

# Glen Davis Act 1939 No 38

[1939-38]



New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2008](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Glen Davis Act 1939 No 38



New South Wales

An Act to provide for the planning of the town of Glen Davis; to sanction the construction of certain works at Glen Davis; to approve of a certain agreement made between the Commonwealth of Australia of the first part, the State of New South Wales of the second part, and National Oil Proprietary Limited of the third part; to amend the [National Oil Proprietary Limited Agreement Ratification Act 1937](#), and certain other Acts in certain respects; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act and commencement

- (1) This Act may be cited as the [Glen Davis Act 1939](#).
- (2) This Act shall come into force on a day to be fixed by proclamation of the Governor published in the Gazette.
- (3) The Governor may not make such proclamation unless he is satisfied that the Parliament of the Commonwealth has passed an Act approving of the agreement a copy of which is set out in the First Schedule to this Act.
- (4) (Repealed)

### 2 Definitions

In this Act, unless the context or subject matter otherwise indicates or requires:

**Council** means council as defined in the Local Government Act.

**Local Government Act** means the [Local Government Act 1919](#) as amended by subsequent Acts.

**Prescribed** means prescribed by this Act or by the regulations.

**Regulations** means regulations made under this Act.

**Road** means road, street, lane, highway, pathway or thoroughfare, including a bridge, culvert, causeway, ford, crossing, and the like on the line of a road through or over a watercourse.

## Part 2 Ratification of agreement

### 3 Definitions

In this Part:

**The first agreement** means the agreement a copy of which is set out in the Schedule to the *National Oil Proprietary Limited Agreement Ratification Act 1937*.

**The second agreement** means the agreement a copy of which is set out in the First Schedule to this Act.

**The Company** means National Oil Proprietary Limited.

### 4 Approval of agreement and certain exclusions

- (1) The second agreement is hereby approved and ratified.
- (2) The *Moratorium Act 1932*, and any amendment thereof, shall not apply to the first agreement as varied by the second agreement.
- (3) The first agreement, as varied by the second agreement, shall not require to be registered under Part 9 of the *Companies Act 1936*, or the *Bills of Sale Act 1898-1938*, but without any such registration the first agreement, as varied by the second agreement, shall, so far as any security on the Company's property or undertaking is thereby conferred, be valid against the liquidator or any creditor of the Company.

### 5 Amendment of Act No 2, 1937, sec 8

The reservation enacted by section eight of the *National Oil Proprietary Limited Agreement Ratification Act 1937* so far as concerns the land described in the First Part of the Schedule to the second agreement, is hereby revoked.

## Part 3 Acquisition of land

### 6 Acquisition of land

- (1) The Minister may, by appropriation or resumption, acquire the whole or any part of the land described in the Second Schedule to this Act, or any land adjoining the same or adjacent thereto, for the purposes of this Act.
- (2) Where the Minister proposes to acquire land by appropriation or resumption he may make application to the Governor for the purpose.
- (3) The Governor may authorise the appropriation or resumption of the land.
- (4) Thereupon the Governor may:
  - (a) appropriate or resume the land by Gazette notification under Division 1 of Part 5

of the *Public Works Act 1912*, as amended by subsequent Acts,

(b) notify that the land is vested in the Minister.

(5) Thereupon the land shall vest in the Minister and his successors.

(6) For the purposes of the *Public Works Act 1912*, as amended by subsequent Acts, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

#### **7 Amendment of Act No 45, 1912, sec 124**

For the purposes of this Part of this Act, but not otherwise, section one hundred and twenty-four of the *Public Works Act 1912*, as amended by subsequent Acts, is amended by omitting the words “at the time notice was given, or notification published, as the case may be,” and by inserting in lieu thereof the words “as at the twenty-third day of July, one thousand nine hundred and thirty-seven”.

#### **8 Closing of reserved road**

Upon the resumption of the land described in the Second Part of the Schedule to the agreement, the reserved road referred to in that Schedule shall, by virtue of this section, be closed and the rights, if any, therein of the public or any person shall thereupon be extinguished.

In this section ***the agreement*** means the agreement a copy of which is set out in the First Schedule to this Act.

#### **9 Surrender of land to the Crown**

The Minister may surrender to the Crown any land vested in him under this Part.

The surrender shall be evidenced by an instrument in the prescribed form which shall operate to revest the surrendered land in His Majesty, His Heirs and Successors according to law.

The land so becoming vested in His Majesty shall not be available for the purpose of the *Crown Lands Consolidation Act 1913*.

### **Part 4 Authorisation of certain works**

#### **10 Work sanctioned**

(1)

(a) The carrying out, on land acquired by the Minister under this Act, of the work described in the Third Schedule to this Act, is hereby sanctioned.

(b) The said work shall be deemed to be an authorised work within the meaning of

the *Public Works Act 1912*, as amended by subsequent Acts.

- (c) The Minister is empowered to carry out the said work, and shall be the constructing authority for the same within the meaning of the said Act as so amended, and shall enter into such contracts and take all such necessary steps for the proper execution thereof as such authority may think proper.
- (d) The provisions of the *Public Works Act 1912*, as amended by subsequent Acts, sections thirty-four, thirty-five, thirty-six and thirty-seven excepted, shall apply to and in respect of the said work.

