

Footscray Land Act 1988

No. 79 of 1988

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Victoria

No. 79 of 1988

Footscray Land Act 1988

[Assented to 20 December, 1988]

PREAMBLE:

The Parliament of Victoria recognises that it is desirable to facilitate the development of land at Footscray, a project to be undertaken by the Municipality of the City of Footscray, whether as a joint project or otherwise, by providing for—

- (a) the closure of roads;
- (b) the revocation of the Grimes Reserve at Footscray;
- (c) the reservation of certain Crown land;
- (d) the management and leasing of certain Crown land;
- (e) the relocation of a railway line;
- (f) the transfer of the management of certain parts of the Maribyrnong River:

The Parliament of Victoria therefore enacts as follows:

Purpose.

1. The following are the purposes of this Act:

- (a) To facilitate the development of land at Footscray;

- (b) To amend the *Melbourne and Metropolitan Board of Works Act 1958* and the *Port of Melbourne Authority Act 1958*.

Commencement.

2. (1) Subject to sub-section (2), this Act comes into operation on a day or days to be proclaimed.

(2) Sections 13, 19 and 20 come into operation on 1 July 1989.

Definitions.

3. In this Act "Project plan" means a plan lodged in the Central Plan Office of the Department of Property and Services bearing the identifying reference LEGL/88-2.

Revocation of reservation.

4. The Order in Council specified in Schedule 1 is revoked and the land to which it applied is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests.

Closure of roads.

5. (1) The Governor in Council may by an Order or Orders published in the *Government Gazette* close any of the following roads or parts of roads on the land shown on the project plan as parcels numbered 2, 4, 7, 9, 13, 14, 15, 21 and 27:

- (a) The parts of Bunbury Street on land in those parcels;
- (b) The parts of Wingfield Street on the land in those parcels;
- (c) The parts of Maribyrnong Street on the land in those parcels;
- (d) The parts of Thames Street on the land in those parcels.

(2) On the publication in the *Government Gazette* of an Order under this section—

- (a) the land over which the closed road ran ceases to be a road; and
- (b) all rights, easements and privileges existing or claimed (either in the public, by any person, by dedication, supposed dedication, past user, operation of law or otherwise) in the land determine; and
- (c) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests.

Permanent reservation for public gardens.

6. The land shown on the project plan as parcels numbered 6, 7, 8, 9 and 12 is deemed to be permanently reserved under the *Crown Land (Reserves) Act 1978* as a site for public gardens.

Temporary reservation for public recreation and tourism.

7. The land shown on the project plan as parcels numbered 5, 14, 15, 18, 20, 21, 24, 26 and 27 (excluding the land shown hatched and shaded on the plan in Schedule 3) is deemed to be temporarily reserved under the *Crown Land (Reserves) Act 1978* for public recreation and tourism.

Vesting in Crown of land vested in Port of Melbourne Authority.

8. (1) The land shown hatched on the plan in Schedule 2 to the extent that an interest in it or management or control of it is vested in the Port of Melbourne Authority, is divested from that Authority and vests in the Crown.

(2) On the vesting of land in the Crown under sub-section (1)—

- (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests and from all contracts, licences, obligations, rates and charges; and
- (b) the Port of Melbourne Authority ceases to have any responsibility or liability in respect of the land; and
- (c) the land is deemed to be temporarily reserved under the *Crown Land (Reserves) Act 1978* for public recreation and tourism.

Management of Crown land by municipality.

9. (1) On the reservation of land under section 6, 7, 8 or 11 the municipality of the City of Footscray is deemed to be appointed under the *Crown Land (Reserves) Act 1978* as committee of management for the land.

(2) In exercising its management and leasing powers under the *Crown Land (Reserves) Act 1978* and this Act in respect of the area for the time being temporarily reserved under sections 7, 8 and 11 of this Act, the municipality of the City of Footscray must ensure that the proportion of that area to which access by the public is restricted is not more than 20 per centum.

Municipality may grant leases.

10. (1) With the approval of the Minister administering the *Crown Land (Reserves) Act 1978*, the municipality of the City of Footscray as committee of management may grant a lease of any land temporarily reserved under section 7, 8 or 11 for any of the following purposes:

- (a) Restaurants;
- (b) Ships chandlery;
- (c) Boat harbours;
- (d) Recreational facilities;

(e) Any other purposes permitted by the Governor in Council by Order published in the *Government Gazette*.

(2) Subject to this section, the *Crown Land (Reserves) Act 1978* applies to leases under this section.

Exchange of land by Crown and State Transport Authority.

