

CUMBERLAND OVAL ACT, 1981, No. 85

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 85, 1981.

An Act to withdraw from Parramatta Park an area of land known as Cumberland Oval; to provide for the granting of certain leases, licences and easements in respect of that land; and for other purposes. [Assented to, 9th June, 1981.]

Cumberland Oval.

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 "Cumberland Oval Act, 1981".

Interpretation.

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

- "by-law" means a by-law made under this Act;
- "designated land" means lot 951 in the Plan;
- "lessee" includes sub-lessee;
- "the Plan" means the plan filed in the office of the Registrar-General as deposited plan 42643;
- "work" includes the construction or erection of a building or other structure.

Vesting of certain land.

3. The designated land is hereby vested in Her Majesty freed and discharged from any trusts, estates, interests, dedications, conditions, restrictions, covenants and provisions affecting that land immediately before the commencement of this Act.

Grant of leases, easements and licences.

4. (1) In this section, "easement" includes an easement in favour of any public or local authority constituted by an Act of Parliament, without a dominant tenement.

Cumberland Oval.

(2) The Minister may, from time to time and upon such terms and conditions as he thinks fit, grant—

- (a) a lease of the designated land authorising that land to be used for the purpose of, or for purposes ancillary to or connected with, sporting activities;
- (b) easements or licences, or easements and licences—
 - (i) enabling the construction, erection or laying of pipelines or cables and associated improvements and apparatus under, upon or above the land described as lots 954, 957, 958, 959, 961, 962 and 963 in the Plan or any part of that land and enabling the use, maintenance and replacement of any pipelines, cables or associated improvements and apparatus situated under, upon or above that land or any part of that land on or after the commencement of this Act; and
 - (ii) providing rights of pedestrian or vehicular access and egress, or of pedestrian and vehicular access and egress, to and from the designated land within the areas of land described as lots 954, 955, 956, 959, 961, 962, 963 and 964 in the Plan and, for the purpose of facilitating and enabling the regulation of that access and egress, enabling the improvement and maintenance of the land so described; and
- (c) licences—
 - (i) enabling the land described as lots 953, 954, 955, 959, 960, 962, 963 and 965 in the Plan or any part of that land to be used for activities ancillary to, or connected with, any of those that may be lawfully carried out on the designated land, otherwise than pursuant to a power contained in a lease of the designated land pursuant to subsection (3) (a), and the improvement and maintenance of the land so described, or any part thereof;
 - (ii) enabling the carrying out of landscaping and other improvements upon the land described as lots 952, 953, 954, 955, 956, 958, 959, 961, 962, 963 and 964 in the Plan and the maintenance of any landscaping and improvements upon that land; and

Cumberland Oval.

(iii) authorising the use, for a period not exceeding the maximum period fixed by order of the Minister, of the land described as lots 952, 953, 954, 955, 956, 958, 959, 961, 962, 963 and 964 in the Plan or any part thereof for purposes ancillary to, or connected with, the carrying out of works upon the designated land pursuant to a lease granted under this subsection.

(3) Notwithstanding subsection (2) (a), a lease granted under subsection (2) may—

- (a) empower the lessee to construct or erect a stadium and other improvements, establish or improve a playing field and carry out other associated works on the designated land, but only in accordance with plans and specifications approved by the Minister; and
- (b) provide that the designated land or any part thereof may, with the consent of the Minister, be used for purposes other than those referred to in subsection (2) (a).

(4) Sections 88A and 181A of the Conveyancing Act, 1919, apply to and in respect of an instrument purporting to grant an easement under subsection (2).

Approval of certain plans, etc.

5. (1) Subject to subsection (2), the Minister may approve plans and specifications for the purpose of enabling the lessee under a lease granted under section 4 (2) to carry out works on the designated land.

(2) The Minister may not, under subsection (1), approve plans and specifications relating to any works unless an approval has been given under Part XI of the Local Government Act, 1919, with respect to the carrying out of those works in accordance with those plans and specifications.

(3) Nothing in section 4 or in any lease, easement or licence granted under section 4 (2) affects the application of the provisions of Part XI of the Local Government Act, 1919, to and in respect of the carrying out of works on the designated land or on any land subject to an easement or licence granted under section 4 (2).

Cumberland Oval.

Certain requirements waived.