(2) Without prejudice to the generality of subsection one of this section the provisions of section thirty-eight of the *Public Works Act 1912*, as amended by subsequent Acts, shall apply to and in respect of any contracts referred to in paragraph (c) of subsection one of this section.

### **11 The plan**

The plan of the said work is the plan marked "Town of Glen Davis" signed by the Minister for Public Works and deposited in the public office of the said Minister.

### **12 Cost**

The cost of carrying out the said work (exclusive of land resumptions) is estimated at seventy-four thousand dollars and such estimated cost shall not, under any circumstances, be exceeded by more than ten per centum.

## **Part 5 Planning provisions**

### **13 Plan**

The Minister may cause a plan or plans to be made in relation to any land acquired by him under this Act, and may in such plan or plans indicate:

- (a) the proposed roads and proposed reserves for public recreation or other public purposes, including any roads or any such reserves which are additional to those shown on the plan referred to in section eleven of this Act,
- (b) the parts of such land which are proposed to be set apart as sites for:
  - (i) residences,
  - (ii) shops,
  - (iii) business premises,
  - (iv) other buildings,
- (c) the parts of such land which are proposed to be set apart for:



- (i) religious purposes,
- (ii) charitable purposes,
- (iii) municipal purposes,
- (iv) any other public purpose of a like character.

#### **14 Dedication of roads**

The Governor may, by proclamation published in the Gazette, declare any road constructed by the Minister on land acquired by him under this Act, to be a public road.

Thereupon such road shall, notwithstanding anything contained in the Local Government Act, be a public road within the meaning of that Act.

#### **15 Trustees of reserves**

- (1) The Minister may, by notification in the Gazette, appoint the council of the area within which any reserve referred to in paragraph (a) of section thirteen of this Act is situate, to be the trustees of such reserve.
- (2) Upon the publication of such notification the reserve shall be a public reserve within the meaning of the Local Government Act.
- (3) (Repealed)
- (4) The Minister may transfer to the Council such estate in the land accompanied by such powers and with such conditions as the Minister may think fit and as may be specified in the instrument of transfer.

#### **16 Leases**

- (1) The Minister may lease any land acquired by him under this Act, subject to such reservations and conditions and for such term as he may think fit.
- (2) Every lease made under this section shall be made to take effect in possession not later than three months after its date.
- (3)
  - (a) Every lease made under this section shall reserve the best rent that can reasonably be obtained regard being had to the circumstances of the case.
  - (b) This subsection shall not apply to or in respect of a lease where, in the opinion of the Minister, the land comprised in the lease is to be used exclusively for charitable, patriotic or other public purposes.
- (4) Every lease made under this section shall contain a condition of re-entry on the rent not being paid within a time therein specified, and the covenants implied by section

eighty-four of the *Conveyancing Act 1919-1939* shall not be excluded therefrom.

- (5) Every lease made under this section shall be in writing and shall, subject to this section, contain such provisions as the Minister thinks fit and shall include a provision that the land, and buildings (if any), or any part thereof shall not be sublet and the lease shall not be assigned without the leave of the Minister, which leave the Minister may in his absolute discretion grant or withhold.

## **17 Power to sell**

- (1) The Minister may, by public auction or private treaty, sell any land acquired by him under this Act to any person upon such terms and conditions as he may think fit.
- (2) Without prejudice to the generality of subsection one of this section the conditions of any such sale may include:
- (a) a condition that the land shall not be used for any purpose other than a specified purpose,
  - (b) a condition that the land shall not be subdivided without the consent in writing of the Minister,
  - (c) a condition that a building of a specified character or class only shall be erected on the land and/or that a building of a specified character or class shall be erected on the land within a specified time,
  - (d) a condition providing for the forfeiture of the land upon breach of any specified condition,
  - (e) any other condition which the Minister considers necessary for the carrying out of the objects and purposes of this Act.
- (3) The conditions referred to in paragraphs (a), (b), (c) and (d) of subsection two of this section are in this Part referred to as **special conditions**.
- (4) Subject to the provisions of this Part of this Act a special condition:
- (a) shall bind the land to which the special condition relates,
  - (b) shall not cease to bind such land upon its becoming freehold or its being brought under the provisions of the *Real Property Act 1900*.

## **17A Modification of certain special conditions**

- (1)
- (a) Where any land has been sold under this Part upon terms and conditions which include a special condition in or to the effect of the form set out in the Fifth Schedule to this Act the Minister may, by instrument under his official seal, modify

that special condition by permitting the use of any other material or materials in addition to or in lieu of the materials specified in that special condition.

