

## THE SIXTH SCHEDULE.

(Section 7.)

PART I.

## TOWN OF BELLERIVE.

Section O.

1A. 3R. (or thereabouts).

A parcel of land that substantially complies with the following description:—

Commencing at the intersection of Chapman Street with the esplanade on the River Derwent and bounded on the north-east by 229 feet 11 inches north-westerly along that street on the north-west by 122 feet 7 inches south-westerly along 1 rood 14 3/10 perches described in Part II of this schedule on the south-west by 60 feet 4 1/2 inches north-westerly again along that land again on the north-west by 123 feet 1 inch south-westerly along Lot 5 purchased by J. T. Wertheimer, L. A. Giblin and R. H. Lane to King Street again on the south-west by 387 feet 10 1/2 inches south-easterly along that street and thence on the south-east by 265 feet 11 1/2 inches north-easterly along the esplanade aforesaid to the point of commencement.

PART II.

## TOWN OF BELLERIVE.

Section O.

1R. 14 3/10P.

Commencing at a point on Chapman Street distant 229 feet 11 inches north-westerly from the intersection of that street with the esplanade on the River Derwent and bounded on the south-east by 122 feet 7 inches south-westerly along 1 acre 3 roods described in Part I of this schedule on the south-west by 120 feet north-westerly again along that land along Lot 5 purchased by J. T. Wertheimer, L. A. Giblin and R. H. Lane and along part of 3 roods 36 perches purchased by E. W. Boothman on the north-west by 123 feet 8 1/2 inches north-easterly again along the last-mentioned land to Chapman Street aforesaid and thence on the north-east by 120 feet south-easterly along that street to the point of commencement as the same is shown on Plan No. 1409 filed and registered in the office of the Surveyor-General and Secretary for Lands at Hobart.

## ARCHIVES.

## No. 47 of 1965.

AN ACT to make better provision for the custody of State and other records and to repeal the *Public Records Act 1943*.

[22 December 1965.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1—(1) This Act may be cited as the *Archives Act 1965*.
- (2) The *Public Records Act 1943* is repealed.

Short title  
and repeal.

## Interpretation.

**2** In this Act, unless the contrary intention appears—

“ Archives Office ” means the Archives Office of Tasmania and includes the branches thereof, if any;

“ Board ” means the Tasmanian Library Board;

“ Crown records ” means records made for the use of the Crown, and includes—

(a) records of any department or branch of Her Majesty’s government in the territory; and

(b) records in this State of any department or branch of Her Majesty’s government anywhere;

“ head of the department ” means—

(a) in the case of a department as defined in the *Public Service Act* 1923, the permanent head of that department as so defined;

(b) in the case of Crown records kept otherwise than by such a department, the officer directly responsible to the relevant Minister for those records or where a board is so responsible its clerk or secretary;

(c) in the case of public authorities that are—  
 (i) a single person, that person; or  
 (ii) not a single person, their clerk or secretary; and

(d) in the case of local authorities, their clerk or secretary;

“ local authority ” means an authority having jurisdiction limited to part of the territory that is specified or of a kind mentioned in Part II of the schedule or prescribed for the purposes of this Act;

“ public authority ” means a public authority or institution mentioned in Part I of the schedule or prescribed for the purposes of this Act, and includes any predecessor or successor in function of such an authority or institution;

“ public records ” means registers and other records kept in pursuance of an Act for the information of the public and available thereunder for public inspection;

“ records ” means papers, letters, documents, memoranda, reports, records and remembrances of courts, registers, books, maps, plans, drawings, prints, plates, photographs, photographic plates and negatives, cinematograph films and negatives, sound recordings of any kind and matrices therefor and other materials made or collected in the course of his official duties by a person for future reference by the public or by persons in the office or organization in which he is employed, whether made by original work or made by compilation of materials originating in that office or organization or elsewhere;

“State archives” means State records and other papers and materials which are for the time being deposited and preserved in the Archives Office;

“State records” means—

- (a) Crown records;
- (b) records of public authorities; and
- (c) records of local authorities;

“Tasmania” includes Van Diemen’s Land;

“territory” means the island of Tasmania and the islands at the relevant time dependencies of Her Majesty’s government in the island of Tasmania.

**3**—(1) The Board shall establish an office and repository to be known as the “Archives Office of Tasmania” in which such State records as are made available to the Board and are considered by it to be worthy of preservation shall be deposited and preserved as State archives.

Archives Office.  
No. 46, 1960  
(N.S.W.),  
ss. 10, 11.

