

Version No. 001
Ballarat (Sovereign Hill) Land Act 1970

Act No. 7955/1970

Version incorporating amendments as at 8 August 2000

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An Act to permanently reserve certain Land in the Parish of Ballarat for Recreation and Public Purposes and to authorize the Granting of a Lease of the Whole or any Part of such Land to the Ballarat Historical Park Association and for other purposes.

Preamble

WHEREAS by Order in Council of the 24th day of January, 1944 certain lands in the Parish of Ballarat containing 36 acres 10 perches more or less as indicated by black hatching on the plan in the Schedule were temporarily reserved as a site for public recreation and excepted from occupation for mining purposes under any miner's right:

AND WHEREAS pursuant to the provisions of section 221 of the **Land Act 1958** the Corporation of the City of Ballaarat has been appointed Committee of Management to control and manage the said lands:

AND WHEREAS the Ballarat Historical Park Association a company incorporated in Victoria on the 29th day of March, 1967 is desirous of developing the said lands by erecting buildings and other structures and exhibiting objects to illustrate the living and working conditions, business premises, mining operations, transport, amusements and recreational activities of the gold mining period in Victoria:

IT IS THEREFORE EXPEDIENT that the aforementioned Order in Council on the 24th day of January, 1944 relating to the lands indicated by black hatching on the plan in the Schedule should be revoked and that the said lands should be

permanently reserved under the **Land Act 1958** for recreational and public purposes, including the purposes of erecting buildings and other structures and exhibiting objects to illustrate those aspects of the gold mining period in Victoria previously mentioned, and that the Corporation of the City of Ballarat be the Committee of Management to control and manage the reserved lands and that to further the development and use of the said lands the Committee of Management be authorized to grant to the Ballarat Historical Park Association a lease of the whole or part of the said lands:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. *Short title*

This Act may be cited as the **Ballarat (Sovereign Hill) Land Act 1970**.

2. *Definitions*

In this Act—

"Association" means the Ballarat Historical Park Association A.C.N. 004 688 733;

"Council" means the Ballarat City Council which is the successor of the Corporation of the City of Ballarat;

"lodged plan" means the plan numbered LEGL./95–88 lodged in the Central Plan Office of the Department of Treasury and Finance.

3. *Revocation of permanent reservations of certain land*

S. 2
substituted by
No. 94/1995
s. 22.

S. 3
substituted by
No. 94/1995
s. 23.

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- (1) The permanent reservation of the land shown by black hatching on the plan in the Schedule to this Act as in force immediately before the commencement of section 23 of the **Land Revocations (And Other Matters) Act 1995** ceases to have effect.
- (2) The permanent reservation of the land shown by black hatching on the plans in Parts A and B of the Schedule to the **Ballarat (Sovereign Hill) Land Act 1973** as in force immediately before its repeal ceases to have effect.
- (3) The following Orders in Council are **revoked**—
 - (a) Order in Council dated 12 September 1978 published in the Government Gazette dated 20 September 1978 page 3046 temporarily reserving 3098 square metres of land in the Township of Ballarat East, Parish of Ballarat, County of Grant as a Site for Recreation and Public purposes; and
 - (b) Order in Council dated 21 June 1983 published in the Government Gazette dated 29 June 1983 page 1925 temporarily reserving 779 square metres, being Crown Allotment 29, Section 101 Township of Ballarat East and 1299 square metres, being Crown Allotment 30, Section 101 Township of Ballarat East as shown on Certified Plan No. 105127 lodged in the Central Plan Office for Recreation and Public purposes; and
 - (c) Order in Council dated 21 June 1983 published in the Government Gazette dated 29 June 1983 page 1925 temporarily reserving 3615 square metres, being Crown Allotment 26, Section 101 Township of

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s. 4

Ballarat East for Recreation and Public purposes; and

- (d) Order in Council dated 25 March 1986 published in the Government Gazette dated 2 April 1986 page 831 temporarily reserving 6.8 hectares being Crown Allotment 3A Section 119A Township of Ballarat East, Parish of Ballarat for Public purposes.

