

New Zealand.



ANALYSIS.

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1911, No. 8.—*Local.*

Title.	<p>AN ACT to validate an Agreement entered into between the Trustees of a Reserve called "The Waikowhai Reserve" and the Mount Roskill Road Board for the Conveyance of a Portion of the said Reserve to the said Board as a Public Park and Public Recreation-ground, and for the Dedication of a Further Portion thereof as a Public Highway, and to confer certain Powers on the said Board with regard to the Land to be so conveyed. [21st October, 1911.]</p>
Preamble.	<p>WHEREAS by a grant from the Crown, dated the fifteenth day of October, eighteen hundred and fifty, all that allotment of land situated in the Parish of Waitemata, in the County of Eden, in the Provincial District of Auckland, and being Number 14 of Section 13, was granted to the Superintendent of the Wesleyan Mission in New Zealand to hold unto the said Superintendent and his successors in trust, nevertheless, and for the use and towards the support and maintenance of the school therein recited as established at the Three Kings so long as therein expressed: And whereas the said land is now vested in Trustees appointed under the legislation now embodied in the Religious Charitable and Educational Trusts Act, 1908: And whereas an agreement, dated the twentieth day of July, nineteen hundred and eleven, of which a copy is set forth in the Schedule hereto has been entered into between the said Trustees and the Mount Roskill Road Board conditionally upon the same being validated by Act of Parliament, and conditionally upon the said Board raising by special loan the funds requisite to carry out the several works mentioned in clauses three and four of</p>

the said agreement: And whereas the said agreement is for the public benefit, and it is desirable to validate the same, and to confer on the said Board the powers hereinafter set forth:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Waikowhai Park Act, 1911. Short Title.
2. It is hereby declared that the parties to the said agreement shall be and be deemed to have been competent to enter into the same and bind themselves respectively by the provisions therein contained, and the said agreement and the objects thereof are hereby validated for all purposes. Parties deemed competent to enter into agreement.
3. The Trustees for the time being of the said reserve, their successors or assigns, shall have full power— Powers of Trustees.
- (a.) To grant and convey to the said Board in fee-simple for the purposes of a public park and public recreation-ground the portion of land in that behalf mentioned in the said agreement:
- (b.) To dedicate and convey to His Majesty the King for the purposes of a public road or highway the portion of land in that behalf mentioned in the said agreement:
- (c.) To execute all such deeds and instruments as shall be deemed requisite for the purposes aforesaid.
4. The said portions of the said reserve upon being respectively conveyed and dedicated as hereinbefore provided shall for ever cease to be subject to the trusts of the said Crown grant. Lands dedicated cease to be subject to Crown grant.
5. The said Board is hereby empowered to hold as and for a public park and public recreation-ground the said portion of land to be conveyed for that purpose as aforesaid, and to control and manage the same, subject to the provisions of this Act. Board empowered to hold land.
6. The portion of land so to be conveyed to the said Board shall when so conveyed be always thereafter named and called "The Waikowhai Park." "The Waikowhai Park."
7. On the said portion of land to be conveyed to the said Board being so conveyed, neither the sale of alcoholic liquor nor gambling shall at any time be permitted to take place within the limits thereof, and the provisions of this section shall be enforced by by-law, which the said Board is hereby authorized to make. Control of park.
8. The said Board shall have and may exercise in respect of the said park all the powers conferred on the Governor by sections thirty-three and thirty-eight of the Public Reserves and Domains Act, 1908, and also the rights, powers, duties, and functions vested in a Commissioner of Crown Lands by Part II of that Act in respect of a public domain; and section thirty-nine, paragraph (a) of section forty-eight, and section fifty-one of that Act shall apply with respect to by-laws made by the said Board in respect of the said park, and section fifty-two thereof shall apply to the offences therein mentioned if committed within the said park, and section fifty-three to the recovery and application of fines in respect of such offences so committed. Powers of Board in relation to proper control of park.
9. The said Board may apply any part of its ordinary funds towards the management, improvement, and maintenance of the said Board empowered to apply funds for upkeep of park.

park and the exercise of the powers hereby conferred upon it, including therein the making or maintenance of the said road when dedicated, or any other road intersecting or contiguous to the same (whether dedicated as a public road or not), and including power to make and maintain a wharf or jetty extending below high-water mark, as provided in the agreement, subject to the provisions of the Harbours Act, 1908.

