

Collingwood Land (Victoria Park) Bill

No.

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SCHEDULE 1

Victoria Park

SCHEDULE 2

Scheme for ownership and use of Victoria Park

By Authority L. V. North, Government Printer Melbourne

LEGISLATIVE COUNCIL

Read 1° 20 May 1992

(Brought from the Legislative Assembly)

A BILL

for

An Act to implement arrangements between the Council of the City of Collingwood and the Collingwood Football Club Limited concerning land at Victoria Park and for other purposes

Collingwood Land (Victoria Park) Act 1992

Preamble:

Land at Collingwood known as Victoria Park was subject to a covenant restricting its sale and use:

5 The land has for many years been used by the Collingwood Football Club (now the Collingwood Football Club Limited):

The registered proprietor of the land is the Council of the City of Collingwood (whose predecessor was the municipality of the City of Collingwood) under the name of the Mayor, Councillors and citizens of the City of Collingwood:

10 The Council and the Club entered into negotiations under which part of the land was to be sold to the Club and most of the rest of it leased to the Club:

Section headings appear in bold italics and are not part of the Act.
(See *Interpretation of Legislation Act 1984.*)

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To facilitate those negotiations the **Collingwood (Victoria Park) Land Act 1990** extinguished the covenant:

The Council and the Club completed negotiations for the sale and leasing of the land which included, among other things, a requirement that the Club was to improve and upgrade certain facilities at Victoria Park and, in every three year period during a period of 25 years, is to play at least 21 Australian Football League matches at Victoria Park: 5

The Council has not proceeded with the sale to the Club of part of Victoria Park and, because of this, arrangements for the leasing to the Club of other parts of the Park cannot be implemented: 10

In the public interest and in the interest of effective land management it is desirable to provide for the implementation of those arrangements and for the ownership, improvement and use of Victoria Park: 15

The Parliament of Victoria therefore enacts as follows:

1. Purpose

The purposes of this Act are—

- (a) to provide for the implementation of arrangements between the Council of the City of Collingwood and the Collingwood Football Club Limited concerning the sale, leasing, improvement and use of Victoria Park; 20
- (b) to give legal effect to those arrangements and make them available for inspection by the public; 25
- (c) to provide for alternative implementation mechanisms if the parties fail to implement the arrangements;
- (d) to provide for the application to Victoria Park of laws concerning subdivision and building control. 30

2. Commencement

- (1) This Act, except sections 1 to 4, comes into operation on a day to be proclaimed.

- (2) Sections 1 to 4 come into operation on the day on which this Act receives the Royal Assent.

3. Definitions

In this Act—

5 **“Club”** means the Collingwood Football Club Limited;

“Council” means the Council of the City of Collingwood;

10 **“deposited document”** means a document deposited under section 4 and includes that document as varied under this Act but does not include an implementing document and a document mentioned in section 4 (2) (b) (iii);

15 **“implementing document”** means a document referred to in section 5 and includes that document as varied under this Act;

“social club land” means the land shown hatched on the plan in Schedule 1, being part of the land in Folio of the Register Volume 1320 Folio 908;

20 **“Victoria Park”** means the land shown hatched and cross-hatched on the plan in Schedule 1, being part of the land in Folio of the Register Volume 1320 Folio 908.

4. Deposit of documents

25 (1) The Minister or a person authorised in writing by the Minister may deposit with the Registrar-General the documents listed in sub-section (2).

