

# Seat of Government Surrender Act 1909 No 14

[1909-14]



New South Wales

## Status Information

### Currency of version

Current version for 7 December 2007 to date (accessed 17 July 2024 at 22:16)

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### Provisions in force

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

### Authorisation

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File last modified 7 December 2007

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# Seat of Government Surrender Act 1909 No 14



New South Wales

An Act to provide for the surrender of territory in connection with the Seat of Government of the Commonwealth, and to ratify and confirm an agreement for that and other purposes.

## Preamble

WHEREAS by the Commonwealth of Australia Constitution Act it is provided that the Seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth: And whereas the Commonwealth and the State of New South Wales have entered into an agreement, set out in the First Schedule to this Act, for the surrender to and acceptance by the Commonwealth, for the purposes of the Seat of Government and for the other purposes incidental thereto, of the territory now being part of the said State, and described in the Second Schedule to this Act: And whereas it is desirable to approve and ratify, and to provide for carrying out the said agreement, and on the terms and conditions thereof to surrender the said territory to the Commonwealth:

Be it therefore enacted by the King'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:

### 1 Name of Act

This Act may be cited as the *Seat of Government Surrender Act 1909*.

### 2 Act to bind Crown

This Act shall bind the Crown.

### 3 Commencement of Act

This Act shall come into force on a date to be fixed by proclamation of the Governor.

### 4 Definitions

In this Act:

**Agreement** means the agreement made between the Commonwealth and the State, and set out in the First Schedule.

**The Commonwealth** means the Commonwealth of Australia.

**The State** means the State of New South Wales.

## **5 Ratification of agreement**

The agreement is hereby ratified and confirmed.

## **6 Surrender of territory**

The territory comprised in the Second Schedule is hereby surrendered to the Commonwealth in accordance with the agreement.

## **7 Grant of Crown lands in territory**

The Crown lands within such territory are hereby granted to the Commonwealth without any payment therefor.

## **8 Grant of lands in Third Schedule**

The lands described in the Third Schedule, so far as the same are not already vested in the Commonwealth, are hereby granted to the Commonwealth without payment therefor.

## **9 Repeal of Act does not affect operation of savings and transitional provision**

- (1) Despite the repeal of the *Seat of Government Surrender (Amendment) Act 1923*, section 4 of, and the Schedule to, that Act continue to have effect and are taken to have been transferred to this Act.
- (2) Section 4 of, and the Schedule to, the *Seat of Government Surrender (Amendment) Act 1923* are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

## **First Schedule**

AGREEMENT made the eighteenth day of October, one thousand nine hundred and nine, between the Commonwealth of Australia (hereinafter called the Commonwealth) of the one part, and the State of New South Wales (hereinafter called the State) of the other part: Witnesseth that, subject as hereinafter mentioned to the approval of the Parliaments of the Commonwealth and of the State, it is hereby agreed as follows:—

### **1.**

The State shall surrender to the Commonwealth, and the Commonwealth shall accept, for the purposes of the Seat of Government, the territory (hereinafter called the Territory), now being part of the State, described hereunder, namely:—

Counties of Murray and Cowley, area about 900 square miles: Commencing on the Goulburn-Cooma railway at its intersection with the Queanbeyan River at Queanbeyan; and bounded thence by that railway generally southerly to the south-eastern corner of portion 177, parish of Keewong, county of Murray; by the southern boundaries of that portion and portions 218, 211,

36, and 38 generally westerly to the Murrumbidgee River; by that river downwards to a point east of the south-east corner of portion 68, parish of Cuppacumbalong, county of Cowley; by a line partly forming the southern boundary of that portion west to the eastern watershed of Gudgenby River; by that watershed and the eastern and southern watersheds of Naas Creek; by part of the western watershed of Gudgenby River generally southerly, westerly, and northerly to the southern watershed of Cotter River; by that watershed and the western watershed of that river, passing through Mount Murray and through Bimberi Trigonometrical Station, generally northerly to Coree Trigonometrical Station; thence by a line bearing north-easterly to One-tree Trigonometrical Station; thence by the watershed of Molonglo River north-easterly and generally south-easterly to the Goulburn-Cooma Railway aforesaid; and thence by that railway generally south-westerly, to the point of commencement.

