

Land (Miscellaneous Matters) and National Tennis Centre (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 12 October 1994

(Brought in by Mr Coleman and Mr Gude)

A BILL

to amend the **National Tennis Centre Act 1985** to make further provision with respect to national tennis centre land, to amend the **Land (Revocation of Reservations) Act 1994** to continue leases over the Eastern Market Site, to remove several reservations over land, including land set aside for the Janefield Colony for the Treatment of Mental Defectives, to repeal the **Mordialloc Public Hall and Courthouse Act 1965**, the **Buninyong (Recreation Reserve) Land Act 1971**, to amend the **Land (Further Miscellaneous Matters) Act 1994** and for other purposes.

Land (Miscellaneous Matters) and National Tennis Centre (Amendment) Act 1994

The Parliament of Victoria enacts as follows:

PART 1— PRELIMINARY

1. *Purposes*

The purposes of this Act are to—

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

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- (a) amend the **National Tennis Centre Act 1985** to make further provision for national tennis centre land; and
 - (b) amend the **Land (Revocation of Reservations) Act 1994** to continue leases over the Eastern Market Site at Melbourne despite the revocation of the reservation and Crown grant of that land; 5
 - (c) remove several reservations over land including land set aside for the Janefield Colony for the Treatment of Mental Defectives; and 10
 - (d) amend the **Land (Further Miscellaneous Matters) Act 1994** and to repeal various other Acts; and
 - (e) make other related provisions.
- 2. Commencement** 15
- (1) Section 9 is deemed to have come into operation on the day on which section 3 of the **Land (Revocation of Reservations) Act 1994** came into operation.
 - (2) Section 18 is deemed to have come into operation on the day on which section 15 of the **Land (Further Miscellaneous Matters) Act 1994** came into operation. 20
 - (3) Sections 10 and 16 come into operation on a day or days to be proclaimed.
 - (4) The remaining provisions of this Act come into operation on the day on which this Act receives the Royal Assent. 25

PART 2—NATIONAL TENNIS CENTRE LAND

3. Amendment of definitions

In the definition of “national tennis centre land” in section 4 of the **National Tennis Centre Act 1985**, after “and 25” insert “and land reserved under sections 25A, 25B, 25C and 25D”. 30

4. Insertion of new sections 25A, 25B, 25C and 25D

After section 25 of the National Tennis Centre Act
1985 insert—

‘25A. Divesting and reservation of railway land

5 (1) The Minister upon—

10 (a) receiving a plan of survey signed by
the Surveyor-General of a portion of
the land comprised in Folio of the
Register Volume 3929 Folio 762,
Volume 3740 Folio 927 and Volume
2788 Folio 466; and

15 (b) being satisfied that the land
described in the plan of survey
corresponds as nearly as practicable
with the land shown diagonally
hatched on the plan in Part 3 of the
Schedule—

20 may recommend to the Governor in
Council that the land shown on the plan of
survey be divested from the Public
Transport Corporation.

25 (2) Upon receiving the Minister's
recommendation, the Governor in Council
may by proclamation published in the
Government Gazette revoke Folio of the
Register, Volume 3929 Folio 762, Volume
3740 Folio 927 and Volume 2788 Folio
466 in so far as they relate to the land
shown on the plan of survey.

30 (3) Upon the publication of the proclamation
in the Government Gazette the land—

35 (a) divests from the Public Transport
Corporation and reverts to the Crown
as unalienated Crown land freed and
discharged from all trusts,
limitations, reservations,
restrictions, encumbrances, charges,

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- leases, licences, estates or interests;
and
- (b) is deemed to be temporarily reserved under section 4 (1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the national tennis centre. 5
- (4) The Minister upon—
- (a) receiving a plan of survey signed by the Surveyor-General of a portion of the land vested in the Public Transport Corporation by virtue of **The Railway Melbourne Lands Exchange Act 1888**; and 10 15
- (b) being satisfied that the land described in the plan of survey corresponds as nearly as practicable with the land shown cross-hatched on the plan in Part 3 of the Schedule— 20
- may recommend to the Governor in Council that the land shown on the plan of survey be divested from the Public Transport Corporation. 25
- (5) Upon receiving the Minister's recommendation, the Governor in Council may by proclamation published in the Government Gazette divest the land shown on the plan of survey from the Public Transport Corporation. 30
- (6) Upon publication of the proclamation under sub-section (5) in the Government Gazette—
- (a) the land divests from the Public Transport Corporation and reverts to the Crown as unalienated Crown land freed and discharged from all 35

trusts, limitations, reservations,
restrictions, encumbrances, charges,
leases, licences, estates or interests;
and

5 (b) is deemed to be temporarily reserved
under section 4 (1) of the **Crown
Land (Reserves) Act 1978** for
public purposes, being, in particular,
10 the purposes of the national tennis
centre.