(2) The Board may establish, maintain, and control within the State branches of the Archives Office.

(3) All State records and other materials deposited with the archives officer under the *Public Records Act* 1943 at the commencement of this Act shall be deemed to be, and shall be preserved as, State archives, subject to any agreements under which they are held.

**4**—(1) The Governor may, in accordance with the *Public Service Act* 1923, appoint and employ a Principal Archivist, and such other officers, clerks, and servants as may be necessary for the purposes of this Act, all of whom shall be appointed in the State Library Department.

Officers and employees.  
*Ibid.*, s. 12.

(2) The Principal Archivist shall have the care of the State archives, and shall have such other duties in relation to the State archives and the management of the Archives Office as may be prescribed.

(3) Subject to the provisions of the *Public Service Act* 1923, the Board shall have the control and direction of the Principal Archivist and of any persons employed for the purposes of this Act in the exercise of their powers and duties under this Act.

**5**—(1) The Board shall provide a seal for use in the Archives Office bearing the armorial ensigns and supporters assigned for this State surrounded by the words “The Archives Office of Tasmania”.

Seal.

(2) The seal so provided shall be kept by the Principal Archivist or his deputy and used as prescribed.

**6**—(1) The Board shall take all practicable steps for the preservation of the State archives.

Powers and duties of the Board.  
6 & 7 Eliz. 2,  
c. 51, s. 2 (3),  
(4).  
No. 46, 1960  
(N.S.W.),  
s. 13 (2) (f).

(2) The Board may do all such things as appear to it necessary or expedient for maintaining the utility of the Archives Office and may in particular—

- (a) compile and make available indexes and guides to, and calendars and texts of, the records and other materials in the Archives Office;

- (b) prepare publications concerning the activities of and facilities provided by the Archives Office;
- (c) arrange for the publication, upon such terms and conditions as the Board thinks fit, of any of the State archives or of any articles prepared from material in the State archives and, in the case of articles not prepared by the Board, offered to the Board for publication;
- (d) subject to any conditions imposed under paragraph (b) of subsection (7) of section seven, subject to any variation thereof under subsection (8) of that section, or agreed to under section twenty, regulate the conditions under which members of the public may inspect records and other materials or use the other facilities of the Archives Office with power to refuse access to all but specified persons or classes of persons;
- (e) provide for the making and authentication of copies of and extracts from materials in the State archives required as evidence in legal proceedings or for other purposes;
- (f) accept responsibility for the safe keeping of other materials than State records;
- (g) make arrangements for the separate housing of films and other things which have to be kept under special conditions;
- (h) lend records and other things for display at commemorative exhibitions or for other special purposes; and
- (i) acquire records and other materials of historical value or interest by purchase, gift, or bequest or on loan.

(3) The Board may put into the State archives State records and other materials held or acquired by it otherwise than under this Act.

Transfer of  
State records  
to the Board.  
No. 46, 1960  
(N.S.W.),  
s. 19.

**7—**(1) State records shall not be destroyed or disposed of otherwise than in accordance with this section.

(2) Before any State records are destroyed or disposed of the head of the department concerned shall notify the Board in writing of his intention to destroy or dispose of those records and in that notification specify the nature of the records to which the notification relates.

(3) The Principal Archivist or his deputy may inspect any records referred to it in a notification received by the Board under subsection (2) of this section and if the Board requires those records or any of them to be made available to it shall so inform the person who caused the notification under that subsection to be given to it.

(4) Subject to this section, records shall be made available to the Board accordingly, and in the same form and order as that in which they are maintained in the office or other place from which they are so made available.

(5) Where within two months after a notification under subsection (2) of this section has been given to the Board, the Board does not, in accordance with subsection (3) of this section, in writing inform the person who caused the notification to be given that it requires the records referred to in the notification or some of them to be made available to it, this section does not thereafter apply to the destruction or disposal of the records referred to in the notification and not required by the Board.

(6) The provisions of this section apply to any record referred to in subsection (1) of this section notwithstanding any enactment, whether passed before or after the commencement of this Act, prohibiting any person from disclosing or divulging any information contained in any such record and no person is liable to a penalty under any such enactment by virtue of anything done under this section.

(7) Where the head of the department makes any records available to the Board, he may, by notice in writing given to the Board—

- (a) inform the Board that any such record contains information, the disclosure or divulging of which by any person is by virtue of any enactment prohibited; or
- (b) impose such conditions as he thinks fit prohibiting the Board from making any such record available for inspection by any person for any period specified in the notice or restricting the class of persons to whom the Board may make that record available for inspection.

