

Governor General's Residence (Grant) Act 1945 No 32

[1945-32]



New South Wales

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Authorisation

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Governor General's Residence (Grant) Act 1945 No 32



New South Wales

An Act to enable the Crown to grant certain land at Kirribilli Point, North Sydney, to the Commonwealth of Australia, for the purpose of the official residence in Sydney of the Governor General of the Commonwealth of Australia; to vest certain adjoining lands in His Majesty; and for purposes connected therewith.

Preamble

WHEREAS by virtue of Certificate of Title registered under the *Real Property Act 1900*, Volume 249, Folio 14, dated the 29th February, 1876, His Majesty is registered as the proprietor for an estate in fee simple in the land comprised therein which is wholly included in the land described in the Schedule to this Act AND WHEREAS on the said Certificate of Title there appears a Caveat by the Registrar-General No A.325635 forbidding registration of dealings not in accordance with a certain agreement dated the 26th August, 1914, made between His Majesty of the one part and the Pastoral Finance Association Ltd. of the other part filed in the Land Titles Office No 10674 AND WHEREAS by virtue of Crown Grant registered under the said Act, Volume 199, Folio 242, dated 16th January, 1875, His Majesty is also registered as the proprietor for an estate in fee simple in the land comprised therein which is partly included in the land described in the said Schedule AND WHEREAS the Maritime Services Board of New South Wales is entitled to be registered under the said Act by virtue of Certificate of Title Volume 2050, Folio 103, dated 18th April, 1910, as the proprietor for an estate in fee simple in inter alia three parcels of land containing respectively about one perch, about one-fifth of a perch and about nine square feet which are included in the land described in the said Schedule AND WHEREAS by Notification of Resumption published in the Government Gazette of the 4th January, 1856, Folio 31, under Act 18 Vic No 10, the land described in the said Notification became vested in Her Majesty in fee simple and is included in the land described in the said Schedule AND WHEREAS other small parts of the land described in the said Schedule comprise reclaimed lands which have never been the subject of a Crown Grant:

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 *Governor General's Residence (Grant) Act 1945*.

1A Definitions

In this Act:

Admiralty House Crown Grant means the Crown Grant registered Volume 5913, Folio 167 that was authorised to be granted by section 3, as in force before the commencement of the *Governor General's Residence (Grant) Amendment Act 2006*.

exclusive residence condition means the condition inserted in the Admiralty House Crown Grant in pursuance of section 3 (2) (a) requiring the land comprised in the grant to be used "exclusively as and for the official residence in Sydney of Our Governor General of Our Commonwealth of Australia and for no other purpose whatsoever".

2 Vesting of land in His Majesty

For the purposes of this Act there is hereby vested in His Majesty His Heirs and Successors in right of the State of New South Wales (subject as hereinafter provided) the land described in the Schedule to this Act.

3 Authority to make grant to Commonwealth

- (1) The Governor is hereby authorised by Crown Grant to grant subject to the provisions hereinafter contained the land described in the Schedule to this Act to the Commonwealth of Australia in fee simple to be used exclusively as and for the official residence in Sydney of the Governor General of the Commonwealth and for no other purpose.
- (2) Such Crown Grant shall provide in such form as the Governor may direct:
 - (a) for the user of the said land solely for the purpose aforesaid,
 - (b) for prohibiting any alienation encumbrance lease or disposition of any part of the said land,
 - (c) for the reservation and exception from the Crown Grant of all mines of coal lying at a greater depth than fifty feet from the surface of the said land with liberty to persons authorised by the Governor to enter and remove the same,
 - (d) that upon any breach of any of the provisions of the Crown Grant with respect to the user of the said land or with respect to the prohibition of any alienation encumbrance lease or disposition of any part of the said land (and notwithstanding any failure or neglect to forfeit the land or avoid the Crown Grant on any previous or other breach of any or all of such provisions and notwithstanding any waiver of any or all of such breaches) the Governor shall have full power and authority (by notification in the Gazette or by a notice in writing

given to the Prime Minister of the Commonwealth or the person for the time being acting in his place) to forfeit the said land to His Majesty His Heirs and Successors in right of the State of New South Wales and to avoid the said Crown Grant and thereupon the said land shall become forfeited to His Majesty His Heirs and Successors accordingly and the said Crown Grant shall become absolutely void,

- (e) that any notification by the Governor in the Gazette or notice in writing referred to in paragraph (d) of this subsection forfeiting the said land to His Majesty His Heirs and Successors in right of the State of New South Wales and avoiding the said Crown Grant shall be sufficient evidence of such forfeiture and avoidance and shall be prima facie evidence of such a breach of the provision of the Crown Grant referred to in the notification or notice as entitled the Governor so to forfeit the said land and avoid the Crown Grant,
- (f) that the provisions inserted in the Crown Grant in pursuance of paragraph (a) or (b) of this subsection shall in addition to being read and construed as conditions of the Grant be also read and construed as covenants and agreements whereby the Commonwealth agrees with His Majesty His Heirs and Successors in right of the State of New South Wales to observe and perform the said provisions,
- (g) for the acceptance of the said Crown Grant by the Governor General of the Commonwealth on behalf of the Commonwealth.

(3) It shall be a term of the issue of the said Crown Grant that:

- (a) the Commonwealth pay to the Colonial Treasurer of the State of New South Wales on behalf of that State the sum of thirty-four pounds being the costs of the survey of the said land and the sum of two pounds two shillings being the deed fee for issue of the said Crown Grant,
- (b) as against His Majesty His Heirs and Successors in right of the State of New South Wales no objection shall be taken or raised by the Commonwealth on the grant of the said land to or on account of all or any encroachments by or upon the said land.

