

BENNELONG POINT (PARKING STATION) ACT 1985 No. 189

New South Wales



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ELIZABETHÆ II REGINÆ

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Act No. 189, 1985

An Act to make provision with respect to the construction and operation of an underground parking station at Bennelong Point. [Assented to, 10th December, 1985.]

See also Sydney Opera House (Amendment) Act 1985; Sydney Opera House Trust (Amendment) Act 1985.

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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 "Bennelong Point (Parking Station) Act 1985".

Interpretation

2. (1) In this Act—

“Minister” means the Minister for Public Works;

“scheduled works” means the works described in Schedule 1 (description of works for parking station).

(2) A reference in this Act to the carrying out of the scheduled works includes a reference to—

- (a) the carrying out of development (within the meaning of the Environmental Planning and Assessment Act 1979) for the purposes of the scheduled works;
- (b) the erection of a building (within the meaning of Part XI of the Local Government Act 1919) for the purposes of the scheduled works; and
- (c) without affecting the generality of the foregoing, the use of the scheduled works, at any time, for the purposes of a parking station (including any related purpose prescribed by the regulations).

Environmental assessment of proposed parking station

3. (1) The Minister may, subject to this section, approve of the scheduled works being carried out.

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(2) The Minister shall not approve of the scheduled works being carried out unless—

- (a) the Minister is satisfied that the provisions of Part V of the Environmental Planning and Assessment Act 1979 (environmental assessment) have been substantially complied with in relation to the carrying out of the scheduled works and, in particular, having regard to an environmental impact statement under that Part of that Act and any other relevant matter, the Minister is satisfied that the scheduled works can be carried out without causing a substantial detrimental effect on the surface of, or vegetation on, the land described in Schedule 2; and
- (b) the Minister has consulted with the Minister administering that Act with respect to the carrying out of the scheduled works.

(3) For the purpose of applying the provisions of Part V of the Environmental Planning and Assessment Act 1979 to the scheduled works, the carrying out of those works shall be deemed to be an activity to which section 112 of that Act applies and the Minister shall be deemed to be the determining authority within the meaning of that Part of that Act.

(4) Proceedings may not be brought in any court by a person to restrain or remedy a breach of this section unless a right of the person has been or may be infringed by or as a consequence of that breach.

Construction of parking station

4. (1) This section has effect if the Minister approves, under section 3, of the carrying out of the scheduled works and notifies that approval in the Gazette.

(2) The carrying out of the scheduled works is sanctioned.

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

(4) The scheduled works shall be deemed to be an authorised work within the meaning of the Public Works Act 1912.

(5) For the purposes of the scheduled works, the Minister shall be deemed to be the Constructing Authority within the meaning of the Public Works Act 1912.

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(6) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply to or in respect of the scheduled works.

(7) Without prejudice to the generality of the provisions of Division 6 of Part VI of the Public Works Act 1912, the Constructing Authority and all persons acting under the Constructing Authority may, for the purpose of carrying out the scheduled works or for incidental purposes, enter upon and occupy the land described in Schedule 2.

(8) If the Minister is satisfied that it is reasonably necessary for the purpose of enabling the scheduled works to be carried out, the Minister may, by notification published in the Gazette, direct that any part of Macquarie Street, Sydney, specified in the notification (being a part of that street that is within the area of the land described in Schedule 2) shall, for a period so specified, be closed to vehicular or pedestrian traffic or vehicular and pedestrian traffic, except that authorised by the Minister.

(9) A part of Macquarie Street the subject of a notification published under subsection (8) shall, for the period specified in the notification, cease to be a public road for the purposes of the traffic to which the notification relates.

Agreement for construction and leasing of parking station

5. (1) The Minister may, in consideration of a person's offering to undertake at the person's own cost the carrying out of the scheduled works, agree that upon completion of those works the Minister will, at the request of the person, grant to the person a lease of the lands occupied by those works together with such easements and rights over adjacent or superjacent lands as may be expedient.

(2) The agreement shall, in so far as it relates to the carrying out of the scheduled works, be deemed for the purposes of this Act and the Public Works Act 1912 to be an agreement by the Constructing Authority for the carrying out of those works.

