

**RAILWAY CONSTRUCTION (MALDON TO PORT KEMBLA)  
ACT, 1983, No. 112**

**New South Wales**



ANNO TRICESIMO SECUNDO

**ELIZABETHÆ II REGINÆ**

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**Act No. 112, 1983.**

An Act to sanction and provide for the construction of a branch railway from the main southern railway near Maldon to the vicinity of the Port Kembla Coal Loading Berth; and for other purposes. [Assented to, 5th December, 1983.]

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**BE** 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.**

1. This Act may be cited as the "Railway Construction (Maldon to Port Kembla) Act, 1983".

**Interpretation.**

2. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“scheduled work” means the work described in Schedule 1, subject to such modifications and deviations as may be deemed necessary or desirable by the Authority;

“the Authority” means the State Rail Authority.

(2) The site of the work described in Schedule 1 is as shown on the plan marked “State Rail Authority of New South Wales Maldon to Dombarton to Port Kembla Scheduled Plan No. 2014/50,604” sealed with the seal of the Authority, countersigned by the Chief Civil Engineer of the Authority, and deposited in the office of the Authority.

**Scheduled work sanctioned.**

3. (1) The carrying out of the scheduled work is hereby sanctioned.

(2) The Authority is empowered to carry out the scheduled work and for the purpose of so doing may do all such things, including entering into contracts, as it may consider necessary.

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**Cost of scheduled work.**

4. The cost of carrying out the scheduled work which, exclusive of amounts paid in connection with the acquisition of land, is estimated at \$160,000,000 shall not exceed that amount by more than 10 per cent.

**Application of Public Works Act, 1912.**

5. (1) The scheduled work shall be deemed to be an authorised work within the meaning of the Public Works Act, 1912 (in this section referred to as "the Act").

(2) For the purpose of the scheduled work, the Authority shall be the Constructing Authority within the meaning of the Act.

(3) The provisions of the Act, other than sections 34, 35, 36, 37, 47, 48, 49, 91 (b), 126 (3), 151 and 153, shall apply to and in respect of the scheduled work.

(4) Notwithstanding the exclusion by subsection (3) of the provisions of section 91 (b) of the Act to and in respect of the scheduled work, the Authority may in its discretion make and maintain such fences in connection with the scheduled work as it thinks fit.

(5) Without prejudice to the generality of the other provisions of this section, the provisions of section 38 of the Act shall apply to and in respect of a contract to be made under section 3 (2).

**Application of other Acts.**

6. (1) Notwithstanding the provisions of the Local Government Act, 1919, of any ordinance made under that Act, of the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument within the meaning of that Act, or of any other Act—

- (a) the land acquired for the scheduled work may be used in connection with the scheduled work for such purposes as the Authority determines; and
- (b) structures, complying with such specifications as the Authority approves, may be erected on the land referred to in paragraph (a).

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(2) Part V of the Environmental Planning and Assessment Act, 1979, applies to and in respect of any act, matter or thing done or intended to be done pursuant to this Act (being an act, matter or thing which is an activity as defined in paragraph (a), (b) or (c) of the definition of "activity" in section 110 of that Act) and, for the purposes of that application, the Authority is the determining authority within the meaning of that Part.

**Construction in proximity to roads.**

7. The scheduled work may be constructed on, over, under, along or by the side of a road if it is to be so constructed solely for the purpose of allowing the scheduled work to cross the road.

**Protective and safety devices at level crossings.**

8. If the scheduled work crosses a road on the level, the Authority as the Constructing Authority shall install such protective and safety devices at the crossing as it deems requisite or expedient.

**Closing of roads.**

9. (1) Notwithstanding any provision of the Public Roads Act, 1902, the Public Works Act, 1912, or any other Act, where a road is or may be affected by the construction of the scheduled work the Authority may, with the approval of the Governor, by notice published in the Gazette close such part or parts of the road as is or are specified in the notice.

(2) A notice referred to in subsection (1) shall not be published unless the Governor is satisfied—

- (a) that no person will be denied reasonable access to land by virtue of the closure or partial closure of the road; or
- (b) that, where a person is denied access to land along the road that is proposed to be closed or partially closed, a road providing reasonable access to that land is permanently available or has been provided by the Authority.

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(3) Upon publication in the Gazette of a notice referred to in subsection (1), any dedication as a public road of the land specified in the notice shall absolutely cease and determine and the rights of any person to use the land specified in the notice or any part of that land for the purpose of a road shall be extinguished.

(4) The land specified in the notice referred to in subsection (1) shall, upon publication of the notice, vest in the Authority as Constructing Authority.

