



## ANALYSIS

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1972, No. 1—*Local*

**An Act to authorise the Wellington Harbour Board to reclaim tidal lands constituting part of the bed of the Western Arm of the Hutt River, and to develop such reclaimed land for industrial, commercial, and other purposes and to clarify the powers of the Wellington Harbour Board to lease part of the Thorndon Wharf Development** [29 July 1972]

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 Wellington Harbour Board Reclamation and Empowering Act 1972.

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

“Board” means the Wellington Harbour Board:

“The Act” means the Harbours Act 1950.

**3. Special Act**—This Act shall be deemed to be a special Act within the meaning of the Act.

**4. Authorising Hutt River Board to sell land**—Whereas the piece of land described in the First Schedule to this Act is part of certain land vested in the Hutt River Board, a Board duly constituted under the River Boards Act 1908, under and by virtue of a Proclamation published in *Gazette*, 1907, Vol. II, at page 3287: And whereas that land is subject to the provisions of the Hutt River Board (Gear Island) Empowering Act 1927: And whereas it is expedient that the Hutt River Board should be authorised to sell to the Board the said piece of land: Be it therefore enacted as follows:

The Hutt River Board is hereby authorised and empowered to sell the piece of land described in the First Schedule to this Act to the Board, and thereupon the said piece of land shall cease to be subject to the provisions of the Hutt River Board (Gear Island) Empowering Act 1927.

**5. Authority to carry out reclamation**—The Board is hereby authorised and empowered, notwithstanding anything contained in section 175 of the Act, but subject to the provisions of sections 176 to 182 of the Act, to reclaim land constituting part of the Western Arm of the Hutt River, namely, the land described in the Second Schedule to this Act.

**6. Authority to develop**—The Board is hereby empowered to develop from time to time for such industrial, commercial, or other purposes whatsoever as the Board may think fit the land described in the First and Second Schedules to this Act, or any part thereof, and for such purposes may—

- (a) Subdivide and re-subdivide the same into allotments suitable for the purposes for which the same are to be developed:
- (b) Construct or provide such public works and amenities as may be deemed necessary or desirable for the use, convenience, and enjoyment of such land including—
  - (i) The vesting, creation, or provision of streets, service lanes, access ways, rights of way, and other means of communication or access;
  - (ii) Services for water supply, drainage, sewerage, electric lighting, power, gas, and all other amenities; and
  - (iii) All works necessary to comply with any lawful requirements of any local or public authority.

**7. Reclamation and development not to affect other powers and rights**—Nothing in sections 5 and 6 of this Act shall be construed as limiting—

- (a) The powers of the Director-General of Health or other proper officers of the Department of Health to make and issue directions and requisitions relating to the materials to be used on any reclamation under the authority of this Act and the methods of construction, covering, protection, and maintenance of such reclamation or in respect of any other matter authorised in the Health Act 1956 or in any other Act:
- (b) The application of the provisions of—
  - (i) The Public Works Act 1928;
  - (ii) The Town and Country Planning Act 1953;and
  - (iii) The Municipal Corporations Act 1954.

**8. Provisions relating to stormwater and tidal flow**—

(1) In carrying out the reclamation and development authorised by sections 5 and 6 of this Act, the Board shall make adequate provisions for the stormwater and tidal flows carried by the western arm of the Hutt River by means of piping, channelling, or other works.

(2) The adequacy of such provisions shall be agreed upon by the Board, the Petone Borough Council, the Lower Hutt City Council, and the Hutt River Board before the reclamation is commenced, or, failing agreement, shall be determined by the Town and Country Planning Appeal Board, on the application of any of the aforesaid local authorities, as if such application were an appeal against the decision of a Council under section 351BE of the Municipal Corporations Act 1954.

**9. Board not authorised to create a nuisance**—Nothing in section 5 or section 6 of this Act shall entitle the Board to create a nuisance or shall deprive any person of any right or remedy he would otherwise have against the Board or any other person in respect of any such nuisance, and no restriction or condition imposed by the Minister of Marine pursuant to section 178 of the Act or requisition or direction issued in accordance with paragraph (a) of section 7 of this Act, whether or not the Board has complied with the same, shall restrict the liability of the Board for any such nuisance.

**10. Rights reserved**—(1) Nothing in section 5 of this Act shall deprive any person of any right or remedy he would otherwise have in respect of any loss caused by the reclamation of land under that section.

(2) For the purposes of subsection (1) of this section, the term “loss” includes loss of property and any detriment, damage, or injury to property or person, whether that loss, detriment, damage, or injury is due to deprivation of or interference with the rights of any riparian owner or otherwise howsoever.

**11. Special leasing powers**—The Board is hereby empowered, notwithstanding anything contained in the Public Bodies Leases Act 1969, to call for tenders from the public for a lease of the land described in the First and Second Schedules to this Act, or part thereof, upon such terms and conditions as the Board may decide, including a term or condition that the lessee carry out the reclamation of the area, or part thereof, and other works associated with the reclamation.

