

No. 93. *Coal Loading Works Agreement (New South Wales)*. 1961.

COAL LOADING WORKS AGREEMENT (NEW SOUTH WALES).

No. 93 of 1961.

An Act relating to an Agreement between the Commonwealth and the State of New South Wales with respect to certain Coal Loading Works.

[Assented to 27th October, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title.

1. This Act may be cited as the *Coal Loading Works Agreement (New South Wales) Act* 1961.

Commencement.

2. This Act shall come into operation on the date on which it receives the Royal Assent.

Approval of agreement.

3. The agreement a copy of which is set out in the Schedule to this Act is approved.

Financial assistance to the State of New South Wales.

4. The advances by the Commonwealth to the State of New South Wales provided for in the agreement referred to in the last preceding section may be made, by way of financial assistance to that State on the terms and conditions contained in that agreement, out of the Consolidated Revenue Fund, which is appropriated accordingly.

THE SCHEDULE.

Section 3.

AN AGREEMENT made the eighteenth day of October, 1961 BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement called "the Commonwealth") of the one part and THE STATE OF NEW SOUTH WALES (in this agreement called "the State") of the other part:

WHEREAS—

- (a) it is desirable in the interests of the State of New South Wales and of the Commonwealth of Australia generally that the facilities for the export of coal through the ports of Newcastle, Port Kembla and Balmain should be improved as expeditiously as possible;
- (b) for that purpose the State intends to carry out the works referred to in this agreement as the harbour works and has undertaken that, subject to the provision to the State of the financial assistance hereinafter provided for, those works will be carried out as expeditiously as practicable and that the funds necessary for their completion will be provided as required;

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- (c) the Commonwealth has proposed that for the purposes hereinbefore mentioned financial assistance will be granted to the State, subject to its compliance with the provisions of this agreement, consisting of—
- (i) an amount not exceeding One million pounds to be made available from the Coal Industry Fund of the Joint Coal Board constituted under the *Coal Industry Act 1946–1958* of the Commonwealth and the *Coal Industry Act 1946–1960* of the State; and
 - (ii) an amount not exceeding One million six hundred and fifty thousand pounds to be made available by the Commonwealth in accordance with and subject to the provisions of this agreement,
- to be applied towards meeting expenditure by the State in carrying out the works referred to in this agreement as the coal loading works;
- (d) subject to the provisions of this agreement, the proposed financial assistance is to be made available progressively in amounts equivalent to one half of the cost of the coal loading works from time to time;
- (e) the financial assistance is proposed to be provided as to 100/265th parts by payments from the Coal Industry Fund of the Joint Coal Board and as to 165/265th parts by payments by the Commonwealth to the State in accordance with and subject to the provisions of this agreement;
- (f) arrangements have been made, subject to the coming into force of this agreement, for that part of the financial assistance which is to be made available from the Coal Industry Fund of the Joint Coal Board as aforesaid to be so provided; and
- (g) the Parliament of the Commonwealth is to be asked to grant to the State under section 96 of the Constitution of the Commonwealth of Australia that part of the financial assistance which is proposed to be made available by payments by the Commonwealth to the State under this agreement:

NOW IT IS HEREBY AGREED as follows:—

1. In this agreement, unless the contrary intention appears—

- “ financial year ” means a period of twelve calendar months ending on the thirtieth day of June;
- “ port ” means one of the ports of Newcastle, Port Kembla and Balmain at which the harbour works are to be carried out and in the plural means such of those ports as the case requires;
- “ the coal loading works ” means the whole or any part, as the context requires, of such of the harbour works as are referred to in Part II of the Schedule to this agreement;
- “ the cost of the coal loading works ” means the amount expended by the State on or in connexion with the carrying out of the coal loading works and includes planning and administrative expenses directly relating to the carrying out of those works;
- “ the harbour works ” means the works described in Part I of the Schedule to this agreement;
- “ the State Minister ” means the Minister of the State for the time being administering the Act of the Parliament of the State by which this agreement is approved and includes a Minister or other member of the Executive Council of the State for the time being acting for and on behalf of that Minister; and
- “ the Treasurer ” means the Treasurer of the Commonwealth and includes a Minister or other member of the Federal Executive Council for the time being acting for and on behalf of the Treasurer.