(8) Any conditions referred to in paragraph (b) of subsection (7) of this section—

- (a) may be varied or revoked by the head for the time being of the department from which the records were made available to the Board; and
- (b) shall lapse fifty years after the first making of the record unless the contrary is expressly stated.

(9) Notwithstanding any other provision of this Act, the Board and every member, officer, clerk, and servant thereof shall not—

- (a) disclose or divulge any information contained in any record referred to in any notice given to the Board under paragraph (a) of subsection (7) of this section except with the approval of the head for the time being of the department from which the record was made available to the Board; or
- (b) make any record to which a notice given under paragraph (b) of subsection (7) of this section relates available for inspection by any person in contravention of any condition applicable to that record under that subsection.

Destruction of State records may be authorized by the Board.  
*Ibid.*, s. 15.

**8** Nothing in this Act precludes the head of the department from destroying or disposing of State records if the Principal Archivist has certified, in writing, that they may be destroyed.

Disposal of State records by the Board.  
*Ibid.*, s. 16.

**9** The Board may destroy or otherwise dispose of any State records in its custody or under its control in accordance with a certificate of the Principal Archivist that the State records specified therein may be destroyed or disposed of as therein specified.

Return of State archives to depositing office.  
*Ibid.*, s. 17.

**10** Where the head of the department notifies the Board in writing that a record which was made available to the Board from his office or organization or has been recovered by the Board under section sixteen or section seventeen is required for use in that office or organization the Board shall, if it has the custody or control of that record, return it thereto.

Prohibition on sale, destruction, or export of certain records.  
*Ibid.*, s. 18.

**11**—(1) No person may, without the written permission of the Board, sell or destroy or take or send out of the State any State record.

(2) This section does not apply to—

- (a) records in the custody or under the control of the Board; or
- (b) records taken or sent out of the State by officers or servants of a public or local authority in the course of their official duties.

Certificate of destruction of State records.  
*Ibid.*, s. 19.

**12** A certificate under the seal of the Archives Office that a State record has been destroyed by the Board shall be *prima facie* evidence of the fact so certified.

Public records.

**13**—(1) Notwithstanding any enactment the Master and Keeper of the Records and the Registrar of the Supreme Court, the Recorder of Titles, the Registrar-General, and all other officers having the custody of public records may deposit in the Archives Office any part of their records not in common use.

(2) Where public records have been deposited as provided in subsection (1) of this section, any person may at all times at which the Archives Office is open, without fee, inspect, copy, and take extracts from those records to the same extent as he might if they were in their original custody.

Legal validity of records and authenticated copies.  
6 & 7 Eliz. 2, c. 51, s. 9.

**14**—(1) The legal validity of a record shall not be affected by its removal under the provisions of this Act or of the *Public Records Act 1943*, or by any provisions in those Acts with respect to its legal custody.

(2) A copy of or extract from a State record in the Archives Office purporting to be examined and certified as true and authentic by the proper officer and to be sealed or stamped with the seal of the Archives Office shall be admissible as evidence in any proceedings without any further or other proof thereof if the original record would have been admissible as evidence in those proceedings.

(3) In subsection (2) of this section the reference to the proper officer is a reference to the Principal Archivist or any other officer of the Archives Office authorized in that behalf by the Principal Archivist.

(4) Nothing in this Act authorizes any officer of the Archives Office to give certificates based on public records deposited under section thirteen, which certificates may be given only as provided in the relevant Act therein referred to, but the officer giving the certificate is not bound to inspect the relevant records either by means of section ten or in the Archives Office but may rely on copies or extracts admissible in evidence under subsection (2) of this section.

**15**—(1) The head of the department concerned shall cause all records made for or kept in his office or organization to be preserved therein until dealt with as provided in this Act, and may in his own name take proceedings for the recovery of any such records as if he had the legal custody thereof.

Preservation  
of State  
records.  
Cf. 7 Geo. VI  
No. 2, s. 7.

(2) The Principal Archivist or his deputy may—

- (a) upon reasonable notice to the head of the department concerned, enter and inspect any place where State records are kept; and
- (b) give advice in writing to the head of the department on their keeping, organization, and preservation.

**16**—(1) If the Board has reason to believe that Crown records, not being records the sale or disposal of which has been authorized under this Act or the *Public Records Act* 1943, or, in the case of a sale or disposal outside the State, by a similar enactment or expressly by the Crown, are in the custody or possession of a person otherwise than as a servant of the Crown, it may by notice in writing given by certified mail require that person to deposit them in the Archives Office within a time to be specified in the notice.