(5) No claim against the Authority, whether as Constructing Authority or otherwise, for compensation shall arise from anything done by it under subsection (1) or from or in respect of the vesting under subsection (4).

**Maintenance of roads and bridges.**

10. (1) Where the scheduled work—

- (a) crosses a road on the level;
- (b) is carried over a road; or
- (c) is carried under a road,

the maintenance of, and any future paving, kerbing, guttering, roadmaking, draining and other construction of a like or different nature in relation to, any such road—

- (d) in a case to which paragraph (a) applies, up to the sleeper ends on each side of the scheduled work;
- (e) in a case to which paragraph (b) applies, that is under the scheduled work, excluding the bridge or structure or any part of the bridge or structure that carries the scheduled work; and
- (f) in a case to which paragraph (c) applies, that is carried over the scheduled work,

shall, after the completion of the scheduled work, be undertaken without expense to the Authority by the council (within the meaning of the Local Government Act, 1919), the Commissioner for Main Roads or any other authority, as the case may be, that would have been responsible for the road if the scheduled work had not been constructed, notwithstanding that the road may have been or be wholly or partly vested in the Authority.

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(2) Where the scheduled work is carried under a road, the whole or a portion of a bridge or structure over which the road runs, or of an approach to the bridge or structure, that is not within the land required for or for the purposes of the scheduled work as a railway may be dedicated as a public road under the Public Roads Act, 1902, or as a public highway under section 81 of the Public Works Act, 1912.

(3) A dedication referred to in subsection (2) of the whole or a portion of a bridge or structure over which a State highway or main road runs or of an approach to the bridge or structure shall have the same effect as if the whole or the portion, as the case may be, had been proclaimed by the Governor as a State highway or main road under the Main Roads Act, 1924.

**Exclusion of certain laws and claims.**

11. Notwithstanding any provision in any Act, or any other law to the contrary—

- (a) it shall not be necessary for the Authority, its servants or its agents or any contractor to give notice of an intention to blast any rock in connection with the construction of the scheduled work; and
- (b) the Authority, its servants or its agents or any contractor shall not be liable to have an injunction issued to restrain any of them from causing or continuing to cause any nuisance by any such blasting or by any other operation necessary or proper in connection with the construction of the scheduled work.

**Validation.**

12. Any act, matter or thing done at any time before the commencement of this Act by the Authority, being an act, matter or thing which could lawfully have been done by the Authority had this Act been in force at that time is hereby validated.

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## SCHEDULE 1.

(Sec. 2.)

## DESCRIPTION OF WORKS.

1. A railway in the Parishes of Picton, Wilton, Banksia, Dendrobium, Wongawilli and Kembla in the County of Camden, commencing at Maldon on the Main Southern Railway at a point about 79 kilometres from Sydney, proceeding generally south-easterly across the Nepean River and continuing south-easterly for about 3 kilometres across the F5 Freeway west of the town of Wilton, then turning and proceeding in a south-westerly direction for about 2 kilometres passing to the west of the town of Wilton and then again turning and proceeding in a south-easterly direction for about 4 kilometres to the vicinity of Portions 55 and 61 in the Parish of Wilton where it turns to take a south-westerly direction for about 2 kilometres to cross the Cordeaux River at a point about 2 kilometres south of the junction of that river with the Avon River, then turning and proceeding in a southerly direction through the Parish of Banksia for about 4 kilometres following approximately the route of Fire Road No. 6B, then proceeding in a south-easterly direction for about 3 kilometres and then southerly for about 3 kilometres, then continuing south-easterly for about 6 kilometres through the Parish of Dendrobium following approximately the route of Fire Road No. 6A and passing to the east of Lake Avon, then proceeding in a southerly direction for about 3 kilometres and then turning to the east and passing through the Illawarra Range in the Parish of Wongawilli, then continuing east to a junction with the Unanderra to Moss Vale Railway near the Dombarton Loop at a point about 98 kilometres from Sydney, being in all about 36 kilometres in length.

2. All work deemed necessary by the Constructing Authority to provide a continuous duplicated railway commencing at the junction of the railway described in item 1 with the Unanderra to Moss Vale Railway, then following the route of the Unanderra to Moss Vale Railway generally in an easterly direction to the junction of that railway with the Illawarra Railway, then continuing in a north-easterly direction along the route of the Illawarra Railway to the Coniston Triangle and then following the route of the southern fork of that triangle to join with the Inner Harbour line to Port Kembla, being in all about 15 kilometres in length.

3. Sidings, loops and loading facilities, and means of access thereto, as the Constructing Authority deems necessary.

4. Electric power for operating the railway, and cables for the transmission of power.

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