S. 4
substituted by
No. 94/1995
s. 23.

4. *Consequences of revocation*

On the revocation of an Order in Council reserving land or land ceasing to be subject to a reservation under section 3—

- (a) subject to section 5D, the lands referred to in section 3 are deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) the appointment of the Council as the committee of management of the lands referred to in section 3(1) and (2) is revoked; and
- (c) the appointment of any committee of management of the land referred to in section 3(3) is revoked to that extent to which it applies to that land; and
- (d) any regulations under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to those lands.

S. 5
substituted by
No. 94/1995
s. 23.

5. *Closure of road*

The land bordered purple on the lodged plan—

- (a) is closed as a road; and
- (b) all rights, easements and privileges existing in or claimed by either the public or any

body or person as part of any express or implied grant or past dedication or supposed dedication or by user or by operation or any fiction of law cease; and

- (c) the land is deemed to be unalienated Crown land.

5A. *Surrender of land to the Crown*

- (1) The Association, at any time, may surrender the land bordered blue on the lodged plan to the Crown.
- (2) This section has effect despite anything to the contrary in any Act or law.

S. 5A
inserted by
No. 94/1995
s. 23.

5B. *Grant in fee simple to the Association*

- (1) On or after the surrender under section 5A of the land bordered blue on the lodged plan, the Governor in Council on behalf of the Crown may grant the land bordered blue and the land bordered orange on the lodged plan to the Association for an estate in fee simple.
- (2) A grant made under sub-section (1) is subject to any terms, conditions, covenants, exceptions, reservations and limitations that the Governor in Council determines.

S. 5B
inserted by
No. 94/1995
s. 23.

5C. *Re-reservation of museum site and adjoining lands*

On the revocation of an Order in Council reserving land or land ceasing to be subject to a reservation under section 3 and the closure of the road under section 5, the land bordered green, the land bordered yellow and the land bordered purple on the lodged plan is deemed to be permanently reserved under section 4 of the **Crown Land (Reserves) Act 1978** as a site for recreation and public purposes providing for activities including the erection of buildings and other structures and exhibiting objects to illustrate the living and

S. 5C
inserted by
No. 94/1995
s. 23.

working conditions, business premises, mining operations, transport, amusements and recreational activities of the gold mining period in Victoria.

S. 5D
inserted by
No. 94/1995
s. 23.

5D. Continuation of existing leases

- (1) The lease dated 9 November 1970 granted under this Act as in force immediately before the commencement of section 23 of the **Land Revocations (And Other Matters) Act 1995** has effect on and from that commencement as if it had been entered into under section 6 of this Act, as amended by the **Land Revocations (And Other Matters) Act 1995**, by the Minister as lessor.
- (2) The lease dated 28 May 1974 granted under this Act and the **Ballarat (Sovereign Hill) Land Act 1973** as in force immediately before the commencement of section 23 of the **Land Revocations (And Other Matters) Act 1995** has effect on and from that commencement as if—
 - (a) it had been entered into under section 6 of this Act, as amended by the **Land Revocations (And Other Matters) Act 1995**, by the Minister as lessor; and
 - (b) the land bordered red on the lodged plan were not included in the area of land which is subject to that lease.
- (3) This section has effect in relation to a lease despite anything to the contrary in that lease.
- (4) Nothing effected by this section is to be regarded as placing any person in breach of, or as constituting a default under, any provision of a lease, including any provision prohibiting, restricting or regulating the assignment of the lease.

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- (5) Nothing in this Act affects the continuity of any sub-lease between the Association and any other party existing over the land in a lease referred to in sub-section (1) or (2) immediately before the commencement of section 23 of the **Land Revocations (And Other Matters) Act 1995**.

5E. Notification of dealings with land

Before the Association mortgages, charges, disposes of or otherwise encumbers any interest in the land bordered blue and the land bordered orange on the lodged plan granted to the Association for an estate in fee simple, the Association must notify the Minister in writing of its intention to create or dispose of that encumbrance or interest.