11. (1) The Minister administering the *Crown Land (Reserves) Act 1978*, on receiving a plan of survey signed by the Surveyor-General of the hatched land and the cross-hatched land, may recommend to the Governor in Council that—

- (a) the hatched land be vested in the Crown; and
- (b) the cross-hatched land be vested in the State Transport Authority.

(2) The Governor in Council, on the Minister's recommendation under sub-section (1), may, by Order published in the *Government Gazette*, declare that the lands to which the plan of survey applies vest in accordance with that recommendation.

(3) An Order under sub-section (2) must include a copy of the plan of survey of the land to which it applies.

(4) On the publication in the *Government Gazette* of an Order under sub-section (2)—

- (a) the cross-hatched land vests in fee simple in the State Transport Authority for the purposes of the *Transport Act 1983*, subject to any terms, conditions, covenants, reservations, exceptions, limitations or restrictions that the Governor in Council determines by notice published in the *Government Gazette*; and
- (b) the hatched land—
 - (i) is divested from the State Transport Authority and vests in the Crown; and
 - (ii) is deemed to be unalienated land of the Crown freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
 - (iii) is deemed to be temporarily reserved under the *Crown Land (Reserves) Act 1978* for public recreation and tourism.

(5) On the vesting of land in the Crown under sub-section (4) (b), all responsibilities and liabilities of the State Transport Authority in respect of the land cease.

(6) In this section—

“**Cross-hatched land**” means the land shown cross-hatched on the plan in Schedule 3 or that land as nearly as practicable or, if the Minister administering the *Crown Land (Reserves) Act 1978* and the Minister administering the *Transport Act*

1983 agree to a variation of the boundaries of that land, such land as is so agreed.

“Hatched land” means the land shown hatched on the plan in Schedule 3 or that land as nearly as practicable.

State Transport Authority may continue to use certain land.

12. The State Transport Authority has the right to use, for the purposes of the existing Maribyrnong branch railway line and its associated works—

- (a) land vested in the Crown by section 8 and not leased under section 10, although that use may be inconsistent with any reservation of the land under the *Crown Land (Reserves) Act 1978*; and
- (b) land used for the railway and its works immediately before the date of commencement of this section, while that land remains vested in the Port of Melbourne Authority.

Vesting of Port of Melbourne Authority land in MMBW.

13. (1) The land shown cross-hatched on the plan in Schedule 2—

- (a) to the extent to which any interest in it or the management and control of it is vested in the Port of Melbourne Authority, is divested from the Authority; and
- (b) is freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests and from any contracts, licences, obligations, rates and charges; and
- (c) is vested in the Melbourne and Metropolitan Board of Works upon trust for the purposes of Part X of the *Melbourne and Metropolitan Board of Works Act 1958*.

(2) All responsibilities and liabilities of the Port of Melbourne Authority in respect of the land divested from it by sub-section (1) cease.

Registration of “Henderson House” under *Historic Buildings Act 1981*.

14. (1) On the registration under the *Transfer of Land Act 1958* of a transfer and surrender to the Crown of the land shown on the project plan as parcel numbered 17—

- (a) any part of the land and any building on the land included in the register of historic buildings kept under section 14 of the *Historic Buildings Act 1981* are deemed to be removed from that register; and
- (b) any part of the land and any building on the land so removed from that register are deemed to be added to the register of government buildings kept under section 32A of that Act.

(2) The Minister administering the *Historic Buildings Act* 1981 must give effect to sub-section (1) of this section in the registers kept under that Act.

(3) Section 16 of the *Historic Buildings Act* 1981 applies to an amendment of the register of historic buildings made by sub-section (1).

Grant of Crown land to municipality.

15. (1) On or after the registration under the *Transfer of Land Act* 1958 of a transfer and surrender to the Crown of the land shown on the project plan as parcels numbered 12, 17, 18, 20, 30 and 31 the Minister may recommend to the Governor in Council that a grant should be made of the land shown on the project plan as parcels numbered 1, 2, 3, 4, 10, 13, 23 and 25.

(2) The Governor in Council, on the Minister's recommendation in accordance with sub-section (1), may on behalf of the Crown grant the land to which the recommendation applies to the municipality of the City of Footscray for an estate in fee simple and subject to any terms, conditions, covenants, exceptions, reservations, restrictions and limitations that the Governor in Council determines.

Power to enter Crown land.

16. The municipality of the City of Footscray and any persons authorised by it may, if the Minister so approves, enter on and use any of the Crown land shown on the project plan as parcels numbered 1, 2, 3, 4, 10, 13, 23 and 25, for or in connection with the construction of buildings or improvements or the carrying out of development works, even though it is reserved under the *Crown Land (Reserves) Act* 1978 or it is a road.

No compensation payable by Crown.

