

CITY OF PERTH PARKING FACILITIES.

No. 20 of 1981.

AN ACT to amend the City of Perth Parking
Facilities Act 1956-1976.

[Assented to 26 May 1981.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *City of Perth Parking Facilities Amendment Act 1981*.

Short title
and citation.

(2) In this Act the City of Perth Parking Facilities Act 1956-1976 is referred to as the principal Act.

Approved for
reprint 23
December
1970 and
amended
by Act No.
65 of 1976.

(3) The principal Act as amended by this Act may be cited as the *City of Perth Parking Facilities Act 1956-1981*.

Section 7
amended.

2. Section 7 of the principal Act is amended by inserting after subsection (3) the following subsection—

“ (4) Where any part of any land, building or other structure used or intended to be used pursuant to this Act for the purposes of a parking station or parking facility is, pursuant to section 11A of this Act, used or to be used for other municipal purposes or for other purposes approved by the Minister under that section then all moneys received by the Council in respect of that part shall be paid into the Fund and the Council may utilise those moneys in the Fund in relation to any parking station or parking facility or proposed parking station or proposed parking facility. ” .

Sections
11A, 11B and
11C inserted.

3. The principal Act is amended by inserting after section 11 the following sections—

Parking
station may
be used for
other com-
mercial
purposes.

“ 11A. (1) The Council may, with the consent of the Minister, make provision, at ground surface level, for the use of the land or a part of any building or structure of a parking station or parking facility for—

(a) other municipal purposes;

(b) commercial or other purposes, including the provision of premises for retail trading.

(2) The provisions of subsection (1) of this section apply whether the land, or a part of any building or other structure is taken compulsorily pursuant to section 14 of this Act or is acquired by agreement and the whole land, building or other structure is deemed to be required for the purpose of establishing a parking station or parking facility notwithstanding the provision for such other use of any part.

(3) Where the Minister gives a consent in terms of subsection (1) of this section the Minister shall, as soon as is practicable, cause notice of such consent to be published in the *Government Gazette*.

(4) A copy of every notice published in the *Government Gazette* pursuant to subsection (3) of this section shall be laid before each House of Parliament within 6 sitting days of the House next following the date of the publication of the notice in the *Government Gazette*.

(5) Either House may, by resolution of which resolution notice has been given at any time within 12 sitting days of such House after the notice has been laid before it, pass a resolution disallowing the consent of the Minister.

(6) As soon as the Minister's consent is no longer subject to disallowance under subsection (5) of this section the consent shall have effect.

(7) If either House of Parliament passes a resolution disallowing the consent the Minister shall cause notice of the disallowance to be published in the *Government Gazette* within 21 days of the passing of the resolution.

11B. (1) Notwithstanding anything in the Local Government Act 1960 but subject to this Act, where pursuant to section 11A of this Act—

Council
to sell
commercial
and other
premises in
a parking
station.

- (a) the Minister has consented to the Council making provision for use of part of a parking station or parking facility for purposes other than municipal purposes; and
- (b) the Minister's consent has taken effect,

the Council shall as soon as is practicable dispose of that part of the land in respect of which the consent has so taken effect by selling the land.

(2) Any land sold by the Council pursuant to subsection (1) of this section shall be subject to such restrictions and conditions (if any) as the Council may, with the approval of the Minister, impose.

(3) Where the Minister approves of any restrictions and conditions proposed to be imposed by the Council in respect of any land sold by the Council pursuant to this section the Minister shall cause a memorial of the restrictions and conditions together with his approval thereof to be lodged with the Registrar of Titles who shall enter in the register book a memorandum of such memorial.

(4) Notwithstanding anything in the Property Law Act 1969, Division 3A of Part IV of the Transfer of Land Act 1893, the Strata Titles Act 1966, or any rule of law to the contrary, every restriction or condition imposed by the Council and notified in the register book in accordance with this section in respect of any land sold pursuant to this section binds the purchaser of the land and his successors in title (including the owners and occupiers for the time being of the land) other than the Council and may be enforced by the Council in any court of competent jurisdiction and the court may make such order as is necessary in that regard.

(5) The restrictions or conditions imposed by the Council under this section may vary as between different purchasers and as between separate occupancies within the same land, building or structure.

(6) Where pursuant to any restriction or condition imposed by it or otherwise the Council purchases or acquires any land sold

by it under this section the Council shall, if the Council does not require the land for use for a parking station or parking facility or for other municipal purposes, again sell the land.

(7) The Council may at any time, with the approval of the Minister, vary any restrictions and conditions then applicable in respect of the land.