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Acquisition of land and granting of lease for parking station

6. (1) Upon the completion of the scheduled works, the Minister shall cause a survey to be made of the land occupied by those works and, by notification published in the Gazette, declare that the land so surveyed, together with such easements and rights as may be expedient, and described in the notification, is appropriated (if Crown land) or resumed (if private property) for the purpose of a parking station (including any related purpose prescribed by the regulations).

(2) Subject to this section, the notification shall, upon its publication in the Gazette, have the same effect and operation as a notification referred to in section 42 of the Public Works Act 1912.

(3) Upon acquiring the land and easement or right under subsection (1), the Minister may, on behalf of Her Majesty, grant to a person with whom the Minister has entered into an agreement under section 5, at the person's request, a lease of the acquired land, together with such easements and rights as may be expedient, with such rights of renewal as may be specified in the lease.

Variation of land on which parking station to be constructed

7. (1) The Governor may, by regulation, amend Schedule 2—

- (a) by omitting any matter;
- (b) by inserting any matter which specifies or describes any land which, in the opinion of the Minister, is necessary for inclusion within Schedule 2 in order to enable the scheduled works to be carried out; or
- (c) by altering any matter.

(2) The Governor may, by regulation, omit Schedule 2 and insert instead a Schedule which specifies or describes any land which, in the opinion of the Minister, is necessary for inclusion within Schedule 2 in order to enable the scheduled works to be carried out.

Application of certain legislation

8. (1) Except as otherwise provided by this Act or the regulations—

- (a) the Environmental Planning and Assessment Act 1979;
- (b) Parts IX and XI of the Local Government Act 1919; and

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- (c) any instrument in force under that Act or those Parts, as the case may be,

do not apply to or in respect of the carrying out of the scheduled works or the approval of the Minister to the carrying out of those works.

(2) The scheduled works may be carried out notwithstanding anything in—

- (a) the Royal Botanic Gardens and Domain Trust Act 1980;
- (b) the Sydney Opera House Trust Act 1961;
- (c) the Crown Lands Consolidation Act 1913; or
- (d) any instrument in force under any of those Acts.

Regulations

9. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE 1

(Sec. 2)

DESCRIPTION OF WORKS FOR PARKING STATION

1. Works for or associated with the construction, establishment, maintenance and operation of an underground parking station on the land described in Schedule 2.
 2. Works for use as vehicular and pedestrian access to Macquarie Street, Sydney, and pedestrian access to Sydney Cove.
 3. The re-location and re-establishment of existing services rendered necessary by the carrying out of the works referred to in the other items of this Schedule.
 4. Such works for the protection of the environment as may be considered necessary or desirable by the Minister as a consequence of the carrying out of any of the works referred to in the other items of this Schedule.
 5. Works the use of which is ancillary or incidental to any of the works referred to in the other items of this Schedule.
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SCHEDULE 2

(Sec. 7)

DESCRIPTION OF LAND

All that piece or parcel of land situated in the City of Sydney, Parish of St. James and County of Cumberland; commencing on the western side of Macquarie Street at the easternmost southeastern corner of the land in Deposited Plan 106868; and bounded thence generally on the northwest by lines and lengths of arc parallel to and rectangularly equidistant generally northeasterly from the generally northwestern boundary of lot 32 Deposited Plan 39586 and the generally northern boundary of lot 25 of that plan (delineated as lines 9-20 inclusive, 907 and 22-27 inclusive) to a point on the northernmost northwestern boundary of lot 25 (delineated as line 28); generally on the southeast by part of that boundary southwesterly to the angle formed by lines 27 and 28; by a line southwesterly to a point 80 metres rectangularly distant southeasterly from line 20, measured from the northernmost corner of lot 32; by a line southwesterly to a point 80 metres rectangularly distant southeasterly from line 16, measured from the angle formed by lines 15 and 16 and by a line southwesterly to a point 80 metres rectangularly distant easterly from line 6, measured from the angle formed by lines 5 and 6; on the east by a line southerly to a point rectangularly distant 80 metres easterly from line 2, measured from the angle formed by lines 1 and 2; again on the east by a line parallel to line 2 southerly to the generally northern boundary of the site required for below surface easement shown in plan catalogued 1024-41/781 at the State Rail Authority; on the south by part of that boundary generally westerly to the said western side of Macquarie Street; and on the west by that side of that street northerly to the point of commencement, and having an area of 4.5 hectares or thereabouts.