(2) The documents are—

30 (a) a copy of a document expressed to be a contract of sale for the social club land between the Council and the Club for a price of \$2 000 000, being a document approved for execution, by a majority of the Council, on 1 August 1991 (after being notified under section 189 of the **Local Government Act**

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1989 on 27 June 1991 and subsequently reviewed, having regard to submissions received) to which is annexed—

- (i) a form of mortgage to be given by the Club to the Council to secure the purchase price, which the Council is to lend to the Club; and 5
- (ii) a form of option agreement under which the Club grants the Council an option to repurchase the land and a right of pre-emption if certain things happen; and 10
- (b) a document embodying the terms of a document expressed to be an agreement for lease between the Council and the Club, covering the area marked B on the plan in Schedule 2 (excluding the areas marked C, D, E and F on that plan) or that area as nearly as practicable, being a document executed on 3 May 1991, as amended by exchanges of letters on 3 May 1991 and 28 May 1991, and notified under section 190 of the **Local Government Act 1989** on 4 May 1991, to which document is annexed— 15
 - (i) a form of lease to be given by the Council to the Club for 25 years with five five-year options, at an initial rent of \$25 000 per year; and 20 25
 - (ii) a form of lease, expressed to be an indenture, to be made between the Council and the Club, extending the term of the lease described in sub-paragraph (iii) and otherwise modifying its terms; and 30
 - (iii) a lease dated 23 July 1956 between the Municipality of the City of Collingwood (now the Council) and the Collingwood Football Club (now the Club).
- (3) For each document to be lodged under sub-section (1), the Minister must sign a certificate identifying the document, stating whether sub-section (2) (a) or (b) applies to it, and that the document accords with the description of it in whichever of those paragraphs applies to it. 35

- (4) That certificate must be lodged with the Registrar-General with the document to which it relates.
- (5) The Minister's certificate is conclusive proof of the matters stated in it.
- 5 (6) Sections 15 and 15A of the **Property Law Act 1958** apply to a document deposited under this section.
- (7) Section 16 of the **Property Law Act 1958** applies to a document deposited under this section but no fees are payable for inspecting, copying or making extracts from it.
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5. Implementing documents

An implementing document is any of the following documents annexed to a document which has been deposited under section 4—

- 15 (a) a document mentioned in section 4 (2) (a) (i);
(b) a document mentioned in section 4 (2) (a) (ii);
(c) a document mentioned in section 4 (2) (b) (i);
(d) a document mentioned in section 4 (2) (b) (ii).

6. Legal effect of deposited documents

- 20 (1) By force of this Act, on and from the date of commencement of this section the deposited documents—
- (a) replace and supersede any agreements or arrangements made during previous negotiations between the Council and the Club concerning the future sale, leasing and use of Victoria Park; and
- 25 (b) have effect as binding and enforceable agreements between the Council and the Club; and
- (c) must be taken to have been duly made and executed by the Council and the Club on the date of commencement of this section; and
- 30 (d) must be given effect to by the Council and the Club.
- (2) The Council must be taken to have complied with all the provisions of the **Local Government Act 1989** and (so far as it is in force) the **Local Government Act 1958** which are

required to be complied with before the Council is authorised to enter into an agreement having effect by force of sub-section (1), and must be taken to be authorised by those Acts to enter into and to give effect to that agreement. 5

- (3) This section applies despite anything to the contrary in any Act, statutory instrument or rule of law.

7. *Legal effect of implementing documents*

- (1) On the settlement date in the deposited document having effect as a contract of sale for the social club land— 10
- (a) the Council and the Club must ensure that the lease described in section 4 (2) (b) (iii) is surrendered to the extent necessary to enable the sale to be completed; and
 - (b) the Council must lend to the Club the amount of the purchase price under the contract; and 15
 - (c) the Club must give to the Council a mortgage to secure that amount in the form of the implementing document mentioned in section 5 (a); and
 - (d) the Club must grant to the Council an option to purchase and a right of pre-emption in the form of the implementing document mentioned in section 5 (b). 20
- (2) On the day after the settlement date in the deposited document having effect as a contract of sale for the social club land the Council and the Club must enter into leases in the form described in the implementing documents mentioned in section 5 (c) and (d). 25
- (3) The Council must be taken to have complied with all the provisions of the **Local Government Act 1989** and (so far as it is in force) the **Local Government Act 1958** which are required to be complied with before the Council is authorised to lend the money and enter into the agreements required by this section, and must be taken to be authorised by those Acts to lend that money and enter into those agreements. 30 35

- (4) This section had effect despite anything to the contrary in any Act, statutory instrument or rule of law.

