ANALYSIS

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Schedule

1970, No. 8—*Local*

An Act to empower the Corporation of the Borough of Te Aroha to sell and manage land comprising a reserve vested in the Corporation by the Te Aroha Borough Reserve Act 1899, an endowment vested in the Corporation by section 81 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1910, and a former street now vested in the Corporation and closed by Proclamation published in 1911 in the *Gazette* at page 2549

[*5 October 1970*

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 Te Aroha Borough Endowment Empowering Act 1970.

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

"Corporation" means the Mayor, Councillors, and Citizens of the Borough of Te Aroha:

"Council" means the Te Aroha Borough Council.

3. Land to be held as endowment—(1) The pieces of land described in the Schedule to this Act are hereby declared to be vested in the Corporation for an estate in fee simple in trust as an endowment for the general purposes of the Borough of Te Aroha, subject to the provisions of this Act and subject to all leases, encumbrances, liens, and easements to which they are subject at the commencement of this Act but otherwise freed and discharged from all other trusts, reservations, and restrictions affecting the same or any part thereof (including those imposed by section 2 of the Te Aroha Borough Reserve Act 1899 and section 81 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1910).

(2) The rents and profits received from land subject to the trust imposed by subsection (1) of this section shall be held by the Council and expended by it, as it from time to time in its sole discretion thinks fit, for the general purposes of the Borough of Te Aroha.

(3) Section 81 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1910 is hereby repealed.

4. Land may be leased—(1) Land subject to the trust imposed by subsection (1) of section 3 of this Act may be leased by the Corporation under the Municipal Corporations Act 1954 or the Public Bodies Leases Act 1969.

(2) Extensions, variations, and renewals of existing leases of any such land, or any of those transactions, may be entered into in accordance with the provisions of those leases.

5. Land may be sold to lessees—(1) Where any land that is subject to the trust imposed by subsection (1) of section 3 of this Act, is held under lease, the Corporation may sell and transfer for cash to the lessee thereof the fee simple of the land comprised in the lease if simultaneously the lessee, at his own cost and to the satisfaction of the Council, arranges for the registration of the effective merger of his leasehold interest in the fee simple or otherwise for the effective extinguishment of his leasehold interest.

(2) The purchase price payable by a lessee for the land he leases shall be the sum of the following amounts:

(a) The then current market value of the unimproved value (as defined by the Valuation of Land Act 1951) of the land as determined by the Council or as fixed by arbitration:

(b) The value as determined by the Council of any improvements on the said land effected by the Corporation or any previous proprietor of the fee simple estate and not previously purchased by the lessee or any previous lessee:

(c) All valuation, survey, and other expenses of the Corporation relating to the fixation of the sale price and the sale and transfer of the fee simple to the lessee.

(3) On the registration of any transfer that completes the sale of any land that is subject to the trust imposed by subsection (1) of section 3 of this Act the land comprised in the transfer shall cease to be subject to that trust.

(4) In this section the word "lease" means a lease granted or held under the provisions of the Municipal Corporations Act 1954 (except section 155 thereof) or under the provisions of the Public Bodies Leases Act 1969 (except paragraph (a) or paragraph (b) of subsection (1) of section 7 thereof or paragraph (a) of section 11 thereof or any corresponding former provision); and the word "lessee" shall be construed accordingly.

6. Purchase price and right to elect arbitration—(1) Where a lessee notifies the Council that he desires to purchase the fee simple of the land he leases, the Council shall as soon as practicable thereafter determine the purchase price thereof in accordance with the provisions of section 5 of this Act and notify the lessee in writing thereof and of the amounts making up the same.

(2) Any lessee so notified may, within 14 days thereafter, notify the Corporation in writing that he elects to have the current market value mentioned in paragraph (a) of subsection (2) of section 5 of this Act fixed by the arbitration of 2 arbitrators in the manner prescribed by the Arbitration Act 1908.

(3) Where the lessee elects to have that value fixed by arbitration then, notwithstanding any of the provisions of the Arbitration Act 1908 (including the Second Schedule thereto), all costs of the reference and award including arbitrators' and umpires' fees and charges shall be paid by the lessee.

7. Completion of purchase—(1) Within 2 months after the determination of the purchase price by the Council or, in

the event of an arbitration, within 2 months after the date of the award, the lessee shall pay to the Council the purchase price in cash.

(2) At any time before the execution of the transfer the lessee may give written notice to the Corporation that he is unable or unwilling to acquire the fee simple of the land comprised in his lease, and thereupon he shall not be bound to complete the purchase; but he shall be liable to pay such of the expenses mentioned in paragraph (c) of subsection (2) of section 5 of this Act as have been incurred and to make any payments required under subsection (3) of section 6 of this Act.

8. Application of proceeds of sale—(1) Where any land is sold under this Act the net proceeds of the sale shall be paid by the Council to a special account and may be invested by the Corporation in any investment for the time being authorised by law for the investment of trust funds.

(2) The capital of that special account together with any interest on that capital or any part thereof may from time to time be applied by the Council as it in its sole discretion thinks fit on the provision of services and public amenities for the benefit of the inhabitants of the Borough of Te Aroha or on the improvement of any existing services or public amenities. For the purposes of this subsection the term "services" includes streets, street lighting, water supply, drainage, sewerage, and other public works.

9. Powers of District Land Registrar—On written application by the Corporation, the District Land Registrar for the South Auckland Land Registration District is hereby authorised to make such entries or corrections in his registers and to do all such other things as may be necessary to give effect to the provisions of this Act.

SCHEDULE

ALL those pieces of land in the Borough of Te Aroha, South Auckland Land District, containing 61 acres and 30.9 perches, more or less, being:

Lots 5 to 18, 23 to 29, 38, 39, and 45 to 48, D.P. 9205, being Part Section 128, Block IX, Aroha Survey District (all certificates of title 656/239, 656/240, 656/241, 656/242, 656/243, 656/244, 656/245, 656/246, 656/247, 656/248, 656/249, 656/250, 656/251, 656/252, 656/257, 656/258, 656/259, 656/260, 656/261, 656/262, 656/263, 656/272, 656/273, 656/279, 656/280, 656/281, and 656/282).

Lot 1, D.P. 9205, being Part Section 18, Block IX, Aroha Survey District (all certificate of title 656/235).

Lots 2, 3, and 4, D.P. 9205, being Part Sections 118 and 129, Block IX, Aroha Survey District (all certificates of title 656/236, 656/237, and 656/238).

Lots 20 to 22, and 31 to 34, D.P. 9205, being Part Section 129, Block IX, Aroha Survey District (all certificates of title 656/254, 656/255, 656/256, 656/265, 656/266, 656/267, and 656/268).

Lots 35, and 40 to 44, D.P. 9205, being Part Sections 128 and 129, Block IX, Aroha Survey District (all certificates of title 656/269, 656/274, 656/275, 656/276, 656/277, and 656/278).

Lots 36 and 37, D.P. 9205, being Part Sections 119 and 128, Block IX, Aroha Survey District (all certificates of title 656/270 and 656/271).

Lots 1, 2, and 3, D.P. S. 1171, being Part Section 129, Block IX, Aroha Survey District (all certificate of title 656/264 and balance certificate of title 656/253).

Part Section 128, Block IX, Aroha Survey District, and Lots 1, 2, and 3, D.P. 27037, being Part Section 129, Aroha Survey District (balance certificate of title 96/263).