



New South Wales

Centennial Park and Moore Park Trust Amendment (Eastern Distributor) Act 1997 No 19

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Centennial Park and Moore Park Trust Amendment (Eastern Distributor) Act 1997 No 19

Act No 19, 1997

An Act to amend the *Centennial Park and Moore Park Trust Act 1983* to facilitate construction of the Eastern Distributor and associated road and construction works; to enable the use of land for specified purposes; and for other purposes. [Assented to 12 June 1997]

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Centennial Park and Moore Park Trust Amendment (Eastern Distributor) Act 1997*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation.
- (2) Despite subsection (1), a provision of this Act does not take effect until the Minister for Urban Affairs and Planning has granted any relevant approval under Division 4 of Part 5 of the *Environmental Planning and Assessment Act 1979* for the proposed Eastern Distributor in relation to lands affected by this Act.

3 Amendment of Centennial Park and Moore Park Trust Act 1983 No 145

The *Centennial Park and Moore Park Trust Act 1983* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 4 Definitions

Insert “(but does not include any land divested from the Trust under section 15B)” after “19” in the definition of *original land* in section 4 (1).

[2] Section 10 Disposal of certain land prohibited

Insert “Part 3A and” before “section 20 (2)”.

[3] Part 3A

Insert after Part 3:

Part 3A Provisions relating to the Eastern Distributor

15A Definitions

In this Part:

Eastern Distributor means the road link or the proposed road link between the Cahill Expressway and Mill Pond Road, Botany.

plan means the plan consisting of two sheets numbered Sheets 1 and 2 of Plan No 6007413SP0007, presented to the Speaker of the Legislative Assembly (by or on behalf of the Member of the Assembly who introduced the Bill for the *Centennial Park and Moore Park Trust Amendment (Eastern Distributor) Act 1997*) when the Bill was introduced into the Assembly, a copy of which is also lodged in the office of the Roads and Traffic Authority.

revested land means the land vested in the Trust by section 15C (2).

road work and *carry out road work* have the same meanings as they have in the *Roads Act 1993*.

traffic control facility and *carry out traffic control work* have the same meanings as they have in the *Roads Act 1993*.

vesting date means:

- (a) 31 August 2001, or
- (b) the date that is the first anniversary of the date on which the Eastern Distributor is first open to traffic,

whichever first occurs.

15B Removal of certain land for purposes of Eastern Distributor

The land shown coloured pink on the plan is divested from the Trust and is, by this section, instead vested in the Roads and Traffic Authority for an estate in fee simple, freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements, existing immediately before the land is so vested.

15C Temporary removal of other land for purposes of Eastern Distributor

- (1) The land shown hatched green on the plan is divested from the Trust and is, by this subsection, instead vested in the Roads and Traffic Authority for an estate in fee simple, freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements, existing immediately before the land is so vested, subject to the rights created by the easements referred to in subsection (3).
- (2) The land referred to in subsection (1) vested in the Roads and Traffic Authority is, on and from the vesting date, by this subsection, instead vested in the Trust for an estate in fee simple, freed and discharged from any trusts, obligations, estates, interests, contracts, charges, rates, rights-of-way or other easements, existing immediately before the land is so vested, subject to any rights in relation to the land created under section 15D, 15H or 15I and to the rights created by the easements referred to in subsection (3).

- (3) The vesting or re-vesting of land under subsection (1) or (2) does not extinguish:
 - (a) the easement for electricity purposes affecting Lot 1762 in Deposited Plan 821362, as referred to in Certificate of Title folio 1762/21362 immediately before the date the land is so vested, or
 - (b) the easement for electricity purposes affecting Lot 1772 in Deposited Plan 821362, as referred to in Certificate of Title folio 1772/821362 immediately before the date the land is so vested.
- (4) The re-vesting of any land by subsection (2) that is a public road within the meaning of the *Roads Act 1993* does not affect the status of the land as a public road and any such road is taken to be a public road vested in the Trust.
- (5) Without affecting the generality of subsection (4) and without limiting the operation of the *Roads Act 1993* in relation to the land referred to in that subsection, that land can be the subject of orders under Part 5 of that Act (which relates to the classification of roads).

15D Use of re-vested land by Roads and Traffic Authority

- (1) The Roads and Traffic Authority has, on such terms and conditions as are agreed from time to time by the Minister for the Environment and the Minister for Roads, a permanent licence for the use and occupation of those parts of the re-vested land specified in sections 15E–15G for the carrying out of purposes specified in those sections in respect of the land.
- (2) The licence under this section commences on and from the vesting date.
- (3) The licence under this section extends, if it is necessary for carrying out the purposes to which the licence relates, to allow exclusive use and occupation for carrying out those purposes on, under or above the surface of the land or in relation to a stratum above or below the surface of the land.