8. Can documents be varied?

- 5 (1) A deposited document or an implementing document cannot be varied or terminated except—
- (a) as provided by the document; or
 - (b) by agreement between the Council and the Club.
- 10 (2) The Council must deposit with the Registrar-General a copy of a variation or termination document as soon as possible after the document is executed.
- (3) Sections 15 and 15A of the **Property Law Act 1958** apply to a document deposited under this section.
- 15 (4) Section 16 of the **Property Law Act 1958** applies to a document deposited under this section, but no fees are payable for inspecting, copying or making extracts from it.

9. Non-compliance—appointment of agent

- 20 (1) The Minister may appoint an agent to act for the Council or the Club for the purposes of this Act if he or she is satisfied that there are grounds for the appointment.
- (2) The grounds for appointment are any of the following—
- (a) that the Council or the Club has not complied with section 7;
 - (b) that the Council or the Club—
 - 25 (i) is in breach of a term of a deposited document or an implementing document;
 - (ii) has failed within a reasonable time or refused to make a decision, exercise a power or discretion, or carry out a duty necessary to give effect to a deposited document or
 - 30 implementing document;
 - (iii) has unreasonably attempted to prevent or hinder a deposited document or an implementing document being given effect to;

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- (c) that the Council or Club has expressed an intention (whether by writing, orally or by conduct) to do any of the things listed in paragraph (a) or (b).
- (3) The appointment must be made by notice published in the Government Gazette. 5
- (4) The notice of appointment must specify whether the agent is to act for the Council or the Club.
- (5) The appointment is subject to any terms, conditions and restrictions that the Minister determines and specifies in the notice of appointment. 10
- (6) As soon as possible after the appointment the Minister must give written notice of it to the Council and the Club.
- (7) The production of a copy of the Government Gazette containing a notice of an appointment under this section is conclusive proof that grounds for the appointment existed at the time it was made and continue to exist while the appointment is in force. 15
- (8) As soon as possible after making an appointment under this section, the Minister must give to the person appointed a certificate of appointment signed by the Minister, which includes a statement of the terms, conditions and restrictions of the appointment. 20
- (9) An agent must produce the agent's certificate of appointment on being requested to do so.
- (10) The certificate of appointment— 25
- (a) is conclusive proof that—
- (i) the agent is duly appointed;
- (ii) the appointment has not been revoked;
- (iii) the terms, conditions and restrictions of appointment are as set out in the certificate; 30
- (b) may be relied on by any person, without need for further enquiry or production of any further authority, as evidence of the agent's authority to act for the Council or the Club.

10. *What can an agent do?*

- 5 (1) An agent appointed under this Act may, in accordance with the terms, conditions and restrictions of that appointment, do anything which the person for whom the agent is appointed to act may do to give effect to—
- (a) a provision of this Act; or
 - (b) a deposited document or implementing document.
- 10 (2) Anything done by an agent in accordance with sub-section (1) must be taken to have been done on behalf and with the authority of the person for whom the agent is appointed to act and has effect as if done by that person.
- 15 (3) Without limiting sub-section (1), an agent under this Act may, in accordance with the terms, conditions and restrictions of the agent's appointment, do any of the following—
- (a) execute any document relating to land;
 - (b) subject to any Act or law applying to the person for whom the agent acts—
 - 20 (i) enter into any contract or arrangement that the person for whom the agent acts may enter into;
 - (ii) make deposits or withdrawals or otherwise operate on any account in the name of the person for whom the agent is appointed to act;
 - 25 (iii) exercise any other power or discretion or perform any other duty of that person;
 - (c) execute any document requiring the seal of the person for whom the agent acts.
- 30 (4) A document executed by an agent appointed under this Act that is required to be executed under the seal of the person for whom the agent acts must be taken for all purposes to have effect as if executed under seal by that person.
- 35 (5) The Council has the same immunity in respect of anything done on its behalf by an agent appointed under this Act as it would have if it did the thing itself.