Recovery of  
Crown  
records.

(2) If a person does not comply with a notice under subsection (1) of this section, the Board may upon summons to that person apply to a judge in chambers for leave to issue a writ of delivery for the Crown records specified in the notice to be delivered into the Archives Office.

(3) On an application under this section—

- (a) the judge may—
  - (i) give leave accordingly;
  - (ii) direct an issue to be tried; or
  - (iii) order the Board to deliver a statement of claim upon which further proceedings shall, subject to this subsection, be had as in an action;
- (b) the Board shall be deemed to represent the Crown; and
- (c) no length of time shall bar the rights of the Crown.

Recovery of  
other State  
records.

**17**—(1) Where the Board has reason to believe that records of public or local authorities, not being records the sale or disposal of which has been authorized under this Act or the *Public Records Act 1943* are in the custody or possession of a person other than the head of the department concerned or a person acting under his orders, it may proceed as provided for Crown records in subsections (1) and (2) of section sixteen.

(2) On an application under this section—

- (a) the judge may act as provided in subsection (3) of section sixteen;
- (b) the Board shall have the rights of the public or local authority to the records specified in the notice;
- (c) no sale or disposition made by the public or local authority otherwise than as authorized under this Act or the *Public Records Act 1943* shall be given any force or effect; and
- (d) no length of time shall affect the right of the public or local authority or the Board.

Injunctions.

**18** Pending the determination of an application under section sixteen or section seventeen a judge may make an injunction to restrain any dealing with the records sought by the Board.

Compensation.

Cf. 7 Geo. VI  
No. 2, s. 8.

**19**—(1) Where the Board obtains records under section sixteen or section seventeen the person losing possession or custody of the records, and in the case of records other than Crown records, the owner thereof, if other than that person, or the public or local authority whose records they were, may apply to the Board for payment of compensation in respect thereof, and the Board may with the approval of the Minister pay such compensation as to it appears just and reasonable.

(2) If a person claiming compensation under this section is dissatisfied with the amount offered by the Board he may go before a police magistrate by way of complaint under the *Justices Act 1959* and the magistrate may determine the compensation and order the Board to pay it or may deliver to the State Librarian a requisition in writing that the amount of compensation payable to him be determined by arbitration, which requisition when so delivered shall have effect for the purposes of the *Arbitration Act 1892* as if it were a written agreement between the claimant and the Board to submit that difference to arbitration.

(3) Where a person having no property in such records or his predecessor in title has made a payment to a thief or receiver of stolen goods for the records either innocently or to preserve them from harm he may be awarded, by way of compensation, some or all of the amount paid.

(4) Where a police magistrate makes an order under this section requiring the Board to pay compensation to a complainant he shall also order the Board to pay to the

complainant such costs as to him appear just and reasonable, but subject to the foregoing provisions of this subsection nothing in this section affects the exercise of any power of the police magistrate to make orders with respect to the payment of costs.

**20**—(1) The Board may for the purposes of this Act acquire by gift *inter vivos*, or *mortis causa*, bequest or devise, any State or private property, and may agree to the condition of such gift, bequest, or devise.

Power to accept gifts, &c.  
No. 46, 1960  
(N.S.W.),  
s. 20.

(2) The rule of equity known as the rule against perpetuities does not apply to any such condition to which the Board has agreed.

(3) Nothing in the *Deceased Persons' Estates Duties Act* 1931 or the *Stamp Duties Act* 1931 shall apply to any real or personal property of any nature or kind whatsoever comprised in any gift, devise, or bequest made or to be made to the Archives Office or to the Board, or to any instrument so far as it gives effect thereto.

**21** Notwithstanding any other provision of this Act, where an officer having the custody of any State records is required by law to obtain the approval or authority of the Auditor-General for the destruction or disposal thereof, the Board shall not exercise any of the powers conferred on it by this Act in respect of such records without first obtaining the written approval of the Auditor-General.

Approval of Auditor-General in certain cases.  
7 Geo. VI  
No. 2, s. 9.

**22**—(1) Nothing in this Act applies to records—

- (a) in the custody of either House of Parliament while they remain in such custody;
- (b) of any department or branch of the government of the Commonwealth; or
- (c) that have passed to the Commonwealth under section eighty-five of the Constitution of the Commonwealth.

Exclusions from Act.

(2) If records at some time in the custody of either House of Parliament have come into the Archives Office they shall be returned into such custody if the President or the Speaker, as the case may be, so requests.

**23** The Governor may make regulations for the purposes of this Act and in particular, and without prejudice to the generality of this section, may make regulations for—

Regulations.