- (4) The Minister for the Environment may, with the concurrence of the Minister for Roads, by order published in the Gazette, specify additional land of the Trust that is to be subject to the licence under this section for the purposes set out in section 15G (b) and (c) and purposes ancillary to those purposes. Any such order has effect according to its tenor.
- (5) The Trust must not:
 - (a) take any action, or carry out any function, in relation to or that affects the revested land in a way that is inconsistent with the licence conferred on the Roads and Traffic Authority by this section, or
 - (b) take any action, or carry out any function, that interferes with or obstructs the use of the land by the Roads and Traffic Authority in accordance with the licence.
- (6) The Roads and Traffic Authority may, with the approval of the Minister for Roads, assign to a person or body involved in the operation of the Eastern Distributor, or an associated activity, any of the rights, functions or entitlements conferred on the Authority by this section.
- (7) Without limiting subsection (1), the terms and conditions agreed by the Ministers under that subsection may make provision for or with respect to the following matters:
 - (a) functions that may be exercised by the Roads and Traffic Authority in respect of the land subject to the licence,
 - (b) functions that may be exercised by the Trust in respect of any such land.

15E Use of revested land for landscaping and roads

For the purposes of section 15D, the Roads and Traffic Authority may use the whole or part of that part of the revested land located on the eastern side of South Dowling Street, between the intersections of that street with Fitzroy Street and Maddison Street, for the following purposes:

- (a) carrying out road work (other than road work for the purposes of adding additional lanes to the Eastern Distributor or South Dowling Street),
- (b) carrying out traffic control work,
- (c) the carrying out, maintenance, repair, removal or replacement of landscaping associated with the Eastern Distributor (but only after consulting the Trust),
- (d) carrying out inspections of works on the land,
- (e) cleaning any works, buildings or other structures on the land,
- (f) any purpose ancillary to a purpose specified in paragraphs (a)–(e).

15F Use of revested land for emergency pedestrian egress

For the purposes of section 15D, the Roads and Traffic Authority may use the whole of that part of the revested land located in Lot 1759 in Deposited Plan 821362, known as “Drivers Triangle”, Moore Park, for the following purposes:

- (a) carrying out road work or traffic control work, but only road work or traffic control work relating to an emergency pedestrian egress for the purposes of the Eastern Distributor,
- (b) carrying out inspections of works on the land,
- (c) cleaning any works, buildings or other structures on the land,
- (d) any purpose ancillary to a purpose specified in paragraphs (a)–(c).

15G Use of revested land for pump station and associated purposes

For the purposes of section 15D, the Roads and Traffic Authority may use the part of the revested land shown as “Pump station” on Sheet 1 of the plan for the following purposes:

- (a) the maintenance, repair, removal or replacement of a pump station for the purposes of the Eastern Distributor,
- (b) the laying, maintenance, repair, removal or replacement of pipes and other connections between the pump station and underground drainage systems, between the pump station and the Eastern Distributor, and between the pump station and detention basins,
- (c) the laying, maintenance, repair, removal or replacement of service connections for the purposes of the pump station,
- (d) carrying out inspections of works on the land,
- (e) cleaning any works, buildings or other structures on the land,
- (f) any purpose ancillary to a purpose specified in paragraphs (a)–(e).

15H Grant of temporary licences for construction purposes

- (1) For the purposes of the carrying out of road work or traffic control work connected with the Eastern Distributor, the Trust is, as directed from time to time by the Minister for the Environment and the Minister for Roads, required to grant licences to the Roads and Traffic Authority, on such terms and conditions as are determined by those Ministers, for the use of any part of the land referred to in Schedule 3A for the carrying out of such works.
- (2) Without limiting subsection (1), a licence may be granted under this section in respect of land referred to in Schedule 3A for the following purposes:
 - (a) the use of the land for a bypass road,
 - (b) the use of the land for a construction site compound, including its use for employees' amenities, the storage of machinery and materials and parking and its use for other activities related to the construction of the Eastern Distributor (such as the dewatering of excavations and other works related to the preservation of the water table),