- (6) The Council or the Club must give to an agent appointed under this Act to act for it any document, information or assistance that the agent requests and it is able to give.
- (7) An action lies for breach of statutory duty for a contravention of sub-section (6), but no action under this sub-section may be brought without the consent in writing of the Attorney-General. 5

11. *Revocation or variation of agency*

- (1) The Minister may at any time by notice published in the Government Gazette— 10
- (a) revoke an agent's appointment; or
- (b) vary the terms, conditions and restrictions of an agent's appointment.
- (2) The revocation or variation of an agent's appointment does not affect anything previously done by the agent. 15
- (3) As soon as possible after revoking or varying an agent's appointment the Minister must give written notice of this to the Club, the Council and the agent.
- (4) An agent's appointment cannot otherwise be revoked or varied. 20
- (5) On receiving notice of revocation or variation of appointment, the agent must return the certificate of appointment to the Minister.
- (6) The Minister must, as appropriate, issue a new certificate of appointment or endorse the certificate of appointment as cancelled. 25

12. *Interference with implementation or agent's activities*

The Council or the Club must not act in a way that would—

- (a) prevent a deposited document or implementing document being given effect to or limit its effect; or 30
- (b) be inconsistent with anything done on its behalf by an agent appointed under this Act; or

- (c) prevent or hinder an agent from acting under his or her or its appointment.
- (2) Anything done or purported to be done in contravention of sub-section (1) is void.

5 **13. Registrar of Titles' additional powers**

- (1) If requested to do so by a party to an agreement in a deposited document or implementing document having effect by force of this Act or by an agent appointed under this Act, the Registrar of Titles may, in giving effect to that agreement, do all or any of the following—
 - 10 (a) dispense with the submission of any certificate of title, plan or other document; or
 - (b) register an instrument or application by recordings in the relevant folio of the Register only; or
 - 15 (c) delete any relevant folio of the Register, cancel the certificate of title for that folio and create a new folio of the Register and certificate of title.
- (2) This section is in addition to and does not take away from any other provision of this Act.

20 **14. Administration of Building Control Act—Victoria Park**

- (1) If the Minister considers that it is necessary to do so to facilitate the use or development of Victoria Park in accordance with a deposited document or an implementing document, he or she, by Order published in the Government Gazette, may declare that the administration and enforcement of any of the provisions of the **Building Control Act 1981** and the building regulations in relation to all or any part of Victoria Park is to be carried out by any person or body specified in the Order and in accordance with the terms and conditions of the Order.
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 - 30
- (2) An Order under sub-section (1) has effect despite anything to the contrary in the **Building Control Act 1981**.

15. Application of Subdivision Act

- (1) If the Minister considers it necessary to do so to facilitate subdivision, use or development of Victoria Park in accordance with a deposited document or implementing document, the Minister may, by Order published in the Government Gazette, transfer from the Council to the Minister the Council's powers and duties under the Subdivision Act 1988 in relation to plans under that Act. 5
- (2) The Subdivision Act 1988 applies to land in an Order in sub-section (1) as if it referred to the Minister instead of the Council. 10
- (3) Anything done by a Council in carrying out a power or duty under the Subdivision Act 1988 that is transferred to the Minister must be taken to have been done by the Minister. 15
- (4) The Minister may, by Order published in the Government Gazette, transfer a power or duty back to the Council.

16. Compensation and damages

- No amount is payable by the Crown, the Council or the Club in respect of anything done under or arising out of this Act, or because of the variation or termination by this Act of any agreement or arrangement or the creation, variation or extinguishment by or under this Act of any liability or right except— 20
- (a) in accordance with a deposited document or an implementing document; or 25
- (b) as damages for breach of an agreement in a deposited document or implementing document having effect by force of this Act; or 30
- (c) as otherwise provided by this Act.

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SCHEDULES

SCHEDULE 1
Victoria Park

Section 3

Sch. 1



