

An Act to authorize the completion of a Tram-
road from the Mount Pleasant Coal Mines to
Wollongong Harbour. [17th December, 1862.]

MOUNT PLEASANT
TRAMROAD.

WHEREAS James Byrnes and William Byrnes of Sydney Mer- Preamble.
chants are owners of certain coal mines near Wollongong
aforesaid known as the Mount Pleasant Coal Mines And whereas
the said James Byrnes and William Byrnes hereinafter styled
promoters have commenced and made considerable progress in the
construction of a Tramroad for conveying coals from the said mines to
the Harbour of Wollongong aforesaid for shipment there And whereas
the completion of the said Tramroad will be of great public benefit in
promoting the supply of coal for local and general consumption And
whereas it is essential to such completion that the said promoters
should be empowered to carry the line of the said Tramroad through
certain lands being public property hereinafter also described upon
terms and conditions to be determined by Parliament Be it therefore
enacted by the Queen's Most Excellent Majesty by and with the
advice and consent of the Legislative Council and Legislative Assembly
of New South Wales in Parliament assembled and by the authority of
the same as follows:—

Mount Pleasant Tramroad.

Promoters may complete Mount Pleasant Tramroad.

1. It shall be lawful for the said promoters upon the terms and conditions and subject to the proviso and other enactments herein-after contained to complete the construction of the Tramroad already so commenced as above mentioned from a point distant fifty links from the north-east corner of Charles Throsby Smith's grant bearing north and running thence along the Government road and reserve on the sea coast in a south-easterly direction forty-six chains to a point at which it will intersect with the Osborne Wallsend Company's Tramway upon the harbour reserve at Wollongong at a distance of about forty-five links north-east of the north-east corner of McArrah's land. Provided that such Tramroad shall not occupy in any part thereof a greater space in breadth than one chain including the supports abutments and foundations thereof and that the gauge thereof shall be three feet eight inches. Provided also that as to so much of the said Tramroad as shall pass along any road street or other public way the rails shall not be raised above the level thereof and that sufficient fencing shall be provided for securing the public safety.

Ground and soil of Tramway site vested in promoters.

2. The ground and soil of so much of the site of the said Tramroad as passes over the lands of the Crown together with such right of ingress egress and regress upon the said lands as shall be necessary for the making and repair of the said Tramroad shall by virtue of this Act and without other assurance in the law become and be vested in the said promoters their heirs and assigns for the purposes of the said Tramroad. Provided that the said Tramroad shall be constructed and brought into use within one year after the passing of this Act and that in default thereof or if after its completion the said Tramroad shall cease to be used by the said promoters their heirs or assigns for one year continuously all the said lands and all their estate and interest therein shall revert to the Crown and all the rights and powers hereby conferred on the said promoters shall cease and determine. And it is further provided that if in the exercise of the powers hereby granted it be found necessary to cross cut through raise sink or use any part of any carriage road or horse road so as to render it impassable for or dangerous or inconvenient to the public the said promoters shall before the commencement of any such operations cause a sufficient road to be made instead of the road so interfered with and shall at their own expense maintain such substituted road in a state as convenient as the road interfered with or as nearly so as may be practicable and the said promoters before they use the said lands respectively for any of the purposes aforesaid shall if required by the Secretary for Lands separate the same by a sufficient fence from the land adjoining thereto with such gates as may be required for the convenient occupation of such land.

Tramway open to the public.

3. The Tramway hereby authorized to be made shall be open to public use upon payment of a toll to the said promoters of any sum not exceeding two pence per ton per mile or for any fraction of a mile the persons seeking transit supplying their own traction power and loading their own trucks or waggons and no additional charge shall be made on the return of such trucks or waggons.

Power to divert or alter roads.

4. For the purposes and subject to the provisions of this Act it shall be lawful for the said promoters to divert or alter the course of any public road or way crossing the said Tramroad or to raise or sink any road or way in order the more conveniently to carry the same across or by the side of the Tramroad. Provided that if the said promoters do not cause another sufficient road or way to be made before they interfere with any such existing road or way they shall forfeit twenty pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted and such

Mount Pleasant Tramroad.

such penalty shall be paid to the Surveyor or other person or persons having the management of such road and shall be applied for the purposes thereof.