S. 5E
inserted by
No. 94/1995
s. 23.

5F. Rate relief for certain land

- (1) Land leased under this Act by the Association is not rateable land within the meaning of section 154 of the **Local Government Act 1989**.
- (2) This section does not apply to land leased by the Association and used or sub-let by it for commercial purposes.

S. 5F
inserted by
No. 94/1995
s. 23.

5G. Reporting requirements

- (1) The Association must, in respect of each year ending 30 June, prepare an annual report containing—
- (a) a report of its operations during the year; and
 - (b) financial statements for the year—
- and submit the report to the Minister not later than 30 September next following.
- (2) The report of operations referred to in sub-section (1)(a) must be prepared in a form and contain information determined by the Minister to be appropriate.

S. 5G
inserted by
No. 94/1995
s. 23.

- (3) The financial statements referred to in sub-section (1)(b)—
 - (a) must be prepared in a form and contain information determined by the Minister to be appropriate; and
 - (b) must present fairly the results of the financial transactions of the Association during the year to which they relate and the financial position as at the end of that year; and
 - (c) must be audited by a registered company auditor under the **Corporations Law**.
- (4) This section does not apply in respect of a financial year during which no lease is in force under section 6.

6. Minister may grant lease of certain land

S. 6(1) amended by No. 94/1995 s. 24(a)(i)(ii).

- (1) Notwithstanding anything in any Act or law or in any Order proclamation or reservation affecting the lands deemed to be permanently reserved by section 5C, the Minister may grant a lease or leases of the whole or any part of such lands to the Ballarat Historical Park Association for the development of the leased area for the purposes for which it is deemed to be reserved.

S. 6(2)(a) amended by No. 94/1995 s. 24(b).

- (2) A lease under this section—
 - (a) shall be subject to such covenants conditions exceptions and reservations as the Minister thinks fit;
 - (b) shall be for a term not exceeding 75 years;

S. 6(2)(c) repealed by No. 94/1995 s. 24(c).

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(d) shall provide that upon the expiration or sooner determination of the term thereof all buildings erections extensions and improvements built erected constructed or made on the land shall absolutely revert to and belong to the Crown;

S. 6(2)(d)
amended by
No. 94/1995
s. 24(d).

(e) shall provide that any structural improvements on the leased land shall be insured and kept insured by the lessee in the name of the Crown to an amount which shall be determined from time to time by the Minister against loss or damage by fire with such company as may be approved by the Minister;

S. 6(2)(e)
amended by
No. 94/1995
s. 24(e)(f).

(f) shall authorize the lessee to sub-let such part or parts of the leased area for any purpose (including the operation of a business) consistent with the reservation and for such term and on such conditions as may be approved by the Minister.

S. 6(2)(f)
amended by
No. 94/1995
s. 24(g).

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S. 6(3)
repealed by
No. 94/1995
s. 24(h).

(4) No person or body of persons corporate or unincorporate shall be entitled to receive or shall receive from Her Majesty any money or consideration or compensation in respect of or in any manner whatsoever arising out of any act matter or thing under this Act.

7. Registrar-General and Registrar of Titles to make necessary amendments

S. 7
substituted by
No. 94/1995
s. 25.

(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

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necessary because of the operation of any provision of this Act.

- (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 Act.
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Sch.

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Sch.
repealed by
No. 94/1995
s. 26(1).

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NOTES

1. General Information

The **Ballarat (Sovereign Hill) Land Act 1970** was assented to on 7 April 1970 and came into operation on 7 April 1970.

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Notes

2. Table of Amendments

This Version incorporates amendments made to the **Ballarat (Sovereign Hill) Land Act 1970** by Acts and subordinate instruments.

Land Revocations (And Other Matters) Act 1995, No. 94/1995

Assent Date: 5.12.95

Commencement Date: Ss 22–26(1) on 27.6.96: Government Gazette 27.6.96 p. 1593

Current State: This information relates only to the provision/s amending the **Ballarat (Sovereign Hill) Land Act 1970**

3. Explanatory Details

No entries at date of publication.