(4) References in this Act to the Governor General of the Commonwealth extend and apply to such person as His Majesty shall appoint to administer the Government of the Commonwealth whilst so acting.

4 Agreement of 26th August, 1914

Notwithstanding sections two and three of this Act the rights and obligations created by the Agreement dated the 26th August, 1914, referred to in the Preamble to this Act shall continue to apply to and with respect to the land described in the Schedule to this Act so far as the same may remain in force or be of effect.

5 Vesting of land in His Majesty

- (1) The parts of the land comprised in the abovementioned Crown Grant registered Volume 199, Folio 242, not included in the land described in the Schedule to this Act are hereby vested in His Majesty His Heirs and Successors in right of the State of New South Wales and such Crown Grant shall as regards such parts of the land comprised therein be cancelled.
- (2) The land comprised in Crown Grant registered under the *Real Property Act 1900*, Volume 199, Folio 243, dated the 16th January, 1875, standing in the name of His Majesty is hereby vested in His Majesty His Heirs and Successors in right of the State of New South Wales and such Crown Grant shall be cancelled.

5A Variation of Admiralty House Crown Grant

The State and the Commonwealth may agree to vary the terms of the Admiralty House Crown Grant so as to omit the exclusive residence condition and replace it with the following conditions:

The land comprised in the Admiralty House Crown Grant is to be used primarily for the purpose of the Governor General's official residence in Sydney.

So long as the land is primarily so used, it is permitted, at the discretion of the Governor General, to be used from time to time for any charitable, educational or other public purpose, including (without limitation) the making of programs or material for dissemination to the public (such as the production of television or radio programs).

6 Power to Registrar General to alter register book

- (1) The Registrar General is authorised to make such entries cancellations and corrections with respect to the register book under the *Real Property Act 1900* and the Certificates of Title and Crown Grants therein and the duplicates thereof as may be advisable to give full effect to this Act.
- (2) Without limiting subsection (1), the Registrar General is authorised to make any such entry, cancellation or correction as may be advisable for the purpose of giving effect to an agreement under section 5A to permit the land comprised in the Admiralty House Crown Grant to be used for the agreed additional purposes instead of being used exclusively for the purpose set out in the exclusive residence condition.

The Schedule

ALL THAT piece or parcel of land containing an area of about 4 acres 0 roods 34 and $\frac{1}{3}$ rd perches situate in the Municipality of North Sydney, Parish of Willoughby, County of Cumberland and State of New South Wales within the following boundaries:

COMMENCING on the southern side of Kirribilli Avenue at the north-eastern corner of Lot 6 in Plan No 13064 deposited in the office of the Registrar General and bounded thence on the west by the

eastern boundaries of Lots 6, 12, 18 and 19 in that plan bearing 185 degrees 9 minutes 10 seconds 436 feet 10 inches to an existing mark ↑ on rock on the said boundary of Lot 19 aforesaid and bounded thence by a right line bearing 103 degrees 20 minutes 7 feet $7\frac{3}{4}$ inches to the western face of a retaining wall, again on the west by that face of that wall being a right line bearing 183 degrees 7 minutes 32 feet 4 inches, thence generally on the south by the southern face of a retaining wall being right lines bearing 123 degrees 19 feet 10 inches, 128 degrees 40 minutes 24 feet 8 inches, 116 degrees 47 minutes 25 feet $8\frac{3}{4}$ inches, 79 degrees 5 feet 9 inches, 51 degrees 30 minutes 6 feet $4\frac{1}{2}$ inches, 24 degrees 20 minutes 14 feet 9 inches, 9 degrees 15 minutes 14 feet $1\frac{3}{4}$ inches, 117 degrees 19 minutes 16 feet 2 inches, 193 degrees 17 minutes 20 feet 4 inches, 117 degrees 22 minutes 11 feet 5 inches, 190 degrees 25 minutes 14 feet $7\frac{1}{4}$ inches, 146 degrees 57 minutes 15 feet $4\frac{1}{4}$ inches, 86 degrees 48 minutes 27 feet $9\frac{1}{4}$ inches and bounded thence by a right line bearing 125 degrees 32 minutes 14 feet $8\frac{1}{4}$ inches to the southern face of a retaining wall, thence by that face of that wall being a right line bearing 115 degrees 34 minutes 18 feet 9 inches and bounded thence by right lines bearing 204 degrees 15 minutes 10 feet $5\frac{1}{4}$ inches, 113 degrees 53 minutes 18 feet to the southern face of a retaining wall, thence by that face of that wall being a right line bearing 115 degrees 48 minutes 22 feet 4 inches, thence by the mean high water mark of Port Jackson generally easterly, northerly and north-easterly, to the south-eastern corner of an area of 1 acre 20 perches acquired by the Commonwealth by Notification in the Commonwealth Government Gazette of the 17th January, 1920, thence by the south-western boundary of that land being lines bearing 272 degrees 30 minutes 128 feet 292 degrees 2 minutes 120 feet, 320 degrees 58 minutes 60 feet and 345 degrees 30 minutes 69 feet 7 inches to the southern side of Kirribilli Avenue aforesaid, and thence by the southern side of that Avenue bearing 263 degrees 177 feet 4 inches to the point of commencement, and the references hereinbefore to right lines as boundaries of the said land mean that such lines alone (and not the high water mark) form and shall be the boundaries thereof.