**12. Clarification of powers of leasing part of Thorndon Wharf Development**—Whereas the Board, in respect of the land described in the Third Schedule to this Act, is the registered proprietor of an estate in fee simple or pursuant to section 185 of the Harbours Act 1950 by special orders has been granted reclamation rights: And whereas section 187 of the Harbours Act 1950 vests in the Board land reclaimed under the authority of such special orders: And whereas the said land constitutes part of the Thorndon Wharf Development: And whereas the Board desires to lease or has leased part of the land pursuant to the powers contained in section 144 of the Harbours Act 1950: And whereas the land described in the said Third Schedule has been defined as a wharf pursuant to the powers contained in section 190 of the Harbours Act 1950: And whereas doubts have been expressed as to the powers of the Board to lease, pursuant to section 144 of the Harbours Act 1950, the said land: And whereas it is desirable that the said doubts should be removed and that the Board should have power to so lease the whole or part of the said land: Be it therefore enacted as follows:

Notwithstanding the provisions of the Harbours Act 1950 and the fact that the land described in the Third Schedule to this Act is defined as a wharf pursuant to the powers contained in section 190 of the Harbours Act 1950, the Board is hereby authorised and empowered and shall be deemed always to have been authorised and empowered to lease, pursuant to the powers contained in section 144 of the Harbours Act 1950, the whole or any part of the said land.

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## SCHEDULES

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### FIRST SCHEDULE

ALL that area in the Wellington Land District, situated in the Borough of Petone, containing 2 roods and 31 perches, more or less, being Lot 1 on Deposited Plan No. 32615, being also part Section 10, Hutt District, and being part of the land comprised in certificate of title B4/1174 (Wellington Registry).

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### SECOND SCHEDULE

*First:* All that area in the Wellington Land District situated in the Borough of Petone, containing 30 perches, more or less, being part Lot 1 on Deposited Plan No. 32615, being also part Section 10, Hutt District, and being part of the land comprised in certificate of title B4/1174 (Wellington Registry), as shown edged green on Plan 28022 lodged in the office of the Chief Surveyor at Wellington.

*Secondly:* All that area in the Wellington Land District situated in the Borough of Petone, containing 4 acres 1 rood 22 perches, more or less, being part Lot 2 on Deposited Plan No. 13037, being also part Section 10, Hutt District, and being part of the land comprised in certificate of title, Volume 542, folio 294 (Wellington Registry), as shown edged red on Plan 28022 lodged in the office of the Chief Surveyor at Wellington.

*Thirdly:* All that area in the Wellington Land District situated in the Borough of Petone, containing 22.6 perches, more or less, being Section 831, Hutt District, and being all the land comprised in certificate of title 6B/894 (Wellington Registry), as shown edged yellow on Plan 28022 lodged in the office of the Chief Surveyor at Wellington.

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## THIRD SCHEDULE

*First:* An estate in fee simple in all that parcel of land containing 28 acres 1 rood 16.1 perches, more or less, situated in Block VII, Port Nicholson Survey District, and being Section 24, of the said Block, and being all the land comprised and described in certificate of title No. 991/10 (Wellington Registry), as shown edged green on Plan 28258 lodged in the office of the Chief Surveyor at Wellington.

*Secondly:* An estate in fee simple in all that parcel of land containing 21 acres and 12.11 perches, more or less, situated in the City of Wellington, being part Lot 1, D.P. 7469 and part Lot 1, D.P. 10618, and being part of the land comprised and described in certificate of title No. B3/681 (Wellington Registry), as shown edged red on Plan 28258 lodged in the office of the Chief Surveyor at Wellington.

*Thirdly:* An area of approximately 6.05 acres shown coloured red on plan M.D. 13109 deposited in the office of the Marine Department at Wellington, which the Board was authorised to reclaim pursuant to section 185 of the Harbours Act 1950 by Order in Council dated the 11th day of November 1968 and published in *Gazette*, 1968, Vol. III, at page 2110, as shown edged yellow on Plan 28258 lodged in the office of the Chief Surveyor at Wellington.

*Fourthly:* An area of approximately 6.24 acres shown coloured red on plan M.D. 13542 deposited in the office of the Marine Department at Wellington, which the Board was authorised to reclaim pursuant to section 185 of the Harbours Act 1950 by Order in Council dated the 20th day of October 1969, and published in *Gazette*, 1969, Vol. III, at page 2364, as shown edged blue on Plan 28258 lodged in the office of the Chief Surveyor at Wellington.

*Fifthly:* An area of approximately 10.42 acres shown coloured red on plan M.D. 13820 deposited in the office of the Marine Department at Wellington, which the Board was authorised to reclaim pursuant to section 185 of the Harbours Act 1950 by Order in Council dated the 18th day of May 1970, and published in *Gazette*, 1970, Vol. II, at page 983, as shown edged orange on Plan 28258 lodged in the office of the Chief Surveyor at Wellington.

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