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

Registrar of Titles to make necessary amendments.

18. (1) The Registrar of Titles must make any recordings in the Register under the *Transfer of Land Act* 1958 that are necessary because of the operation of this Act.

(2) If at the date of commencement of this section, section 6 of the *Transfer of Land (Computer Register) Act* 1988 is not in operation, then until that section comes into operation sub-section (1) of this section has effect as if it read as follows:

“(1) The Registrar of Titles must make any amendments to the Register Book and to any Crown grant, certificate of title, duplicate Crown grant, duplicate certificate of title or other instrument or duplicate instrument that are necessary because of the operation of this Act.”

Amendment of *Melbourne and Metropolitan Board of Works Act 1958*.

19. The *Melbourne and Metropolitan Board of Works Act 1958* is amended as follows:

(a) In section 294 (definition of “**Maribyrnong River**”) for “south side of the Hopetoun Bridge on Dynon Road” substitute “downstream side of Shepherd Bridge”;

(b) For item (3) in the Twelfth Schedule substitute—

“(3) The Maribyrnong River from the downstream side of Shepherd Bridge towards its source.”

No. 6310.
Reprinted to
No. 10262.
Subsequently
amended by
Nos. 86/1986,
109/1986,
110/1986,
121/1986,
13/1987,
31/1987,
45/1987,
8/1988,
20/1988,
29/1988,
50/1988.

Amendment of *Port of Melbourne Authority Act 1958*.

20. At the end of Part II of the Second Schedule to the *Port of Melbourne Authority Act 1958* insert “Eighthly, the land shown cross-hatched on the plan in Schedule 2 to the *Footscray Land Act 1988*.”

No. 6312.
Reprinted to
No. 9427.
Subsequently
amended by Nos.
9444, 9533,
9549, 9576,
9592, 9617,
9746, 9887,
9902, 9921,
GG. 6.7.83
p. 2047, and
Acts Nos. 9945,
10003, 110/1986,
121/1986,
123/1986,
41/1987,
46/1987,
50/1988,
52/1988.

SCHEDULES

SCHEDULE 1

S. 4

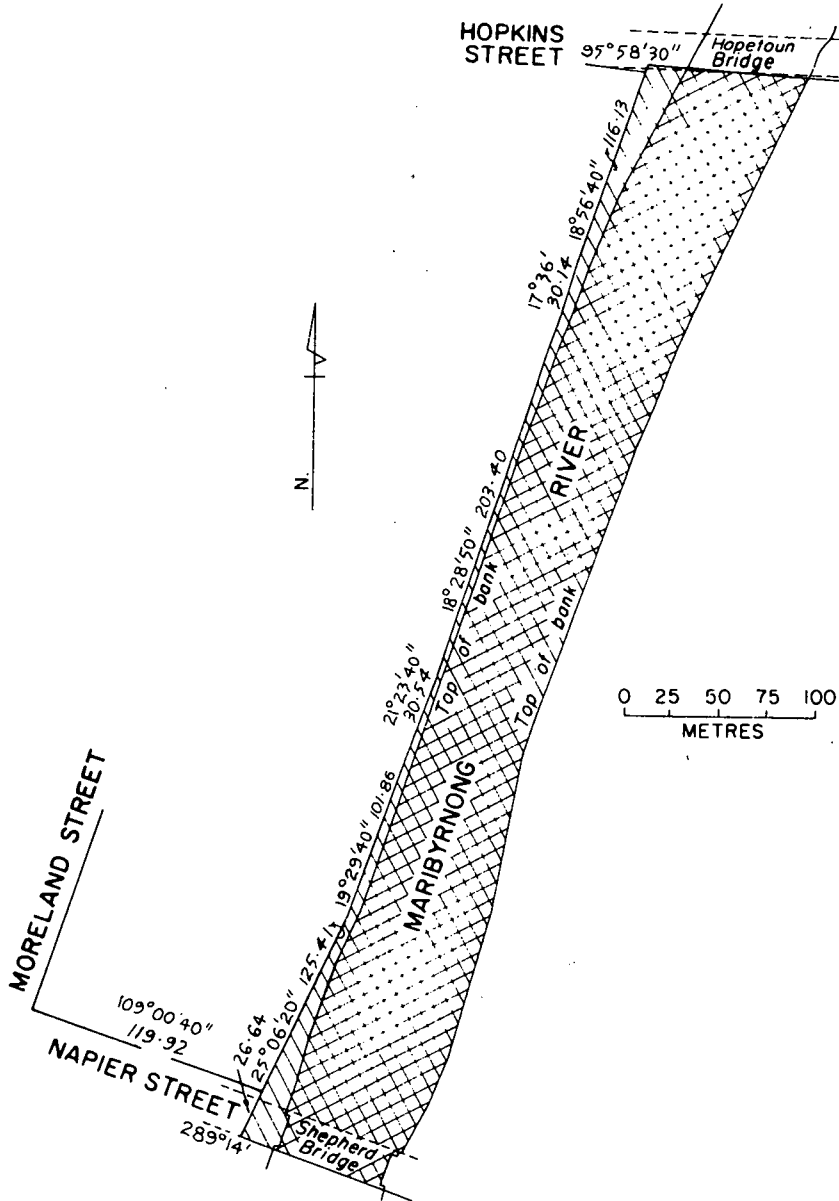
Land in respect of which the reservation is revoked.