**2.**

The right of the State or of the residents therein to the use and control of the waters of the Queanbeyan and Molonglo Rivers and their tributaries which lie to the east of the Goulburn to Cooma Railway shall be subject and secondary to the use and requirements of the Commonwealth (which are hereby declared to be paramount) for all the purposes of the Territory, and the State shall consent to the construction by the Commonwealth in the State of such works as are necessary for those purposes.

**3.**

The State shall reserve from sale, lease, and occupation (except with the concurrence of the Commonwealth) all Crown lands within the catchment areas of the Queanbeyan and Molonglo Rivers.

**4.**

The State shall not pollute and shall protect from pollution the waters of the Queanbeyan and Molonglo Rivers throughout their whole course above the Territory.

**5.**

The State shall grant to the Commonwealth (so far as the same are not already vested in the Commonwealth) without payment therefor areas of land at Sussex Haven and at and near Jarvis Bay described in the Schedule hereto.

**THE SCHEDULE**

EASTERN Division, Land District of Nowra, county of St. Vincent, parish of Bherwerre, area about 2 square miles: Commencing on the high-water mark of Jarvis Bay at the south-western corner of portion 30 of 40 acres, and bounded thence on the east by a line bearing south 80 chains, on the south by a line bearing west 197 chains, on the west by a line bearing north to the aforesaid high-water mark, and on all other sides by that high-water mark bearing generally easterly, to the point of commencement.

Eastern Division, Land District of Nowra, county of St. Vincent, parish of Bherwerre, containing an area of 132 acres. The Crown lands within Bowen Island, situated in the South Pacific Ocean at the mouth of Jarvis Bay northerly of Governor Head. Shown on plan catalogued Ms. 1276 Sy. in the Department of Lands, Sydney.

Eastern Division, Land District of Nowra, county of St. Vincent, parish of Bherwerre, area 412

acres. The Crown lands within the following boundaries: Commencing on the high-water mark of Jervis Bay, at the north-eastern corner of portion 21 of 40 acres; and bounded thence on the west by the eastern boundary of that portion bearing south 0 degrees 31 minutes west 10 chains 45 links; on the north by part of the southern boundary of that portion bearing north 89 degrees 21 minutes west 13 chains 74 links, again on the west by a road 1 chain wide dividing it from portion 20 of 40 acres bearing south 0 degrees 36 minutes west 21 chains 26 links, again on the north by that road dividing it from portion 20 bearing north 89 degrees 15 minutes west 5 chains 60 links, again on the west by that road dividing it from portion 30 of 40 acres bearing south 0 degrees 42 minutes west 20 chains 6 links; thence by a line south 13 chains 92 links, on the south-west by a line bearing south 69 degrees 12 minutes east 18 chains 25 links, again on the west by a line, a road 1 chain wide dividing it from portion 31 of 2 acres, and another line, in all bearing south 0 degrees 25 minutes west 9 chains 97 links, again on the south-west by a line and a road 1 chain wide dividing it from portion 33 of 10 acres, in all bearing south 20 degrees east 29 chains 13 links, on the south by a line bearing east 21 chains 28 links to the high water mark of the South Pacific Ocean; and thence by that high-water mark and the high-water mark of Jervis Bay aforesaid bearing generally northerly and westerly, to the point of commencement. Shown on plan catalogued Ms. 1392 Sy. in the Department of Lands, Sydney.

Eastern Division, Land District of Milton, county of St. Vincent, parish of Farnham, area 103 acres. The Crown lands within the following boundaries: Commencing on the high-water mark of the South Pacific Ocean, at a point south 21 chains 38 links from a point west 10 chains from Farnham Trigonometrical Station, and bounded thence on the west by a line north 30 chains 55 links, on the north by a line east 28 chains 7 links to the high-water mark of Sussex Haven; thence by the high-water mark of Sussex Haven and the South Pacific Ocean generally southerly and westerly, to the point of commencement. Shown on plan catalogued Ms. 1399 Sy. in the Department of Lands, Sydney.

