

# **Borough of South Dunedin Empowering Act 1904**

Local Act 1904 No 10  
Date of assent 26 October 1904

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**An Act to enable the Mayor, Councillors, and Burgesses of the Borough of South Dunedin to acquire Lands for Street-widening and other Purposes, and to borrow the necessary Funds.**

**Preamble**

WHEREAS the South Dunedin Borough Council (hereinafter called **the Council**), acting at the request of the Mayor, Councillors, and Citizens of the City of Dunedin (hereinafter called **the Dunedin Corporation**), has applied to His Excellency the Governor under the provisions of The Tramways Act, 1894, for an order authorising the construction of a double line of tramway along the street called Hillside Road in the Borough of South Dunedin (hereinafter called **the borough**): And whereas such Order has been refused, on the ground that the said street is too narrow for a double line of tramway: And whereas for the purpose of enabling the construction of such double line of tramway, and otherwise in the interests of the borough, the Council is desirous of widening the said street: And whereas for the purpose of financing the scheme the Council desires to obtain power to acquire lands other than those required for the widening of the said street and of dealing with the same in manner hereinafter appearing, and also the powers of borrowing money hereinafter contained:

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

**1 Short Title**

The Short Title of this Act is The Borough of South Dunedin Empowering Act 1904.

**2 Interpretation**

In this Act, if not inconsistent with the context,—

**The Corporation** means the Mayor, Councillors, and Burgesses of the Borough of South Dunedin

**The surplus land** means the land acquired on the eastern side of the said street under or by virtue of this or any other Act, and for the time being vested in the Corporation, other than the land used for widening the said street

**Land** includes any estate or interest in land

**The Municipal Corporations Act** means The Municipal Corporations Act, 1900, and the amendments thereof

**The Loans Act** means The Local Bodies' Loans Act, 1901, and the amendments thereof.

**3 Provisions of Municipal Corporations and Local Bodies' Loans Acts implied**

Subject and without prejudice to the provisions of this Act, the provisions of the Municipal Corporations Act and of the Loans Act shall, so far as the same are applicable to the objects and purposes of this Act, be deemed to be incorporated herein and take effect as if the same were, *mutatis mutandis*, herein repeated.

**4 Power to widen Hillside Road**

The Council may, without making a special order, widen the said street on the eastern side thereof to such extent as to increase the width thereof to at least one chain.

**5 Power to acquire land**

The Council may, on behalf of the Corporation, take, purchase, or otherwise acquire the land necessary for widening the said street as aforesaid, and also such other land on the eastern side of such street as the Council shall by resolution determine, including the land specified or referred to in Schedule 1 hereto or any part or parts thereof:

Provided that the Corporation shall not without the consent of the respective owners thereof take any part of allotments numbered 20, 23, or 29 of Block X of the extension of the Township of South Dunedin first mentioned in the said Schedule 1, nor any part of that part of allotments numbered 16, 17, 18, 19, 22, 24, 25, 26, 27, or 28 of Block X of the said extension lying to the north-eastward of a line

drawn thirteen feet from and parallel to the south-western boundary of the said allotment.

**6 Power for Dunedin Corporation to convey land**

It shall be lawful for the Dunedin Corporation to grant, convey, or transfer to or otherwise vest in the Corporation any lands vested in the Dunedin Corporation along the line of the said street and required for the widening thereof, with or without compensation or other consideration therefor, and upon such terms as may be arranged between the Council and the Dunedin Corporation, or without any such terms.

**7 Power to acquire leasehold**

The Council may on behalf of the Corporation (and without prejudice to the preceding powers) take, purchase, or otherwise acquire the estate or interest of the respective lessees or tenants, or any other estate or interest less than the fee-simple vested in any person or persons, in Allotments 1 to 18 inclusive of the subdivision of original Section 6, Block VII, Town Survey District; and it shall be lawful for the Corporation and the Dunedin Corporation to enter into such agreements for the surrender of any leasehold or other interest acquired by the Corporation in any such allotment or part thereof as aforesaid, and for the removal of any buildings therefrom, and with, upon, and subject to such terms and conditions as to such respective Corporations shall appear expedient, and to carry out and fulfil such agreements.

**8 Land to be taken and compensation assessed under Public Works Act, 1894**

The land hereby authorised to be taken shall be taken and compensation therefor assessed in the manner provided by The Public Works Act, 1894, and the provisions of such Act shall be deemed to be incorporated herein, so far as the same are not inconsistent with the provisions of this Act.

**9 Land to vest in Corporation of South Dunedin**

All land taken by virtue of this Act shall, notwithstanding anything contained in The Public Works Act 1894, from and

after the date of the gazetting of the Proclamation declaring that the said land has been so taken, become absolutely vested in the Corporation for an estate in fee-simple for the purposes of this Act, discharged from all mortgages, charges, liens, and other encumbrances, claims, estates, and interests of what kind soever, and it shall be sufficient in any such Proclamation to state that the land is taken for the purposes of this Act.

#### **10 Poll to be held**

Before acquiring any land pursuant to the preceding provisions the Council shall obtain the consent of the ratepayers of the borough to the undertaking authorised by this Act, and for that purpose a poll of the ratepayers shall be taken.

- (a.) Such poll shall be held on a day to be fixed by the Mayor of the borough, who shall, seven days at least before the day so fixed, publish a notice of the intention to hold such poll.
- (b.) The voting-paper shall be in form numbered 2 in Schedule 2 hereto, or to the like effect.
- (c.) The poll shall be held in the Town Hall of the borough, or some other central polling-booth to be appointed by the Council.
- (d.) Subject as aforesaid, such poll shall be held in the manner provided by section eleven of the Loans Act.
- (e.) If a majority of the total number of valid votes recorded at the poll are recorded in favour of the proposal, then the proposal shall be deemed to be carried, and the Council may proceed with the undertaking accordingly; but if the proposal is not carried, then the Council shall not so proceed.
- (f.) The result of the poll shall be notified as provided by section thirteen of the Loans Act, and if the proposal is carried the notice thereof in the *Gazette* shall be conclusive evidence that the consent of the ratepayers to the undertaking has been duly given, and that all proceedings and things under this Act in relation thereto have been lawfully taken and done.