- (b) The power conferred by paragraph (a) of this subsection may be exercised in respect of land so sold, either before or after the land has been brought under the provisions of the *Real Property Act 1900*.
  - (c) A special condition binding any land shall not be modified under this subsection except with the consent of the owner of the land.
  - (d) The instrument of modification shall be in or to the effect of the prescribed form.
  - (e) Where a special condition binding any land is modified under this subsection either before or after the land has been brought under the provisions of the *Real Property Act 1900*, the provisions of subsection four of section seventeen of this Act shall apply to and in respect of the special condition as so modified.
  - (f) Where a special condition binding on any land is modified under this section after the land has been brought under the provisions of the *Real Property Act 1900*, the Registrar-General may make every such entry, cancellation and correction in the Register kept under that Act as shall appear to the Registrar-General to be necessary or proper to give effect to the instrument by which such special condition is modified.
- (2) Where any land has been offered for sale under this Part upon terms and conditions which include a special condition in or to the effect of the form set out in the Fifth Schedule to this Act and has not been sold, or where the contract for sale of any land sold under this Part has been rescinded or any land so sold has been forfeited the Minister may upon any sale or resale of such land include in the terms and conditions a special condition being the aforesaid special condition modified in the way referred to in paragraph (a) of subsection one of this section.
- (3) Where any land has been sold under this Part upon terms and conditions which include special conditions to the effect that:
- (a) the land shall not be used for any purpose other than the purpose of a shop or the purpose of a shop and residence or the purpose of a shop and business offices or the purpose of a shop and residence and business offices, and
  - (b) the purchaser shall, within a period of twelve months from the date of sale, commence the erection and construction of a building appropriate to the purpose or one of the purposes for which the land may be used, and shall thereafter proceed with such erection and construction so that such building shall be completed within a period of eighteen months from the date of sale, the power conferred by section twenty-two of this Act shall, with respect to land sold subject to the special condition referred to in paragraph (a) of this subsection, extend to

authorise the Minister to vary the special condition referred to in paragraph (b) of this subsection so as:

- (i) to permit of an extension of the time for commencing the erection and construction of a specified part of the building, and of the time within which the same is to be completed, and
- (ii) to provide for the commencement of the erection and construction of the remainder of the building, and for the completion of such remainder within a time or times to be determined in such manner as may be specified in the instrument of variation; and the determination of such time or times may, if the Minister thinks fit, be made by reference to the date of the termination of any war in which His Majesty is engaged at the commencement of the *Glen Davis (Amendment) Act 1943*.

This subsection shall not be construed as affecting the construction of section twenty-two of this Act in its application to and in respect of any special condition other than special conditions of the nature referred to in this subsection.

- (4) Where any land has been offered for sale under this Part upon terms and conditions which include special conditions of the nature referred to in subsection three of this section, and has not been sold, or where the contract for sale of any land sold under this Part has been rescinded, or where any land sold has been forfeited, the Minister may upon any sale or resale of such land include in the terms and conditions a special condition, being the special condition referred to in paragraph (b) of subsection three of this section varied in the manner and to the extent referred to in that subsection.

#### **17B Creation of folio of Register not to affect conditions etc**

- (1) Except in so far as a contrary intention appears:
  - (a) any covenants, conditions, reservations or provisions attaching or applying to land by virtue of this Act or an instrument made under this Act, and
  - (b) any provisions of this Act or an instrument made under this Act applying to land, shall:
    - (c) not cease to attach or apply, and shall be deemed never to have ceased to attach or apply, to the land by reason only of the issue of an instrument of title or the creation of a folio of the Register kept under the *Real Property Act 1900* whether before or after the commencement of Schedule 1 to the *Miscellaneous Acts (Crown Land Titles) Amendment Act 1980* in respect of the land, and
    - (d) to the extent that they are applicable, attach or apply not only to the land as a whole, but also to each and every part of the land.
- (2) The provisions of subsection (1) apply in addition to and not in derogation of any other

provisions of this Act.

### **17C Removal of conditions etc**

(1) The Minister may:

- (a) before the creation of a folio of the Register kept under the *Real Property Act 1900* in respect of land sold, leased or otherwise disposed of under this Act, direct in writing that any covenant, condition, reservation or provision attaching or applying to the land shall cease to attach or apply to the land upon the creation of the folio, and
- (b) after the creation of a folio of the Register kept under the *Real Property Act 1900* in respect of land sold, leased or otherwise disposed of under this Act, direct in writing that any covenant, condition, reservation or provision attaching or applying to the land shall cease to attach or apply to the land as from the date of the direction.

(2) The Registrar-General shall give effect to a direction given under subsection (1).

### **18 Breach of conditions in contract of sale**

(1) In the event of the breach or non-observance of any of the terms or conditions contained in a contract for the sale of any land made under this Part of this Act, it shall be lawful for the Minister, by notification published in the Gazette, to declare the contract to be rescinded and thereupon the contract shall be rescinded and all moneys paid to the Minister thereunder shall be forfeited.

The rescission shall not operate to extinguish the obligation to pay any moneys which are due and payable to the Minister at the date of the notification.

(2) The acceptance by or on behalf of the Minister of any moneys payable to him under the contract shall not be held to operate as a waiver of the breach or non-observance of any term or condition contained in the contract.