- (a) the general management and control of the Archives Office;
- (b) the admission or exclusion of the public or any person to or from the Archives Office or any part thereof;
- (c) prohibiting the copying of any of the State archives;
- (d) the conditions upon which any State archives may be borrowed or copied by any person;

- (e) the sale of copies of State archives and any publications published by the Board for the purposes of this Act (including the charges to be made for such copies and publications, which may be put in the discretion of the Board);
- (f) the duties of the Principal Archivist appointed under this Act;
- (g) the manner in which, the persons by whom, and the places where State records of different classes shall be stored, safeguarded and cared for, or otherwise disposed of; and
- (h) the manner in which, the persons by whom, and the conditions under which records of public and local authorities shall be disposed of on the abolition, or the termination of the functions of, public and local authorities or the transfer or amalgamation of offices and branches thereof.

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## THE SCHEDULE.

(Section 2.)

### PART I—PUBLIC AUTHORITIES.

#### 1. *Existing authorities.*

Marketing boards.  
 The Adult Education Board.  
 The Ambulance Commission.  
 The Animals and Birds Protection Board.  
 The Apprenticeship Commission.  
 The Board of Examiners (under the *Legal Practitioners Act* 1959).  
 The Board of Management of the Agricultural Bank.  
 The Cinema Board.  
 The Closer Settlement Board.  
 The Dental Board.  
 The Farmers' Debt Adjustment Board.  
 The Fire Brigades Commission.  
 The Grain Elevators Board.  
 The Hydro-Electric Commission.  
 The Inland Fisheries Commission.  
 The Medical Council.  
 The Metropolitan Transport Trust.  
 The Milk Board.  
 The Nomenclature Board.  
 The Nurses' Registration Board.  
 The Public Service Tribunal.  
 The Publications Board of Review.  
 The Rural Fires Board.  
 The Scenery Preservation Board.  
 The Schools Board of Tasmania.  
 The Secondary Schools Board.  
 The State Fruit Board.  
 The State Sinking Fund Commissioners.  
 The Stone and Berry Fruits Board.  
 The Superannuation Fund Board.  
 The Surveyors' Board.  
 The Tasmanian Government Insurance Office.  
 The Tasmanian Library Board.  
 The Tasmanian Racing Commission.  
 The Transport Commission.

The Trustees of the Botanical Gardens.  
 The Trustees of the Tasmanian Museum.  
 The University of Tasmania.  
 The Veterinary Board.  
 The War Service Land Settlement Board.  
 Wages boards.

2. *Defunct authorities.*

The Apple and Pear Board.  
 The Board of Immigration.  
 The Board of Land Purchase Commissioners.  
 The Bursaries Board.  
 The Caveat Board.  
 The Commissioners for International Exhibitions.  
 The Commissioners for Taking an Account of the Population.  
 The Commonwealth Jubilee Committee.  
 The Council of Education.  
 The Court of Medical Examiners.  
 The Fisheries Commission.  
 The Gold Commissioners.  
 The Mental Deficiency Board.  
 The Salmon and Freshwater Fisheries Commissioners.  
 The Salmon Commissioners.  
 The Sea Fisheries Commissioners.  
 The State Economic Planning Authority.  
 The State Savings Bank.  
 The State Scholarship Board.

PART II—LOCAL AUTHORITIES.

1. *Existing authorities.*

Ambulance boards.  
 Commissioners of sewers and similar authorities.  
 Drainage trusts.  
 Fire brigade boards.  
 Harbour trusts.  
 Hospital boards.  
 Irrigation trusts.  
 Marine boards.  
 Master planning authorities.  
 Municipalities.  
 Water boards and trusts.

2. *Defunct authorities.*

Boards of agriculture.  
 Boards of works.  
 Codlin moth boards.  
 Courts of quarter sessions acting as highway authorities.  
 Fruit boards.  
 Lighting and paving commissioners.  
 Local boards of health.  
 Main roads boards.  
 Rabbit boards.  
 Rabbit trusts.  
 River trusts.  
 Road trusts.  
 Rural municipalities.  
 School boards of advice.  
 The Bridgewater Causeway Commissioners.  
 The Commissioners for the New Market, Hobart.  
 The Northern Board of Education.  
 The Queen's Domain Committee.  
 The Sorell Causeway Trust.  
 The South Esk Bridge Commissioners.  
 The Southern Board of Education.  
 Town boards.  
 Trustees of public cemeteries.  
 Trustees of public recreation grounds.  
 Water boards and trusts.