Eastern Division, Land District of Nowra, county of St. Vincent, parish of Beecroft, area 1,650 acres. The Crown lands within the following boundaries: Commencing at a point at a wharf on the high-water mark of Jervis Bay, being the intersection of that high-water mark with the production north-westerly of a south-western side of the surveyed road, shown on plan catalogued Ms. 1395 Sy. in the Department of Lands, Sydney, to Point Perpendicular Lighthouse; thence by that production and that south-western side of that surveyed road bearing 152 degrees 53 minutes 316 links; thence by western, south-western, and southern sides of that road, being lines bearing 173 degrees 43 minutes 418.2 links, 190 degrees 55 minutes 360.9 links, 183 degrees 49 minutes 2,005.7 links, 124 degrees 30 minutes 754.6 links, 113 degrees 5 minutes 1,201 links, 118 degrees 30 minutes 979.7 links, and 86 degrees 15 minutes 373.5 links, thence by lines bearing 179 degrees 4 minutes 5,360.5 links, 128 degrees 39 minutes 9,114.7 links, and 100 degrees 6 minutes 5,150.6 links to a post which bears 280 degrees 6 minutes, and is distant 359.8 links from a post marked ↑ over A over 98, and shown on plan Ms. 1395 Sy. aforesaid, and thence by lines bearing 49 degrees 39 minutes 10,029.6 links, 20 degrees 17 minutes 8,789.3 links, 326 degrees 30 minutes 6,502.5 links, and 89 degrees 30 minutes 2,810 links, to a point on the high-water mark of the South Pacific Ocean bearing 279 degrees 30 minutes from the northern extremity of the Drum and Drumsticks Islands; thence generally southerly, easterly, southerly, and south-westerly by part of that high-water mark to its intersection at Point Perpendicular with the eastern boundary of portion 5 of 10 acres, parish of Beecroft; thence northerly, westerly, and southerly by the eastern, northern, and western boundaries respectively of that portion to a point on the high-water mark of Jervis Bay, and thence generally northerly,

north-westerly, southerly, westerly, and northerly by part of that high-water mark to the commencing point. Shown on plan catalogued Ms. 5228 Sy. in the Department of Lands, Sydney.

The bearings quoted in this last description are according to the true meridian.

**6.**

For the purpose of providing access to and from the Territory from and to the sea, the State shall grant to the Commonwealth—

- (a) the right to construct, maintain, and work a railway or other means of communication from the Territory to Jervis Bay, and to procure in New South Wales timber, ballast, and other material necessary for such construction by paying such compensation in accordance with the laws of the State as is payable by the State when constructing State railways; and
- (b) the right on terms to be agreed upon, or in default of agreement, to be determined by arbitration, to cross over or under, by road or railway, any State railway, and to connect with and run trains over any portion of a State railway.

**7.**

The State shall not claim compensation from the Commonwealth for the value of any right, title, or interest of the State in land of the State required by the Commonwealth for the purposes of the railway constructed by the Commonwealth between the Territory and Jervis Bay.

**8.**

The Commonwealth shall grant to the State, on terms to be agreed upon, or in default of agreement to be determined by arbitration, the right to cross over or under by road or railway, or to connect with and run trains over the railway constructed by the Commonwealth between the Territory and Jervis Bay.

**9.**

In the event of the Commonwealth constructing a railway within the Territory to its northern boundary, the State shall construct a railway from a point near Yass, on the Great Southern Railway, to join with the said railway, and the Commonwealth and the State shall grant to each other such reciprocal running rights as may be agreed upon, or, as in default of agreement, may be determined by arbitration, over such portions of that railway as are owned by each.

**10.**

(Repealed)

**11.**

The surrender of the Territory to the Commonwealth shall not be deemed to abridge the right of the State or of the residents therein to the reasonable use of the waters of the Murrumbidgee River for conservation or irrigation.

**12.**

When any dispute or matter authorised or directed by this agreement to be settled by arbitration has arisen, then, unless the parties hereto concur in the appointment of a single arbitrator, the dispute or matter shall be referred for decision to two arbitrators, one to be appointed by the Prime

Minister for the time being of the Commonwealth and one by the Premier for the time being of the State, and the arbitration shall be subject, as nearly as practicable, to the laws relating to arbitration in force in the State.

**13.**

This agreement shall not in any way be binding unless and until it is approved by the Parliaments of the Commonwealth and of the State, and legislation is passed enabling the Commonwealth and the State to effect the surrender and acceptance of the Territory.