### **19 Exclusion of minerals etc**

(1) A sale, lease or other disposal of land under this Act, where:

- (a) the land was contracted to be sold, the lease was commenced or the disposal took place before the commencement of Schedule 1 to the *Miscellaneous Acts (Crown Land Titles) Amendment Act 1980*, and
- (b) a Crown grant had not issued in respect of the land before that commencement, does not include the sale, lease or disposal of any minerals contained in the land, being minerals defined by or under the *Mining Act 1973* or the *Coal Mining Act 1973* as at the time when a folio of the Register kept under the *Real Property Act 1900* is first created in respect of the land.

- (2) A sale, lease or other disposal of land under this Act, where the land is contracted to be sold, the lease is commenced or the disposal takes place on or after the commencement of Schedule 1 to the *Miscellaneous Acts (Crown Land Titles) Amendment Act 1980* does not include the sale, lease or disposal of any minerals contained in the land, being minerals defined by or under the *Mining Act 1973* or the *Coal Mining Act 1973* as at the time when the land is contracted to be sold, the lease is commenced or the disposal takes place, as the case may require.
- (3) Upon:
  - (a) the creation of a folio of the Register kept under the *Real Property Act 1900* in respect of land sold, leased or otherwise disposed of under this Act, being the first folio of that Register created in respect of that land, or
  - (b) the execution of an instrument evidencing a sale, lease or other disposal of land under this Act,that land shall, if the Minister has so determined before that creation or execution, be subject to such reservations and exceptions as may by the Minister be deemed expedient in the public interest.
- (4) Subsection (3) does not apply to a sale, lease or other disposal of land in respect of which a Crown grant was issued under this Act as in force before the commencement of Schedule 1 to the *Miscellaneous Acts (Crown Land Titles) Amendment Act 1980*.

### **19A Estate in land**

A person who has purchased, or contracted to purchase, land under this Act has, subject to this Act, an estate in fee simple in the land.

### **20 Forfeiture**

- (1) Where land becomes liable to be forfeited under this Act such forfeiture may be declared by the Minister by notification published in the Gazette.
- (2) Where land which is under the provisions of the *Real Property Act 1900* is forfeited pursuant to this section the Registrar-General may, upon the application of the Minister and upon production of the Gazette notification declaring such forfeiture, make every such entry, cancellation and correction in the Register kept under that Act as shall appear to the Registrar-General to be necessary or proper.

### **21 Effect of cancellation of contract and forfeiture of land**

- (1) Where a contract for sale is rescinded pursuant to section eighteen of this Act the land to which the contract related may be disposed of by the Minister under this Part.
- (2) Where land is forfeited pursuant to section twenty of this Act the land shall revert in His Majesty, His Heirs and Successors according to law.

The land so revested in His Majesty shall not be available for the purposes of the [Crown Lands Consolidation Act 1913](#).

Lands so revested in His Majesty may be disposed of by the Minister under this Part.

## **22 Variation of special conditions**

- (1) Where the Minister is satisfied that, having regard to the circumstances of the case, it is just and reasonable so to do, he may, by instrument under his official seal, cancel or vary any special condition which binds any land.
- (2) The instrument shall be in or to the effect of the prescribed form.
- (3) A special condition binding any land shall not be cancelled or varied under this section except with the consent of the owner of the land.
- (4) Where a special condition binding any land is varied under this section the provisions of subsection four of section seventeen of this Act shall apply to and in respect of the special condition as so varied.
- (5) Where a special condition binding on any land which is under the provisions of the [Real Property Act 1900](#) is cancelled or varied under this section, the Registrar-General may make every such entry, cancellation and correction in the Register kept under that Act as shall appear to the Registrar-General to be necessary or proper to give effect to the instrument by which such special condition is cancelled or varied.

## **23 Land for charitable and municipal purposes**

- (1) Any land acquired by the Minister under this Act may be transferred by him, with or without consideration, to such person or body of persons as he may nominate for the purpose, as a site to be used for religious, charitable or municipal purposes or other public purposes of a like character.
- (2) Land transferred under subsection (1) shall be subject to:
  - (a) (Repealed)
  - (b) a condition binding the land, which shall be a special condition within the meaning of this Act, for the erection within a specified time of a building according to plans and specifications approved by the Minister, and
  - (c) a condition binding the land, which shall be a special condition within the meaning of this Act, providing that the land shall not be used for purposes other than those specified, and
  - (d) a condition of forfeiture on the breach or non-observance of any specified condition, being a condition referred to in paragraph (b) or paragraph (c) of this subsection.