(7) Sub-section (6) applies despite
anything to the contrary in the **The
Railway Melbourne Lands Exchange
Act 1888**.

15 (8) The Minister upon—

(a) receiving a plan of survey signed by
the Surveyor-General of a portion
of the land in Crown Allotment 4A,
Section 19C, County of Bourke;
and

20 (b) being satisfied that the land
described in the plan of survey
corresponds as nearly as practicable
with the land shown horizontally
25 hatched on the plan in Part 3 of the
Schedule—

may recommend to the Governor in
Council that the land revert to the Crown.

30 (9) Upon receiving the Minister's
recommendation, the Governor in Council
may by proclamation published in the
Government Gazette provide that the land
shown on the plan of survey reverts to the
Crown.

35 (10) Despite anything to the contrary in any
other Act or instrument, upon publication
of the proclamation under sub-section (9)
in the Government Gazette—

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- (a) the land reverts to the Crown as unalienated Crown land freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, charges, leases, licences, estates or interests; and 5
- (b) is deemed to be temporarily reserved under section 4 (1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the national tennis centre. 10
- (11) In this section “**Public Transport Corporation**” means the Public Transport Corporation established under the **Transport Act 1983**. 15

25B. Further power to excise area to be surveyed from Flinders Park

- (1) The Minister upon— 20
- (a) receiving a plan of survey of a portion of the land known as Flinders Park signed by the Surveyor-General; and
- (b) being satisfied that the land described in the plan of survey corresponds as nearly as practicable with the land shown cross hatched in the plan in Part 4 of the Schedule— 25 30
- may recommend to the Governor in Council that the land shown in the plan of survey be excised from the reservation of the land known as Flinders Park.
- (2) Upon receiving the Minister’s recommendation, the Governor in Council may, by proclamation published in the 35

Government Gazette, revoke the Order in Council of 9 June 1873 and Crown grant Volume 600 Folio 119903 so far as they relate to the land shown on the plan of survey.

(3) Upon publication of the proclamation under sub-section (2) in the Government Gazette—

(a) the land reverts to the Crown as unalienated Crown land, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, charges, leases, licences, estates and interests; and

(b) the land is deemed to be temporarily reserved under section 4 (1) of the **Crown Land (Reserves) Act 1978** for public purposes, being in particular, the purposes of the national tennis centre.

(4) For the purposes of this section “**the land known as Flinders Park**” means the land the title particulars of which are described in paragraph 1 of Part 1 of the Schedule, except that the reference to Part II in that paragraph is deemed to be a reference to Part 4.

25c. Further power to excise area to be surveyed from Yarra Park

(1) The Minister upon—

(a) receiving a plan of survey of a portion of the land known as Yarra Park signed by the Surveyor-General; and

(b) being satisfied that the land described in the plan of survey

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corresponds as nearly as practicable with the land shown diagonally hatched in the plan in Part 4 of the Schedule—

may recommend to the Governor in Council that the land shown in the plan of survey be excised from the reservation of the land known as Yarra Park. 5

(2) Upon receiving the Minister's recommendation, the Governor in Council may, by proclamation published in the Government Gazette, revoke the Order in Council of 9 June 1873 and Crown grant Volume 600 Folio 119902 so far as they relate to the land shown on the plan of survey. 10 15

(3) Upon publication of the proclamation under sub-section (2) in the Government Gazette—

(a) the land reverts to the Crown as unalienated Crown land, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, charges, leases, licences, estates and interests; and 20 25

(b) the land is deemed to be temporarily reserved under section 4 (1) of the **Crown Land (Reserves) Act 1978** for public purposes, being in particular, the purposes of the national tennis centre. 30

(4) For the purposes of this section "**the land known as Yarra Park**" means the land the title particulars of which are described in paragraph 2 of Part 1 of the Schedule, except that the reference to Part II in that paragraph is deemed to be a reference to Part 4. 35

**25D. Further power to excise area to be surveyed
from the Public Park Reserve**

(1) The Minister upon—

5 (a) receiving a plan of survey of a
portion of the land known as Public
Park Reserve signed by the
Surveyor-General; and

10 (b) being satisfied that the land
described in the plan of survey
corresponds as nearly as practicable
with the land shown cross hatched in
the plan in Part 4 of the Schedule—

15 may recommend to the Governor in
Council that the land shown in the plan of
survey be excised from the reservation of
the land known as Public Park Reserve.

