

New Zealand.



ANALYSIS.

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1921, No. 7.—*Local and Personal.*

Title.	AN ACT to authorize the Tolaga Bay Harbour Board to raise a Loan of One hundred thousand Pounds. [22nd December, 1921.]
Preamble.	WHEREAS the Tolaga Bay Harbour Board is desirous of obtaining power to borrow one hundred thousand pounds for the construction of harbour-works for the improvement of the Harbour of Tolaga Bay :
	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 Tolaga Bay Harbour Board Empowering Act, 1921.
Special Act.	2. This Act shall for all purposes be deemed to be a special Act within the meaning of the Harbours Act, 1908, which Act is hereby incorporated with this Act.
Interpretation.	3. In this Act, if not inconsistent with the context,— “ Board ” means the Tolaga Bay Harbour Board : “ Chairman ” means the Chairman of the Board : “ Harbour district ” or “ district ” means the Tolaga Bay Harbour District as constituted by the Tolaga Bay Harbour Act, 1919 :

“Returning Officer” means the officer appointed by the Board to conduct elections and polls within the harbour district.

4. The Local Elections and Polls Act, 1908, and any amendment thereof, shall apply to every poll taken under this Act, and the Board shall appoint some person to be Returning Officer for the conduct of the poll hereinafter authorized throughout the harbour district. Returning Officer.

5. (1.) It shall be lawful for the Board to borrow from time to time such sum or sums of money as the Board deems fit, but so that the total of the amounts so borrowed does not exceed in the aggregate one hundred thousand pounds sterling; and the Board may borrow such sum or sums of money as aforesaid for such period or periods as it may think fit, and may renew or again borrow any or all of such sum or sums of money as they fall due for such further or other period or periods as the Board may think fit. Power to borrow.

(2.) For the purpose of providing a sinking fund for the liquidation of the loan authorized by this Act there shall, on the first day of January in each year after the issue of any debentures, be set apart by the Board, out of the rates and other moneys hereinafter mentioned upon which the principal and interest of such debentures are to be charged, a sum of ten shillings per centum per annum on the aggregate amount for which debentures shall at that time be issued; and no money shall be borrowed under the authority of this Act, except with the consent of the Governor-General in Council first had and obtained, which shall produce to the lender a higher rate of interest than five pounds ten shillings per centum per annum, anything in any other Act notwithstanding.

6. (1.) The money so borrowed shall be applied by the Board in the construction of a wharf and road approaches thereto, reclamation of land from the waters of the said harbour, and such other works as are defined by the word “harbour-works” as interpreted by subsection one of section two of the Harbours Amendment Act, 1910, and also in the purchase, erection, and construction of all such tugs, dredges, cranes, sheds, and works for the improvement of the Tolaga Bay Harbour as are deemed necessary and proper by the Board for the purpose of the construction of such harbour-works, and for the safety, convenience, or reception of vessels resorting to the said harbour, and for the more convenient loading and unloading of such vessels, and for the safety and protection of any works constructed by the Board. How money borrowed to be expended.

(2.) The Board may, out of any loan-moneys, pay the preliminary expenses incurred in connection with the borrowing of the moneys so borrowed and the first year’s interest of the loan during the construction of any works for which the loan is raised:

Provided that the intention to pay such expenses or interest shall be stated to the ratepayers in the notice referred to in section nine hereof.

7. The debentures for all moneys so borrowed, together with interest, shall be secured upon the rents, profits, and dues chargeable and receivable by the said Board as harbour or other dues or in Security for loan.

respect of the harbour-works of the Port of Tolaga Bay, and upon the rate hereinafter mentioned to be made and levied under the authority of this Act.

Consent of ratepayers required before loan raised.

8. Before the Board proceeds to borrow moneys under the authority of this Act it shall cause a meeting of the ratepayers to be held and a poll to be taken as by this Act is provided.

Notice of poll.

9. The Board shall cause to be published, in such newspaper or newspapers circulating in the district as the Minister of Internal Affairs may direct, a notice specifying a time and place at which the meeting of ratepayers is to be held to consider a proposal to raise such special loan. The time appointed shall not be less than fourteen days after the first publication of such notice.

Meeting of ratepayers to consider loan proposals.

