

**DARLING HARBOUR AUTHORITY (FURTHER AMENDMENT)
ACT 1985 No. 161**

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 161, 1985

An Act to amend the Darling Harbour Authority Act 1984 so as to authorise the construction and operation of a monorail service between the city of Sydney and Darling Harbour. [Assented to, 3rd December, 1985.]

Darling Harbour Authority (Further Amendment) 1985

BE it enacted by the Queen'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:

Short title

1. This Act may be cited as the "Darling Harbour Authority (Further Amendment) Act 1985".

Amendment of Act No. 103, 1984

2. The Darling Harbour Authority Act 1984 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 2)

**AMENDMENTS TO THE DARLING HARBOUR AUTHORITY ACT
1984**

(1) (a) Section 5 (1) (b), (2)—

After "land at" wherever occurring, insert ", providing access to".

(b) Section 5 (3)—

After section 5 (2), insert:

(3) In this section, "land" includes cubic space, within the meaning of the Strata Titles Act 1973.

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1984—*continued*

(2) Part III, Division 1, heading—

After the heading to Part III, insert:

DIVISION 1—*General*

(3) Section 11 (c)—

Omit the paragraph, insert instead:

- (c) construct, establish, maintain and operate transport facilities within and outside the Development Area, being facilities for the purpose of providing transport to, from and within the Development Area; and

(4) (a) Section 12B—

Omit “or order” wherever occurring, insert instead “, order or determination”.

(b) Section 12B (1)—

Omit “or 12A”, insert instead “, 12A or 23F”.

(5) Section 13 (5)—

Omit the subsection, insert instead:

- (5) For the purposes of this section, Schedule 4 has effect.

(6) Section 16A—

After section 16, insert:

Lease or licence for transport facilities or services

16A. (1) The Authority may, from time to time and upon such terms and conditions as are approved by the Minister, grant leases or licences authorising the lessee or licensee, as the case may be—

- (a) to operate any transport facility constructed for the purpose of providing transport to, from or within the

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Development Area or any facility the use of which is ancillary or incidental to the use of any such transport facility; or

(b) to provide a service which is ancillary or incidental to the operation of any facility referred to in paragraph (a).

(2) A lease or licence granted pursuant to subsection (1), whether or not it relates to land within the Development Area, shall have such term as is approved by the Minister and may contain an option for a further term.

(7) Part III, Division 2—

At the end of Part III, insert:

DIVISION 2—*Carrying out of scheduled works*

Interpretation

23A. (1) In this Division—

“public road” includes a main road;

“scheduled works” means the works for the time being described in Schedule 6.

(2) In this Division, a reference to the use of the scheduled works for the purposes of a monorail transport system includes a reference to the use of those works for a related purpose prescribed by the regulations.

Variation of scheduled works

23B. The Governor may, by regulation, amend Schedule 6 so as—

(a) to vary the nature of the works for the time being described in that Schedule; or

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1984—*continued*

(b) to alter the course over which those works are to be constructed,

or so as to do both of those things.

Scheduled works sanctioned

23c. (1) The carrying out of the scheduled works is hereby sanctioned.

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

Application of Public Works Act 1912

23d. (1) The scheduled works shall be deemed to be an authorised work, within the meaning of the Public Works Act 1912, notwithstanding that the whole or any part of any structures and any other things which are to be erected or used for the purposes of the scheduled works may not be vested in the Authority, but Part IX of that Act does not apply to or in respect of the scheduled works.

(2) For the purpose of the scheduled works, the Authority shall be the Constructing Authority, within the meaning of the Public Works Act 1912.

(3) Notwithstanding subsection (2), sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of the expenditure on any works constructed in pursuance of this Division.

(4) For the purposes of this section, Schedule 4 has effect.

(5) Nothing in this section limits the operation of section 13, and nothing in that section prohibits the Authority from acquiring land within or outside the Development Area under the Public Works Act 1912 for the purposes of the scheduled works.

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AMENDMENTS TO THE DARLING HARBOUR AUTHORITY ACT
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Carrying out of scheduled works over public roads, etc.

23E. The scheduled works may be carried out over, under, along or by the side of—

- (a) any public road or other public place, whether or not the road or place is situated within the Development Area; and
- (b) any controlled land or public land, whether or not the land is a road or place referred to in paragraph (a) or is situated within the Development Area.