20 (2) Upon receiving the Minister's
recommendation, the Governor in Council
may, by proclamation published in the
Government Gazette, revoke the Order in
Council of 13 September 1950 so far as it
relates to the land shown on the plan of
survey.

25 (3) Upon publication of the proclamation
under sub-section (2) in the Government
Gazette—

30 (a) the land reverts to the Crown as
unalienated Crown land, freed and
discharged from all trusts,
limitations, reservations,
restrictions, encumbrances, charges,
leases, licences, estates and interests;
and

35 (b) the land is deemed to be temporarily
reserved under section 4 (1) of the
Crown Land (Reserves) Act 1978
for public purposes, being in

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particular, the purposes of the national tennis centre.

- (4) For the purposes of this section “**the land known as Public Park Reserve**” means the land the title particulars of which are described in paragraph 3 of Part 1 of the Schedule, except that the reference to Part II in that paragraph is deemed to be a reference to Part 4.’

5. Amendment of section 26

In section 26 of the **National Tennis Centre Act 1985**, for “and 25” substitute “; 25, 25A, 25B, 25C and 25D”.

6. Insertion of new section 26A

After section 26 of the **National Tennis Centre Act 1985** insert—

“26A. Supreme Court—limitation of jurisdiction

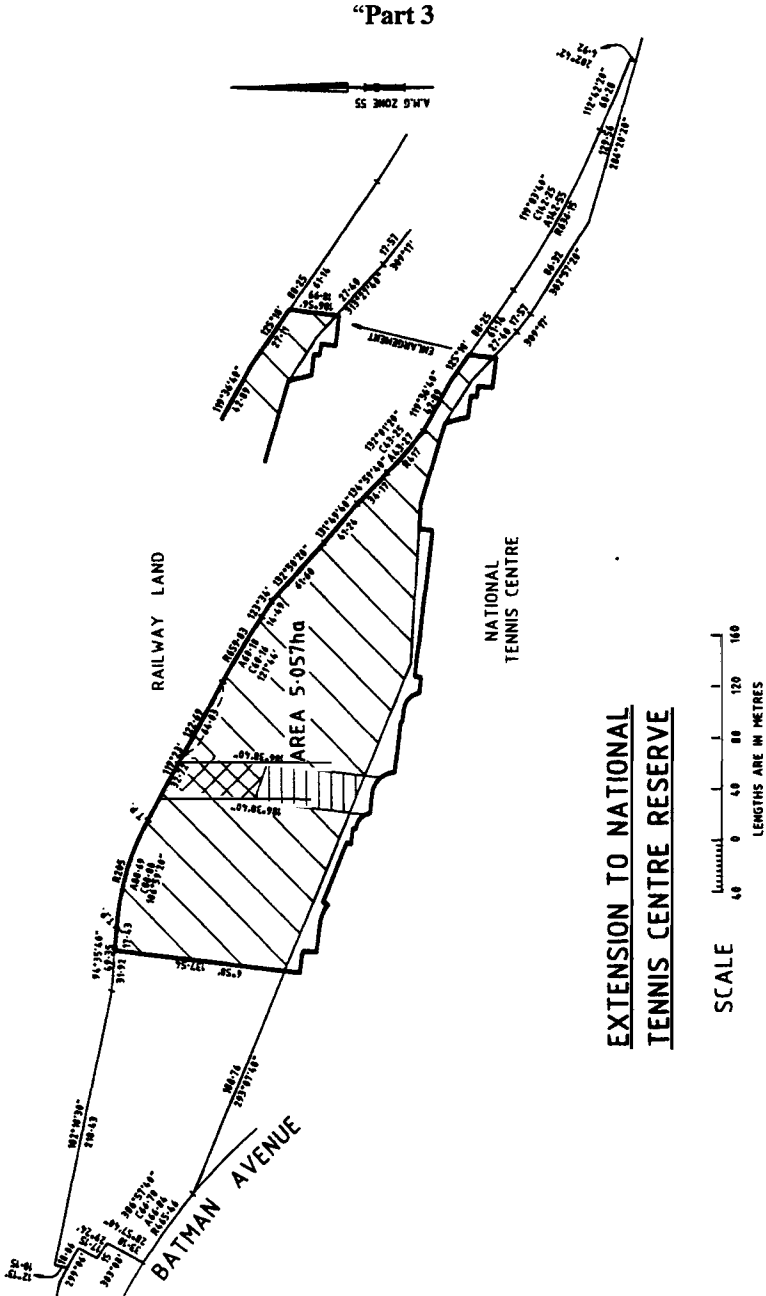
It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court awarding compensation in respect of anything done under or arising out of sections 25A, 25B, 25C, 25D and 26.”