## **24 Crown grant of hotel site**

- (1) As soon as practicable after the commencement of this Act a Crown grant of the lands described in the Fourth Schedule to this Act shall be issued to William Joseph Lees of Mount Victoria, licensed publican, his heirs and successors forever.
- (2) The Crown grant issued under this section shall contain:
  - (a) the reservation of minerals referred to in paragraph (a) of subsection two of section nineteen of this Act, and such other reservations and exceptions as may, by the Governor, be deemed expedient in the public interest,
  - (b) a condition binding the land, which shall be a special condition within the meaning of this Act, for the construction, within twelve months after the date of the Crown grant, upon the lands thereby granted, of buildings in accordance with the plans and information lodged with the licensing court for the Hartley licensing district held at Lithgow on the twenty-eighth day of September, one thousand nine hundred and thirty-nine, in connection with an application by Edith Mary Gardiner the licensee of the Mount Victoria Hotel situated at Mount Victoria in the said licensing district for the conditional removal of such licence to premises proposed to be erected at Glen Davis in the said licensing district upon the lands described in such application,
  - (c) a condition binding the land, which shall be a special condition within the meaning of this Act, providing that the land shall not, after a specified date, be used for any purpose other than as licensed premises in respect of which a publican's licence is held,
  - (d) a condition of forfeiture:
    - (i) on the breach or non-observance of any specified condition being a condition referred to in paragraph (a) of this subsection, or
    - (ii) on the breach or non-observance of any condition referred to in paragraph (b) or paragraph (c) of this subsection, or
    - (iii) in the event of the land ceasing to be premises in respect of which a publican's licence is held.

## **25 Power to remit amounts and extend times**

The Minister may:

- (a) remit any part of the amount due under any contract for the sale of land under this Part of this Act,
- (b) extend the period provided in any such contract for the payment of any purchase money.



## 26 Remedies

- (1) Where, by virtue of this Act or of the operation of any instrument made or executed under this Act, the Minister is entitled to the possession of any land and the person in the occupation or use of such land, or any other person, refuses to give up possession thereof or hinders the Minister from entering upon or taking possession of the same, the Minister may issue a warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same.
- (2) Upon the receipt of such warrant the Sheriff shall deliver possession of such lands accordingly and the cost accruing by reason of the issuing and execution of such warrant to be settled by the Sheriff shall be paid by the person refusing to give possession.

## Part 5A Disposal of land

### 26A Definitions: Part 5A

In this Part:

**Crown lands** has the meaning ascribed thereto in the [Crown Lands Consolidation Act 1913](#).

**owner**, in relation to town lands, includes every person who jointly or severally, whether at law or in equity:

- (a) is entitled to town lands for any estate of freehold in possession, or
- (b) is entitled to receive, or is in receipt of, or if the town lands were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession or otherwise.

**town lands** means lands granted under Part 5 or any part of those lands.

### 26B Notice by Minister of divesting

The Minister may give written notice to an owner of town lands that the owner may divest himself of his estate and interest in those lands in accordance with the provisions of this Part.

### 26C Notice by owner of divesting

An owner of town lands may give written notice to the Minister that he wishes to divest himself of his estate and interest in those lands in accordance with the provisions of this Part.

### 26D Search and notification

Upon the receipt of a notice under section 26C, the Minister shall, in respect of the lands

to which that notice relates:

- (a) cause a search to be made against those lands, and
- (b) give written notification to any person who appears to have an estate or interest in those lands, other than the person from whom the notice under section 26C has been received, which shall:
  - (i) state that a notice has been received under section 26C,
  - (ii) state that the Minister may, on the expiration of a period of not less than thirty days from the date of the notification, declare those lands to be Crown lands under section 26F,
  - (iii) inform the person to whom the notification is addressed that no compensation shall be payable to him on the making of a declaration under section 26F, and
  - (iv) inform the person to whom the notification is addressed of his right to object to the Minister under section 26E against the making of a declaration under section 26F in respect of those lands.

## **26E Objections**

- (1) At any time during the period referred to in section 26D (b) (ii), a person who has or claims to have an estate or interest in the lands to which a notification referred to in section 26D (b) relates, may object in writing to the Minister against the making of a declaration under section 26F in respect of those lands.
- (2) The Minister shall consider and determine all objections made under subsection (1) and shall notify each objector of his determination concerning the objection.
- (3) The Minister shall not make a declaration under section 26F until such time as the period referred to in section 26D (b) (ii) has expired or until he has notified his determination of any objection made under subsection (1) to the objector, whichever shall last occur.

## **26F Minister may declare lands to be Crown lands**

Subject to sections 26C, 26D and 26E, the Minister may, if he is of the opinion that it is desirable to do so, declare, by notice published in the Gazette, town lands to be Crown lands.

## **26G Minister may declare lands to be Crown lands where rates are overdue**

Subject to sections 26H, 26I and 26J, where, before or after the commencement of the [Glen Davis \(Amendment\) Act 1974](#) a rate levied under the Local Government Act in respect of town lands is overdue for more than five years, the Minister may, if he is of the opinion that it is desirable to do so, declare, by notice published in the Gazette, those

town lands to be Crown lands.

#### **26H Shire clerk's certificate**

The Minister shall not make a declaration under section 26G unless the shire clerk of the Blaxland Shire Council first certifies in writing what rates are due or payable to that Council in respect of the town lands, with particulars of the rates, when the rates were made and how levied and when they became due or payable.

#### **26I Search and notification**

Upon the receipt of a certificate from the shire clerk under section 26H, the Minister shall, in respect of the lands to which that certificate relates:

- (a) cause a search to be made against those lands, and
- (b) give written notification to any person who appears to have an estate or interest in those lands which shall:
  - (i) state that the Minister may, on the expiration of a period of not less than thirty days from the date of the notification, declare those lands to be Crown lands under section 26G, and
  - (ii) inform the person to whom the notification is addressed of the provisions of section 26J.