Approval for erection of supporting pillars

23F. (1) In this section, “supporting pillars” means supporting pillars referred to in Schedule 6.

(2) Before any supporting pillars are erected along any part of the course of the scheduled works, the Authority shall cause a plan of the part of the course showing the intended positions of the pillars to be exhibited in such manner and during such period as the Minister may determine.

(3) Any person may, in such manner and before the expiration of such period as the Minister may determine, make submissions to the Authority with respect to the intended positions of supporting pillars shown in a plan exhibited under subsection (2).

(4) The Authority shall consider any submission made to it under subsection (3) in relation to the intended positions of supporting pillars.

(5) After considering all submissions made to it under subsection (3) with respect to a plan, the Authority shall cause a report to be prepared in respect of those submissions.

(6) Upon completion of the preparation of a report under subsection (5), the Authority shall cause the report to be submitted to the Minister.

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(7) After considering a report prepared under subsection (5), and after consultations with the Minister for Planning and Environment, the Minister may, in the light of the report and those consultations, determine—

- (a) that the supporting pillars may be erected in the intended positions or in other positions; or
- (b) that the Authority shall cause another plan to be prepared.

(8) A supporting pillar shall not be erected in any position unless the Minister has determined under subsection (7) that the pillar may be erected in that position.

(9) A determination under subsection (7) is final and binds the Authority and all other persons concerned.

Protection of scheduled works

23G. (1) Any person who intends to develop any land or property along or adjacent to the course of the scheduled works may, before commencing the development, advise the Authority of the intended development.

(2) Whether or not the Authority has been advised of any such intended development, that development shall, where the Authority, by written notice served on the person intending to carry out the development, imposes reasonable conditions on the carrying out of the development which are related to the protection of the scheduled works, be carried out in accordance with those conditions.

(3) The Authority shall not serve a notice under subsection (2) without the consent of the Minister.

(4) Nothing in this section affects any requirement relating to the carrying out of the development imposed by or under the Local Government Act 1919 or the Environmental Planning and Assessment Act 1979 or by or under any other Act.

(5) In this section, “development” includes—

- (a) the erection or demolition of a building;

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- (b) the substantial alteration of a building; and
- (c) the excavation of land.

Inspection of land and buildings

23H. (1) The Authority, or any person authorised by the Authority, may at any reasonable time between 9.00 a.m. and 5.00 p.m. on any day enter any land or building along or adjacent to the course of the scheduled works and may—

- (a) inspect the land or building and make measurements and drawings and take photographs of the land or building; and
- (b) take such other measures as the Authority or person thinks necessary to ascertain the condition of the land or building or the manner of construction of the building.

(2) The powers granted by subsection (1) shall not be exercised—

- (a) in relation to any part of a building used as a dwelling, without the consent of the occupier of the dwelling; or
- (b) in any case, without at least 24 hours' notice being given to the occupier of the land or building of the intention to enter it.

Construction and use of monorail authorised

23I. (1) Notwithstanding anything in the Environmental Planning and Assessment Act 1979 or any environmental planning instrument, the Authority, or any person authorised by the Authority, may carry out development for the purposes of the scheduled works, including (but without limiting the generality of the foregoing) the use of the scheduled works for the purposes of a monorail transport system.

SCHEDULE 1—*continued*AMENDMENTS TO THE DARLING HARBOUR AUTHORITY ACT
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(2) Any environmental planning instrument for the time being applying to the land affected or to be affected by the scheduled works shall be deemed to contain a provision to the effect that development as referred to in subsection (1) may be carried out without the necessity for development consent being obtained under the Environmental Planning and Assessment Act 1979.

(3) Part V of the Environmental Planning and Assessment Act 1979 does not apply to or in respect of the carrying out of development as referred to in subsection (1).

(4) Expressions used in this section shall, unless the contrary intention appears, have the same meanings respectively as they have in the Environmental Planning and Assessment Act 1979.