10. Such meeting shall be presided over by the Chairman of the Board or some person appointed by him. If the Chairman or the person so appointed shall be absent or shall refuse to preside, then the meeting shall elect some person present to preside. At such meeting, after due consideration and discussion of the proposal, the person presiding shall notify that a poll in accordance with the provisions of this Act will be taken. If at the place and within one hour after the time appointed for any such meeting not more than two ratepayers are present, such meeting shall for the purposes of this Act be deemed to have been duly held, and the proposal to have been duly discussed and considered, and the notification of the poll to have been duly made.

Roll of ratepayers.

11. It shall be the duty of the Clerk to the Uawa County Council, at the request of the Chairman, to prepare a roll for the harbour district, setting forth the names of all ratepayers within such district; and every ratepayer shall be entitled to exercise one vote and no more.

Roll to be signed and handed to Returning Officer.

12. Such roll shall be signed by the Chairman of the Uawa County Council, and when so signed shall be delivered to the Returning Officer, and shall be the roll upon which the poll shall be taken.

Poll to be taken.

13. The poll shall be taken as follows:—

(a.) At the written request of the Chairman, authorized by ordinary resolution of the Board, the Returning Officer shall publish a notice setting forth the day (not less than one week nor more than six weeks from the date of the aforesaid meeting) on which the poll will be taken.

(b.) The statement of the proposal in the voting-paper shall be as follows: "Proposal to borrow moneys, not exceeding one hundred thousand pounds, for the purposes of the erection of a wharf and road approaches thereto, reclamations, and other works as defined by the Tolaga Bay Harbour Board Empowering Act, 1921."

Result of poll.

14. If the total number of valid votes recorded in favour of the proposal exceeds the total number of valid votes recorded against the proposal, the proposal shall be deemed to be carried, and the Board shall be fully empowered to exercise the powers of borrowing and all other powers conferred by this Act; but if there is not such a majority in favour thereof the proposal shall be deemed to be rejected, and the Board shall not be so empowered.

15. As soon as conveniently may be after the result of the poll has been ascertained the Returning Officer shall give public notice of the number of votes recorded for and against the proposal as above provided, and shall declare the proposal to be carried or rejected, as the case may be. Result to be advertised.

16. (1.) As soon as conveniently may be after the poll the Chairman shall send to the Minister of Internal Affairs, for publication in the *Gazette*, a notice of the number of votes recorded for and against the proposal, and in such notice shall declare the proposal to be carried or rejected, as the case may be. Result to be gazetted.

(2.) If in the notice so published in the *Gazette* it is declared that the proposal was carried, such notice so published shall be conclusive evidence that the raising of the loan has been duly authorized, and that all proceedings and things required by this Act as conditions precedent to the exercise by the Board of the borrowing-powers hereby conferred have been duly and lawfully taken and done, and that the Board is fully empowered and authorized to borrow any sum or sums of money not exceeding in the aggregate the sum of one hundred thousand pounds.

(3.) If in the said notice it is declared that the proposal was rejected, it shall be lawful for the Board, at any time after the expiration of twelve calendar months from the date of the publication in the *Gazette* of such notice, to direct that another poll be held, in the same manner and subject to the same conditions, upon the same proposal.

17. If the proposal be declared to be carried, a special rate upon all rateable property in the harbour district for the purpose of providing interest and sinking fund upon the moneys to be borrowed under the authority of this Act shall be deemed to have been duly made and struck by the Board in manner provided by law and in accordance with the provisions of the Rating Act, 1908, and to have been duly appropriated and pledged by the Board as a security for all moneys to be borrowed under the authority of this Act, and shall be a continuing annually recurring rate without further proceedings by the Board until repayment in full of all moneys so borrowed. Special rate.

18. (1.) The Board shall in each year cause an estimate to be prepared, in such manner and according to such principle and method as the Board approves, of the anticipated revenue of the year (exclusive of any rate to be levied under this Act), and of the anticipated expenditure of the year (including interest and sinking fund upon the moneys borrowed under the authority of this Act, but exclusive of capital expenditure on Loan Account), and shall upon such estimate determine the deficiency of such revenue to meet such expenditure. Estimate of revenue and expenditure.

(2.) Any credit or debit balance of the Board's General Account at the close of each year shall be carried forward to the account of the succeeding year for the purpose of the estimate of such succeeding year and the determination of the deficiency of the revenue of such succeeding year to meet the expenditure thereof.

(3.) The Board shall direct the levy in each year of such part of the said special rate as shall be sufficient to provide such deficiency.

(4.) The Board may, for the purposes of such direction and levy, adopt some convenient fraction of a penny, notwithstanding that the sum thereby produced may exceed such deficiency.