Power to borrow.

10. The said Board is hereby empowered to raise by way of special loan under and subject to the provisions of the Local Bodies' Loans Act, 1908, and in anticipation of the said portions of land being respectively conveyed and dedicated as aforesaid, such sum of money as the said Board determines for the purpose of doing the works mentioned in clauses three and four of the said agreement :

Provided that the amount to be expended in carrying out the works mentioned in clause four of the said agreement shall not be less than one thousand pounds.

Schedule.

SCHEDULE.

MEMORANDUM OF AGREEMENT, made this twentieth day of July, one thousand nine hundred and eleven, between Frederick Lambert Prime, agent; John Edson, chemist; Thomas Buddle, solicitor; Thomas Allen, gentleman; Thomas McMaster, draper; George Winstone, coal-merchant; Stephen James Ambury, dairyman; Andrew Clarke Caughey, draper; Francis Angus White, mining agent; Frederick Walter Wilson, journalist; James Henry Gunson, grain-merchant; Joseph Henry Simmonds, Methodist minister; George Alfred Buttle, broker; James Edward Wheeler, merchant; Archibald Peak, solicitor; John Veale, settler; and William Gittos, Methodist minister; all of Auckland, in the Provincial District of Auckland, in New Zealand, being the Trustees of the land on the Manukau Harbour known as the Wesleyan Mission Property, being Number Fourteen of Section Thirteen, in the Parish of Waitemata, in the County of Eden, in the Provincial District of Auckland (hereinafter called the Trustees), of the one part, and the body corporate called the Inhabitants of the Mount Roskill Road Board District (hereinafter called the Board) of the other part, whereby, subject to and conditionally upon this agreement and the objects thereof and the conditions expressed in clause two hereof being validated and established by Act of Parliament, and subject to and conditionally upon the Board raising by special loan the funds requisite to carry out and complete the several works mentioned in clauses three and four of this agreement, it is hereby agreed as follows:—

1. Forthwith after such special loan shall have been raised, the Trustees, their successors or assigns, shall dedicate and convey to His Majesty the King for the purposes of a public road or highway (hereinafter called the Waikowhai Road) that portion of the said land, one chain wide, extending from Ridge Road to the sea-shore in the position determined by the survey and plan made at the request of the Trustees by Mr. H. Munro Wilson, of the firm of Wilson and Jackson, Civil Engineers and Licensed Surveyors, of Auckland, a copy of which plan signed is annexed to this agreement as part thereof. And also shall grant and convey to the Board, its successors and assigns, in fee-simple for the purposes of a public park and public recreation-ground that portion of the said land containing thirty acres, a little more or less: bounded on the north and west by the Waikowhai Road; on the east by a straight line commencing at a point on Waikowhai Road marked in Mr. Wilson's survey by peg number three, and terminating on the sea-shore at the centre of a small promontory; and on the south by the Manukau Harbour: as the same is shown on the said annexed plan.

2. Such grant and conveyance shall be deemed to be subject to the following conditions, which the Board, for itself, its successors and assigns, hereby undertakes shall be observed and complied with :—

- (a.) That the area to be conveyed shall be named and always called “The Waikowhai Park,” and the road forming its northern and western boundary “The Waikowhai Road” :
- (b.) That no part of the area granted and conveyed to the Board shall at any time be leased, and no part thereof shall at any time be used, for any other purpose than such as is expressed or implied by the terms “public park” and “public recreation-ground” ; that with respect to such area the provisions of the Noxious Weeds Act, 1908, shall be complied with ; and that within the boundaries of such area the sale of alcoholic liquor and gambling shall at no time be permitted.

3. That the Board, its successors or assigns, shall within one year from the date on which such a loan as aforesaid shall be authorized under the Local Bodies' Loans Act, 1908, or other statutory authority, form to a width of twenty-four feet, and metal for a width of fifteen feet and to a depth of not less than six inches, the whole of Arkell's Road and the whole of the Ridge Road along the northern boundary of the trust property aforesaid.