Application of certain legislation

23J. (1) Except to the extent that the regulations otherwise provide and subject to any modifications specified in the regulations, the provisions of—

- (a) Parts XI and XII of the Local Government Act 1919;
- (b) the Height of Buildings Act 1912;
- (c) the Heritage Act 1977;
- (d) the Coastal Protection Act 1979;
- (e) the Maritime Services Act 1935;
- (f) the Rivers and Foreshores Improvement Act 1948;
- (g) the Sydney Harbour Trust Act 1900;
- (h) the Motor Traffic Act 1909;
- (i) the Metropolitan Traffic Act 1900;
- (j) the Transport Act 1930;
- (k) the Traffic Authority Act 1976;
- (l) the Traffic Safety (Lights and Hoardings) Act 1951;
- (m) the Government Railways Act 1912; and

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(n) any instrument in force under those Parts or any of those Acts, as the case may require,

do not apply to or in respect of land affected or to be affected by the scheduled works, the carrying out of those works or the use of those works for the purposes of a monorail transport system.

(2) Any liability of a lessee or licensee in respect of land the subject of a lease or licence granted pursuant to section 16A for rates payable under the Local Government Act 1919 or the Metropolitan Water, Sewerage, and Drainage Act 1924 shall be the same as if the Authority were the lessee or licensee, as the case may be, of the land.

(3) Compensation is not payable under the Public Works Act 1912 or the Local Government Act 1919 or any other Act or law in respect of the acquisition, occupation or use (under the authority conferred by or under this Act) of public land for the purpose of carrying out the scheduled works.

Closing of public roads

23k. (1) Subject to subsection (2), the Authority may, by notification published in the Gazette and in at least 2 newspapers circulating throughout the State, direct that any part of a public road specified in the notification shall, for a period so specified, be closed to vehicular or pedestrian traffic, or vehicular and pedestrian traffic, except that authorised by the Authority.

(2) The Authority shall not publish a notification under this section unless the Minister has advised the Authority that the Minister is satisfied that the direction to which the notification relates is reasonably necessary for the purpose of enabling any of the scheduled works to be carried out.

(3) A part of a public road the subject of a notification published under this section shall, for the period specified in the notification, cease to be a public road for the purposes of the traffic (other than traffic authorised by the Authority) to which the notification relates.

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(4) A copy of a notification published under this section shall be served by the Authority on the Traffic Authority of New South Wales, the Commissioner of Police and the Council of the City of Sydney.

(5) The Traffic Authority of New South Wales and the Commissioner of Police shall take such measures as are necessary to implement the direction contained in any notification a copy of which is served under subsection (4) on the Traffic Authority or the Commissioner, as the case may be.

(8) (a) Section 67 (1) (i)—

Omit “and” where secondly occurring.

(b) Section 67 (1) (k)–(q)—

After section 67 (1) (j), insert:

- (k) the preservation and safety of the scheduled works referred to in Division 2 of Part III and of vehicles using those works;
- (l) regulating the use of facilities of the Authority and the provision of services by the Authority;
- (m) requiring the payment of fares or other charges for the use of any facility operated or service provided by the Authority;
- (n) authorising a person granted a lease or licence by the Authority to require the payment of fares or other charges for the use of a facility operated or a service provided under the lease or licence;
- (o) preventing the avoidance of payment of fares or other charges referred to in paragraph (m) or (n);

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- (p) ensuring the proper conduct and safety of persons using any facility of the Authority operated by, or under a lease or licence granted by, the Authority or using any service provided by the Authority or under any such lease or licence; and
- (q) providing for the removal of trespassers and persons causing nuisance or annoyance to others using or operating any facility of the Authority.

(9) Schedule 6—

After Schedule 5, insert:

SCHEDULE 6

(Sec. 23A (1))

DESCRIPTION OF WORKS

1. Works for or associated with the construction, establishment, maintenance and operation of a monorail transport system between the city of Sydney and Darling Harbour, consisting of a rail and supporting pillars, vehicles propelled by electric power, stations and maintenance facilities, the monorail to be elevated above ground level and to follow a course generally across Pyrmont Bridge towards the city, then above the streets known as Market Street, Pitt Street, Liverpool Street and Harbour Street and then generally around the southern side of the Sydney Entertainment Centre and the southern and western perimeter of the Development Area to Pyrmont Bridge, subject to such modifications and deviations as may be considered necessary or desirable by the Authority.
2. The re-location and re-establishing of existing services rendered necessary by the carrying out of any of the works referred to in any other item of this Schedule.
3. The construction, reconstruction, demolition or removal of structures forming part of or incidental to any of the works referred to in any other item of this Schedule.

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4. Works the use of which is ancillary or incidental to any of the works referred to in any other item of this Schedule.
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