Definitions.

2. This agreement shall have no force or effect and shall not be binding upon either party until it is approved by the Parliaments of the Commonwealth and of the State.

Approval of agreement.

3. This agreement shall commence and come into full force and effect when it is approved by the Parliaments of the Commonwealth and of the State.

Commencement of agreement.

4.—(1.) Subject to compliance by the State with the provisions of this agreement, the Commonwealth will in accordance with and subject to the provisions of this agreement advance to the State towards meeting the cost of the coal loading works amounts not exceeding in the aggregate One million six hundred and fifty thousand pounds (£1,650,000).

Advances.

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(2.) Notwithstanding the provisions of sub-clause (1.) of this clause, the total of the amounts to be advanced by the Commonwealth under this clause and the amounts to be made available as aforesaid from the Coal Industry Fund of the Joint Coal Board in respect of the coal loading works at each port shall not exceed the following respective sums—

	£
Newcastle	1,500,000
Port Kembla	1,070,000
Balmain	80,000.

State entitled to receive advances.

5.—(1.) The State may from time to time apply to the Treasurer for an amount to be advanced to it by the Commonwealth under this agreement in respect of the cost of the coal loading works at one or more of the ports.

(2.) Subject to the provisions of this agreement, the State shall be entitled to be advanced by the Commonwealth an amount equivalent to one hundred and sixty-five five hundred and thirtieth parts ($\frac{165}{530}$ th) of the cost of the coal loading works at the port or ports in respect of which the application is made.

(3.) If the State at any time requests the Commonwealth to make an advance to the State for the purpose of meeting a proportion of anticipated expenditure on or in connexion with the coal loading works, the Commonwealth may advance to the State for that purpose such amount, if any, as the Treasurer approves.

(4.) An amount advanced by the Commonwealth under the last preceding sub-clause may be deducted by the Commonwealth from an amount to be advanced subsequently under sub-clause (2.) of this clause in respect of the cost of the coal loading works at the port or ports for which the amount was advanced.

(5.) The State shall furnish to the Treasurer such documents and other evidence in support of each application by the State for an amount to be advanced to it by the Commonwealth as the Treasurer may from time to time reasonably request, whether before or after the Commonwealth has made an advance pursuant to the application.

Use of advances.

6. The State shall not use or apply an amount, or any part of an amount, advanced to it under this agreement except for the purpose of meeting the cost of the coal loading works at the port in respect of which the amount or the part of the amount was advanced by the Commonwealth.

Interest.

7.—(1.) The State shall pay to the Commonwealth interest at the rate of five and three eighths per centum per annum on the amounts advanced by the Commonwealth under clause 5 of this agreement.

(2.) Interest under this clause shall be calculated from the date each amount is advanced by the Commonwealth and shall accrue on so much of the amount advanced as is from time to time not repaid by the State to the Commonwealth under the next succeeding clause.

(3.) The State shall pay the interest for the time being accrued under this clause on the same respective dates as those on which repayments of the amount on which the interest has accrued are payable by the State under the next succeeding clause.

Repayments by the State.

8.—(1.) Subject to the provisions of this clause, the State shall repay to the Commonwealth each amount advanced by the Commonwealth to the State under clause 5 of this agreement by twenty equal semi-annual payments, the first payment to be made on the expiry of six calendar months from the date on which the amount was advanced and subsequent payments at intervals of six calendar months thereafter until the final payment has been made.

(2.) The Treasurer and the State Minister may at any time arrange for any amounts advanced to the State by the Commonwealth under this agreement and not repaid by the State to be consolidated and repayment of, and payment of interest on, those amounts shall thereafter be made by the State to the Commonwealth in accordance with the arrangement in lieu of the dates ascertained in accordance with sub-clause (1.) of this clause.

(3.) The State may at any time after giving to the Treasurer at least one month's notice of its intention so to do, repay to the Commonwealth the whole of the unrepaid balance of an amount advanced by the Commonwealth to the State under this agreement together with interest accrued to the date of repayment by the State.

