

## **HUNTER VALLEY CONSERVATION TRUST (AMENDMENT) ACT.**

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**Act No. 59, 1966.**

An Act to authorise the Hunter Valley Conservation Trust constituted under the Hunter Valley Conservation Trust Act, 1950, as amended by subsequent Acts, to borrow money; for this and other purposes to amend that Act, as so amended; to validate certain matters; and for purposes connected therewith. [Assented to, 14th December, 1966.]

BE

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**B**E it 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:—

Short title  
and  
citation.

1. (1) This Act may be cited as the "Hunter Valley Conservation Trust (Amendment) Act, 1966".

(2) The Hunter Valley Conservation Trust Act, 1950–1965, is in this Act referred to as the Principal Act.

(3) The Hunter Valley Conservation Trust Act, 1950, as amended by subsequent Acts and by this Act, may be cited as the Hunter Valley Conservation Trust Act, 1950–1966.

Further  
amendment  
of Act No.  
34, 1950.Sec. 4.  
(Constitu-  
tion of  
the Trust.)

2. The Principal Act is further amended—

- (a) (i) by omitting from subparagraph (ii) of paragraph (c) of subsection three of section four the words "in and by the instrument by which he is appointed be" and by inserting in lieu thereof the words "be appointed by the Governor to be";
- (ii) by omitting subsection nine of the same section;
- (iii) by omitting from paragraph (c) of subsection eleven of the same section the word "became" and by inserting in lieu thereof the word "become";

New sec.  
4A.

- (b) by inserting next after section four the following new section:—

Disability of  
trustees for  
voting on  
account of  
interest in  
contracts,  
etc.  
cf. Act No.  
41, 1919,  
s. 30A.

4A. (1) If a trustee has any pecuniary interest, direct or indirect, in any contract or proposed contract with the Trust or in any other matter in which the Trust is concerned, and is present at a meeting of the Trust at which the contract, proposed contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the

the commencement thereof, disclose his interest, and No. 59, 1966  
shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter :

Provided that this section shall not apply to an interest in a contract, proposed contract or other matter which a trustee may have as a ratepayer in respect of lands liable to be rated for the purposes of this Act.

(2) For the purposes of this section a person shall (subject as hereafter in this subsection provided) be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter under consideration; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter under consideration :

Provided that—

- (i) this subsection shall not apply to membership of, or employment under, any council or any statutory body as defined in section four of the Local Government Act, 1919, as amended by subsequent Acts;
- (ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares of that company or other body.

(3)

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(3) Where a trustee has indirectly a pecuniary interest in a contract, proposed contract or other matter and would not fall to be treated as having such an interest but for the fact that he has a beneficial interest in shares of a company or other body, then, if the total nominal value of those shares does not exceed one thousand dollars or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, so much of subsection one of this section as prohibits him from taking part in the consideration or discussion of, and from voting on any question with respect to, the contract, proposed contract or other matter shall not apply to him, without prejudice, however, to the duty of disclosure imposed by the said subsection one :

Provided that where the share capital of the company or other body is of more than one class, this subsection shall not apply if the total nominal value of all the shares of any one class in which he has a beneficial interest exceeds one-hundredth part of the total issued share capital of that class of the company or other body.

(4) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

(5) A general notice given in writing to the Secretary of the Trust by a trustee to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specific person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.

(6)

(6) The Secretary of the Trust shall record No 59, 1966 in a book to be kept for the purpose particulars of any disclosure made under subsection one of this section, and of any notice given under subsection five thereof, and the book shall be open at all reasonable hours to the inspection of any ratepayer in respect of lands liable to be rated for the purposes of this Act.

(7) (a) If any person fails to comply with the provisions of subsection one of this section, he shall for each offence be liable to a penalty not exceeding two hundred dollars unless he proves that he did not know that a contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(b) Where a person is convicted of an offence against this section he shall be disqualified for the office of trustee for a period of seven years unless the court by which he is convicted sees fit in the circumstances of the case to reduce the period of disqualification to a shorter period or to declare that such person shall not by virtue of his conviction be disqualified for the office of trustee.

(8) The Minister may, subject to such conditions as he may think fit to impose, remove any disability imposed by subsection one of this section in any case in which the number of trustees so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the interests of the ratepayers in respect of lands liable to be rated for the purposes of this Act that the disability should be removed.

(9) The Trust may by resolution provide for the exclusion of a trustee from a meeting of the Trust whilst any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration.

(10)

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(10) In this section, the expression "shares" includes stock and the expression "share capital" shall be construed accordingly.

Sec. 5.  
(Trust to  
be a body  
corporate.)

(c) by inserting next after paragraph (b) of subsection six of section five the following new paragraph :—

(b1) If at the scheduled time for the commencement of any meeting neither the Chairman nor the Deputy Chairman is present thereat, the trustees present shall elect from amongst their number an Acting Chairman, who shall preside at the meeting only so long as the absence of the Chairman or the Deputy Chairman, as the case may be, continues, and the provisions of subsection five of this section and of paragraph (b) of this subsection shall apply to an Acting Chairman while so presiding as if he were the Deputy Chairman.

(d) by omitting from paragraph (c) of the same subsection the words ", one of whom shall be the Chairman or, in his absence, the Deputy Chairman,";

Sec. 10.  
(Certain  
powers of  
Trust.)