(5.) The direction for every such levy shall be by resolution of the Board, and shall appoint a date or dates for payment thereof, and every such direction shall have the force and effect according to its tenor of a rate duly made and struck on all rateable property in accordance with the provisions of the Rating Act, 1908.

(6.) Nothing in this Act shall be construed as in any manner limiting or affecting the rights of the holders of debentures to be issued by the Board to require the levy of the whole of the rate as defined by section seventeen hereof if any default be made by the Board in payment of any interest or capital moneys secured by such debentures.

Power of Board.

19. For the purpose of making, levying, and recovering the said rates the Board shall have and may exercise all the powers of making, levying, or recovering rates in the harbour district as are conferred on local authorities by the Rating Act, 1908, and for such purpose the Rating Act is incorporated herewith.

Native lands to be rated.

20. Native lands within the harbour district other than customary lands shall be deemed to be rateable property for all the purposes of this Act if and so long as the same are occupied or used and profit is derived therefrom by the Native owners, whether from farming operations, or from rent or royalties, or otherwise. The Valuer-General shall cause to be prepared, and shall furnish to the Board in each year, a list of all lands within the harbour district which are so occupied or used, and shall in such list set forth the rateable values of all such lands.

Rate levied not to be invalidated.

21. No rate or levy made under this Act shall be set aside or quashed by any proceeding in any Court or otherwise, and no defect in the same, or the making thereof, or in any direction for levy, shall be set up as a defence to any action which may be brought to recover the same.

Hypothecation.

22. Pending the raising of the said loan or loans the Board may borrow from its bankers or any other source any sum or sums of money, not exceeding the whole amount authorized to be borrowed, by the hypothecation or mortgage of any debentures authorized to be issued; but all moneys so borrowed shall be a first charge upon and shall be repaid out of the loan when raised, and the yearly rate of interest on money so borrowed shall in no case, except with the consent of the Governor-General in Council first had and obtained, exceed five pounds ten shillings per centum per annum.

Vesting of certain lands in Board.

23. On the passing of this Act the lands described in the Schedule hereto shall vest in and be the property of the Tolaga Bay Harbour Board.

Reclamations.

24. All lands reclaimed by the Board under the authority of this Act shall vest in the Board.

Repeal.

25. Section nine of the Tolaga Bay Harbour Act, 1919, is hereby repealed.

SCHEDULE.

Schedule.

ALL that parcel of land, situated in the Poverty Bay Registration District, in the Provincial District of Auckland, bounded on the north-west by the high-water mark of the ocean, from a point at high-water mark on the boundary between Kourateuwhi 1E 4B and 1E 4C Blocks (shown on Native Land Court plan No. 2008, deposited with the Lands and Survey Office, Gisborne) to the Uawa River; towards the north-east by the high-water mark on the left bank of the Uawa River to the south-east side of the Mangatokerau Road in Mangatuna 1H 1 Block; towards the north-west by the south-east side of the aforesaid Mangatokerau Road to the high-water mark on the right bank of the Uawa River; generally towards the south-west by the high-water mark on the right bank of the Uawa River to a point at the confluence of the Uawa and Mangaheia Rivers; generally towards the north-east by the high-water mark on the left bank of the Mangaheia River to the road in Mangaheia 1B 2A 4 Block; towards the north-west by the south-east side of the aforesaid road to the high-water mark on the right bank of the Mangaheia River; towards the south-west by the high-water mark on the right bank of the Mangaheia River to and along the right bank of the Uawa River and the ocean; towards the west by the high-water mark of the left bank of the Kaitawa Stream to the north-east side of the Tikirau Road; towards the south-west by the north-east side of the aforesaid Tikirau Road to the high-water mark on the right bank of the Kaitawa Stream; generally towards the north-east by the high-water mark on the right bank of the Kaitawa Stream and the ocean to a point on the mainland on the production of the boundary-line between Pourewa 6 and 5 Blocks (Native Land Court plan No. 2211); towards the south by the aforesaid line to the high-water mark on the west coast of the Pourewa Island; towards the east and south respectively by the high-water mark of the ocean to the most north-eastern point of the Pourewa Island; towards the north-east by a straight line, bearing $331^{\circ} 16'$, and distant 16960 links, to the starting-point: excluding from the lands herein vested the two islands at the mouth or estuary of the Kaitawa Stream, and also excluding therefrom all of the said lands below low-water mark of ordinary spring tides.