

# Whittingham to Mount Thorley Railway Act 1975 No 51

[1975-51]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 September 1980 to 7 July 2011 (accessed 24 November 2024 at 5:34)

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—

- **Repeal**

The Act was repealed by Sch 4 to the [Statute Law \(Miscellaneous Provisions\) Act 2011 No 27](#) with effect from 8.7.2011.

### 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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# Whittingham to Mount Thorley Railway Act 1975 No 51



New South Wales

An Act to sanction and provide for the construction of a branch railway from the main northern railway near Whittingham to the vicinity of Mount Thorley; to amend the *Public Works Act 1912*; and for purposes connected therewith.

## 1 Name of Act

This Act may be cited as the *Whittingham to Mount Thorley Railway Act 1975*.

## 2 Interpretation

(1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**Commission** means the Public Transport Commission of New South Wales.

**council** means council within the meaning of the *Local Government Act 1919*.

**schedule work** means the work described in the Schedule, subject to such modifications and deviations as may be deemed necessary or desirable by the Commission.

(2) The site of the scheduled work is shown on the plan marked “Public Transport Commission of N.S.W. Whittingham-Mt. Thorley Schedule Plan” sealed with the seal of the Commission, countersigned by the Director of Engineering of the Commission and deposited in the office of the Commission.

## 3 Scheduled work sanctioned

(1) The carrying out of the scheduled work is hereby sanctioned.

(2) The Commission is empowered to carry out the scheduled work and for the purpose of so doing may do all such things, including entering into contracts, as it may consider necessary.

#### **4 Estimated cost not to be exceeded by more than 10 per centum**

The cost of carrying out the scheduled work which, exclusive of amounts paid in connection with the acquisition of land, is estimated as \$9,700,000, shall not be exceeded by more than 10 per centum.

#### **5 Application of [Public Works Act 1912](#)**

- (1) The scheduled work shall be deemed to be authorised works within the meaning of the [Public Works Act 1912](#) (in this section referred to as **the Act**).
- (2) For the purpose of the scheduled work, the Commission shall be the Constructing Authority within the meaning of the Act.
- (3) The provisions of the Act, other than sections 34, 35, 36, 37, 47, 48, 49, 91 (b), 126 (3), 151 and 153, shall apply to and in respect of the scheduled work.
- (4) Notwithstanding the exclusion by subsection (3) of the provisions of section 91 (b) of the Act to and in respect of the scheduled work, the Commission may in its discretion make and maintain such fences in connection with the scheduled work as it thinks fit.
- (5) Without prejudice to the generality of the other provisions of this section, the provisions of section 38 of the Act shall apply to and in respect of a contract to be made under section 3 (2).

#### **6 Use of, and building on, the land**

Notwithstanding the provisions of the [Local Government Act 1919](#), of any ordinance made under that Act, of the [Environmental Planning and Assessment Act 1979](#) or an environmental planning instrument within the meaning of that Act, or of any other Act:

- (a) the land acquired for the scheduled work may be used in connection with the scheduled work for such purposes as the Commission determines, and
- (b) structures, complying with such specifications as the Commission approves, may be erected on the land referred to in paragraph (a).

#### **7 Construction in proximity to roads**

The scheduled work may be constructed on, over, under, along or by the side of a road if it is to be so constructed solely for the purpose of allowing the scheduled work to cross that road.

#### **8 Protective and safety devices at level crossings**

If the scheduled work crosses a road on the level, the Commission as the Constructing Authority shall install such protective and safety devices at that crossing as it deems requisite or expedient.

## 9 Closing of roads

- (1) Notwithstanding any provision of the *Public Roads Act 1902*, the *Public Works Act 1912* or any other Act, where a road is or may be affected by the construction of the scheduled work the Commission may, with the approval of the Governor, by notice published in the Gazette close such part or parts of that road as is or are specified in the notice.
- (2) A notice referred to in subsection (1) shall not be published unless the Governor is satisfied:
  - (a) that no person will be denied reasonable access to land by virtue of the closure or partial closure of the road, or
  - (b) that where a person is denied access to land along the road that is proposed to be closed or partially closed, that a reasonably alternative road of access to that land is permanently available or has been provided by the Commission.
- (3) Upon publication in the Gazette of a notice referred to in subsection (1), any dedication as a public road of the land specified in the notice shall absolutely cease and determine and the rights of any person to use the land specified in the notice or any part of that land for the purpose of a road shall be extinguished.
- (4) The land specified in the notice referred to in subsection (1) shall, upon publication of the notice, vest in the Commission as Constructing Authority.
- (5) No claim against the Commission, whether as Constructing Authority or otherwise, for compensation shall arise from anything done by it under subsection (1) or from or in respect of the vesting under subsection (4).

## 10 Maintenance of roads and bridges

- (1) Where the scheduled work:
  - (a) crosses a road on the level,
  - (b) is carried over a road, or
  - (c) is carried under a road,the maintenance of, and any future paving, kerbing, guttering, roadmaking, draining and other construction of a like or different nature in relation to, any such road:
  - (d) in a case to which paragraph (a) applies, up to the sleeper ends on each side of the scheduled work,
  - (e) in a case to which paragraph (b) applies, that is under the scheduled work, excluding the bridge or structure or any part of the bridge or structure that carries the scheduled work, and

- (f) in a case to which paragraph (c) applies, that is carried over the scheduled work, shall, after the completion of the scheduled work, be undertaken without expense to the Commission by the council, the Commissioner for Main Roads or any other authority, as the case may be, that would have been responsible for the road if the scheduled work had not been constructed, notwithstanding that the road may have been or be wholly or partly vested in the Commission.
- (2) Where the scheduled work is carried under a road, the whole or a portion of a bridge or structure over which the road runs, or of an approach to the bridge or structure, that is not within the land required for or for the purposes of the scheduled work as a railway may be dedicated as a public road under the [Public Roads Act 1902](#), or as a public highway under section 81 of the [Public Works Act 1912](#).
- (3) A dedication referred to in subsection (2) of the whole or a portion of a bridge or structure over which a State highway or main road runs shall have the same effect as if the whole or the portion, as the case may be, of the bridge or structure had been proclaimed by the Governor as a State highway or main road under the [Main Roads Act 1924](#).

## Schedule

(Section 2)

### Description of Works

- 1** A railway in the Parishes of Whittingham, Warkworth and Wollombi in the County of Northumberland, commencing at Whittingham on the main northern railway at a point about 234 kilometres from Sydney, proceeding generally westerly for about 4 kilometres, then generally south westerly for about 6 kilometres passing to the south of Main Road No 503 and terminating in the vicinity of portions 44, 139 and 140 in the Parish of Warkworth and portion 27 in the Parish of Wollombi, being in all about 12 kilometres in length.
- 2** Sidings, loops and loading facilities, and means of access thereto, including access from Main Roads Nos 181, 503 and 213, as the Constructing Authority deems necessary.
- 3** Works for the protection of the environment as the Constructing Authority deems necessary or desirable as a consequence of carrying out the works referred to in items 1 and 2.