#### **26J Payment of rates**

Where, in respect of town lands, before the expiration of the period referred to in section 26I (b) (i):

- (a) an overdue rate, and all other rates due and in arrears, are paid to the Blaxland Shire Council, or
- (b) an arrangement satisfactory to the Blaxland Shire Council for repayment of the rates referred to in paragraph (a) is entered into by the owner,

the Minister shall not make a declaration under section 26G.

#### **26K Making of declaration by Minister**

The Minister may make a declaration in respect of town lands under section 26G notwithstanding that a notice has not been received from the owner of those town lands under section 26C.

#### **26L Divesting of estate, interest etc in land on publication of notice**

On the publication in the Gazette of a notice under section 26F or section 26G, in relation to the town lands described in that notice:

- (a) any estate or interest therein which, immediately before the date of publication of the notice, was vested in or held by any person or body of persons shall be divested,
- (b) any person or body referred to in paragraph (a) shall be discharged from any duties, liabilities or obligations existing immediately before the date of publication of the notice in respect thereof,
- (c) any trusts, conditions, encumbrances, dedications or reservations affecting the town lands immediately before the date of publication of the notice shall be revoked and annulled, and
- (d) notwithstanding the provisions of the Local Government Act, the Blaxland Shire Council shall write off all rates and charges due to it in respect thereof.

#### **26M No compensation payable**

No compensation shall be payable to any person or body of persons in respect of the divesting of any estate or interest under this Part.

#### **26N Registrar-General shall make entries etc in Register**

The Registrar-General shall make all such entries, recordings, notifications and cancellations in the Register kept by him under the [Real Property Act 1900](#) as to him seem necessary or convenient in consequence of the enactment of this Part.

#### **26O Service of notices**

A notice or notification authorised or required to be given under this Part may be given as if it were a notice required to be served upon an owner of land by or under the Local Government Act.

### **Part 6 Miscellaneous**

#### **27 Minister a body corporate**

- (1) For the purpose of facilitating the acquisition and disposal of land under this Act the Minister shall be a corporation sole under the name of "the Minister" and by that name shall have perpetual succession and an official seal and may sue and be sued in his corporate name and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.
- (2) All courts and persons having by law or consent of parties authority to hear, receive, and examine evidence:
  - (a) shall take judicial notice of the official seal of the corporation sole affixed to any document, and

- (b) shall, until the contrary be proved, presume that such seal was properly affixed thereto.

## **28 Statement for Parliament**

As soon as practicable after the thirtieth day of June in each year the Minister shall prepare and lay before both Houses of Parliament a statement for the year ending on that date, showing:

- (a) the moneys expended during such year under this Act in acquiring land and in carrying out any works on such land,
- (b) the rentals contracted for, the amount of rent received and of arrears outstanding,
- (c) the area of land appropriated and resumed under this Act and the value of such land,
- (d) the area of land sold under this Act and the consideration for each sale,
- (e) such other matters as are necessary for the survey of the Minister's operations under this Act for the year.

## **29 (Repealed)**

## **30 Constitution of municipality**

- (1) Notwithstanding anything contained in the Local Government Act the Governor may, by proclamation published in the Gazette, declare that the whole or any part of any land theretofore acquired by the Minister under this Act, together with such other lands (if any) as the Governor may think fit, shall, as from a date appointed in the proclamation, be constituted as a municipality within the meaning of the Local Government Act.

The corporate name of such municipality shall be "The Council of the Municipality of Glen Davis".

- (2) The Governor may, in and by the proclamation, appoint an administrator of such municipality.
- (3) The Governor may, by such proclamation, or by any subsequent proclamation made by him from time to time and published in the Gazette, declare that until the first election of aldermen of the municipality is held all or any of the provisions of the Local Government Act or of any other Act as specified in the proclamation, in so far as they apply to a municipality or to the council thereof or to the area of a municipality, shall not apply to or in respect of the municipality constituted under this section.
- (4) Upon the date appointed in the proclamation under subsection one of this section:
  - (a) the lands so constituted a municipality shall cease to be a part of the Shire of Blaxland,

- (b) the council of such shire shall be deemed to be the council of that shire as altered by the taking away of such lands, and
  - (c) no reconstitution of the council or the area of the Shire of Blaxland shall be necessary.
- (5) An administrator appointed under this section shall have the powers, duties and liabilities of a council, and shall be paid out of the general fund of the municipality such salary as the Governor may determine.
  - (6) The Governor may, by proclamation published in the Gazette, appoint a date upon which the first election of aldermen of the municipality shall be held.
  - (7) An administrator appointed by the Governor under this section may be removed by the Governor by proclamation published in the Gazette, and the Governor may, in like manner, appoint another administrator in his stead.
  - (8) An administrator appointed under this section shall cease to hold office as such upon the date upon which the first election of aldermen of the municipality is held.

### **31 No compensation payable on certain resumptions**

No compensation shall be payable to any person or body of persons, corporate or unincorporate, in respect of the appropriation or resumption under this Act of any of the lands described in the Second Schedule to this Act.