And whereas doubts have arisen as to the meaning of the provision of the Constitution that such portion of the Territory as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor, it is hereby further agreed as follows:—

**14.**

The Commonwealth shall account to the State for any purchase money received by the Commonwealth in respect of any grant of an estate in fee-simple in the Territory—

- (a) made by the State before the date of the surrender; or
- (b) contracted before that date to be so made, either unconditionally or upon conditions which (except as to the payment of purchase money) have been wholly fulfilled at that date.

**15.**

The State shall make no claim for payment in respect of—

- (a) the value of the waste lands of the Crown in the Territory; or
- (b) the rents and profits, after the date of the surrender, of any land in the Territory held from the Crown under any estate less than an estate in fee-simple; or
- (c) the value of the right, title, estate, or interest of the Crown in reversion or expectancy upon the termination of any such estate as mentioned in the last preceding paragraph; or
- (d) the purchase money for the grant by the State of any conditional estate in any land in the Territory, in respect of which at the date of the surrender there remains unfulfilled any condition precedent (other than the payment of purchase money) to the grant of an estate in fee-simple.

## **Second Schedule**

### **Description of the Territory**

Counties of Murray and Cowley, area about 900 square miles: Commencing on the Goulburn-Cooma Railway at its intersection with the Queanbeyan River at Queanbeyan; and bounded thence by that railway generally southerly to the south-eastern corner of portion 177, parish Keewong, county of Murray; by the southern boundaries of that portion and portions 218, 211, 36, and 38 generally westerly to the Murrumbidgee River; by that river downwards to a point east of the south-east corner of portion 68, parish of Cuppacumbalong, county of Cowley; by a line partly forming the southern boundary of that portion west to the eastern watershed of Gudgenby River; by that watershed and the eastern and southern watersheds of Naas Creek; by part of the western watershed of Gudgenby River generally southerly, westerly, and northerly to the southern watershed of Cotter River; by that

watershed and the western watershed of that river, passing through Mount Murray and through Bimberi Trigonometrical Station, generally northerly to Coree Trigonometrical Station; thence by a line bearing north-easterly to One-tree Trigonometrical Station; thence by the watershed of Molonglo River north-easterly and generally south-easterly to the Goulburn-Cooma Railway aforesaid; and thence by that railway generally south-westerly, to the point of commencement.

### **Third Schedule**

EASTERN Division, Land District of Nowra, county of St. Vincent, parish of Bherwerre, area about 2 square miles: Commencing on the high-water mark of Jervis Bay at the south-western corner of portion 30 of 40 acres, and bounded thence on the east by a line bearing south 80 chains, on the south by a line bearing west 197 chains, on the west by a line bearing north to the aforesaid high-water mark, and on all other sides by that high-water mark bearing generally easterly, to the point of commencement.

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Eastern Division, Land District of Nowra, county of St. Vincent, parish of Bherwerre, area 412 acres. The Crown lands within the following boundaries: Commencing on the high-water mark of Jervis Bay, at the north-eastern corner of portion 21 of 40 acres; and bounded thence on the west by the eastern boundary of that portion bearing south 0 degrees 31 minutes west 10 chains 45 links; on the north by part of the southern boundary of that portion bearing north 89 degrees 21 minutes west 13 chains 74 links, again on the west by a road 1 chain wide dividing it from portion 20 of 40 acres bearing south 0 degrees 36 minutes west 21 chains 26 links, again on the north by that road dividing it from portion 20 bearing north 89 degrees 15 minutes west 5 chains 60 links, again on the west by that road dividing it from portion 30 of 40 acres bearing south 0 degrees 42 minutes west 20 chains 6 links; thence by a line south 13 chains 92 links, on the south-west by a line bearing south 69 degrees 12 minutes east 18 chains 25 links, again on the west by a line, a road 1 chain wide dividing it from portion 31 of 2 acres, and another line, in all bearing south 0 degrees 25 minutes west 9 chains 97 links, again on the south-west by a line and a road 1 chain wide dividing it from portion 33 of 10 acres, in all bearing south 20 degrees east 29 chains 13 links, on the south by a line bearing east 21 chains 28 links to the high water mark of the South Pacific Ocean; and thence by that high-water mark and the high-water mark of Jervis Bay aforesaid bearing generally northerly and westerly, to the point of commencement. Shown on plan catalogued Ms 1392 Sy in the Department of Lands, Sydney.

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