7. Amendment of section 28

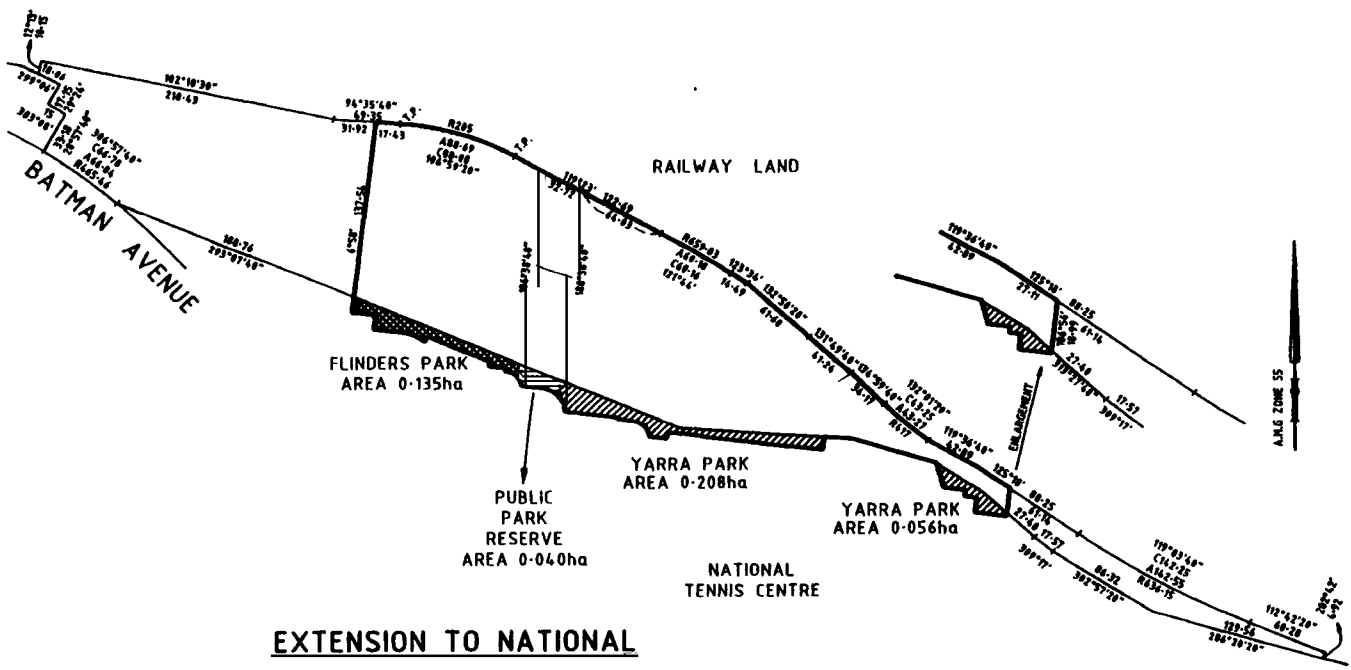
In section 28 of the **National Tennis Centre Act 1985**, for “and 25” substitute “; 25, 25A, 25B, 25C and 25D”.

