

**WHITTINGHAM TO MOUNT THORLEY
RAILWAY ACT.**

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 51, 1975.

An Act to sanction and provide for the construction of a branch railway from the main northern railway near Whittingham to the vicinity of Mount Thorley; to amend the Public Works Act, 1912; and for purposes connected therewith. [Assented to, 7th October, 1975.]

BE

Whittingham to Mount Thorley Railway.

BE it enacted by the Queen's Most Excellent Majesty, by **No. 51, 1975**
 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:—

1. This Act may be cited as the "Whittingham to Mount Thorley Railway Act, 1975". Short title.

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

"Commission" means the Public Transport Commission of New South Wales;

"council" means council within the meaning of the Local Government Act, 1919;

"scheduled work" means the work described in the Schedule, subject to such modifications and deviations as may be deemed necessary or desirable by the Commission.

(2) The site of the scheduled work is shown on the plan marked "Public Transport Commission of N.S.W. Whittingham-Mt. Thorley Schedule Plan" sealed with the seal of the Commission, countersigned by the Director of Engineering of the Commission and deposited in the office of the Commission.

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

(2) The Commission 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.

Whittingham to Mount Thorley Railway.

No. 51, 1975 **4.** The cost of carrying out the scheduled work which, exclusive of amounts paid in connection with the acquisition of land, is estimated at \$9,700,000, shall not be exceeded by more than 10 per centum.

Estimated cost not to be exceeded by more than 10 per centum.

Application of Public Works Act, 1912.

5. (1) The scheduled work shall be deemed to be authorised works 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 Commission 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 Commission 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).

Use of, and building on, the land.

6. Notwithstanding the provisions of the Local Government Act, 1919, of any ordinance made under 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 Commission determines; and
- (b) structures, complying with such specifications as the Commission approves, may be erected on the land referred to in paragraph (a).

7.

Whittingham to Mount Thorley Railway.

7. The scheduled work may be constructed on, over, **No. 51, 1975** 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 that road. Construction in proximity to roads.

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

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 Commission may, with the approval of the Governor, by notice published in the Gazette close such part or parts of that road as is or are specified in the notice. Closing of roads.

(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, that a reasonably alternative road of access to that land is permanently available or has been provided by the Commission.

(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)

Whittingham to Mount Thorley Railway.

No. 51, 1975 (4) The land specified in the notice referred to in subsection (1) shall, upon publication of the notice, vest in the Commission as Constructing Authority.

(5) No claim against the Commission, 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 Commission by the council, 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 Commission.

(2)

Whittingham to Mount Thorley Railway.

(2) Where the scheduled work is carried under a No. 51, 1975 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 shall have the same effect as if the whole or the portion, as the case may be, of the bridge or structure had been proclaimed by the Governor as a State highway or main road under the Main Roads Act, 1924.

SCHEDULE.

Sec. 2.

Description of Works.

1. A railway in the Parishes of Whittingham, Warkworth and Wollombi in the County of Northumberland, commencing at Whittingham on the main northern railway at a point about 234 kilometres from Sydney, proceeding generally westerly for about 4 kilometres, then generally south westerly for about 6 kilometres passing to the south of Main Road No. 503 and terminating in the vicinity of portions 44, 139 and 140 in the Parish of Warkworth and portion 27 in the Parish of Wollombi, being in all about 12 kilometres in length.

2. Sidings, loops and loading facilities, and means of access thereto, including access from Main Roads Nos. 181, 503 and 213, as the Constructing Authority deems necessary.

3. Works for the protection of the environment as the Constructing Authority deems necessary or desirable as a consequence of carrying out the works referred to in items 1 and 2.

BURSARY