- (c) carrying out inspections of works on the land,
 - (d) cleaning any works, buildings or other structures on the land,
 - (e) any purpose ancillary to a purpose specified in paragraphs (a)–(d).
- (3) The Trust is, as directed from time to time by the Minister for the Environment and the Minister for Roads, required to grant licences to the Roads and Traffic Authority, on such terms and conditions as are determined by those Ministers, for the use of any part of the land shown hatched brown on the plan for the following purposes:
- (a) the installation, maintenance, repair, removal or replacement of temporary soil nails or temporary rock anchors beneath the surface of the land for the purposes of the Eastern Distributor,
 - (b) any purpose ancillary to a purpose specified in paragraph (a).
- (4) A licence granted under this section may not have a term that, together with the term of any other licence granted for the same purposes under this section, exceeds 5 years.
- (5) A licence granted under this section may permit the Roads and Traffic Authority to assign to a person or body involved in the operation of the Eastern Distributor, or an associated activity, any of the rights, functions or entitlements conferred on the Authority by the licence.
- (6) The Trust may not revoke or vary a licence granted under this section, except with the approval of the Minister for the Environment and the Minister for Roads.
- (7) The Roads and Traffic Authority may, by notice published in the Gazette, dedicate any part of the land subject to a licence under this section as a public road.
- (8) On publication of the notice, the land is dedicated as a public road for the purposes of the *Roads Act 1993* until the end of the last of any licences under this section affecting the land, or the notice is revoked by notice published in the Gazette by the Roads and Traffic Authority, whichever occurs first.

15I Grant of permanent licences for drainage and stability purposes

- (1) The Trust is, as directed from time to time by the Minister for the Environment and the Minister for Roads, required to grant permanent licences to the Roads and Traffic Authority, on such terms and conditions as are determined by those Ministers, for the use of any part of the land listed in items 2 and 3 of Schedule 3A for the following purposes:
 - (a) the construction, enlargement, extension, maintenance, repair, removal or replacement of earth mounds and associated works to enlarge and extend existing detention basins for drainage purposes as a consequence of the construction of the Eastern Distributor,
 - (b) carrying out inspections of works on the land,
 - (c) cleaning any works, buildings or other structures on the land,
 - (d) any purpose ancillary to a purpose specified in paragraphs (a)–(c).

- (2) The Trust is, as directed from time to time by the Minister for the Environment and the Minister for Roads, required to grant licences to the Roads and Traffic Authority, on such terms and conditions as are determined by those Ministers, for the use of any part of the land shown hatched mauve on the plan for the following purposes:
 - (a) the installation, maintenance, repair, removal or replacement of soil nails or rock anchors beneath the surface of the land for the purposes of the Eastern Distributor,
 - (b) any purpose ancillary to a purpose specified in paragraph (a).

- (3) A licence granted under this section may permit the Roads and Traffic Authority to assign to a person or body involved in the operation of the Eastern Distribor, or an associated activity, any of the rights, functions or entitlements conferred on the Authority by the licence.
- (4) The Trust may not revoke or vary a licence granted under this section, except with the approval of the Minister for the Environment and the Minister for Roads.
- (5) The Trust must consult with the Roads and Traffic Authority before taking any action or carrying out any activity that may:
 - (a) affect the effectiveness or capacity of any drainage works for which a licence under this section is granted, or
 - (b) affect any soil nails or rock anchors for which a licence under this section is granted.

15J Compensation

- (1) Compensation for the acquisition, licensing and use of the land referred to in this Part is to be provided by the Roads and Traffic Authority and is to be as agreed between the Trust and the Authority.
- (2) If the Trust and the Roads and Traffic Authority fail to agree, compensation is to be as directed by the Minister for the Environment with the concurrence of the Minister for Roads.
- (3) If compensation is paid in accordance with an agreement under this section, no further compensation is payable by the Roads and Traffic Authority to the Trust in respect of the acquisition, licensing and use of the land referred to in this Part.

15K Inspection of plan

The Roads and Traffic Authority must make copies of the plan available for inspection by the public at its head office during ordinary office hours and may charge an inspection fee for that purpose.

15L Application of Roads Act 1993

The *Roads Act 1993* applies to the exercise of functions by the Roads and Traffic Authority under this Act.

15M Monitoring by Environment Protection Authority

- (1) The Environment Protection Authority has the function of monitoring compliance with any licence or other authority granted by it under any Act in connection with the construction of the Eastern Distributor.
- (2) This section is in addition to, and does not derogate from, the provisions of any other Act or statutory instrument.