8. Insertion of new Parts in Schedule

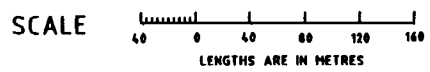
In the Schedule to the National Tennis Centre Act 1985, after Part 2 insert—



Part 4



EXTENSION TO NATIONAL TENNIS CENTRE RESERVE



**PART 3—EASTERN MARKET SITE (SOUTHERN CROSS
HOTEL)**

**9. *Leases to continue after revocation of reservation and
Crown grant***

5 In section 10 of the Land (Revocation of
Reservations) Act 1994—

(a) for “On” substitute “(1) Subject to this section,
on”; and

(b) at the end of the section insert—

10 “(2) Sub-section (1) does not affect the
continuity of the lease between the
Melbourne City Council and Southern
15 Cross Properties Proprietary Limited dated
1 June 1960 over the land to which section
3 applies, and, on and from the date of the
revocation of the reservation and the
Crown grant in respect of that land, that
lease has effect—

20 (a) as a lease between the Minister as
lessor and the lessee for the time being
under the lease, as if it had been
assigned to the Minister; and

(b) as if it referred to the Minister instead
of to the lessor (however described).

25 (3) Sub-section (1) does not affect the
continuity of any sub-lease existing over
the land to which section 3 applies at the
time of the revocation of the reservation
and Crown grant in respect of that land.”.

30 **PART 4—JANEFIELD AND OTHER LAND**

10. *Revocation of reservation—Janefield Land*

(1) The Order in Council specified in item 1 of Schedule
1 is revoked.

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- (2) The land shown hatched on the plan in Schedule 2 and described in item 2 of Schedule 1 is discharged from the reservation imposed by section 5 of the **Land (Miscellaneous) Act 1991** to the extent that that reservation applies to that land. 5
- (3) Sub-section (2) applies despite anything to the contrary in the **Land (Miscellaneous) Act 1991**.
- 11. Revocation of reservation—Coburg Land**
- The Order in Council specified in item 3 of Schedule 1 is **revoked**. 10
- 12. Revocation of reservation and Crown grant—Hawthorn Land**
- (1) The Order in Council specified in item 4 of Schedule 1 is **revoked**.
- (2) Crown Grant Volume 3254 Folio 634 is **revoked**. 15
- 13. Repeal of Act and revocation of reservation—Mordialloc Land**
- (1) The **Mordialloc Public Hall and Court House Act 1965** is **repealed**.
- (2) The land to which the **Mordialloc Public Hall and Court House Act 1965** applies and which is described in item 5 of Schedule 1 is discharged from the reservation imposed by section 3 of that Act. 20
- 14. Revocation of reservation and Crown grant—Nagambie Land** 25
- (1) The Order in Council specified in item 6 of Schedule 1 is **revoked**.
- (2) Crown Grant Volume 2249 Folio 641 is **revoked**.

15. Revocation of reservation—Beaumaris Land

The Order in Council specified in item 7 of Schedule 1 is **revoked** to the extent that it applies to the land shown hatched on the plan in Schedule 3.

5 **16. Revocation of reservation and repeal of Act—Buninyong Land**

(1) The Order in Council specified in item 8 of Schedule 1 is **revoked**.

(2) Crown Grant Volume 2544 Folio 508727 is **revoked**.

10 (3) The **Buninyong (Recreation Reserve) Land Act 1971** is **repealed**.

17. Revocation of reservation—Lorne Land

15 The Order in Council specified in item 9 of Schedule 1 is **revoked** to the extent that it applies to the land shown hatched on the plan in Schedule 4.

18. Amendment of Act—Railways (Thomson River Bridge) Land

For section 15 of the **Land (Further Miscellaneous Matters) Act 1994** substitute—

20 “(1) The bridge, within the meaning of the **Railways (Thomson River Bridge) Act 1962** together with the lands on which the supports thereof and the approaches thereto are situated—

25 (a) is divested from the Shire of Narracan; and
(b) is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests.

30 (2) A right or privilege conferred or an obligation imposed on the Shire of Narracan by the **Railways (Thomson River Bridge) Act 1962** ceases.

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- (3) The provisions of the **Crown Land (Reserves) Act 1978** and any reservation, dedication or proclamation in relation to any unalienated Crown land beneath the bridge have effect and continue in force except to the extent that they are excluded limited or modified by the existence of the bridge and the supports of the bridge.” 5

19. *Consequences of revoking reservation*

On the revocation by this Part of an Order in Council reserving land or on the discharge by this Part of a reservation over land— 10

- (a) the land is deemed to be unalienated land of the Crown freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; 15
- (b) the appointment of any committee of management is revoked to the extent that it applies to the land;
- (c) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land. 20

20. *Registrar-General and Registrar of Titles to make necessary amendments to records*

- (1) The Registrar-General must make all entries on the records of enrolment of any Crown grant and on any memorial relating to land that are necessary because of the operation of any provision of this Part. 25
- (2) The Registrar of Titles must make any amendments to the Register under the **Transfer of Land Act 1958** that are necessary because of the operation of any provision of this Part. 30

21. *No compensation payable by Crown*

No compensation is payable by the Crown in respect of anything done under or arising out of this Part.

