

Act No. 49

SYDNEY HARBOUR TUNNEL (PRIVATE JOINT VENTURE) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

State Roads (Sydney Harbour Tunnel) Amendment Bill 1987;

Miscellaneous Acts (Sydney Harbour Tunnel) Repeal and Amendment Bill 1987.

The object of this Bill is to facilitate the construction, maintenance and operation of the Sydney Harbour Tunnel.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 defines certain expressions for the purposes of the proposed Act. The defined expressions include "tunnelling works", "ancillary works", "tunnelling site" and "ancillary sites".

Clause 3 provides that the proposed Act shall bind the Crown.

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PART 2—CONSTRUCTION OF THE SYDNEY HARBOUR TUNNEL

Clause 4 provides that the tunnelling works and the ancillary works may only be carried out with the approval of the Commissioner for Main Roads. The clause further provides that any such approval may only be modified at the request of the person to whom it has been given.

Clause 5 authorises the Minister administering the proposed Act to enter into the Ensured Revenue Stream Agreement.

Clause 6 authorises the Commissioner for Main Roads to enter into the Net Bridge Revenue Loan Agreement and certain other agreements.

Clause 7 makes provision for the circumstances in which the Ensured Revenue Stream Agreement and the Net Bridge Revenue Loan Agreement may be terminated. The clause over-rides the effect of the Frustrated Contracts Act 1978 and other laws that provide to the contrary.

PART 3—APPLICATION OF LEGISLATION TO THE TUNNELLING WORKS
ETC.

DIVISION 1—*The tunnelling works and the tunnelling site*

Clause 8 provides for the application of the Environmental Planning and Assessment Act 1979 to the tunnelling works and the tunnelling site. The tunnelling works are to be deemed to be an activity within the meaning of Part V of that Act, the Commissioner for Main Roads is to be deemed to be the sole determining authority within the meaning of that Part and the Sydney Harbour Tunnel Environmental Impact Statement (which was put on public display on 19 December 1986) is to be deemed to be an environmental impact statement that complies with the requirements of that Part.

Clause 9 provides that the Coastal Protection Act 1979 and Part XI of the Local Government Act 1919 do not apply to the tunnelling works, and that the tunnelling works may be carried out notwithstanding anything in the Royal Botanic Gardens and Domain Trust Act 1980, the Sydney Opera House Trust Act 1961, the Crown Lands Consolidation Act 1913 and the Government Railways Act 1912. The clause also provides for the application of the Maritime Services Act 1935 and the Sydney Harbour Trust Act 1900 to the tunnelling works.

DIVISION 2—*The ancillary works and the ancillary sites*

Clause 10 provides for the application of the Environmental Planning and Assessment Act 1979 to the ancillary works and the ancillary sites. The ancillary works are to be deemed to be an activity within the meaning of Part V of that Act and the Commissioner for Main Roads is to be deemed to be the sole determining authority within the meaning of that Part.

Clause 11 provides that the Coastal Protection Act 1979 and Part XI of the Local Government Act 1919 do not apply to the ancillary works. The clause also provides for the application of the Maritime Services Act 1935 and the Sydney Harbour Trust Act 1900 to the ancillary works.

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PART 4—MISCELLANEOUS

Clause 12 provides that part of the land that comprises the tunnelling site, as at the date of assent to the proposed Act, will on that date vest in the Commissioner for Main Roads and that land that is subsequently included within the tunnelling site, as referred to in clause 18, may be vested in the Commissioner by means of a proclamation made by the Governor-in-Council. The clause provides that compensation is only to be payable in relation to land subsequently included within the tunnelling site, as referred to in clause 18.

Clause 13 provides that the land vested in the Commissioner for Main Roads by operation of clause 12 may be re-vested in its previous owner by means of a proclamation made by the Governor-in-Council.

Clause 14 provides that the Sydney Harbour Tunnel is not to be a public road or public street for the purposes of the State Roads Act 1986 or the Local Government Act 1919, or for the purposes of such other laws as may be prescribed by the regulations, but that the Motor Traffic Act 1909 and the General Traffic Act 1900 shall apply to the Sydney Harbour Tunnel as if it were a public street.

Clause 15 ensures the protection of the Sydney Harbour Tunnel where development is carried out in its immediate vicinity by enabling the Commissioner for Main Roads to impose conditions on the carrying out of the development.

Clause 16 enables the Minister administering the proposed Act to give directions to a council if it appears that the council has exercised, or failed to exercise, a function in a manner that is substantially and unreasonably prejudicial to the carrying out of the tunnelling works or the carrying out of the ancillary works. Such directions may only be given after consultation with the council and the Minister for Local Government, but when given are binding on the council.

Clause 17 precludes the taking of legal proceedings by any person, other than the Commissioner for Main Roads, in respect of any decision of the Commissioner under section 112 of the Environmental Planning and Assessment Act 1979 in relation to the tunnelling works or the ancillary works.

Clause 18 enables the Governor-in-Council to amend Schedule 3 (which describes land that comprises the tunnelling site) so as to include land within, and exclude land from, that site.

Clause 19 enables the Governor-in-Council to amend Schedule 4 (which describes land that comprises the ancillary sites) so as to include land within, and exclude land from, those sites.

Clause 20 enables the Governor-in-Council to make regulations for the purposes of the proposed Act.

Schedule 1 describes the works that comprise tunnelling works.

Schedule 2 describes the works that comprise ancillary works.

Schedule 3 describes the land that comprises the tunnelling site.

Schedule 4 describes the land that comprises the ancillary sites.

Schedule 5 sets out the terms of the Ensured Revenue Stream Agreement.

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Schedule 6 sets out the terms of the Net Bridge Revenue Loan Agreement.