### **32 Penalty**

Any person who contravenes or fails to comply with any special condition attached to land by the operation of this Act, shall be liable, upon summary conviction, to a penalty not exceeding forty dollars, and where the contravention or failure is a continuing one, to a penalty not exceeding four dollars for each day during which such contravention or failure continues.

### **33 Regulations**

- (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may impose a penalty not exceeding one hundred dollars for any breach thereof.
- (3), (4) (Repealed)

## **First Schedule**

MEMORANDUM OF AGREEMENT made the twenty-fifth day of October one thousand nine hundred and

thirty-nine BETWEEN THE COMMONWEALTH OF AUSTRALIA (hereinafter called “the Commonwealth”) of the first part THE STATE OF NEW SOUTH WALES (hereinafter called “the State”) of the second part and NATIONAL OIL PROPRIETARY LIMITED (hereinafter called “the Company”) of the third part and intended to be read and construed as if endorsed upon the agreement made on the twenty-third day of July one thousand nine hundred and thirty-seven between the same parties as are parties hereto which was ratified by the [National Oil Proprietary Limited Agreement Act 1937](#) of the Commonwealth and the [National Oil Proprietary Limited Agreement Ratification Act 1937](#) of the State.

WHEREAS it is necessary to vary the said agreement as hereinafter mentioned NOW IT IS HEREBY AGREED as follows:—

**1.**

**(a)**

Notwithstanding the terms of Clause 19 of the said agreement made the twenty-third day of July one thousand nine hundred and thirty-seven that clause and the other parts of that agreement shall be read and construed as if the Fourth Schedule to that agreement contained and had at the date of execution of such agreement contained words excluding from the said Fourth Schedule the lands described in the First Part of the Schedule to this agreement.

**(b)**

The Act of the State ratifying this agreement shall provide accordingly for the revocation of the reservation enacted by Section eight of the [National Oil Proprietary Limited Agreement Ratification Act 1937](#) so far as concerns the land described in the First Part of the Schedule to this agreement.

**2.**

**(a)**

Notwithstanding the provisions of Clause 12 of the said agreement made the twenty-third day of July one thousand nine hundred and thirty-seven and the terms of the Deed of Covenant and Charge dated the twenty-eighth day of March one thousand nine hundred and thirty-nine registered Number 868 Book 1841 made by the Company in favour of the Commonwealth the Prime Minister of the Commonwealth shall have power to release without any consideration the lands described in the Schedule hereto from the provisions of Clause 12 of the said agreement and of the said Deed of Covenant and Charge to the intent that such lands shall cease to be comprised in or subject to such Deed of Covenant and Charge and the Prime Minister may deliver up to the Company all documents of title to any of the said lands.

**(b)**

Notwithstanding the provisions of Clause 12 of the said agreement made the twenty-third day of July one thousand nine hundred and thirty-seven and the terms of the Deed of Covenant and Charge dated the twenty-eighth day of March one thousand nine hundred and thirty-nine registered Number 869 Book 1841 made by the Company in favour of the State the Premier of the State shall have power to release without any consideration the lands described in the Schedule hereto from the provisions of Clause 12 of the said agreement and of the said Deed of Covenant and Charge to the intent that such lands shall cease to be comprised in or subject to such Deed of Covenant and Charge and the Premier may deliver up to the Company all documents of title to any of the said lands.

**3.**

In this agreement unless the context otherwise requires the expressions "Prime Minister" and "Premier" have the same respective meanings as they have in the said agreement dated the twenty-third day of July one thousand nine hundred and thirty-seven.

**4.**

This agreement shall have no force or effect and shall not be binding on any party unless and until it is approved by the Parliaments of the Commonwealth and of the State.

IN WITNESS whereof the parties hereto have executed these presents the day and year first above written.

SIGNED SEALED AND DELIVERED by THE HONOURABLE HATTIL SPENCER FOLL the Minister for the Interior of the Commonwealth of Australia for and on behalf of the Commonwealth of Australia in the presence of:

H.E. STREET.

}

H.S. FOLL

SIGNED SEALED AND DELIVERED by THE HONOURABLE LEWIS ORMSBY MARTIN the Minister for Public Works of the State of New South Wales for and on behalf of the State in the presence of:

R.A. JOHNSON.

}

L.O. MARTIN

THE COMMON SEAL OF NATIONAL OIL PROPRIETARY LIMITED was hereunto affixed by authority of the Board of Directors in the presence of:

V.H. BARR SMITH.

}

GEO. F. DAVIS

(L.S.)

Director.

**THE SCHEDULE REFERRED TO**

**FIRST PART**

All that piece or parcel of Crown land situate in the Shire of Blaxland, parish of Gindantherie, county of Cook and State of New South Wales, being part of M.L. 25, Lithgow Mining Division:—

Commencing at the south-western corner of portion 2, parish of Gindantherie; and bounded thence on the north by the southern boundary of that portion bearing 89 degrees 53 minutes 30 seconds 16 chains 3.7 links and part of the southern boundary of portion 3 bearing 89 degrees 57 minutes 30 seconds 12 chains 34.2 links; on the east by a line bearing 179 degrees 33 minutes 21 chains 55.8 links; on the south by a line bearing 270 degrees 48 chains 60.7 links to the eastern boundary of portion 7; on the west by part of that boundary bearing 6 minutes 11 chains 38.7 links to the south-western corner of portion 1; again on the north by the southern boundary of that portion, being lines successively bearing 89 degrees 45 minutes 30 seconds 15 chains 5.5 links and 89 degrees 43 minutes 10 seconds 5 chains 0.5 links; and again on the west by part of the eastern boundary of that portion bearing 359 degrees 52 minutes 45 seconds 10 chains 4.5 links to the point of commencement; having an area of 84 acres 34 3/4 perches or thereabouts.