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9. Subject to the provision to the State of the amounts to be advanced to it by the Commonwealth under this agreement and of the amounts to be made available from time to time from the Coal Industry Fund of the Joint Coal Board, the State shall carry out, or cause to be carried out, efficiently and in conformity with its standard engineering and financial practices, the coal loading works with a view to their completion as part of the harbour works at the earliest practicable date.

State to carry out works.

10. To the extent that it is necessary for the more efficient fulfilment of the objectives of this agreement, the Schedule to this agreement may be varied in such manner and to such extent as the Treasurer and the State Minister agree and all references in this agreement to the Schedule shall be deemed to be to the Schedule as varied in accordance with this clause.

Variation of works.

11. The State shall prepare and furnish to the Treasurer not later than the thirtieth day of April in each year a statement or statements showing the estimated expenditure by the State on the coal loading works during the next succeeding financial year and estimates of the amounts which the State will require or request the Commonwealth to advance under this agreement during that financial year.

Annual estimates.

12. The State shall from time to time at the request of the Treasurer furnish to him such information as he may reasonably require for the purpose of or in relation to this agreement.

Supply of information.

13.—(1.) The accounts, books, vouchers, documents and other records of the State relating to the coal loading works shall be subject to audit by the Auditor-General of the State.

Audit.

(2.) Until such time as all amounts to be advanced by the Commonwealth under this agreement have been advanced and supporting evidence to the satisfaction of the Treasurer in relation to all amounts advanced furnished by the State, a report on the audit and on the financial statements shall be furnished by the Auditor-General of the State to the Treasurer once in each year indicating, *inter alia*—

(a) whether the financial statements are based on proper accounts and records and are in agreement with those accounts and records; and

(b) whether the expenditure of moneys is in accordance with this agreement,

and including reference to such other matters arising out of the audit and financial statements as the Auditor-General of the State considers should be reported to the Treasurer.

14. Any notice, request or other communication to be given or made under this agreement by the Commonwealth or the Treasurer to the State or the State Minister shall be deemed sufficiently given or made if it is in writing signed by the Treasurer or any person thereunto authorized in writing by him and any notice, application or other communication to be given or made by the State or the State Minister to the Commonwealth or the Treasurer shall be deemed sufficiently given or made if it is in writing signed by the State Minister or any person thereunto authorized in writing by him.

Notices, &c.

THE SCHEDULE.

PART I. THE HARBOUR WORKS.

Works at the ports of Newcastle, Port Kembla and Balmain for the purpose of facilitating the overseas export of coal from these three ports, estimated (in May 1961) to cost in all approximately £10,660,000, and consisting of the following:

	Cost as estimated May, 1961. £m.
1. At Newcastle:	
(a) The provision of new coal loading plant and ancillary works, including wharfage, rail, road and storage facilities, capable of loading coal onto a ship at a rate of at least 1,500 tons per hour	3.00
(b) The deepening of the harbour entrance and (where necessary) of the harbour, so as to provide a depth of at least 36 feet of water to the coal loading plant	5.00
2. At Port Kembla:	
(a) The provision of new coal loading plant and ancillary works, including wharfage, rail, road and storage facilities, capable of loading coal onto a ship at a rate of at least 1,500 tons per hour	2.14

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(b) Dredging, so as to provide a depth of at least 36 feet of water to the coal loading plant	0.36
3. At Balmain:	
The improving of coal loading plant and ancillary works, including rail and storage facilities, so that the same will be capable of loading coal onto a ship at a rate of 1,000 tons per hour ..	0.16

PART II. THE COAL LOADING WORKS.

The works at the ports of Newcastle, Port Kembla and Balmain referred to in paragraphs 1 (a), 2 (a) and 3 of Part I of this Schedule.

IN WITNESS WHEREOF the Prime Minister of the Commonwealth of Australia and the Premier of the State of New South Wales have signed this agreement for and on behalf of the Commonwealth and the State respectively.

SIGNED by the Prime Minister of the Commonwealth
of Australia for and on behalf of the Commonwealth } ROBERT MENZIES
in the presence of—
 W. H. SPOONER

SIGNED by the Premier of the State of New South
Wales for and on behalf of the State in the presence } R. J. HEFFRON
of—
 G. M. GRAY