<i>Situation and area of land</i>	<i>Instrument and date of reservation</i>	<i>Description of land by reference to Govt. Gazette</i>	<i>Purpose of reservation</i>	<i>Extent of revocation</i>
City of Footscray Parish of Cut-paw-paw. 5893 sq. metres	Order in Council dated 11 February 1964	<i>Govt. Gazette</i> 8 Jan. 1964 page 32 and 19 February 1964 page 397	Site for public gardens	The entire reserve

SCHEDULE 2

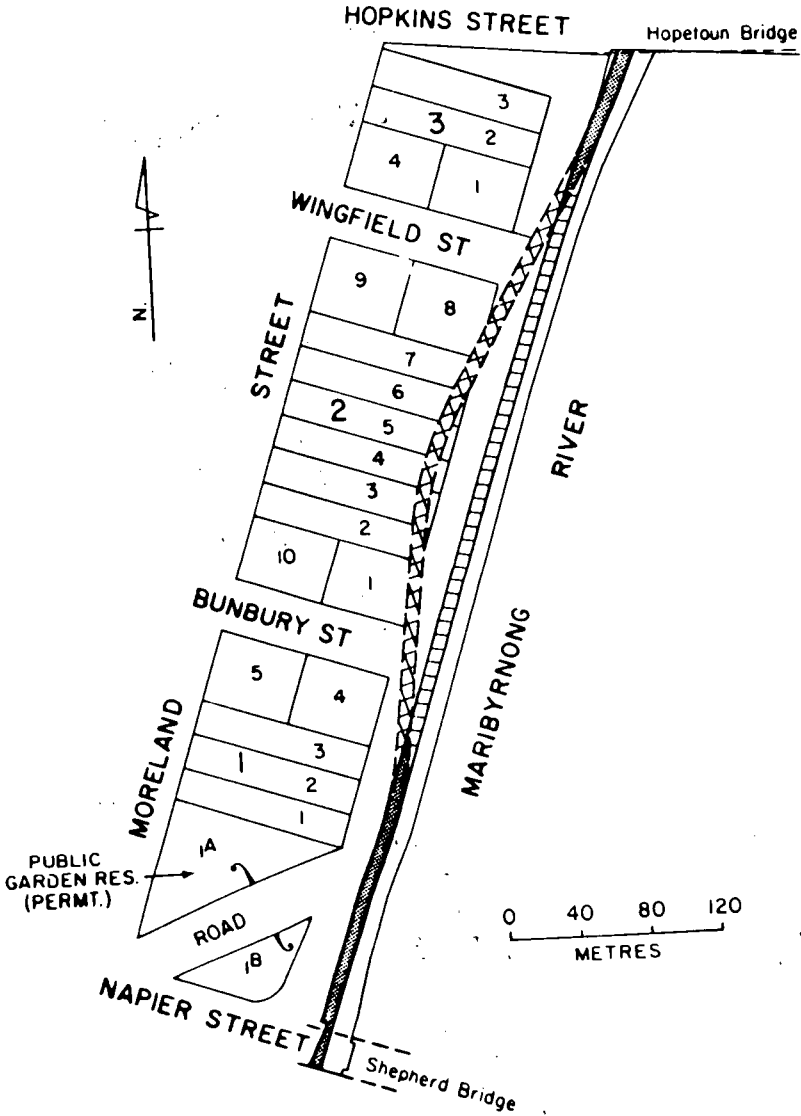
Ss. 8 and 13

Land divested from the Port of Melbourne Authority



SCHEDULE 3

Maribyrnong branch railway line



Footscray Land Act 1988

NOTES

1. *Minister's second reading speech—*

Legislative Assembly: 24 November 1988

Legislative Council: 9 December 1988

2. The long title for the Bill for this Act was "A Bill to facilitate the development of land at Footscray, to revoke the permanent reservation of certain Crown land, to amend the *Melbourne and Metropolitan Board of Works Act 1958* and the *Port of Melbourne Authority Act 1958* and for other purposes."