(e) by omitting from paragraph (b) of subsection two of section ten the words "thirtieth day of June" and by inserting in lieu thereof the words "thirty-first day of December";

Sec. 10A.  
(Trust may  
contribute  
to certain  
works.)

(f) by inserting in section 10A after the words "soil conservation," the words "conservation of surface water, development of sub-surface water resources,";

New sec.  
10B.

(g) by inserting next after section 10A the following new section :—

Expenditure  
of funds  
for purposes  
not expressly  
authorised.

10B. Subject to this Act, the Trust may expend and shall be deemed always to have had power to expend for purposes not authorised but not expressly prohibited by law a sum not exceeding in any one year one per centum of the moneys to be collected

collected in respect of the conservation rate levied No. 59, 1966 under the provisions of Part XIII of this Act in — that year or two hundred dollars, whichever is the greater.

- (h) (i) by omitting from paragraph (a) of subsection Sec. 45. one of section forty-five the word "May" and (Estimates of income and expenditure to be prepared.) by inserting in lieu thereof the word "November";
  - (ii) by omitting from the same paragraph the word "financial";
  - (iii) by omitting from the same paragraph the word "July" and by inserting in lieu thereof the word "January";
- (i) by omitting from subsection one of section forty- Sec. 47. seven the words "thirtieth day of June" and by (Accounts inserting in lieu thereof the words "thirty-first day to be kept by of December". Trust.)

3. The Principal Act is further amended by inserting Further amendment of Act No. 34, 1950. next after section forty-six the following new sections :—

New secs. 46A-46H.

46A. The Trust shall have power to obtain advances Power to borrow by way of overdraft. by way of overdraft from any bank.

46B. The Trust may from time to time with the concurrence of the Treasurer and the approval of the Governor borrow money for— Purposes for which money may be borrowed.

- (a) the purpose of carrying out and performing any of its powers, authorities, duties and functions;
- (b) the renewal of loans;
- (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank; or
- (d) any other purpose of this Act.

**46C.**

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Reserves  
for  
repayment.

46C. (1) The Trust shall establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Trust.

(2) The Trust shall during each year transfer to each such fund from the revenue of the Trust a sum not less than the sum that the Trust in its application for approval of the loan intimated that it proposed to transfer as aforesaid.

(3) Where any land or property of any kind which has been provided out of moneys borrowed under section 46B of this Act is sold before those moneys have been wholly repaid, the net proceeds of the sale shall be added to the reserve for loan repayment in the appropriate fund or paid directly to the lender.

(4) (a) Moneys held as reserve for loan repayment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Trust, or in any securities guaranteed by the Government of the said State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(b) Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(c) All moneys paid into the reserve fund for loan repayment in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(5) Where the Trust decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which

which they were issued, then, in addition to the sum No. 59, 1966 otherwise payable to the reserve for loan repayment in respect of that loan, the Trust shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(6) If after a loan has been repaid there remains in the reserve for repayment of that loan any balance, it shall form part of the funds of the Trust.

(7) The reserve for loan repayment shall not be subject to seizure in satisfaction of any debt other than for the loan in respect of which the reserve was created.

(8) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

46D. (1) For securing repayment of the principal Debentures, and interest on any moneys borrowed, the Trust may as etc. provided by the regulations issue debentures, bonds, inscribed stock or other prescribed securities.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Trust in accordance with the regulations.

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall as regards both the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, as amended by subsequent Acts, contained in the Second Schedule to that Act.

(5)

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(5) The holder of a coupon originally annexed to a debenture or bond and whether separated therefrom or not shall be entitled to receive payment from the Trust of the interest mentioned in the coupon upon its presentation on or after the date when and at the place where the interest is payable.

(6) (a) The due repayment of the debentures, bonds, stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Trust from whatever source arising and is hereby guaranteed by the Government.

(b) Any liability arising from the guarantee shall be payable out of moneys provided by Parliament.

(c) The charge shall not prejudice or affect the power of the Trust to sell or convey any property vested in it free of the charge.

## Trustees.

46E. (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Trust, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by the Trust shall be a lawful investment for any moneys which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Trust or by any officer of the Trust in relation to any debenture or coupon issued or stock inscribed by the Trust.

46F. (1) If any debenture or bond issued by the No. 59, 1966 Trust is lost or destroyed or defaced before it has <sup>Lost</sup> been paid, the Trust may, subject to the provisions of debentures. this section, issue a new debenture or bond in lieu thereof.

(2) The new debenture or bond with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) When the debenture or bond is lost or destroyed the new debenture or bond shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture or bond, or of some person approved by the judge, that it has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Trust to indemnify it against any double payment if the missing debenture or bond is presented for payment.

(4) When the debenture or bond is defaced the new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Trust for cancellation.

(5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed, or defaced coupon.

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Protection  
of invest-  
ments.

46G. (1) A person advancing money to the Trust shall not be bound to enquire into the application of the money advanced, or be in any way responsible for its non-application or misapplication.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Trust shall, in favour of a lender and of any holder of a security given by the Trust, be conclusive evidence that all conditions precedent to the borrowing have been complied with.

Debentures  
and bonds to  
rank pari  
passu.

46H. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Trust shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

Validation  
of certain  
acts.

4. All things done or omitted to be done at any time before the commencement of this Act that would have been valid had the amendments made by paragraphs (e), (h) and (i) of section two of this Act been in force at that time are hereby validated.

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