

# Melbourne Market and Park Lands Bill

No.

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### SCHEDULE

Land in respect of which the reservations are revoked



# LEGISLATIVE ASSEMBLY

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Read 1° 29 April 1992

*(Brought in by Mr Harrowfield and Mr Roper)*

## A BILL

to revoke the reservations of certain land at Melbourne, to authorise the sale of that land to the Royal Australasian College of Surgeons, to amend the **Melbourne Market and Park Lands Act 1933** and for other purposes.

### **Melbourne Market and Park Lands Act 1992**

#### **PREAMBLE:**

Land in Spring Street, Melbourne is occupied in part by the Royal Australasian College of Surgeons, and other parts of that land are reserved for public gardens:

It is desirable to authorise the sale of the whole of the land to the Royal Australasian College of Surgeons and, to enable this to be done, to revoke reservations affecting the land and to make alternative provision for the maintenance of and public access to the gardens:

**The Parliament of Victoria therefore enacts as follows:**

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

**1. Purpose**

The purposes of this Act are—

- (a) to revoke the reservations of land in Spring Street, Melbourne;
- (b) to authorise the sale of that land to the Royal Australasian College of Surgeons; 5
- (c) to make provision for continued maintenance of and public access to the gardens on the land to be sold;
- (d) to amend the **Melbourne Market and Park Lands Act 1933**. 10

**2. Commencement**

This Act comes into operation on the day on which it receives the Royal Assent.

**3. Revocation of reservations** 15

- (1) The land in item 1 of the Schedule ceases to be subject to the reservation described in that item.
- (2) The Order in Council specified in item 2 of the Schedule is revoked.

**4. Consequences of revoking reservations** 20

On land ceasing to be subject to a reservation by force of section 3 (1) or (2)—

- (a) the land is deemed to be unalienated land of the Crown and is freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; 25
- (b) the appointment of any committee of management is revoked to the extent that it relates to the land;
- (c) any regulations made or having effect under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land. 30

**5. Sale of site**

- 5 (1) The Minister, on behalf of the Crown, may sell all or any part of the land in certified plan No.110853 lodged in the Central Plan office to the Royal Australasian College of Surgeons on any terms and conditions that the Minister thinks fit.
- (2) Without limiting sub-section (1), those terms and conditions—
- 10 (a) may entitle the purchaser to possession of the land sold on payment of part of the purchase price;
- (b) may require the purchaser to enter into an agreement with the Minister or the Melbourne City Council concerning the maintenance of and public access to the gardens on the land;
- 15 (c) may provide that the Minister is to lease that part of the land on which public gardens are located to the Melbourne City Council until the date of completion of the sale and for the relationship between the interest and rights of the lessee under the lease and the rights of the purchaser if the purchaser becomes entitled to possession of the land under the contract of sale;
- 20 (d) may require the purchaser, on the completion of the sale, to enter into a lease with the Melbourne City Council of that part of the land used for public gardens and for that lease to be in a form approved by the Minister;
- 25 (e) must state the terms, conditions, covenants, exceptions, reservations and limitations that are to be included in any Crown grant to which, in accordance with the contract of sale, the purchaser may become entitled.
- 30 (3) The Minister, on behalf of the Crown, may execute any document or do anything else necessary to give effect to the sale.
- 35 (4) Without limiting section 2 (2) of the **Sale of Land Act 1962** Part I of that Act does not apply to a terms contract for the sale of land entered into under this section.

**6. *Entitlement to Crown grant***

- (1) On the Royal Australasian College of Surgeons becoming entitled to a Crown grant of land in accordance with the terms and conditions of a sale under this Act, the Governor in Council, on behalf of the Crown, may grant the land to the College for an estate in fee simple. 5
- (2) A Crown grant under this section is subject to any terms, conditions, covenants, exceptions, reservations and limitations that the terms and conditions of sale state are to be included in the Crown grant and are included by the Governor in Council in that grant. 10

**7. *Historic Buildings Act not affected***

This Act and anything done under it do not affect the operation of the **Historic Buildings Act 1981** or any entry made in a Register kept under that Act. 15

**8. *Agreements for access to and maintenance of the gardens***

- (1) The Minister, on behalf of the Crown, may in respect of any period before the issue of a Crown grant under this Act enter into an agreement with the Melbourne City Council concerning the maintenance of, and public access to, the gardens on any land described in certified plan No. 110853 that is leased to or occupied by the Council. 20
- (2) An agreement under this section must not include terms or conditions inconsistent with the terms and conditions of a sale of the land under this Act. 25

**9. *Amendment of Melbourne Market and Park Lands Act 1933***

- (1) For the purposes of this section the Minister may, by notice published in the Government Gazette, appoint a day, being a day on or after the day on which a Crown grant including all the land described in certified plan No. 110853 has been issued but not later than 90 days after the issue of that Crown grant. 30
- (2) On the appointed day, the **Melbourne Market and Park Lands Act 1933** is amended as follows:

- (a) in section 4, sub-section (2) is repealed;
- (b) in section 4 (5) paragraph (a) is repealed.

**10. *What if the land is not sold?***

- 5 (1) If not later than 31 December 1993 the Minister is satisfied that—
- (a) no contract for the sale of land under this Act has been entered into; or
  - 10 (b) a contract for the sale of land under this Act has been entered into but, without the issue of a Crown grant, has been brought to an end (whether by avoidance, rescission, termination, or otherwise) as a consequence of a breach of the contract by the purchaser—
- 15 the Minister must, by notice published in the Government Gazette, appoint a day for the purposes of this section, being not later than 1 March 1994.
- (2) On the appointed day sections 5 and 6 are repealed.
- 20 (3) As soon as practicable after the appointed day, the Governor in Council shall, in accordance with the **Crown Land (Reserves) Act 1978**, permanently reserve so much of the land described in certified plan No. 110853 as is not, in the opinion of the Governor in Council, required for buildings on that land or for extensions of or approaches to those buildings, as a site for public gardens and appoint the Melbourne City Council as Committee
- 25 of Management for the land.

**11. *No compensation payable by Crown***

No compensation is payable by the Crown in respect of anything done under or arising out of this Act.

30 **12. *Supreme Court—Limitation of jurisdiction***

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court awarding compensation

**s. 12**

*Melbourne Market and Park Lands*

in respect of anything done under or arising out of this Act.

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## SCHEDULE

## Section 3

Land in respect of which the reservations are revoked

<i>Item</i>	<i>Situation and area of land</i>	<i>Instrument and date of reservation</i>	<i>Description to Government Gazette</i>	<i>Purpose of reservation</i>	<i>Extent of revocation</i>
1.	East Melbourne Parish of Melbourne North, County of Bourke being part of Crown allotment 21, section 1, not required for buildings, extensions thereof and approaches thereto as provided by section 4 of the Melbourne Market and Park Lands Act 1933	Act No. 4184/1933 section 4 as amended by Act No. 5913/1955		Purpose of a public garden	The entire reserve
2.	East Melbourne Parish of Melbourne North, County of Bourke being Crown allotments 21A and 21B, section 1	Order in Council 6 December 1988	Government Gazette 14 December 1988 page 3761	Public purposes (Health Department)	The entire reserve