15N Review of environmental matters relating to the Eastern Distributor

- (1) The Minister for Roads must appoint a community consultative-committee for the Eastern Distributor.
- (2) The community consultative committee is to consist of such members, appointed for such terms, as may be determined by the Minister for Roads.
- (3) The community consultative committee has the function of advising the Roads and Traffic Authority on environmental issues relating to the Eastern Distributor, as requested by the Authority.
- (4) The Roads and Traffic Authority must, not later than 4 months after the end of its financial year, conduct a review of environmental issues relating to the Eastern Distributor that have occurred in the 12 month period preceding the review.

- (5) In carrying out the review, the Roads and Traffic Authority must consult with, and consider any submissions made by, the Environment Protection Authority and the community consultative committee.
- (6) The report of the review must be included in the annual report of the Roads and Traffic Authority prepared under the *Annual Reports (Statutory Bodies) Act 1984*.

15O Environmental assessment for Eastern Distributor

A report by the Director-General of the Department of Urban Affairs and Planning to the Minister under the *Environmental Planning and Assessment Act 1979* relating to consent under Division 4 of Part 5 of that Act must contain advice about the need to acquire Trust land for the purposes of the Eastern Distributor and must be made publicly available.

15P Agreements must not affect other project

- (1) The Roads and Traffic Authority, or any other person or body on behalf of the Authority or the Government, must not enter into any agreement or understanding relating to, or connected with, the construction, operation or use of the Eastern Distributor that contains a provision likely to prevent the provision of an east-west cross city road tunnel.
- (2) A term of an agreement or understanding is void to the extent that it contravenes subsection (1).

[4] Section 19 Vesting of certain land in Trust

Insert “and subject to this Act” after “Act” where firstly occurring in section 19 (2).

[5] Section 20B

Insert after section 20A:

20B Licence of land for public transport purposes

- (1) The Minister for Transport has, on such terms and conditions as are agreed from time to time by the Minister for the Environment and the Minister for Transport, a permanent licence for the use of the land described in subsection (2) for public transport purposes and purposes ancillary to those purposes.
- (2) The land the subject of the licence conferred by this section is the land shown as the site of a proposed easement for a public transport corridor within Lots 1763, 1769, 1770 and 1771 in Deposited Plan 821362.
- (3) The Trust must not:
 - (a) take any action, or carry out any function, in relation to or that affects the revested land in a way that is inconsistent with the licence conferred on the Minister for Transport by this section, or
 - (b) take any action, or carry out any function, that interferes with or obstructs the use of the land by the Minister for Transport in accordance with the licence.
- (4) The Minister for Transport may assign to a person or body any of the rights, functions or entitlements conferred on the Minister for Transport by the licence.
- (5) Without limiting subsection (1), the terms and conditions agreed by the Ministers under that subsection may make provision for or with respect to the following matters:
 - (a) functions that may be exercised by the Minister for Transport in respect of the land subject to the licence,
 - (b) functions that may be exercised by the Trust in respect of any such land.

- (6) The Minister for Transport may enter into arrangements for the provision of an integrated light rail and bus system between Central Station and the University of New South Wales, via Moore Park, subject to feasibility studies in relation to such a project.
- (7) Without limiting subsection (1), the purposes for which the land described in subsection (2) may be used include purposes related to an integrated system of light rail and bus services.
- (8) The Trust may, for purposes related to an integrated system of light rail and bus services, from time to time and on such conditions as are approved by the Minister, grant leases or licences of Trust land (other than land described in subsection (2)).

[6] Schedule 3A

Insert after Schedule 3:

Schedule 3A Affected land

(Sections 15H, 15I)

1. Part Lot 1763 in Deposited Plan 821362, being the sealed roadway at the intersection of Drivers Road and Moore Park Road, as at the commencement of this Schedule.
2. The residue of land within the following lots in Deposited Plan 821362 that is not vested in the Roads and Traffic Authority under section 15B or not subject to the licence under section 15D:
 - (a) Lot 1759 (commonly known as “Drivers Triangle”),
 - (b) Lot 1760,
 - (c) Lot 1762,
 - (d) Lot 1772.

Schedule 1 Amendments

3. Part Lot 1761 in Deposited Plan 821362, being the area extending from the eastern boundary of South Dowling Street (as at the commencement of this Schedule) to a point 5 metres west of the intersection of the southern and eastern boundaries of Lot 1760 and thence in a southerly direction to a point on the southern boundary of Lot 1761 which is 45 metres east of the eastern boundary of South Dowling Street (as at the commencement of this Schedule).

[Minister's second reading speech made in—
Legislative Assembly on 28 May 1997
Legislative Council on 29 May 1997]