5. If in the course of making the said Tramroad the said promoters shall use or interfere with any public road they shall from time to time make good all damage done by them to such road and if any question shall arise as to the damage done to any such road by the said promoters or as to the repair thereof by them such question shall be referred to the determination of two Justices who may direct such repairs to be made within such period as they may think reasonable and may impose on the said promoters for not carrying into effect such repairs any penalty not exceeding ten pounds per day as to such Justices shall seem fit and any such penalty shall be paid to the Surveyor or other person or persons having the management of the road interfered with and be applied for the purposes of such road Provided that the said Justices shall have regard to and shall make full allowance for any tolls that may have been paid by the said promoters on such road in the course of the using thereof.

6. Wherever the said Tramroad crosses any public highway or parish road the said promoters shall erect and at all times maintain good and sufficient gates across such road on each side of the Tramroad where the same shall communicate therewith and shall employ proper persons to open and shut such gates and such gates shall be kept constantly closed across such roads on both sides of the Tramroad except during the time when horses cattle carts or carriages passing along the same shall have to cross such Tramroad and such gates shall be of such dimensions and so constructed as when closed to fence in the said Tramroad and prevent cattle or horses passing along the road from entering upon the Tramroad and the person intrusted with the care of such gates shall cause the same to be closed as soon as such horses carts or carriages shall have passed through the same under a penalty of forty shillings for every default therein Provided that it shall be lawful for the Secretary for Public Works in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road shall be kept closed across the Tramroad to order that such gates shall be kept so closed instead of across the road and in such case such gates shall be kept constantly closed across the Tramroad except when locomotives or carriages passing along the same shall have occasion to cross such road in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

7. The said promoters shall make and at all times hereafter maintain the following works for the accommodation of the public—

Such and so many convenient gates bridges arches and passages over under or by the side of or leading to or from the Tramroad as shall be necessary for the purpose of making good any interruptions caused thereby to the use of the lands through which the same shall be made and such works shall be made forthwith after the part of the Tramroad passing over such lands shall have been laid out or formed or during the formation thereof.

All sufficient posts rails bridges ditches mounds or other fences for separating the land taken for the use of the Tramroad from the adjoining lands together with all necessary gates made to open towards such adjoining lands and not towards the Tramroad and all necessary stiles and such posts and rails and other fences shall be made forthwith after

Fences.

Provisions where roads are crossed on a level.

Works for benefit of the public.

Monnt Pleasant Tramroad.

Drains.

after the taking of any such lands if the Secretary for Lands shall so require and the said other works as soon as conveniently may be.

Also all necessary arches tunnels culverts drains or other passages either over or under or by the sides of the Tramroad of such dimensions as will be sufficient at all times to convey the water as clearly from the lands lying near or affected by the Tramroad as before the making thereof or as nearly so as may be and such works shall be made from time to time as the works proceed.

Provided always that the said promoters shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the Tramroad.

Penalty on persons omitting to fasten gates.

8. If any person omit to shut and fasten any gate set up at either side of the Tramroad for the accommodation of the public so soon as he and the carriage cattle or other animals under his care have passed through the same he shall forfeit for every such offence any sum not exceeding two pounds to be recovered before any two Justices of the Peace.

Terms of ultimate purchase by Government.

9. It shall be lawful for the Governor with the advice of the Executive Council at any time after the completion of the Tramway authorized by this Act to be made to purchase the same with the appurtenances in the name and on behalf of Her Majesty upon giving to the promoters six months' notice in writing of the intention to do so and on payment to them of a sum equal to the whole sum expended in completing the said Tramway by this Act authorized to be made and its appurtenances with a premium thereon at ten per cent. reserving nevertheless to the said promoters their heirs and assigns the use of the said Tramway or any other Tram or Railway laid down in place thereof for the transit of coal from the said mine to the harbour at Wollongong on such reasonable conditions as to the Secretary for Works for the time being may seem fit.

Accounts to be lodged.

10. The said promoters shall within six months after the completion of the Tramway authorized by this Act to be made file in the Office of the Colonial Secretary a true and faithful account in detail of all costs and expenses incurred in the making of the said Tramway or connected therewith verified by a declaration of the promoters or one of them and the amount of such costs and expenses so verified shall together with such premium as aforesaid be the amount at which the said Tramway may be purchased under the power in the foregoing clause contained.

Minerals not to pass.

11. The said promoters shall not be entitled to any mines of coal iron stone slate or other minerals under any land whereof the surface is vested in them by this Act except only such parts thereof as shall be necessary to be dug or carried away in the construction of the works hereby authorized and such mines shall not be deemed to vest in the said promoters.

Act to be deemed a Public Act.

12. This Act shall be deemed to be a Public Act and shall be styled and may be cited as the "Mount Pleasant Tramroad Act of 1862."