds for the purchase, repair, and renewal of depreciable plant and appliances.

8. (1) The Council may from time to time set aside out of its General Account any moneys to form a fund or funds for the repair, renewal, replacement, or improvement of any depreciable property, plant, fixtures, or appliances of the Council, or for the purpose of purchasing additional property, plant, fixtures, or appliances of the class for which the fund or funds is or are so established.

(2) The Council may from time to time apply the moneys so set aside only to the purposes aforesaid, or any of them, and may invest any moneys so set aside and pay the proceeds of such investment into the said fund or funds.

(3) Nothing in this section shall apply with respect to any trading undertaking of the Council as defined by section forty-three of the Municipal Corporations Amendment Act, 1928.

Schedule.

SCHEDULE.

Loan, Amount, &c.	Special Rate.	Rating-area affected.
Special loan of £11,225 for streets and sewers raised under the Local Bodies' Loans Act, 1908, and the New Zealand State-guaranteed Advances Act, 1909, for 36½ years : £6,000 from the 24th May, 1911, and £5,225 from the 21st February, 1912	2¼d. in the £1 on the annual value	The area comprised in in the Borough of New Plymouth as at the 21st day of February, 1911.