(8) Where the Council, pursuant to subsection (7), varies the restrictions and conditions then applicable in respect of any land the Minister shall cause to be lodged with the Registrar of Titles—

- (a) a notice withdrawing any memorial then applicable in relation to the land; and
- (b) a memorial notifying the Registrar of Titles of the varied restrictions and conditions to be applicable to the land,

and the Registrar shall enter in the register book a memorandum of every such notice and memorial and the provisions of subsection (4) of this section apply in respect of any such restriction or condition.

(9) Notwithstanding anything in this section the Minister may, at the request of the Council, cause a notice withdrawing any memorial applicable in relation to any land to be lodged with the Registrar of Titles and effect shall be given to such notice.

11C. Unless the Governor otherwise directs any sale of land pursuant to section 11A or 11B of this Act shall be only to the highest bidder at public auction, or to the person who at public tender called by the Council makes what is in the opinion of the Council, the most acceptable tender, whether his tender is or is not the highest. ” .

Governor's
approval
to be
obtained
in certain
cases.

Section 15
amended.

4. Section 15 of the principal Act is amended—

- (a) in subsection (1), by deleting “The” and substituting the following—

“ Subject to this section, the ” ;

- (b) in subsection (3), by deleting “The” and substituting the following—

“ Subject to this section, the ” ; and

- (c) by inserting after subsection (3) the following subsections—

“ (4) The Council shall not grant a temporary licence for a period exceeding two years.

(5) Where—

- (a) an application is an application for the renewal of a temporary licence; and

- (b) the temporary licence, if renewed, would license the temporary parking station or parking facility the subject of the application for a term exceeding a total period of two years,

the Council shall consider the application and submit the application and its recommendations thereon (if any) to the Minister who may exercise all the powers conferred on the Council by this Part of this Act in relation to the application and the decision of the Minister is final and conclusive. ” .

Section 15E
amended.

5. Section 15E of the principal Act is amended—

- (a) in subsection (1), by deleting “Penalty: A fine of two hundred dollars or imprisonment for one month.” and substituting the following—

“ Penalty: A fine of two hundred dollars and if the offence is a continuing one

a further fine of one hundred dollars for every day during which the offence has continued. ” ;

- (b) by inserting after subsection (3) the following subsections—

“ (3a) A person, other than the Council, who on or in any land or building provides space that is used for the parking of vehicles is deemed, for the purposes of this Act, to provide or operate a parking station or parking facility for the use of the public generally irrespective of the terms and conditions upon which that space is so provided.

(3b) Subsection (3a) of this section does not apply in respect of—

(a) the use of space on any land or in any building for the parking of vehicles where that use is ancillary to the *bona fide* use or occupation of other premises on the land or in the building;

(b) the use of space on any land or in any building for the parking of vehicles in circumstances other than those mentioned in paragraph (a) of this subsection if—

(i) the space so used consists only of spare parking space that is not for the time being required for use in the circumstances referred to in paragraph (a) of this subsection; and

(ii) the person providing that space for the use of the parking of

vehicles is not carrying on the business of providing or operating a parking station or parking facility. ” ;

- (c) in subsection (4), by deleting “Penalty: A fine of two hundred dollars or imprisonment for one month.” and substituting the following—

“ Penalty: A fine of two hundred dollars and if the offence is a continuing one a further fine of one hundred dollars for every day during which the offence has continued. ” ; and

- (d) by repealing subsection (5) and substituting the following subsection—

“ (5) Where a person is convicted of an offence under subsection (4) of this section the court may, in addition to any other penalty that may be imposed under that subsection, revoke the licence held by that person under section fifteen of this Act and where the court does so the licence held by that person is revoked accordingly. ” .

Section 21 amended.

6. Section 21 of the principal Act is amended in paragraph (t) of subsection (1) by deleting “forty dollars” and substituting the following—

“ two hundred dollars ” .

Act to apply to parking stations and parking facilities commenced before this Act.

7. (1) The provisions of the principal Act as amended by sections 2 and 3 of this Act are deemed to apply to and in relation to any parking station or parking facility whether established before or after the coming into operation of this Act.

(2) Where by virtue of subsection (1) of this section the consent of the Minister is required in respect of the provision before the coming into

operation of this Act for the use of the land or part of any building or structure of a parking station or parking facility for—

- (a) other municipal purposes; or
- (b) commercial or other purposes, including the provision of premises for retail trading,

the Council shall apply for that consent as soon as is practicable after the coming into operation of this Act and the provisions of the principal Act as amended by this Act apply to and in relation to that consent accordingly.