4. That forthwith after the said portion of land to be called “The Waikowhai Road” shall have been dedicated and conveyed as a public road as aforesaid, and the said portion of land to be called “The Waikowhai Park” shall have been granted and conveyed as aforesaid, the Board, its successors or assigns,—

- (a.) Shall take over the control of such road and without delay form and metal that portion thereof extending from Ridge Road to a point near the sea-shore shown in the said plan as peg number twenty-four, the formation to be twenty feet wide, and the metalling fifteen feet wide to a depth of six inches, and that it will thenceforth permanently maintain such portion of road in a safe and sufficient condition for vehicular traffic :
- (b.) Shall fence the Waikowhai Road on both sides from Ridge Road to peg number twenty-four, and also the eastern boundary of the park, with a post-and-wire fence sufficient within the meaning of the Fencing Act, 1908, making both ends of the fence bounding the park as secure as possible against the passing round of stock along the sea-shore. And the Trustees or their tenants shall not be held liable for stock so passing round into the park-area.
- (c.) In the execution of such work the Board shall expend a sum of not less than one thousand pounds.

5. That all fences bounding the park shall be erected, maintained, and kept in good repair by the Board, its successors or assigns, without being entitled to any contribution for the cost of so doing from the Trustees, their successors or assigns, or their tenants ; but this provision shall not prevent the Board, its successors or assigns, in the event of the adjoining land being leased for residential sites, from recovering from each tenant the contribution for which he shall be liable under the Fencing Act, 1908.

6. That the public shall not be admitted to the park-area or any part thereof until the fences to be erected by the Board as above provided have been completed and the Waikowhai Road formed and metalled from Ridge Road to peg number twenty-four as aforesaid to the satisfaction of the Trustees, their successors or assigns, evidenced by a letter from the Trustees, their successors or assigns, to the Board, its successors or assigns : Provided, however, that the evidence of such satisfaction shall not be arbitrarily withheld, and that the cost of the works to be undertaken by the Board as specified in clause four shall be not less than the sum of one thousand pounds.

7. That forthwith upon the Trustees or others on their behalf providing and paying to the Board, its successors or assigns, the sum of two hundred pounds, the Board, its successors or assigns, shall permanently form for the width of twenty feet, and metal for a width of fifteen feet to a depth of six inches, and thenceforth maintain in a safe and sufficient condition for vehicular traffic, the remaining portion of the said Waikowhai Road from peg number twenty-four to the sea-shore at high-water mark as shown on the said plan ; and until such formation shall have been completed the said portion of road shall remain closed against use.

8. That the Board, its successors or assigns, will co-operate with the Trustees, their successors and assigns, in obtaining as soon as practicable the erection of a

wharf suitable for general traffic at the terminus of the Waikowhai Road; and the Board, its successors and assigns, will not erect, or cause or permit to be erected, a wharf or jetty at any point along the sea-front of the park-area or in any position not approved by the engineers advising the Trustees, their successors or assigns.

9. If such Act of Parliament as aforesaid is not passed before the end of the sitting of Parliament held in the year one thousand nine hundred and twelve, or if such Act be passed and the Board, its successors or assigns, do not within one year thereafter raise a special loan of sufficient amount for doing the works mentioned in clauses three and four and in accordance with the requirements of clause six hereof, then and in either of such cases this agreement shall become and be void.

In witness whereof the parties hereto have executed these presents.

The common seal of the body corporate called The Inhabitants of the Mount Roskill Road District was hereto set, affixed, and impressed at a meeting of the Board thereof, this twentieth day of July, 1911, in the presence of—

CHARLES BAGLEY, Chairman.

JOSEPH AMBURY, }
E. J. HERD, } Members.
JOHN HASLETT, }

T. F. BOOTH, Clerk of Board.

(L.S.)

Signed on behalf of the Trustees in the presence of—H. D. Buddle, Solicitor, Auckland.

{ F. L. PRIME.
J. H. SIMMONDS.
G. A. BUTTLE.
J. VEALE.
J. E. WHEELER.
GEORGE WINSTONE.
WILLIAM GITOS.
J. H. GUNSON.
ARCH. PEAK.