## SECOND PART

All that piece or parcel of land, having an area of 107 acres 1 rood 13 perches or thereabouts, situate in the Shire of Blaxland, parish of Gindantherie, county of Cook and State of New South Wales, being part of portions 1, 2 and 3:—

Commencing on the right bank of Capertee River at the north-eastern corner of the said portion 2; and bounded thence on the east by part of the eastern boundary of that portion bearing 179 degrees 52 minutes 45 seconds 21 chains 10.6 links; on the north by lines successively bearing 90 degrees 8 minutes 45 seconds 11 chains 43.6 links, 93 degrees 20 minutes 75.8 links, and 99 degrees 42 minutes 20 seconds 75.8 links; on the south-east by a line bearing 192 degrees 53 minutes 40 seconds 2 chains 87.9 links; on the east by a line bearing 179 degrees 33 minutes 8 chains 79.4 links to the southern boundary of the said portion 3; on the south by part of that boundary and the southern boundary of the said portion 2 bearing 269 degrees 57 minutes 30 seconds 12 chains 34.2 links and 269 degrees 53 minutes 30 seconds 16 chains 3.7 links respectively; again on the east by part of the eastern boundary of the said portion 1 bearing 179 degrees 52 minutes 45 seconds 10 chains 4.5 links to the south-eastern corner of that portion; again on the south by the southern boundary of that portion being lines successively bearing 269 degrees 43 minutes 10 seconds 5 chains 0.5 link and 269 degrees 45 minutes 30 seconds 15 chains 5.5 links; on the west by the western boundary of that portion bearing 360 degrees 20 chains 71.2 links to the right bank of Capertee River aforesaid; and generally on the north, north-west and north-east by that river downwards to the point of commencement; but excluding thereout the road, 2 chains wide and variable width, within the said portions 1, 2 and 3, and having an area of 7 acres 26 1/2 perches or thereabouts, which area has been deducted from the total.

## Second Schedule

### Description

All that piece or parcel of land situate in the Shire of Blaxland, parish of Gindantherie, county of Cook and State of New South Wales, being portions 1 and 2, part of portion 3 and part of M.L. 25, Lithgow Mining Division:—

Commencing on the right bank of Capertee River at the north-eastern corner of the said portion 2; and bounded thence on the east by part of the eastern boundary of that portion bearing 179 degrees 52 minutes 45 seconds 21 chains 10.6 links; on the north by lines successively bearing 90 degrees 8 minutes 45 seconds 11 chains 43.6 links, 93 degrees 20 minutes 75.8 links and 99 degrees 42 minutes 20 seconds 75.8 links; on the south-east by a line bearing 192 degrees 53 minutes 40 seconds 2 chains 87.9 links; on the east by a line bearing 179 degrees 33 minutes 30 chains 35.2 links; on the south by a line bearing 270 degrees 48 chains 60.7 links to the eastern boundary of portion 7; on the west by part of that boundary being lines successively bearing 6 minutes 11 chains 38.7 links and 360 degrees 20 chains 71.2 links to the right bank of Capertee River aforesaid; and generally on the north, north-west and north-east by that river downwards to the point of commencement:—and having an area of 198 acres 2 roods 34 1/4 perches or thereabouts.

## Third Schedule

### Description of work

Construction of roads, drains and reserves, including survey and design, clearing, excavating, forming,

filling, boxing, levelling, gravelling, ballasting, metalling, concrete construction, culverting, pipe-laying, draining, carpentering, fencing, tree planting, and such other works as may be required in connection therewith.

The whole is subject to such modifications and extensions as may be considered desirable by the Minister.

## **Fourth Schedule**

### **Description of hotel site**

An area of 2 acres comprising part of portion 2, parish of Gindantherie, county of Cook:—

Commencing within the said portion 2 at a point bearing 320 degrees 48 minutes 40 seconds and distant 1007.8 feet from the south-eastern corner of portion 2 and bounded thence on the south by a line bearing 270 degrees 8 minutes 45 seconds 330 feet; on the west by a line bearing 8 minutes 45 seconds 264 feet; on the north by a line bearing 90 degrees 8 minutes 45 seconds 330 feet; and on the east by a line bearing 180 degrees 8 minutes 45 seconds 264 feet to the point of commencement.

## **Fifth Schedule**

### **Special condition**

The outer part of the external walls of any main building shall be constructed of brick, stone and/or concrete and of no other material or materials whatsoever—and each building shall cost and be of a value of 900 dollars (\$900) at the least.