22. *Supreme Court—limitation of jurisdiction*

5 It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court awarding compensation in respect of anything done under or arising out of this Part.

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Sch. 1

SCHEDULES

SCHEDULE 1

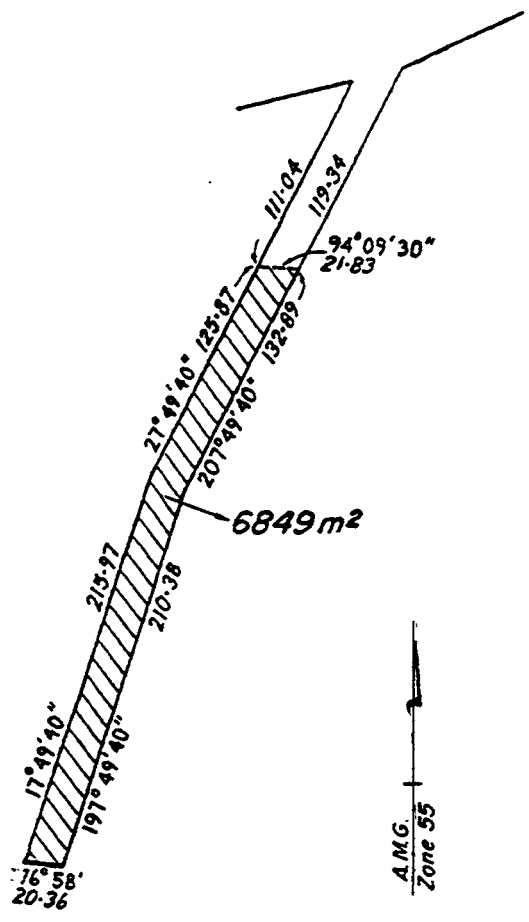
Land in respect of which reservations are revoked

Item	<i>Situation and Area of Land</i>	<i>Instrument and Date of Reservation</i>	<i>Description of Land by reference to Government Gazette</i>	<i>Purpose of Reservation</i>	<i>Extent of Revocation</i>
1.	Parishes of Keelbundora and Nillumbik, 334.7 hectares, less excisions authorised by Acts Nos 7112, 8014, 8847, 9922 and 77/1991	Order in Council dated 9 August 1932	Government Gazette dated 6 July 1932, page 1520 and 17 August 1932, page 1839	Site for the Janefield Colony for the Treatment of Mental Defectives	Remainder of reserve
2.	Parishes of Keelbundora and Nillumbik, 156.9 hectares	Land (Miscellaneous) Act 1991, Act No. 77/1991, Section 5, 3 December 1991		Reserve for conservation of areas of natural interest	Land shown on plan in Schedule 2
3.	Parish of Jika Jika, County of Bourke, 1.189 hectares being Crown Allotment 39C	Order in Council dated 17 December 1963	Government Gazette dated 20 November 1963 page 3474 and 8 January 1964, page 17	Site for Public Recreation Purposes	The entire reserve
4.	Parish of Boroondara, County of Bourke, 1416m ² being Crown Allotment 11A, Section 1	Order in Council dated 9 October 1906	Government Gazette dated 5 September 1906 page 3764 and 17 October 1906 page 4305	Site for Drainage and Sanitary purposes	The entire reserve
5.	Parish of Mordialloc, County of Bourke	Mordialloc Public Hall and Court House Act 1965 Act No. 7271 Section 3		Site for Public Hall and Court House	The entire reserve
6.	Parish of Wormangal, County of Moira, 25.53 hectares, being Crown Allotment 60A2, No section	Order in Council dated 5 August 1889	Government Gazettes dated 28 June 1889 page 2270 and 9 August 1889, page 2728	Site for a racecourse and general recreation purposes	The entire reserve
7.	Parishes of Moorabbin and Mordialloc	Order in Council dated 9 October 1906	Government Gazettes dated 5 September 1906 page 3764 and 17 October 1906 page 4305	Site for Public Park	Land shown on plan in Schedule 3
8.	Parish of Buninyong, County of Grant, 40.94 hectares, being Crown Allotment 126D, No section	Order in Council dated 28 November 1892 and Buninyong (Recreation Reserve) Land Act 1971 Act No. 8195	Government Gazettes dated 4 November 1892 page 4164 and 2 December 1892, page 4448 & Act 8195	Site for Public Recreation	The entire reserve
9.	Township of Lorne, Parish of Lorne, 1315 square metres	Order in Council dated 19 December 1898	Government Gazettes dated 4 November 1898 page 3914 and 23 December 1898 page 4614	Site for Public Hall and Free Library	Land shown on plan in Schedule 4