6. (1) Where, by or under an easement or licence granted under section 4 (2), any land is authorised or required to be used for a purpose by any person, the land may be used by that person for that purpose, notwithstanding—

- (a) the Act 20 Victoria number 35 entitled “An Act to provide for the disposal of the Parramatta Domain.”;
- (b) the Crown Lands Consolidation Act, 1913, or any instrument made under that Act; or
- (c) any trust or dedication.

(2) In subsection (1), “instrument” includes, without affecting the generality of that expression, any notification or by-law.

Consent to use of certain land.

7. (1) Subject to subsection (2), the Minister may consent to the use of the designated land or any part thereof for purposes other than those referred to in section 4 (2) (a).

(2) The Minister may not, under subsection (1), consent to the use of the designated land or any part thereof for any purpose if the use of that land or part for that purpose by a person would result in the person’s contravening section 76 (1), (2) or (3) of the Environmental Planning and Assessment Act, 1979.

(3) Nothing in section 4 or 6, or in any lease, easement or licence granted under section 4 (2), affects the application of the provisions of Part IV of the Environmental Planning and Assessment Act, 1979, to and in respect of the use of the designated land or any land subject to an easement or licence granted under section 4 (2).

Cumberland Oval.

Application of rent.

8. (1) Any rent paid pursuant to a lease granted under section 4 (2) shall be applied—

- (a) for the purpose of improving Parramatta Park; and
- (b) if the Minister so approves, in accordance with a proposal for the improvement of other parks and reserves within the City of Parramatta.

(2) Before the Minister approves a proposal referred to in subsection (1) (b), he shall—

- (a) submit the proposal to the trustees for the time being of Parramatta Park for their consideration; and
- (b) consider any recommendation of those trustees—
 - (i) relating to that proposal; and
 - (ii) made to him within 30 days of his having submitted that proposal to them.

Plan of management, etc.

9. (1) A plan of management for Parramatta Park prepared under section 37U of the Crown Lands Consolidation Act, 1913, and any amendment or alteration of any such plan prepared under section 37V of that Act may make provision for facilitating the lawful use of the designated land.

(2) By-laws may be made under section 37II of the Crown Lands Consolidation Act, 1913, with respect to Parramatta Park so as to facilitate the lawful use of the designated land.

Aid of police.

10. The lessee for the time being of the designated land, or any officer appointed by that lessee, may call in the aid of the police for the removal, by force if necessary, of any person who is found committing a breach of

Cumberland Oval.

any by-law applicable to the designated land, or who by disorderly or insulting conduct on the designated land or on any public place causes annoyance or inconvenience to persons on the designated land or going to or from the designated land.

Power of entry.

11. (1) The Minister, or any person authorised by him for that purpose, may enter the designated land or any part thereof and may inspect that land or part.

(2) A person who obstructs the Minister, or a person authorised by him, in the exercise of his power under this section is guilty of an offence and liable to a penalty not exceeding \$500.

By-laws.

12. (1) The Governor may make by-laws, not inconsistent with this Act, for or with respect to any matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the regulation or prohibition of the entry or presence of persons on the designated land, or any part thereof, without the authority of the lessee for the time being of that land or the Minister;
- (b) the protection of any fence, gate, building, structure, machinery or equipment or other property vested in, or under the control of, the lessee for the time being of the designated land or the Minister and wholly or partly on that land;
- (c) the preservation or protection of, or prevention of damage to, trees, shrubs, ferns, creepers, vines, palms, plants, flowers, herbage, lawn, turf, grass or other vegetative cover on the designated land;
- (d) the securing of decency and order upon the designated land; and
- (e) the removal of trespassers and other persons causing annoyance or inconvenience upon the designated land or any part thereof.

Cumberland Oval.

(2) A provision of a by-law may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors; or
- (b) apply differently according to different factors of a specified kind, or may do any combination of those things.

(3) A by-law may impose a penalty not exceeding \$500 for any breach thereof.

(4) The lessee for the time being of the designated land shall cause a copy of any by-law applicable to any of the designated land to be posted in some conspicuous place on the land to which it relates.

Recovery of penalties.

13. Any penalty imposed by this Act or the by-laws made under this Act may be recovered in a summary manner before a court of petty sessions constituted by a stipendiary magistrate.

Saving.

14. Nothing in this Act affects any debts owing or liabilities incurred or actions which were or might have been commenced, before the commencement of this Act, in respect of the designated land or of anything done or omitted to be done in connection therewith.