SCHEDULE 2

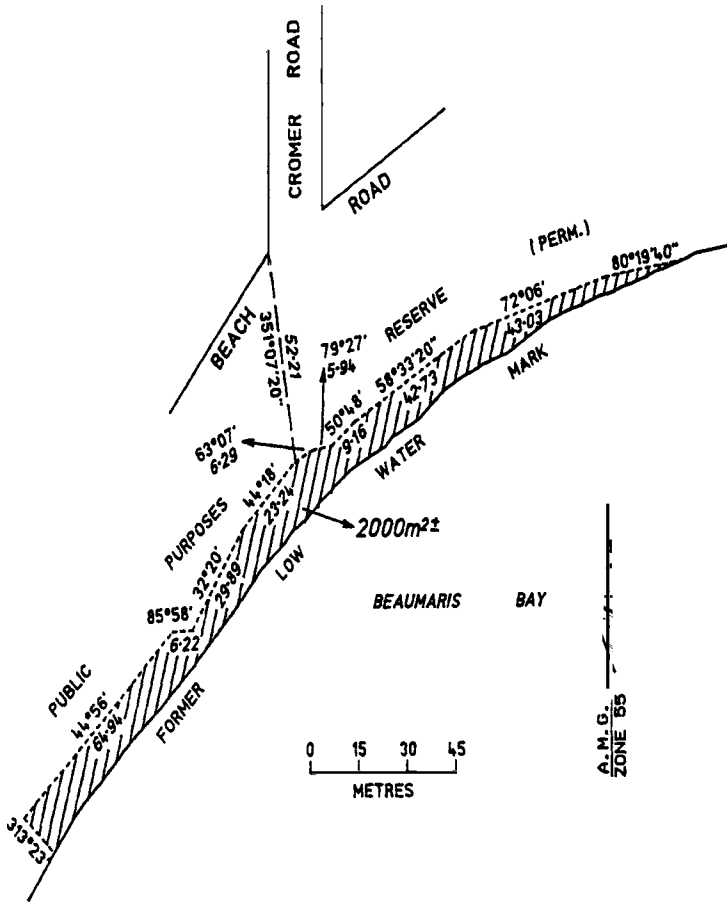
Janefield Land

CONSERVATION OF AREAS OF NATURAL INTEREST RESERVE



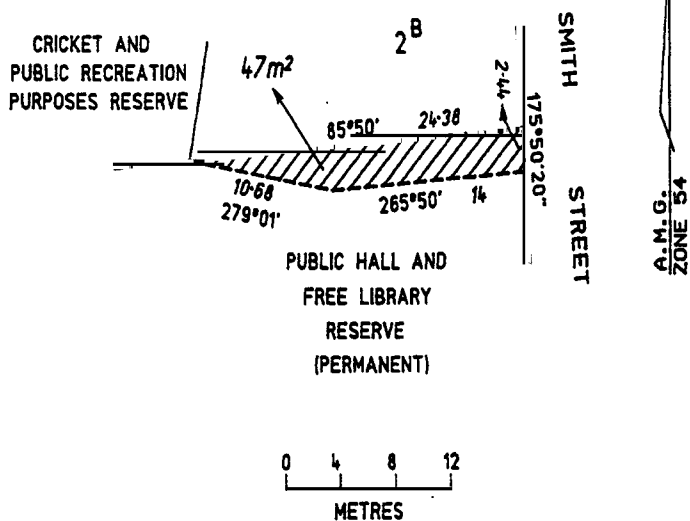
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SCHEDULE 3
Beaumaris Land



SCHEDULE 4

Lorne Land





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